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**REDEVELOPMENT AGREEMENT**

**between**

**VILLAGE OF OAK PARK, COOK COUNTY, ILLINOIS**

**and**

**RRV MOTORCARS II**

**dated as of the**

**16th day of March, 2015**

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**VILLAGE OF OAK PARK, ILLINOIS  
HARLEM AND GARFIELD REDEVELOPMENT PROJECT AREA  
THE AUTOBARN VOLVO OF OAK PARK PROJECT**

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**REDEVELOPMENT AGREEMENT  
THE AUTOBARN VOLVO OF OAK PARK PROJECT**

This Redevelopment Agreement (this "**Agreement**") is made and entered into as of the 16th day of March, 2015 ("**Effective Date**") by and between the Village of Oak Park, Cook County, Illinois, an Illinois municipal home rule corporation (the "**Village**"), and RRV Motorcars II, an Illinois limited liability company, with its principal office located at 1140 Garfield Street, Oak Park, Illinois 60302 (the "**Developer**"). (The Village and the Developer are sometimes referred to individually as a "**Party**" and collectively as the "**Parties.**")

**RECITALS**

The following Recitals are incorporated herein and made a part hereof.

A. **WHEREAS**, the Village is a home rule unit of government in accordance with Article VII, Section 6, of the 1970 Illinois Constitution; and

B. **WHEREAS**, the Village has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety and welfare of the Village and its inhabitants, to prevent the presence of blight, to encourage private development in order to enhance the local tax base, to increase additional tax revenues realized by the Village, foster increased economic activity within the Village, to increase employment opportunities within the Village, and to enter into contractual agreement with third parties for the purpose of achieving the aforesaid purposes, and to otherwise further the best interests of the Village; and

C. **WHEREAS**, among other powers and authority, the Village has the authority to expend funds for economic development that the Village deems necessary or desirable for the promotion of economic development within the Village, pursuant to Section 8-1-2.5 of the Illinois Municipal Code, 65 ILCS 5/8-1-2.5; and

D. **WHEREAS**, the Village is further authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, et seq., as amended (the "**Act**"), to finance redevelopment in accordance with the conditions and requirements set forth in the TIF Act; and

E. **WHEREAS**, the Village authorized the preparation of a report entitled Harlem/Garfield Tax Increment Financing Redevelopment Plan and Project dated April, 1993 (the "**Redevelopment Plan**") concerning the redevelopment of the Harlem and Garfield Redevelopment Project Area (the "**Area**" or the "**TIF District**"); and

F. **WHEREAS**, in accordance with the Act, the Village conducted a public hearing with respect to the Redevelopment Plan and the redevelopment of the Area at a meeting of the President and the Board of Trustees of the Village ("**Corporate Authorities**") held on April 19, 1993; and

G. **WHEREAS**, as part of the study of the redevelopment of the Area, the Village found that the Area qualified as blighted in that it consisted of unused rail yards, rail tracks, or railroad rights of way or the area consisted of an unused disposal site, containing earth, stone,

building debris or similar material, which was removed from construction, demolition, excavation or dredge sites; and

H. **WHEREAS**, to stimulate and induce redevelopment in the Area pursuant to the Act, the Village has adopted the following ordinances, after giving all notices required and after conducting the public hearings required by law:

1. Ordinance No. 1993-0-34, adopted May 3, 1993, entitled “An Ordinance of the Village of Oak Park, Cook County, Illinois approving a tax increment redevelopment plan and redevelopment project for the Harlem and Garfield Redevelopment Project Area”;

2. Ordinance No. 1993-0-35, adopted May 3, 1993, entitled “Ordinance Designating the Harlem and Garfield Redevelopment Project Area pursuant to the Real Property Tax Increment Allocation Redevelopment Act”; and

3. Ordinance No. 1993-0-36, adopted May 3, 1993, entitled “Ordinance adopting tax increment allocation financing for the Harlem and Garfield Redevelopment Project Area” (collectively, the “**Enabling Ordinances**”).

I. **WHEREAS**, Volvo of Oak Park owns real property located within the Area, property commonly known as 1140 Garfield Street, used as an auto dealership, all as generally depicted in **Exhibit 1** (the “**Property**”); and

J. **WHEREAS**, Volvo of Oak Park and the Village have made and entered into a Third Amendment to Business Retention Agreement, during September, 2014 concerning a pledge of sales taxes derived from the auto dealer operations at the Property and a Village guarantee of certain of its business indebtedness; and

K. **WHEREAS**, in order to induce the Developer’s purchase, operation and management of the business and Property owned by Volvo of Oak Park within the Area, the Village and the Developer desire that certain Village economic incentives be initiated, continued or transferred to the Developer; and

L. **WHEREAS**, the Developer shall purchase the Property and commence and maintain operations of an auto dealership at the Property as further described in this Agreement (collectively, the “**Project**”); and

M. **WHEREAS**, the Developer has represented and warranted to the Village that Developer, and its principals, are skilled in the business of auto dealership management; and

N. **WHEREAS**, it is necessary for the successful completion of the development of the Property that the Village enter into this Agreement with Developer to provide for the Project, thereby implementing and bringing to completion a portion of the of the Redevelopment Plan; and

O. **WHEREAS**, the Developer has been and continues to be unable and unwilling to undertake the development and redevelopment of the Property but for certain tax increment financing (“**TIF**”) incentives that may be provided by the Village and other municipal incentives

in accordance with the Act, to the extent applicable, and the home rule powers of the Village, which the Village is willing to provide under the terms and conditions contained herein. The parties acknowledge and agree that but for the economic development incentives to be provided in accordance with this Agreement, the Developer cannot successfully and economically provide for the Project in a manner satisfactory to the Village. The Village has determined that it is desirable and in the Village's best interests to assist Developer in the manner set forth herein, and as this Agreement may be supplemented and amended; and

P. **WHEREAS**, the Village, in order to stimulate and induce the acquisition and development of the Property, has agreed to finance certain Redevelopment Project Costs (as defined in Article Two below) through Net Incremental Property Taxes (as defined in Article Two below) and other lawfully available Village funds, all in accordance with the terms and provisions of this Agreement and the Act; to the extent applicable, and otherwise to finance the economic development incentives to the Developer pursuant to the terms of this Agreement; and

Q. **WHEREAS**, this Agreement has been submitted to the Corporate Authorities of the Village for consideration and review, the Corporate Authorities have taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon the Village according to the terms hereof, and any and all actions of the Corporate Authorities of the Village precedent to the execution of this Agreement have been undertaken and performed in the manner required by law; and

R. **WHEREAS**, this Agreement has been submitted to the Developer for consideration and review, and the Developer has taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon the Developer according to the terms hereof, and any and all actions precedent to the execution of this Agreement by the Developer have been undertaken and performed in the manner required by law:

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

## **ARTICLE 1**

### **INCORPORATION OF RECITALS**

The findings, representations and agreements set forth in the above Recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though fully set out in this Article One, and constitute findings, representations and agreements of the Village and of the Developer according to the tenor and import of the statements in such Recitals.

## ARTICLE 2

### DEFINITIONS

For the purposes of this Agreement, unless the context clearly requires otherwise, words and terms used in this Agreement shall have the meanings provided from place to place herein, including above in the recitals hereto and as follows:

**“Act”** means the Tax Increment Allocation Redevelopment Act found at 65 ILCS 5-11-74.4-1, et seq., as supplemented by the Local Government Debt Reform Act, as amended, and the home rule powers of the Village.

**“Agreement”** means this “Redevelopment Agreement-The Autobarn Volvo of Oak Park Project.”

**“Change in Law”** means the occurrence, after the Effective Date, of an event described in Section (a) below, provided (x) such event materially changes the costs or ability of the Party relying thereon to carry out its obligations under this Agreement or otherwise necessitates material changes to the Project and (xx) such event is not caused by the Party relying thereon:

(a) Change in Law means any of the following: (i) the enactment, adoption, promulgation or modification of any federal, state or local law, ordinance, code, rule or regulation; (ii) the order or judgment of any federal or state court, administrative agency or other governmental body; or (iii) the adoption, promulgation, modification or interpretation in writing of a written guideline or policy statement by a governmental agency. Change in Law, for purposes of this Agreement, shall also include the imposition of any conditions on, or delays in, the issuance or renewal of any governmental license, approval or permit (or the suspension, termination, interruption, revocation, modification, denial or failure of issuance or renewal thereof) necessary for the undertaking of the Project under this Agreement.

**“Code”** means the United States Internal Revenue Code of 1986, as amended.

**“Collector”** means the officer or officers of The County of Cook, Illinois, who is or are at the time obligated under applicable law to collect and pay over to the Village the Incremental Property Taxes pursuant to and in accordance with the Act.

**“Corporate Authorities”** means the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois.

**“Developer”** means RRV Motorcars II, an Illinois limited liability company, permitted assigns as provided in accordance with this Agreement, or any successors in interest thereof.

**“Developer Affiliate”** means an entity controlled by, or under common control with Developer such that it has either the same manager, members, partners or shareholders who shall own in aggregate, more than fifty percent (50%) of the ownership interests in Developer and also own more than fifty percent (50%) of the ownership interests in said Affiliate or an institutional investor(s) or a fund investing such investors assets; and as used herein, “control” shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and

policies of a person or entity, whether through the ownership of voting securities or rights, by contract, or otherwise.

**“Eligible Costs”** means the Redevelopment Project Costs provided by the Developer as part of the Project, including without limitation, the costs of the Developer’s purchase of the Property. The Developer’s contract to purchase the Property and certain other assets is attached hereto in **Exhibit 3**. The costs of the Eligible Costs will be paid or reimbursed to the Developer by the Village as provided in this Agreement.

**“Incremental Property Taxes”** means that portion of the ad valorem taxes, if any, arising from the taxes levied upon the Property, which taxes are actually collected and which are attributable to the increases in the then current equalized assessed valuation (“EAV”) of the taxable lot, block, tract or parcel of all portions of the Property in the TIF District over and above the total Initial EAV of the Property, all as determined by the County Clerk of the County of Cook, Illinois, pursuant to and in accordance with the Act, the TIF Ordinances and this Agreement, which is attributable to the Property and includes any replacement, substitute or amended taxes.

**“Initial EAV”** means the initial calendar year equalized assessed value of the Property certified by the County Clerk of Cook County.

**“Net Incremental Property Taxes”** means that portion of the Incremental Property Taxes remaining after those payments required to be made to the applicable public school districts based upon State law and/or any agreements entered into between the Village and said school district or school districts, payments to any other taxing jurisdictions which are required under applicable State law, payments on any applicable debt obligations (i.e., payable from Harlem and Garfield Redevelopment Project Area revenues), and after deduction of allowable administrative expenses of the Village.

**“Party”** means the Village and/or Developer and its successors and/or assigns as permitted herein, as the context requires.

**“Person”** means any individual, corporation, partnership, limited liability company, joint venture, association, trust, or government or any agency or political subdivision thereof, or any agency or entity created or existing under the compact clause of the United States Constitution.

**“Project”** means the Developer’s purchase of the Property and the commencement of operations of an auto dealership at the Property as further described in this Agreement.

**“Project Schedule”** means the schedule for the acquisition of the commencement and completion of the Project as provided in Section 6.1 of this Agreement.

**“Property”** means those parcels generally described in Recital I and depicted on **Exhibit 4**, upon which the Project will be acquired and operated.

**“Redevelopment Plan”** means the “Redevelopment Plan” (as identified in Paragraph D of the Recitals) for the TIF District as approved by Village.

**“Redevelopment Project Costs”** means those qualified redevelopment project costs authorized by the Act and set forth in Exhibit 3 to this Agreement, including without limitation, the costs of the Eligible Costs.

**“State”** means the State of Illinois.

**“TIF District”** means the Harlem and Garfield Redevelopment Project Area of the Village.

**“TIF Fund”** means the special allocation fund of the Village consisting solely of the Incremental Property Taxes of the Harlem and Garfield Redevelopment Project Area.

**“TIF Ordinances”** means all Ordinances adopted by the Village relating to the establishment or amendment of the Harlem and Garfield Redevelopment Project Area as further delineated in the Recitals to this Agreement.

**“Uncontrollable Circumstance”** means any event which.

- (a) is beyond the reasonable control of and without the fault of the Party relying thereon; and
- (b) is one or more of the following events:
  - (i) a Change in Law;
  - (ii) insurrection, riot, civil disturbance, sabotage, act of the public enemy, explosion, fire, nuclear incident, war or naval blockade;
  - (iii) epidemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary or ordinary weather conditions or other similar act of God;
  - (iv) governmental condemnation or taking;
  - (v) strikes or labor disputes, or work stoppages not initiated by the Developer;
  - (vi) shortage or unavailability of essential materials, which materially change the ability of the Party relying thereon to carry out its obligations under this Agreement;
  - (vii) unknown or unforeseeable geo-technical or environmental conditions;
  - (viii) major environmental disturbances;
  - (ix) vandalism; or
  - (x) terrorist acts.

Uncontrollable Circumstance shall not include: economic hardship; unavailability of materials (except as described in b(vi) above); or a failure of performance by a contractor (except as caused by events which are Uncontrollable Circumstances as to the contractor).

For each day that the Village or Developer is delayed by an Uncontrollable Circumstance, the dates set forth in this Agreement shall be extended by one (1) day for each day of the resulting delay.

**“Village”** means the Village of Oak Park, Cook County, Illinois, an Illinois home rule municipal corporation.

**“Village Code”** means the Oak Park Village Code, as amended from time to time.

**“Zoning Ordinance”** means the Village of Oak Park Zoning Ordinance, as amended from time to time.

### **ARTICLE 3**

#### **CONSTRUCTION**

This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) Definitions include both singular and plural.
- (b) Pronouns include both singular and plural and cover all genders.
- (c) The word “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.”
- (d) Headings of Articles and Sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.
- (e) All exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement. In the event of a conflict between any exhibit and the terms of this Agreement, the Agreement shall control.
- (f) Any certificate, letter or opinion required to be given pursuant to this Agreement means a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth. Reference herein to supplemental agreements, certificates, demands, requests, approvals, consents, notices and the like means that such shall be in writing whether or not a writing is specifically mentioned in the context of use.
- (g) The Village Manager, or the Manager’s designee, unless applicable law requires action by the Corporate Authorities, shall have the power and authority to make or grant or do those things, certificates, requests, demands, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the Village and with the effect of binding the Village as limited by and provided for in this Agreement. Developer and Village are entitled to rely on the full power and authority of the Persons executing this Agreement on behalf of the Developer and Village as having been properly and legally given by the Developer or Village as the case may be. In addition, the Village reserves the

right to designate an “Owner’s Representative” at the Village’s sole cost with regard to the Project.

- (h) In connection with the foregoing and other actions to be taken under this Agreement, and unless applicable documents require action by Developer in a different manner, Developer hereby designates Richard A. Fisher as its authorized representative who shall individually have the power and authority to make or grant or do all things, supplemental agreements, certificates, requests, demands, approvals, consents, notices and other actions required or described in this Agreement for and on behalf of Developer and with the effect of binding Developer in that connection (such individual being an “**Authorized Developer Representative**”). Developer shall have the right to change its authorized Developer Representative by providing the Village with written notice of such change which notice shall be sent in accordance with Section 19.3.

#### **ARTICLE 4**

##### **DEVELOPMENT PLAN**

The Developer has proposed and the Village has agreed that the Project shall proceed in accordance with this Agreement.

#### **ARTICLE 5**

##### **DESIGNATION OF DEVELOPER**

The Village hereby designates Developer as the exclusive operator of the Project on the Property, subject to the terms of this Agreement. The Village hereby represents to Developer that the Village has, to the best of its knowledge, taken in good faith, all necessary actions and has complied with all requirements of law necessary to authorize the Village to comply with this Agreement.

#### **ARTICLE 6**

##### **DEVELOPMENT OF THE PROPERTY**

###### **Section 6.1 Project Schedule.**

The Village and Developer agree that the Project will be undertaken in accordance with the following general schedule (“**Project Schedule**”):

- I. Redevelopment Agreement Effective Date: March 16, 2015.
- II. Sales Tax Rebate Sharing Agreement Effective Date: March 16, 2015.
- III. Acquisition of the Property: March 17, 2015.
- IV. Village TIF Loan Effective Date: March 17, 2015

The Village and Developer agree to undertake all actions respectively necessary by each Party to allow for the Project in accordance with the Project Schedule. The Parties acknowledge

that the Project Schedule is based on the Parties best understanding of the Project and related milestones as of the Effective Date. The Parties may amend the Project Schedule as necessary to ensure that it accurately reflects the key milestones in the Project and the Parties specifically agree that the milestone dates will be automatically extended by the number of days after the date in the Project Schedule that Village required action is accomplished. Each Party agrees to not unreasonably withhold approval of a request by the other Party to amend the Project Schedule for such purposes.

**Section 6.2 List of Exhibits.**

**Exhibit 1** generally depicts the Project. **Exhibit 2** is reserved. The Redevelopment Project Costs and related Project agreements are set forth and attached hereto and hereby made a part hereof as **Exhibit 3**. **Exhibit 4** lists the real estate parcels to be acquired by the Developer in order to complete the Project. **Exhibit 5** lists and describes the Project and the related cost estimates. **Exhibit 6** sets forth the commercial loan commitment for the Project to the Developer and the Unconditional and Continuing Guaranty of Richard A. Fisher. **Exhibit 7** is reserved. **Exhibit 8** is reserved. **Exhibit 9** provides the form of sales tax rebate sharing agreement (“*Sales Tax Rebate Sharing Agreement*”). The Village shall approve and execute in a timely manner the Sales Tax Rebate Sharing Agreement substantially in the form as attached hereto as Exhibit 9. **Exhibit 10** describes the projected Project forecast of auto sales. It is understood that the Project must not only be completed in conformity with the aforesaid **Exhibits 3 through 10**, but also all applicable codes, ordinances and regulations of the Village. The Developer may request that the Village grant variations and waivers, no such variations and waivers having been granted by the Village as of the Effective Date.

**Section 6.3 Reserved.**

**Section 6.4 Reserved.**

**Section 6.5 Permitted Uses.**

The uses permitted for the Project shall defined in the Zoning Ordinance.

**Section 6.6 Prohibited Uses.**

The Developer agrees to not lease to or otherwise sell or allow to operate on the Property any use specifically prohibited by the Zoning Ordinance. This restriction on prohibited uses shall be a covenant running with the land and binding on all future owners, successors in interest, tenants and assignees of any kind.

**ARTICLE 7**

**VILLAGE COVENANTS AND AGREEMENTS**

**Section 7.1 Village’s Redevelopment Obligations.**

**A. General.** In addition to its other covenants and obligations set forth in this Agreement, the Village shall have the obligations set forth in this Article Seven with

regard to the Project, all subject to the Developer's financial commitments and compliance with the terms of this Agreement.

**B. Village TIF Loan.** The Village shall provide Developer a loan of \$1,000,000 from funds contained in the special tax allocation fund of the Harlem and Garfield Redevelopment Project Area to pay for eligible redevelopment project costs as allowed by the Act and as set forth in Exhibit 3 hereof (the "**Village TIF Loan**"). The amount of the Loan shall be \$1 million and the term of the Loan will be 15 years, bear interest at 5%, with one-third of the Loan to be forgiven every five years so long as the Developer maintains ownership and the dealership remains operational. The provisions of this Agreement regarding the Village TIF Loan, including the obligations and responsibilities created by said provisions, will continue past the expiration of the TIF District, as set forth herein.

**C. Sales Tax Rebate Sharing Agreement.** The Village has agreed to rebate a portion of the sales tax revenue generated at the Property to Developer. After the dealership sales in the Village reach \$50 million in sales volume, the Village and the Developer will share equally sales taxes for a six-year (72-month) period. The specific terms and conditions for the sharing of sales tax revenues from the Property shall be set forth in in a Sales Tax Rebate Sharing Agreement ("**Sales Tax Rebate Sharing Agreement**") to be entered into by the Village and the Developer in substantially the form of the agreement in **Exhibit 9** attached hereto and hereby made a part hereof. In accordance with its own terms, the Sales Tax Rebate Sharing Agreement will survive the expiration of the term of this Agreement. The provisions of this Agreement regarding the Sales Tax Rebate Sharing Agreement, including the obligations and responsibilities created by said provisions, will continue past the expiration of the TIF District, as set forth in the Sales Tax Rebate Sharing Agreement.

## **Section 7.2 Village Cooperation.**

The Village agrees to cooperate with Developer in Developer's attempts to obtain all necessary approvals from any governmental or quasi-governmental entity and upon request of Developer, will promptly execute any applications or other documents (upon their approval by the Village) which Developer intends to file with such other governmental or quasi-governmental entities in respect of the Project. Approval of any building permit applications and/or engineering plans shall be contingent on the Developer providing all required and requested documentation for each such permit, including but not limited to engineering reports, calculations and plans required to substantiate that said improvements fully conform with all applicable state statutes and also all Village ordinances and codes , as well as receipt of all required approvals from any federal, state, regional or county agencies having applicable jurisdiction.

**Section 7.3 Reserved.**

**Section 7.4 Village TIF Loan.**

**A. Loan Amount and Terms.** the Village shall provide Developer a Village TIF Loan of \$1,000,000 from funds existing and contained in the special tax allocation fund of the Harlem and Garfield Redevelopment Project Area to pay for eligible redevelopment project costs as allowed by the Act and as set forth in Exhibit 3 hereof and the loan documentation as set forth in Exhibit 6. The term (the “**Loan Term**”) of the Village TIF Loan will be for fifteen (15) years. The Village TIF Loan will have an annual interest rate of 5%. The Village TIF Loan will be secured by Developer through a personal guaranty, in the form set forth in **Exhibit 6**.

**B. Loan Debt Repayment.** On each fifth anniversary of the commencement of the Village TIF Loan (the “**Loan Term Commencement**”) one-third (1/3<sup>rd</sup>) of the Village TIF Loan principal, along with the interest related to same, shall be forgiven with no requirement to be repaid under any circumstance at the end of the fifteenth (15) year of the Loan Term.

**C. Payment.** The Village’s payment of the Village TIF Loan is subject to the reimbursement authorization provisions of Section 7.10 of this Agreement and will be paid pursuant to provisions of Section 7.5 of this Agreement.

**Section 7.5 TIF Funding.**

Subject to Subsection 7.4B of this Agreement, the Village will pay the Village TIF Loan to Developer from the Net Incremental Property Taxes which exist on the date hereof in the TIF Fund. The Village intends to use TIF Funds to reimburse Developer for Redevelopment Project Costs which are qualified for payment under this Agreement and applicable law and pursuant to the procedures set forth in Section 7.10 below. The Developer shall notify the Village from time to time of all new property index numbers (PINs) as they are issued by the Cook County Clerk, it being understood that without such information the Village will be unable to calculate and determine the amount of Net Incremental Property Taxes.

**Section 7.6 Reserved.**

**Section 7.7 Reserved.**

**Section 7.8 Reserved.**

**Section 7.9 Reserved.**

**Section 7.10 Reimbursement Authorization Procedures.**

(a) The Village shall pay the Developer the Village TIF Loan pursuant to the terms of this Agreement. Within 30 days after the applicable and required submissions under this Section, the Village shall authorize the distribution of the applicable portion of the Village TIF Loan to

the Developer in accordance with the terms of this Agreement, upon satisfaction of the following conditions only with regard to the Eligible Costs:

- (i) Developer has submitted to the Village's Treasurer a disbursement request on a form reasonably acceptable to the Village with respect to such portions.
  - (ii) Developer is not in material default under this Agreement after expiration of all applicable cure periods.
  - (iii) The Village has previously inspected and approved the Eligible Costs applicable to the request.
- (b) As a prerequisite to the making of payments to the Developer, the Developer must certify to the Village the following:
- (i) The Developer (or its successor or assign, if applicable) is duly organized and validly existing.
  - (ii) The Developer has the right, power and authority to submit the request for payment and to perform its obligations under the Agreement.
  - (iii) No Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default under this Agreement or an event of default under any financing agreement related to the acquisition of the Property.
  - (iv) The requested disbursement is for Redevelopment Project Costs which are qualified for payment under this Agreement and applicable law.
  - (v) None of the items for which payment is requested has already been paid.
  - (vi) That no lien exists against the Property except those that Developer, in good faith and based upon reasonable grounds, is contesting.
- (c) The Developer shall, upon request by the Village, provide the Village with all documentation required to evidence the cost of the Eligible Costs such records to include, but not be limited to, transfer tax declarations, deeds, closing statements, purchase and sale contracts or amendments to purchase and sale contracts. The Village may require an audit of all evidence of the cost of Eligible Costs, such audit to be performed by an auditor selected by the Village in its sole discretion and at the Village's cost.
- (d) It is understood that the Village TIF Loan as provided in Section 7.4 of this Agreement and the Sales Tax Rebate as defined in the Sales Tax Rebate Sharing Agreement together are the maximum amount the Village will be required to pay or otherwise reimburse to the Developer for the purchase of the Property and the operations of the Project. Subject to applicable cure periods and provisions and notices, it is further understood that the Village may reimburse itself out of the Sales Tax Rebate for any monies owed by the Developer. Unless otherwise cured, the Sales Tax Rebate will be reduced by the amount of any such reduction.

(e) The Village may use, in the amounts set forth herein, the Net Incremental Property Taxes to finance certain Redevelopment Project Costs (including the Developer's cost of capital). In addition, the Village may, in its discretion, issue general obligation or tax increment allocation bonds or other obligations, secured by lawful revenue sources (as the Village, in its discretion, may determine) pursuant to an ordinance at a later date the proceeds of which may be used to pay for the costs of the Redevelopment Project Costs or Village TIF Loan (including the Developer's cost of capital) not previously paid for from Net Incremental Property Taxes in order to reimburse the Village for the costs of Redevelopment Project Costs or to pay Developer in accordance with the terms hereof.

#### **Section 7.11 No Private Payments.**

The Village has represented to the Developer that payments from the Developer to the Village other than payments made by the Developer of taxes of general applicability may be deemed to be private payments under the Internal Revenue Code of 1986, as amended (the "Code"), and that any such payments may cause interest on any bonds of the Village issued to pay for the Eligible Costs and other financing instruments to be includible in the gross income of the owner thereof for federal income tax purposes. Accordingly, if any such bonds are issued on a tax-exempt basis, the Village will accept no payment from the Developer pursuant to any provision of this Redevelopment Agreement without, at the Village's sole expense, first obtaining the advice of Miller, Canfield, Paddock and Stone, P.L.C., Bond Counsel, or other such bond counsel as determined by the Village, that such payment will not impair the status of interest on such bonds or other financing instruments issued on a tax-exempt basis under the Code as not includible in the gross income of the owners thereof for federal income tax purposes.

#### **Section 7.12 Taxes of General Applicability.**

The Village further represents that security for such bonds and other financing instruments and payments of interest on such bonds and other financing instruments are limited to (a) taxes of general applicability, and (b) the amounts on deposit in the funds and accounts created under the ordinances authorizing the issuance of such bonds or other financing instruments. The Village recognizes that improper agreements with taxpayers may cause tax receipts to be classified as private payments under the Code. Accordingly, the Village covenants not to enter into or enforce any agreements with taxpayers, including, specifically the Developer, that would modify the obligations of such taxpayers under general law without an opinion of Bond Counsel, at the Village's sole expense, that such agreement or enforcement will not adversely affect the tax-exempt status of interest on such bonds or other financing instruments issued on a tax-exempt basis for federal income tax purposes. In the event that such bonds are issued on a tax-exempt basis, no provision of this Redevelopment Agreement or any agreement, written or oral, will be enforced for the benefit of the holders of such bonds or other financing instruments or in any way to increase revenues available to pay interest on such bonds or other financing instruments. The Village's obligations to pay the Village TIF Loan to the Developer and to otherwise comply with the terms of this Agreement are not subject to, conditioned or otherwise contingent upon any of the provisions in this Section or in Section 7.11 of this Agreement.

## ARTICLE 8

### DEVELOPER'S COVENANTS AND AGREEMENTS

#### **Section 8.1 Developer's Development Obligations.**

Developer shall have the obligations set forth in this Article Eight for the Project, all subject to the terms and conditions of this Agreement, including without limitation, the Village's financial commitments and compliance with the terms set forth in this Agreement.

#### **Section 8.2 Developer's Commitments.**

(a) Developer will complete and operate the Project in full conformance with the terms of the Agreement.

(b) Developer shall not request any other additional financial support from the Village during a 15-year period, starting with the Effective Date.

#### **Section 8.3 Reserved.**

#### **Section 8.4 Timing of Developer's Obligations.**

Subject to Uncontrollable Circumstances, Developer will complete the acquisition of the Property pursuant to the Project Schedule. If Developer fails to acquire the Property within the time period set forth in the Project Schedule, such will constitute an Event of Default under this Agreement (subject to the cure provisions hereof) unless caused by Uncontrollable Circumstances.

#### **Section 8.5 Compliance with Applicable Laws.**

Developer shall at all times maintain and complete the Project in conformance with all applicable laws, rules, ordinances and regulations. The operations of the Project shall conform to all applicable federal, state and local laws, regulations and ordinances, including, but not limited to, zoning, subdivision and planned development codes, building codes, environmental laws (including any law relating to public health, safety and the environment and the amendments, regulations, orders, decrees, permits, licenses or deed restrictions now or hereafter promulgated thereafter), life safety codes, property maintenance codes and any other applicable codes and ordinances of the Village, or any of its rules or regulations or amendments thereto.

**Section 8.6 Reserved.**

**Section 8.7 Reserved.**

**Section 8.8 Reserved.**

**Section 8.9 Reserved.**

**Section 8.10 Employment Opportunity.**

The Developer, on behalf of itself and its successors, assigns and Developer Affiliates, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Developer Affiliate operating on the Property (collectively, with the Developer, the “Employers” and individually an “Employer”) to agree, that for the term of this Agreement with respect to Developer and during the period of any other party’s provision of services in connection with the occupation of the Property, as follows:

**A. No Discrimination in Employment.** No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, disability, sexual orientation, military discharge status, marital status, parental status or source of income. Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places on the job site, available to employees and applicants for employment, notices to be provided by the Village setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, disability, sexual orientation, military discharge status, marital status, parental status or source of income.

**B. Training Opportunities.** To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low-and moderate-income residents of the Village and preferably of the Redevelopment Area.

**C. Compliance with Employment Laws.** Each Employer shall comply with all federal, state and local equal opportunity employment Laws, statutes, rules and regulations, including but not limited to the Village’s Human Rights Ordinance, codified as Chapter 13 of the Village Code, the Cook County Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

**D. Response to Village Inquiries.** Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the Village, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

**E. Employment Terms to be Included in Subcontracts.** To the extent feasible, each Employer shall include the foregoing provisions of subparagraphs (A) through (D) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

**F. Remedies for Violation of Employment Obligations.** Failure to comply with the employment obligations described in Sections 8.10 and 8.11 shall be a basis for the Village to pursue remedies under the default provisions of this Agreement.

#### **Section 8.11 No Discrimination in Sales or Lease.**

The Developer shall not discriminate based upon race, color, religion, sex, national origin or ancestry, age, disability, marital status, parental status or sexual orientation in the sales, lease or rental, or in the use or occupancy of the Project or any improvements located or to be erected thereon, or any part thereof.

#### **Section 8.12 Advertisements.**

Developer will, in all solicitations or advertisements for employees placed by or on behalf of Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

### **ARTICLE 9**

#### **ADDITIONAL COVENANTS OF DEVELOPER**

##### **Section 9.1 Developer Existence.**

Developer will do or cause to be done all things necessary to preserve and keep in full force and effect its existence and standing as an Illinois limited liability company, so long as Developer maintains an interest in the Property or has any other remaining obligation pursuant to the terms of this Agreement.

##### **Section 9.2 Acquisition of Property.**

Developer shall diligently pursue obtaining all required permits and Developer shall cause acquisition of the Property to be prosecuted and completed pursuant to the terms hereof with due diligence, in good faith and without delay, subject to Uncontrollable Circumstances and the other provisions of this Agreement.

### **Section 9.3 Further Assistance and Corrective Instruments.**

The Village and Developer agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may be reasonably required for carrying out the intention of or facilitating the performance of this Agreement to the extent legally permitted and within the Village's and the Developer's sound legal discretion.

### **Section 9.4 No Gifts.**

Developer and the Village covenant that no officer, member, manager, stockholder, employee or agent of either Party, or any other Person connected with Developer or the Village, has knowingly made, offered or given, either directly or indirectly, to any member of the Corporate Authorities or the to the principals of the Developer, as the case may be, or any officer, employee or agent of the Village, or any other Person connected with the Village or the Developer, any money or anything of value as a gift or bribe or other means of influencing his or her action in his or her capacity with the Developer or the Village, to the extent prohibited under applicable law.

### **Section 9.5 Disclosure.**

Concurrently with execution of this Agreement, Developer shall disclose to the Village the names, business addresses and ownership interests of all Persons with a controlling interest in the Developer, together with such reasonably requested supporting documentation. Developer further agrees to notify the Village throughout the term of this Agreement of the names, business addresses and ownership interests of any changes to such Persons. These materials shall be marked confidential and shall to the maximum extent permitted under applicable law, not be subject to public disclosure. The Village shall notify the Developer as soon as the Village receives a request for this information and agrees to consult with the Developer with regard to any possible disclosure.

## **ARTICLE 10**

### **COVENANTS AND REPRESENTATIONS**

#### **Section 10.1 Village Benefits.**

The Village is desirous of having the Property acquired and improved in order to service the needs of the Village and its residents, and the Project will increase employment opportunities in the Village, arrest decline in economic conditions existing in the Village, stimulate residential and commercial growth and stabilize the tax base of the Village, and, in furtherance thereof, the Village contemplates certain incentives and continuing economic incentives under the terms and conditions hereinafter set forth to assist in such.

#### **Section 10.2 Need for Economic Assistance.**

The parties hereto acknowledge, and the Developer represents and warrants, that it requires economic assistance from the Village as provided in this Agreement in order to

complete the Project, and that, but for said economic assistance, the completion of the Project would not be economically viable nor would the funds necessary for its commencement and completion be available.

**Section 10.3 Reserved.**

**Section 10.4 Conditions Precedent to the Undertakings on the Part of the Village.**

All undertakings on the part of the Village pursuant to this Agreement are subject to satisfaction of the following conditions by the Developer on or before the date of the Initial Payment provided for in Section 10.5 below, or as otherwise specifically hereinafter stated:

(a) The Developer shall have obtained final approvals relating to the Project, it being understood and agreed that the Village has the discretion established by law to approve all such work and the Village shall not be deemed to have caused a default hereunder or have any liability for its failure to obtain the necessary approvals.

(b) The Developer shall have obtained any other final approvals necessary from any other governmental unit or agency which has jurisdiction or authority over any portion of the acquisition of the Property.

