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Eugene "Gene" Moore Fee: \$42.50
Cook County Recorder of Deeds
Date: 12/15/2004 03:12 PM Pg: 1 of 10

This Document Prepared By
and After Recording Return To:

MAIL TO
Mark R. O'Meara
Chapman and Cutler LLP
111 West Monroe Street
Chicago, Illinois 60603

SPACE ABOVE THIS LINE RESERVED FOR
RECORDER'S USE ONLY

MORTGAGEE'S NON-DISTURBANCE AGREEMENT AND LESSEE'S SUBORDINATION AND AGREEMENT TO ATTORN

THIS AGREEMENT, made this 13 day of December, 2004, by and among Harris Trust and Savings Bank, of 333 Park Avenue, Glenview, Illinois 60022 (hereinafter referred to as "Mortgagee"), A-Z Ventures, L.L.C., an Illinois limited liability company ("Landlord") and Baxter Healthcare Corporation, a corporation of Delaware having its principal office and place of business located at One Baxter Parkway, Deerfield, Illinois 60015 (hereinafter referred to as "Lessee").

WHEREAS, Lessee has entered into a certain lease, dated October 5, 1987, as amended, by those certain Lease Extensions and Amendments dated December 2, 1992, February 21, 1997 and March 6, 2003, between Lessee and Landlord, covering approximately 41,860 square feet of space (hereinafter referred to as the "Demised Premises") at 3631-3665 Commercial Avenue, Northbrook, Illinois, and further described on Schedule I attached hereto and made a part hereof (the said lease being hereinafter referred to as the "Lease"); and

WHEREAS, Mortgagee is or will be the holder of a certain Mortgage and Security Agreement with Assignment of Rents dated as of December 13, 2004, to be recorded in the Office of the Recorder of Deeds of Cook County, Illinois, which covers the building and land of which the Demised Premises form a part (hereinafter the "Mortgage"); and

WHEREAS, Mortgagee has requested that Lessee subordinate the Lease to the lien of the Mortgage; and

WHEREAS, Lessee has requested that Mortgagee agree not to disturb Lessee's possessory rights in the Demised Premises in the event Mortgagee should foreclose the Mortgage provided

Near North National Title Corp
222 North LaSalle Street
Chicago, Illinois 60601

Handwritten notes:
Top left: Initials/signature
Left margin: MAIL TO
Vertical: NNNT 01042101
Vertical: Cook Co.

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that Lessee is not in default under the Lease beyond any applicable cure periods and provided that Lessee attorns to Mortgagee or the purchaser at the foreclosure sale; and

WHEREAS, Lessee and Mortgagee are willing to so agree on the terms and conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein and TEN DOLLARS (\$10.00) and other good and valuable consideration each to the other in hand paid, receipt of which is hereby acknowledged, Mortgagee and Lessee hereby agree as follows:

1. The Lease is and shall be subject and subordinate in all respects to the Mortgage and to any renewal, modification, replacement or extension of the same.

2. Provided Lessee complies with this Agreement and is not in default under the terms of the Lease in the payment of rent, additional or percentage rent or any other payment to be made under the Lease or the performance of any of the terms, conditions, covenants, clauses or agreements on its part to be performed under the Lease, as of the date Mortgagee files a lis pendens in, or otherwise commences a foreclosure action, or at any time thereafter, no default under the Mortgage, as modified, extended or increased, and no proceeding to foreclose the same will disturb Lessee's possession under said Lease and the Lease will not be affected or cut off thereby (except to the extent that Lessee's right to receive or set off any monies or obligations owed or to be performed by the Mortgagee's predecessors in title shall not be enforceable thereafter against Mortgagee or any subsequent owner unless Lessee provides Mortgagee prior written notice not later than thirty (30) days from the date such lis pendens or foreclosure action is filed of such right to receive or set off any monies or obligations), and notwithstanding any such foreclosure or other acquisition of the Demised Premises by Mortgagee, the Lease will be recognized as a direct lease from Mortgagee or any other party acquiring the Demised Premises upon the foreclosure sale, except that the Mortgagee, or any subsequent owner, shall not, unless the Lessee has provided Mortgagee written notice as required by this Paragraph 2, (a) be liable for any previous act or omission of Landlord under the Lease, (b) be subject to any offset which shall theretofore have accrued to Lessee against Landlord, (c) have any obligation with respect to any security deposited under the Lease unless such security has been physically delivered to Mortgagee, or (d) be bound by any previous prepayment of fixed rent for a period greater than one (1) month, except such prepayment made pursuant to Tenant's Early Termination Option set forth in Paragraph 7 of that certain Lease Extension and Amendment dated March 6, 2003 (the "*Termination Option*") unless such prepayment shall have been expressly approved in writing by the Mortgagee.

