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Doc#: 0527835196 Fee: \$62.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/05/2005 09:53 AM Pg: 1 of 6

SECOND MORTGAGE TRUST DEED

117
10/6/2005
2007

THIS INDENTURE, Made Sept. 19, 2005, between First National Bank of Illinois as trustee u/t/a dated August 26, 2005, known as Trust No. 5916, herein referred to as "Borrower", and MILLER CONSOLIDATED, INC. an Illinois corporation herein referred to as Trustee, witnesseth:

THAT WHEREAS Borrower has concurrently herewith executed a principal note bearing even date herewith in the TOTAL PRINCIPAL SUM OF Three hundred thirty two thousand two hundred ninety seven (\$332,297.00) dollars, made payable to MILLER CONSOLIDATED, INC. and delivered, in and by which said Note the Borrower promises to pay the said principal sum with interest in installments as set forth in the Note.

NOW, THEREFORE, Borrower to secure the payment of the said principal sum of money and said interest in accordance with the terms, provisions and limitations of this Second Mortgage Trust Deed, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, does by these presents grant, remise, release, and convey unto Trustee, its successors and assigns, the following described Real Estate situate, lying and being in the COUNTY of COOK AND STATE OF ILLINOIS, to wit:

LEGAL ATTACHED.

The mortgagor (Borrower) hereby waives any all rights of reinstatement and redemption from the sale under any order or decree of foreclosure of this Trust Deed, on its own behalf and on behalf of each and every person, except decree or judgment creditors of the mortgagor (Borrower), acquiring any interest in or title to the premises subsequent to the date of this Trust Deed.

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Borrower, its successors or assigns may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily), and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, awnings, stoves and water heaters. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereafter placed in the premises by Borrower or its successors or assigns shall be considered as constituting part of the real estate.

TO HAVE AND TO HOLD the premises unto said Trustee, its successors and assigns, forever for the purposes, and upon the uses and trust herein set forth.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Until the indebtedness aforesaid shall be fully paid, and in case of the failure of Borrower, its successors or assigns agree to: (1) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; (2) keep said premises in good condition and repair, without waste, and free from mechanics's or other liens or claims for lien not expressly subordinated to the lien hereof; (3) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Trustee or to Holders of the Note; (4) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (5) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (6) pay before any penalty attaches all general taxes, and pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises including all obligations to School District 159

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BOX 334 CTM

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and the Matteson Auto Mall Association, when due, and upon written request, to furnish to Trustee or to Holders of the Note duplicate receipts therefor; (7) pay in full under protest in the manner provided by statute, any tax or assessment which Borrower may desire to contest; (8) keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning or windstorm under policies providing for payment by the insurance companies of moneys sufficient either to pay the cost of replacing or repairing the same or to pay in full the indebtedness secured hereby.

2. The Trustee or the Holders of the Note hereby secured making any payment hereby authorized relating to taxes or assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.

3. At the option of the Holders of the Note and without notice to Borrower, its successors or assigns, all unpaid indebtedness secured by this trust deed shall, notwithstanding anything in the Note or in this trust deed to the contrary, become due and payable (a) immediately in the case of default in making payment of any installment of principal or interest on the Note, or (b) in the event of the failure of Borrower or its successors or assigns to do any of the things specifically set forth in paragraph one hereof and such default shall continue for thirty (30) days; by Borrower after receipt of written notice said option to be exercised at any time after the expiration of said thirty (30) day period.

4. When the indebtedness hereby secured shall become due whether by acceleration or otherwise, Holders of the Note or Trustee shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Trustee or Holders of the Note for attorneys' fees, Trustee's fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, guarantee policies, and similar data and assurances with respect to title as Trustee of Holders of the Note may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at the rate of six (6%) percent per annum, when paid or incurred by Trustee or Holders of the Note in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which either of them shall be a party, either as plaintiff, claimant or defendant, by reason of this trust deed or any indebtedness hereby secured; or (b) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (c) preparations for the defense of any threatened suit or proceeding which might affect the premises or the security hereof, whether or not actually commenced.

5. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note; fourth, any overplus to Borrower, its legal representatives or assigns, as their rights may appear.

6. Upon, or at any time after the filing of a bill to foreclose this trust deed, the court in which such bill is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency at the time of application for such receiver, of the person or persons, if any, liable for the payment of the indebtedness secured hereby, and without regard to the then value of the premises

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or whether the same shall be then occupied as a homestead or not and the Trustee hereunder may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further time when Borrower, its successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other power which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The Court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (1) The indebtedness secured hereby, or by a decree for foreclosing this trust deed, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (2) the deficiency in case of a sale and deficiency.

