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NINETEENTH LOAN MODIFICATION AGREEMENT



Doc#: 0412427146
Eugene "Gene" Moore Fee: \$44.50
Cook County Recorder of Deeds
Date: 05/03/2004 04:07 PM Pg: 1 of 11

THIS NINETEENTH LOAN MODIFICATION AGREEMENT dated as of the 27th day of April, 2004, among CHIAPPETTI WHOLESAL MEAT CORPORATION, an Illinois corporation ("Chiappetti"), having its chief executive offices at 3900 S. Emerald Avenue, Chicago, Illinois 60609, DEN-FRANCO CORPORATION, an Illinois corporation ("Den-Franco"), having its chief executive offices at 3900 S. Emerald Avenue, Chicago, Illinois 60609, DC PROPERTIES, INC., an Illinois corporation ("DC" and together with Chiappetti and Den-Franco, "Corporate Borrowers" and individually a "Corporate Borrower"), having its chief executive offices at 3900 S. Emerald Avenue, Chicago, Illinois 60609, and COLE TAYLOR BANK, formerly known as COLE TAYLOR BANK/FORD CITY BANK AND TRUST COMPANY, not personally, but solely as trustee ("Land Trustee" and together with the Corporate Borrowers, the "Borrowers" and individually, a "Borrower"), under Trust Agreement dated March 1, 1985 and known as Trust No. 4336 (the "Land Trust"), having its principal place of business at 850 West Jackson Boulevard, Chicago, Illinois 60607, DENNIS CHIAPPETTI, an individual, residing at 8025 Cambridge Drive, Orland Park, Illinois 60462 and BANK ONE, NA, a national banking association ("Lender"), successor by merger to AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, with offices of business at 120 South LaSalle Street, Chicago, Illinois 60603.

RECITALS

WHEREAS, the Borrowers and the Lender have heretofore entered into that certain Loan and Security Agreement dated as of December 15, 1996, as amended (the "Existing Agreement"), providing for, among other things, the borrowing by the Borrowers from the Lender and the lending by the Lender to the Borrower of Loans, including, but not limited to, that certain Revolving Credit Loan evidenced by that original \$2,700,000 principal amount Revolving Credit Note, as amended, of Chiappetti and Den-Franco payable to the order of Lender, dated December 15, 1996 and due on April 30, 2004 (the "Existing Revolving Credit Note"), and that certain Borrowers Term Loan evidenced by that joint and several original \$400,000 principal amount Borrowers Term Note, as amended, of Borrowers payable to the order of Lender, dated December 28, 1998 and due on May 31, 2004 (the "Existing Borrowers Term Note"); and

WHEREAS, to secure the repayment of the Loans, the Corporate Borrowers granted Lender a security interest in the Collateral pursuant to the Existing Agreement, and DC and the Land Trustee granted a mortgage lien on the Parcel pursuant to that certain Mortgage dated as of

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December 15, 1996, as amended (the "Existing Mortgage"), which Parcel is more particularly described on Exhibit "A" attached hereto and made a part hereof, and a collateral assignment of rents and leases relating to the Parcel pursuant to that certain Assignment of Rents and Leases dated December 15, 1996, as amended (the "Existing Assignment"); and

WHEREAS, Borrowers desire to (i) extend the maturity of the Revolving Credit Loan and the Borrowers Term Loan to the last Business Day of July 2004; (ii) increase the maximum amount available under the Revolving Credit Loan after April 30, 2004 until July 31, 2004 to \$2,500,000; (iii) maintain the maximum amount available under the Revolving Credit Loan on account of Eligible Inventory after April 30, 2004 until July 31, 2004 at \$1,250,000; (iv) extend to July 31, 2004 the availability under the Revolving Credit Loan of the \$300,000 seasonal over advance; and (v) obtain a waiver of certain covenant defaults as of February 27, 2004, and Lender is willing so to do, all upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the parties hereto hereby agree as follows:

