

This instrument prepared by and after recording return to:

Shellie D. Rosan, Esq.  
Rosan Law Group, LLC  
41 Crossroads Plaza, #240  
West Hartford, CT 06119

FIRST AMERICAN  
File # 654776

*This space reserved for Recorder's use only.*

**AGREEMENT TO PROVIDE PRIOR NOTICE OF CERTAIN TRANSACTIONS**

This Agreement to Provide Prior Notice of Certain Transactions (this "Agreement") dated as of September 24, 2012 is made by GENE EVANSTON NORTH LLC, a Delaware limited liability company, with an address of c/o Golub & Company LLC, 625 N. Michigan Avenue, Chicago, Illinois 60611 (the "Owner").

**RECITALS**

- A. The Owner owns certain real property located at 2815 N. Western Avenue, City of Chicago, County of Cook, State of Illinois, more particularly described on Exhibit "A" attached hereto (the "Property").
- B. Southeast S9 LLC, a Delaware limited liability company (together with its permitted successors and assigns, the "Borrower") is the sole member of the Owner and the owner of 100% of the ownership and membership interests (the "Ownership Interests") in Owner.
- C. The Borrower is obtaining certain loans in the aggregate principal amount of \$8,819,635.02 ("Loan") pursuant to three (3) certain Amended and Restated Mezzanine Loan Agreements (as amended, supplemented or otherwise modified from time to time, collectively, the "Loan Agreement"), by and between the Borrower and Pension Investors 99, LLC, a Delaware limited liability company (together with its successors and assigns, "Lender") and three certain Amended and Restated Promissory Notes from the Borrower to and in favor of Lender (as amended, supplemented or otherwise modified from time to time, collectively, the "Note"), which Loan is secured by, among other things, three certain Mezzanine Pledges and Security Agreements from Borrower to Lender (as amended, supplemented or otherwise modified from time to time, collectively, the

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“Pledge Agreement” and together with the Note, Loan Agreement and all other documents evidencing, securing or executed in connection with the Loan, as amended, supplemented or otherwise modified from time to time, collectively, the “Loan Documents”).

- D. The Borrower and the Owner have derived direct and/or indirect benefit from the Loan. As an inducement for making the Loan to the Borrower, Lender is requiring that the Owner and a prospective purchaser of the Property provide Lender with notice of certain events as provided herein.
- E. Reference is hereby made to that certain Lease dated as of December 18, 2003, by and between the Owner, as landlord, and Highland Park CVS, L.L.C., as successor to Western Chic CVS, L.L.C. (the “Tenant”), as tenant (the “Lease”).

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Triggering Event.** The obligation of Owner (in connection with subsections (a) and (b) below) to provide notice to Lender hereunder shall be triggered if (a) Owner shall choose to accept an offer to purchase all or substantially all of the Property from one or more third parties in a single transaction or a series of related transactions, (b) the Borrower shall choose to accept an offer to purchase the Ownership interests or any part thereof, including, without limitation, with respect to any prospective sale, conveyance or transfer of the direct or indirect beneficial ownership interest, membership interest, or other equity, voting or economic interest in the Owner, or (c) Owner shall make application for or choose to accept a proposal for refinancing of that certain Mortgage, Security Agreement and Assignment of Leases and Rents, dated as of December 18, 2003 granted prior hereto to Wells Fargo Bank Northwest, National Association, as trustee, as the same may be transferred to or assumed by its successors and/or assigns (as the same may be amended, supplemented or otherwise modified from time to time,, the “Existing Mortgage”) or for refinancing of any other mortgage or deed of trust hereafter encumbering the Property or any portion thereof (each of (a), (b), and/or (c) above, a “Notice Event”).

2. **Obligation to Provide Notice.** Owner shall promptly notify Lender, and its successors and assigns from time to time, in writing (the “Notice”), of any Notice Event. The Notice shall include the name and address of the prospective purchaser or refinancing mortgage lender and a description of the terms and conditions of any such purchase offer or refinancing application or proposal, as applicable. For a period of fourteen (14) days following Lender’s receipt of the Notice, Owner shall neither sell, transfer nor refinance any portion of the Property and the Borrower shall not sell, assign or convey any of the Ownership Interests. If requested by Owner, Lender shall provide to Owner a sufficient written instrument, in recordable form, to evidence Lender’s receipt of the Notice and the passage of the foregoing fourteen (14) day

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period or any waiver thereof in Lender's sole discretion. The foregoing obligation to provide Notice shall terminate upon satisfaction or cancellation of the Loan.

