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Deed of Trust Amendment



REF165340005A

This Deed of Trust Amendment ("Amendment") is dated as of April 1, 2019, between Garff Wade Properties, LLC ("GWP") and Ken Garff Enterprises, LLC ("KGA" and collectively with GWP, the "Trustor"), successor by merger to Garff-Warner Automotive Group, LLC ("GWAP"), whose addresses are 111 E. Broadway, Suite 900, Salt Lake City, UT 84111 and 405 S. Main Street, Suite 1200, Salt Lake City, UT 84101, respectively, and JPMorgan Chase Bank, N.A., whose address is 201 N. Central Ave., Floor 26, Phoenix, AZ 85004-0073 and its successors and assigns (the "Beneficiary").

The Trustor and GWAP previously executed and delivered to Douglas Kroiss, as trustee for the benefit of the Beneficiary, a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated January 25, 2005 and recorded on February 7, 2005 in Book 12498:2005, Page 1-13, Utah County Records (as amended and replaced from time to time, the "Deed of Trust").

On or about August 15, 2018, GWAP merged with and into Ken Garff Enterprises, LLC. On May 7, 2019, 2019, KGA recorded a Warranty Deed with the Utah County Recorder as Document No. 39623:2019, pursuant to which GWAP deeded Parcel 2 of the Premises (defined herein) to KGA.

The Deed of Trust encumbers the real property, and all the buildings, structures and improvements on it, described as:

Located in the City of Orem, County of Utah, State of Utah:

See Exhibit "A" Attached Hereto and Made a Part Hereof for All Purposes Intended,

(the "Premises").

Commonly known as 285 W. University Parkway, Orem, Utah 84058.

The Trustor and Beneficiary desire to amend the Deed of Trust to secure additional obligations of GWP to the Beneficiary.

Therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Trustor and the Beneficiary agree as follows:

1. The Deed of Trust is hereby amended by amending and restating section 2.1 of the Deed of Trust and replacing it with the following::

2.1 Payment of the "Liabilities." The term "Liabilities" means all indebtedness, liabilities and obligations of every kind and character of each "Borrower" (identified in this paragraph below) to the Beneficiary, whether the indebtedness, liabilities and obligations are individual, joint or several, contingent or otherwise, now or hereafter existing, including, without limitation, all liabilities, interest, costs and fees, arising under or from any note, open account, overdraft, credit card, lease, Rate Management Transaction, letter of credit application, endorsement, surety agreement, guaranty, acceptance, foreign exchange contract or depository service contract, whether payable to the Beneficiary or to a third party and subsequently acquired by the Beneficiary, any monetary obligations (including interest) incurred or accrued during the pendency of any bankruptcy, insolvency, receivership or other similar proceedings, regardless of whether allowed or allowable in such proceeding, and all renewals, extensions, modifications, consolidations, rearrangements, restatements, replacements or substitutions of any of the foregoing. The Trustor and the Beneficiary specifically contemplate that Liabilities include indebtedness hereafter incurred by the Borrower to the Beneficiary. The term "Liabilities" includes, without limitation, the following:

(1) That certain Term Note, dated April 1, 2019 (the "Note") in the original principal amount Two Million Two Hundred Eighty-Four Thousand Four Hundred Seventy-Six and 00/100 Dollars (\$2,284,476.00), executed and delivered by Garff Wade Properties, LLC to the Beneficiary, which Note evidences a modification of indebtedness evidenced by that certain Term Note, dated January 26, 2015 in the original principal amount Three Million Ninety-One Thousand Seven Hundred Seventy-Two and 21/100 Dollars (\$3,091,772.21), executed and delivered by Garff Wade Properties, LLC and Garff-Warner Automotive Group, LLC to the Beneficiary, which Term Note evidences a modification indebtedness evidenced by that certain Term Note, dated January 25, 2005 in the original principal amount Four Million Three Hundred Sixty Thousand and 00/100 Dollars (\$4,360,000.00), executed and delivered by Garff-Warner Automotive Group, LLC to the Beneficiary; and

(2) The performance of all of the promises and agreements contained in this Deed of Trust.

