

6146148

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

PNS Stores, Inc.
2430 East Del Amo Boulevard
Dominguez, CA 90220-6306
Attention: Dan Zuckerman
General Counsel

08/18/95 4:41 PM 36.00
6146148
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
FIRST AMERICAN TITLE
REC BY: Z JOHANSON DEPUTY - WI

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is made as of July 27, 1995, by and between Mariemont Corporation, an Ohio corporation (hereinafter referred to as "Landlord"), and PNS Stores, Inc., a California corporation (hereinafter referred to as "Tenant").

In consideration of the mutual covenants and agreements contained herein and in that certain Lease dated July 27, 1995 (the "Lease Agreement") by and between Landlord and Tenant relating to the Premises described in Paragraph 1 below, the parties agree as follows:

1. The Premises and the Shopping Center.

Landlord, as owner in fee simple, hereby leases to Tenant and Tenant hereby leases from Landlord, for the term and at the rental and upon the covenants and conditions set forth in the Lease Agreement, a portion of an existing store building at the southeast corner of 9400 South and 700 East, in the City of Sandy, County of Salt Lake, State of Utah, consisting of approximately 21,013 square feet of ground floor area and having a frontage of approximately 110 feet, and the land on which it is situated (collectively, the "Premises"), together with all easements, rights and appurtenances belonging thereto. The Premises are part of a shopping center known as Sandy Mall (the "Shopping Center"). The Shopping Center is legally described upon Exhibit A attached hereto and made a part hereof. The Premises are located within the Shopping Center substantially as shown on the site plan (the "Site Plan") attached hereto as Exhibit B and made a part hereof.

2. Term and Options.

The primary term of the Lease Agreement shall be for the period commencing on the Rent Commencement Date and continuing through January 31 of the year immediately after the tenth (10th) anniversary of the Rent Commencement Date (the "Primary Term"). Provided that Tenant is not in default under the Lease Agreement (after receipt by Tenant of any notice required under the terms of the Lease Agreement and beyond any cure period provided for in the Lease Agreement) at the time any option period provided for below is scheduled to commence, Tenant is hereby granted five (5) separate options to extend the Primary Term for additional consecutive periods of five (5) years each with the first such option period following the expiration of the

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Primary Term and subsequent option periods following the expiration of the immediately preceding option period.

3. Common Areas of Shopping Center.

Landlord hereby grants to Tenant, its successors and assigns, for the use of Tenant, its customers, employees, invitees, licensees, visitors and contractors free of charge, a non-exclusive easement for the purpose of parking, delivery and transportation of merchandise, and for pedestrian and vehicular ingress and egress, over all portions of the Common Area and to and from streets and highways adjoining the Shopping Center and access easements appurtenant thereto. In addition, Tenant shall have the right to the exclusive use of loading facilities and related areas adjacent to the Premises, identified as such on the Final Plans or the Site Plan, as may be reasonably necessary for loading and unloading merchandise and for the parking of its trucks and trailers. Landlord covenants and agrees to provide, maintain and preserve during the Lease Term all of the Common Area for the non-exclusive use and benefit of Tenant, its successors and assigns, other occupants, tenants and subtenants of the Shopping Center and their respective customers, employees, invitees, licensees, visitors and contractors. Except by written amendment to the Lease Agreement, which amendment shall substitute a new Site Plan showing such changes to the Control Area, Landlord shall not make and shall not allow anyone else to make any changes of any type or nature whatsoever to the shape, size, location, layout, nature or extent of the portion of the Common Area identified as the "Control Area" on the Site Plan ("Control Area") including but not limited to (i) except as to portions of the Control Area depicted on the Site Plan as future building areas, the construction of any buildings, signs, kiosks or other structures, whether temporary or permanent, anywhere upon the Control Area; (ii) the erection of any barriers or fences or other alterations affecting parking or access in or to the Control Area; or (iii) the construction of any building in excess of one story on any part of the Control Area depicted on the Site Plan as a future building area. Notwithstanding the foregoing, Landlord shall have the right, upon written notice to Tenant and with Tenant's prior written approval, to modify the layout of the portion of the Control Area lying to the east of the Premises; provided that after such modifications there shall exist equal or better vehicular (including without limitation delivery vehicles) access to the Premises and Shopping Center in said portion of the Control Area as approved by Tenant in writing. Landlord's notice to Tenant pursuant to the preceding sentence shall include a site plan showing Landlord's proposed modifications, and, so long as Tenant acts in good faith, Tenant's approval with respect thereto may be granted or withheld in Tenant's sole and absolute discretion. Landlord shall have the right to make changes to the shape, size, layout, location, nature or extent of the portion of the Common Area other than the Control Area, at any time and from time to time without notice to or the consent of Tenant, provided that no such change shall be

