

Any cash delivered to the Trustee pursuant to this Section 4.03 shall be applied to the prepayment of Notes pursuant to Section 5.04 at the time specified in clause (a) of this Section 4.03.

**SECTION 4.04. Release Upon Substitution of Properties.** Unless an Event of Default shall have happened and be continuing, the Company may transfer any Property to the Lessee pursuant to the provisions of Sections 17.1 or 17.3 of the Assigned Lease (provided Lessee has theretofore complied with the provisions of that Section which are applicable), and the Trustees shall release such Property from the lien of this Mortgage, upon satisfaction of the conditions specified in, and the execution and delivery of a supplemental mortgage pursuant to, and in compliance with, the provisions of Section 9.05.

**SECTION 4.05. Grant of Easements, etc. Free from Mortgage.** The Company may at any time or times grant easements, licenses, rights of way and other rights and privileges in the nature of easements, free from the lien of this Mortgage, or the Company may release existing easements or appurtenances which are for the benefit of the Trust Estate, to any public utility or governmental authority, with or without consideration, and the Trustees shall execute and deliver any instrument, in form satisfactory to the Trustee, necessary or appropriate to confirm the grant or release of any such easement, license, right of way or other right or privilege upon receipt by the Trustee of:

(a) an Officers' Certificate and a similar certificate of the Lessee, each dated the date of such release and stating, (i) that such grant is desirable in the proper conduct of the business of the Lessee, (ii) that such grant or release, together with all prior grants and releases under this Section 4.05, does not adversely affect the value, utility and structural integrity of any Property and (iii) that there exists no event or condition which at such time, or after notice or lapse of time or both, would constitute a

default under this Mortgage, the Assigned Lease, the Genesco Agreement, the Ground Leases or the Assignment;

(b) an undertaking of the Lessee authorized by its Board of Directors, in form and substance satisfactory to the Trustee, to the effect that the Lessee shall remain obligated under the terms of the Assigned Lease, the Genesco Agreement, and the Assignment to the same extent as if such easement, license, right of way or other right or privilege had not been granted or released.

(c) an Opinion of Counsel dated the date of such release and stating, that upon such release this Mortgage, the Genesco Agreement, the Assignment, the Ground Leases and the Assigned Lease will be valid and binding agreements enforceable in accordance with their terms and that this Mortgage will be, as to the Properties not thereby or theretofore released, a continuing first lien subject to no encumbrances, liens, charges or claims except Permitted Encumbrances, that the documents which have been or are therewith delivered to the Trustee conform to the requirements of this Mortgage and constitute sufficient compliance under this Mortgage for the Trustees to execute and deliver the instrument confirming said grant or release.

#### ARTICLE V

##### Application of Moneys Received by Trustee

**SECTION 5.01. Condemnation and Condemnation Proceeds.** In the event of a Taking of all or any part of a Property, the Trustee shall be entitled to receive all awards and payments payable to the Company or the Lessee on account of such Taking. The Company hereby irrevocably assigns to the Trustee all rights of the Company or the Lessee to any award or payment on account of any Taking. In any proceedings in respect of a Taking, the Trustee may participate therein at the expense of the Company. The Company will pay all costs and expenses (including, without limitation, attorney's fees and expenses) of the Trustee in connection with any such Taking and seeking and obtaining any award or payment in respect thereof