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## GENERAL CONTRACTOR'S CLAIM FOR MECHANICS LIEN

STATE OF ARKANSAS            )  
  ) SS:  
COUNTY OF PULASKI         )

The claimant, GLENN CONSTRUCTION SERVICES, INC., a Missouri corporation ("Claimant") with an address at 212 Louisiana, Little Rock, Arkansas, hereby files its General Contractor's Claim for Mechanics Lien on the Real Estate (as hereinafter defined and described) and against the interest of:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Trustee (the "Trustee") under Trust Agreement dated July 21, 1992 and known as Trust Number 115807-01 (the "Trust") and the beneficiary of the Trust, ORLAND TOWNE CENTER LIMITED PARTNERSHIP, an Illinois limited partnership ("Orland Towne Center")

("Owners"), and all of Owners' successors or assigns, including, but not limited to, FLEET NATIONAL BANK, a national banking association, in the Real Estate (as hereinafter defined and described), and any person claiming an interest in the Real Estate (as hereinafter defined and described) by, through, or under Owners.

Claimant states as follows:

1. On or about November 15, 1992, and subsequently, Owner owned fee simple title to the real estate (including all land and improvements thereon) in Cook County, Illinois located at the intersection of 94th Avenue and 159th Street, Orland Hills, Illinois, legally described in Exhibit A, attached hereto, and having the Permanent Real Estate Tax Number 27-22-200-004 (the "Real Estate").

2. Claimant entered into a contract dated January 28, 1994 (the "Contract") with Orland Towne Center, under which Claimant agreed to provide all necessary construction and services, including labor, materials and equipment (more fully defined in the Contract as the "Work"), required by the Contract for the construction of a building referred to in the Contract as the PetSmart Building, containing approximately 25,364 square feet, and including the building shell and sidewalk in front of the PetSmart Building, for the original contract amount of \$1,158,655.00. A copy of the Contract is attached hereto as Exhibit B.

3. The Contract was entered into by Orland Towne Center as one of and for the Owners, and Claimant performed the Work with the knowledge and consent of the Owners.

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of

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4. Claimant performed additional work in the amount of \$310,753.00 at the request of Orland Towne Center, as one of and for the Owners, and with the knowledge and consent of the Owners.

5. Claimant last performed work under the Contract on August 20, 1994.

6. As of the date hereof, there is due, unpaid and owing to Claimant, after allowing all credits, the principal sum of \$492,824.00, which principal amount bears interest at the statutory rate of ten percent (10%) per annum, for Claimant's performance of the Work and all additional work. Claimant therefore claims a lien on the Real Estate (including all land and improvements thereon) in the amount of \$492,824.00, plus interest.

7. In connection with Claimant's performance of the Work and additional work, and pursuant to the Contract, \$73,470.00 (the "Retainage") shall become due and owing to Claimant upon Claimant's tender of certain documents related to completion of the Work, warranty of the Work and other items (the "Closeout Documents").

8. Upon tender of the Closeout Documents, Claimant shall file an amendment to this Claim in connection with the Retainage owed to Claimant.

Dated: November 3, 1994

GLENN CONSTRUCTION SERVICES,  
INC.

By 

Its 

This document has been prepared by and after recording should be returned to:

Michael J. Small, Esq.  
Goldberg, Kohn, Bell, Black,  
Rosenbloom & Moritz, Ltd.  
55 East Monroe Street  
Suite 3700  
Chicago, Illinois 60603



PIN: 27-22-200-004

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## EXHIBIT A

NON-EXCLUSIVE PERPETUAL EASEMENTS AS CREATED BY EASEMENT AGREEMENT DATED DECEMBER 1, 1982 AND RECORDED DECEMBER 21, 1990 AS DOCUMENT NUMBER 90619932 FOR INSTALLING, MAINTAINING, REPAIRING, REPLACING AND USING 12 INCH WATER MAINS AND RELATED APPURTENANCES, FIXTURES AND EQUIPMENT TOGETHER WITH THE RIGHT OF ACCESS AS NECESSARY FOR SUCH INSTALLATIONS, REPAIR, MAINTENANCE AND REPLACEMENT WORK UNDER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

THE NORTH 15 FEET OF THE WEST 144.60 OF THE SOUTH 300 FEET OF THE NORTH 363 FEET OF THE EAST 435 FEET OF THE NORTHWEST 1/4 (EXCEPT EAST 20 ACRES) OF NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 36 NORTH, RANGE 22 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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## AGREEMENT FOR CONSTRUCTION BETWEEN OWNER AND CONTRACTOR

Made the 28th Day of January, in the Year Nineteen Hundred  
and Ninety Four

By and Between:

Owner:

Orland Towne Center Limited Partnership

Suite 200, 1121 East Main Street  
St. Charles, Illinois 60174-2275

And:

Contractor:

Glenn Construction Services, Inc.  
212 Louisiana, Post Office Box #528  
Little Rock, Arkansas 72207

The Project Is:

FetSMART  
Orland Towne Center  
94th and 159th Street  
Orland Hills, Illinois 60477

The Architect Is:

Johns T. Stamb & Associates, P.C.  
101 South Schaller Road  
Lincolnshire, Illinois 60069-3603

The Owner and Contractor agree as set forth on the following pages:

EXHIBIT "B"

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## ARTICLE 1

### THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications (if any), and all modifications issued prior to execution of this Agreement. These form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.

## ARTICLE 2

### THE WORK

The Contractor shall perform all the Work required by the Contract Documents for the ~~completion of the tenant finish or construction consisting of approximately~~ construction of the PatSmart Building, containing square feet approximately 25,364 square feet, including building shell, sidewalks in front of store,  
and

## ARTICLE 3

\* (which will be given approximately February 7, 1994)

### TIME OF COMMENCEMENT AND COMPLETION

3.1: The Work to be performed under this Contract shall commence the date of notice to proceed from Owner, and shall be substantially complete ~~by XXXXXXXXXXXXXX~~ \*\*, subject to adjustments in the Contract Time as provided for in these Contract Documents.

\*\* 125 (one-hundred-twenty-five) calendar days from the date of notice to proceed.

3.2: The Owner may make changes in the Work in accordance with Article 7 of the General Conditions.

## ARTICLE 4

### COST OF THE WORK

4.1: The Owner agrees to pay the Contractor the lump sum of \$1,158,658.00\* for the Work (The Contract Sum) ~~subject to additions and deductions as provided in the Contract Documents.~~ This sum includes the cost of the building permit. \*See Attachment "8"

\*\*\* It is understood that the parties may enter into a Change Order for the construction of Site Work. In such event, the Contract Sum will be modified by the Change Order.