made without the prior written consent of Tenant if any proposed change would or could reasonably be considered to impair (x) pedestrian or vehicular ingress or egress to or from the Control Area or the Premises, whether for customers, for the delivery of merchandise, or otherwise; and (y) the proximity, quantity or accessibility of parking spaces within the Control Area. Provided that Landlord does not violate Paragraph 5.2(b) of the Lease Agreement, Landlord shall not be subject to any liability for, nor shall Tenant be entitled to any compensation or diminution or abatement of rent by reason of, diminution of the Common Area nor shall diminution of the Common Area be deemed constructive or actual eviction. The easements, covenants and restrictions herein set forth shall run with the land and shall be a burden upon the Common Area for the benefit of the Premises and binding upon Landlord and Landlord's heirs, successors and assigns.

Notwithstanding anything to the contrary contained in the Lease Agreement, Landlord agrees that any building to be constructed in the building area within the Control Area and designated "Future Pad" on the Site Plan shall (i) contain no more than 3,000 square feet of floor area, (ii) not be in excess of one story in height, and (iii) not be used at any time for any purpose specified in Paragraph 8.2 of the Lease Agreement.

4. Use.

Except as provided in Paragraph 8.1.1 of the Lease Agreement, the Premises may be used for the operation of a retail store for the sale of general merchandise including, without limitation, bargain and close-out merchandise, or for any other lawful retail use.

Nothing contained in the Lease Agreement shall be deemed or construed to impose any affirmative obligation on Tenant to make any particular use of the Premises, or any use thereof at all; and nothing contained in the Lease Agreement shall be deemed or construed to require Tenant to keep the Premises open for the conduct of business during any particular hours, or any particular days, or at all.

5. Restrictions on Use.

Landlord covenants that, other than the Premises, no part of the Shopping Center shall be used for the sale of bargain or close-out general retail merchandise without the prior written consent of Tenant other than for current tenants such as "All-A-Dollar" and/or similar businesses to such tenants if such existing tenants vacate their premises (or sublet or assign their respective rights to the use of their premises). The restriction contained in the preceding sentence shall be of no force or effect if Tenant, after its initial opening for business in the Premises, ceases to operate the Premises for the sale of bargain or close-out general retail merchandise, except for Permitted

Cessations. Landlord further covenants that no part of the Shopping Center shall be used for any of the following purposes: (i) gymnasium occupying more than 5,000 square feet of floor area, racquet club or spa, or skating rink; (ii) meeting hall; (iii) off-track betting establishment occupying more than 5,000 square feet of floor area, massage parlor, adult bookstore, or so-called "head-shop"; (iv) automobile, boat, trailer or truck leasing or sales with inventory maintained on site, or automobile body shop; (v) dance hall selling alcoholic beverages, amusement park, carnival, banquet facility, or other similar entertainment facility, or pool hall, or a video game room, arcade or other amusement center occupying more than 15,000 square feet of floor area; (vi) hotel or motor inn, or, except where incidental to a restaurant use, tavern, bar, disco or nightclub, (vii) any manufacturing or warehouse use (except incidental to a retail operation), or any office use occupying more than 3,000 square feet of floor area (except (a) incidental to a retail operation, and/or (b) office uses located in the area designated "Unrestricted Building Area" on the Site Plan); (viii) funeral parlor, animal breeding or storage (except in conjunction with the operation of a pet store or veterinary office), pawn shop, flea market or swap meet, junk yard; (ix) drilling for and/or removal of subsurface substances, dumping, disposal, incineration or reduction of garbage or refuse; or (x) any use which is unlawful or which constitutes a public or private nuisance or produces objectionable noise, light or vibration. Such covenants shall run with the land comprising the Shopping Center. In the event of a breach of such covenants, Tenant shall be entitled to injunctive relief and any other available remedy.

