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 #1356 # RH *-96-162406
 COOK COUNTY RECORDER

prepared by and

When recorded, return to:

RECORD IN DEED OF TRUST RECORDS
 COOK COUNTY, ILLINOIS
 [Lansing]

Lynda Zimmerman, Esq.
 Winstead Secrest & Minick P.C.
 5400 Renaissance Tower
 1201 Elm Street
 Dallas, Texas 75270

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MORTGAGE
 (With Security Agreement)

By this agreement dated February 28, 1996, the undersigned, PMT INVESTORS #1, LTD, a Texas limited partnership ("Mortgagor", whether one or more), whose address is c/ Cardinal Capital, 8411 Preston Road, Suite 850, Dallas, Texas 75225 to secure the indebtedness and obligations hereinafter described, does hereby MORTGAGE AND WARRANT, unto Comerica Bank - Texas, a state banking association ("Mortgagee"), whose address is 1909 Woodall Rodgers Freeway, Dallas, Texas 75201, certain land, whether now owned or hereafter acquired by Mortgagor, located in Cook County, Illinois and being more fully described below:

WITNESSETH:

ARTICLE I

DEFINITIONS

1.1 Definitions. As used herein, the following terms shall have the following meanings:

Code: The Uniform Commercial Code, as amended from time to time, in effect in the state in which the Mortgaged Property is located.

Constituent Party: Any signatory to this Mortgage that signs on Mortgagor's behalf that is a corporation, general partner, general partnership, limited partnership, joint venture, trust, or other type of business organization.

Contracts: All of the right, title, and interest of Mortgagor in, to, and under any and all (i) contracts for the sale of all or any portion of the Mortgaged Property, whether such Contracts are now or at any time hereafter existing, together with all payments, earnings, income, and profits arising from sale of all or any portion of the Mortgaged Property or from the Contracts and all other sums due or to become due under and pursuant thereto; (ii) contracts, licenses, permits, and rights relating to utility services whether executed, granted, or issued by a private person or entity or a governmental or quasi-governmental agency, which are directly or indirectly related to, or connected with, the Mortgaged Property; and (iii) all other contracts which in any way relate to the use, enjoyment, occupancy, operation, maintenance, or ownership of the Mortgaged Property (save and except any and all leases,

address of prop: 17525 Torrance Ave.
 Lansing, MI 48906
 30-30-305-012

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subleases or other agreements pursuant to which Mortgagor is granted a possessory interest in the Land), including but not limited to maintenance agreements and service contracts.

Debtor Relief Laws: Title 11 of the United States Code, as now or hereafter in effect, or any other applicable law, domestic or foreign, as now or hereafter in effect, relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement or composition, extension or adjustment of debts, or similar laws affecting the rights of creditors.

Default Rate: The rate of interest specified in the Note to be paid by the maker of the Note from and after the occurrence of a default in payment under the provisions of the Note and Loan Documents but not in excess of the Maximum Lawful Rate.

Disposition: Any sale, lease (except as permitted under this Mortgage), exchange, assignment, conveyance, transfer, trade, or other disposition of all or any portion of the Mortgaged Property (or any interest therein, specifically including, but not limited to, any leasehold estate of either Mortgagor or of any tenant of Mortgagor) or all or any part of the beneficial ownership interest in Mortgagor (if Mortgagor is a corporation, partnership, general partnership, limited partnership, joint venture, trust, or other type of business association or legal entity).

Event of Default: Any happening or occurrence described in Article VI hereof.

Environmental Law: Any federal, state, or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or the environmental conditions on, under, or about the Mortgaged Property, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") as amended, 42 U.S.C. § 9601 *et seq.* ("RCRA"), the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.*; and regulations, rules, guidelines, or standards promulgated pursuant to such laws, as such statutes, regulations, rules, guidelines, and standards are amended from time to time.

Fixtures: All materials, supplies, equipment, systems, apparatus, and other items now owned or hereafter acquired by Mortgagor and now or hereafter attached to, installed in, or used in connection with (temporarily or permanently) any of the Improvements or the Land, which are now owned or hereafter acquired by Mortgagor and are now or hereafter attached to the Land or the Improvements, together with all accessions, appurtenances, replacements, betterments, and substitutions for any of the foregoing and the proceeds thereof.

Governmental Authority: Any and all applicable courts, boards, agencies, commissions, offices, or authorities of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise), whether now or hereafter in existence.

Guarantor (individually and/or collectively, as the context may require): Those persons, firms, or entities, if any, designated as Guarantor in the Guaranty.

Guaranty (individually and/or collectively, as the context may require): That or those instruments of guaranty, if any, now or hereafter in effect, from Guarantor to Mortgagee guaranteeing the repayment of all or any part of the Indebtedness or the satisfaction of, or continued compliance with, all or any portion of the Obligations, or both.

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Hazardous Substance: Hazardous Substance is any substance, product, waste, or other material which is or becomes listed, regulated, or addressed as being a toxic, hazardous, polluting, or similarly harmful substance under any Environmental Law, including without limitation: (i) any substance included within the definition of "hazardous waste" pursuant to Section 1004 of RCRA; (ii) any substance included within the definition of "hazardous substance" pursuant to Section 101 of CERCLA; and (iii) any substance included within the definition of "hazardous waste" or the definition of "hazardous substance" pursuant to any Illinois health and safety codes, water quality control acts or any other applicable regulations, codes or laws in the State of Illinois.

Impositions: (i) All real estate and personal property taxes, charges, assessments, standby fees, excises, and levies and any interest, costs, or penalties with respect thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which at any time prior to or after the execution hereof may be assessed, levied, or imposed upon the Mortgaged Property or the ownership, use, occupancy, or enjoyment thereof, or any portion thereof, or the sidewalks, streets, or alleyways adjacent thereto; (ii) any charges, fees, license payments, or other sums payable for or under any easement, license, or agreement maintained for the benefit of the Mortgaged Property; (iii) water, gas, sewer, electricity, and other utility charges and fees relating to the Mortgaged Property; and (iv) assessments and charges arising under any subdivision, condominium, planned unit development, or other declarations, restrictions, regimes, or agreements affecting the Mortgaged Property.

Improvements: Any and all buildings, covered garages, air conditioning towers, open parking areas, structures and other improvements, and any and all additions, alterations, betterments or appurtenances thereto, now or at any time hereafter situated, placed, or constructed upon the Land or any part thereof.

Indebtedness: (i) The principal of, interest on, or other sums evidenced by the Note or the Loan Documents; (ii) any other amounts, payments, or premiums payable under the Loan Documents; (iii) such additional sums, with interest thereon, as may hereafter be borrowed from Mortgagee, its successors or assigns, by the then record owner of the Mortgaged Property, when evidenced by a promissory note which, by its terms, is secured hereby (it being contemplated by Mortgagor and Mortgagee that such future indebtedness may be incurred, and any such future advances are secured by this Mortgage to the same extent as if such future advances were made on the date of execution of this Mortgage); and (iv) any and all other indebtedness, obligations, and liabilities of any kind or character of the Mortgagor to Mortgagee, now or hereafter existing, absolute or contingent, due or not due, arising by operation of law or otherwise, or direct or indirect, primary or secondary, joint, several, joint and several, fixed or contingent, secured or unsecured by additional or different security or securities, including indebtedness, obligations, and liabilities to Mortgagee of the Mortgagor as a member of any partnership, joint venture, trust or other type of business association, or other group, and whether incurred by mortgagor as principal, surety, endorser, guarantor, accommodation party or otherwise, it being contemplated by Mortgagee and Mortgagee that Mortgagor may hereafter become indebted to Mortgagee in further sum or sums. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but all indebtedness secured hereby shall, in no event, exceed two (2) times the aggregate face amount of the Note.

Land: The real property or interest therein described in Exhibit "A" attached hereto and incorporated herein by this reference, together with all right, title, interest, and privileges of Mortgagor in and to (i) all streets, ways, 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 such real property or the improvements thereon; (ii) any strips or gores of real property between such real property and abutting or adjacent properties; (iii) all water and water rights, timber, crops, pertaining to such real property; and (iv) all appurtenances and all reversions and remainders in or to such real property.

Leases: Any and all leases, master leases, subleases, licenses, concessions, or other agreements (written or oral, now or hereafter in effect) which grant to third parties a possessory interest in and to, or the right to use, all or any part of the Mortgaged Property, together with all security and other deposits or payments made in connection therewith, specifically including, but not limited to, that certain Lease Agreement dated February 28, 1996, between

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Mortgagor and Petsmart, Inc. (the "Tenant"), together with all renewals, extensions, amendments and modifications hereafter made.

Legal Requirements: Any and all present and future judicial decisions, statutes, rulings, rules, regulations, permits, certificates, or ordinances of any Governmental Authority in any way applicable to Mortgagor, any Guarantor or the Mortgaged Property.

Loan Agreement: That certain Loan Agreement of even date herewith by and between Mortgagor, as Borrower, and Mortgagee, as Lender.

Loan Documents: The Loan Agreement, the Note, this Mortgage, the Guaranty, if any, and any and all other documents now or hereafter executed by the Mortgagor, Guarantor, or any other person or party in connection with the loan evidenced by the Note or in connection with the payment of the Indebtedness or the performance and discharge of the Obligations.

Material Adverse Effect: Any material and adverse effect on (i) the business condition (financial or otherwise), operations, prospects, results of operations, capitalization, liquidity or any properties of the Mortgagor or the Tenant, taken as a whole, (ii) the value of the Mortgaged Property, (iii) the ability of Mortgagor or any Guarantor (or if the Mortgagor or any Guarantor is a partnership, joint venture, trust or other type of business association, of any of the parties comprising Mortgagor or Guarantor, or of the ground lessor if the estate held by Mortgagor in the Land is a leasehold estate) to pay and perform the Indebtedness and the Obligations, respectively, or (iv) the validity, enforceability or binding effect of any of the Loan Documents.

Maximum Lawful Rate: The rate utilized by Mortgagee pursuant to either (i) the indicated (weekly) rate ceiling from time to time in effect as provided in Article 5069-1.04 of the Revised Civil Statutes of Texas, as amended or succeeded, or (ii) United States federal law which permits Mortgagee to contract for, charge, or receive a greater amount of interest than that provided by Article 5069-1.04, as amended or succeeded, for the purpose of determining the maximum lawful rate allowed by applicable laws. Additionally, to the extent permitted by applicable law now or hereinafter in effect, Mortgagee may, at its option and from time to time, implement any other method of computing the Maximum Lawful Rate under such Article 5069-1.04, as amended or succeeded, or under other applicable law by giving notice, if required, to Mortgagor as provided by applicable law now or hereafter in effect.

Minerals: All substances in, on, or under the Land which are now, or may become in the future, intrinsically valuable, that is, valuable in themselves, and which now or may be in the future enjoyed through extraction or removal from the Mortgaged Property, including without limitation oil, gas, and all other hydrocarbons, coal, lignite, carbon dioxide and all other nonhydrocarbon gases, uranium and all other radioactive substances, and gold, silver, copper, iron and all other metallic substances or ores.

Mortgaged Property: The Land, Minerals, Fixtures, Improvements, Personalty, Contracts, Leases and Rents, and any interest of Mortgagor now owned or hereinafter acquired in and to the Land, Minerals, Fixtures, Personalty, Leases and Rents, together with any and all other security and collateral of any nature whatsoever, now or hereafter given for the repayment of the Indebtedness or the performance and discharge of the Obligations. As used in this Mortgage, the term "Mortgaged Property" shall be expressly defined as meaning all or, where the context permits or requires, any portion of the above and all or, where the context permits or requires, any interest therein.

Mortgagee: COMERICA BANK-TEXAS, a state banking association, whose address for notice hereunder is 1909 Woodall Rodgers Freeway, Dallas, Texas 75201, Attn: Real Estate Department, and the subsequent holder or holders, from time to time, of the Note.

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Mortgagor: The individual or entity described as Mortgagor in the initial paragraph of this Mortgage and any and all subsequent owners of the Mortgaged Property or any part thereof (without hereby implying Mortgagee's consent to any Disposition of the Mortgaged Property).

Note: That certain Promissory Note of even date herewith, which is attached hereto as Exhibit "C" and is incorporated herein by this reference, executed by Mortgagor and payable to the order of Mortgagee in the principal amount of EIGHTEEN MILLION THREE HUNDRED SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$18,365,000.00) and any and all renewals, modifications, rearrangements, reinstatements, enlargements, or extensions of such promissory note or of any promissory note or notes given in renewal, substitution or replacement therefor.

Obligations: Any and all of the covenants, conditions, warranties, representations, and other obligations (other than to repay the Indebtedness) made or undertaken by Mortgagor, Guarantor, or any other person or party to the Loan Documents to Mortgagee or others as set forth in the Loan Documents, the Leases, and in any deed, lease, sublease, or other form of conveyance, or any other agreement pursuant to which Mortgagor is granted a possessory interest in the Land.

Permitted Exceptions: The liens, easements, restrictions, security interest, and other matters (if any) as reflected on Exhibit "B" attached hereto and incorporated herein by reference and the liens and security interests created by the Loan Documents.

Personalty: All of the right, title, and interest of Mortgagor in and to (i) furniture, furnishings, equipment, machinery, goods (including, but not limited to, crops, farm products, timber and timber to be cut, and extracted Minerals); (ii) general intangibles, money, insurance proceeds, accounts, contract and subcontract rights, trademarks, tradenames, inventory; (iii) all refundable, returnable, or reimbursable fees, deposits or other funds or evidences of credit or indebtedness deposited by or on behalf of Mortgagor with any governmental agencies, boards, corporations, providers of utility services, public or private, including specifically, but without limitation, all refundable, returnable, or reimbursable tap fees, utility deposits, commitment fees and development costs, any awards, remunerations, reimbursements, settlements, or compensation heretofore made or hereafter to be made by any Governmental Authority pertaining to the Land, Improvements, Fixtures, Contracts, or Personalty, including but not limited to those for any vacation of, or change of grade in, any streets affecting the Land or the Improvements and those for municipal utility district or other utility costs incurred or deposits made in connection with the Land; and (iv) all other personal property of any kind or character as defined in and subject to the provisions of the Code (Article 9 - Secured Transactions); any and all of which are now owned or hereafter acquired by Mortgagor, and which are now or hereafter situated in, on, or about the Land or the Improvements, or used in or necessary to the complete and proper planning, development, construction, financing, use, occupancy, or operation thereof, or acquired (whether delivered to the Land or stored elsewhere) for use in or on the Land or the Improvements, together with all accessions, replacements, and substitutions thereto or therefor and the proceeds thereof.

