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THE WESTERN PACIFIC RAILROAD COMPANY
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THE WESTERN PACIFIC RAILROAD COMPANY

TO

CROCKER NATIONAL BANK,
Trustee

First Supplemental Indenture

Dated as of June 15, 1977

TO

THE WESTERN PACIFIC RAILROAD COMPANY
FIRST AND REFUNDING MORTGAGE
DATED AS OF JANUARY 1, 1951

FIRST MORTGAGE 9% BONDS,
SERIES B, DUE 2002

BOOK 59 PAGE 325

TIE-SHEET*

of provisions of Trust Indenture Act of 1939 with First and Refunding Mortgage dated as of January 1, 1951 by and between The Western Pacific Railroad Company and Crocker National Bank (formerly Crocker First National Bank of San Francisco), Trustee, as supplemented by the within First Supplemental Indenture dated as of June 15, 1971.

<u>Act</u>	<u>Indenture</u>
Section 310(a)(1)	Section 17.02
Section 310(a)(2)	Section 17.02
Section 310(a)(3)	Section 12.06
Section 310(a)(4)	Not Applicable
Section 310(b)	Sections 17.01, 17.03 and 17.07
Section 310(c)	Not Applicable
Section 311(a)	Sections 17.04 and 17.07
Section 311(b)	Sections 17.04 and 17.07
Section 311(c)	Not Applicable
Section 312(a)	Sections 18.01 and 18.02(a)
Section 312(b)	Section 18.02(b)
Section 312(c)	Section 18.02(c)
Section 313(a)	Section 18.04(a)
Section 313(b)	Section 18.04(b)
Section 313(c)	Section 18.04(c)
Section 313(d)	Section 18.04(d)
Section 314(a)	Section 18.03
Section 314(b)	Section 19.04
Section 314(c)	Sections 19.01 and 19.03
Section 314(d)	Section 19.02
Section 314(e)	Section 19.05
Section 314(f)	Section 7.18
Section 315(a)	Sections 17.06 and 17.07
Section 315(b)	Section 17.05
Section 315(c)	Section 17.06
Section 315(d)	Sections 17.06 and 17.07
Section 315(e)	Section 9.26
Section 316(a)(1)	Section 9.06
Section 316(a)(2)	Omitted
Section 316(a) (2nd Sentence)	Section 16.02
Section 316(b)	Section 9.21
Section 317(a)	Sections 9.15, 12.07
Section 317(b)	Section 20.01(b)
Section 318(a)	Section 20.02

* This tie-sheet is not a part of the Indenture, or of the First Supplemental Indenture, as executed.

TABLE OF CONTENTS*

FIRST SUPPLEMENTAL INDENTURE

Dated as of June 15, 1977

	PAGE
PARTIES.....	1
RECITALS.....	1
Form of face of Series B Bond	2
Form of Trustee's certificate of authentication	3
Form of reverse of Series B Bond	4
PART ONE—CREATION OF SERIES B BONDS	8
§ 1.01. Creation, Designation, Amount and Issue of Series B Bonds ...	8
§ 1.02. Form of Series B Bonds	9
§ 1.03. Date and Denomination of Series B Bonds	9
§ 1.04. Authenticating Agent	10
§ 1.05. Deposit of Proceeds	11
PART TWO—REDEMPTION OF SERIES B BONDS—MANDATORY AND OPTIONAL SINKING FUND	12
§ 2.01. Redemption prices—Voluntary and for sinking fund	12
§ 2.02. Notice of redemption, selection of Series B Bonds	12
§ 2.03. Payment of Series B Bonds called for redemption	13
§ 2.04. Mandatory and optional sinking fund	14
PART THREE—AMENDMENTS	17
§ 3.01. Amendments	17
ARTICLE SEVENTEEN—ADDITIONAL PROVISIONS CONCERNING THE TRUSTEE	17
Section 17.01. Conflicting interest of Trustee	17
Section 17.02. Eligibility of Trustee	23
Section 17.03. Removal of Trustee	24
Section 17.04. Limitation on right of Trustee as creditor	26
Section 17.05. Notice of defaults	30
Section 17.06. Duties and responsibilities of Trustee	31
Section 17.07. Additional Trustees	32

* This Table of Contents shall not for any purpose be deemed to be a part of the Indenture or of the First Supplemental Indenture.

	<u>PAGE</u>
ARTICLE EIGHTEEN—BONDHOLDERS LISTS AND REPORTS BY THE COMPANY AND THE TRUSTEE	32
Section 18.01. Bondholders lists.....	32
Section 18.02. Preservation and disclosure of lists	33
Section 18.03. Reports by the Company.....	34
Section 18.04. Reports by Trustee.....	36
Section 18.05. Reports by additional trustees.....	39
ARTICLE NINETEEN—ADDITIONAL PROVISIONS AS TO CERTIFICATES AND OPINIONS	39
Section 19.01. Evidence of compliance with conditions precedent..	39
Section 19.02. Certificates of engineers, appraisers or other experts.....	40
Section 19.03. Requirements as to independence.....	42
Section 19.04. Opinions as to recording.....	43
Section 19.05. Recitals as to basis of certificates and opinions	44
Section 19.06. Certain definitions.....	44
ARTICLE TWENTY—PROVISIONS AS TO PAYING AGENTS AND MISCELLANEOUS ADDITIONAL PROVISIONS.....	44
Section 20.01. Moneys to be held in trust; provision as to paying agents	44
Section 20.02. References to Trust Indenture Act of 1939; compliance of supplemental indentures with Trust Indenture Act of 1939; required provisions to control.....	45
§ 3.02. Additional Amendments	46
(a) First Granting Clause	44
(b) Fifth Granting Clause.....	47
(c) Granting Clauses Proviso.....	47
(d) Section 1.02	48
(e) Section 1.02	49
(f) Section 2.02	49
(g) Section 2.05.....	50
(h) Section 2.05.....	50
(i) Section 3.02.....	50

	<u>PAGE</u>
(j) Section 3.03.....	50
(k) Section 3.03.....	50
(l) Section 3.10.....	51
(m) Section 4.02.....	51
(n) Section 5.01.....	52
(o) Section 7.01.....	52
(p) Section 7.12.....	52
(q) Sections 7.17 and 7.18.....	52
(r) Section 9.02.....	53
(s) Section 9.06.....	53
(t) Section 9.27.....	54
(u) Section 11.04.....	54
(v) Section 11.07.....	54
(w) Section 11.10.....	54
(x) Section 11.17.....	55
(y) Sections 12.02 and 13.02.....	56
(z) Sections 12.03 and 12.05.....	56
(aa) Sections 12.03 and 12.05.....	56
(bb) Sections 12.04 and 12.05.....	56
(cc) Section 12.06.....	56
(dd) Section 14.02.....	57
PART FOUR—MISCELLANEOUS	57
§ 4.01. Inapplicability of Part Three.....	57
§ 4.02. Execution and status of supplemental indenture.....	57
§ 4.03. Table of contents and headings.....	58
§ 4.04. Execution in counterparts.....	58
§ 4.05. Governing law and consent to suit.....	58
TESTIMONIUM.....	58
SIGNATURES.....	58
ACKNOWLEDGMENTS.....	60

FIRST SUPPLEMENTAL INDENTURE

THIS SUPPLEMENTAL INDENTURE dated as of June 15, 1977, by and between **THE WESTERN PACIFIC RAILROAD COMPANY**, a corporation organized and existing under the laws of the State of California (hereinafter called the "Company"), party of the first part, and **CROCKER NATIONAL BANK**, a national banking association (formerly Crocker First National Bank of San Francisco), and having its principal office and place of business in the City and County of San Francisco, California, as Trustee (hereinafter called the "Trustee"), party of the second part, as Trustee under the First and Refunding Mortgage dated as of January 1, 1951, between the Company and the Trustee (hereinafter called the "Original Indenture");

WHEREAS, Bonds of a series designated as the First and Refunding Mortgage 3½% Bonds, Series A of the Company (hereinafter called the "Series A Bonds"), maturing January 1, 1981, have heretofore been issued and are the only Bonds now outstanding under the Original Indenture; and

WHEREAS, the Original Indenture provides for the issuance thereunder from time to time, after issuance of the Series A Bonds, of First Mortgage Bonds, in series, for the purposes and subject to the limitations therein specified; and

WHEREAS, the Company desires, by this Supplemental Indenture, to create a series of First Mortgage Bonds to be issued under the Original Indenture, as supplemented and modified by this Supplemental Indenture, such Bonds to be designated as the "First Mortgage 9½% Bonds, Series B, Due 2002 of The Western Pacific Railroad Company" (hereinafter called the "Series B Bonds") limited to the aggregate principal amount of twenty million dollars (\$20,000,000), the further terms and provisions of which are as hereinafter and in the Original Indenture set forth; and

WHEREAS, the texts of the Series B Bonds and the certificates of authentication to be borne by the Series B Bonds are to be substantially in the following forms, respectively:

S

No.

[FORM OF FACE OF SERIES B BOND]

THE WESTERN PACIFIC RAILROAD COMPANY
 FIRST MORTGAGE 9½% BOND,
 SERIES B, DUE 2002

The Western Pacific Railroad Company, a corporation duly organized and existing under the laws of the State of California (herein referred to as the "Company"), for value received, hereby promises to pay to

or registered assigns, the principal amount of _____ Dollars, at the office or agency of the Company in the Borough of Manhattan, The City of New York, on June 15, 2002, and at such other offices or agencies as may be designated by the Company, 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, and to pay interest on said principal sum at the rate per annum set forth in the title of this Bond, at said office or agency, in like coin or currency, semi-annually on June 15 and December 15 of each year, from the December 15 or June 15, as the case may be, next preceding the date of this Bond to which interest has been paid, unless the date hereof is a date to which interest has been paid, in which case from the date of this Bond, or unless no interest has been paid on the Bonds, in which case from June 15, 1977, until payment of said principal sum has been made or duly provided for; *provided, however*, that payment of interest may be made at the option of the Company by check mailed to the address of the person entitled thereto as such address shall appear on the Bond register. Notwithstanding the foregoing, if the date hereof is after June 1 or December 1, as the case may be, and before the following June 15 or December 15, this Bond shall bear interest from such June 15 or December 15; *provided, however*, that if the Company shall default in the payment of interest due on such June 15 or December 15, then this Bond shall bear interest from the next preceding December 15 or June 15 to which interest has been paid or, if no interest has been paid on the Bonds, from June 15, 1977. The interest so payable on any June 15 or December 15 will, subject to certain exceptions provided in the Indenture referred to on the reverse hereof, be paid to the person in whose name this Bond is registered at the close of business on the June 1 or December 1, as the case may be,

BOOK 59 PAGE 331

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No.

[FORM OF FACE OF SERIES B BOND]

**THE WESTERN PACIFIC RAILROAD COMPANY
FIRST MORTGAGE 9½% BOND,
SERIES B, DUE 2002**

The Western Pacific Railroad Company, a corporation duly organized and existing under the laws of the State of California (herein referred to as the "Company"), for value received, hereby promises to pay to

or registered assigns, the principal amount of _____ Dollars, at the office or agency of the Company in the Borough of Manhattan, The City of New York, on June 15, 2002, and at such other offices or agencies as may be designated by the Company, 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, and to pay interest on said principal sum at the rate per annum set forth in the title of this Bond, at said office or agency, in like coin or currency, semi-annually on June 15 and December 15 of each year, from the December 15 or June 15, as the case may be, next preceding the date of this Bond to which interest has been paid, unless the date hereof is a date to which interest has been paid, in which case from the date of this Bond, or unless no interest has been paid on the Bonds, in which case from June 15, 1977, until payment of said principal sum has been made or duly provided for; *provided, however*, that payment of interest may be made at the option of the Company by check mailed to the address of the person entitled thereto as such address shall appear on the Bond register. Notwithstanding the foregoing, if the date hereof is after June 1 or December 1, as the case may be, and before the following June 15 or December 15, this Bond shall bear interest from such June 15 or December 15; *provided, however*, that if the Company shall default in the payment of interest due on such June 15 or December 15, then this Bond shall bear interest from the next preceding December 15 or June 15 to which interest has been paid or, if no interest has been paid on the Bonds, from June 15, 1977. The interest so payable on any June 15 or December 15 will, subject to certain exceptions provided in the Indenture referred to on the reverse hereof, be paid to the person in whose name this Bond is registered at the close of business on the June 1 or December 1, as the case may be,

BOOK 59 PAGE 331

next preceding such June 15 or December 15, whether or not such day shall be a business day.

