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Cook County Recorder 35.00



THIS INSTRUMENT PREPARED BY:
Bruce A. Salk
Cohen, Salk & Huvad, P.C.
630 Dundee Road, Suite 120
Northbrook, Illinois 60062

AND AFTER RECORDING MAIL TO:
St. Paul Federal
4350 West Lincoln Highway
Matteson, Illinois 60443
Attn: David Rock

SUBORDINATION AGREEMENT

Property Address:: 21315 Central Avenue, Matteson, Illinois

Permanent Index Number: 31-21-300-008-0000

THIS AGREEMENT, is executed as of October 7, 1999, among MILLER CONSOLIDATED, INC., a Illinois corporation ("Junior Mortgagee") and OLYMPIA FIELDS FORD SALES, INC., a Delaware corporation ("Mortgagor"), for the benefit of ST. PAUL FEDERAL, a Division of Charter One Bank, F.S.B. ("Senior Mortgagee").

WITNESSETH:

A. Junior Mortgagee is the holder of a Second Mortgage Trust Deed dated October 7, 1999 ("Junior Lien") executed by Mortgagor as security for a Second Mortgage Note in the amount of \$2,117,500.00 of even date therewith executed by the Mortgagor and payable to the order of Junior Mortgagee.

B. The Junior Lien is to become an encumbrance against the real property located in Cook County, Illinois, as more fully described on Exhibit A attached hereto and made a part hereof for all purposes, together with the buildings and improvements located thereon (the "Mortgaged Property").

C. The Junior Lien is subject and inferior to a Mortgage and Security Agreement covering the Mortgaged Property executed by Mortgagor dated October 7, 1999 and recorded as Document No. **99962522** in the Office of the Recorder of Deeds of Cook County, Illinois (the "Senior Mortgage"), as security for a mortgage note, evidencing a loan in the aggregate principal amount of \$4,900,000.00 executed by ST. PAUL TRUST COMPANY, as Trustee under Trust Agreement dated October 1, 1999, and known as Trust No. 74-2774 ("Borrower") to Senior Mortgagee (the "Senior Note"). The Senior Mortgage, together with any and all instruments and documents executed in connection therewith, including but not limited to an Assignment of Rents and of Lessor's Interest in Leases, Construction Loan Agreement and Financing Statement are herein referred to collectively as the "First Loan Documents".

BOX 333

D. As a condition to Senior Mortgagee's approval of the placement of the Junior Lien on the Mortgaged Property, Senior Mortgagee has required that Junior Mortgagee and Mortgagor execute this Agreement to confirm the priority of the First Loan Documents and to confirm certain other agreements of the parties.

NOW THEREFORE, in consideration of Senior Mortgagee's approval of the placement of the Junior Lien on the Mortgaged Property, Junior Mortgagee and Mortgagor do hereby covenant and agree with Senior Mortgagee as follows:

1. The Junior Lien and any and all of the terms, modifications, amendments, renewals, additions, consolidations and extensions of the foregoing Junior Lien shall be subject and subordinate to all liens and security interests created under the First Loan Documents for all sums which may be advances, payable (including, without limitation, fixed, additional and contingent interest and prepayment premiums of all kinds) or secured thereunder (including without limitation, sums advanced to protect, perfect, preserve or defend such liens or security interests), without notice to the holder of the Junior Lien and to any and all modifications, amendments, renewals, additions, consolidations, extensions and replacements of any of the First Loan Documents. It shall not be necessary for the Senior Mortgagee in order to enforce its rights hereunder or under the Senior Note or Senior Mortgage or any other agreement between the Mortgagor and the Senior Mortgagee, to institute suit or exhaust its remedies against any person obligated to pay the loan evidenced by the Senior Note. If the lien of the Senior Mortgage shall be set aside as a voidable preference by a court of competent jurisdiction, the effect of which would, because of the priorities established by this Agreement, entitle any other person not a party to this Agreement (including a trustee in bankruptcy) to a priority over the lien of the Junior Lien (provided the lien of the Junior Lien is held to be enforceable and perfected), the priorities established pursuant to this Agreement shall, but only to such extent, be null and void and priority shall be determined under the Illinois Mortgage Foreclosure Law. This Agreement constitutes a continuing subordination until the Senior Note [and any expenses and disbursements incurred by Senior Mortgagee pursuant to the Senior Mortgage] shall have been repaid in full.

