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1155 Avenue of the Americas
New York, New York 10036

~~WHITE & CASE~~

This document prepared by and
when recorded return to:

Permanent
Index Number: 04-03-200-016,
Volume 131

Address of
Property: 2326 Northbrook Court Mail
Northbrook, Illinois 60062

-88-561133

Case 8800324 (3) 016

as Mortgagee

as Agent,

New York Branch,

SWISS BANK CORPORATION,

to

as Mortgagees,

I. MAGNIN PROPERTIES CORP.
AND I. MAGNIN, INC.,

made by

dated as of November 22, 1988

FINANCING STATEMENT AND FIXTURE FILING

ASSIGNMENT OF LEASES, RENTS AND PROFITS,

MORTGAGE, SECURITY AGREEMENT,

88561133

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WHEREAS, Mortgage, the Lenders and Mortgage have entered into a Loan Agreement, dated as of November 22, 1988 (as modified, supplemented or amended from time to time, the "Loan Agreement"; all capitalized terms used herein and not otherwise defined herein or in Section 5.01 hereof shall have the respective meanings set forth in the Loan Agree-

W I T N E S S E T H :

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES, RENTS AND PROFITS, FINANCING STATEMENT AND FIXTURE FILING, dated as of November 22, 1988 (this "Mortgage"), made by I. MAGNIN'S PROPERTIES CORP. ("Borrower") and I. MAGNIN'S INC. ("co-Borrower"), each a Delaware corporation having its principal place of business at c/o R.H. Macy & Co., Inc., 151 West 34th Street, New York, New York 10001 ("Mortgagor"), to SWISS BANK CORPORATION, NEW YORK BRANCH, a branch of a banking corporation organized under the laws of Switzerland having an office at 4 World Trade Center, New York, New York 10048, in its capacity as Agent for the financial institutions (collectively, the "Lenders") party to the Loan Agreement, as mortgaged and secured party (the "Mortgagee"). (Capitalized terms used herein without definition shall have the respective meanings set forth in Section 5.01 hereof.)

MORTGAGE, SECURITY AGREEMENT,
ASSIGNMENT OF LEASES, RENTS AND PROFITS,
FINANCING STATEMENT AND FIXTURE FILING

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
WHITE & CASE
1155 Avenue of the Americas
New York, New York 10036
Attention: Thomas P. Higgins, Esq.

This document is intended to
be recorded in Cook County in
the State of Illinois.

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The property described in Exhibit A includes either one or more fee estates and/or one or more leasehold or subleasehold estates in the improvements (as hereinafter defined) and land underlying and adjacent to said improvements (but only if identified on Exhibit A hereto). The land so owned and/or leased is hereinafter referred to as the "Land". The improvements, the Land and all other property and interests and appurtenant rights and easements described below as being subject to this Mortgage are herein referred to collectively as "the Property".

NOW, THEREFORE, in consideration of the benefits accruing to Mortgagee, the receipt and sufficiency of which are hereby acknowledged, EACH MORTGAGOR HEREBY CONVEYS AND MORTGAGES TO THE MORTGAGEE all of its estate, right, title and interest, whether now owned or hereafter acquired, in and to that property described on Exhibit A hereto, which Exhibit A is incorporated herein by reference.

WHEREAS, this Mortgage is one of a number of deeds of trust and/or mortgages given pursuant to the Loan Agreement, Each and every term and provision of the Loan Agreement, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Mortgage, and payment, fulfillment and performance of the obligations, covenants and agreements of Mortgagee thereunder are secured hereby. In the event of any conflict between the terms of the Loan Agreement and the terms of this Mortgage, the terms of the Loan Agreement shall control.

WHEREAS, Mortgagee desires to execute this Mortgage to satisfy the conditions described in the preceding recital; and

WHEREAS, it is a condition precedent to the making of Loans to Mortgagee and other Borrowers under the Loan Agreement that Mortgagee shall have executed and delivered to Mortgagee, this Mortgage;

WHEREAS, Mortgagee desires to incur Loans pursuant to the Loan Agreement;

providing for the making of certain loans (the "Loans") as contemplated therein;

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TOGETHER with each Mortgagor's right, title and interest in any and all buildings and improvements now or hereafter erected on the Land (hereinafter sometimes collectively referred to as the "Improvements") and all Personal Property, including, but not limited to, that portion of the Personal Property that constitutes fixtures, attachments, appliances, equipment, machinery and other tangible personal property now or hereafter attached to said buildings and improvements or now or at any time hereafter located on the Land and/or Improvements and necessary for the continued operation of the Land and/or Improvements (hereinafter sometimes collectively referred to as the "Equipment");

TOGETHER with all rents, issues and profits of this Property (but excluding profits from the operation of a department store owned or operated by Macy or an Affiliate) (collectively, "Rents") for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily);

TOGETHER with all of each Mortgagor's right, title and interest in, to and under leasehold estates, and in any and all leases and subleases (including, but not limited to, that certain lease or sublease, dated as of the date hereof (the "Purchase"), between the Borrower, as Lessor, and the Co-borrower, as Lessee, demising this Property), arrangements, concessions, or agreements, written or oral, relating to the use and occupancy of the Land and/or the buildings and improvements on the Land or any portion thereof, now or hereafter existing or entered into and all rights and benefits now or hereafter accruing to Mortgagor under any and all guarantees of the obligations of any tenant thereunder, as any of the foregoing may be amended, extended, renewed or modified from time to time;

TOGETHER with all appurtenant rights and easements, rights of way, and other rights used in connection with the Land and/or the buildings and improvements erected thereon or to provide a means of access thereto or to provide utility service thereto, privileges, franchises, development, air and other rights and appendages now or in the future belonging to or in any way appertaining to the Land, including, without limitation, streets, alleys, water rights, mineral rights and all tenements, servitudes, hereditaments and appurtenances thereof and thereto pertaining or belonging, and all underground and overhead passage-ways and licenses in connection therewith;

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THIS MORTGAGE is given to secure: (a) the payment of all principal, interest (including, without limitation, additional interest) and other sums evidenced by and the performance of all obligations of Mortgagor under the note of even date herewith, executed and delivered by Mortgagor pursuant to the Loan Agreement (as modified, supplemented or amended from time to time, the "Note"), in the aggregate original principal sum of \$54,400,000.00; and

TO HAVE AND TO HOLD as provided herein the above granted and described Mortgaged Property unto the Mortgagee and its substitutes and successors forever, and Mortgagor hereby binds itself and its successors and assigns to the warrant and forever defend the Mortgaged Property unto the Mortgagee, its substitutes, successors and assigns against the claim or claims of all persons claiming or to claim the same, or any part thereof.

The entire estate, property and interest hereby conveyed to the Mortgagee may be referred to herein as the "Mortgaged Property".

TOGETHER with, if Exhibit A includes a leasehold and/or subleasehold interest, all right, title and interest of each Mortgagor in and to all modifications, extensions and renewals of such lease and/or sublease and to all rights to renew or extend the term of the lease and/or sublease and all credits, deposits, options, privileges and rights of Mortgagor, as lessee or sublessee thereunder, and any modifications, extensions and renewals thereof.

TOGETHER with all of Mortgagor's right, title and interest in, to and under all Prior Parcel Documents benefiting and belonging to this Property or any portion thereof, whether or not recorded and as more particularly described on Exhibit B attached hereto and hereby made a part hereof, and any reciprocal easement agreement (an "REA") affecting this Property or any portion thereof, and supplemental or similar agreements however characterized;

TOGETHER with all the estate, interest, right, title, other claim or demand, including claims or demands with respect to the proceeds of insurance in effect with respect thereto, which either Mortgagor now has or may hereafter acquire in this Property, and any and all awards made for the taking by eminent domain, or by any proceedings or purchase in lieu thereof, of the whole or any part of this Property, including without limitation any awards resulting from the change of grade of streets and awards for severance damages in each and every case;

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1.02 Mortgage Authorized. The execution and delivery of this Mortgage have been duly authorized by the Mortgagee, and the execution and delivery by it of its obligations under this Mortgage will not result in Mortgagee being in default under any provision of its certificate of incorporation or of any other agreement to which Mortgagee is a party or which

1.01 Title to this Property. Each Mortgagee, with respect to its portion of the Mortgaged Property, represents and warrants as of the date hereof (a) that it has good and marketable fee simple title to, or a valid leasehold interest pursuant to the Ground Lease in, this Property, free and clear of any liens and encumbrances (except Permitted Encumbrances); (b) that this Mortgage is a valid first lien upon the Mortgaged Property, and that it has not created any other lien or encumbrance upon this Property which will remain undischarged after recording of this Mortgage (except Permitted Encumbrances); (c) that Mortgagee has full power and lawful authority to encumber this Property in the manner set forth herein; and (d) that there are no defenses or offsets to this Mortgage or to the obligations which it secures. Mortgagee shall, subject to Permitted Encumbrances, preserve such title and the validity and priority of this Mortgage and shall forever warrant and defend the same to Mortgagee against the claims of all persons and parties whatsoever.

REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS OF MORTGAGOR

ARTICLE I

AND TO PROTECT THE SECURITY OF THIS MORTGAGE, Mortgagee covenants and agrees as follows:

(c) the payment and performance of the obligations and agreements of Mortgagee contained herein, in the Loan Agreement (including without limitation all amounts payable as "Termination compensation" as defined in the Loan Agreement) and in the other Loan Documents (all of said obligations and agreements of Mortgagee hereinafter collectively referred to as the "obligations").

(b) the payment of all sums advanced by Mortgagee under or pursuant hereto, or on account of the obligations and agreements of Mortgagee under or pursuant to the Loan Agreement or any of the other Loan Documents, with interest thereon at the rates specified in the Loan Agreement; and

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1.06 Maintenance, Repair, Alterations, Etc. (a) Mortgagor will: keep and maintain this property in good condition and repair; make or cause to be made, as and when necessary, all repairs, renewals and replacements, structural and nonstructural, exterior and interior, ordinary and extraordinary, foreseen and unforeseen which are necessary to so maintain this property; not construct any new improvements or remove, demolish, change or materially alter any of the existing improvements or equipment except as provided in clause (b) of this Section 1.06 or in Article III hereof or for improvements or alterations required under applicable law; subject to and in accordance with the provisions of Sections 1.09 and 1.15 (unless Mortgagee has previously applied such proceeds of insurance or condemnation to the debt secured by this Mortgage), restore any Improvement

1.05 Payment and Performance of Obligations. Mortgagor shall pay all of the obligations when due and without offset or counterclaim, and shall observe and comply in all respects with all of the terms, provisions, conditions, covenants and agreements to be observed and performed by it under this Mortgage and any other Loan Document to which it is a party.