Reference is made to the further provisions of this Bond set forth on the reverse hereof. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Trustee under the Indenture referred to on the reverse hereof.

IN WITNESS WHEREOF, the Company has caused this Bond to be signed by facsimile by its duly authorized officers, and has caused a facsimile of its corporate seal to be affixed hereunto or imprinted hereon.

Dated:

THE WESTERN PACIFIC RAILROAD
COMPANY

By _____
President

Attest:

By _____
Secretary

BOOK 59 PAGE 332

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

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

CROCKER NATIONAL BANK,
as Trustee

CROCKER NATIONAL BANK,
as Trustee

By _____
Authorized Officer

or By _____
Authenticating Agent

By _____
Authorized Officer

[FORM OF REVERSE OF SERIES B BOND]

THE WESTERN PACIFIC RAILROAD COMPANY
FIRST MORTGAGE 9½% BOND,
SERIES B, DUE 2002

This Bond is one of a duly authorized issue of First and Refunding Mortgage Bonds and First Mortgage Bonds (herein referred to as the "Bonds"), limited to an aggregate principal amount of Seventy-Five Million Dollars (\$75,000,000) at any time outstanding, issuable in series, issued and to be issued under and equally and ratably secured by an Indenture dated as of January 1, 1951, between the Company and Crocker National Bank (formerly Crocker First National Bank of San Francisco) (herein referred to as the "Trustee"), and is one of a series of such Bonds designated as First Mortgage 9½% Bonds, Series B, Due 2002 of the Company (herein referred to as the "Series B Bonds"), limited to the aggregate principal amount of \$20,000,000, created by the First Supplemental Indenture dated as of June 15, 1977 executed and delivered by the Company to the Trustee. The term "Indenture" as used herein refers to the said Indenture dated as of January 1, 1951, as supplemented by said First Supplemental Indenture and as it may be further supplemented by any further supplemental indenture. The several series of Bonds issuable under the Indenture may be for varying aggregate principal amounts, and the Bonds of any one series may differ from the Bonds of any other series as to maturity, interest rate, redemption,

BOOK 59 PAGE 333

conversion and sinking fund provisions, if any, and otherwise as in the Indenture provided. Reference is hereby made to the Indenture for a description of the franchises and properties mortgaged and pledged as part of the trust estate thereunder, the nature and extent of the security afforded thereby and the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the holders of the Bonds and coupons.

In case an event of default, as defined in the Indenture, shall have happened and be continuing, the principal hereof may be declared, and upon such declaration shall become, due and payable in the manner, with the effect and subject to the conditions provided in the Indenture.

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 66⅔% 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 reference herein to the Indenture and no provision of this Bond or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and premium, if any, and interest on this Bond at the places, at the respective times, at the rate and in the coin or currency herein prescribed.

The Series B Bonds are issuable in registered form without coupons in denominations of \$1,000 and any multiple of \$1,000. In the manner and subject to the limitations provided in the Indenture, but without charge except for any tax or other governmental charge that may be imposed in connection therewith, Series B Bonds may be exchanged for an equal aggregate principal amount of Series B Bonds of other authorized denomi-

nations at the office or agency of the Company for such exchange in the Borough of Manhattan, The City of New York, and at such other offices or agencies as may be designated by the Company.

The Series B Bonds may be redeemed at the option of the Company, as a whole or from time to time in part, on any date prior to maturity, upon mailing a notice of such redemption not less than 30 nor more than 60 days prior to the date fixed for redemption to the holders of Series B Bonds at their last registered addresses, all as provided in the Indenture, at the following optional redemption prices (expressed in percentages of the principal amount to be redeemed) together in each case with accrued interest to the date fixed for redemption:

If redeemed during the twelve month period beginning June 15,

<u>Year</u>	<u>Percentage</u>	<u>Year</u>	<u>Percentage</u>
1977	108.63	1990	103.95
1978	108.27	1991	103.59
1979	107.91	1992	103.23
1980	107.55	1993	102.88
1981	107.19	1994	102.52
1982	106.83	1995	102.16
1983	106.47	1996	101.80
1984	106.11	1997	101.44
1985	105.75	1998	101.08
1986	105.39	1999	100.72
1987	105.03	2000	100.36
1988	104.67	2001	100.00
1989	104.31		

provided, however, that no such redemption may be effected prior to June 15, 1987 directly or indirectly from or in anticipation of moneys borrowed by or for the account of the Company at an interest cost (calculated in accordance with generally accepted financial practice) of less than 9.176% per annum.

The Series B Bonds are also subject to redemption in part, through the operation of the sinking fund provided for in the Indenture, in the aggregate principal amount of \$1,000,000 on each June 15 commencing on June 15, 1983 and continuing to and including June 15, 2001, on notice as set forth above and at 100% of the principal amount thereof (the sinking fund redemption price), together with accrued interest to the date fixed for redemption. In addition, the Company has the non-cumulative right to

increase sinking fund retirements in any year by an amount not in excess of the mandatory sinking fund for such year. In lieu of making all or part of any mandatory or optional sinking fund payment in cash, the Company may at its option receive credit in an amount equal to the principal amount of Series B Bonds acquired in the open market or otherwise and surrendered to the Trustee for cancellation or previously optionally redeemed otherwise than through the optional sinking fund.

Upon due presentment for registration of transfer of this Series B Bond at the office or agency of the Company for such registration in the Borough of Manhattan, The City of New York, and at such other offices or agencies as may be designated by the Company, a new Series B Bond or Bonds of authorized denominations for an equal aggregate principal amount will be issued to the transferee in exchange herefor, subject to the limitations provided in the Indenture, without charge except for any tax or other governmental charge imposed in connection therewith.

Prior to due presentment for registration of transfer of this Series B Bond, the Company, the Trustee, any paying agent, any authenticating agent and any Bond registrar may deem and treat the registered holder hereof as the absolute owner of this Bond (whether or not this Bond shall be overdue and notwithstanding any notation of ownership or other writing hereon), for the purpose of receiving payment hereof, or on account hereof, and for all other purposes, and neither the Company nor the Trustee nor any paying agent nor any authenticating agent nor any Bond registrar shall be affected by any notice to the contrary. All payments made to or upon the order of such registered holder shall, to the extent of the sum or sums paid, effectively satisfy and discharge liability for moneys payable on this Bond.

No recourse under or upon any obligation, covenant or agreement contained in the Indenture, or in any Bond or coupon, or because of any indebtedness evidenced thereby, shall be had against any incorporator, or against any past, present or future stockholder, officer or director, as such, of the Company or of any successor corporation, either directly or through the Company or any successor corporation, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of this Bond and as part of the consideration for its issuance.

~~At~~ Amounts sufficient to pay at maturity the Series A Bonds outstanding under the Indenture and interest thereon to maturity simultaneously with the authentication hereof are being deposited with the Trustee pursuant to *as per*

Amc AWS
 Section 3.04(e) of the Indenture for the benefit of the holders of such Series A Bonds. Such amounts shall be held by the Trustee, as trust funds, solely for the payment in full of principal and interest at maturity of such Series A Bonds and shall not be available for any other purpose and shall not be subject to the claims of the holders of Bonds of any other series.

This Bond shall be construed in accordance with and governed by the laws of the State of New York.

WHEREAS, all acts and things prescribed by law and by the by-laws of the Company have been duly performed and complied with and the Company has executed this Supplemental Indenture in the exercise of legal right, power and authority in it vested and all things necessary to make the Series B Bonds, when executed as herein and in the Indenture provided and authenticated by the Trustee, the valid and binding obligations of the Company entitled to the benefits of this Supplemental Indenture and of the Indenture have been done and performed; and

WHEREAS, for the purpose of making certain changes in the Original Indenture, and for the purpose of meeting the requirements of the Trust Indenture Act of 1939, the Company desires to enter into certain additional covenants with the Trustee, to impose certain conditions and restrictions in addition to those now set forth in the Original Indenture; and

WHEREAS, for the purposes hereinabove recited, and pursuant to due corporate action, the Company has duly determined to execute and deliver to the Trustee a supplemental indenture in the form hercof supplementing and modifying the Original Indenture (the Original Indenture, as hereby supplemented and as it may be supplemented from time to time after the date hereof, being herein referred to as the "Indenture");

NOW, THEREFORE, this Supplemental Indenture

WITNESSETH:

That for and in consideration of the premises and the purchase and acceptance of the Series B Bonds by the holders thereof, the Company does hereby covenant and agree with the Trustee as follows:

BOOK 59 PAGE 337

PART ONE

CREATION OF SERIES B BONDS

§ 1.01. The Company hereby creates a series of First Mortgage Bonds under the Indenture in an aggregate principal amount of \$20,000,000, the entire principal amount of which will be issued pursuant to Sections 3.03 and 3.04 thereof. Such Bonds shall be designated as the First Mortgage 9½% Bonds, Series B, Due 2002. The terms and provisions of the Series B Bonds shall be as in this Supplemental Indenture and the Indenture set forth. The Series B Bonds shall be limited to twenty million dollars (\$20,000,000) aggregate principal amount except as provided in Section 2.08 of the Original Indenture. The Series B Bonds shall be dated as provided in § 1.03 of this Supplemental Indenture. The Series B Bonds shall mature June 15, 2002; shall bear interest at the rate of 9½% per annum payable semi-annually on each June 15 and December 15; and shall be redeemable at the option of the Company and entitled to the benefits of a sinking fund, all as herein and in the Indenture provided.

§ 1.02. The Series B Bonds and the certificates of authentication shall be substantially in the form as in this Supplemental Indenture above recited. Any of the Series B Bonds may have imprinted thereon such legends or endorsements as the officers of the Company executing the same may approve (execution thereof to be conclusive evidence of such approval) and as are not inconsistent with the provisions of the Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any stock exchange on which the Series B Bonds may be listed, or to conform to usage.

§ 1.03. The Series B Bonds shall be issuable as registered Bonds without coupons in denominations of \$1,000 and any multiple of \$1,000, and shall be numbered, lettered or otherwise distinguished in such manner or in accordance with such plan as the officers of the Company may determine with the approval of the Trustee.

Every Series B Bond shall be dated the date of its authentication and, except as provided in this § 1.03, shall bear interest, payable semi-annually on June 15 and December 15 of each year, from the December 15 or June 15, as the case may be, next preceding the date of such Series B Bond to which interest has been paid, unless the date of such Series B Bond is a date to which interest has been paid, in which case from the date of such Series B Bond, or unless no interest has been paid on the Series B Bonds, in which

case from June 15, 1977. Notwithstanding the foregoing, when there is no existing default in the payment of interest on the Series B Bonds, all Series B Bonds authenticated by the Trustee after the close of business on the record date (as hereinafter in this § 1.03 defined) for any interest payment date (June 15 or December 15, as the case may be) and prior to such interest payment date shall be dated the date of authentication but shall bear interest from such interest payment date; *provided, however*, that if and to the extent that the Company shall default in the interest due on such interest payment date then any such Series B Bond shall bear interest from the June 15 or December 15, as the case may be, next preceding the date of such Series B Bond to which interest has been paid, unless no interest has been paid on the Series B Bonds, in which case from June 15, 1977.

The person in whose name any Series B Bond is registered at the close of business on any record date (as hereinafter defined) with respect to any interest payment date shall be entitled to receive the interest payable on such interest payment date notwithstanding the cancellation of such Series B Bond upon any transfer or exchange subsequent to the record date and prior to such interest payment date; *provided, however*, that if and to the extent that the Company shall default in the payment of the interest due on such interest payment date, such defaulted interest shall be paid to the persons in whose names outstanding Series B Bonds are registered on a subsequent record date established by notice given by mail by or on behalf of the Company to the holders of Series B Bonds not less than 15 days preceding such subsequent record date, such subsequent record date to be not less than five days preceding the date of payment of such defaulted interest. The term "record date" as used in this § 1.03 with respect to any interest payment date shall mean the June 1 or December 1, as the case may be, next preceding such interest payment date, whether or not such day is a business day.

