

**RETURN ADDRESS:**

U.S. Bank National Association  
Commercial Loan Service West  
P.O. Box 5308  
Portland, OR 97228-5308

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Kathy Hill, Skagit County Auditor  
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LAND TITLE COMPANY OF SKAGIT COUNTY

P-92118



**SUBORDINATION AGREEMENT – LEASE**

Reference # (if applicable): 798-0608723809

Additional on page \_\_\_\_\_

Grantor(s):

1. ARMSTRONG BENSON I, L.L.C.

Grantee(s)/Assignee/Beneficiary:

U.S. Bank National Association, Beneficiary

U.S. BANK TRUST COMPANY, National Association, Trustee

Legal Description: Lot 18, Burl. Hill Business Park II.

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Assessor's Tax Parcel ID#: 8017-000-018-0000

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.**

THIS SUBORDINATION OF LEASE AGREEMENT dated March 16, 2000 is entered into between ARMSTRONG BENSON I, L.L.C., a Washington Limited Liability Company ("Borrower"), ARMSTRONG BENSON, INC. DBA GRAND CENTRAL COLLISION REPAIR ("Lessee") and U.S. Bank National Association ("Lender").

**LEASE.** Lessee has executed one or more leases dated 04-01-2000 of the following described property (the "Subordinated Lease").

**REAL PROPERTY DESCRIPTION.** The Lease covers the following described real property (the "Real Property") located in Skagit County, State of Washington:

**Lot 18, Burlington Hill Business Park Phase II Binding Site Plan, approved October 15, 1997, recorded October 29, 1997 in Volume 13 of Short Plats, Pages 53 to 56, inclusive, under Auditor's File No. 9710290033 and being a portion of the Southwest 1/4 of Section 29, Township 35 North, Range 4 East, W.M. and a portion of the Northwest 1/4 of Section 32, Township 35 North, Range 4 East, W.M. Situate in the County of Skagit, State of Washington.**

The Real Property or its address is commonly known as **258 N. HILL BLVD, BURLINGTON, WA 98233.**  
The Real Property tax identification number is 8017-000-018-0000.

**REQUESTED FINANCIAL ACCOMMODATIONS.** Borrower and Lessee each want Lender to provide financial accommodations to Borrower (the "Superior Indebtedness") in the form of (a) new credit or loan advances, (b) an extension of time to pay or other compromises regarding all or part of Borrower's present indebtedness to Lender, or (c) other benefits to Borrower. Now, therefore, Borrower and Lessee each represent and acknowledge to Lender that Lessee will benefit as a result of these financial accommodations from Lender to Borrower, and Lessee acknowledges receipt of valuable consideration for entering into this Agreement.

**LENDER'S LIEN.** As a condition to the granting of the requested financial accommodations, Lender has required that its mortgage, deed of trust or other lien on the Real Property ("Lender's Lien") be and remain superior to Lessee's interest in the Subordinated Lease.

**NOW THEREFORE THE PARTIES TO THIS AGREEMENT HEREBY AGREE AS FOLLOWS:**

**SUBORDINATION.** All of Lessee's right, title and interest in and to the Subordinated Lease and the Real Property is hereby subordinated in all respects to Lender's Lien and the Superior Indebtedness, and it is hereby agreed that Lender's Lien shall be and remain, at all times, prior and superior to Lessee's interests in the Subordinated Lease and the Real Property. Lessee also subordinates to Lender's Lien all other Security Interests in the Real Property held by Lessee, whether now existing or hereafter acquired. The words "Security Interest" mean and include without limitation any type of collateral security, whether in the form of a lien, charge, mortgage, deed of trust, assignment, pledge, chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever, whether created by law, contract, or otherwise.

**LESSEE'S REPRESENTATIONS AND WARRANTIES.** Lessee represents and warrants to Lender that: (a) no representations or agreements of any kind have been made to Lessee which would limit or qualify in any way the terms of this Agreement; (b) this Agreement is executed at Borrower's request and not at the request of Lender; (c) Lender has made no representation to Lessee as to the creditworthiness of Borrower; and (d) Lessee has established adequate means of obtaining from Borrower on a continuing basis information regarding Borrower's financial condition. Lessee agrees to keep adequately informed from such means of any facts, events, or circumstances which might in any way affect Lessee's risks under this Agreement, and Lessee further agrees that Lender shall have no obligation to disclose to Lessee information or material acquired by Lender in the course of its relationship with Borrower.

