

7 pages
\$61.00

**PREPARED, RECORDING REQUESTED
BY, AND WHEN RECORDED MAIL TO:**

Morrison & Foerster LLP
707 Wilshire Boulevard
Los Angeles, CA 90017-3543
Attention: Joshua R. Isenberg

**MODIFICATION OF
MORTGAGE, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

**NNP-SOUTHBEND II, LLC as
Grantor**

**NASH FINANCING, LLC
as Beneficiary**

Dated as of December 22, 2017

County: Hillsborough County
State: Florida

**MODIFICATION OF
MORTGAGE, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

(Hillsborough County, Florida)

This Modification of Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (this "**Modification**"), is entered into by NNP-SOUTHBEND II, LLC, a Delaware limited liability company, having its principal place of business at c/o Newland Real Estate Group, LLC, 4790 Eastgate Mall, Suite 150, San Diego, CA 92121 ("**Grantor**"), and NASH FINANCING, LLC, a Delaware limited liability company, having its principal place of business at c/o North America Sekisui House, LLC, 4790 Eastgate Mall, Suite 150, San Diego, CA 92121 ("**Beneficiary**") as of December 22, 2017.

W I T N E S S E T H:

WHEREAS, NASH-Newland, LLC, a Delaware limited liability company ("**Borrower**"), and Mortgagee are parties to that certain Acquisition, Development and Construction Loan and Security Agreement dated as of December 29, 2011 (as the same may have been amended, extended, modified, consolidated, restated, and/or supplemented from time to time, the "**Loan Agreement**"), which Loan Agreement provides for a revolving loan made by Beneficiary to Borrower in the principal amount as specified in said Loan Agreement (the "**Loan**");

WHEREAS, the Loan is evidenced by, among other things, that certain Promissory Note dated as of December 29, 2011 (as the same may be amended, extended, modified, consolidated, restated, and supplemented from time to time, the "**Note**") and secured by, among other things, that certain Repayment Guaranty dated as of December 29, 2011, by Grantor and certain other parties for the benefit of Beneficiary ("**Guaranty**");

WHEREAS, Grantor executed and delivered that certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (the "**Mortgage**") (all capitalized terms used herein and not otherwise defined shall have the same meanings given to such terms in the Mortgage) in order to secure the Guaranty, the Guaranteed Obligations (as defined in the Guaranty), all other sums due under the Mortgage, and any sums advanced by Beneficiary to protect or preserve the Mortgaged Property (as defined in the Mortgage), which Mortgage is dated as of November 7, 2016, and recorded on November 7, 2016 as Document No. 2016439510, in Book 24509, Page 1645-1666 in the Official Public Records of Hillsborough County, Florida;

WHEREAS, as of the date hereof, Borrower and Beneficiary are entering into, among other agreements, that certain Amended and Restated Acquisition, Development and Construction Loan and Security Agreement (the "**Amended and Restated Loan Agreement**") and that certain Amended and Restated Promissory Note (the "**Amended and Restated Promissory Note**");

WHEREAS, as of the date hereof, Grantor and certain other parties are executing, among other agreements, that certain Reaffirmation of Guaranty (the "**Reaffirmation of Guaranty**") to reaffirm Guarantor's obligations under the Guaranty;

WHEREAS, the parties hereto wish to modify the Mortgage as provided herein;

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Amendment.** As of the date hereof, references to the Loan Documents in the Mortgage shall mean the Loan Documents as affected by (i) the Amended and Restated Loan Agreement, (ii) the Amended and Restated Note, (iii) the Reaffirmation of Guaranty, and (iv) all and any of the documents other than the Amended and Restated Loan Agreement, the Amended and Restated Note, the Reaffirmation of Guaranty, and this Modification now or hereafter executed by Grantor and/or others and by or in favor of Beneficiary, which evidences, secures or guarantees all or any portion of the Debt or otherwise is executed and/or delivered in connection with the Amended and Restated Loan Agreement, Amended and Restated Note, the Reaffirmation of Guaranty and this Modification.

2. **Continuation of Mortgage and Guaranty.** Except as modified hereby, the terms and conditions of the Mortgage remains unchanged and in full force and effect and are hereby ratified and confirmed by Grantor and Beneficiary. Grantor hereby confirms that it has no defenses or offsets with respect to its obligations under the Mortgage, as affected by this Modification. The Grantor affirms and agrees that the Mortgage, as affected by this Modification, extends to and fully secures all of the Guaranteed Obligations (up to the Lien Limit) provided for in the Guaranty as affected by the Reaffirmation of Guaranty, and any other Loan Documents to which Grantor is a party.

3. **No Extinguishment or Novation.** This Modification is not an extinguishment or novation of the Mortgage. This Modification continues, and does not replace, the Mortgage and obligations secured thereby.

4. **Amended and Restated Loan Agreement.** This Modification is executed pursuant to and in connection with the Amended and Restated Loan Agreement. Reference is hereby made for all purposes to the Amended and Restated Loan Agreement. In the event of a conflict between the terms and provisions hereof and the Amended and Restated Loan Agreement, the Mortgage, as affected by this Modification, shall govern.

5. **Counterparts.** This Amendment may be executed in counterparts, each of which shall constitute an original and all of which together shall constitute the same instrument.

(Signature Page Follows)

EXECUTED on the date set forth in the acknowledgment below, to be effective on and as of the date first above written.

GRANTOR:

NNP-SOUTHBEND II, LLC,
a Delaware limited liability company

By: *Vicki R. Mullins*
Name: Vicki R. Mullins
Its: Chief Financial Officer

Witness: *D. G. Allen*
Dated: 12/19/2017

Witness: *M. J. Pi*
Dated: 12/19/2017

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego

On 12/19/17 before me, Mary Beth Evans, Notary Public
personally appeared Vicki R. Mullins, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

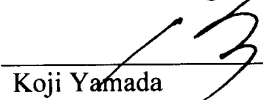
Signature *M. Evans* (Seal)

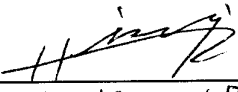


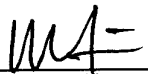
BENEFICIARY:

NASH FINANCING, LLC,
a Delaware limited liability company

By: NORTH AMERICA SEKISUI HOUSE, LLC,
a Delaware limited liability company,
its sole member and manager

By: 
Koji Yamada
President and Chief Operating Officer

Witness: 
Dated: 12.19.2017

Witness: 
Dated: 12/19/2017

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)

On December 19, 2017 before me, Chihoko Yamada, Notary Public
personally appeared Koji Yamada, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Chihoko Yamada (Seal)

