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Doc#: 2221421078 Fee: \$98.00

Karen A. Yarbrough

Cook County Clerk

Date: 08/02/2022 08:28 AM Pg: 1 of 11

Mail to:

Freedom Title Corporation

2000 Center Drive

Suite C205

Rolling Meadows, IL 60008

Prepared By:

Bennett L. Cohen

Cohen, Salk & Hoffman, P.C.

630 Dundee Rd., Suite 120

Northbrook, IL 60062

FRG 72-0016-1

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

PIN: 08-16-200-112-0000

PIN: 08-16-200-113-0000

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Freedom Title Corporation
2000 W ATT Center Dr., Ste C205
Hoffman Estates, IL 60192

FR6720016

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

STATE OF ILLINOIS

COUNTY OF COOK

THIS AGREEMENT made and entered into this 27 day of July, 2022, by and among DP Arlington, LLC, whose address is: 2118 Plum Grove Rd Unit #265, Rolling Meadows, Illinois 60008 ("Landlord"), FIFTH THIRD BANK, NATIONAL ASSOCIATION, whose address is: 6401 N. Lincoln Ave., Lincolnwood, Illinois 60712 ("Lender"), and O'Reilly Auto Enterprises, LLC, whose address is: 233 S. Patterson, Springfield, MO 65802 ("Tenant");

WITNESSETH:

A. Tenant entered into Lease Agreement dated October 28, 1996 [as amended by First Amendment to Lease Agreement dated May 23, 2011 and as amended by Second Amendment To Lease Agreement dated December 14, 2012, and Lease Assignment dated January 1, 2014] (the "Lease") with Landlord for premises located at 75 W. Golf Road, in the City of Arlington Heights, County of Cook, State of Illinois, demised to Tenant (the "Demised Premises") as shown on the site plan attached as Exhibit B to the Lease which is incorporated herein by reference, which Demised Premises are part of the property described in Exhibit A attached hereto.

B. Lender intends to make a loan to Landlord to be secured by a mortgage or deed of trust (the "Mortgage") on the demised premises.

C. Tenant and Lender desire to confirm their agreement with respect to the Lease and the Mortgage.

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth below and other good and valuable consideration, the parties hereto agree as follows:

1. The Lease is and shall be subordinate to the lien of the Mortgage and to all renewals, modifications and extensions thereof subject to the terms of this Agreement.
2. So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, the nonperformance of which would entitle Landlord to terminate the Lease, (i) Tenant's possession of the demised premises and Tenant's rights and privileges under the Lease, and any extensions or renewals thereof or acquisition of additional space which may be effected in accordance with any option therefore in the Lease, shall not be diminished or interfered with by Lender in the exercise of any of its rights under the Mortgage, (ii) Tenant's occupancy of the demised premises shall not be disturbed by Lender in the exercise of any of its rights under the Mortgage during the term of the Lease or any such extensions or renewals thereof, and (iii) Lender will not join Tenant as a party defendant in any action or

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proceeding for the purpose of terminating Tenant's interest and estate under the Lease because of any default under the Mortgage.

3. If the interest of Landlord shall be acquired by Lender or by anyone claiming an interest in the Demised Premises by or through Lender including any purchaser at a foreclosure sale ("Successor Landlord") by reason of foreclosure of the Mortgage or other proceedings brought to enforce the rights of Lender or by deed in lieu of foreclosure, then Tenant and Lender or such Successor Landlord shall be bound to each other under all of the terms of the Lease for the balance of the term thereof remaining including any extensions or renewals thereof elected by Tenant, with the same force and effect as if Lender or such Successor Landlord were the Landlord under the Lease and Tenant hereby attorns to Lender or such Successor Landlord as the Landlord under the Lease, such attornment to be automatically effective without the execution of any further instrument. Notwithstanding the foregoing, Tenant shall be under no obligation to pay rent to Lender or to such Successor Landlord until Tenant has received written notice from Lender or such Successor Landlord that it has acquired the interest of the Landlord in the Demised Premises, which notice shall be accompanied by reasonable documentation evidencing such acquisition. The respective rights and obligations of Tenant and Lender or such Successor Landlord upon such attornment shall be as set forth in the Lease, including Tenant's right to such rent credits, if any, for leasehold improvements as are described in the Lease, it being the intention of the parties 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.