§1.04. As long as any of the Series B Bonds remain outstanding, the Trustee may appoint an authenticating agent to act on its behalf and subject to its direction in connection with the authentication of the Series B Bonds. Such authenticating agent shall at all times be a corporation organized and doing business under the laws of the United States or of any State or Territory or of the District of Columbia authorized under such laws to act as authenticating agent, having a combined capital and surplus of at least \$20,000,000, and being subject to supervision or examination by Federal, State, Territorial or District of Columbia authority and having its principal

office and place of business in the Borough of Manhattan, The City of New York.

The Trustee hereby initially appoints Manufacturers Hanover Trust Company, New York, New York, as authenticating agent.

Any corporation into which any authenticating agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which any authenticating agent shall be a party, or any corporation succeeding to the corporate agency business of any authenticating agent, shall continue to be the authenticating agent without the execution or filing of any paper or any further act on the part of the Trustee or the authenticating agent.

Any authenticating agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time terminate the agency of any authenticating agent by giving written notice of termination to such authenticating agent and to the Company. Upon receiving such a notice of resignation or upon such termination, or in case at any time any authenticating agent shall cease to be eligible in accordance with the provisions of this §1.04, the Trustee promptly shall appoint a successor authenticating agent, shall give written notice of such appointment to the Company and shall mail notice of such appointment to all holders of the Series B Bonds as the names and addresses of such holders appear upon the Bond register. Any successor authenticating agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers, duties and responsibilities of its predecessor hereunder, with like effect as if originally named as authenticating agent herein. No successor authenticating agent shall be appointed unless eligible under the provisions of this §1.04.

The Trustee agrees to pay to the authenticating agent from time to time reasonable compensation for its services, and the Trustee shall be entitled to be reimbursed for such payments from the Company.

§ 1.05. ~~As~~ Amounts sufficient to pay at maturity the Series A Bonds and interest thereon to maturity will be deposited with the Trustee pursuant to Section 3.04(e) of the Original Indenture for the benefit of the holders of the Series A Bonds. Such amounts shall be held by the Trustee, as trust funds, solely for the payment in full of principal and interest at maturity of the Series A Bonds and shall not be available for any other purpose and shall not be subject to the claims of the holders of Bonds of any other series. *aws*

PART TWO

REDEMPTION OF SERIES B BONDS—MANDATORY AND
OPTIONAL SINKING FUND

§ 2.01. (a) The Company hereby reserves the right to redeem, at its option, the Series B Bonds, as a whole or from time to time in part, at the optional redemption prices specified in the form of Series B Bond hereinabove set forth and in accordance with the procedures upon redemption set forth therein and in Part Two of this Supplemental Indenture; *provided, however*, that no such redemption shall be effected prior to June 15, 1987 directly or indirectly from or in anticipation of moneys borrowed by or for the account of the Company at an interest cost (calculated in accordance with generally accepted financial practice) of less than 9.176% per annum. In the case of any redemption pursuant to this § 2.01(a) prior to June 15, 1987, the Company will deliver to the Trustee on or prior to the date fixed for redemption an Officers' Certificate stating that such redemption will comply with the provisions of the proviso contained in the foregoing sentence of this § 2.01(a).

(b) The Series B Bonds may also be redeemed in part on June 15, 1983 and on each June 15 thereafter to and including June 15, 2001, through the operation of the sinking fund as set forth in § 2.04 of this Supplemental Indenture, at the sinking fund redemption price set forth in the form of Series B Bond hereinabove recited (hereinafter called the "sinking fund redemption price"), together with accrued interest to the date fixed for redemption.

§ 2.02. In case the Company shall desire to exercise the right to redeem all, or, as the case may be, any part of the Series B Bonds pursuant to § 2.01(a) of this Supplemental Indenture, it shall fix a date for redemption and shall mail a notice of such redemption at least 30, but not more than 60 days prior to the date fixed for redemption to the holders of Series B Bonds so to be redeemed as a whole or in part at their last addresses as the same appear on the Bond register. Such mailing shall be by first class mail. The notice if mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the holder receives such notice. Failure to give such notice by mail or any defect in the notice to the holder of any Series B Bond designated for redemption as a whole or in part

shall not affect the validity of the proceedings for the redemption of any other Series B Bond.

Each such notice of redemption shall specify the date fixed for redemption, the redemption price at which Series B Bonds are to be redeemed, the place or places of payment, that payment will be made upon presentation and surrender of such Bonds, that interest accrued to the date fixed for redemption will be paid as specified in said notice, and that on and after said date interest thereon or on the portions thereof to be redeemed will cease to accrue. If less than all the Series B Bonds are to be redeemed the notice of redemption shall specify the numbers of the Series B Bonds to be redeemed. In case any Series B Bond is to be redeemed in part only, the notice of redemption shall state the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for redemption, upon surrender of such Series B Bond, a new Series B Bond or Bonds in principal amount equal to the unredeemed portion thereof will be issued.

On or before the redemption date specified in the notice of redemption given as provided in this § 2.02, the Company will deposit with the Trustee or with one or more paying agents an amount of money sufficient to redeem on the redemption date all the Series B Bonds so called for redemption at the appropriate redemption price, together with accrued interest to the date fixed for redemption.

If less than all the Series B Bonds are to be redeemed, the Company will give the Trustee notice not less than 45 days prior to the redemption date as to the aggregate principal amount of Series B Bonds to be redeemed, and the Trustee shall select, in such manner as in its sole discretion it shall deem appropriate and fair, the Series B Bonds or portions thereof (in multiples of \$1,000) to be redeemed and advise the Company of the numbers of the Series B Bonds (or portions thereof) so selected.

§ 2.03. If notice of redemption has been given as provided in § 2.02 or § 2.04 of this Supplemental Indenture, Series B Bonds or portions of Series B Bonds with respect to which such notice has been given shall become due and payable on the date and at the place or places stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption, and on and after said date (unless the Company shall

fail to pay the redemption price of such Series B Bonds, together with interest accrued to said date) interest on the Series B Bonds or portions of Series B Bonds so called for redemption shall cease to accrue. On presentation and surrender of such Series B Bonds at the Place of Payment, the said Series B Bonds or the specified portions thereof shall be paid and redeemed by the Company at the applicable redemption price, together with interest accrued thereon to the date fixed for redemption; *provided, however*, that semi-annual instalments of interest becoming due on the date fixed for redemption shall be payable to the holders of such Series B Bonds, or one or more previous Series B Bonds evidencing all or a portion of the same debt as that evidenced by such particular Series B Bonds, registered as such on the relevant record dates according to their terms and the provisions of § 1.03 of this Supplemental Indenture.

Upon presentation of any Series B Bond redeemed in part only, the Company shall execute and the Trustee, or the authenticating agent on its behalf, shall authenticate and deliver to the holder thereof, at the expense of the Company, a new Series B Bond or Bonds, of authorized denominations, in principal amount equal to the unredeemed portion of the Series B Bond so presented.

§ 2.04. As and for a sinking fund for the retirement of Series B Bonds and so long as any of the Series B Bonds remain outstanding and unpaid, the Company shall pay to the Trustee or to one or more paying agents in cash, except as hereinafter provided, on or before June 15, in each year commencing with the year 1983 and thereafter to and including June 15, 2001, an amount sufficient to redeem \$1,000,000 principal amount of Series B Bonds (or the principal amount then outstanding, if less) at the sinking fund redemption price. The last date on which any such payment may be made is herein referred to as a "sinking fund payment date".

At its option the Company may pay into the sinking fund for the retirement of Series B Bonds, on or before each sinking fund payment date, any additional sum in cash (except as hereinafter provided) up to but not exceeding the mandatory sinking fund payment due on such sinking fund payment date. If the Company intends to exercise its right to make any such optional sinking fund payment, it shall deliver to the Trustee at least 45 days prior to the next succeeding sinking fund payment date an Officers' Certificate stating that the Company intends to exercise such optional right and specifying the amount which the Company intends to pay on such

sinking fund payment date. If the Company fails to deliver such certificate at or before the time provided above, the Company shall not be permitted to make any optional sinking fund payment with respect to such sinking fund payment date. To the extent that such right is not exercised in any year it shall not be cumulative or carried forward to any subsequent year. No such optional payment shall operate to reduce the amount of any mandatory sinking fund payment.

If the sinking fund payment or payments (mandatory or optional) to be made in cash plus any unused balance of any preceding sinking fund payments made in cash shall exceed \$50,000 (or a lesser sum if the Company shall so request) on any May 1, such aggregate amount shall be applied by the Trustee or one or more paying agents on the next following June 15 to the redemption of Series B Bonds at the sinking fund redemption price together with accrued interest to the date fixed for redemption. The Trustee shall select, in the manner provided in § 2.02 of this Supplemental Indenture, for redemption on such June 15 a sufficient principal amount of Series B Bonds to absorb said cash, as nearly as may be practicable, and the Trustee shall, at the expense and in the name of the Company, thereupon cause notice of redemption of such Series B Bonds to be given in substantially the manner and with the effect provided in § 2.02 and § 2.03 of this Supplemental Indenture for the redemption of Series B Bonds in part at the option of the Company, except that the notice of redemption shall also state that the Series B Bonds are being redeemed for the sinking fund. Any sinking fund moneys not so applied or allocated by the Trustee or any paying agent to the redemption of Series B Bonds shall be added to the next cash sinking fund payment received by the Trustee or such paying agent and, together with such payment, shall be applied in accordance with the provisions of this § 2.04. Any and all sinking fund moneys held by the Trustee or any paying agent on June 15, 2001, and not held for the payment or redemption of particular Series B Bonds, shall be applied by the Trustee or such paying agent, together with other moneys, if necessary, to be deposited sufficient for the purpose, to the payment of the principal of the Series B Bonds at maturity.

On or before each sinking fund payment date, the Company shall pay to the Trustee or to one or more paying agents in cash a sum equal to all interest accrued to the date fixed for redemption on Series B Bonds to be redeemed on such date pursuant to this § 2.04.

In lieu of making all or any part of any sinking fund payment in cash, the Company at its option (i) may deliver to the Trustee Series B Bonds theretofore purchased by the Company and (ii) may apply as a credit, the amount of Series B Bonds which have been redeemed pursuant to § 2.01(a) of this Supplemental Indenture, provided that such amount of Series B Bonds shall not have previously been so applied. Series B Bonds so delivered or applied shall be credited at the sinking fund redemption price. If the Company intends so to deliver or apply Series B Bonds with respect to any sinking fund payment, it shall deliver to the Trustee at least 45 days prior to the next succeeding sinking fund payment date (a) an Officers' Certificate specifying the respective portions of such sinking fund payment to be satisfied by payment of cash and by the delivery or application of Series B Bonds and (b) (unless previously delivered) such Series B Bonds. All Series B Bonds so delivered to the Trustee shall be cancelled by the Trustee and no Series B Bonds shall be authenticated in lieu thereof. If the Company fails to deliver such certificate and Series B Bonds at or before the time provided above, the Company shall not be permitted to satisfy any portion of such sinking fund payment by delivery or application of Series B Bonds.

Neither the Trustee nor any paying agent shall redeem any Series B Bonds with sinking fund moneys, and the Trustee shall not mail any notice of redemption of Series B Bonds by operation of the sinking fund, during the continuance of a default in payment of interest on the Bonds of any series or of any event of default (other than an event of default occurring as a consequence of this paragraph), except that if the notice of redemption of any Series B Bonds shall theretofore have been mailed in accordance with the provisions hereof, the Trustee or any paying agent shall redeem such Series B Bonds if cash sufficient for that purpose shall be deposited with the Trustee or such paying agent for that purpose in accordance with the terms of this Part Two. Except as aforesaid, any moneys in the sinking fund at the time when any such default or event of default shall occur and any moneys thereafter paid into the sinking fund shall, during the continuance of such default or event of default, be held as security for the payment of all the Series B Bonds; *provided, however*, that in case such default or event of default shall have been cured or waived as provided in the Indenture, such moneys shall thereafter be applied on the next June 15 on which such moneys may be applied pursuant to the provisions of this § 2.04.

Subject to the provisions of Section 17.06 of the Indenture, the Trustee shall not be charged with knowledge of any such default or event of default unless either (a) an officer of the Trustee assigned to its corporate trust administration department shall, as such officer, have actual knowledge thereof or (b) written notice of such default or event of default shall have been given to the Trustee by the Company or by the holders of at least five percent in principal amount of the Series B Bonds at the time outstanding.

