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OFFICE OF ASSISTANT REGISTRAR
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June 29, 2012 1:00 PM

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B-32086597

/s/ NICKI ANN THOMPSON
ASSISTANT REGISTRAR

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL [X] PICK-UP []

McCorrison Miller Mukai MacKinnon LLP (DSM)
P.O. Box 2800
Honolulu, Hawaii 96803-2800

This Document Contains 13 Pages

TMK Nos. (1) 2-1-044: 001, 023, 032, 047 & 048

AMENDMENT TO DECLARATION OF DEVELOPMENT COVENANTS
FOR SYMPHONY PARK PROJECT

THIS AMENDMENT TO DECLARATION OF DEVELOPMENT COVENANTS FOR SYMPHONY PARK PROJECT (this "**Amendment**") is made as of May 1, 2012, by and between **JN GROUP, INC.**, a Hawaii corporation ("**JNG**"), and **CASTI FAMILY LIMITED PARTNERSHIP**, a Hawaii limited partnership ("**Casti FLP**"), both of whose business and post office address is 2999 North Nimitz Highway, Honolulu, Hawaii 96819, and **JONES HAWAII PROPERTY HOLDINGS, LLC**, a Hawaii limited liability company, whose business and post office address is c/o Fletcher Jones Management Group, Inc., 7300 West Sahara Avenue, Las Vegas, Nevada 89117 ("**JHPH LLC**").

RECITALS:

A. JNG is the fee simple owner of the parcels of real property located in the City and County of Honolulu, State of Hawaii, more particularly described in Exhibit A attached hereto and made a part hereof, and also identified by TMK Nos. (1) 2-1-044: 001 & 032; JNG and Casti FLP (collectively, "**JNC**") are the fee simple owners of the parcels of real property located in the City and County of Honolulu, State of Hawaii, more particularly described in Exhibit A-1 attached hereto and made a part hereof, and also identified by TMK No. (1) 2-1-044: 047; and Casti FLP is the fee simple owner of the parcel of real property located in the City and County of Honolulu, State of Hawaii, more particularly described in Exhibit A-2 attached hereto and made a part hereof, and also identified by TMK No. (1) 2-1-044: 048. The parcels of real property described in Exhibits A, A-1 and A-2 are hereinafter collectively referred to as the "**JNC Site**".

B. JHPH LLC is the fee simple owner of the parcels of real property located in the City and County of Honolulu, State of Hawaii, more particularly described in Exhibit B attached hereto and made a part hereof, and also identified by TMK No. (1) 2-1-044: 023 (the "**JHPH Site**"), which is adjoining and contiguous to the JNC Site.

C. The prior owners of the JNC Site and the JHPH Site, Myers/Daichi Midtown Partners and Theodavies Euromotors, Ltd., entered into a Declaration of Development Covenants for Symphony Park Project dated February 16, 1995, filed in the Office of the Assistant Registrar of the Land Court of the

State of Hawaii as Land Court Document No. 2219244 (the "**Declaration**"), which addresses, among other things, development provisions and agreements regarding floor areas and transfers of floor areas. The Declaration was amended by the parties to this Amendment pursuant to an unrecorded Mutual Release, Settlement and Joint Development Agreement dated as of April 3, 2012 (the "**Settlement Agreement**").

D. Since the date of the Declaration, the JHPH Site has been developed with a 2-story Mercedes Dealership Facility (the "**JHPH Facility**") containing 55,760 square feet of commercial/industrial floor area pursuant to and as evidenced by Permit MUZ 13-95 dated October 3, 1995, as revised on March 15, 1999, and further revised on December 2, 1999, issued by the Hawaii Community Development Authority (collectively, "**Permit MUZ 13-95**"). The remaining floor area attributable to the JHPH Site after reduction for the developed floor area of 55,760 square feet is 89,823 square feet which floor area, pursuant to the Declaration, has been allocated to and is available for use on the JNC Site.

