

Recording requested by:  
KeyBank National Association



200912070167  
Skagit County Auditor

After recording return to:

12/7/2009 Page 1 of 8 11:41AM

**KEYBANK NATIONAL ASSOCIATION**  
**Asset Recovery Group**  
**Attention: D. Scott Hammond**  
**Mailcode OR-MA-IL-HOME**  
**10888 S.E. Main St., 2<sup>nd</sup> Floor**  
**Milwaukie, OR 97022**

IT# 200501180165 SPACE ABOVE THIS LINE FOR RECORDER'S USE  
DT# 200912070165  
SUBORDINATION AND INTERCREDITOR AGREEMENT  
(Dealership Property—12610 Thompson Road, Anacortes, WA 98221) 98365-3

This Subordination and Intercreditor Agreement (the "Agreement") is made as of November 30, 2009 by and among Sommerwind Group, Inc., a Washington corporation ("Subordinator"), KeyBank National Association ("Lender"), and Ronald A. Rennebohm and Darla L. Rennebohm, husband wife ("Owner")

**Recitals**

A. Owner is indebted to Subordinator pursuant to that certain Promissory Note dated January 14, 2005, in the original principal amount of \$1,100,000.00 ("**Subordinator's Note No. 1**"), secured by a deed of trust dated January 14, 2005 (the "**Subordinator's Deed of Trust**"), respecting real property located at 12610 Thompson Road, Anacortes, WA 98221 (the "**Real Property**"), as more particularly described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO**

B. Owner is also indebted to Lender pursuant to other loans and advances, including that certain Promissory Note dated August 1, 2006, in the original principal amount of \$1,000,000.00, and that certain Promissory Note dated August 1, 2006, in the original principal amount of \$2,500,000.00 (collectively, "**Rennebohm's Notes**"), both of which are secured by that certain Deed of Trust dated June 16, 2006, respecting the Real Property.

C. Owner is also indebted to Lender pursuant to various guaranties, including that certain Continuing Guaranty dated June 26, 2007, executed by Ronald A. Rennebohm, and that certain Continuing Guaranty dated June 26, 2007, executed by Darla Rennebohm (collectively, the "**Guaranties**"), respecting the obligations and indebtedness of Whidbey Island Ford Sales, Inc. ("**Whidbey Ford**"), Peninsula Auto World, Inc. ("**Penninsula Auto**"), and Whidbey Island Auto Group, LLC ("**Whidbey Auto**").

D. The obligations and indebtedness of Peninsula Ford guaranteed by Owner include all indebtedness arising under that certain Promissory Note dated March 27, 2007, in the

original principal amount of \$500,000.00 (the "**Penninsula Term Note**"), in which Peninsula Auto is the Borrower and Maker, secured by the Real Property pursuant to that certain Deed of Trust dated June 16, 2006.

E. The obligations and indebtedness of Whidbey Ford guaranteed by Owner include all indebtedness arising under a working capital loan evidenced by that certain Promissory Note dated March 23, 2007, in the original principal amount of \$400,000.00 (the "**Whidbey Ford Working Capital Note**"). Under the terms of that certain Extension and Modification Agreement dated November 25, 2009, between Whidbey Ford, Peninsula Auto, Whidbey Auto, Ronald and Darla Rennebohm, David K. Sommerville, and Lender, the unpaid balance of Whidbey Ford Working Capital Note shall be assumed by Peninsula Auto, and the Peninsula Term Note shall be increased that amount, and shall be secured by the Real Property.

F. The obligations and indebtedness of Whidbey Ford, Peninsula Auto and Whidbey Auto guaranteed by Owner include indebtedness arising under that certain Floorplan Line-of-Credit Demand Promissory Note dated June 26, 2007, secured by the Real Property pursuant to that certain Deed of Trust dated July 7, 2006, and secured by the Real Property pursuant to that certain Deed of Trust dated June 16, 2006, as amended.

G. Lender is about to make certain financial accommodations to Peninsula Auto and Whidbey Auto, including the extension and maintenance of floorplan financing and advances, pursuant to an Extension and Modification Agreement dated November 25, 2009. It is a condition precedent to Lender entering into such Agreement that Subordinator remove any and all liens against the Real Property, including the lien evidenced by that certain Deed of Trust dated January 14, 2005, and recorded on January 18, 2005 with the Auditor of Skagit County, State of Washington, under Recording No. 200501180165, and in the event Owner grants Subordinator any other lien in and to the Real Property, that such lien shall remain at all times inferior to the lien of Lender.

H. In connection with the financial accommodations described above, Lender has agreed to grant a partial release of David Sommerville from all guaranties in connection with Peninsula Auto, Whidbey Ford and Whidbey Auto, except for the Whidbey Auto flooring line of credit as set forth in that certain Partial Release Agreement dated November 30, 2009. Subordinator agrees that the release of David Sommerville is in its interest and will be of material and direct benefit to it.

I. The parties wish to state certain other facts, understandings and agreements as set forth below.

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows.

