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Book - 9265 Pg - 5342-5348
Gary W. Ott
Recorder, Salt Lake County, UT
FOUNDERS TITLE
BY: eCASH, DEPUTY - EF 7 P.

Site 4a
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After recording return to:

Debra Piazza
Montgomery Little & McGrew, P.C.
5445 DTC Parkway, Suite 800
Greenwood Village, CO 80111

F-66104

**LEASE SUBORDINATION,
NON-DISTURBANCE AND ATTORNMEN T AGREEMENT**
(Larry H. Miller Ford Parts Warehouse)

THIS AGREEMENT, made effective as of June 22, 2005, is between LARRY H. MILLER CORPORATION - DOWNTOWN, a Utah corporation, d/b/a Larry H. Miller Ford Parts Warehouse, with offices at 2810 S. 1030 W., Salt Lake City, Utah 84119 (hereinafter called "Tenant"), and MILLER FAMILY REAL ESTATE, L.L.C., a Utah limited liability company, whose address is 9350 South 150 East, Suite 1000, Sandy, Utah 84070 (hereinafter called "Landlord"), for the benefit of COMERICA BANK, a Michigan banking corporation, 411 West Lafayette Boulevard, Detroit, Michigan 48226-3519 (hereinafter called "Lender").

WITNESSETH

WHEREAS, Tenant has entered into a certain lease dated June 20, 2005 with Landlord (the "Lease") covering premises known as Larry H. Miller Ford Parts Warehouse (the "Premises") and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference;

WHEREAS, Lender has agreed to make certain loans to Landlord evidenced by Landlord's promissory notes of even date herewith (the "Notes"), in the principal amount of Two Hundred Million and 00/100 Dollars (\$200,000,000.00) and secured (partially) by a Deed of Trust (the "Deed of Trust") upon the Premises;

WHEREAS, it is to the mutual benefit of the parties hereto that Lender make such loans to Landlord;

WHEREAS, it is a condition precedent to obtaining said loans or was a condition of said loans, that the Deed of Trust securing said loans be a lien or charge upon the Premises unconditionally prior and superior to the Lease and the leasehold interest of Tenant;

WHEREAS, Tenant acknowledges when it is recorded the Deed of Trust constitutes, or will constitute a lien or charge upon the Premises which is, or will be, unconditionally prior and superior to the Lease and the leasehold interest of Tenant; and

WHEREAS, Lender has been requested by Tenant and by Landlord to enter into a non-disturbance agreement with Tenant.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties hereto mutually covenant and agree as follows:

1. Subordination. The Lease and any extensions, renewals, replacements or modifications thereof, and all of the right, title and interest of Tenant in and to the Premises are and shall be subject and subordinate to the Deed of Trust and to all of the terms and conditions contained therein, and to any renewals, modifications, replacements, consolidations and extensions thereof.

2. Non-Disturbance. Lender has consented to the Lease and, in the event of foreclosure of the Deed of Trust, or in the event Lender comes into possession or acquires title to the Premises as a result of the enforcement of foreclosure of the Deed of Trust or the Notes, or as a result of any other means, Lender shall recognize Tenant and shall agree that Tenant shall not be disturbed in its possession of the Premises for any reason other than one which would entitle Landlord to terminate the Lease under its terms or would cause, without any further action by Landlord, the termination of the Lease or would entitle Landlord to dispossess Tenant from the Premises. Notwithstanding the foregoing, from and after the date Lender comes into possession or acquires title to the Premises as a result of the enforcement of foreclosure of the Deed of Trust or the Notes, or as a result of any other means, the monthly rent payable by Tenant under the Lease shall be increased to \$36,677.00 per month through the remaining term of the Lease.

3. Attornment. Tenant agrees with Lender that, if the interests of Landlord in the Premises shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by Lender, or any other manner, or shall be conveyed thereafter by Lender or shall be conveyed pursuant to a foreclosure sale of the Premises (and for purposes of this paragraph, the term "Lender" shall be deemed to include any grantee of Lender or the purchaser at a foreclosure sale), Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any option therefor in the Lease, with the same force and effect as if Lender were the landlord under the Lease, and Tenant does hereby attorn to Lender as its landlord, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Lender succeeding to the interest of Landlord in the Premises. Tenant agrees, however, upon the election of and written demand by Lender within twenty (20) days after Lender receives title to the Premises, to execute an instrument in confirmation of the foregoing provisions, satisfactory to Lender, in which Tenant shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy.

4. Limitation on Lender's Liability. Tenant agrees that if Lender shall succeed to the interest of Landlord under the Lease, Lender shall not be (a) liable for any action or omission of any

prior landlord under the Lease, or (b) subject to any offsets or defenses which Tenant might have against any prior landlord, or (c) bound by any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord, unless such deposit is in an escrow fund available to Lender, or (d) bound by any amendment or modification of the Lease made without Lender's consent, or (e) bound by any provision in the Lease which obligates any prior landlord to erect or complete any building or to perform any construction work or to make any improvements to the Premises. Tenant further agrees that Tenant will not voluntarily subordinate the Lease to any lien or encumbrance without Lender's consent.