7. Trustee or the holders of the Note shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

8. Trustee has no duty to examine the title, location, existence, or condition of the premises, nor shall Trustee be obligated to record this trust deed or to exercise any power herein given unless expressly obligated by the terms hereof, nor be liable for any acts or omissions hereunder, except in case of its own gross negligence or misconduct or that of the agents or employees of Trustee, and it may require indemnities satisfactory to it before exercising any power herein given.

9. Trustee shall release this trust deed and the lien thereof by proper instrument upon presentation of satisfactory evidence that all indebtedness secured by this trust deed has been fully paid; and Trustee may execute and deliver a release hereof to and at the request of any person who shall, either before or after maturity thereof, produce and exhibit to Trustee the Note representing that all indebtedness hereby secured has been paid, which representation Trustee may accept as true without inquiry. Where a release is requested of a successor trustee, such successor trustee may accept as the genuine Note herein described any Note which bears a certificate of identification purporting to be executed by a prior trustee hereunder or which conforms in substance with the description herein contained of the Note and which purports to be executed on behalf of Borrower; and where the release is requested of the original trustee and it has never executed a certificate on any instrument identifying same as the Note described herein, it may accept as the genuine Note herein described any Note which may be presented and which conforms in substance with the description herein contained of the Note and which purports to be executed on behalf of Borrower.

10. Trustee may resign by instrument in writing filed in the office of the Recorder in which this instrument shall have been recorded or filed. In case of the resignation, inability or refusal to act of Trustee, the then Recorder of Deeds of the county in which the premises are situated shall be Successor in Trust. Any Successor in Trust hereunder shall have the identical title, powers and authority as are herein given Trustee, and any Trustee or successor shall be entitled to reasonable compensation for all acts performed hereunder.

11. In the event that the Borrower (or any member of the Borrower's family and/or Terry's Lincoln Mercury and/or their successors and/or their assigns fail to operate a vehicle sales facility on the property being sold hereunder at any time during the twenty (20) year term of the Second Mortgage Note, the entire remaining balance due under the Second Mortgage Note shall be accelerated and become immediately due and payable upon the termination of the operation of a vehicle sales facility operation at the Note Holder's option. The Borrower agrees to cooperate in executing any and all documentation required to satisfy the financial arrangement regarding the Sales Tax Rebate with the Village of Matteson and/or the State of Illinois.

12. Borrower may prepay the principal amount outstanding in whole or in part at any time without penalty. Any partial prepayments shall be applied against the principal amount outstanding and shall not postpone the due date of any subsequent installments or change the amount of such installments, unless the Note Holder shall otherwise

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agree in writing. This Second Mortgage Trust Deed is security for the purchase of real estate to operate a vehicle sales facility in the Matteson Auto Mall, Matteson, IL.

13. This Second Mortgage and Trust Deed shall be subject to and subordinate to any first mortgage that the Borrower records upon the said property for construction or any financing purposes subsequent to the date of this Second Mortgage Trust Deed, and the Trustee agrees to sign such subordination agreements that may be requested by the Borrower and its lender.

5331 Miller Circle Dr.
Matteson, IL 60443

(Property Address)

First National Bank of Illinois as Trustee U/t/a Dated
August 26, 2005, Known as Trust No. 5916

BY: SEE SIGNATURE SHEET ATTACHED HERETO
AND INCORPORATED BY REFERENCE HEREIN

Title _____

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO
HEREBY CERTIFY, that _____; personally known to me to
be the same person whose name _____ subscribed to the foregoing
instrument, appeared before me this day in person and acknowledged that _____ signed,
sealed and delivered the said instrument as _____ free and voluntary act, for the
uses and purposes therein set forth, including the release and waiver of the right of homestead.
GIVEN under my hand and notarial seal, this _____ day of _____ A.D. 20 _____.

NOTARY PUBLIC

This Document Prepared by:
ATTORNEY RICHARD L. TREICHEL
20000 Governors Dr., Suite 102
Olympia Fields, IL 60461
(708) 747-9450