(c) The Developer shall have certified to the Village that there exists no material default under this Agreement, beyond any applicable cure period set forth herein, or any agreement, guaranty, mortgage or any other document which the Developer has executed in connection with the Project, beyond any applicable cure period set forth therein, that affects or that may affect the Developer's ability to complete the Project, and that the Developer has not received any notice of any violation of any Village ordinances, rules and regulations, or of any applicable laws of the State of Illinois or the United States of America, and/or any agency or subdivision thereof, as well as any ordinances and resolutions of the Village pertaining to the Project which by their respective terms are to have been complied with prior to the completion of the Project.

(d) The Developer agrees that in the event there is an assignment that does not comply with the provisions of Section 19.20 of this Agreement, the Village shall have the right to declare an Event of Default under Article 17 of this Agreement.

(e) If a land trust or limited partnership shall become the owner of the Property, the sole beneficiaries of the Trust or the partners in the limited partnership shall have delivered to the land trustee or general partners as the case may be an irrevocable letter of direction indicating that any notice received by the land trustee or limited partnership which adversely impacts the Developer's title to or interest in the Property, including but not limited to any notice of failure to pay real estate taxes, notice of foreclosure or notice of mechanic's lien(s) on the Property, will be sent to the Village within three (3) business days following receipt thereof. Such letter of direction shall be irrevocable for so long as the Village is required to make payments under this Agreement. The Developer also agrees to send to the Village any such notice received by either of them within three (3) days of receipt.

### **Section 10.5 Payment Undertaking on the Part of the Village.**

Upon satisfaction by the Developer of all the terms and conditions set forth in this Agreement, the Village hereby undertakes to make the payments set forth herein:

(a) Subject to the conditions set forth in Sections 7.10 and 10.4 above, the Developer shall notify the Village of a request for funds constituting the Sales Tax Rebate or Village TIF Loan.

(b) That the Developer shall have delivered to the Village no less than thirty (30) days prior to the initial payment (the “**Initial Payment**”) in accordance herein, and no less than thirty (30) days prior to each subsequent payment, a certificate dated within fifteen (15) days of receipt by the Village that all representations and warranties contained in Section 10.7 herein are true and correct. Provided, however, that once the Project has been completed and any aspects of the Project requiring Village approval have received such approval from the Village as finally completed, the certificate required hereunder need not contain a representation and warranty regarding matters covered in subparagraphs (g) and (h) of said Section 10.7.

(c) That the Village has received no notice from the Developer or from any other source that there exists any material default beyond the applicable cure period under any of the terms, conditions or provisions under any of the loan documents under which the Developer’s financing, if any, for the Project was obtained, that affects or that may affect the Developer’s ability to acquire the Property. The Developer shall provide the Village with any notices received throughout the term of this Agreement relating to the Property which may have an adverse impact on this Project, specifically including any notices regarding any tax or loan delinquencies. Provided, however, that if the Village receives evidence satisfactory to it that any such default has been cured, except as otherwise provided herein, the payments to the Developer required hereunder shall resume if all other requirements have been met.

In the event that the Developer fails to deliver to the Village any or all of the foregoing certifications within the time periods set forth herein, or otherwise violates any term or provision of this Agreement, then in such event, the Village shall have no obligation to make any payment to the Developer until such time as any such failure or violation is corrected to the reasonable satisfaction of the Village (except where this Agreement provides for forfeiture of any such payments), and all rights of the Developer to demand any current or future payment from the Village shall be deemed waived until such failure or violation is so corrected, and all other obligations on the part of the Village arising pursuant to this Agreement shall be deemed suspended and without any further force and effect unless and until such failure or violation is so corrected within the applicable cure period. Where this Agreement provides for forfeiture of any such payments, the Village may in that event cancel this Agreement immediately and permanently.

Notwithstanding any of the foregoing, or any other provision contained herein, if the Developer and/or Owner of the Property, if different than the Developer, fails in any year to timely pay any or all of the real estate taxes on the Property during the allotted time the Cook County Treasurer provides to pay said real estate taxes without penalties accruing (the “**Tax Bill Payment Deadline**”), the Village may, at its sole discretion, declare an Event of Default under

Article 17 of this Agreement. The Developer and/or Owner, if different than the Developer, shall provide evidence to the Village that such taxes were paid within sixty (60) days after the Tax Bill Payment Deadline. Notwithstanding the foregoing, the Developer shall have the right to contest in good faith the assessed valuation of the Property and the improvements thereon from time to time without affecting this Agreement.

**Section 10.6 Undertakings on the Part of the Developer.**

(a) The Developer shall commence acquisition of the Project in accordance with the Project Schedule, subject to Section 10.13, and shall not cause or permit the existence of any violation of Village ordinances, including but not limited to the Village's Building Code, Zoning Ordinance and Variation Ordinance, Fire Code, Sign Ordinance, Landscaping Ordinance, and any and all rules and regulations thereunder. The Developer shall have substantially completed the entire Project in accordance with the Project Schedule, subject to Section 10.13 of this Agreement, or by such later time as may be agreed by and between the Village and the Developer, with such substantial completion to be evidenced by 1) copies of all paid invoices for the portions of the Project to be financed by the Village and 2) all such inspections and approvals as may be required by the Village. If requested by the Developer, the Village shall provide to Developer a written statement confirming such substantial completion for the purposes of this Agreement.

(b) Prior to any Real Estate Closing, the Village shall disclose to the Developer any and all existing conditions on the Property that are not in compliance with applicable provisions of the Village's Building Code, Zoning Ordinance, Fire Code, Sign Ordinance, Landscaping Ordinance, or any and all other rules and regulations thereunder ("**Existing Violations**"). The Village agrees that the Developer shall in no way be responsible for any of the Existing Violations, even after the Property is conveyed to the Developer under this Agreement, provided that the Developer will be responsible for eliminating the Existing Violations at the various structures only at the time of the issuance by the Village of respective certificates of occupancy for those various portions of the Project or any particular building within the Property.

(c) The Developer shall comply with all of the requirements set forth in Sections 10.4 and 10.6 of this Agreement.

(d) The Developer shall require the title holder of record (if at any time different from the Developer) of the Property to give the Village notice regarding any forfeiture on the financing documents by the Developer for the financing of the Project or its subsequent purchase if an assignment is approved hereunder, and any tax and/or "scavenger" sales of the Property, or any portion thereof.

(e) The Developer covenants that it shall furnish or cause the tenants of any retail business to submit to the Village copies of the tenants' monthly and annual sales tax reports as filed with the Illinois Department of Revenue. The terms of this Section shall be incorporated in the leases for such retail business and shall survive the issuance of the Certificate of Completion. To the extent the documents submitted to the Village pursuant to this paragraph are not considered public documents pursuant to Illinois Freedom of Information Act or other laws, they

shall be deemed confidential and proprietary. This covenant shall survive the issuance of the Certificate of Completion.

(f) The Developer hereby covenants and agrees to promptly pay or cause to be paid as the same become due, any and all taxes and governmental charges of any kind that may at any time be lawfully finally assessed with respect to the Project and/or the Property.

(g) The Developer and the Village each represent to the other that it has not engaged the services of any finder or broker with respect to the purchase of any land related to the Project and that it is not liable for any real estate commissions, broker's fees, or finder's fees which may accrue by means of the acquisitions of any portion of the Property, and each agrees to hold the other harmless from such commissions or fees as are found to be due from the party making such representations.

(h) The Developer hereby represents and warrants that, as of the date of this Agreement, the estimated cost of the Project is anticipated to be as set forth in Exhibit 5.

#### **Section 10.7 Representations and Warranties of the Developer.**

(a) The Developer hereby represents and warrants that the Project requires economic assistance from the Village in order to complete the Project and, but for the economic assistance to be given by the Village as heretofore stated, the Project as contemplated would not be economically viable nor would the funds necessary for its completion be made available.

(b) The Developer hereby represents and warrants that at all times it shall comply with all applicable local zoning ordinances and regulations, all building and fire code regulations and all other applicable Village ordinances, resolutions and/or regulations.

(c) The Developer hereby represents and warrants that it shall comply with all applicable laws, rules and regulations of the State of Illinois, The County of Cook and the United States of America, and any and all agencies or subdivisions thereof.

(d) The Developer represents and warrants that it shall comply in all material respects with all terms, provisions and conditions, and that it shall not default or permit a continuing default under any document or agreement relating to the Project or the financing and development of the Project, including but not limited to this Agreement, and all agreements and documentation executed and delivered in connection with any financing or loans for the Project, a default under which would have a material adverse effect on the sales tax revenue generated thereby to the Village.

(e) The Developer hereby represents and warrants that it shall comply with all applicable Village ordinances concerning unlawful employment practices and consumer protection.

(f) The Developer hereby represents and warrants that it is an Illinois limited liability company in good standing under the laws of the State of Illinois.

**Section 10.8 Reserved.**

**Section 10.9 Reserved.**

**Section 10.10 Reserved.**

**Section 10.11 Limitation of Liability.**

No recourse under or upon any obligation, covenant or condition of Article Ten of this Agreement, or for any claim based thereon or otherwise related thereto, shall be had against the Village, or its officers, officials, agents and/or employees, in any amount in excess of any specific sum agreed by the Village to be paid to the Developer hereunder, subject to the terms and conditions set forth herein, and no liability, right or claim at law or in equity shall attach to, or shall be incurred by, the Village, or its officers, officials, agents and/or employees, in excess of such amounts and any and all such rights or claims of the Developer against the Village, or its officers, officials, agents and/or employees are hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Village.

**Section 10.12 Curing Default.**

In the event of any default under or violation of this Agreement, the party not in default or violation shall serve written notice upon the party or parties in default or violation, which notice shall be in writing and shall specify the particular violation or default. Except as otherwise provided herein with respect to forfeiture by the Developer of payments due hereunder, as set forth in Sections 10.5 and 10.8 hereof, the parties reserve the right to cure any violation of this Agreement or default hereunder within thirty (30) days following written notice of such default. Except as otherwise provided herein with respect to forfeiture by the Developer of payments due hereunder, if such default is so cured within said thirty (30) day period, all terms and conditions of this Agreement shall remain in full force and effect. If the parties cannot cure a default or violation hereof within said thirty (30) day period, then the other party shall grant a reasonable extension of the cure period, said extension not to exceed ninety (90) days, provided that the party in default or violation is diligently pursuing completion and/or cure and tenders proof of such diligence to the non-defaulting party upon request. The non-defaulting party may, at its sole discretion, grant such additional extensions beyond the aforementioned ninety (90) day extension period as may, in the sole discretion of the non-defaulting party, be reasonably necessary to cure said default. Notwithstanding anything herein to the contrary, the aforesaid time periods shall be extended pursuant to Section 10.13, if applicable.

**Section 10.13 Uncontrollable Circumstance.**

In the event that either party hereto is delayed, hindered or prevented in performing any act required hereunder by reason of an Uncontrollable Circumstance, the party so delayed, hindered or prevented shall, if reasonably practicable hereunder, be excused from performance only for the period of such delay, hindrance and/or prevention and shall immediately tender said performance upon the removal and/or reconciliation of said interference.

## **ARTICLE 11**

### **RESERVED**

## **ARTICLE 12**

### **ADHERENCE TO VILLAGE CODES AND ORDINANCES**

Except as to Code provisions that the Village has granted variations from, the Project shall comply in all respects with the provisions in the Building Code of the Village and all other germane codes and ordinances of the Village throughout the operations of the Project. Furthermore, Developer agrees that the ongoing maintenance and operation of the Project shall comply with all codes and ordinances of the Village, specifically including but not limited to the Village's business license procedures. Developer has examined and is familiar with all the covenants, conditions, restrictions, building regulations, zoning ordinances, property maintenance regulations, environmental laws (including any law relating to public health, safety and the environment and the amendments, regulations, orders, decrees, permits, licenses or deed restrictions now or hereafter promulgated thereafter) and land use regulations, codes, ordinances, federal, state and local ordinances, and the like, currently in effect.

## **ARTICLE 13**

### **REPRESENTATIONS AND WARRANTIES OF DEVELOPER**

Developer represents, warrants and agrees as the basis for the undertakings on its part herein contained that as of the date hereof and until completion of the Project:

#### **Section 13.1 Organization and Authorization.**

Developer is an Illinois limited liability company duly organized and existing under the laws of the State of Illinois, and is authorized to and has the power to enter into, and by proper action has been duly authorized to execute, deliver and perform, this Agreement. Developer is solvent, able to pay its debts as they mature and financially able to perform all the terms of this Agreement. To Developer's knowledge, there are no actions at law or similar proceedings which are pending or threatened against Developer which would result in any material and adverse change to Developer's financial condition, or which would materially and adversely affect the level of Developer's assets as of the date of this Agreement or that would materially and adversely affect the ability of Developer to purchase the Property or operate the Project.

#### **Section 13.2 Non-Conflict or Breach.**

Neither the execution and delivery of this Agreement by Developer, the consummation of the transactions contemplated hereby by Developer, nor the fulfillment of or compliance with the terms and conditions of this Agreement by Developer conflicts with or will result in a breach of any of the terms, conditions or provisions of any offerings or disclosure statement made or to be made on behalf of Developer (with Developer's prior written approval), any organizational

documents, any restriction, agreement or instrument to which Developer or any of its partners or venturers is now a party or by which Developer or any of its partners or its venturers is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any prohibited lien, charge or encumbrance whatsoever upon any of the assets or rights of Developer, any related party or any of its venturers under the terms of any instrument or agreement to which Developer, any related party or any of its partners or venturers is now a party or by which Developer, any related party or any of its venturers is bound.

**Section 13.3 Financial Resources.**

Developer has sufficient financial and economic resources to implement and complete Developer's obligations contained in this Agreement. Developer has or will obtain a firm commitment from a financial institution providing all monies needed through third party financing or alternatively will provide proof of access to sufficient funds pursuant to the terms of Section 8.4 hereof.

**Section 13.4 Reserved.**

**ARTICLE 14**

**REPRESENTATIONS AND WARRANTIES OF THE VILLAGE**

The Village represents, warrants and agrees as the basis for the undertakings on its part herein contained that:

**Section 14.1 Organization and Authority.**

The Village is a municipal corporation duly organized and validly existing under the law of the State of Illinois, is a home rule unit of government, and has all requisite corporate power and authority to enter into this Agreement.

**Section 14.2 Authorization.**

The execution, delivery and the performance of this Agreement and the consummation by the Village of the transactions provided for herein and the compliance with the provisions of this Agreement (i) have been duly authorized by all necessary corporate action on the part of the Village, (ii) require no other consents, approvals or authorizations on the part of the Village in connection with the Village's execution and delivery of this Agreement, and (iii) shall not, by lapse of time, giving of notice or otherwise result in any breach of any term, condition or provision of any indenture, agreement or other instrument to which the Village is subject.

**Section 14.3 Litigation.**

To the best of the Village's knowledge, there are no proceedings pending or threatened against or affecting the Village or the TIF District in any court or before any governmental authority which involves the possibility of materially or adversely affecting the ability of the Village to perform its obligations under this Agreement.

#### **Section 14.4 Environmental.**

The Village makes no warranties or representations regarding, nor does it indemnify the Developer with respect to, the existence or nonexistence on or in the vicinity of the Property or anywhere within the TIF District of any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, or any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), 42 U.S.C. §§ 961-9657, as amended) (collectively, the “**Hazardous Substances**”). The foregoing disclaimer relates to any Hazardous Substance allegedly generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located on or in the vicinity of the Property or within the TIF District, as well as any activity claimed to have been undertaken on or in the vicinity of the Property that would cause or contribute to causing (1) the Property to become a treatment, storage or disposal facility within the meaning of, or otherwise bring the Redevelopment Agreement within the ambit of, the Resource Conservation and Recovery Act of 1976 (“RCRA”), 42 U.S.C. §691 et. seq., or any similar state law or local ordinance, (2) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants, from the Property within the meaning of, or otherwise bring any Property within the ambit of, CERCLA, or any similar state law or local ordinance, or (3) the discharge of pollutants or effluents into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq. or any similar state law or local ordinance. Further, the Village makes no warranties or representations regarding, nor does the Village indemnify the Developer with respect to, the existence or nonexistence on or in the vicinity of the Project or anywhere within the TIF District of any substances or conditions in or on the Property that may support a claim or cause of action under RCRA, CERCLA, or any other federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements. The Village makes no representations or warranties regarding the existence of any above ground or underground tanks in or about the Property, or whether any above or underground tanks have been located under, in or about the Property and have subsequently been removed or filled.

#### **Section 14.5 Waiver of Certain Claims.**

The Developer waives any claims against the Village, and its members and boards, for indemnification, contribution, reimbursement or other payments arising under federal, state and common law or relating to the environmental condition of the land comprising the Property.

### **ARTICLE 15**

#### **INSURANCE**

##### **Section 15.1 Project Insurance.**

The Developer, and any successor in interest to the Developer, shall obtain or cause to be obtained and continuously maintain insurance on the Project comparable to similar auto

dealerships and, from time to time at the request of the Village, furnish proof to the Village that the premiums for such insurance have been paid and the insurance is in effect. The insurance coverage described below is the minimum insurance coverage that the Developer must obtain and continuously maintain, such insurance coverage in effect at the time of the acquisition of the Project.

Property Coverage:

Loc. 1. 1140 Garfield St., Oak Park, IL 60304	Building Coverage	\$6,750,000	
Loc. 2. 1213 Circle Ave., Forest Park, IL 60130	Building Coverage	\$550,000	
Business Personal Property Coverage		\$750,000	
GKL Coverage		\$500,000	
GKL Limit (Customers Auto's on Primary Basis)			
Garage Liability Coverage		\$500,000	w/
Aggregate Limit		\$2,500,000	
Auto Dealer Physical Damage (Covers all Autos)		\$5,000,000	(Risk Point)
CUL (Commercial Umbrella Policy)		\$10,000,000	w/
Aggregate Limit		\$30,000,000	

**Section 15.2 Insurer Ratings.**

All insurance required in this Article shall be obtained and continuously maintained in responsible insurance companies selected by the Developer or its successors and approved by the Village having at a minimum of a Best rating of "A" and a financial size category of Class m or better in Bests Insurance Guide that are authorized under the laws of the State to assume the risks covered by such policies. Unless otherwise provided in this Article, each policy must contain a provision that the insurer will not cancel nor materially modify the policy without giving written notice to the insured and the Village at least thirty (30) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, the Developer, or its successor or assign, must renew the existing policy or replace the policy with another policy conforming to the provisions of this Article. In lieu of separate policies, the Developer or its successor or assign, may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein.

**ARTICLE 16**

**INDEMNIFICATION**

The Developer releases from and covenants and agrees that the Village, its governing body members, officers, agents, including independent contractors, consultants and legal counsel, servants and employees thereof (hereinafter, for purposes of this Article, collectively the "**Indemnified Parties**") shall not be liable for and agrees to indemnify and hold harmless the Indemnified Parties against any loss, damage, claims, demands, suits, costs, expenses (including reasonable attorney's fees), actions or other proceedings whatsoever by any person or entity

whatsoever arising or purportedly arising from the actions or inactions of the Developer and its officers, employees, agents and/or contractors (or if other persons acting on its behalf or under its direction or control) under this Agreement, or the transactions contemplated hereby for the Project (“**Indemnified Claims**”); provided, however, that Developer’s indemnity under this Article shall be reduced to the extent the Indemnified Claims are caused, if at all, by the willful misconduct or gross negligence on the part of the Indemnified Parties or to the extent the Indemnified Claims are caused, if at all, by the Village’s failure to comply with any material requirement of this Agreement or other applicable law.

## ARTICLE 17

### EVENTS OF DEFAULT AND REMEDIES

#### Section 17.1 Developer Events of Default.

The following shall be Events of Default with respect to this Agreement:

(a) If any material representation made by Developer in this Agreement, or in any certificate, notice, demand or request made by a party hereto, in writing and delivered to the Village pursuant to or in connection with any of said documents, shall prove to be untrue or incorrect in any material respect as of the date made.

(b) Failure of the Developer to comply with any material covenant or obligation contained in this Agreement, or any other agreement, financing or otherwise, concerning the Project, the Property, or the existence, structure or financial condition of Developer.

(c) The entry of a decree or order for relief by a court having jurisdiction in the premises in respect of Developer in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of Developer for any substantial part of its Property, or ordering the winding-up or liquidation of its affairs and the continuance of any such decree or order unstayed and in effect for a period of sixty (60) consecutive days.

(d) The Developer: (i) becomes insolvent; or (ii) is unable, or admits in writing its inability to pay, its debts as they mature; or (iii) makes a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its or their property; or (iv) is adjudicated a bankrupt; or (v) files a petition in bankruptcy or to effect a plan or other arrangement with creditors; or (vi) files an answer to a creditor’s petition (admitting the material allegations thereof) for an adjudication of bankruptcy or to effect a plan or other arrangement with creditors; or (vii) applies to a court for the appointment of a receiver for any asset; or (viii) has a receiver or similar official appointed for any of its assets, or, if such receiver or similar official is appointed without the consent of the Developer and such appointment shall not be discharged within sixty (60) days after his appointment or the Developer has not bonded against such receivership or appointment; or (ix) a petition described in (v) is filed against the Developer and remains pending for a period of sixty (60) consecutive days, unless the same has been bonded, and as a result thereof, the Developer ceases to operate; or (x) files any lawsuit,

claim and/or legal, equitable or administrative action affecting the Village's ability to collect any such sales tax revenue hereunder.

(e) Failure to have funds to meet Developer's obligations.

(f) Developer abandons the Project on the Property. Abandonment shall be deemed to have occurred when retail sales stops on the Property for more than sixty (60) consecutive days for any reason other than: (i) Uncontrollable Circumstances, or (ii) work stoppage caused by an action or inaction of the Village that is not in compliance with the terms of this Agreement.

(g) Developer materially fails to comply with applicable governmental codes and regulations in relation to the maintenance of the Property as contemplated by this Agreement.

(h) Subject to the cure provisions of Section 10.12 hereof, failure to timely pay when due all real estate property taxes on the Property.

(i) The filing and unfavorable judicial decision after all available appeals have been exhausted of any lawsuit by a third party pursuant to the provisions of 65 ILCS 5/8-11-21 that would affect the generation of sales taxes anticipated by the Village hereunder (both on an annual basis and also over the expected life of the Project).

#### **Section 17.2 Village Events of Default.**

The following shall be Events of Default with respect to this Agreement:

(a) If any representation made by the Village in this Agreement, or in any certificate, notice, demand or request made by a Party hereto, in writing and delivered to Developer pursuant to or in connection with any of said documents, shall prove to be untrue or incorrect in any material respect as of the date made; provided, however, that such default shall constitute an Event of Default only if the Village does not remedy the default within sixty (60) days after written notice from Developer.

(b) Default by the Village in the performance or breach of any material covenant contained in this Agreement concerning the existence, structure or financial condition of the Village; provided, however, that such default or breach shall constitute an Event of Default only if the Village does not, within sixty (60) days after written notice from Developer, initiate and diligently pursue appropriate measures to remedy the default, or if the Village fails to cure such default within ninety (90) days of written notice of such default.

(c) Failure of the Village to comply with any of its obligations under this Agreement, including without limitation its obligations to make any payment to the Developer, including without limitation, the Village TIF Loan and the Sales Tax Rebate, as and when due, under this Agreement.

#### **Section 17.3 Remedies for Default.**

In the case of an Event of Default hereunder:

(a) The defaulting party shall, upon written notice (in accordance with the provisions of Section 19.3 of this Agreement) from the non-defaulting party, take immediate action to cure or remedy such Event of Default. If, in such case, any monetary Event of Default is not cured within thirty (30) days, or if in the case of a non-monetary Event of Default, action is not taken or not diligently pursued, or if action is taken and diligently pursued but such Event of Default or breach shall not be cured or remedied within a reasonable time, but in no event more than ninety (90) additional days after receipt of such notice, unless extended by mutual agreement, the non-defaulting party may institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such default or breach, including, but not limited to, proceedings to compel specific performance of the defaulting party's obligations under this Agreement.

(b) In case the Village shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason, then, and in every such case, Developer and the Village shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of Developer and the Village shall continue as though no such proceedings had been taken.

(c) In the case of an Event of Default by Developer, and its failure to cure such default after due notice and within the time frames provided for in this Agreement, in addition to any other remedies at law or in equity, the Village may terminate this Agreement and upon such termination shall be relieved of its obligations under this Agreement, including but not limited to its obligations to accord Developer, "exclusive" developer status as set forth in Article Five, its obligation to pay any further incentive amounts to the Developer and its obligations to convey any land to Developer.

(d) In the case of an Event of Default by the Village and its failure to cure such default after due notice and within the time period provided for in this Agreement, in addition to any other remedies at law or in equity, the Developer may terminate this Agreement and upon such termination shall be relieved of its obligations under this Agreement.

(e) In the case of an Event of Default by the Developer occurring prior to the Developer's purchase of the Property, the Village agrees that it shall have no remedy of specific performance to force the Developer to acquire the Property.

#### **Section 17.4 Third-Party Litigation; Reimbursement of Village for Legal and Other Fees and Expenses**

Subject to the limitations on the Developer's hold harmless and indemnification obligations set forth in Article 16 of this Agreement, in the event that any third party or parties institutes any legal proceedings against the Village, and related to the terms of this Agreement, then, in that event, the Developer shall indemnify and hold harmless the Village from any and all such proceedings. Further, the Developer, upon receiving notice from the Village of such legal proceedings, shall assume, fully and vigorously, the entire defense of such lawsuit or proceedings and any and all costs and expenses of whatever nature relating thereto; provided, however, that the Developer may not at any time settle or compromise such proceedings without advance written notice to the Village. If such settlement or compromise involves any admission of wrongdoing on the part of the Village, or any liability imposed on the Village, monetary or

otherwise, then the Developer shall be required to obtain the Village's consent to such settlement or compromise in advance.

In any such litigation, if Illinois Rules of Professional Conduct prohibit the Village and the Developer from being represented by the same counsel or if the positions of the Village and the Developer in such litigation will necessarily be in conflict, then the Village shall have the option of being represented by its own legal counsel. In the event that the Village exercises such option, then the Developer shall reimburse the Village from time to time on written demand from the Village President and notice of the amount due for any and all reasonable out-of-pocket costs and expenses, including but not limited to court costs, reasonable attorneys' fees, witnesses' fees and/or other litigation expenses incurred by the Village in connection therewith.

**Section 17.5 No Waiver by Delay or Otherwise.**

Any delay by either Party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights under this Agreement shall not operate to act as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that neither Party should be deprived of or limited in the exercise of the remedies provided in this Agreement because of concepts of waiver, laches or otherwise); nor shall any waiver in fact made with respect to any specific Event of Default be considered or treated as a waiver of the rights by the waiving Party of any future Event of Default hereunder, except to the extent specifically waived in writing. No waiver made with respect to the performance, nor the manner or time thereof, of any obligation or any condition under the Agreement shall be considered a waiver of any rights except if expressly waived in writing.

**Section 17.6 Rights and Remedies Cumulative.**

The rights and remedies of the Parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise of any one or more of such remedies shall not preclude the exercise by such Party, at that time or different times, of any other such remedies for the same Event of Default.

**ARTICLE 18**

**RESERVED**

**ARTICLE 19**

**MISCELLANEOUS PROVISIONS**

**Section 19.1 TIF Provisions.**

A delineation of the TIF qualified costs for the Project are set forth on **Exhibit 3** attached hereto and hereby made a part hereof. Attached hereto and hereby made a part hereof as **Exhibit 10** is the Project projected sales. Attached hereto and hereby made a part hereof as **Exhibit 5** is the Developer's estimate of costs to acquire the Project.

**Section 19.2 Cancellation.**

In the event Developer or the Village shall be prohibited, in any material respect, from performing covenants and agreements or enjoying the rights and privileges herein contained, or contained in the Redevelopment Plan, including Developer's duty to the acquire the Property, by the order of any court of competent jurisdiction, or in the event that all or any part of the Act or any ordinance adopted by the Village in connection with the Project, shall be declared invalid or unconstitutional, in whole or in part, by a final decision of a court of competent jurisdiction and such declaration shall materially affect the Redevelopment Plan or the covenants and agreements or rights and privileges of Developer or the Village, then and in any such event, the Party so materially affected may, at its election, cancel or terminate this Agreement in whole (or in part with respect to that portion of the Project materially affected) by giving written notice thereof to the other within sixty (60) days after such final decision or amendment. If the Village terminates this Agreement pursuant to this Section 19.2, to the extent it is then appropriate, the Village, at its option, may also terminate its duties, obligation and liability under all or any related documents and agreements provided. Further, the cancellation or termination of this Agreement shall have no effect on the authorizations granted to Developer for buildings permitted and under construction to the extent permitted by said Court order; and the cancellation or termination of this Agreement shall have no effect on perpetual easements contained in any recorded, properly executed document.

**Section 19.3 Notices.**

Except for notices required under Section 8.10, all notices, certificates, approvals, consents or other communications desired or required to be given hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service, (b) electronic communications, whether by telex, telegram or telecopy, (c) overnight courier, (d) registered or certified first class mail, postage prepaid, return receipt requested, or (e) priority mail with delivery confirmation.

If to Village:	Village President Village of Oak Park 123 Madison Street Oak Park, IL 60302
With a copy to:	Village Manager Village of Oak Park 123 Madison Street Oak Park, IL 60302
And:	Village Attorney Village of Oak Park 123 Madison Street Oak Park, IL 60302

If to Developer:

RRV Motorcars II  
1140 Garfield Street  
Oak Park, IL 60302  
Attn: Richard A. Fisher

With a copy to:

Jay L. Statland, Esq.  
Burke, Warren, MacKay & Serritella, P.C.  
330 North Wabash, 21st Floor  
Chicago, IL 60611

Brian Liston, Esq.  
Liston & Tsantilis, PC  
33 North LaSalle Street, 28<sup>th</sup> Floor  
Chicago, IL 60602

The Parties, by notice hereunder, may designate any further or different addresses to which subsequent notices, certificates, approvals, consents or other communications shall be sent. Any notice, demand or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier, and any notices, demands or requests sent pursuant to clause (d) shall be deemed received forty-eight (48) hours following deposit in the mail.

**Section 19.4 Time of the Essence.**

Time is of the essence of this Agreement.

**Section 19.5 Integration.**

Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the Parties.

**Section 19.6 Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.

**Section 19.7 Recordation of Agreement.**

The Parties agree to record this Agreement, executed by the then current owners of the Property in the appropriate land or governmental records. Developer shall pay the recording charges.

**Section 19.8 Severability.**

If any provision of this Agreement, or any Section, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held to be invalid, the remainder of this Agreement shall be construed as if such invalid part were never included herein, and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

**Section 19.9 Choice of Law, Venue and Waiver of Trial By Jury.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Venue for any legal proceeding of any kind arising from this Agreement shall be in the Circuit Court of Cook County, Illinois. The Parties hereto waive trial by jury in any action, proceeding or counterclaim brought by either of the Parties against the other on any matters whatsoever arising out of or in any way connected with this Agreement, or for the enforcement of any remedy.

**Section 19.10 Entire Contract and Amendments.**

This Agreement (together with the Exhibits attached hereto) is the entire contract between the Village and Developer relating to the subject matter hereof, supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the Village and Developer (specifically including but not limited to the Oak Park Economic Development Corporation correspondence dated January 15, 2015 approved by the Village on February 2, 2015), and may not be modified or amended except by a written instrument executed by the Parties hereto, unless otherwise provided in this Agreement.

**Section 19.11 Third Parties.**

Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other person other than the Village and Developer or permitted assign, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to either the Village or Developer, nor shall any provision give any third parties any rights of subrogation or action over or against either the Village or Developer. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever, except as specifically provided otherwise herein.

**Section 19.12 Waiver.**

Any Party to this Agreement may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing. No such waiver shall obligate the waiver of any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

**Section 19.13 Cooperation and Further Assurances.**

The Village and Developer each covenant and agree that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements,

instruments and documents supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the better clarifying, assuring, mortgaging, conveying, transferring, pledging, assigning and confirming unto the Village or Developer or other appropriate persons all and singular the rights, property and revenues covenanted, agreed, conveyed, assigned, transferred and pledged under or in respect of this Agreement.

**Section 19.14 Successors in Interest.**

At any time, the Developer may assign its rights or obligations under this Agreement for the purpose of obtaining financing for the Project or any portion thereof, or to any entity in which the Developer owns a controlling interest. Developer may not otherwise assign its rights or obligations under this Agreement to any other person or entity without prior written consent of the Village pursuant to Section 19.20 of this Agreement.

**Section 19.15 No Joint Venture, Agency or Partnership Created.**

Nothing in this Agreement, or any actions of the Parties to this Agreement, shall be construed by the Parties or any third person to create the relationship of a partnership, agency or joint venture between or among such Parties.

**Section 19.16 No Personal Liability of Officials of Village or Developer.**

No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of the Corporate Authorities, Village Manager, any elected official, officer, partner, member, director, agent, employee or attorney of the Village or Developer, in his or her individual capacity, and no elected official, officer, partner, member, director, agent, employee or attorney of the Village or Developer shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of or in connection with or arising out of the execution, delivery and performance of this Agreement, or any failure in that connection, other than set forth in Exhibit 6 hereof.

**Section 19.17 Repealer.**

To the extent that any ordinance, resolution, rule, order or provision of the Village's code of ordinances, or any part thereof, is in conflict with the provisions of this Agreement, the provisions of this Agreement shall be controlling, to the extent lawful.

**Section 19.18 Term.**

The provisions of this Agreement shall run with and bind the Property and shall inure to the benefit of, be enforceable by, and obligate the Village, Developer, and any of their respective, grantees, successors, assigns, and transferees, including all successor legal or beneficial owners of all or any portion of the Property commencing with the Effective Date and expiring upon the expiration of the Loan Term (the "Term"). The expiration of the Term will not affect the Parties respective obligations under the Sales Tax Rebate Sharing Agreement.

### **Section 19.19 Estoppel Certificates.**

Each of the Parties hereto agrees to provide the other, upon not less than ten (10) business days prior request, a certificate (“**Estoppel Certificate**”) certifying that this Agreement is in full force and effect (unless such is not the case, in which such Parties shall specify the basis for such claim), that the requesting Party is not in default of any term, provision or condition of this Agreement beyond any applicable notice and cure provision (or specifying each such claimed default) and certifying such other matters reasonably requested by the requesting Party. If either Party fails to comply with this provision within the time limit specified, it shall be deemed to have appointed the other as its attorney-in-fact for execution of same on its behalf as to that specific request only.