Petsmart Lease: The lease for the Mortgaged Property dated as of February 28, 1996, executed by Mortgagor as Landlord and Petsmart, Inc., as Tenant.

Release: "Release", "removal", "environment" and "disposal" shall have the meanings given such terms in CERCLA, and the term "disposal" shall also have the meaning given it in RCRA; provided that in the event either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment, and provided further that to the extent the laws of the State of Illinois establish a meaning for "release", "removal", "environment" or "disposal", which is broader than that specified in either CERCLA and RCRA, such broader meaning shall apply.

Remedial Work: Any investigation, site monitoring, containment, cleanup, removal, restoration, or other work of any kind or nature reasonably necessary or desirable under any applicable Environmental Law in connection with the current or future presence, suspected presence, release, or suspected release of a Hazardous Substance in

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or into the air, soil, ground water, surface water, or soil vapor at, on, about, under, or within the Mortgaged Property, or any part thereof.

Rents: All of the rents, revenues, income, proceeds, profits, security and other types of deposits (after Mortgagor acquires title thereto), and other benefits paid or payable by parties to the Contracts and/or Leases, other than Mortgagor for using, leasing, licensing, possessing, operating from, residing in, selling, or otherwise enjoying all or any portion of the Mortgaged Property.

Subordinate Mortgage: Any mortgage, deed of trust, pledge, lien (statutory, constitutional, or contractual), security interest, encumbrance or charge, or conditional sale or other title retention agreement, covering all or any portion of the Mortgaged Property executed and delivered by Mortgagor, the lien of which is subordinate and inferior to the lien of this Mortgage.

ARTICLE II

GRANT

Section 2.1 **Grant.** To secure the full and timely payment of the Indebtedness and the full and timely performance and discharge of the Obligations, Mortgagor has GRANTED, BARGAINED, SOLD, MORTGAGED and CONVEYED, and by these presents does GRANT, BARGAIN, SELL, MORTGAGE and CONVEY, unto Mortgagee the Mortgaged Property, subject, however, to the Permitted Exceptions, TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee forever, and Mortgagor does hereby bind itself, its successors, and assigns to WARRANT AND FOREVER DEFEND the title to the Mortgaged Property unto Mortgagee against every person whomsoever lawfully claiming or to claim the same or any part thereof.

ARTICLE III

WARRANTIES AND REPRESENTATIONS

Mortgagor hereby unconditionally warrants and represents to Mortgagee, as of the date hereof and at all times during the term of this Mortgage, as follows:

Section 3.1 **Organization and Power.** If Mortgagor or any Constituent Party is a corporation, general partnership, limited partnership, joint venture, trust, or other type of business association, as the case may be, Mortgagor and any Constituent Party, if any, (i) is either a corporation duly incorporated with a legal status separate from its affiliates, or a partnership or trust, joint venture or other type of business association duly organized, validly existing, and in good standing under the laws of the state of its formation or existence, and has complied or will comply within two (2) weeks of the date hereof with all conditions prerequisite to its doing business in the state in which the Mortgaged Property is located, and (ii) has all requisite power and all governmental certificates of authority, licenses, permits, qualifications, and documentation to own, lease, and operate its properties and to carry on its business as now being, and as proposed to be, conducted.

Section 3.2 **Validity of Loan Documents.** The execution, delivery, and performance by Mortgagor of the Loan Documents (other than the Guaranty), (i) if Mortgagor, or any signatory who signs on its behalf, is a corporation, general partnership, limited partnership, joint venture, trust, or other type of business association, as the case may be, are within Mortgagor's and each Constituent Party's powers and have been duly authorized by Mortgagor's and each Constituent Party's board of directors, shareholders, partners, venturers, trustees, or other necessary parties, and all other requisite action for such authorization has been taken, (ii) to the best of Mortgagor's knowledge, have received any and all requisite prior governmental approvals in order to be legally binding and enforceable in accordance with the terms thereof, and (iii) will not violate, be in conflict with or constitute (with due

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notice or lapse of time, or both) a default under or violation of any Legal Requirement or result in the creation or imposition of any lien or encumbrance of any nature whatsoever upon any of Mortgagor's and any Constituent Party's or Guarantor's property or assets, except as contemplated by the provisions of the Loan Documents. The Loan Documents constitute the legal, valid, and binding obligations of Mortgagor, Guarantor, and others obligated under the terms of the Loan Documents, enforceable in accordance with their respective terms.

Section 3.3 Information. All information, financial statements, reports, papers, and data given or to be given to Mortgagee with respect to Mortgagor, each Constituent Party, Guarantor, others obligated under the terms of the Loan Documents, or the Mortgaged Property are, or at the time of delivery will be, accurate, complete, and correct in all material respects and do not, or will not, omit any fact, the inclusion of which is necessary to prevent the facts contained therein from being materially misleading. Since the date of the financial statements of Mortgagor, any Constituent Party, or of any Guarantor or other party liable for payment of the Indebtedness or performance of the Obligations or any part thereof heretofore furnished to Mortgagee, no material adverse change has occurred, and except as heretofore disclosed in writing to Mortgagee, Mortgagor, each Constituent Party, each Guarantor, or any other such party has not incurred any material liability, direct or indirect, fixed or contingent.

Section 3.4 Title and Lien. Mortgagor has good and indefeasible title to the Land (in fee simple, if the lien created hereunder be on the fee, or a first and prior leasehold estate, if it be created on the leasehold estate) and Improvements, and good and marketable title to the Fixtures and Personalty, free and clear of any liens, encumbrances, security interests, claims, easements, restrictions, options, leases (other than the Leases), covenants, and other rights, titles, interests, or estates of any nature whatsoever, except the Permitted Exceptions. This Mortgage constitutes a valid, subsisting first lien on the Land, the Improvements, and the Fixtures; a valid, subsisting first priority security interest in and to the Personalty, Contracts, and to the extent that the terms Leases and Rents include items covered by the Code, in and to the Leases and Rents; and a valid, subsisting first priority assignment of the Leases and Rents not covered by the Code, all in accordance with the terms hereof.

Section 3.5 Business Purposes. The loan evidenced by the Note is solely for the purpose of carrying on or acquiring property or part of a business of Mortgagor, and is not for personal, family, household, or agricultural purposes.

Section 3.6 Taxes. Mortgagor, each Constituent Party, and Guarantor have filed all federal, state, county, municipal, and city income and other tax returns or have filed any appropriate extensions required to have been filed by them and have paid all taxes and related liabilities which have become due pursuant to such returns or pursuant to any assessments received by them. Neither Mortgagor, any Constituent Party, nor Guarantor knows of any basis for any additional assessment in respect of any such taxes and related liabilities.

Section 3.7 Mailing Address. Mortgagor's mailing address, as set forth in the opening paragraph hereof or as changed pursuant to the provisions hereof, is true and correct.

Section 3.8 Relationship of Mortgagor and Mortgagee. The relationship between Mortgagor and Mortgagee is solely that of debtor and creditor, and Mortgagee has no fiduciary or other special relationship with the Mortgagor, and no term or condition of any of the Loan Documents shall be construed so as to deem the relationship between Mortgagor and Mortgagee to be other than that of debtor and creditor.

Section 3.9 No Reliance by Mortgagee. Mortgagor is experienced in the ownership and operation of properties similar to the Mortgaged Property, and Mortgagor and Mortgagee have and are relying solely upon Mortgagor's expertise and business plan in connection with the ownership and operation of the Mortgaged Property. Mortgagee is not relying on Mortgagee's expertise or business acumen in connection with the Mortgaged Property.

Section 3.10 Environmental and Hazardous Substances. To the best knowledge of Mortgagor, the Mortgaged Property and the operations conducted thereon do not violate any applicable law, statute, ordinance, rule,

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regulation, order, or determination of any Governmental Authority or any restrictive covenant or deed restriction (recorded or otherwise), including without limitation all applicable zoning ordinances and building codes, flood disaster laws and Environmental Laws. All notices, permits, licenses, or similar authorizations, if any, required to be obtained or filed in connection with the ownership, operation, or use of the Mortgaged Property, including, without limitation, the past or present generation, treatment, storage, disposal, or release of a Hazardous Substance (as hereinafter defined) into the environment, have been duly obtained or filed. To the best knowledge of Mortgagor, the Mortgaged Property does not contain any Hazardous Substance. Mortgagor has not received any notice, and has no actual or constructive knowledge, that any Governmental Authority or any employee or agent thereof has determined, or threatens to determine, or is investigating any allegation that there is a presence, release, threat of release, placement on, under, from or about the Mortgaged Property, or the use, manufacture, handling, generation, transportation, storage, treatment, discharge, burial, or disposal on, under, from or about the Mortgaged Property, or the transportation to or from the Mortgaged Property, of any Hazardous Substance.

Section 3.11 No Litigation. There are no (i) actions, suits, or proceedings, at law or in equity, before any Governmental Authority or arbitrator pending or threatened against or affecting Mortgagor, Guarantor, or any Constituent Party or involving the Mortgaged Property, (ii) outstanding or unpaid judgment against the Mortgagor, any Guarantor, any Constituent Party, or the Mortgaged Property; or (iii) defaults by Mortgagor with respect to any order, writ, injunction, decree, or demand of any Governmental Authority or arbitrator.

ARTICLE IV

AFFIRMATIVE COVENANTS

Mortgagor hereby unconditionally covenants and agrees with Mortgagee, until the entire Indebtedness shall have been paid in full and all of the Obligations shall have been fully performed and discharged, as follows:

Section 4.1 Payment and Performance. Mortgagor will pay the Indebtedness as and when specified in the Loan Documents, and will perform and discharge all of the Obligations, in full and on or before the dates same are to be performed.

Section 4.2 Existence. Mortgagor will and will cause each Constituent Party to preserve and keep in full force and effect its existence (separate and apart from its affiliates), rights, franchises, and trade names.

Section 4.3 Compliance with Legal Requirements. Mortgagor will promptly and faithfully comply with, conform to, and obey all Legal Requirements, whether the same shall necessitate structural changes in, improvements to, or interfere with the use or enjoyment of, the Mortgaged Property.

Section 4.4 First Lien Status. Mortgagor will protect the first lien and security in crest status of this Mortgage and the other Loan Documents and will not permit to be created or to exist in respect of the Mortgaged Property or any part thereof any lien or security interest on a parity with, superior to, or inferior to any of the liens or security interests hereof, except for the Permitted Exceptions.

Section 4.5 Payment of Impositions. Mortgagor will duly pay and discharge, or cause to be paid and discharged, the Impositions not later than the earlier to occur of (i) the due date thereof, (ii) the day any fine, penalty, interest, or cost may be added thereto or imposed, or (iii) the day any lien may be filed for the nonpayment thereof (if such day is used to determine the due date of the respective item), and Mortgagor shall deliver to Mortgagee a written receipt evidencing the payment of the respective Imposition.

Section 4.6 Repair. Mortgagor will keep or cause Tenant to keep the Mortgaged Property in first-class order and condition and will make or cause Tenant to make all repairs, replacements, renewals, additions,

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betterments, improvements, and alterations thereof and thereto, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, which are necessary or reasonably appropriate to keep same in such order and condition.

Section 4.7 Insurance. Mortgagor will obtain and maintain or cause Tenant to obtain and maintain insurance upon and relating to the Mortgaged Property with such insurers, in such amounts and covering such risks as shall be satisfactory to Mortgagee, from time to time. Each insurance policy issued in connection herewith shall provide by way of endorsements, riders or otherwise that (1) with respect to liability insurance, it shall name Mortgagee as an additional insured, with respect to the other insurance, it shall be payable to Mortgagee as a mortgagee and not as a coinsured, and with respect to all policies of insurance carried by each Lessee for the benefit of the Mortgagor, it shall be payable to Mortgagee and Mortgagor as Mortgagee's interest may appear; (2) the coverage of Mortgagee shall not be terminated, reduced, or affected in any manner regardless of any breach or violation by Mortgagor of any warranties, declarations, or conditions in such policy; (3) no such insurance policy shall be canceled, endorsed, altered, or reissued to effect a change in coverage for any reason and to any extent whatsoever unless such insurer shall have first given Mortgagee thirty (30) days' prior written notice thereof; and (4) Mortgagee may, but shall not be obligated to, make premium payments to prevent any cancellation, endorsement, alteration, or reissuance, and such payments shall be accepted by the insurer to prevent same. Mortgagee shall be furnished with the original of each such initial policy coincident with the execution of this Mortgage and the original of each renewal policy not less than ten (10) days' prior to the expiration of the initial, or each immediately preceding renewal policy, together with receipts or other evidence that the premiums thereon have been paid for one (1) year.

Section 4.8 Inspection. Mortgagor will permit Mortgagee, and its agents, representatives, and employees, to inspect the Mortgaged Property at all reasonable times.

Section 4.9 Books and Records. Mortgagor will maintain full and accurate books of account and other records reflecting the results of the operations of the Mortgaged Property and will furnish, or cause to be furnished, to Mortgagee such reports and financial statements as are required herein or in the other Loan Documents.

Section 4.10 Financial Statements. Mortgagor shall, within thirty (30) days of the end of each calendar quarter, promptly furnish to Mortgagee certified financial statements of Mortgagor, prepared in accordance with sound accounting principles consistently applied by and certified to be true and correct by the chief financial officer of Mortgagor and deliver to Mortgagee within sixty (60) days after the end of each calendar year, then-current annual statements itemizing the income and expenses of the Mortgaged Property, all in detail reasonably satisfactory to Mortgagee and certified by Mortgagor as true and correct, and to allow Mortgagee from time to time to inspect the Mortgaged Property and all books and records relating thereto or to the Indebtedness and to make and take away copies of such books and records.

