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2002-12-13 09:40:25
Cook County Recorder 42.00

Todd Schafer, Esq.
c/o FORD LEASING
DEVELOPMENT COMPANY
550 Town Center Drive
Suite 200
Dearborn, Michigan 48126



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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

10
D

LANDLORD: CHICAGO TITLE AND TRUST COMPANY, AN ILLINOIS CORPORATION, AS TRUSTEE
UNDER TRUST AGREEMENT DATED AUGUST 10, 1983 KNOWN AS TRUST NUMBER 1084023

TENANT: FORD LEASING DEVELOPMENT COMPANY

MORTGAGEE: MIDWEST BANK

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3 Party
1/90 125-1

BOX 333-C11

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

TERM SHEET

A. Address of Premises:

2100 South Harlem Avenue
North Riverside, Illinois 60546

B. Basic Provisions

1. Date of Agreement:

AS OF NOVEMBER 27, 2002

2. Landlord:

BY **CHICAGO TITLE LAND TRUST COMPANY**
AS SUCCESSOR TRUSTEE TO

CTLC
ed

CHICAGO TITLE AND TRUST COMPANY, AN ILLINOIS CORPORATION, AS TRUSTEE UNDER TRUST AGREEMENT DATED AUGUST 10, 1983 KNOWN AS TRUST NUMBER 1084023

3. Tenant:

Ford Leasing Development Company

4. Mortgagee:

Midwest Bank

5. Date of Lease:

NOVEMBER 27, 2002

6. Loan Amount:

\$ 3,500,000.00

7. Loan Interest Rate:

_____ %

8. Notices:

a) If to Tenant:

Ford Leasing Development Company
550 Town Center Drive
Suite 200
Dearborn, MI 48126
Attention: Dealership Real Estate

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TERM SHEET (Continued)
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Copy to:

Ford Leasing Development Company
The American Road
Dearborn, MI 48121
Attention: Secretary

b) If to Landlord:

CHICAGO TITLE AND TRUST COMPANY, AN ILLINOIS CORPORATION, AS TRUSTEE UNDER TRUST AGREEMENT DATED AUGUST 10, 1983 KNOWN AS TRUST NUMBER 10840232100
c/o Mr. Joe Rizza
2100 South Harlem Avenue
North Riverside, Illinois 60546

c) If to Mortgagee:

Midwest Bank
500 Chestnut Street
Hinsdale, IL 60521
Attn: Mary M. Henthorn, President

9. Main Lease:

The Term Main Lease shall mean that Lease dated November 21, 2002 between CHICAGO TITLE AND TRUST COMPANY, AN ILLINOIS CORPORATION, AS TRUSTEE UNDER TRUST AGREEMENT DATED AUGUST 10, 1983 KNOWN AS TRUST NUMBER 1084023 as Landlord and Ford Leasing Development Company, as Tenant covering the Premises described in Exhibit 1 herein.

10. Article 4 (a) is hereby deleted and the following inserted:

(a) Notwithstanding anything to the contrary contained in the Mortgage, the fire and extended coverage insurance on the Premises required by the Lease shall name Tenant, Landlord and Mortgagee as co-loss payees. Tenant, Landlord and Mortgagee in accordance with the terms of the Lease will make available any insurance or condemnation proceeds for the restoration of the building (and other improvements that are part of the Premises) that are damaged or destroyed or taken in any condemnation proceedings

IN WITNESS WHEREOF, the parties hereto have duly executed the Agreement to which this Term Sheet is attached by signing and dating this Term Sheet and by initialing the first page of the Agreement.

