

Doc#: 0326727164
Eugene "Gene" Moore Fee: \$44.00
Cook County Recorder of Deeds
Date: 09/24/2003 04:03 PM Pg: 1 of 11

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SUBORDINATION AND ATTORNMENT AGREEMENT
("Agreement")

Reference is made to that certain Lease dated August __, 2003 (the "Lease") executed between Jacobs Real Estate, Inc., an Illinois corporation ("Landlord") and Jacobs Imports, Inc., an Illinois corporation, Jacobs Twin Buick, Inc., an Illinois corporation and Jacobs/Ford, Inc., an Illinois corporation (hereinafter collectively referred to as "Tenant"), pertaining to the rental of a certain commercial facility and other improvements located on the property which is legally described in Exhibit "A" attached hereto (the "Premises").

Bank One, NA ("Mortgagee") holds a first mortgage encumbering the Premises (the "Mortgage"), which was granted by Landlord to secure certain loans made to Landlord and Tenant as well as other liabilities as described in the Mortgage and notwithstanding anything in the Lease to the contrary, Mortgagee and Tenant hereby agree:

1. The Lease and the rights of Tenant thereunder shall be and are hereby made expressly subject and subordinate at all times to the lien of the Mortgage and to all renewals, modifications and extensions thereof, and to all advances made or hereafter to be made upon the security thereof. Tenant acknowledges that its title is and always shall be subordinate to the interest of Landlord and Mortgagee in the Premises, that, at the election of Mortgagee, said interests of Tenant in the Premises may and shall be extinguished in connection with any foreclosure action taken by Mortgagee in connection with the Mortgage and nothing herein contained shall empower Tenant to do any act which can, shall or may encumber the title of the Landlord or

THIS INSTRUMENT PREPARED BY
AND UPON RECORDING SHOULD BE
RETURNED TO:

William L. Kabaker & Associates
William L. Kabaker
55 East Monroe Street
Suite 3030
Chicago, Illinois 60603

Box 15

STREET ADDRESS:
2148-2220 N. Natchez
Chicago, Illinois

Permanent Index Numbers:
13-31-205-057
13-31-205-058
13-31-205-059
13-31-205-063
13-31-205-064

11/24/03

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Mortgagee in the Premises. Notwithstanding anything to the contrary herein contained, Mortgagee may, by written notice to Tenant, subordinate its Mortgage to the Lease.

2. Upon the foreclosure of the Mortgage by voluntary agreement or otherwise, or the commencement of any judicial action seeking such foreclosure, Tenant shall, if requested by Mortgagee, attorn to and recognize Mortgagee or the purchaser of the Premises at any foreclosure sale or the grantee of a deed in lieu of foreclosure with respect to the Premises (such purchaser or grantee hereinafter referred to as a "Foreclosure Purchaser") as Tenant's landlord under the Lease.

3. Neither Mortgagee, its successors or assigns, nor any Foreclosure Purchaser shall in any way or to any extent be obligated or liable to Tenant (i) for any prior act, or default on the part of the Landlord or any prior landlord under the Lease, (ii) for any security deposit or any other sums deposited with any landlord under the Lease, and not physically delivered to Mortgagee, its successors or assigns, (iii) under any provision in the Lease relating to a duty or obligation of the landlord first accruing prior to the foreclosure or transaction in lieu of foreclosure provided Mortgagee shall following foreclosure or deed in lieu of foreclosure if it becomes the owner of the Premises continue to thereafter honor the continuing obligations of Landlord under the Lease; (iv) for, prior to Mortgagee or any Foreclosure Purchaser taking title to the Premises by foreclosure or deed in lieu of foreclosure, any obligation under the Lease to use insurance or condemnation proceeds to rebuild any portion of the Premises leased to Tenant; (v) for any rent or additional rent which the Tenant might have paid for more than the current month to any landlord; or (vi) for any material modification or amendment to the Lease made without Mortgagee's consent; and same shall not be binding on Mortgagee or any Foreclosure Purchaser, and Tenant shall have no right to set off or assert any of the foregoing or any damages arising therefrom as an offset, defense or counterclaim against Mortgagee, its successors or assigns or any Foreclosure Purchaser. In no event shall Mortgagee have any personal liability to Tenant for the breach of any of the terms, covenants or conditions contained in the Lease, said personal liability being expressly waived by Tenant by its execution hereof.

