

This Instrument was prepared  
by and when recorded please  
return to:



Michael F. Sexton  
Rooks, Pitts and Poust  
10 South Wacker Drive  
Suite 2300  
Chicago, Illinois 60603

**SUBORDINATION, NONDISTURBANCE  
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT  
(this "Agreement") is dated and effective as of September 10, 2001 by and between LASALLE  
BANK NATIONAL ASSOCIATION ("Bank"), having its principal offices at 135 South LaSalle  
Street, Chicago, Illinois 60603, and MIDWEST TRUCK & AUTO PARTS, INC., an Illinois  
corporation ("Tenant"), having its principal offices at 4200 South Morgan, Chicago, Illinois 60609.

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**WITNESSETH:**

A. 1001 W. EXCHANGE, LLC, an Illinois limited liability company ("Borrower") is  
the owner in fee simple of the real estate legally described on Exhibit A attached hereto and made  
a part hereof, together with the improvements thereon (the "Premises").

B. Borrower executed and delivered to Bank a Promissory Note dated of even date  
herewith (together with all substitutes therefor, all modifications and amendments thereto, and  
renewals, extensions and replacements thereof, the "Note") in the principal sum of \$1,400,000.00.

C. The Note is secured, *inter alia*, by a Mortgage and Security Agreement dated as of  
even date herewith made by Borrower (as the same may be amended, restated, consolidated, spread  
and/or modified, the "Security Instrument") which is a first lien on the Premises and an Assignment  
of Rents and Lessor's Interest in Leases made by Borrower dated as of even date herewith (as the  
same may be amended, restated and/or modified, the "Assignment").

D. Tenant has leased the Premises pursuant to the terms of a lease made by and between  
Borrower, as landlord, and Tenant dated as of even date herewith (the "Lease").

79-41-858 DIV. 2 Gault Case

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E. Bank has required the execution of this Agreement as a condition to making the loan evidenced by the Note and Tenant has agreed to execute this Agreement pursuant to the terms of the Lease.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Bank and Tenant hereby covenant and agree as follows:

1. Subordination of Lease. The Lease and all of Tenant's interest therein and rights thereunder shall at all times be subject and subordinate in each and every respect to the Security Instrument.

2. Non-disturbance of Tenant's Right to Possession. Provided Tenant shall have performed and shall continue to perform all of the covenants and conditions of the Lease to be performed by it, and further provided Tenant shall not be in default thereunder, the rights of Tenant under the Lease shall remain in full force and effect and its possession of the Premises thereunder shall remain undisturbed during the term of the Lease and during any renewal or extension thereof in accordance with its terms; provided, however, that Bank shall in no event be liable for any default by Borrower, as landlord, under the Lease.

3. Attornment. After the receipt by Tenant of notice from Bank of completion of a foreclosure under the Security Instrument or if Bank has received a conveyance of the Premises in lieu of foreclosure, Tenant shall attorn to Bank, its successors and assigns, or any other purchaser at such foreclosure sale as the substitute landlord under the Lease. Such attornment shall be effective and self-operative without the execution of any further instrument on the part of any of the parties hereto. Tenant agrees, however, to execute and deliver at any time and from time to time, upon the request of Borrower and its successors as landlord under the Lease (Borrower and such successors being hereinafter referred to collectively as the "Landlord") or of any holder(s) of any of the indebtedness or other obligations secured by the Security Instrument or any such purchaser (collectively, such holder(s) and purchaser(s) are referred to hereinafter as "Holders"), any instrument or certificate which, in the sole judgment of Landlord or any Holders, may be necessary or appropriate in any such foreclosure or other proceeding or otherwise to evidence such attornment. Tenant hereby irrevocably appoints Bank and any Holders, jointly and severally, the agent and attorney in fact of Tenant to execute and deliver for and on behalf of Tenant any such instrument or certificate. Such power of attorney shall not terminate on disability of the principal, shall be a power coupled with an interest and cannot be revoked. In the event of any such attornment, Tenant to the extent permitted by law further waives the provisions of any statute or rule of law, now or hereafter in effect, which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect the Lease and the obligation of Tenant thereunder as a result of any such foreclosure proceeding.

4. Assumption by Bank of Certain Obligations. If Bank shall succeed to the interest of Landlord under the Lease in any manner, or if any purchaser acquires the Premises upon any

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foreclosure of the Security Instrument, Bank or such purchaser, as the case may be, in the event of attornment shall have the same remedies by entry, action or otherwise in the event of any default by Tenant in the payment of rent or additional rent or in the performance of any of the terms, covenants and conditions of the Lease on Tenant's part to be performed that Landlord had or would have had if Bank or such purchaser had not succeeded to the interest of Landlord in the Lease. From and after any such attornment, Bank or such purchaser shall be bound to Tenant under all the terms, covenants and conditions of the Lease, and Tenant shall, from and after the succession to the interest of Lessor under the Lease by Bank or such purchaser, have the same remedies against Bank or such purchaser for the breach of an agreement contained in the Lease that Tenant might have had under the Lease against Landlord if Bank or such purchaser had not succeeded to the interest of Landlord; provided, however, that Bank or such purchaser shall not be:

- (a) liable for any act or omission of any prior Landlord (including Borrower); or
- (b) subject to any offsets or defenses which Tenant might have against any prior Landlord (including Borrower); or
- (c) bound by any rent or additional rent which Tenant might have paid for more than the current month to any prior Landlord (including Borrower); or
- (d) bound by any amendments to the Lease not previously approved by Bank; or
- (e) bound by any provision of the Lease relating to the application of insurance or condemnation proceeds in the event of a casualty or other loss; or
- (f) obligated to incur expenses in connection with repairing or restoring the Premises in excess of an amount equal to the insurance proceeds or condemnation award, as applicable, actually received, less all costs and expenses incurred in collecting said monies.

