

UNOFFICIAL COPY

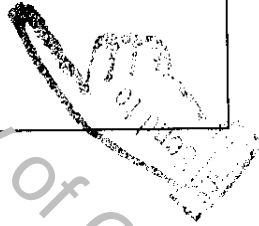


Doc#: 0509645160
Eugene "Gene" Moore Fee: \$86.00
Cook County Recorder of Deeds
Date: 04/06/2005 02:24 PM Pg: 1 of 12

RETURN RECORDED DOCUMENT TO:

WALGREEN CO.
104 Wilmot Road, MS 1420
Deerfield, Illinois 60015
Attn: Charles Kaufman

This Instrument Prepared by:
Marla Blair
200 Wilmot Road
Deerfield, Illinois 60015



MEMORANDUM OF LEASE

By this Memorandum of Lease made the 28th day of March, 2005, between INTERRA VISION (MILWAUKEE & ARMITAGE), L.L.C., an Illinois limited liability company, hereinafter called "Landlord," and WALGREEN CO., an Illinois corporation, hereinafter called "Tenant";

Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord, for the term commencing January 1, 2006 and continuing to and including December 31, 2081, as such dates shall be adjusted pursuant to a lease of even date herewith between the parties hereto (the "Lease") and subject to prior termination as therein provided the premises to include both the real property and building and other improvements, appurtenances, easements and privileges belonging thereto at the northeast corner of Milwaukee and Armitage, in the City of Chicago, State of Illinois, as shown on the plan attached hereto and made a part hereof as Exhibit "A" and as legally described on Exhibit "B" attached hereto and made a part hereof and hereinafter referred to as the "Leased Premises."

The Lease, among other things, contains the following provisions:

95924
Dec 7/8
JC

UNOFFICIAL COPY

NEC Milwaukee & Armitage
Chicago, Illinois
Store #9000

Milwaukee & Armitage MOL FINAL
3/25/05

PARKING

Landlord, at Landlord's cost and expense, shall repair and replace (but shall not be obligated to maintain, which shall be Tenant's responsibility) the parking, driveway, curb-cut and landscaped areas of the Leased Premises for one (1) year after Tenant's acceptance of possession; provided, however, Landlord shall not have to repair or replace parking, driveway, curb-cut or landscaping damaged or destroyed due to accidents, casualty, condemnation, Tenant's or Tenant's customers', employees', agents' or invitees' negligent or willful acts or omissions or due to installations, changes or alterations made by Tenant or repairs or replacements arising out of design defects where Landlord has constructed or caused to be constructed the parking, driveway, curb-cut or landscape improvements, as applicable, in accordance with the Walgreen Co. Criteria Plans and Specifications. Subject to the immediately preceding sentence, Tenant, at Tenant's cost and expense, shall maintain in a good, clean and safe condition, repair and replace the parking, driveway, curb-cut and landscaped areas of the Leased Premises. However, Tenant shall have no obligation to perform nor pay any costs in connection with the following: (i) any damages caused by the negligent acts or omissions of Landlord; and (ii) any defects in the construction of the Leased Premises by Landlord; provided, however that construction defects arising out of defective design shall not be Landlord's responsibility if Landlord has constructed or caused to be constructed the parking, driveway, curb-cut or landscape improvements, as applicable, on the Leased Premises in accordance with the Walgreen Co. Criteria Plans and Specifications, and further provided that construction defects arising out of defective materials or workmanship shall not be the responsibility of Landlord if claims arising out of such defects are not made within one (1) year from the date of acceptance of possession of the Leased Premises by Tenant if the defect is patent in nature (meaning that it would be noticed in the exercise of reasonable prudence in observation), or within three (3) years from the date of Tenant's acceptance of possession if the defect is latent in nature (meaning that it would not be noticed in the exercise of reasonable prudence in observation). The foregoing items (i) and (ii) shall remain Landlord's responsibility to perform. Subject to the matters set forth on Exhibit "E" hereto, the parking areas shall be for the exclusive use of Tenant and Tenant's customers, employees, invitees, successors, assigns and sublessees.