Section 4.11 Payment for Labor and Materials. Mortgagor will promptly pay or cause to be paid all bills for labor, materials, and specifically fabricated materials incurred in connection with the Mortgaged Property and never permit to exist in respect of the Mortgaged Property or any part thereof any lien or security interest, even though inferior to the liens and security interests hereof, for any such bill, and in any event never permit to be created or exist in respect of the Mortgaged Property, or any part thereof, any other or additional lien or security interest on a parity with, superior, or inferior to any of the liens or security interests hereof, except for the Permitted Exceptions.

Section 4.12 Further Assurances and Corrections. From time to time, at the request of Mortgagee, Mortgagor will (i) promptly correct any defect, error, or omission which may be discovered in the contents of any of the Loan Documents or in the execution or acknowledgment thereof; (ii) execute, acknowledge, deliver, record and/or file such further instruments and perform such further acts and provide such further assurances as may be necessary, desirable, or proper, in Mortgagee's opinion, to carry out more effectively the purposes of the Loan Documents; (iii) execute, acknowledge, deliver, procure, file, and/or record any document or instrument (including

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without limitation, any financing statement) deemed advisable by Mortgagee to protect the liens and the security interests herein granted against the rights or interests of third persons; and (iv) pay all costs connected with any of the foregoing.

Section 4.13 Tax on Mortgage. At any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Mortgage, or upon any rights, titles, liens, or security interests created hereby, or upon the Indebtedness or any part thereof, Mortgagor will immediately pay all such taxes, provided that if such law as enacted makes it unlawful for Mortgagor to pay such tax, Mortgagor shall not pay nor be obligated to pay such tax. Nevertheless, if a law is enacted making it unlawful for Mortgagor to pay such taxes, then Mortgagor must prepay the Indebtedness in full within sixty (60) days after demand therefor by Mortgagee.

Section 4.14 Statement of Unpaid Balance. At any time and from time to time, Mortgagor will furnish promptly, upon the request of Mortgagee, a written statement or affidavit, in form satisfactory to Mortgagee, stating the unpaid balance of the Indebtedness and that there are no offsets or defenses against full payment of the Indebtedness and the terms hereof, or if there are any such offsets or defenses, specifying them.

Section 4.15 Expenses. Subject to the provisions of Section 12.11 hereof, Mortgagor will pay on demand all reasonable and bona fide out-of-pocket costs, fees, and expenses and other expenditures, including, but not limited to, reasonable attorneys' fees and expenses, paid or incurred by Mortgagee to third parties incident to this Mortgage or any other Loan Document (including without limitation, reasonable attorneys' fees and expenses in connection with the negotiation, preparation, and execution of any of the Loan Documents and any amendment thereto, any release hereof, any consent approval or waiver hereunder or under any of the Loan Documents, the making of any advance under the Note, and any suit to which Mortgagee is a party involving this Mortgage or the Mortgaged Property) or incident to the enforcement of the Indebtedness or the exercise of any right or remedy of Mortgagee under any Loan Document.

Section 4.16 Address. Mortgagor shall give written notice to Mortgagee of any change of address of Mortgagor at least five (5) days prior to the effective date of such change of address. Absent such official written notice of a change in address for Mortgagor, then Mortgagee shall be entitled for all purposes under the Loan Documents to rely upon Grantee's address as set forth in the initial paragraph of this Mortgage, as same may have been theretofore changed in accordance with the provisions hereof.

Section 4.17 Environment and Hazardous Substances.

(a) Mortgagor will not use, generate, manufacture, produce, store, release, discharge, treat, or dispose of on, under, from or about the Mortgaged Property or transport to or from the Mortgaged Property any Hazardous Substance or allow any other person or entity to do so. Mortgagor will keep and maintain the Mortgaged Property in compliance with, and shall not cause or permit the Mortgaged Property to be in violation of, any Environmental Law. Mortgagor will give prompt written notices to Mortgagee of: (i) any proceeding or inquiry by any governmental or nongovernmental entity or person with respect to the presence of any Hazardous Substance on, under, from or about the Mortgaged Property, the migration thereof from or to other property, the disposal, storage, or treatment of any Hazardous Substance generated or used on, under or about the Mortgaged Property, (ii) all claims made or threatened by any third party against Mortgagor or the Mortgaged Property or any other owner or operator of the Mortgaged Property relating to any loss or injury resulting from any Hazardous Substance, and (iii) Mortgagor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Mortgaged Property that could cause the Mortgaged Property or any part thereof to be subject to any investigation or cleanup of the Mortgaged Property pursuant to any Environmental Law.

(b) **MORTGAGOR WILL PERMIT MORTGAGEE TO JOIN AND PARTICIPATE IN, AS A PARTY IF IT SO ELECTS, ANY LEGAL PROCEEDINGS OR ACTIONS INITIATED WITH RESPECT TO THE MORTGAGED PROPERTY IN CONNECTION WITH ANY ENVIRONMENTAL LAW OR**

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HAZARDOUS SUBSTANCE, AND MORTGAGOR SHALL PAY ALL ATTORNEYS' FEES INCURRED BY MORTGAGEE IN CONNECTION THEREWITH. MORTGAGOR WILL PROTECT, INDEMNIFY, AND HOLD HARMLESS MORTGAGEE, ITS PARENTS, SUBSIDIARIES, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, AND ASSIGNS FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, COSTS, EXPENSE, ACTION, CAUSES OF ACTION, OR LIABILITY (INCLUDING ATTORNEYS' FEES AND COSTS) DIRECTLY OR INDIRECTLY ARISING FROM OR ATTRIBUTABLE TO THE USE, GENERATION, MANUFACTURE, PRODUCTION, STORAGE, RELEASE, THREATENED RELEASE, DISCHARGE, DISPOSAL, OR PRESENCE OF A HAZARDOUS SUBSTANCE ON, UNDER OR ABOUT THE MORTGAGED PROPERTY, WHETHER KNOWN OR UNKNOWN AT THE TIME OF THE EXECUTION HEREOF, INCLUDING WITHOUT LIMITATION (I) ALL FORESEEABLE CONSEQUENTIAL DAMAGES OF ANY SUCH USE, GENERATION, MANUFACTURE, PRODUCTION, STORAGE, RELEASE, THREATENED RELEASE, DISCHARGE, DISPOSAL OR PRESENCE, AND (II) THE COSTS OF ANY REQUIRED OR NECESSARY ENVIRONMENTAL INVESTIGATION OR MONITORING, ANY REPAIR, CLEANUP, OR DETOXIFICATION OF THE MORTGAGED PROPERTY, AND THE PREPARATION AND IMPLEMENTATION OF ANY CLOSURE, REMEDIAL, OR OTHER REQUIRED PLANS. THIS COVENANT AND THE INDEMNITY CONTAINED HEREIN SHALL SURVIVE THE RELEASE OF THE LIEN OF THIS MORTGAGE, OR THE EXTINGUISHMENT OF THE LIEN BY FORECLOSURE OR ACTION IN LIEU THEREOF.

(c) In the event that any Remedial Work is reasonably necessary or desirable, Mortgagor shall commence and thereafter diligently prosecute to completion all such Remedial Work within thirty (30) days after written demand by Mortgagee for performance thereof (or such shorter period of time as may be required under any Legal Requirement). All Remedial Work shall be performed by contractors approved in advance by Mortgagee, and under the supervision of a consulting engineer approved by Mortgagee. All costs and expenses of such Remedial Work shall be paid by Mortgagor including, without limitation, Mortgagee's reasonable attorneys' fees and costs incurred in connection with monitoring or review of such Remedial Work. In the event Mortgagor shall fail to timely commence or cause the commencement, or cause to be commenced, or fail to diligently prosecute to completion, such Remedial Work, Mortgagee may, but shall not be required to, cause such Remedial Work to be performed, and all costs and expenses thereof, or incurred in connection therewith, shall become part of the Indebtedness.

(d) Mortgagor hereby represents, warrants and certifies to Mortgagee that: (i) the execution and delivery of the Loan Documents are not a transfer of "real property," as "real property" is defined in the Illinois Responsible Property Transfer Act (765 ILCS 90/1 et seq.), as amended from time to time ("RPTA"); (ii) there are no underground storage tanks located on, under or about the Mortgaged Property which are subject to the notification requirements under Section 9002 of the Solid Waste Disposal Act, as now or hereafter amended (42 U.S.C. § 6991); and (iii) there is no facility located on or at the Mortgaged Property which is subject to the reporting requirements of Section 312 of the Federal Emergency Planning and Community Right to Know Act of 1986 and the federal regulations promulgated thereunder (42 U.S.C. § 11022), as "facility" is defined in RPTA.

ARTICLE V

NEGATIVE COVENANTS

Mortgagor hereby unconditionally covenants and agrees with Mortgagee, until the entire Indebtedness shall have been paid in full and all of the Obligations shall have been fully performed and discharged, as follows:

Section 5.1 Use Violations. Mortgagor will not use, maintain, operate, or occupy, or allow the use, maintenance, operation, or occupancy of, the Mortgaged Property in any manner which (i) violates any Legal Requirement, (ii) may be dangerous unless safeguarded as required by law and/or appropriate insurance, (iii) constitutes a public or private nuisance, or (iv) makes void, voidable, or cancellable, or increases the premium of, any insurance then in force with respect thereto.

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Section 5.2 Waste; Alterations. Mortgagor will not commit or permit any waste or impairment of the Mortgaged Property and will not (subject to the provisions of Sections 4.3 and 4.6 hereof), without the prior written consent of Mortgagee, make or permit to be made any alterations or additions to the Mortgaged Property of a material nature.

Section 5.3 Replacement of Fixtures and Personalty. Mortgagor will not, without the prior written consent of Mortgagee, permit any of the Fixtures or Personalty to be removed at any time from the Land or Improvements unless the removed item is removed temporarily for maintenance and repair or, if removed permanently, is replaced by an article of equal suitability and value, owned by Mortgagor, free and clear of any lien or security interest except as may be approved in writing by Mortgagee.

Section 5.4 Change in Zoning. Mortgagor will not seek or acquiesce in a zoning reclassification of all or any portion of the Mortgaged Property or grant or consent to any easement, dedication, plat, or restriction (or allow any easement to become enforceable by prescription), or any amendment or modification thereof, covering all or any portion of the Mortgaged Property, without Mortgagee's prior written consent.

Section 5.5 No Drilling. Mortgagor will not, without the prior written consent of Mortgagee, permit any drilling or exploration for or extraction, removal, or production of, any Minerals from the surface or subsurface of the Land regardless of the depth thereof or the method of mining or extraction thereof.

Section 5.6 No Disposition. Mortgagor will not make a Disposition without obtaining Mortgagee's prior written consent to the Disposition nor will Mortgagor consent to any Disposition by the Tenant of the Mortgaged Property without obtaining Mortgagee's prior written consent.

Section 5.7 No Subordinate Mortgages. Mortgagor will not create, place, or permit to be created or placed, or through any act or failure to act, acquiesce in the placing of, or allow to remain any Subordinate Mortgage regardless of whether such Subordinate Mortgage is expressly subordinate to the liens or security interests of the Loan Documents with respect to the Mortgaged Property, other than the Permitted Exceptions.

ARTICLE VI

EVENTS OF DEFAULT

The term "Event of Default", as used herein and in the Loan Documents, shall mean the occurrence or happening, at any time and from time to time, of any one or more of the following:

Section 6.1 Payment of Indebtedness. If Mortgagor shall fail, or refuse to fully and timely perform and discharge, or cause the failure or refusal of the full and timely performance and discharge of the Indebtedness as and when called for, and such non-payment shall continue for five (5) days after the date such payment was due.

Section 6.2 Performance of Obligations. If Mortgagor shall fail, or refuse, to fully and timely perform and discharge, or cause the failure or refusal of the full and timely performance and discharge of, any of the Obligations as and when called for and such failure or refusal shall continue for thirty (30) days after Mortgagee has provided notice to Mortgagor of such failure or refusal; provided, however, in the event Mortgagee receives notice from the Tenant of an uncured default by Mortgagor as landlord following notice given as provided in the Petsmart Lease, then receipt of such notice of default by Mortgagee shall immediately constitute an Event of Default hereunder.

Section 6.3 False Representation. If any representation, warranty, or statement made by Mortgagor, Guarantor, or others in, under, or pursuant to the Loan Documents is determined by Mortgagee to be false or

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misleading in any material respect as of the date hereof or thereof or shall become so at any time prior to the repayment in full of the Indebtedness.

Section 6.4 Default Under Other Loan Documents. If Mortgagor shall default or commit an event of default under and pursuant to any other mortgage or security agreement which covers other properties owned by Mortgagor and which secure the Indebtedness.

Section 6.5 Insolvency; Bankruptcy. If Mortgagor or Tenant (i) shall execute an assignment for the benefit of creditors or an admission in writing by Mortgagor of Mortgagor's or Tenant's inability to pay, or Mortgagor's failure to pay, debts generally as such debts become due; or (ii) shall allow the levy against the Mortgaged Property or any part thereof, of any execution, attachment, sequestration or other writ which is not vacated within sixty days after the levy; or (iii) shall allow the appointment of a receiver, trustee or custodian of Mortgagor or Tenant or of the Mortgaged Property or any part thereof, which receiver, trustee or custodian is not discharged within sixty days after the appointment; or (iv) files, as a debtor, a petition, case, proceeding or other action pursuant to, or voluntarily seeks the benefit of, or benefits of, any Debtor Relief Law, or takes any action in furtherance thereof; or (v) files either a petition, complaint, answer or other instrument which seeks to effect a suspension of, or which has the effect of suspending any of the rights or powers of Mortgagee granted in any of the Loan Documents; or (vi) approves the filing of a petition, case, proceeding or other action against Mortgagor or Tenant, as a debtor, under any Debtor Relief Law or seeks appointment of a receiver, trustee, custodian or liquidator of Mortgagor or Tenant or of the Mortgaged Property, or any part thereof, or of any significant portion of Mortgagor's or Tenant's other property; and (1) Mortgagor or Tenant admits, acquiesces in or fails to contest diligently the material allegations thereof, or (2) the petition, case, proceeding or other action results in the entry of an order for relief or order granting the relief sought against Mortgagor or Tenant, or (3) the petition, case, proceeding or other action is not permanently dismissed or discharged on or before the earlier of trial thereon or thirty days next following the date of filing.

