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## NO LIEN CONSTRUCTION CONTRACT

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THIS AGREEMENT made on the date below subscribed by and between **PALM U.S.A., INC.** (hereinafter referred to as the "Contractor") and **MATTESON-RICHTON BANK**, as Trustee under Trust No. 74-1545, under a Trust Agreement dated July 31, 1986, (hereinafter referred to as the "Owner"), as follows: \*\*

§ 1. **DESCRIPTION OF WORK.** The work to be performed under this contract consists of reconstruction and remodeling of the Owner's premises, to wit: improved commercial property commonly known as 9145 to 9157 South Commercial Avenue, Chicago, Illinois, said improvement consisting of a one story building with approximate external dimensions of 140 ft. length by 75 ft. width by 20 ft. height.

§ 2. **SCOPE OF WORK.** The scope of the work contemplated under this Contract shall be in accordance with the plans and specifications, dated March 9, 1988, heretofore agreed to by the parties and approved by Owner's Architect, PHILIP A. FARO, and shall include, without limitation, the following work: all exterior facings and siding; all glazing; all interior carpentry and installation of electrical wiring and fixtures; installation of interior ceilings, partitions, and drywall; installation of floors and floor coverings; all interior painting and decorating; and installation of plumbing fixtures (sinks and toilets) and other fixtures, as specified in said plans, drawings, and specifications.

§ 3. **SUFFICIENCY OF PLANS AND SPECIFICATIONS.** Contractor hereby acknowledges that the specifications, plans, and drawings as finally modified and interpreted and heretofore approved by Owner's Architect are sufficient for their intended purpose, and that the work contemplated herein can be successfully executed in accordance therewith, without any additional or extra work other than such as is necessarily implied therein, or to be inferred therefrom, upon a reasonable and liberal construction.

§ 4. **CONTRACT PRICE:** It is agreed between the parties that the total contract price for the work contemplated herein shall be **ONE HUNDRED THOUSAND DOLLARS (\$100,000)**. It is acknowledged by the parties, however, that the total construction cost of the work to be performed by Contractor shall be in excess of the contract price but it is agreed by the parties that Owner's obligations hereunder shall be limited to the agreed contract price. The contract price shall be allocated as follows:

A. **\$40,000** shall be allocated for the work on the exterior of the premises, including all glazing;

B. **\$30,000** shall be allocated for completion and installation of necessary heating, ventilation, and air conditioning systems;

C. **\$25,000** shall be allocated for completion of all interior work except for plumbing (electrical, partitions, floors, ceilings, decoration, etc.);

\*\*Beverly Tr. Co. as successor trustee to Matteson-Richton Bank

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D. \$5,000 shall be allocated for completion of all plumbing and installation of plumbing fixtures (sinks and toilets).

E. **Payment.** Payment of contract price shall be by way of rent credits pursuant to a certain lease entered into by Contractor as Lessee and by Owner as Lessor, as amended.

§ 5. **PAYMENT NOT CONCLUSIVE EVIDENCE OF PERFORMANCE.** No payment or credit made under this Contract shall be conclusive evidence of performance of the work contemplated hereunder, either wholly or in part, and no payment shall be construed to be a final or other acceptance of defective work or improper or defective materials.

§ 6. **RESPONSIBILITIES OF CONTRACTOR AND OWNER.** The respective responsibilities and obligations of the parties shall be as follows:

A. Contractor agrees to supply all labor and materials, whether by subcontract or otherwise, necessary to complete the work contemplated herein; to obtain all required official inspections, and certificates; and to perform all work subject to the final approval of government authorities. Contractor also agrees to provide all required tools, implements, equipment, and things necessary to perform said work and to be familiar with and assume all responsibility for local conditions applicable to the performance of the work hereunder.

B. Contractor agrees that Owner's Architect shall have the primary responsibility for supervision and final acceptance of the work to be performed hereunder. Contractor shall be responsible for direction, scheduling, and coordination of the work and to use the best skill and attention in connection with same. Contractor also agrees to assume sole responsibility for all construction means, methods, techniques, sequences, and procedures, subject to final approval of Owner's Architect.

C. Contractor specifically agrees to assume responsibility for coordinating the scheduling of Contractor's work with that required to be performed by any and all other contractors and sub-contractors performing work on and about the premises in connection with this project.

D. Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ in connection with the work hereunder any unfit person or any person not properly and adequately skilled in the tasks assigned to him or her.

E. Contractor shall pay all sales, consumer, use, and other taxes required or imposed by law and shall be responsible for securing all permits and certificates required by statute, ordinance, rule, or regulation in connection with any portion of the work hereunder.