AGREEMENT

1. The Recitals set forth above are incorporated herein by reference and made a part hereof.
2. Capitalized terms not expressly defined in this Nineteenth Loan Modification Agreement have the meanings ascribed to them in the Existing Agreement.
3. The definition of Borrowing Base in Section 1.1 of the Existing Agreement is amended as follows:
 - (a) by deleting clause (a) thereof and substituting therefor the following:

\$2,250,000 for the period prior to December 26, 2003, \$2,500,000 for the period commencing December 26, 2003 and terminating March 15, 2004, \$2,750,000 for the period commencing March 16, 2004 and terminating April 30, 2004, \$2,500,000 for the period commencing May 1, 2004 and terminating July 31, 2004 and \$2,250,000 thereafter,
 - (b) by deleting from paragraph (B)(1) thereof the date "April 30, 2004," and substituting therefor the date "July 31, 2004," and
 - (c) by deleting from paragraph (C) thereof the date "April 30, 2004," and substituting therefor the date "July 31, 2004."
4. The definition of Commitment Termination Date in Section 1.1 of the Existing Agreement is amended to read as follows:

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Commitment Termination Date – The earliest of (i) July 30, 2004 unless extended by an amendment hereto executed by Borrower and Lender; or (ii) the date of termination of the Commitment to make further Revolving Credit Loans pursuant to Section 11.2 hereof.

5. The definition of Tangible Net Worth in Section 1.1 of the Existing Agreement is amended to read as follows:

At any date means the amount, without duplication, equal to (i) the Net Worth of Chiappetti as of such date plus Subordinated Debt owing to Chiappetti as of such date less (ii) the amounts shown on Chiappetti's balance sheet as of such date for goodwill, intangible assets, intercompany loans, loans to officers, directors, shareholders, employees and Affiliates, deposits and prepayments, and refinancing charges, all as determined in accordance with GAAP.

6. Section 2.2D of the Existing Agreement is amended by deleting therefrom the phrase "Last Business Day of May, 2004" and substituting therefore the phrase "Last Business Day of July, 2004".

7. Sections 2.1(B), 2.3(A) and 3.6 of the Existing Agreement are amended by deleting from each thereof the date "April 30, 2004" and substituting therefore the date "July 31, 2004".

8. Section 3.2A of the Existing Agreement is amended by deleting clause (x) thereof in its entirety and substituting therefor the following:

(x) \$2,250,000 for the period prior to December 26, 2003, \$2,500,000 for the period commencing December 26, 2003 and terminating March 15, 2004, \$2,750,000 for the period commencing March 16, 2004 and terminating April 30, 2004, \$2,500,000 for the period commencing May 1, 2004 and terminating July 31, 2004, and \$2,250,000 thereafter.

9. Section 9.3(E) of the Existing Agreement is amended to read as follows:

(E) Debt Service Coverage Ratio. As at the end of each of its fiscal quarters, Chiappetti shall have a Debt Service Coverage Ratio for the 12 month period then ended of not less than 1.15 to 1.00.

10. Exhibit A to the Existing Agreement, Exhibit A to the Existing Mortgage and the Existing Revolving Credit Note are each amended by deleting therefrom wherever appearing the date "April 30, 2004" and substituting therefor the date "July 31, 2004."