Section 6.6 Dissolution. If Mortgagor, any Constituent Party, or any Guarantor, shall die, become permanently disabled, dissolve, terminate or liquidate, or merge with or be consolidated into any other entity.

Section 6.7 No Further Encumbrances. If Mortgagor creates, places, or permits to be created or placed, or through any act or failure to act, acquiesces in the placing of, or allows to remain, any Subordinate Mortgage, regardless of whether such Subordinate Mortgage is expressly subordinate to the liens or security interests of the Loan Documents, with respect to the Mortgaged Property, other than the Permitted Exceptions.

Section 6.8 Disposition of Mortgaged Property or Beneficial Interest of Mortgagor. If Mortgagor or Tenant makes a Disposition, without the prior written consent of Mortgagee.

Section 6.9 Condemnation. If any condemnation proceeding is instituted or threatened which would, in Mortgagee's sole judgment, materially impair the use and enjoyment of the Mortgaged Property for its intended purposes.

Section 6.10 Destruction of Improvements. If the Mortgaged Property is demolished, destroyed, or substantially damaged so that, in Mortgagee's judgment, it cannot be restored or rebuilt with available funds to the condition existing immediately prior to such demolition, destruction, or damage within a reasonable period of time.

Section 6.11 Material Adverse Change. If Mortgagee reasonably determines that any event shall have occurred that could be expected to have a Material Adverse Effect.

Section 6.12 Abandonment. If Mortgagor or Tenant abandons all or any portion of the Mortgaged Property.

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Section 6.13 Attachment; Sequestration. Mortgagor shall fail to discharge within a period of thirty (30) days after the commencement thereof any attachment, sequestration, or similar proceeding against any of its assets or properties, unless such proceeding is being contested diligently and in good faith and adequate reserves have been established.

Section 6.14 Judgments. Mortgagor shall fail to satisfy and discharge promptly any judgment against it for the payment of money unless such judgment is being contested diligently and in good faith and adequate reserves have been established.

Section 6.15 Other Debt. Mortgagor shall fail to pay when due any principal of or interest on any debt (other than the Indebtedness), or the maturity of any such debt shall have been accelerated, or any such debt shall have been required to be prepaid prior to the stated maturity thereof.

Section 6.16 Guarantor's or Constituent Party's Default. The occurrence of any event referred to in Sections 6.5, 6.11, 6.13, 6.14 and 6.15 hereof with respect to any Guarantor, Constituent Party or other person or entity obligated in any manner to pay or perform the Indebtedness or Obligations, respectively, or any part thereof (as if such Guarantor, Constituent Party or other person or entity were the "Mortgagor" in such Sections).

Section 6.17 Event of Default Under Petsmart Lease. If there is an Event of Default by either the Mortgagor as Landlord, or the Tenant as Lessee, under the Petsmart Lease which is not cured within any applicable cure period, or if Mortgagor as the Landlord or Petsmart, Inc., as the tenant of other properties owned by Mortgagor and which property or properties secure the Indebtedness, commits an Event of Default under such other mortgage or lease which is not cured within any applicable cure period.

Section 6.18 Event of Default in Loan Documents. An uncured Event of Default as defined in any of the Loan Documents.

ARTICLE VII

REMEDIES

Section 7.1 Exercise of Specific Remedies: If an Event of Default shall occur, Mortgagee may exercise any one or more of the following remedies, without notice (unless notice is required by applicable law):

(a) Acceleration. Mortgagee may declare the Indebtedness immediately due and payable, without notice, whereupon the same shall become immediately due and payable. Mortgagor hereby waives notice of intent to accelerate and notice of acceleration.

(b) Possession. Mortgagee may take immediate possession of the Mortgaged Property or any part thereof (which Mortgagor agrees to surrender to Mortgagee) and manage, control or lease the same to such person or persons and at such rental as it may deem proper and collect all the rents, issues and profits therefrom, including those past due as well as those thereafter accruing, with the right in Mortgagee to cancel any lease or sublease for any cause which would entitle Mortgagor to cancel the same; to make such expenditures for maintenance, repairs and costs of operation as it may deem advisable; and after deducting the cost thereof and a commission of five (5%) percent upon the gross amounts of rents collected, to apply the residue to the payment of any sums which are unpaid hereunder or under the Note. The taking of possession under this paragraph shall not prevent concurrent or later proceedings for the foreclosure sale of the Mortgaged Property as provided elsewhere herein.

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(c) Mortgagee in Possession. Mortgagee as a matter of right and (i) without regard to the sufficiency of the security for repayment of the Debt; (ii) without any showing of insolvency, fraud or mismanagement on part of Mortgagor, and without the necessity of Mortgagee posting bond; (iii) without the necessity of filing any judicial or other proceeding other than a proceeding to have Mortgagee placed in possession of the Mortgaged Property; and (iv) without regard to the then value of the Mortgaged Property shall be entitled, at Mortgagee's election, to be placed into possession of the Mortgaged Property as mortgagee in possession with the same powers granted herein to a receiver and with all other rights and privileges of a mortgagee in possession under law.

(d) Foreclosure. Mortgagee shall have the right to foreclose this Mortgage and in case of sale in an action or proceeding to foreclose this Mortgage, Mortgagee shall have the right to sell the Mortgaged Property covered hereby in parts or as an entirety. It is intended hereby to give to Mortgagee the widest possible discretion permitted by law with respect to all aspects of any such sale or sales. Without declaring the entire unpaid principal balance due, Mortgagee may foreclose only as to the sum past due, without injury to this Mortgage or the displacement or impairment of the remainder of the lien thereof, and at such foreclosure sale the Mortgaged Property (or any portion thereof, at the option of Mortgagee) shall be sold subject to all remaining items of the Indebtedness; and Mortgagee may again foreclose, in the same manner, as often as there may be any sum past due.

(e) Lawsuits. Mortgagee may proceed by a suit or suits in equity or at law, whether for the specific performance of 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. To the maximum extent permitted by applicable law, upon occurrence of an Event of Default hereunder, Mortgagee may enter into and upon and take possession of all or any part of the Mortgaged Property, and may exclude Mortgagor, and all persons claiming under Mortgagor, and its or their agents or servants, wholly or partly therefrom; and, holding the same, Mortgagee may use, administer, manage, operate, and control the Mortgaged Property and may exercise all rights and powers of Mortgagor in the name, place and stead of Mortgagor, or otherwise, as the Mortgagee shall deem best; and in the exercise of any of the foregoing rights and powers Mortgagee shall not be liable to Mortgagor for any loss or damage thereby sustained unless due solely to the willful misconduct or gross negligence of Mortgagee.

(g) Waiver of Rights under Illinois Law. Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15 - 1101 et seq.) (the "Act"), or residential real estate (as defined in Section 15-1219 of the Act), and to the full extent permitted by law, hereby voluntarily and knowingly waives its rights to reinstatement and redemption as allowed under Section 15-1601 of the Act.

Section 7.2 Additional Provisions: Mortgagor expressly agrees, on behalf of itself, its successors and assigns and any future owner of the Mortgaged Property, or any part thereof or interest therein, as follows:

(a) The obtaining of a judgment or decree on the Note, whether in the State of Illinois or elsewhere, shall not in any manner affect the lien of this Mortgage upon the Mortgaged Property covered hereby, and any judgment or decree so obtained shall be secured hereby to the same extent as the Note is now secured.

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(b) In the event of any foreclosure sale hereunder, all net proceeds shall be available for application to the Indebtedness whether or not such proceeds may exceed the value of the Mortgaged Property for recordation tax, mortgage tax, insurance or other purposes.

(c) The only limitation upon the foregoing agreements as to the exercise of Mortgagee's remedies is that there shall be but one full and complete satisfaction of the Indebtedness.

Section 7.3 Tenancy at Will: In the event of a foreclosure sale hereunder and if at the time of such sale Mortgagor or any other party occupies the portion of the Mortgaged Property so sold or any part thereof and the interest of such occupant in the Mortgaged Property (or any portion thereof) was subordinate and inferior to this Mortgage, such occupant shall immediately 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 tenant or landlord, at a reasonable rental per day based upon the value of the portion of the Mortgaged Property so occupied, such rental to be due and payable daily to the purchaser; and in connection therewith, such tenant shall attorn to Mortgagee as its landlord. An action of forcible detainer shall lie if the tenant holds over after a demand in writing for possession of such Mortgaged Property.

Section 7.4 Mortgagee's Right to Perform: Upon Mortgagor's failure to make any payment or perform any act required by the Loan Documents, then at any time thereafter, and without notice to or demand upon Mortgagor and without waiving or releasing any other right, remedy or recourse, Mortgagee may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of Mortgagor, and shall have the right to enter the Mortgaged Property for such purpose and to take all such action thereon as it may deem necessary or appropriate.

Section 7.5 Reimbursement of Expenditure: If Mortgagee shall expend any money chargeable to Mortgagor or subject to reimbursement by Mortgagor under the terms of the Loan Documents, Mortgagor will repay the same to Mortgagee immediately at the place where the Note is payable, together with interest thereon from and after the date of such expenditure by Mortgagee at the rate payable under the Note following default thereunder or maturity thereof.

Section 7.6 Other Rights: Mortgagee may exercise any and all other rights, remedies and recourses granted under the Loan Documents now or hereafter existing in equity or at law for the protection and preservation of the Mortgaged Property.

Section 7.7 Remedies Cumulative, Concurrent and Nonexclusive: Mortgagee shall have all rights, remedies and recourses granted in the Loan Documents and available at law or equity (including, without limitation, those granted by the Code and applicable to the Mortgaged Property, or any portion thereof) and same (a) shall be cumulative and concurrent, (b) may be pursued separately, successively or concurrently against Mortgagor or others obligated for the Indebtedness, or any part thereof or against any one or more of them, or against the Mortgaged Property, at the sole discretion of Mortgagee, (c) may be exercised as often as occasion therefor shall arise, it being agreed by Mortgagor that the exercise or failure to exercise any of same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse, and (d) are intended to be, and shall be, nonexclusive.

Section 7.8 Time of the Essence: It is specifically agreed that time is of the essence hereunder and that the waiver of the options, or obligations secured hereby, shall not at any time thereafter be held to be an abandonment of such rights. Notice of the exercise of any option granted to Mortgagee herein, or in the Note, is not required to be given.

Section 7.9 Rights and Remedies of Sureties: Mortgagor waives any right or remedy which Mortgagor may have or be able to assert pursuant to any laws of the State of Illinois pertaining to the rights and remedies of sureties.

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ARTICLE VIII

SPECIAL PROVISIONS

Section 8.1 Condemnation Proceeds. Mortgagee shall be entitled to receive any and all sums which may be awarded and become payable to Mortgagor for condemnation of the Mortgaged Property or any part thereof, for public or quasi-public use, or by virtue of private sale in lieu thereof, and any sums which may be awarded or become payable to Mortgagor for damages caused by public works or construction on or near the Mortgaged Property. All such sums are hereby assigned to Mortgagee, and Mortgagor shall, upon request of Mortgagee, make, execute, acknowledge, and deliver any and all additional assignments and documents as may be necessary from time to time to enable Mortgagee to collect and receipt for any such sums. Mortgagee shall not be, under any circumstances, liable or responsible for failure to collect, or exercise diligence in the collection of, any of such sums. Any sums received by Mortgagee as a result of condemnation shall be applied to the Indebtedness in accordance with the provision of Section 7.1(g) hereof.

Section 8.2 Insurance Proceeds. The proceeds of any and all insurance upon the Mortgaged Property (other than proceeds of general public liability insurance) shall be collected by Mortgagee, and Mortgagee shall have the option, in Mortgagee's sole discretion, to apply any proceeds so collected either to the restoration of the Mortgaged Property, in the amounts, manner, method and pursuant to such requirements and documents as Mortgagee may require, or to the liquidation of the Indebtedness in accordance with the provisions of Section 7.1 hereof, subject, however, to Mortgagor's obligations to Tenant with respect to insurance proceeds under the Petsmart Lease, but in any event Mortgagee shall have the right to require all insurance proceeds to be deposited with Mortgagee and Mortgagor shall be obligated to deposit with Mortgagee such additional sums as may be required by Mortgagee in order to ensure adequate funds exist for any restoration.

Section 8.3 Reserve for Impositions and Insurance Premiums. At Mortgagee's request, and in the event the Tenant is not otherwise making the payments, Mortgagor shall create a fund or reserve for the payment of all insurance premiums and Impositions against or affecting the Mortgaged Property by paying to Mortgagee, on the first day of each calendar month prior to the maturity of the Note, a sum equal to the premiums that will next become due and payable on the insurance policies covering Mortgagor, the Mortgaged Property or any part thereof or such other insurance policies required hereby or by the Loan Documents, plus Impositions next due on the Mortgaged Property or any part thereof as estimated by Mortgagee, less all sums paid previously to Mortgagee therefor, divided by the number of months to elapse before one month prior to the date when each of such premiums and Impositions will become due, such sums to be held by Mortgagee without interest to Mortgagor, unless interest is required by applicable law, for the purposes of paying such premiums and Impositions. Any excess reserve shall, at the discretion of Mortgagee, be credited by Mortgagee on subsequent reserve payments or subsequent payments to be made on the Note by the maker thereof, and any deficiency shall be paid by Mortgagor to Mortgagee on or before the date when Mortgagee demands such payment to be made, but in no event after the date when such premiums and Impositions shall become delinquent. In the event there exists a deficiency in such fund or reserve at any time when Impositions or insurance premiums are due and payable, Mortgagee may, but shall not be obligated to, advance the amount of such deficiency on behalf of Mortgagor and such amounts so advanced shall become a part of the Indebtedness, shall be immediately due and payable, and shall bear interest at the Default Rate from the date of such advance through and including the date of repayment. Transfer of legal title to the Mortgaged Property shall automatically transfer to the holder of legal title to the Mortgaged Property the interest of Mortgagor in all sums deposited with Mortgagee under the provisions hereof or otherwise.

