

ARTICLE IV

Disposition and Release of Property

SECTION 4.01. *Dispositions of Building Service Equipment Without Release.* The Company shall have the right, at any time and from time to time, unless an Event of Default shall have happened and shall not have been remedied, without any release from or consent by the Trustee,

A. To sell or dispose of, free from the lien of this Mortgage, any building service equipment which, in the opinion of the Company or the Lessee, may have become obsolete or unfit for use or no longer useful or profitable in the conduct of the business of the Company or the Lessee, and no purchaser of any such property shall be bound to inquire into any question affecting the right of the Company to sell or otherwise dispose of the same free from the lien of this Mortgage; and

B. To alter, repair, replace, change the location or position of and add to any building service equipment; *provided, however,* that no change shall be made in the location of any such property subject to the lien of this Mortgage which would in any respect impair the lien of this Mortgage upon such property.

The Company either (1) shall apply any net cash proceeds received from the sale or disposition of any building service equipment under Clause A of this Section, in acquiring or reimbursing itself for acquiring other building service equipment not necessarily of the same character but of a value at least equal to that of the building service equipment so sold or disposed of, which shall forthwith be subject to the lien of this Mortgage or (2) if and to the extent that such net proceeds shall not have been so applied within one year after receipt thereof, shall pay the same to the Trustee to be held and disposed of under Article V.

The Trustee shall, from time to time, execute any written instrument, in form satisfactory to it, to confirm the propriety of any action taken by the Company under this Section, upon receipt by the

Trustee of a Company Request requesting the same, together with an Officers' Certificate stating that no Event of Default has occurred which has not been remedied and that the action so to be confirmed was duly taken in conformity with a designated Subsection of this Section, and an Opinion of Counsel stating that said action was duly taken by the Company in conformity with said Subsection and that the execution of such written instrument is appropriate to confirm the propriety of such action under this Section.

SECTION 4.02. *Transfer of Property Without Release.* The Company may sell or otherwise transfer, subject to this Mortgage, the Assignment and the Assigned Lease, any of the Properties or any interest therein to any solvent person legally entitled to acquire and hold such Property or interest, *provided* (i) the Company shall have given at least 20 days' prior written notice (except for a transfer on the date of delivery hereof) to the Trustee setting forth the name of the transferee and the proposed date of transfer; (ii) the Company shall have delivered to the Trustee an Officers' Certificate, dated the date of such transfer, stating that there exists no condition or event which at such time, or after notice or lapse of time or both, would constitute a default under this Mortgage, the Assigned Lease, the Ground Leases, the Assignment or the Genesco Agreement and that no such event or condition will exist as a consequence of such transfer, and that such transfer will not impair the lien and security of this Mortgage upon any part of the Trust Estate or any of the rights and powers of the Trustees or of the Noteholders and is not in its overall effect against the interests of the Company or Trustees or persons deriving an interest through the Company or the Trustees; and (iii) the Company shall have delivered to the Trustee an Opinion of Counsel, dated the date of such transfer, to the effect that notwithstanding such sale or transfer, the Company remains fully charged and liable hereunder as obligor and maker on the Notes and continues to be obligated with respect to the performance and observance of all the terms, conditions and covenants of this Mortgage, the Assignment, and the Genesco Agreement as fully as was the case