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CHICAGO TITLE INSURANCE COMPANY

THE TRUSTEES OF
MELLON PARTICIPATING MORTGAGE TRUST,
COMMERCIAL PROPERTIES SERIES 85/10

and

CPS REALTY PARTNERSHIP

SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT
(SOUTHLAKE MALL)

Dated: as of October 31, 1985
Executed October 30, 1985

Location: Merrillville, Indiana

PREPARED BY AND
RECORD AND RETURN TO:

SAGE GRAY TODD & SIMS
Two World Trade Center
100th Floor
New York, New York 10048

Attention: John F. Sheehan

STATE OF INDIANA
LAND RECORDS
RECORDER
OCT 31 10 30 AM '85
RUDOLPH OLAY
RECORDER

2522

SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT
(Lease)

Executed
October 30, 1985

THIS AGREEMENT made as of the 31st day of October, 1985, between THE TRUSTEES OF MELLON PARTICIPATING MORTGAGE TRUST, COMMERCIAL PROPERTIES SERIES 85/10, a Massachusetts business trust having an office at Mellon Financial Center, 551 Madison Avenue, New York, New York (hereinafter referred to as Mortgagee), and CPS REALTY PARTNERSHIP, an Illinois general partnership having an office at One South State Street, Chicago, Illinois (hereinafter referred to as Tenant);

W I T N E S S E T H:

WHEREAS Mortgagee is the present owner and holder of the mortgage described in EXHIBIT A attached hereto (hereinafter referred to as the Mortgage) covering certain premises described in EXHIBIT B attached hereto (hereinafter referred to as the Premises) and of the note, bond or other obligation described in Exhibit A attached hereto and secured thereby (hereinafter referred to as the Note);

WHEREAS Tenant is the holder of a leasehold estate in a portion of the Premises and the holder of an option to purchase the Premises under and pursuant to the provisions of a certain lease more particularly described in EXHIBIT C attached hereto (hereinafter referred to as the Lease); and

WHEREAS Tenant has agreed to subordinate the Lease to the Mortgage and to the lien thereof and Mortgagee has agreed to grant non-disturbance to Tenant and to recognize Tenant's option to purchase the Premises under the Lease on the terms and conditions hereinafter set forth; and

WHEREAS Tenant by separate instrument entitled "Right of First Refusal" dated, executed and delivered concurrently with the Lease (hereinafter referred to as the Right of First Refusal) has been granted a right of first refusal to purchase the Premises commencing upon the expiration of the Lease;

NOW, THEREFORE, in consideration of Ten (\$10) Dollars and other good and valuable consideration, the receipt of which is hereby acknowledged, Mortgagee and Tenant hereby covenant and agree as follows:

1. Tenant agrees that the Lease and the Right of First Refusal and all of the terms, covenants and provisions thereof and all rights, remedies and options of Tenant thereunder are and shall at all times continue to be subject and subordinate in all respects to the Mortgage and to the lien thereof and to all renewals, modifications, spreaders, consolidations,

Parcel 3:

Part of the Southwest Quarter of Section 23, Township 35 North, Range 8 West of the Second Principal Meridian, in Ross Township, Lake County, Indiana, bounded and described as follows: Commencing at the Southwest corner of said Section 23; thence North 87 degrees 34 minutes 24 seconds East, 40.00 feet to the Easterly right-of-way line of Mississippi Street; thence along the Easterly right-of-way line of Mississippi Street, North 2 degrees 42 minutes 00 seconds West, 604.44 feet to the point of beginning of this description; thence continuing North 2 degrees 42 minutes 00 seconds West, 30.00 feet along the Easterly right-of-way line of Mississippi Street; thence North 65 degrees 30 minutes 00 seconds East, 140.91 feet; thence South 24 degrees 30 minutes 00 seconds East, 75.00 feet; thence North 65 degrees 30 minutes 00 seconds East, 68.54 feet; thence along the arc of a 200.00 foot radius curve, concave to the Northeast whose chord bears South 64 degrees 15 minutes 24 seconds East, 101.78 feet; thence along the arc of a 350.00 foot radius curve, concave to the Southwest, whose chord bears South 59 degrees 52 minutes 44 seconds East, 229.29 feet to the Southerly right-of-way line of the Michigan-Wisconsin Pipeline Company Easement; thence along said Southerly easement line, North 68 degrees 21 minutes 41 seconds East, 575.42 feet; thence North 17 degrees 52 minutes 00 seconds West, 75.16 feet to the Northerly line of the Michigan-Wisconsin Pipeline Company Easement; thence North 68 degrees 21 minutes 41 seconds East, along said Northerly easement line, 40.09 feet; thence South 17 degrees 52 minutes 00 seconds East, 105.23 feet; thence South 68 degrees 21 minutes 41 seconds West, 666.84 feet; thence along the arc of a 290.00 foot radius curve, concave to the Southwest, whose chord bears North 58 degrees 48 minutes 16 seconds West, 200.23 feet; thence along the arc of a 260.00 foot radius curve, concave to the Northeast, whose chord bears North 69 degrees 55 minutes 59 seconds West, 81.94 feet; thence along the arc of a 126.46 foot radius curve, concave to the Southwest, whose chord bears North 73 degrees 38 minutes 24 seconds West, 55.91 feet; thence North 86 degrees 24 minutes 29 seconds West, 170.24 feet to the point of beginning of this description.

