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Cook County Recorder 48.00



0030178269

(This Space for Recording Use Only)

THIS DOCUMENT SHOULD BE RETURNED TO AFTER RECORDING:

WALGREEN CO.
200 Wilmot Road, MS 2252
Deerfield, Illinois 60015

Attn: Lola Allen-Muhammad
Law Department

Store # 4938

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

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT made in multiple copies as of the 6th day of January, 2003, by and between **CANADA LIFE INSURANCE COMPANY OF AMERICA**, a(n) ("Mortgagee"), **BIC-1031 LLC**, an Illinois limited liability company, **RAM-1031 LLC**, an Illinois limited liability company and **SAM II-1031 LLC**, an Illinois limited liability company (collectively, "Landlord") and **BOND DRUG COMPANY OF ILLINOIS**, an Illinois corporation ("Tenant");

WITNESSETH:

WHEREAS, Mortgagee is the holder of a Note in the original principal amount of \$2,000,000, secured by a Mortgage ("Mortgage") dated as of January 6, 2003, recorded on January _____, 2003, as Document No. _____, in the Official Records of Cook County Recorder's Office, State of Illinois, covering the property legally described on Exhibit "A" attached hereto and made a part hereof;

WHEREAS, by Lease dated as of December 17, 1998 ("Lease"), recorded by Memorandum of Lease of even date, on April 7, 1999, as Document No. 99332681 in the Official Records of Cook County Recorder's Office, State of Illinois, the predecessor-in-interest

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to Landlord, as landlord, leased to Tenant, as tenant, the property, of located at 4748 West North Avenue in Chicago, Cook County, Illinois, and 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.

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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 of 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

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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 8 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 8 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 8 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:

Canada Life Insurance Company of America
c/o Mid-North Financial Services, Inc.
205 West Wacker Drive
Suite 202
Chicago, Illinois 60606

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

If to Landlord: BIC-1031 LLC
RAM-1031 LLC
SAM II-1031 LLC
c/o The Berger Company
900 N. Michigan Avenue
Suite 2010
Chicago, Illinois 60611

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. It is the express intent on of Landlord and Tenant that the acquisition by either party of the right, title, interest and estate of the other party in and to the Leased Premises shall not result in termination or cancellation of the Lease by operation of the principle of merger of estates or otherwise, notwithstanding any applicable law to the contrary; *provided, however*, that in the event Tenant acquires the right, title, interest and estate of Landlord in and to the Leased Premises, whether pursuant to any purchase option or right of first refusal granted in the Lease or otherwise, if either (i) the indebtedness secured by the Mortgage is satisfied or (ii) Tenant assumes the indebtedness secured by the Mortgage (on a recourse basis), then in such event the estates of Landlord and Tenant in and to the Leased Premises shall merge and the Lease will be extinguished. In the event Tenant assumes the indebtedness secured by the Mortgage and if Tenant is a Walgreen Co. subsidiary a guarantee by Walgreen Co. will be entered into for the indebtedness.

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,

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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.

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.

[Remainder of page intentionally left blank.]


Property of Cook County Clerk's Office

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

TENANT:

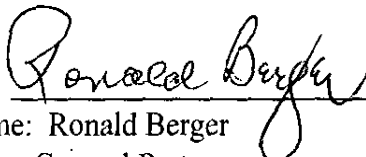
BOND DRUG COMPANY OF ILLINOIS,
an Illinois corporation

By: 
Name: Albert Tesnick
Title: Vice President

LANDLORD:

BIC-1031 LLC,
an Illinois limited liability company


By: Berger Investment Company,
an Illinois general partnership,
its sole member

By: 
Name: Ronald Berger
Title: General Partner

RAM-1031 LLC,
an Illinois limited liability company

By: RAM Partners, L.P.,
an Illinois limited partnership,
its sole member

By: The Berger Company, L.L.C.,
an Illinois limited liability
company,
General Partner

By: 
Name: Ronald Berger
Title: Managing Member

MORTGAGEE:

