

THIS INSTRUMENT FILED AS AN
ACCOMMODATION ONLY. IT HAS
NOT BEEN EXAMINED AS TO ITS
EXECUTION, INSURABILITY OR
AFFECT ON TITLE.

NO. **521262**
AT THE REQUEST OF:
LATAH COUNTY TITLE CO
DATE & HOUR
04-10-08 12:23 PM
SUSAN PETERSEN
LATAH COUNTY RECORDER
FEE \$ **36.00** BY **(Signature) Deputy**

(This Space for Recording Use Only)

THIS DOCUMENT SHOULD BE RETURNED TO AFTER RECORDING:

WALGREEN CO.
104 Wilmot Road, MS 1420
Deerfield, Illinois 60015
Attn: Lola Muhammad
Real Estate Law Department
Store # 12503

**SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT made in multiple copies as of the 27th day of March, 2008, by and between **BANK OF AMERICA, N.A.**, a national banking association ("Mortgagee"), **MOSCOW MAIN, LLC**, a Washington limited liability company ("Landlord") and **WALGREEN CO.**, an Illinois corporation ("Tenant");

WITNESSETH:

WHEREAS, Mortgagee is the holder of a Note in the original principal amount of \$4,750,000.00, secured by a Mortgage or Deed of Trust ("Mortgage") dated February 29, 2008, recorded on February 28⁹, 2008 under Recording No. 520314, in the Official Records of Latah County, State of Idaho, covering the property legally described on Exhibit "A" attached hereto and made a part hereof;

WHEREAS, by Lease dated February 28, 2008, ("Lease"), recorded by Memorandum of Lease of even date, on March 5, 2008 under Recording No. 520446, in the Official Records of Latah County, State of Idaho, Landlord, as landlord, leased to Tenant, as tenant, the property, of the **northeast corner of Main Street and D. Street in Moscow, Idaho** legally described on Exhibit "A" ("Leased Premises");

WHEREAS, Mortgagee, Tenant and Landlord desire to confirm their understanding with respect to said Lease and said Mortgage;

Store # 12503
NEC of Main & D
Moscow, ID

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises contained herein and other good and valuable consideration, the parties agree as follows:

1. Subject to the covenants, terms and conditions of this Agreement, in the event of a default under the Note, the lien of said Lease is hereby subordinated to the lien of said Mortgage. If there shall be a conflict between the terms of said Lease and the terms of said Mortgage, the terms of said Lease shall prevail.
2. In the event Mortgagee or any other party (collectively "Successor Landlord") acquires title or right of possession of the Leased Premises under said Mortgage through foreclosure, or other procedure related to a default under the Note, said Lease shall remain in full force and effect and Tenant shall continue occupancy of the Leased Premises in accordance with the terms and provisions of said Lease. In such event, during the period that it holds title to or possession of the Leased Premises, Successor Landlord shall be in all respects bound by said Lease as Landlord and by all of Tenant's rights thereunder. Successor Landlord's remedies pursuant to the Lease will be in full force and effect once Successor Landlord succeeds to the interest of Landlord under the Lease and once Successor Landlord is bound by all of the terms and conditions of said Lease.
3. So long as Successor Landlord shall be bound by the terms and conditions of said Lease, Tenant shall attorn to Successor Landlord when Successor Landlord is in possession of the Leased Premises, whether such possession is pursuant to Mortgagee's rights under said Mortgage (which such attornment shall be effective and self operative without the execution of any further instrument on the part of any of the parties hereto), or other procedure related to a default under the Note and will continue occupancy of the Leased Premises under the same terms and conditions of said Lease.
4. Mortgagee shall not include Tenant in any foreclosure proceeding involving the Leased Premises, unless required by applicable state law for Mortgagee to accomplish the foreclosure and then not to interfere with or diminish Tenant's rights under said Lease or disturb Tenant's possession.

5. In the event that Successor Landlord succeeds to the interest of Landlord under such Lease, Successor Landlord shall not be:

a). Liable for any act or omission of any prior landlord (including Landlord) or subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord), except for any defaults or remedies of which Tenant has notified Mortgagee prior to Successor Landlord becoming bound by the Lease in accordance with paragraph 2. Successor Landlord will not be held liable for any consequential damages for defaults of any prior Landlord; or

b). Bound by any payment of any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord (including Landlord); or

c). Bound by any amendment or modification of the Lease made without Mortgagee's written consent.

