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MORTGAGE MODIFICATION

Date: June 30, 2006

MORTGAGE MODIFICATION



Doc#: 0631045022 Fee: \$40.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 11/06/2006 11:54 AM Pg: 1 of 9

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Property of Cook County Clerk's Office

made between

WISCON CORP., an Illinois corporation
(hereinafter referred to as "Mortgagor")

and

LASALLE BANK NATIONAL ASSOCIATION
hereinafter referred to as "Mortgagee"

Amount Secured: \$15,287,357.50

Maturity Date: June 30, 2011

Prepared By:

Bennett L. Cohen
Cohen, Salk & Huvard, P.C.
630 Dundee Road, Suite 120
Northbrook, Illinois 60062
After Recording Return To:

ADDRESS OF PROPERTY:

See Exhibit "A" attached hereto

Sean C. Gallagher, First VP
LaSalle Bank National Association
1000 S. York Road
Elmhurst, Illinois 60126

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THIS THIRD MODIFICATION AGREEMENT (this "Agreement") is entered into as of the 30th day of June, 2006 by and between WISCON CORP., an Illinois corporation (herein, the "Mortgagor"), and LASALLE BANK NATIONAL ASSOCIATION (herein, the "Mortgagee").

WHEREAS, Mortgagee extended to the Mortgagor and Caputo Cheese Market, Inc., an Illinois corporation ("CCM") (Mortgagor and CCM each singularly hereafter may be referred to as a "Borrower" and collectively as the "Borrowers") the following loans (i) a \$7,000,000.00 revolving line of credit loan, (ii) a mortgage loan in the principal amount of \$4,500,000.00, and (iii) a term loan in the principal amount of \$1,000,000.00; and

WHEREAS, Mortgagee also extended to Caputo Real Estate, LLC, an Illinois limited liability company ("Caputo LLC") a mortgage loan in the principal sum of \$600,000.00; and

WHEREAS, to secure payment of all of the aforesaid loans to Borrowers and Caputo LLC, the Mortgagor executed a certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated as of June 30, 2005 (the "Mortgage") mortgaging, granting and conveying to Mortgagee the Premises (as defined in the Mortgage), including the real estate described in **Exhibit "A"** attached hereto and incorporated herein by reference; and

WHEREAS, the Mortgage was recorded on July 5, 2005, in the office of the Norfolk County Registry District of the Land Court as Document No. 1070253; and

WHEREAS, pursuant to First Modification Agreement dated as of September 21, 2005, the Mortgage was amended to also secure a mortgage loan in the principal sum of \$1,050,000.00 made by Mortgagee to Caputo LLC; and

WHEREAS, pursuant to Second Modification Agreement dated as of April 17, 2006, the Mortgage was amended to reflect and secure a consolidation of the aforesaid two mortgages loans in the principal sums of \$600,000.00 and \$1,050,000.00 made by Mortgagee to Caputo LLC; into one consolidated mortgage loan in the principal sum of \$1,601,250.00; and

WHEREAS, the Borrowers have made the following loan requests of the Mortgagee: (i) renew the aforesaid revolving line of credit loan in the reduced sum of \$5,000,000.00 until June 30, 2007, (ii) consolidate a portion of the aforesaid \$4,500,000.00 mortgage Loan, \$3,500,000 balance of the aforesaid revolving line of credit loan, and the balance of the aforesaid \$1,000,000.00 term Loan into one consolidated amended and restated term loan in the principal sum of \$4,869,045.00 repayable in installments of principal plus interest, with a final balloon payment due on June 30, 2011, (v) modify the existing financial covenants in the Loan Agreement, (vi) make Caputo LLC a consolidated mortgage loan in the principal sum of \$5,418,312.50 which will be secured by, among other documents, the Loan Agreement and the Mortgage, and (vii) make certain other modifications to the Loan Agreement; and

WHEREAS, the Mortgagee has consented to such loan requests, provided, among other conditions, that Mortgagor execute and deliver to Mortgagee this Agreement;

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NOW THEREFORE, in consideration of the mutual promises of the parties hereto, and upon the express conditions that the lien of the Mortgage held by Mortgagee is a valid, first and subsisting lien on the Premises and that the execution of this Agreement will not impair the first lien of the Mortgage (for breach of which condition, this Agreement, at the sole election of Mortgagee, shall not take effect and shall be void), **IT IS AGREED AS FOLLOWS:**

1. The Mortgagor and Mortgagee represent and agree that the foregoing recitals are true and correct. All capitalized terms used herein without definition shall have the same respective meanings herein as such terms have in the Mortgage.
2. The "Maturity Date" as used in the Mortgage is hereby amended to read "June 30, 2011".
3. The five "WHEREAS" clauses beginning on page 1 of the Mortgage are hereby deleted and the following clauses are hereby substituted therefor:

