



SECOND MORTGAGE MODIFICATION AGREEMENT

7417571 ¹²
D2 AEM _{BML}
1 all

THIS SECOND MORTGAGE MODIFICATION AGREEMENT (this "Agreement") is made this 1st day of September, 1999 by and among **VIENNA BEEF LTD.**, an Illinois corporation ("Vienna"), **VIENNA SAUSAGE MANUFACTURING CO.**, an Illinois corporation ("Sausage") (collectively, "Borrowers") and **BANK OF AMERICA, N.A.**, formerly known as Bank of America National Trust and Savings Association ("Lender").

RECITALS:

A. Vienna, Sausage, J&J Scotch Company, an Illinois general partnership ("J&J") and Lender were parties to that certain Credit Agreement dated as of January 28, 1993 (which, together with all amendments, is the "Original Credit Agreement") pursuant to which Lender made loans to Borrowers and J&J.

B. The Original Credit Agreement was secured by those certain mortgages identified on Exhibit A attached hereto and made a part hereof (the "Original Security Instruments") and other properties owned by J&J (the "J&J Security Instruments").

C. Borrowers and Lender are parties to an Amended and Restated Credit Agreement dated as of February 6, 1997 (the "1997 Credit Agreement"), which among other things, reduced the indebtedness secured by the Original Security Instruments and released the J&J Security Instruments, which 1997 Credit Agreement was amended by a first amendment thereto, a Second Amendment and Waiver to Amended and Restated Credit Agreement dated as of January 6, 1998, a Third Amendment and Waiver to Amended and Restated Credit Agreement dated as of June 30, 1998, a Fourth Amendment and Waiver to Amended and Restated Credit Agreement dated as of April 2, 1999, and a Fifth Amendment and Waiver to Amended and Restated Credit Agreement dated as of June 1, 1999.

D. In connection with the 1997 Credit Agreement, Borrowers and Lender entered into that certain Mortgage/Deed of Trust Modification Agreement dated as of February 6, 1997 (the "Modification Agreement"), which amended the terms of the Original Security Instruments.

UNOFFICIAL COPY

E. Pursuant to that certain Satisfaction of Mortgage dated June 8, 1998 and recorded July 6, 1998 in OR Book 2850, Page 37 in Broward County, Florida, Lender released the mortgage encumbering the property legally described on Exhibit A-4 to the Modification Agreement (the "Florida Security Instrument").

F. In connection with various amendments to the 1997 Credit Agreement, Borrowers and Lender entered into that certain Mortgage Modification Agreement dated as of June 1, 1999, which further amended the terms of the Original Security Instruments.

G. Borrowers and Lender have entered into that certain Sixth Amendment and Waiver to Amended and Restated Credit Agreement dated as of September 1, 1999 (the 1997 Credit Agreement, as amended, is collectively referred to herein as the "Amended Credit Agreement"), pursuant to which Lender has agreed to, among other things, increase the amount available under the Facility B Loan and extend the maturity date of the Facility A Loans and the Facility B Loan.

H. The parties desire that the Original Security Instruments (other than the Florida Security Instrument, which has been released), as amended, which are identified on Exhibit B attached hereto and made a part hereof (the "Amended Security Instruments"), continue to secure the Facility A Loans and the Facility B Loan.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

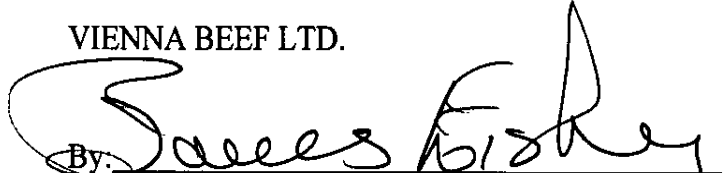
1. The maturity date of the Facility A Note is extended to August 31, 2002, at which time all accrued but unpaid interest, the principal balance then outstanding, if not sooner paid, shall become immediately due and payable.
2. The maturity date of the Facility B Note is extended to August 31, 2002, at which time all accrued but unpaid interest, the principal balance then outstanding, if not sooner paid, shall become immediately due and payable.
3. The maximum principal amount of the Facility B Note is increased to \$6,989,125.
4. Except as expressly modified by this Agreement and the Amended Credit Agreement, the Amended Security Instruments remain in full force and effect. Borrowers and Lender agree that this Agreement and the Amended Credit Agreement do not extinguish the outstanding obligation of Borrowers or constitute a novation of the original indebtedness evidenced by either the Facility A Note or the Facility B Note or discharge, release or impair the lien and security interest of the Amended Security Instruments or the priority thereof.
5. Any capitalized term used in this Agreement and not otherwise defined herein shall have the same meaning assigned to such term in the Amended Credit Agreement.

UNOFFICIAL COPY

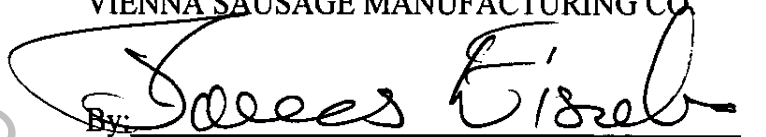
IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date and year first above written.

BORROWERS:

VIENNA BEEF LTD.