5. Landlord Default. In the event that Landlord shall default in the performance or observance of any of the terms, conditions or agreements in the Lease, Tenant shall give written notice thereof to Lender and Lender shall have the right (but not the obligation) to cure such default. Tenant shall not take any action with respect to such default under the Lease, including without limitation any action in order to terminate, rescind or void the Lease or to withhold any rental thereunder, for a period of ten (10) days after receipt of such written notice thereof by Lender with respect to any such default capable of being cured by the payment of money and for a period of thirty (30) days after receipt of such written notice thereof by Lender with respect to any other such default (provided that, in the case of any default which cannot be cured by the payment of money and cannot with diligence be cured within such thirty (30) day period because of the nature of such default or because Lender requires time to obtain possession of the Premises in order to cure the default, if Lender shall proceed promptly to attempt to obtain possession of the Premises, where possession is required, and to cure the default and thereafter shall prosecute the curing of such default with diligence and continuity, then the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity).

6. Environmental Indemnification. Tenant agrees it shall not take any action or allow the Premises to be used in such a manner that violates any applicable federal, state and local environmental laws or regulations. In the event Lender shall succeed to the interest of Landlord under the Lease or title to the Premises shall be transferred to Lender by foreclosure sale or by deed in lieu of foreclosure, Tenant shall defend, indemnify and hold harmless Lender, and its successors and assigns, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses, including, without limitation, attorneys' and consultants' fees, investigation and laboratory fees, court costs and litigation expenses, known or unknown, contingent or otherwise, arising out of or in any way related to (a) the presence, disposal, release or threatened release of any hazardous materials on, over, under, from or affecting the Premises or its soil, water, vegetation, buildings, personal property, persons or animals, and which is caused by or related to Tenant's use or occupancy of the Premises; (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such hazardous materials on the Premises; (c) any lawsuit brought or threatened, settlement reached or government order relating to such hazardous materials with respect to the Premises; and/or (d) any violation of laws, orders, regulations,

requirements or demands of government authorities, or any policies or requirements of Lender, which are based upon or in any way related to such hazardous materials used on the Premises.

7. Binding Effect. This Agreement shall bind and inure to the benefit of the parties hereto, their successors and assigns. As used herein the term "Tenant" shall include Tenant, its successors and assigns; the words "foreclosure" and "foreclosure sale" as used herein shall be deemed to include the acquisition of Landlord's estate in the Premises by voluntary deed (or assignment) in lieu of foreclosure; and the word "Lender" shall include Lender as herein specifically named and any of its successors and assigns, including anyone who shall have succeeded to Landlord's interest in the Premises by, through or under foreclosure of the Deed of Trust.

8. Entire Agreement. This Agreement shall be the whole and only agreement between the parties hereto with regard to the subordination of the Lease and leasehold interest of Tenant to the lien or charge of the Deed of Trust in favor of Lender, and shall supersede and cancel any prior agreements as to such, or any, subordination, including, but not limited to, those provisions, if any, contained in the Lease which provide for the subordination of the Lease and leasehold interest of Tenant to a deed or deeds of trust or to a mortgage or mortgages to be thereafter executed, and shall not be modified or amended except in writing signed by all parties hereto.

9. Tenant Representations. Tenant declares, agrees and acknowledges that:

(a) Tenant consents to (i) all provisions of the Note and Deed of Trust and (ii) all agreements, including but not limited to any loan or escrow agreements, between Landlord and Lender for the disbursement of the proceeds of Lender's loan;

(b) Lender, in making disbursements pursuant to such loan, is under no obligation or duty to, nor has Lender represented that it will see to, the application of such proceeds by the person or persons to whom Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in any agreement related to such loan shall not defeat the subordination herein made in whole or in part;

(c) Tenant intentionally and conditionally waives, relinquishes and subordinates the Lease and its leasehold interest in favor of the lien or charge upon the Premises of the Deed of Trust and, in consideration of this waiver, relinquishment and subordination, specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.

10. Gender. The use of the neuter gender in this Agreement shall be deemed to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires.

11. Estoppel. Tenant hereby certifies that (i) the Lease is in full force and effect according to its terms and has not been amended or modified in any respect; (ii) Tenant has accepted possession of the Premises and all improvements and other such requirements under the Lease have been completed to Tenant's satisfaction; (iii) Landlord is not in default under the Lease, and any and all prior defaults are hereby waived; (iv) Tenant is not in default under the Lease; (v) the monthly rental now being paid by Tenant under the Lease is \$ 23,300.00, and no rent required under the Lease has been paid for more than thirty (30) days in advance of its due date; (vi) Tenant has at this time no defense, charge, lien, claim or offset under the Lease or otherwise against the rents and obligations due and to become due under the Lease; and (vii) Tenant does not possess any contractual right, title or interest in the Premises (except as "Lessee" under the Lease) evidenced by option, contract, agreement or deed or otherwise, for the purchase of or affecting all or any part of the Premises, whether by verbal understanding or by recorded or unrecorded instrument.