E. An application for a Development Permit has been filed and accepted by the Hawaii Community Development Authority (**HCDA**) with respect to the JNC Site under the terms of which a transferred floor area of 89,823 square feet is intended to be used in the improvements contemplated to be constructed on the JNC Site. Section 15-217-84 of the Hawaii Administrative Rules (**HAR**) authorizes, subject to HCDA approval, a floor area transfer from one development parcel to another subject to compliance with the requirements set forth in HAR §15-217-84.

F. JNG, Casti FLP and JHPH LLC desire to (a) amend the Declaration as described below and (b) confirm the transfer of 89,823 square feet of floor area from the JHPH Site to the JNC Site.

AGREEMENT:

NOW, THEREFORE, in consideration of the Recitals set forth above and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, JNG, Casti FLP and JHPH LLC hereby mutually covenant and agree as follows:

1. **Modifications.** All terms and provisions of the Settlement Agreement are incorporated into the Declaration by this reference. Sections 1 through 6 of the Declaration are deleted in their entirety. All remaining floor area attributable to the JHPH Site of 89,823 square feet is transferred to the JNC Site for the use and benefit of the JNC Site, and JHPH LLC may purchase floor area from the JNC Site in accordance with the Settlement Agreement.

2. **Incorporation of Certain Purchase Agreement Provisions.** All references in the Declaration to the "Purchase Agreement" are of no further effect, so no reference to such Purchase Agreement is necessary to interpret the Declaration as amended by this Amendment. This paragraph addresses the only surviving applicable provisions of such Purchase Agreement, which provisions are added to the Declaration. The maximum total floor area (as defined by HCDA) of improvements on the JHPH Site, including corporate office facilities, will not exceed 55,760 square feet (plus the amount of any floor area purchased by JHPH LLC from JNC in accordance with the Settlement Agreement). The floor area of the corporate office facilities at the JHPH Site may in no event exceed 6,000 square feet. Such corporate office facilities are in addition to any office space comprising part of the car dealership or used in connection with the car dealership. The obligations to provide open space and to dedicate public facilities in connection with the prior development of the JHPH Facility shall be satisfied by JNC at JNC's expense. However, initially the open space requirement for the JHPH Facility will be satisfied by JNC's dedicating a portion of said Lot 34 for that purpose. JHPH LLC shall dedicate to industrial and/or relocated commercial use that portion of the JHPH Site constituting industrial and/or relocated commercial use. Because JHPH LLC's improvements will adjoin the residential component of JNC's improvements on the JNC Site, any changes to the external features and finishes of JHPH LLC's improvements are subject to JNC's approval, which shall not be unreasonably withheld or delayed. Neither JHPH LLC nor JHPH LLC's representative may communicate directly with HCDA regarding either the JNC Site or the JHPH Site without giving JNC prior notice and a reasonable opportunity to participate in such communications.

3. Covenants Running with the JNC Site and JHPH Site: Termination. JNC and JHPH LLC covenant and agree that the Declaration as amended by this Amendment and the covenants and agreements contained in the Declaration or this Amendment shall touch and concern and constitute covenants running with both the JHPH Site and the JNC Site, and shall bind, inure to the benefit of, and constitute notice to the respective successors, grantees, assignees, mortgagees, lienors, and any other person who may now or hereafter claim any interest in any of the parcels of land constituting the JNC Site and/or the JHPH Site. The Declaration remains in full force and, except as set forth in this Amendment, remains unmodified. The Declaration automatically terminates on written notice from JNC to JHPH LLC after the second anniversary of the date on which vertical construction begins on a residential development on the JNC Site. Despite the automatic termination of the Declaration, the parties agree to execute and record in the Land Court Records a full termination of the Declaration

4. Miscellaneous.

(A) Enforcement: Attorney's Fees. If a lawsuit or other proceeding is commenced by any party to this Agreement to enforce any of its rights under this Agreement, then (i) the party seeking to enforce this Agreement shall be entitled to seek specific performance of the obligations of the other parties or other equitable relief as a court may find appropriate, including but not limited to request to enjoin the activity in question, it being acknowledged and agreed that the parties do not have an adequate remedy at law, and (ii) the prevailing party in that lawsuit or other proceeding shall be entitled to recover its reasonable attorneys' fees and other costs of litigation from the other parties to the extent permitted by applicable law and the Rules of Court.