5. Remedies Under Lease. Nothing herein contained is intended, nor shall it be construed, to abridge or adversely affect any right or remedy of Landlord under the Lease in the event of any default by Tenant (beyond any period given Tenant pursuant to the terms and conditions of the Lease to cure such default) in the payment of rent or additional rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed.

6. Modifications to this Agreement. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest.

7. Binding on Successors. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors and assigns, and any purchaser or purchasers at foreclosure of the Premises.

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8. Notice Regarding the Security Instrument. To the extent that the Lease shall entitle Tenant to notice of any mortgage, this Agreement shall constitute such notice to Tenant with respect to the Security Instrument and to any and all other similar security instruments, including deeds to secure debt and mortgages, which may hereafter be subject to the terms of this Agreement as provided above.

9. Tenant Notices Regarding Landlord's Default. Tenant shall send to Bank copies of all notices given to Landlord under the Lease at the same time such notice is given to Landlord.

10. Notices. All notices, requests or other communications which any party may be required or may desire to give in connection with this Agreement shall be in writing, and shall be personally delivered, sent by overnight express delivery by a nationally recognized delivery service, freight prepaid, or sent by United States Registered or Certified Mail, postage prepaid, addressed as follows:

If to Tenant at: Midwest Truck & Auto Parts, Inc.  
4200 S. Morgan  
Chicago, IL 60609  
Attn: Mark Chudacoff

If to Bank at: LaSalle Bank National Association  
135 South LaSalle Street  
Chicago, Illinois 60603  
Attention: Adam Geifeld

Notices, requests and other communications which shall be served in the manner aforesaid shall be deemed to be sufficiently delivered or given for all purposes hereunder (i) in the case of personal delivery, upon such delivery, (ii) in the case of overnight express delivery, one business day after delivery to such delivery service and (iii) in the case of mailing by Registered or Certified Mail, two business days after such notice, demand or request shall be mailed. By notice complying with the foregoing provisions of this paragraph 10, either party may from time to time change its address for notice purposes, except that any such notice shall not be deemed delivered until actually received.

11. Bank Right to Cure. In the event of any act or omission of Landlord which would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate the Lease, or to claim a partial or total eviction, Tenant shall not exercise such right until it has (i) given written notice of such act or omission to Bank and (ii) given Bank, after the expiration of any applicable grace or cure period specified therefor under the Lease within which the Landlord may cure such acts or omissions, a reasonable period to remedy such act or omission following the giving of the written notice described in the immediately preceding clause (i) (which reasonable period shall in no event be less than the period to which Landlord would be entitled under the Lease or otherwise, after

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similar notice, to effect such remedy); provided, Bank shall with due diligence give Tenant written notice of its intention to, and commence and continue to remedy such act or omission.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without reference to choice of law or conflict of law principles.

13. Certain Definitions. For purposes of this Agreement, the following words and phrases shall be construed as follows: (a) "any" shall be construed as "any and all"; (b) "include" and "including" shall be construed as "including, but not limited to"; and (c) "will" and "shall" shall each be construed as mandatory. The words "hereby", "hereof", "hereto", "herein" and "hereunder" and any similar terms shall refer to this Assignment as a whole and not to any particular paragraph or subparagraph.

14. No Cancellation of Lease. No cancellation, modification, assignment, renewal, extension or amendment of the Lease, or prepayment of more than one month's rent thereunder shall be made without the written consent of Bank.

IN WITNESS WHEREOF, the parties hereunto caused this Agreement to be duly executed under seal as of the day and year first above written.

LASALLE BANK NATIONAL ASSOCIATION

By: [Signature]  
Its: VP

MIDWEST TRUCK & AUTO PARTS, INC., an  
Illinois corporation

By: [Signature]  
Its: President

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11/1/2023  
11/1/2023

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, Eileen M. Beer, a Notary Public in said County, in the State aforesaid, do hereby certify that Mark Chodura, who is personally known to me to be the President of MIDWEST TRUCK & AUTO PARTS, INC., an Illinois corporation and who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged he signed and delivered the said instrument in his capacity as President of said corporation, as his free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and Seal of Office this 10th day of September, 2001.



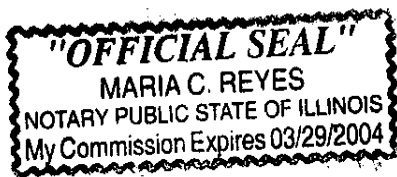
Eileen M. Beer

Notary Public

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

I, MARIA C. REYES, a notary public in said County, in the State aforesaid, do hereby certify that ADAM S. GELFELD who is personally known to me to be the V.P. of LaSalle Bank National Association, and who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument in his capacity as V.P. of said bank., as his own free and voluntary act and as the free and voluntary act of said bank, for the uses and purposes therein set forth.

Given under my hand and seal of office this 12 day of September, 2001.



Maria C. Reyes  
Notary Public

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## **EXHIBIT A** **REAL ESTATE**

LOT 2, (EXCEPT THE SOUTH 196.33 FEET THEREOF) IN DONOVAN INDUSTRIAL PARK, BEING A SUBDIVISION OF PART OF LOTS 3, 4, 5, 6, 7, 8, 9 AND 10 IN STOCK YARDS SUBDIVISION OF THE EAST ½ OF SECTION 5, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS: 1001 W. EXCHANGE AVENUE, CHICAGO, ILLINOIS

PIN: 20-05-200-102-0000

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