

This instrument was prepared by:
Name: Carter N McDowell
Address: Bilzin Sumberg
1450 Brickell Avenue
Suite 2300
Miami, Florida 33131

(Space Reserved for Clerk)

DECLARATION OF RESTRICTIVE COVENANTS

THIS Declaration of Restrictive Covenants ("Declaration"), is made this ____ day of _____ 2019, by 947 Lincoln Road Holdings LLC, a Delaware limited liability company ("Owner(s)"), in favor of the City of Miami Beach, Florida, a municipality of the State of Florida ("City").

WITNESSETH:

WHEREAS, the Owner holds fee-simple title to certain property in the City of Miami Beach, Florida, located at 1657 Michigan Avenue and 947 Lincoln Road, Miami Beach, Florida, bearing the following folio number(s) 02-3234-018-0010, legally described in **Exhibit "A,"** attached hereto and made a part hereof ("Property"); and

WHEREAS, on September 15, 2015 the Owner entered into a lease with Walgreen Co., an Illinois corporation ("Walgreens").

WHEREAS, on October 17, 2017 Owner obtained approval of the Historic Preservation Board under File No. HPB 17-0099 as recorded in Official Records Book 30721, at Page 2121 of the Public Records of Miami-Dade County, Florida (the "HPB Order ") ; and

WHEREAS, Walgreens applied for a building permit pursuant to the HPB Order on or about August 10, 2018, and

WHEREAS, the Owner and Walgreens are desirous of making a binding commitment to assure that the Property shall be developed in accordance with representations and commitments made to the City.

NOW, THEREFORE, the Owner and Walgreens voluntarily covenant and agree that the Property shall be subject to the following restrictions that are intended and shall be deemed to be covenants running with the land and binding upon the Owners of the Property

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and Walgreens, their successors in interest and assigns, as follows:

1. The recitals and findings set forth in the preamble of this Declaration are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.

2. The Property will be developed and operated substantially in accordance with the plans attached hereto and incorporated herein as **Exhibit "B"** (the "Plans"). With regard to the interior graphic locations identified on the Plans, if the Lincoln Road Business Improvement District ("BID") wishes to propose new graphics for some or all of those locations, at the BID's sole cost and expense not more often than once per year, Walgreens agrees to reasonably cooperate with the BID to allow the graphics to be changed, subject to Walgreens right to approve the graphics in its sole discretion and to schedule the installation in a way that minimizes disruption to its store operations. The Property's substantial compliance with the terms of this Declaration (including the Plans) shall be determined by the City's Planning Director or the Director's designee.

3. No sales of single bottles or single cans of beer shall be allowed on the Property.

4. No sales of marijuana or marijuana derivative products shall be allowed on the Property.

5. This voluntary Declaration shall remain in full force and effect and shall be binding upon the Owners and Walgreens or their successors in interest and assigns for a period of time equal to the earlier of: 1) twenty (20) years from the date this instrument is recorded in the public records or 2) Walgreens or a related entity either does not occupy or vacates the property, unless modified, amended or released prior to the expiration thereof.

6. This Declaration may be modified, amended or released as to any portion of the Property by a written instrument executed by the then Owners of the fee-simple title to the land to be affected by such modification, amendment or release providing that same has been approved by the City Commission following a public hearing, which public hearing shall be applied for by and at the expense of the Owners. Should this instrument be so modified, amended or released the City Manager, or the City Manager's successor, or other administrative officer with jurisdiction over the matter, shall execute a written instrument in recordable form effectuating and acknowledging such modification, amendment or release.

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7. Invalidation of any provision of this Declaration by judgment of Court shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect.

8. This Declaration shall be recorded in the Public Records of Miami-Dade County, Florida, at the cost of the Owners.

9. It is understood and agreed that any official of the City of Miami Beach has the right at any time during normal business hours of entering and investigating the use of the Property, to determine whether the conditions of this Declaration and the requirements of the City's building, zoning and land development regulations are being complied with.

10. An action to enforce the terms and conditions of this Declaration may be brought by the City and may be, at law or in equity, against any party or person violating or attempting to violate any provision of this Declaration or provisions of the building, zoning or land development regulations, either to restrain violations or to recover damages. The prevailing party in the action shall be entitled to recover costs and reasonable attorneys' fees, at all levels of trial and appeal. This enforcement provision shall be in addition to any other remedies available under the law.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK—SIGNATURE PAGES TO FOLLOW]

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Signed, witnessed, executed and acknowledged on this ____ day of _____, _____.

[*Note: All others require attachment of original corporate resolution of authorization]

WITNESSES:

OWNER: 947 Lincoln Road Holdings LLC, by
947 LINCOLN ROAD LLC,

Signature

Signature

Print Name

Print Name

Signature

Name of Corporate Entity

Print Name

Position with Corporate Entity (Pres. VP, CEO)

Address: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____
_____, who is personally known to me or has produced
_____, as identification.

Witness my signature and official seal this _____ day of _____,
in the County and State aforesaid.

My Commission Expires:

Notary Public-State of _____

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Print Name

Approved:

Approved as to form & language & for execution:

Director of Planning Date

City Attorney Date

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EXHIBIT A

The land referred to herein below is situated in the County of Miami-Dade, State of Florida, and is described as follows:

Lot 1, Block 37, COMMERCIAL SUBDIVISION OF THE ALTON BEACH REALTY COMPANY, according to the Plat thereof as recorded in Plat Book 6, Page 5, Public Records of Miami-Dade County, Florida.

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EXHIBIT B
(Plan)

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JOINDER AND CONSENT OF TENANT

The undersigned, Tenant, under that certain Lease dated September 3, 2015 by and between Lincoln Road Holdings, LLC, a Delaware Limited Liability Company and Walgreen Co., an Illinois corporation, a memorandum of which is recorded at CFN 20180189191 Official Records Book 30918 at Page 3656, of the Public Records of Dade County, Florida, encumbering the real property to be subjected to the foregoing Declaration of Restrictive Covenants made by Lincoln Road Holdings, LLC in favor of the City of Miami Beach, Florida, hereby consents to said Declaration of Restrictive Covenants and agrees that the Leasehold shall be subject to and subordinate to the terms of said Declaration of Restrictive Covenants.

IN WITNESS WHEREOF, the undersigned has set his hand and seal this ____ day of _____, 2019.

Witnesses:

TENANT:
WALGREEN CO.

By: _____

Print Name: _____

Print Name: _____

Its: _____

Print Name: _____

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STATE OF ILLINOIS _____)
)
COUNTY OF LAKE) SS:

I, the undersigned, a Notary Public, do hereby certify that _____, personally known to me to be the _____ 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 _____ 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 _____ day of _____, 2019.

[NOTARIAL SEAL]

Notary _____
Print Name: _____
Notary Public, State of _____
My commission expires: _____