\*\* Substantial Completion means Completion of work and receipt of temporary certificate of occupancy so as to allow PatSmart to commence fixturing. All work required under the Contract Documents must be completed ~~XXXXXXXXXXXXXX~~ and a Final Certificate of Occupancy must be obtained by that date ("Completion Date").

\*21 calendar days after substantial completion

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4.2: The Cost of the Work is based on the following alternates, if any, which are described on the Contract Documents, and are accepted by the Owner, and are hereby made a part of the Work:

N/A

4.3: Unit Prices, if any, are as follows: N/A

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ARTICLE 5

\* and materialmen

PAYMENTS TO THE CONTRACTOR

("Draw Documents")

5.1: \* Applications for Payment shall be in accordance with Article 9 of the General Conditions. The foregoing notwithstanding, Contractor's Application for Payment shall include a contractor's sworn statement, lien waivers for the amount of the application from the Contractor and from all subcontractors due some or all of said payment, and such other reasonable and customary documentation and proofs as shall be required by the applicable title insurance provider, \*\* Contractor shall execute such customary indemnities and construction loan escrow instructions as said title insurance provider shall request.

5.2: The period covered by each Application for Progress Payment, where applicable, shall be one calendar month ending on the last day of the month. All such Applications must be received by the first working day of the month following. The Owner will make payment to the Contractor ~~sixty (60) days~~ after receipt of Applications for Progress Payments, ~~or sixty (60) days after Substantial Completion for Lump Sum single draw payments.~~

5.3: ~~At Owners option,~~ A retainage of ten percent (10%) of the amounts due under each Application for Payment may be retained by the Owner. \*\* All retainage under subcontracts shall be excluded from the Contractor's statements furnished to the Owner until such retainage is actually paid or payable. ~~shall~~ \*\* All subcontracts shall require retainage of ten percent (10%). \*\*\*

\*\*\*\*No retainage after 50% complete

5.4: Final payment, constituting the unpaid balance of the Cost of the Work and the Contractor's fee, shall be paid by the Owner to the Contractor ~~sixty (60) days~~ after the Work has been completed and the Contract fully performed. ~~It is understood and agreed, however, that if at the time of the request for final payment there are "Punch List" items remaining to be completed, the Owner shall at its reasonable discretion be entitled to withhold up to ten percent (10%) of the Cost of the Work described in Article 9 hereof until such time as all Punch List items have been completed.\*\*\*\*~~ ~~and the required Draw Documents have been delivered to Owner.~~

5.5: Contractor shall satisfy and have released any mechanic's lien, filed or claimed, with respect to the Work, by or on behalf of Contractor or any subcontractor or material supplier of Contractor or of any subcontractor in respect to the Work, unless such sums as are claimed have been included in Contractor's Application for Payment and have not been paid by Owner.

(or within forty-five (45) days thereafter)

Contractor shall correct all punch list items within twenty (20) days after receipt of the punch list.

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forty-five (45)

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## ARTICLE 6

(RESERVED)

~~See Exhibit "A", attached hereto and made a part hereof.~~

DELETE

## ARTICLE 7

### MISCELLANEOUS PROVISIONS

7.1: The Contractor accepts the relationship of trust and confidence established between it and the Owner by this Agreement. It covenants with the Owner to furnish its best skill and judgement and to cooperate with the Architect in furthering the interests of the Owner. It agrees to furnish efficient business administration and superintendence and to use its best efforts to furnish at all times an adequate supply of workmen and materials, and to perform the Work in the best and soundest way, and in the most expeditious and economical manner consistent with the interest of the Owner.

7.2: All portions of the Work that the Contractor's organization has not been accustomed to performing shall be performed under subcontracts. All subcontracts shall conform to the requirements of the Contract Documents. Upon the request of the Owner, the Contractor shall review all subcontractor bids with Owner to determine which bids will be accepted.

7.3: The Contractor shall supply insurance in accordance with the terms of these Contract Documents. All policies shall name Fleet National Bank, Orland Towne Center Limited Partnership, and MidStates Management Co., Inc., as additional insureds. *BADFORD DEVELOPMENT CO.*

7.4: The terms used in this Agreement which are defined in the Contract Documents shall have the meaning designated in those contract Documents except that the term "Owner" in the Contract Documents shall mean "Agent for the Beneficial Owners", except where otherwise set forth.

7.5: The General Conditions of this Agreement are made a part hereof, being "The General Conditions of the Contract for Construction", AIA Document A201, Fourteenth Edition, Copyrighted 1987.

7.6: The Contractor shall promptly and with due diligence correct or cause to be corrected (a) any material defect in the Work; (b) any material departure in the construction of the Work from the Drawings, or any governmental requirement, if applicable; or (c) any encroachment by any part of the Work on a building line, easement property line, existing utility, structure, adjacent property or restricted area.

7.7: The Contractor hereby states that it has inspected the site and all other Contract Documents related to the existing condition of same and is satisfied with the condition thereof. \*\* Contractor warrants that for at least one (1) year following the Completion Date that all Work has been completed in accordance with the Contract Documents and all applicable legal requirements, that all materials are new and of good quality and all Work is of good quality free from defects.

\* fully

\*\* and is able to and will complete the Work according to the terms of this Agreement based on said conditions

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## ARTICLE 8

### TERMINATION OR SUSPENSION OF THE CONTRACT

8.1: The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

8.2: The Contractor may not terminate the Contract if he is then in default.

8.3: Paragraph 14.2.4 of the General Conditions to the contrary notwithstanding, if Owner terminates the Contract as provided in Article 14 of the General Conditions, the following provisions shall apply:

1. Architect, together with Owner and any replacement Contractor, shall estimate the cost to complete the Work including reasonable overhead and profit. (The Estimated Cost to Complete.) \* (all hereinafter called "Completion Costs")
2. If the Estimated Cost to Complete, plus the Cost of the Work and Contractor's Fee paid the Contractor or others, plus the unpaid Cost of the Work performed by Contractor or others, plus the portion of the Contractor's Fee applicable to such unpaid Cost of the Work shall equal or exceed the Cost of the Work, then no further payment shall be made to Contractor until after Final Completion.
3. If the Estimated Cost to Complete, plus the Cost of the Work and the Contractor's Fee paid to the Contractor or others, plus the unpaid Cost of the Work performed by Contractor or others, plus the portion of the Contractor's Fee applicable to such unpaid Cost of the Work, shall be less than the Cost of the Work, then Owner shall promptly pay eighty percent (80%) of the unpaid Cost of the Work performed by the Contractor, plus the portion of the Contractor's Fee applicable to such unpaid Cost of the Work; Owner may apportion such payment as Owner deems appropriate; payments by Owner directly to a subcontractor or material supplier of Contractor in an amount not to exceed Contractor's obligation thereto in respect of the Work, shall constitute a payment to Contractor.  
\*\* which are in excess of the Completion Costs,
4. At Final Completion, Owner and Contractor shall settle their accounts by, as the case may be, Contractor paying to Owner promptly the amount, if any, by which the sum of the items set forth in clause (a) below exceeds the Cost of the Work, and if Contractor is not required to pay Owner as above, Owner paying to Contractor promptly the amount, if any, of the unpaid Cost of the Work performed by Contractor, plus the unpaid portion of the Contractor's Fee apportionable to such Work, but only to the extent that such amount together with the sum of the items set forth in clause (a) below, does not exceed the Cost of the