2. Notwithstanding anything to the contrary contained in the Junior Lien:

(a) If any action or proceeding shall be brought to foreclose the Junior Lien, no tenant of any portion of the Mortgaged Property, no manager of the Mortgaged Property will be named as a party, defendant in any such foreclosure action or proceeding, nor will any other action be taken with respect to any tenant of any portion of the Mortgaged Property, or with respect to any such manager, the effect of which would be to terminate or create any lease of any portion of the Mortgaged Property, or any such management agreement, without the consent of the holder of the outstanding First Loan Documents.

(b) If any action or proceeding shall be brought to foreclose the Junior Lien, no portion of the rents, issues and profits of the Mortgaged Property shall be collected except through a receiver appointed by the Court in which such foreclosure action or proceeding is brought, after due notice of the application for the appointment of such receiver shall have been given to the holder of the outstanding First Loan Documents, and if the First Loan Documents are also being foreclosed, then by a receiver chosen by the holder of the First Loan Documents; and that the rents, issues and profits so collected by such receiver shall be applied first to the payment of maintenance and operating charges and disbursements incurred in connection with the operation and maintenance of the Mortgaged Property, and then to the payment of the indebtedness due and owing on, or to become due and owing on, the First Loan Documents; and, if during the pendency of any such foreclosure action or proceeding, an action or proceeding shall be brought by the holder of the First Loan

Documents for the foreclosure of such First Loan Documents and an application is made for an extension of such receivership for the benefit of the holder of such receivers on the date of such application shall be applied by the receiver solely for the benefit of the holder of such First Loan Documents and the holder of the Junior Lien shall not be entitled to any portion thereof.

(c) If a notice of default or any action or proceeding shall be brought to foreclose the Junior Lien, due notice of such notice of default or of the commencement of such action or proceeding will be given to the holder of the outstanding First Loan Documents and true copies of all such notices and all papers served or entered in any such action or proceeding will be served upon the holder of such First Loan Documents.

(d) In the event the holder of the First Loan Documents shall release, for the purposes of restoration of all or any part of the Mortgaged Property, its right, title and interest in and to the proceeds under policies of insurance thereon, and/or in and to any awards, or in and to other compensation made for any damages, losses or compensation for other rights by reason of a taking in eminent domain, the holder of the Junior Lien shall likewise for such purpose release all of its rights, title and interest, if any, in and to such insurance proceeds or awards.

(e) Any assignment of rents or leases contained in the Junior Lien, or in any collateral assignment thereof if separate therefrom, shall be in all respects subject and subordinate to the First Loan Documents and any collateral assignment of such rents or leases if separate therefrom.

(f) The holder of the Junior Lien shall not acquire, by subrogation or otherwise, any lien, estate, right or other interest in the Mortgaged Property which is or may be prior in right or pari passu to the First Loan Documents, including without limitation, advances for real estate taxes and assessments or advances to cure any default under the First Loan Documents.

(g) If there is proposed any amendment, modifications, consolidation, extension or alteration of the Junior Lien or the terms of the Junior Lien, then, prior to making any such amendment, modification, consolidation, extension or modification, Mortgagor and Junior Mortgagee shall first obtain the consent of the holder of the First Loan Documents and further shall be required to (i) have any guarantor of a First Loan Document consent to same and (ii) provide evidence satisfactory to the holder of the First Loan Document that foreclosure of the Junior Lien will not terminate or constitute a default under any lease or management agreement.

(h) All provisions of the Junior Lien relating to the rights of the holder of the Junior Lien to receive insurance proceeds and condemnation awards or to have such insurance proceeds and condemnation awards assigned to such holder, or to determine the application or use of such insurance proceeds and condemnation awards (whether to restoration, costs or as and to the extent provided in the First Loan Documents, the sums secured by such First Loan Documents) shall have no force or effect until satisfaction and discharge of all obligations under the First Loan Documents and release of the security interests set forth therein.

(i) The indebtedness secured by the Junior Lien shall be limited to the sum of the following:

i. the principal amount of the Note in the amount of \$2,117,500.00 plus certain accrued but unpaid interest.

ii. advances to protect, perfect, preserve or defend the Junior Lien, as provided in the Junior Lien.

No other indebtedness of Mortgagor and no other further advances, if made, shall be secured by the lien of the Junior Lien.

(j) In no event shall be the provisions of the Junior Lien prohibit or restrict Mortgagor from executing, acknowledging and delivering all and every such further acts, deeds, conveyances and instruments that Mortgagor is obligated to deliver under the First Loan Documents.

