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Cook County Recorder

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INDUCEMENT AGREEMENT - TERRY'S LINCOLN-MERCURY, INC.

THIS AGREEMENT is entered into this 3rd day of March, 1999, by and between the **VILLAGE OF TINLEY PARK, ILLINOIS**, a municipal corporation (hereinafter referred to as the "Village") and **JENNI/INVESTMENTS INCORPORATED**, an Illinois corporation, and **TERRY'S LINCOLN-MERCURY, INC.**, an Illinois corporation (hereinafter collectively referred to as "Company").

WITNESSETH:

In consideration of the Preliminary Statements, the mutual covenants herein contained and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the parties agree as follows:

1. Preliminary Statements

Among the matters of mutual inducement which have resulted in this Agreement are the following:

(a) The Village is a home rule unit pursuant to Section 6(a) of Article VII of the Constitution of the State of Illinois and is authorized to exercise any power and perform any function pertaining to its government and affairs.

(b) The Company is the owner of certain commercial property which is legally described on EXHIBIT A (hereinafter referred to as the "Subject Property"). The Subject Property is generally located in the 8300 block of West 159th Street on the south side of 159th Street. The Company currently operates a new car automobile sales dealership (known as Terry's Lincoln-

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9/20/99

Mercury) in Orland Park, Illinois, and intends to relocate such dealership to the Subject Property and build a new building consisting of approximately 30,000 square feet to house such dealership consisting of a 5 car showroom and 15 bay service area (hereinafter referred to as the "Project"), which Project will cost in excess of \$ 2,000,000. It is understood and agreed that there will be a specific site plan to be submitted to and approved by the Village in the future (the "Site Plan"). In addition, the architecture, sign requirements and landscaping plans for the Subject Property must be submitted to and approved by the Village. The building to be constructed on the Subject Property shall also be constructed in accordance with plans approved by the Village. It is also understood that the Company is purchasing or has purchased the Bauer Hyundai car dealership at 8335 West 159th Street and the Bauer Mazda car dealership at 8225 West 159th Street, which are adjacent to the Subject Property (these two dealerships are hereinafter referred to as the "Bauer Dealerships").

(c) The Village is desirous of having the Subject Property developed in accordance with the Site Plan in order to service the needs of the Village and its residents, and the Project, when completed, will increase employment opportunities in the Village, and otherwise stimulate and enhance the economic base of the community, stimulate commercial growth and stabilize the tax base of the Village, and, in furtherance thereof, the Village contemplates certain incentives and continuing economic incentives under the terms and conditions hereinafter set forth to assist in such.

(d) The parties hereto acknowledge, and Company represents and warrants that the Project requires economic assistance from the Village in order to complete the same, and, but for the

TMB:ajh  
9/20/99

economic assistance to be given by the Village, the Project as contemplated would not be economically viable nor would the funds necessary for its completion be made available.

(e) For purposes of this Agreement, the use of the terms "sales tax" and "sales tax revenue" shall be construed to refer to that net portion of taxes imposed by the State of Illinois for distribution to the Village pursuant to the Retailers' Occupation Tax Act and the Service Occupation Tax Act (as said acts may be amended) and which are collected by the State and distributed to the Village, and all revenue derived from such taxes.

2. Conditions Precedent to the Undertakings on the Part of the Village

All undertakings on the part of the Village pursuant to this Agreement are subject to satisfaction of the following conditions by the Company on or before the date of the Initial Payment provided for in Paragraph 3 below, or as otherwise specifically hereinafter stated:

(a) The Company shall have obtained final approvals for construction of the Project, it being understood and agreed that the Village has the discretion established by law to approve all such work and the Village shall not be deemed to have caused a default hereunder or have any liability for its failure to approve such work, except for its willful misconduct.

(b) The Company shall have obtained final approval of its plans from any other governmental unit or agency which has jurisdiction or authority over any portion of the Project and/or the Approved Plans.

(c) The Company shall have certified to the Village that there exists no material default under this Agreement, or any agreement, guaranty, mortgage, or any other document which the

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9/20/99

Company has executed in connection with the Project, and the Company has not received any notice of any violation of any Village ordinances, rules and regulations, or of any applicable laws of the State of Illinois and any agency thereof, as well as any ordinances and resolutions of the Village pertaining to the Project which by their respective terms are to have been complied with prior to the completion of construction of the Project.

(d) Company agrees that in the event there is a change in the ownership (legal or beneficial) of any portion or all of the Subject Property or of the Company the Village shall no longer be required to pay any portion or all of the incentive payments provided for in Paragraph 3 hereof except as otherwise provided in Paragraph 9 hereof.

(e) Company shall have substantially completed construction of the entire Project in accordance with the plans approved by the Village by 10 - 1 - 2001, with such substantial completion to be evidenced by a certificate of substantial completion signed by Company's architect, and all such inspections and approvals by departments or officers of the Village. If requested by Company, the Village shall provide to Company a written statement confirming such substantial completion for the purposes of this Agreement.