Section 8.4 INDEMNITY. MORTGAGOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS MORTGAGEE FROM AND AGAINST ANY AND ALL LIABILITY, DAMAGE, LOSS, COST, OR EXPENSE (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND EXPENSES), ACTION, PROCEEDING, CLAIM OR DISPUTE INCURRED OR SUFFERED BY MORTGAGEE, WHETHER

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VOLUNTARILY OR INVOLUNTARILY INCURRED OR SUFFERED, IN RESPECT OF THE FOLLOWING:

i) ANY LITIGATION CONCERNING THIS MORTGAGE, THE OTHER LOAN DOCUMENTS OR THE MORTGAGED PROPERTY, OR ANY INTEREST OF MORTGAGOR OR MORTGAGEE THEREIN, OR THE RIGHT OF OCCUPANCY THEREOF BY MORTGAGOR OR MORTGAGEE, WHETHER OR NOT ANY SUCH LITIGATION IS PROSECUTED TO A FINAL, NON-APPEALABLE JUDGMENT;

ii) ANY DISPUTE, INCLUDING DISPUTES AS TO THE DISBURSEMENT OF PROCEEDS OF THE NOTE NOT YET DISBURSED, AMONG OR BETWEEN ANY OF THE CONSTITUENT PARTIES OR OTHER PARTNERS OR VENTURERS OF MORTGAGOR IF MORTGAGOR IS A GENERAL OR LIMITED PARTNERSHIP, OR AMONG OR BETWEEN ANY EMPLOYEES, OFFICERS, DIRECTORS OR SHAREHOLDERS OF MORTGAGOR IF MORTGAGOR IS A CORPORATION, OR AMONG OR BETWEEN ANY MEMBERS, TRUSTEES OR OTHER RESPONSIBLE PARTIES IF MORTGAGOR IS AN ASSOCIATION, TRUST OR OTHER ENTITY;

iii) ANY ACTION TAKEN OR NOT TAKEN BY MORTGAGEE WHICH IS ALLOWED OR PERMITTED UNDER THIS MORTGAGE OR ANY OF THE OTHER LOAN DOCUMENTS RELATING TO MORTGAGOR, THE MORTGAGED PROPERTY, ANY CONSTITUENT PARTIES OR OTHERWISE IN CONNECTION WITH THE LOAN DOCUMENTS, INCLUDING WITHOUT LIMITATION, THE PROTECTION OR ENFORCEMENT OF ANY LIEN, SECURITY INTEREST OR OTHER RIGHT, REMEDY OR RECOURSE CREATED OR AFFORDED BY THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS; AND

iv) ANY ACTION BROUGHT BY MORTGAGEE AGAINST MORTGAGOR UNDER THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS, WHETHER OR NOT SUCH ACTION IS PROSECUTED TO A FINAL, NON-APPEALABLE JUDGMENT.

MORTGAGEE MAY EMPLOY AN ATTORNEY OR ATTORNEYS TO PROTEST OR ENFORCE ITS RIGHTS, REMEDIES AND RECOURSES UNDER THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS, AND TO ADVISE AND DEFEND MORTGAGEE WITH RESPECT TO ANY SUCH ACTIONS AND OTHER MATTERS. MORTGAGOR SHALL REIMBURSE MORTGAGEE FOR THEIR RESPECTIVE ATTORNEYS' FEES AND EXPENSES (INCLUDING EXPENSES AND COSTS FOR EXPERTS) IMMEDIATELY UPON RECEIPT OF A WRITTEN DEMAND THEREFOR, WHETHER ON A MONTHLY OR OTHER TIME INTERVAL, AND WHETHER OR NOT AN ACTION IS ACTUALLY COMMENCED OR CONCLUDED. ALL OTHER REIMBURSEMENT AND INDEMNITY OBLIGATIONS HEREUNDER SHALL BECOME DUE AND PAYABLE WHEN ACTUALLY INCURRED BY MORTGAGEE. ANY PAYMENTS NOT MADE WITHIN FIVE (5) DAYS AFTER WRITTEN DEMAND THEREFOR SHALL BEAR INTEREST AT THE DEFAULT RATE FROM THE DATE OF SUCH DEMAND UNTIL FULLY PAID. THE PROVISIONS OF THIS SECTION 8.4 SHALL SURVIVE REPAYMENT OF THE INDEBTEDNESS AND PERFORMANCE OF THE OBLIGATIONS, THE RELEASE OF THE LIEN OF THIS MORTGAGE, ANY FORECLOSURE (OR ACTION IN LIEU OF FORECLOSURE) AND THE EXERCISE BY MORTGAGEE OF ANY AND ALL REMEDIES SET FORTH HEREIN OR IN THE LOAN DOCUMENTS.

Section 8.5 Subrogation. Mortgagor waives any and all right to claim, recover, or subrogation against Mortgagee or its officers, directors, employees, agents, attorneys, or representatives for loss or damage to Mortgagor, the Mortgaged Property, Mortgagor's property or the property of others under Mortgagor's control from any cause insured against or required to be insured against by the provisions of the Loan Documents.

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Section 8.6 Setoff. Mortgagee shall be entitled to exercise both the rights of setoff and banker's lien, if applicable, against the interest of Mortgagor in and to each and every account and other property of Mortgagor which are in the possession of Mortgagee to the full extent of the outstanding balance of the Indebtedness.

Section 8.7 Consent to Disposition. It is expressly agreed that Mortgagee may predicate Mortgagee's decision to grant or withhold consent to a Disposition on such terms and conditions as Mortgagee may require, in Mortgagee's sole discretion, including without limitation, the following: (i) consideration of the creditworthiness of the party to whom such Disposition will be made and its management ability with respect to the Mortgaged Property, (ii) consideration of whether the security for repayment of the Indebtedness and the performance and discharge of the Obligations, or Mortgagee's ability to enforce its rights, remedies, and recourses with respect to such security, will be impaired in any way by the proposed Disposition, (iii) an increase in the rate of interest payable under the Note or any other change in the terms and provisions of the Loan Documents, (iv) reimbursement of Mortgagee for all costs and expenses incurred by Mortgagee in investigating the creditworthiness and management ability of the party to whom such Disposition will be made and in determining whether Mortgagee's security will be impaired by the proposed Disposition, (v) payment to Mortgagee of a transfer fee to cover the cost of documenting the Disposition in its records, (vi) payment of Mortgagee's reasonable attorneys' fees in connection with such Disposition, (vii) the express assumption of payment of the Indebtedness and performance and discharge of the Obligations by the party to whom such Disposition will be made (with or without the release of Mortgagor from liability for such Indebtedness and Obligations), (viii) the execution of assumption agreements, modification agreements, supplemental loan documents, and financing statements, satisfactory in form and substance to Mortgagee, (ix) endorsements (to the extent available under applicable law) to any existing mortgagee title insurance policies insuring Mortgagee's liens and security interests covering the Mortgaged Property, and (x) the provision of additional security for the payment of the Indebtedness and performance and discharge of the Obligations; provided, however, Mortgagee hereby acknowledges and agrees to Tenant's right to sublet, assign or otherwise transfer its interest in the Petsmart Lease to a licensee or franchisee of Tenant operating Tenant's business, or to any operating subsidiary of Tenant, or subsidiary of Tenant, or to a corporation with which it may merge or consolidate, and provided Tenant remains fully liable for full performance of all its obligations under the Petsmart Lease; and further provided that a general or limited partner may transfer or assign his or its partnership interest in Mortgagor to a related entity in which such partner owns a majority interest or to a trust for the benefit of the partner's children and in which the general or limited partner is the trustee.

Section 8.8 Consent to Subordinate Mortgage. In the event of the consent by Mortgagee to the granting of a Subordinate Mortgage, or in the event the above-described right of Mortgagee to declare the Indebtedness to be immediately due and payable upon the granting of a Subordinate Mortgage without the prior written consent of Mortgagee is determined by a court of competent jurisdiction to be unenforceable under the provisions of any applicable law, Mortgagor will not execute or deliver any Subordinate Mortgage unless (i) it shall contain express covenants to the effect: (1) that the Subordinate Mortgage is in all respects unconditionally subject and subordinate to the lien and security interest evidenced by this Mortgage and each term and provision hereof; (2) that if any action or proceeding shall be instituted to foreclose the Subordinate Mortgage (regardless of whether the same is a judicial proceeding or pursuant to a power of sale contained therein), no tenant of any portion of the Mortgaged Property will be named as a party defendant, nor will any action be taken with respect to the Mortgaged Property which would terminate any occupancy or tenancy of the Mortgaged Property without the prior written consent of Mortgagee; (3) that the rents and profits, if collected through a receiver or by the holder of the Subordinate Mortgage, shall be applied first to the Indebtedness, next to the payment of the Impositions, and then to the performance and discharge of the Obligations; and (4) that if any action or proceeding shall be brought to foreclose the Subordinate Mortgage (regardless of whether the same is a judicial proceeding or pursuant to a power of sale contained therein), written notice of the commencement thereof will be given to Mortgagee contemporaneously with the commencement of such action or proceeding; and (ii) a copy thereof shall have been delivered to Mortgagee not less than ten (10) days prior to the date of the execution of such Subordinate Mortgage.

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ARTICLE IX

SECURITY AGREEMENT

Section 9.1 Security Interest. This Mortgage (i) shall be construed as a mortgage on real property, and (ii) shall also constitute and serve as a "Security Agreement" on personal property within the meaning of, and shall constitute until the grant of this Mortgage shall terminate as provided in Section 11.1 hereof, a first and prior security interest under the Code as to property within the scope thereof and in the state where the Mortgaged Property is located with respect to the Personalty, Fixtures, Contracts, Leases and Rents. To this end, Mortgagor has GRANTED, BARGAINED, CONVEYED, ASSIGNED, TRANSFERRED, and SET OVER, and by these presents does GRANT, BARGAIN, CONVEY, ASSIGN, TRANSFER and SET OVER unto Mortgagee a first and prior security interest in all of Mortgagor's right, title and interest in, to, under and with respect to the Personalty, Fixtures, Contracts, Leases, and Rents to secure the full and timely payment of the Indebtedness and the full and timely performance and discharge of the Obligations. It is the intent of Mortgagor and Mortgagee that this Mortgage encumber all Leases and Rents, that all items contained in the definition of "Leases" and "Rents" which are included within the Code be covered by the security interest granted in this Article IX, and that all items contained in the definition of "Leases" and "Rents" which are excluded from the Code be covered by the provisions of Article II hereof.

Section 9.2 Financing Statements. Mortgagor hereby agrees with Mortgagee to execute and deliver to Mortgagee, in form and substance satisfactory to Mortgagee, such "Financing Statements" and such further assurances as Mortgagee may, from time to time, reasonably consider necessary to create, perfect, and preserve Mortgagee's security interest herein granted, and Mortgagee may cause such statements and assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect, and preserve such security interest.

Section 9.3 Fixture Filing. This Mortgage shall also constitute a "fixture filing" for the purposes of the Code. All or part of the Mortgaged Property are or are to become fixtures; information concerning the security interest herein granted may be obtained from the parties at the address of the parties set forth herein. For purposes of the security interest herein granted, the address of debtor (Mortgagor) is set forth in the first paragraph of this Mortgage and the address of the secured party (Mortgagee) is set forth in Article I hereof.

ARTICLE X

MISCELLANEOUS

Section 10.1 Release. If the Indebtedness is paid in full in accordance with the terms of the Loan Documents, and if Mortgagor shall well and truly perform each and every one of the Obligations to be performed and discharged in accordance with the terms of the Loan Documents, then this conveyance shall become null and void and be released at Mortgagor's request and expense, and Mortgagee shall have no further obligation to make advances under and pursuant to the provisions hereof or in the other Loan Documents.

Section 10.2 Performance at Mortgagor's Expense. Subject to the provisions of Section 11.11 hereof, Mortgagor shall (i) pay all legal fees incurred by Mortgagee in connection with the preparation of the Loan Documents (including any amendments thereto or consents, releases, or waivers granted thereunder); (ii) reimburse Mortgagee, promptly upon demand, for all amounts expended, advanced, or incurred by Mortgagee to satisfy any obligation of Mortgagor under the Loan Documents, which amounts shall include all court costs, attorneys' fees (including, without limitation, for trial, appeal, or other proceedings), fees of auditors and accountants and other investigation expenses reasonably incurred by Mortgagee in connection with any such matters; and (iii) any and all other costs and expenses of performing or complying with any and all of the Obligations. Except to the extent that

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costs and expenses are included within the definition of "Indebtedness," the payment of such costs and expenses shall not be credited, in any way and to any extent, against any installment on or portion of the Indebtedness.

Section 10.3 Survival of Obligations. Each and all of the Obligations shall survive the execution and delivery of the Loan Documents and the consummation of the loan called for therein and shall continue in full force and effect until the Indebtedness shall have been paid in full; provided, however, that nothing contained in this Section 10.3 shall limit the obligations of Mortgagor as otherwise set forth herein.

Section 10.4 Recording and Filing. Mortgagor will cause the Loan Documents (requested by the Mortgagee) and all amendments and supplements thereto and substitutions therefor to be recorded, filed, re-recorded, and refiled in such manner and in such places as Mortgagee shall reasonably request, and will pay all such recording, filing, re-recording and refiling taxes, documentary stamp taxes, fees, and other charges.