6. Subordination and Nondisturbance.

The Lease Agreement is and shall be prior to any deed of trust recorded after the date of the Lease Agreement affecting all or any part of the Premises. If, however, the holder of any deed of trust requires that the Lease Agreement be subordinated to such deed of trust, Tenant agrees to subordinate the Lease Agreement to that deed of trust if Landlord first obtains from such holder a written nondisturbance agreement in form and substance reasonably satisfactory to Tenant and providing, among other matters, that so long as Tenant shall not be in default under the Lease Agreement after notice and beyond any applicable cure period, (i) the term of the Lease Agreement shall not be terminated or modified in any respect whatsoever nor shall the rights of Tenant hereunder or its occupancy of the Premises be disturbed or affected in any way; (ii) Tenant shall not be named as a defendant in any legal action or other proceeding instituted by such holder in connection with the exercise by the holder of its remedies under the deed of trust; (iii) in the event of default under any lien and upon enforcement by the holder of its remedies, said holder agrees to perform all of the duties and responsibilities of Landlord under the Lease Agreement as a direct lease with Tenant; and (iv) such holder agrees that (a) all insurance proceeds payable as a result of damage or

destruction of the Premises shall be applied to the repair and restoration of such damage or destruction pursuant to the terms of the Lease Agreement and (b) all proceeds as a result of the exercise of eminent domain shall be distributed as provided in the Lease Agreement. In no event shall Tenant's obligations be increased or Tenant's rights decreased by such nondisturbance agreement. Such nondisturbance agreement shall be recorded in the office of the county recorder of the county in which the Premises are located. The term "deed of trust" as used herein includes mortgages, deeds of trust, other monetary liens or encumbrances, all modifications, extensions, renewals and replacements thereof, given as collateral security for any obligation affecting the Premises.

7. Additional Terms and Provisions.

The rent to be paid by Tenant and all of the obligations and rights of Landlord and Tenant with respect to the Premises are set forth in the Lease Agreement and are incorporated herein with the same force and effect as if fully set forth herein. This instrument is a memorandum of the Lease Agreement and is subject to all of the terms and conditions thereof. Terms used in this instrument which are defined in the Lease Agreement shall have the same meaning for purposes of this instrument as is attributed thereto pursuant to the Lease Agreement. In the event of any inconsistency between the terms of this instrument and the Lease Agreement, the terms of the Lease Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the date first above written.

LANDLORD:

MARIEMONT CORPORATION,
an Ohio corporation

By: _____

Title: _____

By: _____

Title: _____

!! ACCOMMODATION RECORDING ONLY.
FIRST AMERICAN TITLE MAKES NO
REPRESENTATION AS TO CONDITION
OF TITLE. NOR DOES IT ASSUME
ANY RESPONSIBILITY FOR VALIDITY,
SUFFICIENCY OR AFFECT OF DOCUMENT.

TENANT:

PNS STORES, INC.,
a California corporation

By: _____

Patricia J. Werner
Senior Vice President,
Real Estate & Construction

STATE OF Rhode Island }
COUNTY OF Washington } ss.

