UNOFFICIAL C 0231 1 001 Page 1 of 2001-10-05 15:45:03

Cook County Recorder

0010932942

RETURN RECORDED DOCUMENT TO:

WALGREEN CO.

200 Wilmot Road, Dept. #2252

Deerfield, Illinois 60015 Attn: Ken White

This Ir surument Prepared by:

Matinev: 3. Moran

200 Wilr of Road, Deerfield, Illinois 60015

MEMORAND'UM OF AMENDED AND RESTATED LEASE

By this Memorandum of Amended and Restated Lease, made the North day of April, 2001, between BSG 95th & JEFFERY, L. L. C., an Illinois limited liability company, hereinafter caller "Landlord", and WALGREEN CO., an Illinois corporation, hereinafter called "Tenaric"

WHEREAS, by lease dated February 8, 1957, as supplemented by indenture dated September 11, 1957, as modified by agreement dated April 19, 1960, as extended by notices of extension of lease dated May 3, 1967 and June 7, 1972, and as extended and modified by agreements dated March 6, 1978, August 11, 1980 and July 12, 1985, and by letter agreements dated December 4, 1987, April 17, 1992, and December 10, 1993 (collectively, the "Existing Lease"), Cosmopolitan National Bank of Chicago, a national banking association, as Trustee under Trust No. 5788 (to all right, title and interest of which Landlord has heretofore succeeded), leased to Tenant those certain premises as described in the Existing Lease, commonly known as 9511 Jeffery, in the City of Chicago, County of Cook, State of Illinois (the "Existing Cremises") in the shopping center known as Jeffery Center (the "Shopping Center"), which shopping center is legally described on Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, Tenant intends to relocate within the Shopping Center from the Existing Premises into a new freestanding, one story building (the "Building") to include not less than 112 feet of frontage facing South Jeffery Avenue and not less than 135 feet of depth, being a area containing approximately 15,120 square feet on the first floor, to be constructed by Landlord in that location within

the Shopping Center shown on the site plan attached hereto as Exhibit "B" and made a part hereof (the "Site Plan").

AMENDED LEASE; NEW LEASED PREMISES; DEFINITIONS

- 1. (a) Except for Article 9 of the Existing Lease, as amended and restated in Article 8 herein, effective on the "Commencement Date" (as defined in Article 6 hereof), all Articles of the Existing Lease shall be and hereby are deleted in their entirety and the provisions set forth in this Agreement shall be substituted in lieu thereof, provided, however, that Landlord and Tenant hereby acknowledge and agree that the exclusive use restrictions contained in Article 9 of the Existing Lease and as restated and amended in Article 8 hereof, shall be deemed to continue without interruption and relate back to the original granting thereof pursuant to the Existing Lease. In furtherance thereof, any person or entity acquiring any interest in the Leased Premises after the date of the Existing Lease (e.g., February 8, 1957) shall be in all respects bound by the exclusive use restrictions contained in Article 9 of the Existing Lease and as restated and amended in Article 8 herein. Rept under the Existing Lease shall continue until the Commencement Date.
 - (b) Except as may be expressly stated in this Agreement to the contrary, the term "Lease" as hereinafter used, shall mean the terms and conditions of this Agreement.
 - (c) The term "Leased Premises" as hereinafter used, shall mean the Building, together with all improvements, appurtenances, easements and privileges belonging thereto.

For purposes of this Memorandum of Amended and Restated Lease, Tenant shall pay a rent of One Dollar (\$1.00) per year.

Provisions for additional rent and the other terms, covenants and conditions of said letting, including the options on the part of Tenant for prior termination, are set forth at length in the Amended and Restated Lease and all of said provisions, terms, covenants and conditions are, by reference thereto, hereby incorporated in and made a part of this Memorandum of Amended and Restated Lease.

UNOFFICIAL COPY 3 of 14

The Amended and Restated Lease, among other things, contains the following provisions:

