

13763

Doc. No.
WOODBURY COUNTY, IOWA
Filed for Record

When recorded return to:
TierOne Bank
Attn: Credit Administration Dept.
1235 "N" Street
Lincoln, NE 68508

JAN - 8 2003

Time 9:45 AM
PATRICK F. GILL, Auditor & Recorder
By [Signature] Designee

Prepared by Lois Hinrichs, TierOne Bank, 1235 "N" Street, Lincoln, NE 68508

LOAN MODIFICATION AGREEMENT

402-475-0521

Loan No. 01-10177289

This Loan Modification Agreement ("Modification Agreement"), made as of December 30, 2002, is by and between **Castle on the Hill Limited Liability Company, an Iowa limited liability company**, (herein referred to as "Mortgagor"), whose mailing address is c/o NuStyle Investment Corporation, 1025 Leavenworth Street, Omaha, Nebraska 68102 and **TierOne Bank**, a corporation organized and existing under the laws of the United States of America, herein referred to as "Mortgagee", whose mailing address is c/o Credit Administration Dept., P.O. Box 83009, Lincoln, Nebraska 68501-3009 (Collectively the "Parties").

WITNESSETH

(A) WHEREAS, Mortgagor is indebted to Mortgagee under that certain Note Secured by Mortgage dated June 24, 2002, in the original amount of \$6,845,000.00 and that Note Secured by Mortgage dated June 24, 2002, in the original amount of \$1,155,000.00 (the "Notes") and secured among other things, by that certain Mortgage, Assignment of Rents and Security Agreement (Open-End) of the same date (the "Mortgage") which was recorded June 28, 2002 as Document No. 25037, Roll 544, Image 44 in the County Recorder's office of Woodbury County, Iowa; encumbering the real property described as follows (the "Mortgaged Property"):

PARCEL A: All of Block Sixty-nine (69), and the vacated alleys therein, together with the North One (1) Foot of that part of the vacated Twelfth Street which abuts thereon, Sioux City East Addition, in the County of Woodbury and State of Iowa.

PARCEL B: Lot Four (4), and the North one-half (N 1/2) of Lot Five (5), Block Sixty-Eight (68) Sioux City East Addition to the City of Sioux City, Woodbury County, Iowa.

PARCEL C: The West Eighty-nine (89) feet of Lot Six (6) and the West Eighty-nine (89) feet of the South one-half (S 1/2) of Lot Five (5), Block Sixty-Eight (68) Sioux City East Addition to the City of Sioux City, Woodbury County, Iowa.

(B) WHEREAS, the Notes are also secured by an Assignment of Leases and Rents dated June 24, 2002, recorded June 28, 2002 as Document No. 25038, Roll 544, Image 59 in the County Recorder's office of Woodbury County, Iowa, UCC-1 Financing Statements, Construction Loan Agreement dated June 24, 2002 and other security instruments. In addition, Tammy I. Barrett and Todd R. Heistand (herein "Guarantors") executed Guarantys dated June 24, 2002 guaranteeing repayment and performance of the Notes, the Mortgage and all other loan documents related thereto.

(C) WHEREAS, Mortgagor has purchased and Mortgagee has disbursed to Mortgagor loan proceeds equal to the purchase price for the real property located at 709-711 12th Street, Sioux City, Iowa, as identified in that Quit Claim Deed dated July 16, 2002 and recorded on August 28, 2002 as Document No. 3874, Roll 551, Image 1239 in the County Recorder's office of Woodbury County, Iowa, and more particularly described as follows:

East Sixty-one Feet of South one-half (E61' S 1/2) of Lot Five (5) in Block Sixty-eight (68) and East Sixty-one Feet (E 61') of Lot Six (6) of Block Sixty-eight (68) of Sioux City East Addition to the City of Sioux City, Woodbury County, Iowa.

(D) WHEREAS, Mortgagee and Mortgagor agree to modify certain terms of the Mortgage, as set forth below.

NOW, THEREFORE, in consideration of Ten Dollars and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Mortgagor hereto agrees, represents and consents to and with Mortgagee as follows:

- 1. For the purpose of including the real property referenced in Paragraph C above, the "Mortgaged Property" as identified in the Mortgage is hereby modified and shall be as follows:

PARCEL A: All of Block Sixty-nine (69), and the vacated alleys therein, together with the North One (1) Foot of that part of the vacated Twelfth Street which abuts thereon, Sioux City East Addition, in the County of Woodbury and State of Iowa.