(B) Entire Agreement. The Declaration as amended by this Amendment and the Settlement Agreement constitute the entire agreement among JNC and JHPH LLC and supersede all prior or contemporaneous discussions, representations or agreements relating to the subject matter. Except as otherwise provided for herein, no amendments, modifications or additions to this Agreement shall be made or be binding on any party unless made in writing and signed by each party adversely affected thereby. All Exhibits that are attached to this Agreement are incorporated into this Amendment by this reference.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, JNG, Casti FLP and JHPH LLC have executed this Agreement the day and year first above written.

JNG:


JN GROUP, INC., a Hawaii corporation

By: 
Brad Nicolai, Vice President

Casti FLP:

CASTI FAMILY LIMITED PARTNERSHIP
a Hawaii limited partnership

BY: Casa LLC, a Hawaii limited liability company
Its general partner

By: 
Joseph P. Nicolai, Member

JHPH LLC:

JONES HAWAII PROPERTY HOLDINGS, LLC
a Hawaii limited liability company

By: _____
Name: _____
Title: _____

Lessee Agreement and Subordination

The undersigned, **J/R Motors 818 Kapiolani LLC**, a Hawaii limited liability company ("Lessee") represents that it is the sole lessee, tenant and occupant of the JHPH Site (as defined above). Lessee joins in this Amendment and subjects and subordinates all of its rights, title and interest in and to the JHPH Site to the provisions and interests set forth in the Declaration as amended by this Amendment.

J/R MOTORS 818 KAPIOLANI LLC
a Hawaii limited liability company

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, JNG, Casti FLP and JHPH LLC have executed this Agreement the day and year first above written.

JNG:

JN GROUP, INC., a Hawaii corporation

By: _____
Brad Nicolai, Vice President

Casti FLP:

CASTI FAMILY LIMITED PARTNERSHIP
a Hawaii limited partnership

BY: Casa LLC, a Hawaii limited liability company
Its general partner

By: _____
Joseph P. Nicolai, Member

JHPH LLC:

JONES HAWAII PROPERTY HOLDINGS, LLC
a Hawaii limited liability company

By: Fletcher Jones
Name: FLETCHER JONES
Title: COO

Lessee Agreement and Subordination

The undersigned, J/R Motors 818 Kapiolani LLC, a Hawaii limited liability company ("Lessee") represents that it is the sole lessee, tenant and occupant of the JHPH Site (as defined above). Lessee joins in this Amendment and subjects and subordinates all of its rights, title and interest in and to the JHPH Site to the provisions and interests set forth in the Declaration as amended by this Amendment.

J/R MOTORS 818 KAPIOLANI LLC
a Hawaii limited liability company

By: Fletcher Jones
Name: FLETCHER JONES
Title: COO

JNG Notary:

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

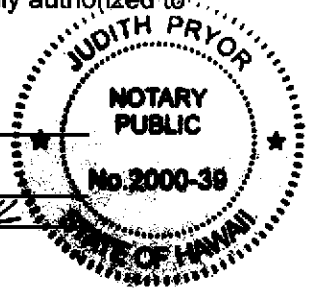
On this 10th day of MAY, 2012, before me appeared **BRAD NICOLAI**, to me personally known, who, being by me duly sworn, did say that said person executed the foregoing instrument as said person's free act and deed and in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Judith Pryor

