

# UNOFFICIAL COPY

**PREPARED BY:**

**JAMES B. CARROLL, ESQ.**  
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Evergreen Park, Illinois 60805  
(708) 422-3766

00625801

5392/0092 20 001 Page 1 of 6  
2000-08-15 15:07:20  
Cook County Recorder 31.00



**MAIL TO:**

**Patrick J. Roe**  
Heritage Bank  
20201 S. LaGrange Rd.  
Frankfort, IL 60423

78-69-186 <sup>1 all</sup> ~~82~~ OF

## NON-DISTURBANCE, SUBORDINATION & ATTORNMENMENT AGREEMENT

THIS NON-DISTURBANCE, SUBORDINATION & ATTORNMENMENT AGREEMENT ("Agreement"), is made and entered into by between and among Sheri & Brad Postma Real Estate Corporation, 561 West Lincoln Highway, Chicago, IL 60411 ("Lessor"), Matteson Auto Sales, Inc., 5540 Auto Court, Matteson, IL 60443 ("Lessee") and Heritage Bank, 20201 S. LaGrange Rd., Frankfort, IL 60423 ("Lender");

### RECITALS:

- A. Lessor is the owner and holder of fee simple title in and to certain real property (the "Premises") situated in Cook County, Illinois and described in Exhibit "A" attached hereto and by this reference made a part hereof; and
- B. Lessor and Lessee have entered into a certain lease dated 7-10-00 (the "Lease") demising the entire Premises (the "Leased Premises") to Lessee; and
- C. Lessor has made, executed and delivered to Lender one certain Note (the "Note") in the amount of 2,700,000.00 secured by a Mortgage ("Mortgage") of the Premises of even date with the Note, which Mortgage will be filed for record in the Office of the Cook County Recorder ("Office") subsequent to the execution of this Agreement; and
- D. As additional consideration for the Note, Lessor has absolutely assigned to Lender the Lease by an Assignment of Rents ("Assignment") which will be filed for record in the aforesaid Office subsequent to the execution of this Agreement, wherein the Lease was assigned by Lessor to Lender; and
- E. Lender requires, as a precondition to providing financing for the Premises, that Lessee subordinate to Lender Lessee's right, title and interest in the Leased Premises;

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, Lessee, Lessor and Lender, intending to be legally

**BOX 333-CTI**

bound hereby, covenant and agree as follows:

1. The Recitals above are incorporated herein as **Paragraph 1** as if fully restated.
2. Provided Lessee is not in default in the payment of rent, taxes, utility charges or other sums payable by Lessee under the terms of the Lease or under any other provision of the Lease and Lessee is then in possession of the Leased Premises:
  - a). The right of possession of Lessee to the Leased Premises shall not be affected or disturbed by Lender in the exercise of any of its rights and remedies under the Note, the Mortgage or the Assignment; and
  - b). In the event Lender obtains title to the Leased Premises through foreclosure under the Mortgage or otherwise, Lessee agrees to continue occupancy of the Leased Premises under the same terms and conditions of the Lease and will attorn to the Lender, its successors or assigns, to the same extent and with the same force as if Lender were the Lessor under the Lease.
3. Lender shall be entitled, but not obligated, to exercise the claims, rights, powers, privileges, options and remedies of the Lessor under the Lease and shall be further entitled to the benefits of, and to receive and enforce performance of, all of the covenants to be performed by Lessee under the Lease as though Lender were named therein as the Lessor. Lender shall not, by virtue of the Assignment or this Agreement, be or become subject to any liability or obligation to Lessee under the Lease or otherwise, until Lender shall have obtained title to the Leased Premises, by foreclosure or otherwise, and then only to the extent of liabilities or obligations accruing subsequent to the date that Lender has obtained title to the Leased Premises.
4. Without Lender's prior written approval, Lessee shall not pay an installment of rent or any part thereof more than **thirty (30) days** prior to the due date of such installment. Unless so approved by Lender, Lender shall not be bound by and shall be entitled to recover from Lessee, as rent under the Lease, any payment of the rent or additional rent made by Lessee to or at the direction of Lessor for more than one month in advance or paid by an amendment or modification of the Lease.
5. After notice is given to Lessee by Lender pursuant to the Assignment, which notice will be given only if Lessor is in default under the terms of the Note and Mortgage aforesaid, that the sums due under the Lease should be paid to Lender, Lessee shall pay to Lender, or in accordance with the directions of Lender, all rentals and other monies due and to become due to Lessor under the Lease. Lessor hereby expressly authorizes Lessee to make such payments to Lender and hereby releases and discharges Lessee of, and from liability to Lessor on account of any such payments.
6. The Lease and Lessee's leasehold estate created thereby, including all rights and options to purchase the Leased Premises, shall be and are completely and unconditionally subject and subordinate to the lien of the Mortgage and to all the terms, conditions and provisions thereof, to all advances made or to be made thereunder, and to any renewals, extensions, modification or replacements thereof.
7. This Agreement shall inure to the benefit of and shall be binding upon Lessee, Lessor and Lender, and their respective heirs, personal representatives, successors and assigns. In the event of any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable, in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein. This Agreement shall be governed by and construed according to the laws of the State of Illinois.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly signed and attested by their respective duly authorized officers this 31<sup>st</sup> Day of July, 2000.

