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This instrument was prepared by the attorney named below in consultation with counsel in the State in which the Premises is located and, when recorded, the recorded counterpart should be returned to:

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Tira Harpaz, Esq.  
Davis Polk & Wardwell  
1 Chase Manhattan Plaza  
New York, New York 10005

\$38.00

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MORTGAGE, AND ASSIGNMENT OF RENTS, LEASES AND LEASEHOLD INTERESTS

Dated as of July 7, 1989

by

CPS REALTY PARTNERSHIP,  
an Illinois general partnership,

as mortgagor

for the benefit of

SWISS BANK CORPORATION,  
NEW YORK BRANCH,

as Collateral Agent and Mortgagee

=====

Premises Located At:

25 South State Street  
Chicago, Illinois

P.I.N. 17-15-100-010

COOK COUNTY CLERK'S OFFICE  
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MORTGAGE, AND ASSIGNMENT OF RENTS, LEASES  
AND LEASEHOLD INTERESTS

MORTGAGE, AND ASSIGNMENT OF RENTS, LEASES AND LEASEHOLD INTERESTS (herein called this "Mortgage") dated as of the 7th day of July, 1989, between CPS REALTY PARTNERSHIP, a general partnership organized and existing under the laws of the State of Illinois, having an office at 36 South Wabash Avenue, Chicago, Illinois 60603 (herein, together with its successors and assigns, called the "Mortgagor"), and SWISS BANK CORPORATION, NEW YORK BRANCH, as Collateral Agent, under the Master Collateral Agreement hereinafter described, having an office at 4 World Trade Center, Box 395, Church Street Station, New York, New York 10008 (herein, together with its successors and assigns in such capacity under the Master Collateral Agreement, called the "Mortgagee").

## RECITALS:\*

A. Master Collateral Agreement. Reference is hereby made to that certain Master Collateral Agreement dated as of July 7, 1989 among Carson Pirie Scott & Company (the "Borrower"), its Subsidiaries listed therein, the Mortgagor, Swiss Bank Corporation, New York Branch, Union Bank of Switzerland and the Mortgagee (herein, as it may be from time to time amended or supplemented, called the "Master Collateral Agreement"), providing for the Mortgagee, upon the instructions and pursuant to the authority granted therein, to exercise the rights and remedies granted to the Mortgagee under this Mortgage and the other Security Documents for the benefit of the Secured Parties.

B. Ownership Interest. The Mortgagor is the owner of the Real Estate described on Exhibit A attached hereto to the extent described therein and is the lessee of all or a portion of the Real Estate described on Exhibit B attached hereto to the extent described therein.

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\* Capitalized terms are defined in, or by reference in, Section 1.01.

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C. Secured Obligations. The obligations secured by this Mortgage are comprised at all times of the Secured Obligations, as such term is defined in the Master Collateral Agreement, including certain revolving credit obligations.

D. Principal Indebtedness and Maturity. The maximum principal amount of the Secured Obligations that this Mortgage secures is \$390,000,000 and the maturity of the Secured Obligations does not extend beyond thirty (30) years from the date of this Mortgage.

E. Absolute Lien. The Mortgagor acknowledges that this Mortgage is one of a number of other mortgages, deeds of trust, deeds to secure debt and other Security Documents which together secure the Secured Obligations. The Mortgagor agrees that the Lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of the Secured Parties and, without limiting the generality of the foregoing, the Lien hereof shall not be impaired by any acceptance by the Secured Parties of any security for or guarantee of any of the Secured Obligations, or by any failure, neglect or omission on the part of Secured Parties to realize upon or protect any of the Secured Obligations or any collateral security therefor, including the Security Documents. The Lien hereof shall not in any manner be impaired or affected by any release, sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, exchange, modification or disposition of any of the Secured Obligations or any of the collateral security therefor, including the Security Documents or of any guarantee thereof; and the Mortgagee may in its discretion foreclose, exercise any power of sale, or exercise any other right or remedy available to it under the Master Collateral Agreement or any of or all of the other Security Documents without first exercising or enforcing any of its rights and remedies hereunder. Such exercise of the Mortgagee's rights and remedies under the Master Collateral Agreement or any of or all of the other Security Documents shall not in any manner impair the Secured Obligations or the Lien of this Mortgage and any exercise of the rights or remedies of the Mortgagee hereunder shall not impair the Lien of any of the other Security Documents or any of the Mortgagee's rights and remedies thereunder. The Mortgagor specifically consents and agrees that the Mortgagee may exercise its rights and remedies hereunder and under the other Security Documents and the Master Collateral Agreement separately or concurrently and in any order that the Mortgagee may deem appropriate.

