

#324

UNOFFICIAL COPY



Doc#: 0708055097 Fee: \$46.50  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 03/21/2007 12:48 PM Pg: 1 of 12

2 W. Rand Road, Mt. Prospect, IL

THIS INSTRUMENT PREPARED BY:  
Ravenswood Bank  
2300 West Lawrence Avenue  
Chicago, Illinois 60625

AND AFTER RECORDING MAIL TO:  
Ravenswood Bank  
2300 West Lawrence Avenue  
Chicago, Illinois 60625  
Attention Michael Obremski

FREEDOM TITLE CORP.

*6882408-88 1st Hand*

**SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

THIS AGREEMENT, made and entered into as of the 10<sup>th</sup> day of ~~April~~ <sup>December</sup>, 2006, by and between HEARTLAND AUTOMOTIVE SERVICES II, INC., a Delaware corporation ("Tenant"), whose address is 11308 Davenport St., Omaha, Nebraska 68154 and RH 2 W. RAND LLC, an Illinois limited liability company; RH 2 W. RAND LLC, an Illinois limited liability company; SH 2 W. RAND LLC, an Illinois limited liability company; and LN 2 W. RAND LLC, an Illinois limited liability company (hereinafter referred to collectively as the "Borrower"), whose address is 1535 North Elston Avenue, Chicago, Illinois 60622 and RAVENSWOOD BANK ("Lender"), 2300 West Lawrence Avenue, Chicago, Illinois 60625.

**PRELIMINARY STATEMENT OF FACTS:**

- A. Lender has agreed to make a first mortgage loan (the "Loan") to Borrower, which is to be evidenced by a Mortgage Note ("Note") and secured by a Mortgage and Security Agreement ("Mortgage") on certain real estate as more fully described in Exhibit "A" attached hereto and the improvements thereon ("Premises").
- B. The Mortgage is to be recorded in the County of Cook, State of Illinois.
- C. The Tenant is the present lessee under a lease dated March 26, 2004 made by Borrower, as successor landlord, demising a portion of the Premises (the "Leased Premises") (said lease and all amendments thereto being referred to as the "Lease").
- D. As a condition precedent to Lender's disbursement of Loan Proceeds, Lender has required that Tenant subordinate the Lease and its interest in the Premises in all respects to the lien of the Mortgage.
- E. In return, the Lender is agreeable to not disturbing the Tenant's possession of the Premises.
- F. The Lender is disbursing the Loan proceeds in reliance upon the agreements contained in this instrument, but for which it would not disburse the Loan.

# UNOFFICIAL COPY

NOW, THEREFORE, in consideration of the sum of One and 00/100 Dollars (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, it is hereby agreed as follows:

1. SUBORDINATION. The Lease, and the rights of Tenant in, to or under the Lease and in and to the Premises, are hereby subjected and subordinated and shall remain in all respects and for all purposes subject, subordinate and junior to the lien of the Mortgage, and to the rights and interest of the from time to time holder of the Mortgage, as fully and with the same effect as if the Mortgage had been duly executed, acknowledged and recorded, and the indebtedness secured thereby had been fully disbursed prior to the execution of the Lease or possession of the Premises by Tenant, or its predecessors in interest.
2. Intentionally deleted.
3. TENANT NOT TO BE DISTURBED. So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or additional rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Tenant's possession of the Premises and Tenant's rights and privileges under the Lease, or any extensions or renewals thereof which may be effected in accordance with any renewal rights therefor in the Lease, shall not be diminished or interfered with by Lender, and Tenant's occupancy of the Premises shall not be disturbed by Lender for any reason whatsoever during the term of the Lease or any such extensions or renewals thereof.
4. TENANT NOT TO BE JOINED IN FORECLOSURE. So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or additional rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Lender will not join Tenant as a party defendant in any action or proceeding foreclosing the Mortgage unless such joinder is necessary to foreclose the Mortgage and then only for such purpose and not for the purpose of terminating the Lease.
5. TENANT TO ATTORN TO LENDER. If the interests of Borrower shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by it in lieu of or pursuant to a foreclosure, or by any other manner, and Lender succeeds to the interest of this Borrower under the Lease, Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Lender were the landlord under the Lease, and Tenant does hereby attorn to Lender as its landlord, said attornment to be effective and self-operative immediately upon Lender succeeding to the interest of the Borrower under the Lease without the execution of any further instruments on the part of any of the parties hereto; provided, however, that Tenant shall be under no obligation to pay rent to Lender until Tenant receives written notice from Lender that it has succeeded to the interest of the Borrower under the Lease. The respective rights and obligations of Tenant and Lender upon such attornment, to the extent of the then remaining balance of the term of the Lease and any such extensions and renewals, shall be and are the same as now set forth therein; it being the intention of the parties hereto for this purpose to incorporate the Lease in this Agreement by reference with the same force and effect as if set forth at length herein.

