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Doc#: 0421742345
Eugene "Gene" Moore Fee: \$46.00
Cook County Recorder of Deeds
Date: 08/04/2004 10:51 AM Pg: 1 of 12

(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 # 2391/480 S. Torrence Avenue, Calumet City, IL

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT made in multiple copies as of the 15th day of July, 2004, by and between **MTL INSURANCE COMPANY**, an Illinois corporation ("Mortgagee"), **AMALGAMATED BANK OF CHICAGO**, as Trustee under a Trust Agreement dated June 18, 1991 and known as Trust No. 5517 ("Landlord") and **WALGREEN CO.**, an Illinois corporation ("Tenant");

WITNESSETH:

WHEREAS, Mortgagee is the holder of a Note in the original principal amount of \$930,000.00, secured by a Mortgage or Deed of Trust ("Mortgage") dated July 1, 2004, recorded on _____, 2004, as document no. 0421742342 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 August 2, 1991 ("Lease"), recorded by Memorandum of Lease of even date, on August 22, 1991, as document no. 91431882, in the Official Records of Cook County, State of Illinois, Landlord, as landlord, leased to Tenant, as tenant, the property commonly known as 480 S. Torrence Avenue, Calumet City, Illinois, legally described on Exhibit "A" ("Leased Premises");

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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:

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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

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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: MTL Insurance Company
 1200 Jorie Boulevard
 Oak Brook, Illinois 60522-9060
 Attention: Ms. Diane E. Hundseher

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

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If to Landlord: Amalgamated Bank of Chicago, as Trustee of Trust No. 5517
 c/o George D. Hanus
 333 W. Wacker Dr., Suite 2750
 Chicago, Illinois 60606

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 intention 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, 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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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.

(Signature Page to Follow)

Property of Cook County Clerk's Office

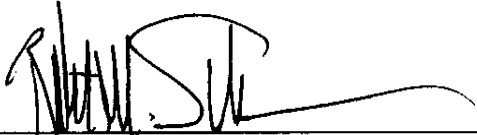
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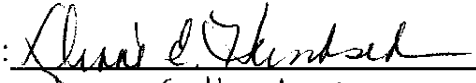
TENANT

MORTGAGEE

WALGREEN CO.

MTL INSURANCE COMPANY

By: 
 Robert M. Silverman,
 Divisional Vice President

By: 
 Diane E. Hundseder
 Vice President

LANDLORD

AMALGAMATED BANK OF CHICAGO,
not personally but as Trustee as aforesaid

By: _____
 Its: _____

*See attached Rider for
signature of Trustee*

Property of Cook County Clerk's Office

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RIDER ATTACHED TO: AND MADE A PART OF SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

DATED: July 15, 2004

This instrument is executed by AMALGAMATED BANK OF CHICAGO, not personally, but as Trustee as aforesaid, in the exercise of power and authority conferred upon and vested in said Trustee as such, and it is expressly agreed that nothing herein contained shall be construed as creating any liability on said AMALGAMATED BANK OF CHICAGO in its individual corporate capacity to pay any indebtedness accruing thereunder, or with respect to any warranty or representation contained in this instrument, or to perform any covenant, either express or implied, herein contained, including but not limited to warranties, indemnifications, and hold harmless representations in said document all such liability, if any, being expressly waived by the parties hereto and by every person now or hereafter claiming any right or interest hereunder, and as so far as said Trustee is concerned, the owner of any indebtedness or right accruing under said document shall look solely to the premises described therein for the payment or enforcement thereof, it being understood that said, AMALGAMATED BANK OF CHICAGO as Trustee merely holds legal title to the premises described therein and has no control over the management thereof or the income therefrom, and has no knowledge respecting any factual matter with respect to said premises, except as represented to it by the beneficiary or beneficiaries of said trust. In the event of conflict between the terms of this rider and of the agreement to which it is attached, on any questions of apparent liability or obligation resting upon said trustee, the provisions of this rider shall be controlling.

It is expressly understood and agreed by every person, firm or corporation claiming any interest in this document that AMALGAMATED BANK OF CHICAGO shall have no liability, contingent or otherwise arising out of, or in any way related to (i) the presence, disposal, release or threatened release of any hazardous materials on, over, under, from, or affecting the property or the soil, water, vegetation, buildings, personal property persons or animals thereof; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such hazardous materials; (iii) any lawsuit brought or threatened, settlement reached or government order relating to such hazardous materials, and/or (iv) any violation of laws, orders, regulations, requirements, or demands of government authorities, or any policies or requirements of the Trustee, which are based upon or in any way related to such hazardous materials including without limitation, attorneys' and consultants' fees, investigation and laboratory fees, court costs, and litigation expenses.