"WHEREAS, the Mortgagor and Caputo Cheese Market, Inc., an Illinois corporation ("CCM") (Mortgagor and CCM each singularly hereafter may be referred to as a "Borrower" and collectively as the "Borrowers") have executed and delivered to the Mortgagee the following promissory notes, jointly and severally: (i) a Renewal Revolving Note dated June 30, 2006, payable to the order of Mortgagee, in the principal sum of Five Million and 00/100 (\$5,000,000.00) Dollars (herein called the "Revolving Note"), evidencing a \$5,000,000.00 renewal revolving line of credit loan made by Mortgagee to Borrowers (the "Revolving Loan"), repayable on June 30, 2007, together with interest payable periodically calculated at a variable interest rate therein described, (ii) an Amended and Restated Term Note dated June 30, 2006, payable to the order of Mortgagee, in the principal sum of Four Million Eight Hundred Sixty Nine Thousand Forty Five and 00/100 (\$4,869,045.00) Dollars (herein called the "Term Note"), evidencing a \$4,869,045.00 amended and restated term loan made by Mortgagee to Borrowers (the "Term Loan"), repayable in installments of principal plus interest calculated at a variable interest rate therein described, with a final payment due on June 30, 2011; and

WHEREAS, Caputo Real Estate, LLC, an Illinois limited liability company ("Caputo LLC") has executed and delivered to the Mortgagee a Consolidated Mortgage Note dated June 30, 2006, payable to the order of Mortgagee, in the principal sum of Five Million Four Hundred Eighteen Thousand Three Hundred Twelve and 50/100 (\$5,418,312.50) Dollars (the "Caputo Mortgage Note"), evidencing a \$5,418,312.50 consolidated mortgage loan made by Mortgagee to Caputo LLC, repayable in installments of principal plus interest calculated at a variable interest rate therein described, with a final payment due on June 30, 2011; and

WHEREAS, the payment and performance of the Caputo Mortgage Note have been unconditionally guaranteed by Borrowers pursuant to that certain Amended and Restated Unconditional Guaranty dated June 30, 2006 executed by the Borrowers in favor of Mortgagee (the "Caputo LLC Guaranty"); and

WHEREAS, the Revolving Note, the Term Note, and the Caputo Mortgage Note shall collectively hereinafter be called the "Notes" and individually a "Note"; and

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WHEREAS, this Mortgage shall secure repayment of the following described indebtedness (collectively, hereafter, the "Indebtedness Hereby Secured"): (i) the indebtedness evidenced by the Notes, including the principal thereof and interest and premium, if any, thereon, LIBOR breakage and indemnity charges, if any, and any and all extensions, refinancings, amendments, renewals, modifications, consolidations, conversions and replacements thereof, in whole or in part, any and all other sums which may be at any time due or owing or required to be paid as provided in this Mortgage, the Notes and in the other Loan Documents (as hereinafter defined), (ii) the Borrowers' payment and performance obligations under the Caputo LLC Guaranty, (iii) all obligations and liabilities of Borrowers and Caputo LLC, respectively, to the Mortgagee under and pursuant to (a) any ISDA Master Agreement (each, an "ISDA") and any and all schedules and exhibits thereto, heretofore, now or hereafter executed by and between Borrowers and/or Caputo LLC and the Mortgagee, as amended from time to time, together with interest thereon at the applicable default rate, and (b) any other interest rate, currency or commodity swap agreement, cap agreement or collar agreement, executed by and between Borrowers and/or Caputo LLC and the Mortgagee from time to time (all ISDA's and such other agreements, collectively, "Interest Rate Agreements"), together with all interest rate swap or hedge fees and all other fees, costs and expenses related thereto (if any), (iv) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of the Mortgagor, CCM, Caputo LLC or any other obligor or grantor to or benefiting the Mortgagee which are evidenced or secured by or otherwise provided in the Notes, this Mortgage or any of the other Loan Documents; and (v) the reimbursement to the Mortgagee of any and all sums incurred, expended or advanced by the Mortgagee pursuant to any term or provision of or constituting additional indebtedness under or secured by this Mortgage, any of the other Loan Documents or any Interest Rate Agreements, with interest thereon as provided herein or therein;"