Section 10.5 Notices. All notices or other communications required or permitted to be given pursuant to this Mortgage shall be in writing and shall be considered as properly given if (i) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, (ii) by delivering same in person to the intended addressee, (iii) by delivery to an independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee, or (iv) by prepaid telegram, telex, or telefacsimile to the addressee. Notice so mailed shall be effective upon its deposit with the United States Postal Service or any successor thereto; notice sent by such a commercial delivery service shall be effective upon delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by other means shall be effective only if and when received at the office or designated place or machine of the intended addressee. For purposes of notice, the addresses of the parties shall be as set forth on page 1 of this Mortgage; provided, however, that either party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the other party in the manner set forth herein.

Section 10.6 Covenants Running with the Land. All Obligations contained in this Mortgage and the other Loan Documents are intended by Mortgagor and Mortgagee to be, and shall be construed as, covenants running with the Mortgaged Property until the lien of this Mortgage has been fully released by Mortgagee.

Section 10.7 Successors and Assigns. Subject to the provisions of Section 6.8 hereof, all of the terms of the Loan Documents shall apply to, be binding upon, and inure to the benefit of the parties thereto, their successors, assigns, heirs, and legal representatives and all other persons claiming by, through, or under them.

Section 10.8 No Waiver; Severability. Any failure by Mortgagee to insist, or any election by Mortgagee not to insist, upon strict performance by Mortgagor or others of any of the terms, provisions, or conditions of the Loan Documents shall not be deemed to be a waiver of same or of any other terms, provisions, or conditions thereof, and Mortgagee shall have the right at any time or times thereafter to insist upon strict performance by Mortgagor or others of any and all of such terms, provisions, and conditions. The Loan Documents are intended to be performed in accordance with, and only to the extent permitted by, all applicable Legal Requirements. If any provision of any of the Loan Documents or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, then neither the remainder of the instrument in which such provision is contained nor the application of such provision to other persons or circumstances nor the other instruments referred to herein shall be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

Section 10.9 Counterparts. To facilitate execution, this Mortgage may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature and acknowledgment of, or on behalf of, each party, or that the signature and acknowledgment of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be

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necessary in making proof of this Mortgage to produce or account for more than a single counterpart containing the respective signatures and acknowledgment of, or on behalf of, each of the parties hereto. Any signature and acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures and acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature and acknowledgment pages.

Section 10.10 Applicable Law. All of Mortgagor's obligations to Mortgagee were negotiated, created, executed and delivered in Texas. The Loan Agreement shall be governed by and construed in accordance with the internal laws of the State of Texas and the laws of the United States applicable to transactions in the State of Texas. This Mortgage shall also be governed by and construed in accordance with the internal laws of the State of Texas (without regard to choice of law or conflict of laws rules) and the laws of the United States applicable to transactions in the State of Texas, except to the extent that real and personal property laws of the State of Illinois, including laws governing foreclosure, shall necessarily govern.

Section 10.11 Controlling Agreement. It is expressly stipulated and agreed to be the intent of Mortgagor and Mortgagee at all times to comply with the applicable usury laws or applicable United States federal law (to the extent that it permits Mortgagee to contract for, charge, take, reserve, or receive a greater amount of interest than under Texas law) and that this section shall control every other covenant and agreement in the Loan Documents. If the applicable law is ever judicially interpreted so as to render usurious any amount called for under any of the Loan Documents, or contracted for, charged, taken, reserved, or received with respect to the Indebtedness, or if Mortgagee's exercise of the option to accelerate the maturity of the Note, or if any prepayment by Mortgagor results in Mortgagor having paid any interest in excess of that permitted by applicable law, then it is Mortgagor's and Mortgagee's express intent that all excess amounts theretofore collected by Mortgagee shall be credited on the principal balance of the Note and all other Indebtedness (or, if the Note and all other Indebtedness have been or would thereby be paid in full, refunded to Mortgagor), and the provisions of the Loan Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder or thereunder. All sums paid or agreed to be paid to Mortgagee for the use, forbearance, or detention of the Indebtedness shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Indebtedness until payment in full so that the rate or amount of interest on account of the Indebtedness does not exceed the Maximum Lawful Rate from time to time in effect and applicable to the Indebtedness for so long as the Indebtedness is outstanding. In no event shall the provisions of Article 5069, ch. 15 of the Revised Civil Statutes of Texas, as amended or succeeded (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to the loan evidenced by the Loan Documents and/or secured hereby. Notwithstanding anything to the contrary contained in any of the Loan Documents, it is not the intention of Mortgagee to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

Section 10.12 Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Mortgaged Property, then, to the extent of such funds so used, Mortgagee shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Mortgaged Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Mortgagee and are merged with the lien and security interest created herein as cumulative security for the repayment of the Indebtedness and the performance and discharge of the Obligations.

Section 10.13 Rights Cumulative. Mortgagee shall have all rights, remedies, and recourses granted in the Loan Documents and available at law or in equity (including, without limitation, those granted by the Code and applicable to the Mortgaged Property or any portion thereof), and the same (i) shall be cumulative and concurrent, (ii) may be pursued separately, successively, or concurrently against Mortgagor or others obligated for the Indebtedness or any part thereof, or against any one or more of them, or against the Mortgaged Property, at the sole

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discretion of Mortgagee, (iii) may be exercised as often as occasion therefor shall arise, it being agreed by Mortgagor that the exercise, discontinuance of the exercise of or failure to exercise any of the same shall in no event be construed as a waiver or release thereof or of any other right, remedy, or recourse, and (iv) are intended to be, and shall be, nonexclusive. All rights and remedies of Mortgagee hereunder and under the other Loan Documents shall extend to any period after the initiation of foreclosure proceedings, judicial or otherwise, with respect to the Mortgaged Property.

Section 10.14 Payments. Remittances in payment of any part of the Indebtedness other than in the required amount in funds immediately available at the place where the Note is payable shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Mortgagee in funds immediately available at the place where the Note is payable (or such other place as Mortgagee, in Mortgagee's sole discretion, may have established by delivery of written notice thereof to Mortgagor) 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 bank or banks. Acceptance by Mortgagee of any payment in an amount less than the amount then due shall be deemed an acceptance on account only, and the failure to pay the entire amount then due shall be and continue to be an Event of Default.

Section 10.15 Exceptions to Covenants. Mortgagor shall not be deemed to be permitted to take any action or to fail to take any action with respect to any particular covenant or condition contained in any of the Loan Documents if the action or omission would result in the breach of any other covenant or condition contained in any of the Loan Documents which has not been specifically waived or consented to by Mortgagee, nor shall Mortgagee be deemed to have consented to any such act or omission if the same would provide cause for acceleration of the Indebtedness as a result of the breach of any other covenant or condition contained in any of the Loan Documents which has not been specifically waived or consented to by Mortgagee.

Section 10.16 Reliance. Mortgagor recognizes and acknowledges that in entering into the loan transaction evidenced by the Loan Documents and accepting this Mortgage, Mortgagee is expressly and primarily relying on the truth and accuracy of the foregoing warranties and representations set forth in Article III hereof without any obligation to investigate the Mortgaged Property and notwithstanding any investigation of the Mortgaged Property by Mortgagee; that such reliance exists on the part of Mortgagee prior hereto; that such warranties and representations are a material inducement to Mortgagee in making the loan evidenced by the Loan Documents and accepting of this Mortgage; and that Mortgagee would not be willing to make the loan evidenced by the Loan Documents and accept this Mortgage in the absence of any of such warranties and representations.

Section 10.17 Headings. The Article, Section, and Subsection headings hereof are inserted for convenience of reference only and shall in no way alter, modify, or define, or be used in construing the text of such Articles, Sections, or Subsections.

Section 10.18 Loan Agreement. Reference is hereby made for all purposes to the Loan Agreement of even date herewith between Mortgagee and Mortgagor pertaining to the funding of the principal amount of the Note. In event of a conflict between the terms and provisions hereof and the Loan Agreement, the Loan Agreement shall govern.

Section 10.19 Construction. All pronouns, whether in masculine, feminine or neuter form, shall be deemed to refer to the object of such pronoun whether same is masculine, feminine or neuter in gender, as the context may suggest or require. All terms used herein, whether or not defined in Section 1.1 hereof, and whether used in singular or plural form, shall be deemed to refer to the object of such term whether such is singular or plural in nature, as the context may suggest or require.

Section 10.20 Waiver of Right to Trial by Jury. MORTGAGOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING,

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OR COUNTERCLAIM THAT RELATES TO OR ARISES OUT OF ANY OF THE LOAN DOCUMENTS OR THE ACTS OR FAILURE TO ACT OF OR BY MORTGAGEE IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS.

Section 10.21 ENTIRE AGREEMENT. THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS EMBODY THE FINAL ENTIRE AGREEMENT AMONG THE PARTIES HERETO AND SUPERSEDE ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO. THERE ARE NO ORAL AGREEMENTS AMONG THE PARTIES HERETO.

Section 10.22 Release of Mortgaged Property. Subject to the provisions of this section, and so long as Mortgagor is not in default hereunder or under the Loan Documents beyond any applicable notice and cure periods, Mortgagee agrees to release its mortgage on the Mortgaged Property, upon request by Mortgagor and upon receipt of the Release Price (hereinafter defined), in cash, such Release Price to be applied against the indebtedness. Such release shall be in accordance with the following procedures:

(a) Mortgagor's request for a release shall be given to Mortgagee and accompanied by (i) a copy of a fully-executed contract for the sale of the Mortgaged Property; (ii) a draft of seller's closing statement; (iii) the name and address of the title company handling the closing of the sale of the Mortgaged Property; (iv) the closing date for the sale of the Mortgaged Property; (v) the requested release of lien document to be executed by Mortgagee; and

(b) The "Release Price" for the Mortgaged Property to be paid to Mortgagee in connection with the closing of the sale of the Mortgaged Property shall mean an amount in cash equal to one-hundred percent (100%) of all Net Proceeds (the gross sales price of the Mortgaged Property, less only the payment of a broker's commission not to exceed six percent (6%), and reasonable closing costs, including, but not limited to, title and survey charges and legal fees), which Net Proceeds shall be not less than \$3,085,000.00; and

(c) The execution and delivery of such release shall not affect Mortgagor's obligations under the Loan Agreement, the Note or the remaining mortgages and/or deeds of trust or the other Loan Documents which secure the Indebtedness. The release shall be delivered, in escrow, by Mortgagee to the title company so designated, to be held, released, delivered and recorded in accordance with Mortgagee's escrow instructions, which shall require payment of the Release Price simultaneously with the delivery and recordation of the release.

EXECUTED as of the date first above written.

NOTICE OF INDEMNIFICATION: MORTGAGOR HEREBY ACKNOWLEDGES AND AGREES THAT THIS MORTGAGE CONTAINS CERTAIN INDEMNIFICATION PROVISIONS PURSUANT TO SECTIONS 4.17 AND 8.4 HEREOF WHICH MAY, IN CERTAIN INSTANCES, INCLUDE INDEMNIFICATION BY MORTGAGOR OR OTHERS AGAINST BENEFICIARY'S OWN NEGLIGENCE.

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MORTGAGOR:

PMT INVESTORS #1, LTD.,
a Texas limited partnership

By: Circuit General Partners #4, Inc.
a Texas corporation,
its General Partner

By: M. Scott Kipp
Name: H. Scott Kipp
Its: Asst. Vice President

TEXAS
STATE OF ~~ILLINOIS~~ §
DALLAS §
COUNTY OF COOK §

Before me, a Notary Public in and for said County and State, personally appeared H. Scott Kipp,
Asst. Vice President of Circuit General Partners #4, Inc., a Texas corporation, General Partner of PMT Investors #1, Ltd.,
a Texas limited partnership, who acknowledged the execution of the foregoing Mortgage on behalf of said
partnership.

WITNESS my hand and Notarial Seal this 27th day of February, 1996.

[SEAL]

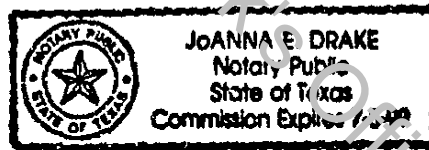
My Commission Expires:

7/5/99

My County of Residence:

Dallas

Joanna E. Drake
Notary Public
(Printed Name)



List of Attachments:

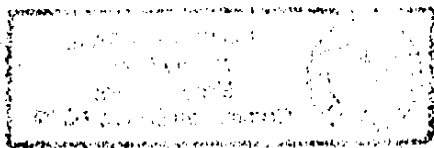
- Exhibit "A" - Land Description
- Exhibit "B" - Permitted Exceptions

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Platmap #439
Lansing, Cook County, Illinois

EXHIBIT A

LEGAL DESCRIPTION:

PARCEL 1:

LOT 2 IN THE KINGERY TORRENCE SUBDIVISION BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 36 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

RECIPROCAL EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1 AS SET FORTH IN THAT CERTAIN RECIPROCAL EASEMENT AGREEMENT FOR INGRESS AND EGRESS DATED FEBRUARY 20, 1995 AND RECORDED FEBRUARY 24, 1995, AS DOCUMENT NUMBER 95129184.

PARCEL 3:

RECIPROCAL EASEMENT RIGHTS CREATED UNDER THAT CERTAIN STORM SEWER TIE-IN AGREEMENT BETWEEN LANSING SQUARE RFP II LIMITED PARTNERSHIP, ARIZONA FUNDING CORPORATION, INC., AND TRI-STATE MANOR, INC., RECORDED FEBRUARY 24, 1995, AS DOCUMENT NUMBER 95129185.

PARCEL 4:

RECIPROCAL EASEMENT RIGHTS CREATED UNDER THAT CERTAIN DETENTION FACILITY MAINTENANCE AGREEMENT, DATED FEBRUARY 20, 1995, BETWEEN ARIZONA FUNDING CORPORATION, INC., AMERICAN NATIONAL BANK OF LANSING, NOT PERSONALLY BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED OCTOBER 29, 1987 AND KNOWN AS TRUST NUMBER 2040-743, AND TRI STATE MANOR, INC., RECORDED FEBRUARY 24, 1995 AS DOCUMENT NUMBER 95129186.

