

consolidation or into which such merger shall have been made, or acquiring all the property subject to this indenture as an entirety, as aforesaid (herein referred to as a successor corporation), by an indenture supplemental hereto in form satisfactory to the Trustee and to which the Trustee shall be a party, provided, however that a lessee shall not be required to assume obligations to be performed after the term of the lease.

Such supplemental indenture need not, however, contain a grant by such successor corporation of its property unless it is sought to issue further bonds hereunder as provided in Section 2 of this Article, but, if it does not contain a grant, as further security for all bonds secured hereby, of all its property then owned or thereafter acquired, it shall contain;

(a) A grant by such successor corporation confirming the lien of these presents and subjecting to the lien hereof as a first lien, or as a lien subject only to liens affecting the property of the Company before the consolidation, merger, sale, conveyance, or transfer, and necessarily applying thereto, all repairs, renewals, replacements, substitutions, alterations, betterments and improvements upon, of and for the property subject to the lien hereof;

(b) A covenant and stipulation by such successor corporation that all property thereafter acquired by it and necessary to the full and complete performance of any covenant herein contained relating to the upkeep of the property subject to the lien hereof, or of any other covenant hereof, shall be conclusively deemed and taken to be acquired by it in performance of such covenant and to have become subject to the prior lien of these presents;

(c) A covenant and stipulation by such successor corporation to keep the property subject to the lien hereof as far as practicable readily identifiable.

Such supplemental indenture shall in any case stipulate that the Trustee shall not be taken impliedly to waive thereby any rights it would otherwise have.

SECTION 2. In case the Company, pursuant to Section 1 of this Article, shall be consolidated with or merged into any other corporation, or shall convey or transfer, subject to the lien of this indenture, all the mortgaged property, as an entirety, and in case the corporation resulting from such consolidation, or into which the Company shall have been merged, or which shall have received a conveyance or transfer, as aforesaid, shall execute and cause to be recorded an indenture with the Trustee, satisfactory to the Trustee, whereby the successor corporation shall assume and agree to pay the principal and interest of the bonds issued hereunder and secured hereby in accordance with the provisions of said bonds and coupons and this indenture, and shall grant and mortgage as further security for said bonds all property then owned or thereafter to be acquired by it, and shall agree to perform and fulfill all the terms, covenants and conditions of this indenture binding upon the Company, thereupon such corporation shall succeed to and be substituted for the Company, with the same effect as if it had been named herein as the Company, and the successor corporation thereupon and not otherwise may cause to be signed, issued and delivered, either in its own name or in the name of the Empire Gas and Fuel Company, any or all such bonds which shall not theretofore have been signed by the Company and authenticated by the Trustee, and upon the order of the successor corporation in lieu of the Company, and subject to all the terms, conditions and restrictions in this indenture prescribed touching the authentication and issuance of bonds which shall have been previously signed and delivered by the officers of the Company to the Trustee for authentication, and any of such bonds which the successor corporation shall thereafter,