4. Hereafter, the term "Notes" as used in the Mortgage and hereinbelow, shall refer collectively to the Revolving Note, the Term Note and the Caputo Mortgage Note (as such terms are defined in Section 3 above), and the term "Note" shall individually refer to any one of them.
5. Mortgagor acknowledges and agrees that the Mortgage is and as amended hereby shall remain in full force and effect, and that the Premises are and shall remain subject to the liens granted and provided for by the Mortgage, as modified hereby, for the benefit and security of all obligations and indebtedness described therein, including, without limitation, the indebtedness evidenced by the Notes and all other Indebtedness Hereby Secured (as defined in the Mortgage and amended hereby).
6. Nothing contained in this Agreement shall in any manner impair the Mortgage, as modified hereby, or the first lien created by the Mortgage, as modified hereby, or any other loan documents executed in connection with the loans evidenced by the Notes, or alter, waive, vary or affect any promise, agreement, covenant or condition recited in any of the foregoing documents, except as expressly provided in this Agreement, or affect or impair any rights, powers, or remedies of Mortgagee under any of the foregoing documents.
7. Except as specifically amended and modified hereby, all of the terms and conditions of the Mortgage shall stand and remain unchanged and in full force and effect. This instrument

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shall be construed and governed by and in accordance with the laws of the State of Massachusetts.

8. This Agreement shall be binding upon Mortgagor, its successors and assigns, and shall inure to the benefit of the Mortgagee, its successors and assigns.

IN WITNESS WHEREOF, Mortgagor and Mortgagee have executed this Mortgage Modification as of the day and year first above written.

MORTGAGOR

WISCON CORP.

By: 

Natale Caputo

Title: President

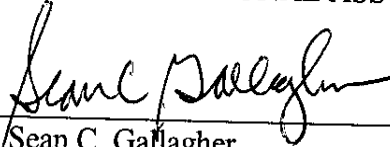
By: 

Caterina Caputo

Title: Treasurer

MORTGAGEE

LASALLE BANK NATIONAL ASSOCIATION

By: 

Sean C. Gallagher

Title: First Vice President

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UNOFFICIAL COPY**EXHIBIT "A"**Legal Description

PARCEL 1:

THE NORTH 150 FEET OF THE SOUTH 200.44 FEET OF THAT PART OF LOT 3 IN BLOCK 2 IN FRANKLIN FARMS, BEING A SUBDIVISION OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 AND THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE INDIAN BOUNDARY LINE, EXCEPT THAT PART TAKEN FOR RAILROADS, LYING WEST OF THE WEST LINE OF 15TH AVENUE, BEING A LINE 33 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID LOT 3, AND LYING EAST OF A LINE 10 FEET EAST OF AND PARALLEL WITH THE NORTH AND SOUTH CENTER LINE OF THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 34, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE NORTH 15 FEET OF THE SOUTH 50.44 FEET OF THAT PART OF LOT 3 IN BLOCK 2 IN FRANKLIN FARMS, BEING A SUBDIVISION OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 AND THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE INDIAN BOUNDARY LINE, EXCEPT THAT PART TAKEN FOR RAILROAD; LYING WEST OF THE WEST LINE OF 15TH AVENUE (BEING A LINE 33 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID LOT 3), AND LYING EAST OF A LINE 10 FEET EAST OF AND PARALLEL WITH THE NORTH AND SOUTH CENTER LINE OF THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 34, IN COOK COUNTY, ILLINOIS.

PARCEL 3: THE EAST 72.75 FEET (MEASURED ON NORTH AND SOUTH LINES THEREOF) OF THAT PART OF LOT 4 AND LOT 8 IN AMLING'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF LOT 4 AFORESAID, WHICH POINT IS 241.0 FEET SOUTH OF THE NORTH LINE OF LOT 4; THENCE EASTERLY ALONG A LINE PARALLEL TO THE NORTH LINE OF LOT 4 TO A POINT WHICH IS MIDWAY BETWEEN EAST LINE OF 15TH AVENUE AND WEST LINE OF GEORGE STREET; THENCE SOUTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF LOT 4 TO THE SOUTH LINE OF LOT 8; THENCE WESTERLY ALONG THE SOUTH LINE OF LOT 8 TO THE EAST LINE OF LOT 4; THENCE NORTHERLY ALONG THE EAST LINE OF LOT 4, A DISTANCE OF 13.15 FEET, MORE OR LESS, TO THE NORTH LINE OF THE SOUTH 429.15 FEET OF LOT 4; THENCE WEST ALONG THE NORTH LINE OF THE SOUTH 429.15 FEET OF SAID LOT 4 TO THE WEST LINE OF SAID LOT 4; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 4 TO THE PLACE OF BEGINNING (EXCEPTING THEREFROM THE NORTH 24 FEET THEREOF) IN COOK COUNTY, ILLINOIS.