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Work;

- (a)
  - (1) total payments to Contractor under the Contract;
  - (2) total payments to or due subcontractors, employees and material suppliers of Contractor (in an amount not to exceed Contractor's obligations thereto in respect of the Work);
  - (3) total payments to or due others in respect of the Work;
  - (4) all costs, incurred by Owner's Agent in connection with the termination of Contractor, including related Architect's fees, attorney's fees, court costs, title insurance premiums and supervisory personnel costs of Owner.
5. The Contractor shall, as a condition to receiving the payments referred to in this Article 8, execute and deliver all such papers and take all such steps, including the legal assignment of its contractual rights, as the Owner may require, for the purpose of fully vesting in it the rights and benefits of the Contractor under such obligations or commitments.

## ARTICLE 2

### ENUMERATION OF CONTRACT DOCUMENTS

9.1: The Contract Documents, excepts for Modifications issued after execution of this Agreement, are enumerated as follows:

9.1.1 The Agreement is this executed Agreement between Owner and Contractor.

9.1.2 The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201, 1987 Edition.

9.1.3 The Supplementary and other Conditions of the Contract are those attached.

9.1.4 The Specifications, if any, are as follows:

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9.1.5 The Addendum, if any, are as follows:

9.1.6 The Drawings for the Work are as follows:

Number	Title	Date
--------	-------	------

See Exhibit "A", attached hereto and made part hereof.

9.1.7 Other documents, if any, forming part of the Contract Documents, are as follows:

This Agreement is entered into as of the day and year first written above and is executed in two (2) original copies of which one is to be delivered to the Contractor, and the remainder to the Owner.

Written notice to be delivered hereunder shall be delivered to the following addresses unless changed in writing by the parties hereto:

**OWNER:**

ORLAND TOWER CENTER LIMITED PARTNERSHIP \*  
~~MIDSTATES MANAGEMENT CO., INC.~~  
1420 Kensington Road, Suite 103  
Oak Brook, Illinois 60521

By: Orland Tower Center, Inc.  
Its: General Partner

By: [Signature]  
Its: President

**CONTRACTOR:**

~~GLIDE CONSTRUCTIONS SERVICES, INC.~~  
216 Louisiana St.; P.O. Box 528  
Little Rock, AR 72203

By: [Signature]  
Sam K. Alley, P.E.

Its: Chairman

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## GENERAL AND SUPPLEMENTARY CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

### GENERAL CONDITIONS

#### ARTICLES 1 through 14

The General Conditions of this Contract is the American Institute of Architects' Document A201, THE GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION, Fourteenth Edition, Copyrighted 1987, hereinafter referred to as the General Conditions, a copy of which is attached.

### SUPPLEMENTARY CONDITIONS

The following supplements modify, change, delete from, or add to "The General Conditions of the Contract for Construction," AIA Document A201, Fourteenth Edition, Copyrighted 1987. Where any Article of the General Conditions is modified or deleted by these supplements, the unaltered provisions of that Article, Paragraph, Subparagraph, or Clause shall remain in effect.

#### ARTICLE 1

#### CONTRACT DOCUMENTS

##### 1.1 BASIC DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS: In the tenth line, delete the word "...Architect." and insert the word "...Owner."

1.1.2 THE CONTRACT: In the tenth line, revise the line to read "...the Owner and Contractor. Both the Owner and Architect shall, be..."

Revise the eleventh line to read "...entitled to performance and enforcement of obligations of the Contractor under..."

##### 1.2 EXECUTION, CORRELATION, AND INTENT

1.2.1: In both cases, delete the word "shall" and insert "may".

1.2.3: At the end of this paragraph, insert the following: "Drawings are generally diagrammatic, showing only the arrangement and relative location of materials and equipment and shall not be scaled for construction purposes. Contractor must field verify all figures, elevations and dimensions."

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1.2.5: At the end of this paragraph, insert the following: "Should conflicts occur in or between Drawings and Specifications, the Contractor is deemed to have estimated costs utilizing the more expensive method unless he has asked for and obtained a written decision from the Owner before submission of his proposal as to which method or materials will be required."

## ARTICLE 2

### OWNER

#### 2.1 DEFINITION

2.1.2: In the sixth line, revise the sentence to read "...which the project is located, usually referred to as the site." Delete the balance of the paragraph.

#### 2.2: INFORMATION AND SERVICES REQUIRED OF THE OWNER

2.2.1: Delete all language in it/110 beginning with "{Note: unless such reasonable..." and ending with "...or to commence the work)".

#### 2.4 OWNERS RIGHT TO CARRY OUT THE WORK

2.4.1: In the sixth line delete the language beginning with ".....after such seven day period....." and ending in the eleventh line with ".....may, ".

In the fifteenth line revise the sentence to read "....including compensation for the Architect's and Owner's additional.....".

In the seventeenth line delete the sentence beginning with "....Such action by....." and ending in the nineteenth line with "...Architect."

In the twentieth line, delete the word "...amounts..." and insert the word "...work".

## ARTICLE 3

### CONTRACTOR

#### 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.2.1: In lines 4, 9 & 12, delete the word "Architect" and insert the word "Owner".

At the end of this paragraph, insert the following "Neither Owner, Contractor, or Architect, assumes responsibility for any understanding or representation made prior to the execution of the Agreement unless expressly contained herein."

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**3.2.2:** In the last line, delete the word "Architect" and insert the word "Owner".

## 3.4 LABOR AND MATERIALS

**3.4.2:** At the end of this paragraph, insert the following: "The Contractor upon award of the Contract, shall place orders for all materials, work, fabrication, and equipment that is necessary to meet the schedule for the work and avoid any delays to the progress of the work."

## 3.5 WARRANTY

**3.5.1:** In the first line, delete "...and the Architect...".

In the thirteenth line, delete the word "Architect" and insert the word "Owner".

## 3.7 PERMITS, FEES AND NOTICES

**3.7.3:** Delete the sentence beginning with "It is not...." and ending in the fourth line with the word "However, .....".

In the fourth line capitalize "If...".

In the fifth line, delete the word "...therewith..." and insert "...with applicable laws, statutes, ordinances, building codes, and rules and regulations....".

In the sixth line, delete the words "Architect and ....".

