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1672 0078 0001 Page 1 of 11  
2002-02-04 11:17:45  
Cook County Recorder 41.50



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(This Space for Recording Use Only)

THIS DOCUMENT SHOULD BE RETURNED TO AFTER RECORDING:

Bank One, NA  
200 South Wacker Drive, 6th Floor  
Chicago, Illinois 60606  
Attn: S. Graven/IL1-0951

FIRST AMERICAN TITLE order # TP10450

0020140934

**SUBORDINATION, NON-DISTURBANCE  
AND ATTORNMENT AGREEMENT**

**THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT**

**AGREEMENT** made in multiple copies as of the 19th day of December, 2001, by and between **BANK ONE, NA**, a national banking association, with its main office in Chicago, Illinois ("Mortgagee"), **STANDARD BANK AND TRUST COMPANY**, not personally but as trustee under Trust Agreement dated September 12, 1985 and known as Trust No. 9852 ("Landlord") and **WALGREEN CO.**, an Illinois corporation ("Tenant");

**WITNESSETH:**

**WHEREAS**, Mortgagee is the holder of a Note in the original principal amount of \$4,360,000.00, secured by a Mortgage or Deed of Trust ("Mortgage") dated December 19, 2001, recorded on \_\_\_\_\_, 2002, in Book \_\_\_\_\_, at Page \_\_\_\_\_, in the Official Records of Cook County, State of Illinois, covering the property legally described on Exhibit "A" attached hereto and made a part hereof;

**WHEREAS**, by Lease dated February 15, 2001, ("Lease"), recorded by Memorandum of Lease of even date, on <sup>SEPTEMBER 7, 2001, AS DOCUMENT #0010834651</sup> ~~January 15, 2001~~, in Book \_\_\_\_\_, at Page \_\_\_\_\_, in the Official Records of Cook County, State of Illinois, Landlord, as landlord, leased to Tenant, as tenant, the property, of

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the SEC corner of Cicero and 95th in Hometown, Illinois, legally described on Exhibit "A" ("Leased Premises");

**WHEREAS**, Mortgagee, Tenant and Landlord desire to confirm their understanding with respect to said Lease and said Mortgage;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and promises contained herein and other good and valuable consideration, the parties agree as follows:

1. Subject to the covenants, terms and conditions of this Agreement, the lien of said Lease is hereby subordinated to the lien of said Mortgage. If there shall be a conflict between the terms of said Lease and the terms of said Mortgage, the terms of said Lease shall prevail.
2. In the event Mortgagee or any other party (collectively "Successor Landlord") acquires title or right of possession of the Leased Premises under said Mortgage through foreclosure, or otherwise, said Lease shall remain in full force and effect and Tenant shall continue occupancy of the Leased Premises in accordance with the terms and provisions of said Lease. In such event, during the period that it holds title to or possession of the Leased Premises, Successor Landlord shall be in all respects bound by said Lease as Landlord and by all of Tenant's rights thereunder. Successor Landlord's remedies pursuant to the Lease will be in full force and effect once Successor Landlord succeeds to the interest of Landlord under the Lease and once Successor Landlord is bound by all of the terms and conditions of said Lease.
3. So long as Successor Landlord shall be bound by the terms and conditions of said Lease, Tenant shall attorn to Successor Landlord when Successor Landlord is in possession of the Leased Premises, whether such possession is pursuant to Mortgagee's rights under said Mortgage (which such attornment shall be effective and self operative without the execution of any further instrument on the part of any of the parties hereto), or otherwise, and will continue occupancy of the Leased Premises under the same terms and conditions of said Lease.
4. Mortgagee shall not include Tenant in any foreclosure proceeding involving the Leased Premises, unless required by applicable state law for Mortgagee to accomplish the foreclosure and then not to interfere with or diminish Tenant's rights under said Lease or disturb Tenant's possession.

5. In the event that Successor Landlord succeeds to the interest of Landlord under such Lease, Successor Landlord shall not be:

a). Liable for any act or omission of any prior landlord (including Landlord) or subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord), except for any defaults or remedies of which Tenant has notified Mortgagee prior to Successor Landlord becoming bound by the Lease in accordance with paragraph 2. Successor Landlord will not be held liable for any consequential damages for defaults of any prior Landlord; or

b). Bound by any payment of any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord (including Landlord); or

c). Bound by any amendment or modification of the Lease made without Mortgagee's written consent.

