



MISC 2012111519



NOV 01 2012 16:37 P 4

Fee amount: 21.00  
FB: OC-42354  
COMP: BW

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



2012111519

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 ("Guarantor"), and WELLS FARGO BANK, NATIONAL ASSOCIATION ("Lender").

RECITALS

A. Guarantor owns the following described real 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

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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. ("Tract 2").

- B. As security for that certain Unconditional Guaranty dated October 5, 2011 executed by Guarantor in favor of Lender, Guarantor executed a Deed of Trust dated November 1, 2011, which Deed of Trust was filed of record in the office of the Register of Deeds, Douglas County, Nebraska on November 28, 2011, as Instrument No. 2011101625, ("Deed of Trust") in respect to Tract 1.
- C. Guarantor and Lender desire to amend the provisions of the Deed of Trust to add Tract 2 as security thereunder and to modify the obligations that the Deed of Trust secures.

NOW, THEREFORE, Guarantor and Lender agree as follows:

1. The recitals set forth above are incorporated herein by this reference.
2. The Deed of Trust is hereby amended so that the paragraph that identifies the real property conveyed by Guarantor shall hereafter appear in its entirety as follows:

GUARANTOR IRREVOCABLY CONVEYS TO TRUSTEE, IN TRUST, WITH POWER OF SALE, THE FOLLOWING:

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 (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 Northerly West Dodge Road right-of-way line, to the Point of Beginning,

together with all buildings, improvements, fixtures, streets, alleys, passageways, easements, rights, privileges, and appurtenances located thereon or in anywise pertaining thereto, and the rents, issues and profits, reversions and remainders thereof, and such personal property that is attached to the improvements so as to constitute a fixture, including but not limited to heating and cooling equipment, and together with the homestead or marital interests, if any, which interests are hereby released and waived; all of which, including replacements and additions thereto, is hereby declared to be a part of the real estate secured by the lien of this Deed of Trust and all of the foregoing being referred to herein as the "Property".

3. The Deed of Trust is hereby amended so that the paragraph that identifies the obligations that are secured by the Deed of Trust shall hereafter appear in its entirety as follows:

This Deed of Trust secures the timely payment and performance of all liabilities and obligations of Philip E. Lokey, Scott A. Wilkerson and Eric W. Chelline pursuant to that certain Promissory Note dated October 5, 2011, as amended and restated by that certain Term Note dated October 22, 2012, in the principal sum of Three Million Seven Hundred Fifty Thousand and No/100 Dollars (\$3,750,000.00) executed by said Philip E. Lokey, Scott A. Wilkerson and Eric W. Chelline in favor of Lender, which has a stated maturity date of September 30, 2017 and all extensions, modifications and renewals thereof (hereinafter referred to as "Debt").

4. Guarantor further covenants to and with Lender that Guarantor 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 Lender 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 Lender, at any time, to require the performance by Guarantor of any of these terms, covenants and agreements shall, in no way, affect its rights to enforce the same; nor the waiver by Lender 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.

