

This instrument prepared by
and upon recording return to:

Joe F. Lassiter III
Maynard, Cooper & Gale, P.C.
1901 6th Avenue North
2400 AmSouth/Harbert Plaza
Birmingham, AL 35203-2618
(205) 254-1000

STATE OF ALABAMA)

COUNTY OF SHELBY)

**SUBORDINATION, NONDISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT
(this "Agreement") is made as of this 1st day of November, 2005, between **SERVISFIRST BANK**, an Alabama banking corporation, whose address is 3300 Cahaba Road, Suite 300, Birmingham, Alabama 35223, Attention: Bart E. McBride (the "Lender"), and **PROCESS SPECIALTIES, INC.**, an Alabama corporation, whose address is 1994 McCain Parkway, Pelham, Alabama 35124 ("Tenant").

RECITALS

A. Lender has made or is about to make a loan to BMW Holdings, LLC, an Alabama limited liability company ("Landlord"), secured by a mortgage, security agreement and/or other financing instrument recorded or to be recorded with the Judge of Probate of Shelby County, Alabama (together with any modifications, consolidations, extensions, replacements, or renewals thereof, the "Mortgage"), encumbering the real estate more particularly described in the Mortgage and on Exhibit A attached hereto and incorporated herein (the "Property").

B. By that certain Lease Agreement dated of even date (as amended from time to time, the "Lease"), Landlord did lease unto Tenant, a portion of the Property and the improvements located thereon and all rights appurtenant thereto (as more particularly described therein, the "Premises").

C. Lender and Tenant desire that the Lease shall not terminate but rather shall remain in full force and effect in accordance with its terms if the Mortgage is foreclosed or any transfer of the Premises is made in lieu thereof.

AGREEMENT

NOW THEREFORE, for valuable consideration the receipt and sufficiency of which are hereby acknowledged, Lender and Tenant agree as follows:

1. Provided Tenant is not in material default under the terms of the Lease, then in the course of or following any exercise of any remedy under the Mortgage, any foreclosure sale of the Property, or any transfer of the Property thereafter or in lieu of foreclosure (together with any similar events, a "Foreclosure Event"):

- a. The right of possession of Tenant to the Premises and Tenant's rights arising out of the Lease shall not be affected or disturbed by Lender.
- b. Tenant shall not be named as a party defendant unless required by law.
- c. The Lease shall not be terminated or affected by any Foreclosure Event.

2. Following a Foreclosure Event, Tenant shall attorn to Lender as its new landlord and the Lease shall continue in full force and effect as a direct lease between Tenant and Lender. Notwithstanding the foregoing, Lender shall not be:

- a. liable for any act or omission of any prior landlord (including Landlord), unless such action was taken at the direction of or with the approval of Lender; or
- b. subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord) except those which arose out of such landlord's default under the Lease and accrued after Tenant has notified Lender and given Lender the same opportunity to cure as provided to Landlord under the Lease; or
- c. bound by any rent Tenant paid for more than the current month to any prior landlord (including Landlord); or
- d. bound by any modification of the Lease made after the date hereof without Lender's consent.

3. Following a Foreclosure Event, Lender promptly shall give notice thereof to Tenant, stating its current address and providing evidence of Lender's title to the Premises.

4. The Lease is subject and subordinate to the lien of the Mortgage and to all advances made or to be made thereunder as though the Mortgage had been executed and recorded prior in point of time to the execution of the Lease. Notwithstanding the foregoing, subordination of the Lease to the Mortgage should not be construed to constitute Tenant's consent or agreement to any term, condition or provision of the Mortgage or any related loan document which is inconsistent with or purports to modify, alter or amend the Lease.

5. The foregoing provisions shall be self-operative and effective without the execution of any further instrument on the part of either party hereto. However, Tenant agrees to execute and deliver to Lender such other instrument(s) as Lender shall reasonably request to evidence such provisions.

6. Tenant agrees it will not, without the prior written consent of Lender (i) modify the Lease or any extensions or renewals thereof in such a way as to reduce rent, accelerate rent payment, shorten the

original term or change any renewal option; (ii) terminate the Lease, except as provided by its terms; (iii) tender or accept a surrender of the Lease or make a prepayment in excess of one (1) month of any rent thereunder; or (iv) subordinate or knowingly permit subordination of the Lease to any lien subordinate to the Mortgage, except for those liens that are superior to the Mortgage by law, if any. Any such purported action without such consent shall be void as against Lender.

7. Prior to pursuing any remedy available to Tenant under the Lease, at law or in equity as a result of any failure of Landlord to perform or observe any covenant, condition, provision or obligation to be performed or observed by Landlord under the Lease (any such failure hereinafter referred to as a "Landlord's Default"), Tenant shall: (a) provide Lender with a notice of Landlord's Default specifying the nature thereof, the Section of the Lease under which same arose and the remedy which Tenant will elect under the terms of the Lease or otherwise, and (b) allow Lender not less than thirty (30) days following receipt of such notice of Landlord's Default to cure the same; provided, however, that, if such Landlord's Default is not readily curable within such thirty (30) day period, Tenant shall give Lender such additional time as Lender may reasonably need to obtain possession and control of the Premises and to cure such Landlord's Default so long as Lender is diligently pursuing a cure. Tenant shall not pursue any remedy available to it as a result of any Landlord's Default unless Lender fails to cure same within the time period specified above. For purposes of this Paragraph 7, a Landlord's Default shall not be deemed to have occurred until all grace and/or cure periods applicable thereto under the Lease have lapsed without Landlord having effectuated a cure thereof.