**CANADA LIFE INSURANCE COMPANY
OF AMERICA,**

a _____

By: _____

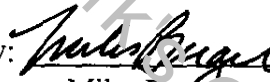
Name: _____

Title: _____

SAM II-1031 LLC,
an Illinois limited liability company

By: SAM Investment Partners II, L.P.,
a Delaware limited partnership,
its sole member

By: Berger Management Services,
L.L.C.,
an Illinois limited liability
company,
General Partnership

By: 
Name: Miles Berger
Title: Managing Member

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

TENANT:

BOND DRUG COMPANY OF ILLINOIS,
an Illinois corporation

By: [Signature]
Name: Allan Pearson
Title: Vice President

LANDLORD:

BIC-1031 LLC,
an Illinois limited liability company

By: **Berger Investment Company,**
an Illinois general partnership,
its sole member

By: _____
Name: **Ronald Berger**
Title: **General Partner**

RAM-1031 LLC,
an Illinois limited liability company

By: **RAM Partners, L.P.,**
an Illinois limited partnership,
its sole member

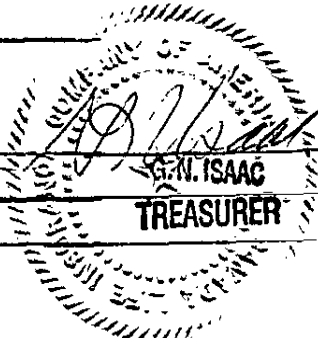
By: **The Berger Company, L.L.C.,**
an Illinois limited liability
company,
General Partner

By: _____
Name: **Ronald Berger**
Title: **Managing Member**

MORTGAGEE:

**CANADA LIFE INSURANCE COMPANY
OF AMERICA,**
a _____

By: [Signature]
Name: Joe H. Mazur
Title: Assistant Treasurer



SAM II-1031 LLC,
an Illinois limited liability company

By: **SAM Investment Partners II, L.P.,**
a Delaware limited partnership,
its sole member

By: **Berger Management Services,
L.L.C.,**
an Illinois limited liability
company,
General Partnership

By: _____
Name: **Miles Berger**
Title: **Managing Member**

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Province Ontario)
~~STATE OF~~)
City Toronto)
COUNTY OF YORK)

I, Adelaine Foralín Isidro, a Notary Public, do hereby certify that JOE H. MAZUR & G. N. ISAAC personally known to me to be an ASSISTANT TREASURER, TREASURER respectively, of CANADA LIFE INSURANCE COMPANY OF AMERICA, 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 JOE H. MAZUR & G. N. ISAAC 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 0th day of January, 2002.

Adelaine Foralín Isidro
Notary Public

ADELAINE FORALIN ISIDRO, Notary Public,
Commissioned to the attestation of Instruments
and to the attestation of v.t.s. for The Canada Life Assurance
Company and its subsidiaries, associated
and affiliated companies. Expires October 31, 2002

My commission expires:

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STATE OF ILLINOIS)
)
COUNTY OF LAKE)

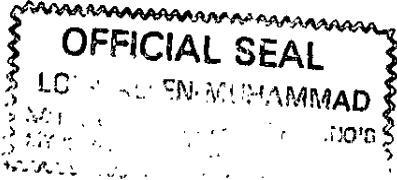
I, Lola Allen-Muhammad a Notary Public, do hereby certify that *Allen* personally known to me to be an Vice President, respectively, of **BOND DRUG COMPANY OF ILLINOIS**, an Illinois corporation, and personally known to me to be the person whose name is subscribed in the foregoing instrument, appeared 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 30 day of January, 2003.

Lola Allen-Muhammad

Notary Public

My commission expires:



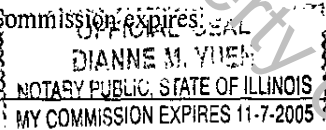
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, DIANNE M. YUEN, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Ronald Berger, general partner of Berger Investment Company, an Illinois general partnership, as sole member of BIC-1031 LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as the free and voluntary act of said general partnership, as sole member of said limited liability company and as his own free and voluntary act, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this 6th day of January, 2003.

