

THIS INSTRUMENT WAS PREPARED
BY AND AFTER RECORDING SHOULD
BE RETURNED TO:

Farleigh Wada Witt
121 SW Morrison Street, Suite 600
Portland, OR 97204
Attn: Marisol R. McAllister



201704280127

Skagit County Auditor

\$81.00

4/28/2017 Page

1 of

9 1:37PM

*Unrecorded Leases *

113712
GUARDIAN NORTHWEST TITLE CO
SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

1ST AM NCS-843563-WA1

SUBORDINATION AND ATTORNMENT AGREEMENT

GRANTOR(S): John D. Carroll L.L.C., a Washington
Limited Liability Company

GRANTEE: Hyundai Capital America

LEGAL DESCRIPTION
(abbreviated):

SECTION 6, TOWNSHIP 34 NORTH, RANGE
4 EAST, W.M., PTN. SE ¼ (AKA LOTS 1 & 2,
SKAGIT CROSSINGS BSP BURL BSP-1-07
AND LOTS 1 AND 3, FISHER COMMERCIAL
PARK DIV. NO. 1)
(Additional on Exhibit A)

**ASSESSOR'S TAX PARCEL
OR OTHER ACCOUNT NO.:**

P23882, 8074-000-001-0000, P127091, 8074-000-
002-0000, P82932, 4462-000-001-0002, P82934,
4462-000-003-0000

This **SUBORDINATION AND ATTORNMENT AGREEMENT** (this "Agreement")
is made as of this 27th day of April, 2017, by and among **HYUNDAI CAPITAL AMERICA**, a
California corporation ("Lender"), **JOHN D. CARROLL L.L.C.**, a Washington limited liability
company ("Landlord"), and **JACK CARROLL'S LINCOLN MERCURY, INC.**, a Delaware
corporation ("Tenant").

RECITALS

A. Lender has made a certain loan (the "Loan") to Landlord pursuant to that certain Loan Agreement dated of even date herewith, entered into by Landlord and Lender (as amended, restated, modified, or substituted, the "Loan Agreement").

B. Landlord is the owner of the land legally described in Exhibit "A" attached hereto and made a part hereof (the "Premises").

C. Landlord is the landlord and Tenant is the tenant of the Premises pursuant to that certain Commercial Lease Agreement dated February 14, 2012, as extended, entered into by Borrower as lessor, and Tenant, as lessee (as amended from time to time, the "Lease").

D. The Loan is secured by, among other things, a Deed of Trust, Security Agreement, Assignment of Leases and Rents, and Fixture Filing of even date herewith, made by Landlord to Lender (such instrument, as amended, increased, renewed, modified, consolidated, replaced, combined, substituted, severed, split, spread or extended from time to time, together with any and all financing statements and fixture filings filed in connection with the Loan, being herein referred to collectively as the "Deed of Trust") which Deed of Trust is being recording concurrently herewith.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and understanding that Lender will rely on Tenant's and Landlord's covenants and certifications, as set forth herein, in entering into the Lease, the parties hereto agree and certify as follows:

1. Consent to Lease. Lender hereby represents and warrants to Tenant that: (a) Lender has received and reviewed a copy of the Lease; and (b) Lender consents to and approves the Lease, provided, however, that Lender's consent to the terms of the Lease shall not be deemed to subordinate any lien or security interest in favor of Lender created by the Deed of Trust or any of the documents and instruments now or hereafter evidencing or securing the Loan (which, together with the Loan Agreement and Deed of Trust, are collectively hereinafter referred to as the "Loan Documents") to any of Tenant's remedies under the Lease or to constitute advance consent or approval of any rights reserved to Lender in the Loan Documents.

2. Subordination. Tenant agrees that the Lease, including without limitation, any option, right of first refusal and/or right of first opportunity to purchase the Premises, shall be and is hereby made subject and subordinate to the lien granted to Lender pursuant to the Deed of Trust and all advances made thereunder, and to the terms, covenants and provisions thereof.

3. Attornment. Tenant agrees that, if Lender or any successor in interest to Lender shall become the owner of the Premises by reason of the foreclosure of the Deed of Trust or the acceptance of a deed or assignment in lieu of foreclosure, or otherwise, Tenant agrees to attorn to Lender or Lender's successor and the Lease shall not be terminated or affected thereby but shall, except as otherwise set forth herein, continue in full force and effect as a direct lease between Lender or Lender's successor and Tenant upon all of the terms, covenants and conditions set

forth in the Lease for the balance of the term pending. Lender or Lender's successor shall have no obligation to honor extensions or renewals of the Lease unless the same are contemplated by the terms of the Lease on the date hereof or consented to by Lender or Lender's successor. Any extensions or renewals so contemplated shall take effect only after expiration of the initial term and any preceding extensions or renewals.