PART THREE

AMENDMENTS

§ 3.01. The Original Indenture is hereby supplemented and amended so as to insert therein, immediately following Article Sixteen thereof, new Articles Seventeen, Eighteen, Nineteen and Twenty, reading, respectively, as follows:

ARTICLE SEVENTEEN

ADDITIONAL PROVISIONS CONCERNING THE TRUSTEE

SECTION 17.01. (a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 17.01, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner specified in Section 12.04 hereof and with the effect specified in Section 17.03 hereof, and the Company shall take prompt steps to have a successor appointed in the manner provided in Section 12.05 hereof.

(b) In the event that the Trustee shall fail to comply with the provisions of this Section 17.01, the Trustee shall, within 10 days after the expiration of such 90 day period, transmit notice of such failure to the Bondholders in the manner and to the extent provided in Section 18.04(c) hereof.

(c) For the purposes of this Section 17.01 the Trustee shall be deemed to have a conflicting interest if

(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Bonds issued under this Indenture, provided that there shall be

excluded from the operation of this Section 17.01(c)(1) any indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding if (i) this Indenture and such other indenture or indentures are wholly unsecured, and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of Section 305 or subsection (c) of Section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture or such other indenture or indentures, or (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture or such other indenture or indentures;

(2) the Trustee or any of its directors or executive officers is an obligor upon the Bonds issued under this Indenture or an underwriter for the Company;

(3) the Trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with the Company or an underwriter for the Company;

(4) the Trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee, or representative of the Company; or of an underwriter (other than the Trustee itself) for the Company who is currently engaged in the business of underwriting, except that (A) one individual may be a director or an executive officer or both of the Trustee and a director or an executive officer or both of the Company, but may not be at the same time an executive officer of both the Trustee and the Company; (B) if and so long as the number of directors of the Trustee in office is more than nine, one additional

individual may be a director or an executive officer or both of the Trustee and a director of the Company; and (C) the Trustee may be designated by the Company or by any underwriter for the Company to act in the capacity of transfer agent, registrar, custodian, paying agent, sinking fund agent, fiscal agent, escrow agent, or depository, or in any other similar capacity, or, subject to the provisions of paragraph (1) of this subsection (c), to act as trustee, whether under an indenture or otherwise;

(5) 10% or more of the voting securities of the Trustee is beneficially owned either by the Company or by any director, partner, or executive officer thereof, or 20% or more of such voting securities is beneficially owned, collectively, by any two or more of such persons; or 10% or more of the voting securities of the Trustee is beneficially owned either by an underwriter for the Company or by any director, partner, or executive officer thereof, or is beneficially owned, collectively, by any two or more such persons;

(6) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined in this Section 17.01(c), (A) 5% or more of the voting securities, or 10% or more of any other class of security, of the Company, not including the Bonds issued under this Indenture and securities issued under any other indenture under which the Trustee is also trustee, or (B) 10% or more of any class of security of an underwriter for the Company;

(7) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined in this Section 17.01(c), 5% or more of the voting securities of any person who, to the knowledge of the Trustee, owns 10% or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, the Company;

(8) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined in this Section 17.01(c), 10% or more of any class of security of any person who, to the knowledge of the Trustee, owns 50% or more of the voting securities of the Company; or

(9) the Trustee owns on May 15 in any calendar year, in the capacity of executor, administrator, testamentary or inter vivos trustee,

guardian, committee or conservator, or in any other similar capacity, an aggregate of 25% or more of the voting securities, or of any class of security, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under paragraph (6), (7), or (8) of this Section 17.01(c). As to any such securities of which the Trustee acquired ownership through becoming executor, administrator, or testamentary trustee of an estate which included them, the provisions of the preceding sentence shall not apply for a period of two years from the date of such acquisition, to the extent that such securities included in such estate do not exceed 25% of such voting securities or 25% of any such class of security. Promptly after May 15 in each calendar year, the Trustee shall make a check of its holdings of such securities in any of the above-mentioned capacities as of such May 15. If the Company fails to make payment in full of principal of or interest on any of the Bonds when and as the same become due and payable, and such failure continues for 30 days thereafter, the Trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such 30 day period, and after such date, notwithstanding the foregoing provisions of this paragraph (9), all such securities so held by the Trustee, with sole or joint control over such securities vested in it, shall, but only so long as such failure shall continue, be considered as though beneficially owned by the Trustee for the purposes of paragraphs (6), (7), and (8) of this Section 17.01(c).

The specification of percentages in paragraphs (5) to (9), inclusive, of this Section 17.01(c) shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purposes of paragraph (3) or (7) of this Section 17.01(c).

For the purposes of paragraphs (6), (7), (8), and (9) of this Section 17.01(c) only, (A) the terms "security" and "securities" shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trust companies or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness; (B) an obligation shall be

deemed to be in default when a default in payment of principal shall have continued for 30 days or more and shall not have been cured; and (C) the Trustee shall not be deemed to be the owner or holder of (i) any security which it holds as collateral security (as trustee or otherwise) for an obligation which is not in default as defined in clause (B) above, or (ii) any security which it holds as collateral security under this Indenture, irrespective of any default hereunder, or (iii) any security which it holds as agent for collection, or as custodian, escrow agent, or depository, or in any similar representative capacity.

Except as provided in the next preceding paragraph, the word "security" or "securities" as used in this Indenture shall mean any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

(d) For the purposes of this Section 17.01:

(1) The term "underwriter" when used with reference to the Company shall mean every person who, within three years prior to the time as of which the determination is made, has purchased from the Company with a view to, or has offered or has sold for the Company in connection with, the distribution of any security of the Company outstanding at such time, or has participated or has had a direct or indirect participation in any such undertaking, or has participated or has had a participation in the direct or indirect underwriting of any such undertaking, but such terms shall not include a person whose interest was limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission.

(2) The term "director" shall mean any director of a corporation or any individual performing similar functions with respect to any organization whether incorporated or unincorporated.

(3) The term "person" shall mean an individual, a corporation, a partnership, an association, a joint-stock company, a trust, an unincorporated organization, or a government or political subdivision thereof. As used in this paragraph, the term "trust" shall include only a trust where the interest or interests of the beneficiary or beneficiaries are evidenced by a security.

(4) The term "voting security" shall mean any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a person, or any security issued under or pursuant to any trust, agreement or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such security are presently entitled to vote in the direction or management of the affairs of a person.

(5) The term "Company" shall mean any obligor upon the Bonds.

(6) The term "executive officer" shall mean the president, every vice president, every trust officer, the cashier, the secretary, and the treasurer of a corporation, and any individual customarily performing similar functions with respect to any organization whether incorporated or unincorporated, but shall not include the chairman of the board of directors.

The percentages of voting securities and other securities specified in this Section 17.01 shall be calculated in accordance with the following provisions:

(A) A specified percentage of the voting securities of the Trustee, the Company or any other person referred to in this Section 17.01 (each of whom is referred to as a "person" in this paragraph) means such amount of the outstanding voting securities of such person as entitles the holder or holders thereof to cast such specified percentage of the aggregate votes which the holders of all the outstanding voting securities of such person are entitled to cast in the direction or management of the affairs of such person.

(B) A specified percentage of a class of securities of a person means such percentage of the aggregate amount of securities of the class outstanding.

(C) The term "amount", when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to capital shares, and the number of units if relating to any other kind of security.

(D) The term "outstanding" means issued and not held by or for the account of the issuer. The following securities shall not be deemed outstanding within the meaning of this definition:

(i) Securities of an issuer held in a sinking fund relating to securities of the issuer of the same class;

(ii) Securities of an issuer held in a sinking fund relating to another class of securities of the issuer, if the obligation evidenced by such other class of securities is not in default as to principal or interest or otherwise;

(iii) Securities pledged by the issuer thereof as security for an obligation of the issuer not in default as to principal or interest or otherwise; and

(iv) Securities held in escrow if placed in escrow by the issuer thereof;

provided, however, that any voting securities of an issuer shall be deemed outstanding if any person other than the issuer is entitled to exercise the voting rights thereof.

(E) A security shall be deemed to be of the same class as another security if both securities confer upon the holder or holders thereof substantially the same rights and privileges; *provided, however*, that in the case of secured evidences of indebtedness, all of which are issued under a single indenture, differences in the interest rates or maturity dates of various series thereof shall not be deemed sufficient to constitute such series different classes and *provided, further*, that, in the case of unsecured evidences of indebtedness, differences in the interest rates or maturity dates thereof shall not be deemed sufficient to constitute them securities of different classes, whether or not they are issued under a single indenture.

SECTION 17.02. There shall be at all times a Trustee hereunder which shall be a corporation in good standing organized and doing business under

the laws of the United States or of the State of California or the State of New York, having an office in the City and County of San Francisco, California or the Borough of Manhattan, City and State of New York, which (a) is authorized under such laws to exercise corporate trust powers, and (b) is subject to supervision or examination by Federal or California or New York State authority and (c) shall have at all times a combined capital and surplus of not less than \$20,000,000. If such corporation publishes reports of condition at least annually, pursuant to law, or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 17.02, the combined capital and surplus of such corporation at any time shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 17.02, the Trustee shall resign immediately in the manner specified in Section 12.04 hereof and with the effect specified in Section 17.03 hereof.

SECTION 17.03. In case at any time any of the following shall occur—

(1) the Trustee shall fail to comply with the provisions of Section 17.01(a) hereof after written request therefor by the Company or by any Bondholder who has been a bona fide holder of a Bond or Bonds for at least six months, or

(2) the Trustee shall cease to be eligible in accordance with the provisions of Section 17.02 hereof and shall fail to resign after written request therefor by the Company or by any such Bondholder, or

(3) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, the Company may remove the Trustee and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors of the Company, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, and shall publish notice of any such appointment as provided in Section 12.04 hereof. Subject to the provisions of Section 9.26 hereof, any Bondholder who has been a bona fide holder of a Bond for at least six

months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

Any resignation or removal of the Trustee pursuant to any of the provisions of Section 12.04 hereof or this Section 17.03 and any appointment of a successor trustee pursuant to any of the provisions of Section 12.05 or this Section 17.03 shall become effective upon acceptance of appointment by the successor trustee as provided in the fifth paragraph of Section 12.05 hereof. In the event of any resignation of the Trustee pursuant to Section 12.04 hereof, the date specified by the resigning Trustee pursuant to the first sentence of such Section 12.04 shall be the date of such acceptance of appointment by the successor trustee.

No successor trustee shall accept appointment as provided in this Section 17.03 unless at the time of such acceptance such successor trustee shall be qualified under the provisions of Section 17.01 hereof and eligible under the provisions of Section 17.02 hereof.

Upon acceptance of appointment by a successor trustee as provided in this Section 17.03, the Company shall give notice of the succession of such trustee hereunder to the holders of Bonds as provided in Section 12.05 hereof. If the Company fails to give such notice within ten days after the acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be so given at the expense of the Company.

In case at the time any successor to the Trustee shall succeed to the trusts created by this Indenture pursuant to the provisions of Section 12.03 hereof any of the Bonds shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Bonds so authenticated; and in case at that time any of the Bonds shall not have been authenticated, any successor to the Trustee may authenticate such Bonds either in the name of any predecessor hereunder or in the name of the successor trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Bonds or in this Indenture provided that the certificate of the Trustee shall have; *provided, however*, that the right to adopt the certificate of authentication of any predecessor Trustee or authenticate Bonds in the name

of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

SECTION 17.04. (a) Subject to the provisions of Section 17.04(b) hereof, if the Trustee shall be or shall become a creditor, directly or indirectly, secured or unsecured, of the Company within four months prior to a default, as defined in Section 17.04(c) hereof, or subsequent to such a default, then, unless and until such default shall be cured, the Trustee shall set apart and hold in a special account for the benefit of the Trustee individually, the holders of the Bonds, and the holders of other indenture securities (as defined in paragraph (2) of Section 17.04(c) hereof)

(i) an amount equal to any and all reductions in the amount due and owing upon any claim as such creditor in respect of principal or interest, effected after the beginning of such four-month period and valid as against the Company and its other creditors, except any such reduction resulting from the receipt or disposition of any property described in paragraph (2) of this Section 17.04(a), or from the exercise of any right of set-off which the Trustee could have exercised if a petition in bankruptcy had been filed by or against the Company upon the date of such default; and

(2) all property received by the Trustee in respect of any claim as such creditor, either as security therefor, or in satisfaction or composition thereof, or otherwise, after the beginning of such four-month period, or an amount equal to the proceeds of any such property, if disposed of, *subject, however*, to the rights, if any, of the Company and its other creditors in such property or such proceeds.