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11. Exhibit X to the Existing Agreement and the Borrowers Term Note are each amended by deleting therefrom the date "May 31, 2004" and substituting therefor the date "July 31, 2004."
12. Exhibit C to the Existing Agreement and the Existing Mortgage are each amended by deleting from the third paragraph of the Recitals in each thereof the date "April 30, 2004" and substituting therefor the date "July 31, 2004".
13. Exhibit D to the Existing Agreement and the Existing Assignment are each amended by deleting from each thereof Subsection (a) of Section 1 thereof and substituting therefor the following:
- (a) Payment of the indebtedness evidenced by those notes (herein together called "Notes") in the aggregate principal amount not to exceed \$3,609,934.50 payable to the order of Assignee and any extensions, modifications or renewals thereof and secured by that certain Mortgage dated as of December 15, 1996 from Assignor, as mortgagor, to Assignee, as mortgagee, upon the Premises, and filed for record in the proper office of the County and State where the Premises are located on December 23, 1996, as Document No. 96-965397, as amended by that certain (i) First Modification Agreement dated as of May 29, 1998 among Assignor and Assignee, (ii) Third Loan Modification Agreement dated as of December 28, 1998 among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti, and Assignee and recorded in such office on January 22, 1999 as Document No. 99071953, (iii) Fourth Loan Modification Agreement dated as of January 31, 2001 among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti, and Assignee and recorded in such office on _____, 2001 as Document No. _____, (iv) Fifth Loan Modification Agreement dated as of March 21, 2001, among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti, and Assignee and recorded in such office on April 16, 2001 as Document No. 0010306723, (v) Sixth Loan Modification Agreement dated as of May 31, 2001, among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti, and Assignee and recorded in such office on _____, 2001, as Document No. _____, (vi) Seventh Loan Modification Agreement dated as of June 26, 2001, among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in such office on July 24, 2001 as Document No. 0010663212; (vii) Eighth Loan Modification Agreement dated as of December 7, 2001, among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in such office on December 21, 2001 as Document No. 11214804; (viii) Ninth Loan Modification Agreement dated as of March 25, 2002, among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in

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such office on April 4, 2002 as Document No. 0020385023; (ix) Tenth Loan Modification Agreement dated as of November 26, 2002, among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in such office on January 13, 2003 as Document No. 0030058834; (x) Eleventh Loan Modification Agreement dated as of February 19, 2003, among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in such office on March 12, 2003 as Document No. 0030341739; (xi) Twelfth Loan Modification Agreement dated as of March 26, 2003, among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in such office on April 3, 2003 as Document No. 00304550436; (xii) Thirteenth Loan Modification Agreement dated as of May 30, 2003, among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in such office on June 4, 2003 as Document No. 0315545290; (xiii) Fourteenth Loan Modification Agreement dated as of August 25, 2003, among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in such office on September 4, 2003 as Document No. 0324727181, (xiv) Fifteenth Loan Modification Agreement dated as of November 24, among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in such office on December 4, 2003 as Document No. 0333831108; (xv) Sixteenth Loan Modification Agreement dated as of December 26, 2003 among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in such office on December 30, 2003 as Document No. 0336418157; (xvi) Seventeenth Loan Modification Agreement dated as of February 13, 2004 among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in such office on February 17, 2004, as Document No. 0404303041; (xvii) Eighteenth Loan Modification Agreement dated as of March 15, 2004 among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in such office on March 17, 2004 as Document No. 0407739025; and (xviii) Nineteenth Loan Modification Agreement dated as of April 27, 2004 among Chiappetti, Den-Franco, Assignor, Dennis Chiappetti and Assignee and recorded in such office on _____ as Document No. _____ (said Mortgage as so amended hereinafter called the "Mortgage"), which Mortgage and Notes are held by or for the benefit of the Assignee.

14. Lender hereby waives any Event of Default existing by reason of a breach, as of February 27, 2004 of the covenants set forth in Section 9.3(D) and Section 9.3(E) of the Existing Agreement; provided, however that such waiver shall not apply to any Default or Event of Default existing by reason of a breach, as of any date after February 27, 2004 of such Sections of the Existing Agreement; and further provided that such waiver shall not constitute, or be deemed

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to constitute, a waiver of any other Default or Event of Default existing by reason of a breach of any other covenant, representation or warranty of the Existing Agreement.