(f) If a land trust shall be the owner of the Subject Property, the sole beneficiaries of the Trust shall have delivered to the land trustee an irrevocable letter of direction indicating that any notice received by the land trustee which adversely impacts Company's or land trustee's title to or interest in the Subject Property, including but not limited to, any notice of failure to pay real estate taxes, will be sent to the Village within three (3) days of receipt thereof. Such letter of direction

TMB:ajh  
9/20/99

shall be irrevocable for so long as the Village is required to make payments under Paragraph 3 of this Agreement. The Company also agrees to send to the Village any such notice received by either the Company or the title holder of the Subject Property (land trustee or otherwise) within three (3) days of receipt.

3. Undertakings on the Part of the Village

Upon satisfaction by the Company of all the conditions hereinabove and below stated on or before the date of the Initial Payment set forth below, the Village hereby undertakes to make the payments set forth in (g) below:

- (a) In addition to the above conditions set forth in Paragraph 2, the Company shall have substantially completed construction of the entire Project as provided above.
- (b) The Company shall have provided a certificate from the Company to the Village that all representations and warranties contained in paragraph 5 hereof are true and correct prior to any payments being required to be made hereunder.
- (c) The Company shall provide the Village with a final certified (by Company) budget indicating, in detail, all costs associated with the Project, and including the sources of funds to pay for the Project.
- (d) The Company shall have certified that at least \$ 2,000,000 has been spent on the Project.
- (e) There has been no lawsuit filed challenging the validity of the Agreement or the authority of the Village to receive the sales tax revenue from which the Village is to make the

TMB:ajh  
9/20/99

following indicated payments, and/or challenging the right of the Village to make the payments required hereunder; provided, however, if any such lawsuit is filed, the Village will escrow (once received) in a separate account any amounts that would otherwise be due under this Agreement, and if the court determines that such payments may lawfully be made, the Village shall then promptly release to Company any funds from such escrow account then due and owing.

(f) If there is any change in the State law relating to the amount of sales taxes to be imposed by the State and/or the Village, and/or changing the amount of taxes to be paid by the State to the Village, then, in that event, Village's obligations to make the payments required hereunder shall automatically be canceled unless the parties hereto reach a mutually satisfactory agreement regarding the revised payments to be provided for hereunder within sixty (60) days of any such change in State law.

(g) In the event the above conditions in this Agreement are satisfactorily met by the Company, and for the purposes, benefits to the community and other reasons as hereinbefore and hereinafter set forth, the Village hereby agrees to pay the Company a sum not to exceed \$2,000,000.00 by annual installment payments over a ten year period as follows, subject however to the following conditions and restrictions:

(i) Each amount will be due and payable solely from the proceeds of sales tax revenue increases received by the Village from the Subject Property computed as follows:

It is acknowledged and understood by the parties hereto that the Village receives sales tax revenue monthly, and that the taxes generated by sales in any one month are distributed to the Village approximately three (3) months later (e.g. taxes generated by sales in July are received normally in mid or late October). The initial payment year (hereinafter referred to as the "Initial Payment Year") shall be that twelve (12)

TMB:ajh  
9/20/99

month period commencing on the first day of the full month that follows the month in which the Project is substantially completed and approved by the Village and is opened to the public for business (each subsequent 12 month period is hereinafter referred to as "Subsequent Incentive Year"). The incentive base for the Initial Payment Year and all Subsequent Incentive Years shall be \$175,000 (hereinafter referred to as the Incentive Base). For the Initial Payment Year and the following Subsequent Incentive Years the Village shall be entitled to all sales tax revenue received from the Subject Property up to the Incentive Base and the Company shall be entitled to all sales tax revenue received from the Subject Property that exceeds the Incentive Base amount for that particular Initial Payment Year or Subsequent Incentive Year up to a maximum of \$275,000 per Initial Payment Year or Subsequent Incentive Year. If there is any sales tax received in the Initial Payment Year or any Subsequent Incentive Year in excess of \$450,000 (i.e., after the foregoing allocation of \$175,000 to Village and \$275,000 to Company), one-half of such excess shall be retained by the Village and the Village shall pay the other one-half to the Company (e.g., if the sales tax revenue for any such "year" was \$650,000, then the Village would retain \$275,000—i.e., the Incentive Base and one-half of the last \$200,000, and the Company would receive \$275,000 from the Village). The Initial Payment shall be made on the first day of the fourth month after the end of the Initial Payment Year. Payments (if any) then shall be made annually for the following nine (9) annual periods. Provided, however, in no event shall the Company be entitled to receive any such sales tax revenues (incentive payments) once the Company has received the sum total of \$2,000,000.00 under the provisions of this Agreement. If the Company has not received \$2,000,000.00 by the end of the same ten (10) year period, the annual installment payments to be made to the Company hereunder nevertheless shall cease, since there is no guarantee being made to the Company that it shall receive the full \$2,000,000.00 hereunder.