F. Contractor shall be responsible for the acts and omissions of any and all his employees and agents, and of any and all subcontractors and materialmen and all other persons or entities performing

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any of the work or supplying any of the materials, whether under any contract with Contractor, or otherwise.

**§ 7. ALTERATIONS; EXTRA WORK; PAYMENT FOR SAME; AND TIME OF COMPLETION.** It is contemplated by the parties that no alterations shall be required nor extra work performed under this Contract. In the event that unforeseen circumstances require alterations in the work or performance of extra work, and related changes in the contract price or method of payment thereof, than such alterations or extra work shall be made pursuant to and governed by the provisions of this Section.

A. The Owner may at any time during the progress of the work, in a writing signed by Owner or Owner's authorized representative, make or cause to be made any alterations in the original specifications and plans by way of addition to, deletion from, or other deviation from same. In such event, work shall be performed according to such alterations in the same manner as if same had been included in the original specifications.

B. In the event of any alterations which constitute additions or extra work not originally contemplated herein, the parties shall agree, in writing executed by both of them, to any additional amounts due to Contractor and to the terms of payment of such additional amounts. Such writing shall be appended to this Contract, incorporated herein and made part hereof.

C. In the event of any alterations which constitute deletions of portions of the work originally contemplated herein, the parties shall agree, in writing executed by them, as to any credit against and deduction from the contract price to which Owner may be entitled and to the terms of applying such credit against said price; and such writing shall be appended to this Contract, incorporated herein, and made part hereof.

D. No alterations which may be required in the contemplated work shall release Contractor from obligation to complete the work within the time specified herein, or from the damages to be assessed upon failure of such timely completion, unless prior to the performance of such alterations in work, the Contractor makes a written claim for extension of such completion date and same is agreed to, in writing, by the Owner.

**§ 8. COMMENCEMENT AND COMPLETION OF WORK.** Contractor agrees that the work hereunder shall be commenced on or before June 25, 1988 (subject to Owner's completion prior to said date of certain debris removal and clean-up work heretofore agreed to by the parties). All of the work described herein, absent any extensions agreed to in writing by Owner or absent any other provision contained herein allowing such extension or excusing any delay, shall be completed by September 1, 1988.

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§ 9. **CLEAN UP.** Contractor shall at all times keep the premises free from accumulation of debris, waste materials or rubbish caused by Contractor's employees or work in progress, and at the completion of the work shall remove all such waste material and rubbish from and about the premises, as well as all tools, scaffolding, and surplus material, and shall make the premises ready for commencement of business operations. In the event Contractor fails to comply with the provisions herein, Owner reserves the right to have such clean up performed by third parties and to deduct the cost of such clean-up, if any, from the contract price specified herein.

§ 10. **GUARANTEE: CORRECTION OF DEFECTS.** Contractor hereby warrants and guarantees the work and agrees to remedy defects therein, as follows:

A. Neither final approval, as defined in this Contract, nor final payment of the balance of the Contract price, shall relieve Contractor of responsibility for faulty materials or workmanship, and, except as specified below, Contractor shall be obligated to remedy, at Contractor's sole expense, any such defects or faulty workmanship, and to reimburse Owner for any damage to any other work or portion of the premises resulting therefrom, appearing within **FIVE (5) YEARS** from the date of final approval or final payment, whichever occurs later.

B. Contractor hereby warrants and guarantees to Owner that all materials, fixtures, and equipment incorporated in the work hereunder, unless otherwise specified in the plans and specifications, or unless otherwise agreed to in writing between the parties, shall be new and of good grade and quality, and shall be merchantable and fit for the particular uses intended herein. Contractor further warrants and guarantees that all work shall be of the finest quality, free from any faults and defects and same shall be in conformity with the plans and specifications and with any and all applicable governmental building and zoning codes and ordinances.

§ 11. **NO LIEN CONTRACT; WAIVERS OF LIEN.** It is agreed between the parties that the Contractor hereby waives and releases for itself, its successors and assigns and for all of its subcontractors and their respective subcontractors, and for all vendors and materialmen, any and all claim of, or right to, any mechanic's lien that would otherwise be available to Contractor pursuant to Chapter 82, Section 21, Illinois Revised Statutes (Illinois Mechanics' Lien Act), against, or with respect to, the premises described in this Contract, or with respect to any moneys or other consideration which may be due at any time hereafter from the Owner to the Contractor or from the Owner to any subcontractor or materialman, or from the Contractor to any subcontractor or materialman, which claim of lien might be asserted by reason of doing, making or furnishing, heretofore or at any time hereafter, by the Contractor, its successors, assignees, materialmen, and subcontractors, of any labor, services, materials, fixtures, apparatus, or machinery in conjunction with any of the work to be performed under this Contract. It is further agreed between the parties, that any and all subcontracts entered into by Contractor for any work to be performed hereunder shall incorporate the same waiver of lien as is set out herein. Notwithstanding

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the foregoing, Contractor shall submit waivers of lien in a form satisfactory and suitable to Owner with any and all requests for payments scheduled hereunder, including final payment. Such waiver of lien forms shall be required from Contractor and from all subcontractors, materialmen, and other suppliers who have performed work on or who have supplied materials for the work on the subject property.