3. **Other Transfers Triggering Notice Requirements.** The following, without limitation, shall be considered conveyances or transfers subject to the notice requirement provided in this Agreement: (i) the occurrence of any Transfer (as defined in any Loan Agreement) and/or (ii) any arrangement (including, without limitation, corporate mergers and consolidations) for the purpose, or having the effect, of circumventing this Agreement.

4. **Limitation on Obligation to Provide Notice.** Owner's obligations hereunder shall not apply to (and all shall cease and terminate upon) any foreclosure, statutory sale, transfer, deed in lieu of foreclosure or the exercise of any other similar remedy by the mortgagee under the Existing Mortgage. Furthermore, Owner's and any prospective purchaser's obligations evidenced hereby shall be null and void, and of no further force and effect, in the event an order for relief in a bankruptcy case under Title 11, United States Code, is granted with respect to Owner.

5. **Notice.** Any notice or other communication provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States Mail, postage prepaid, certified or registered mail with return receipt requested, or (ii) by delivering the same in person to the party to be notified via a delivery service, Federal Express or any other nationally recognized overnight courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. For purposes of notice and other communications, the addresses of the parties shall be as follows (or such other addresses as a party may hereafter designate for itself by notice in writing to the other parties):

If to the Owner:

Gene Chicago North LLC  
c/o Golub & Company LLC  
625 N. Michigan Avenue  
Chicago, Illinois 60611  
Attention: Michael Newman  
Telecopy: (312) 440-0809

With a concurrent copy to:

DLA Piper LLP (US)  
203 North LaSalle Street, Suite 1900  
Chicago, Illinois 60601-1293  
Attention: David Glickstein, Esq.  
Telecopy: (312) 251-5747

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If to Lender:

c/o NLC Servicing LLC  
 10 Tara Boulevard, Suite 130  
 Nashua, New Hampshire 03062  
 Attention: Douglas F. Blough

With a concurrent copy to:

Law Offices of Christopher R. DeAgazio  
 8 Cedar Street, Suite 45  
 Woburn, Massachusetts 01801  
 Attention: Christopher R. DeAgazio, Esq.

A notice or other communication shall be deemed to have been given: in the case of hand delivery, at the time of delivery; in the case of registered or certified mail, when delivered or the first attempted delivery on a day other than a Saturday, Sunday or any other day on which national banks in New York, New York are not open for business (a "Business Day"); and in the case of expedited prepaid delivery, upon the first attempted delivery on a Business Day.

6. **Binding Effect, Etc.** This Agreement shall run with the land and be binding upon and inure to the benefit of each of the Owner and Lender, their respective heirs, personal representatives, successors and assigns. Any agreement hereinafter made shall be ineffective to change, modify or discharge this Agreement in whole or in part unless such agreement hereinafter made is in writing and signed by Lender, Borrower and the Owner. Sales, Transfers, refinancing and/or other actions or transactions made in violation of the terms of this Agreement may be deemed void and may be voidable, at Lender's election without liability to Lender.

7. **Rights Subject to Tenant and to Lien of Existing Mortgage.** By acceptance and recordation of this Agreement, Lender acknowledges that its rights hereunder are subject and subordinate to (i) the rights of the Tenant, pursuant to Section 46 of the Lease and (ii) the lien of the Existing Mortgage and to all terms, covenants and conditions therein.

8. **Notice of Refinancing.** In addition to, and notwithstanding any other rights of Lender hereunder, for so long as the Existing Mortgage or any successor deed of trust or mortgage remains outstanding, the Owner shall give notice to Lender, in the manner provided for herein, of any refinancing or extension of the term of the Existing Mortgage or such successor deed of trust or mortgage at least sixty (60) Business Days prior to the anticipated closing date of such refinancing or extension.