**LESSEE'S WAIVERS.** Lessee waives any right to require Lender: (a) to make, extend, renew, or modify any loan to Borrower or to grant any other financial accommodations to Borrower whatsoever; (b) to make any presentment, protest, demand, or notice of any kind, including notice of any nonpayment of any Superior Indebtedness secured by Lender's Lien, or notice of any action or nonaction on the part of Borrower, Lender, any surety, endorser, or other guarantor in connection with the Superior Indebtedness, or in connection with the creation of new or additional indebtedness; (c) to resort for payment or to proceed directly or at once against any person, including Borrower; (d) to proceed directly against or exhaust any collateral held by Lender from Borrower, any other guarantor, or any other person; (e) to give notice of the terms, time, and place of any public or private sale of personal property security held by Lender from Borrower or to comply with any other applicable provisions of the Uniform Commercial Code; (f) to pursue any other remedy within Lender's power; or (g) to commit any act or omission of any kind, at any time, with respect to any matter whatsoever.

**LENDER'S RIGHTS.** Lender may take or omit any and all actions with respect to Lender's Lien without affecting whatsoever any of Lender's rights under this Agreement. In particular, without limitation, Lender may, without notice of any kind to Lessee, (a) make one or more additional secured or unsecured loans to Borrower; (b) repeatedly alter, compromise, renew, extend, accelerate, or otherwise change the time for payment or other terms of the Superior Indebtedness or any part thereof, including increases and decreases of the rate of interest on the Superior Indebtedness; extensions may be repeated and may be for longer than the original loan term; (c) take and hold collateral for the payment of the Superior Indebtedness, and exchange, enforce, waive, and release any such collateral, with or without the substitution of new collateral; (d) release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or guarantors on any terms or manner Lender chooses; (e) determine how, when and what application of payments and credits, shall be made on the Superior Indebtedness; (f) apply such security and direct the order or manner of sale thereof, as Lender in its discretion may determine; and (g) assign this Agreement in whole or in part.

**DEFAULT BY BORROWER.** If Borrower becomes insolvent or bankrupt, this Agreement shall remain in full force and effect. Any default by Borrower under the terms of the Subordinated Lease also shall be a default under the terms of the Superior Indebtedness to Lender.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Agreement:

**Applicable Law.** This Agreement has been delivered to Lender and accepted by Lender in the State of Washington. If there is a lawsuit, Lessee and Borrower agree upon Lender's request to submit to the jurisdiction of the courts of King County, State of Washington. Subject to the provisions on arbitration, this Agreement shall be governed by and construed in accordance with the laws of the State of Washington. No provision contained in this Agreement shall be construed (a) as requiring Lender to grant to Borrower or to Lessee any financial assistance or other accommodations, or (b) as limiting or precluding Lender from the exercise of Lender's own judgment and discretion about amounts and times of payment in making loans or extending accommodations to Borrower.

**Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless made in writing and signed by Lender, Borrower, and Lessee.

**Arbitration.** Lender and Lessee and Borrower agree that all disputes, claims and controversies between them, whether individual, joint, or class in nature, arising from this Agreement or otherwise, including without limitation contract and tort disputes, shall be arbitrated pursuant to the Rules of the American Arbitration



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**Association, upon request of either party.** No act to take or dispose of any Collateral shall constitute a waiver of this arbitration agreement or be prohibited by this arbitration agreement. This includes, without limitation, obtaining injunctive relief or a temporary restraining order; invoking a power of sale under any deed of trust or mortgage; obtaining a writ of attachment or imposition of a receiver; or exercising any rights relating to personal property, including taking or disposing of such property with or without judicial process pursuant to Article 9 of the Uniform Commercial Code. Any disputes, claims, or controversies concerning the lawfulness or reasonableness of any act, or exercise of any right, concerning any Collateral, including any claim to rescind, reform, or otherwise modify any agreement relating to the Collateral, shall also be arbitrated, provided however that no arbitrator shall have the right or the power to enjoin or restrain any act of any party. Judgment upon any award rendered by any arbitrator may be entered in any court having jurisdiction. Nothing in this Agreement shall preclude any party from seeking equitable relief from a court of competent jurisdiction. The statute of limitations, estoppel, waiver, laches, and similar doctrines which would otherwise be applicable in an action brought by a party shall be applicable in any arbitration proceeding, and the commencement of an arbitration proceeding shall be deemed the commencement of an action for these purposes. The Federal Arbitration Act shall apply to the construction, interpretation, and enforcement of this arbitration provision.

**Attorneys' Fees; Expenses.** Lessee and Borrower agree to pay upon demand all of Lender's costs and expenses, including attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may pay someone else to help enforce this Agreement, and Lessee and Borrower shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (and including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Lessee and Borrower also shall pay all court costs and such additional fees as may be directed by the court.