3. Any provision of this Agreement to the contrary notwithstanding, Mortgagee shall have no obligation, or incur any liability, with respect to the erection and completion of any improvements for Lessee's use and occupancy, unless such improvements shall have been expressly approved in writing by the Mortgagee.

4. If Mortgagee elects to accept from the then Mortgagor a deed in lieu of foreclosure, Lessee's right to receive or set off any monies or obligations owed or to be performed by the

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then landlord shall not be enforceable thereafter against Mortgagee or any subsequent owner unless the Lessee has provided Mortgagee written notice of such right to receive or set off any monies or obligation at least 30 days prior to the acceptance of the deed in lieu of foreclosure.

5. Lessee will upon request by Mortgagee, or any subsequent owner, execute a mutually acceptable written agreement whereunder Lessee does attorn to Mortgagee or any such subsequent owner and affirm Lessee's obligations under the Lease and agree to pay all rentals and charges then due or to become due as they become due to Mortgagee or such subsequent owner.

6. Lessee from and after the date hereof shall send a copy of any notice or statement under the Lease to Mortgagee at the same time such notice or statement is sent to the landlord under the Lease.

7. Lessee hereby agrees that from and after the date hereof in the event of any act or omission by Landlord under the Lease which would give Lessee the right, either immediately or after the lapse of the period of time, to terminate the Lease, or to claim a partial or total eviction, Lessee will not exercise any such right (i) until it has given written notice of such act or omission to the Mortgagee by delivering such notice of such act or omission, by registered mail, return receipt requested, addressed to Mortgagee, at the Mortgagee's address as given herein (Attention: Michael Johnson), or at the last address of Mortgagee furnished to Lessee in writing and (ii) until ten (10) days shall have elapsed after the giving of notice with respect to acts or omissions which can be cured by the payment of money and with respect to other acts or omissions until thirty (30) days after such notice, *provided, however*, that if such act or omission is not readily curable within such thirty (30) day period and a diligent cure has been commenced within such thirty (30) day period, Tenant shall give Mortgagee fifteen (15) additional days to cure such act or omission.

8. Except as permitted by the Termination Option, Lessee will neither offer nor make prepayment of rent (for a period in excess of one month) nor further change the terms, covenants, conditions and agreements of the Lease that decrease the fixed monthly minimum rent or decrease the term of the Lease in any manner without the express consent in writing of the Mortgagee.

9. Nothing contained in this Agreement shall in any way impair or affect the lien created by the Mortgage, except as specifically set forth herein.

10. No modification, amendment, waiver or release of any provision of this Agreement or of any right, obligation, claim or cause of action arising hereunder shall be valid or binding for any purpose whatsoever unless in writing and duly executed by the party against whom the same is sought to be asserted.

11. This Agreement shall inure to the benefit of the parties hereto, their successors and assigns; provided, however, that in the event of the assignment or transfer of the interest of the Mortgagee, all obligations and liabilities of the Mortgagee under this Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the party to whom

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the Mortgagee's interest is assigned or transferred; and provided further that if the interest of Lessee under this Agreement is assigned or transferred as permitted by the Lease, then this Agreement shall also be assigned and all obligations and liabilities of the Tenant under this Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the party to whom the Tenant's interest is assigned or transferred.

12. Lessee agrees that this Agreement satisfies any condition or requirement in the Lease relating to the granting of a non-disturbance agreement.

13. Landlord and Lessee acknowledge notice that the Lease and the rent and all other sums due thereunder have been assigned to the Mortgagee as part of the security for the obligations secured by the Mortgage. In the event that Mortgagee notifies Lessee of a default under the Mortgage and demands that Lessee pay its rent and all other sums due under the Lease to Mortgagee, Landlord hereby permits Lessee to pay and Lessee agrees that it will honor such demand and pay its rent and all other sums due under the Lease directly to the Mortgagee as directed by Mortgagee.