A. Waivers of lien which accompany scheduled progress payments shall cover the total dollar amount of said progress payments and all of the work performed and materials supplied during the period covered by such progress payment.

B. Waivers of lien which accompany the request for final payment shall be for the full dollar amount of the contract price herein and shall cover all work performed as of the date of final completion.

C. The completed work specified in this Contract shall be offered to Owner for acceptance free and clear of any liens, claims, or encumbrances of any description whatsoever against Owner or against any of Owner's property, whether real, personal, or mixed.

D. Attached hereto and incorporated herein is Contractor's Sworn Affidavit identifying all subcontracts and amounts to be expended in completion of the work hereunder.

**§ 12. DELAYS AND HINDRANCES: ASSUMPTION OF RISK.** The risks and uncertainties in connection with the contemplated work are assumed by Contractor as part of this Contract, and are compensated for in the agreed contract price. Contractor, except as otherwise specified in this Contract or as otherwise agreed to, in writing, by the parties, shall bear all loss or damage for hindrance or delays, from any cause whatsoever, during progress of any portion of the work embraced herein, and also any and all losses or damage arising out of the nature of the work to be done, or from the action of the elements, inclement weather, or from any unforeseen and unexpected conditions or circumstances encountered during the work; and no additional charge other than that included herein, shall be made by Contractor for any such loss or damage.

**§ 13. FORCE MAJEURE.** Contractor shall not be held liable for any loss, damage, or delay due to any accident, fire, or other damage not caused by Contractor, or which is caused by any strike or labor dispute, acts or directives by any civil or military government authority, insurrection, civil strife, or acts of God, other than those specifically set out above.

**§ 14. INDEMNITY.** Contractor hereby agrees to indemnify and hold harmless Owner, Owner's employees, agents, representatives, and successors from and against any and all claims, damages, losses and expenses, including attorney's fees and costs, arising out of or resulting from the performance of any of the work hereunder, provided that any such claim, damage, loss or expenses (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than the work itself, including any damages arising out of the loss of use of same,

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and (2) is caused in whole or in part by any negligent act or omission of Contractor or any subcontractor employed by Contractor, or any person directly or indirectly employed by Contractor or any such subcontractor, or any person for whose acts any of them may be liable, regardless of whether or not same is caused in part by any party indemnified hereunder. In any and all claims against the Owner or any of Owner's agents, employees, representatives, or successors by any employee of Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification provisions herein shall not be limited in any way by any limitations on the amount or type of damages, compensation, or benefits payable by or on behalf of Contractor or any subcontractor under any applicable workmen's compensation, disability, occupational disease, or other employee benefit statutes and acts.

§ 15. **INSURANCE.** Contractor is hereby obligated to purchase, and upon request of Owner to provide suitable proof of purchase, and throughout the period of the work hereunder, to maintain such insurance as will protect the parties from any claims under workmen's compensation acts and any other employee benefit acts, from claims for damages arising out of bodily injury and death, and from claims for damages to tangible property which may arise out of or result from Contractor's operations hereunder, whether such operations are to be performed by Contractor or Contractor's agents and employees, or by any subcontractor or any person employed by such subcontractor. The types of insurance policies to be carried by Contractor under the provisions herein shall include, but not be limited to, policies of contractor's public liability insurance in the face amount of not less than \$1,000,000.00 per person and \$2,000,000 per occurrence and automobile liability insurance covering all vehicles used by Contractor in conjunction with the work hereunder and which are to be used in and about the premises.

§ 16. **ATTORNEY'S FEES AND COSTS.** In the event of breach of or default under any of the provisions herein, and upon a finding of such breach or default by a court of competent jurisdiction or other duly constituted tribunal, the breaching or defaulting party shall be liable to the other for any and all costs and reasonable attorney's fees incurred in the prosecution or maintenance of any claim on account of such breach or default, including any fees and costs incurred in the defense of any actions brought by third parties whether by suit, garnishment proceedings, foreclosure of mechanic's liens, or otherwise as a result of any claims by workmen, subcontractors, materialmen, sureties, bondsmen, or otherwise.