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## GRANTING CLAUSES

NOW, THEREFORE, for and in consideration of the mutual agreements contained herein and in each of the other Security Documents, the Master Collateral Agreement and the instruments creating or evidencing the Secured Obligations, and for other good and valuable consideration, the receipt and adequacy of which are hereby conclusively acknowledged, and as continuing security for prompt and complete payment when due of the Secured Obligations and the performance and observance of the Secured Obligations, the Mortgagor hereby MORTGAGES, WARRANTS, CONVEYS, TRANSFERS and ASSIGNS to the Mortgagee and its successors and assigns the Premises described below, and GRANTS to the Mortgagee and its successors and assigns forever, except as otherwise provided in this Mortgage and the Master Collateral Agreement, a continuing SECURITY INTEREST in and to the property described below, in all cases whether now or hereafter existing or acquired (herein the following are collectively called the "Mortgaged Property"):

### GRANTING CLAUSE I.

Real Estate. All of the fee owned real estate which is described on Exhibit A hereto and all of the leasehold estate of the Mortgagor, as tenant under the Prime Leases, in and to the real estate which is described on Exhibit B hereto, together with all and singular the tenements, rights, easements, hereditaments, rights of way, privileges, liberties, appendages and appurtenances now or hereafter belonging or in any way appertaining to said real estate (including, without limitation, all rights relating to storm and sanitary sewer, water, gas, electric, railway and telephone services); all right, title and interest, if any, of the Mortgagor in and to all gas, oil, minerals, coal and other substances of any kind or character underlying such real estate; all estate, claim, demand, right, title or interest, if any, of the Mortgagor in and to any street, road, highway, or alley (vacated or otherwise) adjoining said real estate or any part thereof; and all the Mortgagor's right, title and interest, if any, in and to any strips and gores belonging, adjacent or pertaining to said real estate (herein collectively called the "Real Estate").

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## GRANTING CLAUSE II.

Improvements and Fixtures. All right, title and interest of the Mortgagor in and to all buildings, structures, replacements, furnishings, fixtures and fittings and other improvements and property of every kind and character, now or hereafter located or erected on the Real Estate; together with all right, title and interest of the Mortgagor in and to all equipment, appliances, machinery, tools, accessories, apparatus, building or construction materials, and other articles of any kind or nature whatsoever, now or hereafter affixed or attached to the Real Estate (including, without limitation, all motors, boilers, engines, pumps, compressors, tanks and similar devices, all heating, electrical, lighting, power, plumbing, air conditioning, refrigeration and ventilation equipment, all pipes, ducts, conduits, cables and other transmission devices and equipment, all elevators, escalators, lifts, walls, partitions, doors, windows and other equipment and property affixed to the Real Estate which is real estate or real property under applicable law) (herein collectively called the "Improvements"; the Real Estate and the Improvements being herein collectively called the "Premises").

## GRANTING CLAUSE III.

Leaseholds. All right, title and interest (including, without limitation, all present or future options and other rights to purchase) of the Mortgagor, as lessee under the Prime Leases, and under any leases, licenses, occupancy agreements or concessions to be entered into subsequent to this Mortgage, whereby the Mortgagor has any right to the use, possession or occupancy of the Premises (herein collectively called the "Leaseholds").

## GRANTING CLAUSE IV.

Leases and Rents. All present and future right, title and interest of the Mortgagor under all leases, subleases, licenses, occupancy agreements or concessions now in effect or to be entered into subsequent to this Mortgage, whereby any Person has agreed to pay money or any consideration to the Mortgagor for the use, possession or occupancy of the Premises or any part thereof (herein collectively called the "Leases"), and all rents, income, profits, benefits, avails, advantages and claims against guarantors under any thereof (herein collectively called the "Rents"). Until a Notice to Foreclose shall have been delivered, the Mortgagor shall be entitled to collect and retain all Rents.

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## GRANTING CLAUSE V.

Contracts for Sale. All rights of the Mortgagor as seller under any agreement, contract, understanding or arrangement pursuant to which the Mortgagor has obtained the agreement of any Person to purchase any of the Mortgaged Property or any interest therein (herein collectively called "Contracts for Sale"), and all income, profits, benefits, avails, advantages and claims against guarantors under any thereof.

## GRANTING CLAUSE VI.

Condemnation Awards. All right, title and interest of the Mortgagor in and to all judgments, awards or payments, including interest thereon, which may be made with respect to any Condemnation of or with respect to the Premises or any part thereof or interest therein, whether from the exercise of the right of condemnation or eminent domain (including any transfer made in lieu of the exercise of such right) or for any other injury to or decrease in value of the Premises or any part thereof (herein collectively called the "Condemnation Proceeds").

## GRANTING CLAUSE VII.

Insurance Proceeds. All right, title and interest of the Mortgagor in and to all proceeds of and any unearned premiums on any insurance policies (including, without limitation, title insurance) covering the Premises or any part thereof, including, without limitation, the right to receive the proceeds of any insurance, judgments or settlements made in lieu thereof, for casualty with respect to the Premises or any part thereof (herein collectively called the "Insurance Proceeds").

