

THE WESTERN PACIFIC RAILROAD COMPANY

WESTERN PACIFIC BUILDING, 526 MISSION STREET
SAN FRANCISCO, CALIFORNIA 94105
TELEPHONE: (415) 982-2100

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WALTER G. TREANDR
VICE PRESIDENT-LAW

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KATHERINE M. GRIFFIN
MICHAEL P. HEARNEY
EUGENE J. TOLER
ATTORNEYS

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INTERSTATE COMMERCE COMMISSION

AUG 8 1977 - 3 40 PM
File: 6000-6

7-226A120
Date AUG 8 1977
COMMISSION 66

Hon. H. G. Homme, Jr.
Acting Secretary
Interstate Commerce Commission
Washington, D. C. 20423

INTERSTATE COMMERCE COMMISSION

AUG 10 1977 Washington, D. C.

Dear Secretary Homme:

ADMINISTRATIVE SERVICES
MAIL UNIT

Enclosed for filing and recording with the Interstate Commerce Commission are an original executed counterpart of the First and Refunding Mortgage dated as of January 1, 1951 and of a First Supplemental Indenture thereto dated as of June 15, 1977 between The Western Pacific Railroad Company, (Mortgagor) 526 Mission Street, San Francisco, California 94105 and Crocker National Bank, Trustee (Mortgagee), One Montgomery Street, San Francisco, California 94104.

Included in the property covered by the aforesaid mortgage and supplemental indenture are barges, ferries or other vessels, railroad locomotives, freight cars and other rolling stock, trucks and other equipment and aircraft used or intended for use in connection with interstate commerce or interests therein, owned by The Western Pacific Railroad Company at the date of said mortgage and supplemental indenture or thereafter acquired by it.

Enclosed also are two certified true copies of said mortgage and supplemental indenture for retention in the files of the Commission. Also enclosed is this Company's check for \$60 in payment of the filing fee.

Please return the originals to the undersigned at 526 Mission Street, San Francisco, California 94105.

Yours very truly,

Katherine M. Griffin

Katherine M. Griffin

KMG:pra
Attach.

Interstate Commerce Commission
Washington, D.C. 20423

8/8/77

OFFICE OF THE SECRETARY

Ms. Katherine M. Griffin
526 Mission Street
San Francisco, Calif. 94105

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on **8/8/77** at **3:40pm** and assigned recordation number(s) **8928 & 8928-A**

Sincerely yours,


H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)

RECORDATION NO. 226 Filed & Recorded
AUG 8 1977 - 3 42 PM
INTERSTATE COMMERCE COMMISSION

I, DIANE LORETTE FAFOUTIS, a Notary Public in and for the City and County of San Francisco, State of California, residing therein, do HEREBY CERTIFY that I have compared the foregoing instrument with the original document and that the foregoing conformed copy is a complete, true and correct copy in all respects.

Dated: August 2, 1977.

[seal]

Diane Lorette Fafoutis
NOTARY PUBLIC



RECORDATION NO. 226 Filed & Recorded
AUG 8 1977 - 3 42 PM
INTERSTATE COMMERCE COMMISSION

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**MORTGAGE OF CHATTELS
AND
TRUST INDENTURE.**

THIS INDENTURE, dated as of the first day of January, 1951, between **THE WESTERN PACIFIC RAILROAD COMPANY**, a corporation organized and existing under the laws of the State of California (hereinafter referred to as the "Company"), party of the first part, and **CROCKER FIRST NATIONAL BANK OF SAN FRANCISCO**, a corporation organized and existing under the laws of the United States of America, and having its principal office and place of business in the City and County of San Francisco, California (hereinafter referred to as the "Trustee"), party of the second part;

WHEREAS, the Company owns and operates certain lines of railroad in the States of California, Nevada and Utah; and

WHEREAS, the Company has heretofore created a \$10,000,000 issue of First Mortgage 4% Bonds, Series A (hereinafter called the "First Mortgage Bonds"), maturing January 1, 1974, secured by its First Mortgage dated as of January 1, 1939 to Crocker First National Bank of San Francisco (hereinafter called the "First Mortgage"), all of which are now outstanding; and

WHEREAS, the Company has heretofore also created an issue of \$21,219,000 of General Mortgage 4½% Income Bonds, Series A (hereinafter called the "General Mortgage Income Bonds"), maturing January 1, 2014, secured by its General Mortgage dated as of January 1, 1939 to The Chase National Bank of the City of New York (hereinafter called the "General Mortgage"), of which \$6,111,300 principal amount are now outstanding; and

WHEREAS, the Company desires to provide for the retirement of said First Mortgage Bonds and said General Mortgage Income Bonds and for the satisfaction, cancellation and discharge of said First Mortgage and said General Mortgage, and to provide funds for other lawful corporate purposes, by the issue and sale of its initial series of bonds hereunder, and desires to issue additional bonds hereunder from time to time, as hereinafter provided; and

WHEREAS, by resolutions duly adopted by the Board of Directors at a meeting of said Board duly held, the Company has authorized the execution and delivery of this Indenture to the Trustee and an issue of bonds of the Company, designated generally as its "First and Refunding Mortgage Bonds" (hereinafter called the "Bonds"), limited to an aggregate principal amount of Seventy-Five Million Dollars (\$75,000,000) at any one time outstanding, all to be issued in series, from time to time, upon the conditions, and in the manner, provided in this Indenture, subject, however, to any consent of the Company's stockholders which may be required by its Articles of Incorporation to issue bonds, and has authorized the issue of an initial series of Bonds hereunder and secured hereby for the purpose of borrowing money to retire its bonds outstanding as aforesaid and for its lawful corporate purposes; and

WHEREAS, the holders of more than two-thirds in par value of the Preferred Stock, Series A, of the Company, which is the only preferred stock of the Company presently outstanding, have duly consented in writing to the creation of this Indenture, and to the issuance and sale of an initial series of bonds, secured by this Indenture, of not to exceed \$22,000,000 in principal amount; and

WHEREAS, the Company is duly authorized upon the execution and delivery of this Indenture to issue its said initial series, known as "First and Refunding Mortgage $3\frac{1}{8}\%$ Bonds, Series A" (hereinafter sometimes called the "Series A Bonds"), in the principal amount of Twenty-Two Million Dollars (\$22,000,000), due January 1, 1981, bearing interest at the rate of three and one-eighth per cent. ($3\frac{1}{8}\%$) per annum; and the Series A Bonds in coupon form, the coupons to be attached thereto, the Series A Bonds in registered form without coupons, and the Trustee's certificate of authentication to be endorsed on all of the Bonds are to be, severally, substantially as follows, with such appropriate omissions, substitutions and variations as are provided for or permitted in this Indenture:

[FORM OF SERIES A COUPON BOND]

No.....

\$1,000

THE WESTERN PACIFIC RAILROAD COMPANY

First and Refunding Mortgage $3\frac{1}{8}\%$ Bond, Series A
due January 1, 1981

The Western Pacific Railroad Company, a corporation organized and existing under the laws of the State of California (hereinafter called the "Company"), for value received, hereby promises to pay to the bearer, or, if this Bond be registered as to principal, then to the registered holder hereof, on the first day of January, 1981 (unless this Bond shall be called for previous redemption and payment thereof duly provided for), the principal sum of One Thousand Dollars (\$1,000), and to pay interest on said principal sum at the rate of three and one-eighth per cent. ($3\frac{1}{8}\%$) per annum from the date hereof, semi-annually on the first day of January and the first day of July in each year until said principal sum becomes due and payable as herein provided and thereafter at the legal rate of interest until payment of said principal sum, but, in the case of interest due on or before the date said principal sum becomes due and payable, only upon presentation and surrender of the appropriate coupons for such interest installments, hereto attached, as they severally mature. The principal, of, premium, if any, and interest on this Bond are payable at the office or agency of the Company designated for that purpose in the City and County of San Francisco, California, or at the option of the holder, at the office or agency of the Company designated for that purpose in the Borough of Manhattan, City and State of New York, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

This Bond is one of a duly authorized issue of Bonds of the Company, designated generally as its "First and Refunding Mortgage Bonds" (hereinafter called the "Bonds"), limited to an aggregate principal amount of Seventy-Five Million Dollars (\$75,000,000) at any one time outstanding, all issued and to be issued in series under and pursuant to, and, irrespective of the time of issue, all equally and ratably secured by, an indenture (hereinafter called the "Indenture"), dated as of January 1, 1951, executed by the Company to CROCKER FIRST NATIONAL BANK OF SAN FRANCISCO, as Trustee (here-

inafter called the "Trustee"), to which Indenture and any and all supplements thereto reference is hereby made for a statement of the property mortgaged and pledged, the nature and extent of the security, the rights of the holders of the Bonds and coupons thereunder, the rights, duties and immunities of the Trustee thereunder, and also for a statement of the terms and conditions upon which the Bonds are issued, received and held, to all of which the holder of this Bond assents by the acceptance hereof. This Bond is one of a series of the Bonds designated as First and Refunding Mortgage $3\frac{1}{8}\%$ Bonds, Series A, which series is limited to an aggregate principal amount of Twenty-Two Million Dollars (\$22,000,000).

In case an event of default as specified in the Indenture shall occur, the principal of the Bonds may be declared, or may become due and payable, in the manner and with the effect provided in the Indenture.

The Bonds of this series are entitled to the benefit of, and are subject to redemption through operation of, the sinking fund provided for in the Indenture, to the extent therein provided.

As provided in the Indenture, the Bonds of this series are redeemable before maturity (1) at the option of the Company at any time, as a whole or from time to time in part by lot, and (2) through the operation of the sinking fund on January 1, 1953, or on the first day of January of any year thereafter, in each case upon publication of notice of such redemption once in each week, on any day in the week, for four successive calendar weeks (the first publication to be not less than thirty days nor more than sixty days prior to the date designated for such redemption) in a daily newspaper printed in the English language and published and of general circulation in the City and County of San Francisco, California, and in a daily newspaper similarly printed and published and of general circulation in the Borough of Manhattan, City and State of New York, at prices equal to the following percentages of their principal amount:

Redemption During the Years	Optional Redemption Price	Sinking Fund Redemption Price
1951 and 1952	104.500%	(not redeemable)
1953 and 1954	104.000%	102.000%
1955 and 1956	103.625%	101.813%
1957 to 1959, inclusive	103.125%	101.563%
1960 to 1962, inclusive	102.750%	101.375%
1963 to 1965, inclusive	102.250%	101.125%
1966 to 1968, inclusive	101.750%	100.875%
1969 to 1971, inclusive	101.375%	100.688%
1972 to 1974, inclusive	100.875%	100.438%
1975 to 1977, inclusive	100.500%	100.250%
1978 and 1979	100.125%	100.125%
1980	100 %	100 %

in each case plus accrued and unpaid interest thereon to the date designated for redemption. If this Bond is duly called for redemption and payment of the optional redemption price or the sinking fund redemption price, as the case may be, duly provided for, this Bond shall cease to bear interest from and after the date designated for such redemption.

This Bond is transferable by delivery unless registered as herein and in the Indenture provided. This Bond may be registered as to principal in the name of the holder at the office or agency of the Company designated for that purpose in the City and County of San Francisco, California, or at the office or agency of the Company designated for that purpose in the Borough of Manhattan, City and State of New York, such registration being noted hereon, after which no transfer hereof shall be valid unless made at one of said offices or agencies by the registered holder, in person or by duly authorized attorney, and similarly noted hereon; but this Bond may be discharged from registration by like transfer to bearer similarly noted hereon, whereupon transferability by delivery shall be restored. This Bond shall continue to be subject to successive registrations and transfers to bearer. No such registration, however, shall affect the negotiability of the coupons for interest hereto attached, which shall continue to be payable to bearer and to be transferable by delivery.

The Bonds of this series are issuable in the form of coupon Bonds in the denomination of \$1,000 and in the form of registered Bonds without coupons in denominations of \$1,000, \$5,000, \$10,000, and any multiple of \$10,000. In the manner and upon the conditions,

including payment of charges, prescribed in the Indenture, coupon Bonds and registered Bonds without coupons of this series, and registered Bonds without coupons of the several denominations are interchangeable, upon presentation thereof for that purpose at the office or agency of the Company designated for that purpose in the City and County of San Francisco, California, or at the office or agency of the Company designated for that purpose in the Borough of Manhattan, City and State of New York.

On the conditions, in the manner and to the extent permitted by the Indenture, the provisions of the Indenture may be amended and the rights of the bondholders under the Indenture may be modified or compromised, by the action of the holders of 66-2/3% in principal amount of the Bonds then outstanding to be affected by any such action, and certain other powers set out in the Indenture may be exercised by the action of the holders of such percentage in principal amount of the Bonds then outstanding as is specified in the Indenture; *provided, however*, that as set forth in the Indenture no such amendment, modification or compromise, nor any exercise of any such powers, shall change the maturity, or the principal amount, or redemption price, or rate of interest, of any of the Bonds or otherwise alter or impair the obligation of the Company in respect of the payment of the principal thereof or the interest thereon, without the consent of the holder of each Bond affected thereby, or reduce the percentage required by the Indenture for any action authorized to be taken by the holders of Bonds.

No recourse shall be had for the payment of the principal of, or premium, if any, or interest on this Bond, or any part thereof, or for any claim based hereon or otherwise in respect hereof, or of the indebtedness represented hereby, or in respect of the Indenture, or under or upon the obligations, covenants and agreements contained in the Indenture, against any incorporator, stockholder, officer or director, as such, past, present or future of the Company, or of any predecessor or successor company, either directly or through the Company or any such predecessor or successor company, whether by virtue of any statute, constitutional provision or rule of law, by the enforcement of any assessment or by any legal or equitable proceeding, or otherwise, all such liability being expressly waived and released as a condition of, and as a part of the consideration for the execution of the Indenture and the issue of the Bonds and coupons.

Neither this Bond nor any coupon attached hereto shall be valid or obligatory for any purpose unless and until the certificate of

authentication, hereon endorsed, shall have been executed by the Trustee or its successor in trust under the Indenture.

IN WITNESS WHEREOF, THE WESTERN PACIFIC RAILROAD COMPANY has caused this Bond to be signed by the manual or facsimile signature of its President, or one of its Vice Presidents, and its corporate seal or a facsimile thereof to be affixed hereunto or imprinted hereon and to be attested by the manual signature of its Secretary, or one of its Assistant Secretaries, and coupons for said interest, bearing the facsimile signature of its Treasurer, to be attached hereto, and this Bond to be dated as of the 1st day of January, 1951.

THE WESTERN PACIFIC RAILROAD COMPANY

By.....
Vice President

Attest:

.....
Assistant Secretary

[FORM OF INTEREST COUPON FOR SERIES A COUPON BOND]

No..... \$.....

On the first day of _____, 19____, unless the Bond hereinafter mentioned shall have been called for previous redemption and payment thereof duly provided for, The Western Pacific Railroad Company will pay to the bearer at its office or agency in the City and County of San Francisco, California, or, at the option of the bearer, at its office or agency in the Borough of Manhattan, City and State of New York, upon surrender of this coupon Dollars (\$....) in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, being six months' interest then due on its First and Refunding Mortgage 3 1/8% Bond, Series A, due January 1, 1981, No.....

.....
Treasurer

[FORM OF SERIES A REGISTERED BOND WITHOUT COUPONS]

No..... \$.....

THE WESTERN PACIFIC RAILROAD COMPANY

First and Refunding Mortgage $3\frac{1}{8}\%$ Bond, Series A
due January 1, 1981

The Western Pacific Railroad Company, a corporation organized and existing under the laws of the State of California (hereinafter called the "Company"), for value received, hereby promises to pay to _____ or registered assigns, on the first day of January, 1981 (unless this Bond shall be called for previous redemption and payment thereof duly provided for), the principal sum of _____ Dollars (\$ _____), and to pay interest on said principal sum at the rate of three and one-eighth per cent. ($3\frac{1}{8}\%$) per annum from the date hereof, semi-annually on the first day of January and the first day of July in each year until said principal sum becomes due and payable as herein provided and thereafter at the legal rate of interest until payment of said principal sum. The principal of, premium, if any, and interest on this Bond are payable at the office or agency of the Company designated for that purpose in the City and County of San Francisco, California, or at the option of the registered holder, at the office or agency of the Company designated for that purpose in the Borough of Manhattan, City and State of New York, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

This Bond is one of a duly authorized issue of Bonds of the Company, designated generally as its "First and Refunding Mortgage Bonds" (hereinafter called the "Bonds"), limited to an aggregate principal amount of Seventy-Five Million Dollars (\$75,000,000) at any one time outstanding, all issued and to be issued in series under and pursuant to, and, irrespective of the time of issue, all equally and ratably secured by, an indenture (hereinafter called the "Indenture"), dated as of January 1, 1951, executed by the Company to CROCKER FIRST NATIONAL BANK OF SAN FRANCISCO, as Trustee (hereinafter called the "Trustee"), to which Indenture and any and all supplements thereto reference is hereby made for a statement of the property mortgaged and pledged, the nature and extent of the security, the rights of the holders of the Bonds and coupons thereunder, the rights, duties and immunities of the Trustee thereunder, and also for a statement of the terms and conditions upon which the Bonds

are issued, received and held, to all of which the holder of this Bond assents by the acceptance hereof. This Bond is one of a series of the Bonds designated as First and Refunding Mortgage $3\frac{1}{8}\%$ Bonds, Series A, which series is limited to an aggregate principal amount of Twenty-Two Million Dollars (\$22,000,000).

In case an event of default as specified in the Indenture shall occur, the principal of the Bonds may be declared, or may become due and payable, in the manner and with the effect provided in the Indenture.

The Bonds of this series are entitled to the benefit of, and are subject to redemption through operation of, the sinking fund provided for in the Indenture, to the extent therein provided.

As provided in the Indenture, the Bonds of this series are redeemable before maturity (1) at the option of the Company at any time, as a whole or from time to time in part by lot, and (2) through the operation of the sinking fund on January 1, 1953, or on the first day of January of any year thereafter, in each case upon publication of notice of such redemption once in each week, on any day in the week, for four successive calendar weeks (the first publication to be not less than thirty days nor more than sixty days prior to the date designated for such redemption) in a daily newspaper printed in the English language and published and of general circulation in the City and County of San Francisco, California, and in a daily newspaper similarly printed and published and of general circulation in the Borough of Manhattan, City and State of New York, at prices equal to the following percentages of their principal amount:

Redemption During the Years	Optional Redemption Price	Sinking Fund Redemption Price
1951 and 1952	104.500%	(not redeemable)
1953 and 1954	104.000%	102.000%
1955 and 1956	103.625%	101.813%
1957 to 1959, inclusive	103.125%	101.563%
1960 to 1962, inclusive	102.750%	101.375%
1963 to 1965, inclusive	102.250%	101.125%
1966 to 1968, inclusive	101.750%	100.875%
1969 to 1971, inclusive	101.375%	100.688%
1972 to 1974, inclusive	100.875%	100.438%
1975 to 1977, inclusive	100.500%	100.250%
1978 and 1979	100.125%	100.125%
1980	100 %	100 %

in each case plus accrued and unpaid interest thereon to the date designated for redemption. If this Bond is duly called for redemption and payment of the optional redemption price or the sinking fund redemption price, as the case may be, duly provided for, this Bond shall cease to bear interest from and after the date designated for such redemption.

This Bond is transferable by the registered holder hereof in person or by his attorney duly authorized, at the office or agency of the Company designated for that purpose in the City and County of San Francisco, California, or at the office or agency of the Company designated for that purpose in the Borough of Manhattan, City and State of New York, upon surrender of this Bond, together with a duly executed written instrument of transfer in form approved by the Company, and upon payment, if the Company shall require it, of the transfer charges prescribed in the Indenture, and upon cancellation of this Bond. Thereupon a new Bond or Bonds of the same series, in registered form without coupons, for a like aggregate principal amount, will be issued to the transferee in exchange therefor as provided in the Indenture.

The Bonds of this series are issuable in the form of coupon Bonds in the denomination of \$1,000 and in the form of registered Bonds without coupons in denominations of \$1,000, \$5,000, \$10,000, and any multiple of \$10,000. In the manner and upon the conditions, including payment of charges, prescribed in the Indenture, coupon Bonds and registered Bonds without coupons of this series, and registered Bonds without coupons of the several denominations are inter-

changeable, upon presentation thereof for that purpose at the office or agency of the Company designated for that purpose in the City and County of San Francisco, California, or at the office or agency of the Company designated for that purpose in the Borough of Manhattan, City and State of New York.

On the conditions, in the manner and to the extent permitted by the Indenture, the provisions of the Indenture may be amended and the rights of the bondholders under the Indenture may be modified or compromised, by the action of the holders of 66-2/3% in principal amount of the Bonds then outstanding to be affected by any such action, and certain other powers set out in the Indenture may be exercised by the action of the holders of such percentage in principal amount of the Bonds then outstanding as is specified in the Indenture; *provided, however*, that as set forth in the Indenture no such amendment, modification or compromise, nor any exercise of any such powers, shall change the maturity, or the principal amount, or redemption price, or rate of interest, of any of the Bonds or otherwise alter or impair the obligation of the Company in respect of the payment of the principal thereof or the interest thereon, without the consent of the holder of each Bond affected thereby, or reduce the percentage required by the Indenture for any action authorized to be taken by the holders of Bonds.

No recourse shall be had for the payment of the principal of, or premium, if any, or interest on this Bond, or any part thereof, or for any claim based hereon or otherwise in respect hereof, or of the indebtedness represented hereby, or in respect of the Indenture, or under or upon the obligations, covenants and agreements contained in the Indenture, against any incorporator, stockholder, officer or director, as such, past, present or future of the Company, or of any predecessor or successor company, either directly or through the Company or any such predecessor or successor company, whether by virtue of any statute, constitutional provision or rule of law, by the enforcement of any assessment or by any legal or equitable proceeding, or otherwise, all such liability being expressly waived and released as a condition of, and as a part of the consideration for the execution of the Indenture and the issue of the Bonds and coupons.

This Bond shall not be valid or obligatory for any purpose unless and until the certificate of authentication, hereon endorsed, shall have been executed by the Trustee or its successor in trust under the Indenture.

IN WITNESS WHEREOF, THE WESTERN PACIFIC RAILROAD COMPANY has caused this Bond to be signed by the manual or facsimile signature of its President, or one of its Vice Presidents, and its corporate seal or a facsimile thereof to be affixed hereunto or imprinted hereon and to be attested by the manual signature of its Secretary, or one of its Assistant Secretaries, and this Bond to be dated as of

THE WESTERN PACIFIC RAILROAD COMPANY

By.....
Vice President

Attest:

.....
Assistant Secretary

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

This Bond is one of the Bonds, of the series designated therein, described in the within-mentioned Indenture.

CROCKER FIRST NATIONAL BANK OF SAN FRANCISCO
as Trustee,

By.....
Authorized Officer

and

WHEREAS, the Bonds of series other than Series A, and the coupons to be attached to such thereof as may be coupon Bonds, are to be substantially in the forms, respectively, hereinabove set forth for the Series A Bonds, with such omissions, insertions and variations as may be authorized or permitted by this Indenture, to be determined as to each series by the Board of Directors of the Company at the time of the creation thereof; and

WHEREAS, all acts and things prescribed by law (including the laws of the State of California), and by the articles of incorporation and by-laws of the Company have been duly performed and complied

with, and the Company has executed this Indenture in the exercise of the legal right and power in it vested, and all things necessary to make the Bonds and coupons, when executed by the Company, and when the Bonds are authenticated by the Trustee, the valid and binding obligations of the Company, and to make this Indenture a valid and binding mortgage, deed of trust and agreement for the security of the Bonds and coupons, have been done and performed and have happened:

Now, THEREFORE, THIS INDENTURE WITNESSETH: That in order to secure the payment of the principal of, premium, if any, and interest on all of the Bonds at any time issued and outstanding under this Indenture, according to their tenor, purport and effect, and to secure the performance and observance of all the covenants and conditions therein and herein contained, and to declare the terms and conditions upon which the Bonds and coupons are issued, received and held, the Company, in consideration of the premises and of the purchase and acceptance of the Bonds and coupons by the holders thereof, and of the sum of ten dollars lawful money of the United States of America to it paid by the Trustee, receipt whereof is hereby acknowledged, has executed and delivered this Indenture, and has mortgaged, pledged, granted, conveyed, assigned and transferred, and by these presents does mortgage, pledge, grant, convey, assign and transfer unto the Trustee, its successors in the trust, and its and their assigns, all and singular, the following described properties, viz.:

FIRST: The following described lines of railroad now owned by the Company:

PART I

Main Line—San Francisco to Salt Lake City

A main line of railroad commencing in the City and County of San Francisco, California, thence across San Francisco Bay to the City of Oakland, Alameda County, California; thence in a general northerly and easterly direction through the Counties of Alameda, San Joaquin, Sacramento, Sutter, Yuba, Butte, Plumas and Lassen, in the State of California, and in a general

easterly direction through the Counties of Washoe, Pershing, Humboldt, Lander, Eureka and Elko, in the State of Nevada, and in a general easterly direction through the Counties of Tooele and Salt Lake, in the State of Utah, to and into Salt Lake City, Utah; said line of railroad being about 926.41 miles in length.

Main Line—Keddie to Bieber

A main line of railroad having its initial point and connection with said main line at or near Keddie, Plumas County, California, and extending thence in a general northerly direction through Plumas and Lassen Counties, to a point near Bieber, Lassen County, California; said line of railroad being about 106.54 miles in length.

PART II

Branch—Niles to San Jose

A branch line of railroad having its initial point and connection with the Company's main line at or near Niles, Alameda County, California, and extending thence in a general southerly direction through Alameda and Santa Clara Counties to and into the City of San Jose, County of Santa Clara, California; being about 23.07 miles in length.

Branch—Carbona to Kerlinger

A branch line of railroad having its initial point and connection with the Company's main line at or near Carbona, San Joaquin County, California, and extending thence in a general southwesterly direction to Kerlinger, San Joaquin County, California; being about 2.34 miles in length.

Branch—Terminus Junction to Terminus

A branch line of railroad having its initial point and connection with the Company's main line at or near Terminus

Junction, San Joaquin County, California, and extending thence in a general westerly direction to Terminous, San Joaquin County, California; being about 7.92 miles in length.

Branch—Hawley to Loyalton

A branch line of railroad having its initial point and connection with the Company's main line at or near Hawley, Plumas County, California, and extending thence in a general southeasterly direction through Plumas and Sierra Counties to Loyalton, Sierra County, California; being about 13 miles in length.

Branch—Reno Junction to Reno

A branch line of railroad having its initial point and connection with the Company's main line at or near Reno Junction, Lassen County, California, and extending thence in a general southeasterly direction through Lassen and Sierra Counties, California, and through Washoe County, Nevada, to and into the City of Reno, Washoe County, Nevada; being about 33.11 miles in length.

Branch—Wells to connection with Oregon Short Line Railroad

A branch line of railroad having its initial point and connection with the Company's main line at or near Wells, Elko County, Nevada, and extending thence in a general northeasterly direction to a connection with the Oregon Short Line Railroad in Elko County, Nevada; being about 1.18 miles in length.

Branch—Ellerbeck to Dolomite and Flux

A branch line of railroad having its initial point and connection with the Company's main line of railroad at or near Ellerbeck, Tooele County, Utah, and extending thence in a general southwesterly direction to a junction point, thence westerly to Dolomite, Tooele County, Utah, and also from said junction point southeasterly to Flux, Tooele County, Utah; being about 5.85 miles in length.

Branch—Burmester to Warner

A branch line of railroad having its initial point and connection with the Company's main line of railroad at or near Burmester, Tooele County, Utah, and extending thence in a general southeasterly direction to Warner, Tooele County, Utah; being about 15.52 miles in length.

SECOND: All right, title and interest of the Company in and to all real estate, whether used or held for transportation or other purposes, located in the City and County of San Francisco and in the Counties of Alameda, Butte, Lassen, Plumas, Sacramento, San Joaquin, Santa Clara, Sierra, Sutter and Yuba in the State of California, in the Counties of Elko, Eureka, Humboldt, Lander, Pershing and Washoe in the State of Nevada and in the Counties of Box Elder, Salt Lake and Tooele in the State of Utah, or in any other county in any of said states, and any other real estate wherever located, held, owned, possessed or claimed by the Company.

THIRD: All of the Company's estate, right, title and interest, terms and remainders of terms, franchises, privileges and rights of action of whatsoever name or nature in law or in equity, in or under any and all leases, and any and all trackage, terminal, joint facility and operating contracts.

FOURTH: Any and all rights of way, lands, fixtures, structures, improvements, tenements and hereditaments of whatever kind or description and wherever situated, now owned by, or at any time hereafter acquired by or for, the Company and contiguous or appurtenant to, or used in connection with any of the Company's lines of railroad now or at any time hereafter subject to the lien hereof, including in the property comprised in the description in this paragraph any and all main, branch, spur, industrial, switch, connecting, storage, yard and terminal tracks, rights of way, easements, superstructures, roadbeds, bridges, trestles, culverts, viaducts, buildings, depots, stations, stockyards, warehouses, elevators, car houses, engine houses, freight houses, machine shops and other shops, turntables, fuel stations, fuel supply lines and fuel supply sites, water stations, water supply lines and water supply sites, signals, interlocking plants,

telephone and telegraph and other communication lines and systems, fences, docks, structures and fixtures, and other things of whatsoever kind in anywise or at any time appurtenant to, or used in connection with, any of the Company's lines of railroad or real property at any time subject to the lien hereof.

FIFTH: Except as in these Granting Clauses otherwise specifically provided, all the right, title and interest, of every name and nature, of the Company in and to all engines, locomotives, tenders, cars, coaches, buses, trucks and other rolling stock and equipment, all steamships, ferries, boats, barges, tugs and other floating equipment, and all aircraft, whether now owned or hereafter acquired, and whether owned directly by the Company, or used and enjoyed by it subject to an equipment trust agreement, lease, conditional sale agreement, mortgage or otherwise; *provided, however*, that as to any equipment hereafter constructed by or for the Company, if the Company shall (a) prior to the beginning of construction of any such equipment deliver to the Trustee written Notice that it intends to construct the same or have the same constructed for it and on or before a specified date, not later than one year after the completion of construction of such equipment, to subject it to an equipment trust agreement, lease, conditional sale agreement, mortgage or other lien to provide, or to reimburse the Company for, any part of the cost of such equipment, and (b) on or before such specified date execute and deliver an equipment trust agreement, lease, conditional sale agreement, mortgage or other instrument of lien to which such equipment shall be so subjected, then and in such event the lien of this Indenture upon such equipment shall be subject to such equipment trust agreement, lease, conditional sale agreement, mortgage or other lien.

SIXTH: The following shares of capital stock now owned by the Company:

<u>Name of Company</u>	<u>Par Value Per Share</u>	<u>No. of Shares</u>	<u>Total Par Value</u>
Tidewater Southern Railway Company	\$ 1.	1,147,968	\$1,147,968.00
The Salt Lake City Union Depot and Railroad Company, Common	100.	1,000	100,000.00
The Salt Lake City Union Depot and Railroad Company, Preferred	100.	3,000	300,000.00
The Oakland Terminal Railway	100.	1,125	112,500.00
Alameda Belt Line	100.	4,711	471,100.00
Central California Traction Company, Common	100.	967 $\frac{2}{3}$	96,766.67
Central California Traction Company, Preferred	100.	2,642 $\frac{2}{3}$	264,266.67
Standard Realty and Development Company	100.	4,005	400,500.00
Railway Express Agency, Incorporated	—	2	—
The Pullman Company	10.	3,072	30,720.00

SEVENTH: Except as in these Granting Clauses otherwise specifically provided, any and all other property of every kind and description, real, personal or mixed, owned by the Company and all right, title and interest of the Company in and to any and all other property of every kind and description, whether or not used or useful in the transportation operations of the Company.