### **Section 19.20 Nature, Survival and Transfer of Obligations.**

**A. Successors and Transferees.** During the Term of this Agreement and to assure that all grantees, successors, assigns, and transferees of Developer and all successor owners of all or any portion of the Property (except for the conveyance by the Developer to the Village of the Public Property) have notice of this Agreement and the obligations created by it, Developer shall:

- (i) Deposit with the Village Clerk, concurrent with the Village’s approval of this Agreement, any consents or other documents necessary to authorize the Village to record this Agreement in the office of the Cook County Recorder of Deeds;
- (ii) Notify the Village in writing at least 30 days prior to any date on which Developer transfers a legal or beneficial interest in any portion of the Property to a third party (except for the conveyance by the Developer to the Village of the Public Property); and
- (iii) Require, prior to the transfer of all or any portion of the Property (except for the conveyance by the Developer to the Village of the Public Property), or any legal or equitable interest therein, to any third party, the transferee of said portion or interest in the Property to execute an enforceable written agreement agreeing to be bound by the provisions of this Agreement (“**Transferee Assumption Agreement**”) and to provide the Village, upon request, with such reasonable assurance of the financial ability of the transferee to meet those obligations as the Village may require. The Village agrees that upon a successor becoming bound to the obligation created in the manner provided in this Agreement and providing the financial assurances required pursuant to this Agreement, the liability of Developer shall be released to the extent of the transferee’s assumption of the liability. The failure of Developer to provide the Village with a copy of a Transferee Assumption Agreement fully executed by the transferee and, if requested by the Village, with the transferee’s proposed assurances of financial

capability before completing any transfer, shall result in Developer remaining fully liable for all of its obligations under this Agreement but shall not relieve the transferee of its liability for all such obligations as a successor to Developer.

**B. Transfer Defined.** For purposes of this Agreement, the term “transfer” shall be deemed to include any assignment, sale, transfer to a receiver or to a trustee in bankruptcy, transfer in trust, or other disposition of the Property (except for the conveyance by the Developer to the Village of the Public Property), or any beneficial interest in the Property, in whole or in part, by voluntary or involuntary sale, foreclosure, merger, sale and leaseback, consolidation, or otherwise; provided, however, that notwithstanding anything to the contrary set forth in this Agreement, the term “transfer” shall not be deemed to include any assignment, sale, transfer, or any other disposition of the Property or the rights and obligations under this Agreement as or by Developer to (i) an entity owned or otherwise controlled by RRV Motorcars II, (iii) an entity jointly owned or otherwise controlled by Richard A. Fisher, or (iv) an institutional investor or lending partner that is providing capital to the Project for or on behalf of any of the entities described in this Agreement.

**C. Mortgagees of Property.** This Agreement shall be binding on all mortgagees of the Property or other secured parties automatically upon such mortgagee assuming title to the Property, in whole or in part, by a foreclosure or a deed in lieu of foreclosure without the necessity of entering into a Transferee Assumption Agreement. Until such time, however, a mortgagee or other secured party shall have no personal liability hereunder.

**D. Term of this Agreement.** Developer, its successors and assigns shall have no obligation in accordance with this Section subsequent to the expiration of the Term of this Agreement as set forth in Section 19.18 of this Agreement.

#### **Section 19.21 Collateral Assignment.**

In the event that any lender (“Lender”) is to succeed to Developer’s interest in the Property, or any portion thereof, and in conjunction with such succession accepts an assignment of Developer’s interest in this Agreement, the Village shall recognize such party as the successor in interest to Developer with respect to the Property or the portion acquired by such Lender. However, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if the Lender accepts an assignment of Developer’s interest under this Agreement, it automatically accepts not only the Developer’s rights hereunder but also all of Developer’s obligations hereunder. However, if such Lender does not expressly accept an assignment of Developer’s interest hereunder, such Lender shall be entitled to no rights and benefits under this Agreement. The foregoing (Lender’s lack of expressly accepting an assignment) shall apply whether the succession is by foreclosure or deed in lieu of foreclosure or any other remedy. Under all such circumstances, the Property may only be developed in accordance with this Agreement.

With respect to a mortgage to which the Village has not consented in writing, if that mortgagee or any other party shall succeed to Developer's interest in the Property or any portion of it and in conjunction with such succession accepts an assignment of Developer's interest in the Property, the Village shall not be obligated to recognize such party as the successor in interest to Developer under this Agreement. Unless and until the Village accepts, in writing, such Party as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement and the foregoing shall apply whether the succession is by foreclosure or deed in lieu of foreclosure or any other remedy. The exercise of any such remedy and the transfer of title to the Property or any portion of it to a mortgagee or any other party in connection with such exercise shall not be subject to the consent of the Village.

Neither Developer's making of a collateral assignment of its interest under this Agreement or the Sales Tax Rebate Sharing Agreement to a Lender, nor the exercise by a Lender of any of its remedies, shall constitute an acceptance by such Lender or any other party of such assignment. Such Lender or other party shall not be deemed to have accepted such assignment until such time as such Lender or other party has executed and delivered to the Village a written acceptance of such assignment. In the absence of such acceptance, such Lender or other party shall have no rights or benefits under this Agreement.

For so long as the Property is the subject of a TIF District, neither the Property nor any improvements on it may be collaterally assigned or otherwise encumbered for any purpose other than to finance the ownership and development of the Project pursuant to this Agreement.

If a default by Developer under this Agreement occurs and Developer does not cure it within the cure period that applies to Developer under this Agreement, then the Village shall promptly give the Lender, a notice of expiration of such cure period (the "**Cure Period Expiration Notice**"). The Lender shall have the right, but not the duty, to perform any obligation of Developer under this Agreement and to cure any default. Such Lender shall have thirty days after receipt of the Cure Period Expiration Notice to cure such default. However, with respect to any default by Developer, the cure of which requires the Lender to possess and control the Property, if such Lender undertakes, by written notice to the Village within thirty days after receipt of the Cure Period Expiration Notice, to exercise reasonable efforts to cure such default, such Lender's cure period shall continue for such additional time as may reasonably be required to obtain possession and control of the Property and thereafter cure the default within one hundred and twenty days. Such Lender may abandon exercise of its cure rights without liability to the Village or any other party provided it gives the Village express written notice that it is so abandoning exercise of its cure rights. The Village shall accept cure by such Lender in fulfillment of Developer's obligations, for the account of Developer and with the same force and effect as if performed by Developer.

It is understood and acknowledged that, irrespective of any Lender remedies, the Property may not be developed, redeveloped, completed or maintained except in accordance with this Agreement. This restriction shall attach to and run with the land whether or not a Lender or any other entity holding an interest in the Property accepts the assignment of this Agreement. Notwithstanding anything in this Agreement or any other document to the contrary and irrespective of the underlying zoning of the Property, it is the intent of the Parties that any successor in interest to Developer shall have only the development rights accorded by this

Agreement and any approvals or permits issued pursuant to it. Further, each and every covenant, dependent or independent, and each and every obligation of this Agreement shall encumber such development.

Moreover, if any such Lender, mortgagee or other party thereafter seeks to sell, transfer, assign, or otherwise dispose of the Property and/or the Project, any such sale, transfer, assignment or disposition shall be governed by the provisions of Section 19.20 above.

## **ARTICLE 20**

### **EFFECTIVENESS**

The Effective Date for this Agreement shall be 16th day of March, 2015.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on or as of the day and year first above written.

**Village of Oak Park,**  
Cook County, Illinois  
an Illinois municipal corporation

**ATTEST:**

By: \_\_\_\_\_  
Village Clerk

By: \_\_\_\_\_  
Village Manager

**[VILLAGE SEAL]**

**ATTEST:**

By: \_\_\_\_\_  
Its: Manager/Member

**DEVELOPER:**  
**RRV Motorcars II**, an Illinois limited liability  
company

By: \_\_\_\_\_  
Its: Member

**ACKNOWLEDGMENTS**

**STATE OF ILLINOIS**        )  
  )  
**COUNTY OF COOK**         )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY** that Cara Pavlicek, personally known to me to be the Village Manager of the Village of Oak Park, Cook County, Illinois, and Teresa Powell, personally known to me to be the Village Clerk of said municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Village Manager and Village Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the President and Board of Trustees of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

**GIVEN** under my hand and official seal, this \_\_\_\_ day of March, 2015.

\_\_\_\_\_  
Notary Public

STATE OF ILLINOIS        )  
  )  
COUNTY OF COOK         )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY** that \_\_\_\_\_, personally known to me to be the Manager/Member of RRV Motorcars II, and \_\_\_\_\_, personally known to me to be a Member of said Illinois limited liability company, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Manager/Member and Member, they signed and delivered the said instrument, pursuant to authority given by the Members of said Illinois limited liability company, as their free and voluntary act, and as the free and voluntary act and deed of said Illinois limited liability company, for the uses and purposes therein set forth.

**GIVEN** under my hand and official seal, this \_\_\_\_ day of March, 2015.

\_\_\_\_\_  
Notary Public

## INDEX OF EXHIBITS

- Exhibit 1 - General Depiction of the Project
- Exhibit 2 - Reserved
- Exhibit 3 - Redevelopment Project Costs
- Exhibit 4 - Real Estate Parcels (Developer)
- Exhibit 5 - Project Cost Estimates
- Exhibit 6 - Loan Commitment and Unconditional and Continuing Guaranty
- Exhibit 7 - Reserved
- Exhibit 8 - Reserved
- Exhibit 9 - Form of Sales Tax Rebate Sharing Agreement
- Exhibit 10 - Project Sales Analysis

**EXHIBIT 1**

**GENERAL DEPICTION OF THE PROJECT**

EXHIBIT 1



THE AUTOBARN VOLVO  
OF OAK PARK

DECEMBER 19, 2014



**volvo oak park**  
a richard fisher dealership



December 19, 2014

Oak Park Economic Development Corporation  
104 N. Oak Park Avenue  
Oak Park, IL. 60301

Dear Ladies and Gentlemen of the OPEDC:

I wrote a letter to Mr. John Hedges of the Executive Director of the OPEDC on November 30th, 2014 introducing myself and making the request for partnership with Oak Park by establishing The Autobarn Volvo of Oak Park, a Richard Fisher Dealership. Please find that letter reproduced here.

Dear Mr. Hedges:

First, thank you for taking the time to meet with Peter Hett and myself on this past Monday. Before I jump in to the reasons for my letter today, allow me to give a little background on myself.

I grew up in England, moving to Chicago by myself a few months before my 22nd birthday. Obsessed with cars almost since birth, I began selling cars at Scala/O'Brien Porsche/Audi/SAAB/Subaru. Nine months later I was recruited to the Patrick Dealer Group to sell SAABs - sparking a life-long love of Swedish Automobiles. My first General Manager's Position, starting in 1988 - was at Patrick Volvo in Schaumburg. My first success as a Dealership Operator came during the following two years at the Volvo store, and I formed a very strong bond with Volvo as a brand; since that time, I have always wanted to represent Volvo as a Dealer Principal. In May of 1990 I left Patrick to start my own company, The Autobarn Ltd. - I remain friendly to this day with the dealer principal of the Patrick Group and role model for me at that time - Hanley Dawson III.

Today I operate Volkswagen, Mazda, Nissan and Fiat Dealerships in Evanston Illinois, where I have been since 1992 - and since 2011, a Volkswagen Dealership in the City of Chicago on Irving Park Road. My ex-wife operates other dealerships started by me, with help from our son, Richard Jr; Volkswagen and Subaru in Countryside Illinois and Volkswagen in Mount Prospect Illinois.

I am as obsessed with cars as ever; my non-work time is spent racing cars or reading magazines about them. Whilst I am engaged in the car hobby (I'm restoring a 1967 Volvo Amazon Wagon currently), I am also engaged in the car business: my company retailed over 550 vehicles this month. We employ over 300 people, and unlike many automobile dealerships we have had long relationships with many of our employees; we are fortunate to have a great many good people working with us.

As I related to you when I met with you, the Volvo dealership in Oak Park is in a troubled state, and will doubtless be sold before it goes out of business. I have the desire to purchase it, and the ability and people with me to more than double its annual dollar volume in sales. The pricing involved to extricate the Scalzos from the business and from the Real Estate is, however, quite high.

The 'Pros' for the dealership, for me are:

- Location - Oak Park is a perfect audience for The Autobarn and for Volvo; the last time that I was approached by Mr. Scalzo (about 6-8 months ago) it was to purchase the real-estate only, as he intended at that time to move the Volvo franchise to Downers Grove. I would have no intention of moving the dealership; in fact I would agree - as part of any TIF Financing or Sales Tax sharing agreement that we ultimately enter into - that the dealership remain at its current location for 15 years. Further to this, having operated dealerships in Evanston for some 22 years with reasonable success - I feel that my company is uniquely qualified to operate the store successfully over the long haul whilst fulfilling a meaningful role in the Oak Park Community.

- The Marque: I know that Volvo has tremendous new products coming, and a long history of great, well-made cars. They have managed to retain their 'Swedishness' as a brand and as a car company, whilst channeling the substantial capital available from their Chinese ownership into great Research and Development.
- The Facility: Say what we will about the cramped operating quarters (the Usual Operating Condition of any Urban Dealership – I am very used to it) the dealership building itself is charming, attractive, and in great condition.
- The Market: Most Automobile Dealers like to have their stores near other Automobile stores, creating such automobile 'rows' as Golf Road in Schaumburg or 159th Street in Tinley Park, and would see being the lone dealership in a Village of 52,000 residents as a negative. I don't – I see it as a positive. I see it as an opportunity to function as part of the community, and to garner support from the community as the town's only car dealership. If the automobile dealer is willing to participate in the community, such a market condition can be extremely positive.

The 'Cons':

- Price: As stated earlier in this document, the price of admission is substantial. You and Annan asked a great question during our meeting: "What if we made no agreement with you? Would you still buy the dealership, or would they eventually just go out of business?" The answer for my part is no, I would not still buy the dealership in the absence of any kind of partnership with the Village – for a number of reasons. It is my belief that if I were to exit these negotiations unable to get to a workable place, then someone else would replace me who would do – if not exactly the same type of due diligence – then very similar. In any case, I believe that a scenario exists where a win/win can be achieved.
- Pre-Driven Storage/Prep: This is the number One problem here, and the number one reason that the existing dealer is failing and that subsequent dealers would fail. In order to operate a dealership like this properly, a pre-driven vehicle throughput of 60-75 per month must be achieved consistently. In order to do this, a standing, ready inventory of 140-150 pre-driven vehicles must be stocked (itself an investment of \$4.5 - 5M). A realistic prep area for detailing, dent-buster, bumper-spraying and high-quality photography could be a building as small as 7,500 sf with outside parking/ display for 90-100 vehicles. Mr. Scalzo has pointed out three separate pieces of property opposite the dealership which could be combined to achieve this successfully: a small body-shop (which he says is for sale), a building with a fenced-in lot (which he says that he had an agreement to purchase for \$170,000) and a portion of the cement yard (Mr Scalzo already rents a small piece and claims that the proprietor would like to sell some off...) If these pieces of property could be combined, an ideal, practical situation could be created here which would not only substantially beautify a rather blighted-looking stretch but which would create about 10-12 new jobs.
- New Car Storage: The Autobarn Volvo of Oak Park would become the largest retailer of New Volvos in the Chicagoland area. In order to do this, it is necessary to keep about 150 new cars in stock in a safe, orderly, accessible storage area. This is something that I am confident that we can find, and for the first few years, rent. Since meeting with you, I understand better the situation regarding Sales Tax sharing and Volvo of Oak Park. I understand that \$500,000 of the sales tax sharing agreement was 'paid forward', and the agreement then closed out – which, for that particular agreement would have taken \$50 million in sales (some years in the case of Volvo of Oak Park..) to earn. In respect of those facts, here is what I would propose:
  1. \$1.5M in TIF as a forgivable loan with a 15 year repayment term. These funds would be used 50% toward the purchase & signage of the Volvo dealership building and 50% toward purchase and rehabilitation of other (Oak Park) Property for pre-owned storage/get-ready/display. We understand which parts of a project may be funded by TIF, and fully understand that all equipment etc, is our direct expense. The 15 –year term protects the municipality against the TIF recipient moving their business. We would agree to a clause that aside from the sales tax sharing agreement referenced in Item 2, we would not apply for any partnering of any kind from the Village in the future.



2. We would forego a Sales Tax Sharing Agreement until such time as we have completed \$50 million in gross sales. At such time we would receive an eight year agreement at 50% with no cap, including a clause that this will be the final partnering of any kind between our company and the Village.

I have a history of keeping my word in business, and a 100% Performance Record with regard to the commitments made in agreements with Municipalities with whom I've dealt in the past. I have completed several sales tax sharing agreements with the City of Countryside, and I look back on those projects with pride; I believe that they performed on all levels. Please feel free to call upon Gail Paul, who is the Director of Economic Development and City Administrator in Countryside to discuss the same. Her number is 708 473 1296, and her email address is gpaul@countryside-il.org.

As I've previously stated, I have been in business in Evanston since July 1992. We are Evanston's #1 Sales Tax Provider, ahead of such Big Box Operators as Home Depot, Target, Best Buy, Office Max etc. We did \$113 million in sales volume in 2013. I have completed one sales tax sharing agreement with Evanston and am currently in a TIF Agreement with them as well as two sales tax sharing agreements. I would be happy to furnish you with copies of those agreements this week. Further, should there be any positive reaction to this letter, I would be happy to prepare a full presentation for you regarding The Autobarn Volvo of Oak Park and our attendant requests for partnership. I am completely confident that we'll become – perennially – Oak Park's largest Sales Tax provider. I would like to stress how excited I would be to work with you and your Village.

Thanking you in advance for your attention,  
Yours Sincerely,

Richard A. Fisher - President  
The Autobarn of Evanston – Volkswagen, Mazda, Nissan & Fiat.  
The Autobarn City Volkswagen

### **Partnering with Oak Park: What we're requesting to help facilitate this CHANGE of ownership.**

We met two days ago with John Hedges and Viktor Schrader at our dealership campus in Evanston. We discussed in great depth how our approach may lead to success at The Autobarn Volvo of Oak Park: how a focus on establishing and maintaining a consistent throughput of 60 to 70 pre-owned vehicles per month is absolutely vital to the long term survival of this business. We discussed our history of high performing pre-owned and certified pre-owned sales departments. We discussed the need to find and establish more pre-owned vehicle storage, display and get-ready facilities within Oak Park. We discussed the coming products from Volvo and the fact that based on at least two years of research that I believe that this manufacturer is on the cusp of a recovery. Most importantly, we discussed my belief in the unique 'fit' between myself, my organization, and the Village of Oak Park. Let me explain:

Many people discuss the similarities between the Evanston and Oak Park communities, referring to Oak Park as the "Evanston of the West" or Evanston as "Oak Park by the Lake". The fact is that the two communities have uniqueness, diversity, urban-ness, and similar cultural interests. Like Evanston, Oak Park has only one new car dealership remaining. Most new car dealers today would regard this as a distinct negative and would immediately think in terms of moving the franchise to a neighboring more



"obvious" locations such as Elmhurst or Westmont, lining up next to the other luxury dealerships. We think differently! We relish the fact that Volvo of Oak Park is the only dealership in this community - and based on our experience and success over the last 22 years in Evanston we feel that we are uniquely qualified to keep Volvo in Oak Park permanently. We will grow it into a vital and successful part of the community. We will become a resource that both the municipality and the residents of Oak Park can rely on.

We reviewed with Mr. Hedges previous projects that we have completed in Countryside and Evanston and visited a large TIF project that we have underway in Evanston. I expressed to them that my record of "Delivery On Promise" with the municipalities whom I have previously dealt stands at 100%. Further, we have a record of "staying where we are": the Evanston dealerships that we first established in 1992 are still there flourishing and growing. The Countryside dealerships started in 2000 are still there flourishing and growing. The Mount Prospect Volkswagen dealership opened by me in 1998 is still there flourishing and growing.

Although my letter requests Tax Increment Financing in the amount of \$1.5 million upon further research and reflection (more commitment on my part!) I believe that the purchase of the main dealership facility could be achieved with \$1 million of Tax Increment Financing. We should bear in mind that further properties near to the dealership will have to be purchased and re-habilitated by my company in the near future for pre-owned display and preparation. Off-site storage facilities for new vehicles will also need to be acquired or leased. Our request for Tax-Sharing remains unchanged from my initial letter: we would voluntarily complete \$50 million in sales for the Village of Oak Park before the start of any revenue sharing.

In closing, if we were to become the owners/managers of the Oak Park Volvo dealership, we commit to deliver over 750 pre-owned vehicles and over 400 new Volvos during 2015 - amounting to between \$35 and \$40 million in sales volume - an improvement over today's performance of about three-fold.

Very Truly Yours,

Richard A. Fisher  
President  
The Autobarn



# The Autobarn Volvo of Oak Park Contemplated Cost of this Purchase

		Type of Funding
Franchise Purchase	\$1,200,000	CASH
Initial Parts/Accessory Inventory	\$350,000	CASH
Purchase of 1140 Garfield, Oak Park	\$6,900,000	TIF/Mortgage/SBA Loan
Purchase of Warehouse and Build-out	\$750,000	CASH/Mortgage
Computers/Phones/Data/Signs/Misc Set-Up	\$75,000	CASH
New Vehicle Inventory: (100 Cars x \$48,000)	\$4,800,000	BANK FLOOR PLAN
Pre-Owned Inventory: (150 Cars x \$25,000)	\$3,750,000	80% BANK FLOOR PLAN 20% CASH
Working Capital to Volvo Standard	\$1,000,000	CASH
<b>TOTAL CASH INVESTMENT:</b> The Autobarn Volvo of Oak Park	<b>\$3,625,000</b>	
<b>TOTAL MORTGAGE/SBA LOAN:</b> The Autobarn Volvo of Oak Park	<b>\$6,400,000</b>	
<b>TOTAL FLOORPLAN FINANCING:</b> The Autobarn Volvo of Oak Park	<b>\$7,800,000</b>	
<b>TAX INCREMENT FINANCING:</b> The Autobarn Volvo of Oak Park	<b>\$1,000,000</b>	



# The Autobarn Volvo of Oak Park Contemplated Sales Forecast

Year	Gross Annual Sales	New Car Sales	Used Car Sales
2015	\$35.00 million	400	750
2016	\$38.50 million	440	825
2017	\$42.35 million	484	900
2018	\$45.00 million	500	900
2019	\$50.00 million	525	925

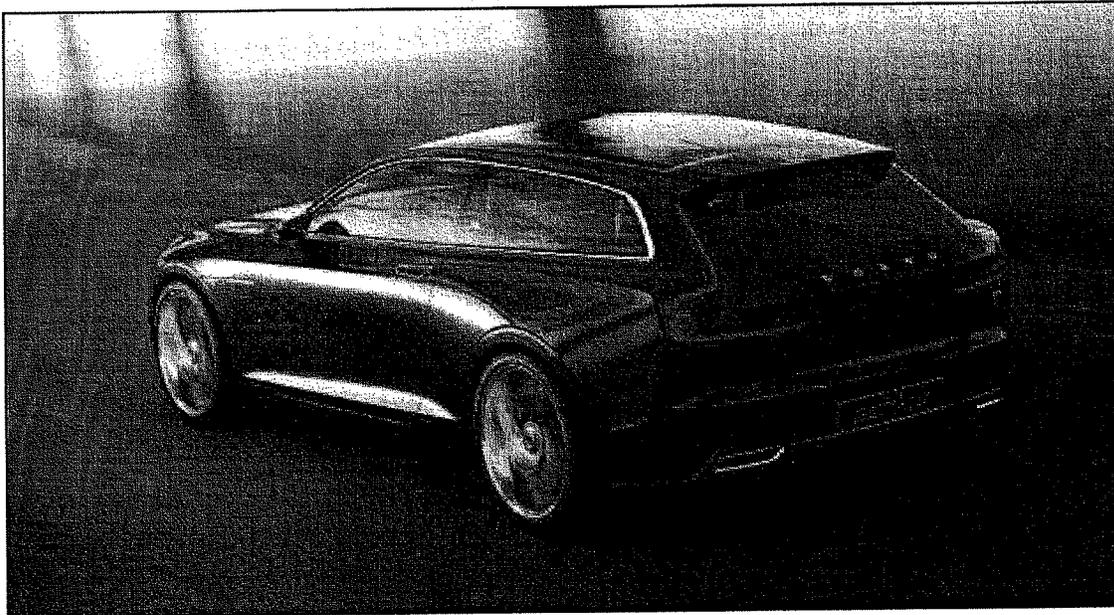
# Volvo Plans New Compact Crossover and Sedan, Luxe 90-Series Models...

We know that the XC90 will spearhead the company's self-described rebirth, but we now know what the whole new product line will eventually include:

Volvo is planning on building nine core models over three key model lines: the 40-, 60-, and 90-series. Each group will consist of a sedan, a wagon, and an SUV/crossover. Today, Volvo's global lineup includes the non-U.S. compact V40 wagon; an S60 sedan, V60 wagon, and XC60 crossover; the larger S80 sedan, Euro-market V70 wagon, and XC70 off-road wagon; and finally, the new XC90.

The new information indicates that the S80 and V70—Volvo's aging "flagship" duo—will be replaced by a large-mid-size S90 with a V90 wagon counterpart previewed by the gorgeous Concept Estate. The 60-series rides will remain Volvo's mid-size offerings, while the 40-series line appears to regain an S40 sedan (which has been dead since 2012) and get an all-new XC40 compact crossover. All of these models, we're told, have the potential for global sale. Yes, that means the U.S., too.

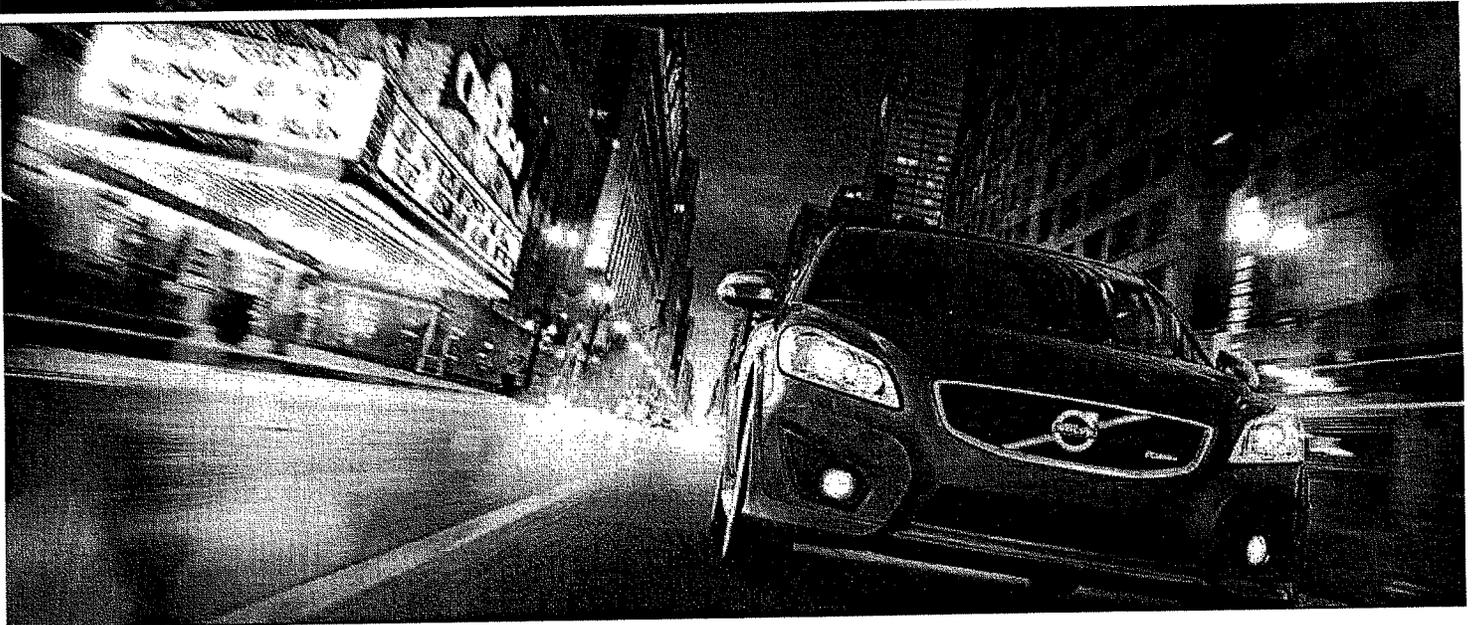
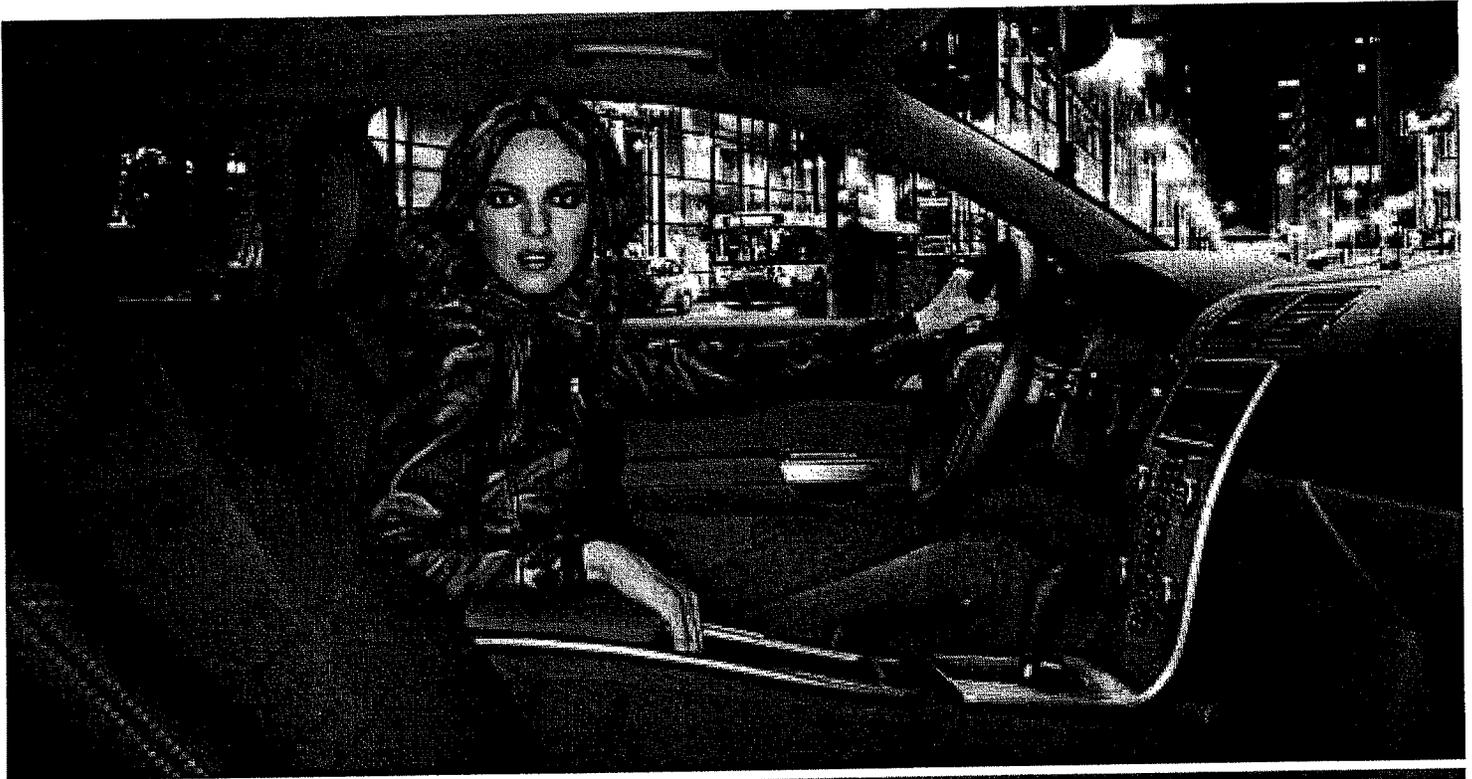
All of the fresh models in the new 60- and 90-series family will utilize Volvo's Scalable Product Architecture (SPA), a shared modular platform that, days ago, made its debut under the 2016 XC90. All of the SPA-based cars will bow by 2017 or 2018, and the S90 should be the next major product launch. The 40 group will, by the end of the decade, have switched entirely onto Volvo's CMA architecture, a compact front-drive platform in co-development with the Swedes' Chinese Geely overlords.



**volvoakpark**  
a richard fisher dealership

## So how does a lifetime of selling and servicing European (and more recently Asian) cars translate to our ability to be successful with Volvo...

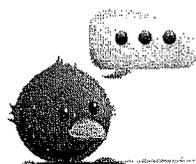
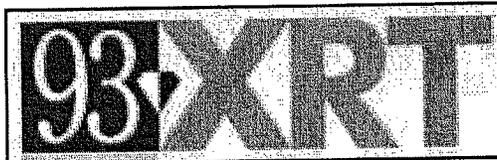
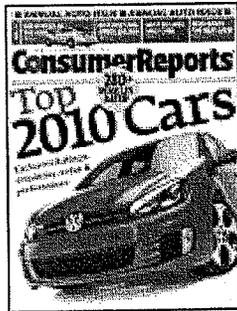
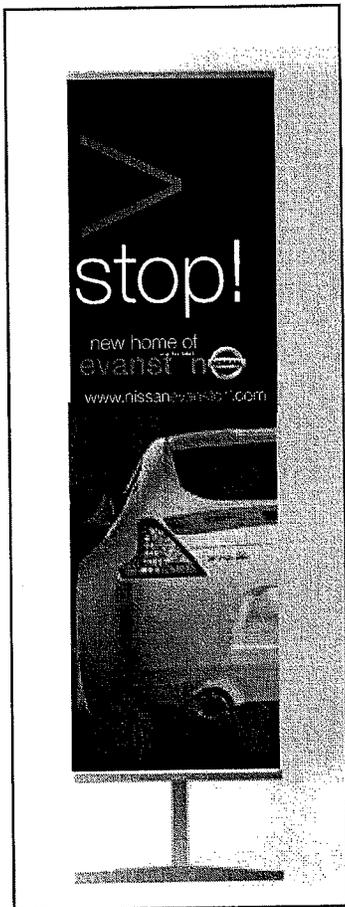
- We talk about the car not just its price. We train from day one, with enthusiasm and knowledge, the ability to have a genuinely comparative conversation about the various cars in a given segment. We believe fiercely in the power of the test-drive...of really driving the cars.
- We talk about the brand, its heritage, its meaning and its tradition. Not a difficult thing to do with Volvo given its rich history - but a fun and engaging task anyway.
- We have the appropriate marketing experience for a Euro brand. You will not see full-page newspaper ads or cable TV commercials shouting about \$5,000.00 discounts. What you will see is extensive use of Google ad words, social media, email and direct mail to our 57,000 strong customer database, superb graphics and.....lest we forget, some pretty tasteful radio ads which are just as likely to run on Pandora as on regular stations based on proper demographic awareness.
- We believe in choice, and the power of good inventory. We like to stock a lot of cars. I know that it's not necessarily fashionable, but big inventory/choice drives traffic.
- Strong Community Presence: We are the only car-dealership company in a town of nearly 80,000 people. We are active with Evanston Chamber of Commerce, Evanston Township High school and Young Evanston Artists (YEA). We will make the same type of commitments in Oak Park. See our detail page later in this document.
- We will hire and train people not necessary experienced in the car business but absolutely enthusiastic about cars, European cars and Volvo specifically.
- When it comes to sales and service management and parts and accessories marketing we have a proven core group of managers with strong documented processes who can quickly learn Volvo's language.