## GRANTING CLAUSE VIII.

Proceeds. All right, title and interest of the Mortgagor in and to all other proceeds of the foregoing, including any proceeds realized from the sale or other disposition of the foregoing (herein collectively called the "Proceeds").

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GRANTING CLAUSE IX.

Further Property. Any other property and rights which are, by the provisions of the Master Collateral Agreement, any Security Document or any other agreement or instrument creating or evidencing any of the Secured Obligations, required to be subjected to the Lien hereof; and any additional property and rights that may from time to time hereafter by location on or affixation to the Premises, or by writing of any kind, or otherwise be subjected to the Lien hereof by the Mortgagor or by anyone on its behalf.

TO HAVE AND TO HOLD the Premises and the balance of the Mortgaged Property unto the Mortgagee, its successors and assigns forever, except as otherwise provided in this Mortgage or in the Master Collateral Agreement.

ARTICLE I

DEFINITIONS AND INTERPRETATION

SECTION 1.01. Definitions. (a) Capitalized terms used but not defined herein, are defined in, or incorporated by reference in, the Master Collateral Agreement and have the same meanings herein as therein.

(b) In addition, in this Mortgage, unless otherwise specified, the following terms have the following meanings:

"Casualty" means any damage to, or destruction of, any Mortgaged Property.

"Condemnation" means any condemnation or other taking or temporary or permanent requisition of any Mortgaged Property, any interest therein or right appurtenant thereto, or any change of grade affecting any Mortgaged Property, as the result of the exercise of any right of condemnation or eminent domain. A transfer in lieu of or anticipation of Condemnation shall be deemed to be a Condemnation.

"Condemnation Proceeds" has the meaning set forth in Granting Clause VI.

"Contracts for Sale" has the meaning set forth in Granting Clause V.

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"Improvements" has the meaning set forth in Granting Clause II.

"Insurance Policies" means the insurance policies and coverages required to be maintained by the Mortgagor pursuant to the Master Collateral Agreement, any Security Document or any other agreement or instrument creating or evidencing any of the Secured Obligations.

"Insurance Proceeds" means, at any time, all insurance proceeds or payments to which the Mortgagor may be or become entitled under the Insurance Policies by reason of any Casualty, plus (i) the amounts of any deductibles under such Insurance Policies; (ii) if the Mortgagor fails to maintain any of such Insurance Policies, the amounts which would have been available with respect to such Casualty had the Mortgagor maintained such Insurance Policies; (iii) all insurance proceeds and payments to which the Mortgagor may be or become entitled by reason of any Casualty under any other insurance policies or coverages maintained by the Mortgagor with respect to the Mortgaged Property; and (iv) the amounts of all self-insurance of the insurance coverages required to be maintained pursuant to the Master Collateral Agreement, any Security Document or any other agreement or instrument creating or evidencing any of the Secured Obligations.

"Leases" has the meaning set forth in Granting Clause IV.

"Leaseholds" has the meaning set forth in Granting Clause III.

"Lien" means, with respect to any property or asset, (i) any mortgage, deed of trust, deed to secure debt, lien, pledge, charge, security interest or other encumbrance of any kind with respect to such property or asset (including any installment sale, conditional sale or other title retention agreement); and (ii) any easement, right of way servitude, reservation, restriction, possibility of reverter, occupancy, tenancy, lease, sublease, license, agreement, option, cloud, claim, defect or other title exception with respect to such property or asset.

"Master Collateral Agreement" has the meaning set forth in the Recitals.

"Mortgaged Property" has the meaning set forth in the Granting Clauses.

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"Mortgagee" has the meaning set forth in the Preamble.

"Premises" has the meaning set forth in Granting Clause II.

"Prime Leases" means the leases described in Exhibit C to the extent the same remain in effect and affect the Mortgaged Property.

"Proceeds" has the meaning set forth in Granting Clause VIII.

"Real Estate" has the meaning set forth in Granting Clause I.

"Rents" has the meaning set forth in Granting Clause IV.

(c) In this Mortgage, unless otherwise specified, references to any of this Mortgage, the other Security Documents, the Master Collateral Agreement and the Secured Obligations (including all definitions from such documents used herein) include all amendments, restatements, supplements, consolidations, replacements, extensions, renewals and other modifications thereof entered into in accordance with the provisions thereof (including all changes in such definitions made thereby).