EIGHTH: All right, title and interest of the Company in and to any and all additions, betterments and improvements to or upon or in connection with any and all lines of railroad, premises and property of any character whatsoever now or at any time hereafter subject to the lien hereof.

NINTH: Any and all corporate rights, powers, franchises, privileges and immunities now or hereafter owned or possessed by the Company which now or at any time hereafter may be necessary for or appurtenant to the use, operation, management, maintenance, renewal, alteration or improvement of the Company's lines of railroad or of any other property now or hereafter subject to the lien hereof.

TENTH: Any and all property of every kind and description, real, personal or mixed, which at any time hereafter by delivery or by writing of any kind shall be expressly conveyed, mortgaged,

pledged, delivered, assigned or transferred to the Trustee hereunder by the Company, or by a successor corporation, or with its consent by anyone on its behalf, for the purposes hereof; the Trustee being hereby authorized at any and all times to receive such conveyance, mortgage, pledge, delivery, assignment or transfer and to hold and apply any and all such property subject to the terms hereof.

ELEVENTH: Any and all property of every kind and description, real, personal or mixed, whether owned by the Company at the date of the execution hereof or hereafter acquired by it, which by any provision hereof the Company is required to convey, mortgage, pledge, deliver, assign or transfer to the Trustee hereunder.

TWELFTH: Except as in these Granting Clauses otherwise specifically provided, any and all property of every kind and description, real, personal or mixed, which from time to time shall hereafter be constructed or acquired by the Company, whether or not such property is required to be specifically subjected to the lien hereof pursuant to the provisions of Granting Clause Eleventh hereof or shall have been so specifically subjected pursuant to the provisions of Granting Clause Tenth hereof.

THIRTEENTH: All the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in equity as in law, which the Company now has or at any time hereafter may acquire in and to any of the property of every kind and description, real, personal or mixed, mortgaged, conveyed, pledged, delivered, assigned or transferred hereunder.

FOURTEENTH: Except as in these Granting Clauses otherwise specifically provided, all the revenues, rents, earnings, issues, tolls, profits and other income from the premises and property of every kind and description, real, personal or mixed, herein or hereafter mortgaged, conveyed, pledged, delivered, assigned or transferred.

IT BEING THE INTENT OF THIS INDENTURE, that except as otherwise provided in these Granting Clauses and in Articles Four, Eleven and Fourteen hereof this Indenture shall, at all times when any Bonds are outstanding hereunder, be a lien upon all the property of the Company and of its successors or assigns of every kind

and description, real, personal or mixed, wheresoever located and whensoever and howsoever acquired;

PROVIDED, HOWEVER, that unless and until some one or more of the events of default specified in Section 9.02 hereof shall have happened and be continuing, it is not intended to include under the lien of this Indenture, and this conveyance, mortgage and pledge shall not be deemed to apply to (1) any cash, Federal, State or local government securities, bills, notes or accounts receivable, or materials and supplies (except cash deposited with the Trustee pursuant to any of the provisions hereof, or government securities, bills, notes or accounts receivable specifically subjected to the lien hereof and assigned to or deposited with the Trustee), or (2) any revenues, rents, earnings, issues, tolls, profits or other income from the premises or property constituting the trust estate (except as otherwise provided in Articles Eight and Nine hereof); but upon the happening of any such event of default all such cash, government securities, bills, notes or accounts receivable, materials and supplies and all such revenues, rents, earnings, issues, tolls, profits and other income shall immediately become subject to the lien hereof to the extent permitted by law;

PROVIDED FURTHER, that there is hereby excepted and reserved out of the conveyances, mortgages and pledges hereby made all shares of stock, bonds, notes and other indebtedness of Sacramento Northern Railway owned or held by the Company;

AND PROVIDED FURTHER, that there is hereby excepted and reserved out of the conveyances, mortgages and pledges hereby made the last day of the term of each leasehold estate (whether created orally or by written instrument) now or hereafter enjoyed by the Company, whether falling within the general or particular description of property herein described;

AND PROVIDED FURTHER that (a) if the Company shall at any time hereafter acquire any securities of, or acquire or lease as a whole or substantially as a whole the properties of, any corporation (other than Sacramento Northern Railway and Tidewater Southern Railway Company, or any successor of either of them), constituting

a Class I carrier as defined by the rules of the Commission at the time in force, neither the securities so acquired nor the properties so acquired or leased nor any betterments, extensions, improvements, additions, repairs, renewals, replacements, substitutions or alterations of, to, upon or for said properties purchased, constructed or acquired by the Company after the date of any such acquisition or lease shall become subject to the lien hereof, unless such securities or properties of such corporation shall have been made the basis in whole or in part for the authentication and delivery of Bonds hereunder or the payment of cash or the release of property hereunder or acquired with proceeds of insurance on property subject to the lien hereof; and (b) if the Company shall be consolidated with or merged into, or shall convey the trust estate as a whole, or substantially as a whole, to any corporation or if any corporation shall be merged into the Company, the properties theretofore owned or thereafter acquired by the corporation with which the Company is so consolidated or into which it is so merged or to which the Company makes any such conveyance or which is merged into the Company shall become subject to the lien hereof only to the extent provided in Section 14.02 hereof;

To HAVE AND TO HOLD all said premises, property, rights, franchises and appurtenances hereby conveyed, mortgaged, pledged, delivered, assigned or transferred or intended so to be, as well as all property which shall at any time become subject to the lien hereof (hereinafter sometimes collectively referred to as the "trust estate") unto the Trustee and its successors and assigns forever;

SUBJECT, HOWEVER, to any and all presently existing easements over, on or under any of the property above described and any presently existing contracts, leases and other agreements affecting such property, to the extent, but only to the extent, that in law any such easement, contract, lease or agreement shall constitute a lien or charge of record against any part of the trust estate prior to the lien of this Indenture; to Permitted Encumbrances, as hereinafter defined; and in so far as the trust estate may now be subject to the liens of taxes and assessments lawfully levied or assessed against the same, to any and all such liens;

SUBJECT, ALSO, as to shares of stock, bonds or other obligations of carrier or other corporations of the kinds specified in Clause D of Section 3.03 hereof, to such rights, if any, as other railroad corporations, states or municipalities may have with respect to the acquisition or disposition of such stock, bonds or other obligations;

SUBJECT, ALSO, as to the property affected thereby, to the title or lien and other rights, if any, of the lessors, trustees, noteholders, certificate holders, mortgagees or vendors, however designated, under any presently existing equipment trust agreements, leases, conditional sale agreements, mortgages or other liens relating to equipment;

SUBJECT, ALSO, to the title or lien of any owner, lessor, noteholder, certificate holder, mortgagee or vendor, whether as trustee or otherwise, and however designated, to any equipment hereafter leased or conditionally sold to the Company, and to any lien hereafter created as set forth in Granting Clause Fifth hereof to provide, or to reimburse the Company for, any part of the cost of constructing equipment, and, with respect to any property which the Company may hereafter acquire, to any lien existing thereon at the time of such acquisition or created by the Company contemporaneously with such acquisition to secure the purchase price thereof in whole or in part;

IN TRUST, NEVERTHELESS, for the equal and proportionate benefit and security of all present and future holders of the Bonds or coupons, without preference, priority or distinction as to lien or otherwise of any one Bond over any other Bond by reason of priority in the issue or negotiation thereof, or otherwise, subject to the provisions of Section 9.01 hereof, and to the terms, provisions and stipulations in the Bonds contained; and for the uses and purposes and upon and subject to the terms, conditions, provisions and agreements herein expressed;

AND IT IS HEREBY COVENANTED AND DECLARED that all the Bonds and coupons are to be issued, authenticated and delivered, and that the trust estate is to be held and disposed of by the Trustee, upon and subject to the following covenants, terms, conditions, agree-

ments, uses and trusts; and it is covenanted between the parties hereto and expressly for the benefit of the respective holders from time to time of the Bonds and coupons, as follows:

ARTICLE ONE.

DEFINITIONS.

SECTION 1.01. Certain words and terms are specially or variously defined in this Indenture. Reference to certain, although not necessarily all, sections hereof containing special definitions is included in this Article One only for convenience.

Unless the context otherwise requires, the words and terms defined in this Article One, wherever used in this Indenture, shall be deemed and construed to have the meanings herein set forth.

SECTION 1.02. The word "*Additions*" is defined in Section 3.03.

The term "*Additions and Betterments*" shall mean all physical additions to or improvements, extensions and betterments of any property of the Company (whether now owned or hereafter acquired which at the time is owned by the Company and is subject to the lien of this Indenture) acquired or constructed by the Company after June 30, 1950, the cost of which, at the time of acquisition or construction, shall be properly chargeable to the accounts of the Standard Accounting Rules presently entitled: Road and Equipment Account, Improvements on Leased Property Account and Miscellaneous Physical Property Account, *except*

- (a) Equipment;
- (b) Betterments to Equipment; and
- (c) Purchased Property.

The term "*Board of Directors*" shall mean the Board of Directors of the Company, and shall include both the Board of Directors and the Executive Committee, if any, of the Company.

The words "*Bonds*", "*coupons*", "*bondholders*" and "*holders*" of Bonds and coupons shall include both the singular and the plural number. The word "*Bonds*" is defined in the fifth Recital.

The term "*Bonds at any one time outstanding*", when used in Sections 2.03 and 6.01 hereof with respect to any series, shall mean all Bonds of such series which have theretofore been authenticated and delivered, except Bonds of such series held in the treasury of the Company which have never been issued.

The terms "*Bonds outstanding*", "*outstanding Bonds*", or any variation thereof as used herein with respect to Bonds of any one or more series, shall mean all Bonds of such series theretofore authenticated and delivered hereunder, except (a) Bonds held in the treasury of the Company which for any reason have never been sold, pledged or otherwise disposed of, (b) Bonds which have been re-acquired by the Company and are held in its treasury, (c) Bonds which have been redeemed or purchased and cancelled under any provision hereof, (d) Bonds called for redemption and in respect of the redemption of which the Company shall have complied with the provisions of Section 5.04 hereof, (e) Bonds authenticated and delivered hereunder upon a transfer of which, or upon the surrender of which, other Bonds have been authenticated and delivered hereunder, and (f) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to the provisions of Section 2.08 hereof.

The terms "*Bonds outstanding*" and "*outstanding Bonds*" are specially and variously defined in Sections 4.02 and 16.02.

The term "*Bond registrar*" or other equivalent term shall mean any corporation or other person maintaining an office or agency designated by the Company as provided in Section 7.01 hereof at which Bonds may be registered.

The term "*Bond registry books*" or other equivalent term shall mean the books for the registration and transfer of Bonds kept by a Bond registrar.

The term "*Certified Resolutions*" shall mean a copy of resolutions adopted by the Board of Directors or by the Executive Committee of the Company, having appended thereto a certificate signed by the Secretary or an Assistant Secretary of the Company under

its corporate seal setting forth that such resolutions were duly adopted on a specified date and remain in full force and effect.

The term "*Commission*" shall mean the Interstate Commerce Commission and any successor or substitute administrative body created under the laws of the United States and exercising similar jurisdiction over interstate carriers by rail.

The term "*Company*" is defined in Section 14.05.

The term "*Cost*" when used with reference to any Purchased Property shall mean the amount properly charged to Investment Accounts under Standard Accounting Rules as the investment of the Company therein, except that (a) in the case of Purchased Property which shall be required or permitted by Standard Accounting Rules to be charged to Road and Equipment Account at the original cost thereof when first devoted to public utility use, the Cost thereof shall mean the investment of the Company therein; and (b) in the case of Purchased Property subject to any lien or charge prior to the lien hereof (other than Permitted Encumbrances) the Cost thereof shall mean the investment of the Company therein less the aggregate principal amount of indebtedness secured by such lien or charge, whether or not assumed or guaranteed by the Company; and, when used with reference to securities, shall mean the amount properly charged to Investment Accounts in accordance with Standard Accounting Rules as the investment of the Company therein.

The term "*Cost of Additions and Betterments*" shall mean the amount properly charged to that portion of Road and Equipment Account relating solely to Road Property, Improvements on Leased Property Account, and Miscellaneous Physical Property Account, under Standard Accounting Rules, as the cost or investment of the Company therein.

The term "*Counsel*" shall mean legal counsel satisfactory to the Trustee, who may be counsel for the Company.

The term "*daily newspaper*" shall mean a newspaper customarily published at least on each business day other than holidays.

The term "*deposited cash*" is defined in Section 3.05.

The term "*event of default*" is defined in Section 9.02.

The term "*Granting Clauses*" shall mean all those provisions of this Indenture which follow the Recitals and precede the Habendum.

The term "*Income After Fixed Charges*" shall mean Income After Fixed Charges as determined in Section 6.01.

The term "*Indenture*" or "*this Indenture*" shall mean this Indenture either as originally executed or as the same may from time to time be supplemented, modified or amended by any supplemental indenture entered into pursuant to any of the provisions hereof.

The term "*independent engineer*" or "*independent appraiser*" shall mean an engineer or appraiser, as the case may be, who is not in the regular employ of the Company or of any railroad company affiliated with it; he may, however, be an engineer or appraiser regularly employed by other railroad companies not affiliated with the Company.

The term "*lessee corporation*" is specially defined in Article Fourteen.

The term "*lines of railroad directly or indirectly subject to the lien hereof*" is defined in Section 11.01.

The word "*majority*" shall mean majority in principal amount.

The term "*Net Cost*", when used with respect to Additions and Betterments for a specified period, shall mean the Cost of such Additions and Betterments as herein defined minus the aggregate amounts credited to that portion of Road and Equipment Account relating solely to Road Property, Improvements on Leased Property Account and Miscellaneous Physical Property Account, in accordance with the requirements of Standard Accounting Rules, by reason of the retirement of any of such Additions and Betterments during such period.

The term "*Officers' Certificate*" shall mean a certificate signed by the President or a Vice President, and by the Treasurer, an

Assistant Treasurer, or the Comptroller and General Auditor, or other chief accounting officer of the Company.

The term "*optional redemption price*" is defined in Section 5.01.

The term "*outstanding Bonds*": See "*Bonds outstanding*" above.

The term "*paying agent*" shall mean any corporation or other person appointed by the Company to act as its agent in the payment of the principal of, premium, if any, or interest on any Bonds or coupons.

The term "*Permitted Encumbrances*" shall, as of any particular time, mean:

(a) liens for taxes, assessments or governmental charges not then delinquent; liens for the payment or discharge of which provision satisfactory to the Trustee has been made; mechanics', laborers', materialmen's and similar liens not then delinquent; any of such liens, irrespective of amount, whether or not delinquent, the validity of which is being contested at the time by the Company in good faith and by appropriate legal proceedings; and undetermined liens or charges incidental to construction;

(b) any obligation or duty affecting the trust estate or any part thereof or the use, removal, control or regulation thereof, arising under any provision of law or any franchise, grant, license or permit granted or issued by any public authority;

(c) interests of others than the Company in property owned jointly or in common;

(d) easements and rights of way, and liens or encumbrances subject to which such easements or rights of way may be possessed, exceptions, reservations, restrictions, conditions, limitations, covenants, party wall agreements, and adverse rights or interests, and any other defects or irregularities in title affecting the trust estate customarily found in cases of properties of the size and character of the trust estate;

provided that, in the opinion of Counsel, none of such items materially impairs the use of the affected property by the Company, and may be properly ignored as to its effect upon the security of this Indenture.

The term "*purchase money mortgage*" shall include any mortgage, deed of trust or other instrument, however designated, given to secure the payment of all or a part of the purchase price of property.

The term "*Purchased Property*" shall mean lines of railroad, bridges, railroad terminals or other carrier property, purchased or acquired by the Company which the Board of Directors shall consider necessary or useful in the operation of the lines of railroad comprised in the trust estate, except lines of railroad, bridges, railroad terminals or other carrier property purchased or acquired from a corporation at least 95% of whose stock of each class was owned by the Company at the time of the execution and delivery of this Indenture or at least 95% of whose stock was thereafter acquired and theretofore made the basis of the authentication and delivery of Bonds hereunder, or the payment of cash, or the release of property hereunder, or acquired with proceeds of the insurance on property subject to the lien hereof.

The term "*Securities*" is specially defined in Section 3.03.

The term "*sinking fund redemption price*" is defined in Section 5.01.

The term "*Standard Accounting Rules*" shall mean the rules and regulations of the Commission for a uniform system of accounts for steam railroads (or its rules and regulations for a uniform system of accounts for electric railways as to any carrier the accounts of which are governed thereby), and all applicable special or general rules, regulations and orders of the Commission relating to accounting, from time to time in force; and whenever no such rule, regulation or order shall be applicable, the rules applied in sound accounting practice.

The term "*Subject Clauses*" shall mean the four paragraphs immediately following the Habendum.

The term "*subsidiary*", "*subsidiary company*" or other equivalent term shall mean a corporation a majority of whose stock, ordinarily entitled to vote for the election of directors, is owned by the Company and subject to the lien hereof.

The term "*successor corporation*" is specially defined in Article Fourteen.

The term "*trust estate*" is defined in the Habendum. For certain exclusions from the "*trust estate*" see Section 14.02.

The term "*Trustee*" shall mean the Trustee for the time being under this Indenture, whether original or successor.

The term "*Unrestricted Bonds*" is defined in Section 3.02.

The term "*wholly owned subsidiary*" shall mean any corporation, not less than 95% of whose stock of each class is owned by the Company and subject to the lien hereof.

SECTION 1.03. Whenever a "*Consent*", "*Order*", "*Notice*", "*Request*" or other instrument of the Company (other than an "*Officers' Certificate*") is required to be delivered to the Trustee preliminary to any action authorized to be taken by it upon same, it shall be in writing, duly executed on behalf of the Company by the President or a Vice President and have the corporate seal of the Company thereto affixed, attested by the Secretary or an Assistant Secretary.

ARTICLE TWO.

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

SECTION 2.01. The authorized principal amount of Bonds issuable under this Indenture is limited so that the aggregate principal amount at any one time outstanding shall not exceed Seventy-Five Million Dollars (\$75,000,000), except as otherwise provided in Section 2.08 of this Article Two.

SECTION 2.02. From time to time the Bonds shall be executed on behalf of the Company, and delivered to the Trustee for authentication by it, and thereupon, as provided in this Indenture and not otherwise, the Trustee shall authenticate and deliver the same. Bonds may be authenticated and delivered hereunder in advance of the recording, registering or filing of this Indenture, but the Company covenants that, with all convenient speed, it will cause this Indenture to be duly recorded.

The Bonds shall be signed on behalf of the Company by its President or any Vice President (the signature of either of whom may be a facsimile signature) and its corporate seal shall be affixed (or a facsimile thereof imprinted thereon) and attested by its Secretary or one of its Assistant Secretaries. In case any of the officers of the Company who shall have signed or sealed and attested any of the Bonds shall cease to be such officers of the Company before the Bonds so signed or sealed and attested shall have been actually authenticated and delivered by the Trustee or issued, such Bonds, nevertheless, may be authenticated and delivered and issued as though the persons who signed or sealed and attested such Bonds had not ceased to be officers of the Company, and also any such Bond may be signed or sealed and attested on behalf of the Company by such persons as at the actual date of the execution of such Bond shall be the proper officers of the Company, although at the nominal date of such Bond any such person shall not have been such officer of the Company. The coupons to be attached to coupon Bonds shall bear the facsimile signature of the present Treasurer or of any future Treasurer of the Company, and the Company may adopt and use for that purpose the facsimile signature of any person who shall have been such Treasurer, notwithstanding the fact that he may have ceased to be such Treasurer at the time when such Bonds shall be actually authenticated and delivered.

Only such Bonds as shall bear thereon endorsed a certificate of 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; no Bond and no coupon appertaining thereto shall be valid or obligatory for any

purpose until such Bond has been so authenticated; and such authentication by the Trustee upon any Bond, when issued, shall be conclusive evidence that the Bond so authenticated and any coupons appertaining thereto have 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, the Trustee shall (except as provided in Sections 2.05 and 2.08 of this Article Two) detach and cancel all coupons then matured and thereafter, upon the written request of the Company, deliver the same to it.

SECTION 2.03. The Bonds shall be issuable in series and the Bonds of each series shall be distinctively designated. The Series A Bonds and the coupons attached thereto shall be in substantially the respective forms hereinbefore recited. Bonds of other series shall also be in substantially the forms hereinbefore recited, with such variations, permitted by this Indenture, as the Board of Directors shall determine at the time of creation of each series.

Any Bonds may include or may have imprinted or endorsed thereon any legend or legends required in order to conform to the rules of any securities exchange or to general usage.

All Bonds of the same series shall be identical in form, except that they may be of different denominations, and may be in coupon form and in registered form without coupons, and except that as between Bonds of different denominations and as between coupon Bonds and registered Bonds without coupons there may be such appropriate differences, authorized or permitted by this Indenture, as may be determined by the Board of Directors at the time of the creation of such series.

The several series of Bonds may differ from the Series A Bonds and as between series in respect of any or all of the following characteristics:

- (a) title;
- (b) date;
- (c) date of maturity, but, except with respect to Unrestricted Bonds issued pursuant to Section 3.02 hereof, not

earlier than January 1, 1981, so long as any Series A Bonds are outstanding;

- (d) interest rate;
- (e) interest payment dates;
- (f) denominations;
- (g) provisions, if any, in respect of sinking fund, but except with respect to Unrestricted Bonds issued pursuant to Section 3.02 hereof, if the annual sinking fund provided for the benefit of the Bonds of any other series shall be greater than 1% of the principal amount of the Bonds of such series at any one time outstanding, the sinking fund provided herein for the benefit of Series A Bonds shall, so long as any Series A Bonds are outstanding, be automatically and correspondingly increased from and after the date of the creation of such series;
- (h) provisions, if any, as to registration of coupon Bonds as to principal, as to interchangeability of coupon Bonds and registered Bonds without coupons, and as to exchangeability of Bonds for Bonds of different denominations;
- (i) limitations upon the aggregate principal amount of Bonds of such series which may be issued;
- (j) provisions, if any, for the payment of principal or interest without deductions for taxes or for reimbursement for taxes;
- (k) provisions, if any, in respect of the right of the Company to redeem Bonds before maturity (subject to the provisions of Article Five hereof);
- (l) provisions, if any, for conversion of Bonds into stock of the Company or otherwise; and
- (m) in any other respect not inconsistent with the provisions of this Indenture.

SECTION 2.04. The Bonds of any series may be issued originally as coupon Bonds or as registered Bonds without coupons, or both. Coupon Bonds and registered Bonds without coupons of the same series may be interchangeable.

The coupon Bonds of each series shall bear such date as shall be fixed and determined by the Board of Directors at the time of the creation of such series and shall bear interest from the date thereof. The registered Bonds without coupons of each series shall, subject to the provisions of Section 2.05 hereof, be dated the date of authentication, if an interest payment date to which interest has been paid, or, if not such an interest payment date, then the last preceding such interest payment date; *provided, however*, that in the case of the initial issue of Bonds of any series the date of any registered Bond without coupons constituting part of such initial issue shall be the date of the coupon Bonds of such series. Both coupon Bonds and registered Bonds without coupons of each series shall bear interest at such rate payable on such dates, and shall mature at such time or times (except with respect to Unrestricted Bonds issued pursuant to Section 3.02 hereof, not earlier than January 1, 1981, so long as any Series A Bonds are outstanding) as shall be fixed and determined by the Board of Directors at the time of the creation of such series. All Bonds of each series shall be payable, both as to principal, premium, if any, and interest, at the office or agency of the Company designated for that purpose in the City and County of San Francisco, California, or, at the option of the holder, at the office or agency of the Company designated for that purpose in the Borough of Manhattan, City and State of New York, and at such other place or places, if any, as may be determined at the time of the creation of such series, in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

The coupon Bonds of each series shall be in the denomination of \$1,000, and if the Board of Directors shall so determine at the time of the creation of any series may also be in the denomination of \$500 or \$100, or both. The registered Bonds without coupons of each series shall be in the denomination of \$1,000 and of such mul-

tuples thereof as the Board of Directors shall determine at the time of the creation of any series, or thereafter by resolution from time to time authorize.

SECTION 2.05. The Company will keep at the office or agency to be maintained by it in the City and County of San Francisco, California, and at the office or agency to be maintained by it in the Borough of Manhattan, City and State of New York, and at any other place or places designated in any of the Bonds, a sufficient book or books for the registration and transfer of Bonds which shall, at all reasonable times, be open for inspection by the Trustee.

The holder of any coupon Bond expressed to be registerable as to principal may have the ownership thereof registered on said books of the Company and such registration noted on the Bond by the Company or its agent. After such registration, no transfer shall be valid unless made on said books by the registered holder in person, or by his attorney duly authorized, and similarly noted on the Bond. Upon presentation at such a place of registration of any such coupon Bond registered as to principal, accompanied by a written instrument of transfer in form approved by the Company, executed by the registered holder or his duly authorized attorney, such Bond shall be transferred upon such register, and such transfer shall be noted upon such Bond. The registered holder of any such Bond shall also have the right to cause the same to be registered as payable to bearer, in which case transferability by delivery shall be restored, and thereafter the principal of such Bond when due shall be payable to the person presenting the Bond; but any such Bond registered as payable to bearer may be registered again in the name of the holder with the same effect as the first registration thereof. Successive registrations and transfers as aforesaid may be made from time to time as desired; and each registration of a Bond shall be noted on the Bond. Registration of any coupon Bond as to principal shall not affect the negotiability of the coupons appertaining to such Bond, and every such coupon shall continue to be transferable by delivery and shall remain payable to bearer.

Every registered Bond without coupons shall be transferable only by the registered holder thereof in person or by his attorney

duly authorized, on said books of the Company. Whenever any registered Bond without coupons shall be surrendered for exchange for registered Bonds without coupons of another denomination (if expressed to be so exchangeable), or for transfer, accompanied by a written instrument of transfer in form approved by the Company, executed by the registered holder or his duly authorized attorney, the Company shall execute, and the Trustee shall authenticate and deliver to the registered holder or to the transferee, as the case may be, on cancellation of the Bond or Bonds so surrendered, a new registered Bond or Bonds without coupons of authorized denominations of the same series and for a like aggregate principal amount, dated as provided in Section 2.04 hereof.

Whenever any coupon Bond or Bonds of the denomination of \$1,000 or of denominations aggregating \$1,000, expressed to be exchangeable for a registered Bond without coupons, together with all appurtenant unmatured coupons, shall be surrendered for exchange for a registered Bond or Bonds without coupons, the Company shall execute and the Trustee shall authenticate and deliver, on cancellation of the coupon Bond or Bonds so surrendered, a registered Bond or Bonds without coupons of authorized denominations of the same series and for a like aggregate principal amount, dated as provided in Section 2.04 hereof.

Whenever any registered Bond or Bonds without coupons, expressed to be exchangeable for a coupon Bond or Bonds, shall be surrendered for exchange for a coupon Bond or Bonds, accompanied by a written instrument of transfer in form approved by the Company, executed by the registered holder or his duly authorized attorney, the Company shall execute and the Trustee shall authenticate and deliver, on cancellation of the registered Bond or Bonds without coupons so surrendered, a coupon Bond or Bonds of authorized denominations of the same series and for a like aggregate principal amount, with all appurtenant unmatured coupons.

Whenever any coupon Bond or Bonds expressed to be exchangeable for a coupon Bond or Bonds of other denominations, together with all appurtenant unmatured coupons, shall be surren-

dered for exchange for a coupon Bond or Bonds of other denominations, the Company shall execute and the Trustee shall authenticate and deliver, on cancellation of the coupon Bond or Bonds so surrendered, a new coupon Bond or Bonds of authorized denominations of the same series for an equal aggregate principal amount, with all appurtenant unmatured coupons.

In every case of exchange the Trustee forthwith shall cancel the surrendered Bond or Bonds and the coupons, if any, thereto appertaining, and thereafter, upon the written request of the Company, shall deliver the same to it.

Each Bond delivered pursuant to the exercise of any privilege of transfer or exchange or in substitution for the whole or any part of one or more other Bonds shall carry all of the rights to interest accrued and unpaid, and to accrue, which were carried by the whole or such part of such one or more other Bonds, and, notwithstanding anything contained in this Indenture, such Bonds if registered Bonds without coupons shall be so dated, or, if coupon Bonds, have attached thereto such coupons, that neither gain nor loss in interest shall result from such transfer or exchange or substitution.

For any exchange of coupon Bonds for coupon Bonds of another denomination, or of coupon Bonds for registered Bonds without coupons, or of registered Bonds without coupons for coupon Bonds, or of registered Bonds without coupons for registered Bonds without coupons of another denomination, and for any transfer of registered Bonds without coupons or coupon Bonds registered as to principal, the Company, except as otherwise provided in Sections 2.07, 4.02 and 5.03 hereof, may at its option require the payment of a sum not exceeding \$2.00 for each new Bond issued upon such exchange or transfer. In addition, the Company may, in connection with any such transfer, require the payment of any stamp taxes or other governmental charges connected therewith.

If some one or more of the events of default enumerated in Section 9.02 hereof shall have happened and be continuing, nevertheless, the Trustee, in its discretion, may authenticate and deliver

Bonds for the purposes of making the exchanges and transfers provided for in this Section 2.05.

SECTION 2.06. As to all registered Bonds without coupons and all coupon Bonds registered as to principal, the person in whose name the same shall be registered on the books of the Company shall, for all purposes of this Indenture, be deemed and regarded as the absolute holder and owner thereof, and payment of, or on account of, the principal of any such Bond, if it be a registered coupon Bond, and of the principal of and interest on such Bond, if it be a registered Bond without coupons, shall be made only to, or upon the order of, such registered holder thereof. The Company and the Trustee and any paying agent may deem and treat the bearer of any coupon Bond which shall not at the time be registered as to principal, and the bearer of any coupon for interest on any coupon Bond (whether or not such Bond shall be registered as to principal), as the absolute holder and owner of such Bond or coupon for the purpose of receiving payment thereof, and for all other purposes whatsoever; and neither the Company nor the Trustee nor any paying agent shall be affected by any notice to the contrary. All such payments shall be valid and effectual to satisfy and discharge the liability of the Company upon such Bonds or coupons to the extent of the sum or sums so paid.

SECTION 2.07. Until the definitive Bonds of any series shall have been prepared and are ready for delivery, the Company may execute and upon the written Request of the Company the Trustee shall authenticate and deliver, in lieu of such definitive Bonds, temporary printed Bonds of any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are issued, in bearer form with one or more coupons or without coupons, or in registered form without coupons, and with appropriate omissions, insertions and variations, as may be required. Such temporary Bonds shall be exchangeable, without expense to the holder, for the definitive Bonds in lieu of which they are issued, and, upon surrender and cancellation of such temporary Bonds, the Company shall execute and upon written Request of the Company the Trustee shall authenticate and deliver in exchange therefor definitive

Bonds of the same series for the same aggregate principal amount as the temporary Bonds surrendered. Until so exchanged the temporary Bonds shall in all respects be entitled to the same lien and security of this Indenture as definitive Bonds authenticated and delivered.