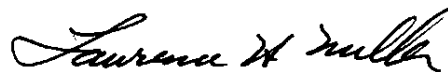
12. Termination of Prior Agreement. The parties agree that their Lease Subordination, Non-Disturbance and Attornment Agreement recorded June 27, 2005 as Document No. 9415092, in Book 9150, Page 3264, with the Recorder, Salt Lake County, Utah, is hereby terminated, it being the intent of the parties that this Agreement supersede and replace said prior agreement.

IN WITNESS WHEREOF, the parties have placed their hands and seals as of the day and year first above written.

TENANT:

**LARRY H. MILLER CORPORATION -
DOWNTOWN,**
a Utah corporation

By
Its



Lawrence H. Miller, Secretary/Treasurer

LANDLORD:

MILLER FAMILY REAL ESTATE, L.L.C.,
a Utah limited liability company

By *Lawrence H. Miller*
Lawrence H. Miller, Operating Manager

STATE OF UTAH)
) ss.
County of Salt Lake)

On this 14th day of February, 2006, before me, a notary public, in and for said State, personally appeared Lawrence H. Miller, known to me or identified to me to be the Secretary/Treasurer of LARRY H. MILLER CORPORATION - DOWNTOWN, a Utah corporation, whose name is subscribed to the within instrument on behalf of said corporation, and who acknowledged to me that such corporation executed the same.

Marilyn N. Smith
Marilyn N. Smith
Notary Public
NOTARY PUBLIC • STATE OF UTAH
9350 S 150 E STE 1000 Salt Lake County, State of Utah
SANDY UT 84070 My Commission Expires: _____
COMMISSION EXPIRES: 05-25-2007

STATE OF UTAH)
) ss.
County of Salt Lake)

On this 14th day of February, 2006, before me, a notary public, in and for said State, personally appeared Lawrence H. Miller, known to me or identified to me to be the Operating Manager of MILLER FAMILY REAL ESTATE, L.L.C., a Utah Limited liability company, whose name is subscribed to the within instrument on behalf of said company, and who acknowledged to me that such company executed the same.

Marilyn N. Smith
Marilyn N. Smith
Notary Public
NOTARY PUBLIC • STATE OF UTAH
9350 S 150 E STE 1000 Salt Lake County, State of Utah
SANDY UT 84070 My Commission Expires: _____
COMMISSION EXPIRES: 05-25-2007

**EXHIBIT A TO LEASE SUBORDINATION,
NON-DISTURBANCE AND ATTORNMENT AGREEMENT
(Legal Description)**

Real property situated in the County of Salt Lake, State of Utah, to-wit:

Beginning at a point given as being on the West line of Lot 12, Block 6, Five Acre Plat "B", Big Field Survey of Section 12, Township 1 South, Range 1 West, Salt Lake Base and Meridian, at a point given as 28.00 feet South 00°04'37" West from the Northwest corner of said Lot 12; said point also being South 00°01'05" East 28.00 feet and South 89°48'49" West 757.85 feet from the Northeast corner of said Lot 12 and running thence North 89°48'49" East 757.85 feet along the South boundary line of a tract of land deeded to Salt Lake City Corporation recorded as Entry No. 2497944 in Book 3195 at Page 291 of Official Records, Salt Lake County Recorder, Utah, to the East line of said Block 6; thence South 00°01'05" East 1120.81 feet along said East block line; thence South 89°48'43" West 556.72 feet; thence North 00°08'37" West 325.38 feet; thence Northwesterly 237.22 feet along the arc of a 272.31 foot radius curve to the right (NOTE: chord to said curve bears North 61°18'44" West for a distance of 229.79 feet); thence North 00°04'42" East 89.00 feet; thence North 00°04'37" East 595.49 feet along a fence marking the West line of Lots 14, 13 and 12 of said Block 6, Five Acre Plat "B", Big Field Survey to the point of beginning.

LESS AND EXCEPTING therefrom the following described parcel:

Beginning at a point given as being on the West line of Lot 12, Block 6, Five Acre Plat "B", Big Field Survey of Section 12, Township 1 South, Range 1 West, Salt Lake Base and Meridian, at a point given as 28.00 feet South 00°04'37" West from the Northwest corner of said Lot 12; said point also being South 00°01'05" East 28.00 feet and South 89°48'49" West 757.85 feet from the Northeast corner of said Lot 12 and running thence North 89°48'49" East 50.00 feet along the South boundary line of a tract of land deeded to Salt Lake City Corporation recorded as Entry No. 2497944 in Book 3195, at Page 291, of Official Records, Salt Lake County Recorder, Utah; thence South 00°04'37" West 595.49 feet; thence South 89°48'43" West 50.00 feet to a fence marking the West line of Lot 14; thence North 00°04'37" East 595.49 feet along said fence to the point of beginning.

The following is shown for informational purposes only: Tax ID No. 15-12-354-004