

# UNOFFICIAL COPY



Doc#: 0810831049 Fee: \$52.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 04/17/2008 11:38 AM Pg: 1 of 9

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G/LND

Maybrian

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Property of Cook County Clerk's Office

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## SUBORDINATION AND NON-DISTURBANCE AGREEMENT

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## SUBORDINATION AND NON-DISTURBANCE AGREEMENT

THIS SUBORDINATION AND NON-DISTURBANCE AGREEMENT, dated as of APRIL 16, 2008 (the "Agreement") is entered into by The Leaders Bank, a \_\_\_\_\_, with a principal place of business at 2001 York Road, Oak Brook, Illinois 60523 (the "Fee Mortgagee").

WHEREAS, NSH Belnar, LLC, successor-in-interest to North Shore Holdings Ltd., an Illinois limited liability company, ("Landlord") is the owner of certain real property located at Belmont and Narragansett, in the Municipality of Chicago, County of Cook, State of Illinois, as more fully described on Exhibit A attached hereto (the "Premises"); and

WHEREAS, Landlord and Highland Park CVS, L.L.C., successor-in-interest to Chicago West Belmont CVS, L.L.C., an Illinois limited liability company, (Tenant") have entered into a certain Ground Lease, dated as of September 14, 2005, as amended, modified and/or supplemented by Memorandum of Lease dated October 2007, First Amendment dated June 25, 2007, Second Amendment dated July 10, 2007 and Letter Agreement dated January 23, 2008 (the "Ground Lease") with respect to the Premises; and

WHEREAS, the Fee Mortgagee is the holder of a certain [mortgage] ~~deed of trust~~, dated APRIL 16, 2008 and recorded ~~date of~~ 04-17-08 (the "Fee Mortgage") on the Premises; and as DOC # 0810831048

WHEREAS, pursuant to the terms of the Ground Lease, Landlord is required to deliver to Tenant a Subordination and Non-Disturbance Agreement from the holder of any mortgage on Landlord's reversionary fee interest in the Premises;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agrees as follows:

- Assent to Ground Lease.** The Fee Mortgagee hereby acknowledges receipt of a full and complete copy of the Ground Lease and does hereby assent to the Ground Lease and to all of the terms and provisions thereof.
- Subordination.** Notwithstanding the priority of recording, the lien of the Fee Mortgage shall be, and hereby is, subject and subordinate to the Lease and to any renewal, replacement, amendment, extension, substitution or revision thereof. Furthermore, notwithstanding the priority of recording, the lien of the Fee Mortgage shall also be, and hereby is, subject and subordinate to the lien of any and all mortgages, deeds of trust or other encumbrances placed on Tenant's leasehold interest in the Premises from and after the date hereof (the "Leasehold Mortgages"). The Fee Mortgagee hereby also agrees to execute any such further documents or instruments as reasonably may be necessary to effectuate such subordination of the lien of the Fee Mortgage to the lien of any such Leasehold Mortgages.

*Handwritten initials/signature*

*Handwritten notes:*  
2/2  
B...  
Westmont  
537665

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3. **Recognition and Non-Disturbance.** The Fee Mortgagee hereby agrees to be bound by all of the terms and conditions of the Ground Lease and of the Recognition, Attornment and Assent to Leasehold Mortgage Agreement, attached hereto as **Exhibit B**, in the event the Fee Mortgagee becomes the owner of Landlord's reversionary fee interest in the Premises by reason of foreclosure, deed in lieu of foreclosure or otherwise.

4. **Warranties and Representations.** The Fee Mortgagee hereby warrants and represents as follows:

(a) The Fee Mortgagee (unless a natural person), is a duly organized, validly existing entity organized and in good standing under the laws of ILLINOIS and duly qualified to do business and in good standing under the laws of ILLINOIS, has all requisite power and authority to conduct its business and to own its property as now conducted or owned and is qualified to do business in all jurisdictions where the nature and extent of its business is such that such qualification is required by law.

(b) This Agreement has been authorized by all requisite entity action and constitutes the Fee Mortgagee's legal, valid and binding obligations in accordance with the terms thereof, subject to bankruptcy and insolvency and similar laws of general application affecting the rights and remedies of creditors and with respect to the availability of the remedies of specific enforcement, subject to the discretion of the court before which proceedings therefor may be brought.

(c) The performance by the Fee Mortgagee of the obligations of the Fee Mortgagee hereunder does not and shall not constitute a violation of any law, order, regulation, contract, organizational document or agreement to which Fee Mortgagee is subject or by which Fee Mortgagee or the property thereof is or may be bound.

(d) The execution of the Ground Lease by Tenant and Landlord constitutes a material economic benefit to Fee Mortgagee.

