

# UNOFFICIAL COPY



Doc#: 1410416006 Fee: \$56.00  
RHSP Fee: \$9.00 RPRF Fee: \$1.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 04/14/2014 10:03 AM Pg: 1 of 10

When Recorded Return to:  
Title Source, Inc.  
Commercial Team  
662 Woodward Avenue  
Detroit, MI 48226  
TSI #: 58389406-AM

This instrument was prepared by Martin J. Lee, Greenberg Traurig, LLP, 77 West Wacker Drive, Suite 3100, Chicago, Illinois 60601

~~When recorded return to~~ Martin J. Lee, Greenberg Traurig, LLP, 77 West Wacker Drive, Suite 3100, Chicago, Illinois 60601

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

## 4 SUBORDINATION OF LEASE

THIS SUBORDINATION OF LEASE (this "Agreement") is made this 2<sup>nd</sup> day of April 2014, by and among THE CHICAGO TRUST COMPANY, N.A. (as successor to Republic Bank of Chicago), as trustee and not personally under the Trust Agreement dated January 30, 1998 and known as Trust Number 1397 ("Landlord"), MIDWAY DODGE, INCORPORATED II, an Illinois corporation ("Tenant"), and ALLY BANK (Ally Capital in Hawaii, Mississippi, Montana and New Jersey) ("Bank").

### RECITALS:

A. Tenant has entered that certain unrecorded lease dated December 15, 2012, as amended from time to time (the "Lease"), with Landlord, as lessor, covering the premises described in the Lease, including but not limited to, all or a portion of that certain premises located at 4747 South Pulaski Road, Chicago, Illinois 60632-4113, as more particularly described in Exhibit "A" attached hereto and made a part hereof by this reference (the "Property").

B. Bank has agreed to make a loan to Albert J. Weber, the beneficiary of the Landlord, and the Albert J. Weber Trust Number 92EH58 in an amount of \$1,500,000.00

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secured by a Mortgage and Assignment of Leases and Rents dated of even date herewith and to record concurrently herewith, encumbering the Property (together with any amendments, renewals, increases, modifications, substitutions or consolidations, collectively, the "Security Instrument").

C. Tenant and Bank desire to confirm their understanding with respect to the Lease and the Security Instrument, and to have Landlord confirm its agreement therewith.

NOW, THEREFORE, in consideration of the premises, the covenants, conditions, provisions, and agreements set forth herein and other good and valuable consideration, the receipt of which is hereby acknowledged, Bank, Tenant and Landlord mutually acknowledge, represent, and agree as follows:

(1) The Lease and any extensions, modifications or renewals thereof, including but not limited to any option to purchase or right of first refusal to purchase the Property or any portion thereof, if any, is and shall continue to be subject and subordinate in all respects to the Security Instrument and the lien created thereby. In the event of any inconsistency between the Lease and the Security Instrument, the Security Instrument controls.

(2) Tenant agrees that

(a) Upon notice to it by Bank, it will pay all rents thereafter becoming due under the Lease to Lender;

(b) It will not assert, as against any rents becoming due following notice by Lender to Tenant, any set-off, counterclaim or other claim or charge which Tenant may have against Landlord;

(c) It will observe and perform all of its obligations under the Lease following notice by Lender to Tenant, notwithstanding any prior default on the part of Landlord, provided that Lender shall remedy such default, or cause same to be remedied, within sixty (60) days after actual notice to Lender thereof (unless such default, if curable, requires work to be performed, acts to be done or conditions to be remedied which by their nature cannot be performed, done or remedied, as the case may be, within such 60-day period and Lender shall commence to cure such default within such 60-day period and shall thereafter diligently and continuously process the same to completion); and

(d) Unless Lender assumes in writing the obligations of Landlord under the Lease, Lender shall in no event be deemed liable as lessor under the Lease or subject to any obligations of Landlord thereunder.