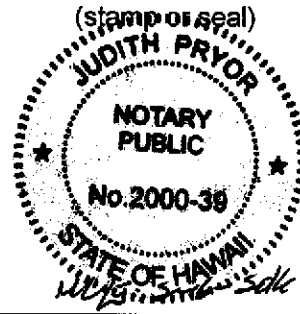
Notary Public, State of Hawaii

Name: JUDITH PRYOR

My commission expires: 2-6-2016



Date of Doc:	<u>10th MAY</u> , 2012	#	
Name of Notary:	<u>JUDITH PRYOR</u>	Pages:	<u>13</u>
Doc. Description:	<u>Amendment to Declaration of Development Covenants for Symphony Park Project</u>		
Notary Signature	<i>Judith Pryor</i>	Date	<u>10-MAY 2012</u>
First Circuit, State of Hawaii			
NOTARY CERTIFICATION			



Casti FLP Notary:

STATE OF HAWAII)
CITY & COUNTY OF HONOLULU) SS.

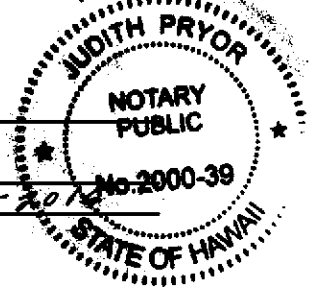
On this 10 day of MAY, 2012, before me appeared JOSEPH P. NICOLAI, to me personally known, who, being by me duly sworn, did say that said person executed the foregoing instrument as said person's free act and deed and in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Judith Pryor

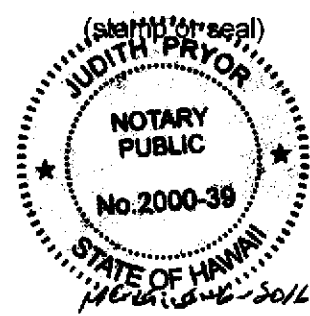
Notary Public, State of Hawaii

Name: JUDITH PRYOR

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Name of Notary:	<u>JUDITH PRYOR</u>	Pages:	<u>13</u>
Doc. Description:	<u>Amendment to Declaration of Development Covenants for Symphony Park Project</u>	Notes:	
Notary Signature:	<u><i>Judith Pryor</i></u>	Date:	<u>10 MAY 2012</u>
First Circuit, State of Hawaii			
NOTARY CERTIFICATION			




JHPH LLC Notary:

STATE OF NEVADA

COUNTY OF Clark) SS.

On this 17 day of MAY, 2012, before me appeared Fletcher Jones, to me personally known, who, being by me duly sworn, did say that said person executed the foregoing instrument as said person's free act and deed and in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Notary Public, State of Nevada
Name: C. LA FORTUNE
My commission expires: 1-30-13

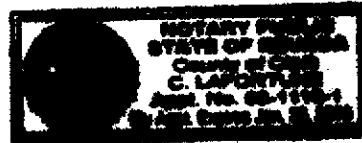


EXHIBIT A

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS: B-5-C-1, area 18,455 square feet,
B-5-C-2, area 16,043 square feet, and
B-5-C-3, area 16,556 square feet, more or less,

as shown on Map 9, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 670 of Victoria Ward.

Being land(s) described in Transfer Certificate of Title No. 551,626 issued to WHOLESale MOTORS, INC., a Hawaii corporation.

BEING THE PREMISES ACQUIRED BY WARRANTY DEED:

GRANTOR : SP MIDTOWN PARTNERS, a Hawaii joint venture, formerly known as MYERS/DAIICHI MIDTOWN PARTNERS

GRANTEE : WHOLESale MOTORS, INC., a Hawaii corporation

DATED : April 3, 2000

FILED : Land Court Document No. 2616742

NOTE: Land Court Order No. 173125, filed December 18, 2007, sets forth the change of name of WHOLESale MOTORS, INC. to JN GROUP, INC., on March 24, 2004.

EXHIBIT A-1

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

- LOTS:** 8, area 6,000 square feet, and
9, area 6,874 square feet, more or less, as shown on Map 12;
10, area 6,226 square feet,
11, area 4,716 square feet,
12, area 4,716 square feet, and
13, area 4,716 square feet, more or less, as shown on Map 13;

filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited.