1. **True and Correct Recitals.** The above recitals are true and accurate in all respects, and incorporated within this Agreement as if fully rewritten.

2. **Subordination of Lien.** Notwithstanding the time, order or method of the granting, recordation or perfection of the liens and interest of Subordinator and Lender in and to



the Real Property, Subordinator hereby subordinates the priority of its lien and agrees that Lender's liens and interest in such real Property, when recorded, shall constitute a lien or charge upon said Real Property which is unconditionally prior and superior to any lien or charge of Subordinator. The subordination set forth in this Section is intended to be a continuing subordination and agreement and is intended to govern the relative rights and priorities of Subordinator and Lender with respect to future loans secured by the Real Property without the need for the execution of other or additional subordinations or agreements.

Notwithstanding the foregoing, the obligation of Subordinator to subordinate its lien is expressly conditioned upon execution and delivery of that certain Extension and Modification Agreement dated November 25, 2009, and the Partial Release Agreement of even date therewith, and consummation and performance of Lender's duties therein. In the event there shall be any failure to satisfy such condition, this Agreement shall be null and void and of no force and effect.

3. **Subordinator's and Lender's Rights.** Without affecting the subordination provided for herein, each of Subordinator and Lender may at any time, with respect to their respective loans and loan documents, including guaranties (i) exercise any and all of its rights and remedies under and pursuant to any loan documents in effect or applicable law, (ii) release, reduce or increase any obligation, including the amount of the loan(s) or any other amount secured by the loan documents, (iii) alter, accelerate or extend the time and manner for payment of the loan(s) and all other indebtedness secured by the loan documents, (iv) modify, amend, replace, substitute, extend, renew, accelerate, suspend or otherwise alter any terms of the loan documents, including but not limited to the interest rate owing under the promissory note in favor of such party, (v) release any lien in whole or in part, (vi) fail to assert or forbear from assertion of any rights or remedies whatsoever, (vii) extend the maturity date of any obligation for any period of time, or consent to any act or omission of their respective debtor or such debtor's successor(s), and (viii) make all advances and disbursements as may be provided for in the loan documents.

4. **Continuing Effect in Bankruptcy.** This Agreement, shall be applicable both before and after the filing of any foreclosure action or proceeding, request for a receiver, trustee sale, bankruptcy petition by or against Owner (or any of the entities included in Borrower) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors.

5. **Waiver.** No delay, failure or discontinuance of Subordinator or Lender in exercising any right, power or remedy hereunder shall affect such right, power or remedy; nor shall any single or partial exercise of any such right, power or remedy preclude, waive or otherwise affect the further exercise thereof or the exercise of any other right, power or remedy. The rights, powers and remedies of Subordinator or Lender hereunder are cumulative and not exclusive. Any waiver, permit, consent or approval of any kind by Subordinator or Lender of any breach of or default under this Agreement, or any such waiver of any provisions or conditions hereof, must be in writing and shall be effective only to the extent set forth in such writing.



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6. **Term of Agreement.** This Agreement shall remain in full force and effect until the indebtedness to Lender secured by the real Property is fully satisfied and Lender and its successors in interest shall have no further interest in the Real Property.

7. **Governing, Law; Successors, Assigns.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, and shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

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

**LENDER: KEYBANK  
NATIONAL ASSOCIATION**

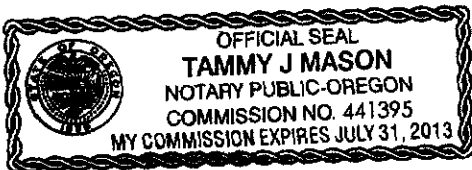
By: *D. Scott Hammond*  
D. Scott Hammond  
Its: Senior Portfolio Monitoring Officer

**LENDER ACKNOWLEDGMENT**

STATE OF OREGON )  
County of Clackamas ) ss.

I certify that I know or have satisfactory evidence that D. Scott Hammond is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledge it as the Senior Portfolio Monitoring Officer of KeyBank National Association to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 30<sup>th</sup> day of November 2009.



*Tammy Mason*  
Name: Tammy Mason

Notary Public in and for the State of Oregon, residing at: Ullrich

My Appointment Expires: 7-31-2013



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GRANTOR: RONALD A. RENNEBOHM

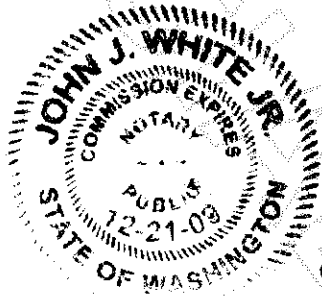
*Ronald A. Rennebohm*  
Ronald A. Rennebohm

**INDIVIDUAL ACKNOWLEDGMENT**

STATE OF WASHINGTON )  
 ) ss.  
County of King )

I certify that I know or have satisfactory evidence that Ronald A. Rennebohm is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledge it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 3 day of December 2009.