SECTION 2.08. In case any Bond, definitive or temporary, shall become mutilated or be destroyed, stolen or lost, the Company, in its discretion, may execute, and thereupon the Trustee shall authenticate and deliver, a new Bond of the same series, with or without coupons as the case may be, of like tenor and date, bearing the same or a different number or numbers and bearing the same rights with respect to interest and otherwise, in exchange and substitution for and upon cancellation of such mutilated Bond and its coupons, if any, or in lieu of and in substitution for the Bond and its coupons, if any, so destroyed, stolen or lost. The applicant for such substituted Bond shall furnish the Company and the Trustee evidence satisfactory to them of ownership and of such mutilation, destruction, theft or loss; and such applicant shall also furnish indemnity satisfactory to the Company and the Trustee, in their discretion, and shall comply with such other reasonable regulations, including the payment of the expense incident to the preparation and issue of such substituted Bond, as the Company or the Trustee may prescribe. If any such mutilated, destroyed, stolen or lost Bond or any coupon appurtenant thereto shall have matured or shall be about to mature, the Company may pay the same without surrender thereof instead of issuing a substituted Bond or coupon.

If some one or more of the events of default enumerated in Section 9.02 hereof shall have happened and be continuing, nevertheless, the Trustee, in its discretion, may authenticate and deliver Bonds for the purposes provided for in Section 2.08 hereof.

SECTION 2.09. The foregoing provisions of this Article Two are subject to the following specific provisions in respect of the Series A Bonds:

The Series A Bonds shall be limited to an aggregate principal amount of \$22,000,000 and shall (a) be dated as of January 1, 1951;

(b) mature on January 1, 1981, unless the same shall become due and payable on an earlier date as hereinafter provided; (c) bear interest at the rate of $3\frac{1}{8}\%$ per annum, payable semi-annually on the first day of January and the first day of July in each year from the date thereof until the principal sum thereof becomes due and payable as herein provided and thereafter at the legal rate of interest until payment of the principal sum; (d) be payable, as to principal, premium, if any, and interest, at the office or agency of the Company designated for that purpose in the City and County of San Francisco, California, or, at the option of the holder, at the office or agency of the Company designated for that purpose in the Borough of Manhattan, City and State of New York, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts; (e) be issuable in the form of coupon Bonds, registerable as to principal, as provided in Section 2.05 hereof, in the denomination of \$1,000, and of registered Bonds without coupons in the denominations of \$1,000, \$5,000, \$10,000, and any multiple of \$10,000, and shall be interchangeable as between coupon Bonds and registered Bonds without coupons and as between registered Bonds without coupons of the several denominations; (f) be subject to redemption as provided in Article Five hereof; and (g) have the benefit of the sinking fund provided for in Article Six hereof.

ARTICLE THREE.

AUTHENTICATION AND ISSUE OF BONDS.

SECTION 3.01. Upon or at any time and from time to time after the execution and delivery hereof, the Company may execute and deliver to the Trustee Twenty-Two Million Dollars (\$22,000,000) principal amount of Series A Bonds, and thereupon the Trustee, without further action on the part of the Company and in advance of the recording, registering or filing of this Indenture, shall authenticate said Bonds and deliver the same to or upon the written Order of the Company. No additional Series A Bonds shall be authenticated or delivered except as provided by Sections 2.05, 2.07, 2.08, 4.02 and 5.03 hereof.

The Company covenants and agrees

(a) that, upon or prior to the delivery to it or upon its written Order of said Series A Bonds, it will deposit as trust funds with Crocker First National Bank of San Francisco, as Trustee under said First Mortgage, an amount sufficient to redeem on March 1, 1951 all First Mortgage Bonds then outstanding, and to pay all sums due or to become due to said Trustee, including its compensation and expenses upon such redemption, and make arrangements satisfactory to said Trustee that notice of redemption of all outstanding First Mortgage Bonds on March 1, 1951 will be duly given, and that all outstanding First Mortgage Bonds will be called for redemption on March 1, 1951 in accordance with the provisions of the First Mortgage, and that, with all convenient speed, after such deposit with said First Mortgage Trustee, the Company will cause said First Mortgage to be discharged and to be satisfied of record and the mortgaged property to be reconveyed and transferred to the Company;

(b) that, upon or prior to the delivery to it or upon its written Order of said Series A Bonds, it will deposit as trust funds with The Chase National Bank of the City of New York, as Trustee under said General Mortgage, an amount sufficient to redeem on May 1, 1951 all General Mortgage Income Bonds then outstanding, and to pay all sums due or to become due to said Trustee, including its compensation and expenses upon such redemption, and make arrangements satisfactory to said Trustee that notice of redemption of all outstanding General Mortgage Income Bonds on May 1, 1951 will be duly given, and that all outstanding General Mortgage Income Bonds will be called for redemption on May 1, 1951 in accordance with the provisions of the General Mortgage, and that, with all convenient speed, after such deposit with said General Mortgage Trustee, the Company will cause said General Mortgage to be discharged and to be satisfied of record and the mortgaged property to be reconveyed and transferred to the Company.

Bonds issued hereunder subsequent to the Series A Bonds, after the discharge of said First Mortgage and after the discharge of said

General Mortgage, may be entitled "First Mortgage Bonds" and in any reference to this Indenture in any such bonds this Indenture may be referred to as a "First Mortgage".

SECTION 3.02. From time to time and in the manner provided in this Section 3.02, Bonds of one or more series created solely pursuant to this Section 3.02 (hereinafter referred to as "Unrestricted Bonds") may from time to time in accordance with and subject to the limitations of Section 2.01, this Section 3.02 and Sections 3.06 and 3.09 hereof be executed by the Company and authenticated by the Trustee and delivered to or upon the written Order of the Company, for or on account of the property owned by the Company at July 1, 1950, upon receipt by the Trustee of the documents required by Section 3.06 hereof.

No Unrestricted Bonds shall be authenticated and delivered by the Trustee if, as a result, the aggregate principal amount of such Bonds at the time outstanding would exceed \$3,000,000.

SECTION 3.03. Bonds of any series, other than Series A and any series created pursuant to Section 3.02 hereof, may, from time to time, in accordance with and subject to the limitations of Section 2.01, this Section 3.03 and Sections 3.06 and 3.09 hereof, be executed by the Company and authenticated by the Trustee and delivered to or upon the written Order of the Company, for or on account of and in a principal amount not exceeding $66\frac{2}{3}\%$ of the Net Cost (in the case of Additions and Betterments) and the Cost (in the case of Purchased Property and Securities) of the making, constructing, purchasing or otherwise acquiring, after June 30, 1950, of the following:

A. Additions and Betterments as defined herein;

B. Purchased Property as defined herein;

C. Securities consisting of fully paid and nonassessable shares of stock, or secured or unsecured bonds or other obligations, of any other corporation substantially all of whose assets shall consist of a line or lines of railroad or other carrier property, *provided* such corporation is a wholly owned subsidiary as that term is defined

herein, or, if the Company is acquiring shares of its stock, upon the acquisition of such stock by the Company shall become a wholly owned subsidiary; and

D. Securities consisting of fully paid and nonassessable shares of stock, or secured or unsecured bonds or other obligations, of any tunnel, bridge, depot, belt line, terminal or transfer corporation or other corporation having the right to furnish to railway corporations station, terminal or transfer facilities or other facilities, or of any corporation engaged primarily in transportation incidental or supplemental to the railroad transportation service of the Company, which the Board of Directors shall consider necessary or useful in the operation of the lines of railroad comprised in the trust estate, *provided* that except in the case of the joint ownership of any such corporation (through the ownership of its stock) by the Company and another railroad company or companies, such corporation is a wholly owned subsidiary as that term is defined herein, or, if the Company is acquiring shares of its stock, upon the acquisition of such stock by the Company shall become a wholly owned subsidiary; (such Additions and Betterments, Purchased Property and Securities being hereinafter sometimes referred to generally as "Additions"), *provided*:

(1) That no Bonds of any series shall be authenticated under this Section 3.03 on the basis of the Cost or Net Cost of Additions, as the case may be, unless the expenditures constituting the Cost or Net Cost thereof shall have been made, or liability incurred therefor, by the Company within seven years prior to the date of the adoption of the Certified Resolutions authorizing the issuance of the Bonds the authentication and delivery of which is so requested;

(2) That no Bonds shall be authenticated under this Section 3.03 on the basis of Additions and Betterments if the sum of (i) the principal amount thereof, (ii) the aggregate principal amount of Bonds theretofore authenticated under this Section 3.03 on the basis of Additions and Betterments and (iii) the aggregate amount of deposited cash theretofore withdrawn under Section 3.05 hereof in lieu

of the authentication of Bonds under this Section 3.03 on the basis of Additions and Betterments would exceed $66\frac{2}{3}\%$ of the amount by which the total charges made by the Company subsequent to June 30, 1950 to any of its accounts to which Additions and Betterments (as herein defined) made between that date and the end of the period within which the Additions and Betterments sought to be made the basis of the authentication of Bonds shall have been charged shall exceed the total credits by the Company to such accounts during such period;

(3) That no Bonds shall be authenticated under this Section 3.03 on the basis of Additions and Betterments in a principal amount exceeding $66\frac{2}{3}\%$ of the Net Cost thereof, as defined herein;

(4) That no Bonds shall be authenticated under this Section 3.03 on the basis of Purchased Property or Securities in an aggregate principal amount exceeding $66\frac{2}{3}\%$ of the Cost thereof, as respectively defined herein;

(5) That no Bonds shall be authenticated under Clauses C and D of this Section 3.03 on account of shares of stock of a corporation which is, or upon the acquisition of such stock by the Company shall become, a wholly owned subsidiary, as that term is defined herein, at a time when the corporation that issued such stock has outstanding any bonds, obligations or other indebtedness (other than indebtedness of the character specified in Clauses (1), (2) and (3) of Section 7.12 hereof), unless such bonds, obligations, and other indebtedness (and any evidences thereof) have been acquired by the Company and deposited and pledged with the Trustee;

(6) That no Bonds shall be authenticated under Clause D of this Section 3.03 on account of shares of stock of a corporation owned or to be owned jointly by the Company and another railroad company or companies (i) unless said companies shall own at least 95% of the outstanding shares of each class of stock of such corporation in equal proportions, and (ii) when the corporation that issued such stock has outstanding any bonds, obligations or other indebtedness (other than indebtedness of the character specified in Clauses (1), (2) and (3) of Section 7.12 hereof), unless the Company and such other rail-

road company or companies have acquired all of such outstanding bonds, obligations and other indebtedness, each thereof acquiring a part thereof proportionate to the part of the stock of each class of such corporation owned by it, and the bonds, obligations and other indebtedness (and any evidences thereof), so acquired by the Company have been deposited and pledged with the Trustee;

(7) That the part of the Cost or Net Cost, as the case may be, of such Additions being made the basis for the authentication of Bonds has not theretofore been used as the basis for the authentication and delivery of Bonds, or for the payment of moneys deposited with the Trustee as a part of the trust estate, or for the release of property under any of the provisions hereof, or been paid through the use of insurance proceeds, and that the Company has not been reimbursed therefor from other moneys in, or property released from, the trust estate;

(8) That in case any Additions shall be acquired subject to any lien or charge prior to the lien hereof (other than Permitted Encumbrances) the principal amount of Bonds which may be authenticated under this Section 3.03 in respect of the Cost or Net Cost, as the case may be, of such Additions shall (except to the extent that such prior lien or charge shall theretofore have been taken into account on some previous application for Bonds or deposited cash or the release of property hereunder) not exceed $66\frac{2}{3}\%$ of the investment of the Company in such Additions less the aggregate principal amount of indebtedness secured by such prior lien or charge.

Bonds shall be authenticated and delivered under this Section 3.03 in accordance with the provisions hereof and said Order of the Company, upon receipt by the Trustee of the following:

- (a) The documents required by Section 3.06 hereof;
- (b) An Officers' Certificate, dated not more than thirty days prior to the delivery thereof, stating:
 - (i) That the Company, after June 30, 1950, and within seven years prior to the date of the adoption of the Certified

Resolutions authorizing the issuance of the Bonds the authentication and delivery of which is being requested, made, constructed, purchased or otherwise acquired certain Additions (describing them in reasonable detail); the period during which any Additions and Betterments included in said Additions were acquired or constructed by the Company, which shall not begin more than seven years prior to the date of the adoption of said Certified Resolutions; that all such Additions are of such a character that under the provisions of this Section 3.03 the Cost or Net Cost thereof, as the case may be, may be made the basis for the authentication of Bonds; and that all such Additions are subject to the lien hereof, subject only to Permitted Encumbrances and to the prior liens and charges, if any, specified in said Officers' Certificate;

(ii) The Cost or Net Cost, as the case may be, to the Company of each such Addition (determined in accordance with the appropriate definition in Section 1.02 hereof); and if Additions and Betterments are included in said Additions, a statement showing

the total charges to the capital accounts of the Company specified in the definition of Additions and Betterments in Section 1.02 hereof between July 1, 1950 and the end of the period during which such Additions and Betterments were acquired or constructed;

the total credits by the Company to such accounts between the same dates;

the excess of charges over credits (net charges) between the same dates; and

the amount of the excess of such net charges over the sum of

(a) the principal amount of the Bonds then proposed to be authenticated with respect to such Additions and Betterments,

(b) the aggregate principal amount of Bonds theretofore authenticated under this Section 3.03 on the basis of Additions and Betterments, and

(c) the aggregate amount of deposited cash theretofore withdrawn under Section 3.05 hereof in lieu of the authentication of Bonds under this Section 3.03 on the basis of Additions and Betterments;

and that the expenditures constituting such Cost or Net Cost were made or liability was incurred therefor within the period hereinbefore in paragraph (1) of this Section 3.03, provided;

(iii) That the part of the Cost or Net Cost, as the case may be, of such Additions being made the basis for the authentication of Bonds has not theretofore been used as the basis for the authentication and delivery of Bonds, or for the payment of moneys deposited with the Trustee as a part of the trust estate, or for the release of property under any of the provisions hereof, or been paid through the use of insurance proceeds, and that the Company has not been reimbursed therefor from other moneys in, or property released from, the trust estate;

(iv) If Securities of a corporation are included in said Additions, the character of its property and business, and such other facts as shall show conformity and compliance in respect thereof with the provisions of this Section 3.03; and

(v) Whether any such Additions are subject to any lien or charge prior to the lien hereof (other than Permitted Encumbrances), and if so, the amount thereof, the investment of the Company therein and the facts necessary to show the extent to which such prior lien or charge shall theretofore have been taken into account on any previous application for Bonds or cash or the release of property hereunder;

(c) All such deeds, conveyances, assignments or instruments of further assurance (if any), and evidence of such filing or recording thereof, as may be necessary for the purpose of effectually subjecting such Additions to the lien hereof, subject only to the prior liens and charges, if any, specified in the Officers' Certificate delivered to the Trustee pursuant to paragraph (b) of this Section 3.03 and to Permitted Encumbrances; but all Additions in respect of which Bonds shall be issued hereunder shall, upon the making, construction, purchase or other acquisition thereof, forthwith become and be subject to the lien hereof;

(d) An Opinion of Counsel that said Additions are of such character that under the provisions of this Section 3.03 the Cost or Net Cost thereof, as the case may be, may be made the basis for the authentication of Bonds; that the Company has good title thereto; that the deeds, conveyances, assignments and instruments of further assurance (if any) delivered to the Trustee pursuant to the foregoing paragraph (c) of this Section 3.03 are, or upon such filing or recording as may be specified in said Opinion will be, valid and sufficient for the purpose of effectually subjecting such Additions to the lien hereof, or that no such instruments are necessary; that such Additions are subject to the lien hereof as a first lien thereon, subject only to Permitted Encumbrances and the prior liens and charges, if any, specified in the Officers' Certificate delivered to the Trustee pursuant to paragraph (b) of this Section 3.03;

(e) The Securities, if any, included in such Additions, and any other securities required to be deposited and pledged with the Trustee by paragraphs (5) or (6) of this Section 3.03, in bearer form or accompanied by proper instruments of assignment and transfer.

SECTION 3.04. Bonds of any series, other than Series A and any series created pursuant to Section 3.02 hereof, may, from time to time, in accordance with and subject to the limitations of Section 2.01, this Section 3.04 and Sections 3.06 and 3.09 hereof, be executed by the Company and authenticated by the Trustee and

delivered to or upon the written Order of the Company, upon the basis of the concurrent surrender to the Trustee for cancellation or of the payment, redemption or other retirement of (i) Bonds theretofore authenticated, delivered and issued under this Indenture (excluding Bonds issued solely by way of pledge, except as hereinafter in this paragraph provided and excluding Unrestricted Bonds created pursuant to Section 3.02 hereof), (ii) obligations of the Company secured by the pledge of Bonds, but only in a principal amount not exceeding the principal amount of such obligations or the principal amount of the Bonds so pledged, whichever shall be the less, or (iii) obligations of the Company (except obligations for the deferred or serial payment of the purchase price of equipment) secured by a lien prior to the lien hereof upon property of the Company acquired after the execution and delivery of this Indenture and subject to the lien hereof, provided such prior lien is the only other lien thereon except Permitted Encumbrances, but only in an aggregate principal amount not exceeding $66\frac{2}{3}\%$ of that part of the Cost (as defined in Section 1.02 hereof) to the Company of acquiring such property which has not theretofore been used as the basis for the authentication and delivery of Bonds, or for the payment of moneys deposited with the Trustee as a part of the trust estate, or for the release of property under any of the provisions hereof, or been paid through the use of insurance proceeds, or for which the Company has not been reimbursed from other moneys in, or property released from, the trust estate. No Bonds shall, however, be authenticated and delivered on account of the surrender for cancellation, payment, redemption or other retirement of Bonds or other obligations if such Bonds or other obligations shall theretofore have been made the basis for the authentication and delivery of Bonds, or shall have been used in lieu of cash to satisfy any sinking fund obligation of the Company hereunder or under any indenture supplemental hereto, or shall have been acquired, paid, redeemed or retired from the proceeds of property released from the lien hereof, or through the operation of any sinking fund provided for hereunder or under any indenture supplemental hereto, or through the application of any moneys held by the Trustee as security hereunder.

Bonds in an aggregate principal amount not exceeding the principal amount of the Bonds or other obligations so surrendered to the Trustee for cancellation or paid, redeemed or otherwise retired shall (subject to the limitations stated in the preceding paragraph hereof as to obligations secured by the pledge of Bonds) be authenticated and delivered in accordance with the provisions hereof and said Order of the Company upon receipt by the Trustee of the following:

(a) The documents required by Section 3.06 hereof;

(b) An Officers' Certificate stating that none of the Bonds or other obligations then made the basis for the authentication and delivery of Bonds have theretofore been made the basis for the authentication and delivery of Bonds, or have been used in lieu of cash to satisfy any sinking fund obligation of the Company hereunder or under any indenture supplemental hereto, or have been acquired, paid, redeemed or retired from the proceeds of property released from the lien hereof, or through the operation of any sinking fund provided for hereunder or under any indenture supplemental hereto, or through the application of any moneys held by the Trustee as security hereunder;

(c) In case the authentication and delivery of Bonds is to be based on the surrender, payment, redemption or other retirement of Bonds or of obligations of the Company secured by the pledge of Bonds, a further Officers' Certificate stating, as the case may be, either (i) that none of the Bonds so surrendered, paid, redeemed or otherwise retired had been issued solely by way of pledge, or (ii) that said obligations are then secured by pledge of a specified principal amount of Bonds, and that the principal amount of Bonds then proposed to be authenticated and delivered under this Section 3.04 is not in excess of the principal amount so stated or the principal amount of such obligations, whichever is less; and

(d) In case the authentication and delivery of Bonds is to be based on the surrender, payment, redemption or other retirement of obligations, other than Bonds and obligations se-

cured by the pledge of Bonds, a further Officers' Certificate stating (i) that none of such obligations are obligations for the deferred or serial payment of the purchase price of equipment, (ii) that such obligations are or were prior to such retirement, secured by a lien prior to the lien hereof upon property of the Company subject to the lien hereof acquired after the execution and delivery of this Indenture, and that such prior lien is or was the only other lien thereon except Permitted Encumbrances, and (iii) that the aggregate principal amount of Bonds theretofore and then proposed to be authenticated and delivered under this Section 3.04 with respect to such obligations is not in excess of $66\frac{2}{3}\%$ of that part of the Cost (as defined in Section 1.02 hereof) to the Company of acquiring such property which has not theretofore been used as the basis for the authentication and delivery of Bonds, or for the payment of moneys deposited with the Trustee as a part of the trust estate, or for the release of property under any of the provisions hereof, or been paid through the use of insurance proceeds, or for which the Company has not been reimbursed from other moneys in, or property released from, the trust estate—together with an Opinion of Counsel stating that such obligations are, or prior to such retirement were, secured by a lien prior to the lien hereof upon property which is owned by the Company and is subject to the lien hereof and that such prior lien is or was the only other lien thereon except Permitted Encumbrances; and

(e) The Bonds or other obligations made the basis for the authentication and delivery of the Bonds then to be authenticated and any pledged Bonds securing such obligations; *provided, however,* that (i) in lieu of surrendering Bonds to the Trustee for cancellation the Company may deposit with the Trustee as trust funds an amount sufficient to pay at maturity or to redeem such Bonds, including premium, if any, and interest thereon to maturity or the date of redemption, subject, however, in the case of Bonds called or to be called for redemption, to the making of arrangements satisfactory to the Trustee for the completion of the call for such redemption and (ii) in

lieu of surrendering such other obligations where secured by a prior lien on property subject to the lien hereof, the Company may deliver to the Trustee an instrument or instruments satisfying, releasing or discharging the mortgage, deed of trust or other instrument under which such obligations were issued, together with an Opinion of Counsel that such mortgage, deed of trust or other instrument has been effectively satisfied, released and discharged, that the property on which the same constituted a lien is owned by the Company and is subject to the lien hereof, and that there is no lien thereon (other than Permitted Encumbrances) which is prior to the lien of this Indenture and was junior to the lien created by such mortgage, deed of trust or other instrument.

All Bonds or other obligations so deposited with the Trustee shall, if uncanceled, be either in bearer form or accompanied by proper instruments of assignment or transfer. All Bonds deposited with the Trustee pursuant to this Section 3.04 shall forthwith be cancelled by the Trustee and thereafter, upon the written Request of the Company, delivered to it. Other obligations, if uncanceled when deposited with the Trustee, shall be cancelled by the Trustee if paid or redeemed and if the Trustee shall have been furnished with an Opinion of Counsel that cancellation thereof upon such payment or redemption is required by the mortgage, deed of trust or other instrument pursuant to which such obligations were issued or if furnished with an Opinion of Counsel that the obligations and/or the lien securing the same are extinguished as a matter of law by the acquisition thereof by the Company. Every other uncanceled obligation shall be held by the Trustee as additional security for the payment of the Bonds.

In case upon the payment, redemption or other retirement of any obligations of the Company which are secured by the pledge of Bonds and which are thereafter used as the basis for the authentication and delivery of Bonds under the provisions of this Section 3.04 the Company shall become entitled to the release of any Bonds theretofore

so pledged, the Company will immediately give written Notice to the Trustee of that fact, and shall obtain such Bonds and deliver them to the Trustee. Any Bonds so delivered to the Trustee shall forthwith be cancelled by the Trustee and thereafter, upon the written Request of the Company, delivered to it; and no Bonds shall be authenticated or delivered in lieu thereof.

SECTION 3.05. At the option of the Company Bonds of any series, other than Series A and any series created pursuant to Section 3.02 hereof, may, from time to time, in accordance with and subject to the limitations of Section 2.01, this Section 3.05 and Sections 3.06 and 3.09 hereof, be executed by the Company and shall be authenticated by the Trustee and delivered to or upon the written Order of the Company against the deposit with the Trustee of an amount in cash equal to the principal amount of Bonds so authenticated and delivered, and upon the delivery to the Trustee of the documents required by Section 3.06 hereof. The moneys so deposited (hereinafter called "deposited cash") shall be held by the Trustee as part of the trust estate until paid out from time to time as herein provided.

Whenever the Company would be entitled to the authentication and delivery of Bonds under the provisions of Section 3.03 or Section 3.04 hereof, the Trustee shall, in lieu of such Bonds, pay over in accordance with the written Order of the Company, from deposited cash then held by it, a sum in cash equal to the principal amount of such Bonds, upon delivery to the Trustee of the following:

(a) Certified Resolutions requesting the payment of a specified amount of such cash to the Company;

(b) In case the payment of deposited cash is to be made in lieu of the authentication of Bonds under Section 3.03 hereof, such of the documents required by paragraphs (b), (c), (d) and (e) of said Section 3.03 as shall be applicable;

(c) In case the payment of deposited cash is to be made in lieu of the authentication of Bonds under Section 3.04 hereof, such of the documents required by paragraphs (b), (c), (d) and (e) of said Section 3.04 as shall be applicable.

Whenever the Company shall have contracted for the acquisition or construction of Additions of such a character and under such circumstances that the Company would be entitled to partial reimbursement from deposited cash for expenditures made by the Company therefor, the Company may in lieu of paying and obtaining reimbursement thereof to the extent provided in Section 3.03 hereof require the Trustee in the first instance to make payment to such extent of or on account of the purchase price or the cost of construction of such Additions out of deposited cash to the person entitled to receive such payment upon or simultaneously with the subjection of any such Additions to this Indenture and the delivery to the Trustee of the documents specified in (a) and (b) of this Section 3.05, with appropriate modifications as far as necessitated by the fact that such expenditures are to be made by the Trustee instead of reimbursed by the Trustee.

SECTION 3.06. Whenever requesting the authentication and delivery of any Bonds, other than Series A Bonds and Bonds issued in lieu of or in substitution for other Bonds pursuant to the provisions of Sections 2.05, 2.07, 2.08, 4.02 and 5.03 hereof, the Company, in addition to complying with the other requirements hereof, shall deliver to the Trustee:

(1) Certified Resolutions requesting the Trustee to authenticate and deliver a specified principal amount of Bonds of a designated series;

(2) Certified Resolutions authorizing the issuance of such Bonds; and

(3) If such Bonds are to be of a series not previously authorized:

(a) Certified Resolutions designating the series to be created, and specifying the maximum principal amount, the denominations, maturity or maturities (except with respect to Unrestricted Bonds issued pursuant to Section 3.02 hereof, not earlier than January 1, 1981 so long as any Series A Bonds are outstanding), rate of interest, terms of redemption (if redeemable) and of exchange for Bonds of

other denominations (if so exchangeable) and other provisions, not inconsistent with this Indenture, of the Bonds of such series, to all of which the Bonds authenticated shall conform, and authorizing the execution and delivery of the supplemental indenture hereinafter provided for;

(b) An indenture supplemental hereto creating and describing such new series, and setting forth the text of the Bonds thereof and the coupons (if any) to be attached to such Bonds;

(4) Unless the Opinion of Counsel hereinafter in paragraph (5) of this Section 3.06 provided for shall state that no such authorization or approval is required, a certified copy or copies of an order or orders of all governmental bodies, if any, whose authorization or approval is required, authorizing or approving the issue of such Bonds;

(5) An Opinion of Counsel stating that the execution and delivery of such Bonds have been duly authorized by the Company and, if such Bonds are to be of a series not theretofore created, that the terms and provisions of the Bonds of the proposed series are authorized or permitted by this Indenture; that no authorization or approval by any governmental body or bodies is required by law for the valid issue of such Bonds except such authorizations or approvals as shall be evidenced by the copies of the orders delivered to the Trustee pursuant to paragraph (4) of this Section 3.06; that the documents referred to therein and theretofore or therewith delivered to the Trustee conform to the requirements hereof, and constitute sufficient authority hereunder for the Trustee to authenticate and deliver such Bonds; and that such Bonds when issued will constitute valid and binding obligations of the Company according to their terms, and will be secured by this Indenture;

(6) An Officers' Certificate stating that the Company has contracted forthwith to sell or pledge such Bonds and, if such Officers' Certificate shall state that the Company has contracted to pledge such Bonds, stating that, upon the making of such

pledge, the aggregate principal amount of all Bonds under pledge by the Company will not exceed the aggregate principal amount of all indebtedness secured by pledged Bonds by more than 10% of the aggregate principal amount of all Bonds then outstanding, including pledged Bonds; and that upon the making of such pledge the aggregate principal amount of all such Bonds pledged by it will not exceed 150% of the aggregate principal amount of all indebtedness secured by such pledges.

SECTION 3.07. The Certified Resolutions, Officers' Certificates and Opinions of Counsel required or provided for by any provision of this Article Three to be delivered to the Trustee as a condition of the authentication of Bonds or payment of deposited cash hereunder may be received by the Trustee as conclusive evidence of any statement therein contained, and shall be full authority and protection to the Trustee acting on the faith thereof, for the authentication and delivery by it of Bonds or the payment of deposited cash.

The Trustee shall not be concerned with or be accountable to anyone for the use or application by the Company of any of the Bonds authenticated and delivered by the Trustee to or upon the Order of the Company or of any of the deposited cash paid by it to or upon the Order of the Company.

SECTION 3.08. Bonds authenticated and delivered under Sections 3.02, 3.03, 3.04 or 3.05 hereof may be pledged or hypothecated by the Company to secure indebtedness created, assumed or guaranteed, directly or indirectly, by the Company.

Nothing in this Indenture contained, except the limitations on the pledge of Bonds imposed in Section 7.14 hereof, shall limit the power of the Board of Directors to fix the price at which Bonds authenticated and delivered under any of the provisions of this Indenture may be issued, exchanged, sold or disposed of, but, subject to Section 7.14 hereof and to any provisions of law in respect thereof, any or all of the Bonds may be issued, exchanged, pledged, sold or disposed of upon such terms and for such considerations as shall be fixed by, or in accordance with, a resolution of the Board of Directors.

SECTION 3.09. No Bonds of any series, other than Series A Bonds and Bonds issued in lieu of or in substitution for other Bonds pursuant to the provisions of Sections 2.05, 2.07, 2.08, 4.02 and 5.03 hereof, shall be authenticated or delivered, and no deposited cash shall be paid to or upon the Order of the Company under Section 3.05 hereof, if an event of default as defined in Section 9.02 hereof shall, to the knowledge of the Trustee, have happened and be continuing.

ARTICLE FOUR.

SUPPLEMENTAL INDENTURES; BONDHOLDERS' MEETINGS.