2. The Trustor will execute and deliver all further instruments, and shall take all other actions, as in the sole opinion of the Beneficiary are necessary or desirable to effect the intent of this Amendment.

3. Except as amended by this Amendment, all terms of the Deed of Trust are confirmed and ratified by the Trustor and the Beneficiary as if they were fully set forth in this Amendment.

4. Governing Law and Venue. This Amendment shall be governed by and construed in accordance with the laws of the State of Utah (without giving effect to its laws of conflicts); provided, however, that if the real estate that is the subject of this Amendment is located in another state, the laws of such other state shall govern the validity, enforceability, perfection, priority, construction, effect, enforcement and remedies with respect to this Amendment, but nothing herein shall be construed to provide that the laws of any state other than the State of Utah shall apply to the obligations and indebtedness secured by this Amendment. The Trustor agrees that any legal action or proceeding with respect to any of its obligations under this Amendment may be brought by the Beneficiary in any state or federal court located in the State of Utah, as the Beneficiary in its sole discretion may elect. By the execution and delivery of this Amendment, the Trustor submits to and accepts, for itself and in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of those courts. The Trustor waives any claim that the State of Utah is not a convenient forum or the proper venue for any such suit, action or proceeding.

5. WAIVER OF SPECIAL DAMAGES. THE TRUSTOR WAIVES, TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, ANY RIGHT THE UNDERSIGNED MAY HAVE TO CLAIM OR RECOVER FROM THE BENEFICIARY IN ANY LEGAL ACTION OR PROCEEDING ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES.

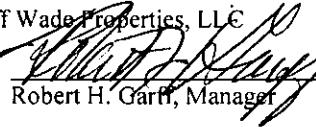
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JURY WAIVER. TO THE MAXIMUM EXTENT NOT PROHIBITED BY APPLICABLE LAW, THE TRUSTOR AND THE BENEFICIARY (BY THEIR ACCEPTANCE HEREOF) HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) BETWEEN THE TRUSTOR AND THE BENEFICIARY ARISING OUT OF OR IN ANY WAY RELATED TO THIS DOCUMENT. THIS PROVISION IS A MATERIAL INDUCEMENT TO THE BENEFICIARY TO PROVIDE THE FINANCING DESCRIBED HEREIN.

Trustor:

Garff Wade Properties, LLC

By:


Robert H. Garff, Manager

Ken Garff Enterprises, LLC (as successor to Garff-Wade
Automotive Group, LLC

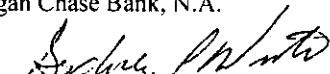
By:


John K. Garff, Chief Operating Officer
President

Beneficiary:

JPMorgan Chase Bank, N.A.

By:

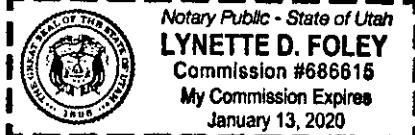

Sydney P. Winter, Executive Director

ACKNOWLEDGMENT

State of Utah)
 County of Salt Lake) ss

The foregoing instrument was acknowledged before me on May 28, 2019, by Robert H. Garff,
Manager of Garffwide Properties, LLC

Given under my hand and notarial seal this 28 day of May, 2019.

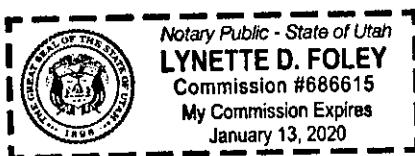


Lynette D. Foley, Notary Public
 My Commission expires: 1-13-2020

State of Utah)
 County of Salt Lake) ss

The foregoing instrument was acknowledged before me on May 28, 2019, by John H. Garff,
President of Ken Garff Enterprises, LLC

Given under my hand and notarial seal this 28 day of May, 2019.