PARKING

- 7. (a) (i) Landlord covenants that at all times during the continuance of this Lease, Landlord shall maintain, repair, adequately light when necessary during Tenant's business hours and for sixty (60) minutes thereafter, clean, promptly remove snow and ice from, supervise and keep available the parking areas as shown on Exhibit "B" (the "Parking Areas") which Parking Areas shall provide for at least as many parking spaces as are shown on the Site Plan, and also adequate service and receiving areas, sidewalks, curbs, roadways and other facilities appurtenant thereto. Said Parking Areas shall be for the free and exclusive use of customers, invitees and employees of Tenant and other occupants of said Shopping Center.
- Parking Areas which exceed five percent (5%), and such Parking Areas shall be suitably paved and drained. There shall be no steps or ramps (except to accommodate the handicapped) in the sidewalks within the Shopping Center except as shown on Exhibit "B." No buildings or other structures shall be erected within the Shopping Center except as indicated on Exhibit "B;" no alterations or additions shall be made to the Parking Areas and no additional areas added to the Building nor shall additional stories be added to any building in the Shopping Center without obtaining Tenant's express written consent, which consent may be granted or denied in Tenant's sole discretion. Parking Areas shall have automobile entrances and exits from and to adjacent streats and roads, which said entrances and exits shall be of such size and at such to cations as are shown on Exhibit "B." Automobile traffic aisles in the Parking Areas shall run in directions shown on Exhibit "B."

EXCLUSIVES

8. (a) Landlord covenants and agrees that, during the Term and any extensions or renewals thereof, no other portion of the Shopping Center nor any additional property which Landlord may now or hereafter own or control, and which is contiguous to, or which is within five hundred (500) feet of any boundary of, the Shopping Center, will be used for any one or combination of the following: (i) the operation of a drug store or a so-called prescription pharmacy or for any other purpose requiring a qualified pharmacist or other person authorized by law to dispense medicinal drugs, directly or indirectly, for a fee or remuneration of any kind; (ii) the operation of a medical diagnostic lab or the provision of

UNOFFICIAL COPY 32942 Page 4 of 14

treatment services (other than as part of a medical, dental, physician, surgical or chiropractic office[s], which office[s] shall not be restricted by this subsection [ii]); (iii) the operation of a business in which photofinishing services or photographic film are offered for sale, except where the sale of photographic film is an incidental part of such business which incidental sale may not exceed ten (10%) of sales area; (iv) the operation of a business in which greeting cards or gift wrap are offered for sale, except where the sale thereof is an incidental part of such business which incidental sale may not exceed ten (10%) of sales area; and (v) the operation of a business in which prepackaged food items for off premises consumption are offered for sale, except where the sale thereof is an incidental part of such business which incidental sale may not exceed up to ten (10%) of sales area (provided that the sale of food items prepared on the premises for offpremises consumption by a "quick service" restaurant [e.g., McDonald's, Burger King, Kentucky Fried Chicken, Taco Bell, Subway, and the like] or an "accommodation" food user [e.g., Starbucks, Cinnabons, Dunkin' Donuts, Mrs. Fields', a yogurt shop, and the like] shall not be prohibited by this subparagraph [v]). In the event that Tenant files suit against any party to enforce the foregoing restrictions, Landlord agrees to cooperate fully with Tenant in the prosecution of any such suit, and reimburse Tenar t for all of attorneys' fees and court costs incurred by Tenant in connection with such suit, notwithstanding its resolution. For purposes hereof "contiguous" shall riean property that is either adjoining the Leased Premises or separated from the Leased Premises only by a public or private street, alley or right-of-way. For purposes hereof "contiguous" shall mean property that is either adjoining the Leased Premises or separated from the Leased Premises only by a public or private street, and or right-of-way.

Notwithstanding the foregoing, the restrictions set forth in subsection (i) above shall not apply to the operation of a business operating under a lease in existence prior to the date of the Existing Lease, and the restrictions set forth in subsections (ii) through (v) above shall not apply to the operation of a business operating under a lease in existence prior to the date of this Lease (an "Existing Tenant"); provided, however, that Landlord shall not amend any such existing lease so as to allow the operation of a business in violation of the foregoing exclusive use restriction, such as by way of example and without limitation, amending any existing use, assignment or subletting provisions contained in such leases, and provided further, that if Landlord has the right to withhold consent to any assignment or sublet under any such existing lease, Landlord will not consent to any assignment or sublet under any such lease to a use in violation of the foregoing exclusive use restrictions. Landlord shall enforce any use provisions contained in any such existing lease which prohibit or restrict such tenant from operating a business in violation of the foregoing exclusive use restrictions; in the event Landlord shall fail or refuse to

so enforce any such use provision, Tenant shall be deemed to have been assigned Landlord's right to enforce such use provision and all costs incurred by Tenant in the event of such enforcement (including without limitation attorneys' fees and costs) shall be reimbursed to Tenant from Landlord.