Landlord:

Tenant:

Mortgagee:

Chicago Title and Trust Company
As Trustee Under Trust Agreement
Dated August 10, 1983 known as
Trust Number 1084023

Ford Leasing Development Company

Midwest Bank

by: Sheila Dupont

by: N. E. Siroskey

by: _____

ts: ASST VICE PRESIDENT

ts: Vice President

ts: _____

Date: NOV 27 2002

Date: _____

Date: _____

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It is expressly understood and agreed by and between the parties hereto, anything to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the undersigned land trustee, on account of this instrument or on account of any warranty, indemnity, representation, covenant or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

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TERM SHEET (Continued)

Copy to:

Ford Leasing Development Company
The American Road
Dearborn, MI 48121
Attention: Secretary

b) If to Landlord:

CHICAGO TITLE AND TRUST COMPANY, AN ILLINOIS CORPORATION, AS TRUSTEE UNDER TRUST AGREEMENT DATED AUGUST 10, 1983 KNOWN AS TRUST NUMBER 10840232100
c/o Mr. Joe Rizza
2100 South Harlem Avenue
North Riverside, Illinois 60546

c) If to Mortgagee:

Midwest Bank
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Hinsdale, IL 60521
Attn: Mary M. Henthorn, President

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Landlord:

Tenant:

Mortgagee:

Chicago Title and Trust Company
As Trustee Under Trust Agreement
Dated August 10, 1983 known as
Trust Number 1084023

Ford Leasing Development Company

Midwest Bank & Trust Company

by: Sheila Dwanget

by: _____

by: Reginald Henthorn

ts: ASST VICE PRESIDENT

ts: N. E. Siroskey
Vice President

ts: Reginald Henthorn
President

Date: NOV 27 2002

Date: _____

Date: 11-26-02

It is expressly understood and agreed by and between the parties hereto, anything to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the undersigned land trustee, on account of this instrument or on account of any warranty, indemnity, representation, covenant or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

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CHICAGO TITLE LAND TRUST COMPANY
AS SUCCESSOR TRUSTEE TO

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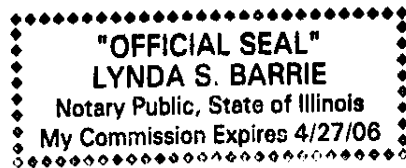
STATE OF ILLINOIS)
COUNTY OF Cook) SS.

The foregoing instrument was acknowledged before me this 27 day of November, 2002, by SHEILA DAVENPORT, Asst. Vice Pres. of Chicago Title and Trust Company, an Illinois corporation, not personally, but as Trustee under Trust Agreement dated August 10, 1983 known as Trust Number 1084023

Given under my hand and official seal

Lynda S. Barrie

Notary Public, _____ County, Illinois



STATE OF MICHIGAN)
COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2002, by N. E. Siroscopy, Vice President of Ford Leasing Development Company, a Delaware corporation, on behalf of the corporation.

Notary Public
County, Michigan
My Commission Expires: _____

STATE OF ILLINOIS)
COUNTY OF _____) SS.

The foregoing instrument was acknowledged before me this 26th day of November, 2002, by Mary Ann Moran Regional President of Midwest Bank & Trust Company

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Given under my hand and official seal

Deborah May

Notary Public, DePue County, Illinois

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STATE OF ILLINOIS)
COUNTY OF Cook) SS.

*CHICAGO TITLE LAND TRUST COMPANY
AS SUCCESSOR TRUSTEE TO

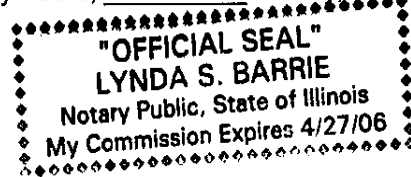
CTLC

The foregoing instrument was acknowledged before me this 27 day of November, 2002, by SHEILA DAVENPORT, Asst. Vice Pres. of Chicago Title and Trust Company, an Illinois corporation, not personally, but as Trustee under Trust Agreement dated August 10, 1983 known as Trust Number 1084023

Given under my hand and official seal

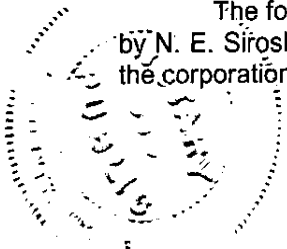
Lynda S. Barrie

Notary Public, _____ County, Illinois



STATE OF MICHIGAN)
COUNTY OF WAYNE) SS.

The foregoing instrument was acknowledged before me this 30th day of November, 2002, by N. E. Siroskey, Vice President of Ford Leasing Development Company, a Delaware corporation, on behalf of the corporation.



