



0335342133

Doc#: 0335342133
Eugene "Gene" Moore Fee: \$36.00
Cook County Recorder of Deeds
Date: 12/19/2003 11:43 AM Pg: 1 of 7

Property Located at:

2501 North Damen Avenue, Chicago, Illinois

1902, 1904, 1908, 1910, 1912, and
1920-1922 W. Fullerton Avenue, Chicago, Illinois,

2401 and 2407 Elston Avenue, Chicago, Illinois

See pins on last page

(This Space For Recorder's Use Only)

**SECOND AMENDMENT TO MORTGAGE,
ASSIGNMENT OF LEASES AND RENTS
AND SECURITY AGREEMENT**

THIS SECOND AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT (this "Amendment") is made as of December 8, 2003 by **VIENNA BEEF LTD.**, an Illinois corporation with its principal place of business at 2501 North Damen Avenue, Chicago, Illinois ("Mortgagor"), to and for the benefit of **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association with an office at 135 South LaSalle, Chicago, Illinois 60603 ("Mortgagee").

RECITALS

A. Mortgagor and Mortgagee entered into a Credit Agreement dated as of March 2, 2001 (the "Original Credit Agreement"), as amended by that certain First Amendment to Credit Documents dated as of July 15, 2002 (the "First Amendment") between Mortgagor and Mortgagee, as further amended by that certain Second Amendment to Credit Documents dated as of January 31, 2003 (the "Second Amendment") between Mortgagor and Mortgagee, as further amended by that certain Letter Agreement dated as of April 1, 2003 (the "First Letter Amendment") between Mortgagor and Mortgagee, as further amended by that certain Third Amendment to Credit Documents dated as of June 16, 2003 (the "Third Amendment") between Mortgagor and Mortgagee, and as further amended by that certain Fourth Amendment to Credit Documents dated as of August 25, 2003 (the "Fourth Amendment") between Mortgagor and Mortgagee, and as further amended by that certain Letter Agreement dated as of October 6, 2003 (the "Second Letter Amendment") between Mortgagor and Mortgagee (the Original Credit Agreement, as amended by the First Amendment, the Second Amendment, the First Letter Amendment, the Third Amendment, the Fourth Amendment and the Second Letter Amendment, hereinafter is referred to as the "Existing Credit Agreement") pursuant and subject to the terms and conditions of which Mortgagee has agreed to make available to Mortgagor loans and financial accommodations from time to time, all of which are secured on a *pari passu* basis.

B. Mortgagor and Mortgagee have entered into an Amended and Restated Credit Agreement of even date herewith (such Amended and Restated Credit Agreement, as the same may be amended, modified, supplemented or restated from time to time, hereinafter is referred to as the "Credit Agreement"), pursuant to which the Existing Credit Agreement has been amended and restated in its entirety.

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C. In order to secure the obligations of Mortgagor under the Existing Credit Agreement, Mortgagor executed and delivered to Mortgagee that certain Mortgage, Assignment of Leases and Rents and Security Agreement dated as of March 2, 2001 and recorded in the Office of the Cook County Recorder on March 6, 2001 as Document No. 0010172437 (the "**Original Mortgage**") as amended by the First Amendment to Mortgage, Assignment of Leases and Rents and Security Agreement dated as of June 16, 2003 and recorded in the Office of the Cook County Recorder on June 26, 2003 as Document No. 0317733137 (the "**First Mortgage Amendment**") (the Original Mortgage, as amended by the First Mortgage Amendment, hereinafter is referred to as the "**Mortgage**"). The Mortgage encumbers the real estate and the improvements thereon commonly known as 2501 North Damen Avenue, Chicago, Illinois, 1902, 1904, 1908, 1910, 1912, and 1920-1922 W. Fullerton Avenue, Chicago, Illinois, 2401 and 2407 Elston Avenue, Chicago, Illinois and legally described on **Exhibit A** attached hereto.

D. Pursuant and subject to the terms and conditions of the Credit Agreement, Mortgagee has agreed to increase the Revolving Loan Commitment and to extend the Second Mortgage Loan to Mortgagor, which increased Revolving Loans and Second Mortgage Loan shall be secured on a *pari passu* basis with all other loans made under the Credit Agreement.

E. One of the conditions precedent to the obligations of Mortgagee under the Credit Agreement is the execution and delivery by Mortgagor of this Amendment.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other goods and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor hereby agrees to and for the benefit of Mortgagee as follows:

1. **Incorporation of Recitals**. The Recitals set forth above are incorporated herein and made a part hereof and are acknowledged by Mortgagor to be true and correct.
2. **Defined Terms**. Capitalized terms used but not elsewhere defined herein shall have the respective meanings ascribed to such terms in the Credit Agreement.
3. **Notice of Additional Indebtedness**. In addition to the loans described in the Mortgage, Mortgagee has agreed to (i) increase the Revolving Loan Commitment to \$11,000,000 and (ii) extend a Second Mortgage Loan to Mortgagor in the original principal amount of \$1,500,000. The increased Revolving Loan Commitment is evidenced by a Third Amended and Restated Revolving Loan Note in the principal amount of \$11,000,000 of even date herewith made by Mortgagor in favor of Mortgagee. The Second Mortgage Loan is evidenced by a Second Mortgage Loan Note in the principal amount of \$1,500,000 of even date herewith made by Mortgagor in favor of Mortgagee. Mortgagor intends that the Mortgage shall secure the Revolving Loan, the Term Loan, the Mortgage Loan and the Second Mortgage Loan up to the amount of the increased Revolving Loan Commitment and the Second Mortgage Loan, in addition to the other indebtedness described in the Mortgage.
4. **Amendments to Mortgage**. Sections 3.1 and 3.2 of the Mortgage are deleted in their entirety and the following are substituted therefor:

3.1 Future Advances. This Mortgage is given to, and shall, secure not only Mortgagor's Obligations which exist as of the Closing Date, but also all the payment of the Revolving Loan, the Term Loan, the Mortgage Loan and the Second Mortgage Loan and the payment of any and all other Future Advances, whether such Revolving Loan, Term Loan, Mortgage Loan and Second Mortgage Loan or other Future Advances are obligatory or are to be made at the option of Mortgagee.

3.2 Limitation on Amount Secured. The total amount of Debt secured by this Mortgage may decrease or increase from time to time, but the total unpaid balance so secured at one time shall not exceed the sum of (i) \$21,975,000, plus (ii) interest thereon, plus (iii) any

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Imposts, plus (iv) any amounts paid by Mortgagee pursuant to **Section 10.2** hereof, plus (v) all costs and expenses incurred by Mortgagee in enforcing its rights and remedies under this Mortgage, plus (vi) interest on the disbursements described in clauses (iii), (iv) and (v) preceding, which interest shall be calculated at the applicable Default Rate.”

5. **Ratification of Mortgage.** Mortgagor ratifies, reaffirms and confirms each and every one of its obligations and agreements under the Mortgage, and agrees that such obligations and agreements shall continue in full force and effect and extend to the Mortgage Loan. Mortgagor represents and warrants to Mortgagee that the representations and warranties of Mortgagor contained in Article IV of the Mortgage are true and correct as of the date of this Amendment.

6. **References.** Mortgagor agrees that all references in the Mortgage to (i) the Credit Agreement shall be deemed to refer to the Credit Agreement as amended, modified, supplemented or restated from time to time and (ii) a term defined in the Credit Agreement shall be deemed to refer to such defined term, as amended by any and all amendments to, modifications of, supplements to and restatements of the Credit Agreement entered into between Mortgagor and Mortgagee from time to time.

7. **No Defenses.** Mortgagor acknowledges and agrees that it has no defense, offset or counterclaim with respect to the payment of any sum owed to Mortgagee, or with respect to the performance or observance of any warranty or covenant contained in the Mortgage or the other Credit Documents heretofore, now or hereafter executed and delivered in connection therewith.

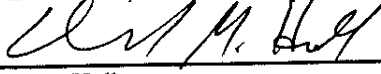
8. **Reliance.** Mortgagor acknowledges that Mortgagor is relying on this Amendment in entering into the Credit Agreement.

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IN WITNESS WHEREOF, this Second Amendment to Mortgage, Assignment of Leases and Rents, and Security Agreement has been duly executed by Mortgagor by its duly authorized representative as of the day and year first above written.

VIENNA BEEF LTD., an Illinois corporation

By: 

David M. Hull
Senior Vice President and Chief Financial
Officer

Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
)
) SS:
COUNTY OF COOK)

On this 21 day of December, 2003, before me, a Notary Public in and for the State of Illinois, in the County aforesaid, personally appeared David M. Hull, to me known to be the Senior Vice President and Chief Financial Officer of Vienna Beef Ltd., an Illinois corporation, the corporation that executed the foregoing instrument, and upon oath did depose that he/she is the Senior Vice President and Chief Financial Officer of such corporation, that the signature to said instrument was made by the Senior Vice President and Chief Financial Officer of said corporation as indicated after said signature, and that the corporation executed the said instrument freely and voluntarily for the uses and purposes therein mentioned.

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

Maureen B. Farrell
NOTARY PUBLIC in and for said State and County

My commission expires: _____



THIS DOCUMENT PREPARED BY AND
AFTER RECORDING RETURN TO:
Michael L. Owen, Esq.
Bell, Boyd & Lloyd LLC
70 West Madison
Suite 3300
Chicago, Illinois 60602-4207

Property of Cook County Clerk's Office

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EXHIBIT A

LEGAL DESCRIPTION

Parcel 1:

That part of the southwest $\frac{1}{4}$ of the southeast $\frac{1}{4}$ of Section 30, Township 40 North, Range 14, east of the Third Principal Meridian, lying west and south of the north branch of the Chicago River, north of Fullerton Avenue, northeast of Elston Avenue and east of the east line of Robey Street, now known as Damen Avenue, as now located, except the following:

Lots 15 to 32, both inclusive, in Block 8 of Fullerton's Addition to Chicago in said southwest $\frac{1}{4}$ of the southeast $\frac{1}{4}$ and also excepting the street and alley adjoining said lots on the east and north; also excepting that part thereof lying east of the following described line:

Commencing at the northeast corner of Fullerton and Wolcott Avenues, being also the southwest corner of vacated Block 10 in said Fullerton's Addition; thence north 00 degrees, 24 minutes west in the east line of said Wolcott Avenue, a distance of 141.00 feet to a point in the north line of the east and west 16-foot alley in said Block 8, extended to the east line of said Wolcott Avenue; thence west in the north line of said alley extended east, a distance of 37.80 feet; thence north 17 degrees, 30 minutes east, a distance of 277.17 feet; thence north 03 degrees, 07 minutes east, a distance of 117.64 feet to the southeast corner of a brick building; thence north 04 degrees, 51 minutes west along the easterly face of said brick building and the same extended northerly, a distance of 47.83 feet; thence north 03 degrees, 03 minutes, 36 seconds west to the thread of the north branch of the Chicago River, in Cook County, Illinois.

Parcel 2:

Lot 15 in Block 8 in Fullerton's Addition to Chicago, said Fullerton Addition being a subdivision of part of the southeast $\frac{1}{4}$ of Section 30, Township 40 North, Range 14, east of the Third Principal Meridian, lying west of the north branch of the Chicago River and that part of the north $\frac{1}{2}$ of the northeast $\frac{1}{4}$ of Section 31, Township 40 North, Range 14, east of the Third Principal Meridian, lying west of the Chicago River and west of the Chicago and Northwestern Railroad, in Cook County, Illinois.

Parcel 3:

Lot 16 in Block 8 in Fullerton's Addition to Chicago, being a subdivision of the southeast $\frac{1}{4}$ of Section 30, and of the northeast $\frac{1}{4}$ of Section 31, Township 40 North, Range 14, east of the Third Principal Meridian, in Cook County, Illinois.

Parcel 4:

Lots 23 and 24 in Block 8 in Fullerton's Addition to Chicago, being a subdivision of the southeast $\frac{1}{4}$ of Section 30, and of the northeast $\frac{1}{4}$ of Section 31, Township 40 North, Range 14, east of the Third Principal Meridian, in Cook County, Illinois.

Parcel 5:

Lot 20 in Block 8 in Fullerton's Addition to Chicago, being a subdivision of the southeast $\frac{1}{4}$ of Section 30, and of the northeast $\frac{1}{4}$ of Section 31, Township 40 North, Range 14, east of the Third Principal Meridian, in Cook County, Illinois.

Parcel 6:

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Lots 27, 31 and 32 in Block 8 in Fullerton's Addition to Chicago, being a subdivision of the southeast 1/4 of Section 30, and of the northeast 1/4 of Section 31, Township 40 North, Range 14, east of the Third Principal Meridian, in Cook County, Illinois.

Parcel 7:

Lot 18 in Block 8 in Fullerton's Addition to Chicago, being a subdivision of the southeast 1/4 of Section 30, and of the northeast 1/4 of Section 31, Township 40 North, Range 14, east of the Third Principal Meridian, in Cook County, Illinois.

Parcel 8:

Lots 28, 29 and 30 in Block 8 in Fullerton's Addition to Chicago, being a subdivision of the southeast 1/4 of Section 30, and of the northeast 1/4 of Section 31, Township 40 North, Range 14, east of the Third Principal Meridian, in Cook County, Illinois.

Parcel 9:

Lot 19 in Block 8 in Fullerton's Addition to Chicago, being a subdivision of the southeast 1/4 of Section 30, and of the northeast 1/4 of Section 31, Township 40 North, Range 14, east of the Third Principal Meridian, in Cook County, Illinois.

Parcel 10:

Lot 21 in Block 8 in Fullerton's Addition to Chicago, being a subdivision of the southeast 1/4 of Section 30, and of the northeast 1/4 of Section 31, Township 40 North, Range 14, east of the Third Principal Meridian, in Cook County, Illinois.

Parcel 11:

Lots 25 and 26 in Block 8 in Fullerton's Addition to Chicago, being a subdivision of the southeast 1/4 of Section 30, and of the northeast 1/4 of Section 31, Township 40 North, Range 14, east of the Third Principal Meridian, in Cook County, Illinois.

Common Address of Premises:

2501 North Damen Avenue
Chicago, Illinois

1902, 1904, 1908, 1910, 1912, 1920-1922 West Fullerton Avenue
Chicago, Illinois

2401 and 2407 Elston Avenue
Chicago, Illinois

~~Identification Number:~~

~~0017250~~

- 14-30-401-014-0000
- 14-30-401-016-0000
- 14-30-401-017-0000
- 14-30-401-019-0000
- 14-30-401-003-0000
- 14-30-401-004-0000
- 14-30-401-005-0000
- 14-30-401-006-0000
- 14-30-401-007-0000
- 14-30-401-008-0000
- 14-30-401-009-0000
- 14-30-2401-011-0000
- 14-30-401-012-0000
- 14-30-401-013-0000