4. Tenant agrees that it (i) will not make prepayment of any rent or other amount due under the Lease in excess of one month thereunder, (ii) will not modify, alter or amend or extend the term of the Lease without the consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned, or delayed, and (iii) will not terminate the Lease, except as provided by its terms. Except as otherwise provided in the Lease, Tenant further agrees that it will in no event (i) assign its interest in the Lease, (ii) permit its interest under the Lease to be assigned by operation of law or otherwise, or (iii) subordinate or agree to subordinate the Lease to any other lien or encumbrance without the express prior written consent of the Lender or its successors or assigns.

5. Tenant agrees to give Mortgagee or any Foreclosure Purchaser, by registered or certified mail, notice of any default by Landlord under the Lease. Tenant further agrees that if Landlord shall have failed to cure such default within the time, if any, provided for in the Lease, Mortgagee or any Foreclosure Purchaser shall have an additional thirty (30) days after receipt of notice thereof from Tenant to cure such default or if such default cannot be cured within that time, then Lender or any Foreclosure Purchaser shall have such additional time as may be

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reasonably necessary to cure such default provided, if within such thirty (30) days and at all times thereafter, Lender or any Foreclosure Purchaser has commenced and is diligently pursuing the remedies necessary to cure such default (including, but not limited to commencement of foreclosure proceedings, if necessary, to effect such cure). Such period of time shall be extended by any period during which Lender is prevented from commencing or pursuing such foreclosure proceedings by reason of Landlord's bankruptcy. Until the time allowed as aforesaid for Lender or any Foreclosure Purchaser to cure such default shall have expired without cure, Tenant shall have no right to, and shall not terminate the Lease on account of default by Landlord. The Lease may not be modified or amended so as to reduce the rent or shorten the terms or so as to adversely affect in any other material respect the rights of the Landlord thereunder, nor shall the Lease be canceled or surrendered, without the prior written consent of Lender.

6. Mortgagee agrees that regardless of any default or breach under the Mortgage, or of any possession or sale of the whole or any part of the Premises under or through said Mortgage, that this Lease and Tenant's possession shall not be disturbed by Mortgagee or any other party claiming under or through such Mortgage providing however that such Tenant shall continue to observe and perform Tenant's obligations under this Lease and pay rent to whomever may be lawfully entitled to same.

7. This Agreement shall inure to the benefit of Mortgagee and its successors and assigns and, to the benefit of Tenant and to any successor or assign of Tenant as permitted under the Lease; provided, that upon Mortgagee's assignment of its interest, all obligations and liabilities of Mortgagee shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of Mortgagee's assignee, except for such obligations and liabilities of Mortgagee which may have arose in favor of Tenant prior to such assignment.

8. This Agreement shall not affect either the superior lien of the Mortgage or the superior right of Mortgagee to condemnation and insurance proceeds pursuant to the terms of the Mortgage which Tenant hereby acknowledges.

9. All notices hereunder shall be given in writing by United States registered or certified mail, postage prepaid at the addresses of the parties set forth below or to such other address as the parties may from time to time designate by such a written notice.

10. This Agreement shall be governed by the internal laws of the State of Illinois.

This Agreement may be executed in any number of counterparts, or in any number of counterpart signature pages, all of which together shall be deemed the original and constitute one and the same instrument.

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Dated as of ^{Sept.} ~~August~~ 22 2003

ADDRESS: 120 S. LaSalle Street
2nd Floor
Chicago, Illinois 60603
Attn: William Wheeler
Asst. Vice President

MORTGAGEE:
BANK ONE, NA

By: William Wheeler

Title: A.V.P.

ATTEST: William P. R. FVP

ADDRESS: 2148-2220 Natchez
Chicago, Illinois

TENANT:
JACOBS IMPORTS, INC., an Illinois corporation

By: [Signature]
Title: V.P.

JACOBS TWIN BUICK, INC., an Illinois corporation

By: [Signature]
Title: V.P.

^{TWIN}
JACOBS FORD, INC. an Illinois corporation

By: [Signature]
Title: V.P.