EXCLUSIVES

(a) Except as otherwise set forth hereinbelow, Landlord covenants and agrees that, during the Term and any extensions or renewals thereof, no additional property which Landlord, directly or indirectly, may now or hereafter own or control by virtue of holding a controlling interest in the ownership or being owned by or in common with the ownership, and which is contiguous to, or which is within five hundred (500) feet of any boundary of, the Leased Premises (the "Landlord's Property"), 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 prescription ordering, processing or delivery facility,

UNOFFICIAL COPY

NEC Milwaukee & Armitage
Chicago, Illinois
Store #9000

Milwaukee & Armitage MOL FINAL
3/25/05

whether or not a pharmacist is present at such facility, 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 treatment services (other than as part of a medical, dental, physician, surgical or chiropractic offices, which offices shall not be restricted by this subsection [(ii)]); (iii) the operation of a business in which so-called health and beauty aids or drug sundries are offered for sale; (iv) the operation of a business in which photofinishing services (including, without limitation, digital photographic processing or printing, or the sale of any other imaging services, processes or goods) or photographic film are offered for sale; (v) the operation of a business in which greeting cards or gift wrap are offered for sale; and (vi) the operation of a business in which prepackaged food items for off premises consumption are offered for sale; provided, however, that notwithstanding anything to the contrary contained herein, this restriction shall not prohibit or restrict the operation on Landlord's Property of carry out or restaurants with limited seating (including so called "fast food" or quick service restaurants), in any case, where prepackaged food items may be sold for off-premises consumption. In the event that Tenant files suit against any party to enforce the foregoing restrictions against an occupant of Landlord's Property, Landlord agrees to cooperate fully with Tenant in the prosecution of any such suit, and reimburse Tenant for all of attorneys' fees and court costs incurred by Tenant in connection with such suit, notwithstanding its resolution. 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, alley or right-of-way. Tenant acknowledges and agrees that Landlord shall not be required to pursue, create or enforce such restrictions against additional property which Landlord may now or hereafter own or control by virtue of holding a controlling interest in the ownership or being owned by or in common with the ownership, and which is contiguous to, or which is within five hundred (500) feet of any boundary of, the Leased Premises, if such adjacent real property is, at the time of Landlord coming into ownership or control of such adjacent real property, subject to leases, licenses or other private interest documentation which expressly allow use in contradiction of such restrictions for so long as and to the extent that any such lease, license or other private interest documentation permits such contradictory use; provided that: a) Landlord or its affiliate who owns or controls such adjacent property shall not modify any such lease, license or private interest document to allow a use in violation of the exclusives if disallowance of a change of use is discretionary to Landlord or its affiliate under the terms of the given document; and b) Landlord or its affiliate who owns or controls such adjacent property shall not extend any such lease, license or private interest document that allows a use in violation of the exclusives if extensions are discretionary to Landlord or its affiliate under the terms of the given document.

If Tenant shall discontinue any of the above uses for a period in excess of six (6) continuous months (so long as such discontinuance is not due to remodeling, fire, casualty, repairs, strike, temporary loss of licenses, or other causes beyond Tenant's

UNOFFICIAL COPY

NEC Milwaukee & Armitage
Chicago, Illinois
Store #9000

Milwaukee & Armitage MOL FINAL
3/25/05

control and reconstruction of the Building and other improvements, as applicable, and continuance of Tenant's business operations at the Leased Premises is contemplated upon cure of the event causing such discontinuance within a reasonable time period), then the above restriction pertaining to such discontinued use shall be waived; however, in no event shall the discontinuance by Tenant of any one exclusive use for the time period provided above, affect the continuance of the other restrictions as herein set forth.

(b) In addition, the Leased Premises shall not be used for and Landlord shall not permit or suffer any other occupant of Landlord's Property to use any premises or any portion thereof for purposes of a cocktail lounge, bar, disco, bowling alley, pool hall, billiard parlor, skating rink, roller rink, amusement arcade, children's play or party facility (except as part of a restaurant), adult book store, adult theatre, adult amusement facility, any facility selling or displaying pornographic materials or having such displays, second hand store, odd lot, closeout or liquidation store, auction house, flea market, educational or training facility, blood bank, sleeping quarters or lodging, the outdoor housing or raising of animals, the sale, leasing or storage of automobiles, boats or other vehicles, any industrial use, a car wash, an assembly hall, off track betting establishment, bingo parlor, any use involving the use, storage, disposal or handling of hazardous materials or underground storage tanks, or any use which creates a nuisance. In the event that any action, claim or suit is brought by any party against Tenant alleging that Tenant's operations on the Leased Premises are in violation of any use restriction contained in any instrument affecting the Leased Premises entered into by Landlord that is not set forth on Exhibit "E" hereto or consented to, in writing, by Tenant, Landlord shall defend (by counsel reasonably satisfactory to Tenant or by counsel selected by the Title Company who issued the Landlord's owner's title insurance policy), indemnify and hold Tenant harmless from any damages, loss, or cost (including, without limitation, attorneys' fees and costs) suffered by Tenant thereby, or from the enforcement of said restriction against Tenant. No encumbrance, lien, or restriction recorded against or otherwise imposed upon the Leased Premises from and after the date hereof shall be binding upon or otherwise enforceable against Tenant or its successors and assigns unless Tenant has expressly and in writing, consented to said recordation or imposition and any such purported encumbrance, lien or restriction to which Tenant has not consented shall be void. The matters set forth on Exhibit "E" hereto are acceptable to Tenant and Tenant's leasehold interest is subject and subordinate to such items. The foregoing restriction against the imposition or recordation of other liens, encumbrances or restrictions shall be deemed a covenant running with the land in addition to any contractual obligation of Landlord. Tenant acknowledges and agrees that Landlord shall not be required to pursue, create or enforce the restrictions against additional property referenced in this Article 8(b) which Landlord may now or hereafter own or control by virtue of holding a controlling interest in the ownership or being owned by or in common with the ownership, and which is contiguous to, or which is within five hundred (500) feet of any boundary of, the Leased Premises, if such adjacent real property is, at the time of Landlord coming into