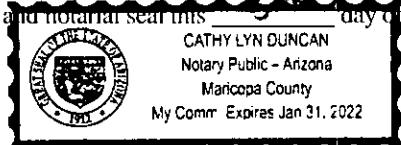
Lynette D. Foley, Notary Public
 My Commission expires: 1-15-2020

ACKNOWLEDGMENT

State of Arizona)
County of Maricopa) ss

The foregoing instrument was acknowledged before me on June 5th, 2019, by Sydney F. Winters
Executive Director J.P. Morgan Chase

Given under my hand and notarial seal this _____ day of



June, 2019.

Cathy D, Notary Public
My Commission expires: 1-31-2022

State of _____)
County of _____) ss

The foregoing instrument was acknowledged before me on _____, 20____, by _____

Given under my hand and notarial seal this _____ day of _____, 20____.

_____, Notary Public
My Commission expires: _____

Exhibit "A" (Legal Description)**Parcel No. 1:**

Commencing at a point located South 89° 08' 12" East along the Section line 671.43 feet and South 79.168 feet from the North quarter corner of Section 27, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 89° 53' 08" East along a fence 118.57 feet; thence South 89° 36' 34" East along a fence 93.13 feet; thence South 89° 49' 44" East along a fence 204.45 feet; thence South 04° 05' 45" West 261.55 feet; thence North 89° 59' 06" West 3.00 feet; thence South 06° 53' 54" West 83.54 feet; thence South 84° 19' 11" East 4.70 feet; thence South 01° 51' 54" West 16.78 feet; thence North 89° 04' 02" West along the North line of 1400 South Street 383.37; thence along the arc of a 56.00 foot radius curve to the left 16.58 feet (chord bears South 82° 27' 07" West 16.52 feet); thence North 01° 46' 55" East along a fence 358.17 feet to the point of beginning.

The following is shown for information purposes only: (19:028:0075 & 19:028:0076)

Parcel No. 2:

Commencing at a point in the South boundary of University Parkway, Orem, Utah, said point being located South 89° 08' 17" East along the Section line 657.62 feet and South 721.01 feet from the North quarter corner of Section 27, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence along the South boundary of University Parkway as follows: North 87° 52' 38" East 0.45 feet, North 86° 11' 21" East 16.39 feet, North 81° 54' 25" East 81.00 feet, North 89° 59' 50" East 243.15 feet; thence South 05° 23' 36" West along a fence line 98.93 feet; thence North 89° 49' 44" West partially along a fence line 204.45 feet; thence North 89° 36' 34" West along a fence line 93.13 feet; thence South 01° 46' 55" West along a fence line 358.17 feet; thence along the arc of a 56.00 foot radius curve to the left 18.01 feet (chord bears South 64° 45' 32" West 17.93 feet); thence North 01° 46' 43" East 436.73 feet to the point of beginning.

The following is shown for information purposes only: 19:028:0076

Excluding:

A parcel of land in fee, being part of an entire tract of property, situate in the Northwest Quarter of the Northeast Quarter of Section 27, Township 6 South, Range 2 East, Salt Lake Base and Meridian, for the construction of improvements incident to the Provo-Orem Transportation Improvement Project, known as project number S-0265(23)3.

Beginning at a point on the Northerly boundary line of said entire tract, which point is on the Southerly right of way and limited access line of State Route 265 (University Parkway), which point is also 657.62 feet South 89° 08' 17" East along the section line and 721.01 feet South and 82.51 feet North 82° 25' 50" East from the North quarter corner of said Section 27, which point is also 88.00 feet perpendicularly distant Southerly from the control line of said project, opposite Engineer Station 121+77.54 and is designated as point "C"; thence along said boundary, right of way and limited access line the following two (2) courses; (1) North 81° 54' 25" East (North 82° 02' 07" East measured) 118.44 feet; (2) North 89° 59' 50" East 243.15 feet (South 89° 13' 24" East 239.94 feet measured), more or less to the Northeast corner of said entire tract; thence along the Easterly boundary line of said entire tract South 05° 23' 36" West 14.05 feet to a point which is 84.00 feet perpendicularly distant Southerly from the control line of said project, opposite approximate Engineer Station 125+33.41 and is designated as point "F"; thence North 89° 13' 24" West 188.68 feet to a point which is 84.00 feet perpendicularly distant Southerly from the control line of said project, opposite Engineer Station 123+44.73; thence South 83° 39' 06" West 32.25 feet to a point which is 88.00 feet perpendicularly distant Southerly from the control line of said project, opposite Engineer Station 123+12.73; thence North 89° 13' 24" West 15.91 feet to a point which is 88.00 feet perpendicularly distant Southerly from the control line of said project, opposite Engineer Station 122+96.82 and is designated as point "E" thence North 89° 13' 24" West 35.00 feet to a point which is 88.00 feet perpendicularly distant Southerly from the control line of said project, opposite Engineer Station 122+61.82 and is designated as point "D"; thence North 89° 13' 24" West 84.28 feet, more or less, to the point of beginning as sown on the official map of said project on file at the office of the Utah Department of Transportation.