# UNOFFICIAL COPY

6. LENDER NOT BOUND BY CERTAIN ACTS OF BORROWER. If Lender shall succeed to the interest of Borrower under the Lease, Lender shall not be liable for any act or omission of any prior landlord (including Borrower); nor subject to any offsets or defenses which Tenant might have against any prior landlord (including Borrower); nor bound by any rent or additional rent which Tenant might have paid for more than the then current installment; nor bound by any amendment or modification of the Lease made without its consent (which consent shall not be unreasonably withheld). In the event of a default by Borrower under the Lease or an occurrence that would give rise to an offset against rent or claim against Borrower under the Lease, prior to terminating the Lease, Tenant will send written notice of such defaults or an occurrence to Lender at the address of Lender as set forth in accordance with the terms of the Lease.

7. Intentionally deleted.

8. ASSIGNMENT OF LEASE. Borrower will by a separate Assignment of Rents and Leases ("Assignment") assign its interest in the rents and payments due under the Lease to Lender as security for repayment of the Loan. If in the future there is a default by the Borrower in the performance and observance of the terms of the Mortgage, the Lender may, at its option under the Assignment, require that all rents and other payments due under the Lease be paid directly to it. Upon notification to that effect by the Lender, the Borrower hereby authorizes and directs Tenant, and the Tenant agrees, to pay any payments due under the terms of the Lease to Lender. The Assignment does not diminish any obligations of the Borrower under the Lease or impose any such obligations on the Lender.

9. SUCCESSORS AND ASSIGNS. This Agreement and its provisions hereof shall be binding upon the parties hereto and their heirs, administrators, representatives, successors and assigns, including without limitation each and every from time to time holder of the Lease or any other person having an interest therein and shall inure to the benefit of the Lender and its successors and assigns.

10. CHOICE OF LAW. This Agreement is made and executed under and in all respects is to be governed by and construed in accordance with the laws of the State where the Premises are situate.

11. CAPTIONS AND HEADINGS. The captions and headings of the various sections of this Agreement are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

12. NOTICES. Any notice which any party hereto may desire or may be required to give to any other party shall be in writing and the mailing thereof by certified mail, or equivalent, to the addresses as set forth above, or to such other places any party hereto may by notice in writing designate shall constitute service of notice hereunder.

13. This Agreement shall terminate upon release of the Mortgage.

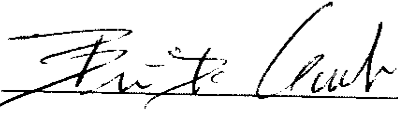
IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above written.

# UNOFFICIAL COPY

TENANT:

HEARTLAND AUTOMOTIVE SERVICES, II, INC.