(k) The holder of the Junior Lien shall send true copies of all default or acceleration notices, or of notices of the commencement of any action or proceeding under the Junior Lien, and of all papers served or entered in any such action or proceeding, to the holder of the First Loan Documents in the manner for notices specified in the later agreements regarding demand letters executed herewith, contemporaneously with sending or serving the same to or on Mortgagor, or entering the same in such action or proceeding.

(l) If a default shall occur beyond applicable grace periods under the Junior Lien, the holder of the Junior Lien shall not accelerate the debt secured by the Junior Lien without notifying the holder of the First Loan Documents of such fact and giving the latter at least ten (10) days to cure the specified default (and shall accept any cure of the default tendered by or on behalf of the holder of such First Loan Documents).

(m) Within twenty (20) days after request from the holder of the First Loan Documents, the holder of the Junior Lien shall execute and deliver to the former an estoppel certificate stating (i) the outstanding principal balance of the Junior Lien and any accrued but unpaid interest thereon, (ii) the date to which interest and principal has been paid, (iii) that the Junior Lien and Note thereby secured have not been modified or amended, and (iv) whether a notice of default has been sent under the Junior Lien, as the case may be, or the Note thereby secured, which default remains uncured.

(n) In no event shall the provisions of the Junior Lien prohibit or restrict Mortgagor from executing, acknowledging and delivering any lease of the Mortgaged Property.

(o) To further evidence the subordinations referred to in (a) through (n) above, Junior Mortgagee agrees that, within twenty (20) days after request by the holder of the First Loan Documents (which requests may be made from time to time, including, such times as future advances may be made to the Mortgagor by Senior Mortgagee) it will do, execute, acknowledge and deliver any and all such further acts, deeds, conveyances and instruments, or reaffirmations of this subordination, as the holder of such First Loan Documents may reasonably request for the better assuring and evidencing of the foregoing subordinations.

3. If a default shall occur beyond applicable grace periods under the Junior Lien, it shall be an event of default of the First Loan Documents.

4. Mortgagor agrees to pay Senior Mortgagee all of its costs in connection with this Subordination, including but not limited to Senior Mortgagee's attorneys' fees incurred to draft this Subordination and advise Senior Mortgagee.

5. All of the foregoing subordination provisions and other agreements in this Subordination are for the express benefit of Senior Mortgagee and any future holder of the First Loan Documents.

6. In the event of any conflict between the provisions of this Subordination and any other provisions of the Junior Lien, the provisions of this Subordination shall take priority and shall control and apply.

7. No waiver by the Senior Mortgagee of any right hereunder or under the Senior Note or the Senior Mortgage or any other agreement between the Mortgagor and the Senior Mortgagee shall affect or impair any of the other rights of the Senior Mortgagee hereunder. A waiver by the Senior Mortgagee of any right hereunder shall be limited to the specific right and specific instance and shall not waive such right to the Senior Mortgagee with respect to another or a different occurrence of the event or another event in respect of which the waiver was given.

8. Any notice required or desired to be given hereunder shall be delivered personally, or by United States mail (registered or certified, postage prepaid, with return receipt requested), or by delivery service. Notices to the Mortgagor shall be addressed as follows:

Notices to the Senior Mortgagee shall be addressed as follows:

St. Paul Federal, a Division of Charter One Bank, F.S.B.
4350 West Lincoln Highway
Matteson, Illinois 60443
Attn: David Rock

Notices to the Junior Mortgagee shall be addressed as follows:

Miller Consolidated, Inc.
5355 Miller Circle Drive
Matteson, Illinois 60443

A notice delivered by United States mail is given on the date placed in the United States mail for delivery.

9. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Illinois. The invalidity or unenforceability of any provision hereof shall not affect, modify, or impair the validity and enforceability of all other provisions hereof. This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their representatives, heirs, legatees, successors and assigns.

IN WITNESS WHEREOF, Junior Mortgagee and Mortgagor have caused this Agreement to be executed as of the day and year first above written.

MILLER CONSOLIDATED, INC., a ILLINOIS
corporation

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· FIELDS FORD SALES, 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 7th day of October, 1999.



Notary Public

My Commission Expires: 10/27/2000



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EXHIBIT A

99962525

LEGAL DESCRIPTION:

LOT 1 IN MATTESON AUTO MALL UNIT 3, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 21, TOWNSHIP 35 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED IN THE OFFICE OF RECORDER OF DEEDS, COOK COUNTY, ILLINOIS, ON MAY 26, 1999 AS DOCUMENT NUMBER 99508419

COMMONLY KNOWN AS: 21315 Central Avenue, Matteson, Illinois

P.I.N.: 31-21-300-008-0000