1.04 Agreements. With the exception of licenses and leases which would not require the consent of the Mortgagee under Section 1.24 hereof if entered into after the date hereof, Mortgagor has not entered into any contract or other agreement providing for the transfer, conveyance or encumbrance of the Mortgaged Property or any part thereof or interest therein.

1.03 Operation of this Property. Mortgagor has obtained, and with respect to the construction of any new buildings or structures upon the Land during the term hereof will obtain, all certificates, licenses, authorizations, registrations, permits and/or approvals necessary for the ownership, operation and management of this Property, including, without limitation, all required environmental permits, all of which, with respect to improvements existing as of the date hereof, are in full force and effect. The present and contemplated use and occupancy of this Property does not conflict with or violate any such certificate, license, authorization, registration, permit or approval. Mortgagor will promptly deliver to Mortgagee, at its request, true copies of all such certificates, licenses, authorizations, registrations, permits and approvals.

affects this Property or any part thereof or any other property of Mortgagor.

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(c) Subject to any provisions of Sections 1.09 and 1.15 hereto to the contrary, Mortgagor may alter, expand, demolish, remove, renew or replace the improvements or any part thereof outside of its ordinary course of business (a "Major Alteration") provided, however, prior to the commencement of such Major Alteration, Mortgagor shall submit to Mortgagor at a reasonable time before commencement of the Major Alteration for Mortgagor's approval, which approval shall not be unreasonably withheld, the following items and such other items or information relating to such Major Alteration which Mortgagor may reasonably request (all such items to be in form and substance reasonably satisfactory to Mortgagor): (i) final and complete plans and specifications signed by a duly licensed architect; (ii) a certification prepared by a licensed architect or engineer certifying that the proposed Major Alteration when complete, shall comply with all applicable federal, state and local environmental, building, and zoning and any and all other applicable laws, ordinances, rules, regulations and requirements; and (iii) a guaranty of completion from R.H. Macy & Co., Inc. or a completion bond satisfactory to Mortgagor. Upon completion of such Major Alteration, Mortgagor shall submit such documents as may be reasonably requested by Mortgagor including, but not limited to, the following (all such items to be in form and substance reasonably satisfactory to Mortgagor): (w) a certification prepared by a licensed architect or engineer certifying that the portion of the improvements as altered or expanded complies with all applicable federal, state and local environmental, building, and zoning and any and all other applicable laws, ordinances, rules, regulations and requirements and that the Major

which may be damaged or destroyed so that the same shall, to the extent permitted by applicable law be at least equal to its value, condition and character immediately prior to the damage or destruction, and promptly pay when due all claims for labor performed and materials furnished therefor; comply with all laws, ordinances, regulations, covenants, conditions and restrictions (collectively, a "Law") now or hereafter affecting this Property or any part thereof or the use thereof or requiring any alterations or improvements; not commit or permit any waste or deterioration (usual wear and tear excepted) of this Property; keep and maintain the grounds, sidewalks, parking and landscape areas which are part of this Property in good condition and repair; comply with the provisions of any lease, easement or other agreement affecting all or any part of this Property; not commit or permit any act to be done in or upon this Property in violation of any Law; and not permit the improvements or any part thereof to become deserted or unguarded.

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(c) comprehensive general liability insurance, including bodily injury and property damage liability, and umbrella liability insurance against any and all legal claims, including, without limitation, all legal liability (to the extent insurable) imposed upon Mortgagee and all court costs and attorneys' fees, arising out of or connected with the possession, use,

(b) war risk insurance as and when such insurance is obtainable from the United States of America or any agency thereof as promptly as reasonably practicable after the same becomes so obtainable, in an amount not less than 100% of the then full insurable value of the Improvements and Equipment as defined in Section 1.07(a);

(a) insurance with respect to the Improvements and the Equipment incorporated therein against any peril included within the classification "All Risks of Physical Loss", including, without limitation, insurance against loss or damage by (i) fire, lightning, windstorm, civil commotion, smoke, hail, aircraft, vandalism, explosion, riot, strike, water damage, sprinkler leakage, collapse and malicious mischief, in amounts at all times sufficient to prevent Mortgagee from becoming a coinsurer within the terms of the applicable policies, but in any event such insurance shall be maintained on a replacement cost basis for all Improvements and Equipment subject to the limits set forth in such policies and (ii) "difference in conditions" insurance covering "all risks" of physical loss or damage, including flood and earthquake to the extent reasonably and commercially available (Mortgagee shall provide Mortgagee with evidence of such insurance in accordance with the provisions set forth in Section 1.08(b), and in the event Mortgagee determines that such insurance coverage is insufficient, it shall have the option to arrange insurance coverage for its interest, at Mortgagee's expense);

1.07 Required Insurance. Mortgagee will, at its expense, at all times provide, maintain and keep in force the following policies of insurance:

Alteration was completed in accordance with the final plans and specifications submitted to Mortgagee; (x) a permanent or temporary certificate of occupancy or other similar municipal certificate; (y) a certificate of completion from a licensed architect or engineer; and (z) such surveys as may be reasonably requested by Mortgagee.

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1.08 Policy Provisions, Etc. (a) Each policy of insurance maintained by Mortgagor pursuant to Section 1.07 shall (i) name Mortgagee as an additional insured, as its interest may appear with respect to liability insurance coverage; (ii) contain the standard non-contributory mortgagee clause endorsement in favor of Mortgagee with respect to hazard insurance coverage; (iii) name Mortgagee as loss payee to the extent provided in Section 1.09 hereof and provide that all insurance proceeds for losses with respect to hazard insurance coverage be adjusted and be payable in accordance with Section 1.09 hereof; (iv) include effective waivers (whether under the terms of any such policy or otherwise) by the insurer of all claims for insurance premiums against all loss payees and named insureds other than Mortgagor (provided that Mortgagee shall have the right to pay premiums and continue any insurance upon the failure to do so of Mortgagor) and all rights of subrogation against any named insured; (v) except in the case of public liability insurance and workers' compensation insurance, provide that any losses shall be payable notwithstanding (A) any act, failure to act, negligence of, or

(f) such other insurance against loss or damage with respect to this Property and the Equipment incorporated therein of the kinds from time to time customarily insured against by persons owning or using property similar to this Property and in such amounts as are customary.

(e) business interruption insurance covering loss resulting from the necessary interruption of business caused by a peril insured pursuant to Section 1.07(a) to improvements and equipment (If such loss occurs, it shall be adjusted on the basis of actual loss sustained consisting of the net profit which is prevented from being earned and of all charges and expenses that must necessarily continue for a period of time required to repair or replace the damaged or destroyed property); and

(d) statutory workers' compensation insurance with respect to any work on or about this Property;

leasing, operation or condition of this Property, in such amounts and of such types as are usually carried by persons owning or using property similar to this Property, but in any event with a combined single limit of not less than \$5,000,000 for bodily injury and property damage liability with respect to any one occurrence;

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(e) From time to time, upon the occurrence of any material change in the use or operation of this Property, or in the availability of insurance required hereunder in the area in which this Property is located, Mortgagee will give Mortgagee notice of such change. Mortgagee will not take out separate or additional insurance concurrent in form or

(d) Within thirty (30) days following the end of each policy period, Mortgagee will deliver to Mortgagee a signed replacement certificate.

(c) Not later than thirty (30) days prior to the expiration, termination or cancellation of any insurance policy which Mortgagee is required to maintain hereunder, Mortgagee shall obtain a replacement policy or policies (or a binding commitment for such replacement policy or policies), which shall be effective no later than the date of the expiration, termination or cancellation of the previous policy, and shall deliver to Mortgagee a certificate which complies with the requirements of Section 1.08(b), or a copy of a binding commitment for such policy or policies.

(b) Mortgagee shall pay as and when the same become due and payable the premiums for all insurance policies that Mortgagee is required to maintain hereunder, and all such policies shall be non-assessable and contain such expiration dates as Mortgagee may require. Mortgagee will deliver to Mortgagee concurrently herewith original certificates setting forth in reasonable detail the terms (including, without limitation, any applicable notice requirements) of all insurance policies that Mortgagee is required to maintain hereunder.

(a) Mortgagee shall pay as and when the same become due and payable the premiums for all insurance policies that Mortgagee is required to maintain hereunder, and all such policies shall be non-assessable and contain such expiration dates as Mortgagee may require. Mortgagee will deliver to Mortgagee concurrently herewith original certificates setting forth in reasonable detail the terms (including, without limitation, any applicable notice requirements) of all insurance policies that Mortgagee is required to maintain hereunder.

(vi) not be subject to a deductible in excess of \$5,000,000.

each named insured and loss payee of written notice thereof; effective until at least thirty (30) days after receipt by amount or material change in coverage thereof shall be no cancellation, termination, expiration or reduction in notice thereof to each named insured and loss payee and that terminated or expires, the insurer will forthwith give provide that if all or any part of such policy is cancelled, or ownership or possession of the insured properties; (vi) to the insured properties or (D) any change in the title to foreclosure or other proceeding or notice of sale relating use of the insured properties for purposes more hazardous than those permitted by the terms of the policy, (C) any any other named insured or loss payee, (B) the occupation or violation or breach of warranties, declarations or conditions contained in such policy by Mortgagee or Mortgagee or

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(i) Mortgagee shall apply all of the insurance proceeds in the following order and priority: (A) first, to the payment of all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit), including reasonable attorney's fees, incurred by it in connection with the collection of such proceeds; (B) second, to the payment of all amounts of interest and Termination Compensation, if any, at the time due and payable in respect of the Obligations (whether at maturity or by declaration or acceleration or otherwise); (C) third, to the payment of all amounts of principal at the time due and payable in respect of the Obligations (whether at maturity or by declaration or acceleration or otherwise); (D) fourth, to the payment of all other Obligations then due and payable and secured hereby; (E) fifth, Mortgagee shall deliver the balance, if any, to Mortgagor or to the person or persons legally entitled thereto.

(j) Unless otherwise required by an RFA or ground Lease, in the event of any damage to or destruction of the Improvements or any part thereof and if an Event of Default shall have occurred and be continuing hereunder (or after entry of a decree of foreclosure, purchaser at the sale or the decree creditor, as the case may be), Mortgagee shall receive all proceeds of casualty insurance (other than business interruption insurance) and shall have the right to apply such proceeds to the payment of the Obligations, in which event the following provisions shall apply:

1.09 Insurance Proceeds. (a) Mortgagor shall give prompt written notice to Mortgagee of the occurrence of any damage to or destruction of the Improvements (which term as used in this Section 1.09 shall include Equipment) which will cost more than 10% of replacement cost per site to repair or replace.