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THIS SECOND MORTGAGE TRUST DEED IS EXECUTED BY THE FIRST NATIONAL BANK OF ILLINOIS, LANSING, ILLINOIS NOT PERSONALLY BUT AS TRUSTEE AS AFORESAID IN THE EXERCISE OF THE POWER AND AUTHORITY CONFERRED UPON AND VESTED IN IT AS SUCH TRUSTEE (AND SAID FIRST NATIONAL BANK OF ILLINOIS, HEREBY WARRANTS THAT IT POSSESSES FULL POWER AND AUTHORITY TO EXECUTE THIS INSTRUMENT), AND IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT NOTHING HEREIN OR IN SAID NOTE CONTAINED SHALL BE CONSTRUED AS CREATING ANY LIABILITY ON THE SAID FIRST PARTY OR ON SAID FIRST NATIONAL BANK OF ILLINOIS PERSONALLY TO PAY THE SAID NOTE OR ANY INTEREST THAT MAY ACCRUE THEREON, OR ANY INDEBTEDNESS ACCRUING HEREUNDER OR TO PERFORM ANY COVENANT EITHER EXPRESS OR IMPLIED HEREIN CONTAINED, ALL SUCH LIABILITY, IF ANY BEING EXPRESSLY WAIVED BY MORTGAGEE AND BY EVERY PERSON NOW OR HEREAFTER CLAIMING ANY RIGHT OR SECURITY HEREUNDER AND THAT SO FAR AS THE FIRST PARTY AND ITS SUCCESSORS AND SAID FIRST NATIONAL BANK OF ILLINOIS PERSONALLY ARE CONCERNED, THE LEGAL HOLDER OR HOLDERS OF SAID NOTE AND THE OWNER OR OWNERS OF ANY INDEBTEDNESS ACCRUING HEREUNDER SHALL LOOK SOLELY TO THE PREMISES HEREBY CONVEYED FOR THE PAYMENT THEREOF, BY THE ENFORCEMENT OF THE LIEN HEREBY CREATED, IN THE MANNER HEREIN AND IN SAID NOTE PROVIDED OR BY ACTION TO ENFORCE THE PERSONAL LIABILITY OF THE GUARANTOR, IF ANY.

IN WITNESS WHEREOF, FIRST NATIONAL BANK OF ILLINOIS, NOT PERSONALLY BUT AS TRUSTEE AFORESAID, HAS CAUSED THESE PRESENTS TO BE SIGNED BY ITS **VICE PRESIDENT AND SR. TRUST OFFICER** AND ITS CORPORATE SEAL TO BE HEREUNTO AFFIXED AND ATTESTED BY ITS **VICE PRESIDENT AND TRUST OFFICER**, THIS 15TH DAY OF **SEPTEMBER**, 2005.

FIRST NATIONAL BANK OF ILLINOIS,
LANSING, ILLINOIS, NOT PERSONALLY
BUT AS TRUSTEE UNDER THE PROVISIONS
OF A TRUST AGREEMENT DATED **AUGUST 26, 2005**
AND KNOWN AS TRUST NO. **5916**

BY: *David G. Clark*
DAVID G. CLARK, V.P. & SR. T.O.

ATTEST:

Carol J. Steinhauer
CAROL J. STEINHAUER, V.P. & T. O.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND IN THE STATE AFORESAID, DO HEREBY CERTIFY, THAT **DAVID G. CLARK, VICE PRES. & SR. TRUST OFFICER** OF THE FIRST NATIONAL BANK OF ILLINOIS, LANSING, ILLINOIS A NATIONAL BANKING ASSOCIATION, AND **CAROL J. STEINHAUER, VICE PRES. & TRUST OFFICER**, OF SAID FIRST NATIONAL BANKING ASSOCIATION, PERSONALLY KNOWN TO ME TO BE THE SAME PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE AFOREGOING INSTRUMENT AS SUCH **VICE PRES. & SR. TRUST OFFICER AND VICE PRESIDENT & TRUST OFFICER**, RESPECTFULLY, APPEARED BEFORE ME THIS DAY IN PERSON AND ACKNOWLEDGED THAT THEY SIGNED AND DELIVERED THE SAID INSTRUMENT AS THEIR OWN FREE AND VOLUNTARY ACTS, AND AS THE FREE AND VOLUNTARY ACT OF SAID NATIONAL BANKING ASSOCIATION, AS TRUSTEE, FOR THE USES AND PURPOSES THEREIN SET FORTH; AND THE SAID **VICE PRES. & T. O.** DID ALSO THEN AND THERE ACKNOWLEDGE THAT **SHE**, AS CUSTODIAN OF THE CORPORATE SEAL OF SAID NATIONAL BANKING ASSOCIATION, DID AFFIX THE SAID CORPORATE SEAL OF SAID NATIONAL BANKING ASSOCIATION, TO SAID INSTRUMENT AS **HER OWN FREE AND VOLUNTARY ACT**, AND AS THE FREE AND VOLUNTARY ACT OF SAID NATIONAL BANKING ASSOCIATION, AS TRUSTEE FOR THE USES AND PURPOSES THEREIN SET FORTH.

GIVEN UNDER MY HAND AND NOTARIAL SEAL THIS 15TH DAY OF **SEPTEMBER**, 2005.



Jeannette Raper
NOTARY PUBLIC

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STREET ADDRESS: LOT 209 5331 MILLER CIRCLE DRIVE

CITY: MATTESON **COUNTY:** COOK

TAX NUMBER: 31-21-303-013-0000

LEGAL DESCRIPTION:

LOT 209 IN SECOND RESUBDIVISION OF MATTESON AUTO MALL UNIT 1, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 21, TOWNSHIP 35 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 15, 1999 AS DOCUMENT 99363994, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office