~~At the end of this paragraph, insert the following: "It is understood that the Prime Sub-Contractors provide Design/Build services in the execution of the Work and are therefore responsible for conformance with applicable laws, statutes, ordinances, building codes, and rules and regulations."~~

**3.7.4:** In the third line, delete the words "...Architect and ....".

## 3.9 SUPERINTENDENT

**3.9.1:** In the fifth line, after word "superintendent" insert "...by Owner...".

**3.9.2:** Insert the following new paragraph: "The Contractor shall, prior to the award of the contract, submit to the Owner, the names, references, and qualifications of the proposed Superintendent and Project Manager. When approved, they shall not be removed without the Owner's written approval."

## 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

**3.10.1:** In the second line, delete the words "...and Architect's...".

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Revise the last line of this paragraph to read "...practicable execution of the Work, should the Contractor choose to accelerate the Work, he shall do so at his own risk. The Owner shall not be responsible for any resultant delays."

**3.10.2:** Revise the first line of this paragraph to read "If required by the Owner, the Contractor shall prepare and keep current, for the..."

In the second line, delete the word "Architect's" and insert the words "Owner's".

In the fourth line, delete the word "Architect" and insert the word "Owner".

**3.10.3:** Revise this paragraph to read "The Contractor shall conform to the most recent schedules, and shall not modify it without the approval of the Owner."

## 3.11 DOCUMENTS AND SAMPLES AT THE SITE

**3.11.1:** In the seventh line, delete the word "Architect" and insert the word "Owner".

In the second to the last and last lines, delete the words "...the Architect for submittal to..."

**3.11.2:** Insert the following new paragraph "The Contractor shall maintain <sup>at weekly job meetings</sup> a written daily log at the job site. Copies of such log shall be provided to the Architect and Owner <sup>upon request</sup>. The daily log shall include, but not be limited to: (1) Weather Conditions; (2) Classification and Number of Workmen; (3) Description of work by trade and area."

**3.12.4:** In the second to the last line, delete the word "Architect" and insert the words "Owner and/or Architect".

**3.12.5:** Revise the second line to read "...Owner and/or Architect, Shop Drawings, Product Data, Samples and similar.....".

**3.12.6:** Revise the second to the last line to read "... has been approved by the Owner and/or Architect. Such work shall be in..."

**3.12.8:** Revise the fifth line to read "...specifically informed the Owner and/or Architect in writing of such deviation..."

Revise the sixth line to read, "...at the time of submittal and the Owner and/or Architect has given written..."

Revise the second to the last line to read "..., Product Data, Samples, or similar submittals by the Owner and/or Architect's...".

**3.12.9:** Revise the last line to read "...the Owner and/or Architect on previous submittals."

3.12.10: Revise the first line to read "Informational submittals upon which the Owner and/or Architect is..."

3.12.11: Revise the third line to read "...Documents, the Owner and/or Architect shall be entitled to rely upon the ..."

**3.17 ROYALTIES AND PATENTS**

3.17.1: Revise the last line to read "...Owner and/or Architect."

**3.18 INDEMNIFICATION**

3.18.1: Revise the second line to read "...shall indemnify, defend, and hold harmless the Owner, Architect, ...."

~~Revise the second line to read "...shall indemnify, defend, and hold harmless the Owner, Architect, ...."~~

3.18.2: Revise the third line to read "...Sub Contractor, anyone directly or indirectly employed by, or contracting with them..."

**ARTICLE 4**

**ADMINISTRATION OF THE CONTRACT**

**4.1 ARCHITECT**

4.1.2: In the second to the last line, delete the word "Contractor".

4.1.3: Delete the words "...against whom the Contractor makes no reasonable objection and ...".

4.1.4: Delete in it's entirety.

**4.2 ARCHITECTS ADMINISTRATION OF THE CONTRACT**

4.2.1: In the first, sixth and seventh lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)..."

4.2.2: In the first, sixth and ninth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)..."

In the ninth line, delete the words "...as an Architect..."

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**4.2.3:** In the first, sixth and eighth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**4.2.4: COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION:** Revise the fifth line to read "...communicate directly. Communications by and with the ...".

**4.2.5:** In the first line, delete the word "Architect's" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

In the second line, delete the word "Architect" ... and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**4.2.6:** In the first, third, fourth, eighth and tenth and eleventh lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**4.2.7:** In the first and twentieth lines, delete the word "Architect" and in the sixth, ninth, sixteenth, eighteenth and twenty-first lines, delete the word "Architect's" and insert in all these locations..."Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**4.2.8:** In the first line delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**4.2.9:** In the first line delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**4.2.10:** In the first line delete the word "Architect" in both instances where it is used, and in the third line delete the word "Architect's" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**4.2.11:** In the first, seventh and ninth lines delete the word "Architect" and in the fourth line, delete the word "Architect's" and insert in all these locations "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

In the third line, delete the words "...either the Owner or ...".

In the second to the last line, delete the number "15", and insert the number "7".

**4.2.12:** In the first and fifth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**4.2.13:** In the first line, delete the word "Architect's" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

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## 4.3 CLAIMS AND DISPUTES

4.3.2 - Decision of Architect: Delete all references to arbitration.

4.3.3 - Time limits on Claims: In the second line, delete the number "21" and insert the number "7".

Beginning in the third line, delete the words "...or within 21 days..." and ending in the fourth line with the words "...whichever is later."

In the last line, delete the words "...unless submitted in a timely manner."

4.3.4 - Delete the word "Arbitration".

4.3.6 - Claims for Concealed or Unknown Conditions: In the eleventh and twenty-second lines, delete the number "21" and insert the number "7".

In the eleventh, twelfth, sixteenth, nineteenth, twenty-second and twenty-fifth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

4.3.7 - Claims for Additional Cost: Revise the fourth line to read "...the work and within seven days after the occurrence of the event giving rise to such claim. Prior notice is not required to Claims relating to an ...."

In the eighth, tenth and eleventh lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

## 4.3.8 - CLAIMS FOR ADDITIONAL TIME

4.3.8.1: Revise the third line to read "...given and within seven days after the occurrence of the event giving rise to such claim. The Contractors Claim shall include an estimate of cost..."

## 4.4 RESOLUTION OF CLAIMS AND DISPUTES

4.4.1: In the first and second to the last lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

4.4.2: In the first line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

4.4.3: In the second line, delete the word "Architect's" and in the fourth and fifth line, delete the word "Architect" and insert in each location "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

4.4.4: In the third line in both instances, and in the seventh and eleventh lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's

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Construction Manager)...".

In the fourth and seventh lines, delete the word "Architect's" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

In the sixth line, delete the words "...but subject to arbitration."

## 4.5. ARBITRATION

Delete the word "Arbitration" and insert the words "Settlement by Court of Competent Jurisdiction."