SECTION 1.02. Interpretation. In this Mortgage, unless otherwise specified, (i) singular words include the plural and plural words include the singular; (ii) words which include a number of constituent parts, things or elements, including the terms Improvements, Land, Premises, Mortgaged Property and Secured Obligations, shall be construed as referring separately to each constituent part, thing or element thereof, as well as to all of such constituent parts, things or elements as a whole; (iii) words importing any gender include the other genders; (iv) references to any Person include such Person's successors and assigns and in the case of an individual, the word "successors" includes such Person's heirs, devisees, legatees, executors, administrators and personal representatives; (v) references to any statute or other law include all applicable rules, regulations and orders adopted or made thereunder and all statutes or other laws amending, consolidating or replacing the statute or law referred to; (vi) the words "consent", "approve" and "agree", and derivations thereof or words of similar import, mean the prior written consent, approval or

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INVESTIGATION REPORT

REPORT NO. 100-100000-100000

DATE OF REPORT: 10/10/2000

REPORTING OFFICER: [Name]

REPORTING AGENCY: [Agency]

REPORTING OFFICER'S TITLE: [Title]

REPORTING OFFICER'S ADDRESS: [Address]

REPORTING OFFICER'S PHONE: [Phone]

REPORTING OFFICER'S FAX: [FAX]

REPORTING OFFICER'S EMAIL: [Email]

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agreement of the Person in question; (vii) the words "include" and "including", and words of similar import, shall be deemed to be followed by the words "without limitation"; (viii) the words "hereto", "herein", "hereof" and "hereunder", and words of similar import, refer to this Mortgage in its entirety; (ix) references to Articles, Sections, Schedules, Exhibits, subsections, paragraphs and clauses are to the Articles, Sections, Schedules, Exhibits, subsections, paragraphs and clauses of this Mortgage; (x) the Schedules and Exhibits to this Mortgage are incorporated herein by reference; (xi) the titles and headings of Articles, Sections, Schedules, Exhibits, subsections, paragraphs and clauses are inserted as a matter of convenience and shall not affect the construction of this Mortgage; (xii) no inference in favor of or against any Person shall be drawn from the fact that such Person or its counsel drafted any portion hereof; (xiii) all obligations of the Mortgagor hereunder shall be satisfied by the Mortgagor at the Mortgagor's sole cost and expense; and (xiv) all rights and powers granted to the Mortgagee hereunder shall be deemed to be coupled with an interest and irrevocable.

## ARTICLE II

### WARRANTIES AND COVENANTS

To protect the security of this Mortgage, as long as this Mortgage is in effect, the Mortgagor further covenants and agrees with the Mortgagee as follows:

SECTION 2.01. Subrogation. To the extent that the Mortgagee, after the date hereof, pays pursuant to the terms of this Mortgage, the other Security Documents, the Master Collateral Agreement and any instrument creating or evidencing the Secured Obligations any sum due under any provision of law or any instrument or documents creating any Lien prior or superior to the Lien of this Mortgage, the Mortgagee shall have and be entitled to a Lien on the Mortgaged Property equal in priority to that discharged, and the Mortgagee shall be subrogated to, and receive and enjoy all rights and Liens possessed, held or enjoyed by, the holder of such Lien, which shall remain in existence for the benefit of the Mortgagee to secure the amount expended by the Mortgagee on account of or in connection with such Lien. The Mortgagee shall be subrogated, notwithstanding their release of record, to deeds trust, trust deeds, superior titles, vendor's liens, liens, charges, encumbrances, rights and equities on the Premises to the extent that any obligation under any thereof is paid or

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discharged with proceeds of disbursements or advances under any instrument evidencing any Secured Obligations.

## ARTICLE III

### PERIOD OF DEFAULT; REMEDIES

SECTION 3.01. Possession of Premises. In the event that a Notice to Foreclose shall be in effect, whether before or after institution of proceedings to foreclose the Lien of this Mortgage, the Mortgagor hereby waives all right to the possession, income and Rents of the Premises, and the Mortgagee is hereby expressly authorized and empowered to the extent permitted by applicable law, during the period in which a Notice to Foreclose is in effect (i) to enter into and upon and take possession of, and operate all facilities on, the Premises or any part thereof, personally, or by its agents or attorneys, and exclude the Mortgagor therefrom; (ii) to enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of the Mortgagor relating to the possession and operation of the Mortgaged Property; (iii) to conduct, either personally or by its agents, the business of the Premises; (iv) to exercise all rights of the Mortgagor with respect to the Mortgaged Property; (v) to complete any construction in progress on the Premises at the expense of the Mortgagor, and (vi) to apply all rents, income, royalties, revenues, benefits, proceeds, and any and all cash collateral to be derived from the Premises, or the use and occupation thereof, less the necessary or appropriate expenses of collection thereof, either for the operation, care and preservation of the Premises, or, at the election of the Mortgagee in its sole discretion, in accordance with the Master Collateral Agreement. Following a Notice to Foreclose, the Mortgagee is also hereby granted full and complete authority to the extent permitted by applicable law (i) to employ watchmen to protect the Mortgaged Property; (ii) to continue any and all outstanding contracts for the erection and completion of Improvements to the Premises; (iii) to make all necessary or proper repairs, renewals, replacements, alterations, additions, betterments and improvements to the Premises that, in its sole discretion, may seem appropriate; (iv) to insure and reinsure the Premises for all risks incidental to the Mortgagee's possession, operation and management thereof; (v) to make and enter into any contracts and obligations wherever necessary in its own name for the operation, care and preservation of the Mortgaged Property, and (vi) to pay and discharge all debts, obligations and liabilities incurred thereby, all at the