On August 1, 1995 before me, Clement C. Moore and
personally appeared _____ and _____
personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s) or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

[Handwritten Signature]

(This area for official notarial seal)

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

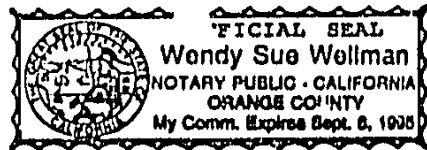
On July 27, 1995 before me, Wendy Sue Wellman personally
appeared Patricia J. Wehner, Senior Vice President, Real Estate
and Construction, of PNS Stores, Inc., personally known to me (or
proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s) or the
entity upon behalf of which the person(s) acted, executed the
instrument.

WITNESS my hand and official seal.

Signature

[Handwritten Signature]

(This area for official notarial seal)



COPY
CO. RECORDER

BK7210PG0355

EXHIBIT A to Memorandum of Lease dated July 27, 1995, by and between Mariemont Corporation, an Ohio corporation (hereinafter referred to as "Lnadlord"), and PNS Stores, Inc., a California corporation

PARCEL 1: (hereinafter referred to as "Tenant").

BEGINNING at a point on the East line of 700 East Street, said point being South 0°21'30" East 820.97 feet and North 89°32'25" East 53.00 feet from a Salt Lake County Monument at the intersection of 9400 South and 700 East Streets, and said monument is the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian; and said monument is also North 29°33'10" West 44.81 feet from a point recited in some deeds as being the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 0°21'30" East along said East line of 700 East Street 323.19 feet; thence South 88°59'30" East 1270.41 feet and abutting the North line of Green Willows Subdivision to the Northeast corner of Lot 32, of said Subdivision; thence North 0°06'56" West 562.63 feet along the Westerly side of an irrigation ditch and also along the West line of White City No. 1 Subdivision, and extension thereof; thence North 89°12'10" West 35.70 feet; to the East line of that property (Parcel 2) as described in a Quit Claim Deed by and between Jerry's Sporting Center, Grantor, and Walter G. Nelson and Dixie Nelson, Grantees, said Quit Claim Deed was recorded March 17, 1978 as Entry No. 3079504, in Book 4640, at Page 1157; thence along the perimeter of said Nelson Properties (Parcels 1 and 2), the following five (5) courses: South 0°21'30" East 75.00 feet, North 89°12'10" West 102.00 feet, North 0°21'30" West 165.00 feet, North 89°12'10" West 33.00 feet, North 0°21'30" West 306.75 feet; thence North 89°12'10" West 255.00 feet; thence South 0°21'10" East 612.98 feet; thence South 89°32'25" West 846.83 feet to the point of BEGINNING.

PARCEL 2:

BEGINNING at a point on the East line of 700 East Street, said point being South 0°21'30" East 820.97 feet and North 89°32'25" East 53.00 feet from a Salt Lake County Monument in the Intersection of 9400 South and 700 East Streets and said monument is the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian; and said monument is also North 29°33'10" West 44.81 feet from a point recited in some deeds as being the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian and running thence North 0°21'30" West 59.11 feet; thence North 89°10'52" East 421.85 feet; thence North 84°26'57" East 72.95 feet; thence North 89°27'44" East 352.34 feet; thence South 0°21'30" East 68.72 feet; thence South 89°32'25" West 846.83 feet to the point of BEGINNING.

INCLUDING WITH PARCELS 1 AND 2 ABOVE, THE FOLLOWING DESCRIBED "PAD" PARCELS:

PAD A

BEGINNING at a point South 0°21'30" East 1121.11 feet and South 89°20'00" East 87.00 feet from a Salt Lake County Monument at the intersection of 9400 South and 700 East Streets, and said monument is the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and said Monument is also North 29°33'10" West 44.81 feet from a point recited in some Deeds as being the Northwest corner of said Section 8, and running thence North 0°40'00" East 80.00 feet; thence South 89°20'00" East 79.00 feet; thence South 0°40'00" West 80.00 feet; thence North 89°20'00" West 79.00 feet to the point of BEGINNING.