9. **Proceeds of Refinancing and Other Transactions.** The Owner, the prospective purchaser of the Property or the Ownership Interests, and any existing and/or successor mortgage lender acknowledge that, pursuant to the terms of the Loan Documents, Borrower has agreed that certain proceeds realized by the Owner from the refinancing of the Existing Mortgage or any

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successor deed of trust or mortgage, and certain proceeds of Property transfers, Ownership Interest transfers, and/or other Transfers as contemplated hereunder, are required to be and shall be paid to Lender and applied to the Loan, all as more specifically provided in the Loan Documents.

10. **Governing Law.** This Agreement shall be regarded as made under and shall be governed in all respects by the laws of the State in which the Property is situated without regard to its laws or regulations relating to conflicts of laws.

11. **Counterparts.** This Agreement may be executed in one or more counterparts. Each such counterpart shall be considered to be the original agreement of the parties and shall be fully enforceable.

12. **Assignment.** This Agreement may be assigned by Lender to any Person acquiring the Loan without notice to Borrower or Owner and without the recording of any additional agreements, assignments, documents or instruments on the land records or other recording office in which this Agreement is recorded.

13. **Authority to Bind.** The Owner warrants and represents that its undersigned representative is authorized to bind the Owner to this Agreement.

14. **Interpretation.** The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement. If any obligation to be performed hereunder is to be made or performed on a day other than a Business Day, it shall be deemed to be performed in a timely manner if done on the next succeeding Business Day.

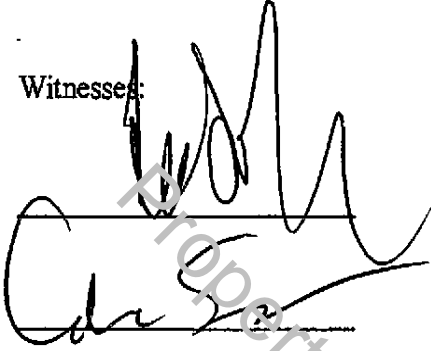
15. **Severability.** If any of the foregoing provisions or any application thereof shall be invalid or unenforceable, the other provisions and any other applications of such provisions shall not be affected thereby.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

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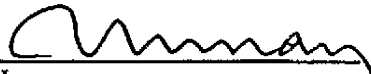
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Witnesses:

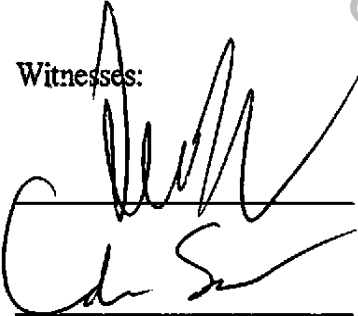


**GENE CHICAGO NORTH LLC,**  
a Delaware limited liability company

By:

  
Name: W. MURRAY  
Title: SVP

Witnesses:

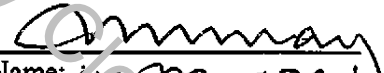


**ACKNOWLEDGED AND AGREED TO BY:**

**SOUTHEAST S9 LLC,**  
a Delaware limited liability company

By: Southeast S9 Corporation,  
a Delaware corporation  
Its: Manager

By:

  
Name: W. MURRAY  
Title: SVP

[Signature Page to Agreement to Provide Prior Notice - Chicago North - CVS Store No. 2809]

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## ACKNOWLEDGMENTS

STATE OF ILLINOIS        )  
   ) SS  
 COUNTY OF COOK         )

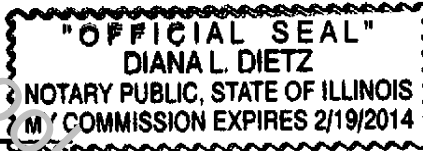
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that WIKREY, the SNP of Gene Chicago North LLC, a Delaware limited liability company, personally known to me to be the same person(s) whose name(s) is/are subscribed to the attached Quit Claim Deed, appeared before me this day in person and acknowledged that he/she/they signed and delivered the said instrument as his/her/their free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 19<sup>th</sup> day of September, 2012.