Landlord shall not permit or suffer any other occupant of the (b) Shopping Center to use any premises or any portion thereof for purposes of a cockai lounge, bar, disco, theater, bowling alley, pool hall, billiard parlor, automobile sales or leasing facility, skating rink, roller rink, amusement arcade, children's play or party facility (except as an incidental part of a restaurant use, i.e., a McDonald's PlayPlace, but not where it is a primary use, such as a Discovery Zone), adult book store, adult theatre, adult amusement facility, or any facility selling or displaying pornographic materials (except for nationally or regionally recognized video chain stores) or having such displays, second hand store, odd lot, closeout or iiquidation store, auction house, flea market, educational or training facility, exercise or health club, gym or any use which creates a nuisance. Further, for so long as Walgreens is an occupant of the Shopping Center, Landlord agrees that, subject to the rights of Existing Tenants, neither that portion of the Shopping Center with frontage on Jeffery Avenue, nor that portion of the Shopping Center identified on the Site Plan as "Proposed Retail A" shall be used for a restaurant in excess of two thousand (2,000) square feet or for an office or bar (except as an incidental use to a permitted restaurant). The restriction contained in the immediately preceding sentence shall not apply to the area of the Shopping Center identified on the Site Plan as "Existing Retail."

RIGHT OF FIRST REFUSAL

25. (a) In the event that Landlord shall receive a Bona Fide Offer to purchase the Leased Premises at any time and from time to time or or after the date hereof and during the Initial Term and Term of this Lease or any extensions thereof from any person or entity, Landlord shall so notify Tenant (Attn. Law Department) together with a true and correct copy of said Bona Fide Offer. For purposes hereof, a "Bona Fide Offer" shall be deemed to be one made in writing by a person or entity that is not related or affiliated with Landlord which Landlord intends to accept (subject to this Article). In submitting the Bona Fide Offer to Tenant, Landlord shall segregate the price and the terms of the offer for the Leased Premises from the price and other terms connected with any additional property or properties that such person or entity is offering to purchase from Landlord. Tenant may, at Tenant's option and within twenty one (21) days after receipt of Landlord's notice of said Bona Fide Offer and receipt of a copy thereof, offer to purchase the Leased Premises at the price and upon the terms and

conditions as are contained in said Bona Fide Offer, in which event, Landlord shall sell the Leased Premises to Tenant upon said terms and conditions and said price; furthermore, in such event, Landlord shall convey the Leased Premises to Tenant by special warranty deed. Notwithstanding the foregoing, the price that Tenant shall pay for the Leased Premises shall be reduced by (i) an amount equal to broker's fees or commissions that would have been payable by either the purchaser or Landlord if the Leased Premises were sold pursuant to a Bona Ede Offer; and (ii) the amount of any payment(s) to be made by the proposed purchaser to any entity owned or controlled by, or affiliated with, the proposed curchaser. Landlord shall provide Tenant evidence of the amount of broker's fees or commissions payable in connection with any such Bona Fide Offer. Landlord covenants that it shall accept no such Bona Fide Offer or convey the premises until it has complied with the terms of this Article. Any conveyance of the Leased Premises made in the absence of full satisfaction of this Article shall be void. Tenant may enforce this Article, without limitation, by injunction, specific performance or other equitable relief.

(b) Tenant's election not to exercise its Right of First Refusal shall not prejudice Tenant's rights here under as to any further Bona Fide Offer. The terms and conditions contained in this Article shall be binding upon the heirs, successors and assigns of Landlo'd

This instrument shall also bind and benefit, as the case may require, the heirs, legal representatives, assigns and success are of the respective parties, and all covenants, conditions and agreements herein contained shall be construed as covenants running with the land. This instrument shall not become binding upon the parties until it shall have been executed and delivered by both Landlord and Tenant.

This Memorandum of Amended and Restated Lease is made and executed by the parties hereto for the purpose of recording the same in the office of the public records of Cook County, Illinois, and is subject in each and every respect, to the rents and other terms, covenants and conditions of the Amended and Restated Lease, and this Memorandum of Amended and Restated Lease is executed and delivered with the understanding and agreement that the same shall not in any manner or form whatsoever, alter, modify or vary the rents and other terms, covenants and conditions of the Amended and Restated Lease.

UNOFFICIAL COPY 32942 Page 7 of 14

IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum of Amended and Restated Lease, under seal, as of the day and year first above written.

Tenant:

WALGREEN CO.

Landlord:

BSG 95th & JEFFERY, L. L. C.

By:

MM Allan M. Rosnick, Vice President

Attest:

By:

Its:

-1014's Office

Witnesses:

Witnesses:

UNOFFICIAL COPY 32942 Page 8 of 14

STATE OF ILLINOIS COUNTY OF LAKE)) SS)
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I, the undersigned, a Notary Public, do hereby certify that Allan M. Resnick, personally known to me to be the Vice President of WALGREEN CO., an Illinois corporation, and personally known to me to be the person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as such Vice President of said corporation, pursuant to authority given by the Board of Directors of said corporation, as his free and voluntary act, and as the free and voluntary act and deed of said corporation, for the purposes therein set forth.