(f) All insurers shall be authorized to issue insurance in the State in which this Property is located and all insurers and reinsurers shall have the A.M. Best rating of "A" or better and a financial size rating of XII in the current edition of Best Insurance Reports or such other ratings as shall be acceptable to the Beneficiary in its sole discretion.

contributing in the event of loss with that required to be maintained pursuant to this Mortgage unless such insurance complies with this Section 1.08.

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(i) In the event that the insurance proceeds are estimated by Mortgagee to be in the amount of 10% of replacement cost per site or more, Mortgagee shall, upon written request of Mortgagee, furnish to Mortgagee plans and specifications for such repair and restoration, construction estimates, financial plans and projections and other information reasonably requested by Mortgagee to enable it to determine that the restoration will be completed within the business interruption insurance coverage and that there are sufficient funds available and/or committed (including, without limitation, funds committed by Mortgagee or its Affiliate), including such insurance proceeds, to pay

(c) Unless otherwise required by an RFA or Ground Lease, in the event of any damage to or destruction of the Improvements, and if an Event of Default shall not have occurred and be continuing hereunder or if an Event of Default shall have occurred and be continuing hereunder but Mortgagee shall not have elected to avail itself of its rights under Section 1.09(b), the following provisions shall apply:

(ii) All proceeds of casualty insurance (other than business interruption insurance) shall be payable to Mortgagee, and Mortgagee hereby authorizes and directs any affected insurance company to make payment of such proceeds directly to Mortgagee. In case of the foreclosure of this Mortgage by judicial proceeding, the court in its order and upon notice to the insurer may provide that the mortgagee's clause attached to each of said insurance policies may be cancelled and that the purchaser at the foreclosure sale held in accordance with such judicial proceeding may cause a new loss clause to be attached to each of said policies; making the loss thereunder payable to said purchaser; and any such foreclosure order may further provide that in case of one or more redemptions under said order, pursuant to the statute in such case made and provided, then, and in every such case, each successive redemtor may cause the preceding loss clause attached to each insurance policy to be cancelled and a new loss clause to be attached thereto, making the loss thereunder payable to such redemtor. In the event of such foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagee, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

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(d) Unless otherwise required by an RFA or ground Lease, if Sections 1.09(b) or 1.09(c)(ii) shall be applicable, Mortgagee alone shall have the right to settle, adjust or compromise any claim under any policy of insurance. In all other cases, (i) Mortgagee may settle, adjust or compromise any claim which is in the amount of 10% of replacement cost per site or less; and (ii) with respect to any claim in excess of 10% of replacement cost per site, Mortgagee and Mortgageor shall consult and cooperate with

(iv) In the event that Mortgagee does not have the right (or does not elect to exercise the right) to apply the insurance proceeds pursuant to Section 1.09(c)(ii) hereof and in the event such proceeds are in the amount of 10% of replacement cost per site or more, Mortgageor shall, at Mortgagee's request, deposit all such insurance proceeds with the Depository Institution. Mortgagee shall instruct the Depository Institution to disburse such proceeds to or for the account of Mortgageor, in installments, to pay the costs and expenses associated with the restoration, maintenance and operation of the Improvements, as such costs and expenses are incurred, in accordance with the procedures set forth in Exhibit C attached hereto and hereby made a part hereof. Upon the payment of such costs and expenses, the balance of such proceeds, if any, shall be delivered to Mortgageor.

(iii) In the event that the insurance proceeds are estimated by Mortgagee to be in an amount less than 10% of replacement cost per site, Mortgageor shall be entitled to receive all such proceeds and to apply such proceeds to the payment of the costs and expenses of repairing and restoring the Improvements.

(ii) If Mortgageor is unable to satisfy the conditions set forth in subparagraph 1.09(c)(i) above within thirty (30) days of receipt of a written request therefor, Mortgagee may, at its option, require Mortgageor to deliver to Mortgagee all such insurance proceeds paid to Mortgageor and Mortgagee may avail itself of all of its rights under Section 1.09(b).

(a) All costs and expenses associated with the restoration of the Improvements, as such costs and expenses are incurred; (b) the expenses of operating and maintaining the Improvements, as such expenses are incurred until the Improvements are restored or are generating sufficient revenues to cover such costs and expenses, whichever is earlier.

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1.10 Indemnification; Subrogation; Waiver of Offset. (a) If Mortgagee or any of the Lenders is made a party defendant to any litigation concerning this Mortgage or this Property or any part thereof, or the construction, operation or occupancy of the Improvements by Mortgagee or anyone else, Mortgagee shall indemnify, defend and hold Mortgagee and the Lenders harmless from all liability by

(g) Mortgagee shall repair and restore all damage or destruction to the Improvements, regardless of whether there are insurance proceeds available or whether any such proceeds are sufficient in amount.

(f) All insurance proceeds and other proceeds (as hereinafter defined) deposited with the Depository Institution shall be invested in Permitted Investments and all interest earned thereon shall become a part of the principal of such proceeds, and shall be disbursed by the Depository Institution in accordance with this Section 1.09. In the event that such proceeds are to be applied to the restoration of the Improvements, Mortgagee shall have the right to choose the Permitted Investments in which such proceeds will be invested. In the event Mortgagee fails to choose the permitted investments within ten (10) days of the deposit of such proceeds with the Depository Institution or by the time any Permitted Investment must be reinvested, Mortgagee shall have the right to choose the Permitted Investments. In no event shall Mortgagee or the Depository Institution be liable for any loss which may be incurred by reason of any Permitted Investments. To the extent that Mortgagee or the Depository Institution becomes liable for the payment of any taxes (including, without limitation, withholding taxes) in respect of income derived from Permitted Investments, Mortgagee may cause such taxes to be paid from any monies held by it or the Depository Institution hereunder.

(e) In the event of a transfer of title or assignment of this Property in extinguishment, in whole or in part, of the obligations, all right, title and interest of Mortgagee in and to all proceeds then payable under any policy of insurance required by this Mortgage, shall inure to the benefit of and pass to the successor in interest of Mortgagee, or the purchaser or grantee of this Property.

each other and each shall be entitled to participate in all meetings and negotiations with respect to the settlement of such claim. Any adjustment or settlement by Mortgagee of any claim which is in excess of 10% of replacement cost per site shall be subject to the reasonable approval of Mortgagee.

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(c) All sums payable by Mortgagor hereunder shall be paid without counterclaim, setoff, or deduction and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Mortgagor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of this property or any part thereof; (ii) any restriction or prevention of or interference with any use of this property or any part thereof; (iii) any title defect or encumbrance or any eviction from this property or any part thereof by title paramount or otherwise; (iv) any claim which Mortgagor has or might have against Mortgagee or the Lenders; (v) any default or failure on the part of Mortgagee or the Lenders to perform or comply with any of the terms hereof or of any other loan document to which it is a party; or (vi) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether or not Mortgagee shall have notice or knowledge of any of the foregoing. Mortgagor waives, to the extent permitted by law, all rights now or hereafter conferred by

(b) Mortgagor waives any and all right to claim or recover against Mortgagee or the Lenders, or their respective officers, employees, agents and representatives, for loss or damage to Mortgagee's, this property, Mortgagee's other property or the property of others under Mortgagee's control from any cause insured against or required to be insured against by the provisions of this Mortgage.

reason of such breach. Mortgagor waives any and all right to claim or recover against Mortgagee or the Lenders, or their respective officers, employees, agents and representatives, for loss or damage to Mortgagee's, this property, Mortgagee's other property or the property of others under Mortgagee's control from any cause insured against or required to be insured against by the provisions of this Mortgage.

reason of said litigation, including reasonable attorneys' fees and expenses incurred by Mortgagee or the Lenders in any such litigation, whether or not any such litigation is prosecuted to judgment; provided, however, that nothing herein shall be deemed to require Mortgagee to indemnify, defend and hold harmless Mortgagee with respect to the gross negligence or willful misconduct of Mortgagee or the Lenders. If Mortgagee commences an action against Mortgagee to enforce any of the terms hereof or because of the breach by Mortgagee of any of the terms hereof or for the recovery of any sum secured hereby, Mortgagee shall pay the reasonable attorneys' fees and expenses incurred by Mortgagee, and the right to such attorneys' fees and expenses shall be enforceable whether or not such action is prosecuted to judgment. If Mortgagee breaches any term of this Mortgage, Mortgagee may employ an attorney or attorneys to protect its rights hereunder, and Mortgagee shall pay the reasonable attorneys' fees and expenses incurred by Mortgagee, whether or not an action is actually commenced against Mortgagee by reason of such breach.

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(b) (i) under the provisions of any law or ordinance now or hereafter in effect there shall be assessed or imposed: (i) a tax or assessment on this property in lieu of or in addition to the Impositions payable by Mortgagee pursuant to subparagraph (a) of this section 1.11, or (ii) a license fee, tax or assessment imposed on Mortgagee and measured by or based in whole or in part upon the amount of the outstanding obligations, then all such taxes, assessments or fees shall be deemed to be included within the term "Impositions" as defined in subparagraph (a) of this section 1.11, and Mortgagee shall pay and discharge or cause to be paid and discharged the same as herein provided or shall reimburse or otherwise compensate Mortgagee for the payment thereof. In the event any such law or ordinance special-ly provides that Mortgagee may not pay, reimburse or otherwise compensate Mortgagee for the payment of such tax, assessment or fee, then, at the option of Mortgagee, Mortgagee may declare all of the obligations to be due and payable within sixty (60) days and the failure of Mortgagee to pay the obligations within such period shall be an event of Default entitling Mortgagee to exercise any of the remedies set forth in this Mortgage. Anything to the contrary herein notwithstanding, Mortgagee shall not have any obligation to pay any franchise, doing business, estate, inheritance, income, excess profits or similar taxes levied on Mortgagee or on the obligations.

1.11 Impositions. (a) Mortgagee will pay or cause to be paid when due all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, including, without limitation, nongovernmental levies or assessments such as maintenance charges, owner association dues or charges or fees, levies or charges resulting from covenants, conditions and restrictions affecting this Property, which are assessed or imposed upon any of this Property, or arising in respect of the operation, occupancy, use or possession thereof (all of which taxes, assessments and other governmental or nongovernmental charges of like or different nature are hereinafter referred to as "Impositions"); provided, however, that if, by law, any such Imposition is payable, or may at the option of the payer be paid, in installments, Mortgagee may pay the same together with any accrued interest on the unpaid balance of such Imposition in installments as the same may become due.

statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any of the obligations.

