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right, power or remedy with respect thereto or otherwise shall not now or hereafter be deemed or construed as a modification or amendment to any Supplemental Operating Agreement. In the event Penney shall be in default of its operating covenant as set forth in its Supplemental Operating Agreement with the Developer, Penney shall be deemed to have waived its right to consent to any amendment or modification made by the Developer with respect to the Supplemental Operating Agreement of any other Department Store and any such amendment shall be effective and binding on Penney notwithstanding that Penney did not consent thereto. Penney acknowledges that no modification or amendment of this Agreement shall be effective unless Federated shall have consented thereto.

## ARTICLE II

### DEVELOPMENT PHASE

Section 2.01. Fees of the Project Architect. The fees of the Project Architect which relate to its services performed with respect to the On-Site Improvements and the Off-Site Improvements shall be borne by the Developer and Penney in the manner set forth in the General Expense Agreement between said parties.

Section 2.02. Fees of the Project Engineer. The fees of the Project Engineer which relate to its services performed with respect to the On-Site Improvements and the Off-Site Improvements shall be borne by the Developer and Penney in the manner set forth in the General Expense Agreement between said parties.

Section 2.03. Preliminary Drawings and Specifications of Developer. The Developer shall cause the Project Architect and the Project Engineer, or either of them, to promptly submit to Penney, for its approval, the Preliminary Drawings for each and every Phase of Development. The Preliminary