§ 17. **SEVERABILITY.** A finding by any court of competent jurisdiction of unenforceability of any provision herein shall not operate to invalidate any other of the provisions in this Contract and the remaining provisions herein shall be construed as if the foregoing Contract had been written without the provision or provisions found to be unenforceable.

§ 18. **WAIVER.** The waiver by either party of any of the provisions in this Contract on any occasion or occasions shall not operate as a waiver of such provision or provisions on any subsequent occasion.

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§ 19. **APPLICABLE LAW.** This Contract shall be construed under the applicable laws of the State of Illinois.

§ 20. **SWORN CONTRACTOR'S STATEMENT.** Attached hereto and incorporated by reference herein as "Exhibit A" is Contractor's Sworn Statement setting out the identities of all contractors and subcontractors engaged to perform work hereunder and further setting out the consideration to be paid by Contractor under any and all subcontracts and all other amounts to be expended by Contractor in the completion of the contract work. In the event, any changes are made either in the number or identity of subcontractors or in the amounts to be expended, written amendments to said Sworn Statement shall be executed and attached hereto.

Agreement entered this 28 day of June, 1988

CONTRACTOR:

OWNER:

PALM U.S.A., INC.  
An Illinois Corporation

MATTESON-RICHTON BANK  
As Trustee under Trust No. 74-1545

By: [Signature]

By: [Signature]

Title: PRESIDENT

Title: Asst. T.O.

Attest: [Signature]

Title: Asst. T.O.

This document is made by Beverly Trust Company as Trustee and accepted upon the express understanding that the Beverly Trust Company enters into the same not personally, but only as Trustee and that no personal liability is assumed by nor shall be asserted or enforced against Beverly Trust Company because of or on account of the making or executing this document or of anything therein contained, all such liability, if any being expressly waived, nor shall Beverly Trust Company be held personally liable upon or in consequence of any of the covenants of this document, either expressed, or implied.

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CAUTION: Consult a lawyer before using or acting under this form. All warranties, including merchantability and fitness, are excluded.

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Dated June 29, 1988

STATE OF ILLINOIS }  
COUNTY OF COOK } ss.

The affiant, WAN HWI LEE,

being first duly sworn, on oath deposes and says that he is The President

(TITLE)

of PALM U. S. A., INC., an Illinois Corporation

(SOLE OWNERSHIP, FIRM OR CORPORATION)

general contractor with Matteson-Richton Bank as Trustee U/T/N 74-1545

owner, for the furnishing of all materials, labor and services for the ~~XXXXXX~~ reconstruction and remodelling of a one-story building with approximate dimensions of 140 ft. (L) by 75 ft. (W) by 20 ft. (H)

(DESCRIPTION OF IMPROVEMENTS)

on the premises commonly known as 9145 to 9157 South Commercial Avenue, Chicago, IL.

and legally described as The West 75 feet of Lot 31 in Block 70 in South Chicago,

a subdivision by Calumet and Chicago Canal and Dock Company, of the East 1/2 of the West 1/2 and parts of the East fractional 1/2 of fractional Section 6

South of the Indian boundary line lying North of the Michigan Southern Railroad

and fractional Section 5 North of the Indian boundary line, all in Township 37

North, Range 15 East of the Third Principal Meridian, in Cook County, Illinois

in COOK County, Illinois, in accordance with the plans and specifications

heretofore approved by the owner; that the affiant is duly authorized to make this sworn statement on behalf of the general contractor; that the tabulation on the reverse side hereof contains an accurate and complete statement of (a) the names and addresses of all parties furnishing materials, labor or services for or in connection with the erection of said improvements, (b) the materials, labor or services furnished or to be furnished by each such party, (c) the full contract prices (adjusted for extras and credits) for all such materials, labor and services, the amounts actually paid to each party furnishing such materials, labor or services, and in the "Unpaid Balances" column the amounts due or to become due to each such party, and (d) when so shown in the "Contract Prices" column, good faith estimates of the prices of materials, labor and services necessary to complete said improvements and not yet contracted for; that in connection with the erection of said improvements there are no other contracts outstanding and except as otherwise stated in said tabulation there is nothing due or to become due to any party for materials, labor or services; that the total of the "Unpaid Balances" column plus the unpaid balance of the general contractor's overhead and profit is sufficient to complete and equip said improvements in accordance with said plans and specifications; and that this sworn statement is made pursuant to the Illinois statute relating to mechanics' liens to induce the owner or his agent to make the payment requested in said tabulation, in the amount of \$ 100,000.00