- (ii) That the Company shall have delivered to the Village no less than 30 days prior to the Initial Payment and before each anniversary of the date of the Initial Payment, a certificate dated within 15 days of receipt by the Village that all representations and warranties contained in Paragraph 5 herein are true and correct. Provided, however, once the Project has been completed and approved by the Village as finally completed, the certificate required hereunder need not contain a representation and warranty regarding matters covered in subparagraphs (a) and (b) of said Paragraph 5.
- (iii) The Village has received no notice from Company or from any other source that there exists any default under any of the terms, conditions or provisions under any of the loan documents under which Company's financing, if any, for the Project was

TMB:ajh  
9/20/99

obtained. Company shall provide Village with any notices received throughout the term of this Agreement relating to the Subject Property which may have an adverse impact on this Project, specifically including any notices regarding any tax or loan delinquencies. Provided, however, if the Village receives evidence satisfactory to it that any such default has been cured, except as otherwise provided herein, the payments to the Company required hereunder shall resume if all other requirements have been met.

- (iv) It is understood that any sales taxes generated or derived presently or in the future from either of the Bauer Dealerships (or any replacement dealerships) are not to be computed in or made in any way part of the incentive payments provided for herein. The sales taxes generated must be solely from the Terry's Lincoln-Mercury new car dealership and/or any additional new car dealerships added by the Company in the future which do not currently exist (it is understood that the Company is considering the addition of possible other franchises and locating them within the Village).
- (v) The Bauer Dealerships' reportable sales activity shall not be combined for sales tax reporting purposes with the sales tax revenue from the Terry's Lincoln-Mercury Dealership or any other new dealership that may be added by the Company. Should the State of Illinois require combination of such sales tax reporting, and/or the dealerships are combined for a legitimate business purpose other than to affect the amount of payments to be made hereunder and if the Village is unable to receive the sales tax revenue itemized to show, even though the Dealerships have combined for a legitimate business purpose, the actual sales tax generated by the Terry's Lincoln-Mercury Dealership separate from the Bauer Dealerships, then in each payment year, the amount of sales taxes generated by the combined Dealerships will be reduced by \$111,000 (the current sales taxes generated by the Bauer Dealerships) before making the incentive calculations outlined above. For example, if the combined sales tax revenue for a particular "year" is \$761,000, then the Village will receive the first \$111,000 as the Bauer Dealerships' revenue, the next \$175,000 as the Incentive Base, the Company will then receive the next \$275,000 as provided above, and then the Village and the Company will each receive one-half of the remainder, for a total sales tax revenue to the Village of \$386,000 and to the Company of \$375,000.
- (vi) If either the Bauer Dealerships or the Terry's Lincoln-Mercury Dealership are relocated outside the corporate limits of the Village at any time within the term of this Agreement, all incentive payments to be made by the Village provided for above shall immediately cease and the Village shall have no obligation to make any further payments whatsoever to the Company other than amounts already actually paid, and all such potential future payments shall and are hereby forfeited.



TMB:ajh  
9/20/99

The Village shall provide for payments required under this Paragraph by appropriating therefor in its annual budget ordinance for the fiscal year in which such payment may be due.

In the event the completion of the Project as required hereunder does not occur on or before 10-1-2002, then all obligations on the part of the Village to make any payments to the Company pursuant to this Paragraph shall be canceled and neither the Village nor the Company shall have any further obligations with regard to the Project.

In the event the Company fails to deliver to the Village all of the foregoing certifications within the time periods set forth above, or otherwise violates any term or provision of this Agreement, then in such event, the Village shall have no obligation to make any payment to Company until such time as any such failure or violation is corrected to the satisfaction of the Village (except where this Agreement provides for forfeiture of any such payments), and all rights of the Company to demand any current or future payment from the Village shall be deemed waived until such failure or violation is so corrected (except where this Agreement provides for forfeiture of any such payments), and all other obligations on the part of the Village arising pursuant to this Agreement shall be deemed canceled and without any further force and effect until such failure or violation is so corrected (except where this Agreement provides for forfeiture of any such payments—in that event the cancellation is immediate and permanent).

Notwithstanding any of the foregoing or any other provision contained herein, if the Company fails in any year to timely pay any or all of the real estate taxes on the Subject Property when they become due, the Company shall forfeit (and such forfeiture shall not be subject to any

TMB:ajh  
9/20/99

cure period) all future incentive payments due hereunder. The Company shall provide evidence that such taxes were paid when due within thirty (30) days after the date when due. Notwithstanding the foregoing, Company shall have the right to contest in good faith the assessed valuation of the Subject Property and the improvements thereon from time to time.