4. Landlord hereby agrees that if Lender notifies Tenant that Lender is entitled to receive the rent and/or any other payments including reimbursements, if any, due under the Lease pursuant to an Assignment of Rents or any other instrument or agreement signed by Landlord, then Tenant will be entitled to comply with said instrument upon being furnished a copy of it by Landlord or Lender, and Tenant may rely on any assertion by Lender that Lender is entitled to receive the rents (and if applicable, other payments due under the Lease), whether due to Landlord's default under the Mortgage, or otherwise, and Tenant will have no obligation to make any independent determination as to whether the assertions of Lender are true. Any rent or other sums paid by Tenant to Lender upon Lender's demand shall be deemed to be payments to Landlord pursuant to the Lease.

5. This Agreement will automatically expire upon the occurrence of either of the following: (i) the term of the Lease will expire or the Lease shall be terminated, or (ii) the loan secured by the Mortgage will be paid in full by the Landlord such that neither Lender nor anyone claiming by or through Lender has an interest in the Demised Premises and the Mortgage will be released of record.

6. This Agreement may not be cancelled or modified except by an agreement in writing signed by Lender and Tenant or their respective successors. **This Agreement is contingent upon full execution by all parties, with a fully executed copy returned to Tenant within thirty (30) days of the date hereinabove written.** In the event a fully executed copy has not been returned to Tenant within said period, Tenant's execution hereon shall be considered revoked and this Agreement shall be null and void and of no further force or effect as to Tenant.

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7. This Agreement and the rights and obligations hereunder of the Landlord, Tenant, and Lender will bind and inure to the benefit of their respective heirs, successors and assigns.

8. Tenant agrees it will not modify or alter the Lease without the Lender's prior written consent, which will not be unreasonably withheld or delayed.

9. From and after the date hereof, in the event of a default by Landlord under the Lease which would give Tenant the right, either immediately or after the lapse of time, the giving of notice, or both, to terminate the Lease or to claim a partial or total eviction, Tenant will not exercise any such right (i) until it has given written notice of such act or omission to the Lender; and (ii) until Tenant has given Lender a period of thirty (30) days after the expiration of Landlord's applicable cure period to cure such default, or such longer period of time as may be necessary to cure or remedy such default, during which period of time Lender shall be permitted to cure or remedy such default; provided, however, that Lender shall have no duty or obligation to cure or remedy any default. It is specifically agreed that Tenant shall not, as to Lender, require cure of any such default which is personal.

10. This Agreement may be executed in counterparts, all of which together shall constitute one and the same Agreement.

Balance of Page Intentionally Left Blank; Signature Page follows

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly signed and sealed.

LANDLORD:



DP Arlington, LLC

By:



Name:

Keun Ho Park

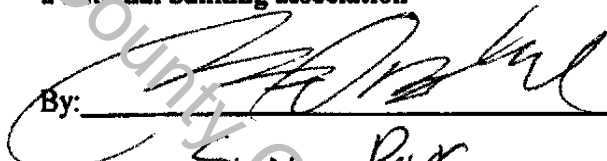
Title:

Owner

LENDER:

Fifth Third Bank, National Association,
a national banking association

By:



Name:

Sing Park

Title:

Sr. Vice President

TENANT:

O'Reilly Auto Enterprises, LLC

By:



Name:

John McCoy

Title:

Director of Property Mgmt

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly signed and sealed.

LANDLORD:

DP Arlington, LLC

By: _____

Name: _____

Title: _____

LENDER:

**Fifth Third Bank, National Association,
a national banking association**

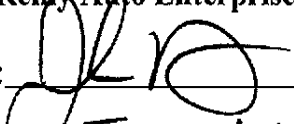
By: _____

Name: _____

Title: _____

TENANT:

O'Reilly Auto Enterprises, LLC

By:  _____

Name: John McCoy

Title: Director of Property Mgmt

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly signed and sealed.