8. If Lender, or its assignee, obtains Landlord's interest in the Property or enforces its right to collect rent under the Lease, Lender agrees to promptly provide or cause to be provided to Tenant (a) a copy of a current marked title commitment or title policy showing any new landlord as the owner thereof, (b) a W-9 form or its equivalent setting forth the name and tax identification number of the party collecting rent, signed by an authorized person, and/or (c) a letter of instruction on the letterhead of Landlord (or new landlord in the case of a sale or other transfer) stating (i) the name, address, phone number and contact person of the entity collecting rent under the Lease, and (ii) the names, addresses and telecopy numbers of all persons to be provided notices from Tenant under the Lease (collectively, the "Transfer Requirements"). Following receipt of the foregoing, as of the date of any such transfer, the transferring landlord shall be released from any obligations accruing after the date of the transfer except as otherwise expressly provided in the Lease. The Transfer Requirements must be met to ensure that Tenant is paying rent to the proper, entitled party and Tenant shall have the right to temporarily withhold rent in trust pending receipt of Transfer Requirements.

9. If Lender notifies Tenant in writing that it should pay the rent and other payments due from Tenant under the Lease to Lender, Tenant shall thereafter pay such payments as and when they become due and payable to Lender or as Lender directs.



20051103000572200 4/7 \$29.00
Shelby Cnty Judge of Probate, AL
11/03/2005 12:50:11PM FILED/CERT

IN WITNESS WHEREOF, Lender and Tenant have caused this instrument to be executed as of the day and year first above written.

TENANT:

PROCESS SPECIALTIES, INC., an Alabama corporation

By: William A. Tidwell
William A. Tidwell
Its President

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that William A. Tidwell, whose name as the President of Process Specialties, Inc., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 21st day of October, 2005.

Gynthia Rayton Varnow
Notary Public

AFFIX SEAL

My commission expires: 10/1/08

MORTGAGEE:

SERVISFIRST BANK, an Alabama banking
corporation

By: [Signature]
Name: Bart E. McBride
Its: Commercial Loan Officers

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Bart E. McBride, whose name as the Commercial Loan Officer of ServisFirst Bank, an Alabama banking corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 21st day of October, 2005.

[Signature]
Notary Public

AFFIX SEAL

SEDETRA HILL
Notary Public State of Alabama At Large
My commission expires June 29, 2008

CONSENT OF LANDLORD

Landlord consents and agrees to the foregoing Agreement, which was entered into at Landlord's request. The foregoing Agreement shall not alter, waive or diminish any of Landlord's obligations under the Mortgage or the Lease. The above Agreement discharges any obligations of Mortgagee under the Mortgage and related loan documents to enter into a nondisturbance agreement with Tenant. Landlord is not a party to the above Agreement.

BMW HOLDINGS, LLC, an Alabama
limited liability company

By: William A. Tidwell
William A. Tidwell
Its Authorized Member

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that William A. Tidwell, whose name as the authorized member of BMW Holdings, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such authorized member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the 21st day of October, 2005.
Seetra Hill
Notary Public

AFFIX SEAL

SEDETRA HILL
My commission expires: **Notary Public State of Alabama At Large**
~~My Commission Expires:~~ June 29, 2008

Exhibit A

A parcel of land located in the SE 1/4 of the NE 1/4 of Section 25, Township 20 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows: Commence at the NE corner of said Section 25; thence run South 01° 59' 08" West, along the East line of said Section 25, a distance of 3,030.58 feet to the Northerly right of way line of CSX Transportation Railroad; thence North 65° 18' 47" West, along said Railroad right of way, a distance of 672.38 feet to a point on the Easterly right of way line of Interstate 65; thence North 28° 24' 48" West, along said Interstate 65 right of way line and leaving said CSX right of way a distance of 24.75 feet; thence North 00° 19' 13" West, along said Interstate 65 right of way line, a distance of 632.01 feet to the point of beginning; thence continue along the last described course and along said Interstate 65 right of way line for 277.72 feet; thence run North 89° 40' 47" East for 414.17 feet to a point on the Westerly right of way line of McCain Parkway; thence run in a Southerly direction along said road right of way line and along a curve having a chord bearing of South 25° 17' 17" East and a radius of 111.91 feet for a distance of 53.44 feet to the end of said curve and the beginning of a compound curve to the right, said curve having chord bearing of South 01° 25' 03" East and a radius of 552.59 feet and run along the arc of said curve and said road right of way line for a distance of 196.55 feet; thence run South 08° 46' 20" West along said road right of way line for 33.88 feet; thence run South 89° 34' 29" West for 434.91 feet to the point of beginning.