4.5.1: Controversies and Claims subject to arbitration. Delete this paragraph in its entirety and insert "Any claim, controversy or dispute arising out of or relating to the contract or breach thereof, which is not settled pursuant to paragraphs 4.4, shall be submitted to a Court of Competent Jurisdiction for settlement. Owner and Contractor agree that any such claim, controversy or dispute shall only be handled in such manner and shall not be handled by any arbitration proceedings. This procedure of handling matters through a Court of Competent Jurisdiction shall hereinafter be referred to as "settlement" anytime the word "arbitration" is used in this agreement it shall refer to settlement. Either party shall have the right to the extent not settled pursuant to paragraph 4.4, to file suit for settlement with the proper court in the jurisdiction in which the project is located."

Delete Articles 4.5.2, 4.5.3, 4.5.4, 4.5.4.1, 4.5.4.2, 4.5.5, 4.5.6, 4.5.7, in their entirety.

## ARTICLE I

### SUBCONTRACTORS

#### 5.2: AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK.

5.2.1: In the fourth, seventh, ninth and eleventh lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

In the second to the last line, delete the word "promptly" and insert "...within 21 days..."

5.2.2: In the second line delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

5.2.3: In the first and third lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

5.2.4: In the second line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

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In the second line, delete the words "...if the ..." and insert "...without prior written approval of the ...".

## 5.3 SUBCONTRACTURAL RELATIONS

5.3.1: In the seventh and ninth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

Add to this Paragraph: Each Subcontract will be in compliance with the requirements of this Contract.

## 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTORS

5.4.2: Delete this paragraph in its entirety.

## 6.2 MUTUAL RESPONSIBILITY

6.2.2: In the fifth line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

## 6.3 OWNERS RIGHT TO CLEAN UP

6.3.1: In the last line, delete "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

## ARTICLE 7

### CHANGES IN THE WORK

#### 7.1 CHANGES

7.1.2 In the second, third and fifth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

#### 7.2 CHANGE ORDERS

7.2.1: In both instances in the second line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

#### 7.3 CONSTRUCTION CHANGE DIRECTIVES

7.3.1: In both instances in the second line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

7.3.4: In the third line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

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**7.3.6:** In the third and ninth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**7.3.7:** In the sixth line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**7.3.8:** In the third line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**7.3.9:** In the second line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

## 7.4 MINOR CHANGES IN THE WORK

**7.4.1:** In the first line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

## ARTICLE 8

### TIME

#### 8.1 DEFINITIONS

**8.1.3:** In the second line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**8.2.3:** Revise this paragraph to read "The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time, and shall complete the work without unreasonably interfering with Owner's use of the project."

**8.2.4:** Add the following paragraph "All Punch List items shall be completed within 20 days of the Substantial Completion which shall be defined as the Tenants date of Occupancy."

\* and 20 days after the date Petsmart delivers its punch list to Owner

#### 8.3 DELAYS AND EXTENSION OF TIME

**8.3.1:** In the second, eighth and tenth lines, delete the word "Architect" and in each location insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

In the seventh line, delete the words "...pending arbitration...".

**8.3.1:** Change the entire paragraph to read as follows: "If the Contractor is delayed at any time in the progress of the work by any wrongful act or neglect of the Owner's designee (which may be the Architect or Owner or Owner's Construction Manager), or by any employee of either, or by any

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separate contractor employed by the Owner, or by the net effect of changes ordered in the work, or by labor disputes resulting from the expiration of a collective bargaining agreement, fire, unusual delay in transportation, adverse weather conditions, unavoidable casualties, or by delay authorized by the Owner's designee (which may be the Architect or Owner or Owner's Construction Manager) pending litigation, or by any other cause which the Owner's designee determines may justify the delay, then the contract time shall be extended by Change Order for such reasonable time as the Owner's designee may determine. The foregoing notwithstanding, the Contract Time shall be extended only for such conditions listed above which (a) Contractor could not reasonably anticipate, and (b) are beyond the control of the Contractor, the Subcontractor, the Sub Subcontractors, and their respective agents and employees, and only for such delays that could not have been mitigated by Contractor or the applicable Subcontractor or Sub Subcontractor. No claim for extension of time will be allowed based on the consequential impact of prior allowed Change Order. It shall be the Contractor's responsibility to consider and include any consequential impact of a Change Order at the time the request for any extension of time is initially submitted. Any such requests shall constitute a certification by the Contractor that all such consequential impacts have been considered and are included in the request.

## ARTICLE 9

### PAYMENTS AND COMPLETION

#### 9.2 SCHEDULE OF VALUES

**9.2.1:** In the second, fourth and fifth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

#### 9.3 APPLICATIONS FOR PAYMENT

**9.3.1:** Delete the words "At least 10 days before the date established for each progress payment ..." and insert "On the last day of each month..."

In the second and seventh lines, delete the word "Architect" and in each location insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

Revise the last line to read "...if provided for elsewhere in the Contract Documents, as well as all applicable lien waivers."

#### 9.4 CERTIFICATES FOR PAYMENTS

**9.4.1:** In the first and fourth lines, delete the word "Architect" and in the sixth line, delete the word "Architect's" and at each location insert the words "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

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**9.4.2:** In the second, twelfth and sixteenth lines, delete the word "Architect" and in the third and fifth lines, delete the word "Architect's" and in all locations insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

## 9.5 DECISIONS TO WITHHOLD CERTIFICATION

**9.5.1:** In the first, fifth, seventh, eighth, ninth, tenth, eleventh and twelfth lines, delete the word "Architect" and in the fourth and sixteenth lines, delete the word "Architect's" and in all locations insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

## 9.6 PROGRESS PAYMENTS

**9.6.1:** In the first and last lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**9.6.3:** In the first and fourth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**9.6.4:** In the first line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**9.6.7:** Insert the following new paragraph: "Ten percent (10%) of all progress payments shall be retained by the Owner as a retention guaranteeing Contractor's complete performance of the contract. When the contract is fifty-percent (50%) complete, the Owner at its sole discretion, may reduce retention held on any Contractor, Subcontractor or Sub Subcontractor."

## 9.7 FAILURE OF PAYMENT

**9.7.1:** In the first, sixth and eighth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

~~In the second, fourth and seventh lines, delete the word "...seven..." and insert "...fifteen..."~~

In the sixth line, delete the words "...or awarded by arbitration...".

## 9.8 SUBSTANTIAL COMPLETION

**9.8.1:** Revise the second to the last line to read "...so the Owner can legally occupy or utilize the work for it's intended.."

