

RETURN RECORDED DOCUMENT TO:

Garff Properties-Orem, LLC
Attn: Michael D. Creer
111 E. Broadway, Suite 900
Salt Lake City UT 84111

ENT 31405 : 2018 PG 1 of 7
Jeffery Smith
Utah County Recorder
2018 Apr 04 09:17 AM FEE 27.00 BY VP
RECORDED FOR Ken Garff Automotive Group
ELECTRONICALLY RECORDED

CROSS ACCESS EASEMENT

THIS CROSS ACCESS EASEMENT (the "Easement") is executed this 3rd day of April, 2018, by GARFF PROPERTIES-OREM, LLC, a Utah limited liability company ("GP-Orem").

A. GP-Orem is the owner of certain parcels of real property located in the City of Orem, Utah County, and which encompass the Ken Garff Honda of Orem and Ken Garff Volkswagen dealerships. These parcels are collectively referred to as the "Property" and are more particularly described on Exhibit A, which is attached hereto and incorporated herein by this reference.

B. GP-Orem desires to establish a certain non-exclusive cross access easement over, across and upon its Property for the express purpose of access, ingress and egress for both the benefit and burden of each parcel of the Property describe on Exhibit A.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, GF hereby agrees as follows:

1. **DEFINITIONS.** For purposes hereof:

1.1 The term "Owner" or "Owners" shall mean GP-Orem and all successors or assigns of such persons as the owner or owners of fee simple title to all or any portion of the Property, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on the Property or any portion thereof.

1.2 The term "Permittees" shall mean the tenants or occupants of the Property, and the respective employees, agents, contractors, customers, invitees and licensees of: (a) the Owners of such Property, and/or (b) such tenant(s) or occupant(s).

2. **CROSS ACCESS EASEMENT.** Subject to any express conditions, limitations or reservations contained herein, GP-Orem hereby grants, establishes, covenants and agrees that all Owners and Permittees of the Property shall be benefited by a reciprocal,

perpetual, year-round, non-exclusive, rent-free easement ("Easement") for ingress and egress to, from, and through the Property, and to and from all public roads on, over and across all vehicular access ways that currently exist on the Property. This Easement shall not, however, prohibit the right of the Owner to reconfigure any such vehicular access ways so long as it does not unreasonably prevent the passage by motor vehicles between and among the Property and to and from public roads. The Easement shall be used and enjoyed by each Owner and its Permittees in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of the Owner or its Permittees at any time conducted on the Property.

3. **CONSTRUCTION, MAINTENANCE AND REPAIR.** Each Owner shall be responsible for the construction and improvement of that portion of the access ways located on its portion of the Property. Each Owner shall be responsible, at its own cost, for the regular maintenance, repair and replacement of all Easement areas located on its portion of the Property including, without limitation, all the physical improvements associated with such easements.

4. **REMEDIES AND ENFORCEMENT.**

4.1 **All Legal and Equitable Remedies Available.** In the event of a default or threatened default by any Owner or its Permittees of any of the terms, easements, covenants, conditions or restrictions hereof, the other Owner(s) shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance.

4.2 **Remedies Cumulative.** The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

5. **MISCELLANEOUS.**

5.1 **Amendment.** Except as expressly provided in this Easement otherwise, this Easement may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of the Property, evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the official records of the Recorder's Office in the County in which the Property is located.

5.2 **No Waiver.** No waiver of any default of any obligation by a party shall be implied from any omission by any other party to take any action with respect to such default.

5.3 **No Agency.** Nothing in this Easement shall be deemed or construed by any person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between any persons.

5.4 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the Property and create equitable servitudes in favor of the Property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the parties and their respective successors, assigns, heirs, and personal representatives.

5.5 Grantee's Acceptance. The grantee of the Property, or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from Owner or from any subsequent Owner of such Property, or any portion thereof, shall accept such deed or contract upon and subject to each and all easements, covenants, conditions, restrictions, duties and obligations contained herein. By such acceptance, any such grantee shall for itself and its successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other affected persons, to keep, observe, comply with, and perform the obligations and Easements set forth herein with respect to the portion of the Property so acquired by such grantee.

5.6 Severability. Each provision of this Easement and the application thereof to the Property are hereby declared to be independent of and severable from the remainder of this Easement. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Easement. In the event the validity or enforceability of any provision of this Easement is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of all the Property by the same person or entity shall not terminate this Easement nor in any manner affect or impair the validity or enforceability of this Easement.

5.7 Governing Law. The laws of the State of Utah shall govern the interpretation, validity, performance, and enforcement of this Easement.

5.8 Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of the Property, this Easement shall, to the maximum extent permitted by law, be considered an Easement that runs with the affected Property and that is not rejectable, in whole or in part, by the bankrupt person or entity.

5.9 Benefits to Permittees. Notwithstanding anything contained herein to the contrary, any provision creating a right or benefit for an Owner shall be deemed to also create a similar right or benefit for such Owner's tenants and subtenants.

[Signatures to Follow]

IN WITNESS WHEREOF, CGP and TIM have executed this Easement as of the date first written above.