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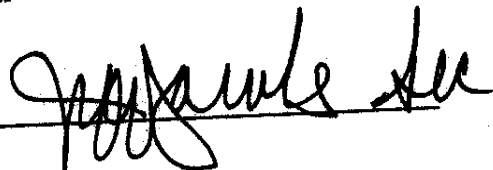
AGREEMENT BY LANDLORD

Landlord, as the Mortgagor under the Mortgage, agrees for itself and for its successors and assigns that (i) the foregoing Subordination and Attornment Agreement (the "Agreement") does not constitute a waiver or partial waiver by Mortgagee of any of its rights under the Mortgage and (ii) the Agreement does not in any way release the Mortgagor from its obligations to comply with every term, provision, condition, covenant, agreement, representation, warranty and obligation of the Mortgage, and that each of same remain in full force and effect and must be complied with by the Mortgagor thereunder and (iii) Mortgagor will not take any action contrary to or inconsistent with the provisions of the Agreement.

ADDRESS 2148-2220 Natchez
Chicago, Illinois

LANDLORD:

Jacobs Real Estate Inc., an Illinois
corporation

By: 
It's :

Attest: _____

Sept. 22
Date: , 2003

Office of Cook County Clerk's Office

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STATE OF ILLINOIS)
)
COUNTY OF COOK) SS.

I, Rosemary T. Goss a Notary Public in and for said County, in the State of BANK ONE, NA ("Bank"), and William M. Wheeler, the A.V.P. of BANK ONE, NA who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, as they appeared before me this day in person and acknowledged that as such Asst. Vice President and First Vice President of Bank they signed and delivered the said instrument pursuant to their free and voluntary act and by the free and voluntary act of said Bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 24 day of September, 2003



Rosemary T. Goss
Notary Public

County Clerk's Office

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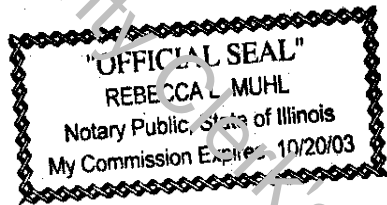
STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO
HEREBY CERTIFY, that Jeff Jacobs the Sec. of Jacobs Real Estate,
Inc., an Illinois corporation, 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 severally
acknowledged that as such Sec. he signed and delivered the said instrument pursuant to
his authority as Sec. of said company as his free and voluntary act, and as the free and
voluntary act and deed of said company, for the uses and purposes therein set forth.

Given under my hand and official seal this 22nd day of Sept., 2003

Rebecca L. Muhl
NOTARY PUBLIC

My commission expires: _____



Notary Public's Office

UNOFFICIAL COPY

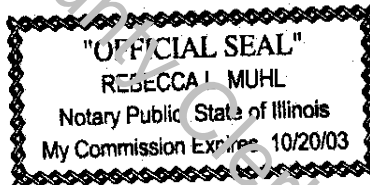
STATE OF ILLINOIS)
)
COUNTY OF Cook)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Jeff Jacobs personally known to me to be the V.P. of Jacobs Imports, Inc., an Illinois corporation, and 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 as such V.P., he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act and deed of said company, for the uses and purposes therein set forth.

Given under my hand and official seal this 22nd day of Sept., 2003

Rebecca L. Muhl
NOTARY PUBLIC

My commission expires: _____



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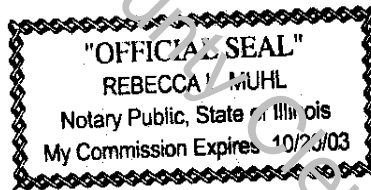
STATE OF ILLINOIS)
)
COUNTY OF Cook)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that ~~Self Jacobs~~ personally known to me to be V.P. of Jacobs Twin Buick, an Illinois corporation, and known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as V.P., he signed and delivered the said instrument pursuant to his authority as a partner as his free and voluntary act, and as the free and voluntary act and deed of said company for the uses and purposes therein set forth.