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COUNTY OF COOK

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expense of the Mortgagor. All such expenditures by the Mortgagee shall be Secured Obligations hereunder.

SECTION 3.02. Foreclosure; Receiver. In the event that a Notice to Foreclose shall be in effect, the Mortgagee shall have the power and duty acting in accordance with the provisions of the Master Collateral Agreement:

(a) to immediately foreclose this Mortgage;

(b) to the extent permitted by applicable law, to sell the Mortgagor's right, title and interest in the Mortgaged Property, as a whole or in separate parcels, at public sale or sales, at such time and place and upon such terms and conditions as may be required by applicable law. Said power shall not be exhausted until the Secured Obligations have hereby been paid in full, and one or more sales may be held hereunder. The Mortgagee may execute and deliver to the purchaser or purchasers at any sale a sufficient conveyance of the Mortgaged Property sold. The Mortgagor hereby constitutes and appoints the Mortgagee its agent and attorney-in-fact to make such sale and conveyance, thereby divesting the Mortgagor of all right, title or interest that it may have in and to the Mortgaged Property and vesting the same in the purchaser or purchasers at such sale or sales, and all of the acts of said agent and attorney-in-fact are hereby ratified and confirmed (except for acts which demonstrate gross negligence or wilful misconduct), and any recitals in said conveyances as to facts essential to a valid sale shall be conclusively binding on the Mortgagor; and the Mortgagee may also sell the Mortgagor's interest in the other Mortgaged Property at such time and place, and upon such terms and conditions, as may be permitted by applicable law;

(c) to take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any provision in the Master Collateral Agreement, the Security Documents and any instrument creating or evidencing the Secured Obligations, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy the Mortgagee shall elect;

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(d) to the extent permitted by applicable law, to appoint a receiver of the Mortgaged Property or any part thereof and all earning, revenues, rents, issues, profits and income thereof, without giving notice to any other party and without regard to the adequacy or inadequacy of the security of the Mortgaged Property; and

(e) to take all such other steps and to assert all such other rights and remedies as shall be permitted by applicable law.

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 the Mortgaged 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 the Mortgaged Property, and the Mortgagee hereunder may be appointed as such receiver. Such receiver shall have power: (a) to collect the Rents, issues and profits of the Mortgaged Property during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period or redemption, if any, whether there be redemption or not, as well as during any further times when the 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 Secured Obligations 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 the Mortgagor and all persons whose interest in the Mortgaged 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 Secured Obligations, 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 the

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Premises 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 Secured Obligations or any tax, special assessment or to the 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.

This Mortgage may be foreclosed once against all or successively against any part or parts of the Mortgaged Property as the Mortgagee may elect. This Mortgage and the right of foreclosure or sale hereunder shall not be impaired or exhausted by one or any foreclosure or by one or any sale, and may be foreclosed against or sold successively and in parts, until all of the Mortgaged Property has been foreclosed against and sold. In the case of the exercise of any of the foregoing remedies (or commencement thereof or preparation therefor) of this Mortgage in any court, all expenses of every kind paid or incurred by the Mortgagee for enforcement, protection or collection, including reasonable costs, attorneys' fees, stenographers' fees, costs of advertising, costs of documentary evidence of title (including title searches and insurance) and all other related charges and costs, shall be paid by the Mortgagor. The purchase money, proceeds or avails of any foreclosure or sale after default and any other sums which then may be held by the Mortgagee under this Mortgage shall be applied in accordance with Section 3.01 of the Master Collateral Agreement.