15. The parties hereto, by their respective execution hereof, acknowledge and agree that all reference in (a) the Collateral ABI to "Lender Debt," (b) the Guaranty to "guaranteed debt" and "Loan Agreement," and (c) the Environmental Indemnity Agreement to "Loan Documents" shall be deemed to refer to, among other things, the Existing Agreement, the Existing Mortgage, the Existing Assignment, the Existing Revolving Credit Note, and the Existing Borrowers Term Note, as hereby amended, and in the case of the Existing Revolving Credit Note and the Existing Borrowers Term Note, the indebtedness evidenced by each thereof.

16. Borrowers shall cause this Nineteenth Loan Modification Agreement to be recorded in the Office of the Recorder of Deeds of Cook County, Illinois.

17. Borrowers covenant and agree to pay the reasonable fees and expenses of Dykema Gossett PLLC, counsel to Lender, incurred in connection with the negotiation, preparation and recordation of this Nineteenth Loan Modification Agreement.

18. All of the representations and warranties of the Borrowers and Guarantor set forth in the Loan Documents, as hereby amended, are true and correct in all material respects on and as of the date hereof. Each Borrower and the Guarantor represent and warrant to the Lender that this Nineteenth Loan Modification Agreement has been duly authorized, executed and delivered by the Borrowers and Guarantor and constitutes the legal, valid and binding obligation of each thereof, enforceable in accordance with its terms except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally from time to time in effect and by applicable principles of equity if equitable remedies are sought. Except as expressly amended hereby, all terms and provisions of each of the Loan Documents remain in full force and effect, and each of the Loan Documents, as hereby amended, is hereby ratified, confirmed and approved.

19. This Nineteenth Loan Modification Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.

20. This Nineteenth Loan Modification Agreement is executed by Cole Taylor Bank, not personally but as Land Trustee aforesaid, in the exercise of the power and authority conferred upon and fixed in it as such Trustee, and it is expressly understood and agreed that nothing herein contained shall be constituted as creating any liability on said Cole Taylor Bank, as Land Trustee as aforesaid, or on said Cole Taylor Bank, personally, to pay the Obligations, or to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by the Lender and by every person now or hereafter claiming any right or security hereunder, and that so far as Cole Taylor Bank, as Land Trustee as aforesaid, and its successors, and assigns, personally, only are concerned, the Lender and the owner or owners of the Notes shall look solely to any one or more of the Collateral and the Premises for the payment thereof, by the enforcement of the Liens created pursuant hereto and to the Mortgage, in the manner herein and in the Loan Documents provided, or action to enforce the personal liability of

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the Corporate Borrowers and each of them, or enforcement of any other security or collateral securing the Obligations.

IN WITNESS WHEREOF, the parties hereto have caused this Nineteenth Loan Modification Agreement to be executed on and as of the day, month and year first above written.

CHIAPPETTI WHOLESALE MEAT

By: Dennis Chiappetti
President

DEN-FRANCO CORPORATION

By: Dennis Chiappetti
President

DC PROPERTIES, INC.

By: Dennis Chiappetti
President

DENNIS CHIAPPETTI

COLE TAYLOR BANK, not personally but solely as Trustee as aforesaid

By: [Signature]
Vice President

BANK ONE, NA

By: [Signature]
Vice President

ATTEST: [Signature]
Assistant Secretary Trust Officer

THIS INSTRUMENT WAS PREPARED BY AND AFTER RECORDING RETURN TO

I. Walter Deitch
DYKEMA GOSSETT PLLC
55 East Monroe Street, Suite 3050
Chicago, Illinois 60603

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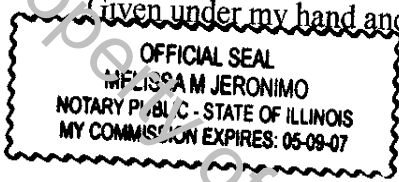
STATE OF ILLINOIS)

) SS

COUNTY OF COOK)

I, Melissa M. Jeronimo, a Notary Public in and for the County and State aforesaid, do hereby certify that Dennis Chiappetti the (Vice) President of CHIAPPETTI WHOLESALE MEAT CORPORATION, an Illinois corporation, who is personally known to me to be the same person whose names is subscribed to the foregoing instrument as such officer of said corporation; appeared before me in person and acknowledged that he signed and delivered the said instrument as his 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 30th day of April, 2004.