Nothing herein contained, however, shall affect the right of the Trustee

(A) to retain for its own account (i) payments made on account of any such claim by any person (other than the Company) who is liable thereon, and (ii) the proceeds of the bona fide sale of any such claim by the Trustee to a third person, and (iii) distributions made in cash, securities, or other property in respect of claims filed against the Company in bankruptcy or receivership or in proceedings for reorganization pursuant to the Federal Bankruptcy Act or applicable State law;

(B) to realize, for its own account, upon any property held by it as security for any such claim, if such property was so held prior to the beginning of such four-month period;

(C) to realize, for its own account, but only to the extent of the claim hereinafter mentioned, upon any property held by it as security for any such claim, if such claim was created after the beginning of such four-month period and such property was received as security therefor simultaneously with the creation thereof, and if the Trustee shall sustain the burden of proving that at the time such property was so received the Trustee had no reasonable cause to believe that a default, as defined in Section 17.04(c) hereof, would occur within four months; or

(D) to receive payment on any claim referred to in the foregoing paragraph (B) or (C), against the release of any property held as security for such claim as provided in such paragraph (B) or (C), as the case may be, to the extent of the fair value of such property.

For the purposes of the foregoing paragraphs (B), (C) and (D), property substituted after the beginning of such four-month period for property held as security at the time of such substitution shall, to the extent of the fair value of the property released, have the same status as the property released, and, to the extent that any claim referred to in any of such paragraphs is created in renewal of or in substitution for or for the purpose of repaying or refunding any pre-existing claim of the Trustee as such creditor, such claim shall have the same status as such pre-existing claim.

If the Trustee shall be required to account, the funds and property held in such special account and the proceeds thereof shall be apportioned between the Trustee, the Bondholders and the holders of other indenture securities in such manner that the Trustee, the Bondholders and the holders of other indenture securities realize, as a result of payments from such special account and payments of dividends on claims filed against the Company in bankruptcy or receivership or in proceedings for reorganization pursuant to the Federal Bankruptcy Act or applicable State law, the same percentage of their respective claims, figured before crediting to the claim of the Trustee anything on account of the receipt by it from the Company of the funds and property in such special account and before crediting to the respective claims of the Trustee, the Bondholders, and the holders of other indenture securities dividends on claims filed against the Company in bankruptcy or receivership or in proceedings for reorganization pursuant to the Federal Bankruptcy Act or applicable State law, but after crediting thereon receipts on account of the indebtedness represented by their

respective claims from all sources other than from such dividends and from the funds and property so held in such special account. As used in this paragraph, with respect to any claim, the term "dividends" shall include any distribution with respect to such claim, in bankruptcy or receivership or in proceedings for reorganization pursuant to the Federal Bankruptcy Act or applicable State law, whether such distribution is made in cash, securities, or other property, but shall not include any such distribution with respect to the secured portion, if any, of such claim. The court in which such bankruptcy, receivership, or proceeding for reorganization is pending shall have jurisdiction (i) to apportion between the Trustee, the Bondholders, and the holders of other indenture securities, in accordance with the provisions of this paragraph, the funds and property held in such special account and the proceeds thereof, or (ii) in lieu of such apportionment, in whole or in part, to give to the provisions of this paragraph due consideration in determining the fairness of the distributions to be made to the Trustee, the Bondholders and the holders of other indenture securities with respect to their respective claims, in which event it shall not be necessary to liquidate or to appraise the value of any securities or other property held in such special account or as security for any such claim, or to make a specific allocation of such distributions as between the secured and unsecured portions of such claims, or otherwise to apply the provisions of this paragraph as a mathematical formula.

Any Trustee who has resigned or been removed after the beginning of such four-month period shall be subject to the provisions of this Section 17.04(a) as though such resignation or removal had not occurred. If any Trustee has resigned or been removed prior to the beginning of such four-month period, it shall be subject to the provisions of this Section 17.04(a) if and only if the following conditions exist:

(i) the receipt of property or reduction of claim which would have given rise to the obligation to account, if such Trustee had continued as trustee, occurred after the beginning of such four-month period; and

(ii) such receipt of property or reduction of claim occurred within four months after such resignation or removal.

(b) There shall be excluded from the operation of this Section 17.04 a creditor relationship arising from

(1) the ownership or acquisition of securities issued under any indenture, or any security or securities having a maturity of one year or more at the time of acquisition by the Trustee;

(2) advances authorized by a receivership or bankruptcy court of competent jurisdiction, or by this Indenture, for the purpose of preserving any property which shall at any time be subject to the lien of this Indenture or of discharging tax liens or other prior liens or encumbrances thereon, if notice of such advance and of the circumstances surrounding the making thereof is given to the Bondholders at the time and in the manner provided in Section 18.04 hereof with respect to reports pursuant to Section 18.04(a) and Section 18.04(b) hereof, respectively;

(3) disbursements made in the ordinary course of business in the capacity of trustee under an indenture, transfer agent, registrar, custodian, paying agent, fiscal agent or depository, or other similar capacity;

(4) an indebtedness created as a result of services rendered or premises rented; or an indebtedness created as a result of goods or securities sold in a cash transaction as defined in Section 17.04(c) hereof;

(5) the ownership of stock or of other securities of a corporation organized under the provisions of Section 25(a) of the Federal Reserve Act, as amended, which is directly or indirectly a creditor of the Company; or

(6) the acquisition, ownership, acceptance or negotiation of any drafts, bills of exchange, acceptances or obligations which fall within the classification of self-liquidating paper as defined in Section 17.04(c) hereof.

(c) As used in this Section 17.04:

(1) The term "default" shall mean any failure to make payment in full of the principal of or interest upon any of the Bonds or upon the other indenture securities when and as such principal or interest becomes due and payable;

(2) The term "other indenture securities" shall mean securities upon which the Company is an obligor (as defined in the Trust Indenture Act of 1939) outstanding under any other indenture (i) under which the Trustee is also trustee, (ii) which contains provisions substantially similar to the provisions of Section 17.04(a) hereof, and (iii) under which a default exists at the time of the apportionment of the funds and property held in said special account;

(3) The term "cash transaction" shall mean any transaction in which full payment for goods or securities sold is made within seven days after delivery of the goods or securities in currency or in checks or other orders drawn upon banks or bankers and payable upon demand;

(4) The term "self-liquidating paper" shall mean any draft, bill of exchange, acceptance or obligation which is made, drawn, negotiated or incurred by the Company for the purpose of financing the purchase, processing, manufacture, shipment, storage or sale of goods, wares or merchandise and which is secured by documents evidencing title to, possession of, or a lien upon, the goods, wares or merchandise or the receivables or proceeds arising from the sale of the goods, wares or merchandise previously constituting the security; *provided* that the security is received by the Trustee simultaneously with the creation of the creditor relationship with the Company arising from the making, drawing, negotiating or incurring of the draft, bill of exchange, acceptance or obligation;

(5) the term "Company" shall mean any obligor upon the Bonds.

SECTION 17.05. The Trustee shall, within 90 days after the occurrence of a default, mail to the holders of Bonds, in the manner and to the extent provided in Section 18.04(c) hereof, notice of all defaults known to the Trustee, unless such defaults shall have been cured before the giving of such notice (the term "defaults" for the purposes of this Section 17.05 being hereby defined to be the events specified in clauses (a), (b), (c), (d), (e) and (f) of Section 9.02 hereof, not including periods of grace, if any, provided for therein and irrespective of the giving of written notice specified in clause (d) of such Section 9.02); *provided, however*, that, except in the case of default in the payment of the principal of, premium, if any, or interest on any of the Bonds, or in the payment of any sinking fund installment, the Trustee shall be protected in withholding such notice if and

so long as the board of directors, the executive committee, or a trust committee of directors and/or responsible officers of the Trustee in good faith determine that the withholding of such notice is in the interests of the Bondholders.

SECTION 17.06. The Trustee, prior to the occurrence of an event of default and after the curing or waiving of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. Notwithstanding any other provision in this Indenture, in case an event of default has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that

(a) prior to the occurrence of an event of default and after the curing or waiving of all events of default which may have occurred

(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

(b) the Trustee shall not be liable for any error of judgment made in good faith by an officer or officers of the Trustee, unless it shall be

proved that the Trustee was negligent in ascertaining the pertinent facts; and

(c) the Trustee shall not be liable with respect to any action taken, suffered or omitted to be taken by it in good faith, in accordance with the direction of the holders of not less than a majority in principal amount of the Bonds at the time outstanding, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or liability is not reasonably assured to it.

SECTION 17.07. The provisions of Section 17.01, Section 17.03 (other than clause (2) of such Section 17.03), Section 17.04 and Section 17.06 hereof applicable to the Trustee shall be applicable to each co-trustee and separate trustee (referred to collectively as an additional trustee) as though such additional trustee were named as the Trustee in such Sections; *provided, however*, that nothing contained in this Indenture shall be deemed to require the appointment of a successor to an additional trustee upon the resignation or removal of such additional trustee.

ARTICLE EIGHTEEN

BONDHOLDERS LISTS AND REPORTS BY THE COMPANY AND THE TRUSTEE

SECTION 18.01. The Company will furnish or cause to be furnished to the Trustee:

(a) semi-annually, not more than 15 days after each record date with respect to the Bonds, (i) a list, in such form as the Trustee may reasonably require, of the names and addresses of the registered holders of such Bonds as of such record date and (ii) all other information in the possession or control of the Company, or of any paying agents, as to the names and addresses of the holders of Bonds, and

(b) at such other times as the Trustee may request in writing, within 30 days after receipt by the Company of any such request, a list,

and such other information, of similar form and content, as of a date not more than 15 days prior to the time such list is furnished

except that no such list need be furnished with respect to the holders of registered Bonds of a series for which the Trustee is acting as Bond registrar.

SECTION 18.02. (a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of Bonds (i) contained in the most recent list and other information furnished to it as provided in Section 18.01 or (ii) received by it in the capacity of paying agent or Bond registrar (if so acting) hereunder. The Trustee may destroy any list furnished to it as provided in Section 18.01 upon receipt of a new list so furnished.

(b) In case three or more holders of Bonds (hereinafter referred to as "applicants") apply in writing to the Trustee and furnish to the Trustee reasonable proof that each such applicant has owned a Bond for a period of at least 6 months preceding the date of such application, and such application states that the applicants desire to communicate with other holders of Bonds with respect to their rights under this Indenture or under the Bonds and is accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, then the Trustee shall within 5 business days after the receipt of such application, at its election, either:

(1) afford such applicants access to the information preserved at the time by the Trustee in accordance with the provisions of Section 18.02(a); or

(2) inform such applicants as to the approximate number of holders of Bonds whose names and addresses appear in the information preserved at the time by the Trustee in accordance with the provisions of Section 18.02(a), and as to the approximate cost of mailing to such Bondholders the form of proxy or other communication, if any, specified in such application.

If the Trustee shall elect not to afford such applicants access to such information, the Trustee shall, upon the written request of such applicants, mail to each Bondholder whose name and address appear in the information preserved at the time by the Trustee in accordance with the provisions of

Section 18.02(a) a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of mailing, unless within 5 days after such tender, the Trustee shall mail to such applicants and file with the Securities and Exchange Commission, together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of the Trustee, such mailing would be contrary to the best interests of the holders of Bonds or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If said Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections or if, after the entry of an order sustaining one or more of such objections, said Commission shall find, after notice and opportunity for hearing, that all the objections so sustained have been met and shall enter an order so declaring, the Trustee shall mail copies of such material to all such Bondholders with reasonable promptness after the entry of such order and the renewal of such tender; otherwise the Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

(c) Each and every holder of the Bonds and coupons, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any paying agent nor any Bond registrar shall be held accountable by reason of the disclosure of any information as to the names and addresses of the holders of Bonds in accordance with the provisions of this Section 18.02, regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under this Section 18.02.