(3) Landlord and Tenant hereby covenant and agree with Bank as follows:

(a) The Lease has been properly executed and delivered by Tenant, is valid and binding upon Tenant, has not been modified, and is in full force and effect;

(b) There exist no defaults under the Lease by Landlord or Tenant as of the date of this Agreement;

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(c) Tenant is in possession and has accepted the condition of the Premises, and no further work on the part of Landlord remains outstanding with respect thereto,

(d) Tenant has not paid any rent to Landlord more than one (1) month in advance, and there exist no rent concessions or abatements;

(e) Tenant has no defense, claim of lien, or offset under the Lease or against the rent payable thereunder;

(f) Tenant has no claims to or interest in the Premises, legal or equitable, or any contract, right of refusal, or option therefor, other than as a tenant under the Lease; and

(g) The Lease will not merge with the fee title to the Premises without Bank's prior written consent.

Tenant hereby covenants and agrees to notify Bank in writing promptly if and when any of the above assurances becomes untrue or incorrect.

(4) Tenant agrees that, without the prior written consent of Bank in each case, Tenant shall not (a) amend, modify, terminate or cancel the Lease or any extensions or renewals thereof, or tender a surrender of the Lease, (b) make a prepayment of any rent or additional rent more than one (1) month in advance of the due date thereof, or (c) subordinate or permit the subordination of the Lease to any lien subordinate to the Security Instrument. Any such purported action without such consent shall be void as against the holder of the Security Instrument.

(5) To the extent that the Lease shall entitle Tenant to notice of the existence of any Security Instrument and the identity of any mortgagee or any ground lessor, this Agreement shall constitute such notice to Tenant with respect to the Security Instrument and Bank.

**(6) EACH OF TENANT AND LANDLORD HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

(7) The provisions of the Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The words, "Bank", "Landlord" and "Tenant" shall include their respective heirs, legatees, executors, administrators, beneficiaries, successors and assigns.

(8) Any notices, communications and waivers under this Agreement shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To Bank:                   Ally Bank  
6985 Union Park Center, Suite 435  
Midvale, UT 84047  
Attention: Anthony Zimmer

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To Tenant: Midway Dodge, Incorporated II  
4747 South Pulaski Road  
Chicago, IL 60632  
Attention: Albert J. Weber

To Landlord: The Chicago Trust Company, N.A.  
222 South Riverside Plaza  
Chicago, IL 60606  
Attention: Debbie Derkacy

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this paragraph shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

(9) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, except to the extent that the applicability of any of such laws may now or hereafter be preempted by federal law, in which case such federal law shall so govern and be controlling.

(10) This Agreement contains the entire agreement among the parties concerning the subject matter hereof and no modifications shall be binding upon any party hereto unless set forth in a document duly executed by or on behalf of such party.

(11) This Agreement may be executed in multiple counterparts, all of which shall be deemed originals and with the same effect as if all parties had signed the same document. All of such counterparts shall be construed together and shall constitute one instrument.

[SIGNATURES PAGES FOLLOW]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

BANK:

ALLY BANK

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Assistant Secretary

TENANT:

MIDWAY DODGE, INCORPORATED II, an Illinois corporation

By: \_\_\_\_\_

Name: Albert J. Weber

Title: President



AGREED AND CONSENTED TO:

LANDLORD:

THE CHICAGO TRUST COMPANY, N.A.  
(as successor to Republic Bank of Chicago)  
as Trustee and not personally under Trust  
Agreement dated July 22, 1994 and known  
as Trust Number 1397 011301949

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



By: \_\_\_\_\_

Name: **KAREN M. FINN**

Title: **ASST. VICE PRESIDENT**

**This instrument is executed by the undersigned Land Trustee, not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that all the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee are undertaken by it solely in its capacity as Trustee and not personally. No personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument.**

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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

BANK:

ALLY BANK

By: Anthony C. Zimmer  
Name: Anthony C. Zimmer  
Title: Assistant Secretary

TENANT:

MIDWAY DODGE, INCORPORATED II, an Illinois corporation

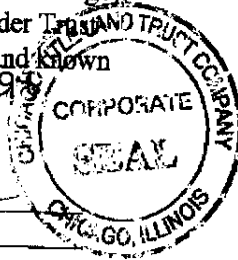
By: [Signature]  
Name: Albert J. Weber  
Title: President

AGREED AND CONSENTED TO:

LANDLORD:

THE CHICAGO TRUST COMPANY, N.A.  
(as successor to Republic Bank of Chicago),  
as Trustee and not personally under Trust Agreement dated July 22, 1994 and known as Trust Number 1397 01130198

CHICAGO TITLE LAND TRUST COMPANY  
AS SUCCESSOR TRUSTEE TO



By: [Signature]  
Name: KAREN M. FINN  
Title: ASST. VICE PRESIDENT

This instrument is executed by the undersigned Land Trustee, not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that all the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee are undertaken by it solely in its capacity as Trustee and not personally. No personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument.

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## NOTARY ACKNOWLEDGMENTS

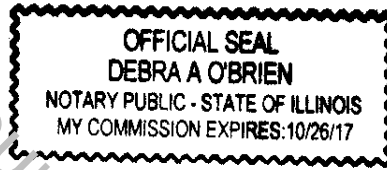
State of ILLINOIS                    )  
   ) SS  
 County of Cook                    )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Albert J. Weber, as President of Midway Dodge, Incorporated II, an Illinois corporation, personally known to me, whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act for the purposes therein set forth.

Given under my hand and official seal, this 2 day of April, 2014.

Debra A. O'Brien  
 Notary Public

Commission expires: 10-26-17



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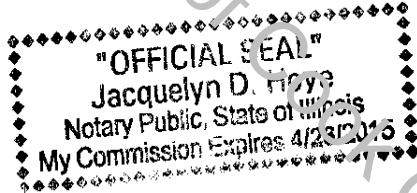
STATE OF ILLINOIS            )  
  )  
  )            SS:  
COUNTY OF COOK            )

I, Jacquelyn D. Hoye, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that KAREN M. FINN, personally known to be to be the ~~ASST. VICE PRESIDENT~~ of The Chicago Trust Company, N.A., and personally known 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 ~~ASST. VICE PRESIDENT~~ he/she signed and delivered the said instrument pursuant to authority of said KAREN M. FINN as his/her free and voluntary act, and as the free and voluntary act and deed of said KAREN M. FINN for the uses and purposes therein set forth.

WITNESS MY HAND and Notary seal this 10 day of April, 2014.

Jacquelyn D. Hoye  
Notary Public

My commission expires:



County Clerk's Office



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THE STATE OF UTAH                    )  
  )  
COUNTY OF SALT LAKE            )

This instrument was acknowledged before me this 3rd day of April, 2014, by Anthony C. Zimmer, as Assistant Secretary of Ally Bank, and acknowledged to me that he executed the same as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Signed the 3rd day of April, 2014.

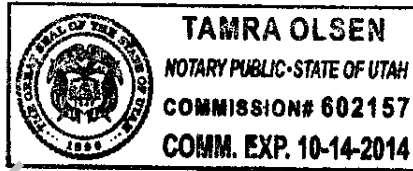
Tamra Olsen  
Notary Public, State of Utah

My Commission Expires:

10/14/14

My Commission Number:

602157



(SEAL)

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## EXHIBIT "A"

Tax Id Number(s): 19-11-100-015-0000, 19-11-100-016-0000, 19-11-100-017-0000

Land Situated in the City of Chicago in the County of Cook in the State of Illinois

Lots 15, 16, and 17 (except that part of the foregoing lots lying West of a line 50 feet East of and parallel with the West line of Section 11, herein after described) in Block 3 in Murdock, James and Company's Archer Addition, being a subdivision in the Northwest quarter of Section 11, Township 38 North, Range 13 East of the Third Principal Meridian, Cook County, Illinois.

Client Reference: 4747 South Pulaski Road, Chicago, Illinois 60632-4113

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