Janet H. Carrier

Notary Public

Wayne County, Michigan

My Commission Expires: _____

Wayne County, Michigan

My Commission Expires:

June 23, 2005

STATE OF ILLINOIS)
COUNTY OF _____) SS.

The foregoing instrument was acknowledged before me this _____ day of _____, 2002, by _____ of Midwest Bank

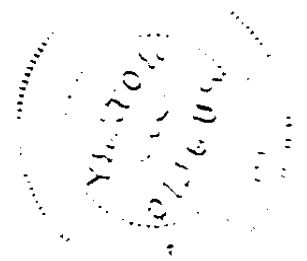
Given under my hand and official seal

Notary Public, _____ County, Illinois

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Exhibit 1

Attached to and a part of the Subordination, Non-Disturbance and Attornment Agreement dated as of the date specified in **Item 1 of the Term Sheet** between the party (herein called Landlord) identified as Landlord in **Item 2 of the Term Sheet**, the party (herein called Tenant) identified as Tenant in **Item 3 of the Term Sheet**, and the party (herein called Mortgagee) identified as Mortgagee in **Item 4 of the Term Sheet**.

Description of the Land:

Main Parcel

Lot 1, except the North 445 feet, 7 inches thereof in commissioner's partition of the South ½ Section 24, Township 39 North, Range 12, east of the third principal meridian, and except that portion of said Lot 1 bounded and described as follows: To-wit: Beginning at the southeast corner of said Section 24; thence west along the South Line of said Section 24, a distance of 300.0 feet to the extended West Line of said Lot 1. Thence north along said extended West Line of Lot 1, a distance of 40.0 feet to a point; Thence east parallel with the South Line of said Section 24, a distance of 39.83 feet; Thence north at a right angle a distance of 75.0 feet; Thence northeasterly along a line to a point where said line intercepts a line which is parallel with and 250.0 feet north of the South Line of said Section and which point is 75.0 feet west of the Westerly Right of Way Line of Harlem Avenue, as measured perpendicularly; Thence east along said parallel line to the Westerly Right of Way Line of Harlem Avenue; Thence northerly along the Westerly Right of Way Line of Harlem Avenue to a point in the South Line of the North 445 feet 7 inches of said Lot 1; Thence east along last described South Line and the same extended East, a distance of 50.0 feet to a point in the East Line of said Section 24; Thence south along said East Line of Section 24, a distance of 887.24 feet to the point of beginning. Excepting that part of the above described premise previously dedicated or now used for Harlem Avenue and Cermak Road, in Cook County, Illinois, together with all right, title and interest of Grantor, if any, in and to that part of the right of way of Cermak Road and Harlem Avenue which abuts the premises herein conveyed.

PIN Number: 15-24-403-010-0000

Body Shop Parcel

Lot "B" (Except the east 507.20 feet of the north 445.38 feet thereof) in the Plat of Subdivision entitled Oeschlin's Resubdivision of parts of Lots 1 and 2 in Commissioner's Partition of the South ½ of Section, 24, Township 39 North, Range 12 East of the Third Principal Meridian, said Plat being recorded in the Office of the Recorder of Deeds of Cook County, Illinois on August 12, 1970 as Document Number 21235933, in Cook County, Illinois.

PIN Number: 15-24-403-026-0000

Parking Parcel commonly known as 7200 W. Cermak Avenue, North Riverside, IL

That Part of Lot 1 in Commissioner's Partition of the South ½ of Section 24, Township 39 North, Range 12, East of the Third Principal Meridian, Bounded and Described as follows:

Beginning at a point in the west line of said lot, 40.0 feet north of the south west corner thereof (the south line of said lot is the south line of the said south ½ of section and the east line of said lot is the east line of said south ½); thence east, parallel with the said south line of said lot 39.89', to the point of beginning, being 110.0 feet west of the point of curve in said line; thence north, at right angles, 75.0 feet; thence northeasterly 175.79 feet to a point in a line 250 feet north, by right angle measure, of said south line of lot 1 said point being 147.28 feet west of said east line of lot 1; thence east along said line 75.0 feet to said westerly line of Harlem Avenue, as per Case No. 63-C-1247 thence southwesterly along said line 78.05 feet to the angle point in said line said point being 75.0 feet west of the said east line of Lot 1, and also 56.83 feet north of a point of curve; thence south along the said west line of Harlem Avenue, being 75.0 feet west of and parallel with said east line of Lot 1, a distance of 56.83 feet to the said point of curve; thence southwesterly along the curved line, having a radius of 75.0 feet, being convex to the southeast, a distance of 117.97 feet to a point of tangency in a line that is 40.0 feet north of the south line of said lot; thence west along said line, 110.0 feet to the point of beginning.