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EXHIBIT A - Solo Page

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EXHIBIT B

PERMITTED EXCEPTIONS

1. Easement in favor of Commonwealth Edison Company and Illinois Bell Telephone Company, and/or their successors in interest, for pole lines, conduits and maintenance purposes granted by Document 20841662, recorded May 15, 1969, and the terms and conditions thereof.
2. Terms, conditions and provisions of that certain Declaration of Easement for Water Line executed by American National Bank of Lansing, as Trustee under Trust Agreement dated October 29, 1987, and known as Trust Number 2040-743, dated February 20, 1995, Recorded February 24, 1995, as Document Number 95129181.
3. Easement referenced as Parcel 2 is subject to terms, conditions and provisions of the Reciprocal Easement Agreement for ingress and egress dated February 20, 1995, by and between Lansing Square RPF II limited partnership and Arizona Funding Corporation, Inc., recorded February 24, 1995 as Document Number 95129184.
4. Easement referenced as Parcel 3 is subject to terms, conditions, provisions and reciprocal easement rights created under that certain Storm Tie-in Agreement between Lansing Square RPF II limited partnership, Arizona Funding Corporation, Inc., and Tri-State Manor, Inc., dated February 20, 1995, recorded February 24, 1995 as Document Number 95129185.
5. Easement referenced as Parcel 4 is subject to terms, conditions and provisions of that certain Detention Facility Agreement, Dated February 20, 1995, by and between Arizona Funding Corporation, Inc., American National Bank of Lansing, as Trustee under Trust Agreement Dated October 29, 1987, and known as Trust Number 2040-743, and Tri-State Manor, Inc., recorded February 24, 1995 as Document Number 95129186.
6. Covenants, conditions and restrictions contained in the Declaration of Restrictions recorded February 24, 1995 as Document 95129187 relating to prohibiting the use of land as an office, business products supply store.
7. Encroachment of cement curb which encroaches over the south property line along the south and west boundary line of the land, as disclosed by the survey prepared by Mackie Consultants, Inc., Donald W. Bing, PLS #3098, dated December 29, 1995 as revised February 22, 1996.
8. Encroachment of two (2) culverts and two (2) slope walls which encroach over the west boundary of the land onto the public way, as disclosed by the survey prepared by Mackie Consultants, Inc., Donald W. Bing, PLS #3098, dated December 29, 1995 as revised February 22, 1996.

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EXHIBIT C

PROMISSORY NOTE

\$18,365,000.00 U.S.

February 28, 1996

I. COVENANT TO PAY.

1.1. Promise to Pay. FOR VALUE RECEIVED, PMT Investors #1, Ltd., a Texas limited partnership (herein called "maker", whether one or more), promises to pay to the order of COMERICA BANK-TEXAS, a state banking association (herein, together with all subsequent holders of this Promissory Note ("Note"), called "Payee"), on or before the Maturity Date (as herein defined), as hereinafter provided, the principal sum of EIGHTEEN MILLION THREE HUNDRED SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$18,365,000.00), or so much thereof as may actually be outstanding hereunder, together with interest on the unpaid principal balance from time to time outstanding at the rate herein specified and otherwise in strict accordance with the terms and provisions hereof.

II. INTEREST RATE COMPUTATION.

2.1. Interest Rate. Pursuant to the terms of this Promissory Note, the indebtedness evidenced hereby may collectively consist of either zero (0) or one (1) Base Rate Tranches and any of zero (0), one (1), two (2) or three (3) LIBOR Rate Tranches. Under no circumstances shall any Tranche at any point in time accrue interest at a rate in excess of the Maximum Lawful Rate.

2.2. Default Rate. Upon the occurrence and during the continuation of a default in the payment of any principal or interest obligations hereunder or, otherwise, upon the occurrence and during the continuation of any Event of Default (as defined herein), at the option of the Payee, the principal balance of this Note then outstanding shall bear interest for the period beginning with the date of occurrence of such default at the Default Rate (as defined herein).

2.3. Definitions. As used in this Note and the Loan Documents, the following terms shall have the respective meanings indicated below:

"Adjusted LIBOR Rate" shall mean, on the applicable Effective Date of a LIBOR Rate Tranche, the rate per annum (rounded upwards, if necessary, to the nearest 1/16 of 1%) determined by Payee to be equal to the quotient of (a) the LIBOR Rate for such LIBOR Rate Tranche divided by (b) one minus the Reserve Requirement on the applicable Effective Date.

"Applicable Base Rate" shall mean for the first six (6) months of the term hereof the lesser of (a) the Base Rate from time to time in effect plus one-half percent (0.5%) per annum, or (b) the Maximum Lawful Rate; and shall mean for the remaining term hereof the lesser of (y) the Base Rate from time to time in effect plus one percent (1.0%) per annum, or (z) the Maximum Lawful Rate. Fluctuations in the Applicable Base Rate shall become effective immediately, without necessity for any notice whatsoever.

"Applicable LIBOR Rate" shall mean for the first six (6) months of the term hereof the lesser of (a) the rate of interest equal to the Adjusted LIBOR Rate in effect for the subject Interest Period plus two and one-half percent (2.5%), or (b) the Maximum Lawful Rate; and shall mean for the remaining term hereof the lesser of (y) the rate of interest equal to the Adjusted LIBOR Rate in effect for the subject Interest Period plus three percent (3.0%), or (z) the Maximum Lawful Rate.

"Base Rate" means the rate of interest per annum established from time to time by Payee and designated as its base or prime rate, which may not necessarily be the lowest interest rate charged by such institution.

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"Base Rate Tranche" shall mean that portion of the indebtedness evidenced hereby which, at a particular point in time, bears interest at the Applicable Base Rate.

"Business Day" shall mean any day on which commercial banks are not authorized or required to close in Dallas, Dallas County, Texas, provided that in connection with any LIBOR Rate Tranche, the term Business Day shall exclude any day on which commercial banks are not open for dealings in United States Dollar deposits in London, England.

"Charges" shall mean all fees and charges, if any, contracted for, charged, received, taken or reserved by Payee in connection with the transactions relating to this Note and the indebtedness evidenced hereby or by the Loan Documents which are treated as interest under applicable law.

"Default Rate" shall mean the Maximum Lawful Rate or, if no Maximum Lawful Rate exists, the sum of the Base Rate in effect from day to day plus eight percent (8%).

"Effective Date" shall mean the first day of the Interest Period applicable to a LIBOR Rate Tranche.

"Event of Default" shall have the same meaning as that indicated for such term in the Loan Agreement.

"Interest Period" shall mean the period of time commencing on the Effective Date of any LIBOR Rate Tranche and ending on the numerically corresponding day in the first, second or third calendar month thereafter (as designated by written notice by Maker to Payee given consistent with the requirements of Section 2.6 or Section 2.7 of this Note). With respect to any Interest Period which commences on the last Business Day of a particular calendar month (or on any day for which there is no numerically corresponding day in the appropriate subsequent calendar month), such Interest Period shall end on the last Business Day of the appropriate subsequent calendar month. Any Interest Period which would otherwise extend beyond the Maturity Date shall expire as of the Maturity Date.

"LIBOR Rate" shall mean the rate per annum (rounded upwards, if necessary, to the nearest 1/16 of 1%) quoted by Payee's LIBOR Lending Office or other reference bank selected by Payee at approximately 11:00 a.m. London time (or as soon thereafter as practical), two (2) Business Days prior to the Interest Period for the offering by the LIBOR Lending Office or such reference bank to leading banks in the London interbank market of United States Dollar deposits in immediately available funds having a term comparable to the subject Interest Period and being in an amount approximating the designated LIBOR Rate Tranche.

"LIBOR Rate Tranche" shall mean any portion of the indebtedness evidenced hereby which, at a particular point in time, bears interest at a common Applicable LIBOR rate.

"LIBOR Lending Office" shall mean Payee's office (or an affiliate of Payee's office) located in the Grand Cayman Islands, British West Indies, or such other branch of Payee or Payee's affiliate, domestic or foreign, as it may hereafter designate as its LIBOR Lending Office.

"Loan Agreement" shall mean that certain Letter Loan Agreement dated effective as of February 28, 1996, by and between Maker, as borrower, and Payee, as lender, relative to the indebtedness evidenced by this Note and related obligations.

"Maturity Date" shall mean March 1, 1997; subject, however, to the right of acceleration as herein provided and as provided elsewhere in the Loan Documents (hereinafter defined).

"Maximum Lawful Rate" shall mean the maximum lawful rate of interest which may be contracted for, charged, taken, received or reserved by Payee in accordance with the

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applicable laws of the State of Texas (or applicable United States federal law to the extent that it permits Payee to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all Charges made in connection with the loan evidenced by this Note and the Loan Documents.

"Regulation D" shall mean Regulation D of the Board of Governors of the Federal Reserve System as the same may be amended or supplemented from time to time.

"Regulatory Change" shall mean any change after the date hereof in federal, state or foreign laws or regulations (including Regulation D) or the adoption or making after such date of any interpretations, directives or requests (whether or not having the force of law) by any court or governmental or monetary authority charged with the interpretation or administration thereof.

"Reserve Requirement" shall mean, on any day, that percentage (expressed as a decimal fraction) which is in effect on such day, as provided by the Federal Reserve System for determining the maximum reserve requirements generally applicable to financial institutions regulated by the Federal Reserve Board comparable in size and type to Payee, including, without limitation, basic, supplemental, marginal and emergency reserves under Regulation D with respect to "Eurocurrency Liabilities" as currently defined in Regulation D, or under any similar or successor regulation with respect to Eurocurrency Liabilities or Eurocurrency funding (or other category of liabilities which includes deposits by reference to which the interest rate on a LIBOR Rate Tranche is determined or any category of extensions of credit which includes loans by a non-United States office of Payee to United States residents).

"Tranche" shall mean either a Base Rate Tranche or a LIBOR Rate Tranche.

2.4. Interest Limitation Requirement. Notwithstanding anything in this Note to the contrary, if at any time (i) interest at the Applicable Base Rate or the Applicable LIBOR Rate, (ii) interest at the Default Rate, if applicable, and (iii) the Charges computed over the full term of this Note, exceed the Maximum Lawful Rate, then the rate of interest payable hereunder, together with all Charges, shall be limited to the Maximum Lawful Rate; provided, however, that any subsequent reduction in the Applicable Base Rate or the Applicable LIBOR Rate shall not cause a reduction of the rate of interest payable hereunder below the Maximum Lawful Rate until the total amount of interest earned hereunder, together with all Charges, equals the total amount of interest which would have accrued at the Applicable Base Rate and/or Applicable LIBOR Rate (as appropriate) if such interest rate had at all times been in effect.

2.5. Computation Period. Except for the computation of the Maximum Lawful Rate which shall be undertaken on the basis of a 365 or 366-day year, as the case may be, interest on the indebtedness evidenced by this Note shall be computed on the basis of a 360-day year and shall accrue on the actual number of days any principal balance hereof is outstanding.

2.6. Initial Rate Options. Maker shall deliver to Payee concurrently with the execution of this Note an irrevocable written notice of Maker's election to have the loan funds advanced by Payee (the "Loan Funds") bear interest from and after the date hereof at either (i) the Applicable Base Rate or (ii) the Applicable LIBOR Rate. To the extent Maker should elect that the Loan Funds bear interest at the Applicable LIBOR Rate, Maker shall further designate a duration for the Interest Period for such Loan Funds (i.e., one, two or three months). In the event Maker fails to timely deliver notice to Payee pursuant to this Section 2.6, then the Loan Funds evidenced by this Note shall bear interest at the Applicable Base Rate until the date specified in any proper written notice received by Payee from Maker specifying that Maker elects to designate the Applicable LIBOR Rate pursuant to Section 2.7 hereof.

2.7. Subsequent Rate Options. Maker shall have the option from time to time during the term of this Note to designate and redesignate whether all or certain portions of the outstanding principal balance hereof shall bear interest at the Applicable Base Rate or the Applicable LIBOR Rate, subject to the terms, conditions and requirements described below:

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(a) Redesignation of Rate as to Existing Indebtedness. Maker shall be entitled to redesignate then existing Tranches of the indebtedness evidenced hereby as follows:

(1) Redesignating a LIBOR Rate Tranche. With respect to a LIBOR Rate Tranche, no later than three (3) Business Days prior to the expiration of the then current Interest Period, Maker shall, by irrevocable written notice to Payee, elect to either (i) continue to have such Tranche bear interest at the Applicable LIBOR Rate, or (ii) redesignate such Tranche to bear interest after the expiration of the then current Interest Period at the Applicable Base Rate. To the extent Maker should elect to continue such LIBOR Rate Tranche at the Applicable LIBOR Rate, such election shall not be effective unless it also designates the duration of the immediately succeeding Interest Period (i.e., one, two or three months). To the extent Maker should fail to timely give irrevocable written notice pursuant to this Subparagraph 2.7(a)(1), then Maker shall be deemed to have elected to redesignate the subject Tranche so as to bear interest at the Applicable Base Rate. Any LIBOR Rate Tranche may only be redesignated effective upon the expiration of the then current Interest Period.

(2) Redesignating a Base Rate Tranche. With respect to the Base Rate Tranche, as such may exist from time to time, Maker shall be entitled to elect at any time to redesignate all or any portion of such Base Rate Tranche so as to bear interest at the Applicable LIBOR Rate by giving irrevocable written notice to Payee no later than five (5) Business Days prior to the date Maker desires such election to take effect specifying (i) Maker's election that all or a designated portion (i.e., a dollar amount) of the Base Rate Tranche be redesignated as a LIBOR Rate Tranche, (ii) the duration of the immediately succeeding Interest Period for such LIBOR Rate Tranche (i.e., one, two or three months), and (iii) the Effective Date for such LIBOR Rate Tranche (which date shall be a Business Day and shall not be sooner than five (5) Business Days after receipt by Payee of such notice).