4. No Change in Lease. Any direct or indirect amendment, modification, extension, renewal, alteration, waiver or other change to the Lease shall be voidable and unenforceable at the option of Lender, unless the prior express, written consent of Lender is obtained by Tenant. Tenant shall not prepay any payment required to be made to Landlord under the Lease more than one (1) month in advance, or agree to any abatement, reduction, moratorium or alteration in the amount, term or extent of such lease or rent payments, without the prior express written consent of Lender.

5. Consent to Assignment of Rents. By the terms of the Deed of Trust, Landlord has granted to Lender an assignment of rents and leases of even date herewith (the "Assignment of Rents") as collateral for the Loan. Tenant hereby agrees that, upon notice to Tenant by Lender that Lender is asserting its rights under the Assignment of Rents, Tenant will remit all rent and lease payments then due or to become due to Lender until directed otherwise. Lease payments and rent payable to Lender by virtue of the Assignment of Rents shall be made by Tenant to Lender without set-off, recoupment or deductions for any claims Tenant may have against Landlord.

6. Modifications. This Agreement may not be modified except by an agreement in writing signed by all the parties hereto. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns including a third-party purchaser at a foreclosure sale or any assignee of a deed in lieu thereof.

7. Notices. Tenant shall provide Lender reasonably prompt written notice of (a) any condemnation or other taking under the Lease notice of which is received by Tenant, (b) any assignment or sublease of Tenant's interest in the Lease, and (c) any default by Landlord under the Lease without regard to any cure period provided therein. Tenant shall also provide Lender a copy of any written notice of environmental action delivered by Tenant to Landlord. All notices, demands or requests made pursuant to, under or by virtue of this Agreement shall be in writing and sent to the person to whom the notice, demand or request is being made at the following addresses:

If to Lender:

Hyundai Capital America
3161 Michelson Drive, Suite 1900
Irvine, CA 92612
Attn: Sam Frobe, Senior Director, Commercial Credit

With a copy to:

Hyundai Capital America
3161 Michelson Drive, Suite 1900
Irvine, CA 92612
Attn: Vice President, Executive General Counsel

With a copy to:

Farleigh Wada Witt
121 SW Morrison St., Suite 600
Portland, OR 97204
Attn: Marisol McAllister.

If to Landlord:

John D. Carroll L.L.C.
1313 S. Goldenrod Road
Burlington, WA 98233
Attn: John D. Carroll

If to Tenant:

Jack Carroll's Lincoln Mercury, Inc.
d/b/a Jack Carroll's Skagit Hyundai,
1313 Goldenrod Road
Burlington, WA
Attn: Michael B. Carroll

With a copy to:

Edward P. Weigelt, Jr., Esq.
9222 36th Avenue, SE
Everett, WA 98208

Such notices shall be deemed to have been promptly given and received for all purposes (w) if mailed, by United States registered or certified mail, postage prepaid, return receipt requested, effective on the date shown on the return receipt effective three days after the date of mailing; (x) if sent by Federal Express or other reliable express courier, effective on the next business day after delivery to such express courier service; (y) if sent by telecopy, effective on the day of receipt (provided that, if such day is not a business day or if transmission is confirmed after 3 p.m. in the time zone of the delivery on a business day, such date of delivery or receipt shall be deemed to be the next following business day); or (z) if any such delivery is refused, on the date of such refusal. Any person may change the place that notices and demands are to be sent by written notice delivered in accordance with this Agreement. "Business day" shall mean any day except Saturday, Sunday and any day which shall be a legal holiday or a day on which banking institutions are authorized or required by law or other government action to close.

8. Right to Cure. If Tenant has given notice to Lender of a default by Landlord pursuant to the provisions of Paragraph 7 hereof, Lender, in addition to any other remedies provided in the Loan Documents, shall have the right, but not the obligation, to make payments and cure default on behalf of the Landlord, and in connection therewith, do all work and make all payments deemed reasonably necessary or appropriate by Lender to cure the default. Tenant

UNPUBLISHED DOCUMENT

further agrees that, in the event of any such default by Landlord which would give Tenant the right to damages from Landlord or the right, either immediately or after a period of time, to terminate the Lease, Tenant will not sue for such damages or exercise any such right to terminate until (a) it shall have given notice to Lender as provided under Paragraph 7 hereunder, and (b) if the default by Landlord is of a nature which can be cured by Lender, and if the Lender is proceeding with diligence to cure such default, Tenant shall have given Lender until the expiration of thirty (30) days beyond the period for Landlord's cure of such default under the Lease, provided that if the nature of such default is such that the same cannot reasonably be cured within such thirty (30) day period, such period shall be extended as necessary to allow Lender a reasonable time to cure such default, provided that Lender commences such cure within the thirty (30) day period and thereafter cures said default with due diligence but no later than ninety (90) days from the date of Lender's receipt of notice of the default.