PIN Number: 15-24-403-011-0000

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT

SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT (herein called this Agreement) dated as of the date specified in **Item 1 of the Term Sheet** among the party (herein called Landlord) identified as Landlord in **Item 2 of the Term Sheet**; and the party (herein called Tenant) Identified as Tenant in **Item 3 of the Term Sheet**; and the party (herein called Mortgagee) identified as Mortgagee in **Item 4 of the Term Sheet**.

RECITALS

Pursuant to the purchase agreement dated as specified in **Item 5 of the Term Sheet** (herein called the Purchase Agreement) among Landlord, as purchaser, and Tenant. Tenant or a subsidiary corporation of Tenant, conveyed to Landlord fee simple title to certain premises (herein called the Premises) whose address is identified in **Item A of the Term Sheet** and particularly described in Exhibit 1 thereto; and

Pursuant to the Purchase Agreement, Landlord and Tenant entered into a Lease (hereinafter defined) for a term described in Item 9 of the Term Sheet, at the rental and upon and subject to the other terms and provisions provided in the Lease; and

Mortgagee has agree to make a mortgage loan in the amount identified in **Item 6 of the Term Sheet** to Landlord which is to be evidenced by a promissory note (herein called the Note) in the principal amount of such loan and bearing interest at the rate identified in **Item 7 of the Term Sheet**, which is to be secured by a first lien mortgage or deed of trust (herein called the Mortgage) covering the Premises, provided that this Agreement is executed and delivered by Landlord and Tenant;

WITNESSETH:

Landlord, Tenant and Mortgagee for and in consideration of these presents and of the mutual covenants herein contained, agree as follows:

ARTICLE 1. DEFINITIONS

1. The following terms shall have the meanings hereinafter specified, unless the context otherwise requires.

Foreclosure Proceedings shall mean the foreclosure by any means provided for in the Mortgage or at law or in equity, including, without limitation, the taking of possession of the Premises pursuant to the Mortgage.

Lease shall mean the lease dated as of the date specified in **Item 9 of the Term Sheet** between Landlord and Tenant covering the Premises.

Mortgagee shall include, after any assignment of the Note and the Mortgage, the then holder of the Note and the Mortgage.

Subtenant shall mean the Dealer as defined in the Lease.

ARTICLE 2. SUBORDINATION

2. Tenant agrees that the Lease is and shall continue to be subject and subordinate to the Mortgage and to all extensions, renewals and amendments of the Mortgage, provided that any such extensions, renewals or amendments shall not have the effect of (a) increasing the principal of or the interest rate on the Note or otherwise increasing the indebtedness secured by the Mortgage, and/or (b) changing any term or provision of the Note or the Mortgage so as to make either of them inconsistent or in conflict with the terms and provisions of this Agreement.

ARTICLE 3. MORTGAGEE BENEFITS

3. Tenant agrees for the benefit of Mortgagee as follows:

(a) Foreclosure Proceedings shall not terminate the Lease. In the event Mortgagee takes possession of the Premises pursuant to any Foreclosure Proceeding, Tenant agrees to

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attorn to Mortgagee and, in the event of any foreclosure sale conducted pursuant to any Foreclosure Proceedings, Tenant agrees to attorn to the purchaser (herein called the Purchaser) at such foreclosure sale.

