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0020681107

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2002-06-18 15:26:47
Cook County Recorder 35.00



0020681107

This instrument prepared by
and after recording should be
returned to:

Eric M. Roberson
Chapman and Cutler
111 West Monroe Street
Chicago, Illinois 60603

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S
USE ONLY

SUBORDINATION AGREEMENT

This SUBORDINATION AGREEMENT (this "Agreement") is entered into as of JUNE 12, 2002 (the "Effective Date"), between THE LINCOLN NATIONAL LIFE INSURANCE COMPANY whose address is c/o Delaware Lincoln Investment Advisers, 200 East Berry Street, Fort Wayne, Indiana 46802 ("Mortgagee"), and KOCH FOODS INCORPORATED, an Illinois corporation, whose address is 1300 Higgins Road, Park Ridge, Illinois ("Optionee"), with reference to the following facts:

A. ROSE FP LLC, an Illinois limited liability company whose address is c/o The Crown Group, Inc., 1564 West Algonquin Road, Hoffman Estates, Illinois 60195 ("Optionor"), owns certain real property located at 2155 North Rose Street, Franklin Park, Illinois (such real property, including all buildings, improvements, structures and fixtures located thereon, the "Premises"), as more particularly described in Schedule I attached hereto.

B. Mortgagee has made a loan to Optionor in the original principal amount of \$6,500,000.00 (the "Loan").

C. To secure the Loan, Optionor has encumbered the Premises by entering into that certain Mortgage and Security Agreement to be recorded in the Office of the Recorder of Deeds of Cook County, Illinois (as further amended, restated, or otherwise changed from time to time, the "Mortgage").

D. Pursuant to an Option to Purchase dated October 18, 2001 (the "Option Agreement"), Optionor granted to Optionee an option to purchase the Premises.

E. Optionee and Mortgagee desire to agree upon the relative priorities of their interests in the Premises and their rights and obligations if certain events occur.

NOW, THEREFORE, for good and sufficient consideration, Optionee and Mortgagee agree:

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1. *Subordination.* The Option Agreement shall be, and shall at all times remain, subject and subordinate to the lien imposed by the Mortgage, and all advances made under the Mortgage.

2. *Miscellaneous.*

a. *Notices.* All notices or other communications under this Agreement shall be in writing and given by certified mail (return receipt requested) or by nationally recognized overnight courier service that regularly maintains records of items delivered. Each party's address is as set forth in the opening paragraph of this Agreement, subject to change by notice under this paragraph. Notices shall be effective the next business day after being sent by overnight courier service, and five (5) business days after being sent by certified mail (return receipt requested).

b. *Successors and Assigns.* This Agreement shall bind and benefit the parties, their successors and assigns. If Mortgagee assigns the Mortgage, then upon delivery to Optionee of written notice thereof accompanied by the assignee's written assumption of all obligations under this Agreement, all liability of the assignor shall terminate.

c. *Entire Agreement.* This Agreement constitutes the entire agreement between Mortgagee and Optionee regarding the subordination of the Option Agreement to the Mortgage and the rights and obligations of Optionee and Mortgagee as to the subject matter of this Agreement.

d. *Interaction with Option Agreement and with Mortgage.* If this Agreement conflicts with the Option Agreement, then this Agreement shall govern as between the parties. This Agreement supersedes, and constitutes full compliance with, any provisions in the Option Agreement that provide for subordination of the Option Agreement to the Mortgage. Mortgagee confirms that Mortgagee has consented to Optionor's entering into the Option Agreement.

e. *Interpretation; Governing Law.* The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the internal laws of the State of Illinois without regard to principles of conflict of laws.

f. *Amendments.* This Agreement may be amended, discharged or terminated, or any of its provisions waived, only by a written instrument executed by the party to be charged.

g. *Execution.* This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, this Agreement has been duly executed by Mortgagee and Optionee as of the Effective Date.

MORTGAGEE:

THE LINCOLN NATIONAL LIFE INSURANCE
COMPANY, an Indiana corporation

By: Delaware Lincoln Investment Advisers,
Its Attorney in Fact

By: _____
Printed Name: _____
Its: _____

OPTIONEE:

KOCH FOODS INCORPORATED, an Illinois
corporation

By: *Mark J Kaminsky*
Printed Name: Mark J Kaminsky
Its: Chief Financial Officer.