EXHIBIT C

(Description of Lease)

That certain lease dated the date hereof by and between Lake County Trust Company as trustee under a Trust Agreement dated June 15, 1985, and known as Trust No. 3501 and Six Anchors Limited Partnership, jointly, as landlord and CPS Realty Partnership as tenant, demising certain premises located south of U.S. Highway 30, Merrillville, Indiana, more particularly described therein.

replacements and extensions thereof and to all sums secured thereby with the same force and effect as if the Mortgage had been executed, delivered and recorded prior to the execution and delivery of the Lease and the Right of First Refusal.

2. Mortgagee agrees that as long as an Event of Default has not occurred and is continuing under the Lease, Tenant shall not be evicted from the Premises, nor shall Tenant's leasehold estate under the Lease be terminated or disturbed nor shall any of the Tenant's rights under the Lease, including, but not limited to, Tenant's option to purchase the Premises, be affected or disturbed nor shall any of the Tenant's rights under the Lease, including, but not limited to, Tenant's option to purchase the Premises, be affected in any way by reason of any default in the performance of any term, covenant or condition of the Mortgage or by reason of any action or proceeding instituted as a consequence of such default.

3. Mortgagee agrees that if any action or proceeding is commenced by Mortgagee for the foreclosure of the Mortgage or the sale of the Premises, Tenant shall not be named or joined by Mortgagee as a party therein, and the sale of the Premises in any such action or proceeding and the exercise by Mortgagee of any of its other rights under the Note or the Mortgage shall be made subject to all rights of Tenant under the Lease, provided that at the time of the commencement of any such action or proceeding or at the time of any such sale or exercise of any such other rights an Event of Default shall not have occurred and be continuing under any of the terms, covenants or conditions of the Lease on Tenant's part to be observed or performed. Tenant agrees that its right of first refusal is subordinate and subject to the exercise by Mortgagee of any of its rights under the Note and Mortgage.

4. Tenant agrees that if Mortgagee shall become the owner of the Premises by reason of the foreclosure of the Mortgage or the acceptance of a deed or assignment in lieu of foreclosure or otherwise, the Lease shall not be terminated or affected thereby but shall continue in full force and effect as a direct lease between Mortgagee and Tenant upon all of the terms, covenants and conditions set forth in the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option contained in the Lease, with the same force and effect as if Mortgagee were the landlord named in the Lease and in that event Tenant agrees to attorn to Mortgagee and Mortgagee agrees to accept such attornment, said attornment to be effective and self-operative, without the execution of any further or other instrument by any of the parties hereto, immediately upon Mortgagee acquiring the interest of Landlord under the Lease, provided, however, that Mortgagee shall not be (i) obligated to complete any construction work required to be done by Landlord (as hereinafter defined) pursuant to the provisions of the Lease or to reimburse Tenant for any construction work done by Tenant, (ii) liable for any accrued obligation of Landlord, or for any act or omission of Landlord, whether prior to or after such foreclosure or sale, (iii) required to make any repairs to the Premises or to the premises demised under the Lease required as a result of fire; or other casualty or by reason of condemnation unless Mortgagee shall be obligated under the Lease to make such repairs and

shall have received sufficient casualty insurance proceeds or condemnation awards to finance the completion of such repairs, (iv) required to make any capital improvements to the Premises or to the premises demised under the Lease which Landlord may have agreed to make, but had not completed, or to perform or provide any services not related to possession or quiet enjoyment of the premises demised under the Lease, or (v) subject to any offsets or counterclaims which shall have accrued to Tenant against Landlord prior to the date upon which Mortgagee shall become the owner of the Premises.