6. During the continuance of said Mortgage, Tenant shall use reasonable efforts to give written notice to Mortgagee of all defaults by Landlord of those obligations under said Lease which are of a nature as to give Tenant a right to terminate said Lease, reduce rent, or to credit or offset any amounts against future rents, and Mortgagee shall have the same opportunity as provided to Landlord in said Lease (but shall not be required) to cure the same. In any event (except as otherwise provided in the next sentence of this paragraph), Tenant's failure to provide Mortgagee such written notice shall not impair any rights granted or derived by Tenant under said Lease and/or this Agreement. In no event shall Tenant terminate the Lease as a result of any breach or default of the Lease unless Tenant has provided Mortgagee notice and afforded the Mortgagee the same opportunity to cure such breach or default as provided to Landlord in said Lease; provided, however, that Mortgagee shall not be obligated to remedy or cure any default of Landlord under the Lease.

7. Tenant hereby agrees that upon receipt of written notice from Mortgagee of a default by Landlord under said Mortgage, all checks for rent and other sums payable by Tenant under said Lease to Landlord shall, from the date of Tenant's receipt of such written notice, be delivered to and drawn to the exclusive order of Mortgagee until Mortgagee or a court of competent jurisdiction shall direct otherwise. Such an assignment of rent shall not relieve Landlord of any of its obligations under said Lease and shall not modify or diminish any rights granted to Tenant

by said Lease or this Agreement, including but not limited to, any rights contained in said Lease which allow Tenant the right of so-called self help, offsets or deductions in the event of default or otherwise. Landlord hereby consents and agrees to the provisions of this paragraph and hereby authorizes Tenant to direct all rental and other payments under said Lease as provided by this paragraph. Landlord hereby relieves Tenant from any liability by reason of Tenant's payment of any sums under said Lease as required by this paragraph. Tenant shall have no obligation to verify the existence of any such default stated in the notice from Mortgagee under this paragraph.

8. (a) Subject to the terms of (b) below, Tenant agrees that the covenants of Landlord in Article 9 of the Lease shall not be binding upon land owned by Successor Landlord that acquires the interest of Landlord in the Leased Premises through foreclosure of the Mortgage or a deed in lieu thereof, (provided that Successor Landlord owned or mortgaged such land prior to the date that it acquires the interest of Landlord in the Leased Premises), but shall apply to any subsequent purchaser or transferee that is not an affiliate or subsidiary of Successor Landlord.

(b) Upon Successor Landlord's acquisition of Landlord's interest, during the period that it holds title to the Leased Premises, Successor Landlord will not execute any agreement that violates the restrictions set forth in Article 9 of the Lease or agree to any modification of a then existing agreement which extends the right of any third party to operate in a manner inconsistent with the restrictions set forth in Article 9 of the Lease.

9. In the event Successor Landlord acquires title or right of possession of the Leased Premises, Tenant acknowledges and agrees that the liability of such Successor Landlord under the Lease shall be limited to its interest in the property described on Exhibit "A" and the rents, income and profits therefrom. Notwithstanding anything herein to the contrary, Tenant shall have all of its equitable remedies against Successor Landlord. Nothing contained herein shall otherwise limit Tenant's rights or remedies as provided in the Lease.

10. All notices under this Agreement shall be deemed to have been duly given if made in writing and sent by United States certified or registered mail, postage prepaid, or by overnight delivery service providing proof of receipt, and addressed as follows:

If to Mortgagee: Midwest Region Real Estate Department  
1 Bank One Plaza  
Chicago, Illinois 60670  
Attention: Steven D. Wyent, Mail Suite IL1-0950

If to Tenant: 200 Wilmot Road  
Deerfield, Illinois 60015  
Attention: Law Department

If to Landlord: Michael Tansey  
75-933 Hona Street  
Holualoa, Hawaii 96725

provided that each party by like notice may designate any future or different addresses to which subsequent notices shall be sent. Notices shall be deemed given upon receipt or upon refusal to accept delivery.

11. Tenant agrees that the right of first refusal shall not apply to Successor Landlord through a foreclosure, deed-in-lieu of foreclosure or any other enforcement action under the Mortgage; provided, however, such right of first refusal shall apply to subsequent purchasers of the Leased Premises

12. To facilitate execution, this Agreement 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 necessary in making proof of this Agreement 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.