**9.8.2:** In the fourth, ninth, seventeenth, eighteenth and twentieth lines, delete the word "Architect" and in the twelfth line delete the word "Architect's" and in all locations insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

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Revise the fifth line to read "...or corrected (commonly known as a "Punch List"). The Contractor shall proceed promptly to complete..."

In the twenty-fourth line, delete the words "...fix the ..." and insert "...confirm the 30 day period of ..."

In the twenty-fifth line, delete the word "...shall..." and insert "...is required to..."

**2.8.3:** In the third line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)..."

**2.8.4:** Insert the following new paragraph ~~At the end of this paragraph, insert the following sentence: "All additional costs incurred by the Contractor due to the Contractor's inability to achieve Substantial Completion, as stipulated, shall be deducted from the final amount due to Contractor."~~  
The Contractor agrees to pay the owner as fixed, agreed and liquidated damages the sum of \$1,000.00 per calendar day for each day of delay after the completion date.

## 2.9 PARTIAL OCCUPANCY OR USE

**2.9.1:** In the sixteenth and last lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)..."

**2.9.2:** In the second line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)..."

## 2.10: FINAL COMPLETION AND FINAL PAYMENT

**2.10.1:** In the first line, delete the words "Upon receipt of..." and insert "Within 30 days of issuance of the Certificate of Substantial Completion, the Contractor shall provide..."

In the third, fourth and sixth lines, delete the word "Architect" and in the seventh, eighth and thirteenth lines, delete the word "Architect's" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)..."

At the end of this paragraph, insert the following sentence: "All additional costs incurred by the Owner due to the Contractor's inability to achieve Final Completion, as stipulated, shall be deducted from the final amount due to Contractor."

**2.10.2:** In the third line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)..."

**2.10.3:** In the fourth, sixth and thirteenth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)..."

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## ARTICLE 10

### PROTECTION OF PERSONS AND PROPERTY

#### 10.1 SAFETY PRECAUTIONS AND PROGRAMS

**10.1.2:** In the fifth and thirteenth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

In the last sentence, delete "...on which arbitration has not been demanded, or by arbitration under Article 4."

**10.1.4:** In the second and third lines, delete the word "Architect" or "Architect's" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

#### 10.2 SAFETY OF PERSONS AND PROPERTY

**10.2.5:** In the tenth line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**10.2.6:** In the last line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

## ARTICLE 11

### INSURANCE AND BONDS

#### 11.1 CONTRACTORS LIABILITY INSURANCE

\* which shall be in amounts not less than that required under the Construction Loan Agreement with Fleet National Bank

**11.1.2:** Revise the second sentence to read: "Coverages shall be on an occurrence basis, shall be maintained without interruption from the date of commencement of the work until date of final payment and termination of any coverage required to be maintained after final payment."

**11.1.3:** Revise the first sentence to read: "Certificates of Insurance acceptable to Owner shall be filed with the Owner prior to commencement of the work naming additional insureds as the Owner may require."

**11.1.4:** Insert the following new paragraph "The following requirement shall further apply:

1. **General Requirements.** The following general requirements shall apply to each insurance policy required of the Contractor:

(a) A complete copy of the insurance policy, either the original policy or a certified copy of the original policy, shall be furnished to Owner.

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(b) The policy shall contain an index endorsement which lists each and every page, whether it be an endorsement, a schedule or a declaration, in the order in which it is attached to the policy and reciting the form number.

(c) An endorsement stating that the policy shall not be canceled, allowed to expire or changed in any manner that will reduce the coverage thereunder without thirty (30) days prior written notice to Owner's designee (which may be the Architect or Owner or Owner's Construction Manager), mailed to 1420 Kensington Road, Suite 103, Oak Brook, Illinois 60521.

(d) The policy must be issued by companies licensed to do business in the State of Illinois and otherwise acceptable to Owner's designee (which may be the Architect or Owner or Owner's Construction Manager). Insurance companies with a Best's insurance rating at A+ AAA+ or better normally are acceptable.

(e) The policy shall include Owner's designee (which may be the Architect or Owner or Owner's Construction Manager) and First National Bank as named additional insured.

(f) The policy shall consent to Contractor's Waiver contained in Subparagraph 11.3.7.

## 2. Workmen's Compensation Insurance.

### (a) Liability Limits:

(1) Coverage A: Statutory (coverage afforded must be in accordance with the Workmen's Compensation Law and the Occupational Disease Law of the State of Illinois).

(2) Coverage B: 1,000,000.00

(b) Scope of Coverage: The policy must cover all of the Contractor's operations in the State of Illinois and must contain a Voluntary Compensation endorsement all employees.

## 3. Comprehensive General Liability Insurance.

### (a) Liability Limits:

(1)(a) Bodily Injury (per occurrence): } \$3,000,000.00  
(b) Property Damage (per occurrence): } combined single  
limit.

(2) Deductible (per occurrence): \$ 0

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(b) Scope of Coverage: Policy must include the following:

- (1) Products-Completed Operations coverage part.
- (2) Elimination of any third party beneficiary exclusion.
- (3) Coverage for personal injury, including liability assumed by the insured under written contract or agreement.
- (4) Coverage for property damage arising from explosion, collapse, underground property damage or hazards under general liability and contractual liability.
- (5) Broad form property damage endorsement.

## 4. Comprehensive Automobile Liability Insurance.

(a) Liability Limits:

- |                                      |   |
|--------------------------------------|---|
| (1)(a) Bodily Injury (per person)    | } <u>\$3,000,000.00</u><br>combined<br>single<br>limit. |
| (b) Bodily Injury (per occurrence)   |   |
| (c) Property Damage (per occurrence) |   |
| (2) Deductible (per occurrence)      | \$ <u>0</u>   |

(b) Scope of Coverage: Policy must include coverage on all owned, non-owned and hired automobiles.

## 5. Equipment Floater.

(a) Liability Limits:

- |                                      |                       |
|--------------------------------------|-----------------------|
| (1) Bodily Injury (per person)       | <u>\$5,000,000.00</u> |
| (2) Bodily Injury (per occurrence)   | <u>\$1,500,000.00</u> |
| (3) Property Damage (per occurrence) | <u>\$1,500,000.00</u> |
| (4) Deductible (per occurrence)      | \$ <u>1,000.00</u>    |

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## 11.2 OWNERS LIABILITY INSURANCE

**11.2.1:** Revise the paragraph to read: "The Owner may purchase and maintain insurance for self protection against claims which may arise from operations under the contract. The Contractor shall not be responsible for purchasing and maintaining optional Owner's liability insurance unless specifically required by the Contract Documents."

**11.3.1.1:** In the eighth line, delete the word "Architect's" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**11.3.1.3:** In the second and third lines delete "...and such deductibles are identified in the contract documents...".