5. Tenant shall not, without obtaining the prior written consent of Mortgagee, (i) enter into any agreement amending or modifying the Lease, (ii) prepay any of the rents, additional rents or other sums due under the Lease for more than one (1) month in advance of the due dates thereof, (iii) voluntarily surrender the premises demised under the Lease or terminate the Lease, except as permitted pursuant to the terms of the Lease or (iv) assign the Lease or sublet the premises demised under the Lease or any part thereof other than pursuant to the provisions of the Lease; and any such amendment, modification, termination, prepayment, voluntary surrender, assignment or subletting, without Mortgagee's prior consent, shall not be binding upon Mortgagee.

6. Tenant hereby represents to Mortgagee that as of the date hereof (i) Tenant is the owner and holder of the tenant's interest under the Lease, (ii) the Lease has not been modified or amended, (iii) the Lease is in full force and effect and the term thereof commenced on October 31, 1985, pursuant to the provisions thereof, (iv) the premises demised under the Lease have been completed and Tenant has taken possession of the same on a rent paying basis, (v) neither Tenant nor to Tenant's actual knowledge, Landlord is in default under any of the terms, covenants or provisions of the Lease and Tenant to its actual knowledge knows of no event which but for the passage of time or the giving of notice or both would constitute an Event of Default by Tenant or Landlord under the Lease, (vi) neither Tenant nor Landlord has commenced any action or given or received any notice for the purpose of terminating the Lease, (vii) all rents, additional rents and other sums due and payable under the Lease have been paid in full and no rents, additional rents or other sums payable under the Lease have been paid for more than one (1) month in advance of the due dates thereof, and (viii) there are no presently accrued offsets or defenses to the payment of the rents, additional rents, or other sums payable under the Lease.

7. Tenant shall give Mortgagee a copy of any notice of default by Landlord under the Lease which Tenant claims under the Lease, and agrees that, notwithstanding any provisions of the Lease to the contrary, no notice of cancellation thereof shall be effective unless Mortgagee shall have received notice of the default giving rise to such cancellation and shall have failed within thirty (30) days after receipt of such notice to cure such default, or if such default cannot be cured within thirty (30) days, shall have failed within thirty (30) days after receipt of such notice to commence and to thereafter diligently pursue any action necessary to cure such default.

8. All notices, consents and other communications pursuant to the provisions of this Agreement shall be in writing and shall be sent postage prepaid by registered or certified mail, return receipt requested, and shall be deemed given when postmarked and addressed as follows:

If to Mortgagee:

Mellon Participating Mortgage Trust,
Commercial Property Series 85/10
Mellon Financial Center
551 Madison Avenue
New York, New York 10022

Attention: Arlen R. Dahlquist

If to Tenant:

CPS Realty Partnership
One South State Street
Chicago, Illinois 60603

Attention: Law Department

With a copy, similarly mailed, to:

Sidley & Austin
One First National Plaza
Chicago, Illinois 60603

Attention: Donald J. Gralen

Each party may designate a change of address by notice to the other party, given at least fifteen (15) days before such change of address is to become effective.

9. This Agreement shall be binding upon and inure to the benefit of Mortgagee and Tenant and their respective successors and assigns.

10. The term "Mortgagee" as used herein shall include the successors and assigns of Mortgagee and any person, party or entity which shall become the owner of the Premises by reason of a foreclosure of the Mortgage or the acceptance of a deed or assignment in lieu of foreclosure or otherwise. The term "Landlord" as used herein shall mean and include the present landlord under the Lease and such landlord's predecessors and successors in interest under the Lease. The term "Premises" as used herein shall mean the Premises, the improvements now or hereafter located thereon and the estates therein encumbered by the Mortgage.

11. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the parties hereto.

12. This Agreement shall be governed by and construed under the laws of the State in which the Premises are located.

IN WITNESS WHEREOF, Mortgagee and Tenant have duly executed this Agreement as of the date first above written.

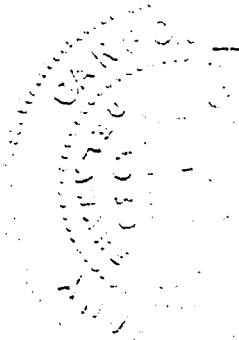
THE TRUSTEES OF MELLON
PARTICIPATING MORTGAGE TRUST
COMMERCIAL PROPERTIES SERIES 85/10

By: *James T. Foran*
Name: JAMES T. FORAN
Title: Trustee

CPS REALTY PARTNERSHIP, an Illinois
general partnership

Attest:

Robert J. Kantalep
Asst Sec



By: Carson Pirie Scott & Company,
general partner

By: *Susan T. Congalton*
Name: SUSAN T. CONGALTON
Title: Vice President

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

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above named JAMES T. FORAN of THE TRUSTEES OF MELLON PARTICIPATING MORTGAGE TRUST COMMERCIAL PROPERTIES SERIES 85/10, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Trustee, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Trust for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 29th day of October, 1985.