SECTION 3.03. Remedies for Leases and Rents. In the event that a Notice to Foreclose shall be in effect, whether before or after institution of legal proceedings to foreclose the Lien of this Mortgage or before or after the sale thereunder, the Mortgagee shall be entitled, in its discretion, to do any of the following to the extent permitted by law: (i) as attorney-in-fact or agent of the Mortgagor, or in its own name as Mortgagee and under the powers herein granted, hold, operate, manage and control the Premises and all other Mortgaged Property, either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment of any Rents, the Leases and other Mortgaged Property relating thereto (including actions for the recovery of Rent, actions in forcible detainer and actions in distress of Rent); (ii) cancel or terminate any Lease or sublease for any cause or on any ground which would entitle the Mortgagor to cancel the same; (iii) elect to disaffirm any Lease or sublease made

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subsequent hereto or subordinated to the lien hereof; and (iv) receive all Rents and Proceeds, and perform such other acts in connection with the management and operation of the Mortgaged Property as the Mortgagee in its discretion may deem proper, the Mortgagor hereby granting full power and authority to exercise each and every one of the rights, privileges and powers contained herein at any and all times during any period in which a Notice to Foreclose is in effect without notice to the Mortgagor. The Mortgagee, in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the Rents to the payment of or on account of the following, in such order as it may determine: operating expenses of the Premises; taxes, assessments, charges, license fees, permit fees, inspection fees and other impositions and the costs of all repairs, renewals, replacements, alterations, additions, or betterments, and improvements of the Premises.

SECTION 3.04. Performance of Contracts. If an Event of Default shall have occurred and be continuing, the Mortgagee may notify any Person obligated to the Mortgagor on a Contract for Sale to tender performance when due directly to the Mortgagee and, if required pursuant to any applicable law or the terms of such Contract for Sale, the Mortgagor shall join in such notice, and the Mortgagee shall advance such sums as are necessary or appropriate to satisfy the Mortgagor's obligations thereunder.

SECTION 3.05. No Liability on Mortgagee or Secured Parties. Notwithstanding anything contained herein, this Mortgage is only intended as security for the Secured Obligations and none of the Mortgagee and Secured Parties shall be obligated to perform or discharge or undertake to perform or discharge, any obligation, duty or liability of the Mortgagor with respect to any of the Mortgaged Property. None of the Mortgagee and the Secured Parties shall have any responsibility for the control, care, management or repair of the Premises or be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Premises resulting in loss or injury or death to any licensee, employee, tenant or stranger except as provided in the following sentence. No liability (except for gross negligence or willful misconduct) shall be enforced or asserted against any of the Mortgagee and the Secured Parties in its exercise of the powers herein granted or against any Secured Party, and the Mortgagor expressly waives and releases any such liability. Should any of the Mortgagee and Secured Parties incur any such liability, loss or damage, under or with respect to this Mortgage or the Mortgaged

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Property, or in the defense of any claims or demands with respect to this Mortgage or the Mortgaged Property, the Mortgagor agrees to reimburse the Mortgagee or such Secured Party immediately upon demand (provided such demand is accompanied by an itemized statement) for the amount thereof, including costs, expenses and reasonable attorneys' fees.

SECTION 3.06. Possession by Mortgagor. If a Notice to Foreclose shall be in effect, the Mortgagor shall pay monthly in advance to the Mortgagee, or to any receiver appointed pursuant to Section 3.02, the fair and reasonable rental value for the use and occupation of any portion of the Premises that the Mortgagor shall be in possession of; and, upon the Mortgagor's default in making any such payment, the Mortgagor shall vacate and surrender such possession to the Mortgagee or such receiver, and the Mortgagee shall have the right to evict the Mortgagor upon the Mortgagor's failure so to vacate and surrender.

#### ARTICLE IV

##### GENERAL

SECTION 4.01. Defeasance. Upon the repayment in full of all Secured Obligations and the termination of the Secured Commitments, this Mortgage shall cease, terminate and, thereafter, be of no further force or effect and all rights to the Mortgaged Property shall revert to the Mortgagor in accordance with the provisions of Article VI of the Master Collateral Agreement. Upon such termination and at the Mortgagor's request, the Mortgagee, at the Mortgagor's expense, shall execute and deliver to the Mortgagor an instrument, in proper form for recording, without warranty, releasing the Lien of this Mortgage.

SECTION 4.02. Status of the Mortgagee. The rights, powers, privileges, remedies and obligations of the Mortgagee under this Mortgage shall be subject to the applicable provisions of the Master Collateral Agreement which are incorporated herein by reference and made applicable hereto.

SECTION 4.03. Care by Mortgagee. The Mortgagee shall be deemed to have exercised reasonable care in the custody and preservation of any of the Mortgaged Property in its possession if it takes such action for that purpose as the Mortgagor requests in writing, but failure of the Mortgagee to comply with any such request shall not of itself be

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deemed a failure to exercise reasonable care, and no failure of the Mortgagee to preserve or protect any rights with respect to such Mortgaged Property against prior parties, or to do any act with respect to the preservation of such Mortgaged Property not so directed by the Mortgagor, shall be deemed a failure to exercise reasonable care in the custody or preservation of such Mortgaged Property.

SECTION 4.04. Amendments in Writing. No amendment, waiver or supplement in any way affecting the Mortgagor's obligations or the Mortgagee's rights under this Mortgage shall in any event be effective unless contained in a writing signed by the Mortgagee.