6. During the continuance of said Mortgage, Tenant shall use reasonable efforts to give written notice to Mortgagee of all defaults by Landlord of those obligations under said Lease which are of a nature as to give Tenant a right to terminate said Lease, reduce rent, or to credit or offset any amounts against future rents, and Mortgagee shall have the same opportunity as provided to Landlord in said Lease (but shall not be required) to cure the same. In any event (except as otherwise provided in the next sentence of this paragraph), Tenant's failure to provide Mortgagee such written notice shall not impair any rights granted or derived by Tenant under said Lease and/or this Agreement. In no event shall Tenant terminate the Lease as a result of any breach or default of the Lease unless Tenant has provided Mortgagee notice and afforded the Mortgagee the same opportunity to cure such breach or default as provided to Landlord in said Lease; provided, however, that Mortgagee shall not be obligated to remedy or cure any default of Landlord under the Lease.

7. Tenant hereby agrees that upon receipt of written notice from Mortgagee of a default by Landlord under said Mortgage, all checks for rent and other sums payable by Tenant under said Lease to Landlord shall, from the date of Tenant's receipt of such written notice, be delivered to and drawn to the exclusive order of Mortgagee until Mortgagee or a court of competent jurisdiction shall direct otherwise. Such an assignment of rent shall not relieve Landlord of any

of its obligations under said Lease and shall not modify or diminish any rights granted to Tenant by said Lease or this Agreement, including but not limited to, any rights contained in said Lease which allow Tenant the right of so-called self help, offsets or deductions in the event of default or otherwise. Landlord hereby consents and agrees to the provisions of this paragraph and hereby authorizes Tenant to direct all rental and other payments under said Lease as provided by this paragraph. Landlord hereby relieves Tenant from any liability by reason of Tenant's payment of any sums under said Lease as required by this paragraph. Tenant shall have no obligation to verify the existence of any such default stated in the notice from Mortgagee under this paragraph.

8. (a) Subject to the terms of (b) below, Tenant agrees that the covenants of Landlord in Article 8(a) of the Lease shall not be binding upon land owned by Successor Landlord that acquires the interest of Landlord in the Leased Premises through foreclosure of the Mortgage or a deed in lieu thereof, (provided that Successor Landlord owned or mortgaged such land prior to the date that it acquires the interest of Landlord in the Leased Premises), but shall apply to any subsequent purchaser or transferee that is not an affiliate or subsidiary of Successor Landlord.

(b) Upon Successor Landlord's acquisition of Landlord's interest, during the period that it holds title to the Leased Premises, Successor Landlord will not execute any agreement that violates the restrictions set forth in Article 8(a) of the Lease or agree to any modification of a then existing agreement which extends the right of any third party to operate in a manner inconsistent with the restrictions set forth in Article 8(a) of the Lease.

9. In the event Successor Landlord acquires title or right of possession of the Leased Premises, Tenant acknowledges and agrees that the liability of such Successor Landlord under the Lease shall be limited to its interest in the property described on Exhibit "A" and the rents, income and profits therefrom. Notwithstanding anything herein to the contrary, Tenant shall have all of its equitable remedies against Successor Landlord. Nothing contained herein shall otherwise limit Tenant's rights or remedies as provided in the Lease.

10. All notices under this Agreement shall be deemed to have been duly given if made in writing and sent by United States certified or registered mail, postage prepaid, or by overnight delivery service providing proof of receipt, and addressed as follows:

If to Mortgagee: Bank of America, N.A.
 CREB – Loan Administration
 WA1-501-37-54
 800 Fifth Avenue, 37th Floor
 Seattle, Washington 98104
 Loan No. 902933

If to Tenant: 104 Wilmot Road, MS 1420
 Deerfield, Illinois 60015

If to Landlord: 845 – 106th Avenue NE, Suite 100
 Bellevue, Washington 98004

provided that each party by like notice may designate any future or different addresses to which subsequent notices shall be sent. Notices shall be deemed given upon receipt or upon refusal to accept delivery.