**11.3.1.4:** Delete this paragraph in its entirety.

**11.3.5:** Delete this paragraph in its entirety.

**11.3.6:** Delete this paragraph in its entirety.

**11.3.7: WAIVERS OF SUBROGATION** - In the fourth and twelfth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

Revise the sixth, seventh and eighth lines to read "...subcontractors, sub subcontractors, agents and employees, for loss, contribution or damages caused by any occurrence to the extent covered by property insurance obtained pursuant to this agreement or ... of recovery pursuant to

**11.3.9:** Delete the eighth and ninth lines beginning with: "...or in accordance..." and ending with "...provided in paragraph 4.5."

**11.3.10:** Revise this paragraph to read "The Owner as fiduciary shall have power to adjust and settle a loss with insurers."

## 11.4 PERFORMANCE BOND AND PAYMENT BOND

**11.4.1:** Revise the paragraph to read: "The Owner shall have the right to require the Contractor and all Subcontractors to furnish bonds covering faithful performance of the contract and payment of obligations arising thereunder naming Owner, Owner's designee, and Owner's lender as obligees."

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## ARTICLE 12

### UNCOVERING AND CORRECTION OF WORK

#### 12.1 UNCOVERING OF WORK

**12.1.1:** In the second and fourth lines, delete the word "Architect's" and in the fourth line delete the word "Architect" and in all locations insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**12.1.2:** In the second and third lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

#### 12.2 CORRECTION OF WORK

**12.2.1:** In the second line, delete the word "Architect" and in the second to the last line delete the word "Architect" and in both locations insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**12.2.4:** In the fifth line, delete the word "Architect" and in the thirteenth line delete the word "Architects" and in both locations insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

## ARTICLE 13

### MISCELLANEOUS PROVISIONS

#### 13.2 SUCCESSORS AND ASSIGNS

**13.2.1:** Revise the last line of this paragraph to read: "...for all obligations under the Contract provided, Owner may assign this Agreement and the Contract documents to an Affiliate or a Partnership in which Owner is a Partner."

#### 13.3 WRITTEN NOTICE

**13.3.1:** Revise the fourth and fifth lines to read: "...was intended, or three (3) days following deposit in U.S. Mail by Registered or Certified Mail to the last business address known to the party giving..."

#### 13.4 RIGHTS AND REMEDIES

**13.4.2:** In the first line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

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## 13.5 TESTS AND INSPECTIONS

**13.5.1:** In the tenth and eleventh lines, delete the word "Architect" and in both locations insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

Delete the last sentence of this paragraph in its entirety.

**13.5.2:** In the first, fourth, eighth and ninth lines, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**13.5.3:** In the sixth line, delete the word "Architect's" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**13.5.4:** In the last line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**13.5.5:** In the first and second lines, delete the word "Architect" and in both locations insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

## 13.6 INTEREST

~~**13.6.1:** Delete this paragraph in its entirety.~~

## ARTICLE 14

### TERMINATION OR SUSPENSION OF THE CONTRACT

#### 14.1 TERMINATION BY THE CONTRACTOR

**14.1.1.3:** In the first line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**14.1.2:** In the third line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

In the last sentence, delete the word "...profit and damages."

**14.1.3:** In the second to the last line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

#### 14.2 TERMINATION BY THE OWNER FOR CAUSE

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**14.2.2:** In the second line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

**14.2.4:** In the second and third lines, delete the word "Architect's" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

In the seventh line, delete the word "Architect" and insert "...Owner's designee (which may be the Architect or Owner or Owner's Construction Manager)...".

## 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

~~14.3.2: In the second line, delete the words "...including profit..."~~

## ARTICLE 15

### ADDITIONAL PROVISIONS

Insert the above captioned Article with the following provisions as part of the General Conditions.

**15.1** Prior to any payment, Contractor shall enter into and be in compliance with its obligations under a construction loan escrow agreement with Owner, its Lender(s), and (appropriate title company), containing such provisions as may be required by Owner, provided that no unforeseeable risks, obligations and conditions are placed on Contractor or its right to payment. If and as requested, Contractor shall agree to the payment of Subcontractors and Subsubcontractors directly or jointly with Contractor; any such payment shall be included in the cost of Work and treated as reimbursed.

**15.2** Contractor shall, upon request by Owner or Owner's Lender (s), execute an instrument in form acceptable to counsel for Owner's Lender(s) agreeing to perform any and all covenants and agreements of the Contract Documents notwithstanding a default by Owner, provided that said Lender(s) shall specifically and in writing request or direct and agree to pay for such performance.

**15.3** Each application by Contractor for payment shall be accompanied by a Contractor's Sworn Statement, Partial Waiver of Lien, and Partial Waivers of Lien by each person receiving or due to receive payment, all in form and content required by Owner and by the aforementioned title company to issue its customary ALTA loan policy interim certification endorsement relative to such payment free of mechanics or materialmen's liens.

**15.4** The Owner reserves the right to direct from time to time the Contractor, the Subcontractor and the Subsubcontractors concerning which entrances to the Site may be used for ingress and egress by which entities. Provided that such directions shall always afford a reasonable means of access for all entities involved, no such direction shall constitute a change in the Work or a cause for extension of the Contract time.

**15.5** Any construction warranties provided to or by the Contractor shall be assignable on their face.

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15.6 Any performance bond provided by Contractor shall, in addition to owner, name Fleet National Bank as dual obligee.

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1 of 4	Site Plan		
2 of 4	WaterMain Details	23-Dec-93	
3 of 4	Sanitary Sewer Details	04-Nov-93	
4 of 4	Construction Details	04-Nov-93	
T-1	Cover Sheet	04-Nov-93	
BD1	Site and Utility Plan	27-Dec-93	
F1	Future Floor Plan	27-Dec-93	
F2	Future Reference Plan	01-Nov-93	
A1	Equipment Coordination Schedule	01-Nov-93	
A2	Floor Plans Plan	01-Nov-93	
A2.1	Architectural floor plan	01-Nov-93	
A2.2	Enlarged Architectural floor plan	27-Dec-93	
A4	Roof Plan	01-Nov-93	
A5	Exterior Elevations	01-Nov-93	
A5.1	Ref. Ceiling Plan	01-Nov-93	
A6	Enlarged reflected ceiling plan	01-Nov-93	
A7	Door Schedule	01-Nov-93	
A8	Interior Elevations	01-Nov-93	
A9	Interior Elevations	01-Nov-93	
A10	Interior Elevations	01-Nov-93	
A11	Interior Elevations	01-Nov-93	
A12	Wall Sections	01-Nov-93	
AD1	Wall Sections	01-Nov-93	
AD2	Architectural Details	01-Nov-93	
AD3	Architectural Details	01-Nov-93	
31	Architectural Details	01-Nov-93	
32	Foundation Plan	01-Nov-93	
33	Steel Framing Plan	01-Nov-93	
34	Details	01-Nov-93	
35	Sections	01-Nov-93	
36	Sections and Details	01-Nov-93	
37	Schedules and details	01-Nov-93	
38	Structural Notes	01-Nov-93	
M1.1	Mechanical Floor Plan	01-Nov-93	
M2	Enlarged Mech. Plan	01-Nov-93	
M3	Mechanical Details	01-Nov-93	
P1	Mechanical Schedule	01-Nov-93	
P1.2	Plumbing Floor Plan	01-Nov-93	
P2	Enlarged Plumbing Plans	27-Dec-93	
E1	Plumbing Schedules/Details	01-Nov-93	
E2.1	Lighting Floor plan	01-Nov-93	
E2	Enlarged Lighting plans	01-Nov-93	
E2.1	Power Floor Plan	01-Nov-93	
E3	Enlarged Power Plan	01-Nov-93	
E4	Panel Schedules/Electrical Details	01-Nov-93	
EM1	Diagram Schedules and Notes	01-Nov-93	
EM2	Energy Management	01-Nov-93	
EM3	Energy Management	01-Nov-93	