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(c) Subject to the provisions of subparagraph (d) of this Section 1.11, Mortgagor covenants to furnish to Mortgagee, promptly following Mortgagee's request, official receipts of the appropriate taxing or other authority, or other proof reasonably satisfactory to Mortgagee, evidencing the payment thereof.

(d) If an Event of Default shall occur and be continuing, at the request of Mortgagee, Mortgagor shall pay to the Depository Institution on the first Business Day of each month an amount equal to one-twelfth of the annual total of Installments estimated by Mortgagee to be assessed against this Property in order to pay the installment of Installments next due on this Property. In such event, Mortgagor further agrees to cause all bills, statements or other documents relating to Installments to be sent or mailed directly to Mortgagee. Provided Mortgagee has deposited sufficient funds with the Depository Institution pursuant to this Section 1.11, Mortgagee shall instruct the Depository Institution to pay on or prior to the due date thereof, such amounts as may be due thereunder out of the funds so deposited with the Depository Institution. Notwithstanding the foregoing, nothing contained herein shall cause Mortgagee to be deemed a trustee of said funds or obligate Mortgagee to pay any amount in excess of the amount deposited with the Depository Institution pursuant to this Section 1.11. If at any time and for any reason the funds deposited with the Depository Institution are or will be insufficient to pay such amounts as may then be due, Mortgagee shall notify Mortgagor and Mortgagor shall immediately deposit an amount equal to such deficiency with the Depository Institution. Should Mortgagor fail to deposit with the Depository Institution sums sufficient to fully pay such Installments when due, Mortgagee may, at Mortgagee's election, but without any obligation to do so, advance any amounts required to make up the deficiency. Any such advance shall be secured hereby and shall be repayable to Mortgagee as provided in this Mortgage. Should an Event of Default occur and be continuing hereunder, Mortgagee may, at any time at Mortgagee's option, apply any sums or amounts then held by the Depository Institution pursuant hereto (including, without limitation, any income earned thereon) to the payment or discharge of the obligations in the manner set forth in subparagraph 1.09(b) hereof as if the same were insurance proceeds. The receipt, use or application of any such sums paid by Mortgagor to Mortgagee hereunder shall not be construed to affect the maturity of any of the obligations or to otherwise affect any of the rights or powers of Mortgagee hereunder or any of the obligations of Mortgagor hereunder.

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1.14 Actions by Mortgagee to Preserve this Property. If an Event of Default shall occur and be continuing, Mortgagee may pay or perform the obligations in default in such manner and to such extent as it may deem necessary in its sole discretion. In connection therewith and to the extent necessary to pay, perform or otherwise cure the obligations in default, Mortgagee shall have and is hereby given the right, but not the obligation: (a) to enter upon and take possession of this Property; (b) to make additions, alterations, repairs and improvements to this Property which are necessary or proper to keep this Property in good condition and repair; (c) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Mortgagee; (d) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which may affect the security of this Mortgage or be prior or superior hereto; and (e) in exercising such powers, to pay all necessary expenses, including the reasonable fees and expenses of counsel or

1.13 Actions Affecting this Property. Mortgagor will appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Mortgagee hereunder; and Mortgagor will pay all costs and expenses incurred by Mortgagor, including cost of evidence of title and attorneys' fees, in any such action or proceeding.

1.12 Utilities. Mortgagor will pay when due all utility charges which are incurred by Mortgagor for the benefit of this Property or which may become a charge or lien against this Property for gas, electricity, steam, water or sewer services furnished to this Property and all other assessments or charges of a similar nature, whether public or private, affecting this Property whether or not such taxes, assessments or charges are liens thereon.

(e) Mortgagor will pay all taxes, charges, filing, registration and recording fees, excises and levies imposed in connection with the recording of this Mortgage or Mortgage, other than income, estate, inheritance, excess profits, franchise and doing business taxes or similar taxes, and shall pay any and all stamp taxes and other taxes required to be paid on any of the obligations. In the event Mortgagor fails to make any such payment within five (5) days after written notice thereof from Mortgagee, then Mortgagee shall have the right, but shall not be obligated to, pay the amount due and Mortgagor shall, on demand, reimburse Mortgagee for said amount.

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(ii) Mortgagee shall have the right to receive and apply all such Proceeds in the manner set forth in Section 1.09(b) hereof as if the Proceeds were insurance proceeds. Such application or release shall not, by itself, cure or waive any default hereunder or notice of default under this Mortgage or invalidate any

(i) Mortgagee shall receive all compensation, awards and other payments or relief therefor made or granted and shall be entitled, at Mortgagee's option, to commence, appear in and prosecute in its own name any action or proceeding in connection therewith. All such compensation, awards, damages and proceeds (the "proceeds") shall be deemed assigned to Mortgagee, and Mortgagee agrees to execute such further assignments of the Proceeds as Mortgagee may require.

(b) Unless otherwise required by an REA or Ground Lease, in the event of a condemnation of all or substantial-ly all of this Property or, without regard to the portion of this Property subject to condemnation, if an Event of Default shall have occurred and be continuing hereunder:

1.15 Condemnation. (a) Should this Property or any part thereof or interest therein, be taken or damaged by reason of any public improvements or condemnation proceeding or in any other similar manner ("condemnation"), or should Mortgagee receive any notice or other information thereof, Mortgagee shall give prompt written notice thereof to Mortgagee.

at the event this Mortgage is placed in the hands of an attorney for the collection of any sum secured hereby, Mortgagee agrees to pay on demand all costs of collection, including reasonable attorneys' fees, incurred by Mortgagee, either with or without the institution of any action or proceeding, and in addition to all costs, disbursements and advances provided by law, together with interest thereon at the Default Rate from the date of demand until paid. All such costs so incurred, together with interest thereon at the Default Rate from the date of demand until paid, shall be deemed to be secured by this Mortgage.

other necessary or desirable consultants. Mortgagee shall, immediately upon demand therefor by Mortgagee, pay or reimburse Mortgagee for all costs and expenses incurred by Mortgagee in connection with the exercise by Mortgagee of the foregoing rights, including, without limitation, cost of evidence of title, court costs, appraisal costs, surveys and reasonable attorneys' fees, together with interest thereon at the Default Rate from the date of demand until paid. In the event this Mortgage is placed in the hands of an attorney for the collection of any sum secured hereby, Mortgagee agrees to pay on demand all costs of collection, including reasonable attorneys' fees, incurred by Mortgagee, either with or without the institution of any action or proceeding, and in addition to all costs, disbursements and advances provided by law, together with interest thereon at the Default Rate from the date of demand until paid. All such costs so incurred, together with interest thereon at the Default Rate from the date of demand until paid, shall be deemed to be secured by this Mortgage.

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(iii) If Mortgagor is unable to satisfy the conditions set forth in subparagraph 1.15(c)(ii) hereof within thirty (30) days of receipt of a written demand therefor, Mortgagor may, at its option, require

(ii) In the event that the parties agree that after restoration or replacement the remainder of this Property can be operated as an economically viable unit, or the arbitrator determines as provided in Section 1.15(c)(vi) that it cannot be so restored or replaced and Mortgagor shall not have elected to avail itself of its rights under Section 1.5(c)(i), Mortgagor shall upon written request of Mortgagee, furnish to Mortgagee plans and specifications for such repair and restoration, construction estimates, financial plans and projections and other information reasonably requested by Mortgagee to enable it to determine that there are sufficient funds available and/or committed by (including, without limitation, funds committed by Mortgagor or its Affiliate), including the Proceeds, to pay (a) costs and expenses associated with restoration of this Property, as such costs and expenses are incurred; and (b) the expenses of operating or maintaining this Property, as such expenses are incurred until this Property is restored or is generating sufficient revenues to cover such costs and expenses, whichever is earlier.

(i) In the event that the parties agree, or the arbitrator determines as provided in Section 1.15(c)(vi), that after restoration or replacement, the remainder of this Property cannot be operated as an economically viable unit, Mortgagee shall have the option to declare the obligations due and payable in full hereupon the same shall become immediately due and payable and Mortgagee may avail itself of its rights under Section 1.15(b) hereof.

(c) Unless otherwise required by an RFA or Ground Lease, (x) if an Event of Default shall not have occurred and be continuing hereunder or (y) if an Event of Default shall have occurred and be continuing hereunder but Mortgagee shall not have elected to avail itself of its rights under Section 1.15(b) or (z) in the event of a condemnation of less than all or substantially all of this Property, the following provisions shall apply:

act done pursuant to such notice, but shall affect the lien of this Mortgage only to the extent of a reduction in the amount of said lien by the amount so applied.

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(d) If Section 1.15(b) or Section 1.15(c)(iii) shall govern and the Proceeds of the Condemnation are

(vi) Unless otherwise required by an REA or Ground Lease, it, pursuant to Section 1.15(c)(i), the parties do not agree on whether the remainder of this Property can be operated as an economically viable unit following restoration or replacement, either party may elect to have such decision determined by arbitration in accordance with the rules of the American Arbitration Association. In the event either party shall so elect, notice of demand for arbitration shall be filed in writing with the other party. This provision shall not be deemed to be a consent by either party to arbitration of any dispute other than the dispute specifically contemplated by this Section 1.15(c)(vi). The decision of the arbitrator or arbitrators shall be final. The cost of such arbitration, including the fees and expenses of the arbitrator(s), shall be borne by Mortgagor.

(v) Unless otherwise required by an REA or Ground Lease, in the event Mortgagee does not have the right (or does not elect to exercise the right) to apply the Proceeds pursuant to Section 1.15(c)(iii) hereof and in the event that such Proceeds are in the amount of 10% of the replacement cost per site or more, Mortgagor shall, at Mortgagee's request, deposit all of such Proceeds with the Depository Institution. Mortgagor shall instruct the Depository Institution to disburse such Proceeds to Mortgagor, in installments, to pay the costs and expenses associated with restoration, maintenance and operation of this Property, as such costs and expenses are incurred, in accordance with the requisition and disbursement procedures set forth in Exhibit C. Upon the payment of such costs and expenses, the balance of such Proceeds, if any, shall be delivered to Mortgagor.

(iv) Unless otherwise required by an REA or Ground Lease, in the event that Section 1.15(c)(i) does not apply, Mortgagor shall be entitled to receive all such Proceeds and to apply such Proceeds to the payment of the costs and expenses of repairing and restoring this Property.

Mortgagor to deliver to Mortgagee any Proceeds awarded to and received by Mortgagor and Mortgagee may avail itself of all of its rights under Section 1.09(b) as if such Proceeds were insurance proceeds.

