



201811210065

11/21/2018 02:39 PM Pages: 1 of 9 Fees: \$206.00
Skagit County Auditor

Land Title and Escrow

01-168456-f

Document Title:

Subordination, Attornment and Non-Disturbance Agreement

Reference Number : 201310220037, 201310220038 **201811210064**

Grantor(s):

☐ additional grantor names on page ____.

1. Montgomery Holdings, LLC
2. Bridgestone Americas Tire Operations, LLC

Grantee(s):

☐ additional grantee names on page ____.

1. Skagit State Bank
- 2.

Abbreviated legal description:

☒ full legal on page(s) 9.

Lot 5 Commercial Facility Building Site Plan No. 97-0361

Assessor Parcel / Tax ID Number:

☐ additional tax parcel number(s) on page ____.

8020-000-005-0000

1 P113737

2/2 914587
MOUNT VERNON, WA
501 Jacks Lane
PN# 002

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT

This Subordination, Nondisturbance and Attornment Agreement (this "**Agreement**") is made and entered into as of the date of the last party to execute this Agreement, by and among **MONTGOMERY HOLDINGS, LLC**, a Washington Limited Liability Company ("**Landlord**"), **BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC**, a Delaware limited liability company ("**Tenant**"), having an office at 200 4th Avenue South, Nashville, TN 37201, Attn: Law Department/Real Estate Section ("**Tenant**") and **SKAGIT STATE BANK** ("**Lender**").

A. Lender loaned certain sums to Landlord evidenced by a promissory note in the amount of \$760,000.00 made by Landlord to Lender (the "**Loan**").

B. The Loan is secured by of a Deed of Trust, dated October 21, 2013, Instrument No. 201310220037 and Assignment of Rents, dated October 21, 2013, Instrument No. 201310220038, recorded in the Office of the Skagit County Auditor of Skagit County, Washington and secured by the Premises, as defined herein (collectively the "**Security Instrument**").

C. Lender has required that the Security Instrument be prior and superior to the Lease (as defined herein) and the leasehold interest of Tenant thereunder.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lender, Landlord and Tenant hereby agree as follows:

1. The Lease. Tenant and Landlord have entered into that certain Lease Agreement, dated October 1, 2018 under which Tenant shall lease certain real property located at 501 Jacks Lane, Mount Vernon, WA, as further described on Exhibit A attached hereto (the "**Premises**") (collectively or singularly, whichever applicable, (the "**Lease**").

2. Subordination. Notwithstanding anything to the contrary set forth in the Lease and subject to the terms of this Agreement, Landlord and Tenant, each for itself and its successors

and assigns, acknowledges and agrees the Lease is subject and subordinate to the Security Instrument.

3. Nondisturbance and Attornment.

a. If, at any time, Lender or any other person or entity or any of its successors or assigns (each, a "New Owner") acquires all or any portion of, or any interest in, the Premises through any action taken under the Security Instrument, then

i. such New Owner shall succeed to the interests and obligations of Landlord under the Lease, and, provided that Tenant is not in default under the Lease beyond any applicable notice and cure periods and provided, further, that Tenant attorns as provided in Section 3.a.ii. below (A) the Lease shall continue in full force and effect and shall thereupon be a direct lease between the New Owner and Tenant upon and subject to all of the terms, covenants and conditions of the Lease for the balance of the term and any extensions or renewals contained therein and (B) Tenant's rights and privileges shall not be terminated, diminished or interfered with and the leasehold rights of Tenant under and pursuant to the Lease shall continue as long as Tenant is not in default under the Lease beyond any applicable notice and cure period,

ii. Tenant hereby agrees to attorn to and accept any such New Owner as landlord under the Lease, and to be bound by and perform all of the obligations pursuant to the terms of the Lease, and

iii. any New Owner of the Premises agrees that it will not disturb the possession of Tenant under and pursuant to the Lease and will be bound by all of the obligations, terms and conditions pursuant to the terms of the Lease so long as Tenant is not in default under the Lease beyond any applicable notice and cure periods and subject to Tenant's attornment, as provided in Section 3.a.ii. above.

b. Notwithstanding anything to the contrary in the foregoing, any New Owner shall not be

i. liable for any act or omission of a prior lessor or owner (including Landlord) arising prior to the date upon which the New Owner shall succeed to the interest of Landlord under the Lease, except New Owner shall be responsible for any ongoing act or omission continuing after New Owner succeeds to the interest of Landlord under the Lease or

ii. subject to any claims, offsets or defenses which Tenant might have against any prior lessor or owner (including Landlord) arising prior to the date upon which the New Owner shall succeed to the interest of Landlord under the Lease, except New Owner shall be responsible for any claims, offsets or defenses arising from any ongoing act or omission continuing after New Owner succeeds to the interest of Landlord under the Lease.

4. Casualty or Condemnation. In the event of a conflict between the Lease and the Security Instrument with regard to any insurance proceeds following a casualty or a condemnation award following a taking, the terms of the Lease shall control.

5. Notice. Any notice required or permitted to be given under this Agreement shall be in writing and may be given by (a) hand delivery and shall be deemed given on the date of delivery, (b) registered or certified mail and shall be deemed given the third day following the date of mailing, or (c) overnight delivery by reputable overnight delivery service such as Federal Express or UPS and shall be deemed given the following day. All notices shall be addressed to the parties as follows (or to any other address that Lender, Landlord or Tenant shall designate in writing):

If to Lender: Skagit Bank
301 E. Fairhaven Avenue
Burlington, WA 98233

If to Tenant: Bridgestone Americas Tire Operations, LLC
200 4th Avenue South
Nashville, TN 37201
Attention: Law Department/Real Estate Section

If to Landlord: 2225 Wagner Rd.
Camano Island, WA 98282

6. Amendments. This Agreement may not be changed or terminated orally or by course of conduct unless in a written document executed by all parties hereto.

