

*Karen A. Madsen*  
REGISTER OF DEEDS

FILED  
2017 Aug-01 PM 03:26

KAREN A. MADSEN  
WASHINGTON COUNTY  
REGISTER OF DEEDS  
BLAIR, NE

Recorded \_\_\_\_\_  
General \_\_\_\_\_  
Numerical \_\_\_\_\_  
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### SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is made as of August 1, 2017 by and among American National Bank, ("Mortgagee"), W.P., L.L.C. ("Landlord"), and Woodhouse Ford, Inc., ("Tenant").

#### WITNESSETH:

WHEREAS, Mortgagee has made or proposes to make loans to Landlord more fully described in that certain Loan Agreement dated August 1, 2017 among Mortgagee, Landlord and the other borrower parties thereto, which loans are secured or to be secured by, among other things, a Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated August 1, 2017 (the "Mortgage"), which Mortgage created or will create a first lien against the lands, improvements and premises described on Exhibit A attached hereto and made a part hereof (the "Property"); and

WHEREAS, Landlord, as lessor, and Tenant, as lessee, have entered into a certain Lease Agreement dated as of [day and month undated], 2013 (the "Lease"), covering the portion of the Property leased under the Lease (such leased area and any improvements located thereon being hereinafter referred to as the "Demised Premises").

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Subordination. Subject to the provisions of this Agreement, the Lease is subject and subordinate to the lien of the Mortgage and to all renewals, modifications, consolidations, spreaders and extensions thereof, and to each advance made or hereafter to be made thereunder.

2. Attornment. In the event of any foreclosure under the Mortgage, deed in lieu thereof or otherwise, and the resulting succession to the interests of Landlord by Mortgagee or by any purchaser of said interests through foreclosure sale pursuant to the Mortgage or deed in lieu thereof (which Mortgagee or purchaser shall hereinafter be referred to as the "Successor Landlord"), Tenant shall attorn to and shall be bound to Successor Landlord under all of the terms and conditions in the Lease, including, but not limited to, the payment of rent (said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Successor Landlord succeeding to the interest of the lessor under the Lease for the balance of the term plus any extension or extensions

thereof, and the Successor Landlord shall be bound to Tenant under the terms and conditions of the Lease, provided, however, Successor Landlord shall not be (i) obligated to complete any construction work required to be done by Landlord pursuant to the provisions of the Lease or otherwise to reimburse Tenant for any construction work done by Tenant, (ii) liable for any accrued obligation of Landlord, or for any act or omission of Landlord, whether prior to or after such foreclosure or sale and except for ongoing maintenance or repair obligations under the Lease, if any, for matters arising after foreclosure or sale, (iii) required to make any capital improvements to the Premises which Landlord may have agreed to make, but had not completed, or to perform or provide any services not related to possession or quiet enjoyment of the Premises or (iv) subject to any offsets or counterclaims which shall have accrued to Tenant against Landlord prior to the date upon which Successor Landlord shall become the owner of the Premises. Any purchaser taking title to the Demised Premises by reason of foreclosure pursuant to the Mortgage, or deed in lieu thereof, shall take title subject to the provisions of this Agreement. Tenant acknowledges that the Mortgage contains an assignment of leases and rents conveying the rentals under the Lease as additional security for the loans secured by the Mortgage. Landlord has agreed under the Mortgage that rentals payable under the Lease shall be paid directly by Tenant to Lender upon an event of default by Landlord under the Mortgage. After receipt of notice from Lender to Tenant that rents under the Lease should be paid to Lender, Tenant shall pay to Lender all rents and other monies due to Landlord under the Lease, and such payment shall discharge any obligation of Tenant to pay rent and such other sums to Landlord under the Lease.

3. Non-Disturbance. In the event of any foreclosure under the Mortgage, deed in lieu thereof or other action thereunder and provided that Tenant has performed all of its obligations under the Lease or if Landlord has not declared a default which is then continuing beyond the period allowed Tenant for cure under the Lease: (a) any Successor Landlord shall acquire and accept the Demised Premises subject to the Lease; (b) the Lease and the rights of Tenant thereunder shall not be affected or disturbed, but shall continue in full force and effect as a direct lease between the Successor Landlord and Tenant; and (c) Tenant shall not be named as a party in any proceedings which may be instituted in connection with the Mortgage (unless Tenant is deemed a necessary party thereto, and which naming shall not affect Tenant's rights as described in (a) and (b) above).

4. Liability. Upon Successor Landlord's succession to the interest of the lessor under the Lease, Tenant shall thereafter have the same remedies (except as provided in this Agreement) against Successor Landlord for breach of the Lease that Tenant might have had against Landlord if Successor Landlord had not succeeded to the interest of lessor; provided, however, in no event shall Successor Landlord (a) be personally liable to Tenant for any damages arising against Landlord, or (b) be bound by any rent which Tenant might have paid to Landlord for more than the current month, or (c) be bound by any substantive amendment or modification of the Lease made after the date hereof without Mortgagee's consent (which consent shall not be unreasonably withheld or delayed).

