

MISC 2012111518



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Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
11/01/2012 16:37:25.00



2012111518

Return to: Brandon S. Connick
PO Box 790
Grand Island NE 68802-0790

DEED OF TRUST MODIFICATION AGREEMENT

THIS DEED OF TRUST MODIFICATION AGREEMENT ("Deed of Trust Modification") is executed as of October 22, 2012, by and between NISSAN OF OMAHA, LLC, a Delaware Limited Liability Company ("Trustor"), and WELLS FARGO BANK, NATIONAL ASSOCIATION ("Beneficiary").

RECITALS

A. Trustor owns the following described real property ("Property"):

Lot 5, in West Dodge Place, a Subdivision, as surveyed, platted and recorded, in Douglas County, Nebraska ("Tract 1"); and

Lot 6, in West Dodge Place, a Subdivision, as surveyed, platted and recorded, in Douglas County, Nebraska, EXCEPT that part thereof conveyed to The State of Nebraska, Department of Roads, included within the following described tract:

A tract of land located in the South Half of the Southwest Quarter (S½SW¼) of Section 16, Township 15 North, Range 11 East of the 6th P.M., in Douglas County, Nebraska, described as follows:

Referring to the Southwest corner of said Quarter Section; thence Easterly, a distance of 404.62 meters (1,327.50 feet), along the South line of said Quarter Section; thence Northerly, deflecting 90°29'40" left a distance of 45.00 meters (147.64 feet), along the West line of the Southeast Quarter of the Southwest Quarter, to the Point of Beginning; thence Northerly, deflecting 00°00'00", a distance of 5.00 meters (16.41 feet), along said line; thence Easterly, deflecting 91°28'26" right, a distance of 25.25 meters (82.85 feet); thence Easterly, deflecting 00°58'46" left, a distance of 79.68 meters (261.43 feet); thence Easterly, deflecting 20°49'57" right, a distance of 12.85 meters (42.16 feet), to a point on the Northerly West Dodge Road right-of-way line; thence Westerly, deflecting 159°10'03" right, a distance of 116.90 meters (383.53 feet), along the

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11-700394 S-A
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Northerly West Dodge Road right-of-way line, to the Point of Beginning. ("Tract 2").

- B. Pursuant to the terms of a Promissory Note Secured By Deed of Trust executed as of November 1, 2011 ("Note"), Beneficiary loaned to Trustor the principal sum of FOUR MILLION NINE-HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$4,960,000.00). The Note was secured, in part, by a Construction Security Agreement, Deed of Trust and Assignment of Rents and Leases ("Deed of Trust") executed as of November 1, 2011 and filed of record in the office of the Register of Deeds, Douglas County, Nebraska on November 28, 2011, as Instrument No. 2011101624, in respect to Tract 1. Re-recorded December 7, 2011 as Instrument No. 2011105104
- C. Trustor has requested and Beneficiary has agreed to loan to Trustor an additional principal sum of THREE MILLION FIVE HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (\$3,540,000.00) for the purpose of refinancing certain obligations of Trustor in connection with, among other things, the purchase of Tract 2.
- D. As a result of the additional sum to be loaned, Trustor and Beneficiary desire to amend the provisions of the Deed of Trust as follows.

NOW, THEREFORE, Trustor and Beneficiary agree as follows:

- 1. The recitals set forth above are incorporated herein by this reference.
- 2. Section 2.1(a) of the Deed of Trust is hereby amended so that said Section 2.1(a) shall hereafter appear in its entirety as follows:
 - (a) payment to Beneficiary of all sums at any time owing and performance of all other obligations arising under or in connection with that certain Promissory Note Secured by Deed of Trust executed as of November 1, 2011, as amended by that certain Modification of Promissory Note of even date herewith (collectively, "Note"), in the principal sum of EIGHT MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$8,500,000.00), with interest as provided therein, executed by Trustor and payable to Beneficiary or its order, together with the payment and performance of any other indebtedness or obligations incurred in connection with the credit accommodation evidenced by the Note, whether or not specifically referenced therein.
- 3. Exhibit A to the Deed of Trust is hereby amended so that said Exhibit A shall hereafter appear in its entirety as follows:

EXHIBIT A
(Description of Property)

Exhibit A to Construction Security Agreement Deed of Trust and
Assignment of Rents and Leases executed by and among Nissan of Omaha, LLC,

a Delaware Limited Liability Company, ("Trustor"), to Wells Fargo Financial National Bank, ("Trustee"), for the benefit of Wells Fargo Bank, National Banking Association, ("Beneficiary"), executed as of November 1, 2011, as amended by that certain Deed of Trust Modification Agreement executed as of October 22, 2012.