SECTION 4.01. Without any action or consent by, or notice to, the holders of any of the Bonds, the Company, when authorized by resolution of its Board of Directors, and the Trustee, from time to time and at any time, may, and when so required by this Indenture shall, enter into an indenture supplemental hereto and which thereafter shall form a part hereof and be binding upon the holders of all Bonds then outstanding or thereafter issued hereunder, for any one or more of the following purposes:

(a) To convey, transfer and assign to the Trustee and to subject to the lien of this Indenture additional property, subject to such liens or encumbrances and to such appropriate provisions not inconsistent herewith as shall be therein specifically described;

(b) To correct the description of any property at any time subject to the lien of this Indenture;

(c) To evidence the creation and provide for the issue of any series of Bonds hereunder and to prescribe the form of such Bonds and the coupons appertaining thereto, and to establish the terms, provisions and conditions thereof, all in accordance with Articles Two and Three hereof;

(d) To evidence the succession of another corporation to the Company, or successive successions, and the assumption by a successor corporation of the covenants and obligations of the Company under this Indenture;

(e) To make any modifications herein or in the form of any Bonds or their interest coupons which may be expedient to facilitate the listing of such Bonds on the New York Stock Exchange or any other securities exchange; *provided*, that in the judgment of the Trustee any such modification will not be prejudicial to the interests of the holders of the Bonds;

(f) To make any modifications herein or in the forms of any Bonds or their interest coupons which may be required by law;

(g) To provide additional or other restrictions and limitations on the authorized amount, issue and purposes of Bonds, or additional covenants and undertakings of the Company with respect thereto;

(h) For any other purpose not inconsistent with the terms of this Indenture and which shall not impair the security of the same, whether in regard to matters or questions arising under this Indenture or for the purpose of curing any ambiguity or of curing, correcting or supplementing any defective or inconsistent provision or any manifest error contained herein or in any supplemental indenture.

The Trustee is authorized to join with the Company in the execution of any such supplemental indenture, to make any further agreements and stipulations which may be therein contained, and to accept the conveyance, transfer and assignment of any property thereunder, upon delivery to it by the Company of

(1) Certified Resolutions authorizing such supplemental indenture; and

(2) An Opinion of Counsel stating that the execution of any such supplemental indenture is authorized by, and is in compliance with, the provisions hereof.

SECTION 4.02. In addition to the power and authority given under Section 4.01 hereof, whenever the Company shall desire any amendment or addition to or modification or repeal of any of the provisions

of this Indenture or any indenture supplemental hereto, or any sanction, authorization or waiver in Subsection E of this Section 4.02 authorized, it shall file a written Request with the Trustee, pursuant to and accompanied by Certified Resolutions, requesting the Trustee to call a meeting of the holders of the Bonds to be affected by any action proposed to be taken, for the purpose of considering and acting upon such proposal. The Trustee at any time in its discretion may, or upon receipt of any such Request or upon receipt of such a written request signed by the holders of at least 10% of the aggregate principal amount of the Bonds then outstanding shall, call a meeting of the holders of the Bonds that may be affected by the matters to be considered at such meeting, *provided*, that it shall be furnished at the time of delivering any such request with an amount sufficient to defray the cost of publishing, printing and mailing the notice in accordance with the provisions of Subsection A of this Section 4.02. Every such written request shall state the purposes of such meeting in reasonable detail. If the Trustee shall fail to call a meeting within ten days after being requested so to do, the Company, pursuant to a resolution of its Board of Directors, may call such meeting in the manner herein provided. Every such meeting of holders of Bonds shall be held in the City and County of San Francisco, California, or in the Borough of Manhattan, City and State of New York.

A. Notice of every such meeting, setting forth in reasonable detail the purpose thereof, shall be given by publishing the same once in each week on any day in the week for four successive calendar weeks in one daily newspaper printed in the English language and published and of general circulation in the City and County of San Francisco, California, and in one daily newspaper similarly printed, and published and of general circulation in the Borough of Manhattan, City and State of New York, the first publication to be not less than thirty nor more than sixty days prior to the date fixed for the meeting. A copy of such notice shall also be mailed, postage prepaid, at least thirty days prior to the date so fixed, to the holders of registered Bonds without coupons and to the holders of coupon Bonds registered as to principal, at their last addresses appearing

upon the Bond register, but failure to mail such notice or any defect therein or in the mailing thereof shall not affect the validity of any such meeting. The place, date and hour of holding each such meeting and the dates of publishing such notice shall be determined by the Trustee in its discretion, or, if such meeting shall be called by the Company, shall be determined by it in its discretion.

In any case where all of the outstanding Bonds to be affected by any action requested to be taken at such meeting shall be registered Bonds without coupons or coupon Bonds registered as to principal, no notice by publication shall be required, but notice of such meeting shall be mailed, postage prepaid, at least thirty days prior to the date so fixed, to the respective registered holders of such Bonds at their last addresses appearing upon the Bond register.

B. The Trustee, or upon its refusal so to do, the Company, (for the purpose of enabling the holders of Bonds to be present and vote at any meeting without producing their Bonds and of enabling them to be present and vote at any such meeting by proxy) may make, and may from time to time vary, such regulations as it shall think fit for the deposit of unregistered Bonds with or the exhibition thereof to any bank, banker or trust company or corporation, firm or person approved by the Trustee or the Company, as the case may be, and for the issue to the persons so depositing or exhibiting the same, of certificates by any such bank, banker, trust company or corporation, firm or person, entitling the persons depositing or exhibiting such Bonds to be present and vote or to appoint proxies to represent them and vote for them at any such meeting and at any adjournment thereof, in the same way as if the person so present and voting, either personally or by proxy, exhibited such Bonds at said meeting, notwithstanding any transfer of such Bonds subsequent to the issuance of such certificates. Any regulations so made shall be binding and effective, and the votes given in accordance therewith shall be valid and shall be counted. Each such certificate shall state the date on which the Bond or Bonds in respect of which such certificate shall have been issued were deposited with or exhibited to such person or institution, and the series and serial numbers and the principal

amounts of such Bonds. In the event that two or more such certificates shall be issued in respect of the same Bond or Bonds, the certificate bearing the latest date shall be recognized and be deemed to supersede all certificates previously issued with respect to such Bond or Bonds. Neither the person named in any such certificate nor his proxy shall be entitled to vote at any such meeting if (1) another certificate bearing a later date issued in respect of the same Bond shall be produced, (2) the Bond specified in such certificate shall itself be produced at the meeting (or in case such Bond shall have been surrendered in exchange for another coupon Bond pursuant to this Indenture or any supplemental indenture, such other Bond shall be produced) or (3) the Bond specified in such certificate shall then be registered as to principal or shall have been exchanged for a registered Bond without coupons pursuant to this Indenture or any supplemental indenture. If such regulations are made by the Company, copies thereof and any amendments thereto shall be filed with the Trustee prior to the meeting.

Holders of registered Bonds without coupons and coupon Bonds registered as to principal to be affected by the matters to be considered at the meeting may, by proxy duly executed in writing, appoint any person to represent them and vote for them at any such meeting or any adjournment thereof. Each such writing shall state the aggregate principal amount of Bonds in respect of which the person authorized thereby is entitled to vote.

C. To be entitled to vote at any such meeting a person shall be (1) the holder of a coupon Bond transferable by delivery, (2) the registered holder of a coupon Bond registered as to principal or of a registered Bond without coupons, or a proxy for such registered holder, or (3) subject to Clauses (1), (2) and (3) of Subsection B of this Section 4.02, the person named in a certificate issued pursuant to said Subsection B or his proxy. The only persons who shall be entitled to be present or to speak at any such meeting shall be the persons entitled to vote thereat and the counsel of any such person, and any representatives of the Trustee, and its counsel, and any representatives of the Company, and its counsel.

Bonds owned or held by or for the account of the Company or any subsidiary company, or any corporation or person owning, directly or indirectly, a majority of the voting stock of the Company, shall not be deemed to be outstanding for any purpose of this Section 4.02, except that any Bond pledged by the Company, or by any subsidiary company, or by any such corporation or person, as security for loans or other obligations, otherwise than to another subsidiary company or to another such corporation or person, shall be deemed to be outstanding for all purposes of this Section 4.02 if the pledgee is entitled pursuant to the terms of the pledge agreement to vote such Bonds and is free to exercise such right in its or his discretion, uncontrolled by the Company, any subsidiary, or any such corporation or person. No Bond which shall have been called for redemption and payment duly provided for shall be deemed to be outstanding for any purpose of this Section 4.02.

D. The representation of a majority in aggregate principal amount of the outstanding Bonds to be affected by the matters to be considered at the meeting, or such larger percentage as shall be necessary to take any particular action proposed, by the persons holding such Bonds or, subject to Clauses (1), (2) and (3) of Subsection B of this Section 4.02, by the persons named in certificates issued pursuant to said Subsection B or their respective proxies, shall be necessary to constitute a quorum at any such meeting, but less than a quorum may adjourn the meeting from time to time and, subject to the provisions of this Section 4.02, from place to place, and the meeting may be held as adjourned without further notice, whether such adjournment shall have been had by a quorum or by less than a quorum. The Trustee, or the Company, as the case may be, shall by an instrument in writing appoint a temporary chairman of the meeting; and, a quorum being present, the meeting shall be organized by the election of a permanent chairman and a secretary. At any meeting the votes of the persons entitled to vote at such meeting on any election, motion, resolution, or other action shall be counted on the basis of the principal amount of the Bonds represented by such persons. The chairman of the meeting shall have no

right to vote other than by virtue of Bonds held by him or instrument in writing as aforesaid duly designating him as the person to vote on behalf of other bondholders or as the proxy of such designated person.

E. At any such meeting at which there shall be a quorum the persons entitled to vote at such meeting shall have the power by resolution adopted as hereinafter provided

(1) to authorize the Trustee to join with the Company in making any modification or repeal of or addition to any provision hereof or of any indenture supplemental hereto, and any modification of or addition to the rights and obligations of the Company or the rights of the holders of the Bonds of all or any series, and appurtenant coupons, hereunder or under any indenture supplemental hereto;

(2) to sanction any compromise of the rights of the holders of the Bonds against the Company or against its property, whether such rights shall arise under the provisions of this Indenture or otherwise;

(3) to sanction any plan for the reorganization, readjustment or liquidation of the Company, or to designate a reorganization manager or managers;

(4) to authorize the Trustee to accept in satisfaction or part satisfaction for the sale or transfer of all or any part of the trust estate any securities of any corporation formed or to be formed;

(5) to require the Trustee on having entered into or taken possession of the trust estate, or any part thereof, to restore the same to the Company upon such conditions as may be imposed at said meeting;

(6) to waive any default on the part of the Company, other than the nonpayment of the principal of any Bonds at maturity or any interest thereon when due, upon such terms as may be approved at such meeting; and

(7) to exercise any and every power given the holders of Bonds, or any specified percentage thereof, under any provision hereof;

provided, however, that no action taken at any meeting held pursuant to this Section 4.02 shall (a) change the maturity or the principal amount of any Bond, the redemption price thereof, or the rate of interest thereon, or otherwise alter or impair the obligation of the Company in respect of the payment of the principal thereof and interest thereon as prescribed therein, except with the consent of the holder of each Bond which would be affected thereby, to be evidenced by an appropriate legend stamped thereon, or (b) reduce the percentage required by the provisions of this Section 4.02 for any action authorized to be taken by the holders of Bonds; and *provided, further,* that no modification or repeal of or addition to the provisions of this Indenture or of any indenture supplemental hereto shall be effective until approved by resolution of the Board of Directors of the Company; and *provided, further,* that no such modification or repeal of or addition to the provisions of this Indenture or of any indenture supplemental hereto which, in the opinion of the Trustee, shall affect its rights, duties or immunities under this Indenture or any indenture supplemental hereto, may be made without the written consent of the Trustee.

The affirmative vote of the holders of 66 $\frac{2}{3}$ % in principal amount of the Bonds at the time outstanding to be affected by any such action shall be necessary for the adoption of any resolution under paragraphs (1), (2), (3) or (4) of this Subsection E. The affirmative vote of the holders of a majority in principal amount of the Bonds at the time outstanding to be affected by any such action shall be necessary for the adoption of any resolution under paragraphs (5) or (6) of this Subsection E. In the case of any resolution adopted pursuant to paragraph (7) of this Subsection E, such resolution may be adopted by the affirmative vote of the holders of such percentage of the outstanding Bonds, or of the outstanding Bonds of any particular series, as is elsewhere in this Indenture specified as to the action set forth in such resolution. If more than one series of Bonds shall be out-

standing under this Indenture and any business to be submitted to such meeting shall affect the rights of the holders of the Bonds of one or more series and shall not affect the rights of the holders of the Bonds of one or more of the other series, then the holders of the Bonds of the one or more series whose rights are not affected shall not be entitled to notice of, or to attend or vote at, any such meeting or to be counted for the purpose of a quorum. If the business to be submitted to such meeting shall affect the holders of all Bonds then outstanding hereunder in common, or shall involve the modification of any terms or provisions of this Indenture or of any indenture supplemental hereto applicable to the Bonds of all series then outstanding, the affirmative vote of the holders of the necessary percentage of the principal amount of the Bonds of all series then outstanding shall be required to effect such modification, but such vote need not include such percentage of the principal amount of each series. If any business to be submitted to such meeting shall affect the rights of the holders of the Bonds of any series not in common with the rights of the holders of the Bonds of all other series, the affirmative vote of the holders of the necessary percentage of the principal amount of the Bonds of the series so affected, voting separately, and such percentage of the principal amount of the Bonds of all series affected in common, voting collectively, shall be required.

The Trustee shall be entitled to rely upon an Opinion of Counsel with respect to the extent, if any, to which any action taken at such meeting affects the rights of the holders of Bonds of one or more, but less than all, of the series of Bonds outstanding.

F. The votes upon any resolution shall be by ballot, and the permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of every such meeting shall be prepared by the secretary of the meeting, and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat, and affidavits of one or

more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was published or mailed as provided in Subsection A of this Section 4.02. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting, and one of the duplicates shall be delivered to the Company and the other to the Trustee. Any record so signed and verified shall be conclusive evidence that such meeting was duly convened and held, and any resolution or proceeding stated in such record to have been adopted or taken shall be deemed conclusively to have been duly adopted or taken at the meeting.

G. Any such resolution so adopted in accordance with the provisions of Subsection E of this Section 4.02 at a meeting of the holders of Bonds duly convened and held shall be binding upon all holders of Bonds, whether or not present or voting, in person or by proxy, at such meeting, and all Bonds issued under this Indenture are to be owned and held on the condition, as part of the consideration for the issuance thereof, that any resolution so adopted shall be final and conclusive upon all holders of Bonds and upon their successors and assigns. The Trustee shall be bound to give effect to any such resolution, and the passing of any such resolution shall be conclusive evidence that the circumstances justified the passing thereof.

H. Bonds authenticated and delivered after the date of any such meeting, or after the delivery to the Trustee of any instrument pursuant to Subsection I of this Section 4.02, may bear a notation in form approved by the Trustee as to any action taken or power exercised at any such meeting theretofore held or by any such instrument theretofore delivered, and upon the demand of the holder of any Bond outstanding at the date of any such meeting, or at the date of the delivery of any such instrument, and presentation of his Bond for that purpose, the Company shall cause suitable notation to be made on the Bond, by endorsement or otherwise, as to any action so taken or power so exercised. If the Company or the Trustee shall so determine, new Bonds, so modified as to conform, in the opinion of the Trustee and the Board of Directors of the Company, to any resolution adopted as provided in this Section 4.02, or to any instru-

ment delivered pursuant to Subsection I hereof, shall be prepared by the Company, authenticated by the Trustee and delivered, without cost, to the holders of Bonds of the same series then outstanding hereunder upon surrender of such Bonds with all unmatured coupons and all matured coupons not fully paid, in equal aggregate principal amounts. The Company or the Trustee may require the Bonds outstanding to be presented for notation or exchange as aforesaid, if either of them shall see fit to do so.

Indentures supplemental to this Indenture embodying any modification or repeal of or addition to the provisions of this Indenture, or any modification of or addition to the rights and obligations of the Company or the rights of the holders of the Bonds and appurtenant coupons, made as provided in this Section 4.02, may be executed by the Trustee and the Company, and, upon demand of the Trustee or if so specified in any resolution adopted at any meeting provided for in this Section 4.02, shall be executed by the Company and the Trustee.

I. Any action which may be taken or any power which may be exercised at a meeting convened pursuant to this Section 4.02 may also be taken or exercised by an instrument or instruments signed by the holders of such percentage of the principal amount of outstanding Bonds affected thereby as would be authorized to exercise such power at any such meeting, and delivered to the Trustee together with proof satisfactory to the Trustee of the fact and date of the execution thereof, and the authority of the signers thereof to take such action or exercise such power.

ARTICLE FIVE.

REDEMPTION OF BONDS.

SECTION 5.01. The Series A Bonds may be redeemed before maturity at the option of the Company on any date or dates, in whole or in part by lot, in the manner and upon the conditions hereinafter stated, and are also subject to redemption through the operation of the sinking fund provided for in Section 6.01 hereof on January 1,

1953 or on the first day of January of any year thereafter, at prices equal to the following percentages of their principal amount:

Redemption During the Years	Optional Redemption Price	Sinking Fund Redemption Price
1951 and 1952	104.500%	(not redeemable)
1953 and 1954	104.000%	102.000%
1955 and 1956	103.625%	101.813%
1957 to 1959, inclusive	103.125%	101.563%
1960 to 1962, inclusive	102.750%	101.375%
1963 to 1965, inclusive	102.250%	101.125%
1966 to 1968, inclusive	101.750%	100.875%
1969 to 1971, inclusive	101.375%	100.688%
1972 to 1974, inclusive	100.875%	100.438%
1975 to 1977, inclusive	100.500%	100.250%
1978 and 1979	100.125%	100.125%
1980	100 %	100 %

in each case plus accrued and unpaid interest thereon to the date designated for redemption.

The redemption provisions of any series of Bonds, other than the Series A Bonds (if the right to redeem Bonds of any such series before maturity is reserved by the Company), shall be determined by the Board of Directors at the time of the creation of such series, as provided in Section 2.03 hereof, and shall be set out in an indenture supplemental hereto executed pursuant to Sections 3.06 and 4.01 hereof, except that Sections 5.03, 5.04 and 5.05 hereof shall apply to the redemption of all series of Bonds which are redeemable.

SECTION 5.02. Notice of redemption of all of the Series A Bonds, or any part thereof, shall be given by the Company by publication in a daily newspaper printed in the English language and published and of general circulation in the City and County of San Francisco, California, and in a daily newspaper similarly printed, and published and of general circulation in the Borough of Manhattan, City and State of New York, once in each week, on any day in the week, for four successive calendar weeks, the first publication to be not less than thirty days nor more than sixty days prior to the date desig-

nated for such redemption. Such notice shall state the election on the part of the Company to redeem the Series A Bonds specified therein, or that such Bonds are called for redemption through the operation of the sinking fund, as the case may be, shall specify the redemption date and the redemption price, and shall state that interest on the Series A Bonds called for redemption shall cease to accrue from and after the date designated for redemption, and shall require that the Series A Bonds called for redemption be presented for payment at the office or agency of the Company designated for that purpose in the City and County of San Francisco, California, or, at the option of the holder, at the office or agency of the Company designated for that purpose in the Borough of Manhattan, City and State of New York. The Company shall also cause a copy of such notice to be mailed, postage prepaid, at least thirty days prior to the date designated for such redemption, to the registered holders of registered Series A Bonds without coupons and of Series A Bonds in coupon form registered as to principal called for redemption, at their last addresses appearing on the Bond registry books, but neither failure to mail any such notice nor any defect therein or in the mailing thereof shall affect the validity of any proceedings for the redemption of such Bonds. In any case where all of the Series A Bonds to be redeemed shall be registered Bonds without coupons or coupon Bonds registered as to principal, no notice by publication shall be required, but notice of redemption shall be mailed, postage prepaid, at least thirty days prior to the redemption date to the respective registered holders of the Bonds called for redemption at their last addresses appearing on the Bond registry books.

SECTION 5.03. In case the Company shall elect to redeem less than all of the Bonds of any series then outstanding, it shall give the Trustee adequate advance written notice of the aggregate principal amount of Bonds of such series to be redeemed, and thereupon the Trustee shall determine by lot the particular Bonds to be redeemed, in any manner deemed by it, in its unrestricted discretion, to be fair, and the notice of redemption in that case shall specify the serial numbers of the Bonds to be redeemed. In any such determination by lot the unit for redemption purposes shall be \$1,000 in prin-

principal amount and to that end each Bond of a denomination larger than \$1,000 shall be represented by a separate number for each \$1,000 of its principal amount, and Bonds having a principal amount of less than \$1,000 shall, to the extent possible, be grouped into units aggregating \$1,000. If less than the whole principal amount of any Bond shall be called for redemption, said notice shall also specifically state the portion of the principal amount thereof which is to be redeemed, and that, upon surrender of such Bond for redemption, there will be issued, in lieu of the unredeemed portion of the principal amount thereof, a new Bond or Bonds (either a coupon Bond or Bonds or a registered Bond or Bonds without coupons, if the Bonds of such series are issuable in both forms) of the same series, of an aggregate principal amount equal to such unredeemed portion. Upon surrender of any Bond which is to be redeemed in part only, accompanied by a written instrument of transfer in a form approved by the Company, executed by the registered holder or his duly authorized attorney, the Company shall execute and the Trustee shall authenticate and deliver without charge to the holder thereof a new Bond or Bonds (either a coupon Bond or Bonds or a registered Bond or Bonds without coupons, if the Bonds of such series are issuable in both forms) of the same series, in any authorized denomination or denominations, all as requested by such holder, for the unredeemed portion of the principal amount of the surrendered Bond.

SECTION 5.04. Notice of redemption having been duly given in the manner provided in Section 5.02 in the case of Series A Bonds or in the manner provided at the time of the creation of such series in the case of Bonds of any other series, the Bonds so called for redemption (including the designated portion of any Bond to be redeemed in part only) shall, on the date designated for redemption in such notice, become due and payable at the redemption price thereof; and if the Company on or before the date designated for redemption shall have deposited in trust with the Trustee, or with any paying agent, an amount in cash sufficient to redeem all the Bonds or portions of Bonds called for redemption at such redemption price, then from and after the date of redemption so designated, no further interest shall accrue on said Bonds or said portions thereof, and upon presentation

thereof in accordance with said notice, with all unmatured coupons, if any, thereto appertaining, said Bonds or said portions thereof shall be paid at such redemption price; *provided, however*, that in case the date designated for redemption shall be an interest payment date and any Bond so presented shall not be accompanied by the coupon maturing on such date, such Bond shall be paid at the redemption price less the amount of accrued interest represented by such coupon, and such interest shall be paid to the holder of such coupon upon the presentation thereof for payment; and *provided, further*, that accrued unpaid interest represented by coupons which shall have matured prior to the date designated for redemption shall continue to be payable to the respective holders thereof on presentation for payment. If not so paid and redeemed on such presentation thereof, the Bonds shall continue to bear interest at the legal rate of interest until paid.

SECTION 5.05. All Bonds redeemed and paid under the provisions of this Article Five, and the coupons, if any, appertaining thereto, shall be forthwith cancelled by the Trustee, and all such Bonds paid by the Company or any paying agent shall be delivered to the Trustee for that purpose. After such cancellation such Bonds shall, upon the written request of the Company, be delivered to it.

ARTICLE SIX.

SINKING FUND FOR SERIES A BONDS.

SECTION 6.01. The Company shall pay to the Trustee on or before the first day of May, 1952 and on or before the first day of May in each year thereafter so long as any Series A Bonds are outstanding, as and for a sinking fund for the retirement of such Bonds, the sum of \$220,000 in cash; *provided, however*, that if in any such year the Income After Fixed Charges of the Company for the calendar year next preceding such sinking fund payment date, determined in accordance with the regulations of the Commission at the time in force, adjusted as follows:

(1) There shall be added to such income such amounts as shall have been charged to operating expenses during such year representing the service value (i.e. the ledger value less the value of salvage, if any) of any nondepreciable road property retired and not replaced; and

(2) In determining such income, any adjustment necessary to correct the income account for any prior year shall be made by appropriate entries either in the accounts of the current year (unless in violation of the applicable orders, instructions and regulations) or, in the discretion of the Board of Directors and subject to any requisite approval of the Commission or other public regulatory body having jurisdiction in the premises, in whole or in part in the accounts of any subsequent year or years; and in determining such income for any year any such entries made in the accounts of that year to adjust the income accounts of prior years cleared through income accounts shall be treated as items affecting the income accounts for the year in which they are entered on the books, *provided, however*, that in determining such income for any year no adjustments necessary to correct the income account of any prior year need be taken into account except to the extent that cash shall have been received or paid or set aside for payment in respect thereof in such year, or prior to March 31 in the next succeeding year; and

(3) If prior to March 31 in any year the Board of Directors shall determine that a substantial liability exists which would have reduced such income for the preceding calendar year or years if such liability had been accrued in such year or years, then all or such portion of such liability as the Board of Directors shall determine may be deducted in arriving at such income for the preceding calendar year, in which case such amount so deducted shall not again be deducted in arriving at such income for any subsequent year or years;

shall be less than \$220,000, the Company shall have the right to pay into the sinking fund on May 1 of such year the lesser amount and to postpone the payment of the difference between \$220,000 and such

lesser amount until the amount of such Income After Fixed Charges, adjusted as aforesaid, for the next succeeding calendar year or years exceeds \$220,000, whereupon an amount equal to such excess shall be paid into the sinking fund on the next May 1 until no deficiency remains. If at any time the Company shall create a series of Bonds, other than Series A Bonds and any series created pursuant to Section 3.02 hereof, with provision for an annual sinking fund greater than 1% of the principal amount of the Bonds of such series at any one time outstanding, the sinking fund provided herein for the benefit of Series A Bonds shall, so long as any Series A Bonds are outstanding, be automatically and correspondingly increased from and after the date of the creation of such series, but the provisions of this Article Six shall not be otherwise affected in any respect whatsoever.

At the option of the Company sinking fund payments may be made either in cash or in Series A Bonds previously authenticated and delivered by the Trustee and issued and sold by the Company and subsequently purchased by the Company, with all unmatured coupons and matured coupons not fully paid attached, at the principal amount thereof or at the cost thereof to the Company (exclusive of accrued interest and brokerage commissions), whichever is less, or partly in cash and partly in such Bonds; *provided, however*, that such Bonds shall be delivered on or before the due date of the sinking fund payment on account of which they are to be credited. The Company, simultaneously with or prior to the delivery of any of such Bonds to the Trustee, shall deliver to the Trustee an Officers' Certificate stating that the Bonds so delivered had previously been issued and sold by the Company and subsequently purchased by it at the cost or costs (exclusive of accrued interest and brokerage commissions) therein specified and the Trustee shall be fully protected in relying thereon.

For the purposes of this Article Six the Trustee shall be fully protected in relying upon an Officers' Certificate delivered to it by the Company with respect to the amount of Income After Fixed Charges of the Company for such preceding calendar year, the ad-

justments thereof as aforesaid, and the amount resulting from such adjustments.

SECTION 6.02. The Trustee shall from time to time apply the moneys in such sinking fund

(1) to the purchase of outstanding Series A Bonds (which purchases may be made at private sale, in the open market, or by call for tenders, all as the Trustee in its discretion shall determine) at the best price obtainable by the Trustee, but such price including accrued interest (but exclusive of brokerage commissions) shall not exceed the then current sinking fund redemption price; or

(2) on the written Order of the Company, to the purchase of obligations of the United States of America and obligations guaranteed by the United States of America at or about market prices prevailing at the time, plus accrued interest; or

(3) to the redemption of Series A Bonds as hereinafter provided.

If on the 10th day of November in any year, beginning with the year 1952, the moneys then in the sinking fund plus the then market value plus accrued interest of any obligations specified in the above subparagraph (2) then held in the sinking fund aggregate an amount sufficient to provide for the redemption for the sinking fund, exclusive of accrued interest, on the following January 1 of at least \$50,000 principal amount of Series A Bonds, the Trustee shall sell promptly all such obligations and the Company shall call Series A Bonds for redemption for the sinking fund on the first day of January following, as provided in Article Five hereof, in an amount sufficient to exhaust as nearly as practicable the moneys in the sinking fund. In such case the Trustee is authorized to give the notices required by Section 5.02 hereof in the name of the Company. Notice having been duly given for the redemption of the Bonds so to be redeemed, such Bonds shall become due and payable in the manner and with the effect therein and in Section 5.04 hereof provided.

Any such moneys not so applied may be applied by the Trustee prior to the next sinking fund payment date to the purchase of Series A Bonds upon the terms set forth in this Section 6.02, and any part thereof not so applied prior to the next sinking fund payment date shall be added to the next sinking fund payment and, together with said payment, applied in accordance with the provisions of this Article Six.

Upon the request of the Trustee, the Company shall pay to the Trustee, or reimburse it for, the accrued interest on and any brokerage commissions payable with respect to the purchase of any Series A Bonds so purchased by the Trustee, and the expenses of redemption and accrued interest upon such Bonds so called for redemption as herein provided, and the compensation and other expenses of the Trustee for acting as sinking fund agent, it being the intention that such brokerage commissions, expenses, accrued interest and compensation shall not be charged against the sinking fund. The Trustee, however, shall not be liable for the payment of the principal of, premium, if any, or interest on any Bonds called for redemption as herein provided, except to the extent that it shall have funds in its hands or in the sinking fund available for such purpose.

The Trustee shall, from time to time, on the written Order of the Company, sell in such manner and on such terms as the Company may direct, any obligations specified in subparagraph (2) of this Section 6.02 at the time held in the sinking fund, and the proceeds thereof, as well as the proceeds of payment of any such obligations which become due while held in the sinking fund, and any interest paid thereon while held in the sinking fund, shall constitute moneys in the sinking fund and shall be applied from time to time as in this Article Six provided. All profits realized from such sales shall be credited to the sinking fund. The Company shall reimburse the sinking fund, upon the request of the Trustee, for all losses incurred from such sales.

Anything in this Section 6.02 to the contrary notwithstanding, if at any time any one or more of the events of default as defined in Section 9.02 hereof shall have happened and be continuing, no

moneys in the sinking fund shall be applied as hereinabove provided in this Section 6.02, except for the redemption of Bonds publication of the notice of redemption of which had theretofore been commenced (or notice of redemption of which had theretofore been mailed in case all Bonds to be redeemed are registered Bonds or Bonds registered as to principal), or for the purchase of Bonds the tender of which had theretofore been accepted, but all moneys and obligations held in the sinking fund while any such event of default shall exist shall, unless and until all such defaults are remedied, be held as additional security for the payment of all the Series A Bonds then outstanding, and the Trustee may in its discretion sell any obligations specified in subparagraph (2) of this Section 6.02 at the time held in the sinking fund and the proceeds thereof shall thenceforth constitute moneys in the sinking fund.

SECTION 6.03. Until the first publication of notice of redemption (or the mailing of notice of redemption in case all Bonds to be redeemed are registered Bonds or Bonds registered as to principal), or the acceptance of any tender of Bonds if purchased as provided in Section 6.02 hereof, all moneys and obligations in the sinking fund provided for in Section 6.01 hereof shall be held in trust by the Trustee as further security for all the Series A Bonds outstanding, but from and after such first publication or such mailing or such acceptance of any tender, as the case may be, such moneys, to the extent required for the purpose, shall be set aside out of the sinking fund and held in trust for the payment of the Bonds called for redemption or the Bonds the tender of which has been accepted as aforesaid.

SECTION 6.04. If the Company shall pay or cause to be paid the whole amount of the principal and premium, if any, and interest due and payable upon all of the outstanding Series A Bonds at maturity or upon redemption or shall provide for payment of such Bonds by depositing with the Trustee or with any paying agent the entire amount then due and payable thereon for principal and premium, if any, and interest to the date of payment, or shall make other provision satisfactory to the Trustee for the payment thereof, or shall at any time deliver all of the Series A Bonds and coupons apper-

taining thereto then outstanding to the Trustee for cancellation, and shall also pay, or cause to be paid, all other sums payable hereunder in respect of Series A Bonds by the Company, then and in that case the Trustee shall release from the sinking fund and turn over to the Company free from any of the provisions of this Indenture all moneys and obligations remaining in the sinking fund after such payment has been made or provided for or such Bonds and coupons have been delivered to the Trustee, as the case may be.