SPECIFICATIONS		
Division 1-16		01-Nov-93
ACKNOWLEDGEMENT		
By	Supplier	
Title		
Date		

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EXHIBIT "A"

## PETSMART - ORLAND HILLS

### SHEET INDEX:

### REVISIONS

SHEET INDEX:		REVISIONS
T1.....	Cover Sheet	11/01/93
<b>SITE</b>	See Also Civil Drawings	
SD1.....	Site and Partial Utility Plan	12/27/93
<b>ARCHITECTURAL</b>		
F1.....	Fixture Floor Plan	11/01/93
F2.....	Fixture Reference Plan	11/01/93
F3.....	Equipment Coordination Schedule	11/01/93
A1.....	Floor Finish Plan	11/01/93
A2.....	Architectural Floor Plan	11/01/93
A2.1.....	Enlarged Arch Floor Plans	11/01/93
A3.....	Roof Plan	11/01/93
A4.....	Exterior Elevations	11/01/93
A5.....	Reflected Ceiling Plan	11/01/93
A5.1.....	Enlarged Reflected CLG Plans	11/01/93
A6.....	Door Schedules	11/01/93
A7.....	Interior Elevations	11/01/93
A8.....	Interior Elevations	11/01/93
A9.....	Interior Elevations	11/01/93
A10.....	Interior Elevations, Building Sections	11/01/93
A11.....	Wall Sections	11/01/93
A12.....	Wall Sections	11/01/93
AD1.....	Architectural Details	11/01/93
AD2.....	Architectural Details	11/01/93

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• DEPT-01 RECORDING 149.50  
• T#0004 TRAN 8275 11/04/94 13135100  
• #4079 & LF 94-942576  
• COOK COUNTY RECORDER

THE SCHEDULE OF VALUES MUST BE FULLY COMPLETED BY THE SUBMITTER AND SUBMITTED AS AN ATTACHMENT TO THE PROPOSAL FORM. NO PROPOSAL WILL BE CONSIDERED WITHOUT THE COMPLETE FORM ATTACHED.

SCHEDULE OF VALUES

ATTACHMENT "B"

ACCT. NO.	DESCRIPTION	QUANTITY	UNIT
00-00	CRAN (IF REQUIRED)		N/A
02-00	TRUCKS/TRACTOR	800.00	
24-00	EXCAVATION	7,500.00	
33-00	PAVING	0.00	
10-00	CONCRETE	125,722.00	
10-01	TELEPHONE	137,000.00	
32-00	REINFORCING STEEL	2,500.00	
20-00	FENCING	2,700.00	
05-00	STRUCTURAL STEEL	21,270.00	
37-00	ROOFING (MEMBRANE) 1-41	62,723.00	
37-01	ROOFING (METAL/DEK)	N/A	
37-02	CANOPY/TENTING	N/A	
30-00	MACHINERY	21,700.00	
10-01	ROOF CASING	25,921.00	
10-00	WELL WORK	<i>Palmetto</i>	
10-02	PAVING CASING	<del>XXXXXXXXXX</del>	

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152-000	CALCESTRONALANTE	4,800.00
162-000	WATERPROOFING	In Above
220-000	DEWATERION	In Drywall
264-000	DOORS	4,310.00
304-001	POORER HARDWARE	8,640.00
304-002	OVERHEAD DOORS	1,720.00
400-000	STRAPFRONT	12,000.00
400-000	ALUMINUM DOOR	10,000.00
412-000	STUD PLAN (N & DRYWALL)	20,517.00
500-000	ATLANCER	3,500.00
600-000	STUCCO	12,000.00
800-000	ACQUITTICAL CHAIRS	9,000.00
100-000	FLOORING (SLAB, VCE, BRICK)	40,771.00
200-000	FLOORING (WOOD)	5,100.00
300-000	CERAMIC TILE	6,000.00
400-000	PAINING	20,770.00
500-000	SPECIALTIES (WALL GUARD / CORNER GUARD)	1,100.00
600-000	TOILET AMBROONES / PARTITIONS	3,000.00
700-000	DOCK EQUIPMENT	4,000.00
800-000	PLUMBING	22,700.00
900-000	STABLEER STRUCTURE	6,200.00

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400-000	FIRE PROTECTION	27,000.00
310-000	HVAC	120,000.00
300-001	IDE	In HVAC
710-000	ELECTRICAL	103,000.00
210-000	FIRE ALARM	In Electrical
310-002	MISCELLANEOUS (SEAR-OUT ATTACHED)	N/A
220-000	GENERAL CONDITIONS	94,362.00
210-000	PERMIT	
230-000	CONTRACTOR'S FEE	59,100.00
220-000	TAXES	In Above
210-000	BONDING	
230-000	PROJECT LIABILITY INSURANCE	
210-000	BUILDING FIRE INSURANCE	
<b>NET TOTAL BIDI (Net of the Excludes)</b>		<b>\$ 1,158,475.00</b>
<b>GRAND TOTAL BIDI (Net of the Excludes)</b>		<b>\$ 1,158,475.00</b>

\* Specifically excluded are the following:

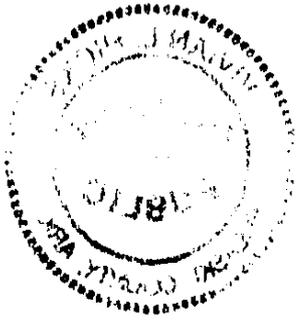
1. Winter condition costs (not including frost ripping which is part of the Work);
2. Any muck removal costs for the building pad; and
3. 3 inches of granular fill<sup>1/2</sup> to bring the subelevation of pad to subgrade elevation as required for construction of the PetsMart store.

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