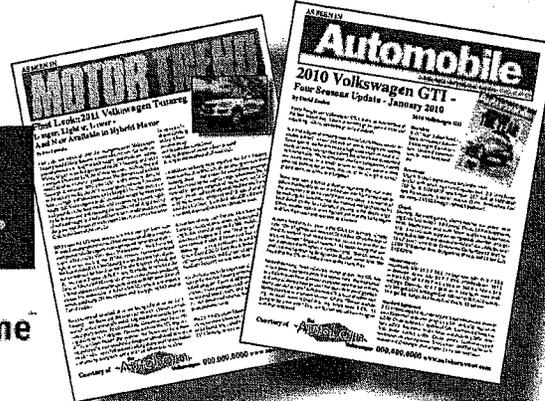
## The Autobarn - our Customer

- The Village of Oak Park is surrounded by very affluent neighboring suburbs.
- The median household income within an 8 mile radius is \$70,000.00.
- The surrounding area is very dense in population.
- We will be the only auto dealership in Oak Park and will grow to retail over 125 vehicles per month.

**the autobarn** | **volvo oak park**  
a richard fisher dealership



autobarn testdrive



## Our Marketing Program

- Maintaining a balance between the Manufacturer's Brand and The Autobarn Ltd. brand.
- A multi-tier Internet Program using Search Engine Optimization, Pay-Per-Click and Geo-targeted messaging.
- With 3 brands and 4 dealerships our on-line presence penetrates many different customer demographic types widening our potential customer base.
- An established radio voice that over the past 20 years has developed into a brand staple.
- 5th Best Known Dealership Name in the Chicagoland area (2008)
- With the existing network and variety of our dealerships we already have an established relationship with your potential customer.



**EXHIBIT 2**

**RESERVED**

**EXHIBIT 3**

**REDEVELOPMENT PROJECT COSTS**

**(Including the Real Estate Contract and Asset Purchase Agreement)**

**Eligible Costs:**<sup>1</sup>

Acquisition of 1140 Garfield Street, Oak Park, Illinois

\$6,750,000

Developer's real estate contract and related agreements to purchase the Project is enclosed hereto and made a part of Exhibit 3.

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<sup>1</sup> In accordance with Section 3(q) of the Tax Increment Allocation Redevelopment Act of the State of Illinois.

# EXHIBIT 3

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REAL ESTATE CONTRACT

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DATE: December 20<sup>th</sup> 2014

TO: Harlem Garfield, LLC ("SELLER")

Richard Fisher, or his nominee ("Purchaser") offers to purchase the property commonly known as 1140 Garfield Street, Oak Park, Illinois 60304 (lot size approximately \_\_\_\_ square feet), together with improvements thereon, legally described on Exhibit A attached hereto (Seller to provide the correct legal description and lot size) (hereinafter the "Property"), also including the following, if any, now on the premises belonging to Seller, for which a Bill of Sale warranting lien-free ownership, is to be given heating, central cooling, ventilating, lighting and plumbing fixtures; carpeting; all in-ground hoists, lifts, alignment racks; all attached contents and fixtures of the building; all personalty used in the operation and maintenance of the building; landscaping (hereinafter referred to collectively, at times, as the "Property").

1. Purchase price: Six Million Nine Hundred Thousand Dollars (\$6,900,000.00) or the appraised value, whichever is lower, but in no event less than Six Million Seven Hundred and Fifty Thousand Dollars (\$6,750,000.00).

2. Within three business days of execution hereof, earnest money in the amount of \$100,000.00 shall be deposited with Chicago Title and Trust Company ("Title Company") pursuant to its usual form of strict joint order escrow instructions.

The balance of the purchase price shall be paid at the closing, plus or minus prorations, as follows:

(a) Mortgage Contingency. This contract is contingent upon Purchaser securing by within thirty (30) days from full execution of this Contract ("Mortgage Contingency Date") a commitment for a fixed rate mortgage (hereinafter referred to as "Mortgage") in the amount of \$6,000,000.00, or such lesser sum as Purchaser shall accept, the interest rate not to exceed 3.5% over prime per annum, amortized over 20 years, with a 20 year term, payable monthly, with no loan fee. If Purchaser does not obtain said commitment,

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Purchaser shall notify Seller in writing on or before the Mortgage Contingency Date. If

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Purchaser notifies Seller as above provided, this Contract shall be null and void and the earnest money, and any interest earned thereon, shall be returned to Purchaser. If Seller is not so notified, it shall be conclusively presumed that Purchaser has secured said commitment or will purchase said Property without said financing. In the event that the Property does not appraise for at least the Purchase Price, then Purchaser may terminate the Contract by delivering notice to Seller by the Mortgage Contingency Date.

(b) The balance, if any, plus or minus prorations, by cashier's or certified check at closing.

3. At closing, Seller shall execute and deliver to Purchaser, or caused to be executed and delivered to Purchaser, a recordable Warranty Deed acceptable to Purchaser and its lender, if any, with release of homestead rights (or other appropriate deeds if title is in trust or in an estate), subject only to the following, if any: covenants, conditions and restrictions of record which do not impair the use of the property as a new and used motor vehicle sales, service or storage facility or the marketability of title to the property; public and utility easements which do not impair the use of the property as a new and used motor vehicle sales, service and storage facility and which do not impair the marketability of title to the property; roads and highways; general taxes not yet due and payable and for subsequent years.

4. Closing shall be ten (10) business days after the due diligence and contingency periods have expired and Purchaser or The Autobarn of Motors of Oak Park, LLC has secured a from Volvo Cars of North America, LLC ("Manufacturer"), pursuant to a Dealer Sales and Service Agreement in Manufacturer's customary form or other binding written authority reasonably acceptable to Purchaser, authority to conduct business as an authorized Volvo Dealer at the Property, or at such other mutually agreeable time, provided title has been shown to be good and is

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accepted by Purchaser and all the contingencies herein have been satisfied or waived, at the office

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of Purchaser's mortgagee, if any, or at Chicago Title Insurance Company (hereinafter "Closing"). Purchaser shall deposit the purchase price, plus or minus prorations into the closing escrow, at closing.

5. Seller and Purchaser agree that no real estate broker was involved in this transaction. Each party agrees to indemnify and hold the other harmless of, from and against any and all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees and expenses) that the other party may suffer as a result of any claims made relating to a breach of this Section by a person claiming through such party.

6. Seller makes the following representations, warranties and covenants, which shall be true and correct as of the date hereof and as of the Closing, and the truth of which shall be a condition precedent to Purchaser's obligation to close the transaction contemplated herein:

(a) Seller represents that Purchaser can assume its Small Business Administration loan in the approximate amount of Three Million Dollars (\$3,000,000.00). Seller to pay all costs related to the assumption.

(b) Neither Seller nor its agents have received any notice from any city, village or other governmental authority of a dwelling, zoning, building, environmental and/or fire code violation which currently exists in the aforesaid Property. If a notice is received between the date of acceptance of the Contract and the date of closing, Seller shall promptly correct same;

(c) Seller has no written notice of any liens or special assessments to be made against the Property by any governmental authority;

(d) Seller represents to Purchaser that as of the date of acceptance, Seller has no notice or knowledge of conditions affecting the Property or the transaction.

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(e) Seller has no actual knowledge of the fact that any construction completed

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on the Property has not been completed in a good and workmanlike manner;

(f) There are no attachments, executions, assignments for the benefit of creditors or voluntary or involuntary proceedings in bankruptcy pending against, contemplated by or threatened against Seller or the Property, and Seller has not received written notice of such action pending, contemplated or threatened against any tenant at the Property;

(g) Seller shall neither transfer nor remove any tangible personal property or fixtures from the Property subsequent to the date hereof, except for purposes of replacement thereof, in which case such replacements shall be comparable in quantity to the item(s) being replaced;

(h) As of the Closing, the Seller will not be obligated under any maintenance, management or service contract pertaining to the Property;

(i) Seller shall operate and maintain the Property through Closing in accordance with its prior practices, and in no event shall Seller permit the physical condition of the Property to deteriorate from its current condition, reasonable and ordinary wear and tear and matters covered by casualty insurance excepted;

(j) To Seller's actual knowledge, neither the execution and delivery of this Agreement by Seller nor Seller's performance of its obligations hereunder will result in a violation or breach of any term or provision or constitute a default or accelerate the performance required under any other agreement or document to which Seller is a party or under which it is otherwise bound or to which the Property, or any part thereof, is subject, and will not constitute a violation of any law, ruling, regulation or order to which Seller or the Property is subject;

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(k) ~~No person, firm, corporation or other entity has any right or option to~~

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acquire the Property, or any part thereof, from Seller other than Purchaser;

(l) Seller has obtained all necessary consents and permissions related to the transaction herein contemplated and required under any covenant, agreement, encumbrance, law or regulation;

(m) The party or parties executing this Agreement on behalf of Seller have been duly authorized and are empowered to bind Seller to this Agreement. The execution and delivery of this Contract by the Seller, and the performance of this Contract, has been duly authorized, and this Contract is binding on the Seller and enforceable against the Seller in accordance with its terms. No consent of any creditor, investor, judicial or administrative body, governmental authority, or other governmental body or agency, or other party to such execution, delivery and performance by the either is required. Neither the execution of this Contract nor the consummation of the transactions contemplated hereby will (i) result in a breach of, default under, or acceleration of, any contract to which the Seller is a party or by which the Seller or the Property are bound; or (ii) violate any restriction, court order, contract or other legal obligation to which the Seller or the Property is subject.

(n) On the date of Closing, Seller shall cause possession of the Property to be delivered to Purchaser and vacant and free of all leases and tenancies.

7. Between the date of the execution of this Agreement and the Closing, Seller:

(a) shall not, without first obtaining the consent of Purchaser, enter into any leases, contracts or agreements relative to the Property;

(b) shall not convey any personal property located on the Property or intangible property related to the Property;

~~(c) shall maintain in good standing all currently existing licenses, permits,~~

certificates and authorizations for the Property; and

(d) shall operate and manage the Property in a manner consistent with current practices, maintaining present services, maintaining the Property in good repair and working order consistent with current practices and except as otherwise provided herein, Seller shall deliver the Property at Closing and in substantially the same condition as it was on the date hereof, reasonable wear and tear excepted and in a broom clean condition.

8. All warranties, representations, covenants, obligations and agreements contained in this Agreement shall terminate twenty-four (24) months after Closing.

9. This Contract is contingent upon the real estate and improvement, at the time of closing, being free from any and all hazardous materials, as defined in Section 10 hereof, including underground tanks which have not been closed or approved by the applicable governmental and/or regulatory authorities. Seller hereby agrees to indemnify and save Purchaser, its successors and assigns, harmless against all liability, loss, damage and expense (including reasonable attorneys' fees) incurred by Purchaser on account of claims or demands of every nature, kind and description for loss or damage to property, or injury to or death of every person, caused by, or connected in any manner, with the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release, from the Property or into or upon any land, the atmosphere, or any watercourse, body or water or wetland, of any "Hazardous Material" (defined below), including without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "Superfund" or "Superlien" law, or any other Federal, state, local or other statute, law, ordinance, code, rule, regulation, order or decree regulating, relative to or imposing liability or standards of conduct concerning any Hazardous Material, or the construction, operation, administration or

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inspection of the Property, whether due in whole or in part to the negligence of the Seller, or to the

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negligence of their respective partners, agents or employees (the "Indemnified Matters"). Upon breach of the foregoing warranty, at its own cost and expense, Seller hereby agrees to hold Purchaser, his employees, agents, representatives, nominees, successors or assigns (hereinafter "Indemnified Parties") harmless as well as defend and pay all damages, costs and expenses (including reasonable attorneys' fees) of any and all suits or other legal proceedings that may be brought or instituted against the Indemnified Parties on any Indemnified Matters, and pay and satisfy any judgment that may be rendered against the Indemnified Parties in any such suit or legal proceeding, or the amount of any compromise or settlement that may result therefrom. For purposes hereof, "Hazardous Material" means any hazardous substance or any pollutant or contaminant defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "Superfund" or "Superlien" law, the Toxic Substances Control Act, or any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, or any other hazardous, toxic or dangerous waste, substance or material including, but not limited to, asbestos.

10. This Contract is contingent upon Purchaser conducting a Phase I, and if indicated, a Phase II Environmental Assessment which shows no presence of Hazardous Material, as defined above. The Seller shall provide the Purchaser with any Environmental Assessments in its possession or control. In the event said Phase II Environmental Assessment discloses Hazardous Material, including, but not limited to asbestos, and Seller is unwilling to remedy same, then Purchaser, at its sole option, may declare this Contract null and void, and the earnest money shall be returned to Purchaser. The cost of the Phase I Environmental Assessment Report shall be borne

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by Seller and the cost of the Phase II Environmental Assessment Report, if applicable, shall be

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borne by Purchaser.

11. This Contract is contingent upon Purchaser's due diligence inspection relative to the Property within thirty-five (35) days from the acceptance of this Contract (the "Due Diligence Period"). In the event Purchaser determines during the Due Diligence Period that the Property is unacceptable for any reason whatsoever, Purchaser, in its sole opinion, may declare this Contract null and void, and the earnest money shall be returned to Purchaser.

12. Purchaser, its authorized agents, employees, contractors and representatives (collectively, "Purchaser's Agents") shall have the right of access to the Property at all reasonable times subsequent to the later of the date of the Contract and the delivery of the Earnest Money and prior to the Due Diligence Period, with full right to inspect the Property, including without limitation to verify physical condition, structural condition of the building, compliance with fire code, utility service to building, and the engineering, environmental and hazardous waste condition ("Inspections") all at Purchaser's sole cost and expense. In the event Purchaser or Purchaser's Agents conduct any Inspections at the Property as permitted herein, Purchaser shall provide or cause Purchaser's Agents to provide a certificate insurance insuring the activities undertaken at the Property in customary amounts and naming Seller and Seller's occupants as additional insureds. Purchaser shall repair any damage caused by Purchaser or Purchaser's Agents. Within ten (10) days after the execution of this Agreement, Seller shall provide copies to Purchaser of the following documents regarding the Property, if existing and in Seller's possession:

- A. Any approved P.U.D. agreements, annexation agreements and/or development agreements affecting the Property.
- B. Phase I and/or Phase II environmental studies affecting the Property.

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- C. Jurisdictional wetlands studies of the Property.
  - D. Soil boring test studies for the Property.
  - E. Declaration of Covenants, Conditions, Restrictions and Easements, if any, recorded against the Property by Seller.
  - F. Surveys.
  - G. Tax Sharing Agreements.
  - H. All real estate appraisals, including any real estate appraisals used in connection with real estate assessment matters before the Cook County Assessor and Cook County Board of Review.

13. This Contract is contingent upon Purchaser or The Autobarn of Motors of Oak Park, LLC or its assign, receiving from Volvo Cars of North America, LLC. by the closing date a Dealer Sales and Service Agreement in Volvo Cars of North America, LLC's customary form, or other binding written authority, reasonably acceptable to Purchaser, authority to conduct business as an authorized Volvo Dealer at the Property and the simultaneous closing of the Asset Purchase Agreement dated the same date as this Contract between Shepherd Motorcars Corporation and The Autobarn Motors of Oak Park, LLC. In the event the Asset Purchase Agreement dated the same date as this Contract between Shepherd Motorcars Corporation and The Autobarn Motors of Oak Park, LLC is terminated, Seller or Purchaser may terminate this Contract.

14. This Contract is contingent upon the simultaneous closing of that certain Real Estate Contract between Circle Avenue, L.L.C., as Seller, and Richard Fisher, or his nominee, as Purchaser, of the real estate commonly known as 1213 Circle Avenue, Forest Park, Illinois 60130 ("Circle Contract") of even date herewith. In event the Circle Contract is terminated, either Seller or Purchaser may terminate this Contract.

15. This Contract is contingent upon Purchaser receiving written confirmation from the Village of Oak Park, Illinois, and such other entities having jurisdiction over same, of the continuation of the zoning classification that allows the Property to be used for motor vehicle sales and service, and Purchaser obtaining, within sixty (60) days of acceptance of this Contract, from the Village of Oak Park, Illinois and any other appropriate governments or government agencies having

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jurisdiction over the Property, in form and substance satisfactory to Purchaser, all necessary or desired permits, conditional use permits, land divisions, building and business permits, zoning or building code variances, rezoning, zoning design review, access permits, access, utility and other easements, licenses, business licenses, any architectural, design, signage permits or other necessary approvals and assurances of Purchaser's development plans for the use of the Property as a new and used Volvo sales and service facility.

16. This Contract is contingent upon the Village of Oak Park entering into a Tax Increment Financing Agreement with, and acceptable to, Buyer on or before January 9, 2015.

17. Real estate taxes (based upon 110% of the most recent ascertainable tax bill), water, and other proratable items shall be prorated to the date of closing. Seller and Seller's member(s) and Purchaser agree to re-prorate to any real estate tax bills, not due and payable at the time of Closing, upon receipt of said final and definitive real estate tax bills..

18. Special assessments, if any, for work actually commenced or special assessments levied prior to the date of this Contract shall be paid by Seller no later than Closing. All special assessments levied after Closing shall be paid by Purchaser.

19. As of the closing date, Purchaser will not be obligated under any of Seller's maintenance, management, service or any other contract pertaining to the Real Estate.

20. Within twenty (20) days following the date of this Agreement, Seller shall provide Purchaser or his agent evidence of marketable title in the intended grantor by delivering a Chicago Title Commitment for Title Insurance with (i) extended coverage over general exceptions 1, 2, 3, 4 and 5, (ii) a location endorsement (iii) a 3.1 zoning endorsement allowing the use of the property as a new and used motor vehicle sales, service and storage facility, (iv) an endorsement insuring Purchaser that there are no violations of any restrictive covenants, conditions or restrictions affecting the Property, (v) a survey endorsement insuring that the improvements are within the lot lines and applicable set back lines, that the improvements do not encroach onto adjoining land or on to any easements (except for encroachments which are insured over by customary endorsement issued by the Title Company), and that there are no encroachments or

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~~improvements from adjoining land onto the Property or any part thereof which would materially~~ affect the use of the Property as a new and used motor vehicle sales and service facility or marketability of the Property, (vi) an access endorsement, and (vii) a PIN endorsement issued by Chicago Title Insurance Company bearing date on or subsequent to the date of the acceptance of this offer, in the amount of the purchase price subject to no other exceptions than those listed in this Contract, and copies of all recorded documents identified in the Commitment for Title Insurance. The cost for the Commitment for Title Insurance with extended coverage over general exceptions 1, 2, 3, 4 and 5 shall be paid for by the Seller. The cost for all other endorsements shall be split by the Seller and by Purchaser 50/50. The Commitment for Title Insurance furnished by Seller hereunder shall be conclusive evidence of title as therein shown. If evidence of title discloses other exceptions, Seller shall have ten (10) days from Seller's receipt of evidence of title to cure such exceptions and notify Purchaser accordingly, and as to those exceptions which may be removed at closing by payment of money, Seller shall have same removed at closing by using the proceeds of sale in payment thereof. If Seller is unable to remove such other exceptions, Purchaser, at its sole option, may terminate this Contract and all monies paid hereunder shall be returned to Purchaser.

21. Seller shall maintain the Property until the earlier of closing or occupancy of Purchaser in materially the same condition as of the date of acceptance of his Contract, except for ordinary wear and tear. If, prior to closing, the Property is damaged in an amount of not more than ten percent (10%) of the selling price, Seller shall be obligated to repair the Property and restore it to the same condition that it was on the day of this Contract. If the damage shall exceed such sum, Seller shall promptly notify Purchaser in writing of the damage and this Contract may be cancelled at the option of Purchaser. Should Purchaser elect to carry out this Contract despite such damage, Purchaser shall be entitled to the insurance proceeds relating to the damage to the Property, plus a credit towards the purchase price equal to the amount of Seller's deductible on such policy.

22. If, prior to Closing, the Property or any substantial portion thereof is taken by eminent domain, Seller will promptly notify Purchaser, and Purchaser will have the option of either (a) canceling this Agreement by delivery of written notice to Seller, whereupon the Title

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Company will return to Purchaser the earnest money, and both parties will be relieved of all further obligations under this Contract, or (b) proceeding with the Closing without reduction of the purchase price, whereupon (y) Purchaser will be entitled to (and Seller will assign without recourse or warranty to Purchaser all of Seller's interest in) all condemnation awards and settlements applicable to the Property and (z) Seller will be relieved of the obligation to deliver the portion(s) of the Property so taken. Purchaser will notify Seller of its election within fourteen (14) days of delivery of notice from Seller of such condemnation, and if Purchaser fails to do so, Purchaser will be deemed to have elected the remedies set forth in item (b) of this Section. For purposes of this subsection, a "substantial portion" of the Property means (x) reasonable access to the Property, (y) parking areas that would reduce the amount of parking to less than required by applicable zoning laws or (z) equal to or greater than ten percent (10%) of the gross number of square feet contained in the improvements on the Property.

23. At closing, Seller agrees to surrender possession of the Property "broom clean" and subject to no existing leases or other agreements affecting the Property.

24. Seller warrants that it has no knowledge of or notice from any city, village or other governmental authority or notice of a zoning, condemnation, building, environmental, health and safety and/or fire code violation which currently exists in the aforesaid Property has been received by Seller or his agents. If a notice is received between the date of acceptance of the Contract and the date of closing, Seller shall promptly correct same.

25. At the request of Seller or Purchaser evidenced by notice in writing to the other party at the time prior to the date for delivery of the deed hereunder, this sale shall be closed through an escrow in accordance with written instructions of the parties, with such special provisions inserted in the escrow agreement as may be required to conform with this Contract. Under the creation of such an escrow, anything herein to the contrary notwithstanding, payment of the purchase price and delivery of the deed shall be made through the escrow and this Contract and the earnest money shall be deposited in the escrow. All escrow fees shall be divided equally between Purchaser and Seller.

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26. Within twenty (20) days following the date of this Agreement, Seller shall furnish to Purchaser a current ALTA survey, purchased and paid for by the Seller for this transaction, by a licensed land surveyor certified to Purchaser, Chicago Title Insurance Company, and Purchaser's lender, if any, showing the present location of all improvements and sufficient to permit Chicago Title Insurance Company to issue extended coverage insurance, 3.1 zoning endorsement and a location endorsement. In addition, said ALTA survey shall be reasonably acceptable to Purchaser's lender, if any. The survey shall identify the as built improvements prepared in accordance with the minimum standard detail requirements imposed by the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys" jointly established and adopted by ALTA and NSPS in 2011, and includes Items 1, 2, 3, 4, 6, 7(a)(b1)(c), 8, 9, 10 and 11(a) of Table A thereof pursuant to the form of Surveyor's certification attached hereto as Exhibit B.

27. Seller agrees to furnish to Purchaser an affidavit of title subject only to those items set forth herein, and an ALTA form if required by Purchaser's mortgagee.

28. Right is reserved by either party to insert the correct legal description and lot dimensions at any time, without notice, when same is available.

29. Seller may pay off any existing mortgage(s) or cause funds therefor to be deposited in the closing escrow at closing out of the proceeds of this sale.

30. At closing, Purchaser may place mortgages on this property and apply proceeds of said mortgages to the purchase price.

31. Seller and Purchaser reserve the right to acquire or sell the Property in exchange for one or more properties of a like-kind in a transaction (the "Exchange Transaction") qualifying as a tax-free exchange under Section 1031 of the Internal Revenue Code of 1986, as amended (the "Code"). If Seller or Purchaser exercises such right, the Exchange Transaction shall be implemented through an exchange party determine by the party exercising such right. Seller and Purchaser agree that under no circumstances shall the Exchange Transaction: (a) delay the Closing pursuant to the terms of the Purchase Agreement and this Addendum, (b)

~~require either the Seller or Purchaser to act as the exchange trustee or other exchange party, sign~~  
any documents or undertake any liability whatsoever, and (c) result in any additional expenses to  
the party not exercising the right of exchange. Seller and Purchaser agree to cooperate with each  
other in all respects as may be reasonable to complete the Exchange Transaction in accordance  
with the requirements of the Code.

32. Purchaser and Seller hereby agree to make all disclosures and do all things necessary  
to comply with the applicable provisions of the Real Estate Settlement Procedures Act, as amended,  
if applicable.

33. Seller shall pay the amount of any stamp tax imposed by the state and county on the  
transfer of title, if any, and shall furnish a completed declaration signed by the Seller or Seller's  
agent in the form required by the state and county, if any, and shall furnish any declaration signed  
by Seller or Seller's agent and meet other requirements as established by any local ordinance with  
regard to a transfer or transaction tax, if any. Any tax required by local ordinance shall be paid by  
the party upon whom such ordinance places responsibility therefor.

34. All notices herein required shall be in writing and shall be served on the parties at  
the addresses following:

SELLER: Harlem Garfield, LLC  
c/o Carmelo Scalzo  
1140 Garfield Street  
Oak Park, IL 60304  
Phone: (708) 825-6286  
Fax: (312) 704-4500  
E-mail: [carmelo@volvooakpark.com](mailto:carmelo@volvooakpark.com)

with a copy to: Mark M. Lyman  
Lyman Law Firm, LLC  
617 W. Fulton Street, 4<sup>th</sup> Floor  
Chicago, IL 60661  
Phone: (312) 762-9524  
Fax: (312) 704-4500  
E-mail: [mark@lymanlawus.com](mailto:mark@lymanlawus.com)

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If to Purchaser to: Richard A. Fisher  
1015 Chicago Ave.  
Evanston, IL 60202  
Phone: (847) 951-3360  
Fax: ( ) \_\_\_\_\_  
E-mail: [fish2556@gmail.com](mailto:fish2556@gmail.com)

with a copy to: Jay L. Statland  
Burke, Warren, MacKay & Serritella, P.C.  
330 N. Wabash Ave., 21<sup>st</sup> Floor  
Chicago, IL 60611  
Phone: (312) 840-7101  
Fax: (312) 840-7900  
E-mail: [jstatland@burkelaw.com](mailto:jstatland@burkelaw.com)

35. The mailing of a notice by registered or certified mail, return receipt requested, or by receipted telefax transmission, shall be sufficient service.

36. If this Contract is terminated due to Purchaser's failure to perform, then the earnest money shall be forfeited to Seller as liquidated damages, as its sole remedy. If this Contract is terminated due to Seller's failure to perform, Purchaser shall receive a return of the earnest money, but such refunding shall not release Seller from the obligations of this Contract, and Purchaser may sue for specific performance. If any action is initiated to obtain relief pursuant to this Section by Seller or Purchaser, then the prevailing party in such action will also be entitled to recover from the non-prevailing party(ies) its costs and reasonable attorneys' fees.

37. Deadlines expressed as a number of "days" from an event, such as acceptance, are calculated by excluding the day the event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day.

38. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, heirs and legal representatives.

39. Seller and Purchaser agree that this Agreement may be executed by facsimile signatures and in counterpart and that such signatures shall for all purposes be equivalent to original signatures and shall create a binding agreement between the parties.

40. Seller represents and warrants that it has good and marketable title to, and the entire right, title and interest in, the Property, subject to matters of public record, and has the

~~necessary power and authority to enter into this Agreement and to consummate the transactions~~  
contemplated thereby.

41. Time is of the essence of this Contract.

42. Wherever appropriate, the singular includes the plural and the masculine includes the feminine or the neuter.

43. No extension, change, modification or amendment to or of this instrument of any kind whatsoever shall or will be made unless said extension, change, modification or amendment is made in writing and signed by the parties hereto.

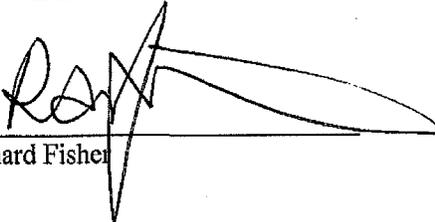
44. Seller represents that he is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and is therefore exempt from the withholding requirements of said Section. Seller will furnish Purchaser at closing the Exemption Certification set forth in said Section. In addition, the parties shall comply with 6045(e) of the Internal Revenue Code.

45. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against any party whether under any rule of construction or otherwise. Neither party shall be construed as the preparer of this Agreement.

46. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois. Venue shall be in Cook County.

47. A duplicate original of this contract, duly executed by the Seller shall be delivered to the Purchaser within three days, otherwise, at the Purchaser's option, this Contract shall become null and void and the earnest money shall be refunded to the Purchaser.

PURCHASER:

  
Richard Fisher

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ACCEPTANCE OF CONTRACT BY SELLER

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This 20<sup>th</sup> day of December, 2014, I/We accept this contract and agree to perform and convey title or cause title to be conveyed according to the terms of this contract.

Harlem Garfield, LLC

By: Antonio Scalzo

ADDRESS: \_\_\_\_\_

Name: ANTONIO SCALZO

\_\_\_\_\_

Title: President

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**EXHIBIT A**

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**EXHIBIT B**

**Survey Certification**

[Insert Date]

This survey is made for the benefit of:

*Title Company, Seller, Purchaser, [insert Lender, if applicable], and \_\_\_\_\_, their respective successors and assigns*

I, \_\_\_\_\_, Professional Land Surveyor, do hereby certify to the aforesaid parties, as of the date set forth above, that I have made a careful survey of a tract of land described as follows:

[Insert Property Description]

(i) This is to certify that this map or plat and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2011, and includes Items 1, 2, 3, 4, 6, 7(a)(b)(c), 8, 9, 10 and 11(a) of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of \_\_\_\_\_, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

(ii) The accompanying survey was made on the ground and correctly shows the location of all buildings, structures and other improvements situated on the above premises; there are no visible encroachments on the subject property or upon adjacent land abutting said property except as shown hereon and was made in accordance with laws and/or Minimum Standards of the State of \_\_\_\_\_.

(iii) The property described hereon is the same as the property described in \_\_\_\_\_ Commitment No. \_\_\_\_\_ with an effective date of \_\_\_\_\_ and that all easements, covenants and restrictions referenced in said title commitment or apparent from a physical inspection of the site or otherwise known to me have been plotted hereon or otherwise noted as to their effect on the subject property.

(iv) Said described property is located within an area having a Zone Designation \_\_\_\_\_ by the Federal Emergency Management Agency (FEMA), on Flood Insurance Rate Map No. \_\_\_\_\_, with a date of identification of \_\_\_\_\_, for Community No. \_\_\_\_\_, in \_\_\_\_\_ County, State of \_\_\_\_\_, which is the current Flood Insurance Rate Map for the community in which said premises is situated.

(v) The Property has direct access to \_\_\_\_\_, a dedicated public street or highway. OR [indirect access to \_\_\_\_\_, a dedicated

public street or highway, by way of the Access Easement recorded in Book \_\_\_\_\_  
Page \_\_\_\_\_.]

(vi) The total number of striped parking spaces on the subject property is \_\_\_\_\_, including \_\_\_\_\_ designated handicap spaces.

\_\_\_\_\_  
Professional Land Surveyor No. \_\_\_\_\_

## AMENDMENT TO REAL ESTATE CONTRACT

This Amendment to Real Estate Contract ("Amendment") is entered into this 9th day of January, 2015, by and between Harlem Garfield, LLC (hereinafter referred to as "Seller"), and Richard Fisher, or his nominee (hereinafter referred to as "Purchaser").

### RECITALS

WHEREAS, Seller and Purchaser entered into a Real Estate Contract on December 20, 2014 (hereinafter "Agreement");

WHEREAS, Seller and Purchaser desire to amend the Agreement.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The forgoing Recitals of this Agreement are incorporated herein and made a part hereof.

2. Amendment to Section 16 of the Agreement. Section 16 of the Agreement shall be deleted in its entirety and replaced with the following:

"16. This Contract is contingent upon the Village of Oak Park entering into a Tax Increment Financing Agreement with, and acceptable to, Buyer on or before February 13, 2015."

3. Amendment to Section 26 of the Agreement. Section 26 of the Agreement shall be deleted in its entirety and replaced with the following:

"Seller shall furnish to Purchaser by January 30, 2015 a current ALTA survey, purchased and paid for by the Seller for this transaction, by a licensed land surveyor certified to Purchaser, Chicago Title Insurance Company, and Purchaser's lender, if any, showing the present location of all improvements and sufficient to permit Chicago Title Insurance Company to issue extended coverage insurance, 3.1 zoning endorsement and a location endorsement. In addition, said ALTA survey shall be reasonably acceptable to Purchaser's lender, if any. The survey shall identify the as built improvements prepared in accordance with the minimum standard detail requirements imposed by the "Minimum Standard Detail

Requirements for ALTA/ACSM Land Title Surveys” jointly established and adopted by ALTA and NSPS in 2011, and includes Items 1, 2, 3, 4, 6, 7(a)(b1)(c), 8, 9, 10 and 11(a) of Table A thereof pursuant to the form of Surveyor’s certification attached hereto as Exhibit B.”

4. Reaffirmation. All other terms and provisions of the Agreement remain in full force and effect.

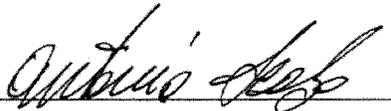
5. Modifications. No modifications or amendments to the Agreement shall be binding unless the terms thereof are stated in writing and signed by all the parties hereto.

6. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Executed copies hereof may be delivered by telecopier or e-mail and such copies shall be deemed originals and binding upon the parties hereto.

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

SELLER:

HARLEM GARFIELD, LLC

BY: 

PURCHASER:

\_\_\_\_\_  
RICHARD FISHER

Requirements for ALTA/ACSM Land Title Surveys" jointly established and adopted by ALTA and NSPS in 2011, and includes Items 1, 2, 3, 4, 6, 7(a)(b1)(c), 8, 9, 10 and 11(a) of Table A thereof pursuant to the form of Surveyor's certification attached hereto as Exhibit B."

4. Reaffirmation. All other terms and provisions of the Agreement remain in full force and effect.

5. Modifications. No modifications or amendments to the Agreement shall be binding unless the terms thereof are stated in writing and signed by all the parties hereto.

6. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Executed copies hereof may be delivered by telecopier or e-mail and such copies shall be deemed originals and binding upon the parties hereto.

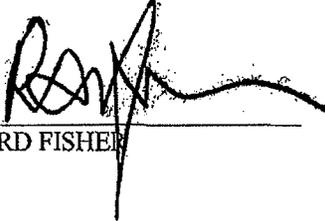
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SELLER:

HARLEM GARFIELD, LLC

BY: \_\_\_\_\_

PURCHASER:

  
\_\_\_\_\_  
RICHARD FISHER

## SECOND AMENDMENT TO REAL ESTATE CONTRACT

This Second Amendment to Real Estate Contract ("Second Amendment") is entered into this 19<sup>th</sup> day of January, 2015, by and between Harlem Garfield, LLC (hereinafter referred to as "Seller"), and Richard Fisher, or his nominee (hereinafter referred to as "Purchaser").

