

2019-088108

2019 Dec 19

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STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD  
MICHAEL B BROWN  
RECORDER

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RETURN RECORDED DOCUMENT TO:

WALGREEN CO.  
104 Wilmot Road, MS 144G  
Deerfield, Illinois 60015  
Attn: Michael Redstone

This Instrument Prepared by:  
Michael Redstone  
104 Wilmot Road, MS 144G  
Deerfield, Illinois 60015

Store #5787

Document is  
**NOT OFFICIAL!**

MEMORANDUM OF LEASE  
This Document is the property of  
the Lake County Recorder!

By this Memorandum of Lease made the 25 day of October, 2019 (the "Effective Date"), between SDG SCHERERVILLE LLC, an Illinois limited liability company, hereinafter called "Landlord", and WALGREEN CO., an Illinois corporation, hereinafter called "Tenant";

Landlord leases to Tenant, and Tenant rents from Landlord, for the Firm Term as defined below and subject to renewal as provided) below, the premises to include both the real property and a building (the "Building") and other improvements at the real property commonly known as 651 W. US Highway 30, in the City of Schererville, County of Lake, State of Indiana, together with all improvements, appurtenances, easements, and privileges belonging thereto. All of the foregoing shall be as shown on the site plan attached hereto and made a part hereof as Exhibit "A" (the "Site Plan"), and as legally described in Exhibit "B" attached hereto and made a part hereof. The Building, real estate, and other improvements now or hereafter constructed thereon are hereinafter collectively referred to as the "Leased Premises" pursuant to that certain Reciprocal Easement and Cross-Access Easement Agreement dated August 23, 2000, and recorded in Lake County, Indiana on August 28, 2000 as Instrument No. 2000 062159 hereinafter referred to as "Declaration".

This Memorandum of Lease shall serve to terminate and release the Memorandum of Lease dated June 28, 2001 recorded July 25, 2001 as Document #2001-058669 related to the Leased Premises between Walgreen Co., as Tenant and Perch Partners, L.L.C..

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

25-6  
Ch. 2288223494  
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## TERM, RENT COMMENCEMENT, LEASE YEAR, OPTIONS

(a) Firm Term. The term shall commence on the Effective Date and shall continue for fifteen (15) years thereafter (the "Firm Term"); provided, however, that if such Effective Date be other than the first day of the calendar month, then the Firm Term shall continue to and include the last day of the same calendar month of the fifteenth (15<sup>th</sup>) year thereafter.

(b) Rent Commencement. Tenant shall commence paying base rent pursuant to Article 2 hereof as of the first day of the Firm Term.

(c) Lease Year. The first lease year shall commence on the Effective Date and, if such date shall be on the first day of a calendar month, shall end twelve months thereafter, or, if such date be other than the first day of a calendar month, shall end on the last day of the same calendar month of the first year thereafter, and each succeeding lease year shall be each succeeding twelve month period.

(d) Renewal Terms. Unless this Lease has been previously terminated, this Lease will be automatically renewed for twelve (12) consecutive periods of five (5) years (each, a "Renewal Term") commencing upon the last day of the Term (or the expiration date of the then expiring Renewal Term, as applicable) unless Tenant notifies Landlord in writing on or before the date that is twelve (12) months prior to the commencement of a Renewal Term that Tenant does not wish to renew this Lease (in which case this Lease shall terminate as of the last day of the Term or the then expiring Renewal Term, as applicable). Any Renewal Term shall be subject to all of the provisions of this Lease, and all such provisions shall continue in full force and effect. Within forty-five (45) days after request by either Landlord or Tenant, Landlord and Tenant shall execute, acknowledge and deliver to each other an instrument confirming whether such option has been effectively exercised, the extended expiration date of this Lease and the then applicable base rent.

(e) Term. The "Term" of this Lease shall mean the Firm Term and, once exercised, any Renewal Term together with the Firm Term.

## PARKING

(a) Tenant, at Tenant's cost and expense, shall maintain, repair and replace the parking areas of the Leased Premises. However, Tenant shall have no

obligation to perform nor pay any costs in connection with any damages caused by the acts of Landlord, which shall be Landlord's responsibility to perform. The parking areas of the Leased Premises shall be for the exclusive use of Tenant and Tenant's customers, employees, invitees, successors, assigns and sublessees.

(b) Tenant covenants and agrees that it will comply with the provisions of the Declaration and this Lease shall be subject to the Declaration. Landlord hereby agrees to comply with the provisions of the Declaration. Landlord covenants that Landlord will, upon Tenant's request, cooperate with Tenant in Tenant's efforts to enforce all rights, covenants and agreements granted Landlord and Tenant pursuant to the Declaration at Tenant's sole cost. If, and to the extent the Declaration provide that the owner of the Leased Premises is responsible for any insurance, maintenance or other obligations, Tenant covenants and agrees to perform all such obligations as if it were the owner of the Leased Premises.

