

UNOFFICIAL COPY



1131145023

RECORDING REQUESTED BY:

PETSMART, Inc.

DOCUMENT PREPARED BY:

PETSMART, Inc.

Attn: Karen Lohmeyer

19601 N. 27th Avenue

Phoenix, AZ 85027

Doc#: 1131145023 Fee: \$52.00

Eugene "Gene" Moore RHSP Fee: \$10.00

Cook County Recorder of Deeds

Date: 11/07/2011 01:48 PM Pg: 1 of 9

STORE No: 0420

Property of Cook County Clerk's Office

AMENDED AND RESTATED MEMORANDUM OF LEASE

9

513364 10P1

UNOFFICIAL COPY

When recorded, return to:

PETSMART, Inc.
19601 N. 27th Avenue
Phoenix, AZ 85027
Attn: Karen Lohmeyer
Store No.: 0420

AMENDED AND RESTATED MEMORANDUM OF LEASE

Landlord and Tenant executed and recorded a Memorandum of Lease dated August 31, 1994 and recorded on September 23, 1994 as Instrument No. 94-832425 ("Memorandum"). Landlord and Tenant have subsequently executed certain amendments, as more fully set forth below, and wish to replace the Memorandum with this Amended and Restated Memorandum of Lease.

Notice is hereby given that **COLE MT BROADVIEW IL, LLC**, a Delaware limited liability company, as successor-in-interest to American National Bank and Trust Company of Chicago, a federally chartered banking association, not personally but solely as Trustee under Trust Agreement dated December 1, 1991, and known as Trust Number 114854-06] ("Landlord"), and **PETSMART, INC.**, a Delaware corporation ("Tenant"), are parties to a Shopping Center Lease dated July 17, 1993, as amended by that certain First Amendment to Shopping Center Lease dated August 1, 1993, as amended by that certain Second Amendment to Shopping Center Lease dated January 8, 1998, as amended by that certain Third Amendment to Shopping Center Lease dated February 5, 2002, as amended by that certain Fourth Amendment to Shopping Center Lease of even date herewith, as modified by that certain letter agreement dated July 12, 2007, as supplemented by that certain Commencement Date Certificate dated December 13, 1994 (the "Lease"), pertaining to certain premises identified on Exhibit A, Site Plan, attached hereto, and located within the real property described in Exhibit B attached hereto (the "Shopping Center"). The initial term of such Lease is twenty (20) Lease Years, and Tenant has the option to extend such term for up to four (4) renewal periods of five (5) Lease Years each. Among other things, the Lease grants to Tenant the right along with Landlord and other tenants in the Shopping Center to use the Common Areas depicted on Exhibit A, including, without limitation, roads, driveways, sidewalks and parking areas, grants certain rights with respect to Landlord's pylon sign structures, and prohibits other tenants from engaging in the business of selling pets, pet grooming, veterinary and other pet services, pet food or pet products and accessories. In addition, the Lease imposes certain restrictions relative to building heights and parking ratios as set forth in Exhibit C hereto.

Tenant acknowledges and agrees that the lease agreements between Landlord and Walgreen Co. ("Walgreens") and Home Depot U.S.A., Inc. ("Home Depot") with respect to the spaces in the Shopping Center leased to such tenants that are depicted on Exhibit A (collectively, the "Excluded Premises") both provide that Walgreens and Home Depot (Walgreens and Home Depot and their respective successors and assigns are collectively referred to herein as the "Excluded Tenants") have certain rights to take actions under their respective leases without the


UNOFFICIAL COPY

consent of Landlord. Accordingly, notwithstanding anything to the contrary in Section 30.1 and/or Section 30.2 of the Lease, Tenant acknowledges and agrees that Landlord shall have no liability under the terms of the Lease if any of the Excluded Tenants violates the provisions of Section 30.1 and/or Section 30.2 of the Lease with respect to the applicable Excluded Premises.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amended and Restated Memorandum of Lease as of the 30th day of September, 2011.

