

Recording requested by and
when recorded mail to:

Comerica Bank
Mail Code: 7578
39200 W. Six Mile Road
Livonia, MI 48152

12548953
6/5/2017 1:29:00 PM \$21.00
Book - 10564 Pg - 5284-5289
Gary W. Ott
Recorder, Salt Lake County, UT
FOUNDERS TITLE
BY: eCASH, DEPUTY - EF 6 P.

16-011540-19

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT

(Site 19 – 10905 S. Auto Mall Drive, Sandy, Utah)

NOTICE: THIS SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT RESULTS IN YOUR LEASEHOLD INTEREST BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT ("Agreement"), dated as of June 1, 2017, between COMERICA BANK, a Texas banking association, as administrative agent ("Agent") for the Lenders (as defined below), as beneficiary (in such capacity, "Beneficiary"), MILLER FAMILY REAL ESTATE, L.L.C., a Utah limited liability company ("Owner") and LARRY H. MILLER CORPORATION – SOUTHTOWNE AUTOMALL dba Larry H. Miller Dodge, a Utah corporation ("Tenant"), is as follows:

Owner and Tenant have entered into that certain Lease Agreement dated November 1, 2016, together with any amendments, modifications, renewals or extensions thereof ("Lease") pursuant to which Owner leased to Tenant and Tenant leased from Owner the premises more particularly described in the Lease ("Premises") and located on the real property described in Exhibit "A" attached hereto (the "Secured Property"). Owner is obtaining financing for the Secured Property to be evidenced by promissory notes in the aggregate principal amount of Two Hundred Seventy-Nine Million and No/100 Dollars (\$279,000,000.00) (collectively the "Note") made by Owner in favor of the lenders thereunder (the "Lenders"), payment of which is secured by a Deed of Trust, Assignment of Rents and Leases, Security Agreement and Financing Statement ("Deed of Trust") encumbering the Secured Property.

In order to establish certain safeguards and priorities with respect to their respective rights in connection with the Premises, Beneficiary has requested that Owner obtain certain warranties and agreements from Tenant as hereinafter set forth. In consideration of the mutual benefits accruing to the parties hereto, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Subordination. The Lease is and at all times shall continue to be subject and subordinate to the Note and the lien of the Deed of Trust and to all advances made or to be made thereunder, and to any renewals, extensions, modifications or replacements thereof, unless Beneficiary has filed a notice subordinating the lien of its Deed of Trust to the Lease. Beneficiary specifically reserves the right to file such a notice at its sole election. Tenant shall not subordinate the Lease to any lien, claim, mortgage, deed of trust, or other encumbrance of any kind, except as provided in this paragraph or with the express written consent of Beneficiary, and any such other subordination shall be deemed a default under the Lease and this Agreement. Tenant agrees to execute and deliver to Beneficiary or to any party to whom Tenant hereby agrees to attorn, in form and substance satisfactory to such party, such other instrument as either shall request in order to effectuate the provisions of this Agreement.

2. Limitation on Liability. Nothing herein contained shall impose any obligation upon Beneficiary to perform any of the obligations of Owner under the Lease unless and until Beneficiary shall become an owner or mortgagee in possession of the Premises, and Beneficiary shall have no personal liability to Tenant beyond Beneficiary's interest in the Secured Property.

3. Attornment. In the event of a foreclosure or other acquisition of the Premises (including, without limitation, by deed in lieu of foreclosure), the Lease shall be recognized as a direct lease from the Beneficiary, the purchaser at the foreclosure sale, or any such subsequent owner (collectively referred to as "Purchaser"), except Purchaser shall not be (i) liable for any previous act or omission of Owner under the Lease; (ii) subject to any offset which shall theretofore have accrued to Tenant against Owner; (iii) subject to any obligation with respect to any security deposit under the Lease unless such security deposit has been physically delivered to Purchaser; or (iv)

bound by any previous modification or prepayment of rents or other sums due under the Lease greater than one month unless such modification or prepayment shall have been expressly approved in writing by Beneficiary, which approval shall not be unreasonably withheld.