PAD B

BEGINNING at a point South 0°21'30" East 1121.11 feet and South 89°20'00" East 191.00 feet from a Salt Lake County Monument at the intersection of 9400 South and 700 East Streets, and said monument is the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian, said monument is also North 29°33'10" West 44.81 feet from a point recited in some Deeds as being the Northwest

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STEWART TITLE
GUARANTY COMPANY

LEGAL DESCRIPTION CONTINUED

corner of said Section 8, and running thence North 0°40' East 80.00 feet; thence South 89°20' East 170.00 feet; thence North 68°00' East 31.90 feet; thence South 89°20' East 109.11 feet; thence North 68°00' East 20.00 feet; thence South 89°20' East 123.00 feet; thence South 0°40' West 100.00 feet; thence North 89°20' West 450.00 feet to the point of BEGINNING.

PAD C

BEGINNING at a point South 0°21'30" East 828.55 feet and North 89°30' East 379.88 feet from a Salt Lake County Monument at the intersection of 9400 South and 700 East Streets, and said monument is the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and said monument is also North 29°33'10" West 44.81 feet from a point recited in some Deeds as being the Northwest corner of said Section 8, and running thence North 0°30' West 72.25 feet; thence North 89°30' East 158.55 feet; thence South 0°30' East 72.25 feet; thence South 89°30' West 158.55 feet to the point of BEGINNING.

PAD D

BEGINNING at a point South 0°21'30" East 828.55 feet and North 89°30' East 538.43 feet from a Salt Lake County Monument at the intersection of 9400 South and 700 East Streets, and said monument is the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian and said monument is also North 29°33'10" West 44.81 feet from a point recited in some Deeds as being the Northwest corner of said Section 8, and running thence North 0°30' West 78.40 feet; thence North 89°30' East 122.25 feet; thence South 0°30' East 78.40 feet; thence South 89°30' West 122.25 feet to the point of BEGINNING.

PARCEL 3:

BEGINNING on the South line of 9400 South Street, said point being South 89°12'10" East 168.00 feet and South 0°21'30" East 53.00 feet from a Salt Lake County Monument at the intersection of 9400 South and 700 East Streets and said monument is the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian; and said monument is also North 29°33'10" West 44.81 feet from point recited in some deeds as being the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian, running thence South 89°12'10" East 987.00 feet along said South line of said 9400 South Street; thence South 0°21'30" East 135.25 feet; thence North 89°12'10" West 255.00 feet; thence South 0°21'30" East 544.26 feet; thence South 89°27'44" West 352.34 feet; thence South 84°26'57" West 72.95 feet; thence South 89°10'52" West 421.85 feet to the East line of 700 East Street; thence North 0°21'30" West 572.70 feet along said East line of said 700 East Street; thence South 89°12'10" East 115.00 feet; thence North 0°21'30" West 135.00 feet to the point of BEGINNING.

EXCEPTING FROM SAID PARCEL 3 the following described property:

(Continued)