SECTION 6.05. All Bonds purchased or redeemed by operation of the sinking fund as provided in Section 6.02 hereof, or delivered to the Trustee pursuant to Section 6.01 hereof, and the coupons appertaining thereto, shall be forthwith cancelled by the Trustee and thereafter, upon the written Request of the Company, delivered to it. No new Bonds of any series shall be issued in lieu of any Series A Bonds acquired through the operation of the sinking fund.

ARTICLE SEVEN.

PARTICULAR COVENANTS OF THE COMPANY.

The Company covenants with the Trustee as hereinafter in this Article set forth:

SECTION 7.01. The Company will duly and punctually pay the principal of and the interest on the Bonds, at the places, on the dates, in the manner and in the amounts specified in the Bonds or in the coupons thereto appertaining, according to the true intent and meaning thereof and hereof. When and as paid, all Bonds, together with the coupons thereto appertaining, if any, and all coupons, shall be surrendered to the Trustee and shall be cancelled by the Trustee and thereafter, upon the written Request of the Company, delivered to it.

At all times until the payment of the principal of the Bonds, the Company will maintain an office or agency in the City and County of San Francisco, California, and will also maintain an office or agency in the Borough of Manhattan, City and State of New York, at each of which the Bonds and coupons may be presented for pay-

ment, such of the Bonds as are registerable, transferable or exchangeable may be presented for registration, transfer or exchange, and notices and demands in respect of any and all Bonds and coupons may be served. In case any Bonds issued hereunder are made payable, registerable, transferable or exchangeable at any other place, the Company will maintain, so long as any of such Bonds are outstanding, an office or agency in such other place at which such Bonds and their coupons may be presented for payment, where such Bonds may, if registerable, transferable or exchangeable, be presented for registration, transfer or exchange, and where notices and demands in respect thereof may be served. The Company will give written Notice to the Trustee of the location of each such office or agency and of any change of location thereof, and in case the Company shall fail to maintain any such office or agency or shall fail to give such written Notice thereof or of any change thereof, presentation and demand may be made and notices served at the principal office of the Trustee.

SECTION 7.02. All property of every kind which the Company has covenanted by this Indenture to convey or pledge or assign to the Trustee, and any property at any time acquired by the Company and provided by this Indenture to become subject hereto shall, immediately upon the acquisition thereof by the Company and without any further conveyance or assignment, become and be subject to the lien hereof as fully and completely as though now owned by the Company and specifically described in the Granting Clauses hereof; but the Company will make and deliver any and all such further conveyances, assignments or instruments of further assurance as the Trustee may reasonably direct or require for the purpose of expressly and specifically subjecting the same to the lien hereof; and the Company will also do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all and every such further acts, deeds, conveyances, transfers and assurances in the law, for the better assuring, conveying, assigning and transferring unto the Trustee all property hereby conveyed, pledged or assigned, or intended so to be, or which the Company may be, or may hereafter become, bound to convey or assign to the Trustee, as the Trustee shall reasonably require.

SECTION 7.03. The Company owns and is lawfully possessed of the lines of railroad, franchises and other property described in the Granting Clauses hereof to the extent therein stated and has good right and lawful authority to convey, mortgage and pledge the same as provided in and by this Indenture. Upon compliance with the covenants contained in Section 3.01 hereof, said lines of railroad, franchises and other property will be free and clear of any deed of trust, mortgage, lien, charge or encumbrance thereon affecting the title thereto prior to this Indenture except those set forth in the Subject Clauses, and the Company will warrant and defend the title thereof, and every part thereof, to the Trustee, its successors in the trust and their assigns for the benefit of the holders for the time being of the Bonds and coupons, against the claims and demands of all persons whomsoever.

The Company will not voluntarily create, or suffer to be created, or to arise, any debt, lien or charge (except to the extent permitted by the Granting Clauses and the Subject Clauses) having priority or preference over or equality with the lien of this Indenture upon the trust estate, or any part thereof; and within six months after the same shall accrue, it will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, all lawful claims and demands of mechanics, laborers and others which, if unpaid, might by law be given precedence to this Indenture as a lien or charge upon the trust estate, or some part thereof; *provided, however,* that the Company shall not be required to pay any such debt, lien, charge, claim or demand so long as the validity or the amount thereof shall, in good faith, be duly contested; and *provided, further,* that nothing in this Section 7.03 shall require the Company to pay or discharge any debt, lien, charge, claim or demand described in the Subject Clauses, or subject to which any property may be acquired by the Company, until the maturity thereof.

SECTION 7.04. The Company from time to time will duly pay and discharge, or cause to be paid and discharged, all taxes, assessments and governmental charges, the lien whereof would be prior to

the lien hereof, lawfully imposed upon the trust estate, or any part thereof, or upon the income thereof, and also all taxes, assessments and governmental charges lawfully imposed upon the lien or interest of the Trustee in respect of the trust estate or the income thereof, so that the lien and priority of this Indenture shall be fully preserved at the cost of the Company and without expense to the Trustee or the holders of the Bonds; *provided, however*, that the Company shall not be required to pay any such tax, assessment or governmental charge so long as the validity or the amount thereof shall, in good faith, be duly contested; and *provided, further*, that the Company shall not be required to pay any such tax, assessment or governmental charge on property it has abandoned pursuant to permission granted by the Commission or other governmental body, if any, having jurisdiction; and *provided, further*, that the Company shall not be required to pay any such tax, assessment or governmental charge on property it has abandoned where no governmental body has jurisdiction if the property abandoned is no longer necessary for the maintenance or operation of the lines of railroad subject to the lien of this Indenture.

SECTION 7.05. The Company from time to time will duly make any and all payments required by the terms of any equipment trust agreement, lease, conditional sale agreement, mortgage or other instrument of lien in respect of equipment, the interest of the Company in which is subject to the lien hereof, and of any mortgage or other instrument of lien constituting a lien prior to the lien of this Indenture upon any other property which is subject to the lien hereof.

SECTION 7.06. The Company, from time to time, will punctually observe and perform all of its obligations, and will pay and discharge all amounts payable under and by virtue of any lease or joint facility or trackage contract held by it and subject to the lien hereof, and will not suffer or permit any default for which any such lease or joint facility or trackage contract might be terminated, so that, subject to the provisions of Articles Eleven and Fourteen hereof, the interest of the Company in such leasehold estates or joint facility or trackage contracts may be at all times preserved unimpaired as security for the Bonds and coupons; *provided, however*, that nothing

contained in this Section 7.06 shall require the Company to make any such payments or observe any such obligations, so long as, in good faith, it shall duly contest its liability therefor.

SECTION 7.07. If the Company shall fail to pay any sum which in Sections 7.03, 7.04, 7.05 or 7.06 of this Article Seven the Company has covenanted to pay or discharge when such sum is payable by the terms of any such section, the Trustee, without prejudice to any of its rights hereunder by reason of such default, from time to time in its discretion may, but shall not be obligated to, pay any sum so in default, and shall have a lien upon the trust estate prior to the lien of the Bonds for any advances made by it for that purpose. The Trustee shall be under no obligation to give any notice to the holders of Bonds of any such payment.

SECTION 7.08. Subject to the provisions of Articles Eleven and Fourteen hereof, the Company will diligently preserve all the rights and franchises to it granted and upon it conferred, and will, at all times, maintain, preserve and keep the trust estate, and every part thereof, in good repair, working order and condition, and will, from time to time, make thereto all needful and proper repairs, renewals and replacements, additions, betterments and improvements.

The Company will at all times keep and maintain in good repair and condition, ordinary wear and tear excepted, all equipment which, or the Company's interest in which, shall be or become subject to the lien of this Indenture, and will at all times keep the lines of railroad, premises and estate subject to the lien hereof supplied with motive power, rolling stock, other equipment, machinery, tools and supplies sufficient to operate the railroad efficiently and properly.

SECTION 7.09. The Company will not procure the authentication or delivery of, issue, negotiate, sell or dispose of any Bonds or procure the payment of moneys deposited hereunder, in any manner or in any amount contrary to the provisions of this Indenture.

SECTION 7.10. In case the Company shall hereafter create any mortgage, deed of trust or other lien upon any property subject to the lien hereof, such mortgage, deed of trust or other lien, except as

otherwise herein expressly permitted, shall be, and shall be expressed to be, subject to the prior lien of this Indenture.

SECTION 7.11. Subject to the provisions of Article Fourteen hereof, the Company will at all times continue and maintain its corporate existence.

SECTION 7.12. The Company will not permit any subsidiary company to increase the amount or number of shares of its stock of any class unless effective provision is made that all such additional stock, or such part thereof as is proportionate to the part of the stock of such class previously subject to the lien hereof, shall immediately upon the issue or creation thereof be assigned and delivered to the Trustee as a part of the trust estate (subject to the provisions of any indenture constituting a lien prior to the lien hereof on the shares of such stock previously subject to the lien of this Indenture), any such additional stock to be fully paid and nonassessable.

The Company will not permit any wholly owned subsidiary, as that term is defined herein, to issue, create, assume or guarantee any bonds, obligations or other indebtedness, or to create any mortgage or other lien on the property of such wholly owned subsidiary or any part thereof, unless effective provision is made that such bonds, obligations or other indebtedness and such mortgage or other lien shall immediately upon the issue or creation thereof be acquired by the Company and be assigned and delivered to the Trustee as a part of the trust estate (subject to the provisions of any indenture constituting a lien prior to the lien hereof on securities of such wholly owned subsidiary which at the time are subject to the lien of this Indenture); *provided, however*, that the foregoing provisions of this paragraph shall not apply to

(1) current operating accounts for a period not at any date exceeding six months,

(2) bonds, obligations or other indebtedness issued for the purchase price of equipment, secured by an equipment trust agreement, lease, conditional sale agreement, mortgage or other instrument of lien relating only to such equipment,

(3) bonds, obligations or other indebtedness issued for the purchase price of property acquired after the execution and delivery of this Indenture, secured by a mortgage or deed of trust relating only to such property, if the principal amount of such indebtedness does not exceed $66\frac{2}{3}\%$ of the cost of such property,

(4) bonds, obligations or other indebtedness which, or the proceeds of which, are to be used by such corporation for, or to reimburse itself for, the construction or acquisition of additional lines of railroad or physical additions, betterments, improvements or extensions of or to property owned by it or of or to said additional lines of railroad, if the principal amount of such indebtedness does not exceed $66\frac{2}{3}\%$ of the cost of such additional lines of railroad, or additions, betterments, improvements or extensions, *provided*, such additional lines of railroad, or physical additions, betterments, improvements or extensions shall be of a character on account of which Bonds could be authenticated and delivered by the Company if constructed or acquired by it, and *provided, further*, that such wholly owned subsidiary shall not create or issue bonds, obligations or other indebtedness in respect thereof on a basis more favorable to it than would be imposed upon the Company by the terms of this Indenture if it had constructed or acquired such property and had financed such construction or acquisition, or reimbursed itself therefor, with Bonds or deposited cash,

(5) bonds, obligations or other indebtedness created or issued pursuant to Section 8.11 hereof,

(6) mortgages or other liens created to secure any bonds, obligations or other indebtedness of the character specified in the foregoing subdivisions (2), (3), (4) and (5), or

(7) instruments of further assurance or security required by a mortgage or deed of trust upon some part of the property of such corporation.

The Company will not without the consent of the Trustee permit any subsidiary company to sell, lease or otherwise dispose of its

property as a whole or substantially as a whole, except to the Company or to some other subsidiary company of whose securities, including stock, those subject to the lien hereof represent at least an equal proportionate interest. The Trustee shall give such consent upon compliance by the Company with the provisions of Section 8.11 hereof and upon being furnished with (1) Certified Resolutions requesting such consent and stating that, in the judgment of the Board of Directors, the making by such subsidiary company of such sale, lease or other disposition is desirable from the point of view of the Company and will not materially impair or prejudice the security for the Bonds or the interests of the bondholders, and (2) an Officers' Certificate setting out the terms of such sale, lease or other disposition, and stating that in the opinion of the signers such terms are fair to such subsidiary company and that the consideration to be received by such subsidiary company constitutes full and proper consideration for such sale, lease or other disposition.

SECTION 7.13. The Company will at all times keep insured against loss by fire or otherwise such of its equipment, tools and machinery, buildings and other structures erected or to be erected on the trust estate, and other property used in connection with the lines of railroad and the premises at any time subject to the lien hereof, as is, at the time, usually insured by railroad companies, and in the same manner and to the same extent.

The proceeds of any insurance upon any part of the trust estate (not including therein any proceeds of insurance applicable to losses with respect to property of third parties), if in excess of the sum of \$100,000 in the aggregate in respect of any one loss, shall, subject to the requirements of any prior lien on such property, be deposited with the Trustee and shall be held in trust by it and applied, at the written Request of the Company (but if any of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing, subject to the approval of the Trustee in its discretion) to the repair, restoration or replacement of the property damaged or destroyed, or to the purchase of other property, real or personal, including equipment, or to the mak-

ing of additions and betterments to, or improvements of, property now or hereafter subject to the lien hereof, or to reimburse the Company for any expenditures made by it after the date of such loss for any of such purposes; *provided, however*, that only proceeds derived from insurance on equipment may be applied to the purchase of equipment or to the making of or reimbursement for additions and betterments to equipment. Such repairs, restorations, replacements, purchases, additions, betterments and improvements shall be made by or as directed by the Company and the cost thereof shall be paid, or the Company reimbursed for its expenditures therefor, by the Trustee out of such proceeds. The Request of the Company shall set forth the nature of such repairs, restorations, replacements, purchases, additions, betterments or improvements and the cost thereof, and shall be accompanied by an Opinion of Counsel that the same are, or upon the making or acquisition thereof will become, subject to the lien of this Indenture subject to no prior liens other than Permitted Encumbrances and prior liens to which the property damaged or destroyed was subject. Such Request and Opinion shall constitute a sufficient warrant and direction to the Trustee for the expenditure of said proceeds in accordance with said Request.

Notwithstanding any prior provisions of this Section 7.13, upon the written Request of the Company, accompanied by Certified Resolutions authorizing such Request, the Trustee shall apply any such proceeds of insurance deposited with it to the purchase or redemption of outstanding Bonds of any series specified by the Company in such Request, in the manner provided for the purchase or redemption thereof by operation of the sinking fund provided for such series.

If such proceeds be \$100,000 or less, they shall be paid to the Company and applied by it to or for any one or more of the purposes specified in this Section 7.13, and the Trustee shall be under no responsibility in connection therewith.

SECTION 7.14. The Company will not pledge any Bonds to secure any indebtedness created, assumed or guaranteed, directly or indirectly, by the Company if upon the making of such pledge the excess of the aggregate principal amount of all Bonds pledged by the Com-

pany over the aggregate principal amount of all indebtedness secured thereby would exceed 10% of the aggregate principal amount of all Bonds then outstanding, including pledged Bonds.

The Company will not pledge any Bonds if upon the making of such pledge the aggregate principal amount of all such Bonds pledged by it would exceed 150% of the aggregate principal amount of all indebtedness secured by such pledges.

SECTION 7.15. The Company will, upon the consummation of the reorganization or recapitalization of Sacramento Northern Railway, a California corporation, pledge with the Trustee and subject to the lien of this Indenture all shares of stock and any other securities which shall be received by the Company as a result of said reorganization or recapitalization, together with any shares of stock and other securities of said Sacramento Northern Railway now held by the Company (all of which are expressly excepted from the lien hereof) which shall not be cancelled as a result of such reorganization or recapitalization, and the Company will assign and deliver all of said shares of stock and other securities, if any, to the Trustee and will comply with all other requirements necessary to subject the same to the lien of this Indenture.

SECTION 7.16. The Company will, with all convenient speed, duly record, register, file, re-record, re-register and re-file this Indenture, and also every indenture supplemental hereto which may hereafter be executed as may be required by law, in order to protect the lien hereof on the property covered hereby or by such supplemental indenture, or intended so to be, and will pay any recording, registration or filing tax or fee legally due upon the recording, registering or filing of this Indenture or of any indenture supplemental hereto, or legally due at any time upon or in connection with the issuance of Bonds hereunder, and will make such statements and do such acts now or hereafter as are or shall be required to be made or done by it under any law affecting the recording, registering or filing hereof or of any such supplemental indenture or upon such issuance.

ARTICLE EIGHT.

CONTROL OF PLEDGED SECURITIES.

SECTION 8.01. All stock certificates, bonds and other obligations which the Company now owns or which it may hereafter acquire which are subject to the lien hereof, or which are required by any of the provisions of this Indenture to be pledged with the Trustee hereunder, shall forthwith or upon their receipt by the Company be delivered to the Trustee in bearer form or accompanied by proper instruments of assignment and transfer, and shall be held by and in the custody of the Trustee subject to the terms and conditions of this Indenture; *provided, however,* that stock certificates representing directors' qualifying shares need not be so delivered unless and until the Trustee shall deem such action expedient for the protection of the trusts hereunder.

Whenever any indenture constituting a lien prior to the lien of this Indenture on any shares of stock, bonds or other obligations subject to the lien hereof shall be satisfied, released or discharged, the Trustee (if there shall then be no other prior lien thereon requiring the same to be otherwise held) shall be entitled to receive and to take possession of and to hold such securities as part of the trust estate; and the Company will execute and deliver to the Trustee all such assignments, transfers, powers of attorney and other instruments, and take all such other action, as the Trustee may reasonably require, to the end that the Trustee shall obtain possession of all said stock certificates, bonds and other obligations.

SECTION 8.02. The Trustee is authorized, in its discretion, to cause to be registered as to principal in its name as Trustee, or in the name of its nominee, any and all coupon bonds which the Trustee shall receive as security under any of the provisions hereof, or it may cause the same to be exchanged for registered bonds without coupons of any denomination. The Trustee may cause to be transferred into its name as Trustee, or into the name of its nominee, all registered bonds which it shall so receive. At any time the Trustee may transfer into its name as Trustee all or any shares of stock, the certificates for which shall have been so received, or, in its discretion,

the Trustee may hold such certificates in the name of the registered holder thereof at the time of such delivery, or in the name of a nominee or nominees of the Trustee, provided that the same be endorsed in blank for transfer, or be accompanied by proper instruments of assignment in blank duly executed by such registered holder or nominee; *provided, however*, that until an event of default, as defined in Section 9.02 hereof, shall have happened and be continuing, there shall not be transferred into the name of the Trustee, or its nominee, shares of stock of carrier or other corporations (including, without limitation thereto, Alameda Belt Line, Central California Traction Company, The Salt Lake City Union Depot and Railroad Company, The Oakland Terminal Railway and Railway Express Agency, Incorporated) in any case where the shares of stock of any such corporation owned by the Company constitute less than a majority of the outstanding stock of such corporation and all of the remainder of such outstanding stock is owned by one or more railroad corporations.

The Trustee may do whatever it may deem necessary for the purpose of maintaining, preserving, renewing or extending the corporate existence of any corporation, shares of stock of which shall be subject to the lien hereof, and for such purpose, from time to time, may assign, transfer and deliver so many shares of the stock of any such corporation as may be necessary to qualify persons to act as directors of, or in any other official relation to, such corporation. Whenever the Company, not being in default hereunder, shall in writing so request, stating in such Request that the Company has no shares for that purpose under its control other than shares represented by certificates in the possession of the Trustee and held hereunder, the Trustee, at the cost and expense of the Company, shall assign and transfer, to persons designated by the Company, a sufficient number of the shares which then shall be held hereunder to qualify such persons to act as directors of, or in any other official relation to, the corporation which issued such shares; *provided, however*, that no transfer of the stock of any subsidiary company shall be made under this provision which shall reduce the amount of stock

in such subsidiary company held hereunder so as to render it less than a majority of the stock of such subsidiary company entitled to vote for the election of directors, and that in every case the Trustee shall make such arrangements as it shall deem expedient for the protection of the trusts hereunder in respect of the shares so assigned.

All stock dividends upon shares of stock subject to the lien of this Indenture, unless required to be delivered to the trustee under some mortgage or other instrument constituting a lien thereon prior to the lien of this Indenture, shall be received by the Trustee and held as part of the trust estate.

SECTION 8.03. Unless and until

(A) The Trustee, under the powers herein granted, or a trustee in bankruptcy or a receiver, shall have entered into possession of the lines of railroad, or some of them, constituting part of the trust estate; or

(B) Some one of the events of default enumerated in Section 9.02 hereof shall have happened and be continuing;

(1) the Trustee shall not (except with the consent of the Company) collect or enforce the collection of the principal of or interest upon any of the pledged bonds, obligations, claims or indebtedness subject to the lien hereof, whether before, at or after maturity, and shall not enforce any of the provisions of the mortgages, trust deeds or other instruments under which such bonds, obligations, claims or indebtedness were issued, or by which the same are secured;

(2) the Company shall be entitled to receive all interest paid and all cash dividends (except as hereinafter in this Section 8.03 otherwise provided) in respect of such pledged bonds, obligations, claims, indebtedness or shares of stock subject to the lien hereof, whether or not they have been transferred into the name of the Trustee or its nominee; and

(3) from time to time upon the written Request of the Company the Trustee shall deliver to the Company any coupons for such interest on pledged bonds then in its possession there-

tofore matured or maturing within fifteen (15) days after such Request, and on like Request shall deliver to the Company suitable orders in favor of the Company, or its nominee, for the payment of such interest and dividends, and the Company may collect such coupons and interest and dividends as under clause (2) of this Section 8.03 the Company is entitled to receive; and the Trustee shall forthwith pay over to the Company any such interest or dividends which may be collected or received by it. In every such case the Company shall be entitled for its own use to demand and receive and collect, release and discharge the interest on any such claim against or indebtedness of any other corporation subject to the lien hereof; and upon the Request of the Company the Trustee shall execute any reassignments or releases which may be required for that purpose. If any such coupon or order for payment of interest or dividends delivered to the Company as aforesaid shall not, as aforesaid, be forthwith paid and cancelled or released and discharged, the Company shall return the same to the Trustee;

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

(1) the Company shall not be entitled to receive, and the Trustee shall not pay over to it, any principal of any bond, obligation, claim or indebtedness subject to the lien hereof;

(2) the Company shall not be entitled to receive, and the Trustee shall not pay over to it, any interest on any such bond, obligation, claim or indebtedness subject to the lien hereof which shall have been collected or paid out of the proceeds of any sale, condemnation or expropriation of any property covered by a mortgage or lien securing such bond, obligation, claim or indebtedness, or out of the proceeds of a sale or condemnation of any other property of the corporation liable upon such bond, obligation, claim or indebtedness or as the result of a dissolution, liquidation or winding up of such corporation, unless the principal amount of any such bond, obligation, claim or indebtedness shall have been paid in full;

(3) the Company shall not be entitled to receive, and the Trustee shall not pay over to it, any dividend on any shares of stock subject to the lien hereof (including the redemption price of any such shares of stock) which shall have been paid in stock, or out of the proceeds of a sale or condemnation of any property of the corporation which issued such stock, or upon or in the course of dissolution, liquidation or winding up of any such corporation, or which in any way shall be chargeable to or be payable out of capital, capital surplus or paid-in surplus; it being the intention that the Company shall be entitled to receive only dividends paid out of earned surplus;

(4) the Company shall not collect any such coupon or interest, or any such claim or indebtedness, or any such dividends, by legal proceedings or by enforcement of any security therefor, except with the written consent of the Trustee, nor in any manner which the Trustee shall deem prejudicial to the trusts hereunder.

The Trustee shall be entitled to assume that any interest received by the Trustee or the Company on any bond, obligation, claim or indebtedness is not paid out of the proceeds of any sale, condemnation or expropriation of any property covered by a mortgage or lien securing such bond, obligation, claim or indebtedness, or out of the proceeds of a sale or condemnation of any other property of the corporation liable upon such bond, obligation, claim or indebtedness, or as the result of a dissolution, liquidation or winding up of such corporation, and that any cash dividend received on any shares of stock is not paid out of the proceeds of a sale or condemnation of any property of the corporation which issued such stock, or upon or in the course of dissolution, liquidation or winding up of any such corporation, and is not chargeable to or paid out of capital, capital surplus or paid-in surplus, until the Trustee shall be notified in writing to the contrary by the holders of not less than 5% in principal amount of the Bonds at the time outstanding, giving the facts with respect thereto and the basis of their information; and, in the absence of any such written notification, it shall be conclusively presumed as between the Trustee and the holders of the Bonds that in making or per-

mitting any payments thereof to the Company the Trustee acted in good faith.

SECTION 8.04. Any moneys which shall be paid on account of the principal of any bond, obligation, claim or indebtedness or in redemption or retirement of any shares of stock subject to the lien hereof, or as interest or dividends, which under the provisions of Section 8.03 the Company is not entitled to receive (unless required to be paid to the trustee under some mortgage or other instrument constituting a lien thereon prior to the lien hereof, or unless applied on account of the price of property purchased pursuant to Section 8.06 hereof), shall be received by the Trustee and held as part of the trust estate, and from time to time, so long as none of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing, shall, at the election of the Company, be applied, in whole or in part, by the Trustee

(a) to pay, or to reimburse the Company for, all or any part of the Cost or Net Cost, as the case may be, of Additions of a character which could otherwise be made the basis for the authentication of Bonds under Section 3.03 hereof; or

(b) to the purchase or redemption of outstanding Bonds of any series in the manner provided for the purchase or redemption thereof by operation of the sinking fund provided for such series.

Such moneys shall be so applied by the Trustee upon delivery to it of the following:

(1) Certified Resolutions requesting such application of a specified amount of such moneys;

(2) In case such moneys are to be applied pursuant to paragraph (a) of this Section 8.04, such of the documents required by paragraphs (b), (c), (d) and (e) of said Section 3.03 as shall be applicable.

SECTION 8.05. Unless some one or more of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing, the Company shall have the right to

vote upon, or to give any approval or consent in respect of all shares of stock subject to the lien hereof, for all purposes not inconsistent with the provisions hereof. From time to time, upon the written Request of the Company, the Trustee forthwith shall execute and deliver, or cause to be executed and delivered, to the Company or its nominees, suitable powers of attorney, proxies or consents for such purposes in respect of any such shares of stock which shall have been transferred to the Trustee or its nominee. The Trustee shall be fully protected and shall incur no liability in executing and delivering, or causing to be executed and delivered, any such powers of attorney or proxies or consents, upon the receipt of an Opinion of Counsel that the purpose or purposes thereof is or are not inconsistent with any of the provisions of this Indenture.

SECTION 8.06. In case default shall be made in the payment of the principal of or interest on any of the bonds, obligations, claims or indebtedness subject to the lien hereof, or in the due observance or performance of any covenant contained in any of the same or in any mortgage, deed of trust or trust agreement by which the same are secured, or in the payment of the principal of, or interest on, or in the due observance or performance of any covenant contained in, any other bonds, obligations, claims or indebtedness then secured by any such mortgage, deed of trust or trust agreement, then and in any such case the Trustee shall, on the written Request of the Company if none of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing, and may, without such Request if any one or more of such events shall have happened and be continuing, exercise and enforce, by legal proceedings or otherwise, any and all rights and remedies under such bonds, obligations, claims or indebtedness and under any such mortgage, deed of trust or trust agreement.

In case

(a) at any time any corporation, shares of the stock of which shall be subject to the lien hereof, shall be dissolved or liquidated; or

(b) all or substantially all of the property of any such corporation shall be sold at any judicial or other sale; or

(c) any property covered by a mortgage securing any bonds subject to the lien hereof, or subject to any charge or trust for the payment of obligations subject to the lien hereof, shall be sold upon foreclosure of such mortgage, or in enforcement of such charge or trust;

then and in any such case, if the property of such dissolved or liquidated corporation, or the property sold, can be acquired by crediting on the bonds, obligations, claims, indebtedness or shares of stock held by the Trustee hereunder, any sums accruing or to be received thereon out of the proceeds of such property, and by paying the balance of the price of such property in cash, the Trustee shall, irrespective of the percentage of the price of such property to be paid in cash, on the written Request of the Company (if none of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing), and upon being provided with the amount of cash necessary therefor and indemnified on account of its expenses in connection therewith, purchase said property or cause the same to be purchased on its behalf, either in its name as Trustee or in the name of the Company or otherwise, as it may determine, and use such bonds, obligations, claims, indebtedness and shares of stock, so far as may be, to make payment therefor; and if any one or more of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing, without the Request of the Company, the Trustee may, in its discretion, take such action if such property can be acquired by paying not more than 10% of the price thereof in cash and may, in its discretion, irrespective of the percentage of the price of such property to be paid in cash, take such action if requested in writing so to do by the holders of a majority in principal amount of the Bonds then outstanding, but shall not be obligated to do so.

In case of any such purchase, the Trustee shall take appropriate steps to cause such property to be vested in the Company subject to

the lien hereof as a first lien thereon subject only to any liens subject to which such property shall have been sold and to Permitted Encumbrances, or at the option of the Company in some corporation organized or to be organized with power to acquire and manage such property, provided in the latter event that all the bonds and other indebtedness and capital stock of such corporation shall be received by the Trustee and be held subject to the lien hereof. If such shares of stock of any such corporation so liquidated or dissolved, or whose property shall be so sold, or the bonds or obligations, the mortgage or other instrument securing which shall be foreclosed or enforced, shall be held by the trustee under some indenture constituting a lien thereon prior to the lien of this Indenture, the Trustee may permit the purchase of such property by or on behalf of the trustee under such prior indenture.

The Company, on demand of the Trustee, forthwith will pay, or satisfactorily provide for, all appropriate expenditures made by the Trustee under any of the provisions of this Section 8.06, including all sums required to obtain and perfect the ownership of and title to any property which the Trustee shall purchase or shall cause or authorize to be purchased pursuant to the provisions of this Section 8.06; and in any case, without impairment of, or prejudice to, any of its rights hereunder by reason of any default of the Company, the Trustee, in its discretion, may but need not make advances for all such expenditures so to be paid or provided by the Company, 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 prior to the lien of the Bonds, upon all bonds, obligations, claims, indebtedness and shares of stock in respect of which such advances shall have been made, and the proceeds thereof, and any property acquired by means thereof.

SECTION 8.07. The Trustee, with the written consent of the Company (and without such consent if one or more of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing), may join in or permit or author-

ize the trustee under any indenture constituting a lien thereon prior to the lien of this Indenture to join in, any plan of readjustment, recapitalization or reorganization in respect of any corporation shares of the stock, bonds, obligations, claims or indebtedness of which shall be subject to the lien hereof, and may accept or permit or authorize the acceptance of any cash, securities or other property issued in payment or exchange therefor under such plan.

