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Brickyard
Pet Stores Funding

96604678

Recording requested by *Prepared by*
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 COOK COUNTY RECORDER

MORTGAGE, ASSIGNMENT OF LEASES, SECURITY AGREEMENT AND FINANCING STATEMENT

63.00
OK

STATE OF ILLINOIS

COUNTY OF COOK

755-9903 FAX

THIS MORTGAGE, ASSIGNMENT OF LEASES, SECURITY AGREEMENT AND FINANCING STATEMENT (this "Mortgage") dated effective as of August 6, 1996 (the "Effective Date") is executed and delivered by PET STORES FUNDING CORPORATION, a Delaware corporation (the "Grantor") for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by Grantor, for the benefit of NATIONSBANK OF TEXAS, N.A., a national banking association, as Administrative Lender (the "Beneficiary," also referred to below as the "Administrative Lender"), for the ratable benefit of itself and the Lenders party to the Credit Agreement.

ARTICLE 1

Certain Definitions; Granting Clauses; Secured Obligations

Section 1.1. Certain Definitions and Reference Terms. To the extent any capitalized term is not defined herein, such term shall have the meaning set forth in the Credit Agreement. "Credit Agreement" shall mean that certain Credit Agreement dated as of November 27, 1995, among Grantor, Administrative Lender, and the Lenders party thereto, as amended, modified or restated from time to time.

Section 1.2. Mortgaged Property. Grantor does hereby, and PETSMART, INC., a Delaware corporation ("Lessee") does hereby GRANT, BARGAIN, SELL, CONVEY, TRANSFER, ASSIGN and SET OVER to Administrative Lender, for the ratable benefit of itself and the Lenders party to the Credit Agreement, the following:

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BOX 333-CTI

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(a) the real estate (herein called the "Land") (the Land's tax identification numbers are 13-31-205-032 and 13-31-207-001) described in Exhibit A which is attached hereto and incorporated herein by reference, and all right, title and interest, if any, of Lessee in and to fee title to said real property, (i) all improvements now or hereafter situated or to be situated on the Land (herein together called the "Improvements"); and (ii) all right, title and interest of Grantor in and to (1) all streets, roads, alleys, easements, rights-of-way, licenses, rights of ingress and egress, vehicle parking rights and public places, existing or proposed, abutting, adjacent, used in connection with or pertaining to the Land or the Improvements; (2) any strips or gores between the Land and abutting or adjacent properties; and (3) all water and water rights, timber, crops and mineral interests on or pertaining to the Land (the Land, Improvements and other rights, titles and interests referred to in this clause (a) being herein sometimes collectively called the "Premises");

(b) all fixtures, equipment, systems, machinery, furniture, furnishings, appliances, inventory, goods, building and construction materials, supplies, and articles of personal property, of every kind and character, now owned or hereafter acquired by Grantor, which are now or hereafter attached to or situated in, on or about the Land or the Improvements, or used in or necessary to the complete and proper planning, development, use, occupancy or operation thereof, or acquired (whether delivered to the Land or stored elsewhere) for use or installation in or on the Land or the Improvements, and all renewals and replacements of, substitutions for and additions to the foregoing (the properties referred to in this clause (b) being herein sometimes collectively called the "Accessories," all of which are hereby declared to be permanent accessions to the Land);

(c) all (i) plans and specifications for the Improvements; (ii) Grantor's rights, but not liability for any breach by Grantor, under all insurance policies and other contracts and general intangibles (including but not limited to trademarks, trade names and symbols) related to the Premises or the Accessories or the operation thereof; (iii) deposits (including, but not limited to, Grantor's rights in tenants' security deposits, deposits with respect to utility services to the Premises, and any deposits or reserves for taxes, insurance or otherwise), money, accounts, instruments, documents, notes and chattel paper arising from or by virtue of any transactions related to the Premises or the Accessories; (iv) to the extent assignable, permits, licenses, franchises, certificates, development rights, commitments and rights for utilities, and other rights and privileges obtained in connection with the Premises or the Accessories; (v) all leases, security deposits, rents, royalties, bonuses, issues, profits, revenues and other benefits of the Premises and the Accessories, including all accounts receivable, credit card receivables, petty cash, guest room charges, reservation deposits, advance payments and all income and revenue derived from guests, conventions, room

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rentals, food sales, beverage sales, telephone usage, vending machines, parking, catering, and all miscellaneous other income (the "Rents and Profits"); (vi) oil, gas and other hydrocarbons and other minerals produced from or allocated to the Land and all products processed or obtained therefrom, and the proceeds thereof; and (vii) engineering, accounting, title, legal and other technical or business data concerning the Mortgaged Property which are in the possession of Grantor or in which Grantor otherwise can grant a security interest; and