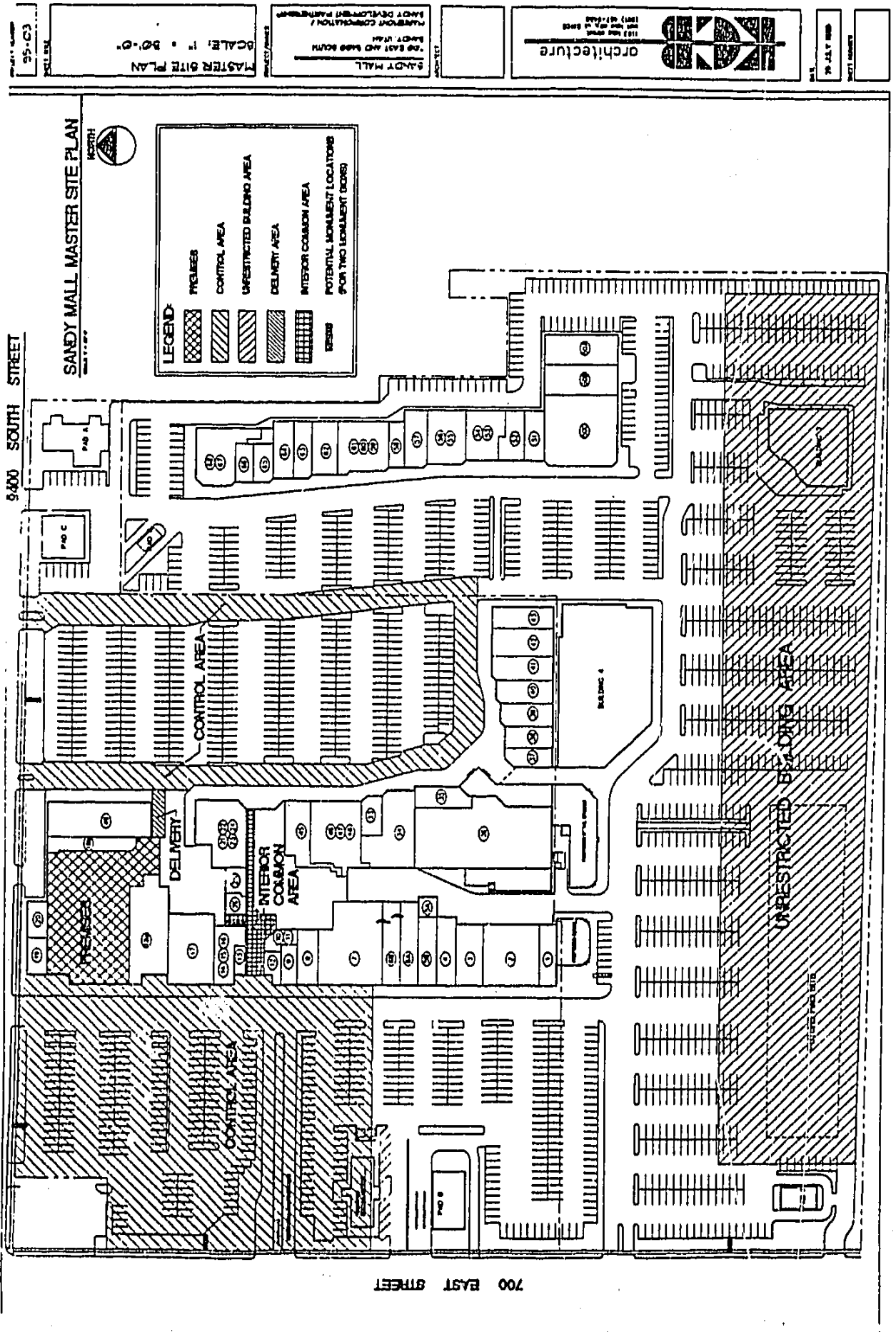
LEGAL DESCRIPTION CONTINUED

PAD "C", BEGINNING at a point South 0°21'30" East 828.55 feet and North 89°30'00" East 379.88 feet from a Salt Lake County monument at the intersection of 9400 South and 700 East Streets and said monument is the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and said monument is also North 29°33'10" West 44.81 feet from a point recited in some deeds as being the Northwest corner of said Section 8, and running thence North 0°30' West 72.25 feet; thence North 89°30' East 158.55 feet; thence South 0°30' East 72.25 feet; thence South 89°30' West 158.55 feet to the point of BEGINNING.

PAD "D", BEGINNING at a point South 0°21'30" East 828.55 feet and North 89°30' East 538.43 feet from a Salt Lake County Monument at the intersection of 9400 South and 700 East Streets, and said monument is the Northwest corner of Section 8, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and said monument is also North 29°33'10" West 44.81 feet from a point recited in some deeds as being the Northwest corner of said Section 8, and running thence North 0°30' West 78.40 feet; thence North 89°30' East 122.25 feet; thence South 0°30' East 78.40 feet; thence South 89°30' West 122.25 feet to the point of BEGINNING.

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EXHIBIT B to Memorandum of Lease dated July 27, 1995, by and between Variemont Corporation, an Ohio corporation (hereinafter referred to as "landlord"), and PNS Stores, Inc., a California corporation (hereinafter referred to as "tenant").



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