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PARCEL 4: THAT PART OF LOT 4 AND LOT 8 IN AMLING'S SUBDIVISION OF THE SOUTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF LOT 4 AFORESAID, WHICH POINT IS 241.0 FEET SOUTH OF THE NORTH LINE OF LOT 4; THENCE EASTERLY ALONG A LINE PARALLEL TO THE NORTH LINE OF LOT 4 TO A POINT WHICH IS MIDWAY BETWEEN EAST LINE OF 15TH AVENUE AND WEST LINE OF GEORGE STREET; THENCE SOUTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF LOT 4 TO THE SOUTH LINE OF LOT 8; THENCE WESTERLY ALONG THE SOUTH LINE OF LOT 8 TO THE EAST LINE OF LOT 4; THENCE NORTHERLY ALONG THE EAST LINE OF LOT 4 A DISTANCE OF 13.15 FEET, MORE OR LESS, TO THE NORTH LINE OF THE SOUTH 429.15 FEET OF SAID LOT 4; THENCE WEST ALONG THE NORTH LINE OF THE SOUTH 429.15 FEET OF SAID LOT 4 TO THE WEST LINE OF SAID LOT 4; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 4 TO THE PLACE OF BEGINNING, EXCEPTING THEREFROM THE EAST 72.75 FEET, AS MEASURED ON THE NORTH AND SOUTH LINES THEREOF AND EXCEPT THE NORTH 24 FEET, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

THAT PART OF LOTS 4, 7 AND 8 IN THE SUBDIVISION OF THE SOUTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN IN THE TOWN OF LEYDEN, COUNTY OF COOK, STATE OF ILLINOIS DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF LOT 4, WHICH POINT IS 100 FEET SOUTH OF THE NORTH LINE OF LOT 4; THENCE EASTERLY ALONG A LINE PARALLEL TO THE NORTH LINE OF LOT 4 TO A POINT WHICH IS MIDWAY BETWEEN THE EAST LINE OF 15TH AVENUE AND THE WEST LINE OF GEORGE STREET; THENCE SOUTHERLY IN A STRAIGHT LINE TO A POINT WHICH IS MIDWAY BETWEEN THE EAST LINE OF 15TH AVENUE AND THE WEST LINE OF GEORGE STREET ON A LINE 241 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF LOT 4; THENCE WESTERLY ALONG A LINE 241 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF LOT 4 TO THE WEST LINE OF LOT 4; THENCE NORTHERLY ALONG THE WEST LINE OF LOT 4 TO THE PLACE OF BEGINNING.

PARCEL 6:

THAT PART OF LOT 4 AND LOT 8 IN THE SUBDIVISION OF THE SOUTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWN OF LEYDEN, COUNTY OF COOK AND STATE OF ILLINOIS DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF LOT 4, WHICH POINT IS 241 FEET SOUTH OF THE NORTH LINE OF LOT 4; THENCE EASTERLY ALONG A LINE PARALLEL TO THE NORTH LINE OF LOT 4 TO A POINT WHICH IS MIDWAY BETWEEN THE EAST LINE OF 15TH AVENUE AND THE WEST LINE OF GEORGE STREET; THENCE SOUTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF LOT 4, 24 FEET TO A POINT; THENCE WESTERLY ALONG A LINE PARALLEL TO THE NORTH LINE OF LOT 4 TO THE WEST LINE OF LOT 4; THENCE NORTHERLY ALONG THE WEST LINE OF LOT 4, 24 FEET TO THE POINT OF BEGINNING.

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PIN: 12-34-400-015-0000 and 12-34-400-020-0000 (Parcels 1 and 2)
12-34-404-036-0000 (Parcels 3 and 4)
12-34-404-035-0000 (Parcels 5, and 6)

Addresses: 2050 N. 15TH Ave, Melrose Park, Illinois (Parcels 1 and 2)
1931-1935 N. 15th Avenue, Melrose Park, Illinois (Parcels 3 and 4)
1945 N. 15th Avenue, Melrose Park, Illinois (Parcels 5, and 6)

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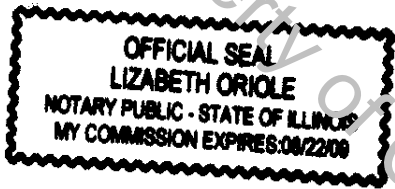
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ACKNOWLEDGMENT OF SIGNATURES

STATE OF ILLINOIS)
)
 COUNTY OF COOK) SS

I, LIZABETH ORIOLE, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY that Natale Caputo and Caterina Caputo, the President and Treasurer, respectively, of WISCON CORP., an Illinois corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts 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 29 day of JUNE, 2006.



Elizabeth Oriole
 Notary Public

My Commission Expires: 8-22-09

STATE OF ILLINOIS)
)
 COUNTY OF COOK) SS

I, LIZABETH ORIOLE, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY that Sean C. Gallagher, a First Vice President of LaSalle Bank National Association, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day 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 bank, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 29 day of JUNE, 2006.

Elizabeth Oriole
 Notary Public

My Commission Expires: 8-22-09