Attest:


By: 

Its: VP & TREASURER


\_\_\_\_\_  
(Assistant) Secretary

BORROWER:

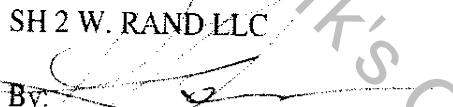
RH 2 W. RAND LLC

By:   
Rick Hansen, its sole member


RHSR 2 W. RAND LLC

By:   
Ronald Hansen, as Trustee of the Ronald Hansen Revocable Trust dated October 18, 1989, its sole member

SH 2 W. RAND LLC

By:   
Shirley Hansen, as Trustee of the Shirley Hansen Revocable Trust dated October 18, 1989, its sole member

LN 2 W. RAND LLC

By:   
Lawrence Nelson, its sole member

# UNOFFICIAL COPY

LENDER:

RAVENSWOOD BANK, an Illinois banking corporation

Attest:

Michael Olszewski  
Sr. Vice President

By: Elin W. Aull

Its: President

Property of Cook County Clerk's Office

**UNOFFICIAL COPY**

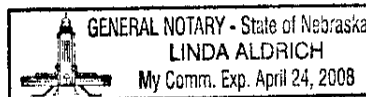
STATE OF Nebraska  
) SS.  
COUNTY OF Douglas

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Brian D. Crawford the VP & Treasurer and \_\_\_\_\_, respectively, of HEARTLAND AUTOMOTIVE SERVICES II, INC., a Delaware corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me in person and acknowledged that they signed, sealed 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.

Given under my hand and notarial seal this 16<sup>th</sup> day of December, 2006.

Linda Aldrich  
Notary Public

My Commission Expires: 4-24-08



Property of Cook County Clerk's Office

# UNOFFICIAL COPY

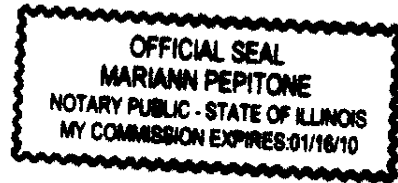
STATE OF ILLINOIS     )  
  ) SS.  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Rick Hansen, personally known to me as the sole member of RH 2 W. RAND LLC, an Illinois limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as such sole member of said limited liability company, pursuant to authority, given by the member of said limited liability company, as his own and free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 21<sup>st</sup> day of FEBRUARY, 2006-2007

Mariann Pepitone  
Notary Public

My Commission Expires: 1-16-10



# UNOFFICIAL COPY

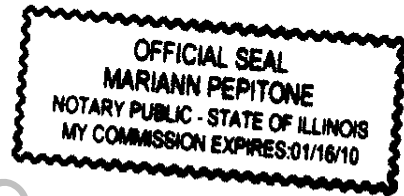
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Ronald Hansen, as Trustee of the Ronald Hansen Revocable Trust Dated October 18, 1989, personally known to me as the sole member of RHSR 2 W. RAND LLC, an Illinois limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as such sole member of said limited liability company, pursuant to authority, given by the member of said limited liability company, as his own and free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 21<sup>st</sup> day of FEBRUARY, 2007.

Mariann Pepitone  
Notary Public

My Commission Expires: 1-16-10



78



# UNOFFICIAL COPY

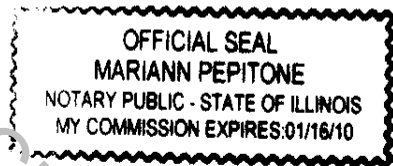
STATE OF ILLINOIS)  
) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Shirley Hansen, as Trustee of the Shirley Hansen Revocable Trust Dated October 18, 1989, personally known to me as the sole member of SH 2 W. RAND LLC, an Illinois limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed, sealed and delivered the said instrument as such sole member of said limited liability company, pursuant to authority, given by the member of said limited liability company, as her own and free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 21<sup>st</sup> day of FEBRUARY, ~~2006~~ 2007

Mariann Pepitone  
Notary Public

My Commission Expires: 1-16-10



# UNOFFICIAL COPY

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 Lawrence Nelson, personally known to me as the sole member of LN 2 W. RAND LLC, an Illinois limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as such sole member of said limited liability company, pursuant to authority, given by the member of said limited liability company, as his own and free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 21<sup>st</sup> day of FEBRUARY, 2007.