4. Non-disturbance. So long as no default exists, nor any event has continued to exist for such period of time (after notice, if any, required by the Lease) as would entitle Owner under the Lease to terminate the Lease or would cause, without any further action of Owner, the termination of the Lease or would entitle Owner to dispossess Tenant thereunder, the Lease shall not be terminated nor shall Tenant's use, possession, or enjoyment of the Premises be interfered with, nor shall the leasehold estate granted by the Lease be affected in any foreclosure, or in any action or proceeding instituted under or in connection with the Deed of Trust.

5. Payment of Rent on Default. Tenant acknowledges and agrees that the Lease has been assigned to Beneficiary by Owner as security for its obligations under, and secured by, the Note and Deed of Trust. Tenant agrees that, upon receipt of notice from Beneficiary that a default exists under the Note or Deed of Trust, or any instrument or document collateral thereto, Tenant shall make all rental and other payments required pursuant to the Lease, as directed by written instruction from Beneficiary. Tenant may make payments to Beneficiary directly in the event of such a default, for which written notice has been delivered to Tenant, and thereby be properly credited with an offset and credit for such payments as against the rental payments then due under the Lease.

Owner acknowledges and agrees that Beneficiary shall be entitled to collect and receive rents pursuant to the Lease as provided herein and Tenant is authorized and hereby directed to make all such payments of rent to Beneficiary upon receipt of any notice of Owner's default under the Note or deed of trust securing the Note or any notice of sale related to the Secured Property provided that Tenant shall be under no duty or obligation to make further inquiry. Tenant shall continue to make all such payments of rent to Beneficiary unless and until Tenant is otherwise authorized and directed in writing by Beneficiary.

6. Tenant Estoppel. Tenant hereby certifies, as of the date hereof, to Owner and Beneficiary as follows:

a. A true and complete copy of the Lease has been previously delivered to Beneficiary and said Lease is the entire agreement between Owner and Tenant with respect to the Premises. Any prior lease agreements between Owner and Tenant, or any affiliate of Tenant, with respect to the Premises have been terminated.

b. The Lease is presently in full force and effect, with no uncured defaults by either party and with no acts or omissions having occurred which, but for the passing of time or giving of notice, would be a default under the Lease. Tenant hereby agrees that all payments to be made by Tenant under the Lease will be made in strict compliance with the terms of the Lease as written, and certifies to Beneficiary that there is no charge, lien or claim of offset against future rents or other sums due under the Lease.

c. The term of the Lease commenced on November 1, 2016 and expires on November 1, 2020. Tenant has an option to renew the term for three (3) additional consecutive periods of five (5) years each, pursuant to Section 2.b. of the Lease.

d. Tenant is in full and complete possession of the Premises, such possession having been accepted by Tenant. Tenant is paying minimum monthly rental in installments of \$96,350.00, which commenced to accrue on November 1, 2016, and which have been paid through the last day of the month prior to the date of this Agreement. Common operating expenses and any other payments required of Tenant under the Lease have been paid through the last day of the month prior to the date of this Agreement. No rent has been prepaid in excess of one (1) month. There are no existing defenses which Tenant has against the enforcement or validity of the Lease or any of the terms thereof, and Tenant has no claim against Owner that might be set off or credited against future accruing rents.

e. A security deposit in the amount of \$ 0.00 has been paid by Tenant and is being held by Owner.

f. All obligations and conditions under the Lease to be performed by Owner as of the date hereof have been satisfied, and all construction obligations of Owner have been completed and are satisfactory to Tenant.

g. Tenant has not received notice of any sale, transfer, assignment or pledge of the Lease or the rents payable thereunder to any person or entity other than Beneficiary.