PARCEL B: Lot Four (4), and the North one-half (N 1/2) of Lot Five (5), Block Sixty-Eight (68) Sioux City East Addition to the City of Sioux City, Woodbury County, Iowa.

PARCEL C: The West Eighty-nine (89) feet of Lot Six (6) and the West Eighty-nine (89) feet of the South one-half (S 1/2) of Lot Five (5), Block Sixty-Eight (68) Sioux City East Addition to the City of Sioux City, Woodbury County, Iowa.

PARCEL D: East Sixty-one Feet of South one-half (E61' S 1/2) of Lot Five (5) in Block Sixty-eight (68) and East Sixty-one Feet (E 61') of Lot Six (6) of Block Sixty-eight (68) of Sioux City East Addition to the City of Sioux City, Woodbury County, Iowa.


- 2. The Assignment of Leases and Rents dated June 24, 2002, the Construction Loan Agreement dated June 24, 2002 and all other loan documents evidencing or securing the indebtedness evidenced by the Notes are further amended and modified to the extent of the foregoing modification of the Mortgage set forth in paragraph 1 herein above.
- 3. Except as expressly modified by the terms hereof, all of the terms and provisions of the Mortgage and Notes, and all other loan documents evidencing or securing said indebtedness, are hereby ratified and shall remain in full force and effect. By execution hereof, Mortgagor and Mortgagee concur with all provisions contained in this Modification Agreement.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

Mortgagor hereby acknowledges the receipt of a copy of this Modification Agreement.

MORTGAGEE:


TierOne Bank

By: 
Delmar E. Williams
Senior Vice President

MORTGAGOR:

Castle on the Hill Limited Liability Company,
an Iowa limited liability company

By: NuStyle Investment Corporation,
a Nebraska corporation,
Managing Member

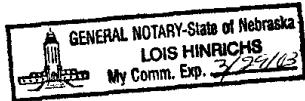
By: 
Tammy Barrett, President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

On this 31st day of December, 2002, before me, the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Delmar E. Williams, a Senior Vice President of TierOne Bank, a United States corporation, the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be her voluntary act and deed on behalf of the corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Lois Hinrichs
Notary Public in the State of Nebraska

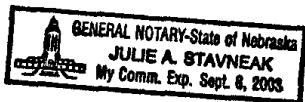


STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 29 day of December, 2002, before me, the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Tammy Barrett, the President of NuStyle Investment Corporation, a Nebraska corporation, the Managing Member of Castle on the Hill Limited Liability Company, an Iowa limited liability company, the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be her voluntary act and deed on behalf of the company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Julie A. Stavneak
Notary Public in the State of Nebraska



ACKNOWLEDGMENT, CONSENT AND WAIVER OF GUARANTOR

The undersigned hereby acknowledges receipt of a copy of the foregoing Loan Modification Agreement dated December 30, 2002 ("Modification Agreement"), and consents to the modification of the Mortgage and the other terms thereof. Further the undersigned reaffirms the terms and conditions of their Guarantys as executed in connection with that Note Secured by Mortgage dated June 24, 2002 in the amount of \$6,845,000.00 and that Note Secured by Mortgage dated June 24, 2002 in the amount of \$1,155,000.00, (the "Notes"), the Mortgage, Assignment of Rents and Security Agreement (Open-End) dated June 24, 2002 ("Mortgage"), the Construction Loan Agreement dated June 24, 2002 and the Assignment of Leases and Rents dated June 24, 2002, and agrees to be bound thereby as to the indebtedness thereunder or hereunder or under the Notes, Mortgage, the above-described Construction Loan Agreement and Assignment of Leases and Rents and all other loan documents evidencing or securing said indebtedness, as modified, and we hereby waive and release any and all claims and defenses we might otherwise have as to our liability thereunder arising by reason of this Modification Agreement or any act or omission occurring prior to the date hereof.

GUARANTOR:

Tammy I. Barrett
Tammy I. Barrett

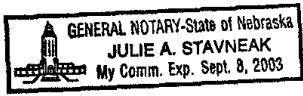
Todd R. Heistand
Todd R. Heistand

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 29 day of December, 2002, before me, the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Tammy Barrett, the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be her voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Julie A. Stavneak
Notary Public in the State of Nebraska



STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 29 day of December, 2002, before me, the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Todd R. Heistand, the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be her voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Julie A. Stavneak
Notary Public in the State of Nebraska