11. Tenant agrees that the right of first refusal shall not apply to Successor Landlord through a foreclosure, deed-in-lieu of foreclosure or any other enforcement action under the Mortgage; provided, however, such right of first refusal shall apply to subsequent purchasers of the Leased Premises. It is the express intention of Landlord and Tenant that the acquisition by either party of the right, title, interest and estate of the other party in and to the Leased Premises shall not result in termination or cancellation of the Lease by operation of the principle of merger of estates or otherwise, notwithstanding any applicable law to the contrary.

12. To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature and acknowledgment of, or on behalf of, each party, or that the signature and acknowledgment of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures and acknowledgment of, or on behalf of, each of the parties hereto. Any signature and acknowledgment page to any

counterpart may be detached from such counterpart without impairing the legal effect of the signatures and acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature and acknowledgment pages.

13. This Agreement shall also bind and benefit the heirs, legal representatives, successors and assigns of the respective parties hereto, and all covenants, conditions and agreements herein contained shall be construed as running with the land.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement, under seal, as of the day and year first above written.

(Signature Page to follow)

WALGREEN CO.


Robert M. Silverman

Divisional Vice President

MORTGAGEE

BANK OF AMERICA, N.A.


By: MARK E. Debbie

Title: Senior Vice President

LANDLORD

MOSCOW MAIN, LLC

By: 
Scott E. Grainger, its Manager

EXHIBIT "A"

LEGAL DESCRIPTION (STORE #12503)

A parcel of land situate within the City of Moscow, Latah County, State of Idaho, in the Northwest Quarter of Section 8, Township 39 North, Range 5 West of the Boise Meridian, Lots 1, 2, 3, 4, 5, 12, 13, 14, 15, and 16 along with a portion of the vacated alley being within Block 1 of the Re-plat of Moore's Addition to Moscow according to the plat thereof, recorded in Book 3, Page 29 more particularly described as follows:

Commencing at the Northwest Corner of said Section 8,
thence South $00^{\circ}57'50''$ East, 2650.12 feet, along the West line of said Section 8, to the West Quarter Corner of said Section 8;
thence North $52^{\circ}13'59''$ East, 64.10 feet to Southwest corner of Lot 1, Block 1, of said Re-plat of Moore's Addition to Moscow, said point also being the easterly right-of-way (ROW) line of Main Street (U.S. Highway 95 & State Highway 8) and **THE POINT OF BEGINNING**;
thence North $00^{\circ}57'50''$ East, 209.00 feet along the east ROW line of said Main Street to the south line Lot 6, said line also being the southerly line of a Parcel of land owned by Prime Investments Inc., described in a deed filed under APN 494771, Official Records of said county;

thence the following 4 courses along said Parcel of land, of Prime Investments Inc.,

- 1) South 89°09'10" East, 125.00 feet;
 - 2) thence North 00°57'50" East, 40.00 feet;
 - 3) thence South 89°09'10" East, 20.00 feet;
 - 4) thence North 00°57'50" East, 80.00 feet to the southerly ROW line of E Street;
- thence South 89°09'10" East, 30.00 feet along said southerly ROW line;
 thence leaving said ROW line South 00°57'50" West, 120.00 feet;
 thence South 89°09'10" East, 95.00 feet to the westerly ROW line of Washington Street;
 thence South 00°57'50" West, 200.00 feet along the westerly ROW line to the northerly ROW line of D Street;
 thence North 89°09'10" West, 270.00 feet along the said northerly ROW to the easterly ROW line of said Main Street, said point also being the Point of Beginning.

the Area being more or less 58,400 SqFt or 1.34 Acres

EXCEPTING a portion of Lot 1, Block 1 of said Re-plat of Moore's Addition to Moscow according to the plat thereof, dedicated to the City of Moscow more particularly described as follows:

BEGINNING at the southwest corner of Lot 1, Block 1 in the above described description, said point being the east ROW line of said Main Street
 thence North 00°57'50" East, 6.00 feet along the east ROW line of said Main Street
 thence South 44°05'40" East, 8.48 feet to the northerly ROW line of D Street;
 thence North 89°09'10" West, 6.00 feet along the said northerly ROW to the easterly ROW line of said Main Street, said point also being the Point of Beginning.

the Area being more or less 18 SqFt

ACKNOWLEDGEMENT

STATE OF ILLINOIS §

COUNTY OF LAKE §

On this 27th day of March 2008, before me appeared **Robert M. Silverman**, to me personally known, who, being by me duly sworn, did say that he is the **Divisional Vice President of Walgreen Co.**, an Illinois corporation, and that said instrument was signed in behalf of said corporation by authority of its board of directors, and said Divisional Vice President acknowledged said instrument to be the free act and deed of said corporation.