### RECITALS

WHEREAS, Seller and Purchaser entered into a Real Estate Contract on December 20, 2014 (hereinafter "Agreement");

WHEREAS, Seller and Purchaser executed an Amendment to the Agreement on January 9, 2015;

WHEREAS, Seller and Purchaser desire to further amend the Agreement.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The forgoing Recitals of this Agreement are incorporated herein and made a part hereof.

2. Amendment to Section 2(a) of the Agreement. Section 2(a) of the Agreement shall be deleted in its entirety and replaced with the following:

"(a) Mortgage Contingency. This contract is contingent upon Purchaser securing by February 20, 2015 ("Mortgage Contingency Date") a commitment for a fixed rate mortgage (hereinafter referred to as "Mortgage") in the amount of \$6,000,000.00, or such lesser sum as Purchaser shall accept, the interest rate not to exceed 3.5% over prime per annum, amortized over 20 years, with a 20 year term, payable monthly, with no loan fee. If Purchaser does not obtain said commitment, Purchaser shall notify Seller in writing on or before the Mortgage Contingency Date. If Purchaser notifies Seller as above provided, this Contract shall be null and void and the earnest money, and any interest earned thereon, shall be returned to Purchaser. If Seller is not so notified, it shall be conclusively presumed that Purchaser has secured said commitment or will purchase said Property without said financing. In the event that the Property does not appraise for at least the Purchase Price,



then Purchaser may terminate the Contract by delivering notice to Seller by the Mortgage Contingency Date.”

3. Amendment to Section 11 of the Agreement. Section 11 of the Agreement shall be deleted in its entirety and replaced with the following:

“11. This Contract is contingent upon Purchaser’s due diligence inspection relative to the Property by February 20, 2015 Contract (the “Due Diligence Period”). In the event Purchaser determines during the Due Diligence Period that the Property is unacceptable for any reason whatsoever, Purchaser, in its sole opinion, may declare this Contract null and void, and the earnest money shall be returned to Purchaser.”

4. Reaffirmation. All other terms and provisions of the Agreement remain in full force and effect.

5. Modifications. No modifications or amendments to the Agreement shall be binding unless the terms thereof are stated in writing and signed by all the parties hereto.

6. Counterparts. This Second Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Executed copies hereof may be delivered by telecopier or e-mail and such copies shall be deemed originals and binding upon the parties hereto.

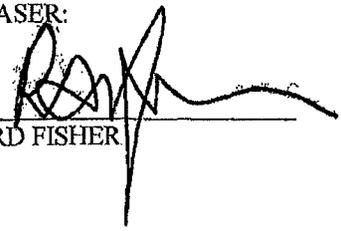
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SELLER:

HARLEM GARFIELD, LLC

BY: \_\_\_\_\_

PURCHASER:

  
\_\_\_\_\_  
RICHARD FISHER

**THIRD AMENDMENT TO REAL ESTATE CONTRACT**

This Third Amendment to Real Estate Contract ("Third Amendment") is entered into this February ~~18th~~ <sup>XXXXX</sup> day of January, 2015, by and between Harlem Garfield, LLC (hereinafter referred to as "Seller"), and Richard Fisher, or his nominee (hereinafter referred to as "Purchaser").

**RECITALS**

WHEREAS, Seller and Purchaser entered into a Real Estate Contract on December 20, 2014 (hereinafter "Agreement");

WHEREAS, Seller and Purchaser executed an Amendment to the Agreement on January 9, 2015;

WHEREAS, Seller and Purchaser executed a Second Amendment to the Agreement on January 19, 2015;

WHEREAS, Seller and Purchaser desire to further amend the Agreement.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The forgoing Recitals of this Agreement are incorporated herein and made a part hereof.

2. Amendment to Section 1 of the Agreement. Section 1 of the Agreement shall be deleted in its entirety and replaced with the following:

"Purchase price: Six Million Seven Hundred and Fifty Thousand Dollars (\$6,750,000.00)."

3. Amendment to Section 2(a) of the Agreement. Section 2(a) of the Agreement shall be deleted in its entirety and replaced with the following:

“(a) Mortgage Contingency. This contract is contingent upon Purchaser securing by March 2, 2015 (“Mortgage Contingency Date”) a commitment for a fixed rate mortgage (hereinafter referred to as “Mortgage”) in the amount of \$4,975,000.00, or such lesser sum as Purchaser shall accept, the interest rate not to exceed 3.5% over prime per annum, amortized over 20 years, with a 20 year term, payable monthly, with no loan fee. If Purchaser does not obtain said commitment, Purchaser shall notify Seller in writing on or before the Mortgage Contingency Date. If Purchaser notifies Seller as above provided, this Contract shall be null and void and the earnest money, and any interest earned thereon, shall be returned to Purchaser. If Seller is not so notified, it shall be conclusively presumed that Purchaser has secured said commitment or will purchase said Property without said financing. In the event that the Property does not appraise for at least the Purchase Price, then Purchaser may terminate the Contract by delivering notice to Seller by the Mortgage Contingency Date.”

4. Amendment to Section 4 of the Agreement. Section 4 of the Agreement shall be deleted in its entirety and replaced with the following:

"The closing of the transaction provided for in this Agreement shall take place at 1140 Garfield Street, Oak Park, Illinois 60304, on the later of March 2, 2015, or ten (10) business days after Volvo Cars of North America, LLC ("Manufacturer") approves the franchise transfer to Richard Fisher or his designee, or the closing shall occur at such other date and time as the parties may agree (the "Closing Date"); provided that all conditions precedent and contingencies have been met, and that the Asset Purchase Agreement between Shepherd Motorcars Corporation and, Anthony Scalzo, and Antonio Scalzo, and Carmelo Scalzo, and The Autobarn Motors of Oak Park, LLC, and the Real Estate Sale Contract between Circle Avenue, L.L.C. and Richard Fisher for the property at 1213 Circle Avenue, Forest Park, Illinois 60130, are set to close on the Closing Date, and provided title has been shown to be good and is accepted by Purchaser, at the office of Purchaser's mortgagee, if any, or at Chicago Title Insurance Company (hereinafter "Closing"). The Purchaser shall deposit the Purchase Price, plus or minus prorations, in to the Closing Escrow at Closing."

5. Amendment to Section 11 of the Agreement. Section 11 of the Agreement shall be deleted in its entirety and replaced with the following:

“11. This Contract is contingent upon Purchaser’s due diligence inspection relative to the Property by March 2, 2015 Contract (the “Due Diligence Period”). In the event Purchaser determines during the Due Diligence Period that the Property is unacceptable for any reason whatsoever, Purchaser, in its sole opinion, may declare this Contract null and void, and the earnest money shall be returned to Purchaser.”

"15. This Contract is contingent upon Purchaser receiving written confirmation from the Village of Forest Park, Illinois, and such other entities having jurisdiction over same, of the continuation of the zoning classification that allows the Property to be used for motor vehicle sales, storage, and service, and the Purchaser obtaining on or by March 2, 2015, acceptance from the Village of Forest Park, Illinois, and any other appropriate governments or government agencies having jurisdiction over the Property, in form or substance of satisfactory to Purchaser, all necessary or desired permits, conditional use permits, land divisions, building and business permits, zoning or building code variances, rezoning, zoning design or review, access permits, access, utility and other easements, licenses, business licenses, any architectural design, design or signage permits, or other necessary approvals or assurances of Purchaser's development plans for the use of the property as a new and used Volvo sales and services facility."

7. Amendment to Section 25 of the Agreement. Section 25 of the Agreement shall be deleted in its entirety and replaced with the following:

"Seller shall furnish to Purchaser by February 23, 2015 a current ALTA survey, purchased and paid for by the Seller for this transaction, by a licensed land surveyor certified to Purchaser, Chicago Title Insurance Company, and Purchaser's lender, if any, showing the present location of all improvements and sufficient to permit Chicago Title Insurance Company to issue extended coverage insurance, 3.1 zoning endorsement and a location endorsement. In addition, said ALTA survey shall be reasonably acceptable to Purchaser's lender, if any. The survey shall identify the as built improvements prepared in accordance with the minimum standard detail requirements imposed by the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys" jointly established and adopted by ALTA and NSPS in 2011, and includes Items 1, 2, 3, 4, 6, 7(a)(b1)(c), 8, 9, 10 and 11(a) of Table A thereof pursuant to the form of Surveyor's certification attached hereto as Exhibit B."

8. Reaffirmation. All other terms and provisions of the Agreement remain in full force and effect.

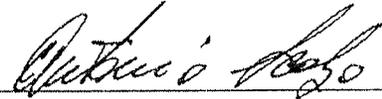
9. Modifications. No modifications or amendments to the Agreement shall be binding unless the terms thereof are stated in writing and signed by all the parties hereto.

10. Counterparts. This Third Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Executed copies hereof may be delivered by telecopier or e-mail and such copies shall be deemed originals and binding upon the parties hereto.

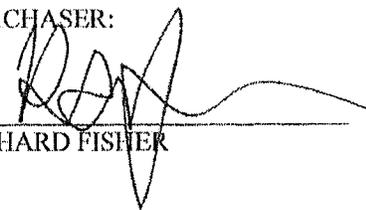
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day  
and year first above written.

SELLER:

HARLEM GARFIELD, LLC

BY:  \_\_\_\_\_

PURCHASER:

  
\_\_\_\_\_  
RICHARD FISHER

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (hereinafter referred to as "Agreement") is made and entered into this 20<sup>th</sup> day of December, 2014, by and between Shepherd Motorcars Corporation, an Illinois corporation (hereinafter referred to as "Seller"), Antonio Scalzo and Carmelo Scalzo (hereinafter, collectively, referred to as "Shareholders"), and The Autobarn Motors of Oak Park, LLC, an Illinois limited liability company (hereinafter referred to as "Buyer"):

WHEREAS, Seller desires to sell and Buyer desires to buy certain Volvo assets of Seller hereinafter described:

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties as follows:

1. Representations and Warranties of Seller and Shareholders. Seller and Shareholders represent and warrant to Buyer as follows:

(a) Seller is a duly organized and existing corporation and in good standing under the laws of the State of Illinois, it is duly authorized to carry on its business in the place where such business is operated, and Seller is authorized to enter into this Agreement and complete the obligations set forth in the Agreement.

(b) All of the issued and outstanding capital stock of the Seller is owned by Shareholders.

(c) This Agreement is executed pursuant to applicable law and resolutions duly adopted by the Shareholders of Seller.

(d) Seller and/or Shareholders are the Franchisee and Dealer at 1140 Garfield Street, Oak Park, IL (hereinafter the "Dealership") on the date hereof for Volvo Cars of North America, LLC Inc. (hereinafter, at times, referred to as "Manufacturer"), pursuant to a Dealer Sales and Service Agreement, and shall remain as said Franchisee and Dealer until closing of the transaction; and that there are no defaults under Seller's Sale and Service Agreement with Manufacturer. Seller's resignation as set forth in subsection 11(a) shall be contemporaneous with closing.

(e) Seller and its Shareholders represent and warrant that the financial statements, books and records provided to Buyer relating to Seller are true, accurate and correct.

(f) Seller has good and marketable title to all of the assets or properties to be transferred and assigned to Buyer pursuant to this Agreement (hereinafter, at times, referred to as "Assets") which upon closing will not be subject to any mortgage, conditional sales agreement, charges, liens or encumbrances; and Seller shall, at closing, have the unqualified right to convey such properties free and clear of all mortgages, liens, charges, encumbrances, pledges and conditional sales agreements; and that by such conveyance Buyer will acquire good and marketable title to the Assets.

(g) Seller and Shareholders have filed all Federal, State, and local governmental tax returns required by them to be filed in accordance with the provisions of law pertaining thereto and have paid all taxes and assessments (including, without limitation of the foregoing, income, excise, unemployment, social security, occupation, retailer's, occupation, franchise, property, and import taxes, duties or charges and all penalties and interest in respect thereto) required by Seller and Shareholders to have been paid to date in accordance with said Federal, State and local tax returns.

(h) Seller has withheld all tax required to be withheld under applicable tax laws and regulations, and such withholdings have either been paid to the respective governmental agencies or set aside in accounts for such purpose or accrued, reserved against and entered upon the books of Seller.

(i) Seller and Shareholders have and will maintain sufficient assets to pay, and will pay, all amounts owing its creditors when due.

(j) There are no legal, quasi-judicial or administrative actions, suits or proceedings of any kind or nature now pending or, to the knowledge of Seller and Shareholders, threatened before any court or administrative body in any manner involving Seller or Shareholders or any of their properties or shares of capital stock which may adversely affect the power or authority of Seller to carry out the transaction. Seller is responsible for "lemon law" or other liability for autos sold prior to the closing date.

(k) Seller is not a party to any written or oral contract related to Manufacturer and/or the assets being sold hereunder continuing for a period of more than thirty (30) days or which is not

terminable without cost or other liability to Seller or its successors, except as set forth on Exhibit A.

(l) Seller and/or its Shareholders have the right to assign any contracts being assigned hereunder.

(m) Except for amounts owed to Seller's floor plan lender which shall be paid upon closing, Seller has in all respects performed all obligations required to be performed by it to date and is not in default in any respect under any of the contracts, agreements, leases or other documents to which it is a party, and which relate to the Assets.

(n) Neither this Agreement nor any Schedules, certificates or other document or information provided by Seller to Buyer in connection with this Agreement or the transaction contemplated hereby contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements so made not misleading.

(o) The consummation of the transactions contemplated by this Agreement and compliance with the provisions hereof will not conflict with or result in the breach of any order to which Seller or Shareholders are a party or, to the best of Seller's and Shareholders' knowledge, without due inquiry, conflict with or result in a breach of the terms, conditions or provisions of law, any order of any court or other agency or government, or, to the best of Seller's and Shareholders' knowledge, conflict with or result in the breach of any note, debenture, mortgage, loan agreement or other instrument to which Seller and/or Shareholders are parties, or by which it is bound, or result in the creation or imposition of any lien, charge or encumbrance of any kind, whatsoever, on any property or assets to be transferred to Buyer pursuant to this Agreement.

(p) No insolvency proceeding of any type, including without limitation, bankruptcy, receivership, or reorganization or arrangement with creditors, voluntary or involuntary, affecting the Seller or Shareholders or any part of the Assets, are pending, or to the best of Seller's and Shareholders' knowledge, threatened and the Seller or Shareholders have not made any assignment for the benefit of creditors and have not taken any other action with a view to, or which will constitute the basis for, the institution of such insolvency proceedings.

(q) All contributions to any employee benefit plan of Seller, for which Seller has been, is now, or shall be liable, have been paid by Seller as of the Closing Date.

(r) Except for those employees who are members of the collective bargaining unit under the contract with Automobile Mechanics' Local 701 and Teamsters Local Union 731, none of Seller's other employees are subject to a union or collective bargaining agreement. Buyer shall not be responsible for any withdrawal liability payments due to Automobile Mechanics' Local 701 or Teamsters Local Union 731 which are Seller's withdrawal liability or which accrued prior to Closing.

(s) All wages, vacation pay, holiday pay, bonuses, payroll taxes or any other obligations due any full or part-time employee of the Seller shall have been paid as of the Closing Date.

(t) All governmental licenses and permits are in force, and will be in force as of the closing, as necessary to conduct the Dealership as currently operated by Seller.

(u) Attached hereto as Exhibit B, and made a part hereof, is a current breakdown of Seller's new car inventory and all new vehicles on order and/or in transit to Seller, and their respective mileages.

(v) Seller will not engage in any dealer trades, except to complete an arms-length retail order for a vehicle sold by Seller to a retail consumer which results in a profit exceeding \$250.00.

(w) Seller will not engage in any dealer trades with any other motor vehicle dealership owned by Seller, Shareholders, or any of Shareholders family members.

(x) To Seller's and Shareholders' knowledge, no broker was involved in this transaction. Seller shall be responsible for all fees due to any Broker.

(y) Seller has not offered, or sold, to any of Seller's customers any prepaid service, maintenance, oil change plans or coupons that will extend more than 90 days after the date of this Agreement.

Seller and its Shareholders indemnify Buyer with respect to the representations and warranties, which are remade as of the Closing Date, and shall survive the Closing Date for a period of two (2) years.

2. Covenants of Seller and Shareholders. Seller and Shareholders represent and covenant to Buyer that during and pending completion of the sale of Assets contemplated hereby and as of the Closing Date that:

(a) Each and every covenant, representation and warranty set forth in Section 1 hereof shall be true and correct.

(b) Until the Closing Date (as hereinafter defined), Seller will keep its place of business open during and for not less than the hours customary for Seller prior to the date of this Agreement and shall cause its dealership to function in the ordinary course of business, and in keeping with Seller's practices, prior to the date of this Agreement.

(c) Seller will not acquire or dispose of any of the Assets subject to the terms of this Agreement, or in any way obligate itself to do so, except as may be expressly provided by the terms of this Agreement or in the ordinary course of business.

(d) Seller will keep all of its insurable Assets insured in accordance with its present practice, and all equipment, machinery and other personal property constituting a part of the Assets in the same condition and state of repair as on the date of this Agreement, reasonable wear and tear or damage or loss by fire, storm or other casualty loss excepted.

(e) Seller will only stock new and unused current model 2014 and 2015 Volvo passenger vehicle inventories in a manner consistent with Seller's past practices in the ordinary course of Seller's business with a view to current market conditions and will keep Buyer apprised of its inventory levels between the date hereof and the Closing Date.

3. Reaffirmation. All of the representations and warranties herein contained in Sections 1 and 2 hereof shall be true and correct and shall not have been materially breached on, and as of, the date of the Closing Date as though made on and as of said Closing Date, and all such representations and warranties contained in Sections 1 and 2 hereof shall survive the Closing Date for a period of two (2) years. Seller and Shareholders shall provide a "date down certificate" at closing restating and reaffirming the representations and warranties set forth in Sections 1 and 2 hereof.

4. Representations and Warranties of Buyer. Buyer represents and warrants to Seller as follows:

(a) Buyer is a duly organized and existing Illinois limited liability company, in good standing under the laws of the State of Illinois, it is duly authorized to carry on its business in the place where such business is operated, and Buyer is authorized to enter into this Agreement and complete the obligations set forth in the Agreement.

(b) This Agreement is executed pursuant to all requisite member/manager action, including resolutions duly adopted by the members or managers, as the case may be, of Buyer.

(c) There are no legal, quasi-judicial or administrative actions, suits or proceedings of any kind or nature now pending or, to the knowledge of Buyer, threatened before any court or administrative body in any manner involving Buyer, which may adversely affect the power or authority of Buyer to carry out the transaction.

(d) The consummation of the transactions contemplated by this Agreement and compliance with the provisions hereof will not conflict with or result in a breach of the terms, conditions or provisions of law, any order of any court or other agency or government, or any material note, debenture, mortgage, loan agreement or other instrument to which Buyer is party, or by which it is bound.

(e) No insolvency proceeding of any type, including without limitation, bankruptcy, receivership, or reorganization or arrangement with creditors, voluntary or involuntary, affecting the Buyer are pending, or to the best of Buyer's knowledge, threatened and the Buyer has not made any assignment for the benefit of creditors and has not taken any other action with a view to, or which will constitute the basis for, the institution of such insolvency proceedings.

(f) No broker or finder acting on behalf of Buyer is or will be entitled to any broker's, finder's or similar fee or commission in connection with the transaction contemplated by this Agreement.

(g) All the representations and warranties herein contained in Section 4 shall be true and correct and shall not have been materially breached on or as of the Closing Date as though made on

or as of said Closing Date, and all such representations and warranties shall survive the Closing Date for a period of two (2) years. Buyer shall provide a "date down certificate" at closing restating and reaffirming the representations and warranties set forth in Section 4 hereof.

5. Transfer and Pricing of Certain Assets to be Sold. For the total purchase price of One Million Two Hundred Thousand Dollars (\$1,200,000.00), Seller shall sell and Buyer shall buy the following assets, free and clear of all liens and encumbrances:

(a) Fixed Assets. Seller's Manufacturer's showroom and trade fixtures, Manufacturer's compatible wheels and tires, Manufacturer's signs, Manufacturer's microfiche reference manuals and microfiche machines, chemicals, paint and solvents, undercoat materials, nuts and bolts, non-leasehold improvements, company/service vehicles, moveable hoists, moveable lifts, compressors, service equipment, service vehicles, Manufacturer's special tools (Seller will represent and warrant that it is selling a complete set of all required Volvo special tools), Manufacturer related (i) furniture, (ii) fixtures, (iii) office and service equipment, (iv) communication equipment, (v) computers, (vi) computer systems, machinery, shop equipment, parts bins and racks, and miscellaneous supplies (including all forms, films, graphics, lists, marketing materials, catalogs, customer files and deal jackets, reference manuals, accounting binders, office supplies, marketing software, all shop, service and parts reference catalogs, CD ROMS, product sales training materials, videos, reference books), owned by Seller or used in, relating to, arising from or necessary for the conduct of the (Volvo) Dealership operated by Seller (specifically excluding accounts receivable and cash). Said equipment set forth above shall be in good working order on the Closing Date. If any required special tools are missing or not in good working order, Buyer shall be given a credit at closing for the cost of replacing such items. A listing of the Equipment is attached hereto as Exhibit C, and incorporated herein by reference (hereinafter the "Fixed Assets").

(b) Goodwill ("Goodwill") of the Seller, including all telephone and fax numbers, ULR's, domain names, Volvo websites, and all other rights associated with Goodwill. Buyer shall have no responsibility for Yellow Page advertising charges, or design or license fees.

(c) Termination Parts Return Rights. An assignment of Seller's termination parts and

accessories return rights, if any. Buyer acknowledges that Seller does not represent that any Volvo termination parts return rights exist; however, if such right should exist, Seller shall do all acts necessary to assign same.

(d) Records. All of the Seller's inventory records, customer lists, sales records and files, service records and files, supply and manufacturer lists, technical data, sales literature, computer printouts, files, correspondence and other records, related to the Seller's Volvo business, and which may be disclosed in accordance with current law (the "Records"). This is a material term of this Agreement, and neither Seller nor Shareholders will share this information with any other motor vehicle dealership owned by Seller, Shareholders or Shareholders' family members. Buyer shall, upon reasonable prior request from Seller or Shareholder, make any records transferred or sold hereunder available to Seller or Shareholder for income or other tax reporting purposes.

(e) Allocation of Purchase Price. The allocation of the purchase price for the assets as hereinabove set forth to be purchased shall be as follows:

A.	Fixed Assets	\$ 700,000.00
B.	Good Will	\$ 500,000.00
		<hr/>
		\$1,200,000.00

The purchase price shall be paid as follows:

(i) Within two (2) business days after final signature hereto, Buyer shall deposit with Seller Four Hundred Thousand Dollars (\$400,000.00) as earnest money to be applied to the purchase price at closing. The balance of the purchase price shall be paid as follows:

(ii) Eight Hundred Thousand Dollars (\$800,000.00) by wire transfer, certified or cashier's check at closing, plus or minus prorations.

6. Parts, Accessories and Special Tools.

(a) Merchantable Parts and Accessories. Buyer shall purchase Seller's Volvo merchantable parts and accessories for the inventory value determined pursuant to this Section 6(a)

but in no event shall Buyer be obligated to pay more than Three Hundred and Sixty Thousand Dollars (\$360,000.00) for the Seller's merchantable parts and accessories required to be purchased hereunder. "Merchantable" shall mean all Manufacturer's parts and accessories listed in the then current Manufacturer's Parts books and/or computer tapes and/or computer files which are returnable for full credit, with no discount or restocking fee, provided there are no special order parts or accessories, or parts or accessories which are damaged, are unpackaged or with component parts missing. The value of the Merchantable parts and accessories shall be determined by a physical inventory to be prepared by an inventory service mutually acceptable to the parties, less all multi-purchase discounts and Manufacturer restocking fees. This inventory shall be taken within twenty-four hours prior to the Closing Date, and shall be secured thereafter pursuant to Section 6(f) hereof. The inventory value shall be determined as Seller's current replacement price, which shall be determined by the then current Manufacturer's Parts Books and/or computer tapes applicable on the closing date less all discounts received by, or due to, Seller, less all multi-purchase discounts and Manufacturer restocking fees. Seller shall assign to Buyer, or its assign, at closing its (i) general parts return privilege, (ii) terminating dealer return privileges and termination rights, and (iii) any special parts return authorizations, if any.

(b) Non-Manufacturer Parts and Accessories. In addition, on the Closing Date, Buyer shall also purchase from Seller any and all non-Manufacturers' parts or accessories, which are not damaged or opened, or with component parts missing, or coded non-returnable, useable on current model Volvo vehicles, in Seller's unsold inventory on the Closing Date (excluding such parts and accessories with no sales history for the 12 months preceding this Purchase Agreement). Parts not within the above definitions shall be classified obsolete and shall remain the property of Seller. The Non-Manufacturer Parts and Accessories will be identified and valued, at current wholesale cost (less all discounts received by, or due to, Seller) when the inventory is taken.

(c) Miscellaneous Parts, etc. In addition, on the Closing Date, Buyer shall also purchase from Seller any and all Gas, Oil and Grease ("GOG") only if usable or saleable, at 100% of Seller's actual cost as determined by actual invoice where possible, otherwise by the most recent

Vendor's Invoice to Dealer for the quantity customarily purchased by Seller.

(d) Ceiling. Notwithstanding anything hereinabove set forth in Sections 6(b) and 6(c), the purchase price for the Non-Manufacturer Parts and Accessories and Miscellaneous Parts shall not exceed Five Hundred Dollars (\$500.00).

(e) Obsolete Parts and Accessories. Buyer shall not purchase any "Obsolete Parts and Accessories" which include, but not be limited to, any part or accessory with no sales history over twelve (12) months, or which do not meet the factory return standards, i.e., damaged, painted, no packaging or damaged packaging, coded non-returnable, broken or opened multi-packs, chemicals or accessories over six (6) months with no sales history, whether they are otherwise returnable or not.

(f) Securing Inventory. At the conclusion of the inventory taking, the parts and accessories inventory shall be secured until closing in a manner mutually acceptable to the parties. The inventory shall be adjusted to reflect additions to and deductions from stock of such items between the date the inventory is taken and the date of actual transfer of such items to Buyer. Seller agrees that between the date of execution of this Agreement and the Closing Date, no additions or deductions from the stock of Seller's parts and accessories shall be made, except purchases and sales in Seller's usual and ordinary course of business. Seller agrees to keep and maintain its customary records of such purchases and sales, which records shall be made available to Buyer for review and verification at closing. The Seller and the Buyer shall split the cost of the inventory service 50/50.

7. Motor Vehicles and Work in Progress.

(a) New Vehicles. Buyer shall purchase such of Seller's new, untitled and unused 2014 and 2015 Volvo motor vehicles that are not reported as sold, with less than 200 miles on the odometer, as are in the actual possession of Seller, at the Dealership, on the Closing Date, at the several prices at which the same were invoiced to Seller by Manufacturer (and in the case of dealer traded vehicles, then in Seller's inventory, at Manufacturer's invoice to the dealer to which the vehicle was originally invoiced), less any and all applicable (i) holdbacks, factory rebates or

incentives and any similar credits (whether received or to be received by Seller), (ii) distributor allowances, (iii) federal excise tax rebates, (iv) new vehicle preparation/inspection allowances, (v) all floor plan interest abatements, rebates, credits, and/or allowances, (vi) all floor plan assistance payments, abatements, rebates, credits and/or allowances, (vii) model change over allowances, rebates and/or credits, (viii) marketing allowances, advertising allowances, rebates and/or credits received by, or due to, Seller on vehicles being purchased by Buyer hereunder, and (ix) an additional credit to Buyer of three percent (3%) from the Manufacturer's invoice to Seller on all new 2014 vehicles purchased by Buyer (hereinafter, at times, collectively referred to as the "Deductions"). If, subsequent to the Closing Date, any new vehicle shall be consigned or delivered to Seller by Manufacturer, Seller shall assign all its right, title and interest in such new vehicles to Buyer, and Buyer shall pay to Seller the prices at which the same were invoiced to Seller by Manufacturer, less the aforesaid Deductions. In the event any new vehicles referred to in this paragraph shall have been damaged prior to the Closing Date, Seller shall repair such vehicles to the satisfaction of Buyer prior to the Closing Date, or in the event any such vehicles have not been repaired, Seller and Buyer shall agree on the cost to cover such repairs, which costs shall be deducted from the prices referred to herein. In the event the parties cannot agree on the cost of repairs, the cost of repairs to be deducted from the purchase price shall be determined by an auto damage appraiser, which determination shall be binding on the parties. Any expense to determine the cost of repairs pursuant to this subsection shall be paid by Seller. Notwithstanding any prior provision, Buyer shall have no obligation to purchase any vehicle which has incurred flood damage or frame damage or any vehicle which has incurred damage (including hail or acid rain damage), the wholesale repair cost of which exceeds One Thousand Dollars (\$1,000.00) or three percent (3%) of the MSRP of the vehicle, whichever is less. The prices of said new Volvo motor vehicles shall be further reduced by the invoice amount of any Manufacturer installed equipment, parts, options or accessories which are listed on the invoice or window sticker and are not in the vehicles or have been removed from the vehicles (including keys and books and manuals) as of the Closing Date; and increased by Seller's actual internal cost of equipment, parts and/or accessories added to the

vehicle. Seller and its Shareholders shall pay and indemnify and hold Buyer harmless for any costs and charges on any and all of the aforesaid new Volvo motor vehicles relating to the period prior to the Closing Date.

(b) Service Loaner Vehicles. Buyer shall buy no more than fifteen (15) active 2015 Service Loaner Vehicles owned by Seller on the Closing Date, upon the same formula and with the same Deductions as the new vehicles, except Buyer shall be entitled to an additional discount of Two Thousand One Hundred Dollars (\$2,100.00) per active Service Loaner Vehicle ~~plus sixty five cents (\$.65) per mile for each mile on the odometer of the active Service Loaner Vehicles.~~ Buyer shall buy the retired Service Loaner Vehicles owned by Seller on the Closing Date upon the same Deductions as the New Vehicles, except Buyer shall be entitled to an additional discount of sixty-five cents (\$.65) per mile for each mile on the odometer of the retired Service Loaner Vehicles. Notwithstanding anything aforesaid, Buyer shall not be obligated to purchase any Service Loaner Vehicle having an odometer exceeding 6,000 miles at the date of closing. A listing of the Service Loaner Vehicles and the current mileage of each such vehicle is attached hereto as Exhibit E, and made a part hereof.

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(c) Used Vehicles. Neither Seller nor Buyer is obligated to sell or purchase, respectively, used vehicles hereunder. Buyer may purchase those Used Vehicles ("Used Vehicles") and any of Seller's new and untitled 2013 Volvo vehicles for which Seller and Buyer can agree on a price prior to Closing. Seller shall remove from the Real Estate within two (2) business days after closing, all Used Vehicles and 2013 Volvo vehicles not sold to Buyer; Buyer to have no responsibility or risk of loss in the interim.

(d) Possession and Title. On the Closing Date, Seller shall deliver possession and title to Buyer of all vehicles being purchased under this Section 7 by properly assigned manufacturer's statements of origin, free and clear of all liens and encumbrances, with a completed odometer affidavit for each vehicle.

(e) Service Vehicles. All service vehicles owned or used by Seller are included in Fixed Assets pursuant to Section 5(a).

(f) Work in Progress. Buyer shall reimburse Seller on the Closing Date for Seller's actual internal cost (not charge) of the parts, labor and miscellaneous work or merchandise completed, booked or installed, and paid for, on any incomplete authorized, documented repair orders in process on the Closing Date, but in no event shall the work in progress and close out repair orders exceed One Thousand Dollars (\$1,000.00). Buyer shall complete such repair work and shall be entitled to collect the entire proceeds of such repairs from the customers of Seller. Work in process shall include any paid outside labor and parts at Seller's actual cost, less all discounts. Parts in process shall be duly reconciled from the parts and accessories inventory pricing. Seller shall use its best efforts to minimize the work in process and close out repair orders prior to closing.

8. Inspection. At all times after execution hereof, Seller shall make the Assets and the books, records and documents related to the Dealership available to Buyer and its agents or employees. Without limiting the scope of Buyer's review, Seller shall tender to Buyer without undue delay, such lists or information as Buyer reasonably requests, specifically including signed and complete copies of all leases or contracts which Seller is requesting Buyer to assume, specific information regarding ownership of business signs, a list of Employees and their current salaries, and a list of computer equipment and type.

9. Closing Date. The closing of the transaction provided for in this Agreement shall take place at 1140 Garfield Street, Oak Park, IL 60304 on the later of January 30, 2015 or ten (10) business days after the Manufacturer approves the franchise transfer, or at such other date and time as the parties may agree (the "Closing Date") provided that all conditions precedent have been met or will be met at the time of the Closing Date and that the Real Estate Contracts by and between Legal Title Holder of Record, Seller, and RRV Fisher Properties II, LLC, Purchaser, are set to close that date. This is a material term of this Agreement.

10. Conditions Precedent to Closing. On or before the Closing Date, the following shall have all occurred and the failure of any of the following to occur shall relieve the parties of the responsibility to close this transaction, and the earnest money and the interest earned thereon shall be returned to Buyer, it being understood that the parties shall do everything within their power to

cause such contingencies to be accomplished. Seller and/or Buyer may terminate the Purchase Agreement at any time after February 28, 2015 if this transaction has not closed, and the earnest money plus interest earned thereon shall be returned to Buyer and each party shall pay its own expenses incident to this Agreement and the parties shall have no further obligation to each other. Time is of the essence.

(a) Dealer Sales and Service Agreement. By the Closing Date, Buyer, or its assign, shall have received from Volvo, pursuant to a Dealer Sales and Service Agreement in Manufacturer's customary form reasonably acceptable to Buyer, authority to conduct business as an authorized Volvo Dealer at 1140 Garfield Street, Oak Park, IL 60304 ("Dealership Property"), and for the territories of Seller, and Manufacturer's consent to Seller's and/or its Shareholders' termination of Seller's Sales and Service Agreement effective on the Closing Date;

(b) Closing of Purchase of Real Estate. Buyer or its designee shall have closed on the purchase of the real property commonly known as 1140 Garfield Street, Oak Park, Illinois 60304 and 1213 Circle Ave., Forest Park, IL 60130 ("Real Estate").

(d) Consent. Buyer obtaining the written consent of Gina Fisher releasing Richard Fisher, Buyer and/or Buyer's designee from his/their covenant not to compete relative to the purchase, ownership and operation of the Volvo dealership which is the subject of this Agreement.

(e) Floor Plan. Buyer obtaining a commitment for a floor plan acceptable to Buyer.