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1.18 Liens. Mortgagor will pay or procure the discharge of, at Mortgagor's cost and expense, all liens (other than permitted Encumbrances) upon this property or any part thereof or interest therein within thirty (30) days after Mortgagor learns of the filing thereof. If Mortgagor shall fail to discharge any such lien within such thirty (30) day period, then, in addition to any other right or remedy of Mortgagee, Mortgagee may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such lien by depositing in court a bond for the amount

1.17 Successors and Assigns. This Mortgage applies to, inures to the benefit of and binds the parties hereto, the Lenders and their respective successors and assigns. In the event the ownership of this property becomes vested in a person other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such successor or successors in interest with reference to this Mortgage and the obligations in the same manner as with Mortgagor, and may alter the interest rate and/or alter or extend the terms of payment of any of the obligations without notice to Mortgagor and such action shall not in any way affect the liability of Mortgagor hereunder or under any other Loan Document to which it is a party or the lien or priority of this Mortgage with respect to this property or any part thereof covered hereby.

1.16 Additional Security. In the event Mortgagee at any time holds additional security for any of the obligations, it may enforce, sell or otherwise realize upon the same, at its option, either before or concurrently herewith or after enforcing its remedies hereunder.

estimated by Mortgagee to be substantially less than the Principal Loan Amount, Mortgagee alone shall have the right to settle, adjust or compromise any claim in connection with a condemnation of this Property. In all other cases, (1) Mortgagee may settle, adjust or compromise any claim which is estimated by Mortgagee to be in an amount less than 10% of the replacement cost per site; and (11) with respect to any claim which is estimated by Mortgagee to be in the amount of 10% of the replacement cost per site or more, Mortgagee and Mortgagor shall consult and cooperate with each other and each shall be entitled to participate in all meetings and negotiations with respect to the settlement of such claim. Any adjustment or settlement by Mortgagor of any claim which is in excess of 10% of the replacement cost per site shall be subject to the approval of Mortgagee which shall not be unreasonably withheld.

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1.20 Permitted Contests. Notwithstanding anything to the contrary contained in this Mortgage (but subject to any contrary requirements in any Prior Parcel Document, REA or Ground Lease), Mortgagor at its expense may contest (after prior written notice to Mortgagee if the contest involves an amount in excess of \$1,000,000), by appropriate legal, administrative or other proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any imposition or lien therefor or any law or the application of any instrument of record affecting this Property or any part thereof or any claims of mechanics, materialmen, suppliers or vendors and lien therefor, or any utility charges and lien therefor, and may withhold payment of the same pending such proceedings if permitted by law; provided that (a) in

1.19 Mortgagee's Powers. Without affecting the liability of any other person liable for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Mortgage upon any portion of this Property not then or theretofore released as security for the obligations, Mortgagee may, from time to time and without notice: (a) release any person so liable; (b) extend the maturity or alter any of the terms of any such obligation; (c) grant other indulgences; (d) release or cause to be released from the lien of this Mortgage at any time at Mortgagee's option any parcel, portion or all of this Property; (e) take or release any other or additional security for any obligation herein mentioned; (f) while an Event of Default is continuing, make compositions or other arrangements with debtors or other parties in relation to this Mortgage; (g) advance additional funds to protect the security hereof; (h) while an Event of Default is continuing, (w) pay or discharge any or all of the obligations, (x) consent in writing to the making of any map or plat of the Land or any part thereof, (y) join in granting any easement thereon, or (z) join in any extension agreement or any agreement subordinating the lien or charge hereof; and, in any case referred to in clauses (y) or (h), all amounts so advanced, with interest thereon at the Default Rate from the date of demand until paid, shall be secured hereby.

such advances with interest thereon as aforesaid shall be reimbursed by Mortgagor upon demand by Mortgagee; and all Default Rate from the date of demand until paid) shall be costs and expenses (together with interest thereon at the advanced by Mortgagee to pay such obligations, liabilities, such manner as is or may be prescribed by law; and all funds claimed or otherwise giving security for such claim, or in

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the case of any impositions or lien therefor or any claims of mechanics, materialmen, suppliers or vendors and lien therefor, such proceedings shall suspend the collection thereof from Mortgagee and this Property, (b) neither this Property nor any part thereof or interest therein will be sold, forfeited or lost if Mortgagee pays the amount or satisfies the condition being contested, and Mortgagee would have the opportunity to do so in the event of Mortgagee's failure to prevail in the contest, (c) Mortgagee shall not, by virtue of such permitted contest, be in any danger of any criminal liability, or any civil liability for which Mortgagee has not furnished security as provided in clause (d) below, and neither this Property nor any interest therein would be subject to the imposition of any lien which would have priority over the lien of this Mortgage for which Mortgagee has not furnished security as provided in clause (d) below, and (d) Mortgagee shall have furnished a good and sufficient bond or surety as requested by and reasonably satisfactory to Mortgagee if so required pursuant to clause (c) above or if the failure to comply with such imposition or law will result in a lien or charge against this Property in excess of \$500,000.

1.21 Continued occupancy. If at any time the then existing use or occupancy of any part of this Property shall, pursuant to any zoning or other law, ordinance or regulation, be permitted only so long as such use or occupancy shall continue, Mortgagee will not cause or permit such use or occupancy to be discontinued without the prior written consent of Mortgagee.

1.22 Inspections. Mortgagee hereby authorizes Mortgagee, its agents, representatives or workmen, to enter at any reasonable time after at least forty eight (48) hours advance notice to Mortgagee, and accompanied by a representative designated by Mortgagee (except that with respect to any emergency, Mortgagee, its agents, representatives or workmen may enter at any time and alone if a representative of Mortgagee is not immediately available) upon or in any part of this Property for the purpose of inspecting the same, and for the purpose of performing any of the acts which Mortgagee is authorized to perform under the terms of this Mortgage.

1.23 Management. At all times this Property shall be operated and managed by Mortgagee or an Affiliate of Mortgagee, or another entity acceptable to Mortgagee that is experienced in managing a department store pursuant to a written management agreement. Any such management agreement

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1.25 Transfers. Subject to the release provisions of Section 4.03 of the Loan Agreement, without the prior written approval of Mortgagee in each instance, no part of this Property or of any legal or beneficial interest in this Property shall be sold, assigned, conveyed, transferred or otherwise disposed of (whether voluntarily or involuntarily, directly or indirectly, by sale of stock or any interest in Mortgagee, by operation of law or otherwise); provided, however, that such approval shall not be required in connection with any sale, assignment, conveyance, transfer or other disposition (a) of all of this Property to a person wholly owned (either directly or indirectly) by R.H. Macy & Co., Inc. (the "parent") which is engaged solely in the ownership and/or operation of department and/or retail stores and which assumes in a manner reasonably satisfactory to Mortgagee all of the obligations of Mortgagee hereunder and under the other loan documents to the extent applicable to this Property, (b) of any interest in Mortgagee as long as the Parent retains, directly or indirectly, both a controlling ownership interest in this Property and operating responsibility for all of Mortgagee's properties, (c) of any personal Property pursuant to Section 3.01(d) hereof, (d) of all or any portion of the capital stock of, or equity interest in, Macy, (e) of all or any part of this Property as part of a condemnation; and, provided further, that such approval shall not be required in connection with any of the following: (i) grants of utility easements to utility companies and consents to third parties with respect to such easements and amendments, modifications and extensions of such easements; (ii) consents with respect to the development, use or disposition of land peripheral to the shopping center, if any, at which this Property is located, by third parties as to which Mortgagee has rights of approval as set forth in the applicable governing agreement, such as building height, parking facilities and traffic management; (iii) agreements as to

1.24 Licenses and Leases. Mortgagee may license others to use part of the space in the Improvements without the prior written consent of Mortgagee as long as such licenses are entered into in the ordinary course of its business. Mortgagee will not, without the prior written approval of Mortgagee, enter into any lease of space in the Improvements which is not subject and subordinate in all respects to this Mortgage and upon the request of the Mortgagee, the Mortgagee shall confirm such subordination in writing.

must be in form and substance reasonably satisfactory to Mortgagee.

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1.26 Indebtedness Secured by Liens. Except as otherwise provided in Section 8.01 of the Loan Agreement, Mortgagor shall not create, incur or suffer to exist, directly or indirectly, any lien or other exception to title or ownership upon or against this Property or any part thereof or any rents or income arising therefrom; provided, however, that, subject to any contrary provisions in any Parcel Document, REA or Ground Lease, Mortgagor may encumber this Property with a junior mortgage if the following conditions are satisfied: (a) (i) such junior mortgage secures the existing Indebtedness and (ii) the holder of such mortgage provides Mortgagor with a subordination agreement which is satisfactory to Mortgagor in all respects; or (b) (i) the proceeds of such junior mortgage financing are to be used solely to expand or renovate the facilities on this Property; (ii) the holder of such junior mortgage provides Mortgagor with a subordination agreement which is satisfactory to Mortgagor in all respects; (iii) the holder of such junior mortgage agrees not to accept or demand repayment in full or in part of the principal on its mortgage while any portion of the obligations is outstanding; and (iv) the fair market value of this Property (as shown by an appraisal by Mortgagee's appraiser which employs the same appraisal methodology as was employed in the appraisal which determined the Initial Appraised Value of this Property) must be sufficient to create a loan to value ratio of not greater than 75% with respect to the

non-substantial matters relating to common areas in the shopping center, if any, at which this Property is located, including relocation of roadways, changes in entrances and exits from and to public streets, reconfiguration of, and minor changes in, parking areas, use of common areas by the public for park and ride and similar facilities and adjustments to boundary lines within the shopping center or exchange of land to adjust common areas; (iv) execution of non-operating documents (e.g., estoppel certificates, non-disturbance agreements) other than non-disturbance agreements which would be binding upon Mortgagor upon a foreclosure, or the delivery of a deed in lieu of foreclosure) and agreements confirming opening dates; (v) the execution of amendments and waivers with respect to Prior Parcel Documents and the execution of new agreements occasioned by the rules, regulations or orders of a governmental offering claiming jurisdiction over such matters; and (vi) consents and amendments of the Prior Parcel Documents in connection with adding "anchor" stores or altering or expanding existing stores at any shopping center at which this Property is located.