SECTION 18.03. The Company agrees:

(1) to file with the Trustee, within 15 days after the Company is required to file the same with the Securities and Exchange Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as such Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with such Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act

of 1934; or, if the Company is not required to file information, documents or reports pursuant to either of such Sections, then to file with the Trustee and the Securities and Exchange Commission, in accordance with the rules and regulations prescribed from time to time by said Commission, such of the supplementary and periodic information, documents and reports in respect of the Company, which may be required pursuant to Section 13 of the Securities Exchange Act of 1934 in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations;

(2) to file with the Trustee and the Securities and Exchange Commission, in accordance with the rules and regulations prescribed from time to time by said Commission, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants provided for in this Indenture as may be required from time to time by such rules and regulations, including, in the case of annual reports, if required by such rules and regulations, certificates or opinions of independent public accountants as to compliance with conditions or covenants, compliance with which is subject to verification by accountants, but no such certificate or opinion shall be required as to (i) dates or periods not covered by annual reports required to be filed by the Company, in the case of conditions precedent which depend upon a state of facts as of a date or dates or for a period or periods different from that required to be covered by such annual reports, or (ii) the amount and value of property additions (other than certificates or opinions of engineers, appraisers or other experts as to the fair value to the Company of any property additions made the basis for the authentication and delivery of Bonds, the withdrawal of cash constituting a part of the trust estate, or the release of property or securities subject to the lien of this Indenture, which are required to be filed with the Trustee by the provisions of Section 19.02(3) hereof) or (iii) the adequacy of depreciation, maintenance or repairs; and

(3) to transmit by mail to the holders of Bonds, in the manner and to the extent provided in Section 18.04(c) hereof, within 30 days after the filing thereof with the Trustee, such summaries of any information, documents and reports required to be filed by the Company pursuant to subsections (1) and (2) of this Section 18.03 as may be required by the

rules and regulations prescribed from time to time by the Securities and Exchange Commission.

SECTION 18.04. (a) The Trustee shall transmit by mail, on or before July 15 in each year beginning with the year 1978, to the holders of Bonds as hereinafter in this Section 18.04 provided, a brief report dated as of May 15 of such year with respect to:

(1) its qualification under Section 17.01 hereof and its eligibility under Section 17.02 hereof, or in lieu thereof, if to the best of its knowledge it has continued to be qualified and eligible under such Sections, a written statement to such effect;

(2) the qualification under Section 17.01 hereof of each additional trustee, if any, or in lieu thereof, if the reports furnished to the Trustee by the respective additional trustees pursuant to Section 18.05 hereof shall state that, to the best of the knowledge and belief of such additional trustees, respectively, they have continued to be qualified under said Section 17.01, a written statement to such effect;

(3) the character and amount of any advances (and if the Trustee elects so to state, or if any additional trustee making such advances requests the Trustee so to state, the circumstances surrounding the making thereof) made by the Trustee, or by any additional trustee, as such, which remain unpaid on the date of such report, and for the reimbursement of which the Trustee or such additional trustee claims or may claim a lien or charge, prior to that of the Bonds, on the trust estate, including property or funds held or collected by it as Trustee, if such advances so remaining unpaid aggregate more than one-half of one per cent of the principal amount of the Bonds outstanding on the date of such report;

(4) the amount, interest rate, and maturity date of all other indebtedness owing by the Company to the Trustee, or to any additional trustee, in its individual capacity on the date of such report, with a brief description of any property held as collateral security therefor, except an indebtedness based upon a creditor relationship arising in any manner described in paragraph (2), (3), (4) or (6) of Section 17.04(b) hereof;

(5) the property and funds physically in the possession of the Trustee or any additional trustee, as such, or of a depository for any such Trustee or additional trustee, on the date of such report;

(6) any release, or release and substitution, of property subject to the lien of this Indenture (and the consideration therefor, if any) made subsequent to June 15, 1977 which it has not previously reported; *provided, however*, that if the aggregate value of all the property the release of which is so reported, as shown by the certificates or opinions filed pursuant to the provisions of Section 19.02 hereof, does not exceed 1% of the principal amount of the Bonds then outstanding, the report need only indicate the number of such releases, the total value of property released as shown by such certificates or opinions, the aggregate amount of cash and purchase money obligations and the aggregate value of other securities and property substituted therefor as shown by such certificates or opinions;

(7) any additional issue of Bonds made subsequent to the original issue of the Series B Bonds which it has not previously reported; and

(8) any action taken subsequent to the original issue of the Series B Bonds by the Trustee or by any additional trustee in the performance of its duties under this Indenture which the Trustee has not previously reported and which in the opinion of the Trustee which shall have taken such action materially affects the Bonds or the trust estate, except action in respect of a default, notice of which has been or is to be withheld by the trustee in accordance with the provisions of Section 17.05 hereof.

(b) The Trustee shall transmit by mail to the holders of Bonds as hereinafter in this Section 18.04 provided, within 90 days after the making, subsequent to the original issue of the Series B Bonds, of any release or advance as hereinafter specified, a brief report with respect to:

(1) the release, or release and substitution, of property subject to the lien of this Indenture (and the consideration therefor, if any) unless the fair value of such property, as set forth in the certificate or opinion required by Section 19.02 hereof, is less than 10% of the principal amount of the Bonds outstanding at the time of such release, or such release and substitution; and

(2) the character and amount of any advances (and if the Trustee elects so to state, or if any additional trustee making such advances requests the Trustee so to state, the circumstances surrounding the making thereof) made by the Trustee, or by any additional trustee, as such, since the date of the last report transmitted pursuant to the provisions of Section 18.04(a) hereof (or if no such report has yet been so transmitted, since June 15, 1977) for the reimbursement of which the Trustee or any additional trustee claims or may claim a lien or charge, prior to that of the Bonds, on the trust estate, including property or funds held or collected by any of them as Trustee, or additional trustee, and which has not previously been reported pursuant to this paragraph (2), if such advances remaining unpaid at any time aggregate more than 10% of the principal amount of the Bonds outstanding at such time.

(c) Reports pursuant to this Section 18.04 shall be transmitted by mail (i) to all holders of Bonds as the names and addresses of such holders appear upon the registration books of the Company; (ii) to such other holders of Bonds as have, within two years preceding such transmission, filed their names and addresses with the Trustee for such purpose; and (iii) except in the case of reports pursuant to Section 18.04(b) hereof, to all holders of Bonds as the names and addresses of such holders appear in the information preserved at the time by the Trustee in accordance with the provisions of Section 18.02 hereof.

(d) A copy of each such report shall, at the time of such transmission to Bondholders, be filed by the Trustee with each stock exchange upon which any Bonds are listed and also with the Securities and Exchange Commission. Upon the listing of the Bonds or any series thereof upon any stock exchange the Company will so advise the Trustee.

(e) The Trustee may state in any report made pursuant to the provisions of this Section 18.04, if such be the fact, that any or all information therein contained in respect of any additional trustee is based on reports made to the Trustee by such additional trustee pursuant to the provisions of Section 18.05 hereof, and, subject to the provisions of Section 12.01, Section 17.06 and Section 17.07 hereof, shall incur no liability for any statement made on the basis of any such report. If any additional trustee shall fail to furnish to the Trustee, pursuant to the provisions of said Section 18.05, within a reasonable time before the Trustee is required to make any

report under this Section 18.04, the information required to be included in such report in respect of such additional trustee, the Trustee shall be under no liability for failure to include such information in such report, but shall state in such report (if it knows that such information was required to be furnished) that such additional trustee failed to furnish such information.

SECTION 18.05. Each additional trustee, if any, shall report to the Trustee, in writing, not less than 15 days before the Trustee is required to make any report pursuant to the provisions of Section 18.04(a), all information concerning such additional trustee which the Trustee is required to report to Bondholders pursuant to paragraphs (2), (3), (4), (5), (6) and (8) of said Section 18.04(a).

In case of any release of property or any advance by any additional trustee which the Trustee would be required to report pursuant to the provisions of Section 18.04(b) hereof, such additional trustee shall, within 60 days after such release or such advance shall have been made, furnish to the Trustee, in writing, all information necessary to enable the Trustee to make the required report regarding such release or such advance.

ARTICLE NINETEEN

ADDITIONAL PROVISIONS AS TO CERTIFICATES AND OPINIONS

SECTION 19.01. Upon any application or demand by the Company to the Trustee for the authentication and delivery of Bonds under this Indenture, the release or the release and substitution of property subject to the lien of this Indenture, the satisfaction and discharge of this Indenture, or the taking of any other action by the Trustee under any of the provisions of this Indenture if such action shall be subject to conditions precedent to be complied with by the Company, the Company will furnish to the Trustee:

(i) an Officers' Certificate stating that in the opinion of the signers all conditions precedent, if any, provided for in the Indenture relating to the proposed action have been complied with;

(ii) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with; and

(iii) in the case of the authentication and delivery of Bonds under the provisions of Article Three hereof which require, as a condition precedent to such authentication and delivery, a showing as to Net Cost

of Additions and Betterments, Cost of Purchased Property and Securities or satisfaction of the conditions specified in Section 3.03(2) or in Section 3.03(8) hereof, a certificate or opinion of an accountant as to compliance by the Company with such conditions precedent; such accountant shall be an independent public accountant if the aggregate principal amount of such Bonds and of other Bonds authenticated and delivered under this Indenture since the commencement of the then current calendar year (other than those with respect to which a certificate or opinion of an accountant is not required, or with respect to which a certificate or opinion of an independent public accountant has previously been furnished) is 10% or more of the aggregate principal amount of the Bonds at the time outstanding; but no such certificate or opinion need be made by any person other than the Chief Financial Officer, Comptroller, Auditor, Treasurer, Assistant Comptroller, Assistant Auditor or Assistant Treasurer of the Company as to:

(A) dates or periods not covered by annual reports required to be filed by the Company with the Trustee, in the case of conditions precedent which depend upon a state of facts as of a date or dates or for a period or periods different from that required to be covered by such annual reports;

(B) the amount and value of additional property, except as provided in Section 19.02(3) hereof; or

(C) the adequacy of depreciation, maintenance or repairs.

SECTION 19.02. Notwithstanding any other provision in this Indenture, the Company will furnish to the Trustee, in addition to or as part of any certificate or opinion required by other applicable provisions of this Indenture:

(1) A certificate or opinion of an engineer, appraiser, or other expert as to the fair value, as of approximately the date of the application for the release, of any property or securities to be released from the lien of this Indenture pursuant to the provisions of Article Eleven hereof, which certificate or opinion shall state that in the opinion of the person making the same the proposed release will not impair the security under this Indenture in contravention of the provisions hereof; such certificate or opinion shall be made by an independent engineer,

appraiser, or other expert, if the fair value of such property or securities and of all other property or securities so released since the commencement of the then current calendar year, as set forth in the certificates or opinions required by this Section 19.02(1), is 10% or more of the aggregate principal amount of the Bonds at the time outstanding; but such a certificate or opinion of an independent engineer, appraiser, or other expert shall not be required in the case of any release of property or securities, if the fair value thereof as set forth in the certificate or opinion required by this Section 19.02(1) is less than \$25,000 or less than 1% of the aggregate principal amount of Bonds at the time outstanding;

(2) A certificate or opinion of an engineer, appraiser, or other expert as to the fair value to the Company, as of approximately the date of the application for the authentication and delivery of Bonds, the withdrawal of cash, or the release of property or securities, as the case may be, of any securities (other than Bonds issued under this Indenture and securities secured by a lien prior to the lien of this Indenture upon property subject to the lien hereof), the deposit of which with the Trustee is to be made the basis (pursuant to the provisions of Article Three or the provisions of Article Eleven hereof) for the authentication and delivery of Bonds, the withdrawal of cash constituting a part of the trust estate, or the release of property or securities subject to the lien of this Indenture; if the fair value to the Company of such securities and of all other securities made the basis for any such authentication and delivery, withdrawal or release since the commencement of the then current calendar year, as set forth in the certificates or opinions required by this Section 19.02(2), is 10% or more of the aggregate principal amount of the Bonds at the time outstanding, such certificate or opinion shall be made by an independent engineer, appraiser, or other expert and, in the case of the authentication and delivery of Bonds, shall cover the fair value to the Company of all other such securities so deposited since the commencement of the current calendar year as to which a certificate or opinion of an independent engineer, appraiser, or other expert has not previously been furnished; but such a certificate of an independent engineer, appraiser, or other expert shall not be required with respect to any securities so deposited if the fair value thereof to the Company as set forth in the certificate or opinion required by this

Section 19.02(2) is less than \$25,000 or less than 1% of the aggregate principal amount of the Bonds at the time outstanding; and

(3) A certificate or opinion of an engineer, appraiser, or other expert as to the fair value to the Company, as of approximately the date of the application for the authentication and delivery of Bonds, the withdrawal of cash, or the release of property or securities, as the case may be, of any property, the subject of which to the lien of this Indenture is to be made the basis (pursuant to the provisions of Article Three or the provisions of Article Eleven hereof) for the authentication and delivery of Bonds, the withdrawal of cash constituting a part of the trust estate, or the release of property or securities subject to the lien of this Indenture; and if

(a) within six months prior to the date of acquisition thereof by the Company, such property has been used or operated by a person or persons other than the Company in a business similar to that in which it has been or is to be used or operated by the Company, and

(b) the fair value to the Company of such property as set forth in such certificate or opinion is not less than \$25,000 and not less than 1% of the aggregate principal amount of Bonds at the time outstanding,

such certificate or opinion shall be made by an independent engineer, appraiser, or other expert, and, in the case of the authentication and delivery of Bonds, shall cover the fair value to the Company (which may be as of the date of the valuation set forth in the certificate or opinion previously furnished the Trustee in connection therewith) of any property so used or operated which has been subjected to the lien of this Indenture and used as the basis for any action as aforesaid since the commencement of the then current calendar year, and as to which a certificate or opinion of an independent engineer, appraiser, or other expert has not previously been furnished.