Given under my hand and official seal this 22nd day of Sept, 2003

Rebecca J. Muhl
NOTARY PUBLIC

My commission expires: _____



UNOFFICIAL COPY

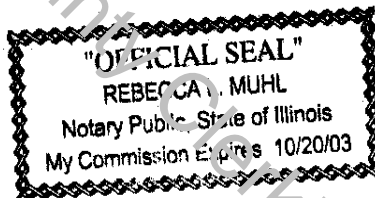
STATE OF ILLINOIS)
)
COUNTY OF Cook)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Self Jacobs, personally known to me to be the V.P. of ^{Jacob}Jacobs Ford, Inc., an Illinois corporation, and 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 as such V.P., he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act and deed of said company, for the uses and purposes therein set forth.

Given under my hand and official seal this 2nd day of Sept., 2003

Rebecca G. Muhl
NOTARY PUBLIC

My commission expires: _____



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EXHIBIT A

LEGAL DESCRIPTION

OF

2148 - 2220 N. Natchez Avenue, Chicago, Illinois**PERMANENT TAX INDEX NUMBERS:**

13-31-205-057
 13-31-205-058
 13-31-205-059
 13-31-205-063
 13-31-205-064

THAT PART OF LOTS 3 AND 4 IN THE WEST GRAND AVENUE INDUSTRIAL DISTRICT, BEING OWNERS DIVISION OF PART OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EAST LINE OF LOT 4, AFORESAID, 366.82 FEET SOUTH OF THE NORTHEAST 1/4 CORNER THEREOF; THENCE SOUTH 00 DEGREES 00 MINUTES 35 SECONDS EAST ALONG SAID EAST LINE 549.37 FEET TO THE SOUTHEAST CORNER OF LOT 4; THENCE NORTH 62 DEGREES 46 MINUTES 06 SECONDS WEST ALONG SAID SOUTH LINE OF LOTS 3 AND 4, 667.44 FEET TO THE WESTERLY LINE OF SAID LOT 3; THENCE NORTHERLY ALONG SAID WESTERLY LINE, BEING AN ARC OF A CIRCLE CONVEX WESTERLY AND HAVING A RADIUS OF 350.26 FEET, FOR AN ARC DISTANCE OF 79.66 FEET TO A POINT OF TANGENCY (THE CHORD OF SAID ARC HAVING A BEARING OF NORTH 08 DEGREES 27 MINUTES 09 SECONDS WEST AND A DISTANCE OF 79.49 FEET); THENCE NORTH 01 DEGREES 58 SECONDS 24 SECONDS WEST ALONG SAID WESTERLY LINE OF LOT 3 AND BEING TANGENT WITH THE LAST DESCRIBED ARC FOR A DISTANCE OF 53.43 FEET TO A POINT OF CURVE; THENCE NORTHERLY ALONG SAID WESTERLY LINE, BEING AN ARC OF A CIRCLE CONVEX EASTERLY AND HAVING A RADIUS OF 368.26 FEET, FOR A DISTANCE OF 38.99 FEET TO A POINT OF TANGENCY (THE CHORD OF SAID ARC HAVING A BEARING OF NORTH 04 DEGREES 58 MINUTES 24 SECONDS WEST AND A DISTANCE OF 38.98 FEET); THENCE NORTH 08 DEGREES 00 MINUTES 24 SECONDS WEST ALONG THE WEST LINE OF LOT 3, AFORESAID, 73.58 FEET; THENCE NORTH 89 DEGREES 55 MINUTES 58 SECONDS EAST 620.49 FEET TO THE POINT OF BEGINNING (EXCEPT THEREFROM THAT PART OF LOTS 3 AND 4 DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE EAST LINE OF LOT 4, AFORESAID, 403.82 FEET SOUTH OF THE NORTHEAST 1/4 CORNER THEREOF; THENCE SOUTH 00 DEGREES 00 MINUTES 35 SECONDS EAST ALONG SAID EAST LINE 512.87 FEET TO THE SOUTHEAST CORNER OF LOT 4; THENCE NORTH 62 DEGREES 46 MINUTES 06 SECONDS WEST ALONG SAID SOUTH LINE OF LOTS 3 AND 4, 168.71 FEET TO A LINE 150.0 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID LOT 4; THENCE NORTH 00 DEGREES 00 MINUTES 35 SECONDS WEST ALONG SAID PARALLEL LINE 435.49 FEET; THENCE NORTH 89 DEGREES 55 MINUTES 58 SECONDS EAST 150.0 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.