(f) Inspections. Buyer approving the results of all Inspections, including, but not limited to, condition of Assets;

(g) Financials. Buyer has the right to engage certified public accountants, including, but not limited to, The Pomykala Group, LLC ("CPA"), to conduct an audit of the Seller's books, records, income and expenses, financial statements and such other documents as the CPA shall require (the "Financial Documents"). The Financial Documents shall be made available by Seller at the office of the CPA and at the office of the Dealership, at the CPA's sole election. In the event the CPA discovers inaccuracies, misstatements or errors in the information previously provided by Seller to the Buyer, the Buyer shall have the right, at Buyer's sole option, to terminate this

Agreement or renegotiate the Purchase Price in this Agreement;

(h) Licenses. By the Closing Date, Buyer having obtained all necessary licenses to operate the dealership business at the Dealership Property;

(i) UCC Searches. At least five (5) days prior to Closing Date, Seller shall provide Buyer with Cook County and State of Illinois Uniform Commercial Code searches, tax searches and judgment searches performed by CSC (hereinafter the "Searches"), covering Seller and Shareholders. Said Searches shall show no liens, encumbrances, charges, mortgages, conditional sales agreements or security interests of any kind, effecting in any manner, the Assets being transferred hereunder, except as allowed by this Agreement, or that shall be terminated as off the Closing Date.

(j) Stop Orders. Seller shall comply with all requirements of a transferor under the Illinois Income Tax Act, Illinois Retailers' Occupation Tax Act, Illinois Unemployment Security Act and all other governmental notice requirements relating to bulk transfers. At least ten (10) days prior to closing, Seller shall give timely and full notice of the transaction contemplated hereby to the Illinois Department of Revenue ("IDR") and the Illinois Department of Employment Security ("IDES"). If stop orders or claims are issued by the IDR or IDES, then the sum of such stop orders or claims shall be withheld from the purchase price by Buyer, deposited in escrow in the Buyer's counsel's non-interest bearing client escrow account, and held until a final determination has been reached by the IDR or IDES at which time the escrow shall be used to promptly pay any sales or other tax then due, or until a determination by the IDR or the IDES that Buyer or the Assets purchased are not subject to any claims for such tax. The balance, if any, of the escrow shall be promptly paid to Seller upon release of all stop orders. Seller reserves the right within ten (10) days of the stop order to apply for a reduction thereof and, if so reduced, the escrow shall be reduced.

(k) Employees. All compensation, including accrued vacation, sick pay and benefits, earned by employees of Seller prior to the Closing Date shall be the responsibility of the Seller and be paid by the Seller directly to the employees. Seller shall terminate its non-union employees as of the Closing Date. Buyer shall have no duty to provide COBRA coverage.

Consistent with Section 20 below, Buyer shall have the right, but not the duty, to interview and hire any one or more of Seller's employees at Buyer's sole discretion.

(l) Authorization. Seller shall have furnished to Buyer evidence to the reasonable satisfaction of Buyer or its counsel that it is authorized to enter into and complete the obligations set forth in the Agreement.

(m) Inventories. Seller shall provide Buyer, at least five (5) days prior to Closing Date, with any and all inventories required hereunder for Buyer's inspection, except as set forth in Section 6, and Buyer shall have the right to physically inspect all Properties being transferred pursuant to this Agreement within 24 hours prior to the Closing Date.

(n) WARN Act. Seller shall comply with the Worker Adjustment and Retraining Notification Act ("WARN"), 29 U.S.C. Sections 2101-2109, and applicable state law, as applicable to the transaction, if applicable.

(o) COBRA. After the Closing Date, the Seller, or its agents or contractors, shall be responsible for complying with all applicable legal requirements of COBRA, including all applicable employee notice requirements, with respect to all employees and their beneficiaries who lose health benefits as a result of this transaction and with respect to any and all other employees and their beneficiaries who first become eligible for COBRA continuation benefits before the Closing Date.

(p) Errors, Mis-Statements or Omissions. Buyer shall not have discovered any error, misstatement or omission in any of the representations or warranties made by Seller and/or Shareholders herein of the financial statements, books and records of Seller; and Seller shall not have discovered any material error, misstatement or omission in any of the representations or warranties made by Buyer.

(q) Act of God. There shall not have been any fire, accident or other casualty or any labor disturbance, civil commotion, riot, act of God or the public enemy, or any change in the business or property of Seller, which would have a material adverse effect on the conduct of Seller's automobile business.

11. Closing. On the Closing Date:

(a) Seller's Resignation. Seller and Shareholders shall deliver documents terminating the Dealer Sales and Service Agreement and any other agreements with Manufacturer in a form satisfactory to Manufacturer and Buyer.

(b) Sales and Service Agreement. Buyer or its nominee shall execute a customary and usual standard Volvo Dealer Sales and Service Agreement with Manufacturer reasonably acceptable to Buyer for Seller's sales territory and at the Dealership Property.

(c) Ability to Operate. Buyer, or its nominee, shall have received from the Village of Oak Park, Illinois and/or Cook County, and any other Federal, State or local governing body or agency having jurisdiction approval, including, but not limited to a certificate of occupancy and/or business license and permits, as the case may be, for Buyer or its assign, for the operation of the aforesaid franchise at the Dealership Property; and the State of Illinois shall have issued a dealer's license acceptable to Buyer.

(d) New and Other Vehicles. Seller shall transfer and assign to Buyer certificates of origin and odometer statements for the new vehicles and other vehicles, if any, transferred hereunder.

(e) Bill of Sale. Seller shall deliver to Buyer a Bill of Sale for all properties to be transferred by Seller hereunder and such other documents of transfer of title and other documents necessary in connection with the transfer; said documents shall warrant merchantable and good title to Buyer. Said Bill of Sale shall, in all respects, be in such form as may be reasonably required by Buyer or its counsel.

(f) Customer Deposits. Seller, without additional charge therefor, shall turn over or assign, by appropriate documents, to Buyer all unfilled retail orders and deposits made thereon and names and addresses of the service customers and prospective purchasers. Seller shall provide Buyer at closing with a list, prepared by Seller, of all of its unfilled retail orders and deposits as of the Closing Date. The profit, less commissions which shall be paid by Buyer, if any, derived from

all retail orders, appearing on said list of retail orders, which are delivered subsequent to closing shall be the sole property of Buyer. Buyer shall not be required to purchase any trade-in vehicles or to assume any unfilled retail order with a net profit that is less than \$10.00.

(g) Work in Progress. Buyer shall reimburse Seller for Seller's actual internal cost of the paid parts, labor and miscellaneous work or merchandise completed, booked or installed on any incomplete authorized, documented repair orders in process on the Closing Date, but in no event shall the work in process and close out repair orders exceed One Thousand Dollars (\$1,000.00). Buyer shall complete such repair work and shall be entitled to collect the entire proceeds of such repairs from the customers of Seller.

(h) Seller's Records. Seller shall transfer to Buyer all of Seller's Manufacturer's registration lists, sales records and files, and service records and files for the period commencing sixty (60) months prior to the date hereof and concluding on the Closing Date and the records set forth in Section 5(d). Seller shall allow Buyer to download a computer copy of Seller's Volvo customer lists and records, including, without limitation, Manufacturer's new registration lists for Volvo motor vehicles and service records for all Volvo motor vehicles for the period commencing sixty (60) months prior to the Closing Date; and all other lists provided for in this Agreement.

(i) Non-Union Employees. Seller shall terminate all of its non-union employees as of the close of business on the day before the Closing Date. Buyer shall have, at its own discretion, the full right to employ any of such employees of Seller.

(j) Maintenance of Property. Seller will maintain the assets, including the Equipment, in its current condition and repair and will not voluntarily suffer anything to be done that will decrease the value of its property.

(k) Corporate/LLC Documentation. The Buyer and Seller shall deliver certificates of good standing/certificates of existence, as the case may be, from the Secretary of State of Illinois evidencing their respective good standing along with certified copies of resolutions authorizing these transactions.

(l) Approval of Instruments. Counsel for Buyer will approve the form, substance and sufficiency of all instruments to be delivered by Seller at or before closing. Such approval shall not be unreasonably withheld.

(m) Payment of Purchase Price. Buyer shall pay Seller the purchase price for the assets transferred at closing in the manner set forth herein.

(n) Closing Adjustments; Use of Proceeds. The parties agree that at Closing the telephone, prepayments and deposits under contracts or agreements of Seller that are assigned to and accepted by Buyer, Seller's personal property and state and county inventory taxes, if any, any taxes on fixed assets and other customary closing items as are appropriate shall be prorated. The parties agree that at closing, Seller shall be permitted to use the proceeds of sale of the assets and inventories being sold and any other consideration being paid hereunder to satisfy liens or encumbrances of a definite or ascertainable amount on such assets or inventories and shall deposit with or give Buyer credit against the purchase price for Seller's share of all prorations required pursuant to the Agreement.

In the event any of these events do not occur at closing and are not waived, then this Agreement shall terminate and the earnest money, and any interest earned thereon, shall be returned to Buyer.

12. Agreement Not to Compete and Non-Solicitation. In consideration of Buyer or its permitted assignee closing upon the purchase of Seller's assets as herein set forth, unless approved by Richard Fisher in writing, Seller, Antonio Scalzo and Carmelo Scalzo, who will directly benefit by closing of the transaction hereunder and who together with any other Shareholders of Seller who have executed a joinder to this Agreement, hereby covenant and agree that neither they will (a) not, either directly or indirectly, whether as an employee, agent, consultant, owner, partner, investor, lender, manager, member or in any capacity whatsoever, enter into or engage in the sales, leasing, service or motor vehicle repair business of new Volvo

vehicles within fifteen (15) miles of the Dealership Property for a period of three (3) years following the Closing Date, (b) hold in confidence and not make use of or disclose any proprietary information relating to the business of Seller prior to the Closing Date or any of the records or information sold or transferred to Buyer or its permitted assignee hereunder, (c) not solicit or encourage any employee of Buyer or its permitted assignee after closing to terminate his or her employment with Buyer or its permitted assignee, (d) not hire or otherwise retain or employ any employee of Buyer or its permitted assignee until such employee's employment with Buyer or its permitted assignee has been terminated for at least six (6) months, and (e) not solicit customers identified in the sales and service records transferred pursuant to Sections 5(d) and 11(h) hereof.

13. Labor Matters. Seller is a party to collective bargaining agreements with Automobile Mechanics Local 701, International Association of Machinists and Aerospace Workers, AFL-CIO ("*Local 701*") covering its technicians ("*Mechanics*").

(a) Recognition. Seller shall be obligated to the Mechanics employed by Seller at the time of Closing for all accumulated vacation pay and other benefits of employment under the provisions of the collective bargaining agreements with Local 701 to and including the Closing Date. Buyer agrees to recognize Local 701 as the bargaining agent of such Mechanics and execute the standard forms of collective bargaining agreements with each of Local 701 effective as of the Closing Date.

(b) Pension Funds. Seller is obligated to contribute to the Automobile Mechanics Local No. 701 Union and Industry Pension Plan (the "*701 Pension Fund*"). It is the intention of the Seller and Buyer that this transaction constitutes a sale of assets and complies with the requirements of Section 4204 of the Multiemployer Pension Plan Amendments to the Employee Retirement Income Security Act of 1974, as amended ("*ERISA*"), so that no immediate withdrawal liability will result to Seller from consummation of the transaction contemplated under this Agreement. Seller and Buyer each hereby agree to cooperate with the other and execute such documents and take all actions necessary to secure such treatment upon

consummation of the transaction contemplated under this Agreement so that a complete or partial withdrawal within the meaning of Section 4201 of ERISA shall not thereby occur with respect to either pension plan. Buyer agrees: (i) for five (5) plan years commencing with the first (1<sup>st</sup>) plan year beginning after Closing to contribute to the 701 Pension Fund the same number of contribution base units for which Seller was obligated to contribute immediately prior to Closing; and (ii) if required, Buyer will provide the 701 Pension Fund with bonds or escrows for five (5) plan years commencing with the first (1<sup>st</sup>) plan year beginning after Closing, the costs of which shall be funded by Seller. Seller agrees that if the Buyer withdraws in a complete or partial withdrawal with respect to its operations from the 701 Pension Fund at any time during the first five (5) plan years beginning after the Closing of the sale, Seller shall be secondarily liable for any withdrawal liability it would have had to the 701 Pension Fund if the liability of the Buyer with respect to the 701 Pension Fund is not paid. Seller also agrees not to distribute all or substantially all of its assets or liquidate before the end of the fifth (5<sup>th</sup>) plan year beginning after the Closing of the sale transaction. If all or substantially all of the Seller's assets are distributed, or if the Seller is liquidated before the end of the fifth plan year beginning after the sale, then the Seller shall provide a bond or amount in escrow equal to the present value of the withdrawal liability the Seller would have had, but for 29 U.S.C. § 1384(a), pursuant to 29 U.S.C. § 1384(a)(3). This Section and the respective obligations of the parties shall survive the Closing and inure to the benefit of, and be binding upon the successors and assigns of Buyer and Seller until the respective obligations of each hereunder shall be fulfilled.

14. Risk of Loss. If all or a substantial portion of the tangible assets or inventories of Seller which are the subject matter of this Agreement, are destroyed or materially damaged by act of God, fire or other casualty prior to the Closing Date and such destruction or damage prevents the conduct of a retail motor vehicle sales and service business, Buyer may, at its option, declare this Agreement terminated by written notice to Seller not later than ten (10) days following such destruction or damage, but if Buyer shall elect to proceed with the transactions contemplated by this and related agreements and pay Seller the full purchase prices for the assets

described in this Agreement with adjustment for such damage. For purposes of this Agreement, material damage shall mean repair or replacement cost of more than \$250,000.00.

15. Liabilities. Buyer is not purchasing the Seller's dealership, stock, bank accounts, cash on hand, insurance policies, or any other assets of Seller, except those assets specifically enumerated herein. Buyer does not assume any liabilities of Seller. Any and all funds received by Buyer at the Dealership after the Closing Date that Seller is entitled to pursuant to this Agreement, shall be promptly forwarded to Seller by Buyer, provided, however, nothing contained herein shall obligate Buyer to undertake any effort to collect amounts owed to Seller by any third party. This Section 15 shall survive the closing for a period of twelve (12) months.

16. Indemnity of Buyer. Seller and Shareholders, jointly and severally, shall, and they hereby do indemnify and defend and hold Buyer harmless from and against any and all liabilities, obligations, assessments, suits, actions, proceedings, claims or demands asserted against Buyer, or the Properties to be acquired or purchased by Buyer from Seller pursuant to this Agreement by or for:

(a) creditors of Seller or in respect of any liability or obligations of Seller, including, without limitation of the generality of the foregoing, any claims asserted by local, State or Federal authorities for unpaid taxes or arising from any imposition of taxes including, but not limited to income, receipts, franchise, property, sales, use, payroll, unemployment or other taxes, or the assessment of any deficiency for taxes or penalties or interest incidental thereto;

(b) any liabilities or obligations to any of Seller's former employees or those employees of the business employed immediately prior to the Closing Date, including, without limitation, for salary, wages, severance pay, sick pay, vacation pay, pension plans (accrued or otherwise), or any other compensation or employee benefit relating to the period prior to the Closing Date and for COBRA prior and subsequent to the Closing Date;

(c) any "employee benefit plan" or claim respecting any "employee benefit plan" (as said term is defined in Section 3(2) of the Employee Retirement Income Security Act of 1974 ("ERISA") or any "employee welfare benefit plan" or any claim respecting any "employee welfare

benefit plan” (as such term is defined in Section 3(l) of ERISA) and any Automobile Mechanics’ Local 701 withdrawal liability relating to the period prior to the Closing Date;

(d) claims for personal injury, property damage or consequential punitive or other damages arising out of the conduct of the business or services rendered by Seller;

(e) claims, demands or liabilities under any statute, rule or regulation, including, but not limited to, those concerning civil rights, health, safety, labor and discrimination matters;

(f) claims, demands or liabilities arising or accruing prior to the Closing Date under any Contracts. It is further understood that Buyer has no obligation to hire any employee of Seller; and

(g) loss, damage and expense incurred by Buyer on account of claims or demands of every nature, kind and description for loss or damage to property, or injury to or death of every person relating to the period prior to the Closing Date;

(h) any judgments, damages, losses, costs, expenses and fees (including reasonable attorneys’ fees) sustained, suffered or incurred by Buyer on account or by reason of any such matter or incident set forth above; and

(i) All prepaid service, maintenance, oil change, coupon plans, and all “We Owes” not credited to Buyer at closing.

17. Waiver. Buyer may, by written notice to Seller, waive breach of or noncompliance with any condition, covenant and representation or warranty by Seller, or noncompliance with any condition of Buyer’s obligation to purchase, and Buyer may elect to close notwithstanding such breach or noncompliance; and Seller may, by written notice to Buyer, waive breach of any noncompliance with any condition, covenant and representation or warranty of Buyer, or noncompliance with any condition of Seller’s obligation to sell, and Seller may elect to close notwithstanding such breach or noncompliance.

18. Expenses if Transaction not Consummated Without Fault. If the transaction contemplated hereby shall not be consummated for any reason, except as provided in Section 19 of this Agreement, the earnest money, plus interest earned thereon, shall be returned to Buyer and each party shall pay its own expenses incident to the preparation for carrying this Agreement into effect

and consummating the transaction hereby contemplated.

19. Default. If the Seller's conditions set forth in Sections 10 and 11 hereof are fulfilled and this Agreement is terminated due to Buyer's failure to perform, then the earnest money and interest earned thereon shall be forfeited to Seller as liquidated damages, as its sole remedy. If this Agreement is terminated due to Seller's and/or Shareholders' failure to perform, Buyer shall receive a return of the earnest money and any interest earned thereon, but such refunding shall not release Seller from the obligations of this Agreement, and Buyer may sue at law or in equity. If any action is initiated to obtain relief pursuant to this Section 19 by Seller or Buyer, then the prevailing party in such action will also be entitled to recover from the non-prevailing party(ies) its costs and reasonable attorneys' fees.

20. Employee Communications and Solicitation. Seller shall not make any announcements or disclosures with respect to the transactions under this Agreement to any of its employees (other than those employees who are party to this Agreement and those employees necessary to assist Seller with the performance of its obligations under this Agreement) without the consent or participation of Buyer, which consent shall not be unreasonably withheld. Upon obtaining Manufacturer's approval, Buyer shall have the ability to interview all of Seller's employees with regard to future employment by Buyer, except those employees listed on Exhibit D.

21. Notices. Any notice, communication, request, reply or advice (herein severally and collectively, for convenience, referred to as Notice) in this Agreement provided or permitted to be given, made or accepted by either party to the other, must be in writing and may, unless otherwise in this Agreement expressly provided, be given or be served by depositing the same in the United States mail, prepaid and registered or certified and addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be effective, unless otherwise stated in this Agreement, two (2) business days from and after the date it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified, provided that notice may be given by receipted facsimile transmission, and such notice shall, if sent at any

time other than between 9:00 a.m. and 5:00 p.m. on a business day, be deemed received on the next business day. For purposes of notice, the addresses of the parties shall be as follows:

If to Seller: Shepherd Motorcars Corporation  
1140 Garfield Street  
Oak Park, IL 60304  
Attn: Mr. Carmelo Scalzo  
Phone: (708) 825-6286  
Fax: (312) 704-4500  
E-mail: [carmelo@volvooakpark.com](mailto:carmelo@volvooakpark.com)

with a copy to: Mark M. Lyman  
Lyman Law Firm, LLC  
617 W. Fulton Street, 4<sup>th</sup> Floor  
Chicago, IL 60661  
Phone: (312) 762-9524  
Fax: (312) 704-4500  
E-mail: [mark@lymanlawus.com](mailto:mark@lymanlawus.com)

If to Buyer to: The Autobarn Motors of Oak Park, LLC  
c/o Richard A. Fisher  
1015 Chicago Ave.  
Evanston, IL 60202  
Phone: (847) 951-3360  
Fax: ( ) \_\_\_\_\_  
E-mail: [fish2556@gmail.com](mailto:fish2556@gmail.com)

with a copy to: Jay L. Statland  
Burke, Warren, MacKay & Serritella, P.C.  
330 N. Wabash Ave., 21<sup>st</sup> Floor  
Chicago, IL 60611  
Phone: (312) 840-7101  
Fax: (312) 840-7900  
E-mail: [jstatland@burkelaw.com](mailto:jstatland@burkelaw.com)

22. Amendment. This Agreement may be amended, altered or revoked at any time, in whole or in part, by a written instrument setting forth such changes signed by all of the parties hereto.

23. Exclusivity. Until the earlier of the closing or the termination of this Agreement:  
(a) neither Seller nor any of its employees, shareholders, officers, directors, representatives, agents or affiliates will solicit or entertain offers from, negotiate with or provide financial or operating information to, any other party for the purpose of determining any interest in acquiring

all or any portion of Seller's equity or assets or any other transaction that would preclude or negatively affect Buyer from realizing the benefits of the transactions described or referred to herein, and (b) Seller and its employees, shareholders, officers, directors, representatives, agents and affiliates will cease any current discussions with any third parties concerning any such transactions and will negotiate and transact exclusively with Buyer in connection therewith.

24. Further Assurances. From time to time after Closing, at the request of Buyer and without further consideration, Seller shall execute and deliver such other instruments of conveyance and transfer and take such other action as Buyer may reasonably specify so as to convey to, transfer to, vest in, and put Buyer in possession of the assets purchased hereunder.

25. Section and Other Headings. Section or other headings contained in this Agreement are for reference purposes only and shall not affect, in any way, the meaning or interpretation of this Agreement.

26. Entire Agreement. This instrument contains the entire agreement between the parties hereto with respect to the transactions contemplated herein.

27. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Executed copies hereof may be delivered by facsimile and such copies shall be deemed originals and binding upon the parties hereto.

28. Binding On. This Agreement shall be binding on the parties hereto, and their respective successors, assigns, heirs, and legal representatives; provided, however, that neither Buyer, Seller nor Shareholders may assign their rights or obligations hereunder without the consent of the non-assigning party(ies), which may be withheld for any reason or no reason at all.

29. Severability. The invalidity or any provision of this Agreement shall not impair the validity of any other provision. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable, that provision will be deemed severable, and the Agreement will be in force with the provision severed or as modified by the court.

30. Presumption. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against any party whether under any rule of construction or otherwise. Neither party shall be construed as the preparer of this Agreement.

31. Jurisdiction. This Agreement shall be governed by the laws of the State of Illinois. Venue shall be in Cook County, Illinois.

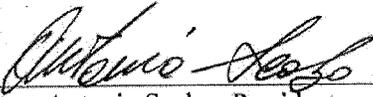
32. A duplicate original of this Agreement, duly executed by the Seller shall be delivered to the Buyer within five days, otherwise, at the Buyer's option, this Agreement shall become null and void.

*SIGNATURES APPEAR ON THE FOLLOWING PAGE*

IN WITNESS WHEREOF, the parties have executed this Agreement the date and year first above written.

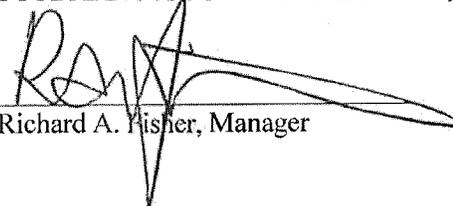
SELLER:

SHEPHERD MOTORCARS CORPORATION

BY   
Antonio Scalzo, President

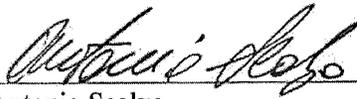
BUYER:

THE AUTOBARN MOTORS OF OAK PARK, LLC

BY   
Richard A. Fisher, Manager

**JOINDER**

The undersigned, being all of the shareholders of Shepherd Motorcars Corporation, an Illinois corporation, who will derive a direct financial benefit from the transactions contemplated under the Agreement, hereby individually and severally, join in and agree to comply with their respective individual obligations under Sections 1, 2, 3, 7(a), 10(j), 12 and 16 of the above Agreement.

  
Antonio Scalzo

  
Carmelo Scalzo

Being all of the shareholders of Shepherd Motorcars Corporation, an Illinois corporation

EXHIBIT A  
CONTRACTS

Tire Profiles, Inc.

ADP

Atlas Toyota Material Handling, LLC

Moc1 Tablets

**EXHIBIT B**

**NEW CAR INVENTORY, NEW VEHICLES ON  
ON ORDER AND/OR IN TRANSIT AND MILEAGES**

**EXHIBIT C**

**FIXED ASSETS**

**EXHIBIT D**  
**EMPLOYEES**

## AMENDMENT TO ASSET PURCHASE AGREEMENT

This Amendment to Real Estate Contract (“Amendment”) is entered into this \_\_\_\_ day of February, 2015, by and between Shepherd Motorcars Corporation (hereinafter referred to as “Seller”), and The Autobarn Motors of Oak Park, LLC (hereinafter referred to as “Buyer”).

### RECITALS

WHEREAS, Seller and Buyer entered into an Asset Purchase Agreement on December 20, 2014 (hereinafter “Agreement”);

WHEREAS, Seller and Buyer desire to amend the Agreement.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The forgoing Recitals of this Agreement are incorporated herein and made a part hereof.

2. Amendment to Section 5 of the Agreement. Section 5 of the Agreement shall be deleted in its entirety and replaced with the following:

"5. Transfer and Pricing of Certain Assets to be Sold. For the total purchase price of Eight Hundred and Fifty Thousand Dollars (\$850,000.00), Seller shall sell and Buyer shall buy the following assets, free and clear of all liens and encumbrances:

(a) Fixed Assets. Seller’s Manufacturer’s showroom and trade fixtures, Manufacturer’s compatible wheels and tires, Manufacturer’s signs, Manufacturer’s microfiche reference manuals and microfiche machines, chemicals, paint and solvents, undercoat materials, nuts and bolts, non-leasehold improvements, company/service vehicles, moveable hoists, moveable lifts, compressors, service equipment, service vehicles, Manufacturer’s special tools (Seller will represent and warrant that it is selling a complete set of all required Volvo special tools), Manufacturer related (i) furniture, (ii) fixtures, (iii) office and service equipment, (iv) communication equipment, (v) computers, (vi) computer systems, machinery, shop equipment, parts bins and racks, and miscellaneous supplies (including all forms, films, graphics, lists, marketing materials, catalogs, customer files and deal

jackets, reference manuals, accounting binders, office supplies, marketing software, all shop, service and parts reference catalogs, CD ROMS, product sales training materials, videos, reference books), owned by Seller or used in, relating to, arising from or necessary for the conduct of the (Volvo) Dealership operated by Seller (specifically excluding accounts receivable and cash). Said equipment set forth above shall be in good working order on the Closing Date. If any required special tools are missing or not in good working order, Buyer shall be given a credit at closing for the cost of replacing such items. A listing of the Equipment is attached hereto as Exhibit C, and incorporated herein by reference (hereinafter the "Fixed Assets").

(b) Goodwill. Goodwill ("Goodwill") of the Seller, including all telephone and fax numbers, ULR's, domain names, Volvo websites, and all other rights associated with Goodwill. Buyer shall have no responsibility for Yellow Page advertising charges, or design or license fees.

(c) Termination Parts Return Rights. An assignment of Seller's termination parts and accessories return rights, if any. Buyer acknowledges that Seller does not represent that any Volvo termination parts return rights exist; however, if such right should exist, Seller shall do all acts necessary to assign same.

(d) Records. All of the Seller's inventory records, customer lists, sales records and files, service records and files, supply and manufacturer lists, technical data, sales literature, computer printouts, files, correspondence and other records, related to the Seller's Volvo business, and which may be disclosed in accordance with current law (the "Records"). This is a material term of this Agreement, and neither Seller nor Shareholders will share this information with any other motor vehicle dealership owned by Seller, Shareholders or Shareholders' family members. Buyer shall, upon reasonable prior request from Seller or Shareholder, make any records transferred or sold hereunder available to Seller or Shareholder for income or other tax reporting purposes.

(e) Allocation of Purchase Price. The allocation of the purchase price for the assets as hereinabove set forth to be purchased shall be as follows:

A.	Fixed Assets	\$500,000
B.	Goodwill	<u>\$350,000</u>
		\$850,000

The purchase price shall be paid as follows:

(i) Buyer has deposited with Seller Four Hundred Thousand Dollars (\$400,000.00) as earnest money to be applied to the purchase price at closing. The balance of the purchase price shall be paid as follows:

- (ii) Four Hundred and Fifty Thousand Dollars (\$450,000.00) by wire transfer, certified or cashier's check at closing, plus or minus prorations."

3. Amendment to Section 9 of the Agreement. Section 9 of the Agreement shall be deleted in its entirety and replaced with the following:

"9. Closing Date. The closing of the transaction provided for in this Agreement shall take place at 1140 Garfield Street, Oak Park, IL 60304 on the later of March 2, 2015 or ten (10) business days after the Manufacturer approves the franchise transfer, or at such other date and time as the parties may agree (the "Closing Date") provided that all conditions precedent have been met or will be met at the time of the Closing Date and that the Real Estate Contracts by and between Legal Title Holder of Record, Seller, and RRV Fisher Properties II, LLC, Purchaser, are set to close that date. This is a material term of this Agreement."

4. Amendment to Section 10 of the Agreement. Section 10 of the Agreement shall be amended as follows:

The date of February 28, 2015, in the preamble of Section 10 is deleted and replaced with the date of March 31, 2015. The remainder of Section 10 of the Agreement, in its entirety, including but not limited to the Contingencies contained in Section 10(a) through 10(q) inclusive, remains unamended and in full force and effect.

5. Amendment to Exhibit A of the Agreement. Exhibit A to the Agreement is amended as follows:

The ADP Atlas Toyota Material Handling, LLC and MOCL Tablets contracts are deleted from Exhibit A of the Agreement.

6. Reaffirmation. All other terms and provisions of the Agreement remain in full force and effect.

7. Modifications. No modifications or amendments to the Agreement shall be binding unless the terms thereof are stated in writing and signed by all the parties hereto.

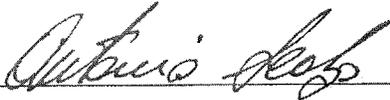
8. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same

instrument. Executed copies hereof may be delivered by telecopier or e-mail and such copies shall be deemed originals and binding upon the parties hereto.

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

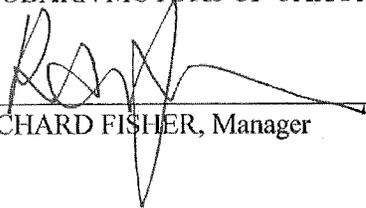
SELLER:

SHEPHERD MOTORCARS CORPORATION

BY:  \_\_\_\_\_

BUYER:

THE AUTOBARN MOTORS OF OAK PARK, LLC

BY:  \_\_\_\_\_  
RICHARD FISHER, Manager

**EXHIBIT 4**

**REAL ESTATE PARCELS (DEVELOPER)**

# EXHIBIT 4

## Property's Cook County Property Index Numbers:

- 16-18-136-001-0000
- 16-18-137-001-0000
- 16-18-137-009-0000

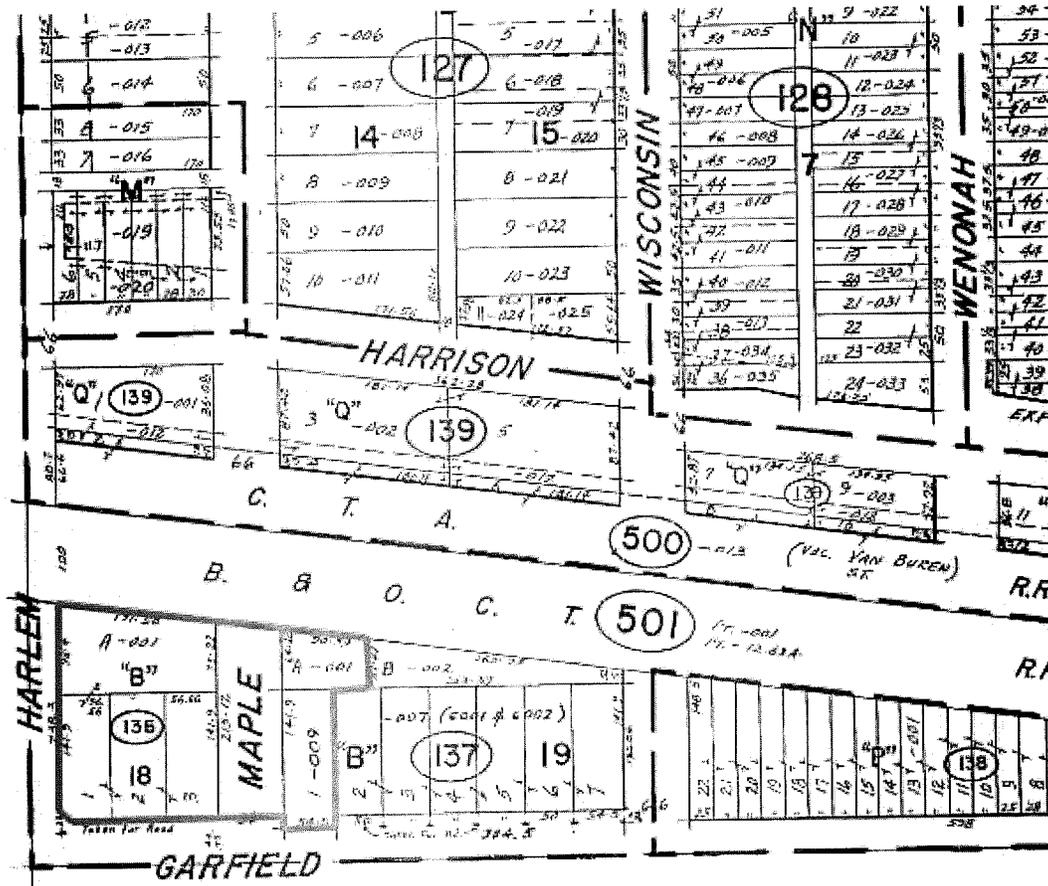
## Property's Written Legal Description:

THAT PART OF THE NORTHWEST 1/4 OF SECTION 18, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 1 IN BLOCK 19 IN W. J. WILSON'S ADDITION TO OAK PARK ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 16, 1886, AS DOCUMENT NUMBER 773322; THENCE ON AN ASSUMED BEARING OF SOUTH 00 DEGREES 13 MINUTES 36 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 130.01 FEET TO THE NORTH LINE OF THE PROPERTY CONVEYED TO THE ILLINOIS DEPARTMENT OF TRANSPORTATION BY DOCUMENT NUMBER 95332548; THENCE SOUTH 89 DEGREES 57 MINUTES 04 SECONDS WEST ALONG SAID LINE, 54.50 FEET TO THE WEST LINE OF SAID LOT 1, BEING ALSO THE EAST LINE OF VACATED MAPLE AVENUE; THENCE WEST 66.00 FEET ALONG A WESTERLY EXTENSION OF SAID NORTH LINE OF PROPERTY CONVEYED TO THE ILLINOIS DEPARTMENT OF TRANSPORTATION BY DOCUMENT NUMBER 95332548 TO A POINT ON THE EAST LINE OF LOT 3 IN BLOCK 18 IN SAID W. J. WILSON'S ADDITION TO OAK PARK, WHICH IS 11.79 FEET NORTH OF THE ORIGINAL SOUTHEAST CORNER OF SAID LOT 3; THENCE SOUTH 89 DEGREES 57 MINUTES 04 SECONDS WEST ALONG THE NORTH LINE OF PROPERTY TAKEN BY THE ILLINOIS DEPARTMENT OF TRANSPORTATION BY JUDGMENT ORDER ENTERED FEBRUARY 24, 1997, IN CONDEMNATION CASE 96 L 51313, CIRCUIT COURT OF COOK COUNTY, ILLINOIS, 141.65 FEET TO THE NORTHEASTERLY LINE OF SAID PROPERTY TAKEN BY THE ILLINOIS DEPARTMENT OF TRANSPORTATION BY JUDGMENT ORDER ENTERED FEBRUARY 24, 1997, IN CONDEMNATION CASE 96 L 51313, CIRCUIT COURT OF COOK COUNTY, ILLINOIS; THENCE NORTH 45 DEGREES 06 MINUTES 37 SECONDS WEST ALONG SAID NORTHEASTERLY LINE, 16.06 FEET TO THE EAST LINE OF THE WEST 17.00 FEET OF LOT 1 IN SAID BLOCK 18; THENCE NORTH 00 DEGREES 13 MINUTES 36 SECONDS WEST ALONG THE EAST LINE OF THE WEST 17.00 FEET OF SAID BLOCK 18, A DISTANCE OF 212.99 FEET TO THE SOUTHERLY LINE OF THE BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD COMPANY; THENCE SOUTH 82 DEGREES 16 MINUTES 32 SECONDS EAST ALONG SAID SOUTHERLY LINE, 276.13 FEET TO THE NORTHERLY EXTENSION OF SAID EAST LINE OF LOT 1 IN BLOCK 19; THENCE SOUTH 00 DEGREES 13 MINUTES 36 SECONDS EAST ALONG SAID EAST LINE, 56.98 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

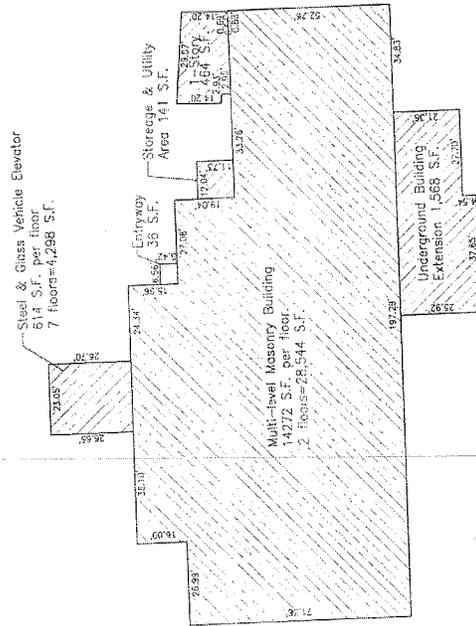
**Legal Description/ Tax Map**

We were not provided with a legal description or a plat of survey. However, we were able to obtain a tax map outlining the boundaries of the subject property.