AMALGAMATED BANK OF CHICAGO, NOT
INDIVIDUALLY, BUT AS TRUSTEE UNDER
TRUST NO. 5517

BY: 

IRVING B. POLAKOW

SENIOR

VICE PRESIDENT

ATTEST: 

ASST. VICE PRESIDENT/TRUST OFFICER

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STATE OF ILLINOIS)
)
COUNTY OF COOK)

IRVING B. POLAKOW

I, JOAN M. DICCSOLA, a Notary Public, do hereby certify that _____, personally known to me to be a(n) SENIOR VICE PRESIDENT of Amalgamated Bank of Chicago, not personally but as Trustee under a Trust Agreement dated June 18, 1991 and known as Trust No. 5517, 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, as such SENIOR VICE PRESIDENT of said corporation, he/~~she~~ executed and delivered the foregoing instrument 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, and as trustee of the foregoing land trust.

Given under my hand and notarial seal this 22nd day of July, 2004.

Joan M. Diccsola

Notary Public

My commission expires:



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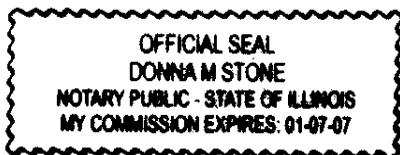
STATE OF Illinois)
)
COUNTY OF Cook)

I, Donna M Stone a Notary Public, do hereby certify that Diane Hundzeder, personally known to me to be a(n) Vice President of MTL Insurance Company, 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, he/she executed and delivered the foregoing instrument 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 28th day of July, 2004.

Donna M Stone
Notary Public

My commission expires: 1/7/07



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EXHIBIT "A" LEGAL DESCRIPTION

Parcel 1: Lots 28 to 34 (except the East 5 feet of said lots) in Block 1 in Ford Calumet Terrace Subdivision in the Northeast 1/4 of the Southeast 1/4 of Section 12, Township 36 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2: Lots 1 to 5, both inclusive, (except that part of said Lots lying Northeasterly of a line described as follows: Beginning at a point in the West line of said Lot 1, distance 19.99 feet South of the Northwest corner of said Lot 1; thence Southeasterly in a straight line a distance of 119.96 feet to a point in the East line of said Lot 5, a distance 31.75 feet South of the Northeast corner of said Lot 5) together with the West 1/2 of the vacated alley lying East of and adjoining that part of Lot 5 described above, all in Block 1 in Ford Calumet Terrace Subdivision in the Northeast 1/4 of the Southeast 1/4 of Section 12, Township 36 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 3: Lot 35 (except the East 5 feet of said Lot and also except that part thereof lying Easterly of a line described as follows: Beginning at a point in the West line of said Lot 35, a distance 33.08 feet South of the Northeast corner thereof; thence Southeasterly along a straight line a distance of 40.69 feet to a point, a distance 37 feet South of and measured at right angles to the North line of said Lot 35, said point being also a point of curvature of a curve having a radius of 80 feet convex to the Northeast; thence Southeasterly along said curve a distance of 125.6 feet to a point a distance of 5 feet West and measured at right angles to the East line of said Lot 35, said point being also a point of tangency on said curve; thence South along a line a distance of 8 feet to a point in the South line thereof, a distance 5 feet West of the Southeast corner of said Lot 35), together with the East 1/2 of the vacated alley lying West of and adjoining that part of Lot 35 described above, all in Block 1 in Ford Calumet Terrace Subdivision in the Northeast 1/4 of the Southeast 1/4 of Section 12, Township 36 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Easements for the benefit of Parcels 1, 2 and 3 established pursuant to a Declaration of Easements, Covenants, Conditions and Restrictions dated March 21, 2001 and recorded on March 21, 2001 in Cook County, Illinois as Document No. 10221048.

Address of Property: 480 Torrence Avenue, Calumet City, Illinois
 Permanent Index No.: 29-12-407-020; 29-12-407-021; 29-12-407-001;
 29-12-407-002; 29-12-407-003; 29-12-407-004;
 29-12-407-018; 29-12-407-019; 29-12-407-022;
 29-12-407-023; 29-12-407-024; 29-12-407-036;
 29-12-407-037