As to Lots 8, 10, 11, 12 and 13, together with access over Lot 34 to Kapiolani Boulevard, as set forth by Land Court Order No. 103264, filed August 1, 1991. /

Being land(s) described in Transfer Certificate of Title No. 737,380 issued to CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, as to an undivided 93% interest, and WHOLESale MOTORS, INC., a Hawaii corporation, as to an undivided 7% interest.

Said above described parcel of land having been acquired as follows:

1. By WHOLESale MOTORS, INC., a Hawaii corporation, as to an undivided 7% interest, by WARRANTY DEED of SP MIDTOWN PARTNERS, a Hawaii general partnership, formerly known as MYERS/DAIICHI MIDTOWN PARTNERS, dated July 8, 1999, filed as Land Court Document No. 2558876.
2. By CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, as to an undivided 93% interest, by TRUSTEE'S LIMITED WARRANTY DEED of JOSEPH PASQUALE NICOLAI, Trustee under Revocable Trust of Joseph Pasquale Nicolai dated December 9, 1992, as amended, dated February 7, 2005, filed as Land Court Document No. 3237638.

NOTE: Land Court Order No. 173125, filed December 18, 2007, sets forth the change of name of WHOLESale MOTORS, INC. to JN GROUP, INC., on March 24, 2004.

EXHIBIT A-2

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 34, area 20,145 square feet, more or less, as shown on Map 17, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited.

Being land(s) described in Transfer Certificate of Title No. 957,232 issued to CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership.

Said above described parcel of land having been acquired CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, as follows:

1. By TRUSTEE'S LIMITED WARRANTY DEED of JOSEPH PASQUALE NICOLAI, Trustee under Revocable Trust of Joseph Pasquale Nicolai dated December 9, 1992, as amended, dated February 7, 2005, filed as Land Court Document No. 3237638.
2. By WARRANTY DEED of JN GROUP, INC., a Hawaii corporation, dated August 25, 2009, filed as Land Court Document No. 3894527.

EXHIBIT B

-PARCEL FIRST:-

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 28, area 18,366 square feet, more or less, as shown on Map 16, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited; ✓

-PARCEL SECOND:-

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 31, area 6,000 square feet, more or less, as shown on Map 16, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited; ✓

-PARCEL THIRD:-

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 32, area 8,229 square feet, more or less, as shown on Map 16, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited; ✓

-PARCEL FOURTH:-

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

Lot 30, area 9,000 square feet, more or less, as shown on Map 16, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited; ✓

Together with a perpetual roadway easement across Easement "1", across Lot 28, as shown on said Map 16.

-AS TO FIRST THRU FOURTH, INCLUSIVE:-

Together with a perpetual and nonexclusive easement for utility, roadway and setback purposes in, upon, through, over, under and across Lot 34, as shown on Map 17, as granted by GRANT OF NONEXCLUSIVE EASEMENT FOR UTILITY, ROADWAY AND SETBACK PURPOSES dated February 16, 1995, filed as Land Court Document No. 2219246; subject to the terms and provisions contained therein.

Being land(s) described in Transfer Certificate of Title No. 679,547 issued to JONES REED HAWAII PROPERTY HOLDINGS, LLC, a Hawaii limited liability company.

BEING THE PREMISES ACQUIRED BY WARRANTY DEED:

GRANTOR : THEODAVIES EUROMOTORS, LTD., a Hawaii corporation

GRANTEE : JONES REED HAWAII PROPERTY HOLDINGS, LLC, a
Hawaii limited liability company

DATED : December 31, 2003

FILED : Land Court Document No. 3050266

NOTE: Land Court Order No. 167554, filed September 11, 2006, sets forth the change of name of JONES REED HAWAII PROPERTY HOLDINGS, LLC to JONES HAWAII PROPERTY HOLDINGS, LLC, on February 6, 2006.