Barbara J. Vitale
Notary Public

BARBARA J. VITALE
Notary Public, State of New York
No. 24-4740251
Qualified in Kings County
Commission Expires March 30, 1987

STATE OF ILLINOIS)
) ss.:
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above named Susan T. Congalton and Robert J. Kartholl of the CARSON PIRIE SCOTT & COMPANY, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice Pres. and Asst. Sec., respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Company for the uses and purposes therein set forth; and the said Robert J. Kartholl then and there acknowledged that said Robert J. Kartholl, as custodian of the corporate seal of said Company, caused the corporate seal of said Company to be affixed to said instrument as said Robert J. Kartholl's own free and voluntary act and as the free and voluntary act of said Company for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 30th day of October, 1985.


Notary Public

Commission expires: 10/13/86

EXHIBIT A

1. The Mortgage: Mortgage dated the date hereof in the principal sum of \$68,000,000 given by Lake County Trust Company, as trustee, and Six Anchors Limited Partnership ("Borrower") to Mortgagee covering the fee estate in certain premises located in Merrillville, Indiana.

2. The Note: Note dated the date hereof, in the principal sum of \$68,000,000 given by Chicago Title and Trust Company, as trustee, Lake County Trust Company, as trustee, and Borrower to Mortgagee.

EXHIBIT B

(Description of the Premises)

Parcel 1:

Part of the Southwest Quarter of Section 23, Township 35 North, Range 8 West of the Second Principal Meridian in Ross Township, Lake County, Indiana, bounded and described as follows: Commencing at the Southwest corner of said Section 23; thence North 2 degrees 42 minutes 00 seconds West, 361.86 feet along the West line of Section 23; thence North 68 degrees 21 minutes 41 seconds East, 1130.31 feet to the point of beginning; thence continuing North 68 degrees 21 minutes 41 seconds East, 947.01 feet; thence North 17 degrees 52 minutes 00 seconds West, 479.41 feet; thence South 72 degrees 08 minutes 00 seconds West, 73.73 feet; thence North 17 degrees 52 minutes 00 seconds West, 120.00 feet; thence South 72 degrees 08 minutes 00 seconds West, 270.00 feet; thence South 17 degrees 52 minutes 00 seconds East, 116.00 feet; thence South 72 degrees 08 minutes 00 seconds West, 87.86 feet; thence South 20 degrees 19 minutes 09 seconds West, 100.51 feet; thence South 72 degrees 08 minutes 00 seconds West, 451.23 feet; thence South 17 degrees 52 minutes 00 seconds East, 466.71 feet to the point of beginning.

Parcel 2:

The reciprocal and non-exclusive rights, privileges and easements for ingress, egress, parking of vehicles, passage and accommodation of pedestrians, for construction, erection, maintenance, repair and replacement of footings, foundations, supports and walls, signs, lights, entrances, doors, marquees, canopies, overhangs or other improvements of like nature, and to install, tie into, use, maintain, repair and replace underground utility facilities such as water, gas, electric and telephone lines, and storm and sanitary sewer lines, and for the purpose of the development and construction or reconstruction of improvements created and granted as appurtenances to the aforescribed Parcel 1, all created, defined and limited by that certain Easement, Restriction and Operating Agreement dated June 27, 1972, and recorded on November 8, 1972 as Document No. 174993, made by and among Gary Joint Venture, a general partnership, J. C. Penney Company, Inc., a Delaware Corporation, and Sears, Roebuck and Co., a New York corporation, in, over, upon and under the Shopping Center as that term is defined in said Agreement and shown on the Site Plan attached to said Agreement as Exhibit "A", and known as Merrillville Mall, and as amended by First Amendment to Easement, Restriction and Operating Agreement dated April 16, 1973 and recorded June 26, 1973 as Document No. 208331, and further amended by Second Amendment to Easement, Restriction and Operating Agreement dated December 10, 1974 and recorded February 25, 1975 as Document No. 289791, and further amended by Third Amendment to Easement, Restriction and Operating Agreement recorded August 16, 1977 as Document No. 423321.