

# UNOFFICIAL COPY



Doc#: 1419210014 Fee: \$56.00  
RHSP Fee: \$9.00 RPRF Fee: \$1.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 07/11/2014 09:34 AM Pg: 1 of 10

When Recorded Return To:  
Title Source, Inc. - Commercial Team  
662 Woodward Avenue  
Detroit, MI 48226  
TSI #: 58W55404TE

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~~

## SUBORDINATION OF LEASE

THIS SUBORDINATION OF LEASE (this "Agreement") is made this 26<sup>th</sup> day of June, 2014, by and among BAUER PROPERTY INVESTMENTS, LLC, an Illinois limited liability company ("Landlord"), ARNIE BAUER INC., 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 made effective as of June 25, 2014, 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 land and building located at 5525 Miller Circle Drive, Matteson, Illinois 60443-1482 (the "Property"), as more particularly described in Exhibit "A" attached hereto and made a part hereof by this reference.

B. Bank has agreed to make a loan to Landlord and Tenant in the amount of up to \$4,800,000.00 (the "Loan"), secured by a Mortgage and Assignment of Leases and Rents from Landlord dated of even date herewith and to record concurrently herewith, encumbering the

SU  
R 10  
S N  
M N  
SC 4  
E 4  
INT 17

# UNOFFICIAL COPY

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) 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.

**UNOFFICIAL COPY**

(4) 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.

(5) **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.**

(6) 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.

(7) 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

To Tenant: Arnie Bauer Inc.  
5525 Miller Circle Drive  
Matteson, IL 60443  
Attention: Dennis K. Bauer

To Landlord: Bauer Property Investments, LLC  
5525 Miller Circle Drive  
Matteson, IL 60443  
Attention: Darrin D. Bauer

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.

(8) 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.

(9) 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.

# UNOFFICIAL COPY

(10) 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]*

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

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:

ARNIE BAUER INC., an Illinois corporation

By: \_\_\_\_\_  
Name: Dennis K. Bauer  
Title: President

AGREED AND CONSENTED TO:

LANDLORD:

BAUER PROPERTY INVESTMENTS, LLC,  
an Illinois limited liability company

By: \_\_\_\_\_  
Name: Darrin D. Bauer  
Title: Manager

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

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:

ARNIE BAUER INC., an Illinois corporation

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

Name: Dennis K. Bauer

Title: President

AGREED AND CONSENTED TO:

LANDLORD:

BAUER PROPERTY INVESTMENTS, LLC,  
an Illinois limited liability company

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

Name: Darrin D. Bauer

Title: Manager

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## NOTARY ACKNOWLEDGMENTS

STATE OF ILLINOIS            )  
  )  
COUNTY OF Kankakee        )        SS:

I, Marianne Charleston, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Dennis K. Bauer, personally known to be to be the President of Arnie Bauer Inc., an Illinois corporation, 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 President he signed and delivered the said instrument pursuant to authority of said President as his free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

WITNESS MY HAND and Notary seal this 20 day of June, 2014.

Marianne Charleston  
Notary Public



My commission expires:

8-1-2017

County Clerk's Office

# UNOFFICIAL COPY

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

I, KATHRYN C LAMBRIGGER, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Darrin D. Bauer, personally known to be to be the Manager of Bauer Property Investments, LLC, an Illinois limited liability company, 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 Manager he signed and delivered the said instrument pursuant to authority of said Manager as his free and voluntary act, and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

WITNESS MY HAND and Notary seal this 26 day of June, 2014.

Kathryn C Lambigger  
Notary Public



My commission expires:

10/18/17

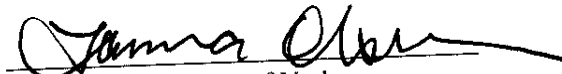


# UNOFFICIAL COPY

THE STATE OF UTAH )  
 )  
COUNTY OF SALT LAKE )

This instrument was acknowledged before me this 2<sup>nd</sup> day of June, 2014, by Anthony C. Zimmer, as Assistant Secretary of Ally Bank, a Utah corporation, 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 2<sup>nd</sup> day of June, 2014.

  
Notary Public, State of Utah

My Commission Expires:

10/14/14

My Commission Number:

602157

(SEAL)



# UNOFFICIAL COPY

## EXHIBIT "A"

Tax Id Number(s): 31-21-302-002-0000

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

Lot 3 in Matteson Auto Mall Unit 1, being a subdivision of the Southwest 1/4 of Section 21, Township 35 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Client Reference: 5525 Miller Circle Drive, Matteson, Illinois 60443-1482

Property of Cook County Clerk's Office