(c) To the extent Landlord's consent is required or sought with respect to any item governed by the Declaration, Landlord shall not grant its consent unless Landlord first notifies Tenant and provides Tenant not less than fifteen (15) days to also consent (or refuse to) to such request or item for which Landlord's consent is sought. If Tenant shall not expressly and in writing consent, Landlord shall not consent and Landlord shall object in the manner and within the time required under the Declaration. Any consent of Landlord under the Declaration given absent Tenant's express consent shall be of no effect and deemed invalid.

(d) It is understood and agreed that Landlord shall not enter into any agreements modifying or terminating the Declaration without first obtaining the express written consent of Tenant and such modification or termination without first obtaining Tenant's express written consent shall be of no effect.

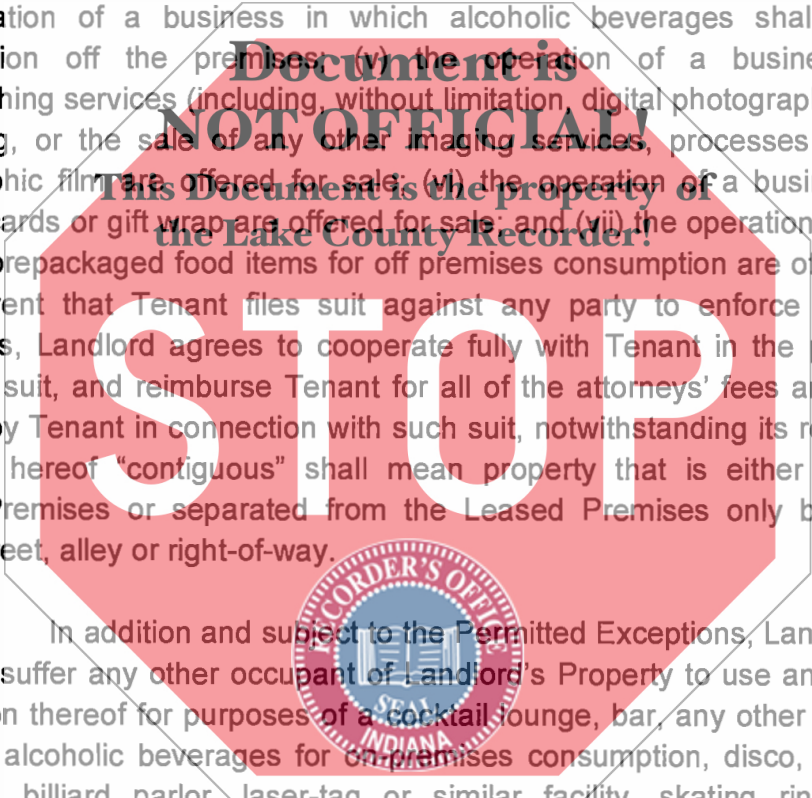
(e) If the Declaration is subject to any mortgage, deed of trust or other encumbrance in the nature thereof, Landlord, prior to delivering possession of the Leased Premises to Tenant and as a condition precedent thereto shall obtain a recordable agreement from the lender, mortgagee or beneficiary shall subordinate its interest to the Declaration.

### EXCLUSIVES

(a) 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, lease or control, 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, 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 office[s], which office[s] shall not be restricted by this subclause [ii]); (iii) the sale of so-called health and beauty aids or drug sundries; (iv) the operation of a business in which alcoholic beverages shall be sold for consumption off the premises; (v) 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; (vi) the operation of a business in which greeting cards or gift wrap are offered for sale; and (vii) the operation of a business in which prepackaged food items for off premises consumption are offered for sale. In the event that Tenant files suit against any party to enforce the foregoing restrictions, Landlord agrees to cooperate fully with Tenant in the prosecution of any such suit, and reimburse Tenant for all of the 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.

(b) In addition and subject to the Permitted Exceptions, 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, any other establishment that sells alcoholic beverages for on-premises consumption, disco, bowling alley, pool hall, billiard parlor, laser-tag or similar facility, skating rink, roller rink, amusement arcade, a theater of any kind, children's play or party facility, 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, the operation of a so-called "dollar" or similar store which sells and/or advertises the sale of any products then also typically sold in a Walgreens drug store at a specific price point or below a specific deeply-discounted price level (e.g., a "dollar" or "99¢" store), auction house, flea market, educational or training facility (including, without limitation, a beauty school, barber college, school or other facility catering primarily to students or trainees rather than customers), gymnasium, sport or health club or spa or, blood bank, massage parlor, funeral



home, 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 (including, without limitation, any manufacturing, smelting, rendering, brewing, refining, chemical manufacturing or processing, or other manufacturing uses), any mining or mineral exploration or development except by non-surface means, a car wash, a carnival, amusement park or circus, an assembly hall, off track betting establishment, bingo hall, any use involving the use, storage, disposal or handling of hazardous materials or underground storage tanks, any use which may materially or adversely affect the water and sewer services supplied to the Leased Premises, a church, temple, synagogue, mosque, or other house of worship, any facility for the sale of paraphernalia for use with illicit drugs, a marijuana dispensary or the sale of marijuana or marijuana related products, office use (except incidental to a retail use and as permitted by Article 6(a)(ii) above), a restaurant, or any use which creates a nuisance.