LANDLORD:



DP Arlington, LLC

By: _____



Name: _____

Ken Ho Park

Title: _____

Owner

LENDER:

Fifth Third Bank, National Association,
a national banking association

By: _____

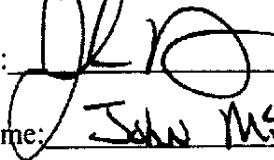
Name: _____

Title: _____

TENANT:

O'Reilly Auto Enterprises, LLC

By: _____



Name: _____

John McCoy

Title: _____

Director of Property Mgmt

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STATE OF MISSOURI)
) SS.
COUNTY OF PULASKI)

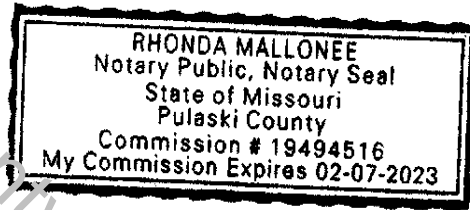
I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that John McCoy, the Director of Pm of O'Reilly Auto Enterprises, LLC, a Delaware limited liability corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that (s)he signed, sealed and delivered the said instrument as his/her 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 20 day of June, 2022.

Rhonda Mallonee

Notary Public

My Commission Expires: 2-7-2023



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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

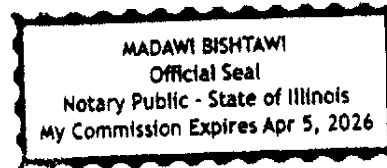
I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that, Keun Ho Park, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his own 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 26th day of July, 2022.



Notary Public

My Commission Expires: 04/05/2026



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 _____, a _____ of **Fifth Third Bank, National Association**, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said bank, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, 2022.

Notary Public

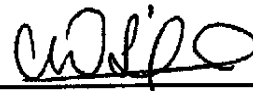
My Commission Expires: _____

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that, Keun Ho Park, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his own 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 26th day of July, 2022.



Notary Public

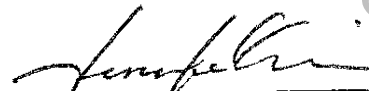
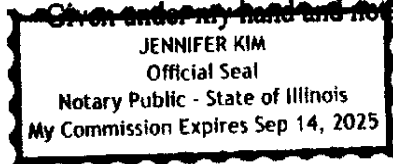
My Commission Expires: 04/05/2026



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 Sung Park, a Senior Vice President of Fifth Third Bank, National Association, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said bank, for the uses and purposes therein set forth.

~~Given under my hand and notarial seal this~~ 27th day of July, 2022.



Notary Public

My Commission Expires: 9/14/2025

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EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE

LOTS 2 AND 3 IN SHINER'S SUBDIVISION, BEING A RESUBDIVISION OF PART OF LOTS 5 AND 6 IN THE SUBDIVISION OF JOSEPH A. BARNES FARM IN SECTIONS 9, 15 AND 16, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING THEREFROM THAT PART OF LOT 3 FALLING IN THE FOLLOWING DESCRIBED PROPERTY:

THAT PART OF LOTS 1 AND 3 IN SHINER'S SUBDIVISION, BEING A SUBDIVISION OF LOTS 5 AND 6 IN THE SUBDIVISION OF JOSEPH A. BARNES' FARM IN SECTIONS 9, 15 AND 16, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE ON AN ASSUMED BEARING OF NORTH 89 DEGREES 44 MINUTES 21 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 3 FOR A DISTANCE OF 101.79 FEET (101.75 FEET, RECORD) TO THE NORTHEAST CORNER OF LOT 3; THENCE SOUTH 3 DEGREES 25 MINUTES 59 SECONDS WEST, 14.95 FEET; THENCE SOUTH 89 DEGREES 44 MINUTES 21 SECONDS WEST, 100.83 FEET TO A POINT ON THE EAST LINE OF LOT 1; THENCE NORTH 36 DEGREES 20 MINUTES 21 SECONDS WEST, 145.06 FEET; THENCE SOUTH 89 DEGREES 44 MINUTES 21 SECONDS WEST, 230.00 FEET; THENCE NORTH 87 DEGREES 30 MINUTES 31 SECONDS WEST, 104.13 FEET TO A POINT ON THE NORTH LINE OF LOT 3; THENCE NORTH 89 DEGREES 44 MINUTES 21 SECONDS EAST ALONG THE NORTH LINE OF LOT 3 FOR A DISTANCE OF 478.73 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 08-16-200-112-0000 (Lot 2)

Commonly known as 1910 South Arlington Heights Road, Arlington Heights, IL 60005

PIN: 08-16-200-113-0000 (Lot 3)

Commonly known as 15 West Golf Road, Arlington Heights, IL 60005
(full address of Lot 3: 15-89 W. Golf Road, Arlington Heights, IL 60005)