Given under my hand and notarial seal this _

day of April, 2001.

Notary Public

My commission expires:

"OFFICIAL SEAL"

MARY R. DAHL
NOTARY PUBLIC STATE OF ILLINOIS
(N) Commission Expires 06/07/2002

UNOFFICIAL COPY 32942 Page 9 of 14

	STATE OF ILLINOIS)) SS
	COUNTY OF COOK)
JI.	Marager and y JEFFERY L. L. C., an Illin me to be the persons who appeared beto e me this of signed and delivered the signed and voluntary act, and as corporation, for the purpor Given under my ha	o hereby certify that <u>Scott H. Gendell</u> and, personally known to me to be the <u>ice President</u> , respectively, of BSG 95 th & ois limited liability company, and personally known to se names are subscribed in the foregoing instrument, lay in person and severally acknowledged that they said instrument as such <u>Manager</u> and of said company, pursuant to authority, as their free the free and voluntary act and deed of said set therein set forth. Notary Public Notary Public
	My commission expires:	"OFFICIAL SEAL" DANIEL J. WAN JEF NOTARY PUBLIC, STATE OF HLIN JIS MY COMMISSION EXPIRES 3/21/2012

EXHIBIT "A"

LEGAL DESCRIPTION OF SHOPPING CENTER

PARCEL 1:

THAT PART OF BLOCK 12 IN VAN VLISSINGEN HEIGHTS SUBDIVISION; A SUBDIVISION OF PARTS OF THE EAST 2/3 OF THE NORTHWEST 1/4 AND THE WEST 1/2 OF THE NORTHEAST 1/4 NORTH OF THE INDIAN BOUNDARY LINE OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINC PAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 25, 1926 AS DOCUMENT 92866759 BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT 23 FEET NORTH OF THE SOUTH LINE AND 136 FEET 5 ½ INCHES EAST OF THE WEST LINE OF LOT 14 IN SAID BLOCK 12 PROCEEDING 125 FEET THEREFROM; THENCE NORTH 173 FEET; THENCE WEST 125 FEET; THENCE SOUTH 173 FEET TO A POINT OF BEGINNING, IN COOK COUNTY, LLINOIS.

PARCEL 2:

THAT PART OF BLOCK 12 IN VAN VLISSINGEN HEIGHTS SUBDIVISION AFORESAID BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT 59 FEET NORTH OF THE SOUTH LINE AND 71 FEET EAST OF THE WEST LINE OF LOT 14 IN SAID BLOCK 12 PROCEEDING 65 FEET, 5 ½ INCHES EAST THEREFROM; THENCE NORTH 105 FEET, 6 INCHES; THENCE WEST 65 FEET 5 ½ INCHES; THENCE SOUTH 105 FEET, 6 INCHES, THENCE WEST 65 FEET 5 ½ INCHES; THENCE SOUTH 105 FEET 6 INCHES TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOTS 1 AND 2 AND THE WEST 7 FEET OF LOT 3 IN BLOCK 1 AND THE NORTH ½ OF THE VACATED EAST AND WEST ALLEY LYING SOUTH OF AND ADJOINING SAID LOTS 1 AND 2 AND THE WEST 7 FEET OF LOT 3 IN SAID BLOCK 1 AND THE EAST ½ OF THE VACATED CHAPPEL AVENUE LYING WEST OF LOT 1 IN BLOCK 1 AND LYING WEST OF AND ADJOINING THE NORTH ½ OF THE VACATED EAST AND WEST ALLEY LYING SOUTH

UNOFFICIAL COPY 32942 Page 11 of 14

OF AND ADJOINING LOT 1 IN BLOCK 1 ALL IN VAN VLISSINGEN HEIGHTS SUBDIVISION AFORESAID.