SECTION 8.08. In case the Trustee shall not purchase or cause to be purchased the property of any such dissolved or liquidated corporation, or the property sold, pursuant to Section 8.06 hereof, or shall not join in any plan of readjustment, recapitalization or reorganization pursuant to Section 8.07 hereof, or shall join in such plan of readjustment, recapitalization or reorganization and cash shall be distributable under said plan, applicable to the shares of stock, bonds, obligations, claims or indebtedness subject to the lien hereof, then the Trustee shall receive any portion of the proceeds of such dissolution or liquidation or of such sale, or any moneys or securities distributable under any such plan applicable to the shares of stock, bonds, obligations, claims or indebtedness subject to the lien hereof, unless such proceeds, moneys or securities are required to be paid to and received by the trustee under some mortgage or other instrument constituting a lien thereon prior to the lien of this Indenture. Any such moneys and securities received by the Trustee shall be held by the Trustee as part of the trust estate, and from time to time, so long as none of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing, such moneys shall, at the election of the Company, be paid out and disposed of in the manner provided in Section 8.04 hereof, and subject to the provisions of said Section 8.04.

SECTION 8.09. The Trustee at any time in its discretion, with the written consent of the Company (and without such consent if one or more of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing), may consent to the renewal or extension of any of the bonds, obligations, claims or other indebtedness subject to the lien hereof, and of the

mortgages, deed of trust or trust agreements, if any, securing the same, at the same or a higher or a lower rate of interest. In case of the renewal or extension of any such bonds, obligations, claims or other indebtedness, the Trustee may surrender the same to the corporation which issued them or its successor, or present the same for appropriate endorsement, and in lieu thereof may receive renewal or extended bonds, obligations, claims or other indebtedness bearing such interest and maturing at such time as the Trustee may deem reasonable; *provided, however*, that if any of the same were secured by a lien, such renewal or extended bonds, obligations, claims or other indebtedness shall be secured by a lien upon the same property, or upon the same property and additional property, equal or superior to that securing the bonds, obligations, claims or other indebtedness renewed or extended. The Trustee may accept an Opinion of Counsel as conclusive evidence that such extended or renewal bonds, obligations, claims or other indebtedness are so secured. All bonds, obligations, claims or other indebtedness received in exchange for or in renewal of any bonds, obligations, claims or other indebtedness subject to the lien of this Indenture shall be held subject to the lien hereof in the same manner and to the same extent as the bonds, obligations, claims or other indebtedness in exchange for or in renewal of which they shall have been received.

SECTION 8.10. The Trustee at any time in its discretion, with the written consent of the Company (and without such consent if one or more of the events specified in paragraphs (A) and (B) of Section 8.03 shall have happened and be continuing), may (a) consent to the cancellation of any of the shares of stock, bonds, obligations, claims or other indebtedness which, owing to foreclosure, re-adjustment, recapitalization, reorganization, consolidation or sale, as herein provided, of any of the corporations which issued the same, or for any other reason, shall have become no longer of any value as security for the Bonds hereby secured, and such shares of stock, bonds, obligations, claims or other indebtedness shall thereupon be cancelled and delivered to the Company; and (b) consent to a reduction in amount of the capitalization of any corporation shares of the capital stock

of which shall be subject to the lien hereof provided the proportionate amount so pledged is not thereby reduced. The Trustee may accept an Opinion of Counsel as conclusive evidence that the rights of the holders of the Bonds hereunder will not be prejudiced or impaired by such cancellation of any of such shares of stock, bonds, obligations, claims or other indebtedness proposed to be made under any of the provisions of this Section 8.10.

SECTION 8.11. Any corporation, any shares of whose stock are subject to the lien hereof, may consolidate with or merge into, or sell, convey, transfer or lease all or any part of its property to, the Company; *provided, however,* that such consolidation, merger, sale, conveyance, transfer or lease shall be made only upon such terms as shall not in any way impair or prejudice the value of the security under this Indenture, and shall be subject to the provisions of Article Fourteen hereof to the extent that the same shall apply. In the event of its consolidation with or merger into the Company, or of the sale, conveyance, transfer or lease of its property to the Company, this Indenture shall become and be a lien upon the properties of the corporation resulting from such consolidation or merger and upon all the estate, right, title and interest of the Company in any property or leasehold so acquired by the Company to the extent provided in, and subject to the provisions of, Article Fourteen hereof.

Subject to the provisions of Section 7.12 hereof, any corporation, any shares of whose stock are subject to the lien hereof, may consolidate with or merge into, or sell, convey, transfer or lease all or any part of its property to, any other person or corporation; *provided, however,* that the value of the security under this Indenture shall not be in any way impaired or prejudiced thereby, and *provided, further,* that the whole consideration payable, distributable or deliverable on account of the shares of capital stock subject to the lien hereof (whether such consideration be in cash or otherwise) shall become subject to the lien hereof and shall (unless required to be delivered to the trustee under some mortgage or other instrument constituting a lien thereon prior to the

lien of this Indenture) be delivered to the Trustee, and shall be held as part of the trust estate. Any cash included in such consideration shall, from time to time, so long as none of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing, at the election of the Company, be paid out and disposed of in the manner provided in Section 8.04 hereof and subject to the provisions of said Section 8.04.

The Trustee may accept an Opinion of Counsel as conclusive evidence that the value of the security hereof will not be impaired or prejudiced by any consolidation, merger, sale, conveyance, transfer or lease proposed to be made under the provisions of this Section 8.11.

The stock of any corporation, any shares of whose stock are subject to the lien hereof, may for the purpose of carrying out any transaction permitted by the foregoing provisions of this Section 8.11, and as a part of or in contemplation of such transaction, be increased or reduced to the extent necessary therefor, provided that the percentage of the capital stock of such corporation of each class subject to the lien hereof shall not be decreased by such increase or reduction of capital stock.

The Trustee shall do any and all things proper to carry into effect the purposes of this Section 8.11, and in order to facilitate any consolidation, merger, sale, conveyance, transfer or lease contemplated by this Section 8.11 the Trustee, if necessary, shall either vote or transfer into the name of the Company, under such restrictions as it may deem sufficient for the protection of the holders of the Bonds, the stock of any corporation about to be so merged or consolidated; but the certificates for any shares so transferred into the name of the Company shall forthwith be delivered to and held by the Trustee hereunder, and the Company shall execute and deliver to the Trustee such instruments as the Trustee shall deem necessary in order to enable it to transfer such shares back into its own name.

ARTICLE NINE.

REMEDIES OF TRUSTEE AND BONDHOLDERS IN EVENT OF DEFAULT.

SECTION 9.01. The Company will not, directly or indirectly, extend or assent to the extension of the time for payment of any coupon or claim for interest on any of the Bonds hereby secured, and it will not, directly or indirectly, be a party to or approve any such arrangement by purchasing or refunding said coupons or claims for interest or in any other manner. If the time for payment of any such coupon or claim for interest shall be so extended, whether or not by or with the consent of the Company, such coupon or claim for interest shall not be entitled, in case of default hereunder, to the benefit of the security of this Indenture, except subject to the prior payment in full of the principal of all Bonds hereby secured and then outstanding and all coupons and interest on such Bonds the payment of which shall not have been extended; *provided, however*, that the foregoing provisions of this Section 9.01 shall not be applicable to any coupon or claim for interest the time for the payment of which shall have been extended, if such extension be pursuant to a plan proposed by the Company to all holders of any one or more series of Bonds secured hereby and then outstanding.

Neither any coupon appertaining to any Bond hereby secured, nor any claim for interest on any registered Bond, which in any way at or after maturity shall have been transferred or pledged separate and apart from the Bond to which it relates, shall, unless accompanied by such Bond, be entitled, in case of default hereunder, to any benefit of or from this Indenture, except after the prior payment in full of the principal of the Bonds hereby secured, and of all coupons and interest obligations not so transferred or pledged.

If any matured coupons or claims for interest on any of the Bonds at or after maturity shall be owned by the Company, or purchased by it or on its behalf, then such matured coupons or claims for interest shall not be entitled to the benefit or security of this Indenture; and the Company covenants that all such coupons and claims for interest so owned or purchased by it, or on its behalf, at or after their maturity, shall be cancelled forthwith.

SECTION 9.02. If one or more of the following events, herein sometimes called "events of default", shall happen, that is to say:

(a) Default shall be made in the payment of any installment of interest on any of the Bonds when and as the same shall become due and payable, as therein and herein expressed, and such default shall have continued for sixty days; or

(b) Default shall be made in the payment of the principal of any of the Bonds when and as the same shall become due and payable, either upon stated maturity or upon call for redemption or otherwise as herein provided; or

(c) Default shall be made in the payment of any installment of any sinking fund provided for herein or in any indenture supplemental hereto, in respect of the Bonds or any series thereof, when and as such installment shall become due and payable in accordance with the terms of this Indenture or of any such supplemental indenture, and such default shall have continued for sixty days; or

(d) Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Company, its successors or assigns, contained in the Bonds or in this Indenture or in any indenture supplemental hereto, and such default shall continue for sixty days after written notice specifying such default and requiring the same to be remedied shall have been given to the Company by the Trustee, which notice may be given by the Trustee in its discretion, and shall be given on the written request of the holders of twenty-five per cent. in principal amount of the Bonds at the time outstanding; or

(e) An order shall be made by a court of competent jurisdiction for the appointment, without the consent of the Company, of a receiver or trustee of the Company or of all or any part of the trust estate and such receiver or trustee shall not have been discharged within sixty days; or pursuant to any bankruptcy, insolvency, reorganization, readjustment or debtor relief proceeding, any such court shall have taken jurisdiction

of the property of the Company and such proceeding shall not have been dismissed within sixty days; or

(f) The Company shall apply for or consent to the appointment of a receiver or trustee for itself or all or the major part of the trust estate, or shall file a petition seeking reorganization or readjustment or similar relief under any Federal statute, or shall admit in writing the material allegations of any such petition, or shall file a petition to take advantage of any debtor relief act;

then, and in any such case, the Trustee personally, or by its agents or attorneys, while such event of default shall continue, may, but shall not be obligated to, enter into and upon all or any part of the railroads, rolling stock and other equipment, property and premises, lands, rights, interests and franchises hereby conveyed, or intended so to be, and each and every part thereof, and may exclude the Company, its agents and servants wholly therefrom; and having and holding the same, may use, operate, manage and control said railroads and other property, regulate the tolls for the transportation of passengers and freight thereon, and conduct the business thereof, either personally or by its superintendents, managers, agents, servants or attorneys; and upon every such entry the Trustee, at the expense of the trust estate, either by purchase, repair or construction, may from time to time maintain and restore the rolling stock and other equipment, tools and machinery, buildings, bridges and structures and other property erected upon or provided for use in connection with said railroads and other property, and may insure or keep insured such of the same as are usually insured by railroad companies and in the same manner and to the same extent; and likewise, from time to time, at the expense of the trust estate, may make all necessary or proper repairs, renewals and replacements, and useful alterations, additions, betterments and improvements thereto and thereon, as to it may seem judicious; and may manage the mortgaged railroads and property and carry on the business and exercise all rights and powers of the Company, either in the name of the Company or otherwise, as the Trustee

shall deem best. And the Trustee shall be entitled to collect and receive all revenues, rents, earnings, issues, tolls, profits and other income of the same and every part thereof, and also the income from all bonds, obligations, claims, indebtedness and shares of stock subject to the lien hereof. And after deducting the expenses of operating said railroads and other property, and of conducting the business thereof and of all repairs, maintenance, renewals, replacements, alterations, additions, betterments and improvements and all payments which may be made for taxes, assessments, insurance and prior or other proper charges upon the trust estate, or any part thereof, as well as just and reasonable compensation for its own services and for all attorneys, agents, clerks, servants and other employees by it properly engaged and employed, the Trustee shall apply the moneys arising as aforesaid, as follows:

(i) In case the principal of none of the Bonds shall have become due, by declaration or otherwise, and be unpaid, to the payment of the interest in default on the Bonds in the order of the maturity of the installments of such interest, such payments to be made ratably to the persons entitled thereto, without discrimination or preference;

(ii) In case the principal of all or any part of the Bonds shall have become due, by declaration or otherwise, and shall be unpaid, *first*, to the payment of interest accrued on the outstanding Bonds prior to the date upon which the principal of all or any part of the Bonds became due and payable, in the order of the maturity of the installments of such interest, and *second*, to the payment of interest accrued on the outstanding Bonds after said date upon which the principal of all or any part of the Bonds became due and payable, in the order of the maturity of the installments of such interest, at the legal rate on overdue principal and at the rate expressed in the Bonds which shall not have become due, by declaration or otherwise, and *third* (subject to the provisions of Section 9.04), to the payment of the principal of all of said Bonds, whether due or not; in every instance such payments to be made ratably to the persons entitled thereto without discrimination or preference; and

(iii) In case no Bond interest is in default and the principal of none of the Bonds shall have become due, by declaration or otherwise, to remedy any other defaults of the Company hereunder in such manner as in the judgment of the Trustee shall best serve the interests of the holders of the Bonds.

These provisions, however, shall not be deemed in anywise to modify the provisions of Section 9.01 hereof, and are subject thereto.

SECTION 9.03. If any one or more of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing, the Trustee shall be entitled to vote on all shares of stock then subject to the lien hereof, and to collect and receive all dividends on all such shares of stock and all sums payable for principal, interest or otherwise upon any bonds, obligations, claims or other indebtedness that shall then be subject to the lien hereof, and to apply the net moneys so received as hereinbefore in Section 9.02 hereof provided; and, as holder of any such shares of stock and of any such bonds, obligations, claims or other indebtedness, to perform any and all acts, or to make or execute any and all transfers, requests, requisitions or other instruments for the purpose of carrying out the provisions of this Section 9.03; but, in the event that a receiver or trustee of the Company or any of the railroads embraced in the trust estate shall have been appointed and shall be in possession thereof, the Trustee from time to time in its discretion may, and if so requested in writing by the holders of a majority in principal amount of the Bonds then outstanding shall, turn over any part or all of such moneys to such receiver or trustee.

SECTION 9.04. In case any one or more of the events of default shall have happened and be continuing, the Trustee by notice in writing delivered to the Company may, and upon the written request of the holders of twenty-five per cent. in principal amount of the Bonds then outstanding, shall, declare the principal of all Bonds then outstanding to be forthwith due and payable, and upon any such declaration the same shall become and be forthwith due and payable, anything herein or in the Bonds contained to the contrary notwith-

standing. This provision, however, is subject to the condition that if, at any time after the principal of the Bonds shall have been so declared due and payable and before any sale of the trust estate or any substantial part thereof shall have been made in enforcement of this Indenture, all arrears of interest upon all outstanding Bonds, and the principal of any of the Bonds which shall have become due by their terms, together with the reasonable charges and expenses of the Trustee, its agents and attorneys, shall either be paid by the Company or be collected out of the income of the trust estate, and all other defaults (except a default in the payment of the principal of the Bonds so declared due and payable) under the Bonds, or under this Indenture, shall be made good or adequate provision made therefor, to the satisfaction of the Trustee, then and in such case upon the written request of the holders of a majority in principal amount of the Bonds then outstanding, the Trustee shall, by written notice to the Company, waive such default and its consequences and rescind and annul such declaration in its entirety; but no such action shall extend to or affect any subsequent default or impair any rights consequent thereon.

SECTION 9.05. If one or more of the events of default shall have happened and be continuing, the Trustee may, in its discretion, with or without entry, personally or by attorney,

(a) if and to the extent permitted by law, sell, subject to any then existing prior liens thereon, to the highest and best bidder, all and singular the trust estate, including shares of stock, bonds, other securities and claims, rights, franchises, interests and appurtenances and all real and personal property of every kind, and all right, title and interest therein, and right of redemption thereof; and such sale or sales shall be made at public auction, at such place and at such time and upon such terms as the Trustee may fix; or

(b) proceed to protect and to enforce its rights and the rights of the holders of the outstanding Bonds by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement contained herein, or in aid of the execution

of any power herein granted, or for the foreclosure hereof, or for the enforcement of any other appropriate legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce any of its rights or duties hereunder or the rights hereunder of the holders of the outstanding Bonds.

SECTION 9.06. Upon the written request of the holders of not less than twenty-five per cent. in principal amount of the Bonds then outstanding, in case one or more of the events of default shall have happened and be continuing, it shall be the duty of the Trustee, upon being indemnified as hereinafter provided, to take all steps needful for the protection and enforcement of its rights and the rights of the holders of the Bonds hereunder, and to exercise the power of entry or of sale herein conferred, or both, or to take appropriate judicial proceedings by action, suit or otherwise as the Trustee, being advised by counsel, shall deem most expedient in the interest of the holders of the Bonds.

Anything in this Indenture to the contrary notwithstanding, the holders of a majority in principal amount of the Bonds then outstanding shall have the right, at any time and from time to time, by an instrument in writing executed and delivered to the Trustee, to direct and control the action of the Trustee in any proceedings under this Article Nine; *provided* that such direction shall not be in conflict with the provisions of law or of this Indenture.

SECTION 9.07. In the event of any sale, whether made under the power of sale herein granted or pursuant to judicial proceedings, the whole of the trust estate may be offered for sale in one lot or parcel and as an entirety, including all the railroads, equipment, franchises, leases, leasehold interests, contracts, shares of stock, bonds and other real and personal property of every name and nature, *unless* (1) such sale as an entirety is impracticable by reason of some statute, or impracticable in the opinion of the Trustee for some other cause; or (2) the holders of a majority in principal amount of the Bonds then outstanding shall in writing request

the Trustee to cause the trust estate to be sold in parcels, in which case the sale shall be made in such parcels and in such order as shall be specified in such request.

The Company, for itself and all persons hereafter claiming through or under it or who may at any time hereafter become holders of liens junior to the lien hereof, hereby expressly waives and releases all right to have the properties comprised in the trust estate marshalled upon any foreclosure or other enforcement hereof, and the Trustee or any court in which the foreclosure of this Indenture or the administration of the trust hereby created is sought shall have the right as aforesaid to sell the entire property of every description comprised in the trust estate as a whole in a single lot or parcel.

The personal property and chattels conveyed, or intended to be conveyed, by or pursuant to this Indenture, other than stocks and bonds and other obligations or securities or claims, shall be real property for all the purposes of this Indenture, and shall be held and taken to be fixtures and appurtenances of the Company's lines of railroad and a part thereof, and are to be used and sold therewith and not separate therefrom, except as herein otherwise provided.

SECTION 9.08. Notice of any sale by the Trustee pursuant to the provisions hereof shall state the time and place when and where the same is to be made, and shall contain a brief general description of the property to be sold, and shall be sufficiently given if published at least once in each week, on any day of the week, for four successive calendar weeks, prior to such sale in a daily newspaper printed in the English language and published and of general circulation in the City and County of San Francisco, California, and in a daily newspaper similarly printed, and published and of general circulation in the Borough of Manhattan, City and State of New York. If other and different notice requirements are imposed by law which would not be met by compliance with the provisions of this Section 9.08, such requirements of law shall also be complied with.

SECTION 9.09. The Trustee may adjourn from time to time any sale to be made by it under the provisions hereof, 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.

SECTION 9.10. Upon the completion of any sale or sales by it hereunder, 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 sold. The Trustee and its successors are hereby appointed the true and lawful attorneys, irrevocably, of the Company in its name and stead to make all conveyances, assignments and transfers of the premises and property thus sold, which the Trustee shall deem advisable; and, for that purpose, the Trustee or its successors may execute all requisite deeds and instruments of assignment and transfer and may substitute one or more persons with like power; the Company hereby ratifying and confirming all that its said attorneys or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, the Company shall, if so requested by the Trustee, ratify and confirm any sale or sales by executing and delivering to the Trustee, or to such purchaser or purchasers, all such instruments as may, in the judgment of the Trustee, be advisable for the purpose.

Any such sale or sales made hereunder, whether made under the power of sale herein granted or pursuant to judicial proceedings, shall operate to divest all right, title and interest whatsoever, either at law or in equity, of the Company, of, in and to the property so sold, and shall be a perpetual bar, both at law and in equity, against the Company, its successors and assigns, and against any and all persons claiming the property sold, or any part thereof, from, through or under the Company, its successors or assigns.

SECTION 9.11. The receipt of the Trustee for the purchase money paid at any such sale made by it shall be a sufficient discharge therefor to any purchaser of the property, or any part there-

of, sold as aforesaid; and no such purchaser or representatives, grantees or assigns of such purchaser, after paying such purchase money and receiving such receipt, shall be bound to see to the application of such purchase money or any part thereof 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.

SECTION 9.12. In case of a sale of the trust estate substantially as a whole under any of the foregoing provisions of this Article Nine, whether made under the power of sale herein granted or pursuant to judicial proceedings, the principal of all of the Bonds then outstanding, if not previously due, shall immediately thereupon become due and payable, anything herein or in the Bonds to the contrary notwithstanding.

SECTION 9.13. The proceeds of any such sale, whether made under the power of sale herein granted or pursuant to judicial proceedings, together with any other sums which may then be held by or for the Trustee under any of the provisions hereof as part of the trust estate or the proceeds thereof, except sums held in trust for the benefit of the holders of particular Bonds or coupons, shall be applied as follows:

First. To the payment of the costs and expenses of such sale, including 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 other liens prior to the lien hereof on the property sold, except prior liens, if any, subject to which the property shall have been sold.

Second. To the payment of the whole amount then due and unpaid upon the outstanding Bonds for principal and interest, including interest on the overdue principal; and in case such proceeds shall be insufficient to pay in full the whole

amount so due and unpaid, then to the payment of such unpaid principal and interest, ratably according to the aggregate thereof, without preference or priority of any series over any other series, or of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, subject, however, to the provisions of Section 9.01 hereof.

Third. To the payment of the surplus, if any, to the 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.

SECTION 9.14. Upon any such sale under any of the foregoing provisions of this Article Nine, whether made 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 Bonds and any matured and unpaid coupons and interest obligations hereby secured, subject to the provisions of Section 9.01 hereof, by presenting such Bonds and coupons in order that there may be credited as paid thereon the sums payable out of the net proceeds of such sale to the holder of such Bonds and coupons as his ratable share of such net proceeds, after the deduction of costs, expenses, reasonable compensation and other charges, for which expenses provision shall be made in cash; and thereupon such purchaser shall be credited, on account of such purchase price payable by him, with the sums payable out of such net proceeds which shall be applicable to the payment of, and which shall have been credited upon, the Bonds and coupons so presented. At any such sale, any holder or holders of Bonds may bid for and purchase such property, and may make payment therefor as aforesaid, and upon compliance with the terms of said sale, may hold, retain and dispose of such property without further accountability.

SECTION 9.15. The Company covenants that

(1) if default shall be made in the payment of any installment of interest on any of the outstanding Bonds when and

as the same shall become payable, as therein and herein expressed, and such default shall have continued for sixty days; or

(2) if default shall be made in the payment of the principal of any of the outstanding Bonds, or the premium thereon payable on redemption thereof, when the same shall become due and payable, whether upon stated maturity, or upon call for redemption, or upon declaration as provided in Section 9.04 hereof, or upon a sale as provided in Section 9.12 hereof, or otherwise as herein provided;

then, upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the holders of such Bonds and coupons, the whole amount then due and payable upon the Bonds and coupons for principal (and premium, if any) and interest, or both, as the case may be, with interest on the overdue principal; and, in case the 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, if under applicable law such action is permitted without first exhausting the security hereunder and if the commencement or prosecution of such action or entry of judgment in such action does not result in the surrender, impairment, waiver or loss of the lien of this Indenture on the trust estate or any portion thereof.

Any moneys collected by the Trustee in any such action shall be applied by the Trustee,

First, to the payment of the expenses, disbursements and reasonable compensation of the Trustee, its agents and attorneys, in the collection of such moneys or otherwise.

Second, to the payment of the amounts then due and unpaid upon the outstanding Bonds and coupons in respect of which such moneys shall have been collected, for principal and interest, with interest on the overdue principal, ratably to the aggregate of such principal and interest, without preference or priority of any kind, but subject to the provisions of Section 9.01 hereof,

at the date fixed by the Trustee for distribution of such moneys, on presentation of the several Bonds and coupons and their surrender if fully paid, or for proper stamping if only partly paid.

SECTION 9.16. The 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 under any law or rule of law, now or hereafter in force, wherever enacted or established, which may affect the covenants or terms of, or lien of, or enforcement of, this Indenture, nor will it claim, take or insist upon any benefit or advantage from any law or rule of law, now or hereafter in force, wherever enacted or established, providing for the valuation or appraisal of the trust estate or any part thereof, 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 heretofore or hereafter enacted by the United States or by any State, or otherwise, to redeem the property so sold or any part thereof. The Company hereby expressly waives all benefit and advantage of any such law or rule of law, and covenants that it will not hinder, delay or impede the execution of any power herein granted or delegated to the Trustee, but that it will suffer and permit the execution of every such power as though no such law or rule of law had been enacted or established.

SECTION 9.17. Upon filing a bill in equity, or upon commencement of any other judicial proceedings, to enforce any right of the Trustee or of the holders of Bonds hereunder, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver of the trust estate, and of the revenues, rents, earnings, issues, tolls, profits and other income thereof, with such powers as the court making such appointment shall confer.

SECTION 9.18. In case the Company shall make default in any of the respects specified in Section 9.02 hereof and (a) at any time during the continuance of such default there shall be any existing judgment against the Company unsatisfied and unsecured by bond

on appeal, or (b) in any judicial proceeding by any party other than the Trustee, a receiver or trustee shall be appointed of the Company or of the trust estate or any part thereof, or a judgment or order shall be entered for the sequestration of its property or any part thereof, or (c) the Company shall, by Certified Resolutions delivered to the Trustee, admit to the Trustee its inability to make good such default within the period of grace in Section 9.02 hereof provided, if any, the Trustee, in any such case, shall thereupon, without waiting the period of grace, if any, provided in said Section 9.02 in respect of such default, be entitled in its discretion forthwith to exercise the right of entry conferred by this Article Nine, and also any and all other rights and powers conferred by this Article Nine upon and provided to be exercised by the Trustee upon the happening and continuance of an event of default; and as a matter of right the Trustee shall thereupon be entitled, in its discretion, to the appointment of a receiver of the trust estate and of the rents, issues, profits, tolls, revenues and income thereof, with such powers as the court making such appointment shall confer.

SECTION 9.19. Whenever the Company shall deem expedient for the better protection or security of the Bonds (although then none of the events of default entitling the Trustee to enter into possession shall have happened) the Company, with the consent of the Trustee, may surrender and deliver to the Trustee full possession of the whole or of any part of the trust estate, and may authorize the Trustee to collect the interest and dividends on any or all bonds, obligations, claims, indebtedness and shares of stock subject to the lien hereof, and to vote upon any or all such shares of stock, for any period fixed or indefinite. In such event, the Trustee shall enter into and on 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. 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 hereof, and shall receive and apply the income and revenues thereof as provided in Section 9.02 hereof.

Upon application of the Trustee to any court of competent jurisdiction, and with the consent of the Company, even though none of the events of default shall have happened and be continuing, and without such consent if one or more of the events of default shall have happened and be continuing, a receiver may be appointed to take possession of, and to operate, maintain and manage the whole or any part of the trust estate, and the Company shall transfer and deliver to such receiver all such property, where-soever the same may be situated.

SECTION 9.20. In every case when a receiver or trustee of the trust estate, or any part thereof, shall be appointed, whether under Sections 9.17, 9.18 or 9.19 hereof, or otherwise, the net income and revenues of the trust estate or such part thereof shall be paid over to and shall be received by the Trustee for the benefit of the holders of the Bonds and coupons and shall be applied as provided in Section 9.02 hereof. Notwithstanding the appointment of any such receiver or trustee, the Trustee shall be entitled, as pledgee, to continue to retain possession and control of any moneys or securities held by it as security hereunder, and all payments and distributions made in respect thereof.

SECTION 9.21. No holder of any of the Bonds or coupons shall have any right to institute any suit, action or proceeding in equity or at law for the foreclosure hereof, or for the execution of any trust hereunder, or for the appointment of a receiver or for any other remedy hereunder, unless (a) such holder shall previously have delivered to the Trustee written notice that some event of default specified in such notice has happened and is continuing, and (b) the holders of not less than twenty-five per cent. in principal amount of the Bonds then outstanding shall have requested the Trustee in writing to take action in respect of such event of default, and shall have afforded to the Trustee reasonable opportunity either to pro-

ceed to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name, and (c) one or more holders of Bonds shall have offered to the Trustee reasonably adequate security and indemnity, satisfactory to it, against the costs, expenses and liabilities to be incurred therein or thereby and (d) the Trustee shall have refused or neglected to act on such notification, request and offer of indemnity for at least thirty days. 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 hereof and to any action or cause of action for foreclosure or for the appointment of a receiver or any other remedy hereunder; it being intended that no one or more holders of the Bonds or coupons shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the lien hereof, 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 the outstanding Bonds and coupons.

Nothing contained in this Article Nine or elsewhere herein or in the Bonds or coupons shall affect or impair the obligation of the Company to pay the principal of, premium if any, and interest on the Bonds to the respective holders of the Bonds and coupons, in accordance with the terms of such Bonds and coupons, nor affect or impair whatever right of action at law is given to such holders by applicable law to collect such payment if the exercise of such right of action at law without first exhausting the security does not result in the surrender, impairment, waiver or loss of the lien of this Indenture on the trust estate or any portion thereof as to either such holders' Bonds and coupons or other holders' Bonds and coupons.

All rights of action under this Indenture may be enforced by the Trustee without the possession of any of the Bonds or coupons or the production thereof on the trial or other proceedings relative thereto, and any such suit or proceedings instituted by the Trustee

shall be brought in its name; and any recovery of judgment shall be for the ratable benefit of the holders of the Bonds and coupons.

SECTION 9.22. Except as herein expressly provided to the contrary, no remedy herein conferred upon or reserved to the Trustee, or the holders of the 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.

SECTION 9.23. No delay or omission of the Trustee, or of any holder of the Bonds, to exercise any right or power accruing upon any default, shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article Nine 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 holders of the Bonds, respectively.

SECTION 9.24. In case the Trustee shall have proceeded to enforce any right hereunder by foreclosure, entry or otherwise, and such proceeding shall have been discontinued or abandoned because of waiver or for any other reason, or shall have been determined adversely to the Trustee, then, and in every such case, the Company and the Trustee shall severally and respectively be restored to their former position and rights hereunder in respect of the trust estate, and all rights, remedies and powers of the Company and of the Trustee shall continue as though no such proceeding had been taken.

SECTION 9.25. The Trustee shall have power, but shall be under no duty, to institute and maintain suits or proceedings to restrain the enforcement of, or compliance with, or the observance of, any legislative or governmental enactment, rule or order which it may believe to be unconstitutional, or otherwise invalid, if the enforcement of, or compliance with, or observance of, such enactment, rule or order, would, in the judgment of the Trustee, impair the security

hereunder or be prejudicial to the Trustee or to the holders of the Bonds.

SECTION 9.26. All parties to the Indenture agree, and each holder of any Bond by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 9.26 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Bondholder or group of Bondholders holding more than 10% in aggregate principal amount of the outstanding Bonds, or to any suit instituted by any Bondholder for the enforcement of the payment of the principal of or interest on any Bond, on or after the due date expressed in such Bond or coupon.

SECTION 9.27. To the extent that any provision of this Article Nine may be invalid or unenforceable under any applicable law or rule of law with respect to any of the mortgaged property, or otherwise with respect to the powers, rights or remedies of the Trustee or of the holders of the Bonds or coupons, any such provision shall be deemed inoperative and unenforceable.

Nothing in this Article Nine or elsewhere herein contained shall be deemed to be a waiver of the statutory provisions of the States of California, Nevada and Utah which provide that there shall be but one form of action for the recovery of any debt or the enforcement of any right secured by mortgage upon real or personal property.