(d) all (i) proceeds of or arising from the properties, rights, titles and interests referred to above in this Section 1.2, including but not limited to proceeds of any sale, lease or other disposition thereof, proceeds of each policy of insurance relating thereto (including premium refunds), proceeds of the taking thereof or of any rights appurtenant thereto, including change of grade of streets, curb cuts or other rights of access, by eminent domain or transfer in lieu thereof for public or quasi-public use under any law, and proceeds arising out of any damage thereto; and (ii) other Interests of every kind and character which Grantor now has or hereafter acquires in, to or for the benefit of the properties, rights, titles and interests referred to above in this Section 1.2 and all property used or useful in connection therewith, including but not limited to rights of ingress and egress and remainders, reversions and reversionary rights or interests; and if the estate of Grantor in any of the property referred to above in this Section 1.2 is a leasehold estate, this conveyance shall include, and the lien and security interest created hereby shall encumber and extend to, all other or additional title, estates, interests or rights which are now owned or may be acquired hereafter by Grantor in or to the property demised under the lease creating the leasehold estate;

TO HAVE AND TO HOLD the foregoing rights, interests and properties, and all rights, estates, powers and privileges appurtenant thereto (herein collectively called the "Mortgaged Property"), unto Administrative Lender, and its successors and assigns. No part of the Mortgaged Property constitutes all or any part of the homestead of Grantor.

Section 1.3. Security Interest. Grantor hereby assigns to Administrative Lender and grants to Administrative Lender a security interest in all of the Mortgaged Property which constitutes personal property or fixtures (herein sometimes collectively called the "Collateral"). In addition to its rights hereunder or otherwise, Administrative Lender shall have all of the rights of a secured party under the Uniform Commercial Code in force in the state where the Mortgaged Property is located or in any other state to the extent the same is applicable law (the "UCC").

Section 1.4. Note, Loan Papers, Other Obligations. (a) This Mortgage is made to secure and enforce the payment and performance of the following promissory notes, obligations, indebtedness and liabilities and all renewals, extensions, supplements, increases, and modifications thereof in whole or in part from time to time: the indebtedness, amounts and

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other obligations of any kind or type owing to Administrative Lender and/or any Lender under any of the Loan Papers, including specifically without limitation any and all amounts evidenced by or owing under the Notes and/or the Credit Agreement. The principal amount secured hereby is \$10,000,000. The indebtedness, amounts and other obligations referred to in this Section 1.4, whether now existing or hereafter arising, is hereinafter sometimes referred to as the "Secured Obligations."

(b) THIS MORTGAGE IS GIVEN TO SECURE (A) PAYMENT OF THE OBLIGATION (AS DEFINED IN THE CREDIT AGREEMENT) WHICH BEARS INTEREST AT A VARIABLE RATE IN ACCORDANCE WITH THE TERMS OF THE CREDIT AGREEMENT AND (B) PERFORMANCE OF ALL OBLIGATIONS OF GRANTOR UNDER THIS MORTGAGE AND THE OTHER LOAN PAPERS (AS DEFINED IN THE CREDIT AGREEMENT). THIS MORTGAGE IS INTENDED TO AND SHALL BE VALID AND HAVE PRIORITY OVER ALL SUBSEQUENT LIENS AND ENCUMBRANCES, INCLUDING STATUTORY LIENS, EXCEPTING SOLELY TAXES AND ASSESSMENTS LEVIED ON THE PROPERTY, TO THE EXTENT OF THE MAXIMUM AMOUNT SECURED HEREBY. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE TERMS SET FORTH HEREIN.

(c) This Mortgage is given for the purpose of securing loan advances which the Lenders may make in or for Grantor pursuant and subject to the terms and provisions of the Credit Agreement. The parties hereto intend that, in addition to any other debt or obligation secured hereby, this Mortgage shall secure unpaid balances of loan advances made after this Mortgage is delivered to the Recorder of Deeds, Cook County, Illinois, whether made pursuant to an obligation of Lenders or otherwise, provided that such advances are made within twenty (20) years from the date hereof and in such event, such advances shall be secured to the same extent as if such future advances were made on the date hereof, although there may be no advance made at the time of execution hereof and although there may be no indebtedness outstanding at the time any advance is made. Such loan advances may or may not be evidenced by notes executed pursuant to the Credit Agreement.

Section 1.5. Possession. Unless and until an Event of Default occurs (as defined in Article 4 hereof), Grantor may remain in possession and control of and operate and manage the Premises.

ARTICLE 2

Representations, Warranties and Covenants

Section 2.1. Grantor represents, warrants, and covenants as follows:

(a) Performance of Obligations. Grantor will timely and properly perform and comply with all of the covenants, agreements, and conditions imposed upon it by this Mortgage.

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(b) Creation of Lien Interest. Grantor warrants that it has the valid right and power to grant this Mortgage.

(c) Nature of Transaction. Grantor warrants that Grantor is engaging in this transaction exclusively for business, commercial or investment purposes.

ARTICLE 3

Assignment of Leases, Rents and Profits

Section 3.1. No Assignee Duties. With respect to the assignment of the leases and agreements affecting the Premises and the Rents and Profits, the Administrative Lender shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Grantor under any of the leases or agreements assigned under this Mortgage, unless and until the Administrative Lender, in person or by its own agent, assumes actual possession of the Premises or the Rents and Profits. Grantor hereby agrees to indemnify the Administrative Lender for, and to save it harmless from, any and all liability arising from any such agreements or from such assignment, prior to any assumption by the Administrative Lender or its agent of possession of the Premises or the Rents and Profits. Such assignment shall not place responsibility for the control, care, management or repair of the Premises upon the Administrative Lender, or make the Administrative Lender responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Premises resulting in loss or injury or death to any tenant, licensee, employee or stranger, unless and until the Administrative Lender, in person or by its own agent, assumes actual possession of the Premises or the Rents and Profits.