5. **No Oral Change.** No provision of this Agreement may be changed, waived, discharged or terminated or relieved by telephone or by any other means except by an instrument in writing signed by the party against whom enforcement of the change, waiver or discharge or termination is sought.

6. **Successors and Assigns.** This Agreement shall be binding upon each party hereto and its, his or their respective successors, assigns, heirs and personal representatives.

7. **Partial Invalidity.** Each of the provisions hereof shall be enforceable against the Fee Mortgagee to the fullest extent now or hereafter not prohibited by applicable law. The invalidity or unenforceability of any provision hereof shall not limit the validity or enforceability of each other provision hereof.

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8. **Joint and Several.** The obligations of Fee Mortgagee and of its, his, her or their respective successors, assigns, heirs and personal representatives shall be and remain joint and several.

9. **Counterparts.** This Subordination and Non-Disturbance Agreement may be executed in several counterparts, each of which when executed and delivered is an original, but all of which together shall constitute one instrument. In making proof of this agreement, it shall not be necessary to produce or account for more than one such counterpart which is executed by the party against whom enforcement of such agreement is sought.

Witness the execution hereof as an instrument under seal as of the date first set forth above.

WITNESS:

*Jane Driscoll*

FEE MORTGAGEE:

THE LEADERS BANK

By: *[Signature]*  
Name: STUART FRANKLIN  
Title: SVP Commercial Real Estate

WITNESS:

*Shannon MacLeod*  
Shannon MacLeod

TENANT:  
HIGHLAND PARK CVS, L.L.C.

By: *[Signature]*  
Name: Susan E. Kane  
Title: Lease Administration Manager

WITNESS:

\_\_\_\_\_  
Name:

LANDLORD:  
NSH BELNAR, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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8. **Joint and Several.** The obligations of Fee Mortgagee and of its, his, her or their respective successors, assigns, heirs and personal representatives shall be and remain joint and several.

9. **Counterparts.** This Subordination and Non-Disturbance Agreement may be executed in several counterparts, each of which when executed and delivered is an original, but all of which together shall constitute one instrument. In making proof of this agreement, it shall not be necessary to produce or account for more than one such counterpart which is executed by the party against whom enforcement of such agreement is sought.

Witness the execution hereof as an instrument under seal as of the date first set forth above.

FEE MORTGAGEE:

WITNESS:

THE LEADERS BANK

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

WITNESS:

TENANT:  
HIGHLAND PARK CVS, L.L.C.

Shannon MacLeod  
Shannon MacLeod

By: Susan E. Kane  
Name: Susan E. Kane  
Title: Lease Administration Manager

WITNESS:

LANDLORD:  
NSH BELNAR, LLC

Name: \_\_\_\_\_

~~By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_~~

By: NSH REAL ESTATE HOLDINGS, LLC,  
an Illinois limited liability company

ITS: Manager

By: Christopher Mannausets

By: Kenneth Lebowic

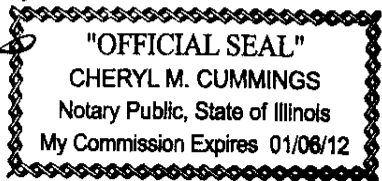
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State of Illinois

County of DeWage

Then personally appeared before me the above named Hugh FRANKLIN, the SVP Commercial Real Estate of The Leaders BANK and acknowledged that such person executed the foregoing instrument as such person's free act and deed and as the free act and deed of SVP Commercial Real Estate for the purposes therein stated and intending to be legally bound thereby.

Cheryl M. Cummings  
, Notary Public  
My commission expires:



State of Rhode Island

County of Providence

Then personally appeared before me the above named Susan E. Kane, the Lease Administration Manager of HIGHLAND PARK CVS, L.L.C. and acknowledged that such person executed the foregoing instrument as such person's free act and deed and as the free act and deed of Lease Administration Manager for the purposes therein stated and intending to be legally bound thereby.

Mary A. Porter 9/12/09  
Mary Porter, Notary Public  
My commission expires: 9/12/2011

MARY A. PORTER  
NOTARY PUBLIC  
STATE OF RHODE ISLAND  
My Commission Expires September 12, 2011

State of \_\_\_\_\_

County of \_\_\_\_\_

Then personally appeared before me the above named \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_ and acknowledged that such person executed the foregoing instrument as such person's free act and deed and as the free act and deed of \_\_\_\_\_ for the purposes therein stated and intending to be legally bound thereby.