DIANNE M. YUEN
Notary Public

My Commission expires:


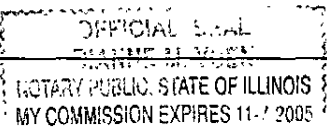
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, DIANNE M. YUEN, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Ronald Berger, as managing member of The Berger Company, L.L.C., an Illinois limited liability company, as general partner of RAM Partners, L.P., an Illinois limited partnership, as sole member of RAM-1031 LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as the free and voluntary act of said limited liability company and as his own free and voluntary act, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this 6th day of January, 2003.

DIANNE M. YUEN
Notary Public

My Commission expires:



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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, DIANNE M. YUEN Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Miles L. Berger, as managing member of Berger Management Services, L.L.C., an Illinois limited liability company, as general partner of SAM Investment Partners II, L.P., a Delaware limited partnership, as sole member of SAM II-1031 LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as the free and voluntary act of said limited liability company and as his own free and voluntary act, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this 11th day of January, 2003.

Dianna M. Yuen

Notary Public

My Commission expires:

OFFICIAL
DIANNE M. YUEN
NOTARY PUBLIC
MY COMMISSION EXPIRES
11-7-2005

Cook County Clerk's Office

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EXHIBIT "A"

LEGAL DESCRIPTION (STORE #4938)

PARCEL 1:

LOTS 23 TO 27 IN SPRAGUE AND WILSON'S SUBDIVISION OF BLOCK 18 IN W. R. O'BRIEN'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE SOUTH 5 ACRES IN THE SOUTHEAST CORNER THEREOF AND RAILROAD RIGHT OF WAY), IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 22 IN SPRAGUE AND WILSON'S SUBDIVISION OF BLOCK 18 IN W.R. O'BRIEN'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTH WEST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE SOUTH 5 ACRES IN THE SOUTHEAST CORNER THEREOF AND RAILROAD RIGHT OF WAY), IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOT 21 IN SPRAGUE AND WILSON'S SUBDIVISION OF BLOCK 18 IN W.R. O'BRIEN'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTH WEST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE SOUTH 5 ACRES IN THE SOUTHEAST CORNER THEREOF AND RAILROAD RIGHT OF WAY), IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOTS 18, 19 AND 20 IN SPRAGUE AND WILSON'S SUBDIVISION OF BLOCK 18 IN W.R. O'BRIEN'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE SOUTH 5 ACRES IN THE SOUTHEAST CORNER THEREOF AND RAILROAD RIGHT OF WAY), IN COOK COUNTY, ILLINOIS.

PARCEL 5:

ALL THAT PART OF THE VACATED NORTH CICERO AVENUE RIGHT OF WAY, LYING WEST OF AND ADJOINING LOT 27 DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF LOT 27; THENCE WEST, ALONG THE SOUTH LINE OF LOT 27 EXTENDED WEST, 56.0 FEET; THENCE NORTHWESTERLY, ALONG A LINE FORMING AN ANGLE OF 45 DEGREES TO THE RIGHT WITH THE PROLONGATION OF THE LAST DESCRIBED LINE, 17.89 FEET TO A POINT ON A CURVE, CONCAVE EASTERLY AND HAVING A RADIUS OF 718.69 FEET; THENCE NORTHERLY ALONG SAID CURVE 113.09 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 27 EXTENDED WEST AND 61.06 FEET WEST OF THE NORTHWEST CORNER OF SAID LOT 27; THENCE EAST 61.06 FEET TO THE NORTHWEST CORNER OF SAID LOT 27; THENCE SOUTH 125.41 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, ALL IN SPRAGUE AND WILSON'S SUBDIVISION OF BLOCK 18 IN W.R. O'BRIEN'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE SOUTH 5 ACRES IN THE SOUTHEAST CORNER THEREOF, AND RAILROAD RIGHT OF WAY), IN COOK COUNTY, ILLINOIS.

PIN # 13-34-315-029 to 035
4748 W. North Ave., Chicago, IL
#4938

30178269