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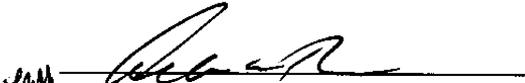
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13. This Agreement shall also bind and benefit the heirs, legal representatives, successors and assigns of the respective parties hereto, and all covenants, conditions and agreements herein contained shall be construed as running with the land.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement, under seal, as of the day and year first above written.

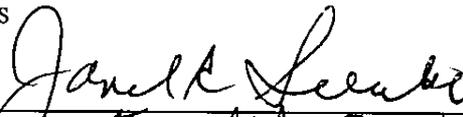
**TENANT:**

WALGREEN CO., an Illinois corporation

  
Allan M. Resnick, Vice President

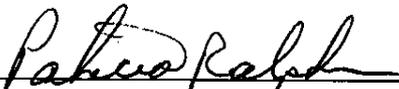
**MORTGAGEE:**

BANK ONE, NA, a national banking association, with its main office in Chicago, Illinois

By:   
Name: Janet K. Sienko  
Title: Vice President

**LANDLORD:**

STANDARD BANK AND TRUST COMPANY,  
not personally but as trustee under Trust Agreement  
dated September 12, 1985 and known as Trust No. 9852

By:   
Name: Patricia Ralphson, T.O.  
Title: \_\_\_\_\_

This instrument is signed, sealed and delivered by STANDARD BANK AND TRUST COMPANY, solely in its capacity as Trustee as aforesaid. Any and all duties, obligations and liabilities of the Trustee hereunder are to be performed by said STANDARD BANK AND TRUST COMPANY only as such Trustee. Any claims, demands and liabilities which may at any time be asserted against the Trustee hereunder shall be paid, collected or satisfied against only the property or assets in the possession of said STANDARD BANK AND TRUST COMPANY as Trustee as aforesaid, and the said STANDARD BANK AND TRUST COMPANY does not undertake, nor shall it have any personal or individual liability or obligation of any nature whatsoever by virtue of the execution and delivery hereof, nor shall STANDARD BANK AND TRUST COMPANY, either individually or as Trustee, be under any duty or obligation to sequester the rents, issues and profits arising from the property described or any other property which it may hold under the terms and conditions of said Trust Agreement.

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STATE OF ILLINOIS     )  
  )  
COUNTY OF LAKE     )

I, Lola Allen-Muhammad, a Notary Public, do hereby certify that Allan M. Resnick, personally known to me to be an Vice President, respectively, 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 severally acknowledged that as such Vice President of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their 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 23 day of January, 2002.

*Lola Allen-Muhammad*  
Notary Public



My commission expires

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STATE OF ILLINOIS )  
 )  
COUNTY OF \_\_\_\_\_ )

I, IDA M RIDDLE, a Notary Public, do hereby certify that JANET SIENKO, personally known to me to be an VICE PRESIDENT, respectively, of BANK ONE, NA, a national banking association, with its main office in Chicago, Illinois, 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 severally acknowledged that as such person of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their 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 25<sup>th</sup> day of January, 2002.

Ida M Riddle

Notary Public

My commission expires:



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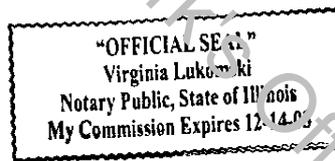
STATE OF ILLINOIS )  
 )  
COUNTY OF  Cook  )

I, the undersigned, a Notary Public, do hereby certify that Patricia Ralphson, personally known to me to be an  T.O. , respectively, of STANDARD BANK AND TRUST COMPANY, not personally but as trustee under Trust Agreement dated September 12, 1985 and known as Trust No. 9852, 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 severally acknowledged that as such  T.O.  of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their 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 25th day of January, 2002.