4. Undertakings on the Part of the Company

- (a) The Company shall commence construction of the Project on or before 10-1-2001, 1999 and construct and complete the Project on or before 10-1-2002, as required hereunder, and shall not cause or permit the existence of any violation of Village ordinances, including but not limited to, the Building Code, Zoning Ordinance, Fire Code and all rules and regulations thereunder.
- (b) The Company shall comply with all the requirements set forth above in Paragraphs 2 and 3 of this Agreement.
- (c) The Company itself shall give the Village notice, and/or shall require the title holder of record (if at any time different than Company) of the Subject Property to give the Village notice regarding any forfeiture on the financing documents by the Company for the financing for the Project or its subsequent purchase if an assignment is approved hereunder, and any tax sales of any of the Subject Property, and any "scavenger" sales of any of the Subject Property.
- (d) The Company shall provide the Village with all relevant sales tax information certified to its occurring in a manner satisfactory to the Village. In addition, the Company shall execute and provide the Village with a power of attorney letter addressed to the Illinois Department of Revenue, and authorizing the Illinois Department of Revenue to release all gross revenue and

TMB:ajh  
9/20/99

sales tax information with respect to the Subject Property to the Village, which letter shall authorize such information to be released to the Village as long as Company continues to operate or own a business on the Subject Property while this Agreement is in effect. Such letter shall provide that such sales tax revenue be reported or itemized separately from the sales tax revenue generated by the Bauer Dealerships (i.e., if a single report is all the State will provide, such report shall itemize the revenue separately). Such letter shall be in the form attached hereto as **EXHIBIT B** or such other or additional forms as required from time to time by the Illinois Department of Revenue in order to release such information to the Village. Finally, in the event that the sales tax revenue information is not released by the State because of the failure of the Company to provide any such authorization to have it released, the Village will not be required to make any of the incentive payments provided for in Paragraph 3 hereof.

(e) The Company hereby covenants and agrees to promptly pay or cause to be paid as the same become due, any and all taxes and governmental charges of any kind that may at any time be lawfully finally assessed with respect to the Project and Subject Property, and failure to do so shall constitute a default hereunder (as well as a forfeiture of incentive payments as provided above if the Company fails to timely pay when due any or all of the real estate taxes due on the Subject Property) and sales taxes due from the Project.

(f) The Company herein covenants and agrees that it will apply any incentive payments received by the Company from the Village under Section 3 of this Agreement first to the reduction of any debt, or interest on debt, incurred by the Company in construction of the improvement(s)

TMB:ajh  
9/20/99

required under subparagraph (a) of Section 4 until such time as the debt and interest thereon have been paid in full.

5. **Representations and Warranties of the Company**

(a) The Company hereby represents and warrants that the Project requires economic assistance from the Village in order to complete the construction of the Project and, but for the economic assistance to be given by the Village as heretofore stated, the Project as contemplated would not be economically viable nor would the funds necessary for its completion be made available.

(b) The Company hereby represents and warrants that at all times it shall comply with all applicable local zoning ordinances and regulations, and all building and fire code regulations, and all other applicable Village ordinances (including but not limited to all licensing provisions), resolutions and regulations, and shall promptly pay to Village all fees and charges required by said ordinances, resolutions and regulations or any term of this Agreement.

(c) The Company hereby represents and warrants that it shall comply with all applicable laws, rules and regulations of the State of Illinois, County of Cook and the United States and all agencies thereof.

(d) The Company represents and warrants that it shall comply in all material respects with all terms, provisions and conditions and shall not default or permit a default under any document or agreement relating to the Project or the financing and development of the Project, including but not limited to, this Agreement, and all agreements and documentation executed and

TMB:ajh  
9/20/99

delivered in connection with any financing or loans for the Project, a default under which would have a material adverse effect on the sales tax revenue generated thereby to the Village.

(e) The Company hereby represents and warrants that it shall comply with all applicable Village ordinances concerning unlawful employment practices and consumer protection.

(f) The Company hereby represents and warrants that it is an Illinois Corporation in good standing under the laws of the State of Illinois.

(g) The Company hereby represents and warrants that the approximate cost of the Project is in excess of \$ 7,000,000.

(h) The Company hereby represents and warrants that no other entity or person has any interest in the Subject Property other than the Company and Company's lender, nor in its development as herein proposed, except as may be consented to by the Village or otherwise allowed under the provisions of Paragraph 2 of this Agreement.

(i) The Company hereby represents and warrants that it has provided the legal description of the Subject Property set forth in this Agreement and that said legal description is accurate and correct to the best of Company's knowledge and that the Village is entitled to rely thereon.

