



Doc#: 0609418107 Fee: \$38.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 04/04/2006 03:29 PM Pg: 1 of 8

DECLARATION OF RESTRICTION

THIS DECLARATION OF RESTRICTION ("**Declaration**") is entered into on this 8 day of February, 2006, between Ryerson Properties, LLC, an Illinois limited liability company ("**First Party**") and Jetco Properties, Inc., a Delaware corporation ("**Jetco**").

RECITALS:

WHEREAS, First Party owns certain real property ("**Servient Tenement**") located in the County of Cook, State of Illinois, and more particularly described as follows:

See Attached Exhibit "A" incorporated into this Declaration by reference

WHEREAS, Jetco owns certain real property ("**Dominant Tenement**") located in the County of Cook, State of Illinois, and more particularly described as follows:

See Attached Exhibit "B" incorporated into this Declaration by reference

WHEREAS, First Party represents and warrants that it has the authority to restrict the use of the **Servient Tenement**; and

WHEREAS, First Party and American Drug Stores, Inc., an Illinois corporation, an affiliate of Jetco, have entered into that certain Asset Purchase Agreement dated the 3rd day of February, 2006; and

WHEREAS, as a term and condition of the Asset Purchase Agreement, First Party has agreed that, for a period of five (5) years from and after February 3, 2006, no part of the **Servient Tenement** shall be used for the sale or offer for sale of any pharmaceutical products requiring the services of a registered pharmacist; and

WHEREAS, it is the desire and intent of the parties hereto, to enter into this Declaration in order to restrict the use of the **Servient Tenement** as described herein for the benefit of the **Dominant Tenement**.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, it is hereby declared and agreed as follows:

BOX 314

(932539001/A2)

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DECLARATION AND AGREEMENT:

1. The foregoing Recitals are true and correct and are incorporated into this Declaration.
2. No part of the **Servient Tenement** shall be used for the sale or offer for sale of any pharmaceutical products requiring the services of a registered pharmacist ("**Restriction**"), for a period of five (5) years from and after February 3, 2006.
3. This **Restriction**:
 - (a) Is appurtenant to and benefits the **Dominant Tenement**;
 - (b) Burdens the **Servient Tenement**;
 - (c) Runs with the land so benefited and burdened; and
 - (d) Shall benefit, in the case of Jetco, and shall be binding upon, in the case of First Party, all successive owners of the **Dominant Tenement** and **Servient Tenement**, and every part thereof, and all persons or entities having any interest therein derived from or through any owner of the real property affected thereby, including any person or entity acquiring, leasing, renting or licensing the **Servient Tenement**.
4. If the First Party, or any successive owner of the **Servient Tenement**, sells, rents, leases, licenses or transfers all or any portion of its interest in the **Servient Tenement**, First Party shall provide Jetco with a copy of the deed, lease or other document entered by First Party. In addition, the First Party, or any successive owner, shall include the language of the **Restriction** in the lease, deed or other document memorializing the transfer and shall record the same so as to put the transferee, and all others, on notice of the **Restriction**. Further, the First Party, or any successive owner of the **Servient Tenement**, shall give written notice ("**Transfer Notice**") thereof to Jetco, which **Transfer Notice** shall include at least the following information: (i) the name, current address and current phone number of the transferor, and (ii) the name, current address and current phone number of the transferee. Such **Transfer Notice** shall be sent to the address set forth below:

Jetco Properties, Inc.
 c/o Albertson's, Inc.
 250 Parkcenter Boulevard
 P.O. Box 20
 Boise, ID 83726
 Attention: Legal Department
 Store #5523
5. The parties acknowledge and agree that the **Restriction** shall operate as a covenant running with the land for the benefit of Jetco and any and all persons or entities who may hereafter own the **Dominant Tenement**, and Jetco or any successive owner of the **Dominant Tenement**, is specifically given the right to enforce the **Restriction** through any proceedings, at law or in equity, against any person or persons violating or threatening to violate the **Restriction** and shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction, and to recover any damages suffered for any violation thereof. This right of injunction shall be in addition to all other remedies provided by law.


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6. The failure of Jetco, its successors or assigns, to insist upon strict performance of the **Restriction** contained herein shall not be deemed a waiver of any rights or remedies that said person may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the **Restriction** contained herein by the same or any other person.
7. In the event any legal action or proceeding is initiated to enforce this **Declaration** against any party hereto, or any successor-in-interest, heir, executor, administrator or assign, which shall be deemed a party to the same effect as the original signers, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorney's fees (including, without limitation, its reasonable costs and attorney's fees on any appeal). All such costs and attorney's fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.
8. This **Declaration** shall be recorded in the office of the recorder of the county(ies) in which the **Servient Tenement** and **Dominant Tenement** are located.

EXECUTED as of the date first set forth above.