7. GOVERNING LAW. WITH RESPECT TO MATTERS RELATING TO THE ENFORCEMENT OF THIS AGREEMENT, THIS AGREEMENT SHALL BE GOVERNED BY, AND BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OR COMMONWEALTH, WHICHEVER APPLICABLE, IN WHICH THE PREMISES ARE LOCATED.

8. Miscellaneous.

a. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by telecopier, facsimile machine, portable document format ("PDF") or other electronic means shall be as effective as delivery of a manually executed counterpart of this Agreement. The effectiveness of any such documents and signatures shall, subject to applicable laws, have the same force and effect as manually signed originals and shall be binding on Landlord, Tenant and Lender. No party may raise the use of a telecopier, facsimile machine, PDF or other electronic means, or the fact that any signature was transmitted through the use of

a telecopier, facsimile machine, PDF or other electronic means, as a defense to the enforcement of this Agreement.

b. This Agreement shall inure to the benefit of the parties hereto and their respective successors and assigns.

c. The captions appearing opposite the Section number designations of this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

d. If any portion or portions of this Agreement shall be held invalid or inoperative, then all of the remaining portions shall remain in full force and effect, and, so far as is reasonable and possible, effect shall be given to the intent manifested by the portion or portions held to be invalid or inoperative.

[signatures appear on the following page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be made, executed and delivered as of the day and year of the last party to sign below.

LENDER: SKAGIT STATE BANK

By: T- [Signature]

Name: Tim Fitzgerald

Title: S.U.P.

STATE OF Washington)
) SS
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that Tim Fitzgerald 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 acknowledged it as an Officer of Skagit State Bank to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 4th day of October, 2018.



Lawrence A. Pirkle

(Notary's printed name)

NOTARY PUBLIC in and for the

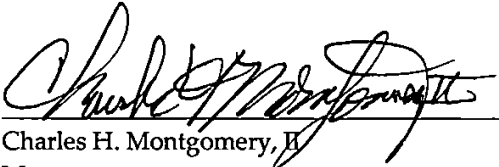
State of Washington

Residing at mt. Vernon

My Commission Expires: 05/7/2019

LANDLORD:

MONTGOMERY HOLDINGS, LLC,
a Washington limited liability company

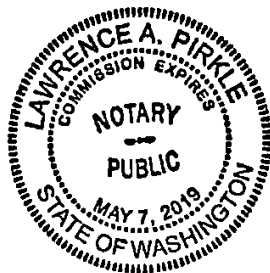
By: 
Charles H. Montgomery, II
Manager

ACKNOWLEDGMENT – MONTGOMERY HOLDINGS, LLC,


STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that CHARLES H. MONTGOMERY, II is the individual who appeared before me and said individual acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as Member/Manager of MONTGOMERY HOLDINGS, LLC to be the free and voluntary act of such parties for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 1st day of October, 2018.



LAWRENCE A. PIRKLE


NOTARY PUBLIC in and for the
State of Washington
Residing at Mount Vernon

My

Commission Expires: 5/7/19

TENANT:

**BRIDGESTONE AMERICAS
TIRE OPERATIONS, LLC,**
a Delaware limited liability company

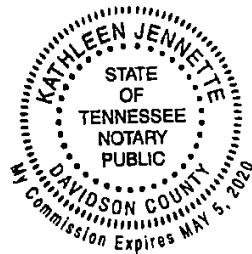
By: [Signature]
Name: Steve Hoefft
Title: Chief Operating Officer, GCR Tires &
Service division

ACKNOWLEDGMENT - BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC

STATE OF TENNESSEE)
) SS:
COUNTY OF DAVIDSON)

I certify that I know or have satisfactory evidence that Steve Hoefft 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 acknowledged it as an Officer of BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 1st day of October, 2018.



Kathleen Jennette
(Notary's printed name)
Kathleen Jennette
NOTARY PUBLIC in and for the
State of Tennessee
Residing at Davidson
My Commission Expires: May 5, 2020

Prepared by and Return to:
Law Department - Real Estate Section
Bridgestone Americas Tire Operations, LLC
200 4th Avenue S.
Nashville, TN 37201

[Signature Page to Subordination, Attornment and Non-Disturbance Agreement]

EXHIBIT A

Assessor's Parcel No: 8020-000-005-0000 (P113737).

Lot 5, Hilde Commercial Facility Building Site Plan No. 97-0361, approved November 25, 1998, recorded November 25, 1998 in Volume 13 of Short Plats, pages 186 and 187, under Auditor's File No. 9811250022 and being a portion of the NW 1/4 of the SW 1/4, Section 32, Township 34 North, Range 4 East, W.M.

TOGETHER WITH a non-exclusive easement for ingress, egress and utilities as granted and filed February 25, 2004, under Auditor's File Nos. 200402250152 and 200402250154, records of Skagit County, Washington.

ALSO TOGETHER WITH a non-exclusive easement for the construction, placement, reconstruction, repair and maintenance of a retaining wall as granted and filed February 25, 2004, under Auditor's File No. 200402250153, records of Skagit County, Washington.

Situate in the County of Skagit, State of Washington

TOGETHER WITH AND SUBJECT TO: All covenants, conditions, restrictions, reservations, agreements, easements, provisions, slope and drainage rights & assessments of record, if any.