ARTICLE 4

Event of Default

Section 4.1. Events of Default. The occurrence of any Event of Default under the Credit Agreement shall be an event of default under this Mortgage.

ARTICLE 5

Remedies

Section 5.1. Certain Remedies. If an Event of Default shall occur, Administrative Lender may exercise (but shall have no obligation to exercise) any one or more of the following remedies, without notice (unless notice is required by applicable statute):

(a) Remedies Available under Loan Papers. Administrative Lender may exercise any of the remedies available under the Credit Agreement or any other Loan Paper, all of which are cumulative and not exclusive.

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- (b) Collection of Rents and Profits. Administrative Lender may revoke Grantor's right to collect Rents and Profits from the Premises and may collect the rents and profits either itself or through a receiver.
- (c) Foreclosure. Administrative Lender shall have the right to foreclose Grantor's interest or Lessee's interest, if any, in all or part of the Mortgaged Premises by non-judicial notice and sale, or by judicial foreclosure, in either case in accordance with applicable law.
- (d) Uniform Commercial Code. Without limitation of Administrative Lender's rights of enforcement with respect to the Collateral or any part thereof in accordance with the procedures for foreclosure of real estate, Administrative Lender may exercise its rights of enforcement with respect to the Collateral or any part thereof under the UCC as amended and in conjunction with, in addition to or in substitution for those rights and remedies: (1) Administrative Lender may enter upon Grantor's premises to take possession of, assemble and collect the Collateral or, to the extent and for those items of the Collateral permitted under applicable law, to render it unusable; (2) Administrative Lender may require Grantor to assemble the Collateral and make it available at a place Administrative Lender designates which is mutually convenient to allow Administrative Lender to take possession or dispose of the Collateral; (3) written notice mailed to Grantor as provided herein at least five (5) days prior to the date of public sale of the Collateral or prior to the date after which private sale of the Collateral will be made shall constitute reasonable notice; (4) any sale made pursuant to the provisions of this paragraph shall be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with and upon the same notice as required for the sale of the Mortgaged Property; (5) in the event of a foreclosure sale the Collateral and the other Mortgaged Property, at the option of Administrative Lender, may be sold as a whole; (6) it shall not be necessary that Administrative Lender take possession of the Collateral or any part thereof prior to the time that any sale pursuant to the provisions of this Section is conducted and it shall not be necessary that the Collateral or any part thereof be present at the location of such sale; (7) with respect to application of proceeds of disposition of the Collateral under Section 5.2 hereof, the costs and expenses incident to disposition shall include the reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like and the reasonable attorneys' fees and legal expenses incurred by Administrative Lender; (8) any and all statements of fact or other recitals made in any bill of sale or assignment or other instrument evidencing any foreclosure sale hereunder as to nonpayment of the secured indebtedness or as to the occurrence of any default, or as to Administrative Lender having declared all of such indebtedness to be due and payable, or as to notice of time, place and terms of sale and of the properties to be sold having been duly given, or as to any other act or thing having been duly done by Administrative Lender, shall be taken as prima facie evidence of the

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truth of the facts so stated and recited; and (9) Administrative Lender may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Administrative Lender, including the sending of notices and the conduct of the sale, but in the name and on behalf of Administrative Lender.

(e) Lawsuits. Administrative Lender may proceed by a suit or suits in equity or at law, whether for collection of the indebtedness secured hereby, the specific performance or any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Mortgaged Property under the judgment or decree of any court or courts of competent jurisdiction.

(f) Entry on Mortgaged Property. Following a Default, Administrative Lender is authorized, prior or subsequent to the institution of any foreclosure proceedings, to the fullest extent permitted by applicable law, to enter upon the Mortgaged Property, or any part thereof, and to take possession of the Mortgaged Property and all books and records relating thereto, and to exercise without interference from Grantor any and all rights which Grantor has with respect to the management, possession, operation, protection or preservation of the Mortgaged Property. Administrative Lender shall not be deemed to have taken possession of the Mortgaged Property or any part thereof except upon the exercise of its right to do so, and then only to the extent evidenced by its demand and overt act specifically for such purpose. All costs, expenses and liabilities of every character incurred by Administrative Lender in managing, operating, maintaining, protecting or preserving the Mortgaged Property shall constitute a demand obligation of Grantor (which obligation Grantor hereby promises to pay) to Administrative Lender pursuant to this Mortgage except to the extent such costs, expenses or liabilities result from Administrative Lender's bad faith or through Administrative Lender's gross negligence or willful misconduct. If necessary to obtain the possession provided for above, Administrative Lender may invoke any and all legal remedies to dispossess Grantor. In connection with any action taken by Administrative Lender pursuant to this Section, Administrative Lender shall not be liable for any loss sustained by Grantor resulting from any failure to let the Mortgaged Property or any part thereof, or from any act or omission of Administrative Lender in managing the Mortgaged Property unless such loss is caused by the willful misconduct, gross negligence and bad faith of Administrative Lender. Grantor hereby assents to, ratifies and confirms any and all actions of Administrative Lender with respect to the Mortgaged Property taken under this Section.