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(b) Mortgagor shall comply with any and all laws, regulations and orders with respect to the removal of Hazardous Substances from this Property, and shall keep this Property free of any lien imposed pursuant to such laws, regulations or orders. In the event Mortgagor fails to do so, after notice to Mortgagor and the expiration of the cure period permitted under applicable law, regulation or order, Mortgagor may either declare an Event of Default

1.27 Environmental Protection Matters. (a) Mortgagor shall not cause or permit (or allow any tenant or other occupant of this Property to cause or permit) this Property to be used to generate, use, collect, treat, store, handle, transfer, produce or process Hazardous Substances except where done in a manner that is in compliance with all Environmental Laws relating to the same. Mortgagor shall not cause or permit a Release of Hazardous Substances on, in, over or under this Property. Mortgagor shall notify Mortgagor in writing immediately upon the receipt of: (i) any Notice which could result in liabilities of or expenditures by Mortgagor in excess of \$75,000 or, notwithstanding the amount, which is received by the chief legal officer of Macy, or (ii) Mortgagor's discovery of any occurrence or condition on this Property or any real property adjoining or in the vicinity of this Property that could cause this Property or any part thereof to be subject to any restrictions on the ownership, occupancy, transfer-ability or use of this Property under any Environmental Law. Should Mortgagor or any tenant or other occupant of this Property cause or permit any intentional or unintentional act or omission resulting in the Release of Hazardous Substances on, in, over or under this Property, Mortgagor shall promptly, and at Mortgagor's sole expense, clean-up such Release, or cause such tenant or other occupant to clean-up such Release to Mortgagor's reasonable satisfaction. Mortgagor shall fully cooperate in allowing from time to time such examinations, tests (including but not limited to a geohydrological survey of soil and subsurface conditions), inspections, and reviews (collectively, "Examinations") of this Property or any part thereof if it is determined (as set forth in the following sentence) that there is reasonable cause to believe that such Examinations would reveal environmental problems at this Property. Mortgagor and Mortgagor shall cooperate with each other in making such determination. The cost of any such Examinations shall be paid by Mortgagor.

Principal Loan Amount and the principal amount of the loan to be secured by such junior mortgage.

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1.28 Asbestos. Mortgagor shall not install nor permit to be installed in this Property asbestos or any substance containing asbestos and with respect to such material currently present in this Property shall comply with any applicable law, regulation or order relating thereto, at Mortgagor's expense. If Mortgagor shall fail to do so, Mortgagor may, after the expiration of the earlier of (i) applicable cure periods hereunder or (ii) the cure period permitted under the applicable law, regulation or order, either declare an Event of Default under this Mortgage or do whatever is necessary to eliminate said asbestos or substances from this Property if required by, and to the extent necessary to comply with, such law, regulation or order or otherwise comply with the applicable law, regulation or order and the cost thereof shall become due and payable immediately upon demand and with interest thereon at the Default Rate from the date of demand until paid. Mortgagor shall give to Mortgagee and its agents and employees access to this Property and hereby specifically grants to Mortgagee a license to remove said asbestos or substances if Mortgagor fails to do so as required above. Mortgagor hereby agrees to defend, indemnify and hold Mortgagee and the Lenders free and harmless from and against all loss, cost, damage (including consequential damage) and expense (including attorneys' fees and disbursements) incurred by Mortgagee or the Lenders as a result of the presence of said asbestos or substances and any removal or compliance with any law, regulation or order unless caused

(c) Unless caused by the conduct of an indemnified party or its agents or employees, Mortgagor shall defend, indemnify and hold Mortgagee and the Lenders harmless from and against any and all obligations, costs, losses, claims, damages, penalties, forfeitures, suits, liabilities and reasonable expenses (including, but not limited to, costs of defense, settlement, investigation and legal expenses) incurred by Mortgagee and the Lenders in connection with such Hazardous Substances as and to the extent set forth in the Indemnity.

under this Mortgage or cause this Property to be freed from the Hazardous Substances to the extent necessary to comply with such laws and free this Property from any such lien, and the cost of the removal shall become due and payable immediately upon demand and with interest thereon at the Default Rate from the date of demand until paid. Mortgagor shall give to Mortgagee and its agents and employees access to this Property and hereby specifically grants to Mortgagee a license to remove the Hazardous Substances if Mortgagor fails to do so as required above.

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2.02 Collection Upon Default. If an Event of Default occurs and is continuing, Mortgagee may, at any time and from time to time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the obligations hereby secured, enter upon and take possession of this property or any part thereof in its own name and sue for or otherwise collect the Rents, including those past due and unpaid, and apply the same, less reasonable costs and expenses of operation and collection, including attorneys' fees, to the obligations secured hereby in the manner set forth in Section 1.09(b) hereof. The collection of such Rents or the entering upon and taking possession of this

2.01 Assignment of Leases and Rents. Mortgagee hereby assigns and transfers to Mortgagee the Sublease and any and all other leases of this property or any part thereof and all of the Rents, now or hereafter existing, and hereby gives to and confers upon Mortgagee the right, power and authority to collect such Rents. Mortgagee irrevocably appoints Mortgagee its true and lawful attorney-in-fact, at the option of Mortgagee following an Event of Default, to demand, receive and enforce payment, to give receipts, releases and satisfactions and to sue, in the name of Mortgagee or Mortgagee, for all such Rents, and to apply such Rents to the obligations secured hereby in the manner set forth in Section 1.09(b) hereof; provided, however, that nothing herein shall be construed to bind Mortgagee to the performance of any of the terms and conditions of any lease or otherwise to impose any obligation on Mortgagee thereunder; and provided, further, that absent the occurrence and continuance of an Event of Default hereunder, Mortgagee is hereby granted a license, and shall have the right to collect, use and enjoy such Rents. The assignment of the leases and Rents in this Article II is intended to be an absolute assignment from Mortgagee to Mortgagee and not merely the passing of a security interest. The leases and Rents are hereby assigned absolutely by Mortgagee to Mortgagee contingent only upon the occurrence and continuance of an Event of Default.

ASSIGNMENT OF LEASES AND RENTS

ARTICLE II

by the conduct of an indemnified party or its agents or employees as and to the extent set forth in the Indemnity. The foregoing indemnification shall survive the repayment of the obligations and the foreclosure of the Mortgage.

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These security interests and liens shall secure all the obligations.

(e) All proceeds of the above-mentioned items, additions and substitutions to any of the above-mentioned items; and Any and all renewals or replacements of or

(d) All of the Equipment which constitutes personal property and all other personal property described in the Granting clauses hereof;

(c) All leases and rents and all proceeds of any judgment, award or settlement in any condemnation or eminent domain proceeding, together with all general intangibles, contract rights and accounts arising therefrom;

(b) All leases and rents and all proceeds of any judgment, award or settlement in any condemnation or eminent domain proceeding, together with all general intangibles, contract rights and accounts arising therefrom;

(a) All casualty insurance policies (other than business interruption insurance) required to be maintained by Mortgagor hereunder, together with all general intangibles, contract rights and accounts arising therefrom;

2.01 Creation of Security Interest. Mortgagor, as debtor, hereby grants to Mortgagee, as secured party, a security interest in, and lien on, the following property (collectively, the "Secured Property"):

SECURITY AGREEMENT

ARTICLE III

2.03 Further Assignments of Leases. Mortgagor agrees to assign and transfer to Mortgagee as additional security for the payment of the obligations secured hereby all present and future leases of this property or any part thereof and further agrees to execute and/or deliver, at the request of Mortgagee, an executed counterpart or true and complete copy of each lease and all such further customary assurances and assignments of leases as Mortgagee shall from time to time reasonably require.

Property or the application thereof as aforesaid, shall not, by itself, cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default.

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(f) Mortgagor shall cause all financing and continuation statements and other instruments with respect to the Secured Property at all times to be kept recorded, filed or registered in such manner and in such places as may be required by law fully to evidence, perfect and secure the interests of Mortgagor in the Secured Property and shall pay all filing fees in connection therewith. At the request of Mortgagor, Mortgagor will join Mortgagor in executing one or more financing statements and renewals, continuation statements and amendments thereof pursuant to the Uniform Commercial Code of the State in which this Property is located (the "Code") in form satisfactory to Mortgagor, and will pay the cost of filing the same in all public offices wherever filing is deemed by Mortgagor to be necessary or

(e) Mortgagor maintains a place of business at the address above stated for Mortgagor and Mortgagor will immediately notify Mortgagor in writing of any change in its place of business.

(d) The Secured Property will be kept on or at this Property and Mortgagor will not remove any portion or item of Secured Property affixed or attached to this Property without the prior written consent of Mortgagor, except such portions or items of Secured Property which are consumed or worn out in ordinary usage or removed in the ordinary course of business.

(c) The Secured Property is not used or bought for personal, family or household purposes.

(b) Except as otherwise provided in Section 1.25 or in clause (d) of this Section 3.02, Mortgagor will not assign, pledge, encumber, lease, sell, convey or in any manner transfer any item of the Secured Property, without the prior written consent of Mortgagor.

(a) Mortgagor is, and as to all the Secured Property acquired after the date hereof will be, the sole owner of the Secured Property, free from any lien, security interest, encumbrance or claim thereon of any kind whatsoever (other than Permitted Encumbrances). Mortgagor will notify Mortgagor of, and will defend the Secured Property against, all claims and demands of all persons at any time claiming the Secured Property or any interest therein other than such interests as are permitted herein.

3.02 Representations, Warranties, and Covenants of Mortgagor. The Mortgagor hereby warrants, represents and covenants as follows:

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(d) Mortgagor shall default in the due performance by it of any other term, covenant or agreement contained in this Mortgage, not listed in clauses (a) through (c), and such default shall continue unremedied

(c) An "Event of Default" as defined in the Loan Agreement (other than under Section 9.07 thereof) shall occur and be continuing; or

(b) Mortgagor shall default in the due performance or observance of any term, covenant or agreement contained in Sections 1.25 or 1.26 and such default shall continue unremedied for a period of ten (10) Business Days after written notice to it by the Agent;

(a) Mortgagor shall default in the payment when due of any amounts owed by it hereunder to Mortgagee or any other person and such default shall continue unremedied for a period of five (5) Business Days after written notice to it by the Mortgagee; or

4.01 Events of Default. The occurrence of any of the following specified events shall constitute an "Event of Default" hereunder:

EVENTS OF DEFAULT AND REMEDIES

ARTICLE IV

3.03 Survival of Security Agreement. Notwithstanding any release of any or all of the property included in the Mortgaged Property, which is deemed "real property", or any proceedings to foreclose this Mortgage or its satisfaction of record, the terms hereof shall survive as a security agreement with respect to the security interest created hereby and referred to above until the repayment or satisfaction in full of the obligations.

(g) This Mortgage constitutes a Security Agreement as that term is used in the Code.

Without limiting the foregoing, Mortgagor hereby irrevocably appoints Mortgagee its attorney-in-fact to execute, deliver and file such instruments for or on behalf of Mortgagor upon the failure of Mortgagor to do so within a reasonable time after demand, and Mortgagor will pay the cost of any such filing.