14. Landlord hereby represents and warrants to Mortgagee and Lessee that it has satisfied all loans with LaSalle Bank, National Association ("*LaSalle Bank*") and that the Tenant Estoppel Certificate and Subordination, Non-Disturbance and Attornment Agreement executed by Tenant on December 17, 2003, and provided to LaSalle Bank in connection with such loans are no longer in effect.

15. This Agreement may be executed in any number of counterparts and by separate parties hereto on separate counterparts, all of such counterparts taken together to constitute but one and the same instrument.

[SIGNATURE PAGE TO FOLLOW]

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IN WITNESS WHEREOF, the parties hereto have respectively signed and sealed this Agreement as of the day and year first above written.

HARRIS TRUST AND SAVINGS BANK

By Michael J. Johnson
Name: _____
Title: **MICHAEL J. JOHNSON**
MANAGING DIRECTOR

BAXTER HEALTHCARE CORPORATION

By _____
Name: _____
Title: _____

Accepted and Agreed to solely with respect to Paragraphs 13, 14 and 15 herein

A-Z VENTURES, L.L.C.,

By _____
Name: _____
Title: Manager

By _____
Name: _____
Title: Manager

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IN WITNESS WHEREOF, the parties hereto have respectively signed and sealed this Agreement as of the day and year first above written.

HARRIS TRUST AND SAVINGS BANK


By _____
Name: _____
Title: _____

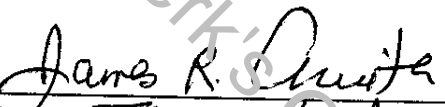
BAXTER HEALTHCARE CORPORATION

By 
Name: **Richard W. Potocek**
Title: **Director, Corporate Real Estate Services**

Accepted and Agreed to solely with respect to Paragraphs 13, 14 and 15 herein

A-Z VENTURES, L.L.C.,

By 
Name: **ROBERT A ANNENBERG**
Title: Manager

By 
Name: **JAMES R SMITH**
Title: Manager

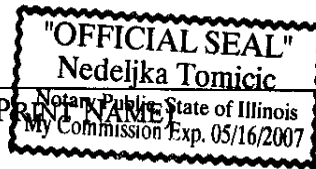
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Nedeljka Tomicic, a Notary Public in and for said County, in the State aforesaid, do hereby certify that MICHAEL J. JOHNSON, of Harris Trust and Savings Bank, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such MANAGING DIRECTOR, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal, this ____ day of December, 2004.

Nedeljka Tomicic
NOTARY PUBLIC



(TYPE OR PRINT NAME)

(SEAL)

Commission Expires:

5-16-2007

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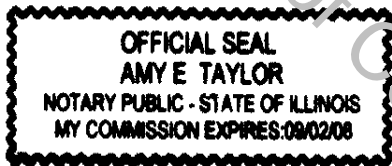
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STATE OF ILLINOIS)
) SS.
COUNTY OF LAKE)

I, AMY E. TAYLOR, a Notary Public in and for said County in the State aforesaid, do hereby certify that RICHARD W. POTDAER, ~~DIRECTOR, CRE~~ ~~President~~ of Baxter Healthcare Corporation, a Delaware corporation who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such DIRECTOR, CRE ~~President~~, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal this 10th day of December, 2004.

Amy E. Taylor
NOTARY PUBLIC



AMY E. TAYLOR
(TYPE OR PRINT NAME)

(SEAL)

Commission Expires:

9/2/2008

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Keith Ross, a Notary Public in and for said County, in the State aforesaid, do hereby certify that John M. [unclear], manager and James R. [unclear] manager, of A-Z Ventures, L.L.C., who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such manager, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 17th day of December, 2004.



[Signature]
NOTARY PUBLIC

Keith Ross
(TYPE OR PRINT NAME)

(SEAL)

Commission Expires:

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SCHEDULE I

LEGAL DESCRIPTION

LOTS 18, 19 AND 20 IN NORTHBROOK EDENS INDUSTRIAL PARK SUBDIVISION UNIT NO. 4, A SUBDIVISION OF THAT PART OF SECTION 6, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED APRIL 17, 1968, AS DOCUMENT 20462314, IN COOK COUNTY, ILLINOIS.

Property Address: 3631-3655 Commercial Avenue
Northbrook, Illinois 60062

P.I.N. 04-06-203-002
04-06-203-003
04-06-203-004

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