TENANT:

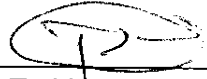
PETSMART, INC.,
a Delaware Corporation

By: 
Name: Dale Brunk
Title: Vice President and Deputy General Counsel

LANDLORD:

COLE MT BROADVIEW IL, LLC,
a Delaware limited liability company

By: Cole REIT Advisors II, LLC,
a Delaware limited liability company,
its Manager

By: 
Name: Todd J. Weiss
Title: Senior Vice President

Property of Cook County Clerk's Office

UNOFFICIAL COPY

ACKNOWLEDGMENTS

STATE OF ARIZONA)
) ss.
County of Maricopa)

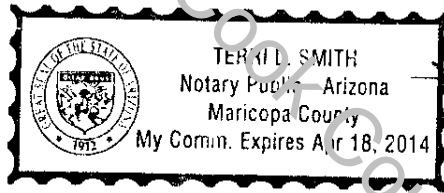
On ~~September 30~~ September 29 2011, before me, the undersigned officer, personally appeared Todd J. Weiss, as Senior Vice President, of Cole REIT Advisors II, LLC, manager of Cole MT Broadview II, LLC a(n) Delaware Limited Liability Company:

X whom I know personally;
_____ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;
_____ whose identity I verified on the basis of his _____,

and acknowledged that he, being authorized so to do, executed the foregoing instrument in such capacity on behalf of the corporation for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

NOTARY SEAL:



Terri L. Smith
Notary Public

STATE OF ARIZONA)
) ss.
County of Maricopa)

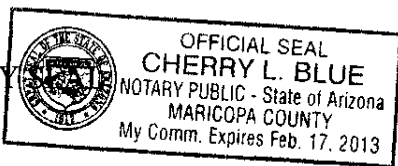
On September 9, 2011, before me, the undersigned officer, personally appeared J. Dale Brunk, Vice President and Deputy General Counsel, of PetSmart, Inc., a Delaware corporation:

X whom I know personally;
_____ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;
_____ whose identity I verified on the basis of his _____,

and acknowledged that he, being authorized so to do, executed the foregoing instrument in such capacity on behalf of the corporation for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

NOTARY



Cherry L. Blue
Notary Public

UNOFFICIAL COPY

EXHIBIT A

◆ COLE ◆
REAL ESTATE INVESTMENTS
Leasing Opportunity

BROADVIEW VILLAGE SQUARE
NE CORNER MAK RD & 17TH AVE | BROADVIEW, IL

MID-AMERICA ASSET MANAGEMENT
One Parkview Office, 300 S. 51st
Oskaloosa, Iowa 52577
648.854.7300 Fax: 648.854.7369

US: 314.242.3242
Canada: 1.800.661.2222
Mexico: 1.800.661.2222
Email: leasing@midamerica.com
www.midamerica.com

TOTAL GLA: 690,748 SF

Legend: Not owned by Landlord

This information is provided for informational purposes only. It is not intended to constitute an offer of any securities or other financial products. The information is not intended to be used in any way other than for informational purposes. The information is not intended to be used in any way other than for informational purposes. The information is not intended to be used in any way other than for informational purposes.

UNOFFICIAL COPY

EXHIBIT B LEGAL DESCRIPTION

(Portions of the Broadview Village Square Shopping Center
owned by Cole MT Broadview IL, LLC)

PARCEL 1:

LOT 10 IN BROADVIEW VILLAGE SQUARE, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 8, 1994 AS DOCUMENT NUMBER 94212972, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Numbers: 15-22-411-011-0000; 15-22-411-015-0000

Address: 700 Broadview Square, Broadview, IL

PARCEL 2:

LOTS 2, 8, AND 9 (EXCEPT THAT PART OF LOT 9 DESCRIBED BY COMMENCING AT THE NORTHWEST CORNER OF LOT 7 OF SAID BROADVIEW VILLAGE SQUARE; THENCE SOUTH 00 DEGREES 05 MINUTES 44 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 7, 79.84 FEET FOR POINT OF BEGINNING; THENCE NORTH 89 DEGREES 54 MINUTES 16 SECONDS WEST 10.08 FEET; THENCE NORTH 00 DEGREES 05 MINUTES 44 SECONDS WEST, 7.33 FEET; THENCE NORTH 89 DEGREES 54 MINUTES 16 SECONDS WEST, 115.00 FEET; THENCE SOUTH 45 DEGREES 05 MINUTES 44 SECONDS WEST, 35.36 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 44 SECONDS WEST 117.50 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 16 SECONDS EAST, 25.00 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 44 SECONDS WEST; 32.50 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 16 SECONDS EAST, 125.08 FEET TO A POINT ON THE WEST LINE OF LOT 7 IN SAID BROADVIEW VILLAGE SQUARE; THENCE NORTH 00 DEGREES 05 MINUTES 44 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 7 IN BROADVIEW VILLAGE SQUARE, 167.67 FEET, TO THE POINT OF BEGINNING), AND LOT 12 IN BROADVIEW VILLAGE SQUARE, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 8, 1994 AS DOCUMENT NUMBER 94212972, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Numbers: 15-22-411-003-0000; 15-22-411-009-0000; 15-22-411-013-0000; 15-22-411-018-0000; 15-22-411-019-0000; 15-22-411-020-0000; 15-22-411-021-0000; 15-22-411-022-0000

Address: 200-700 and 3000 and 8000 Broadview Square, Broadview, IL

UNOFFICIAL COPY

PARCEL 3:

PORTIONS OF THE FOLLOWING DESCRIBED LOTS OF BROADVIEW VILLAGE SQUARE BEING A SUBDIVISION OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED MARCH 8, 1994 AS DOCUMENT 94-212972 WITH THE COOK COUNTY RECORDER OF DEEDS:

LOT 3 AND LOT 4 (EXCEPT THAT PART DESCRIBED AS FOLLOWS):

THE NORTH 164.58 FEET OF LOT 4 IN BROADVIEW VILLAGE SQUARE BEING A SUBDIVISION OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED MARCH 8, 1994 AS DOCUMENT NUMBER 94-212972, SAID EXCEPTION BEING FURTHER DESCRIBED BY COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 22; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER, 444.36 FEET TO A POINT ON THE EXTENSION OF THE NORTH LINE OF SAID LOT 4; THENCE SOUTH 89 DEGREES 54 MINUTES 16 SECONDS EAST ALONG SAID EXTENSION, 60.00 FEET TO THE NORTHWEST CORNER OF LOT 4 FOR THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89 DEGREES 54 MINUTES 16 SECONDS EAST ALONG THE NORTH LINE OF LOT 4, 363.63 FEET; THENCE SOUTH 29 DEGREES 21 MINUTES 26 SECONDS WEST, 60.42 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY ALONG A TANGENTIAL CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 500.00 FEET, AN ARC DISTANCE OF 121.23 FEET (THE LONG CHORD BEARING SOUTH 22 DEGREES 24 MINUTES 41 SECONDS WEST, 120.94 FEET) TO THE SOUTH LINE OF THE NORTH 164.58 FEET OF LOT 4; THENCE NORTH 89 DEGREES 54 MINUTES 16 SECONDS WEST ALONG SAID SOUTH LINE, 287.91 FEET TO THE WEST LINE OF LOT 4 SAID LINE BEING 60.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG SAID WEST LINE OF LOT 4, 164.58 FEET TO THE POINT OF BEGINNING) IN COOK COUNTY, ILLINOIS.