9. Construction. This Agreement shall be governed by the laws of the State of Washington. If any of the terms of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of any such terms to any person or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

10. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same agreement.

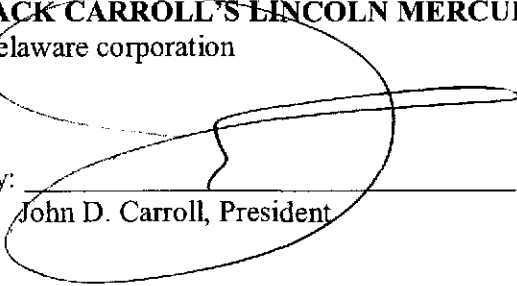
[Signature pages follow]

Signature Page to Subordination and Attornment Agreement

IN WITNESS WHEREOF, the parties hereto have hereunto caused this Agreement to be duly executed as of the day and year first above written.

TENANT:

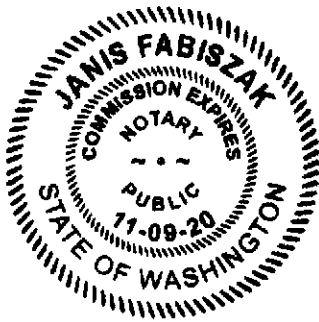
JACK CARROLL'S LINCOLN MERCURY, INC., a
Delaware corporation

By: 
John D. Carroll, President

STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that John D. Carroll is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath state that he was authorized to execute the instrument and acknowledged it as the President of Jack Carroll's Lincoln Mercury, Inc., a Delaware corporation to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 26 day of April, 2017.



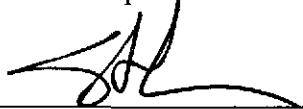

Notary Public for Washington

My Commission Expires: 11/09/2020

Signature Page to Subordination and Attornment Agreement

LENDER:

HYUNDAI CAPITAL AMERICA,
a California corporation

By: 

Name: Sam Frobe

Title: Senior Director, Commercial Credit

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

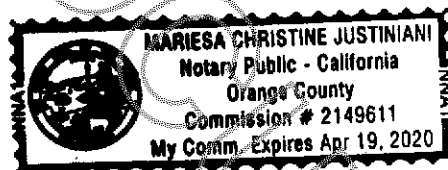
On April 25, 2017 before me, Marisa Justiniani, Notary Public
(insert name and title of the officer)

Personally appeared SAM FROBE, SENIOR DIRECTOR, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 



(Seal)

Signature Page to Subordination and Attornment Agreement

LANDLORD:

JOHN D. CARROLL L.L.C.,
a Washington limited liability company

By: _____
John D. Carroll, Member

By: _____
Michael B. Carroll, Member

STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that John D. Carroll is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath state that he was authorized to execute the instrument and acknowledged it as the Member of John D. Carroll L.L.C., a Washington limited liability company to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 26 day of April, 2017.

Janis Fabiszak
Notary Public for Washington
My Commission Expires: 11/09/2020

STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that Michael B. Carroll is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath state that he was authorized to execute the instrument and acknowledged it as the Member of John D. Carroll L.L.C., a Washington limited liability company to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 26 day of April, 2017.

Janis Fabiszak
Notary Public for Washington
My Commission Expires: 11/09/2020

SIGNATURE PAGE TO SUBORDINATION AND ATTORNMENT AGREEMENT

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EXHIBIT A

LEGAL DESCRIPTION

Real property in the County of Skagit, State of Washington, described as follows:

PARCEL "A":

LOTS 1 AND 2 OF SKAGIT CROSSINGS BINDING SITE PLAN BURL BSP 1-07, AS APPROVED JANUARY 31, 2008 AND RECORDED FEBRUARY 1, 2008, UNDER AUDITOR'S FILE NO. 200802010073, RECORDS OF SKAGIT COUNTY, WASHINGTON; BEING A PORTION OF THE SOUTHEAST ¼ OF SECTION 6, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M.

PARCEL "B":

LOTS 1 AND 3, "FISHER COMMERCIAL PARK DIV. NO. 1", ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 13 OF PLATS, PAGES 82 AND 83, RECORDS OF SKAGIT COUNTY, WASHINGTON.