6. **Defaults**

The occurrence of any one of the following shall constitute a default by the Company under this Agreement:

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9/20/99

- (a) A default of any term, condition or provision, contained in any material agreement or document relating to the Project (other than this Agreement), and the failure to cure such default within the time and manner as provided in any such agreement or document.
- (b) Failure to comply with any term, provision or condition of this Agreement; and the failure to cure such default within the time and manner provided herein (except that no cure period is allowed for the failure to timely pay real estate taxes on the Subject Property when they become due and payable).
- (c) In the event a representation or warranty of the Company contained herein is not true and such condition is not corrected within a period of thirty (30) days after written notice to the Company by the Village.
- (d) The Company shall: (i) become insolvent; or (ii) be unable, or admits in writing its inability to pay, its debts as they mature; or (iii) make a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its or their property; or (iv) be adjudicated a bankrupt; or (v) file a petition in bankruptcy or to effect a plan or other arrangement with creditors; or (vi) file an answer to a creditor's petition (admitting the material allegations thereof) for an adjudication of bankruptcy or to effect a plan or other arrangement with creditors; or (vii) apply to a court for the appointment of a receiver for any asset; or (viii) have a receiver or similar official appointed for any of its assets, or, if such receiver or similar official is appointed without the consent of the Company and such appointment shall not be discharged within sixty (60) days after his appointment or the Company has not bonded against such receivership or appointment;

TMB:ajh  
9/20/99

or (ix) a petition described in (v) is filed against the Company and remains undismissed for a period of sixty (60) consecutive days, unless the same has been bonded; or (x) material monetary default under the terms of any loan agreement which relates to the Project in any way.

Upon an occurrence of a default by the Company as hereinabove set forth, the Village shall be relieved of any and all of its obligations arising pursuant to this Agreement and such obligations on the part of the Village shall be immediately canceled and without any force or effect. The sole remedy of the Village for Company's default hereunder shall be to terminate this Agreement, effective as of the date of such default, and to recover from Company any payment which may have been made to Company hereunder between the date of such default and the date of termination of this Agreement and any sum for which the Village may be entitled to be reimbursed by Company under the terms of this Agreement. Notwithstanding the foregoing, if the event which gives rise to Company's default, independently of this Agreement, constitutes a violation of an ordinance, regulation or rule of the Village, the Village shall have such remedies against Company as may be provided for in such ordinance, regulation or rule. Further notwithstanding the foregoing, the Village shall be entitled to recover any incentive payments made hereunder, regardless of when such payments were made, if there is a sale or assignment of the ownership (legal or beneficial) of either the Company or the Subject Property without the Village's consent (unless consent is not required under the express provisions of Paragraph 9 hereof) prior to the end of the ten (10) year period commencing on the first day of the Initial Payment Year. Finally, it is understood and agreed that any lawsuit that might be filed that directly or indirectly relates to or affects any terms and

TMB:ajh  
9/20/99

provisions of this Agreement need not automatically constitute a default under this Agreement, and so long as either Company or Village (if the Village agrees, in its sole discretion to do so) is vigorously contesting such lawsuit and the Village is receiving sales tax revenue from the Subject Property and the new car dealership, then the parties agree to take no action to terminate this Agreement unless and until a court of competent jurisdiction rules this Agreement or the payments hereunder to be invalid.

7. Notices

All notices and requests required pursuant to this Agreement shall be sent by certified mail as follows:

For the Village:

1. Village President  
Village Hall  
16250 South Oak Park Avenue  
Tinley Park, Illinois 60477
2. Village Clerk  
Village Hall  
16250 South Oak Park Avenue  
Tinley Park, Illinois 60477
3. *This document prepared by:*  
Klein, Thorpe and Jenkins, Ltd.  
20 North Wacker Drive  
Suite 1660  
Chicago, Illinois 60606  
Attention: Terrence M. Barnicle



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9/20/99

For the Company:

1.

or at such other addresses as the parties may indicate in writing to the other either by personal delivery or by certified or registered mail, return receipt requested, with proof of delivery thereof.

8. **Law Governing**

This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois.

9. **Assignments**

Except as otherwise provided in Paragraph 2 of this Agreement, the Company shall not assign this Agreement to any person or entity without the prior written consent of the Village; provided, however, Company may, without the requirement of any approval or consent by the Village, assign this Agreement and any rights to payment hereunder to a party which is a trustee or nominee for, or a parent or subsidiary of, or has common ownership with, Company, as well as to any individual family members or relatives. Any such assignment that is not subject to the prior consent of the Village may be made only after Company gives the Village written notice thereof. No such assignment shall be effective, even if consented to by the Village, unless and until the Assignee acknowledges in writing to the Village that the obligations of the Village to the Company or any Assignee hereunder are contingent upon certain conditions, covenants and the performance of certain obligations on the part of the Company which such Assignee is willing to assume, and

TMB:ajh  
9/20/99

notwithstanding such assignment and assumption of responsibility, the Company shall remain liable for all of its agreements, covenants and obligations and the performance thereof pursuant to this Agreement.

10. **Time**

Time is of the essence unless this Agreement and all time limits set forth are mandatory and cannot be waived except by a lawfully authorized and executed written waiver by the party excusing such timely performance.

11. **Binding Effect**

This Agreement shall inure to the benefit of and shall be binding upon the Village and the Company, and their respective successors and assigns, subject however to the provisions of Paragraphs 9 and 12 hereof.