ARTICLE TEN.

EVIDENCE OF RIGHTS OF BONDHOLDERS AND OWNERSHIP OF BONDS.

SECTION 10.01. Any demand, request or other instrument provided by this Indenture to be signed and executed by the holders of Bonds may be in any number of concurrent writings of similar tenor, and may be signed or executed by any such holder in person or by agent appointed in writing. Proof of the execution of any such demand, request or other instrument, or of a writing appointing any such agent, and of the holding by any person of Bonds or coupons, shall be sufficient for any purpose hereof, and shall be conclusive in favor of the Trustee or of the Company, if made in the following manner:

(1) 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 the place of such execution that the person signing such document acknowledged to him the execution thereof, or by an affidavit of a witness to such execution, sworn to before any such notary or other such officer;

(2) The fact of the holding by any person of Bonds or coupons transferable by delivery, and the principal amount and distinctive numbers and series of such Bonds or coupons, and the date of his holding the same (which holding shall be deemed to continue until the Trustee shall have received notice in writing to the contrary), may be proved (a) by the production of such Bonds or coupons, or (b) by a certificate executed by any trust company, bank, banker or other depository, wherever situated, satisfactory to the Trustee, showing that on the date therein mentioned, such person had on deposit with such depository or exhibited to it the Bonds or coupons described in such certificate, or (c) by the certificate or affidavit of the person holding such Bonds or coupons, if such proof shall be satisfactory to the Trustee;

(3) The fact of the holding by any person of registered Bonds without coupons and of coupon Bonds registered as to principal shall be proved by the registry books of such Bonds, or by a certificate of the Bond registrar.

Any request, consent or vote of the holder of any Bond shall bind all future holders of such Bond and any Bonds issued in exchange therefor or in lieu thereof, in respect of anything done, permitted or omitted by the Trustee or by the Company in pursuance of such request, consent or vote.

ARTICLE ELEVEN.

RELEASES OF MORTGAGED PROPERTY.

SECTION 11.01. From time to time, subject to and upon compliance with the conditions and limitations prescribed in this Article Eleven, the Company may sell, exchange for other property or otherwise dispose of, any property of whatever character then subject to the lien hereof, and the Trustee, upon compliance by the Company with the provisions of Sections 11.03 and 11.04 hereof, shall release such property from the lien hereof, *provided*:

(1) In the judgment of the Board of Directors, evidenced by resolution thereof, it shall no longer be necessary or expedient to retain the same for use in the business of the Company; and

(2) Either (a) in the judgment of the Board of Directors, similarly evidenced, the Company will not thereby be prevented from maintaining and operating lines of railroad directly or indirectly subject to the lien hereof substantially as continuous and as direct and available for transportation purposes as were the lines of railroad directly or indirectly subject to the lien hereof prior to such disposition, between the principal points served by it prior to such disposition, or (b) in the judgment of the Board of Directors, similarly evidenced, the release so requested will not materially impair or prejudice the security for the Bonds or the interests of the holders of the Bonds.

For the purposes of this Article Eleven the term "lines of railroad directly or indirectly subject to the lien hereof" shall be deemed to include lines of railroad owned by the Company and subject to the lien hereof, or owned by a wholly owned subsidiary, or leased to or used by the Company under a lease or trackage or other agreement subject to the lien hereof; *provided, however*, that if under the provisions of paragraph (2) of this Section 11.01 or under the provisions of Section 11.02 hereof the Company would not be entitled to a requested release of property, or would not be entitled to take any action under Section 11.09 hereof, but for the acquisition of a lease or trackage or other agreement by it, in connection with or as a part of the transaction involving such release, any lease or trackage or other agreement so acquired shall (i) be on terms substantially as favorable to the Company as any lease or trackage or other agreement for which it shall have been substituted or in lieu of which it shall have been received, (ii) expire not earlier than the date of expiration of any lease or trackage or other agreement for which it shall have been substituted or in lieu of which it shall have been received or the latest date of maturity of any Bonds then outstanding, whichever date shall be the earlier, and (iii) be subject to the lien hereof.

SECTION 11.02. The Company may at any time, provided that, in the judgment of the Board of Directors, evidenced by resolution thereof, the Company will not thereby be prevented from maintaining and operating, after such change in location, lines of railroad directly or indirectly subject to the lien hereof substantially as continuous and as direct and available for transportation purposes as were the lines of railroad directly or indirectly subject to the lien hereof prior to such change in location, make any change in location of its lines, tracks, station houses, buildings or other structures situated on any part of the trust estate to other premises, whether or not such premises be subject to the lien hereof. Upon any such change in location, the Trustee, upon compliance by the Company with the provisions of Sections 11.03 and 11.04 hereof, shall release from the lien hereof the premises upon which the lines, tracks, station houses, buildings or other structures were originally situated and any part of such lines,

tracks, station houses, buildings or other structures unremoved and remaining thereon after such change in such location, and shall execute and deliver any and all instruments necessary or proper to effect such purposes.

SECTION 11.03. Whenever requesting the release of any property pursuant to Section 11.01 or Section 11.02 hereof, the Company shall deliver to the Trustee:

(1) Certified Resolutions requesting the release of the property described in the Officers' Certificate provided for in paragraph (2) of this Section 11.03, and setting out the determinations required by Section 11.01 or Section 11.02 hereof, as the case may be;

(2) An Officers' Certificate, dated not more than thirty days prior to its delivery, which shall:

(a) set forth a description of the property to be released;

(b) state that the retention of such property for use in the business of the Company is not necessary or expedient;

(c) state that the release requested is required for the purpose of carrying out a sale of the property to be released, or an exchange thereof for other property; or if the release be requested pursuant to Section 11.02 hereof, state that the Company has made a change in the location of its lines, tracks, station houses, buildings or other structures (which shall be briefly described) situated on a part of the trust estate to other premises and set forth a description of such other premises;

(d) set forth the sale price of such property, if it is to be sold, or a description of the property to be received in exchange therefor, if any;

(e) state that the fair value to the Company of such property is not greater than the price at which it is to be sold, or the fair value of the property (including any cash) to be received in exchange therefor as the case may be; and

(f) state whether the Company would be entitled to the release requested but for the acquisition of a lease or trackage or other agreement by it, in connection with or as a part of the transaction involving such release, and, if not, briefly describe the lease or trackage or other agreement so acquired and any lease or trackage or other agreement for which the lease or trackage or other agreement so acquired shall have been substituted or in lieu of which it shall have been received, and state that the lease or trackage or other agreement so acquired is on terms substantially as favorable to the Company as any lease or trackage or other agreement for which it shall have been substituted or in lieu of which it shall have been received, and expires not earlier than the date of expiration of any lease or trackage or other agreement for which it shall have been substituted or in lieu of which it shall have been received or the latest date of maturity of any Bonds then outstanding, whichever date shall be the earlier;

(3) If the fair value to the Company of the property to be released, as stated in subdivision (e) of paragraph (2) of this Section 11.03, exceeds \$100,000, a further certificate complying with the requirements of said subdivision (e) by an independent engineer (in the case of lines of railroad) or by an independent appraiser (in the case of other properties), satisfactory to the Trustee;

(4) An Opinion of Counsel stating that the action so requested is authorized by the provisions of this Article Eleven, and that the Certified Resolutions and certificate or certificates furnished to the Trustee in connection therewith are in compliance with the provisions of this Section 11.03; and

(5) An assignment or other instrument of transfer subjecting to the lien hereof any lease or trackage or other agreement acquired by the Company as set forth in the Officers' Certificate pursuant to subdivision (f) of paragraph (2) of this Section 11.03, together with an Opinion of Counsel that such assignment

or other instrument of transfer is, or when recorded as specified in such Opinion will be, effective for such purpose, or an Opinion of Counsel that no such assignment or other instrument of transfer is necessary for such purpose.

Whenever requesting the release of any property pursuant to Section 11.02 hereof, the Company shall in addition deliver to the Trustee:

- (1) A conveyance to the Trustee subjecting to the lien hereof the relocated lines, tracks, station houses, buildings or other structures and the property on which the same are situated, together with an Opinion of Counsel that such conveyance is, or when recorded as specified in such Opinion will be, effective for such purpose; or
- (2) An Opinion of Counsel that no such conveyance is necessary for such purpose.

SECTION 11.04. In case of any release of property pursuant to the provisions of Section 11.01 or Section 11.02 hereof, the consideration received therefor must consist of one or more of the following:

- (1) Cash;
- (2) Obligations secured by purchase money mortgage on the property to be released; *provided, however,* that the aggregate principal amount of any obligations secured by purchase money mortgage to be received in exchange for such property plus the aggregate unpaid principal amount of all other obligations secured by purchase money mortgages theretofore delivered to the Trustee under this Section 11.04 and then held as part of the trust estate shall not exceed ten per cent. of the aggregate principal amount of Bonds at the time outstanding;
- (3) Additions of a character which could otherwise be made the basis for the authentication of Bonds under Section 3.03 hereof (excluding, however, any part of the cost of such Addi-

tions theretofore made the basis for the authentication of Bonds or for the payment of moneys deposited with the Trustee as a part of the trust estate, or for the release of property under any of the provisions of this Indenture, or acquired through the use of insurance proceeds or for which the Company had been theretofore reimbursed from other moneys in, or property released from, the trust estate); or

(4) In case of the release of property pursuant to the provisions of Section 11.02 hereof, the premises to which the lines, tracks, station houses, buildings or other structures were removed in any change of location permitted thereby, if such premises were not previously subject to the lien hereof, notwithstanding that such property could not be made the basis for the authentication of Bonds under the provisions of Section 3.03 hereof.

Subject to the provisions of any indenture constituting a prior lien on any property so released, all cash received for property so released shall be paid over to the Trustee and shall be held by it as part of the trust estate, and shall, at the election of the Company, be paid out and disposed of in the manner provided in Section 8.04 hereof and subject to the provisions of said Section 8.04.

In case any part of the consideration shall consist of obligations secured by a purchase money mortgage on the property to be released, the Company shall deliver to the Trustee (i) an Officers' Certificate stating that the aggregate principal amount of such obligations plus the aggregate unpaid principal amount of all other obligations secured by purchase money mortgages theretofore delivered to the Trustee under this Section 11.04 and then held as part of the trust estate does not exceed ten per cent. of the aggregate principal amount of Bonds at the time outstanding, (ii) an assignment or other instrument of transfer of such purchase money mortgage to the Trustee, and (iii) an Opinion of Counsel stating that such obligations are valid obligations, that the purchase money mortgage securing the same constitutes a valid lien upon the property to be released, sub-

ject to no prior lien except any existing prior lien subject to which said property is to be sold, and that such assignment or other instrument of transfer is, or when recorded as specified in such Opinion will be, effective for the purpose of subjecting such purchase money mortgage to the lien of this Indenture, subject to no prior lien except any existing prior lien subject to which said property was sold.

In case any part of the consideration shall consist of property of the character specified in paragraph (3) of this Section 11.04, the Company shall deliver to the Trustee such of the documents required by paragraphs (b), (c), (d) and (e) of said Section 3.03 as shall be applicable to such property.

SECTION 11.05. The Company may from time to time abandon the operation of any line of railroad or terminal, or any portion thereof, and may surrender any franchise or portion thereof, if such abandonment or surrender shall be made either (1) pursuant to the authority of any governmental body at the time having jurisdiction in the premises, (2) by virtue of an agreement with or action by the Federal Government or any State, County, municipality or other political subdivision of a State or any governmental agency or (3) pursuant to some legal requirement, and, in case such abandonment or surrender is voluntary on the part of the Company, if in the judgment of the Board of Directors, evidenced by resolution thereof, such abandonment or surrender will not materially impair or prejudice the security for the Bonds or the interests of the holders of the Bonds.

Prior to any such abandonment or surrender the Company shall deliver to the Trustee (a) an Opinion of Counsel that such abandonment or surrender is permitted under the provisions of this Section 11.05, and that any requisite approval of any such governmental body has been obtained and (b) a certified copy of any order or agreement pursuant to which such abandonment or surrender will be made or in case such abandonment or surrender is voluntary on the part of the Company, (c) Certified Resolutions setting out the determinations hereinabove in this Section 11.05 required. Upon receipt of said

documents the Trustee, at the Request of the Company, shall execute and deliver such confirmatory releases as may be appropriate to evidence of record the release from the lien of this Indenture of any franchise or portion thereof surrendered pursuant to this Section 11.05.

If the Company shall dismantle and remove any tracks or other structures or facilities or property appertaining to any such line of railroad or terminal or portion thereof, it may sell any such dismantled property free from the lien hereof for cash; and the Company shall apply the net cash proceeds, if any, from the sale of any such dismantled property to one or more of the purposes specified in Section 8.04 hereof. Except in the case of the sale for cash of any such dismantled property, and, except as provided in the next succeeding paragraph of this Section 11.05, the provisions of Sections 11.01, 11.03 and 11.04, or Section 11.07 hereof, as the case may be, shall govern the release from the lien hereof of any property which the Company may sell, exchange for other property or otherwise dispose of as the result of the abandonment of any operation or the surrender of any franchise under this Section 11.05.

For the purpose of confirming of record any reversion to former owners, their successors or assigns, (whether by operation of law or pursuant to provisions in conveyances) of title to real property constituting right of way of an abandoned line of railroad which is no longer used or useful for railroad purposes, the Company, from time to time and without receiving any consideration therefor, may execute and deliver appropriate releases, quitclaims or other instruments of conveyance of its right, title and interest in such real property and the Trustee, at the request of the Company, and upon receiving an Officers' Certificate specifying the property so to be released, quitclaimed or conveyed and stating that it constituted right of way of an abandoned line of railroad and is no longer used or useful for railroad purposes of the Company, together with an Opinion of Counsel stating that such releases, quitclaims or other instruments of conveyance are required for the purpose of confirming of record a reversion to former owners, their successors or assigns, of title to such

real property and that such reversion has been effected by operation of law or pursuant to provisions in conveyances by which the Company, or its predecessors in title, acquired title to such real property, shall execute and deliver confirmatory releases with respect thereto.

SECTION 11.06. The Company may, from time to time and without receiving any consideration therefor, execute and deliver roadway and other easements, free from the lien hereof, to the Federal Government, or to a State, or to a County, municipality or other political subdivision of a State, or to any governmental agency, if, in the judgment of the Board of Directors, evidenced by resolution thereof, the release of any such easement from the lien of this Indenture will not impair or prejudice the security for the Bonds or the interests of the holders of the Bonds; and the Trustee, from time to time, at the Request of the Company and upon receiving an Officers' Certificate specifying the easement to be released and stating that the release thereof from the lien hereof will not materially impair or prejudice the security for the Bonds or the interests of the holders of the Bonds, shall execute and deliver confirmatory release that any such easement is free from the lien hereof.

SECTION 11.07. The Company may from time to time sell, exchange or otherwise dispose of, free from the lien hereof and without release by the Trustee, any of the property (other than cash, bonds, obligations, claims, indebtedness or shares of stock) at any time subject to the lien hereof and not used or useful for railroad purposes, not exceeding in any one calendar year in the aggregate a total of \$100,000 in value at the date of disposition. The Company agrees that in each case within a reasonable time after receipt thereof it will expend the proceeds of any such sale, or an amount equal to the fair value of any property not disposed of for cash, to replace the property so sold or otherwise so disposed of by other property, not necessarily of the same character, and that all such substituted property and all property received in exchange for property which was subject to the lien hereof (which shall be of a value at least equal to the value of the property which was subject to the lien hereof at the time of its sale, exchange or other disposal) shall forth-

with become subject to the lien hereof; *provided, however*, that only proceeds derived from the disposition of equipment may be applied to the acquisition of equipment, and that equipment may be received in exchange only for equipment.

In order to clear the title of record to any property sold, exchanged or otherwise disposed of in accordance with this Section 11.07, the Trustee from time to time at the Request of the Company and upon receiving an Officers' Certificate specifying the property to be released and the value thereof, stating that it is not used or useful for railroad purposes and stating the value of all property theretofore sold, exchanged or otherwise disposed of by the Company pursuant to this Section 11.07 within the calendar year in which such property was sold, exchanged or otherwise disposed of, shall execute and deliver confirmatory releases that such property is free from the lien hereof.

The Company shall deliver to the Trustee, on or before the last day of January in each year commencing with the year 1952, an Officers' Certificate setting forth in reasonable detail all property and the value thereof sold, exchanged or otherwise disposed of under this Section 11.07 within the preceding calendar year, and all replacements thereof made during such calendar year and the value of such replacements, together with all such deeds, conveyances or instruments of further assurance (if any), and evidence of such filing or recording thereof, as may be necessary for the purpose of effectually subjecting such replacements to the lien hereof, and an Opinion of Counsel that such deeds, conveyances and instruments of further assurance are valid and sufficient for such purpose, or an Opinion of Counsel that no such instruments are necessary.

SECTION 11.08. The Company shall have full power, in its discretion, and without notice to or action by the Trustee, from time to time:

- (1) To alter, remove, demolish or retire from service, any building or structure or any main, branch, spur, industrial, switch, connecting, storage, yard or terminal tracks or other prop-

erty on the trust estate which may have become unfit for use or which it may deem necessary or advantageous to alter, remove, demolish or retire in connection with the maintenance or operation of or in the improvement of the trust estate, and to dispose of, free from the lien hereof, any scrap or other material accumulated from any such alteration, removal, demolition or retirement or otherwise in the operation and maintenance of the trust estate; and

(2) To sell as units, to dismantle and sell as scrap, or otherwise to dispose of, free from the lien hereof, any portion of the fixtures, equipment, machinery, tools, implements, furniture, materials, supplies and other chattels at any time subject to the lien hereof which may have become obsolete or otherwise unfit for use or which it may not be necessary or advantageous longer to retain for use upon the trust estate.

In any such case the Company shall within a reasonable time either (a) replace the same, or substitute therefor other property, not necessarily of the same character but having a value at least equal to the value of the old property at the time of its disposition, or, if the old property be sold for cash, to the net proceeds received therefor by the Company, or (b) pay over to the Trustee such net proceeds; and shall subject to the lien hereof any other consideration received from the disposition of such property. Any property of whatever character which may be acquired by the Company from time to time in replacement of, or in substitution for, any property sold, exchanged or otherwise disposed of under the provisions of this Section 11.08 shall forthwith become subject to the lien hereof. Any cash received by the Trustee pursuant to this Section 11.08 shall be held by it as part of the trust estate, and shall, at the election of the Company, be paid out and disposed of in the manner provided in Section 8.04 hereof and subject to the provisions of said Section 8.04.

SECTION 11.09. The Company shall have full power, in its discretion, and without notice to the Trustee, from time to time:

(1) To lease (except as a whole or substantially as a whole, in which case the provisions of Article Fourteen hereof shall be applicable), or grant joint facility, terminal or trackage rights, or easements upon, or enter into any agreement or contract with respect to, the trust estate or any part thereof, but in each case subject to the lien hereof upon the trust estate; and

(2) To make changes or alterations in, or substitutions for, any leases or joint facility, terminal or trackage rights, easements, agreements or contracts constituting a part of the trust estate, any such changed, amended or supplemental lease or joint facility, terminal or trackage right, easement, agreement or contract to forthwith become subject to the lien hereof;

provided, that the security hereunder is not thereby impaired, and that the Company is not thereby prevented, after such transaction, from maintaining and operating lines of railroad directly or indirectly subject to the lien hereof (as defined in Section 11.01 hereof) substantially as continuous and as direct and available for transportation purposes as were the lines of railroad directly or indirectly subject to the lien hereof prior to such transaction, between the principal points served by it prior to such transaction.

SECTION 11.10. If any of the trust estate shall be involved in any action or proceedings, in eminent domain or otherwise, in which it shall be sought to require the Company to part with the ownership, possession or operation of some portion of the trust estate, the Trustee may be represented by counsel in such action or proceedings and shall, either before or after final judgment, decree or order of any court (or of any governmental body or agency) having jurisdiction in said action or proceedings and whether or not a party to said action or proceedings, upon Request of the Company release from the lien of this Indenture the property or any part thereof involved in said action or proceedings, *provided*

(a) if such release is made after final judgment, decree or order, an Opinion of Counsel of the Company shall be delivered to it stating that the Company has been duly required to part

with the ownership, possession or operation of the property, the release of which is requested, and stating the amount of cash, if any, to be received by the Company on account of the value of such property; and

(b) if such release is made before final judgment, decree or order, an Officers' Certificate shall be delivered to it stating that in their opinion the value of the consideration to be received by the Company, if any, is at least equal to the value of the property to the Company less the probable cost to the Company of the litigation, or, if no consideration is to be received, stating that in their opinion no consideration would be received by the Company if the action or proceedings in question were continued to final judgment, decree or order.

If any governmental body or agency shall exercise any right to purchase any portion of the trust estate, the portion so purchased shall, notwithstanding the foregoing provisions of this Article Eleven, be released by the Trustee from the lien of this Indenture upon the delivery to it by the Company of the documents required by Sections 11.01 and 11.03 or by Section 11.07 hereof, as the case may be.

All cash received as compensation for any property taken by exercise of the power of eminent domain, or otherwise, as aforesaid, shall be deposited with the Trustee. All cash received as compensation for any property purchased by a governmental body or agency by the exercise of right, as aforesaid, shall be deposited with the Trustee pursuant to Section 11.04 hereof, or expended by the Company as provided in Section 11.07 hereof, as the case may be. All cash deposited with the Trustee pursuant to this Section 11.10 shall be held by it as part of the trust estate, and shall, at the election of the Company, be paid out and disposed of in the manner provided in Section 8.04 hereof and subject to the provisions of said Section 8.04. Any property other than cash received as such compensation shall forthwith become subject to the lien hereof.

SECTION 11.11. Any property or rights received by the Company in exchange or substitution for any property or rights released from

the lien hereof or which are made the basis for the withdrawal of cash deposited as aforesaid, shall be and become subject to the lien hereof as fully as if specifically mortgaged hereby, but, if requested by the Trustee, the Company shall convey the same to the Trustee upon the trusts and for the purposes of this Indenture and shall furnish to the Trustee an Opinion of Counsel that the instruments of conveyance are sufficient for that purpose, or, in lieu of such instruments, the Company shall furnish an Opinion of Counsel that no such instruments of conveyance are necessary for such purpose.

SECTION 11.12. The purchaser of any property released under the provisions of this Article Eleven shall not be required to see to the application of the purchase money.

SECTION 11.13. In case there shall be subjected to the lien hereof all or substantially all of the property, both real and personal, of any other corporation, the Trustee, upon the Request of the Company, evidenced by Certified Resolutions, shall release from the lien hereof any stock of such corporation which may be held by it, and shall deliver to the Company the certificates for such stock properly assigned for transfer. In order to facilitate any such acquisition, upon the Request of the Company prior to any such acquisition the Trustee shall give the Company all proxies, powers and releases which may be necessary or desirable to enable such stock to be voted, sold, applied or otherwise disposed of in effecting such acquisition by consolidation, merger, purchase or otherwise.

In case there shall be subjected to the lien hereof the title in fee to any property on which mortgage debt shall be outstanding, the whole of which mortgage debt shall also be subject to the lien hereof, the Trustee, at the Request of the Company, evidenced by Certified Resolutions, may cancel and discharge all such mortgage debt so as to release such property from the lien thereof; *provided, however*, (1) that thereupon such property shall become subject to the lien hereof, and that there is no lien on such property which is prior to the lien hereof and junior to the lien of the mortgage, deed of trust or other instrument securing such mortgage debt, (2) that the Company shall deliver to the Trustee an Opinion of Counsel to

that effect and (3) that in the judgment of the Trustee the release will not materially affect adversely the security for the Bonds or the interests of the holders thereof.

SECTION 11.14. In case the trust estate shall be in the possession of a receiver or trustee the powers conferred by this Article Eleven upon the Company may be exercised by such receiver or trustee with the approval of the Trustee; and in such event such receiver or trustee shall deliver to the Trustee, in lieu of any resolutions, certificates and opinions required by any provision of this Article Eleven to be delivered to the Trustee by the Company, appropriate orders of court, certificates of such receiver or trustee and opinions of counsel for such receiver or trustee. If the Trustee shall be in possession of the trust estate under any of the provisions hereof, all of the powers conferred by this Article Eleven upon the Company may be exercised by the Trustee in its discretion.

SECTION 11.15. Anything in this Article Eleven to the contrary notwithstanding, the Trustee may release property under any provision of this Article Eleven even though at the time some one or more of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing; but if any such event shall have happened and be continuing the Trustee may, in its discretion, decline to release property under any provision of this Article Eleven.

SECTION 11.16. Notwithstanding any of the provisions of this Indenture, the Trustee shall release, either before or after any of the events specified in paragraphs (A) and (B) of Section 8.03 hereof shall have happened and be continuing, the lien of the Indenture as to any property or properties or part or parts thereof at any time subject thereto, and cause such property or properties to revert to the Company free and clear of such lien; *provided, however*, that, prior to the release of any such property under this Section 11.16, there shall have been delivered to the Trustee in each case:

- (a) a request (evidenced as provided in Section 10.01 of this Indenture) of the holders of not less than 66 $\frac{2}{3}$ % in aggre-

gate principal amount of all outstanding Bonds, to release the property in question and the selection and designation by such holders of the independent railroad expert referred to in subsection (c) below; or

(b) the record showing that the holders of not less than 85% in aggregate principal amount of all outstanding Bonds represented at a Bondholders' meeting, called and conducted pursuant to Section 4.02 of this Indenture, at which not less than 50% in aggregate principal amount of all outstanding Bonds were represented, requested the release of the property in question and selected and designated the independent railroad expert referred to in subsection (c) below; and

(c) in either case, a report of the independent railroad expert selected and designated pursuant to either subsection (a) or subsection (b) above, to the effect that such property is no longer of value to the holders of outstanding Bonds and that, in his opinion, a proper allocation of revenues and expenses thereto then shows, and in the future may reasonably be expected to show, a loss.

ARTICLE TWELVE.
CONCERNING THE TRUSTEE.

SECTION 12.01. The Trustee accepts the trusts hereby created upon the following terms and conditions, to all of which the Company and the holders of the Bonds and coupons at any time outstanding, by their acceptance thereof, agree:

(a) The recitals herein and in the Bonds contained (except in the certificate of authentication of the Trustee) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representation as to the value or condition of the mortgaged property or any part thereof or as to the security afforded

thereby and hereby, or as to the title of the Company thereto, or as to the lien of this Indenture or the validity thereof or as to the validity of the Bonds issued hereunder, and the Trustee shall incur no responsibility in respect of any such matters; *provided, however*, that nothing herein contained shall relieve the Trustee from its duty to authenticate Bonds only as authorized by this Indenture;

(b) The Trustee shall be under no duty to file, register or record or cause to be filed, registered or recorded this Indenture, or any supplement thereto, as a mortgage, conveyance or transfer of real or personal property or otherwise, or to re-file, re-register or re-record or renew the same. The Trustee shall be under no duty to procure any supplemental indenture or any further, other or additional instruments of further assurance; or, while not in possession of the mortgaged property, to see to the payment of taxes, assessments and governmental charges on the trust estate. The Trustee shall be under no responsibility or duty with respect to the disposition of the Bonds authenticated and delivered under any of the provisions hereof, or the application of the proceeds thereof or of any moneys paid to the Company under any of the provisions hereof.

Should any taxes or other governmental charges be imposed upon the Trustee, in its capacity as Trustee hereunder, which it may be required to pay under any present or future law of the United States of America or of any authority therein having jurisdiction, the Trustee shall be reimbursed and indemnified therefor by the Company, and any liability incurred or amounts paid by the Trustee in respect of any such taxes or other governmental charges, until paid, shall constitute a lien upon the trust estate prior to the lien of the Bonds;

(c) The Trustee may execute any of the trusts hereunder, exercise any of the powers hereby vested in it, or perform any duty hereunder either itself or by or through its attorneys, agents or employees; and the Trustee shall not be answerable or accountable for any act, default, neglect, negligence or misconduct

of any such attorney, agent or employee, provided reasonable care has been exercised in the selection and in the continued employment of such attorney, agent or employee; nor shall the Trustee be otherwise answerable or accountable under any circumstances whatsoever, except for its own negligence or bad faith;

(d) The Trustee shall not be under any obligation or duty to institute any suit in respect hereof, or to take any action in respect of any default or otherwise or toward the execution or enforcement of any of the trusts hereby created unless one or more of the holders of the Bonds shall, as often as required by the Trustee, furnish it with reasonably adequate security and indemnity against the costs, expenses and liabilities of such action; but this provision shall not affect any discretionary power herein given to the Trustee to determine whether or not it shall take action in respect of such default or otherwise;

(e) Except as herein otherwise provided, any notice or demand which by any provision hereof is required or permitted to be given or served by the Trustee or any other person on the Company, shall be deemed to have been sufficiently given and served for all purposes, if deposited, postage prepaid, in a United States Post Office letterbox or mail chute, addressed (until another address is filed by the Company with the Trustee and thereafter if addressed to such other address) as follows: The Western Pacific Railroad Company, 526 Mission Street, San Francisco 5, California. Any notice, request or demand by any bondholder or the Company to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made at the principal office of the Trustee;

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

(g) The Trustee shall be justified in relying upon any notice, resolution, request, waiver, consent, order, certificate, statement, affidavit, indemnity bond, report, appraisal, opinion, telegram, cablegram, radiogram, letter, bond or other paper, document or instrument believed by it in the exercise of due care to be genuine and to have been signed, sent or presented by the proper party or parties;

(h) The Trustee may consult with counsel (who may be counsel for the Company) and the opinion of such counsel and any Opinion of Counsel delivered to the Trustee in accordance with this Indenture shall be full and complete authority and protection in respect of any action taken, permitted or omitted by the Trustee hereunder in good faith and in accordance with such Opinion;

(i) Any notice, resolution, request, certificate or other document or instrument which in accordance with any provision of this Indenture is required or permitted to be delivered to the Trustee may be accepted by the Trustee without further inquiry, and the Trustee shall not be liable for any action taken, permitted or omitted by it hereunder in good faith and in reliance thereon. Before granting any application for the authentication or delivery of Bonds or for the payment of any moneys held by the Trustee under any provision of this Indenture or for the execution of any release or upon any other application to it hereunder, the Trustee shall not be under any duty to make any further investigation into the matters appearing to it to be covered by any such document or instrument; *provided, however*, that if, prior to action had thereon, the holders of not less than ten per cent. in principal amount of the outstanding Bonds shall in writing request it so to do and shall furnish it with security and indemnity satisfactory to it against the costs and expenses of the investigation, the Trustee shall make such further investigation as to it may seem proper, and *provided, further*, that the Trustee may in its discretion make any such independent inquiry or investigation as it may see fit. If the Trustee shall make said

further investigation, it shall be entitled to examine the books, records and premises of the Company, itself or by agent or attorney; and unless the Trustee shall be satisfied, with or without said examination, of the truth and accuracy of the matters stated in said document or instrument, it shall not be under any obligation to grant the application. If after said investigation or other inquiry the Trustee shall determine to grant the application, it shall not be liable for any action taken in good faith. The reasonable expense of every such investigation shall be paid by the Company, or if paid by the Trustee, shall be repaid by the Company upon demand, with interest, and until such repayment shall be secured by a lien on the trust estate prior to the lien of the Bonds;

(j) The Company covenants and agrees to pay to the Trustee, from time to time on demand of the Trustee, reasonable compensation (which shall not be limited by any provisions of law with respect to the compensation of fiduciaries or of the trustee of an express trust) for all services rendered by it hereunder and also its reasonable expenses and counsel fees and other disbursements, and those of its attorneys, agents and employees, incurred in and by the administration and execution of the trusts hereby created and the exercise of its powers and the performance of its duties hereunder.

