

of such party to be performed under this Agreement and under its Supplemental Operating Agreement and General Expense Agreement with the Developer or the fulfillment of any condition of this Agreement and of the Supplemental Operating Agreement and General Expense Agreement with the Developer by any such party shall be deemed the performance of such act or the fulfillment of such condition by such assignee, lessee, subsequent owner, trustee, beneficiary or mortgagee, as the case may be, and shall be accepted by the parties hereto with the same force and effect as if performed or fulfilled by such assignee, lessee, subsequent owner, trustee, beneficiary or mortgagee.

Section 9.03. Transfer of the Developer Site to Secure Indebtedness. The Developer may mortgage the Developer Site and/or sell and leaseback or lease and subleaseback the Developer Site and, in connection with any such transaction, assign its interest in this Agreement and the Supplemental Operating Agreements and the General Expense Agreements with the Department Stores; provided, however, that any such assignment shall not release the Developer from any of its liabilities or obligations hereunder or thereunder, and any such mortgage and security instrument executed by the Developer in connection therewith shall provide that all insurance proceeds shall be applied in accordance with the terms of Section 5.04 hereof and of all provisions regarding damage and destruction contained in the Supplemental Operating Agreements with the Department Stores. In the event any such mortgage or security instrument executed by the Developer in connection with any transaction contemplated under this Section 9.03 is foreclosed or a deed is delivered in lieu of foreclosure; or, if the Developer shall have entered into a sale and leaseback or a lease and subleaseback of the Developer Site and the lessee or sublessee thereunder shall be deprived of possession of the Developer Site by reason of