5. Restoration Proceeds. Tenant further agrees that, whether before or after Mortgagee becomes the owner of the Premises, the provisions of the Mortgage shall govern with respect to the disposition of any casualty insurance proceeds or condemnation awards and as to any additional liens or encumbrances on the Premises.

6. Estoppel Certificate. Landlord and Tenant certify to Mortgagee that (a) true and correct copies of all documents constituting the Lease have been provided to Mortgagee, (b) the Lease is presently in full force and effect and represents the entire agreement between Tenant and Landlord with respect to the Demised Premises and there is no other agreement between the undersigned and Tenant with respect to the Demised Premises, (c) Tenant has paid all monthly base rent and additional rent due through the date of this Agreement and Landlord holds no security deposit, (d) the expiration date of the Lease is in 2023 and the Lease automatically renews for additional terms of one (1) year each unless notice of termination is given by Landlord or Tenant to the other not less than thirty (30) days prior to the then current term, and (e) neither Landlord nor Tenant is in default under the Lease. To the knowledge of the undersigned, no event has occurred that with the giving of notice, the passage of time, or both, would constitute a default under the Lease.

Tenant agrees from time-to-time, upon thirty (30) days' prior written notice (the "Notice") from Landlord or Mortgagee, to execute, acknowledge and deliver to Landlord, Mortgagee or any third party designated by Landlord or Mortgagee a written Estoppel Certificate certifying that (a) the Lease is in full force and effect; (b) the Landlord is not in default thereunder (or specifying any defaults by Landlord which Tenant alleges); (c) that rent has not been prepaid more than one (1) month in advance; and (d) Tenant will recognize Mortgagee as assignee of the Landlord's rights under the Lease.

7. Waiver. No waiver of the terms of this Agreement shall be valid or binding unless in writing and signed by all of the parties hereto.

8. Notice. Whenever and wherever in this Agreement, the Lease, the Mortgage or in any proceedings involving the foreclosure or attempt to foreclose pursuant to the Mortgage, it shall be required or permitted that notice, request or demand be given or served by any party, such notice, request or demand shall be in writing and be deemed to have been given or served upon receipt or refusal of receipt after being mailed, postage prepaid, by certified, registered or express mail, return receipt requested, when delivered in person or when sent by recognized next day carrier and addressed as follows:

To Landlord:

W.P., L.L.C.  
2171 South Highway 30  
Blair, Nebraska 68008  
Attn.: Lance Pittack, Member

To Tenant:

Woodhouse Ford, Inc.  
2171 South Highway 30  
Blair, Nebraska 68008  
Attn.: Paul Cech, CFO

To Mortgagee:

American National Bank  
8990 West Dodge Road  
Omaha, Nebraska 68114  
Attention: Jason L. Hansen

or to such other addresses as may hereafter be designated by any party not less than thirty (30) days in advance by proper notice to the others.

9. Successors. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

10. Construction. This Agreement shall be construed without reference to titles of paragraphs, which titles are inserted for convenient reference only.

11. Notice of Lease Default. Tenant agrees to give written notice to Lender of any default by Landlord under the Lease which would entitle Tenant to cancel the Lease or abate the rent payable thereunder, and agrees that such notice shall be given to Lender within the time periods Tenant is required to give such notice to Landlord under the Lease. Tenant further agrees to give such notices to any successor of Lender, provided that such successor shall have given written notice to Tenant of its acquisition of Lender's interest in the Mortgage and designated the address to which such notices are to be sent.

12. Amendment. This Agreement may not be modified other than by an agreement in writing signed by the parties hereto or their respective successors or assigns.

13. Execution in Counterparts. This Agreement may be executed in any number of counterparts, and by the different parties on different counterparts, each of which when executed shall be deemed an original but all such counterparts taken together shall constitute one and the same instrument. This Agreement may be validly executed and delivered by fax or other electronic means and by use of multiple counterpart signature pages.


14. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and no provision of this Agreement may be waived or terminated in any manner other than by supplemental written agreement signed by

the party against whom such waiver, termination, modification or amendment is sought to be enforced.

*[Signatures on Next Page]*

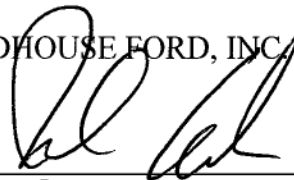
LANDLORD:

W.P., L.L.C.

By:   
Paul G. Cech, Authorized Person pursuant to  
filed Statement of Authority

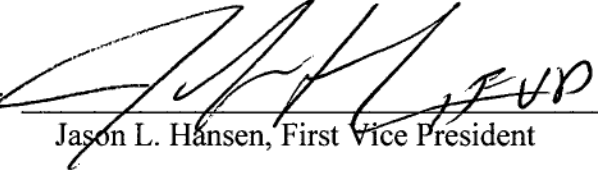
TENANT:

WOODHOUSE FORD, INC.

