

3.

**This Instrument**  
**Prepared By and After**  
**Recording Return To:**  
Alan J. Salle, Esq.  
Kohl's Department Stores, Inc.  
N56 W17000 Ridgewood Drive  
Menomonee Falls, Wisconsin 53051

**ASSIGNMENT AND ASSUMPTION OF LEASE**

1. K MART CORPORATION, a Michigan corporation ("Assignor"), hereby assigns and transfers to KOHL'S DEPARTMENT STORES, INC., a Delaware corporation ("Assignee"), all of Assignor's right, title and interest as lessee in that certain lease dated June 29, 1989 between 2154 Trading Corporation, as lessor and Assignor, as lessee, as such document may have been amended, modified, supplemented or restated by the instruments set forth, along with said lease, on Exhibit A attached hereto (collectively, the "Lease"), which creates a leasehold estate in a certain parcel of real property located in Birmingham, Alabama and described on Exhibit B attached hereto and which is also described more particularly in the Lease (the "Premises"), and Assignee hereby accepts such assignment and transfer and agrees to assume and to perform and discharge all obligations and liabilities of Assignor under the Lease which arise after the date hereof and relate to the period after the date hereof.

2. This instrument may be executed in any one or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute but one and the same instrument.

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*Cashier Title*

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment and Assumption of Lease to be executed as of the 4th day of October, 2002.

**ASSIGNOR:**

KMART CORPORATION,  
a Michigan corporation

By:   
Name: Mike Elliott  
Its: Vice President

**ASSIGNEE:**

KOHL'S DEPARTMENT STORES, INC.,  
a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment and Assumption of Lease to be executed as of the 4th day of October, 2002.

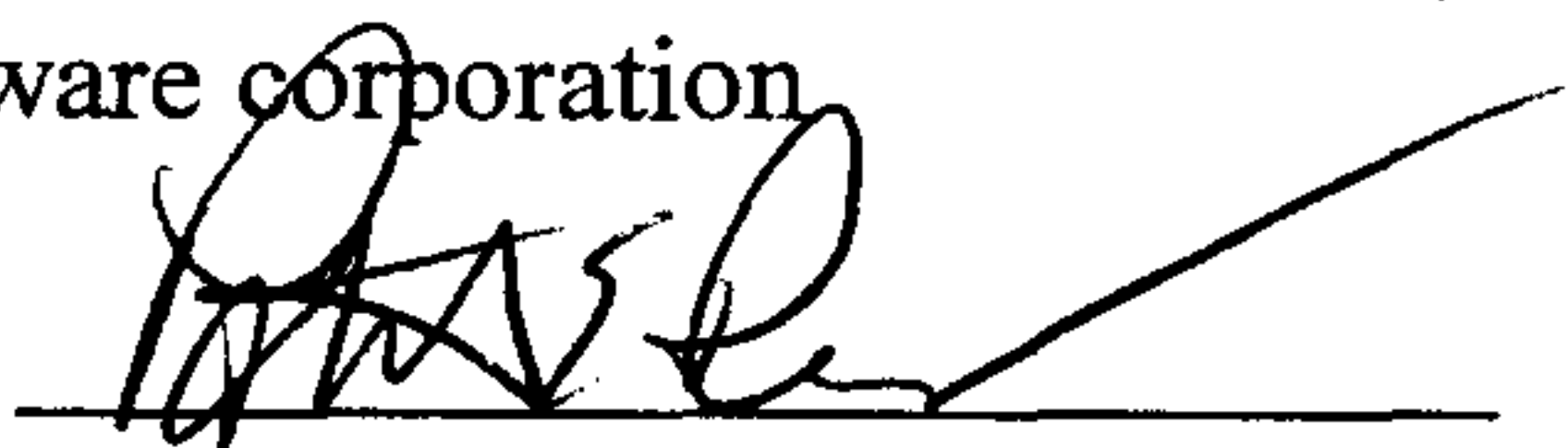
**ASSIGNOR:**

KMART CORPORATION,  
a Michigan corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**ASSIGNEE:**

KOHL'S DEPARTMENT STORES, INC.,  
a Delaware corporation

By:  \_\_\_\_\_  
Name: Patrick E. Peery  
Its: Senior Vice President-Real Estate

APPROVED  
AJS

STATE OF Illinois  
COUNTY OF Cook ) SS:

BEFORE ME, a Notary Public in and for said County and State, personally appeared Mike Elliott, who acknowledged that he/she did execute the foregoing instrument on behalf of Kmart Corporation, a(n) Michigan Corp., and that the same was his/her free act and deed individually and in his/her capacity indicated above, and the free act and deed of the Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at this 1 day of October, 2002.