FIRST PARTY:

**Reyerson Properties, LLC,
an Illinois limited liability company**

By: 
 Name: Charles Delmar
 Its: Managing Partner

JETCO:

**Jetco Properties, Inc.,
a Delaware corporation**

By: 
 Name: William H. Arnold
 Its: Vice President

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6. The failure of Jetco, its successors or assigns, to insist upon strict performance of the **Restriction** contained herein shall not be deemed a waiver of any rights or remedies that said person may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the **Restriction** contained herein by the same or any other person.
7. In the event any legal action or proceeding is initiated to enforce this **Declaration** against any party hereto, or any successor-in-interest, heir, executor, administrator or assign, which shall be deemed a party to the same effect as the original signers, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorney's fees (including, without limitation, its reasonable costs and attorney's fees on any appeal). All such costs and attorney's fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.
8. This **Declaration** shall be recorded in the office of the recorder of the county(ies) in which the **Servient Tenement** and **Dominant Tenement** are located.

EXECUTED as of the date first set forth above.


FIRST PARTY:

**Reyerson Properties, LLC,
an Illinois limited liability company**

By: _____
Name: _____
Its: _____

JETCO:

**Jetco Properties, Inc.,
a Delaware corporation**

By: 
William H. Arnold
Vice President

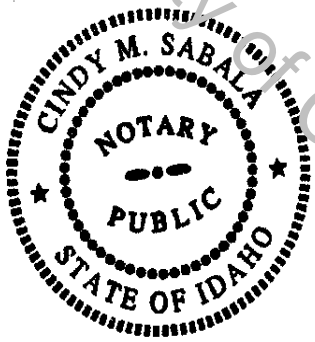
PROPERTY OF COOK COUNTY CLERK'S OFFICE

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STATE OF IDAHO)
) ss.
County of Ada)

On this 3rd day of February, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **William H. Arnold**, known to me to be the Vice President of **Jetco Properties, Inc.**, a Delaware corporation, the corporation that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.



Cindy M. Sabala
Notary Public for Idaho
Residing at Bose, Idaho
My Commission Expires 8/26/06

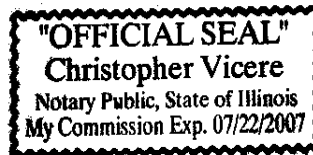
STATE OF ILLINOIS)

County of COOK) ss.

On this 8th day of February, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Charles Benaim + Sandra Delaurentis, to me known to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Christopher Vicere
Notary Public for ILLINOIS
Residing at CHICAGO, ILLINOIS
My Commission Expires: 22. JUL. 2007

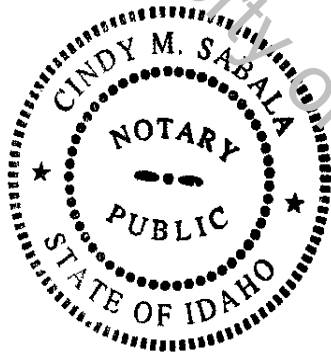


UNOFFICIAL COPY

STATE OF IDAHO)
) ss.
County of Ada)

On this 3rd day of February, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **William H. Arnold**, known to me to be the Vice President of **Jetco Properties, Inc.**, a Delaware corporation, the corporation that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument.

WITNESS MY HAND and official seal hereto affixed the day month and year in this certificate first above written.



Cindy M. Sabala
Notary Public for Idaho
Residing at Boise Idaho
My Commission Expires 8/26/08

STATE OF _____)
) ss.
County of _____)

On this ____ day of February, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ to me known to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public for _____
Residing at _____
My Commission Expires: _____

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EXHIBIT A

LOTS 1, 2, 3, 4 AND 5 IN THE SUBDIVISION OF LOTS 44, 45 AND 46 IN MCAULEY'S SUBDIVISION OF BLOCK 1 IN MORTON'S SUBDIVISION IN THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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EXHIBIT B

PARCEL 1:

Lots 38, 39, 40, 41, 42 and 59 in Charles M. Kusel's Second Subdivision of part of the North West quarter of the South East quarter of Section 2, Township 39 North, Range 13, East of the Third Principal Meridian, according to the plat of said Subdivision recorded July 20, 1916 as document 5914109 and including all parts of vacated alleys contiguous and adjacent to said above described Lots 38, 39, 40, 41 and 42 on the Northerly side thereof;

ALSO

PARCEL 2:

Lots 31, 34, 35, 36 and 37 in Charles M. Kusel's Second Subdivision, being a portion of the Superior Court Partition of the East half of Section 2, Township 39 North, Range 13, East of the Third Principal Meridian, as shown on the plat of said Subdivision recorded July 20, 1916 as document 5914109 (except that part of said premises taken for opening of North St. Louis Avenue) also all vacated alley South Easterly and adjoining Lot 37 (vacated by ordinance of the City of Chicago, recorded as document 9763865);

ALSO

PARCEL 4:

Lots 43, 44, 45, 46, 47, 48, 49 and 50 in Charles M. Kusel's Second Subdivision of part of the North West quarter of the South East quarter of Section 2, Township 39 North, Range 13, East of the Third Principal Meridian, according to the plat of said Subdivision recorded July 20, 1916 as document 5914109;

also

The Southwesterly half of the vacated alley lying northeasterly of and adjoining Lots 43 to 50 and the northeasterly half of the vacated alley lying Southwesterly of and adjoining Lot 59 in said Charles M. Kusel's Second Subdivision (except that part of the northeasterly half of said alley lying northeasterly of the Northwesterly line of Lot 43 extended northeasterly to the Southwesterly line of Lot 59) all in Cook County, Illinois.

16-02-400-033

Cook County Clerk's Office