Description of Property

Lot 5, in WEST DODGE PLACE, a Subdivision, as surveyed, platted and recorded, in Douglas County, Nebraska; and

Lot 6, in West Dodge Place, a Subdivision, as surveyed, platted and recorded, in Douglas County, Nebraska, EXCEPT that part thereof conveyed to The State of Nebraska, Department of Roads, included within the following described tract:

A tract of land located in the South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 16, Township 15 North, Range 11 East of the 6th P.M., in Douglas County, Nebraska, described as follows:

Referring to the Southwest corner of said Quarter Section; thence Easterly, a distance of 404.62 meters (1,327.50 feet), along the South line of said Quarter Section; thence Northerly, deflecting 90°29'40" left a distance of 45.00 meters (147.64 feet), along the West line of the Southeast Quarter of the Southwest Quarter, to the Point of Beginning; thence Northerly, deflecting 00°00'00", a distance of 5.00 meters (16.41 feet), along said line; thence Easterly, deflecting 91°28'26" right, a distance of 25.25 meters (82.85 feet); thence Easterly, deflecting 00°58'46" left, a distance of 79.68 meters (261.43 feet); thence Easterly, deflecting 20°49'57" right, a distance of 12.85 meters (42.16 feet), to a point on the Northerly West Dodge Road right-of-way line; thence Westerly, deflecting 159°10'03" right, a distance of 116.90 meters (383.53 feet), along the Northerly West Dodge Road right-of-way line, to the Point of Beginning

4. Trustor further covenants to and with Beneficiary that Trustor shall, and will, at any time, now or later, upon request, make, do, execute and deliver all such further and other acts, deeds and things as shall be reasonably required to effectuate the intention of this Deed of Trust Modification and to insure and confirm to the Beneficiary all and singular the property, securities and rights described, and intended to be conveyed, as security so as to render the same, and all portions, whether now owned or later acquired, subject to these terms, provisions and conditions according to the true intent and purposes expressed.
5. The failure of the Beneficiary, at any time, to require the performance by the Trustor of any of these terms, covenants and agreements shall, in no way, affect its rights to enforce the same; nor the waiver by the Beneficiary of any breach of any term, covenant or agreement be taken or held to be a waiver of any succeeding breach of any such term, covenant or agreement, or as a waiver of the term, covenant and Agreement itself.

6. Except as expressly set forth herein, all terms and conditions of the Deed of Trust remain in full force and effect, without waiver or modification. This Deed of Trust Modification and the Deed of Trust shall be read together, as one document.

IN WITNESS WHEREOF, the parties hereto have caused this Deed of Trust Modification to be executed as of the day and year first written above.

"BENEFICIARY"

WELLS FARGO BANK,
NATIONAL ASSOCIATION

By: [Signature]
Name: Bryce A. Lewis
Its: SVP

"TRUSTOR"

NISSAN OF OMAHA, LLC, A Delaware Limited Liability Company

By [Signature]
Eric W. Chelline, Manager


STATE OF VIRGINIA)
)
COUNTY OF Alexandria)
City

The foregoing instrument was acknowledged before me on October ²³~~22~~, 2012 by Eric W. Chelline, one of the Managers of the Management Committee of Nissan of Omaha, LLC, a Delaware Limited Liability Company on behalf of said Company.

[Signature]
Notary Public

My commission expires: January 31, 2016

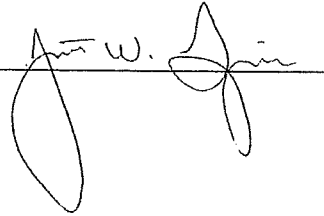
STATE OF VIRGINIA)
)
~~COUNTY OF~~ Alexandria)
City

 Justin W. Sepcsik
Notary Public 7524947
Commonwealth of Virginia
My Commission Expires January 31, 2016

The foregoing instrument was acknowledged before me on October ²³~~22~~, 2012, by Bryce A. Lewis, SVP of Wells Fargo Bank, National Association, on behalf of said Bank.

My Commission Expires: January 31, 2016

Notary Public



1-148/404675



Justin W. Sepcsik
Notary Public 7524947
Commonwealth of Virginia

My Commission Expires January 31, 2016