UNOFFICIAL COPY

NEC Milwaukee & Armitage
Chicago, Illinois
Store #9000

Milwaukee & Armitage MOL FINAL
3/25/05

ownership or control of such adjacent real property, subject to leases, licenses or other private interest documentation which expressly allow use in contradiction of such restrictions, for so long as and to the extent that any such lease, license or other private interest documentation permits such contradictory use; provided that: (1) Landlord or its affiliate who owns or controls such adjacent property shall not modify any such lease, license or private interest document to allow a use in violation of the exclusives if disallowance of a change of use is discretionary to Landlord or its affiliate under the terms of the given document; and (2) Landlord or its affiliate who owns or controls such adjacent property shall not extend any such lease, license or private interest document that allows a use in violation of the exclusives if extensions are discretionary to Landlord or its affiliate under the terms of the given document.

RIGHT OF FIRST REFUSAL

(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 on 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 with a duplicate notice to the Real Estate 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 Landlord's lender (whether financing via a traditional mortgage loan or sale and leaseback) and not related or affiliated with Landlord which Landlord intends to accept (subject to this Article), and may include a fully executed purchase and sale contract, or a signed letter of intent from the Bona Fide Purchaser setting forth (i) the purchase price, (ii) the closing date, and (iii) all other material terms. 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 an amount equal to broker's fees or commissions actually saved by Landlord by selling the Leased Premises to Tenant rather than pursuant to a Bona Fide Offer. 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.

UNOFFICIAL COPY

NEC Milwaukee & Armitage
Chicago, Illinois
Store #9000

Milwaukee & Armitage MOL FINAL
3/25/05

(b) Tenant's election not to exercise its Right of First Refusal shall not prejudice Tenant's rights hereunder 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 Landlord.

(c) Tenant's right of first refusal shall not apply to conveyance of the Leased Premises to Landlord's first mortgagee pursuant to a foreclosure action and/or a deed in lieu of foreclosure, provided however, that Tenant's right of first refusal shall apply and be in full force and effect with respect to any subsequent conveyance of title by the mortgagee.

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 Lease, and all of said provisions, terms, covenants and conditions are, by reference hereto, hereby incorporated in and made a part of this Memorandum of Lease.

This instrument shall also bind and benefit, as the case may require, the heirs, legal representatives, assigns and successors 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 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 Lease and this Memorandum of 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 Lease.

UNOFFICIAL COPY

NEC Milwaukee & Armitage
Chicago, Illinois
Store #9000

Milwaukee & Armitage MOL FINAL
3/25/05


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

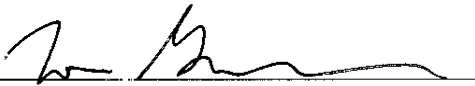
TENANT:

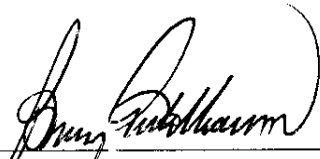
LANDLORD:

WALGREEN CO., an Illinois
Corporation

INTERRA VISION (MILWAUKEE &
ARMITAGE), L.L.C. ~~corporation~~, an Illinois
limited liability company

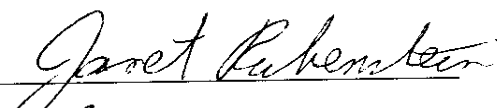
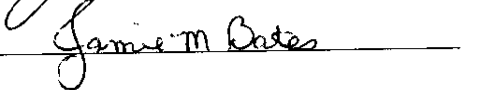
By: 
Name: Robert M. Silverman
Its: Divisional Vice President



By: 
Name: Thomas J. Gamsjaeger
Its: Co-Manager

By: 
Name: Bruce Teitelbaum
Its: Co-Manager

WITNESSESS

WITNESSESS

UNOFFICIAL COPY

NEC Milwaukee & Armitage
Chicago, Illinois
Store #9000

Milwaukee & Armitage MOL FINAL
3/25/05

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

The undersigned, a Notary Public, does hereby certify that Robert M. Silverman, personally known to me to be the Divisional 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 Divisional 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 28th day of March, 2005.