h. Tenant agrees that so long as Beneficiary has an assignment of Owner's interest in the Lease, Tenant will not, without the prior written consent of Beneficiary, (a) modify, extend or in any manner alter the terms of the Lease; (b) pay the rent or any other sums becoming due under the terms of the Lease more than one

month in advance; or (c) accept Owner's waiver of, or release from, the performance of any obligations under the Lease.

i. Tenant agrees that it will furnish to Beneficiary copies of all notices or communications sent to Owner under the Lease. Said notices shall be sent registered or certified mail to Beneficiary at the address shown above or such other address as Beneficiary designates to Tenant in writing. Tenant agrees that, upon the receipt by Beneficiary of written notice that Owner is in default under the terms of the Lease, Beneficiary shall have the option within a reasonable time, but not less than sixty (60) days, to cure any default on the part of Owner, and Tenant agrees to accept the performance of Beneficiary in lieu of the performance of Owner.

j. There are no actions, whether voluntary or otherwise, pending against Tenant under the bankruptcy laws of the United States or any state thereof.

k. Tenant acknowledges that Beneficiary is relying upon the representations made herein in making, or continuing, a loan to Owner.

7. Further Documents. Tenant shall execute and deliver to Beneficiary or to any party to whom Tenant hereby agrees to attorn, in form and substance satisfactory to such party, such other instruments as either shall request in order to effectuate the provisions of this Agreement.

8. Subordination. Tenant declares, agrees and acknowledges that it intentionally and unconditionally subordinates the Lease and its leasehold interest in favor of the lien or charge upon the Secured Property of the Deed of Trust in favor of Beneficiary.

9. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns, and the holder from time to time of the Note.

10. Attorneys' Fees. If any legal action, arbitration or other proceeding is commenced to enforce any provision of this Agreement, the prevailing party shall be entitled to an award of its actual expenses, including without limitation, expert witness fees, actual attorneys' fees and disbursements.

11. Notices. All notices to Beneficiary shall be by certified mail to the address given at the top of page one of this Agreement. All notices to Owner shall be by certified mail to Miller Family Real Estate, L.L.C., 9350 South 150 East, Suite 1000, Sandy, Utah 84070, Attn: Scott Bates, President. All notices to Tenant shall be by certified mail to LARRY H. MILLER CORPORATION – SOUTHTOWNE AUTOMALL dba Larry H. Miller Dodge, 10905 S. Auto Mall Drive, Sandy, Utah 84070, Attn: Managing Officer, with a copy to Sarah Starkey, Associate General Counsel, 9350 South 150 East, Suite 500, Sandy, Utah 84070.

12. Miscellaneous. This Agreement may not be modified other than by an agreement in writing, signed by the parties hereto or by their respective successors in interest. Except as herein modified all of the terms and provisions of the Lease shall remain in full force and effect. In the event of a conflict between the Lease and this Agreement, the terms and provisions of this Agreement shall control. Nothing in this Agreement shall in any way impair or affect the lien created by the Deed of Trust or the other lien rights of Beneficiary.

13. Counterparts. This Agreement may be executed in counterparts which together shall constitute but one and the same original.

[Signature Page(s) Follow]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first set forth above.

OWNER:

MILLER FAMILY REAL ESTATE, L.L.C.

By: *Scott Bates*
Scott Bates

Title: President

TENANT:

LARRY H. MILLER CORPORATION – SOUTHTOWNE
AUTOMALL dba Larry H. Miller Dodge, a Utah corporation

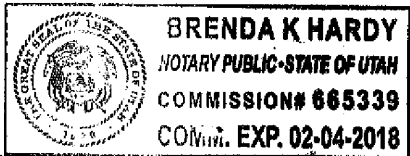
By: *Dean Fitzpatrick*
Dean Fitzpatrick

Title: President

STATE OF UTAH)
COUNTY OF Salt Lake) ss.