LESSEE: Matteson Auto Sales, Inc.

By: x Rowell Postma  
President

Attest: x Rowell Postma  
Secretary

LESSOR: Sheri & Brad Postma Real Estate Corporation

By: x Brad A. Postma  
Brad A. Postma, President

Attest: x Sheri L. Postma  
Sheri L. Postma, Secretary

LENDER: Heritage Bank

By: x Robert A. King  
Title: President

Attest: x Quinn-Via-Resident  
Title: Quinn-Via-Resident

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STATE OF ILLINOIS )  
 )SS.  
COUNTY OF COOK )

The undersigned, a notary public in and for said County and State, DO HEREBY CERTIFY that Brad A. Postma and Sheri L. Postma, personally known to me to be President and Secretary respectively of Sheri & Brad Real Estate Corporation, an Illinois Corporation and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as President and Secretary respectively of said Corporation, they signed and delivered the said instrument pursuant to authority given by the Board of Directors of said Corporation, as their free and voluntary act, and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 31 day of July, 2000.

*Jean F. Kendall*  
NOTARY PUBLIC

My Commission Expires: 4/28/03



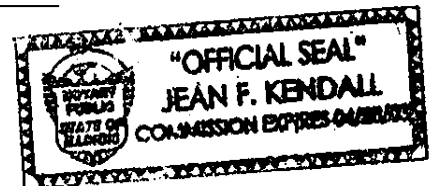
STATE OF ILLINOIS )  
 )SS.  
COUNTY OF COOK )

The undersigned, a notary public in and for said County and State, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the President of Matteson Auto Sales, Inc., an Illinois Corporation and \_\_\_\_\_ personally known to me to be the Secretary of said Corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Secretary of the Corporation, they signed and delivered the said instrument and caused the corporate seal of said Corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said Corporation as their free and voluntary act, and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 31 day of July, 2000.

x *Jean F. Kendall*  
NOTARY PUBLIC

My Commission Expires: 4/28/03



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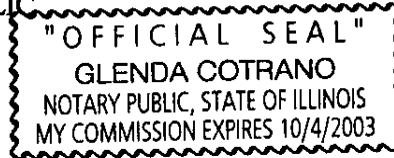
STATE OF ILLINOIS                    )  
  )SS.  
COUNTY OF COOK                    )

The undersigned, a notary public in and for said County and State, **DO HEREBY CERTIFY** that *Patrick J. Roe* and *Robert J. Kennedy*, personally known to me to be Officers of **HERITAGE BANK** an Illinois Banking Corporation and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Officers of said Corporation, they signed and delivered the said instrument and caused the corporate seal of said Corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said Corporation, as their free and voluntary act, and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 31<sup>st</sup> day of July, 2000.

x *Glenda Cotrano*  
NOTARY PUBLIC

My Commission Expires: 10/4/03



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## EXHIBIT "A"

### LEGAL DESCRIPTION:

#### PARCEL 1:

LOT 2 IN MATTESON AUTOMALL UNIT 1, A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 21, TOWNSHIP 35 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN THE OFFICE OF RECORDER OF DEEDS, COOK COUNTY, ILLINOIS, ON DECEMBER 17, 1997 AS NUMBER 97948887.

#### PARCEL 2:

A NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY ACCESS RIGHT-OF-WAY AND EASEMENT GRANT DATED MAY 9, 2000 AND RECORDED MAY 11, 2000 AS DOCUMENT 00338780 FROM SUBURBAN BANK, SUCCESSOR TO ST. PAUL TRUST CO., SUCCESSOR TRUSTEE TO BEVERLY BANK AND TRUST COMPANY AS TRUSTEE UNDER TRUST AGREEMENT DATED MAY 22, 1997 KNOWN AS TRUST NUMBER 74-2569 TO SHERI & BRAD POSTMA REAL ESTATE CORP. FOR THE PURPOSE OF ACCESS OVER THE FOLLOWING DESCRIBED LAND:

THAT PART OF LOT 3 LYING WEST OF A LINE 290.0 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE SOUTHWEST 1/4.

COMMONLY KNOWN AS: 5540 AUTO COURT, MATTESON, IL 60443

P.I.N. NO: 31-21-302-001-0000