(g) Receiver. Administrative Lender as a matter of right shall be entitled to the appointment of a receiver or receivers for all or any part of the Mortgaged Property, whether such receivership be incident to a proposed sale (or

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sales) of such property or otherwise, and without regard to the value at the Mortgaged Property or the solvency of any person or persons liable for the payment of the indebtedness secured hereby, and Grantor and Lessee do hereby irrevocably consent to the appointment of such receiver or receivers, waives any and all defenses to such appointment, agrees not to oppose any application therefor by Administrative Lender. Nothing herein is to be construed to deprive Administrative Lender of any other right, remedy or privilege it may have under the law to have a receiver appointed. Any money advanced by Administrative Lender in connection with any such receivership shall be a demand obligation (which obligation Grantor hereby promises to pay) owing by Grantor to Administrative Lender pursuant to this Mortgage.

(h) Other Rights and Remedies. Administrative Lender may exercise any and all other rights and remedies which Administrative Lender may have under the Loan Papers, or at law or in equity or otherwise.

Section 5.2. Proceeds of Foreclosure. The proceeds of any sale held in foreclosure of the liens and security interests evidenced hereby shall be applied first to all costs and expenses of the sale.

Section 5.3. Administrative Lender or Lenders as Purchaser. Administrative Lender or any Lender shall have the right to become the purchaser at any public sale, and Administrative Lender and any Lender shall have the right to credit upon the amount of such party's successful bid, to the extent necessary to satisfy such bid, all or any part of the Secured Obligations in such manner and order as such party may elect.

Section 5.4. Foreclosure as to Matured Debt. Upon the occurrence of an Event of Default, Administrative Lender shall have the right to proceed with foreclosure of the liens and security interests hereunder without declaring the entire Secured Obligations due, and in such event any such foreclosure sale may be made subject to the unmatured part of the Secured Obligations; and any such sale shall not in any manner affect the unmatured part of the Secured Obligations, but as to such unmatured part this Mortgage shall remain in full force and effect just as though no sale had been made. The proceeds of such sale shall be applied as follows:

- (a) First, to the payment of all out-of-pocket costs and expenses incurred in connection with the sale of, collection or other realization upon the Mortgaged Property, including attorneys' fees and disbursements;
- (b) Second, to the payment of the Secured Obligations in such order and in such manner consistent with applicable laws as Administrative Lender in its discretion shall decide; and
- (c) Third, to the extent of the balance (if any) of such proceeds, to the Grantor or such other Person legally entitled thereto.

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Several sales may be made hereunder without exhausting the right of sale for any unmatured part of the secured indebtedness.

Section 5.5. Remedies Cumulative. All rights and remedies provided for herein and in any other Loan Papers are cumulative of each other and of any and all other rights and remedies existing at law or in equity, and Trustee and Administrative Lender, in addition to the rights and remedies provided herein or in any other Loan Papers, shall be entitled to avail themselves of all such other rights and remedies as may exist now or hereafter at law or in equity for the collection of the secured indebtedness and the enforcement of the covenants herein and the foreclosure at the liens and security interests evidenced hereby, and the resort to any right or remedy provided for hereunder or under any such other Loan Papers or provided for by law or in equity shall not prevent the concurrent or subsequent employment of any other appropriate right or rights or remedy or remedies.

Section 5.6. Administrative Lender's Discretion as to Security. Administrative Lender may resort to any security given by this Mortgage or to any other security now existing or hereafter given to secure the payment of the Secured Obligations, in whole or in part, and in such portions and in such order as may seem best to Administrative Lender in its sole and uncontrolled discretion, and any such action shall not in any way be considered as a waiver of any of the rights, benefits, liens or security interests evidenced by this Mortgage.

Section 5.7. Grantor's Waiver of Certain Rights. To the full extent Grantor may do so, Grantor agrees that Grantor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisement, valuation, stay, extension or redemption, and Grantor, for Grantor, Grantor's heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged Property, to the extent permitted by applicable law, hereby waives and releases all rights of redemption, valuation, appraisement, stay of execution, notice of intention to mature or declare due the whole of the Secured Obligations, notice of election to mature or declare due the whole of the Secured Obligations and all rights to a marshaling of assets of Grantor, including the Mortgaged Property, or to a sale in inverse order of alienation in the event of foreclosure of the liens and/or security interests hereby created. Grantor shall not have or assert any right under any statute or rule of law pertaining to the marshaling of assets, sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents, one action, anti-deficiency or other matters whatever to defeat, reduce or affect the right of Administrative Lender under the terms of this Mortgage to a sale of the Mortgaged Property for the collection of the Secured Obligations without any prior or different resort for collection, or the right of Administrative Lender under the terms of this Mortgage to the payment of the secured indebtedness out of the proceeds of sale of the Mortgaged Property in preference to every other claimant whatever. Grantor waives any right or remedy which Grantor may have or be able to assert pursuant to applicable law, pertaining to the rights and remedies of sureties. If any law referred to in this Section and now in force, of which Grantor or Grantor's heirs, devisees, representatives, successors or assigns or any other persons claiming any interest in the Mortgaged Property might take advantage despite this Section, hereafter shall be repealed or

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cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section.