The Company also covenants to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on the part of the Trustee, arising out of or in connection with the acceptance or administration of the trusts hereunder, including the costs and expenses of defending against any claim of liability in the premises. The Company further covenants and agrees to pay interest to the Trustee upon all amounts paid, advanced or disbursed by the Trustee for which it is entitled to reimbursement or indemnity as herein provided.

The Trustee shall have a lien on the trust estate, prior to the lien of the Bonds, for all amounts agreed to be paid by, and for all obligations of, the Company under this clause (j);

(k) Whenever in the administration of the trusts created hereby the Trustee shall deem it necessary or desirable that a matter or question of fact be proved or determined prior to the taking, permitting or omitting any action hereunder by it, said fact or matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be proved and established by an Officers' Certificate delivered to the Trustee, but in its discretion the Trustee may, in lieu thereof, make independent investigation and/or accept other evidence of the matter or may require such further or additional evidence as to it may seem reasonable, and in any such case may rely thereon;

(l) The Trustee, any company in or with which it may be interested or affiliated, and any officer, director, trustee or stockholder of the Trustee or of any such company, may acquire and hold Bonds, or may engage in or be interested in any financial or other transaction with the Company or any corporation in which the Company may be interested, and the Trustee may act as depositary, transfer agent, registrar, custodian, escrow agent or fiscal agent for the Company or for any committee or other body, firm or corporation in respect of any bonds, notes or other securities, whether or not issued pursuant hereto, with the same rights as if the Trustee were not Trustee hereunder;

(m) Except as provided in Article Six hereof, the Trustee shall be under no duty to invest any moneys paid to or deposited with it or to its credit pursuant to any of the provisions of this Indenture, and shall not be liable for interest on any moneys during the period such moneys remain on deposit with it except such interest as the Trustee pays on similar deposits or which it may agree with the Company to pay;

(n) Any action at any time taken by the Trustee pursuant to or with respect to this Indenture at the request or with the consent or approval (expressed or implied) of any person who at the time is the holder of any Bond secured hereby shall be conclusive and binding upon all future holders of such Bond and any Bonds issued in exchange therefor or in lieu thereof;

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

SECTION 12.02. Any moneys which at any time shall be deposited under this Indenture with the Trustee or with any paying agent for the purpose of paying any of the Bonds which shall become due and payable either at maturity thereof or upon call for redemption, or otherwise, or for the purpose of paying the interest due and payable on the Bonds issued hereunder, shall be and are hereby assigned, transferred and set over unto the Trustee or such paying agent, as the case may be, to be held as a trust fund for the respective holders of the Bonds or coupons or claims for interest, for the purpose of paying which the said moneys shall have been deposited. Any moneys so held by any paying agent shall at any time, upon the written Request of the Company, be paid to the Trustee, and shall thereafter be held in trust by the Trustee for the purposes for which such moneys were held in trust by such paying agent. In the event of the appointment of a receiver or of a trustee in bankruptcy, readjustment or reorganization proceedings of the Company or of its property, neither such receiver, nor such trustee, nor any other person, shall have any right, title or interest in said moneys so deposited, or in any part thereof.

Any moneys so deposited with the Trustee remaining unclaimed for six years after the date when such Bonds and coupons shall be payable shall then be repaid by the Trustee to the Company, and all liability of the Trustee with respect to such moneys shall thereupon cease and the holders of such Bonds and coupons shall thereafter be entitled to look only to the Company for the payment thereof. In no event shall the holders of such Bonds and coupons be entitled to interest upon such money, whether held by the Trustee or so repaid by it to the Company.

All Bonds and coupons paid hereunder shall be cancelled by the Trustee and thereafter, upon the written Request of the Company, delivered to it.

Any other moneys which at any time shall be deposited under this Indenture with the Trustee by or for the account of the Company shall be held in trust by the Trustee for the holders of the Bonds and coupons issued hereunder until disposed of conformably with the provisions hereof, but need not be segregated and may be held as part of the general funds of the Trustee.

SECTION 12.03. Any corporation into which the Trustee or any successor to it in the trusts hereby created may be merged or converted, or with which it or any such successor may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee or any such successor shall be a party, provided such corporation shall be a trust company or a banking corporation in good standing organized under the laws of the United States of America or the State of California and shall have an office in the City and County of San Francisco, California, and shall have a capital and surplus aggregating at least \$5,000,000, shall be the successor trustee under this Indenture without the execution or filing of any paper or the performance of any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding. In case any of the Bonds shall have been authenticated but not delivered, any such successor may adopt the certificate of authentication of Crocker First National Bank of San Francisco, or of any successor to it, as Trustee hereunder, and deliver the same so authenticated; and in case any of the Bonds shall not have been authenticated, any successor trustee may authenticate such Bonds either in the name of any predecessor Trustee or in the name of such successor trustee, and in all such cases such certificate shall have the full force which it is anywhere in the Bonds or this Indenture provided that the certificate of the Trustee shall have.

SECTION 12.04. The Trustee or any successor trustee may at any time resign and be discharged from the trusts hereby created by giving to the Company written notice of such resignation specifying a date when it desires such resignation to take effect, and such resignation shall take effect on the date specified in such notice or on the date of the appointment by the Company or holders of the Bonds,

as hereinafter provided, of a successor trustee, whichever shall be earlier. Notice of such resignation shall be published by the Trustee once each week for two successive calendar weeks, on days not more than ninety days nor less than sixty days prior to the date so specified, in one daily newspaper printed in the English language and published and of general circulation in the City and County of San Francisco, California, and one daily newspaper similarly printed, and published and of general circulation in the Borough of Manhattan, City and State of New York.

The Trustee or any successor trustee may be removed at any time by the holders of a majority in principal amount of the Bonds then outstanding by an instrument or concurrent instruments signed by such holders or their attorneys-in-fact duly authorized.

Upon resignation or removal the Trustee shall be entitled to its reasonable compensation then accrued and unpaid, and the reimbursement of proper expenses theretofore incurred and not previously reimbursed, upon compliance with all provisions of Section 12.05 of this Article Twelve.

SECTION 12.05. In case at any time the Trustee or any successor trustee shall resign or shall be removed or shall become incapable of acting or shall be adjudged bankrupt or insolvent, or if a receiver of the Trustee or of any successor, or of its property, shall be appointed, or if any public officer in the exercise of his official powers shall take charge or control of the Trustee or any successor, or its property or affairs, or if a vacancy shall arise in the trusteeship under this Indenture from any other cause, a successor or successors may be appointed by the holders of a majority in principal amount of the Bonds then outstanding, by an instrument or concurrent instruments signed by such holders or their attorneys-in-fact duly authorized, and delivered to such successor trustee hereunder, notification of such appointment being concurrently given to the Company and the predecessor trustee; but until a new trustee shall be appointed by the holders of the Bonds as herein provided, the Company, by an instrument executed by authority of its Board of Directors, may appoint a successor trustee to fill such vacancy. After any

such appointment by the Company, it shall publish notice of such appointment once each week for two successive weeks in one daily newspaper printed in the English language and published and of general circulation in the City and County of San Francisco, California, and one daily newspaper similarly printed, and published and of general circulation in the Borough of Manhattan, City and State of New York.

Any new trustee so appointed by the Company shall immediately and without further act be superseded by a new trustee appointed in the manner above provided by the holders of a majority in principal amount of the Bonds, *provided, however*, that no such appointment may be made (1) more than one year after the first publication of notice of the appointment by the Company of a successor trustee to fill such vacancy; or (2) after the appointment of a successor trustee by a court as hereinafter provided.

If no appointment of a successor trustee shall be made by the Company or by the holders of Bonds pursuant to the foregoing provisions of this Section 12.05 within three months after the happening of any of the events set forth in the first paragraph of this Section 12.05, the holder of any Bond or any retiring trustee hereunder may apply to any court of competent jurisdiction to appoint a successor trustee. Said court may thereupon, after such notice, if any, as it may deem proper and shall prescribe, appoint a successor trustee.

Every successor trustee appointed under any of the provisions of this Article Twelve shall be a trust company or a banking corporation in good standing organized under the laws of the United States of America or the State of California, having an office in the City and County of San Francisco, California, and a capital and surplus aggregating at least \$5,000,000, if there be such a trust company or banking corporation able and willing to act.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the predecessor trustee hereunder and also to the Company an instrument in writing accepting such appointment hereunder, and thereupon said successor trustee, without any further act, deed or conveyance, shall become fully vested with all

the estates, properties, rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named as trustee herein; but the retiring trustee shall, nevertheless, on the written request of the Company or of the successor trustee and upon payment of its unpaid compensation and expenses, if any, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in said successor trustee all the right, title and interest of the retiring trustee which it succeeds in and to the trust estate and said rights, powers, trusts, duties and obligations; and the retiring trustee shall also, upon like request and upon payment of its unpaid compensation and expenses as aforesaid, pay over, assign and deliver to the successor trustee any money and other property subject to the lien hereof then held by it, and deliver any and all records in respect of the trusts hereunder which it may have, or copies of such records; and upon request of any such successor trustee the Company shall execute, acknowledge and deliver to it any and all deeds, conveyances or other instruments in writing for more fully and certainly vesting in and confirming to such successor trustee said estates, properties, rights, powers, duties and obligations.

SECTION 12.06. If at any time or times, in order to conform to any legal requirement, the Trustee shall so request, the Company and the Trustee shall unite in the execution and performance of all instruments and agreements necessary or proper to appoint one or more persons or corporations approved by the Trustee, either to act as co-trustee or co-trustees of all or any part of the trust estate, jointly with the Trustee, or to act as separate trustee or trustees of any such property, and in either case with such powers and authority, not inconsistent herewith, as may be specified in the instrument of appointment.

Any such co-trustee or separate trustee may resign by an instrument in writing delivered to the Company and to the Trustee, specifying a date, not less than thirty days after the date of such resignation, on which the same shall take effect; and any such co-trustee or separate trustee may be removed by an instrument in writing

signed by the Company and the Trustee and delivered to him or it. Upon any such resignation or removal, or the occurrence of a vacancy in such office from any other cause, a successor co-trustee or separate trustee may be appointed by instrument in writing signed by the Company and the Trustee.

SECTION 12.07. The Trustee is hereby appointed (and the successive holders of the Bonds, by taking and holding the same, shall conclusively be deemed to have so appointed the Trustee) the true and lawful attorney-in-fact of the respective holders of the Bonds, with authority to make or file, irrespective of whether the Bonds or any of them are in default as to payment of principal or interest, in the respective names of the holders of the Bonds and coupons or in behalf of all holders of the Bonds and coupons as a class, any proof of debt, petition or other document, and to execute any and all other papers and documents and do and perform any and all other acts and things for and on behalf of the respective holders of the Bonds and coupons, or in behalf of all holders of the Bonds and coupons as a class, as may be necessary or advisable in the judgment of the Trustee in order to have the claims of the holders of the Bonds and coupons against the Company, or any successor, or any other person or corporation, allowed and paid in any equity receivership, insolvency, liquidation, bankruptcy, reorganization or other proceedings which shall involve the trust estate or any part thereof, and to receive payment of or on account of any such claim or claims; and any receiver, assignee or trustee in any such proceedings is hereby authorized by each of the Bondholders to make such payments to the Trustee. Nothing herein contained shall give the Trustee authority to assent to or reject on behalf of any holder of Bonds and coupons any plan of reorganization, plan of adjustment or similar plan, proposed or approved in any such proceeding.

ARTICLE THIRTEEN.

POSSESSION UNTIL DEFAULT; DISCHARGE OF INDENTURE.

SECTION 13.01. Unless and until (1), the Trustee, under the powers granted in this Indenture, or a receiver or a trustee,

shall have entered into possession of the trust estate or part thereof or (2) some one or more of the events of default enumerated in Section 9.02 hereof shall have happened and be continuing, the Company, its successors and assigns, shall be suffered and permitted to retain actual possession of all of the trust estate (other than bonds, obligations and shares of stock pledged hereunder and cash deposited under any provision hereof) 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 revenues, rents, earnings, issues, tolls, profits and other income thereof (as well as, except as otherwise provided in Articles Eight and Nine hereof, of such bonds, obligations or shares of stock).

SECTION 13.02. If (a) when all of the Bonds shall become due and payable at maturity, upon call for redemption, by declaration, or otherwise, the Company shall have paid or caused to be paid the whole amount of the principal and premium, if any, and interest due on all of the Bonds then outstanding, or shall have provided for the payment of such Bonds by depositing with the Trustee as trust funds the entire amount then due thereon for principal and premium, if any, and interest, or (b) prior to all of the Bonds having become due and payable, the Company shall deposit with the Trustee as trust funds an amount sufficient to pay or redeem all Bonds at the time issued and outstanding, including the interest thereon to maturity or the date of redemption, and, in case the Bonds are to be redeemed, furnish proof satisfactory to the Trustee that notice of redemption of all outstanding Bonds has been given as provided in Article Five hereof, or make arrangements satisfactory to the Trustee that such notice will be so given as soon as practicable, or (c) the Company shall deliver to the Trustee for cancellation all Bonds and coupons appertaining thereto, then outstanding—and if, in any such event, the Company shall pay or cause to be paid all other sums payable hereunder by the Company and shall well and truly keep and perform, according to the true intent and meaning of this Indenture, all covenants herein required to be kept and performed by it—then, and in any such case, all property, rights and interests hereby conveyed, assigned or pledged shall revert to the Company, its successors

or assigns, and the estate, right, title and interest of the Trustee shall thereupon cease and determine and become void; and the Trustee in any such case, on written Demand of the Company, and at the Company's cost and expense, shall cancel and discharge the lien of this Indenture and enter satisfaction thereof upon the records, and shall execute and deliver to or on the Order of the Company such deeds and other instruments as shall be requisite to reconvey to the Company all the estate and interest derived to the Trustee under this Indenture, and shall assign and transfer or cause to be assigned and transferred, and shall deliver or cause to be delivered to or on the Order of the Company all moneys (other than moneys deposited with it for the payment of principal, premium, coupons or claims for interest on the Bonds), and all personal property then held by the Trustee hereunder; otherwise, this Indenture shall remain in full force and effect.

Any moneys deposited with the Trustee under this Section 13.02 shall be held by it as a trust fund and applied by it to the payment of the Bonds, the premium, if any, and the interest thereon in respect of which such moneys shall have been deposited.

Any moneys so deposited with the Trustee remaining unclaimed for six years after the date when such Bonds shall be payable shall then be repaid by the Trustee to the Company, and all liability of the Trustee with respect to such moneys shall thereupon cease and the holders of such Bonds and of the coupons appertaining thereto shall thereafter be entitled to look only to the Company for the payment thereof. In no event shall the holders of such Bonds or coupons appertaining thereto be entitled to interest upon such money, whether held by the Trustee or so repaid by it to the Company.

All Bonds and coupons appertaining thereto paid hereunder shall be cancelled by the Trustee and thereafter delivered to the Company.

ARTICLE FOURTEEN.

CONSOLIDATION, MERGER, CONVEYANCE, ACQUISITION AND LEASE.

SECTION 14.01. Nothing contained in this Indenture or in any Bond issued or to be issued hereunder shall prevent the consolida-

tion or merger of the Company with or into any other corporation lawfully entitled to acquire and operate the trust estate or any conveyance or lease by the Company of the trust estate as a whole, or substantially as a whole, to any other such corporation, or the merger into the Company or the acquisition or lease by the Company of the property as a whole, or substantially as a whole, of any other corporation, or shall prevent successive consolidations, mergers, conveyances, acquisitions or leases to which the Company or any successor or lessee corporation, as hereinafter defined, shall be a party, *provided, however*, that:

(1) Every such consolidation, merger, conveyance, acquisition or lease shall be on such terms as shall fully preserve and in no respect impair the lien and security of this Indenture or any of the rights and powers of the Trustee or of the holders of the Bonds hereunder; and

(2) Immediately upon any such consolidation, merger, conveyance or lease and as a part of such transaction any successor corporation or lessee corporation, as the case may be, shall, by an indenture supplemental hereto, expressly assume the due and punctual payment of the principal of and interest on all of the Bonds issued and to be issued hereunder according to their tenor and purport, and the due and punctual performance of all of the covenants, terms and conditions of this Indenture, and of any indentures supplemental hereto, to be kept, observed and performed by the Company.

For the purposes of this Article Fourteen the term "successor corporation" shall mean any corporation resulting from any such consolidation or merger or any corporation to which any such conveyance shall be made, and the term "lessee corporation" shall mean any corporation to which any such lease shall be made.

SECTION 14.02. In the absence of an express grant by the successor corporation or by the Company, as the case may be, this Indenture shall not by reason of any such consolidation, merger or conveyance of the trust estate or any such acquisition by or lease to the Company,

constitute and become a lien upon, and the term "trust estate" as herein used shall not include or comprise:

(1) Any property or franchise which, prior to such consolidation, merger or conveyance, was owned by any corporation with or into which the Company may be consolidated or merged or which may be merged into the Company or to which the Company may make any such conveyance, which prior to such consolidation, merger or conveyance was not subject to the lien of this Indenture;

(2) Any property or franchise which may be purchased, constructed or otherwise acquired by the successor corporation or by the Company after the date of any such consolidation, merger or conveyance, excepting only the betterments, extensions, improvements, additions, repairs, renewals, replacements, substitutions, alterations, property, rights and franchises mentioned and referred to in clauses (a) and (b) hereinafter contained in this Section, which, as and when purchased, constructed or otherwise acquired by such successor corporation or by the Company, shall be and become subject to the lien of this Indenture, notwithstanding any such consolidation, merger or conveyance; or

(3) Any securities of any corporation (other than Sacramento Northern Railway and Tidewater Southern Railway Company, or any successor of either of them) constituting a Class 1 carrier as defined by the rules of the Commission at the time in force, acquired by the Company, or the properties of any such corporation acquired or leased as a whole or substantially as a whole by the Company, or any betterments, extensions, improvements, additions, repairs, renewals, replacements, substitutions or alterations of, to, upon or for said properties purchased, constructed or acquired by the Company after the date of any such acquisition or lease, unless such securities or such properties shall have been made the basis in whole or in part for the authentication and delivery of Bonds hereunder, or the payment of cash, or the release of property hereunder, or acquired with proceeds of the insurance on property subject to the lien hereof.

In order to confirm of record the lien of this Indenture and to preserve and protect the rights of the holders of the Bonds hereunder, the supplemental indenture or indentures provided for in Section 14.01 of this Article Fourteen shall be recorded as in Section 7.16 of Article Seven hereof provided, and if any such supplemental indenture does not contain an express grant by the successor corporation, as further security for all Bonds issued and to be issued hereunder, of all of its property and franchises then owned and which it may thereafter acquire, it shall contain:

(a) A grant by such successor corporation confirming the prior lien of this Indenture upon the trust estate and subjecting to the lien and operation hereof as a first lien, or as a lien subject only to liens affecting the property and franchises of the Company prior to such consolidation, merger or conveyance: (1) all property theretofore or thereafter acquired, in whole or in part, with cash at any time held hereunder by the Trustee or in exchange for property released from the lien hereof or the acquisition or construction of which has been or shall be made the basis, in whole or in part, of the withdrawal of cash or the issuance of Bonds hereunder, or acquired with proceeds of insurance on property subject to the lien hereof; (2) all betterments, extensions, improvements and additions, of, to, upon and for the property, rights and franchises subject to the lien hereof; (3) all repairs, renewals, replacements, substitutions and alterations of, to, upon and for such property, rights and franchises; (4) all property, rights and franchises acquired pursuant to any covenant herein contained which may be purchased, constructed or otherwise acquired by such successor corporation from and after the date of such consolidation, merger or conveyance, as the case may be; and (5) all other property of every kind and description, real, personal or mixed, thereafter purchased, constructed or otherwise acquired by such successor corporation which shall be in any way appurtenant to or incident to properties subject to the lien of this Indenture; and

(b) An undertaking on the part of such successor corporation that all property and franchises thereafter acquired by it and

necessary to the full and complete performance of any covenant herein contained relating to the maintenance and upkeep of the trust estate, to the making of all needful and proper repairs, renewals, replacements, substitutions and alterations and to the preservation and keeping in full effect of all rights, franchises and privileges subject to the lien hereof, and of any other covenant herein, shall be conclusively deemed and taken to be acquired by it in performance of such covenant and to have become subject to the prior lien of this Indenture; and

(c) An undertaking by such successor corporation to keep the trust estate, so far as practicable, readily identifiable; and

(d) A stipulation that the Trustee shall not be taken impliedly to waive, by accepting or joining in the supplemental indenture, any rights it would otherwise have.

SECTION 14.03. In case the Company shall be consolidated with or merged into or shall make a conveyance to any other corporation as permitted and upon the terms provided in Section 14.01 hereof, the corporation formed by or resulting from such consolidation or merger or to which such conveyance shall have been made as aforesaid—upon executing and delivering to the Trustee, and causing to be recorded, the supplemental indenture provided for in Section 14.01 hereof—shall succeed to and be substituted for the Company with the same force and effect as if it had been named in and had executed this Indenture, as the party of the first part hereto, and shall have and possess and may exercise, subject to the terms and conditions of this Indenture and any indentures supplemental hereto, each and every power, authority and right herein reserved to or conferred upon the Company; and thereupon such successor corporation may cause to be signed and may issue, either in its own name or in the name of the party of the first part, and under the corporate seal of either the party of the first part or the successor corporation, any and all Bonds which shall not theretofore have been signed by the party of the first part and delivered to the Trustee; and the Trustee, upon the request of such successor corporation, and subject to all the terms, conditions and limitations in this Indenture and in any

and all indentures supplemental hereto prescribed, shall authenticate any and all Bonds which previously shall have been signed by the party of the first part and delivered to the Trustee for authentication, and any Bonds which such successor corporation shall thereafter cause to be signed and delivered to the Trustee for such purpose, and deliver the same to such successor corporation or upon its Order.

SECTION 14.04. All Bonds issued by any such successor corporation shall in all respects have the same legal rank and security as the Bonds theretofore issued in accordance with the terms of this Indenture by the Company. In case of any such consolidation, merger or conveyance such changes in phraseology and form (but not in substance) may be made in the Bonds and coupons thereafter to be issued as may be appropriate to reflect any such consolidation, merger or conveyance.

SECTION 14.05. For every purpose of this Indenture, including the execution, issue and use of any and all Bonds issued or issuable hereunder, the term "Company" includes and means not only the party of the first part, but also any such successor corporation upon compliance with the provisions of this Article Fourteen. Any act or proceeding by any provision of this Indenture authorized, required or permitted to be done or performed by any board or officer of the Company, shall and may be done and performed, with like force and effect, by the like board or officer of any successor corporation, subject, however, to the provisions of Section 14.03 of this Article Fourteen.

SECTION 14.06. Every supplemental indenture provided for in this Article Fourteen shall be in form approved in and by an Opinion of Counsel and the Trustee may accept such Opinion of Counsel that the provisions and conditions of this Article Fourteen have been complied with as conclusive evidence of such compliance.

SECTION 14.07. In case of the consolidation of the Company with or the merger into it of, or the conveyance to it of all of the property of, a corporation a majority of the capital stock of which shall be subject to the lien of this Indenture, the lien of this Indenture upon such capital stock shall terminate upon such consolidation, merger or

conveyance becoming effective, and such capital stock, if then in the possession of the Trustee, shall be surrendered to the Company if the railroads and other property theretofore owned by the corporation whose capital stock was so subject shall have been subjected to the lien of this Indenture by a supplemental indenture executed as provided in Section 4.01 hereof, but such supplemental indenture may provide that the lien of this Indenture on such railroads and other property shall be subordinate to any existing prior liens thereon.

Upon the consolidation of the Company with or the merger into it of, or the conveyance to it of all of the property of, a corporation any of the bonds or other obligations of which shall be subject to the lien hereof, the lien of this Indenture upon such bonds or other obligations shall terminate, and such bonds or other obligations, if then in the possession of the Trustee, shall be surrendered to the Company if the railroads and other property theretofore owned by the corporation whose bonds or other obligations were so subject shall have been subjected to the lien of this Indenture as a first lien thereon by a supplemental indenture executed as provided in Section 4.01 hereof, subject only to Permitted Encumbrances and to liens which immediately before such consolidation, merger or conveyance were prior to the lien of such bonds or other obligations.

SECTION 14.08. The Company covenants and agrees that no consolidation or merger and no conveyance or lease of the trust estate as a whole or substantially as a whole, to which the Company or any successor corporation shall be a party, shall be made or effected unless the terms, covenants and conditions contained in this Article Fourteen shall have been complied with and observed by the Company or the successor corporation, as the case may be.

ARTICLE FIFTEEN.

NO RIGHTS IN STRANGERS; NO INDIVIDUAL LIABILITY.

SECTION 15.01. Nothing in this Indenture or in the Bonds issued hereunder, expressed or implied, is intended, or shall be construed, to confer upon or to give any person or corporation, other than the parties hereto and the holders of the Bonds and coupons, any legal or equitable right, remedy or claim under or in respect of this In-

denture, or under any covenant, condition or provision herein contained; all the covenants, stipulations, promises and agreements contained herein being and intended to be for the sole and exclusive benefit of the parties hereto, their successors and assigns, and of the holders of the Bonds and coupons hereby secured.

SECTION 15.02. No recourse shall be had for the payment of the principal or interest of the Bonds, or any part thereof, or for any claim based thereon, or otherwise in respect thereof, or of the indebtedness represented thereby, or in respect of this Indenture, or under or upon any obligation, covenant or agreement contained herein, against any incorporator, stockholder, officer or director, as such, past, present or future, of the Company, or of any predecessor or successor corporation, either directly or through the Company or any such predecessor or successor corporation, whether by virtue of any statute, constitutional provision or rule of law, by the enforcement of any assessment or by any legal or equitable proceeding, 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 directors, as such, of the Company, or of any predecessor or successor corporation, or any of them, because of the incurring of the indebtedness hereby secured, or under or by reason of any of the obligations, covenants or agreements contained in this Indenture, or in any of the Bonds or coupons, or implied therefrom; and that any and all such personal liability of every name and nature of every such incorporator, stockholder, officer or director, as such, whether arising at common law or in equity, or created by statute or constitution, is hereby expressly waived and released as a condition of, and as part of the consideration for, the execution hereof and the issue of the Bonds and coupons.

ARTICLE SIXTEEN.

MISCELLANEOUS PROVISIONS.

SECTION 16.01. All the covenants, stipulations, promises and agreements in this Indenture contained by or on behalf of the Company, shall bind its successors and assigns, whether so expressed or not.

SECTION 16.02. For the purpose of any action to be taken by the holders of Bonds hereunder, whether at a meeting or otherwise, in determining the principal amount of Bonds outstanding and in determining whether the holders of the required percentage of the principal amount of outstanding Bonds, or of any series thereof, have concurred in any action, Bonds which, by reason of the provisions of Section 4.02 hereof, would not be entitled to vote at a meeting of bondholders convened pursuant to Section 4.02 hereof at the time of such determination, shall be disregarded.

SECTION 16.03. Interest payable to the Trustee under any provision of this Indenture on advances made by it shall be at the following rate or rates per annum: So long as there shall be a rediscount rate of the Federal Reserve Bank in the New York District, such interest shall be at the current rediscount rate of such Federal Reserve Bank, plus $1\frac{1}{2}\%$, *provided, however*, that such interest shall be not less than $3\frac{1}{2}\%$ nor more than 6% per annum; if for any reason there shall cease to be a rediscount rate of the Federal Reserve Bank in the New York District, such interest shall be at the rate of 4% .

SECTION 16.04. This Indenture is dated, for convenience only, as of January 1, 1951, and shall be valid and effective for all purposes upon the execution and delivery hereof.

SECTION 16.05. In order to facilitate the recording of this Indenture, it may be simultaneously executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same instrument, which shall for all purposes be sufficiently proved by any such counterpart.

IN WITNESS WHEREOF, The Western Pacific Railroad Company, the party hereto of the first part, has caused this Indenture to be signed and acknowledged by its President or one of its Vice Presidents, and its corporate seal to be hereunto affixed and the same to be attested by its Secretary or one of its Assistant Secretaries, and Crocker First National Bank of San Francisco, the party hereto of the second part, has caused this Indenture to be signed and acknowl-

edged by its President or one of its Vice Presidents, and its corporate seal to be hereunto affixed and the same to be attested by one of its Trust Officers or one of its Assistant Trust Officers, all as of the day and year first above written.

THE WESTERN PACIFIC RAILROAD COMPANY,
By F. B. WHITMAN
President

Attest:

C. L. DROIT (Seal)
Secretary

Signed, sealed and delivered as to The
Western Pacific Railroad Company
in the presence of:

E. W. ENGLEBRIGHT
SIDNEY HENRICKSEN

CROCKER FIRST NATIONAL BANK OF SAN FRANCISCO,
By R. V. WALSH
Vice President

Attest:

F. P. GRAY (Seal)
Trust Officer

Signed, sealed and delivered as to Crocker
First National Bank of San Francisco
in the presence of:

E. J. TOOKER
A. F. CROCKET

State of California, }
 City and County of San Francisco } ss.

On this 16th day of January, 1951, before me, BERTHA M. PETERSEN, a Notary Public in and for the City and County of San Francisco, State of California, residing therein, duly commissioned and sworn, personally appeared F. B. WHITMAN, known to me to be the President of THE WESTERN PACIFIC RAILROAD COMPANY, one of the corporations that executed the foregoing instrument, and known to me to be the person who executed the foregoing instrument on behalf of said corporation, and he acknowledged to me that such corporation executed the same; and being by me duly sworn, he did say: That he is the officer of said corporation as above designated; that said instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors; that he is acquainted with the seal of said corporation and that the seal affixed to said instrument is the corporate seal of said corporation; that the signatures to said instrument on behalf of said corporation were made by officers of said corporation as indicated after said signatures; and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(Seal)

BERTHA M. PETERSEN

Notary Public

in and for the City and County of
 San Francisco, State of California.

My Commission expires January 20, 1953.

State of California, }
 City and County of San Francisco } ss.

On this 16th day of January, 1951, before me, MARIE G. RICE, a Notary Public in and for the City and County of San Francisco, State of California, residing therein, duly commissioned and sworn, personally appeared R. V. WALSH, known to me to be a Vice President of CROCKER FIRST NATIONAL BANK OF SAN FRANCISCO, one of the corporations that executed the foregoing instrument, and known to me to be the person who executed the foregoing instrument on behalf of said corporation, and he acknowledged to me that such corporation executed the same; and being by me duly sworn, he did say: That he is the officer of said corporation as above designated; that said instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors; that he is acquainted with the seal of said corporation and that the seal affixed to said instrument is the corporate seal of said corporation; that the signatures to said instrument on behalf of said corporation were made by officers of said corporation as indicated after said signatures; and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(Seal)

MARIE G. RICE
 Notary Public

in and for the City and County of
 San Francisco, State of California.

My Commission expires March 19, 1954.