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IN WITNESS WHEREOF, this Agreement has been duly executed by Mortgagee and Optionee as of the Effective Date.

MORTGAGEE:

THE LINCOLN NATIONAL LIFE INSURANCE
COMPANY, an Indiana corporation

By: Delaware Lincoln Investment Advisers,
Its Attorney in Fact

By: Karen L. Surguine
Printed Name: Karen L. Surguine
Its: Vice President

OPTIONEE:

KOCH FOODS INCORPORATED, an Illinois
corporation

By: _____
Printed Name: _____
Its: _____

Property of Cook County Clerk's Office

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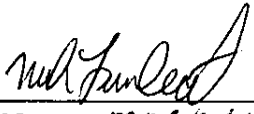
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Optionor consents and agrees to the foregoing Agreement. The foregoing Agreement shall not alter, waive or diminish any of Optionor's obligations under the Mortgage or the Option Agreement.

OPTIONOR:

ROSE FP LLC, an Illinois limited liability company

By: ROSE FPC LLC, an Illinois limited liability company, its Manager

By: 
Printed Name: MARK LAMBERT
Its: MANAGER

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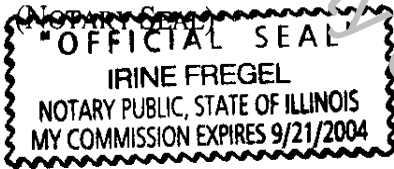
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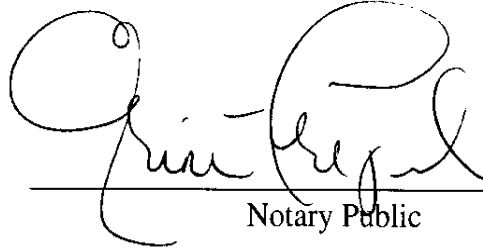
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STATE OF ILLINOIS)
) SS.
COUNTY OF Cook)

I, Irine Fregel, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Mark J. Kaminsky, CFO of KOCH FOODS INCORPORATED, an Illinois corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such CFO, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 6th day of June, 2002.





Notary Public

My Commission Expires: 09-21-2004

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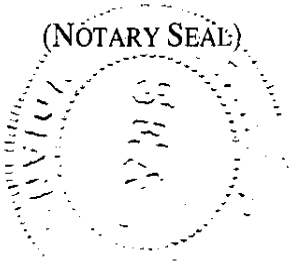
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ACKNOWLEDGMENT

STATE OF INDIANA)
) SS.
COUNTY OF ALLEN)

I, Richelle K. Reeves, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Karen L. Surguine, the Vice President of DELAWARE LINCOLN INVESTMENT ADVISERS, the attorney in fact for THE LINCOLN NATIONAL LIFE INSURANCE COMPANY, an Indiana corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice President, appeared before me this day in person and acknowledged that ~~he~~she signed and delivered the said instrument as ~~his~~her own free and voluntary act, and as the free and voluntary act of said banking association, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 7th day of June, 2002.



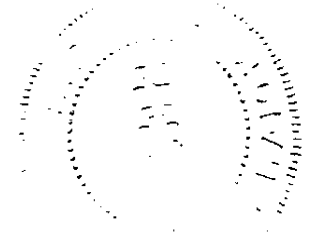
Richelle K. Reeves
Notary Public

My Commission Expires: RICHELLE K. REEVES
Notary Public
Resident of Allen County
My Commission Expires 03-19-2009

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SCHEDULE A

LEGAL DESCRIPTION OF THE PREMISES

LOT 1 IN KOCH POULTRY SUBDIVISION, BEING A SUBDIVISION OF THE NORTH THREE-QUARTERS OF THE WEST HALF OF THE WEST HALF OF THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 8, 2001 AS DOCUMENT 0011050901, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX No.:

12-34-100-023

12-34-100-024

ADDRESS OF PROPERTY:

2155 North Rose Street
Franklin Park, Illinois

Property of Cook County Clerk's Office

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