(Seal) "OFFICIAL SEAL"
SHARIAL M. HOWARD
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 8/20/2011
My term expires: 8/20/2011

Sharial M. Howard
Notary Public

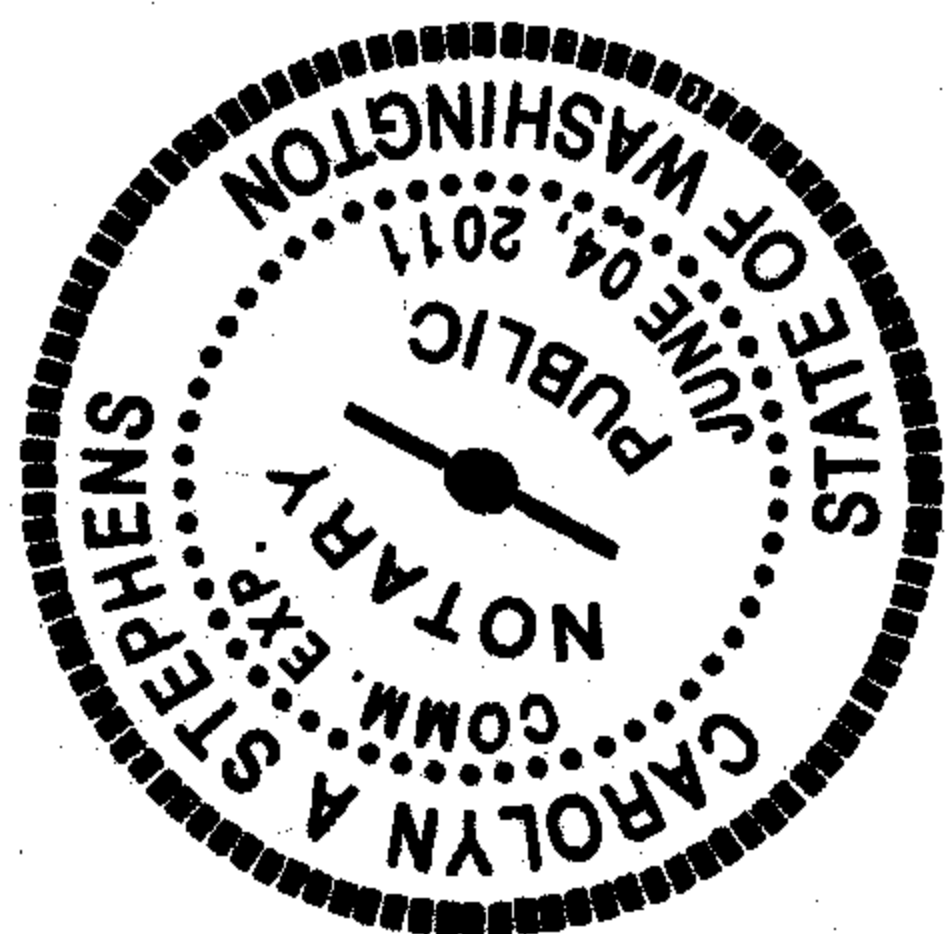
ORIGINAL COPY

STATE OF WASHINGTON)
) ss.
 COUNTY OF King)

On this 31st day of March, 2008, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared Mark E. Dibble, known to me to be the Senior Vice President of BANK OF AMERICA, N.A., the national banking Association, that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said national banking Association for the purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.



Carolyn A. Stephens
 Signature

Carolyn A. Stephens
 Print Name

NOTARY PUBLIC in and for the State of Washington, residing at Snohomish.
 My commission expires 6/4/2011.

COPY

STATE OF WASHINGTON)
) ss.
 COUNTY OF KING)

On this 31st day of March, 2008, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared Scott Grainger, known to me to be the Managing Member of **MOSCOW MAIN, LLC**, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.



Signature [Signature]

Print Name David G. Thompson

NOTARY PUBLIC in and for the State of
 Washington, residing at Sheltonish
 My commission expires 1/31/11.

COPY