On this 30 day of May, 2017, before me, the undersigned, a Notary Public in and for said County and State, personally appeared SCOTT BATES, known or proved to me to be President of MILLER FAMILY REAL ESTATE L.L.C., a Utah limited liability company, the person who subscribed said limited liability company's name to the foregoing instrument, and acknowledged to me that he executed the within instrument on behalf of said limited liability company, and that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

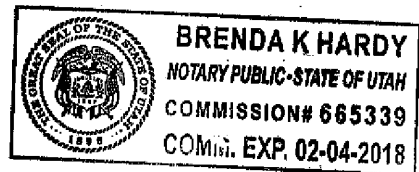


Notary Public: *Brenda K. Hardy*
Printed Name: Brenda K. Hardy
My Commission Expires 2-4-2018

STATE OF UTAH)
COUNTY OF Salt Lake) ss.

On this 30 day of May, 2017, before me, the undersigned, a Notary Public in and for said County and State, personally appeared DEAN FITZPATRICK, known or proved to me to be President of LARRY H. MILLER CORPORATION – SOUTHTOWNE AUTOMALL dba Larry H. Miller Dodge, a Utah corporation, the person who subscribed said corporation's name to the foregoing instrument, and acknowledged to me that he executed the within instrument on behalf of said corporation, and that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



Notary Public: *Brenda K. Hardy*
Printed Name: Brenda K. Hardy
My Commission Expires 2-4-2018

AGENT:

COMERICA BANK

By: Steven J Engel
Steven J. Engel

Title: Vice President

STATE OF Colorado
COUNTY OF Denver) ss.

On this 26 day of May, 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared STEVEN J. ENGEL, known or proved to me to be a Vice President of COMERICA BANK, a Texas banking association, the person who subscribed said banking association's name to the foregoing instrument, and acknowledged to me that he executed the within instrument on behalf of said banking association, and that such banking association executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public: Donna S Albrandt
Printed Name: Donna S Albrandt Notary Public - State of Colorado
My Commission Expires 6-14-20 Notary ID 20044012047
My Commission Expires Jun 14, 2020

EXHIBIT A

DESCRIPTION OF SECURED PROPERTY

PARCEL 1:

Beginning at a point on the East line of Auto Mall Drive, said point being North 89°55'40" West 886.67 feet along the Section line and North 379.82 feet from the Southeast corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian and running thence along said East line the following (3) courses: North 10°09'59" West 336.81 feet to a point on a 260.00 foot radius curve to the right (radius bears North 79°50'02" East), along the arc of said curve 46.13 feet and North 87.17 feet to a point on a 9.00 foot radius curve to the right (radius bears East); thence along the arc of said curve 14.14 feet to a point on the South line of Motor Park Ave.; thence along said South line East 488.83 feet; thence South 37.72 feet; thence South 27°09'46" East 145.16 feet; thence South 278.62 feet; thence West 242.34 feet; thence North 45°00'00" West 21.85 feet; thence South 79°50'01" West 246.65 feet to the point of beginning.

The following is shown for informational purposes only: Tax ID No. 27-13-476-042

PARCEL 2:

Beginning at a point on the East line of Auto Mall Drive, said point being North 89°55'40" West 886.67 feet along the Section line and North 379.82 feet from the Southeast corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian and running thence North 79°50'01" East 246.65 feet; thence South 45°00'00" East 21.85 feet; thence East 365.47 feet; thence South 355.19 feet to the North line of 11000 South Street; thence along said North line the following (2) courses: North 89°55'40" West 261.21 feet to a point on a 353.50 foot radius curve to the left (radius bears South 00°04'20" West) and along the arc of said curve 218.47 feet to a point on a 36.00 foot radius curve to the right (radius bears North 35°20'15" West); thence along the arc of said curve 52.23 feet to a point on the East line of Auto Mall Drive thence along said East line the following (3) courses: North 42°12'53" West 29.63 feet to a point on a 159.48 foot radius curve to the right, (radius bears North 47°43'54" East), along the arc of said curve 89.50 feet and North 10°09'59" West 290.07 feet to the point of beginning.

The following is shown for informational purposes only: Tax ID No. 27-13-476-044