Section 5.8. Delivery of Possession After Foreclosure. In the event there is a foreclosure sale hereunder and at the time of such sale, Grantor or Grantor's heirs, devisees, representatives, successors or assigns are occupying or using the Mortgaged Property, or any part thereof, each and all immediately shall become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day to day, terminable at the will of either landlord or tenant, at a reasonable rental per day based upon the value of the property occupied, such rental to be due daily to the purchaser; and to the extent permitted by applicable law, the purchaser at such sale, notwithstanding any language herein apparently to the contrary, shall have the sole option to demand possession immediately following the sale or to permit the occupants to remain as tenants at will. In the event the tenant fails to surrender possession of said property upon demand, the purchaser shall be entitled to institute and maintain a summary action for possession of the property (such as an action for forcible detainer) in the court having jurisdiction.

ARTICLE 6 Miscellaneous

Section 6.1. Scope of Mortgage. This Mortgage is a mortgage and deed of trust of both real and personal property, an assignment of leases, a security agreement, a financing statement and a collateral assignment, and also covers proceeds and fixtures.

Section 6.2. Effective as a Financing Statement. This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Mortgaged Property and is to be filed for record in the real estate records of each county where any part of the Mortgaged Property (including said fixtures) is situated. This Mortgage also shall be effective as a financing statement covering any other Mortgaged Property and may be filed in any other appropriate filing or recording office. The mailing address of Grantor is the address of Grantor set forth at the end of this Mortgage and the address of Administrative Lender from which information concerning the security interests hereunder may be obtained is the address of Administrative Lender set forth at the end of this Mortgage. A carbon, photographic or other reproduction of this Mortgage or of any financing statement relating to this Mortgage shall be sufficient as a financing statement for any of the purposes referred to in this Section.

Section 6.3. Notice to Account Debtors. In addition to the rights granted elsewhere in this Mortgage, following an Event of Default, Administrative Lender at any time may notify the account debtors or obligors of any accounts, chattel paper, negotiable instruments or other evidences of indebtedness included in the Collateral to pay Administrative Lender directly.

Section 6.4. Waiver by Administrative Lender. Administrative Lender at any time and from time to time by a specific writing intended for the purpose may: (a) waive compliance by

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Grantor with any covenant herein made by Grantor to the extent and in the manner specified in such writing; (b) consent to Grantor's doing any act which hereunder Grantor is prohibited from doing, or to Grantor's failing to do any act which hereunder Grantor is required to do, to the extent and in the manner specified in such writing; (c) release any part of the Mortgaged Property or any interest therein from the lien and security interest of this Mortgage; or (d) release any party liable, either directly or indirectly, for the secured indebtedness or for any covenant herein or in any other Loan Papers, without impairing or releasing the liability of any other party. No such act in any way shall affect the rights or powers of Administrative Lender hereunder except to the extent specifically agreed to by Administrative Lender in such writing.

Section 6.5. No Impairment of Security. The lien, security interest and other security rights of Administrative Lender hereunder or under any other Loan Papers shall not be impaired by any indulgence, moratorium or release granted by Administrative Lender including, but not limited to, any renewal, extension or modification which Administrative Lender may grant with respect to any secured indebtedness, or any surrender, compromise, release, renewal, extension, exchange or substitution which Administrative Lender may grant in respect of the Mortgaged Property, or any part thereof or any interest therein, or any release or indulgence granted to any endorser, guarantor or surety of any secured indebtedness. The taking of additional security by Administrative Lender shall not release or impair the lien, security interest or other security rights of Administrative Lender hereunder or affect the liability of Grantor or of any endorser, guarantor or surety, or improve the right of any junior lienholder in the Mortgaged Property (without implying hereby Administrative Lender's consent to any junior lien).

Section 6.6. Acts Not Constituting Waiver by Administrative Lender. Administrative Lender may waive any default without waiving any other prior or subsequent default. Administrative Lender may remedy any default without waiving the default remedied. Neither failure by Administrative Lender to exercise, nor delay by Administrative Lender in exercising, nor discontinuance of the exercise of any right, power or remedy (including but not limited to the right to accelerate the maturity of the secured indebtedness or any part thereof) upon or after any default shall be construed as a waiver of such default or as a waiver of the right to exercise any such right, power or remedy at a later date. No single or partial exercise by Administrative Lender of any right, power or remedy hereunder shall exhaust the same or shall preclude any other or further exercise thereof, and every such right, power or remedy hereunder may be exercised at any time and from time to time. No modification or waiver of any provision hereof nor consent to any departure by Grantor therefrom in any event shall be effective unless the same shall be in writing and signed by Administrative Lender and then such waiver or consent shall be effective only in the specific instance, for the purpose for which given and to the extent therein specified. No notice to nor demand on Grantor in any case shall of itself entitle Grantor to any other or further notice or demand in similar or other circumstances. Remittances in payment of any part of the secured indebtedness other than in the required amount in immediately available U.S. funds shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Administrative Lender in immediately available U.S. funds and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting

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bank or banks. Acceptance by Administrative Lender of any payment in an amount less than the amount then due on any secured indebtedness shall be deemed an acceptance on account only and shall not in any way excuse the existence of a default hereunder.