12. **Limitation of Liability**

No recourse under or upon any obligation, covenant or agreement of this Agreement or for any claim based thereon or otherwise in respect thereof shall be had against the Village, its officers, agents and employees, in any amount or in excess of any specific sum agreed by the Village to be paid to the Company hereunder, subject to the terms and conditions herein, and no liability, right or claim at law or in equity shall attach to or shall be incurred by the Village, its officers, agents and employees in excess of such amounts and all and any such rights or claims of the Company against the Village, its officers, agents and employees are hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Village.

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9/20/99

13. Reimbursement of Village for Legal and Other Fees and Expenses

A. To Effective Date of Agreement

The Company concurrently with execution of this Agreement shall reimburse the Village for the following expenses incurred in the preparation and review of this Agreement, and any other documents relating to the Subject Property:

- (1) all attorneys' fees incurred by the Village; and
- (2) miscellaneous Village expenses, such as legal publication costs, recording fees and copying expense.

B. From and After Effective Date of Agreement

Except as provided in the paragraph immediately following this paragraph, upon demand by Village made by and through its President, Company from time to time shall promptly reimburse Village for all reasonable out of pocket expenses and costs incurred by Village in the administration of the Agreement, and in connection with the proposed improvements, including reasonable attorneys' fees and out of pocket expenses involving various and sundry matters such as, but not limited to, preparation and publication, if any, of all notices, resolutions, ordinances and other documents required hereunder.

Such costs and expenses incurred by Village in the administration of the Agreement shall be evidenced to the Company, upon its request, by a sworn statement of the Village; and such costs and expenses may be further confirmed by the Company at its option from additional documents designated to the Village from time to time by either relevant to determining such costs and expenses.

TMB:ajh  
9/20/99

In the event that any third party or parties institute any legal proceedings against the Company and/or the Village, which relate to the terms of this Agreement, then, in that event, the Company, on notice from Village shall assume, fully and vigorously, the entire defense of such lawsuit and all expenses of whatever nature relating thereto; provided, however,

1. Company may elect to terminate this Agreement and waive any further benefits hereunder, in which event Company shall have no obligation under this Paragraph.
2. Company may at any time settle or compromise such proceeding, so long as such settlement or compromise does not involve an admission of wrongdoing on the part of the Village nor any liability on the part of the Village, monetary or otherwise.

If the Village, in its sole discretion, determines there is, or may probably be, a conflict of interest between Village and Company on an issue of importance to the Village having a potentially substantial adverse effect on the Village, then the Village shall have the option of being represented by its own legal counsel. In the event the Village exercises such option, then Company shall reimburse the Village from time to time on written demand from the President of Village and notice of the amount due for any out of pocket expenses, including but not limited to court costs, reasonable attorneys' fees and witnesses' fees, and other expenses of litigation, incurred by the Village in connection therewith.

In the event the Village institutes legal proceedings against Company for violation of this Agreement and secures a judgment in its favor, the court having jurisdiction thereof shall determine and include in its judgment against Company (as appropriate) all expenses of such legal proceedings

TMB:ajh  
9/20/99

incurred by Village, including but not limited to the court costs and reasonable attorneys' fees, witnesses' fees, etc., incurred by the Village in connection therewith. Company may, in its sole discretion, appeal any such judgment rendered in favor of the Village against Company.

14. **Continuity of Obligations**

Except as otherwise specifically provided for in this Agreement, the Company shall at all times during the term of this Agreement remain liable to Village for the faithful performance of all obligations imposed upon it by this Agreement until such obligations have been fully performed or until Village, at its sole option, has otherwise released Company from any or all of such obligations.

15. **No Waiver or Relinquishment of Right to Enforce Agreement**

Failure of any party to this Agreement to insist upon the strict and prompt performance of the terms covenants, agreements, and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

16. **Village Approval or Direction**

Where Village approval or direction is required by this Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village unless otherwise expressly provided or required by law, and any such approval may be required to be given only after and if all requirements for granting such approval have been met unless such requirements are inconsistent with this Agreement.

TMB:ajh  
9/20/99

17. Section Headings and Subheadings

All section headings or other headings in this Agreement are for general aid of the reader and shall not limit the plain meaning or application of any of the provisions thereunder whether covered or relevant to such heading or not.

18. Authorization to Execute

The Officers of the Company who have executed this Agreement warrant that they have been lawfully authorized by the Company's Board of Directors to execute this Agreement on behalf of said Company. The President and Clerk of the Village hereby warrant that they have been lawfully authorized by the Village Board of the Village to execute this Agreement. The Company and Village shall deliver, upon request, to each other at the respective time such entities cause their authorized agents to affix their signatures hereto copies of documents reasonably required to legally evidence the authority to so execute this Agreement on behalf of the respective parties.

19. Amendment

This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between the parties relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than are herein set forth. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced in writing and signed by them.

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**20. Counterparts**

This Agreement may be executed in two or more counterparts, each of which taken together, shall constitute one and the same instrument.