SECTION 4.05. Governing Law; Construction. This Mortgage shall be construed in accordance with, and governed by, the laws of the State in which the Real Estate is located. Whenever possible each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage.

SECTION 4.06. Successors and Assigns. The covenants and agreements of the Mortgagor hereunder, and the provisions hereof affecting the Mortgagor, shall bind the Mortgagor hereunder, its successors and assigns and all Persons claiming by, through or under the Mortgagor and shall inure to the benefit of the Mortgagor and its successors and assigns. The rights and privileges of the Mortgagee hereunder, and the provisions hereof affecting the Mortgagee, shall inure to the benefit of and bind the Mortgagee hereunder, the Secured Parties and their respective successors and assigns.

SECTION 4.07. Waiver. The Mortgagor waives, on its own behalf and on behalf of each and every Person now or hereafter holding any interest in or Lien upon the Mortgaged Property subject to this Mortgage acquiring any interest in or Lien upon the Mortgaged Property subsequent to the date of this Mortgage, to the fullest extent permitted under applicable law, (i) all rights under all appraisal, homestead, moratorium, valuation, exemption, stay, extension, redemption, single action, election of remedies and marshaling statutes, laws or equities now or hereafter existing, and (ii) any and all requirements that at any time any action

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may be taken against any other Person; and the Mortgagor agrees that no defense based on any thereof will be asserted in any action enforcing this Mortgage.

SECTION 4.08. No Redemption. To the fullest extent permitted under applicable law, the Mortgagor shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. The Mortgagor for itself and all who claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Property marshalled upon any foreclosure of the Lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Property sold as an entirety. Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on its behalf and on behalf of each and every person acquiring any interest in or title to the Mortgaged Property subsequent to the date of this Mortgage. The foregoing waiver of the right of redemption is made pursuant to Ill. Rev. Stat. Ch. 110, § 15-1601(b).

SECTION 4.09. Limitation by Law. All rights, remedies and powers provided in this Mortgage may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Mortgage are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Mortgage illegal, invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under any provision of applicable law.

SECTION 4.10. Usury Savings Clause. All agreements in the Master Collateral Agreement, this Mortgage or any other Security Document or any instrument creating or evidencing the Secured Obligations are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement or acceleration of maturity of the Secured Obligations, or otherwise, shall the amount paid or agreed to be paid hereunder exceed the highest lawful rate permitted under the usury law which a court of competent jurisdiction shall hold applicable thereto. If, from any circumstance whatsoever, fulfillment of any provision of this Mortgage or any other Security Document or any instrument creating or evidencing the Secured Obligations, at the time performance

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of such provision shall be due, shall involve transcending the limit of validity prescribed by the usury law which a court of competent jurisdiction shall hold applicable thereto, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity and if, from any circumstance whatsoever, any of the Secured Parties, including the Mortgagee, shall ever receive as interest an amount which would exceed the highest lawful rate, the receipt of such excess shall be deemed a mistake and shall be cancelled automatically or, if theretofore paid, such excess shall be credited against the principal amount of the Secured Obligations to which the same may lawfully be credited, and any portion of such excess not capable of being so credited shall be refunded to the Borrower.

SECTION 4.11. Additional Provisions. Exhibit D hereto contains any additional provisions that are necessary or appropriate under the laws of the State in which the Real Estate is located.

SECTION 4.12. Insurance Proceeds and Condemnation Awards. Notwithstanding anything herein to the contrary, Insurance Proceeds and Condemnation Awards shall be applied as provided in the Master Collateral Agreement.

SECTION 4.13. Inconsistency; Prior Liens. Notwithstanding anything herein to the contrary:

(a) the Mortgagor shall not be required by this Mortgage to take any action or refrain from taking any action that would cause a default under the Prime Lease;

(b) this Mortgage is not intended to constitute an assignment within the meaning of such term in the Prime Lease;

(c) to the extent there is any inconsistency between this Mortgage and the terms of the Prime Lease or any mortgage having a lien superior to the Lien of this Mortgage, the Mortgagor shall comply with the provisions of the Prime Lease or such other mortgage;

(d) to the extent there is any prior encumbrance of record asserted against the Premises, this Mortgage shall be subordinate to such prior encumbrance of record;

(e) to the extent that the landlord under the Prime Lease serves a notice of default on the Mortgagor

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in accordance with the notice provisions, if any, of the Prime Lease, asserting that the filing of this Mortgage is an event of default under the Prime Lease, the Mortgagee shall release the Lien of this Mortgage prior to the expiration of any applicable notice and grace periods under the Prime Lease, during which period the Mortgagee and the Mortgagor shall confer as to the validity of the notice of default; and

(f) To the extent that any provisions of this Mortgage are inconsistent with the terms of the Master Collateral Agreement, the Master Collateral Agreement shall govern.