(c) No encumbrance, lien, or restriction recorded against or otherwise imposed upon the Leased Premises after the Effective Date 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; any such purported encumbrance, lien or restriction to which Tenant has not consented shall be void. 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.

(d) Tenant shall not use or operate the Leased Premises for any use other than lawful retail use.

#### 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 Term of this Lease or any extensions thereof from any person or entity, Landlord shall so notify Tenant (Attn.: Real Estate Law) 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 related to or affiliated with Landlord which Landlord intends to accept (subject to this

Article). 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, such that Tenant may purchase the Leased Premises separate from any such additional property or properties. In no event shall the Bona Fide Offer condition the purchase of the Leased Premises on the purchase of any additional properties from Landlord. Tenant may, at Tenant's option and within twenty (20) days after receipt of Landlord's notice of said Bona Fide Offer and receipt of a copy thereof and, if applicable, any relevant loan assumption documentation, 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 that would have been payable by Landlord if the Leased Premises were sold 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.

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.

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 Lake County, Indiana, 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.



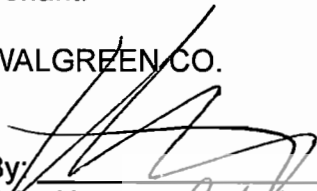
IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum of Lease, under seal, as of the day and year first above written.

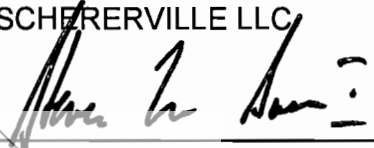
Tenant:

Landlord:

WALGREEN CO.

SDG SCHERERVILLE LLC

*mlr*  




By: \_\_\_\_\_  
Print Name: Richard M. Swanson  
Its: Director & Managing Counsel

By: \_\_\_\_\_  
Print Name: Steven M. Swanson II  
Its: Manager

**Document is NOT OFFICIAL!**

**This Document is the property of the Lake County Recorder!**

WITNESSES:

WITNESSES:

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[Notary and exhibit pages follow]





STATE OF ILLINOIS )  
 ) SS  
COUNTY OF LAKE )

I, the undersigned, a Notary Public, do hereby certify that Richard N. Steiner, personally known to me to be the Director & Managing Counsel 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 Director & Managing Counsel 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 24<sup>th</sup> day of October, 2019.

My commission expires: Barbara J. Francart  
Notary Public



STATE OF ILLINOIS  
COUNTY OF COOK



I, a Notary Public, do hereby certify that Steven M. Swanson II, personally known to me to be the Manager of SDG SCHERERVILLE LLC, an Illinois limited liability company, 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 Manager of said limited liability company, as his free and voluntary act, and as the free and voluntary act and deed of said limited liability company, for the purposes therein set forth.

Given under my hand and notarial seal this 25 day of Oct., 2019.

My commission expires: 12/13/20 C. Hernandez  
Notary Public

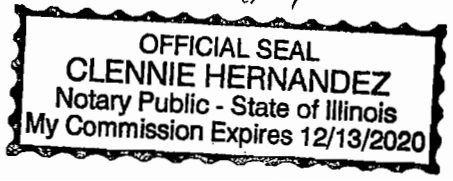


EXHIBIT "A"  
SITE PLAN  
(See Attached)



EXHIBIT "B"  
LEGAL DESCRIPTION OF LEASED PREMISES

PARCEL 1: LOT 1, TEIBEL'S SECOND ADDITION UNIT 1, AN ADDITION TO THE TOWN OF SCHERERVILLE, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 89 PAGE 35, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

PARCEL 2: NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY RECIPROCAL EASEMENT AND CROSS-ACCESS EASEMENT AGREEMENT WITH COVENANTS, CONDITIONS AND RESTRICTIONS DATED AUGUST 23, 2000, AND RECORDED AUGUST 28, 2000, AS DOCUMENT NUMBER 2000 062159, FOR THE PURPOSE OF ACCESS, INGRESS AND EGRESS OVER AND THROUGH THE INTERNAL ACCESS ROADWAYS AND ACCESS POINTS LOCATED ON PARCELS A, A-1, B AND D AS SHOWN ON THE SITE PLAN RECORDED AS DOCUMENT 2000 062159 IN PLAT BOOK 89, PAGE 18.

PARCEL 3: NON-EXCLUSIVE EASEMENT FOR THE PURPOSE OF WATER DETENTION AND DRAINAGE FACILITIES, FOR THE BENEFIT OF PARCEL 1 AS CREATED BY PROPERTY OWNERS AGREEMENT AND DECLARATION OF EASEMENTS AND RESTRICTIONS DATED AUGUST 23, 2000 AND RECORDED AUGUST 28, 2000, AS DOCUMENT NO. 2000 062158, IN LAKE COUNTY, INDIANA.