(b) Conditions and Requirements. Maker's right to designate, redesignate and continue any Tranche as a LIBOR Rate Tranche is subject to the following conditions: (i) No Event of Default shall have occurred and be continuing; (ii) the minimum amount of any LIBOR Rate Tranche shall be \$250,00.00; (iii) the last day of any Interest Period shall not be subsequent in time to the Maturity Date; (iv) no LIBOR Rate Tranche shall be designated, redesignated or continued if Payee determines that by reason of circumstances affecting the interbank Eurodollar market either adequate or reasonable means do not exist for ascertaining the Adjusted LIBOR Rate for any Interest Period, or it becomes impracticable for Payee to obtain funds (by purchasing U.S. dollars in the interbank Eurodollar market) or if Payee determines that the Adjusted LIBOR Rate will not adequately or fairly reflect the cost to Payee of maintaining the applicable LIBOR Rate Tranche at such rate, or if as a result of any Regulatory Change, it shall become unlawful or impossible for Payee to maintain any such LIBOR Rate Tranche; and (v) there shall never be more than three (3) LIBOR Rate Tranches in effect at any one time hereunder.

III. PAYMENTS.

3.1. Payment Schedule. This Note shall be due and payable as follows:

(a) Commencing on the first (1st) day of April, 1996, and continuing on the first (1st) day of each successive month thereafter until the Maturity Date, Maker shall pay Payee a payment of principal and interest equal to \$180,580.00; and

(b) The outstanding principal balance hereof and any and all accrued but unpaid interest thereon shall be due and payable in full on the Maturity Date or upon earlier maturity hereof, whether by acceleration or otherwise.

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The monthly payment set forth in 3.1(a) shall be reduced in the event one or more of the properties which secure the indebtedness evidenced by this Note is sold by Maker in accordance with the provisions of the mortgage for said property, said monthly reduction to be equal to the amount of the monthly lease payment for said property.

3.2. **Application.** All payments on this Note shall, at the sole option of Payee, be applied at any time and from time to time and in any order, to the following: (i) the payment of accrued but unpaid interest hereon, (ii) the payment or reimbursement of any expenses, costs or obligations (other than the principal hereof and interest hereon) for which Maker shall be obligated or Payee entitled pursuant to the provisions hereof or of the other Loan Documents, and (iii) the payment of all or any portion of the principal balance then outstanding hereunder, in either the direct or inverse order of maturity; provided, however, that in the absence of an Event of Default, any payment applied on account of principal shall first be applied to the Base Rate Tranche and then to the LIBOR Rate Tranches.

3.3. **Place.** All payments hereunder shall be made to Payee at its offices located in Dallas County, Texas, at the address of Payee as specified herein or as Payee may from time to time designate in writing to Maker.

3.4. **Business Days.** If any payment of principal or interest on this Note shall become due and payable on any day which is not a Business Day, such payment shall be made on the next succeeding Business Day. Any such extension of time for payment shall be included in computing interest which has accrued and shall be payable in connection with such payment.

3.5. **Legal Tender.** All amounts payable hereunder are payable in lawful money or legal tender of the United States of America.

3.6. **Prepayment.** Subject to the terms of this Section 3.6, Maker shall have the right to prepay, at any time and from time to time without premium or penalty, the entire unpaid principal balance of this Note or any portion hereof, but must also pay the amount of then accrued but unpaid interest on the amount of principal being so prepaid. Any such partial prepayments of principal shall be applied in inverse order of maturity to the last maturing installment(s) of principal. Notwithstanding anything to the contrary set forth in this Section 3.6, to the extent Maker should attempt to effectuate a prepayment of all or any portion of a LIBOR Rate Tranche, then any such prepayment may be effectuated only on the last day of the then current Interest Period applicable to such LIBOR Rate Tranche. It is expressly agreed and understood that this Note does not evidence a revolving facility in that any amount so prepaid may not be readvanced.

3.7. **Yield Maintenance.** Maker shall pay directly to Payee from time to time such amounts as Payee may determine to be necessary to compensate Payee for any costs incurred which are attributable to its maintaining any Loan Funds or its obligation to make available any Loan Funds or any reduction in any amount receivable by Payee with respect to any Loans or such obligation resulting from any Regulatory Change which:

- (a) changes the basis of taxation of any amounts payable to Payee (other than taxes imposed on the overall net income of Payee by the jurisdiction in which Payee has its principal office);
- (b) imposes or modifies any reserve, special deposit, minimum capital, capital ratio or similar requirement relating to any extensions of credit or other assets of, or any deposits with or other liabilities or commitments of, Payee; or
- (c) imposes any other condition affecting this Note or any of such extensions of credit or liabilities or commitments.

Notwithstanding the foregoing, Maker shall not be responsible pursuant to this Section 3.7 for amounts incurred as a result of any Regulatory Change which is applicable solely to Payee due to Payee being considered insolvent or in imminent danger of becoming insolvent. Further,

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notwithstanding the foregoing, any amounts payable to Payee under the terms of this Section 3.7 shall be limited to the Maximum Lawful Rate.

3.8. Compensation. Maker shall pay directly to Payee from time to time such amounts as Payee may determine to be necessary to compensate Payee for any loss, cost or expense incurred by it as a result of:

(a) any payment or prepayment of a LIBOR Rate Tranche for any reason (including, without limitation, the acceleration of the unpaid principal balance hereof pursuant to Section 4.2 hereof) occurring on a date other than the last day of the Interest Period for such LIBOR Rate Tranche; or

(b) any failure by Maker for any reason (including, without limitation, the failure of any conditions precedent specified in Section 2.7 to be satisfied) to borrow, designate, redesignate or continue a LIBOR Rate Tranche on the date for such borrowing, designation, redesignation or continuation specified in the relevant notice applicable thereto.

Without limiting the effect of the preceding sentence, such compensation shall include any costs incurred by Payee in liquidating or employing deposits from third parties and an amount equal to the excess, if any, of (i) Payee's cost of obtaining the funds for the LIBOR Rate Tranche being paid or prepaid or not borrowed, redesignated or continued (assumed to be the LIBOR Rate applicable thereto) for the period from and including the date of such payment or prepayment or failure to borrow, redesignate or continue to but excluding the last day of the Interest Period for such LIBOR Rate Tranche (or, in the case of a failure to borrow, redesignate or continue, the interest rate for such LIBOR Rate Tranche which would have commenced on the date of such failure) over (ii) the amount of interest which would be realized by Payee in reemploying the funds so paid or prepaid or not borrowed, redesignated or continued for such period or Interest Period, as the case may be.

IV. DEFAULT AND REMEDIES.

4.1. Default. Maker shall be in default hereunder immediately upon the occurrence of an Event of Default.

4.2. Remedies. If an Event of Default shall occur, then, subject to Section 6.1 of the Loan Agreement, Payee may, at its option, without notice or demand, declare the unpaid principal balance of, and the accrued but unpaid interest on, this Note immediately due and payable, foreclose all liens and security interests securing payment hereof, pursue any and all other rights, remedies and recourses available to Payee or pursue any combination of the foregoing. All remedies hereunder, under the Loan Documents and at law or in equity shall be cumulative.

4.3. Waiver. Except as specifically provided in the Loan Documents, Maker and any endorsers or guarantors hereof severally waive presentment and demand for payment, notice of intent to accelerate maturity, notice of acceleration of maturity, protest and notice of protest, and non-payment, bringing of suit and diligences in taking any action to collect any sums owing hereunder or in proceeding against any of the rights and collateral securing payment hereof. Maker and any endorsers or guarantors hereof agree (i) that the time for any payments hereunder may be extended from time to time without notice and consent, (ii) to the acceptance of further collateral, and/or (iii) the release of any existing collateral for the payment of this Note, all without in any manner affecting their liability under or with respect to this Note. No extension of time for the payment of this Note or any installment hereof shall affect the liability of Maker under this Note or any endorser or guarantor hereof even though the Maker or such endorser or guarantor is not a party to such agreement.

4.4. No Waiver. Failure of Payee to exercise any of the options granted herein to Payee upon the happening of one or more of the events giving rise to such options shall not constitute a waiver of the right to exercise the same or any other option at any subsequent time in respect to the same or any other event. The acceptance by Payee of any payment hereunder that is less than payment in full of all amounts due and payable at the time of such payment

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shall not constitute a waiver of the right to exercise any of the options granted herein to Payee at that time or at any subsequent time or nullify any prior exercise of any such option without the express written acknowledgment of the Payee.

4.5. Collection Costs. Maker agrees to pay all costs of collection hereof when incurred, including reasonable attorneys' fees, whether or not any legal action shall be instituted to enforce this Note.

V. MISCELLANEOUS.

5.1. Loan Documents. This Note is issued pursuant to the Loan Agreement and is secured, *inter alia*, by six mortgages or deeds of trust (the "Mortgages") dated of even date herewith, executed by Maker in favor of Payee, covering certain real and personal property situated in the following seven locations: Dublin, California, Beaverton, Oregon, Hobart, Indiana, Schaumburg, Illinois, Lansing, Illinois, Little Rock, Arkansas, and Raleigh, North Carolina, together with an Assignment of Lessor's Interest in Lease for each location (Assignment of Lease"), all as more particularly described therein (this Note, the Loan Agreement, Mortgages, and the Assignment of Lease, and all the other documents evidencing, securing or pertaining to the transaction in which the indebtedness evidenced hereby was incurred are, collectively, referred to as the "Loan Documents").

5.2. Notices. All notices or other communications required or permitted to be given pursuant hereto shall be in writing and shall be deemed properly given if (i) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, (ii) by delivering same in person to the intended addressee, or (iii) by delivery to an independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee. Notice so mailed shall be effective upon its deposit with the United States Postal Service or any successor thereto; notice sent by such a commercial delivery service shall be effective upon delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by other means shall be effective only if and when received at the designated address of the intended addressee. Either party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the other party in the manner set forth herein. For purposes of such notices, the addresses of the parties shall be as follows:

Payee: Comerica Bank-Texas
1909 Woodall Rodgers Freeway
Dallas, Texas 75201
Attn: Real Estate Department

Maker: PMT Investors #1, Ltd.
c/o Cardinal Capital Partners, Inc.
8411 Preston Road, Suite 850
Dallas, Texas 75225-5520

5.3. Governing Law. **THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. THIS NOTE IS PERFORMABLE IN DALLAS COUNTY, TEXAS.** Any action or proceeding under or in connection with this Note against Maker or any other party ever liable for payment of any sums of money payable on this Note may be brought in any state or federal court in Dallas County, Texas. Maker and each such other party hereby irrevocably (i) submits to the nonexclusive jurisdiction of such courts, and (ii) waives any objection it may now or hereafter have as to the venue of any such action or proceeding brought in such court or that such court is an inconvenient forum.

5.4. Interest Limitation. It is expressly stipulated and agreed to be the intent of Maker and Payee at all times to comply with the applicable Texas law governing the maximum rate or amount of interest payable on this Note or the indebtedness evidenced hereby and by the other

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Loan Documents (or applicable United States federal law to the extent that it permits Payee to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If (i) the applicable law is ever judicially interpreted so as to render usurious any amount called for under this Note or under any of the other Loan Documents, or contracted for, charged, taken, reserved or received with respect to the indebtedness evidenced by this Note and the other Loan Documents, or (ii) Payee's exercise of the option herein contained to accelerate the maturity of this Note or any prepayment by Maker results in Maker having paid any interest in excess of that permitted by applicable law, then it is Maker's and Payee's express intent that (a) all excess amounts theretofore collected by Payee be credited on the principal balance of this Note (or, if this Note has been or would thereby be paid in full, refunded to Maker), and (b) the provisions of this Note and the other Loan Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder. All sums paid or agreed to be paid to Payee for the use, forbearance and detention of the indebtedness evidenced hereby and by the other Loan Documents shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the usury ceiling from time to time in effect and applicable to such indebtedness for so long as debt is outstanding. To the extent that Payee is relying on Article 5069-1.04, as amended, of the Revised Civil Statutes of Texas to determine the Maximum Lawful Rate payable on such indebtedness, Payee will utilize the indicated (weekly) rate ceiling from time to time in effect as provided in Article 5069-1.04, as amended and/or succeeded. To the extent United States federal law permits Payee to contract for, charge or receive a greater amount of interest than Texas law, Payee will rely on United States federal law instead of such Article 5069-1.04, as amended and/or succeeded, for the purpose of determining the Maximum Lawful Rate. Additionally, to the extent permitted by applicable law now or hereafter in effect, Payee may, at its option and from time to time, implement any other method of computing the Maximum Lawful Rate under such Article 5069-1.04, as amended or succeeded, or under other applicable law by giving notice, if required, to Maker as provided by applicable law now or hereafter in effect. In no event shall be provisions of Article 5069, ch. 15 of the Revised Civil Statutes of Texas (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to the indebtedness evidenced hereby. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Payee to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

5.5. **Captions.** The article and section headings used in this Note are for convenience of reference only and shall not affect, alter or define the meaning or interpretation of the text of any article or section contained in this Note.

5.6. **Joint and Several Liability.** If this Note is executed by more than one party, each such party shall be jointly and severally liable for the obligations of Maker under this Note. If Maker is a partnership, each general partner of Maker shall be jointly and severally liable hereunder, and each such general partner hereby waives any requirement of law that in the event of a default hereunder, Payee exhaust any assets of Maker before proceeding against such general partner's assets.

5.7. **NO ORAL AGREEMENTS. THIS NOTE AND ALL THE OTHER LOAN DOCUMENTS EMBODY THE FINAL, ENTIRE AGREEMENT OF MAKER AND PAYEE AND SUPERSEDE ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF MAKER AND PAYEE. THERE ARE NO ORAL AGREEMENTS BETWEEN MAKER AND PAYEE.** The provisions of this Note and the Loan Documents may be amended or revised only by an instrument in writing signed by the Maker and Payee.

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EXECUTED to be effective as of the date first above written.

MAKER:

PMT INVESTORS #1, LTD.,
a Texas limited partnership

By: Circuit General Partner #4,
a Texas corporation,
its General Partner

By: M. Scott Kipp
Name: M. Scott Kipp
Its: Asst. V.P.

JAN 50450076
035 19 2 15
311 317 307

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