GARFF PROPERTIES-OREM, LLC

By: 

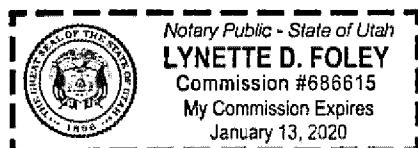
Print Name: John K. Garff

Its: Manager

STATE OF UTAH)
: ss
COUNTY OF SALT LAKE)

On the 3 day of April, 2018, personally appeared before me John K. Garff, the Manager of Garff Properties-Orem, LLC, a Utah limited liability company, and the signer of the foregoing instrument, who duly acknowledged to me that he/she executed the same on behalf of said company for its stated purpose.

Witness my hand and official seal.



lynnette D. Foley
Notary Public

EXHIBIT A
(Description of Property)

Parcel Nos. 19-014-0079, 19-014-0080, 19-014-0081, 19-014-0109, 19-14-0112

(see attached legal descriptions)

EXHIBIT A
PROPERTY DESCRIPTION

PARCEL 1:

Commencing at a point on the South line of 1200 South Street, Orem, Utah, which point is South 89°25'10" East along the section line 990.00 feet and South 00°45'10" East 17.68 feet from the Northwest corner of Section 28, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 535.98 feet, more or less, to the North line of University Parkway; thence South 89°13' East 317.76 feet, more or less, to the West line of a street deeded to Orem City in Book 1397 at Page 413 of official records; thence along the West line of said street 00°42' West 403.07 feet; thence South 87°55'20" West along a fence line 94.72 feet; thence North 00°35'22" East 138.49 feet, more or less, to the South line of 1200 South Street; thence along said street North 89°25'10" West 219.56 feet to the point of beginning.

LESS AND EXCEPTING a parcel of real property located in the Northwest quarter of Section 28, Township 6 South, Range 2 East, Salt Lake Base and Meridian, and more particularly described as follows:

Commencing at a point which is South 89°24'57" East 1307.98 feet along the section line and South 554.70 feet from the Northwest corner of Section 28, Township 6 South, Range 2 East, Salt Lake Base and Meridian, to the point of beginning (which point is the Southeast corner of a parcel of land described by a Corrective Special Warranty Deed known as Entry No. 22889:2005 on record in the Utah County Recorder's office); thence North 00°42'00" West 175.62 feet; thence South 11°50'08" West 26.89 feet; thence South 10°02'00" East 138.54 feet; thence along a non-tangential curve to the right, the radius is 20.00 feet, the arc length is 11.24 feet, the chord bearing is South 16°06'03" West, the chord length is 11.09 feet; thence South 89°13'00" East 8.24 feet to the point of beginning.

PARCEL 2:

Commencing South 40.62 feet and East 1209.65 feet from the Northwest corner of Section 28, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 88°45'33" East 110.01 feet; thence South 00°35'22" West 68.68 feet; thence West 16.60 feet; thence South 00°42'00" East 83.33 feet; thence South 87°55'20" West 94.71 feet; thence North 00°35'22" East 127.81 feet to the point of beginning.

PARCEL 3:

Commencing at a point on the South line of 1200 South Street, Orem, Utah, which point is South 32.31 feet and East 1320.00 feet from the Northwest corner of Section 28, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 10.70 feet; thence North 88°45'33" West 80.02 feet; thence North 10.04 feet; thence South 89°14'08" East 80.01 feet to the point of beginning.

LESS AND EXCEPTING THEREFROM that portion, if any, lying within 200 East Street, Orem, Utah.

PARCEL 4:

Commencing at a point on the South line of 1200 South Street, Orem, Utah, which point is South 30.89 feet and East 1209.74 feet from the Northwest corner of Section 28, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 89°23'10" East 30.35 feet; thence South 10.07 feet; thence North 88°45'33" West 30.46 feet; thence North 00°35'22" East 9.73 feet to the point of beginning.

EXHIBIT A
(PROPERTY DESCRIPTION)

PARCEL 1:

Beginning at a point on the North line of University Parkway, said point being South 00°44'08" East 552.50 feet along the section line to the North line of said University Parkway and South 89°13'06" East 597.40 feet along the North line of said University Parkway from the Northwest corner of Section 26, Township 6 South, Range 2 East, Salt Lake Base and Meridian and running thence North 00°47'00" East 431.59 feet; thence North 89°15'52" East 167.79 feet; thence South 01°48'48" West 76.64 feet; thence East 214.47 feet; thence South 362.36 feet to the North line of University Parkway; thence North 89°13'06" West 385.76 feet along the North line of University Parkway to the point of beginning.

PARCEL 1A:

Easement Rights as set forth in the Amended and Restated Cross Easement Agreement, and the terms, conditions, limitations and obligations imposed thereby, between NFT Transportation, Inc., a Utah corporation and Granite Furniture, Inc., a Utah corporation recorded January 28, 1998 as Entry No. 7859 in Book 4504 at Page 580.

Parcel No. 19-014-0109