SECTION 19.03. In cases under this Article Nineteen in which a certificate or opinion is required to be made by an independent person, such certificate or opinion shall be made by an independent public accountant,

engineer, appraiser, or other expert, as the case may be, selected by the Company and approved by the Trustee in the exercise of reasonable care, and such certificate or opinion shall state that such person is "independent", as that term is defined in Section 19.06 hereof; in cases where such certificate or opinion is not required to be made by an independent person, such certificate or opinion may, except as otherwise provided in this Article Nineteen, be a certificate of an officer or employee of the Company or Opinion of Counsel, as the case may be.

SECTION 19.04. The Company will, so long as any bonds are outstanding hereunder, furnish to the Trustee:

(1) Promptly after the execution and delivery of each indenture supplemental hereto, executed and delivered after June 15, 1977 (including the Supplemental Indenture dated as of June 15, 1977), an Opinion of Counsel either stating that in the opinion of such counsel such supplemental indenture has been properly recorded and filed so as to make effective the lien, if any, intended to be created thereby, and reciting the details of such action, or stating that in the opinion of such counsel no such action is necessary to make such lien, if any, effective. The requirements of this Section 19.04(1) shall have been complied with (i) if such Opinion of Counsel shall state that such supplemental indenture has been received for recording or filing in each public office in which it is required to be recorded or filed and that in the opinion of such counsel such receipt for recording or filing makes effective the lien thereof, if any; and (ii) if such Opinion of Counsel is delivered to the Trustee within such time, following the date of the execution and delivery of such supplemental indenture, as shall be practicable having due regard to the location and number of the public offices in which the same is required to be recorded or filed; and

(2) On or before June 15 in each year, beginning with the year 1978, an Opinion of Counsel either stating that in the opinion of such counsel such action has been taken with respect to the recording, filing, re-recording and refiling of this Indenture and of each indenture supplemental hereto as is necessary to maintain the lien hereof and thereof and reciting the details of such action, or stating that in the opinion of such counsel no such action is necessary to maintain such lien.

SECTION 19.05. Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include (a) a statement that the person making such certificate or opinion has read such covenant or condition; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (c) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (d) a statement as to whether or not in the opinion of such person, such condition or covenant has been complied with.

SECTION 19.06. For the purposes of this Indenture, the term "independent", when applied to any accountant, engineer, appraiser or other expert, shall mean such a person who (a) is in fact independent; (b) does not have any substantial interest, direct or indirect, in the Company or in any other obligor upon the Bonds issued hereunder or in any person directly or indirectly controlling, or controlled by, or under direct or indirect common control with, the Company or any such other obligor; and (c) is not connected with the Company or any other obligor upon the Bonds issued hereunder or any person directly or indirectly controlling, or controlled by, or under direct or indirect common control with, the Company or any such other obligor, as an officer, employee, promoter, underwriter, trustee, partner, or person performing similar functions.

For the purposes of this Indenture, the term "control" shall mean the power to direct the management and policies of a person, directly or through one or more intermediaries, whether through the ownership of voting securities, by contract, or otherwise, and the terms "controlling" and "controlled" shall have meanings correlative to the foregoing.

ARTICLE TWENTY

PROVISIONS AS TO PAYING AGENTS AND MISCELLANEOUS ADDITIONAL PROVISIONS

SECTION 20.01. (a) All moneys received by any Trustee whether as Trustee or paying agent shall, until used or applied as in this Indenture provided, be held in trust for the purposes for which they were received, but

need not be segregated from other funds except to the extent required by law.

(b) The Company will require each paying agent (other than the Company and the Trustee) to execute and deliver to the Trustee an undertaking that, subject to the provisions of this Section 20.01, such paying agent will hold in trust for the benefit of the Bondholders or holders of coupons, as the case may be, all sums held by such paying agent for the payment of the principal of, premium, if any, or interest on the Bonds and will give to the Trustee notice of any default by the Company in the making of any such payments. Such paying agent shall not be obligated to segregate such sums from other sums of such paying agent, except to the extent required by law.

(c) Anything in this Section to the contrary notwithstanding, the Company may at any time, for the purpose of obtaining a release or satisfaction of this Indenture or for any other purpose, cause to be paid to the Trustee all sums held in trust by any paying agent as required by this Section 20.01, such sums to be held by the Trustee upon the trusts herein contained.

SECTION 20.02. (a) Except as otherwise specifically provided in Section 20.02(b) hereof, whenever reference is made in this Indenture to the Trust Indenture Act of 1939, reference is made to such Act as in force on June 15, 1977.

(b) Any supplemental indenture entered into subsequent to June 15, 1977 pursuant to any authorization contained in this Indenture shall comply with the provisions of the Trust Indenture Act of 1939 as then in effect unless no Bonds are then outstanding under this Indenture and all Bonds to be issued under this Indenture as supplemented by such supplemental indenture shall either be themselves exempt from the provisions of such Act or are to be issued in a transaction exempt therefrom.

(c) If and to the extent that any provision of this Indenture limits, qualifies or conflicts with any other provision of the Indenture which is required to be included therein by any of Sections 310 to 317, inclusive, of the Trust Indenture Act of 1939, such required provision shall control.

§ 3.02. The Original Indenture is hereby further supplemented and amended as follows:

(a) The following shall be substituted for Part II of the First Granting Clause of the Original Indenture:

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—Tracy to Teekay (formerly Carbona to Kerlinger)

A branch line of railroad having its initial point and connection with the Company's main line at or near Tracy, San Joaquin County, California, and extending thence in a general southwesterly direction to Teekay, San Joaquin County, California; being about 1.92 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 12.34 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—Delle to Rowley

A branch line of railroad having its initial point and connection with the Company's main line at or near Delle, Tooele County, Utah, and extending thence in a general northerly direction to Rowley, Tooele County, Utah; being about 11.15 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 5.89 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.

(b) The property mortgaged and assigned to the Trustee pursuant to the Fifth Granting Clause of the Original Indenture shall be released from such mortgage and all such property shall be excepted and reserved out of the conveyances, mortgages and pledges of the Original Indenture.

(c) The following shall be inserted in the Granting Clauses of the Original Indenture immediately following the second proviso thereto:

"AND PROVIDED FURTHER, that there is hereby excepted and reserved out of the conveyances, mortgages and pledges hereby made all of the timber and all of the coal, oil, gas,

sulphur, iron, uranium, and other minerals, including, without limitation, geothermal reserves (whether similar or dissimilar to the minerals herein specifically mentioned, and whether now known to exist or hereafter discovered), and any interest, right or title of any kind or character whatsoever in said timber and minerals in, under or upon the property and premises at any time subject to the lien of the Indenture, and all structures, equipment, and facilities used or provided in connection therewith, and the Company, its lessees, successors or assigns, shall have the right of ingress and egress over, on or upon any and all of the property and premises subject to the lien of the Indenture at any and all times for the purpose of developing, exploring for, drilling, mining, removing or processing said timber and minerals in, under or upon the above-described property and premises, subject to the limitation that the use of the property and premises subject to the lien of the Indenture for railroad purposes may not be interfered with or adversely affected;

"AND PROVIDED FURTHER, that there is hereby excepted and reserved out of the conveyances, mortgages and pledges hereby made any air rights in connection with the trust estate, provided that the use of such air rights does not unreasonably interfere with or adversely affect the use for railroad purposes of the surface of the earth beneath such air rights (the term "air rights" as used herein being deemed to include any estate or interest in space above the surface of the earth, together with any estate or interest in the surface or sub-surface below any space which is conveyed with such space for the purpose of providing support for, or access to, or any other right necessary in connection with, any structure or structures within such space or to be constructed within such space);".

(d) The following definitions shall be inserted in Section 1.02 of the Original Indenture:

"The term "authenticating agent" shall mean the authenticating agent, if any, appointed by the Trustee pursuant to any supplemental indenture hereto until a successor

authenticating agent shall have become such pursuant to such supplemental indenture and thereafter shall mean each such successor;

"The term *"business day"* shall mean each day which is neither a Saturday, Sunday nor other day on which banking institutions in New York or California are authorized or required by law or executive order to be closed;

"The term *"consolidated net income"* shall mean the amount of consolidated net income (or deficit) of the Company and its subsidiaries for such period determined on a consolidated basis in accordance with generally accepted accounting principles; *provided, however*, that there shall not be included in consolidated net income any net income (or net loss) of a subsidiary for any period during which it was not a subsidiary, or any net income (or net loss) of any business, properties or assets acquired (by way of merger, consolidation, purchase or otherwise) by the Company or any subsidiary for any period prior to the acquisition thereof;

"The term *"net income"* of any corporation for any period means the amount of net income of such corporation properly attributable to the conduct of the business for such period, as determined in accordance with generally accepted accounting principles;

"The term *"Opinion of Counsel"* shall mean a written opinion of Counsel;

"The term *"Place of Payment"* shall mean the Borough of Manhattan, The City of New York."

(e) The following shall be inserted at the end of the definition of "Cost" in Section 1.02 of the Original Indenture, after "therein" and before the period:

"but not exceeding the cost thereof to the Company of such securities".

(f) The following shall be inserted after "Assistant Secretaries" in the first sentence of the second paragraph of Section 2.02 of the Original Indenture:

"(the signature of either of whom may be a facsimile signature)".

(g) The following shall be inserted at the end of the first paragraph of Section 2.05 of the Original Indenture, after "Trustee" and before the period:

"; *provided, however*, that if any series of Bonds are to be registered and transferred only at an office or agency other than in the City and County of San Francisco, California, the Company shall not be required to maintain an office or agency in San Francisco, California therefor".

(h) The following shall be deleted from the ninth paragraph of Section 2.05 of the Original Indenture:

"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"

(i) The reference to "\$3,000,000" in Section 3.02 of the Original Indenture shall be changed to "\$10,000,000".

(j) The following shall be substituted for Clause (D)(1) of the first paragraph of Section 3.03 of the Original Indenture:

"(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 since May 1, 1977;"

(k) The following shall be substituted for clause (b)(i) of the second paragraph of Section 3.03 of the Original Indenture:

"(i) That the Company since May 1, 1977, made, constructed, purchased or otherwise acquired certain Additions (describing them in reasonable detail); 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;"

(l) The following shall be inserted as a new Section 3.10 immediately following Section 3.09 in the Original Indenture:

"SECTION 3.10. Anything in this Indenture contained to the contrary notwithstanding, Bonds authenticated and issued pursuant to any provision of Article Three hereof need not be issued nor designated as a separate series of Bonds hereunder provided such Bonds are issued in conjunction with other Bonds issuable pursuant to any other provision or provisions of Article Three hereof and provided that such Bonds and such other Bonds are issued simultaneously and distinctively designated as a separate series of Bonds."