Section 6.7. Grantor's Successors. If the ownership of the Mortgaged Property or any part thereof becomes vested in a person other than Grantor, Administrative Lender, without notice to Grantor, may deal with such successor or successors in interest with reference to this Mortgage and to the indebtedness secured hereby in the same manner as with Grantor, without in any way vitiating or discharging Grantor's liability hereunder or for the payment of the indebtedness or performance of the obligations secured hereby, except as otherwise expressly agreed in writing. No transfer of the Mortgaged Property, no forbearance on the part of Administrative Lender, and no extension of the time for the payment of the indebtedness secured hereby given by Administrative Lender shall operate to release, discharge, modify, change or affect, in whole or in part, the liability of Grantor hereunder for the payment of the indebtedness or performance of the obligations secured hereby or the liability of any other person hereunder for the payment of the indebtedness secured hereby, except as otherwise expressly agreed in writing. Each Grantor agrees that it shall be bound by any modification of this Mortgage or any of the other Loan Papers made by Administrative Lender and any subsequent owner of the Mortgaged Property, with or without notice to such Grantor, and no such modifications shall impair the obligations of such Grantor under this Mortgage or any other Loan Paper, except as otherwise expressly agreed in writing. Nothing in this Section or elsewhere in this Mortgage shall be construed to imply Administrative Lender's consent to any transfer of the Mortgaged Property.

Section 6.8. Application of Payments to Certain Indebtedness. If any part of the secured indebtedness cannot be lawfully secured by this Mortgage or if any part of the Mortgaged Property cannot be lawfully subject to the lien and security interest hereof to the full extent of such indebtedness, then all payments made shall be applied on said indebtedness first in discharge of that portion thereof which is not secured by this Mortgage.

Section 6.9. Notices. All notices, requests, consents, demands and other communications required or which any party desires to give hereunder shall be given in writing by United States mail, by nationally recognized courier service or by hand, addressed to the party to whom directed at the addresses specified at the end of this Mortgage (unless changed by similar notice in writing given by the particular party whose address is to be changed) or by telegram, telex or facsimile.

Section 6.10. Invalidity of Certain Provisions. A determination that any provision of this Mortgage is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Mortgage to any person or circumstance is illegal or unenforceable shall not affect the enforceability, or validity of such provision as it may apply to other persons or circumstances.

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Section 6.11. Gender; Titles; Construction. Within this Mortgage, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. Titles appearing at the beginning of any subdivisions hereof are for convenience only, do not constitute any part of such subdivisions, and shall be disregarded in construing the language contained in such subdivisions. The use of the words "herein," "hereof," "hereunder" and other similar compounds of the word "here" shall refer to this entire Mortgage and not to any particular Article, Section, paragraph or provision. The term "person" and words importing persons as used in this Mortgage shall include firms, associations, partnerships (including limited partnerships), joint ventures, trusts, corporations and other legal entities, including public or governmental bodies, agencies or instrumentalities, as well as natural persons.

Section 6.12. Execution; Recording. This Mortgage has been executed in several counterparts, all of which are identical, and all of which counterparts together shall constitute one and the same instrument. The date or dates reflected in the acknowledgments hereto indicate the date or dates of actual execution of this Mortgage, but such execution is as of the date shown on the first page hereof, and for purposes of identification and reference the date of this Mortgage shall be deemed to be the date reflected on the first page hereof. Grantor will cause this Mortgage and all amendments and supplements thereto and substitutions therefor and all financing statements and continuation statements relating thereto to be recorded, filed, re-recorded and refiled in such manner and in such places as Administrative Lender shall reasonably request and will pay all such recording, filing, re-recording and refiling taxes, fees and other charges.

Section 6.13. Successors and Assigns. The terms, provisions, covenants and conditions hereof shall be binding upon Grantor, and the heirs, devisees, representatives, successors and assigns of Grantor, and shall inure to the benefit of Administrative Lender and shall constitute covenants running with the Land. All references in this Mortgage to Grantor shall be deemed to include all such heirs, devisees, representatives, successors and assigns of Grantor.

Section 6.14. Modification or Termination. This Mortgage may be modified or terminated only by a written instrument or instruments intended for that purpose and executed by the party against which enforcement of the modification or termination is asserted. Any alleged modification or termination which is not so documented shall not be effective as to any party.

Section 6.15. Expenditures by Administrative Lender. If Grantor fails to comply with any provision of this Mortgage, or if any action or proceeding is commenced that would materially affect Administrative Lender's interests in the Mortgaged Property, Administrative Lender on Grantor's behalf may, but shall not be required to, take any action that Administrative Lender deems appropriate. Any amounts that Administrative Lender expends in so doing will bear interest at the lesser of (a) the Base Rate as in effect from time to time plus 3% or (b) the Highest Lawful Rate. All such expenses, together with interest thereon, will become a part of the Secured Obligations and this Mortgage will secure payment of any such amounts. The rights

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provided for in this paragraph shall be in addition to any other rights or any remedies to which Administrative Lender may be entitled to on account of a Default or Event of Default. Any such action by Administrative Lender shall not be construed as causing such Default or Event of Default, so as to bar the Administrative Lender from any remedy it otherwise would have had.