ALSO

LOTS 1 TO 10, BOTH INCLUSIVE, AND THE NORTH ½ OF THE VACATED EAST AND WEST ALLEY LYING SOUTH OF AND ADJOINING SAID LOTS 1 TO 10 BOTH INCLUSIVE, IN BLOCK 12 AND THE WEST 1/2 OF THAT PART VACATED CHAPPEL AVENUE LYING EAST OF AND ADJOINING SAID LOT 10 IN BLOCK 12 AND LYING EAST OF AND ADJOINING THE NORTH ½ OF SAID VACATED EAST AND WEST ALLEY, ALSO LOTS 11 TO 14 BOTH INCLUSIVE AND LOTS 35 TO 38, BOTH INCLUSIVE, AND ALL THAT PART OF THE VACATED NORTH AND SOUTH ALLEY LYING BETWEEN AND ADJOINING SAID LOTS 11 50 14, BOTH INCLUSIVE AND THE SOUTH 1/2 OF THE VACATED EAST AND WEST ALLEY LYING NORTH OF AND ADJOINING SAID LOTS 11 AND 38 AND LYING NORTH AND ADJOINING SAID VACATED NORTH AND SOUTH ALLEY IN BLOCK 12, ALSO THAT PART OF THE WEST 6 FEET OF VACATED CHAPPEL AVENUE LYING EAST OF AND ADJOINING SAID LOTS 35 TO 38 BOTH INCLUSIVE (EXCEPT THE SOUTH ½ OF SAID VACATED STREET LYING EAST OF AND ADJOINING SAID SOUTH 1/2 OF SAID VACATED EAST AND WEST ALLEY IN BLOCK 12 ALL IN VAN VLISSINGEN HEIGHTS SUBDIVISION AFORESAID EXCEPTING THEREFROM PARCELS 1 AND 2 ABOVE DF SCRIBED, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOT 3 (EXCEPT THE WEST 7 FEET THEREOF), LOT 4 AND THE WEST 7 FEET OF LOT 5 IN BLOCK 1 AND THE NORTH ½ OF THE VACATED EAST AND WEST ALLEY LYING SOUTH OF AND ADJOINING SAID LOTS (EXCEPT THE WEST 7 FEET THEREOF) LOT 4 AND THE WEST 7 FEET OF LOT 5 IN SAID BLOCK 1 ALL IN VAN VLISSINGEN HEIGHTS SUBDIVISION, A SUBDIVISION OF PARTS OF THE EAST 2/3 OF THE NORTHWEST ¼ AND THE WEST ½ OF THE NORTHEAST ¼ NORTH OF THE INDIAN BOUNDARY LINE OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 25, 1926 AS DOCUMENT NUMBER 9285759, IN COOK COUNTY, ILLINOIS.

UNOFFICIAL COPPG32942 Page 12 of 14

PARCEL 5:

LOT 5 (EXCEPT THE WEST 7 FEET THEREOF) AND LOTS 6 TO 12, BOTH INCLUSIVE, IN BLOCK 1 IN VAN VLISSINGEN HEIGHTS, A SUBDIVISION OF PART OF THE EAST 2/3 OF THE NORTHWEST 1/4 AND THE WEST 1/2 OF THE NORTHEAST 1/4 NORTH OF THE INDIAN BOUNDARY LINE OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MEF.D'AN, IN COOK COUNTY, ILLINOIS.

PARCEL ?

THE NORTH 1/2 OF THE VACATED EAST AND WEST ALLEY LYING SOUTH AND ADJOINING LOT 5 (EXCEPT THE WEST 7 FEET THEREOF_ AND LOTS 6 TO 12, BOTH INCLUSIVE, IN BLOCK 1 IN VAN VLISSINGEN HEIGHTS SUBDIVISION AFORESAID, IN COOK COUNTY, ILLINOIS.

PARCEL 7:

LOTS 1 TO 11, BOTH INCLUSIVE IN BLOCK 12 IN HUGH MAGINNIS 95TH STREET SUBDIVISION OF THE EAST 1/2 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF FRACTIONAL SECTION 12, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, NORTH OF THE INDIAN BOUNDARY LINE, IN COOK COUNTY, ILLINOIS.

PARCEL 8:

LOTS 15 THROUGH 18 AND THE NORTH 19.69 FEET OF LOT 19 IN BLOCK 12; TOGETHER WITH ALL OF THE VACATED NORTH AND SOUTH ALLEY LYING EAST OF AND ADJOINING THE AFORESAID LOTS IN VAN VLISSINGEN HEIGHTS, A SUBDIVISION OF PARTS OF THE EAST 2/3 OF THE NORTHWEST 1/4 AND THE WEST 1/2 OF THE NORTHEAST 1/4 NORTH OF INDIAN BOUNDARY LINE OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 9:

EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 8 AS CREATED IN INSTRUMENT RECORDED AS DOCUMENT NUMBER 25-12-200-043; 25-12-201-080; 20450919.

25-12-201-079; 25-12-201-077; PIN NUMBERS: 25-12-201-078; 25-12-200-040; 25-12-200-044