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KIND OF WORK OR MATERIALS	NAMES AND ADDRESSES OF SUBCONTRACTORS	CONTRACT PRICES WITH EXTRAS OR CREDITS	AMOUNTS PAID TO DATE TO SUBCONTRACTORS	UNPAID BALANCES ON SUBCONTRACTS
ARCHITECTURAL SERVICES				
SURVEY				
EXCAVATION & ROUGH GRADING				
CONCRETE - LABOR				
Materials				
IRON - STRUCTURAL				
IRON - ORNAMENTAL				
MASONRY - LABOR				
Face Brick				
Common Brick				
Block				
Cut Stone				
Other Materials				
Exterior siding and glazing	Media General Construction 4737 N. Damen, Chicago	\$40,000	0	\$40,000.00
CARPENTRY - LABOR				
flooring and interior carpentry	Palm U.S.A., Inc. 1201 N. Milwaukee, Chicago	\$13,000		\$13,000.00
LUMBER				
MILLWORK				
FLOORING				
STAIRS				
KITCHEN CABINETS				
HARDWARE				
MEDICINE CABINET				
WEATHERSTRIPPING				
INSULATION				
Suspended ceilings	Media General Construction 4737 N. Damen, Chicago	\$12,000		\$12,000.00
ROOFING				
SHEET METAL				
Air conditioning				
HEATING - LABOR	J. & S. Heating and Cooling 4855 North Sawyer, Chicago	\$33,500		\$33,500.00
Plumbing (4 bath-rooms)				
Equipment				
Materials				

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KIND OF WORK OR MATERIALS	NAME'S AND ADDRESSES OF SUBCONTRACTORS	CONTRACT PRICES WITH EXTRAS OR CREDITS	AMOUNTS PAID TO SUBCONTRACTORS	UNPAID BALANCES ON SUBCONTRACTS
AIR CONDITIONING & VENTILATION				
Equipment				
PLUMBING - LABOR				
Materials				
Sewer Work				
ELECTRIC WIRING	Master Electric Service 2533 W. Farragut, Chicago	\$18,320		\$18,320.00
Fixtures				
PLASTERING/DRY WALL	Palm U.S.A., Inc.	\$ 5,000		\$ 5,000.00
Materials				
Lathing				
Sheetrock				
GLAZING				
TILE PAINTING & DECORATING - LABOR	Palm U.S.A., Inc.	\$ 2,000		\$ 2,000.00
Materials				
FLOOR COVERING (carpet)	Palm U.S.A., Inc.	\$10,000		\$ 10,000.00
Linoleum				
APPLIANCES				
Range & Refrigerator				
SCREENS & STORM WINDOWS				
LANDSCAPING				
GARAGE				
Garage Door				
SWIMMING POOL				
Equipment				
FENCING				
GENERAL CONTRACTOR'S PROFIT & OVERHEAD	AMOUNT RECEIVED TO DATE: \$	0		0.00
<b>TOTALS</b>		<b>\$133,820</b>		<b>\$133,820.00</b>

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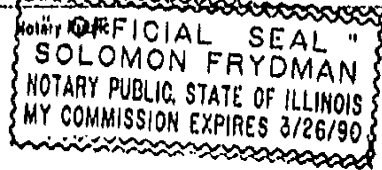
Previously paid to general contractor .....	88321593	\$0.00
Previously paid by owner direct to subcontractors .....	\$	0.00
Payment now requested .....	\$	0.00
Balance to complete improvements .....	\$	133,820.00
TOTAL (must equal total of "Contract Prices" column) .....	\$	133,820.00

Signed *[Signature]*

Subscribed and sworn to before me this 30th day of June, 1988

*[Signature]*

NOTE: New, current statement should be required before each payment by or for owner.



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 COOK COUNTY RECORDER

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THE WEST 75 FEET OF LOT 31 IN BLOCK 70 IN SOUTH CHICAGO A SUBDIVISION BY CALUMET AND CHICAGO CANAL AND DOCK COMPANY OF THE EAST 1/2 OF THE WEST 1/2 AND PARTS OF THE EAST FRACTIONAL 1/2 OF FRACTIONAL SECTION 6 SOUTH OF THE INDIAN BOUNDARY LINE LYING NORTH OF THE MICHIGAN SOUTHERN RAILROAD AND FRACTIONAL SECTION 5 NORTH OF THE INDIAN BOUNDARY LINE ALL IN TOWNSHIP 37 NORTH, RANGE 15 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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Mail to:

GEORGE J. SKONTOS  
TWO NORTH LA SALLE STREET  
CHICAGO, ILLINOIS 60602