Section 6.16. Further Assurances; Attorney-in-Fact. The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage.

(a) Further Assurances. At any time, and from time to time, upon request of Administrative Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Administrative Lender or to Administrative Lender's designee, and when requested by Administrative Lender, cause to be filed, recorded, refiled or re-recorded, as the case may be, at such times and in such offices and places as Administrative Lender may deem appropriate any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurances, certificates and other documents as may, in the sole opinion of Administrative Lender, be necessary or in order to effectuate, complete, perfect, continue or preserve (a) the obligations of Grantor under the Notes, the Mortgage and the other Loan Papers, and (b) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or agreed to the contrary by Administrative Lender in writing, Grantor shall reimburse Administrative Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

(b) Attorney-In-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Administrative Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Administrative Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Administrative Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

Section 6.17. Attorneys' Fees; Expense. If Administrative Lender institutes any suit or action to enforce any of the terms of this Mortgage, Administrative Lender shall be entitled to recover such costs as the court may judge reasonable as attorneys' fees, at trial and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Administrative Lender that in Administrative Lender's opinion is necessary at any time for the protection of the interest or the enforcement of its rights shall become a part of the obligation payable on demand and shall bear interest from the date of expenditure until repaid at the rate of interest set forth in the Credit Agreement. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Administrative Lender's attorneys' fees and Administrative Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including actions to modify or vacate any automatic stay or injunction), appeals and any anticipated joint-judgment collection services, the cost of searching records, obtaining the reports (including foreclosure reports), surveyors'

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reports and appraisal fees and title insurance, to the extent permitted by applicable law. Grantor will pay any court costs, in addition to all other sums provided by law.

Section 6.18. Waiver of Rights of Redemption. NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS MORTGAGE, GRANTOR HEREBY WAIVES, TO THE EXTENT PERMITTED UNDER ILL REV. STAT. CH. 110 SECTION 15-1901(B) OR ANY SIMILAR LAW EXISTING AFTER THE DATE OF THIS MORTGAGE, ANY AND ALL RIGHTS OF REDEMPTION ON BEHALF OF GRANTOR AND ON BEHALF OF ANY OTHER PERSON PERMITTED TO REDEEM THE PROPERTY.

Section 6.19. Applicable Law. THIS MORTGAGE SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MINNESOTA AND THE LAWS OF THE UNITED STATES APPLICABLE TO TRANSACTIONS IN MINNESOTA.

Section 6.20. Lessee as a Party. The Lessee has executed this Mortgage solely for the purpose of subjecting to the lien hereof all of its right, title, estate and interest, if any, in and to fee title to the Mortgaged Property. The Lessee acknowledges and agrees that, upon the occurrence of an Event of Default, the Administrative Lender shall have the right to exercise any or all of its remedies hereunder as against any such right, title, estate or interest of this Mortgage. Lessee undertakes no covenants, obligations, liabilities, responsibilities or duties, and makes no representations or warranties whatsoever.

THE WRITTEN LOAN PAPERS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

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IN WITNESS WHEREOF, this instrument is executed by Grantor as of the Effective Date.

GRANTOR:

ATTEST:

PET STORES FUNDING CORPORATION,
a Delaware corporation

By:


(Secretary/Assistant Secretary)

By:


Tiffany Percival, Vice President

The address and federal tax
identification number of
Grantor are:

One International Place
Boston, Massachusetts 02110-2624

Attn: Tiffany Percival

Telecopy No.: (617) 951-7050

Federal Tax No.: 51-0370194

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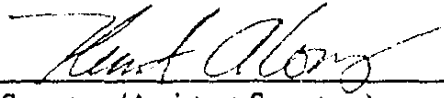
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LESSEE:

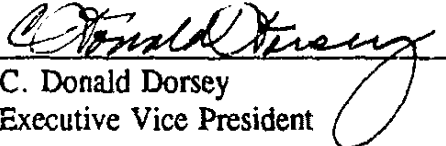
ATTEST:

PETSMART, INC., a Delaware corporation

By:


(Secretary/Assistant Secretary)
Ken A. Conway
Vice President / Controller

By:


C. Donald Dorsey
Executive Vice President

The address and federal tax
identification number of
Lessee are:

10000 North 31st Avenue, Suite C-300
Phoenix, Arizona 85051

Attn: C. Donald Dorsey

Telecopy No.: (602) 997-7187

Federal Tax No.: 94-3024325

The address of Administrative Lender is
(including county):

NationsBank of Texas, N.A.
901 Main Street, 67th Floor
Dallas, Dallas County, Texas 75202

Attn: Frank Johnson

Telecopy No.: (214) 508-0980

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STATE OF MASSACHUSETTS

COUNTY OF SUFFOLK

I, Jeffrey R. Gray, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Tiffany Percival and Laurie Fitzgerald personally known to me to be the authorized signatories of Pet Stores Funding Corporation, a Delaware corporation, whose names are subscribed to the within Instrument, appeared before me this day in person and severally acknowledged that as such authorized signatories each person signed and delivered the said Instrument as her/his free and voluntary act and as the free and voluntary act and deed of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 1 day of August, 1996.