*John J. White Jr.*  
Name: John J. White Jr.  
Notary Public in and for the State of  
Washington, residing at: Kenmore  
My Appointment Expires: 12-21-09

GRANTOR: DARLA L. RENNEBOHM

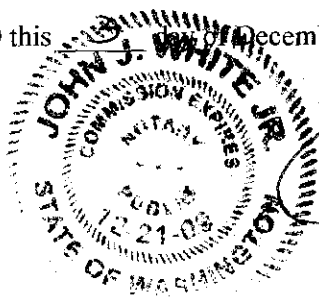
*Darla L. Rennebohm*  
Darla L. Rennebohm

**INDIVIDUAL ACKNOWLEDGMENT**

STATE OF WASHINGTON )  
 ) ss.  
County of King )

I certify that I know or have satisfactory evidence that Darla L. Rennebohm is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledge it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 3 day of December 2009.



*John J. White Jr.*  
Name: John J. White Jr.  
Notary Public in and for the State of  
Washington, residing at: Kenmore  
My Appointment Expires: 12-21-09



Exhibit A

Legal description

The land referred to in this report/policy is situated in the State of Washington, County of Skagit, and is described as follows:

PARCEL "A":

That portion of the Northeast 1/4 of the Southwest 1/4 of Section 4, Township 34 North, Range 2 East, W.M., described as follows:

All of vacated Blocks 2 and 3, and the West 30 feet of vacated Second Street and all of vacated Third Street abutting on said Blocks 2 and 3, in "THE RAILROAD ADDITION TO ANACORTES", as per plat recorded in Volume 2 of Plats, Page 36, records of Skagit County, Washington.

EXCEPT State Highway as originally conveyed to Skagit County by Deed recorded May 8, 1911, under Auditor's File No. 84686.

ALSO EXCEPT that portion conveyed to the Seattle and Northern Railway Company by Deed recorded January 10, 1890, in Volume 9 of Deeds, Page 317.

TOGETHER WITH the North 1/2 of vacated State Street adjacent thereto.

ALSO TOGETHER WITH that portion, if any, of the East 1/2 of the vacated Fourth Street which upon vacation would revert to said premises by operation of law.

EXCEPT from the above described premises the West 100 feet of the East 140 feet of the North 100 feet thereof, as conveyed to Howard N. Gullicksen, et ux, by Deed recorded December 24, 1958, under Auditor's File No. 574488.

AND EXCEPT all that portion thereof as conveyed to State of Washington, by Deed recorded December 30, 1960, under Auditor's File No. 602561.

PARCEL "B":

That part of vacated Block 1, "THE RAILROAD ADDITION TO ANACORTES", according to the plat thereof recorded in Volume 2 of Plats, Page 36, records of Skagit County, Washington, lying South of the 60 foot Highway right-of-way, recorded under Auditor's File No. 84680, running parallel to and South of the Great Northern Railway right-of-way.

TOGETHER WITH vacated streets adjoining.

EXCEPT that portion thereof conveyed to the State of Washington for highway purposes, by Deed dated December 19, 1960, and recorded under Auditor's File No. 603339, records of Skagit County, Washington.

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PARCEL "C":

The West 100 feet of the East 140 feet of the North 100 feet of that portion of the Northeast 1/4 of the Southwest 1/4 in Section 4, Township 34 North, Range 2 East, W.M., described as follows:

All of vacated Blocks 2 and 3, and the West 30 feet of vacated Second Street and all of vacated Third Street abutting on said Blocks 2 and 3, in "RAILROAD ADDITION TO ANACORTES", according to the plat thereof recorded in Volume 2 of Plats, Page 36, records of Skagit County, Washington.

EXCEPT State Highway as originally conveyed to Skagit County by Deed recorded May 8, 1911, under Auditor's File No. 84686, records of Skagit County, Washington.

ALSO EXCEPT that portion conveyed to the Seattle and Northern Railway Company by Deed recorded January 10, 1890, in Volume 9 of Deeds, Page 317.

PARCEL "D":

That Portion of the following described tract, lying Northerly of SR 536 (formerly P.S.H. No. 1 AN):

The East 780 feet of the West 1,170 feet of the South 530 feet of the North 1,060 feet of the Northeast 1/4 of the Southwest 1/4 of Section 4, Township 34 North, Range 2 East, W.M., (being formerly known as Blocks 9, 10 and 11, "THE RAILROAD ADDITION TO ANACORTES", as per Plat recorded in Volume 2 of Plats, Page 36, records of Skagit County, Washington.

TOGETHER WITH vacated streets and alleys adjoining.

EXCEPT any portion thereof lying within the boundaries of the existing County road.

AND ALSO EXCEPT the East 50 feet of the South 3,250 feet thereof.

PARCEL "E":

That portion of Lots 1 to 15, inclusive, in vacated Block 12, of "THE RAILROAD ADDITION TO ANACORTES", according to the Plat thereof recorded in Volume 2 of Plats, Page 36, records of Skagit County, Washington, lying Northerly of SR 536 (formerly P.S.H. No. 1).

TOGETHER WITH such portions of vacated streets and alleys which upon vacation reverted to said premises by operation of law.



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