Notary Public  
Name: Autumn Gieseke  
My Commission Expires: \_\_\_\_\_



STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS:

BEFORE ME, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, who acknowledged that he/she did execute the foregoing instrument on behalf of \_\_\_\_\_, a(n) \_\_\_\_\_, and that the same was his/her free act and deed individually and in his/her capacity indicated above, and the free act and deed of the \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

Notary Public  
Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

BEFORE ME, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, who acknowledged that he/she did execute the foregoing instrument on behalf of \_\_\_\_\_, a(n) \_\_\_\_\_, and that the same was his/her free act and deed individually and in his/her capacity indicated above, and the free act and deed of the \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

Notary Public

Name: \_\_\_\_\_

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

STATE OF WISCONSIN )  
 ) SS:  
COUNTY OF WAUKESHA )

BEFORE ME, a Notary Public in and for said County and State, personally appeared Patrick E. Peery, Senior Vice President-Real Estate, who acknowledged that he/she did execute the foregoing instrument on behalf of Kohl's Department Stores, Inc., a Delaware corporation, and that the same was his/her free act and deed individually and in his/her capacity indicated above, and the free act and deed of the corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at this 2<sup>nd</sup> day of October, 2002.

Notary Public

Name: Heidi G. J...

My Commission Expires: July 11, 2004

## **EXHIBIT A**

### **THE LEASE**

1. Lease dated June 29, 1989 between 2154 Trading Corporation and Kmart Corporation
2. Memorandum of Lease dated June 29, 1989 between 2154 Trading Corporation and Kmart Corporation

**EXHIBIT B**  
**THE PREMISES**

[INSERT]

Birmingham Legal Description:

A part of the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  and the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 36, Township 18 South, Range 2 West, and the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 1, Township 19 South, Range 2 West, all in Shelby County, Alabama, and being more particularly described as follows:

Commence at the SE corner of said SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 36 and looking West along the South line of same turn an angle left of 6 deg. 34 min. 27 sec. And run South 83 deg. 21 min. 19 sec. West 931.50 feet to a point on the proposed Southeasterly right of way of Valleydale Road (Shelby County Highway #17); thence right 124 deg. 37 min. 25 sec. and run North 27 deg. 58 min. 44 sec. East along said proposed right of way 369.24 feet to the point of curve of a curve to the right having a radius of 1577.04 feet and a central angle of 5 deg. 03 min. 44 sec.; thence North 30 deg. 30 min. 36 sec. East along said right of way and chord of curve 139.29 feet to a point on the curve, also being the point of beginning of the herein described demised premises; thence continuing along said right of way and curve with radius of 1577.04 feet and a central angle of 21 deg. 56 min. 16 sec. and run North 44 deg. 00 min. 36 sec. East along said right of way and chord of curve 600.14 feet to the point of tangent; thence continue North 54 deg. 58 min. 44 sec. East along said proposed right of way 73.70 feet to the point of curve of a curve to the left having a radius of 1492.42 feet and a central angle of 6 deg. 18 min. 12 sec.; thence run North 51 deg. 49 min. 38 sec. East along said right of way and chord of curve 164.11 feet to a point on curve; thence right 121 deg. 31 min. 41 sec., from the chord of said curve and run South 6 deg. 38 min. 41 sec. East 590.41 feet to a point; thence right 7 deg. 03 min. 08 sec. and run South 0 deg. 24 min. 27 sec. West 48.87 feet to a point; thence left 7 deg. 03 min. 08 sec. and run South 6 deg. 38 min. 41 sec. East 187.83 feet to a point; thence left 90 deg. 00 min. 00 sec. and run North 83 deg. 21 min. 19 sec. East 55.0 feet to a point; thence right 90 deg. 00 min. 00 sec. and run South 6 deg. 38 min. 41 sec. East 76.15 feet to a point on a curve on the back of curb line of the rear drive of said premises, said curve having a radius of 149.50 feet and a central angle of 13 deg. 01 min. 39 sec.; thence right 83 deg. 29 min. 10 sec. to the chord of said curve and run South 76 deg. 50 min. 30 sec. West along the chord of said curve 33.92 feet to the point of tangent; thence continue South 83 deg. 21 min. 19 sec. West along said back of curb line 608.09 feet to a point; thence right 125 deg. 00 min. 00 sec. and run North 28 deg. 21 min. 19 sec. East 183.94 feet; thence right 55 deg. 00 min. 00 sec. and run North 83 deg. 21 min. 19 sec. East 17.46 feet to a point; thence left 90 deg. 00 min. 00 sec. and run North 6 deg. 38 min. 41 sec. West 132.13 feet to a point of intersection with the Southerly back of curb line of entrance drive; thence left 80 deg. 38 min. 10 sec. and run North 87 deg. 16 min. 51 sec. West along said back of curb line 72.97 feet to a point; thence right 31 deg. 43 min. 15 sec. and continue North 55 deg. 33 min. 36 sec. West along said back of curb line 168.51 feet to the point of beginning.