Jeffrey R. Gray
Notary Public

My Commission Expires:

July 11, 1997

JEFFREY R. GRAY
NOTARY PUBLIC
My Commission Expires July 11, 1997

STATE OF ARIZONA

COUNTY OF MARICOPA

I, _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that C. Donald Dorsey and _____ personally known to me to be the authorized signatories of PETSMAKT, Inc., a Delaware corporation, whose names are subscribed to the within Instrument, appeared before me this day in person and severally acknowledged that as such authorized signatories each person signed and delivered the said Instrument as his/her free and voluntary act and as the free and voluntary act and deed of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this _____ day of August, 1996.

Notary Public

My Commission Expires:

59090
0100-0500

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STATE OF MASSACHUSETTS

COUNTY OF SUFFOLK

I, _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Tiffany Percival and _____ personally known to me to be the authorized signatories of Pet Stores Funding Corporation, a Delaware corporation, whose names are subscribed to the within Instrument, appeared before me this day in person and severally acknowledged that as such authorized signatories each person signed and delivered the said Instrument as her/his free and voluntary act and as the free and voluntary act and deed of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this _____ day of August, 1996.

Notary Public

My Commission Expires:

STATE OF ARIZONA

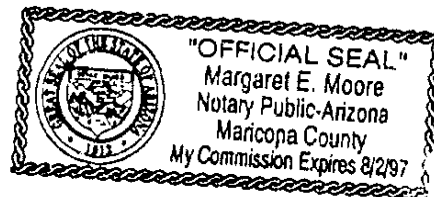
COUNTY OF MARICOPA

I, Margaret E. Moore, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that C. Donald Dorsey and Ken H. Conners personally known to me to be the authorized signatories of PETSMART, Inc., a Delaware corporation, whose names are subscribed to the within Instrument, appeared before me this day in person and severally acknowledged that as such authorized signatories each person signed and delivered the said Instrument as his/her free and voluntary act and as the free and voluntary act and deed of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 2 day of August, 1996.

Margaret E. Moore
Notary Public

My Commission Expires:
8/2/97



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0100-0500

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EXHIBIT A

to

Mortgage, Security Agreement
and Financing Statement

Description of Real Property

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EXHIBIT A

96604678

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CHICAGO TITLE INSURANCE COMPANY

ORDER NUMBER: 1401 007559903 D2
STREET ADDRESS: *6661 W. Fullerton*
CITY: *Chicago* COUNTY: COOK
TAX NUMBER: 13-31-205-032-0000

LEGAL DESCRIPTION:

PARCEL 1:

THAT PART OF LOT 1 LYING NORTH OF A LINE DRAWN 10 FEET SOUTH OF AND PARALLEL WITH THE SOUTH FACE OF THE BRICK WALL OF A ONE STORY BRICK BUILDING SAID LINE BEING 220.18 FEET SOUTH OF THE NORTH LINE OF SAID LOT 1, AS MEASURED ON THE WEST LINE THEREOF DRAWN TO A POINT 220 FEET SOUTH OF SAID NORTH LINE OF SAID LOT 1, EXTENDED TO THE EAST LINE OF SAID LOT 1 IN OWNER'S DIVISION OF THAT PART OF THE EAST 400 FEET OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTHERLY OF THE NORTHERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO, MILWAUKEE AND ST. PAUL RAILROAD AND SOUTHERLY OF THE CENTER LINE OF GRAND AVENUE EXCEPTING THEREFROM THAT PART OF THE EAST 50 FEET THEREOF DEEDED TO THE CHICAGO SUBURBAN RAILROAD, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

PERPETUAL EASEMENT APPURTENANT TO AND FOR THE USE AND BENEFIT OF PARCEL 1

AS CREATED BY AGREEMENT DATED NOVEMBER 30, 1944 AND RECORDED DECEMBER 8, 1944 AS DOCUMENT 13411811 AND ALSO CREATED BY EASEMENT GRANT IN WARRANTY DEED MADE BY DAVIES SUPPLY COMPANY TO CHICAGO METALS COMPANY SHEET AND STRIP STEEL DIVISION, DATED AUGUST 28, 1946 AND RECORDED AUGUST 29, 1946 AS DOCUMENT 13880789, OVER THE NORTH 20 FEET OF THE EAST 262 FEET LYING SOUTH OF AND ADJOINING THE SOUTH 10 FEET OF THE EAST 262 FEET OF PARCEL 1 FOR PURPOSES OF INGRESS AND EGRESS THEREFROM, IN COOK COUNTY, ILLINOIS.

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CHICAGO TITLE INSURANCE COMPANY

ORDER NUMBER: 1401 007569572 D2
STREET ADDRESS: 6655 W. GRAND AVENUE
CITY: CHICAGO COUNTY: COOK
TAX NUMBER:

LEGAL DESCRIPTION:

LOT 1 IN ROBERT VOLK'S SUBDIVISION OF THE EAST 1/2 OF LOT 1 AND LOTS 2 AND 10 IN RUTHERFORD'S VOLK PARK AVENUE AND FULLERTON AVENUE SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 9, 1927 AS DOCUMENT NUMBER 9836413 IN COOK COUNTY, ILLINOIS.

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