**21. Curing Default**

In the event of any default under or violation of this Agreement, the party not in default or violation shall serve written notice upon the party or parties in default or violation, which notice shall be in writing and shall specify the particular violation or default. Except as otherwise provided herein with respect to forfeiture by the Company of payments due hereunder, the parties hereto reserve the right to cure any violation of this Agreement or default by either of them hereunder within thirty (30) days from written notice of such default. Except as otherwise provided herein with respect to forfeiture by the Company of payments due hereunder, if such default is so cured within said thirty (30) day period, all the terms and conditions of this Agreement shall remain in full force and effect.

**22. Conflict Between the Text and Exhibits**

In the event of a conflict in the provisions of the text of this Agreement and the Exhibits attached hereto, the text of the Agreement shall control and govern.

**23. Severability**

If any provision of this Agreement is held invalid by a court of competent jurisdiction or in the event such a court shall determine that the Village does not have the power to perform any such provision, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not

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9/20/99

affect any of the other provisions contained herein, and such judgment or decree shall relieve Village from performance under such invalid provision of this Agreement.

24. Definition of Village

When the term Village is used herein it shall be construed as referring to the Corporate Authorities of the Village unless the context clearly indicates otherwise.

25. Recording of Agreement

This Agreement or a memorandum thereof may be recorded with the Recorder of Deeds and/or Registrar of Deeds of Cook County, Illinois, at the expense of the Company.

26. Execution of Agreement

This Agreement shall be signed last by the Village and the President (Mayor) of the Village shall affix the date on which he signs this Agreement on page 1 hereof which date shall be the effective date of this Agreement.

IN WITNESS WHEREOF, this Agreement as of the date and year first written above.

VILLAGE OF TINLEY PARK, an Illinois municipal corporation

ATTEST:

By: Frank W. Guman Jr  
Village Clerk

By: Edward J. Bluschi  
Village President



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9/20/99

TERRY'S LINCOLN-MERCURY, INC., an Illinois Corporation

By: [Signature]  
Its President

ATTEST: [Signature]  
By: [Signature]  
Its Secretary

JENNI INVESTMENTS INCORPORATED, an Illinois Corporation

By: [Signature]  
Its President

ATTEST: [Signature]  
By: [Signature]  
Its Secretary

Property of Cook County Clerk's Office

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9/20/99

ACKNOWLEDGMENTS

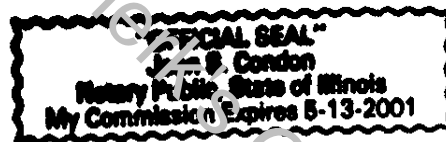
STATE OF ILLINOIS)  
)  
COUNTY OF C O O K)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Edward J. Zabrocki, personally known to me to be the President of the Village of Tinley Park, and Frank W. German, Jr., personally known to me to be the Village Clerk of said municipal 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 Village Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the Board of Trustees of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 22nd day of March, <sup>2000</sup>~~1999~~.

Commission expires 5-13, <sup>2001</sup>~~19~~.

*John S. Condon*  
\_\_\_\_\_  
Notary Public



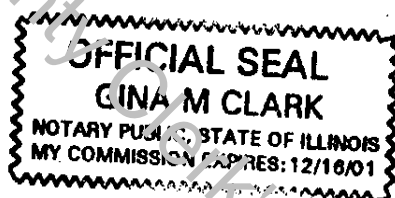
TMB:ajh  
9/20/99

STATE OF ILLINOIS )  
)  
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named TERRY KUPES and DAVID CORRADINO, and President and Secretary of Terry's Lincoln-Mercury, Inc., an Illinois corporation, 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 acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth; and the said DAVID CORRADINO Secretary then and there acknowledged that said DAVID CORRADINO Secretary, as custodian of the corporate seal of said Corporation caused the corporate seal of said Corporation to be affixed to said instrument as said DAVID CORRADINO Secretary's own 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 Notary Seal this 11th day of November, 1999.

Commission expires 12/16/01, 19  . Gina M Clark  
Notary Public



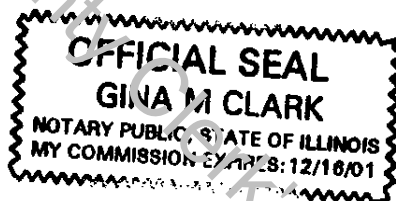
TMB:ajh  
9/20/99

STATE OF ILLINOIS )  
                                      )  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named TERRY KUNES and DAVID CORRADINO, and President and Secretary of JENNI/INVESTMENTS, INCORPORATED, an Illinois corporation, 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 acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth; and the said DAVID CORRADINO Secretary then and there acknowledged that said DAVID CORRADINO Secretary, as custodian of the corporate seal of said Corporation caused the corporate seal of said Corporation to be affixed to said instrument as said DAVID CORRADINO Secretary's own 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 Notary Seal this 11th day of November, 1999.