Melissa M. Jeronimo
Notary Public

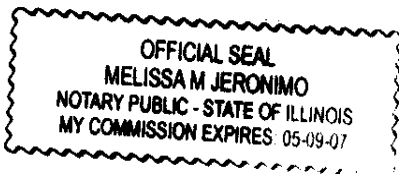
STATE OF ILLINOIS

) SS

COUNTY OF COOK)

I, Melissa M. Jeronimo, a Notary Public in and for the County and State aforesaid, do hereby certify that Dennis Chiappetti the (Vice) President of DEN-FRANCO CORPORATION, an Illinois corporation, who is personally known to me to be the same person whose names is subscribed to the foregoing instrument as such officer of said corporation, appeared before me in person and acknowledged that he signed and delivered the said instrument as his 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 30th day of April, 2004.



Melissa M. Jeronimo
Notary Public

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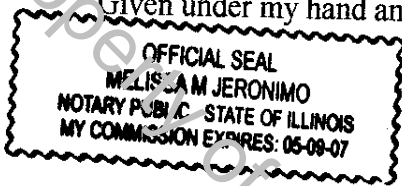
STATE OF ILLINOIS)

) SS

COUNTY OF COOK)

I, Melissa M. Jeronimo, a Notary Public in and for the County and State aforesaid, do hereby certify that Dennis Chiappetti, the (Vice) President of DC PROPERTIES, INC., an Illinois corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer of said corporation, appeared before me in person and acknowledged that he signed and delivered the said instrument as his 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 30th day of April, 2007.



Melissa M. Jeronimo
Notary Public

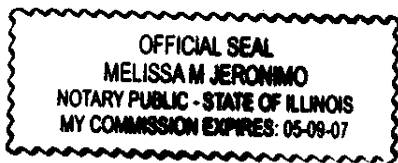
STATE OF ILLINOIS)

) SS

COUNTY OF COOK)

I, Melissa M. Jeronimo, a Notary Public in and for the County and State aforesaid, do hereby certify that DENNIS CHIAPPETTI, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 30th day of April, 2007.



Melissa M. Jeronimo
Notary Public

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EXHIBIT A

LEGAL DESCRIPTION

Lots 6,7,8,9,10,11,12,13,14 and 15 in block 18 in Gage, LeMoyne, Hubbard and others subdivision of the East 1/2 of the Southeast 1/4 of Section 32, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Common Address: 3810-3820 South Halsted
Chicago, Illinois 60609

PINS: 17-32-419-012
17-32-419-013
17-32-419-015
17-32-419-016
17-32-419-017
17-32-419-018
17-32-419-019
17-32-419-020
17-32-419-021
17-32-419-022

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ID\WD

Office of Cook County Clerk's Office

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STATE OF ILLINOIS)

) SS

COUNTY OF COOK)

I, Sherril Smith, a Notary Public in and for the County and State aforesaid, do hereby certify that MARIO V. GOTANCO and Coleen F. Danaher, respectively, the (Vice) President and (Assistant) Secretary of COLE TAYLOR BANK, an Illinois banking corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers of said corporation, respectively, appeared before me in person and acknowledged that they signed and delivered the said instrument as their 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 30th day of April, 2004

Sherril Smith

Notary Public



STATE OF ILLINOIS)

) SS

COUNTY OF COOK)

I, I. Walter Deitch, a Notary Public in and for the County and State aforesaid, do hereby certify that Andrew Holtz Vice President of BANK ONE, NA, a national banking association, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer of said corporation, appeared before me in person and acknowledged that he signed and delivered the said instrument as his 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 3rd day of May, 2004