PARCEL 4:

A PORTION OF LOT 9 DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF LOT 7 OF SAID BROADVIEW VILLAGE SQUARE; THENCE SOUTH 00 DEGREES 05 MINUTES 44 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 7, 79.84 FEET FOR A POINT OF BEGINNING; THENCE NORTH 89 DEGREES 54 MINUTES 16 SECONDS WEST, 10.08 FEET; THENCE NORTH 00 DEGREES 05 MINUTES 44 SECONDS EAST, 7.33 FEET; THENCE NORTH 89 DEGREES 54 MINUTES 16 SECONDS WEST 115.00 FEET; THENCE SOUTH 45 DEGREES 05 MINUTES 44 SECONDS WEST, 35.36 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 44 SECONDS WEST, 117.50 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 16 SECONDS EAST, 25.00 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 44 SECONDS WEST, 32.50 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 16 SECONDS EAST, 125.00 FEET TO A POINT ON THE WEST LINE OF LOT 7 IN SAID BROADVIEW VILLAGE SQUARE;

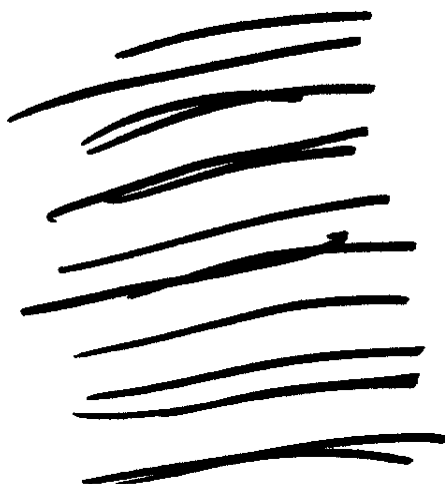
UNOFFICIAL COPY

THENCE NORTH 00 DEGREES 05 MINUTES 44 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 7 IN BROADVIEW VILLAGE SQUARE, 167.67 FEET, TO THE POINT OF BEGINNING IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Numbers: 15-22-411-004-0000; 15-22-411-005-0000; and 15-22-411-021-0000

Address: 7600-7700 Broadview Village Square, Broadview, Illinois

Property of Cook County Clerk's Office



UNOFFICIAL COPY

EXHIBIT C

Parking. During the Initial Term of this Lease and any Renewal Periods, the number of parking spaces in the Common Area shall be as shown on Exhibit A, which shall be no less than four and one half (4.5) spaces per one thousand square feet of Gross Floor Area of all Improvements located within the entire Shopping Center, each parking space being no less than nine (9) feet from center to center and eighteen (18) feet from end to end, including such handicapped parking spaces as may be required by law; provided that, if and to the extent permitted by law, up to twenty percent (20%) of such parking spaces may be for "compact" vehicles, so long as (i) the total area available for parking may not be reduced thereby, (ii) all of the fifty (50) parking spaces nearest to the entrance of Tenant's Building shall be full sized and (iii) the percentage of compact spaces within the two hundred (200) parking spaces located closest to the entrance of Tenant's Building shall be no higher than the percentage of compact spaces within the entire Shopping Center. Landlord shall not permit the Common Area to be used for parking or any other purpose except by tenants in the Shopping Center and their customers, employees, agents, licensees, subtenants, invitees or contractors, and shall not cause or allow any of such parking spaces to be reserved. No buildings or other improvements or permanent barriers shall be constructed within the "no build area" depicted on Exhibit A or, except as shown on Exhibit A, be permitted to encroach upon (i) any portion of the Tenant Control Area or (ii) any other portion of the Common Areas which would adversely affect the access to Tenant's Building, without the prior written consent of Tenant.

Height. Except for the pylon sign or signs shown on Exhibit A, no improvement or structure in the Shopping Center shall be a height greater than thirty-five (35) feet above ground level; provided, however, that: structures within the building areas labeled "K-Mart", "Home Depot" and "Target" on Exhibit-A shall not exceed a height of forty (40) feet above ground level; no improvement or structure on outlots 1 or 2, as depicted on Exhibit A, shall be of a height greater than twenty-five (25) feet; any improvements constructed on outlots 3, 4a or 4b as depicted on Exhibit A which exceed twenty-five (25) feet in height shall be limited to the building envelopes depicted on Exhibit A; and any development on any outlot depicted on Exhibit A shall include sufficient parking to satisfy the greater of (i) applicable public or private requirements, including any requirements of the OEA, or (ii) four and one half (4.5) parking spaces per one thousand (1,000) square feet of the total area of any building or improvement to be located on such outlot.