- (b) The terms and provisions of Section 8.03 of the Lease shall be in full force and effect with respect to obligations of Tenant which accrued or derived from a state of facts or conditions which occurred or existed prior to the date of commencement of any Fore-closure Proceedings.
- (c) The provisions of Section 8.03 of the Lease shall not be in force and effect to relieve Tenant of its obligations to perform or observe the terms and provisions of the Lease:
- (i) from and after the commencement of any Foreclosure Proceedings, and so long as any such Foreclosure Proceedings is conducted with diligence and good faith by Mortgagee: and
 - (ii) at such time as Mortgagee or any purchaser other than a person or entity controlled by or under common control with Landlord and the Subtenant (which terms "control-led by" or "under common control with", as used with respect to any person or entity, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities or by contract or otherwise) shall become the owner of the Premises pursuant to any Foreclosure Proceedings.
- (d) The provisions of paragraph 3(c) of this Agreement shall not constitute a waiver by Tenant of any obligations of the Subtenant under any sublease or of the Landlord under the Lease, nor otherwise relieve either Subtenant of its obligations under any sublease nor Landlord of its obligations under the Lease.

ARTICLE 4. TENANT BENEFITS

4. Mortgagee hereby agrees for the benefit of Tenant as follows:

- (a) Notwithstanding anything to the contrary contained in the Mortgage, the fire and extended coverage insurance on the Premises required by the Lease shall name Tenant as sole loss payee. Tenant in accordance with the terms of the Lease will make available any insurance or condemnation proceeds for the restoration of the building (and other improvements that are part of the Premises) that are damaged or destroyed or taken in any condemnation proceedings.
- (b) So long as no default by Tenant under the Lease shall have occurred and be continuing so that Landlord would be entitled to enter into and upon the Premises and repossess the same and evict Tenant and thereby terminate the Lease, the Lease shall continue in full force and effect, and the Lease shall not be terminated, cut off or otherwise disturbed except in accordance with the terms and provisions of the Lease. In the event of a Foreclosure Proceedings, Mortgagee shall not name Tenant as a defendant so as to terminate or disturb the Lease or to obtain a Judgment against Tenant in any Foreclosure Proceedings. Any sale conducted pursuant to any Foreclosure Proceeding shall be expressly subject to the Lease, and any purchaser shall assume all duties and obligations of Landlord under the Lease.
- (c) Mortgagee agrees to deliver to Tenant copies of any notice of default under the Note or Mortgage or notice of any fact or event which, if not cured, would constitute a default under the Note or Mortgage. Notice of default under the Note or Mortgage shall not be deemed to be effective against Landlord unless and until a copy of such notice shall have been delivered to Tenant, and Tenant shall have the right (but not the obligation) to cure such default within 60 days after the giving of such notice to Tenant for curing any default in the payment of any installment of principal and/or interest and within 90 days for curing any other default.

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ARTICLE 5. SEVERABILITY

5. If any provision of this Agreement or the application thereof to any person, entity or circumstance, to any extent, shall be invalid or unenforceable, the remainder of this Agreement and the application of such provision to any person, entity or circumstance other than that as to which is held invalid or unenforceable, as the case may be, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE 6. NOTICES

6. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be mailed by certified or registered mail, postage prepaid (or if mail service shall be unavailable as the result of a strike or other cause beyond the control of the party required to provide such notice, by air or surface parcel delivery service), addressed as specified in **Item 8a, 8b and 8c of the Term Sheet** or to such other address as either party may designate to the other by written notice. Any notice by certified or registered mail shall be deemed to have been given on the date of certification or registration thereof. Any notice by air or surface parcel delivery shall be deemed to have been given on the date submitted to the carrier for delivery.

ARTICLE 7. MISCELLANEOUS

7.1 The rights and obligations hereunder shall be binding upon and shall inure to the parties hereto and their respective personal representative and successors and assigns. This Agreement shall be governed by the laws of the State in which the Premises are located. The headings of the Articles are for convenience only and shall not be used to construe or interpret the scope or intent of this Agreement.

7.2 Landlord, Tenant and Mortgagee acknowledge receipt of an Environmental Assessment covering the premises.

ARTICLE 8. TERM SHEET; INTEGRATION OF DOCUMENTS; EXECUTION

8. This Agreement consists of this Subordination, Non-disturbance and Attornment Agreement, the Term Sheet, Exhibit I, and other Exhibits, if any, specified in the Term Sheet, all of which shall constitute a single agreement. Landlord, Tenant and Mortgagee have executed this Agreement by signing and dating the Term Sheet.

U.S. DFPP
3 Party
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