SECTION 4.14. Notices. Any notices required to be given pursuant to this Mortgage shall be given in accordance with the provisions of Section 7.02 of the Master Collateral Agreement.

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IN WITNESS WHEREOF, the Mortgagor has duly executed and delivered this Mortgage as of the date first above written.

CPS REALTY PARTNERSHIP,  
a partnership organized and  
existing under the laws of  
the State of Illinois

By: CARSON PIRIE SCOTT & COMPANY,  
a Delaware corporation,  
General Partner

By: Frederick G. Kraegel  
Name: Frederick G. Kraegel  
Title: Vice President

Attest:

By: Earl E. Cunion  
Name: Earl E. Cunion  
Title: Secretary

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## ACKNOWLEDGEMENT FOR MORTGAGOR

STATE OF NEW YORK )  
: ss.  
COUNTY OF NEW YORK )

I, Alain T. Bobet, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Frederick G. Kraegel, personally known to me to be the Vice President of Carson Pirie Scott & Company ("Carson"), a Delaware corporation, which is a general partner of CPS Realty Partnership ("CPS Realty"), an Illinois general partnership, and Earl E. Cunion, Secretary of Carson, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as said Vice President and Secretary of Carson, pursuant to authority given by the Board of Directors of Carson, as their free and voluntary act and as the free and voluntary act and deed of Carson and CPS Realty for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 5th day of July, 1989.

Alain T. Bobet  
Notary Public

ALAIN T. BOBET  
NOTARY PUBLIC, State of New York  
No. 4917028  
Qualified in New York County  
Commission Expires December 28, 1989

My Commission Expires: \_\_\_\_\_

Notary's Office

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11/11/2011



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**EXHIBIT A  
To Mortgage**

**REAL ESTATE**

**DESCRIPTION OF OWNED PROPERTY**

None

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A TRUE AND  
CORRECT COPY OF

THE RECORDS OF THE  
PROPERTY TAX

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11/15/2011

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Exhibit "B" 8 9 3 2 1 6 2 7

LEASEHOLD ESTATE created by that Certain Indenture of Lease dated May 1, 1900 and recorded on May 24, 1900 as Document 2985533, made by Sarah Roche and Harriet Albee to Otis Young, demising and leasing for the term of years commencing May 1, 1902 and ending April 30, 2001, (except the last day of the term thereof), the following premises to wit:

The South half (except the North 10 feet thereof) of Lot 6 in Block 2 in Fractional Section Fifteen Addition to Chicago (excepting the West 27 feet taken for widening State Street) and except a strip about 9 feet in width off the East end thereof used for an alley).

Permanent Tax No. 17-15-100-010

25 South State Street  
Chicago, Illinois

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## EXHIBIT C

Landlord: The First National Bank of Chicago,  
as Trustee

Tenant: 1-29 S. State St. Corp.,  
a Delaware corporation

Name of Instrument: Indenture  
(the "Lease")

Date of Instrument: October 3, 1955

Recording Information, if known: October 3, 1955  
No. 16380262, Book 52585 page 486.

The Lease shall mean the Lease as the same may be or have been at any time amended, modified, assigned, assumed, renewed, and/or extended; the term Lease is expressly understood to include any and every agreement or other instrument affecting the leasehold interests created and/or evidenced by the instrument named above, whether or not such ancillary instruments are themselves named herein.

The above-named Tenant is a predecessor in interest to CPS Department Stores, Inc., a Delaware corporation.

- 25 S. State Street

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EXHIBIT D  
To Mortgage

ADDITIONAL PROVISIONS

Business Loan Recital. The Mortgagor agrees that the Secured Obligations: (a) constitute a business loan which comes within the purview of subparagraph (1)(a) of Section 4 of "An Act in relation to the rate of interest and other charges in connection with sales on credit and the lending of money," approved May 24, 1879, as amended (Ill. Rev. Stats. 1987 ed., Ch. 17, Sec. 6404(1)(a)); and (b) are exempted transactions under the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 et seq.

Future Advances. This Mortgage also secures all future advances made or to be made under any instrument creating or evidencing the Secured Obligations which future advances shall be made within twenty (20) years from the date of this Mortgage with interest and shall have the same priority as if all such future advances were made on the date of execution hereof, provided, however, that the maximum principal amount secured by this Mortgage shall not exceed twice the stated principal amount of the Secured Obligations. Nothing in this paragraph or in any other provision of this Mortgage shall be deemed either (a) an obligation on the part of the Mortgagee to make any future advances other than in accordance with the terms and provisions of such instrument, or (b) an agreement on the part of the Mortgagee to increase the amount of the Secured Obligations to any amount in excess of \$390,000,000.

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