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(a) either in person or by agent with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Property or any part thereof, in its own name or in the name of Mortgagee, and do or cause to be done any acts (including, without limitation, the completion of any construction on or with respect to the Property in such form and manner as the Mortgagee may desire and the making of any alterations, additions, renewals, replacements and improvements to or on the Property) which it deems necessary or desirable to preserve the

4.02 Acceleration Upon Default, Additional Remedies. If an Event of Default shall occur and be continuing, the Mortgagee may declare all of the obligations secured hereby to be due and payable without any presentment, demand, protest or notice of any kind, and the Mortgagee may:

(e) if the Ground Lease should terminate for any reason.

For a period of ten (10) Business Days after written notice to Mortgagee by Mortgagee; provided, however, that if such default is not susceptible of complete cure within such ten (10) Business Day period and Mortgagee has commenced to cure within such period, no Event of Default shall be deemed to have occurred if Mortgagee diligently and continuously prosecutes such cure to completion and (i) if in Mortgagee's sole judgment such failure is material, such cure is completed within two hundred seventy (270) days after notice to Mortgagee that Mortgagee deems such failure to be material or (ii) if such cure or a partial cure is required by law within a certain time period, such cure or such partial cure is completed within such time period or any period during which Mortgagee in good faith contests such law, and Mortgagee provides Mortgagee for the benefit of the Lenders with a bond or other collateral in an amount sufficient to assure the cure and to pay any damages resulting from the delay caused by such contest, or (iii) if in Mortgagee's sole judgment such cure or a partial cure may be required to be completed in a shorter period in order to prevent imminent risk of damage to property or imminent risk of danger to health and safety as specified in a notice from Mortgagee to Mortgagee the portion of such cure necessary to eliminate such risks is completed within such shorter period; or

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(1) either personally or by means of a court appointed receiver, take possession of all or any of the Secured Property and exclude therefrom the Mortgagor and all others claiming under the Mortgagor, and thereafter construct, hold, store, use, operate, manage, maintain, lease and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers

(c) exercise any or all of the remedies available to a secured party under the Illinois Uniform Commercial Code, including, but not limited to:

(b) commence and maintain one or more actions at law or in equity or by any other appropriate remedy (1) to protect and enforce the Mortgagee's rights, whether for the specific performance of any covenant or agreement herein contained (which covenants and agreements the Mortgagor agrees shall be specifically enforceable by injunctive or other appropriate equitable remedy), (ii) to collect any sum then due hereunder, (iii) to aid the execution of any power herein granted, or (iv) to foreclose this Mortgage, without prejudice to the right of the Mortgagee thereafter to pursue and enforce any other appropriate remedy against the Mortgagor; and

value, marketability or rentability of the Property or any part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Property, make, cancel or modify leases and sue for or otherwise collect the Rents thereof, including those past due and unpaid, and apply the same, less costs of operation and collection, including attorney's fees, in the manner set forth in Section 1.09(b)(1) hereof. The entering upon and taking possession of the Property, the collection of such Rents and the application thereof as aforesaid, shall not, by itself, cure or waive any Event of Default or notice of default hereunder or invalidate any act done in response to such Event of Default or pursuant to such notice of default hereunder or invalidate any act done in response to such Event of Default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Property or the collection, receipt and application of Rents, the Mortgagee shall be entitled to exercise every right provided for herein or in the Loan Agreement or in any of the other Loan Documents or at law or in equity upon the occurrence of any Event of Default;

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of the Mortgagor with respect to the Secured Property or any part thereof. In the event the Mortgagee demands or attempts to take possession of the Secured Property in the exercise of any rights hereunder or under the Loan Agreement or under any of the other Loan Documents, the Mortgagor promises and agrees to promptly turn over and deliver complete possession thereof to the Mortgagee;

(ii) without notice to or demand upon the Mortgagor, make such payments and do such acts as the Mortgagee may deem necessary to protect its security interest in the Secured Property, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and, in exercising any such powers or authority, pay all expenses incurred in connection therewith;

(iii) require the Mortgagor promptly to deliver the Secured Property to the Mortgagee, or an agent or representative designated by it. The Mortgagee and its agents and representatives shall have the right to enter upon any or all of the Mortgagor's premises and property to exercise the Mortgagee's rights hereunder; and

(iv) sell, lease or otherwise dispose of the Secured Property at public sale, with or without having the Secured Property at the place of sale, and upon such terms and in such manner as the Mortgagee may determine. The Mortgagee may be a purchaser at any such sale.

Unless the Secured Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Mortgagee shall give the Mortgagor at least ten (10) days' prior written notice of the time and place of any public sale of the Secured Property or other intended disposition thereof. Such notice may be mailed to the Mortgagor at the address set forth in Section 5.04.

4.03 Right of Foreclosure. The Mortgagee shall have the right, at its option, to proceed at law or in equity to foreclose fully or partially this Mortgage subject to the rights of the lessor under the Ground Lease, and subject to the rights, if any, of any tenants or subtenants of the Property, and the failure to make any such ground

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lessor, tenants or subtenants a party defendant to any such suit or action or to foreclose their rights will not be asserted by the Mortgagor as a defense in any action or suit instituted to collect the Obligations secured hereby or any part thereof, any statute or rule of law at any time existing to the contrary notwithstanding. The Mortgagee may, to the extent permitted by law, adjourn from time to time any sale by it to be made under or by virtue of this Mortgage by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by an applicable provision of law, the Mortgagee may make such sale at the time and place to which the same shall be so adjourned. With respect to all components of the Mortgaged Property, except the Land and the Improvements, the Mortgagee is hereby irrevocably appointed the true and lawful attorney of the Mortgagor (coupled with an interest), in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of the Mortgaged Property, exclusive of the Land and the Improvements, and for that purpose the Mortgagee may execute all necessary instruments of conveyance, assignment, transfer and delivery, and may substitute one or more persons with such power, the Mortgagor hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, the Mortgagor, if so requested by the Mortgagee, shall ratify and confirm any such sale or sales by executing and delivering to the Mortgagee or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of the Mortgagee, for such purpose, and as may be designated in such request. To the extent permitted by law, any such sale or sales made under or by virtue of this Article IV shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of the Mortgagor in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against the Mortgagor and against any and all persons claiming or who may claim the same, or any part thereof, from, through or under the Mortgagor. Upon any sale made under or by virtue of this Article IV, the Mortgagee may, to the extent permitted by law, bid for and acquire the Mortgaged Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Obligations secured hereby the net sales price after deducting therefrom the expenses of the sale and the cost of the action and any other sums which the Mortgagee is authorized to deduct by law or under this Mortgage. In any suit to foreclose the lien hereof or in any other action to enforce any other remedy of Mortgagee under this Mortgage or with respect to

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any of the other Obligations, there shall be allowed and included as additional indebtedness in the decree for sale, judgment of foreclosure or other judgment or decree all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorney's fees, paralegal's fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title and value as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale pursuant to such decree the true condition of the title to or the value of this Property. All expenditures and expenses of the nature in this Section mentioned and such expenses and fees as may be incurred in the protection of this Property and the maintenance of the lien of this Mortgage, including but not limited to the fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Obligations or this Property, including bankruptcy proceedings, or in the preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate, and shall be secured by this Mortgage.

4.04 Sale of Premises Pursuant to Foreclosure.

In case of a sale pursuant to a foreclosure of this Mortgage, to the extent permitted by law, the Mortgaged Property, real, personal or mixed, may be sold for cash or credit as an entirety or in parcels, by one sale or by several sales held at one time or at different times, all as the Mortgagee, in its unrestricted discretion, may elect, and the Mortgagor, for and on behalf of itself and all persons claiming by, through or under the Mortgagor, waives any and all right to have the property and estates comprising the Mortgaged Property marshalled upon any foreclosure sale. Any such sale shall bind the Mortgagor, shall operate to divest all right, title and interest whatsoever, either at law or in equity, of the Mortgagor in and to the property sold, and shall be a perpetual bar, both at law and in equity, against the Mortgagor and its successors and assigns, and against any all persons claiming through or under the Mortgagor. The proceeds of any sale made under or by virtue of this Article IV, together with any other sums which then maybe held by the Mortgagee under the Mortgage, whether under the provisions of this Article and or otherwise, shall be applied in the manner specified in Section 1.09(b)(i) hereof.

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4.05 Appointment of Receiver. Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of this Property. Such appointment may be made either before or after sale, without notice if permitted by law, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of this Property, and Mortgagee hereunder may be appointed as such receiver. Such receiver shall have power: (a) to collect the rents, issues and profits of this Property during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, if any, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits; (b) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renewal terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in this Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from any judgment or decree of foreclosure, discharge of the mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; and (c) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of this Property during the whole of said period. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part to: (x) the Obligations or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to any foreclosure sale; and (y) the deficiency in case of a sale and deficiency.

4.06 Remedies Not Exclusive. The Mortgagee shall be entitled to enforce payment and performance of any Obligations secured hereby and to exercise all rights and powers under this Mortgage or under any other Loan Document or other agreement or any laws now or hereafter in force, notwithstanding that some or all of the said Obligations secured hereby may now or hereafter be otherwise secured,

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whether by mortgage, deed or trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or pursuant to the powers herein contained, shall prejudice or in any manner affect the Mortgagee's right to realize upon or enforce any other security now or hereafter held by the Mortgagee, it being agreed that the Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by the Mortgagee in such order and manner as it may in its absolute discretion determine. No remedy herein conferred upon or reserved to the Mortgagee is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any Loan Document to the Mortgagee, or to which it may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by the Mortgagee, and it may pursue inconsistent remedies.

4.07 Waiver of Redemption, Notice, Marshalling, Etc. Notwithstanding anything herein contained to the contrary, to the extent permitted by law the Mortgagor: (a) hereby waives trial by jury; (b) will not (i) at any time insist upon, or plead, or in any manner whatever, claim or take any benefit or advantage of any stay or extension or moratorium law, any exemption from execution or sale of the Property or any part thereof, wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Mortgage, nor (ii) claim, take or insist upon any benefit or advantage or any law now or hereafter in force providing for the valuation or appraisal of the Property or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision hereof, or pursuant to the decree, judgment or order of any court of competent jurisdiction; nor (iii) claim or exercise any right under any statute heretofore or hereafter enacted to redeem the property or any part thereof; and (c) covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Mortgagee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted. The Mortgagor, for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the Mortgaged Property marshalled upon any foreclosure hereof. The waiver of the right of redemption set forth in clause b(iii) above is made pursuant to Ill. Rev. Stat. CH. 110, § 15-1601(b).

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ARTICLE V

MISCELLANEOUS

5.01 Definitions. As used in this Mortgage, the following terms have the following respective meanings:

Depository Institution: Mortgagee or such other bank or financial institution as shall be designated by Mortgagee.