Marcus A. Peterson  
Notary Public

My Commission Expires: 1-16

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

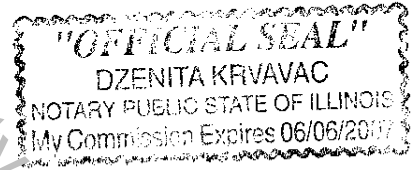
STATE OF ILLINOIS       )  
  )  
  )       SS  
COUNTY OF COOK        )

I, DZENITA KRIVAVAC, a Notary Public in and for said County in the State aforesaid, do hereby certify that ERIC W. HUBBARD, of RAVENSWOOD BANK, an Illinois banking association, and MICHAEL ORDEMSKI of said bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such PRESIDENT and SR. VICE PRESIDENT respectively, 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 banking association, for the uses and purposes therein set forth; and the said \_\_\_\_\_ did also then and there acknowledge that (s)he, as custodian for the corporate seal of said banking association did affix the said instrument as his/her own free and voluntary act, and as the free and voluntary act of said banking association, for the uses and purposes set forth.

Given under my hand and notarial seal this 27<sup>TH</sup> day of FEBRUARY, 2008.

[Signature]  
\_\_\_\_\_  
Notary Public

My Commission Expires: 06.06.2007



TS u

**UNOFFICIAL COPY**EXHIBIT "A"

## PARCEL 1:

LOT 2 IN MC DONALD'S RAND-ELMHURST SUBDIVISION, BEING A PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

## PARCEL 2:

EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1 AS CREATED

BY GRANT FROM MC DONALD'S CORPORATION, A CORPORATION OF DELAWARE, TO JIFFY LUBE OF ILLINOIS, INC., A CORPORATION OF ILLINOIS, DATED JUNE 11, 1986 AND RECORDED JULY 18, 1986 AS DOCUMENT NO. 86303141 OVER AND UPON THE FOLLOWING

DESCRIBED LAND:

THAT PART OF LOT 1 IN MC DONALD'S RAND-ELMHURST SUBDIVISION, BEING A PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 42 NORTH, RANGE 11 EPM, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 24, 1985 AS DOCUMENT 27523812, DESCRIBED AS FOLLOWS: BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 1; THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF SAID LOT 1, A DISTANCE OF 43.37 FEET; THENCE NORTHWESTERLY PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT 1, A DISTANCE OF 43.37 FEET TO A JOINT ON THE SOUTHWESTERLY LINE OF SAID LOT 1; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY LOT LINE, A DISTANCE OF 16.26 FEET TO THE POINT OF BEGINNING

## PARCEL 3:

EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1 AS CREATED

BY GRANT FROM MC DONALD'S CORPORATION, A CORPORATION OF DELAWARE, TO JIFFY LUBE OF ILLINOIS, INC., A CORPORATION OF ILLINOIS, DATED JUNE 11, 1986 AND RECORDED JULY 18, 1986 AS DOCUMENT NO. 86303142 OVER AND UPON THE FOLLOWING DESCRIBED LAND:

THAT PART OF LOT 1 IN MC DONALD'S RAND-ELMHURST SUBDIVISION, BEING A PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 42 NORTH, RANGE 11, EPM, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 24, 1985 AS DOCUMENT 27523812, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1, THENCE SOUTHWESTERLY ALONG THE SOUTHEASTERLY LINE OF SAID LOT 1, A DISTANCE OF 43.37 FEET; THENCE NORTHERLY PARALLEL WITH THE EASTERLY LINE OF SAID LOT 1, A DISTANCE OF 16.26 FEET; THENCE NORTHEASTERLY PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT 1, A DISTANCE OF 43.37 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 1; THENCE SOUTHERLY ALONG SAID EASTERLY LOT LINE, A DISTANCE OF 16.26 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS

PIN: 03-27-307-028

ADDRESS: 2 W. RAND ROAD, MT. PROSPECT, IL

7512