\_\_\_\_\_  
, Notary Public  
My commission expires:

# UNOFFICIAL COPY

State of \_\_\_\_\_

County of \_\_\_\_\_

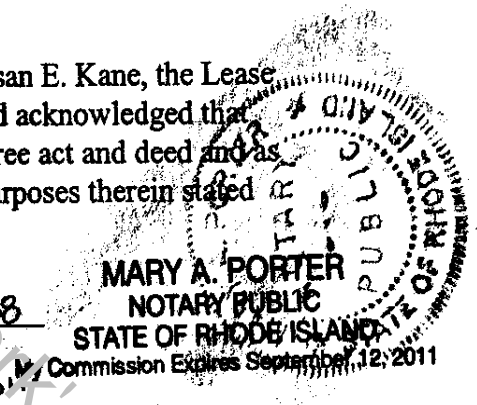
Then personally appeared before me the above named \_\_\_\_\_ of \_\_\_\_\_, the \_\_\_\_\_ and acknowledged that such person executed the foregoing instrument as such person's free act and deed and as the free act and deed of \_\_\_\_\_ for the purposes therein stated and intending to be legally bound thereby.

\_\_\_\_\_, Notary Public  
My commission expires:

State of Rhode Island  
County of Providence

Then personally appeared before me the above named Susan E. Kane, the Lease Administration Manager of HIGHLAND PARK CVS, L.L.C. and acknowledged that such person executed the foregoing instrument as such person's free act and deed and as the free act and deed of Lease Administration Manager for the purposes therein stated and intending to be legally bound thereby.

Mary A. Porter 9/12/08  
Mary Porter, Notary Public  
My commission expires: 9/12/2011



State of ILLINOIS  
County of COOK

Then personally appeared before me the above named Christopher Mannasselus and Kenneth Lebonc, the Co-Managers of NSM REAL ESTATE HOLDINGS LLC, AS MANAGER and acknowledged that such person executed the foregoing instrument as such person's free act and deed and as the free act and deed of NSM BEAVER CVS LLC for the purposes therein stated and intending to be legally bound thereby.

\_\_\_\_\_, Notary Public  
My commission expires:



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## EXHIBIT A

### LEGAL DESCRIPTION OF PREMISES

THAT PART OF BLOCK 1 IN BELMONT HEIGHTS, A SUBDIVISION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, AS RECORDED ON SEPTEMBER 25, 1894 IN DOCUMENT NUMBER 2107079, IN COOK COUNTY, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID BLOCK 1; THENCE NORTH 89 DEGREES 51 MINUTES 11 SECONDS EAST, ALONG THE NORTH LINE OF SAID BLOCK 1, A DISTANCE OF 166.00 FEET TO THE NORTHEAST CORNER OF LOT 18 IN SAID BLOCK 1; THENCE SOUTH 00 DEGREES 36 MINUTES 01 SECONDS EAST, ALONG THE EAST LINE OF SAID LOT 18, A DISTANCE OF 125.72 FEET TO THE SOUTHEAST CORNER OF SAID LOT 18; THENCE SOUTH 89 DEGREES 50 MINUTES 49 SECONDS WEST, ALONG THE SOUTH LINE OF SAID LOT 18 EXTENDED, 41.00 FEET TO THE EAST LINE OF LOT 23 IN SAID BLOCK 1; THENCE SOUTH 00 DEGREES 36 MINUTES 01 SECONDS EAST, ALONG THE EAST LINE OF LOTS 23 THROUGH 26 IN SAID BLOCK 1, A DISTANCE OF 74.01 FEET TO THE NORTH LINE OF THE SOUTH 9.0 FEET OF LOT 26 IN SAID BLOCK 1; THENCE SOUTH 89 DEGREES 51 MINUTES 11 SECONDS WEST, ALONG SAID NORTH LINE, 125.00 FEET TO THE WEST LINE OF SAID BLOCK 1; THENCE NORTH 00 DEGREES 36 MINUTES 01 SECONDS WEST, ALONG SAID WEST LINE, 199.74 FEET TO THE PLACE OF BEGINNING CONTAINING 0.6915 ACRES, MORE OR LESS; ALL IN COOK COUNTY, ILLINOIS.



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## EXHIBIT B

### RECOGNITION, ATTORNMENT AND ASSENT TO LEASEHOLD MORTGAGE

*(THIS REFERENCE HEREBY INCORPORATES THE FORM OF RECOGNITION,  
ATTORNMENT AND ASSENT TO LEASEHOLD MORTGAGE WHICH IS  
ATTACHED AS EXHIBIT B TO THE LEASE – WHEN THE SUBORDINATION,  
NON-DISTURBANCE AND ATTORNMENT AGREEMENT IS EXECUTED,  
ATTACH THAT RECOGNITION, ATTORNMENT AND ASSENT TO LEASEHOLD  
MORTGAGE DOCUMENT HERE)*

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