By:   
Title: SECRETARY

MORTGAGEE:

AMERICAN NATIONAL BANK

By:   
Jason L. Hansen, First Vice President

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF DOUGLAS        )

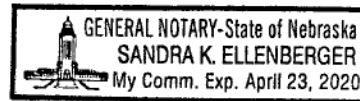
Before me, the undersigned, a Notary Public in and for said State, personally appeared Paul G. Cech, known to me and known by me to be a person authorized to execute this Agreement pursuant to a Statement of Authority filed by W.P., L.L.C., a Nebraska limited liability company, with the Nebraska Secretary of State, and said person acknowledged the execution of the foregoing Agreement for and on behalf of said limited liability company.

Given under my hand and seal this 1<sup>st</sup> day of August, 2017.

Sandra K. Ellenberger  
Notary Public

My appointment expires:

4.23.2020



STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF DOUGLAS        )

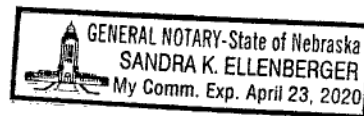
Before me, the undersigned, a Notary Public in and for said State, personally appeared Paul G. Cech known to me and known by me to be the \_\_\_\_\_ of Woodhouse Ford, Inc., a Nebraska corporation and acknowledged the execution of the foregoing Agreement for and on behalf of said corporation.

Given under my hand and seal of office this 1<sup>st</sup> day of August, 2017.

Sandra K. Ellenberger  
Notary Public

My appointment expires:

4.23.2020



STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF DOUGLAS        )

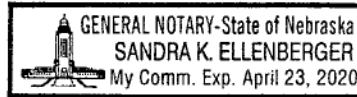
Before me, the undersigned, a Notary Public in and for said State, personally appeared Jason L. Hansen known to me and known by me to be a First Vice President of American National Bank, a national banking association and acknowledged the execution of the foregoing Agreement for and on behalf of said association.

Given under my hand and seal of office this 1<sup>st</sup> day of August, 2017.

Sandra Ellenberger  
Notary Public

My appointment expires:

4.23.2020





**Exhibit A**  
**Property**

The land situated in Washington County, Nebraska described as follows:

Tract 10:

Tax Lot 120, located in the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>) of the Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>) of Section 23, Township 18 North, Range 11 East of the 6th P.M., Washington County, Nebraska.

Tract 11:

Tax Lots 76 and 99, of Section 23, Township 18 North, Range 11 East of the 6th P.M., Washington County, Nebraska.

Tract 12:

Tax Lot 67, of Section 23, Township 18 North, Range 11 East of the 6th P.M., Washington County, Nebraska.

Tract 13:

Tax Lot 272, in the Southwest Quarter (SW<sup>1</sup>/<sub>4</sub>) of the Southeast Quarter (SE<sup>1</sup>/<sub>4</sub>) of Section 14, Township 18 North, Range 11 East of the 6th P.M., Washington County, Nebraska.

Tract 16:

Lot 7, Lots 7 & 8, Pleasant Valley II, being a replat of Lots 4, 5, & 6, Pleasant Valley II, an addition to the City of Blair, Washington County, Nebraska, and

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 18 NORTH, RANGE 11 EAST OF THE SIXTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 7, A LOT IN LOTS 7 & 8, PLEASANT VALLEY II, BEING A REPLAT OF LOTS 4, 5 & 6, PLEASANT VALLEY II, AN ADDITION TO THE CITY OF BLAIR, WASHINGTON COUNTY, NEBRASKA; THENCE NORTHERLY A DISTANCE OF 397.34 FEET TO THE NORTHWEST CORNER OF SAID LOT 7; THENCE SOUTHERLY DEFLECTING 173 DEGREES, 49 MINUTES, 29 SECONDS RIGHT, A DISTANCE OF 83.17 FEET ALONG THE WESTERLY LINE OF SAID LOT 7; THENCE SOUTHERLY DEFLECTING 007 DEGREES, 44 MINUTES, 39 SECONDS LEFT, A DISTANCE OF 71.39 FEET ALONG SAID WEST LINE OF LOT 7; THENCE SOUTHERLY DEFLECTING 017 DEGREES, 40 MINUTES, 21 SECONDS RIGHT, A DISTANCE OF 75.01 FEET ALONG SAID WEST LINE OF LOT 7; THENCE SOUTHERLY DEFLECTING 009 DEGREES, 27 MINUTES, 44 SECONDS RIGHT, A

DISTANCE OF 60.84 FEET ALONG SAID WEST LINE OF LOT 7; THENCE SOUTHERLY DEFLECTING 009 DEGREES, 27 MINUTES, 43 SECONDS LEFT, A DISTANCE OF 111.66 FEET TO THE POINT OF BEGINNING.