# Building Survey

## Building Square Footage Exhibit



All building measurements made at exterior ground level of building footprint except for Underground Building Extension which followed the interior level floors and were calculated to the southern building line. Measurements are expressed in feet and decimal parts thereof with square footage (S.F.) calculated therefrom.

Total square footage using all floor spaces as shown, measured at outside of building, (excluding storage and facility area) = 34,910 S.F.

STATE OF ILLINOIS  
COUNTY OF COOK

This is to certify that I, an Illinois Professional Land Surveyor, have surveyed the property, this survey is in accordance with the current Illinois Minimum Standards for a Topographic Survey.

Given under my hand and seal in Chicago, Illinois, this 21st day of January, 2015.

THOMAS E. BAUMGARTNER, ILLINOIS LAND SURVEYOR NO. 3142  
LICENSE EXPIRATION 11-30-2016  
Field work completed January 19, 2015.



NOTE: TERRA ENGINEERING does not guarantee the accuracy of this survey unless it contains an original seal and signature.

Project Information	
PROJECT #:	XX-XXXX
DRAWN BY:	TB
CHECKED BY:	TB
Volvo of Oak Park	
1 of 1	

**TERRA ENGINEERING LTD.**  
 225 W. Ohio Street  
 4th Floor  
 Chicago, IL 60654  
 TEL: (312) 467-9123  
 FAX: (312) 467-0220  
 www.terraengineering.com

#	Date	Description
1	1/21/15	Issued

Garfield Street

Harlem Avenue

FORM 10-08  
 REVISED BY: J. BAUMGARTNER  
 DATE: 10/21/2015

**EXHIBIT 5**

**PROJECT COST ESTIMATES**

A.	Purchase of 1140 Garfield Street	\$6,750,000
B.	Warehouse	750,000
C.	Vehicle Inventory	8,550,000
D.	Goodwill, Fixed Assets, Equipment, Signage, Inventory, Franchise and Working Capital	<u>2,973,000</u>
	<b>TOTAL:</b>	<b>\$19,023,000</b>

# EXHIBIT 6



03-10-2015

## Dealer Commercial Services

---

Scott Wagner  
Banker  
DCS Midwest Region

Phone: 312-732-7650  
Fax: 630-313-6464

### Summary of Terms ("Term Sheet")

This term sheet does not purport to summarize all terms, conditions, representations, warranties and other provisions that may be contained in any loan documentation. Neither the proposed terms herein nor any oral understandings relating to a loan are binding until and unless such terms or understandings have been reduced to a written agreement executed by both you and the Bank.

#### REAL ESTATE:

**Purpose:** Purchase of a dealership property located at 1140 Garfield St., Oak Park, IL  
**Borrower:** RRV PROPERTIES, LLC  
**Commitment:** \$4,250M (\$6,750M - purchase price)  
**Advance:** 85% Maximum  
**Guarantors:** Personal guarantee of Mr. Richard Fisher; limited to the loan amount  
Corporate guarantees of RRV Motorcars II LLC and Autobarn Motors, Ltd; limited to the loan amount  
**Collateral:** First lien mortgage on the property; one way cross to the FP - collateralization will include all business assets for RRV Motorcars II LLC. The mortgage will not support the FP.

#### REAL ESTATE:

**Purpose:** Purchase of a storage warehouse property located at 1213 Circle Ave., Forest Park, IL  
**Borrower:** HARKNESS FISHER PROPERTIES, LLC  
**Commitment:** \$442M  
**Advance:** 85% Maximum  
**Guarantors:** Personal guarantee of Mr. Richard Fisher; limited to the loan amount  
Corporate guarantees of RRV Motorcars II LLC and Autobarn Motors, Ltd; limited to the loan amount  
**Collateral:** First lien mortgage on the property; one way cross to the FP - collateralization will include all business assets for RRV Motorcars II LLC. The mortgage will not support the FP.

#### ACQUISITION TERM LOAN:

**Purpose:** To finance Blue Sky/Dealership Assets/Parts  
**Borrower:** RRV Motorcars II LLC dba The Autobarn Volvo of Oak Park  
**Loan Amount:** \$850M  
**Guarantors:** Personal guarantee of Mr. Richard Fisher; limited to the loan amount  
Corporate guarantees of all dealership entities; limited to the loan amount  
**Collateral:** Dealership Assets; Two-way cross to the FP

**Legal Fees and Expenses**

The Borrower would be solely responsible for the payment of all legal fees plus costs and expenses and other fees incurred as a direct or indirect result of the preparation of documentation for this Loan regardless of whether closing would occur.

**Insurance:**

JPMorgan Chase Bank requires physical damage insurance, including comprehensive and collision, naming the Bank as loss payee on all financed units. Written confirmation is required annually and coverage is to be at 100% of the floor plan line commitment. Furthermore, JPMorgan Chase Bank requires sufficient insurance coverage on its collateral, with the bank listed as loss payee.

**Financial Covenants:**

Borrower to comply with to be determined and mutually agreeable financial covenant set forth during underwriting;

**Reporting Requirements:**

Manufacturer financial statements due within 15 days of each month end;  
Annual Manufacturer financial statements within 15 days of year-end;  
Annual Federal tax returns due within 15-days of filing;  
If available, CPA prepared financial statements within 15-days of completion.

**Confidentiality**

The terms of this proposal are for the Borrower's confidential use and may not be disclosed by it to any other person other than its employees, attorneys and financial advisors (but not other commercial lenders), and then only in connection with the transactions being discussed and on a confidential basis, except where disclosure is required by law, or where Chase consents to the proposed disclosure.

**EXHIBIT 6**

**LOAN COMMITMENT AND  
UNCONDITIONAL AND CONTINUING GUARANTY**

**THIS UNCONDITIONAL AND CONTINUING GUARANTY (“Guaranty”)** is jointly and severally made as of this 17th day of March, 2015 (“**Effective Date**”) by **RICHARD A. FISHER**, an individual, having an address of \_\_\_\_\_ (“**Guarantor**”) in favor of **VILLAGE OF OAK PARK**, an Illinois home rule municipal corporation (“**Village**”).

RECITALS

A. RRV Motorcars II, an Illinois limited liability company (“**Developer**”), intends to purchase real estate located at 1140 Garfield Street in the Village of Oak Park, Cook County, Illinois (“**Property**”) to continue operations of an auto dealership.

B. The Village and Developer have entered into a *Redevelopment Agreement* dated March 16, 2015 (“**Development Agreement**”), together with any and all amendments, modifications or supplements thereto, to govern the acquisition and continuing operation of the Property.

C. The Village has agreed to enter into and to perform under the terms of the Development Agreement, provided, among other things, that the Guarantor unequivocally and unconditionally guarantees the performance of the Guaranteed Obligations (hereinafter defined) as more fully set forth below.

D. Guarantor is the Managing Member of and has a financial interest in Developer and will accordingly derive substantial economic benefit from Developer entering into the Development Agreement with the Village.

NOW, THEREFORE, for TEN DOLLARS (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, stipulating to the veracity of the recitals above and for the purpose of inducing the Village to enter into the Development Agreement with the Developer, Guarantor hereby agrees, covenants and warrants as follows:

**Section 1**      **Recitals.**

The above Recitals are hereby incorporated into this Guaranty as if fully set forth herein.

**Section 2**      **Defined Terms.**

In addition to the terms defined elsewhere in this Guaranty or in the Development Agreement, the following terms shall have the respective meanings set forth below:

(a) **"Affiliate"** means any Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, another Person. A Person shall be deemed to control another Person for the purposes of this definition if such Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the other Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise; provided that, in any event for purposes of this definition, any Person that owns, directly or indirectly, 5% or more of the securities having the ordinary voting power for the election of directors or governing body of a corporation or 5% or more of the partnership, membership or other ownership interest of any other Person (other than as a limited partner of such other Person) will be deemed to control such corporation or other Person.

(b) **"Business Day"** means any day other than a Saturday, Sunday, public holiday or other day on which banking institutions in Chicago, Illinois, are generally closed and do not conduct banking business.

(c) **"Event of Default"** means the occurrence of any breach or default under: (i) the Development Agreement; (ii) any agreements, contracts or obligations entered into by the Developer or its Affiliate relating to the Property; or (iii) this Guaranty, which remains uncured following the expiration of any period of notice or grace applicable thereto under the pertinent agreement.

(d) **"Guaranteed Obligations"** means: (i) the payment when due, by acceleration or otherwise, of the Loan Obligation, as defined herein, the Developer or any Affiliate of the Developer to the Village, which may be or become payable in accordance with Development Agreement, but which may be reduced solely by the Obligation Limitation as provided in this Guaranty and in the Development Agreement, as well as the Developer's indemnity in accordance with Article 16 of the Development Agreement; (ii) all costs and expenses reasonably incurred by the Village in enforcing this Guaranty, including court costs and reasonable attorneys' fees which are regardless of any Obligation Limitation as provided herein and which shall not be limited by any Obligation Limitation. **"Loan Repayment Obligation"** means the amount of \$1,000,000, plus interest, which amount represent the Loan of funds from the Village's Special Tax Allocation Fund of the Harlem and Garfield Redevelopment Project Area to Developer or its Affiliates in accordance with the Development Agreement.

(e) **"Person"** means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization or any other entity or organization, including a government or agency or political subdivision thereof.

(f) **"Property"** means that certain real property, improvements and rights attendant thereto owned by Developer as more fully described in the Development Agreement.

**Section 3**      **Guaranty of Payment.**

This instrument is a guaranty of payment and performance, and not a guaranty of collection. Upon the occurrence of any Event of Default, the Village may proceed against the Guarantor to collect the Guaranteed Obligations, with or without proceeding against the Developer, any co-maker or co-surety or co-guarantor due or to become due, now existing or hereafter incurred, which may arise under, out of, or in connection with the Development Agreement. The sole and exclusive limitation to the Guaranteed Obligations is the reduction of the Repayment Obligation through forgiveness set forth in Section 7.1B of the Development Agreement (collectively “**Obligation Limitation**”).

**Section 4**      **Guaranty Unconditional.**

Guarantor absolutely and unconditionally guarantees the prompt payment and performance when due of the Guaranteed Obligations. Guarantor undertakes this continuing, absolute, and unconditional guaranty of the aforementioned payment and performance by the Developer notwithstanding that any portion of the Guaranteed Obligations may be void, voidable or unenforceable as between the Developer and the Village. The obligations of the Guarantor shall be a guaranty of payment and performance and not of collection, irrespective of the validity, regularity or enforceability of the Development Agreement, or any provision thereof, the absence of any action to enforce the same, any waiver or consent with respect to or any amendment of any provision thereof (provided that any amendment of this Guaranty and any amendment to the Development Agreement shall be in accordance with the terms hereof and thereof, as applicable), the recovery of any judgment against any Person or action to enforce the same, any failure or delay in the enforcement of the obligations of the Developer under the Development Agreement, or any setoff, counterclaim, recoupment, limitation, defense or termination whether with or without notice to the Guarantor. The Guarantor hereby waives diligence, demand for payment, filing of claims with any court, any proceeding to enforce any provision of the Development Agreement, any right to require a proceeding first against the Developer, or against any other guarantor or other party providing collateral, or to exhaust any security for the performance of the obligations of the Developer, any protest, presentment, notice or demand whatsoever, and Guarantor hereby covenants that this Guaranty shall not be terminated, discharged or released except, subject to Section 3 hereof, upon final payment in full of all Indebtedness due and to become due from the Developer as and to the extent described above, and only to the extent of any such payment, performance and discharge.

Without limiting the generality of the foregoing, the obligations of the Guarantor under this Guaranty, and the rights of Village to enforce the same by proceedings, whether by action at law, suit in equity or otherwise, shall not be in any way affected to the extent permitted by applicable law, by (i) any insolvency, bankruptcy, liquidation, reorganization, readjustment, composition, dissolution, winding up or other proceeding involving or affecting the Developer, the Guarantor or any other person including any discharge of, or bar or stay against collecting, all or any of the Indebtedness in or as a result of any such proceeding; (ii) any change in the ownership of any of the ownership interests of Developer, the Guarantor, or any other, or any of their respective Affiliates; (iii) the election by Village, in any bankruptcy proceeding of any person, to apply or not apply Section 1111(b)(2) of the Bankruptcy Code; (iv) any extension of credit or the grant of any security interest or lien under Section 363 of the Bankruptcy Code;

(v) any agreement or stipulation with respect to the provision of adequate protection in any bankruptcy proceeding of any person; (vi) the avoidance of any security interest or lien in favor of Village for any reason; (vii) any action taken by Village that is authorized by this paragraph or any other provision of this Guaranty; or (viii) any other principle or provision of law, statutory or otherwise, which is or might be in conflict with the terms hereof.

Guarantor assumes the risk of keeping itself informed concerning the financial condition of the Developer and all other circumstances bearing upon the risk of performance by the Developer under the Development Agreement. The Guarantor hereby waives to the fullest extent possible under applicable law:

(a) any defense based upon the doctrine of marshaling of assets or upon an election of remedies by Village, including, without limitation, an election to proceed by non-judicial rather than judicial foreclosure;

(b) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal;

(c) any duty on the part of Village to disclose to Guarantor any facts Village may now or hereafter know about the Developer or the Property, regardless of whether Village has reason to believe that any such facts materially increase the risk beyond that which Guarantor intends to assume or has reason to believe that such facts are unknown to Guarantor or has a reasonable opportunity to communicate such facts to Guarantor, since Guarantor acknowledges that it is fully responsible for being and keeping informed of the financial condition of the Developer and of all circumstances bearing on the risk of non-payment of any Indebtedness hereby guaranteed;

(d) any claim for reimbursement, contribution, exoneration, indemnity or subrogation, or any other similar claim, which Guarantor may have or obtain against the Developer, by reason of the existence of this Guaranty, or by reason of the payment by Guarantor of any amounts owed to the Village or the performance of this Guaranty or the Development Agreement, unless and until the Development Agreement is fully performed. Any such claim at any time when the obligations of Guarantor under this Guaranty shall not have been fully and finally paid shall be held by Guarantor in trust for Village, segregated from other funds of Guarantor, and forthwith upon receipt by Guarantor shall be turned over to Village in the exact form received by Guarantor (duly endorsed to Village by Guarantor, if required), to be applied to Guarantor's obligations under this Guaranty, whether matured or unmatured in such order and manner as Village may determine; and

(e) any other event or action (excluding compliance by Guarantor with the provisions hereof) that would result in the discharge by operation of law or otherwise of Guarantor from the performance or observance of any obligation, covenant or agreement contained in this Guaranty.

The Guarantor acknowledges and agrees that this is a knowing and informed waiver of the undersigned's rights as discussed above and that Village is relying on this waiver in extending any credit to the Developer and in entering into the Development Agreement with the Developer and the Guarantor as its Managing Member.

Village may proceed, either in its own name or in the name of the Guarantor, or otherwise, to protect and enforce any or all of its rights under this Guaranty by suit in equity, action at law or by other appropriate proceedings, or to take any action authorized or permitted under applicable law, and shall be entitled to require and enforce the performance of all acts and things required to be performed hereunder by the Guarantor. Each and every remedy of Village shall, to the extent permitted by law, be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity.

No waiver or release shall be deemed to have been made by Village of any of its rights hereunder unless the same shall be in writing and signed by or on behalf of Village, and any such waiver shall be a waiver or release only with respect to the specific matter and Guarantor to the extent of its involvement, and shall in no way impair the rights of Village or the obligations of the Guarantor under this Guaranty in any other respect at any other time.

At the option of Village, the Guarantor may be joined in any action or proceeding commenced by Village against the Developer or its Affiliates in any way involved with the Development Agreement or any provision thereof, and recovery may be had against the Guarantor in such action or proceeding or in any independent action or proceeding against any of them, without any requirement that Village first assert, prosecute or exhaust any remedy or claim against the Developer and/or any of its Affiliates.

#### **Section 5      Obligations Unaffected.**

The obligations of the undersigned Guarantor under this Guaranty extend to all amendments, supplements, modifications, renewals, replacements or extensions of the Development Agreement. The liability of Guarantor and the rights of the Village under this Guaranty will not be impaired or affected in any manner by, and Guarantor hereby consents in advance to, and waives any requirement of notice for, any (i) disposition, impairment, release, surrender, substitution, or modification of any collateral securing the Guaranteed Obligations or the obligations created by this Guaranty or failure to perfect a security interest in any collateral; (ii) release (including adjudication or discharge in bankruptcy) or settlement with Developer or any other party which may be or become liable for the Guaranteed Obligations (including, without limitation, any maker, indorser, guarantor or surety); (iii) delay in enforcement of payment of the Guaranteed Obligations or delay in enforcement of this Guaranty; (iv) delay, omission, waiver, or forbearance in exercising any right or power with respect to the Guaranteed Obligations or this Guaranty; (v) defense arising from the enforceability, validity or genuineness of any of the Development Agreement; (vi) defenses or counterclaims that the Developer may assert under or in respect of the Development Agreement, including, but not limited to, failure of consideration, breach of warranty, fraud, payment, statute of frauds, bankruptcy, infancy, statute of limitations, Village liability, accord and satisfaction and usury; (vii) extensions or modifications of any Guaranteed Obligations; or (viii) other act or omission which might otherwise constitute a legal or equitable discharge of the undersigned. Guarantor waives all

defenses based on suretyship or impairment of collateral, presentment, protest, demand for payment, any right of set-off, notice of dishonor or default, notice of acceptance of this Guaranty, notice of the incurring of any of the Guaranteed Obligations and notice of any other kind in connection with the Guaranteed Obligations or this Guaranty. Village has sole authority to determine the order of application of any amounts received under the Development Agreement or the Guaranteed Obligations.

**Section 6**      **SUBROGATION AND SUBORDINATION.**

UNTIL SUCH TIME AS ONE HUNDRED PERCENT (100%) OF THE GUARANTEED OBLIGATIONS SHALL HAVE BEEN SATISFIED OR DISCHARGED, REGARDLESS OF THE AMOUNT OF GUARANTOR'S OBLIGATION TO VILLAGE HEREUNDER, GUARANTOR IRREVOCABLY WAIVES ANY AND ALL RIGHTS SUCH GUARANTOR MAY HAVE AT ANY TIME (WHETHER ARISING DIRECTLY OR INDIRECTLY, BY OPERATION OF LAW OR CONTRACT) TO ASSERT ANY CLAIM AGAINST THE DEVELOPER ON ACCOUNT OF PAYMENTS MADE BY SUCH GUARANTOR UNDER THIS GUARANTY, INCLUDING, WITHOUT LIMITATION, ANY AND ALL RIGHTS OF SUBROGATION, REIMBURSEMENT, EXONERATION, CONTRIBUTION OR INDEMNITY. UNTIL SUCH TIME AS ONE HUNDRED PERCENT (100%) OF THE GUARANTEED OBLIGATIONS SHALL HAVE BEEN SATISFIED OR DISCHARGED, REGARDLESS OF THE AMOUNT OF GUARANTOR'S OBLIGATION TO VILLAGE HEREUNDER, GUARANTOR IRREVOCABLY SUBORDINATES ANY AND ALL INDEBTEDNESS OF THE BORROWER TO GUARANTOR, PRESENT AND FUTURE, HOWEVER EVIDENCED, TO THE PRIOR PAYMENT OF THE GUARANTEED OBLIGATIONS TO VILLAGE.

**Section 7**      **Effect of Bankruptcy Proceeding, Etc.**

If at any time any whole or partial payment of the Guaranteed Obligations is rescinded or must otherwise be restored or returned by the Village upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Developer or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Developer, this Guaranty will continue to be effective, or be reinstated, as the case may be, all as though such payment had not been made. Notwithstanding anything to the contrary contained herein, it is the intention of the Guarantor and Village that the amount of the Guarantor's obligations hereunder shall be in, but not in excess of, the maximum amount thereof not subject to avoidance or recovery by operation of applicable law governing bankruptcy, reorganization, arrangement, adjustment of debts, relief of debtors, dissolution, insolvency, fraudulent transfers or conveyances or other similar laws (collectively, "**Applicable Insolvency Laws**"). To that end, but only in the event and to the extent that the Guarantors' respective obligations hereunder or any payment made pursuant thereto would, but for the operation of the foregoing proviso, be subject to avoidance or recovery under Applicable Insolvency Laws, the amount of the Guarantor's obligations hereunder shall be limited to the largest amount which, after giving effect thereto, would not, under Applicable Insolvency Laws, render the Guarantor's respective obligations hereunder unenforceable or avoidable or subject to recovery under Applicable Insolvency Laws. To the extent any payment actually made hereunder exceeds the limitation contained in this Section 7, then the amount of such excess shall, from and after the time of

payment by the Guarantor, be reimbursed by Village upon demand by Guarantor. The foregoing proviso is intended solely to preserve the rights of Village hereunder against the Guarantor to the maximum extent permitted by Applicable Insolvency Laws and neither the Developer nor any Guarantor nor any other Person shall have any right or claim under this Section 7 that would not otherwise be available under Applicable Insolvency Laws.

**Section 8      Certain Transfers Prohibited.**

Guarantor hereby agrees that so long as any portion of the Guaranteed Obligations remains outstanding, Guarantor will not give or otherwise transfer or dispose of any material portion of Guarantor's assets to any other Person for less than the reasonably equivalent value of such assets.

**Section 9      Guarantor Representations.**

In order to induce Village to enter into the Development Agreement, Guarantor makes the following representations and warranties to Village set forth in this Section. Guarantor acknowledges that but for the truth and accuracy of the matters covered by the following representations and warranties, Village would not have entered into the Development Agreement with the Developer.

(a) Guarantor resides at the address set forth on page one above.

(b) Any and all balance sheets, net worth statements, and other financial data with respect to Guarantor that have heretofore been given to Village by or on behalf of Guarantor fairly and accurately present the financial condition of Guarantor as of the respective dates thereof in all material respects.

(c) The execution, delivery, and performance by Guarantor of this Guaranty does not and will not contravene or conflict with (i) any laws, order, rule, regulation, writ, injunction or decree now in effect of any government authority, or court having jurisdiction over Guarantor, (ii) any contractual restriction binding on or affecting Guarantor or Guarantor's property or assets that may adversely affect Guarantor's ability to fulfill its obligations under this Guaranty, (iii) the instruments creating any trust holding title to any assets included in Guarantor's financial statements, or (iv) the organizational or other documents of Guarantor, if any.

(d) This Guaranty creates legal, valid, and binding obligations of Guarantor enforceable in accordance with its terms.

(e) Except as disclosed in writing to Village, there is no action, proceeding, or investigation pending or, to the knowledge of Guarantor, threatened or affecting Guarantor, that may materially and adversely affect Guarantor's ability to fulfill its respective obligations under this Guaranty. There are no judgments or orders for the payment of money rendered against Guarantor that have been undischarged for a period of thirty (30) or more consecutive days and the enforcement of which is not stayed by reason of a pending appeal or otherwise. Guarantor is not in default under any

agreements that may materially and adversely affect Guarantor's ability to fulfill Guarantor's obligations under this Guaranty.

(f) Without the prior written consent of the Village, Guarantor shall not (1) be or become subject at any time to any law, regulation, or list of any government agency (including, without limitation, the U.S. Office of Foreign Asset Control list) that prohibits or limits Village from making any advance or extension of credit to Developer, or Guarantor or from otherwise conducting business with Developer or Guarantor or (2) fail to provide documentary and other evidence of Guarantor's identity as may be requested by Village at any time to enable Village to verify Developer's identity or to comply with any applicable law or regulation, including, without limitation, Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318.

(g) All statements set forth in the Development Agreement and the Recitals are true and correct.

**Section 10**    **Payment in Full.**

Except as otherwise expressly provided in this Guaranty, this Guaranty will terminate on the payment and fulfillment in full of the Guaranteed Obligations; provided, however, that the termination of this Guaranty shall not relieve the Guarantor from liability with respect to: (a) obligations created or incurred prior to the date of termination; (b) general obligations for indemnity or contribution; (c) obligations relating to the Environmental Indemnity; and, (d) fees, costs or expenses incurred with respect to the Guaranteed Obligations on or after such date.

**Section 11**    **USA Patriot Act.**

The Village hereby notifies Guarantor that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies Guarantor, which information includes the name and address of Guarantor and other information that will allow the Village to identify Guarantor in accordance with the Act.

**Section 12**    **Miscellaneous Provisions.**

(a) From time to time at the Village's request, Guarantor will execute and deliver to or as directed by the Village any and all documents, instruments or agreements of further assurance that the Village may reasonably require to confirm this Guaranty or to carry out the purpose and intent hereof.

(b) This Guaranty may not be modified, amended, discharged or terminated except by a written instrument executed by each party against whom such modification, amendment, discharge or termination is sought.

(c) No course of dealing and no delay by the Village in exercising any right or remedy hereunder will affect or impair any other or future exercise of any such right or remedy. The rights and remedies of the Village under this Guaranty are cumulative and not exclusive of any rights or remedies which may be available to the

Village under the Development Agreement, at law or in equity; any or all such remedies may be exercised concurrently or successively.

(d) Guarantor agrees to pay, or to reimburse the Village for, any and all out-of-pocket expenses reasonably incurred by the Village (including, without limitation, reasonable attorneys' fees and costs) in connection with the enforcement of the Village's rights under this Guaranty.

(e) If any provision of this Guaranty, or the application of any such provision to Guarantor or circumstance, is held invalid or unenforceable, the remainder of this Guaranty or the application of any such provision to other Persons or circumstances will not be affected thereby, and will remain valid and enforceable to the fullest extent permitted by law.

(f) This Guaranty will not be extinguished by the death, disability or legal existence of Guarantor and will continue to be binding upon and constitute an obligation of Guarantor, an obligation of Guarantor's personal representatives, successors and assigns, and will inure to the benefit of the Village and its successors and assigns.

(g) This Guaranty will be governed by the laws of Illinois.

(h) AS A SPECIFIC INDUCEMENT FOR THE VILLAGE TO ENTER INTO THE DEVELOPMENT AGREEMENT, AND AFTER HAVING THE OPPORTUNITY TO CONSULT COUNSEL, GUARANTOR AND VILLAGE, BY ITS ACCEPTANCE HEREOF, EXPRESSLY WAIVE ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING ARISING FROM OR RELATED TO THIS GUARANTY.

(i) TO THE EXTENT PERMITTED BY APPLICABLE LAW, GUARANTOR SHALL NOT ASSERT, AND HEREBY WAIVES, ANY CLAIM AGAINST THE VILLAGE, ON ANY THEORY OF LIABILITY, FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (AS OPPOSED TO DIRECT OR ACTUAL DAMAGES) ARISING OUT OF, IN CONNECTION WITH, OR AS A RESULT OF, THIS GUARANTY OR THE DEVELOPMENT AGREEMENT, OR ANY AGREEMENT OR INSTRUMENT CONTEMPLATED HEREBY OR UNDER THE DEVELOPMENT AGREEMENT OR THE TRANSACTIONS CONTEMPLATED THEREUNDER.

(j) TO THE GREATEST EXTENT PERMITTED BY LAW, GUARANTOR HEREBY WAIVES ANY AND ALL RIGHTS TO REQUIRE MARSHALLING OF ASSETS BY VILLAGE. WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDINGS RELATING TO THIS GUARANTY (EACH, A "PROCEEDING"), VILLAGE AND GUARANTOR IRREVOCABLY (A) SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS HAVING JURISDICTION IN THE CITY OF CHICAGO, COOK COUNTY AND STATE OF ILLINOIS, AND (B) WAIVES ANY OBJECTION WHICH GUARANTOR MAY HAVE AT ANY TIME TO THE LAYING OF VENUE OF ANY

PROCEEDING BROUGHT IN ANY SUCH COURT, WAIVE ANY CLAIM THAT ANY PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM AND FURTHER WAIVE THE RIGHT TO OBJECT, WITH RESPECT TO SUCH PROCEEDING, THAT SUCH COURT DOES NOT HAVE JURISDICTION OVER SUCH PARTY. NOTHING IN THIS GUARANTY SHALL PRECLUDE VILLAGE FROM BRINGING A PROCEEDING IN ANY OTHER JURISDICTION NOR WILL THE BRINGING OF A PROCEEDING IN ANY ONE OR MORE JURISDICTIONS PRECLUDE THE BRINGING OF A PROCEEDING IN ANY OTHER JURISDICTION. VILLAGE AND GUARANTOR FURTHER AGREE AND CONSENT THAT, IN ADDITION TO ANY METHODS OF SERVICE OF PROCESS PROVIDED FOR UNDER APPLICABLE LAW, ALL SERVICE OF PROCESS IN ANY PROCEEDING IN ANY ILLINOIS STATE OR UNITED STATES COURT MAY BE MADE BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, DIRECTED TO THE APPLICABLE PARTY AT THE ADDRESS INDICATED BELOW, AND SERVICE SO MADE SHALL BE COMPLETE UPON RECEIPT; EXCEPT THAT IF SUCH PARTY SHALL REFUSE TO ACCEPT DELIVERY, SERVICE SHALL BE DEEMED COMPLETE THREE (3) DAYS AFTER THE SAME SHALL HAVE BEEN SO MAILED.

(k) All notices or other written communications hereunder will be deemed to have been properly given (i) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged by the recipient thereof and confirmed by telephone by sender, (ii) one (1) Business Day after having been deposited for overnight delivery with any reputable overnight courier service, or (iii) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed to Guarantor or Village, as the case may be, at the addresses set forth on the first page of this Guaranty or addressed as such party may from time to time designate by written notice to the other parties. Either party by notice to the other may designate additional or different addresses for subsequent notices or communications:

if to the Village:

Paul L. Stephanides, Esq.  
Village Attorney  
Village of Oak Park  
123 Madison Street  
Oak Park, IL 60302

With a copy to:

Cara Pavlicek  
Village Manager  
Village of Oak Park  
123 Madison Street  
Oak Park IL 60302-4272

And

Tammie Grossman  
Director Development Customer Services  
Village of Oak Park  
123 Madison Street  
Oak Park, IL 60302

if to Guarantor:

Richard Fisher  
1015 Chicago Avenue  
Evanston, IL 60202

With copy to:

Brian P. Liston, Esq.  
Liston & Tsantilis, P.C.  
33 North LaSalle Street  
Chicago, IL 60602

And

Jay L. Statland, Esq.  
Burke, Warren, MacKay & Serritella, P.C.  
330 North Wabash, 21st Floor  
Chicago, IL 60611

(l) Guarantor has had the benefit of, or has had the opportunity to obtain, legal counsel of its own selection throughout its dealings with the Village and Village attorneys and agents in connection with the negotiation and review of the provisions of this Guaranty. Due to the mutuality in negotiating and preparing this Guaranty, any ambiguity in this Guaranty shall not be construed against or in favor of one party or another.

(m) Guarantor represents that he is aware of the financial condition of Developer, has reviewed the Development Agreement and will derive direct economic benefit from the Village to Developer. Before executing this Guaranty, Guarantor investigated the financial condition and business operations of Developer, the present and former condition, uses and ownership of the Property and such other matters as Guarantor deemed appropriate to assure itself of Developer's ability to discharge its obligations under the Development Agreement. Guarantor assumes full responsibility for that due diligence, as well as for keeping informed of all matters that may affect Developer's ability to pay and perform its obligations to Village. Village has no duty to disclose to Guarantor any information which Village may have or receive about Developer's financial condition or business operations, the condition or uses of the Property or any other circumstances bearing on the Developer's ability to perform.

(n) The individual obligated under this Guaranty, whether as a Guarantor, a partner, shareholder, member or affiliate of Developer, hereby authorizes

Village to check any credit references, verify his/her employment and obtain credit reports from credit reporting agencies of Village's choice in connection with any monitoring, collection or future transaction concerning the Project.

(o) If any term or provision of this Guaranty or the application thereof to any circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Guaranty, or the application of such term or provision to circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Guaranty shall be valid and enforceable to the fullest extent permitted by law.