  
Notary Public

My commission expires:



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## EXHIBIT "A"

### LEGAL DESCRIPTION (STORE #6629)

PARCEL 1:

THAT PART OF LOT 1652, LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF LOT 1652 AFORESAID 69.67 FEET WEST OF THE NORTHEAST CORNER THEREOF; THENCE SOUTHWESTERLY TO A POINT 165 FEET WEST OF AND 23 FEET SOUTH OF SAID NORTHEAST CORNER (AS MEASURED ON SAID NORTH LINE AND ON A LINE AT RIGHT ANGLES THERETO); THENCE SOUTHWESTERLY TO A POINT ON THE SOUTH LINE OF LOT 1652 AFORESAID 5.1 FEET EAST OF THE SOUTHWEST CORNER THEREOF AND EXCEPTING THEREFROM THAT PART ACQUIRED BY CONDEMNATION IN CIRCUIT COURT OF COOK COUNTY PROCEEDINGS NUMER 85L50169, NAMELY THAT PART OF LOT 1652 DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTH LINE OF SAID LOT 5.1 FEET EAST OF THE SOUTHWEST CORNER THEREOF; THENCE ON AN ASSUMED BEARING OF SOUTH 89 DEGREES 39 MINUTES 37 SECONDS EAST ALONG THE SOUTH LINE 9.06 FEET; THENCE NORTH 06 DEGREES 55 MINUTES 53 SECONDS EAST 77.57 FEET TO A POINT 165.0 FEET WEST AND 23.0 FEET SOUTH OF THE NORTHEAST CORNER (AS MEASURED ON SAID NORTH LINE AND ON A LINE AT RIGHT ANGLES THERETO); THENCE SOUTH 13 DEGREES 27 MINUTES 13 SECONDS WEST 79.14 FEET TO THE POINT OF BEGINNING IN J.E. MERRION AND CO'S HOMETOWN UNIT NO. 10, BEING A SUBDIVISION OF LOT "H" (EXCEPT THE EAST 590.47 FEET THEREOF) IN J.E. MERRION AND CO'S HOMETOWN UNIT NO. 7, A SUBDIVISION OF LOT "F" IN J.E. MERRION AND CO'S HOMETOWN UNIT NO. 5, A SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 3, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO PLAT THEREOF REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS ON JUNE 11, 1954, AS DOCUMENT NUMBER 1528599, IN COOK COUNTY, ILLINOIS.

TAX I.D. # 24-03-133-001 VOL. 237

PARCEL 2:

LOT 1651 (EXCEPT THAT PART THEREOF LYING WESTERLY OF THE FOLLOWING DESCRIBED CURVED LINE:

BEGINNING AT A POINT IN THE NORTH LINE OF SAID LOT 1651, DISTANT 5.10 FEET EAST OF THE NORTHWEST CORNER THEREOF; THENCE SOUTHERLY ALONG A CURVED LINE CONCAVE TO SOUTHEAST, HAVING A RADIUS OF 5674.70 FEET AND PARALLEL WITH THE WESTERLY LINE OF SAID LOT 1651, A DISTANCE OF 251.00 FEET TO A POINT IN THE SOUTH LINE OF SAID LOT 1651 DISTANT 5.10 FEET EAST OF THE SOUTHWEST CORNER THEREOF) (ALSO EXCEPTING THAT PART OF LOT 1651 DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 5.1 FEET EAST OF THE NORTHWEST CORNER; THENCE ON AN ASSUMED BEARING OF SOUTH 89 DEGREES 59 MINUTES 37 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 8.83 FEET; THENCE SOUTH 06 DEGREES 55 MINUTES 53 SECONDS WEST 15.46 FEET; THENCE SOUTH 05 DEGREES 54 MINUTES 36 SECONDS WEST 120.0 FEET TO A POINT THAT IS 5.0 FEET EASTERLY AS MEASURED RADIAL TO THE WEST LINE OF SAID LOT, SAID POINT BEING ON A 5674.7 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS SOUTH 88 DEGREES 23 MINUTES 21 SECONDS EAST FROM SAID POINT; THENCE NORTHEASTERLY ALONG SAID CURVE 134.8 FEET, CENTRAL ANGLE 01 DEGREE 21 MINUTES 40 SECONDS, TO THE POINT OF BEGINNING) IN J.E. MERRION AND COMPANY'S HOMETOWN UNIT NO. 10, A SUBDIVISION OF LOT "H" (EXCEPT THE EAST 590.47 FEET THEREOF) IN J.E. MERRION AND COMPANY'S HOMETOWN UNIT NO. 7, A SUBDIVISION OF LOT "F" IN J.E. MERRION AND COMPANY'S HOMETOWN UNIT NO. 5, A SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 3, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO PLAT THEREOF REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS ON JUNE 11, 1954, AS DOCUMENT NUMBER 1528599, IN COOK COUNTY, ILLINOIS.

TAX I. D. # 24-03-133-002 VOL. 237