Commission expires 12/16/01, 19  . GINA M. CLARK  
Notary Public



**UNOFFICIAL COPY**

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EXHIBIT A

The East 35.00 feet of Lot 1 and Lot 2 in Gray Properties 159th Street Commercial Subdivision, being a Subdivision of the North 650.00 feet of the West ½ of the Northeast 1/4 of Section 23, Township 36 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois (except that part deeded to Commonwealth Edison Company) and except that part previously dedicated for highway purposes.

Lot 3 in Gray Properties 159th Street Commercial Subdivision, being a subdivision of the North 650 feet of the West ½ of the Northeast 1/4 of Section 23, Township 36, Range 12, East of the Third Principal Meridian, in Cook County, Illinois (except that part deeded to Commonwealth Edison Company) and except that part previously dedicated for highway purposes.

PIN 27-23-202-003

Common address is 8301 159th Street, Tinley Park, Illinois.

Property of Cook County Clerk's Office

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AUTHORIZATION TO RELEASE SALES TAX INFORMATION Page 30 of 32

Barbara J. Henry, Manager  
Illinois Department of Revenue  
Local Tax Allocation Division  
101 W. Jefferson Street (Level 3-500)  
Springfield, IL 62702

The undersigned is an owner/authorized officer of Terry's Lincoln Mercury (Taxpayer) which is doing business at 9401 W. 143rd Street, Orland Park, Illinois 60462.

Pursuant to Section 11 of the Retailers' Occupation Tax Act (35 ILCS 120/11), the undersigned taxpayer hereby authorizes the Illinois Department of Revenue to disclose to Brad L. Bettenhausen, the Treasurer of the Village of Tinley Park the monthly amounts of the local share of the state sales tax payments made by the taxpayer beginning with the sales made in the month of January 1996 and continuing through December 1998.

Taxpayer: Terry's Lincoln Mercury

Signature: *Terry Kunes*

Date: 12/30/98

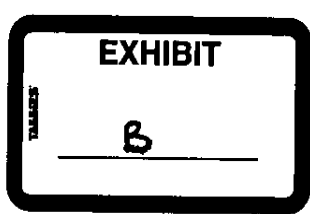
Printed name: Terry Kunes

Title: President

IL Business Tax Number: 0170-0073

Phone Number: (708) 349-3400

cc: Brad L. Bettenhausen, Treasurer  
Village of Tinley Park  
16250 S. Oak Park Ave  
Tinley Park, IL 60477



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AUTHORIZATION TO RELEASE SALES TAX INFORMATION

00307098

Barbara J. Henry, Manager  
Illinois Department of Revenue  
Local Tax Allocation Division  
101 W. Jefferson Street (Level 3-500)  
Springfield, IL 62702

The undersigned is an owner/authorized officer of Bauer Hyundai (Taxpayer) which is doing business at 8335 W. 159th Street, Tinley Park, Illinois 60477.

Pursuant to Section 11 of the Retailers' Occupation Tax Act (35 ILCS 120/11), the undersigned taxpayer hereby authorizes the Illinois Department of Revenue to disclose to Brad L. Bettenhausen, the Treasurer of the Village of Tinley Park the monthly amounts of the local share of the state sales tax payments made by the taxpayer beginning with the sales made in the month of January 1996 and continuing through December 1998.

Taxpayer: Bauer Hyundai

Signature: *Gordon Walker*

Date: 12/30/98

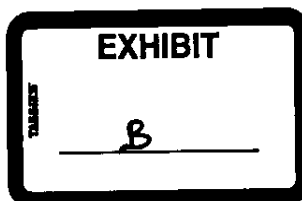
Printed name: Gordon Walker

Title: President

IL Business Tax Number: 1994-1781

Phone Number: (708) 429-0444

cc: Brad L. Bettenhausen, Treasurer  
Village of Tinley Park  
16250 S. Oak Park Ave  
Tinley Park, IL 60477



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AUTHORIZATION TO RELEASE SALES TAX INFORMATION

Barbara J. Henry, Manager  
Illinois Department of Revenue  
Local Tax Allocation Division  
101 W. Jefferson Street (Level 3-500)  
Springfield, IL 62702

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Page 32 of 32

The undersigned is an owner/authorized officer of Bauer Mazda (Taxpayer) which is doing business at 8325 W. 159th Street, Tinley Park, Illinois 60477.

Pursuant to Section 11 of the Retailers' Occupation Tax Act (35 ILCS 120/11), the undersigned taxpayer hereby authorizes the Illinois Department of Revenue to disclose to Brad L. Bettenhausen, the Treasurer of the Village of Tinley Park the monthly amounts of the local share of the state sales tax payments made by the taxpayer beginning with the sales made in the month of January 1996 and continuing through December 1998.

Taxpayer: Bauer Mazda

Signature: *Gordon Walker*

Date: 12/30/98

Printed name: Gordon Walker

Title: President

IL Business Tax Number: 2159-4899

Phone Number: (708) 429-0444

cc: Brad L. Bettenhausen, Treasurer  
Village of Tinley Park  
16250 S. Oak Park Ave  
Tinley Park, IL 60477

