

pliers, mechanics, laborers and others against such Company or such Pledged Subsidiary which if unpaid might by law become a lien upon any part of the property of such Pledged Subsidiary as to which Pledged Subsidiary Bonds of such Pledged Subsidiary constitute a lien or become in the case of a Company a lien prior to or on a parity with the lien of this Indenture.

Nothing in this Indenture, expressed or implied, is intended or shall be construed to limit the right or power of the Companies, or a Pledged Subsidiary, which is hereby expressly reserved, to execute, or assume and perform the obligations of, any mortgage covering property not now owned by the Companies, and not owned by a New Company or a Pledged Subsidiary on the date it becomes such, existing at the date of the acquisition of such property or created in connection with such acquisition and in connection therewith to obligate itself to subject to such mortgage, as a lien thereon prior to the lien of this Indenture or the lien securing any Pledged Subsidiary Bonds, to the extent required by the provisions of such mortgage, any Equipment, machinery, tools and other implements, or equity therein acquired by any of the Companies, or a Pledged Subsidiary, after the creation or assumption of such mortgage, and necessary or appropriate for use in connection with the operation of the lines of railroad or other property subject to such mortgage.

§ 5.12. No covenant in §§ 5.07 through 5.11 hereof shall be construed to require any of the Companies to make any payment so long as such Company shall contest in good faith the validity of the claim for such payment or the amount thereof, and in the judgment of the Board of Directors of such Company, expressed in a Certified Resolution delivered to the Trustee, the failure to make such payment will not materially prejudice or jeopardize the interests of the holders of the Bonds. If any Company shall fail to make any such payment when required to do so by the provisions hereof, the Trustee, without affecting