Also known as:

Commencing at a point in the South boundary of University Parkway, Orem, Utah, said point being located South 89° 08' 17" East along the Section line 657.62 feet and South 721.01 feet from the North quarter corner of Section 27, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence along the South boundary line of University Parkway as follows: North 87° 52' 38" East 0.45 feet, North 86° 11' 21" East 16.39 feet, North 81° 54' 25" East 181.10 feet, North 89° 59' 50" East 243.15 feet; thence South 05° 23' 36" West along a fence line 98.93 feet; thence South 04° 05' 45" West 261.55 feet; thence North 89° 59' 06" West 3.00 feet; thence South 06° 53' 54" West 83.54 feet; thence South 84° 19' 11" East 4.70 feet; thence South 01° 51' 54" West 16.78 feet; thence North 89° 04' 02" West along the North line of 1400 South Street 383.37 feet; thence along the arc of a 56.00 foot radius curve to the left 34.59 feet (chord bears South 73° 13' 27" West 34.04 feet); thence North 01° 46' 43" East 436.73 feet to the point of beginning.

The following is shown for information purposes only: 19:028:075 and 19:028:0076

Excluding:

A parcel of land in fee, being part of an entire tract of property, situate in the Northwest Quarter of the Northeast Quarter of Section 27, Township 6 South, Range 2 East, Salt Lake Base and Meridian, for the construction of improvements incident to the Provo-Orem Transportation Improvement Project, known as project number S-0265(23)3.

Beginning at a point on the Northerly boundary line of said entire tract, which point is on the Southerly right of way and limited access line of State Route 265 (University Parkway), which point is also 657.62 feet South 89° 08'17" East along the section line and 721.01 feet South and 82.51 feet North 82° 25'50" East from the North quarter corner of said Section 27, which point is also 88.00 feet perpendicularly distant Southerly from the control line of said project, opposite Engineer Station 121+77.54 and is designated as point "C"; thence along said boundary, right of way and limited access line the following two (2) courses; (1) North 81°54' 25" East (North 82°02' 07" East measured) 118.44 feet; (2) North 89°59'50" East 243.15 feet (South 89°13'24" East 239.94 feet measured), more or less to the Northeast corner of said entire tract; thence along the Easterly boundary line of said entire tract South 05°23'36" West 14.05 feet to a point which is 84.00 feet perpendicularly distant Southerly from the control line of said project, opposite approximate Engineer Station 125+33.41 and is designated as point "F"; thence North 89°13'24" West 188.68 feet to a point which is 84.00 feet perpendicularly distant Southerly from the control line of said project, opposite Engineer Station 123+44.73; thence South 83°39'06" West 32.25 feet to a point which is 88.00 feet perpendicularly distant Southerly from the control line of said project, opposite Engineer Station 123+12.73; thence North 89°13'24" West 15.91 feet to a point which is 88.00 feet perpendicularly distant Southerly from the control line of said project, opposite Engineer Station 122+96.82 and is designated as point "E" thence North 89°13'24" West 35.00 feet to a point which is 88.00 feet perpendicularly distant Southerly from the control line of said project, opposite Engineer Station 122+61.82 and is designated as point "D"; thence North 89°13' 24" West 84.28 feet, more or less, to the point of beginning as sown on the official map of said project on file at the office of the Utah Department of Transportation.