Suzanne L. Collins

Notary Public

Property of Cook County Clerk's Office

UNOFFICIAL COPY

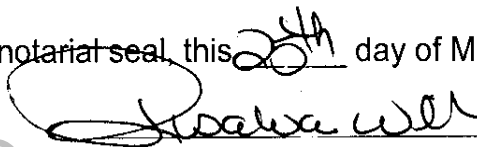
NEC Milwaukee & Armitage
Chicago, Illinois
Store #9000

Milwaukee & Armitage MOL FINAL
3/25/05

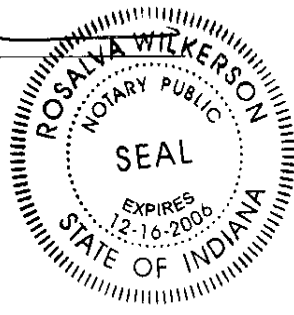
STATE OF ILLINOIS)
)
) ss.
COUNTY OF COOK)

The undersigned, a Notary Public, does hereby certify that Thomas J. Gamsjaeger, personally known to me to be a Co-Manager of INTERRA VISION (MILWAUKEE & ARMITAGE), L.L.C., an Illinois limited liability company ("Company"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Co-Manager. 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 of said Company, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 20th day of March, 2005.


Notary Public

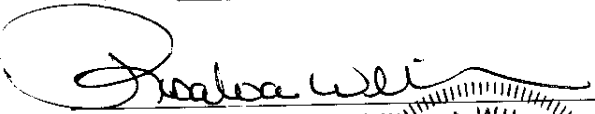
My Commission Expires: 12-16-06



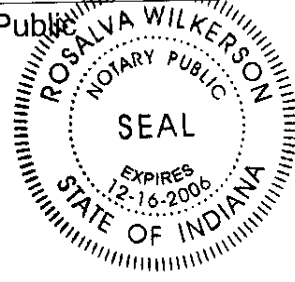
STATE OF ILLINOIS)
)
) ss.
COUNTY OF COOK)

The undersigned, a Notary Public, does hereby certify that Bruce Teitelbaum, personally known to me to be the Co-Manager of INTERRA VISION (MILWAUKEE & ARMITAGE), L.L.C., an Illinois limited liability company ("Company"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument as such, 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 of said Company, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 20th day of March, 2005.


Notary Public

My Commission Expires: 12-16-06



UNOFFICIAL COPY

OVERSIZE

**EXHIBIT
FORWARD
TO BASEMENT
FOR
SCANNING**

RECORDED DATE _____

CASHIER # / NAME _____

Property of Cook County Clerk's Office

UNOFFICIAL COPY

NEC Milwaukee & Armitage
Chicago, Illinois
Store #9000

Milwaukee & Armitage MOL FINAL
3/25/05

EXHIBIT "B"**LEGAL DESCRIPTION OF LEASED PREMISES**

LOT 37 IN POWELL'S SUBDIVISION OF LOT 8 IN THE CIRCUIT COURT PARTITION OF THAT PART OF THE EAST ½ OF THE NORTHEAST ¼ WHICH LIES NORTH OF THE NORTHWESTERN PLANK ROAD (NOW MILWAUKEE AVENUE) OF SECTION 36. TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

EXCEPT: (ALLEY DEDICATION PARCEL) THAT PART OF LOT 37 IN POWELL'S SUBDIVISION OF LOT 8 IN THE CIRCUIT COURT PARTITION OF THAT PART OF THE EAST ½ OF THE NORTHEAST ¼ WHICH LIES NORTH OF THE NORTHWESTERN PLANK ROAD (NOW MILWAUKEE AVENUE) OF SECTION 36, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 37; THENCE EAST ALONG THE NORTH LINE OF LOT 37 NORTH 88 DEGREES 58 MINUTES 13 SECONDS EAST, A DISTANCE OF 120.20 FEET; THENCE SOUTH 46 DEGREES 26 MINUTES 32 SECONDS EAST, A DISTANCE OF 7.12 FEET; THENCE SOUTH 88 DEGREES 58 MINUTES 13 SECONDS WEST, A DISTANCE OF 125.20 FEET TO THE WEST LINE OF SAID LOT 37; THENCE NORTH 01 DEGREES 51 MINUTES 17 SECONDS WEST, A DISTANCE OF 5 FEET TO THE POINT OF BEGINNING IN COOK COUNTY, ILLINOIS.

PJN- 13-36-231-018-0000

Only Known As

*2001 NO. MILWAUKEE AVE.
CHGO, IL. 60647*