(m) The following shall be substituted for the second paragraph of Subsection C of Section 4.02 of the Original Indenture:

"Bonds owned or held by or for the account of the Company or any subsidiary company, or any corporation or person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company, shall not be deemed to be outstanding for any purpose of this Section 4.02, or for purposes of giving any direction, waiver or consent under this Indenture, except that any Bond pledged by the Company, or by any subsidiary company, or by any such corporation or person, as security for loans and 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 and for purposes of giving any direction, waiver or consent under this Indenture, 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 or for purposes of giving any direction, waiver or consent under this Indenture."

(n) The following shall be inserted at the end of the second paragraph of Section 5.01 of the Original Indenture, after "redeemable" and before the period:

"and except to the extent that the indenture supplemental to this Indenture creating any such series shall provide otherwise".

(o) The following shall be inserted at the end of the first sentence of the second paragraph of Section 7.01 of the Original Indenture, after "served" and before the period:

"; *provided, however*, that if any series of Bonds are payable only at an office or agency other than in the City and County of San Francisco, California, the Company shall not be required to maintain an office or agency in San Francisco, California therefor".

(p) The reference to "six months" in subdivision (1) of the second paragraph of Section 7.12 of the Original Indenture shall be changed to "one year" and the references to "66⅔%" in subdivisions (3) and (4) of the second paragraph of Section 7.12 of the Original Indenture shall be changed to "100%".

(q) The following shall be inserted as new Sections 7.17 and 7.18 immediately following Section 7.16 in the Original Indenture:

"SECTION 7.17. The Company will not declare any dividend (other than a dividend payable solely in the common stock of the Company) on any class of its stock or make any other distribution in respect thereof to the holders of any shares of its capital stock of any class, or make any payment on account of the purchase, redemption or other retirement of any shares of such stock, or make any advance or loan to or any guaranty of any securities of any affiliated company (other than a company of which the Company, directly or indirectly, owns at least 25% of the outstanding voting securities and in which no affiliated company, other than an affiliated company directly or indirectly controlled by the Company, has any stock interest); *provided, however*, that the Company may make such declarations, distributions, payments, advances, loans and guaranties (collectively referred to as Payments), unless an event of default, or event which with

notice and/or lapse of time could constitute such an event of default, shall have occurred and be continuing, so long as the aggregate total of Payments (less any Payments repaid or satisfied) since January 1, 1977, shall not exceed the sum of:

(a) \$3,000,000 plus

(b) the aggregate consolidated net income of the Company for each full calendar year beginning January 1, 1977, taken as one accounting period and determined in accordance with generally accepted accounting principles.

"SECTION 7.18. The Company will deliver to the Trustee, within 120 days after the end of each fiscal year, commencing with the fiscal year ending December 31, 1977, a written statement signed by the Chairman of the Board, President or a Vice President and by the Treasurer, Assistant Treasurer, the Secretary or an Assistant Secretary of the Company, stating, as to each signer, thereof, that

(i) a review of the activities of the Company during such year and of performance under this Indenture has been made under his supervision; and

(ii) to the best of his knowledge, based on such review, the Company has fulfilled all of its obligations under this Indenture throughout such year, or, if there has been a default in the fulfilment of any such obligation, specifying each such default known to him and the nature and status thereof."

(r) The phrase "legal rate on overdue principal and at the" shall be deleted from clause (ii) of the first paragraph of Section 9.02 of the Original Indenture.

(s) The following shall be substituted for the second paragraph of Section 9.06 of the Original Indenture:

"Anything in this Indenture contained to the contrary notwithstanding, the holders of a majority in principal amount of the Bonds then outstanding, shall have the right, from time to time, if they so elect and manifest such election by an

instrument in writing to the Trustee, to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture; *provided, however*, that the Trustee shall have the right to decline to follow any such direction if it shall in good faith by responsible officers determine that the action or proceeding so directed would be illegal or involve the Trustee in personal liability, and *provided further*, that nothing in this Indenture shall impair the right of the Trustee in its discretion to take any action deemed proper by the Trustee and which is not inconsistent with such direction by such holders."

(t) At such time as the Series A Bonds are no longer outstanding, the following shall be substituted for the second paragraph of Section 9.27 of the Original Indenture:

"The Company hereby waives, to the extent legally permissible, the statutory provisions of any State 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."

(u) The following shall be inserted after the phrase "all cash received for property so released" in the second paragraph of Section 11.04 of the Original Indenture:

"(less any expenses or commissions incurred in connection with the sale or other disposition of such property)"

(v) The reference to "\$100,000" in Section 11.07 of the Original Indenture shall be changed to "\$250,000".

(w) The following shall be substituted for clause (b) of the first paragraph of Section 11.10 of the Original Indenture:

"(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 the balance of the consideration, if any, which would be received by the Company if the action or proceedings in question were continued to final judgment, decree or order, would be less than the probable cost of the litigation."

(x) The following shall be inserted as a new Section 11.17 immediately following Section 11.16 in the Original Indenture:

"SECTION 11.17. At the request of the Company, the Trustee shall execute and deliver such agreements as shall be reasonably necessary to subordinate the lien created by this Indenture where such subordination is provided for herein or permissible hereunder.

"At the request of the Company, the Trustee also shall execute and deliver such agreements as shall be reasonably necessary to grant subdivision restrictions and easements to public authorities and instrumentalities and public utilities and to file subdivision and parcel maps; *provided, however*, that prior to the execution and delivery of such agreements there shall have been delivered to the Trustee in each case:

(a) if the Company is to receive any consideration for the granting of such restrictions and easements or the filing of such maps, such consideration shall be subject to the lien hereof and any cash received by the Trustee pursuant to this Section 11.17 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;

(b) an Officers' Certificate, dated not more than 30 days prior to its delivery, which shall:

(i) set forth a description of the restrictions, easements or maps to be granted or filed;

(ii) certify that the action so requested will not impair or prejudice the security for the Bonds or the interest of the holders of the Bonds; and

(iii) set forth any consideration received for the granting of such restrictions and easements or the filing of such maps."

(y) The references to "six years" in the second paragraph of Section 12.02 and in the third paragraph of Section 13.02 of the Original Indenture shall be changed to "four years".

(z) The following shall be inserted after the phrases "San Francisco, California" in Section 12.03 and the fourth paragraph of Section 12.05 of the Original Indenture:

"or the Borough of Manhattan, City and State of New York".

(aa) The references to "\$5,000,000" in Sections 12.03 and 12.05 of the Original Indenture shall be changed to "\$20,000,000".

(bb) The following shall be inserted at the end of the first paragraph of Section 12.04 and the first paragraph of Section 12.05 of the Original Indenture, after "New York" and before the period:

"or, in any case where all of the outstanding Bonds shall be registered Bonds, such notice shall be mailed, postage prepaid, to the respective registered holders of such Bonds at their last addresses appearing upon the Bond register".

(cc) The following shall be inserted as a new paragraph immediately following the first paragraph of Section 12.06 of the Original Indenture:

"Every separate trustee or co-trustee shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms:

(i) The Bonds shall be authenticated and delivered solely by the Trustee, and all powers, duties, obligations and rights hereunder in respect of the custody of cash and other personal property held by, or required to be deposited or pledged with the Trustee hereunder, shall be exercised solely by the Trustee.

(ii) The rights, powers, duties and obligations hereby conferred on or imposed upon the trustees or any of them shall be conferred or imposed upon and exercised or performed by the Trustee, or by the Trustee and such separate trustee or separate trustees or co-trustee or co-trustees jointly, as shall be provided in the instrument appointing such separate trustee or separate trustees or co-trustee or co-trustees, except to the extent that under the law of any jurisdiction in which any particular act or acts are to be performed, the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations shall be exercised and performed by such separate trustee or separate trustees or co-trustee or co-trustees."

(dd) The following shall be substituted for clause (a)(5) of the second paragraph of Section 14.02:

"(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; *provided, however*, that if any property referred to in this Clause (5) is also required to be subject to the lien of a successor corporation by reason of a comparable provision in a mortgage of such successor corporation, the lien hereof may be *pari passu* with the lien under any such mortgage or an equitable adjustment made between such mortgage and this Indenture; and"

PART FOUR

MISCELLANEOUS

§ 4.01. Part Three of this Supplemental Indenture, excluding § 3.02(b) and (c), shall not be deemed to affect any series of Bonds, other than the Series B Bonds, until such time as the Series A Bonds are no longer outstanding. § 3.02 (b) and (c) shall not be deemed to affect any series of Bonds until such time as the Series A Bonds are no longer outstanding.

§ 4.02. This Supplemental Indenture is executed by the Company and the Trustee pursuant to Section 4.01 of the Original Indenture and shall be

deemed to be part of the Indenture for any and all purposes. Any provision of the Original Indenture inconsistent with the provisions of this Supplemental Indenture shall be deemed to be superseded by the provisions of this Supplemental Indenture. The Original Indenture, as supplemented by this Supplemental Indenture, is, except as modified by this Supplemental Indenture, in all respects hereby ratified and confirmed.

§ 4.03. The headings of the several Parts and Articles hereof and the statements contained in the Table of Contents prefixed hereto are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

§ 4.04. This Supplemental Indenture may be executed in several counterparts, each of which shall be an original, and all collectively shall constitute but one instrument.

§ 4.05. This Supplemental Indenture shall be construed in accordance with and governed by the laws of the State of New York. Subject to Section 9.21 of the Original Indenture, the Company hereby consents to be sued in the State of New York upon its obligations under this Supplemental Indenture and, for such purpose, appoints the paying agent in New York City for the Series B Bonds its agent to accept service of process in the State of New York.

IN WITNESS WHEREOF, THE WESTERN PACIFIC RAILROAD COMPANY has caused this Supplemental Indenture to be signed and acknowledged by its President or one of its Vice Presidents, and its corporate seal to be affixed hereunto and the same to be attested by the signature of its Secretary or one of its Assistant Secretaries; and CROCKER NATIONAL BANK, as Trustee, has caused this Supplemental Indenture to be signed and acknowledged by one of its ~~Vice Presidents~~ ^{Assistant Secretaries}, and its corporate seal to be affixed hereunto and the same to be attested by the signature of its Secretary or one of its Assistant Secretaries, all as of the day and year first above written.

*WWS
JFK*

THE WESTERN PACIFIC RAILROAD
COMPANY

By *W. H. Humboldt, Jr.*
VICE PRESIDENT - FINANCE

[CORPORATE SEAL]



BOOK 59 PAGE 377

Attest:

Clark Brinkhoff
Assistant Secretary

CROCKER NATIONAL BANK,
as Trustee

By

M. Keller
EMERIT OFFICER

[CORPORATE SEAL]

Attest:

A. Bell
ASSISTANT SECRETARY

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK

} ss.:

On this 15th day of June, 1977, before me, ESTHER RUTIGLIANO
a Notary Public in and for the City and County of New York, State of New
York, residing therein, duly commissioned and sworn, personally appeared
R. W. Stumbo, Jr., known to me to be the Vice-President
FINANCE 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 on 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)

Esther Rutigliano
Notary Public
in and for the City and County of
New York, State of New York

My Commission expires

ESTHER RUTIGLIANO
Notary Public, State of New York
Qualified in Kings County
No. 24-3410325
Cert. Filed in New York County
Commission Expires March 30, 1979

SEAL
Affixed

BOOK 59 PAGE 379

STATE OF CALIFORNIA,
CITY AND COUNTY OF SAN FRANCISCO } SS.:

On this 16th day of June, 1977, before me, DIANE LORETTE FAFOUTIS, a Notary Public in and for the City and County of San Francisco, State of California, residing therein, duly commissioned and sworn, personally appeared

T. M. Keldsen, known to me to be a TRUST OFFICER of CROCKER NATIONAL BANK, 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 on 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)

Diane Lorette Fafoutis
Notary Public
in and for the City and County of San
Francisco, State of California.

My Commission expires Dec. 14, 1979



RECORDED AT THE REQUEST OF Title Insurance & Trust Co.
on June 21, 1977, at 30 mins. past 10 A.M. In
Book 59 of OFFICIAL RECORDS, page 325-380, RECORDS OF
EUREKA COUNTY, NEVADA. WILLIS A. DaPAOLI Recorder
File No. 63156 Fee \$ 6.80

BOOK 59 PAGE 380