Environmental Laws: any federal, state or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or the environmental conditions on, under or about this Property, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") as amended, 42 U.S.C. Sections 9601 et seq., and the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Sections 6901 et seq.

Existing Indebtedness: as defined in the Loan Agreement.

Ground Lease: any lease so described as such in Exhibit A.

Hazardous Substances: (i) Those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," or "solid waste" in CERCLA, RCRA, and the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801 et seq., and in the regulations promulgated pursuant to said laws;

(ii) Those substances listed in the United States Department of Transportation Table (49 C.F.R. 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 C.F.R. Part 302 and amendments thereto);

(iii) Such other substances, materials and wastes which are or become regulated under applicable local, state or federal law, or the United States government, or which are classified as hazardous or toxic under federal, state, or local laws or regulations; and

(iv) Any material, waste or substance which is (A) petroleum, (B) asbestos, (C) polychlorinated biphenyls, (D) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. §§1251 et seq.

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(33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. §1317); (E) flammable explosives; or (F) radioactive materials.

Notwithstanding anything hereunto the contrary, Hazardous Substances shall not include any products, goods or inventory used or sold in the ordinary course of business.

Loan Documents: this Mortgage, the Loan Agreement and all other documents evidencing or securing the Obligations or delivered in connection therewith.

Macy: R.H. Macy & Co., Inc., a Delaware corporation

Macy Party: as defined in the Loan Agreement.

Notice: as used in Section 1.27 hereof, any summons, citation, directive, order, claim, litigation, investigation, proceeding, judgment, letter or other communication, written or oral, from any federal, state or local agency or authority, or any other entity or any individual, relating to the Property and concerning any intentional or unintentional act or omission resulting or which may result in the release of Hazardous Substances into the "environment", as such term is defined in CERCLA, including any lien on any real property, including but not limited to this Property, or concerning any violation of federal, state or local environmental laws, ordinances, rules, regulations, governmental actions, orders or permits, or any knowledge, after due inquiry and investigation, of any facts which could give rise to any of the above.

Permitted Encumbrances: those matters set forth in Exhibit B hereto.

Permitted Investments: (i) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed or insured by the United States Government or any agency thereof, (ii) certificates of deposit, eurodollar time deposits, overnight bank deposits, bankers acceptances and repurchase agreements of Mortgagee or any Qualified Issuer having maturities of one year or less from the date of acquisition and (iii) commercial paper of Mortgagee or an issuer rated at least A-1 by Standard & Poor's or P-1 by Moody's or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of investments. (As used herein, "Qualified Issuer" means any

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commercial bank which has capital and surplus in excess of \$100,000,000 and the securities of which are rated at least BBB by Standard & Poor's or at least Baa-2 by Moody's or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of investments.)

Person: an individual, partnership, corporation, trust or unincorporated organization, and a government or agency or political subdivision thereto.

Personal Property: all right, title and interest of Mortgagor in and to (i) all machinery, equipment, fixtures (including but not limited to all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), fire sprinklers and alarm systems, boilers, refrigerating, electronic monitoring, window or structural cleaning rigs, mechanical, structural, and electrical performance systems, and (ii) all installations, fixtures and furnishings specifically designed for any Site and the Improvements, including but not limited to computer systems, and other utility installations and cash registers which are on a centralized system and computers, telephones and other equipment which are part of an inter-store, inter-divisional or inter-corporate communications system, and (iii) all appraisals, engineering, soils and other reports and studies relating to the Sites or the Improvements, and (iv) all permits, licenses and contract rights, warranties, guaranties, and equipment manuals or catalogues. The property described in clauses (i) through (iv) shall (a) be limited to the fixtures and personal property relating to the present and future use, occupancy and operation of the Sites and the Improvements as stores in which primarily department store type merchandise is sold, (b) be owned by Mortgagor, or in which Mortgagor has or shall have an interest, (c) be now or hereafter located upon the Sites and Improvements, or appurtenant thereto and (d) (x) exclude inventory, software relating to cash registers which are on a centralized system and software relating to computers, telephones and other equipment which are part of an inter-store, inter-divisional or inter-corporate communications system, (y) exclude contracts, permits or licenses not freely assignable or relating to other properties and (z) exclude any sign (whether or not a fixture), or any personal property that bears any trade name, trademark, service mark, trade style, copyright, trade dress or other intellectual property used or identified with the promotion, marketing or advertising activities of a department store operated by any Macy Party.

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Principal Loan Amount: \$54,400,000.00.

Prior Parcel Documents: those documents identified on Exhibit D hereto.

Release: as used in Section 1.27 and 5.01 hereof shall mean releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping.

5.02 Governing Law. This Mortgage shall be governed by and construed in accordance with Illinois law. In the event that any provision or clause of this Mortgage conflicts with applicable laws, such conflicts shall not affect other provisions of this Mortgage which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage are declared to be severable. This Mortgage cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

5.03 Limitation on Interest. It is the intent of Mortgagor and Mortgagee in the execution of this Mortgage and all other instruments evidencing or securing the Obligations to contract in strict compliance with the relevant usury laws. In furtherance thereof, Mortgagee and Mortgagor stipulate and agree that none of the terms and provisions contained in the loan Documents shall ever be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by relevant law. Mortgagor or any guarantor, endorser or other party now or hereafter becoming liable for the payment of any of the Obligations shall never be required to pay interest at a rate in excess of the maximum interest that may be lawfully charged under relevant law and the provisions of this Section shall control over all other provisions of any instrument executed in connection herewith which may be in apparent conflict herewith. In the event it is determined that any holder of any of the Obligations has collected monies which are deemed to constitute interest and are deemed to increase the effective interest rate on the Obligations to a rate in excess of that permitted to be charged by relevant law, all such sums deemed to constitute

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interest in excess of such legal rate shall, at the election of such holder, either be applied by such holder to payment of such Obligations, as such Obligations mature, or refunded to Mortgagor.

5.04 Notices. Except as otherwise set forth herein, all notices, requests and demands required or permitted to be made hereunder shall be in writing and sent by certified or registered mail, return receipt requested or by express courier or delivery service (provided the same shall provide dated evidence of delivery), shall be deemed given or made three (3) Business Days after mailing if sent by mail or one (1) Business Day after consignment to an express courier or delivery service and shall be directed as follows:

If to Mortgagee: Swiss Bank Corporation,
New York Branch
4 World Trade Center
Box 395
Church Street Station
New York, New York 10008
Attn: Real Estate Financing:
Mr. Joseph Hayes,
Vice President

If to Mortgagor: c/o R.H. Macy & Co., Inc.
151 West 34th Street
13th Floor
New York, New York 10001
Attn: Corporate Secretary

with copies to: Weil, Gotshal & Manges
767 Fifth Avenue
New York, New York 10153
Attn: Carl D. Lobell, Esq.

or to such other address or to such other addressee as the party to be served with notice may have furnished in writing to the party servicing or desiring to serve notice as a place for the service of notice.

5.05 Captions. The captions or headings at the beginning of each Article and Section hereof are for the convenience of the parties and are not a part of this Mortgage.

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5.06 Invalidity or Unenforceability. If the lien of this Mortgage is invalid or unenforceable as to any part of the Obligations secured hereby, or if such lien is invalid or unenforceable as to any part of the Mortgaged Property, the unsecured or partially secured portion of the Obligations shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Obligations, and all payments made on the Obligations, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the Obligations which is not secured or not fully secured by the lien of this Mortgage.

5.07 Subrogation. To the extent Mortgagee advances any funds under this Mortgage to pay any outstanding lien charge or encumbrance against this Property, such proceeds or advances have been or will be advanced by Mortgagee at Mortgagor's request and Mortgagee shall be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and encumbrances, irrespective of whether said liens, charges or encumbrances are released.

5.08 No Merger. Upon foreclosure of the lien created by this Mortgage on the Mortgaged Property, any leases then existing shall not be destroyed or terminated by application of the law of merger or as a matter of law or as a result of such sale unless Mortgagee or any purchaser at any such foreclosure sale shall so elect. No act by or on behalf of Mortgagee or any such purchaser shall constitute a termination of any lease unless Mortgagee or such purchaser shall give written notice thereof to such tenant or subtenant.

5.09 Non-Waiver. Except as expressly provided to the contrary herein, acceptance by Mortgagee of any sum after the same is due shall not constitute a waiver of the right either to require prompt payment, when due, of all other sums hereby secured or to declare an Event of Default as herein provided. The acceptance by Mortgagee of any sum in an amount less than the sum then due shall be deemed an acceptance on account only and upon condition that it shall not constitute a waiver of the obligation of Mortgagor to pay the entire sum then due, and Mortgagor's failure to pay said entire sum then due shall be and continue to be an Event of Default notwithstanding such acceptance of such amount on account, as aforesaid, and Mortgagee shall be at all times thereafter and until the entire sum then due shall have been paid, and notwithstanding the acceptance by

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Mortgagee thereafter of further sums on account, or otherwise, entitled to exercise all rights in this Mortgage conferred upon it, upon the occurrence of an Event of Default. Consent by Mortgagee to any transaction or action of Mortgagor which is subject to consent or approval of Mortgagee hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive transactions or actions. No failure by Mortgagee to insist upon the strict performance of any term hereof or to exercise any right, power or remedy consequent upon a breach thereof shall constitute a waiver of any such term or of any such breach. No waiver of any breach shall affect or alter this Mortgage, which shall continue in full force and effect, or the rights of Mortgagee with respect to any other then existing or subsequent breach.

5.10 Further Assurances. Mortgagor at its own expense, will execute, acknowledge and deliver all such instruments and take all such action as may be necessary to assure to Mortgagee the interest in the Mortgaged Property herein described and the rights intended to be provided to Mortgagee herein.

5.11 Additional Security. Without notice to or consent of Mortgagor and without impairment of the interest and rights created by this Mortgage, Mortgagee may accept (but Mortgagor shall not be obligated to furnish) from Mortgagor or from any other Person, additional security for the Obligations. Neither the giving of this Mortgage nor the acceptance of any such additional security shall prevent Mortgagee from resorting, first, to such additional security, and, second, to the security created by this Mortgage without affecting Mortgagee's interest and rights under this Mortgage.

5.12 Remedies Cumulative. No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by this instrument to Mortgagee or to which Mortgagee may be otherwise entitled may be exercised from time to time and as often as may be deemed expedient by Mortgagee, and Mortgagee may pursue inconsistent remedies.

5.13 Partial Invalidity. If any of the provisions of this Mortgage or the application thereof to any person, party or circumstances shall to any extent be invalid or unenforceable, the remainder of this Mortgage, or

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