**Successors.** This Agreement shall extend to and bind the respective heirs, personal representatives, successors and assigns of the parties to this Agreement, and the covenants of Borrower and Lessee herein in favor of Lender shall extend to, include, and be enforceable by any transferee or endorsee to whom Lender may transfer any or all of the Superior Indebtedness.

**Waiver.** Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Lessee, shall constitute a waiver of any of Lender's rights or of any of Lessee's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.**

EACH PARTY TO THIS SUBORDINATION AGREEMENT - LEASE ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT, AND EACH PARTY AGREES TO ITS TERMS.

**BORROWER:**

ARMSTRONG BENSON I, L.L.C.

By:

Russell A. Armstrong, Manager

By:

Kimberly L. Armstrong, Member

By:

Donald A. Benson, Member

**LESSEE:**

ARMSTRONG BENSON, INC. DBA GRAND CENTRAL COLLISION REPAIR

By:

Russell A. Armstrong, President, Kimberly L. Armstrong, Secretary

By:

Donald A. Benson, Vice President

**LENDER:**

U.S. Bank National Association

By:

Authorized Officer



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Kathy Hill, Skagit County Auditor

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LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Washington )  
 ) SS  
COUNTY OF Whatcom )

On this 21<sup>st</sup> day of March, 2000, before me, the undersigned Notary Public, personally appeared **Russell A. Armstrong, Manager of ARMSTRONG BENSON I, L.L.C.**, and personally known to me or proved to me on the basis of satisfactory evidence to be a member or designated agent of the limited liability company that executed the Subordination Agreement and acknowledged the Agreement to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Agreement and in fact executed the Agreement on behalf of the limited liability company.

By Ginger Davis Residing at Ferndale  
Notary Public in and for the State of Washington My commission expires 9-19-03

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Washington )  
 ) SS  
COUNTY OF Whatcom )

On this 21<sup>st</sup> day of March, 2000, before me, the undersigned Notary Public, personally appeared **Kimberly L. Armstrong, Member of ARMSTRONG BENSON I, L.L.C.**, and personally known to me or proved to me on the basis of satisfactory evidence to be a member or designated agent of the limited liability company that executed the Subordination Agreement and acknowledged the Agreement to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Agreement and in fact executed the Agreement on behalf of the limited liability company.

By Ginger Davis Residing at Ferndale  
Notary Public in and for the State of Washington My commission expires 9-19-03

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Washington )  
 ) SS  
COUNTY OF Whatcom )

On this 21<sup>st</sup> day of March, 2000, before me, the undersigned Notary Public, personally appeared **Donald A. Benson, Member of ARMSTRONG BENSON I, L.L.C.**, and personally known to me or proved to me on the basis of satisfactory evidence to be a member or designated agent of the limited liability company that executed the Subordination Agreement and acknowledged the Agreement to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Agreement and in fact executed the Agreement on behalf of the limited liability company.

By Ginger Davis Residing at Ferndale  
Notary Public in and for the State of Washington My commission expires 9-19-03



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Kathy Hill, Skagit County Auditor

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CORPORATE ACKNOWLEDGMENT

STATE OF Washington )  
 ) SS  
COUNTY OF Whatcom )

On this 24<sup>th</sup> day of March, 2000, before me, the undersigned Notary Public, personally appeared Russell A. Armstrong, President, Kimberly L. Armstrong, Secretary; and Donald A. Benson, Vice President of ARMSTRONG BENSON, INC. DBA GRAND CENTRAL COLLISION REPAIR, and personally known to me or proved to me on the basis of satisfactory evidence to be authorized agents of the corporation that executed the Subordination Agreement and acknowledged the Agreement to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute this Agreement and in fact executed the Agreement on behalf of the corporation.

By Ginger Davis Residing at Ferndale  
Notary Public in and for the State of Washington My commission expires 9-19-03

LENDER ACKNOWLEDGMENT

STATE OF Washington )  
 ) SS  
COUNTY OF Whatcom )

On this 21<sup>st</sup> day of March, 2000, before me, the undersigned Notary Public, personally appeared Scott R. Wallace, and personally known to me or proved to me on the basis of satisfactory evidence to be the Vice President, authorized agent for the Lender that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the said Lender, duly authorized by the Lender through its board of directors or otherwise, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this said instrument and that the seal affixed is the corporate seal of said Lender.

By Ginger Davis Residing at Ferndale  
Notary Public in and for the State of Washington My commission expires 9-19-03



UNOFFICIAL DOCUMENT