Diana L. Dietz  
 Notary Public

My Commission Expires:

2-19-14



STATE OF ILLINOIS        )  
   ) SS  
 COUNTY OF COOK         )

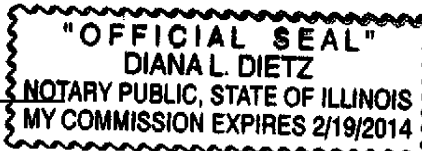
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that WIKREY, the SNP of SOUTHEAST S9 LLC, a Delaware limited liability company, personally known to me to be the same person(s) whose name(s) is/are subscribed to the attached Quit Claim Deed, appeared before me this day in person and acknowledged that he/she/they signed and delivered the said instrument as his/her/their free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 19<sup>th</sup> day of September, 2012.

Diana L. Dietz  
 Notary Public

My Commission Expires:

2-19-14





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## Exhibit A

### Legal Description

Lots 19 to 31, both inclusive, (except that part of Lots 19 to 24 taken for widening Western Avenue) together with all that part of the East-West 16 foot wide vacated alley lying South of the South line of said Lot 23, lying North of the North line of said Lots 24 to 28, both inclusive, lying East of the East line of N. Western Avenue as widened by Ordinance approved April 1, 1925 by the City Council of the City of Chicago, judgment rendered through condemnation proceedings in the Superior Court of Cook County, Illinois as Docket No. 419058, said East line of N. Western Avenue being described as a line drawn from a point on the South line of said Lot 23, said point being 17.0 feet East of the Southwest corner of said Lot 23 (as measured along the South line of said Lot 23) to a point on the North line of said Lot 24, said point being 17.0 feet East of the Northwest corner of said Lot 24 (as measured along the North line of said Lot 24) and lying West of a line drawn from the Southeast corner of said Lot 23 to the Northeast corner of said Lot 28, all in Block 8 in Clybourn Avenue addition to Lakeview and Chicago, being a subdivision in the West 1/2 of the Northwest 1/4 of Section 30, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

#### ALSO DESCRIBED AS FOLLOWS:

##### Parcel 1:

Lots 19 to 23, both inclusive, (except that part of Lots 19 to 23 taken for widening Western Avenue) in Block 8 in Clybourn Avenue Addition to Lakeview and Chicago, being a Subdivision in the West Half of the Northwest Quarter of Section 30, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

##### Parcel 2:

Lots 24 through 28 (except that part of Lot 24 taken for widening Western Avenue) in Block 8 in Clybourn Avenue Addition to Lakeview and Chicago, being a Subdivision in the West 1/2 of the Northwest 1/4 of Section 30, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

##### Parcel 3:

Lots 29 and 30 in Block 8 in Clybourn Avenue Addition to Lake View and Chicago in the Northwest 1/4 of Section 30, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

##### Parcel 4:

Lot 31 in Block 8 in Clybourn Avenue Addition to Lakeview and Chicago, being a Subdivision in the West 1/2 of the Northwest 1/4 of Section 30, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

##### Parcel 5:

All that part of the East/West 16 foot wide vacated alley lying South of the South line of Lot 23, lying North of the North line of Lots 24 to 28, both inclusive, lying East of the East line of North Western Avenue, as widened, by Ordinance approved April 1, 1925 by the City Council of the City of Chicago, judgment rendered through condemnation proceedings in the Superior Court of Cook County, Illinois as Docket Number 419058, said East line of North Western Avenue being described as a line drawn from a point on the South line of Lot 23, said point being 17.0 feet East of the Southwest corner of said Lot 23 (as measured along the South line of said Lot 23) to a point on the North line of Lot 24, said point being 17.0 feet East of the Northwest corner of said Lot 24 (as measured along the North line of said Lot 24) and lying West of a line drawn from the Southeast corner of Lot 23 to the Northeast corner of Lot 28 all in Block 8 in Clybourn Avenue Addition to Lake View and Chicago in the Northwest Quarter of Section 30, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois, vacated by Ordinance recorded January 17, 2003 as document 0030083594.



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PINs: 14-30-117-001-0000  
14-30-117-002-0000  
14-30-117-003-0000  
14-30-117-004-0000  
14-30-117-038-0000  
14-30-117-022-0000  
14-30-117-023-0000  
14-30-117-024-0000

Address: 2815 N. Western Avenue, Chicago, Illinois

Property of Cook County Clerk's Office