(p) The Guarantor shall have the right to cure any Event of Default under the Development Agreement; provided that such cure is effected within the applicable grace period or period for cure thereunder or any extensions thereof, if any; and provided further that such cure can be effected in compliance with the Development Agreement.

(q) This Guaranty may be executed in multiple counterparts, and the signature of any party on any counterpart may be attached to any other counterpart; all such signed counterparts shall together comprise a single unified instrument.

(r) Time is of the essence of each and every term herein.

*[Signature Page to Immediately Follow]*



**EXHIBIT 7**

**RESERVED**

**EXHIBIT 8**

**RESERVED**

**EXHIBIT 9**

**FORM OF SALES TAX REBATE SHARING AGREEMENT**

**This Document Prepared by and after  
Recording Return To:**

Darryl R. Davidson, Esq.  
Miller, Canfield, Paddock and Stone, P.L.C.  
225 West Washington Street, Suite 2600  
Chicago, IL 60606  
(312) 460-4210

This Space for Recorder's Use Only

**SALES TAX REBATE SHARING AGREEMENT BY AND BETWEEN  
THE VILLAGE OF OAK PARK, COOK COUNTY, ILLINOIS and  
RRV MOTORCARS II**

DATED AS OF MARCH 16, 2015

**SALES TAX REBATE SHARING AGREEMENT BY AND BETWEEN  
THE VILLAGE OF OAK PARK, COOK COUNTY, ILLINOIS and  
RRV MOTORCARS II**

THIS SALES TAX REBATE SHARING AGREEMENT ("*Agreement*") is made and entered into as of this 16th day of March, 2015 ("*Effective Date*"), by and between the Village of Oak Park, Cook County, Illinois, an Illinois home rule municipal corporation ("*Village*"), and RRV Motorcars II, an Illinois limited liability company ("*Developer*"), and its successors and assigns as owners of the Property and only as authorized pursuant to the conditions set forth in Section 14 of this Agreement

IN CONSIDERATION OF the recitals and mutual covenants and agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Developer and the Village hereby agree as follows:

**SECTION 1. RECITALS.**

A. The Developer is in the process of purchasing auto dealership property in the Village, generally located at 1140 Garfield Street in the Village's Harlem and Garfield Redevelopment Project Area, and legally described in Exhibit A to this Agreement ("*Total Property*").

B. The Developer desires and proposes to acquire and develop a portion of the Total Property (the "*Property*") with an auto dealership facility with approximately 1.47 acres land and 29288 square feet for the building to be used for new and used car sales and service ("*Facility*"), in accordance with the Redevelopment Agreement (as defined in this Agreement).

C. Reserved.

D. The Developer has entered into a Redevelopment Agreement with the Village dated as of March 16, 2015, recorded on March \_\_, 2015, as document number \_\_\_\_\_ ("*Redevelopment Agreement*").

E. The Approving Ordinance and the Redevelopment Agreement set forth the terms and conditions for the development of the Total Property ("*Proposed Development*").

F. The date on which all infrastructure improvements and related requirements of the Redevelopment Agreement are complete, and the Facility is open for business on the Property, is anticipated to be March 17, 2015.

G. As of the Effective Date of this Agreement, the Village receives sales taxes on new vehicles, pre-owned vehicles and parts.

H. The Village has further determined that the redevelopment of the Total Property with auto sales and repair uses will be consistent with the Village's Redevelopment Plan and Project for the Harlem and Garfield Redevelopment Project Area by helping to create a sustainable revenue base for the Village without impairing the Village's ability to deliver high-

quality, cost-effective services, and is likely to result in enhancements to the Village's Harlem and Garfield Redevelopment Project Area.

**I.** The Village has determined that the operation of the Facility on the Property will generate significant sales and property tax revenue for the Village, as well as the school, library, and park districts that serve Village residents, and that the redevelopment of the Property with auto sales and repair uses fits with the Village's Comprehensive Land Use Plan.

**J.** The Developer's investment in the Proposed Development will enhance economic development opportunities for the Village and its residents. Because the upfront costs of the Proposed Development require extraordinary investment by the Developer, the parties acknowledge that various economic incentives, including, without limitation, those provided pursuant to this Agreement, are necessary and desirable to realize the significant economic development benefits of the Proposed Development.

**K.** The President and Board of Trustees of the Village have determined that entering into this Agreement is necessary to ensure the implementation of the Proposed Development of the Property and provide for the related economic development benefits to the Village.

**L.** The Village and the Developer desire to enter into this Agreement, to enable the development, use, and occupancy of the Property in a manner consistent with the Village's Comprehensive Plan, the Approving Ordinance and the Redevelopment Agreement, and in a manner that will enhance the economic vitality of the Village and ensure the unified and proper use and development of the Property in accordance with this Agreement, the Approving Ordinance, and the Redevelopment Agreement.

**M.** The Village has the power and authority to enter into this Agreement pursuant to, but without limitation, the home rule powers of the Village under Section 6, Article VII of the 1970 Constitution of the State of Illinois. Developer has the corporate power and authority to enter into this Agreement.

**SECTION 2. DEFINITIONS.** Whenever used in this Agreement, the following terms shall have the following meanings unless a different meaning is required by the context.

**A.** "Commencement Date" means the date established pursuant to Section 3 of this Agreement.

**B.** "Consumer Price Index" means the Consumer Price Index-All Urban Consumers for the Chicago-Gary-Kenosha Metropolitan Statistical Area for a 12-month period.

**C.** "Corporate Authorities" means the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois.

**D.** "Force Majeure" means a strike, lockout, act of God, or other factor beyond a party's reasonable control and reasonable ability to remedy; provided, however, that Force Majeure shall not include delays caused by weather conditions, unless those conditions are unusually severe or abnormal considering the time of year and the particular location of the Property.

E. "Gross Receipts" shall have the meaning ascribed to it in the Retailers' Occupation Tax Act.

F. "Home Rule Sales Tax" means the sales tax imposed in the Village pursuant to Village's Home Rule Sales Tax Ordinance under the Home Rule Municipal Retailers' Occupation Tax Act, 65 ILCS 5/8-11-1.

G. "Municipal Sales Tax" means that portion or component of the Sales Taxes collected by the Developer from sales generated at the Facility that the Village actually receives from the State of Illinois.

H. "Property" means the property legally described in *Exhibit A* attached hereto and, by this reference, incorporated herein.

I. "Requirements of Law" shall have the meaning set forth in Subsection 4H of this Agreement.

J. "Retailers' Occupation Tax Act" means the Illinois Retailers' Occupation Tax Act, 35 ILCS 120/1 *et seq.*, as the same has been, and may, from time to time hereafter be, amended.

K. "Sales Taxes" means any and all taxes imposed and collected by the State of Illinois pursuant to the Home Rule Sales Tax, the Retailer's Occupation Tax Act, the Service Use Tax Act, 35 ILCS 110/1 *et seq.*, the Service Occupation Tax Act, 35 ILCS 115/1 *et seq.*, and the Use Tax Act, 35 ILCS 105/1 *et seq.*, including, without limitation, a vehicle lease tax that is substituted, in whole or in part, for any or all of the foregoing; and, subject to Section 4D of this Agreement, any other "sales tax" or successor tax that may be enacted by the State of Illinois that the Village is able to verify as being generated from the Facility.

L. "Sales Tax Rebate" means the rebate payment to the Developer of a portion of the Municipal Sales Taxes that the Village receives that it is required to make pursuant to this Agreement.

M. "Sales Tax Year" means the period of time commencing on the Commencement Date and ending on the date that is one year after the Commencement Date, and each of the succeeding years thereafter under this Agreement.

### **SECTION 3. COMMENCEMENT OF SALES TAX REBATE.**

The "Commencement Date" under this Agreement is hereby declared to be the actual date the Developer acquires the Property (assumed to be March 17, 2015).

### **SECTION 4. SALES TAX REBATE.**

A. **Maximum Total Rebate.** In no event shall the Village rebate to the Developer sales tax proceeds for a period greater than the time period set forth in Section 8 hereof. The Sales Tax Rebate includes only those Sales Taxes generated by the Developer's Facility.

**B. Calculation of Sales Tax Rebate.**

1. Sales Tax Rebate Percentages. Beginning on the Commencement Date, the Village shall rebate to the Developer a portion of the Municipal Sales Tax generated by the operations on the Facility as set forth below:

- a. First \$50,000,000 in sales volume generated by the Facility (as mutually agreed by the Village and the Developer) – no Sales Tax Rebate, and
- b. \$50,000,000 in sales volume is exceeded (as mutually agreed by the Village and the Developer) – 50% of Sales Taxes rebated to Developer.

**C. Village Payment.** Within 120 days after the end of the sixth and twelfth month of each Sales Tax Year, the Village shall pay the applicable Sales Tax Rebate for that portion of the particular Sales Tax Year to the Developer, based on the records of the Illinois Department of Revenue. If, for any reason, the State of Illinois fails to distribute the Municipal Sales Tax revenue to the Village in sufficient time for the Village to make the semi-annual payments, the Village shall provide notice of that fact to the Developer. In that event, the Village shall make the required Sales Tax Rebate payment within 60 days after the date on which the Village actually receives the Municipal Sales Tax revenue due the Village for the applicable, semi-annual payment period. If at the end of any Sales Tax Year, there is a need to adjust and reconcile the amount of any semi-annual Sales Tax Rebate payment to account for any provision of this Agreement or to account for the amount of Municipal Sales Tax actually paid by the State of Illinois, the Village and the Developer shall cooperate with each other to accomplish the reconciliation. To the extent necessary in that circumstance, as determined by the Village, the parties agree that the Village may require the Developer to submit such specified financial statements and copies of the applicable State of Illinois Sales Tax Reports from those businesses operating in the Facility as are necessary to verify the amount of Sales Tax collected from operations at the Facility. The Developer shall require any tenants to sign releases authorizing the State of Illinois to issue the reports to the Village. Any information received by the Village from Developer or its tenants under this Agreement shall be kept confidential to the extent allowed by the Requirements of Law.

**D. Change in the Law.**

1. The Village and the Developer acknowledge and agree that the Village's obligation to pay the Sales Tax Rebate to the Developer is predicated on existing State law governing the distribution of Sales Taxes to the Village, including, without limitation, the Retailers' Occupation Tax Act. The Village and the Developer further acknowledge that the General Assembly of the State has, from time to time, considered proposals to modify or eliminate the distribution of Sales Taxes to Illinois municipalities. The Village and the Developer make express provision for the effect of any change upon the operation of this Agreement in Paragraph 2 of this Subsection.

2. In the event that the State of Illinois amends or repeals the Retailers' Occupation Tax Act or makes any other promulgation, enactment, or change that eliminates the distribution of Sales Taxes to the Village, or otherwise alters the distribution formula in a manner that prevents the Village and the Developer from determining with a reasonable degree of certainty the amount of the Municipal Sales Tax ("**Change in Law**"), the provisions of this Agreement with regard to Municipal Sales Tax generated from the Facility on or after the effective date of the Change in Law shall automatically be terminated, and the Village shall have no obligation whatsoever to pay to the Developer any of the Municipal Sales Tax generated on or after the effective date of the Change in Law, subject to the following. If, within the period five years after the effective date of the Change in Law, the State of Illinois effects another Change in Law that either results in the distribution of Sales Taxes to the Village or allows the Village and Developer to determine with a reasonable degree of certainty the amount of the Municipal Sales Tax, the provisions of this Agreement with regard to Municipal Sales Tax generated from the Facility shall automatically be reinstated and will continue for the period necessary for Developer to receive Sales Tax Rebates for the maximum total rebate set forth in Subsection 4A.

However, if a Change in Law results in replacement taxes for the Sales Taxes directly resulting from Gross Receipts at the Facility as contemplated hereunder, then, for purposes of this Agreement, the replacement taxes shall be defined as Sales Taxes, subject in all respects to the Village's actual receipt of its portion of the replacement taxes as well as the Village's authority under state law to provide for rebate of the replacement taxes, as contemplated herein.

If there is a Change in Law, the parties will cooperate with each other to accomplish the intent of this Agreement as set forth in Section 1 of this Agreement.

**E. No Guarantee.** The parties acknowledge and agree that none of the terms, conditions, or provisions of this Agreement shall be construed, deemed, or interpreted as (1) a guarantee that the Village will receive any Sales Taxes as a result of the operation of the Facility on the Property, or (2) a requirement or obligation by the Developer or any of its tenants to generate Gross Receipts from the Property.

**F. Limited Liability.** Notwithstanding any other provision of this Agreement to the contrary, the Village's obligation to pay the Sales Tax Rebate payments shall not be a general debt of the Village or a charge against its general credit or taxing powers, but shall be a special limited obligation payable solely out of the Municipal Sales Tax received by the Village, as specifically defined in Section 2 of this Agreement. The Developer shall have no right to, and agrees that it shall not, compel any exercise of the taxing power of the Village to pay the Sales Tax Rebate payments, and no execution of any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or other property of the Village (unless the Village refuses to make the payment to the Developer in violation of this Agreement). No recourse shall be had for any payment pursuant to this Agreement against any past, present, or future director, member, elected or appointed officer, official, agent, representative, employee, or attorney of the Village in his or her individual capacity.

**G. Closure.**

1. Unless mutually agreed otherwise by the Parties pursuant to an amendment to this Agreement, in the event that, at any time during the term of this Agreement, the Developer permanently abandons, closes, or terminates the use of more than 80% of the square footage of the Facility (subject to Paragraph 4G of this Agreement) ("**Closure**"), then the provisions of this Agreement with regard to Municipal Sales Tax generated from the Facility shall, as of the date of the Closure, automatically terminate and become null and void and be of no further force or effect, and the Village shall have no obligation whatsoever to perform any of the Municipal Sales Tax Rebate obligations in Section 4 of this Agreement with regard to any Sales Tax collected by the Developer in the Sales Tax Year of the Closure.

2. The Developer shall provide the Village with no less than 60 days written notice prior to any Closure, except to the extent any Requirement of Law prohibits Developer from providing 60 days' notice, in which event Developer will provide notice in the minimum time allowed by the Requirements of Law.

3. This Subsection shall not apply to Temporary Closures as defined in Section 8 of this Agreement.

**H. Limitations on Payment of Sales Tax Rebate.** The Developer acknowledges and agrees that the Property must be used and maintained in strict compliance with the Redevelopment Agreement, and all applicable Village codes, ordinances, and regulations (collectively, the "**Requirements of Law**"), and that if the Developer fails to comply in all material respects with the Requirements of Law the Village will suspend payment of the Sales Tax Rebate for the entire period that the Developer is not in material compliance with the Requirements of Law, and the Village will have no further obligation to provide any Sales Tax Rebate to the Developer until the Village determines in its reasonable discretion that the Developer is, during the Term, in material compliance with the Requirements of Law, at which time all suspended payments will be remitted to Developer. A legal nonconformity created as a result of the Village's amendment to the Requirements of Law subsequent to the Commencement Date will not constitute a failure of the Developer to comply with the Requirements of Law.

**SECTION 5. REAL PROPERTY VALUATION.**

The Developer recognizes that the Village has legitimate interests and concerns regarding the valuation and assessment of the Property for real estate tax purposes. Accordingly, the Developer shall notify the Village prior to the commencement or initiation of any protest or appeal by the Developer of the real property valuation of the Property established by the Cook County Assessor.

**SECTION 6. FORCE MAJEURE.**

Whenever a period of time is provided for in this Agreement for either the Developer or the Village to perform any act or obligation, and the Developer or the Village, as the case may be, is unable to perform or complete the act or obligation because of a Force Majeure, then upon the occurrence of the Force Majeure, the time period for the performance and completion of the

acts or obligations shall be extended for a reasonable time to accommodate the delay caused by the Force Majeure.

**SECTION 7. LITIGATION AND DEFENSE OF AGREEMENT.**

**A. Litigation.** If, during the term of this Agreement, any lawsuits or proceedings are filed or initiated against either party before any court, commission, board, bureau, agency, unit of government or sub-unit thereof, arbitrator, or other instrumentality, that may materially affect or inhibit the ability of either party to perform its obligations under, or otherwise to comply with, this Agreement ("**Litigation**"), the party against which the Litigation is filed or initiated shall promptly deliver a copy of the complaint or charge related thereto to the other party and shall thereafter keep the other party fully informed concerning all aspects of the Litigation.

**B. Defense.** The Village and the Developer do hereby agree to use their respective commercially reasonable efforts to defend the validity of this Agreement, and all ordinances and resolutions adopted and agreements executed by such party pursuant to this Agreement, including every portion thereof and every approval given, and every action taken, pursuant thereto. Each party shall have the right to retain its own independent legal counsel, at its own expense, for any matter. The Village and the Developer do hereby agree to reasonably cooperate with each other to carry out the purpose and intent of this Agreement.

**C. Indemnity.** The Developer agrees to, and does hereby, hold harmless and indemnify the Village, the Corporate Authorities, and all Village elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from any and all claims that may be asserted at any time against any of such parties in connection with any claim brought by a third party against any of the parties identified in this paragraph arising out of or relating to this Reimbursement Agreement; provided, however, that the Developer's indemnification obligation shall be reduced to the extent the indemnified claims are caused, if at all, by the willful misconduct or gross negligence on the part of the Village or to the extent the indemnified claims are caused, if at all, by the Village's failure to comply with any material requirement of the Requirements of Law (except if such failure to comply with such Requirements of Law is caused, if at all, by the acts or omissions of Developer, its agents, representatives, or engineers).

**D. Defense Expense.** The Developer shall, and does hereby agree to, pay all reasonable expenses, including legal fees and administrative expenses, incurred by the Village in defending itself with regard to any and all of the claims referenced in Subsection 7.C of this Agreement.

**SECTION 8. TERM.**

**A. General.** This Agreement shall be in full force and effect commencing on the Effective Date and until the Developer receives six (6) years (72 months) in Sales Tax Rebate payments from the Village pursuant to the terms of this Agreement ("**Term**"). This Agreement shall, during its Term, run with and bind the Property and shall inure to the benefit of and be enforceable by the Developer and the Village, and any of their respective permitted legal representatives, heirs, grantees, successors, and assigns.

**B. Temporary Closure.** If the Facility temporarily closes ("*Temporary Closure*") due to renovation of the Facility or damage or Force Majeure, then, in each case, the Term of this Agreement shall be automatically extended for a period equal to the period commencing on the date of the Temporary Closure through the date on which the Facility reopens ("*Temporary Closure Period*"), the Village will continue to make any and all payments during a Temporary Closure Period as required by Subsection 4C of this Agreement.

**SECTION 9. RELEASE OF INFORMATION.**

The Developer agrees to execute and provide all documentation necessary to cause the Illinois Department of Revenue to release to the Village the Sales Tax generated by the Developer from the Property, including copies of State of Illinois Sales Tax Reports, during each of the Sales Tax Years pursuant to applicable State law. Any information received by the Village from Developer under this Agreement shall be kept confidential to the extent allowed by the Requirements of Law.

**SECTION 10. PAYMENT OF VILLAGE FEES AND COSTS.**

During the Term, the Developer shall pay to the Village, as and when due, all application, inspection, and permit fees, and all other fees, charges, and contributions required by applicable Village codes, ordinances, resolutions, rules, or regulations. The preceding sentence does not relieve the Developer from complying with any Requirements of Law.

**SECTION 11. LIABILITY AND INDEMNITY OF VILLAGE.**

**A. No Liability for Village Review.** The Developer acknowledges and agrees (1) that the Village is not, and shall not be, in any way liable for any violations of restrictive covenants applicable to the Property that may occur, or for any damages or injuries that may be sustained, as the result of the Village's review and approval of any plans for the Property, or as a result of the issuance of any approvals, permits, certificates, or acceptances relating to the use and development of the Property; and (2) that the Village's review and approval of any of the plans and the issuance of any of the approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure the Developer, or any of its heirs, successors, assigns, tenants, or licensees, or any third party, against restrictive covenant violations or damage or injury of any kind at any time.

**B. Village Procedures.** To the best of Developer's knowledge all notices, meetings, and hearings have been properly given and held by the Village with respect to the approval of this Agreement. Developer agrees not to challenge any of those actions on the grounds of any procedural infirmity or of any denial of any procedural right.

**C. Indemnity.** The Developer agrees to, and does hereby, hold harmless and indemnify the Village, the Corporate Authorities, all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of those parties in connection with (i) the Village's review and approval of any plans, or the issuance of any approvals, permits, certificates, or acceptances relating to the use and development of the Property; (ii) any actions taken by the Village pursuant to Subsection B of this Section; (iii) the development, construction, and maintenance of

the Property; and (iv) the performance by the Developer of its obligations under this Agreement and all related ordinances, resolutions, or other agreements; provided, however, that Developer's indemnity under this Agreement shall be reduced to the extent the indemnified claims are caused, if at all, by the willful misconduct or gross negligence on the part of the Village or to the extent the indemnified claims are caused, if at all, by the Village's failure to comply with any material requirement of the Requirements of Law (except if such failure to comply with such Requirements of Law is caused, if at all, by the acts or omissions of Developer, its agents, representatives, or engineers).

**D. Defense Expenses.** The Developer shall, and does hereby agree to, pay all expenses incurred by the Village in defending itself with regard to any and all of the indemnified claims identified in Subsection C of this Section. These expenses shall include all out-of-pocket expenses, including attorneys' and experts' fees.

**SECTION 12. ENFORCEMENT.**

**A. Enforcement.** The parties to this Agreement may, in law or in equity, by suit, action, mandamus, or any other proceeding, including without limitation specific performance, enforce or compel the performance of this Agreement, including without limitation an action by Developer for payment of Sales Tax Rebates pursuant to the limitations provided in Section 4 of this Agreement; provided, however, that the Developer agrees that it will not seek, and does not have the right to seek, to recover a judgment for monetary damages against the Village or any past, present, or future director, member, elected or appointed officer, official, agent, representative, employee, or attorney, of the Village on account of the negotiation, execution, or breach of this Agreement. In the event of a judicial proceeding brought by one party to this Agreement against the other party to this Agreement pursuant to this Section, the prevailing party shall be entitled to reimbursement from the unsuccessful party of all costs and expenses, including without limitation reasonable attorneys' fees, incurred in connection with the judicial proceeding.

**B. Notice and Cure.** Neither party may exercise the right to bring any suit, action, mandamus, or any other proceeding pursuant to Subsection A of this Section without first providing written notice to the other party of the breach or alleged breach and allowing 30 business days to cure the breach or alleged breach. If the breach cannot be cured within the 30-business-day period ("*Time for Cure*"), then the Time for Cure shall be extended accordingly, provided that the notified party has promptly commenced to cure the breach and continued to prosecute the cure of the breach with diligence.

**SECTION 13. NATURE, SURVIVAL, AND TRANSFER OF OBLIGATIONS.**

**A. Obligations.** The parties agree that all charges payable pursuant to this Agreement, together with interest and costs of collection, including attorneys' fees, shall constitute both the personal obligation of the party liable for its payment, and the successors of that party.

**B. Binding Effect.** The Developer acknowledges and agrees that this Agreement shall be binding upon the Developer and any and all of the Developer's heirs, successors, permitted assigns, and the successor owners of record of all or any portion of the Property.

**C. Transferee Assumption.** To assure that any potential heir, successor, or permitted assign or successor owner has notice of this Agreement and the benefits and obligations created by it, the Developer agrees:

1. that this Agreement shall be recorded with the Cook County Recorder of Deeds as provided in Subsection 15S of this Agreement;
2. to require, prior to the transfer of a legal or beneficial interest in all or any portion of the Facility or all or any portion of the Property on which the Facility is located the transferee to execute an enforceable transferee assumption agreement in a form acceptable to the Village Attorney ("*Transferee Assumption Agreement*"). The Village agrees that, upon a successor becoming bound to the personal obligation created in this Agreement in the manner provided, the personal liability of the Developer or other predecessor obligor shall be released to the extent of the transferee's assumption of liability and that the transferee will have all the benefits of the Developer hereunder, subject to Subsection F of this Section with regard to the transferability of the right to receive rebates of Municipal Sales Taxes under this Agreement. The Developer agrees to notify the Village in writing at least 30 days prior to the date on which the Developer proposes to transfer a legal or beneficial interest in all or any portion of the Facility or all or any portion of the Property on which the Facility is located to a transferee. The Developer shall, at the same time, provide the Village with a fully executed copy of the Transferee Assumption Agreement. As clarification, no Transferee Assumption Agreement or other Village consent is required under this Agreement to transfer a portion of the Property on which the Facility is not located (but Developer will need to comply with any other generally applicable subdivision or other Requirements of Law).

**D. Transfer Defined.** For purposes of this Agreement, the term "transfer" shall be deemed to include any assignment, transfer, sale, transfer to a receiver or to a trustee in bankruptcy, transfer in trust, or other disposition of the Facility or Property, or any beneficial interest in the Facility or Property, in whole or in part, by voluntary or involuntary sale, foreclosure, restructuring, merger, sale and leaseback, consolidation, or otherwise.

**E. Mortgagees of Property.** This Agreement shall be binding on all mortgagees of the Property or other secured parties automatically upon such mortgagee assuming title to the Property, in whole or in part, by a foreclosure or a deed in lieu of foreclosure without the necessity of executing such assumption agreement. Until such time, however, a mortgagee or other secured party shall have no personal liability hereunder.

F. **Assignments of Right to Municipal Sales Tax Rebates.** It is the express intent of the parties that, except as expressly provided or allowed in this Subsection, this Agreement, and all of the rights and privileges granted pursuant to this Agreement with regard to rebates of Municipal Sales Taxes ("***Rebate Rights***"), are for the sole and exclusive benefit of the Developer. In the event that the Developer does, or attempts to, voluntarily or involuntarily transfer its interest in the Facility or any portion of the Property on which the Facility is located, in whole or in part, the Rebate Rights will remain with the Developer, unless requested otherwise by the Developer and approved by the Village. The Village agrees that its consent is not required under this Agreement with regard to a transfer to an affiliate of the Developer or one of the permitted assigns described in Section 19.20 of the Redevelopment Agreement, provided that (i) the Developer provides the Village with 60 days advance notice of the transfer and (ii) the transfer complies with the other provisions of this Section including Subsection C.

**SECTION 14. REPRESENTATIONS AND WARRANTIES.**

A. **By the Village.** The Village represents, warrants and agrees as the basis for the undertakings on its part contained in this Agreement that:

1. The Village is a municipal corporation duly organized and validly existing under the law of the State of Illinois and has all requisite corporate power and authority to enter into this Agreement;

2. The execution, delivery and the performance of this Agreement and the consummation by the Village of the transactions provided for herein and the compliance with the provisions of this Agreement: (i) have been duly authorized by all necessary municipal action on the part of the Village; (ii) require no other consents, approvals or authorizations on the part of the Village in connection with the Village's execution and delivery of this Agreement; and (iii) shall not, by lapse of time, giving of notice or otherwise, result in any breach of any term, condition or provision of any indenture, agreement or other instrument to which the Village is subject; and

3. To the best of the Village's knowledge, there are no proceedings pending or threatened against or affecting the Village or the Property in any court or before any governmental authority that involves the possibility of materially or adversely affecting the ability of the Village to perform its obligations under this Agreement.

B. **By the Developer.** In order to induce the Village to enter into this agreement and to adopt the ordinances and grant the rights herein provided for, the Developer hereby warrants and represents to the Village as follows:

1. The Developer is a duly organized, validly existing corporation or limited liability company in good standing under the laws of the State of its incorporation and is qualified to do business in Illinois.

2. The Developer has the corporate authority and the legal right to make, deliver, execute, and perform this Agreement and has taken all necessary corporate actions necessary to authorize the execution, delivery, and performance of this Agreement.

3. All necessary consents of any Board of Directors, shareholders, creditors, investors, partners, judicial, or administrative bodies, governmental authorities, or other parties including specifically, but without limitation regarding the execution and delivery of this Agreement have been obtained.

4. The consent or authorization of, filing with, or other act by or in respect of any governmental authority (other than the Village, and the State of Illinois with respect to distribution of Sales Taxes) is required in connection with the execution, delivery, performance, validity, or enforceability of this Agreement.

5. The individuals executing this Agreement on behalf of the Developer have the power and authority to execute and deliver this Agreement on behalf of the Developer.

6. The execution, delivery, and performance of this Agreement (i) is not prohibited by any Requirement of Law or under any contractual obligation of the Developer; (ii) will not result in a breach or default under any agreement to which the Developer is a party or to which the Developer, in whole or in part, is bound; and (iii) will not violate any restriction, court order, or agreement to which the Developer or/and the Property, in whole or in part, is or are subject.

## **SECTION 15. GENERAL PROVISIONS.**

**A. Entire Agreement and Release of Claims.** This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements and negotiations and understandings between the parties, whether written or oral, relating to the subject matter of this Agreement. The Developer does hereby release and waive any and all claims and causes of action that it had or may have had against the Village related to or resulting from any past written or oral agreements, negotiations, understandings, or prior policies of the Village, or any actions that the Village may have taken or failed to take, relating to the subject matter of this Agreement.

**B. Amendments and Modifications.** No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved and executed by all parties to this Agreement in accordance with all applicable statutory procedures.

**C. Notices.** Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier, or (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Unless otherwise provided in this Agreement, notices shall be deemed received after the first to occur of (a) the date of actual receipt; or (b) the date that is one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (b) the date that is three business days after deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section, each party to this Agreement shall have the right to change the address or the addressee, or both, for all future notices and communications to them, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to the Village shall be addressed to, and delivered at, the following address:

Village President  
Village of Oak Park  
123 Madison Street  
Oak Park, IL 60302

With a copy to:

Village Manager  
Village of Oak Park  
123 Madison Street  
Oak Park, IL 60302

Village Attorney  
Village of Oak Park  
123 Madison Street  
Oak Park, IL 60302

Notices and communications to the Developer shall be addressed to, and delivered at, the following address:

RRV Motorcars II  
1140 Garfield Street  
Oak Park, IL 60302  
Attn: Richard A. Fisher

With a copy to:

Jay L. Statland, Esq.  
Burke, Warren, MacKay & Serritella, P.C.  
330 North Wabash, 21st Floor  
Chicago, IL 60611

Brian Liston, Esq.  
Liston & Tsantilis, PC  
33 North LaSalle Street, 28<sup>th</sup> Floor  
Chicago, IL 60602

**D. Governing Law.** This Agreement shall be governed by, and enforced in accordance with, the internal laws, but not the conflict of laws rules, of the State of Illinois.

**E. Interpretation.** This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or

construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

F. **Change in Laws.** Except as otherwise explicitly provided in this Agreement, any reference to laws, ordinances, rules, or regulations of any kind shall include the laws, ordinances, rules, or regulations of any kind as they may be amended or modified from time to time hereafter.

G. **Headings.** The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.

H. **Time of Essence.** Time is of the essence in the performance of this Agreement.

I. **No Third Party Beneficiaries.** Except as expressly provided in this Agreement, no claim as a third party beneficiary under this Agreement by any person, firm, or corporation shall be made or valid against the Village.

J. **Severability.** If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

K. **Calendar Days and Time.** Unless otherwise provided in this Agreement, any reference in this Agreement to "day" or "days" shall mean calendar days and not business days, except where expressly provided. If the date for giving of any notice required to be given, or the performance of any obligation, under this Agreement falls on a Saturday, Sunday, or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday, or federal holiday.

L. **Exhibit.** Exhibit A is attached to this Agreement, and by this reference incorporated in and made a part of, this Agreement. In the event of a conflict between an Exhibit and the text of this Agreement, the text of this Agreement shall control.

M. **Counterparts.** This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

N. **Waiver.** Neither the Village nor the Developer shall be under any obligation to exercise any of the rights granted to them in this Agreement except as it shall determine to be in its best interest from time to time. The failure of the Village or the Developer to exercise at any time any of those rights shall not be deemed or construed as a waiver of that right, nor shall the failure void or affect the Village's or the Developer's right to enforce those rights or any other rights.

O. **Rights Cumulative.** Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement

shall be cumulative and shall not be exclusive of any other rights, remedies, and benefits allowed by law.

**P. Consents.** Unless otherwise provided in this Agreement, whenever the consent, permission, authorization, approval, acknowledgement, or similar indication of assent of any party to this Agreement, or of any duly authorized officer, employee, agent, or representative of any party to this Agreement, is required in this Agreement, the consent, permission, authorization, approval, acknowledgement, or similar indication of assent shall be in writing.

**Q. Grammatical Usage and Construction.** In construing this Agreement, pronouns include all genders and the plural includes the singular and vice versa.

**R. Authority to Execute.** The Village hereby warrants and represents to the Developer that the persons executing this Agreement on its behalf have been properly authorized to do so by the Corporate Authorities. The Developer hereby warrants and represents to the Village that (1) it has the full and complete right, power, and authority to enter into this Agreement and to agree to the terms, provisions, and conditions set forth in this Agreement; and (2) it has taken all legal actions needed to authorize the execution, delivery, and performance of this Agreement.

**S. Recording.** After the execution of this Agreement, the Village shall promptly cause this Agreement to be recorded in the office of the Recorder of Cook County, Illinois.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

ATTEST:

**VILLAGE OF OAK PARK**  
Cook County, Illinois

\_\_\_\_\_  
Village Clerk

\_\_\_\_\_  
Village Manager

ATTEST:

**RRV MOTORCARS II**

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_



**EXHIBIT A**  
Legal Description of the Property

**EXHIBIT 10**

**PROJECT SALES FORECAST**

23854961.7\135456-00006



# richard fisher dealerships

alfa romeo evanston fiat evanston mazda evanston nissan evanston  
volvo oak park volkswagen chicago volkswagen evanston

## The Autobarn Volvo of Oak Park

### Sales Forecast - Updated

<u>Year</u>	<u>Gross Annual Sales</u>	<u>New Car Sales</u>	<u>Used Car Sales</u>
2015 (April -)	\$27.5M	300	650
2016	\$35.0M	440	800
2017	\$40.0M	475	900
2018	\$42.5M	500	925
2019	\$47.5M	525	900
2020	\$50.0M	525	950
2021	\$50.0M	525	950
2022	\$50.0M	525	950
2023	\$52.5M	525	975
2024	\$52.5M	525	975
2025	\$55.0M	525	1000



Alfa Romeo of Evanston  
1034 Chicago Ave.  
Evanston, IL 60202  
847.866.7100



Fiat of Evanston  
1034 Chicago Ave.  
Evanston, IL 60202  
847.866.7100



Mazda of Evanston  
1015 Chicago Ave.  
Evanston, IL 60202  
847.866.9666



Nissan of Evanston  
1012 Chicago Ave.  
Evanston, IL 60202  
847.475.8200



Chicago Volkswagen  
5330 W. Irving Park Rd.  
Chicago, IL 60641  
773.794.7800



Volkswagen of Evanston  
1033 Chicago Ave.  
Evanston, IL 60202  
847.866.7600



Volvo of Oak Park  
1140 Garfield St.  
Oak Park, IL 60304  
708.786.6582