By: 
Name: James Eisenberg
Title: Co-Chairman of the Board

VIENNA SAUSAGE MANUFACTURING CO.

By: 
Name: James Eisenberg
Title: Co-Chairman of the Board

LENDER:

BANK OF AMERICA, N.A.

By: 
Name: JOSEPH C. FREEMAN
Title: Senior Vice-President

UNOFFICIAL COPY

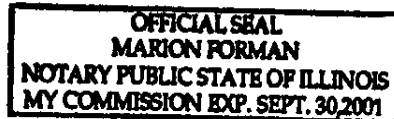
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that James Eisenberg, personally known to me to be the _____ of VIENNA BEEF LTD., an Illinois corporation, and 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 as such _____, he/she signed and delivered said instrument as _____ of said corporation, pursuant to authority given by the Board of Directors of said corporation, as his/her free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 7th day of September, 1999.

Marion Forman
Notary Public

My Commission Expires: 9-30-2001



STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that James Eisenberg, personally known to me to be the _____ of VIENNA SAUSAGE MANUFACTURING CO., an Illinois corporation, and 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 as such _____, he/she signed and delivered said instrument as _____ of said corporation, pursuant to authority given by the Board of Directors of said corporation, as his/her free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 7th day of September, 1999.

Marion Forman
Notary Public

My Commission Expires: 9-30-2001



UNOFFICIAL COPY

Property of Cook County Clerk's Office

COOK COUNTY CLERK
JAN 10 2010 10:00 AM
RECEIVED FROM THE CLERK'S OFFICE
FOR THE COUNTY CLERK'S OFFICE

COOK COUNTY CLERK
JAN 10 2010 10:00 AM
RECEIVED FROM THE CLERK'S OFFICE
FOR THE COUNTY CLERK'S OFFICE

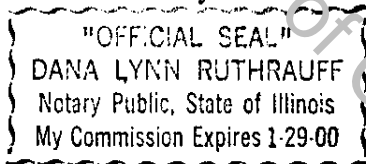
60,000,000.00

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that George C. Lyman, personally known to me to be the SVP of BANK OF AMERICA, N.A., a national banking association, and 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 as such he, he/she signed and delivered said instrument as _____ of said association, pursuant to authority given by the Board of Directors of said association, as his/her free and voluntary act, and as the free and voluntary act and deed of said association, for the uses and purposes therein set forth.

Given under my hand and official seal, this 7th day of September 1999.



Dana L. Ruthrauff
Notary Public

My Commission Expires: 1-29-00

This Instrument Prepared By
And After Recording Return To:

Shannon Walsh
McDermott, Will & Emery
227 West Monroe Street
Chicago, Illinois 60606

09177408

UNOFFICIAL COPY

EXHIBIT A

ORIGINAL SECURITY INSTRUMENTS

1. Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement from Vienna Beef Ltd. and Vienna Sausage Manufacturing Co. to Continental Bank, N.A. dated as of January 29, 1993 and recorded February 2, 1993 as Document No. 93083057 in Cook County, Illinois.
2. Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement from Vienna Beef Ltd. to Continental Bank, N.A. dated as of January 29, 1993 and recorded February 4, 1993 as Document No. 93092757 in Cook County, Illinois.
3. Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement from Vienna Beef Ltd. to Continental Bank, N.A. dated as of January 29, 1993 and recorded February 1, 1993 as Document No. 93 R 006006 in McHenry County, Illinois.
4. Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement from Vienna Sausage Manufacturing Co. to Continental Bank, N.A. dated as of January 29, 1993 and recorded February 4, 1993 in OR Book 20334, Page 318 in Broward County, Florida and Assignment of Leases, Rents and Other Property from Vienna Sausage Manufacturing Co. to Continental Bank, N.A. dated as of January 29, 1993 and recorded February 4, 1993 in OR Book 20334, Page 313 in Broward County, Florida

09177408

UNOFFICIAL COPY

EXHIBIT B

AMENDED SECURITY INSTRUMENTS

1. Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement from Vienna Beef Ltd. and Vienna Sausage Manufacturing Co. to Continental Bank, N.A. dated as of January 29, 1993 and recorded February 2, 1993 as Document No. 93083057 in Cook County, Illinois, as modified by that certain Mortgage/Deed of Trust Modification Agreement dated as of February 6, 1997 and recorded February 7, 1997 as Document No. 97091794 in Cook County, Illinois, and that certain Mortgage Modification Agreement dated as of June 1, 1999 and recorded June 29, 1999 as Document No. 99624128 in Cook County, Illinois, encumbering the property legally described on Exhibit B-1 attached hereto and made a part hereof.
2. Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement from Vienna Beef Ltd. to Continental Bank, N.A. dated as of January 29, 1993 and recorded February 4, 1993 as Document No. 93092757 in Cook County, Illinois, as modified by that certain Mortgage/Deed of Trust Modification Agreement dated as of February 6, 1997 and recorded February 7, 1997 as Document No. 97091794 in Cook County, Illinois, and that certain Mortgage Modification Agreement dated as of June 1, 1999 and recorded June 29, 1999 as Document No. 99624128 in Cook County, Illinois, encumbering the property legally described on Exhibit B-2 attached hereto and made a part hereof.
3. Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement from Vienna Beef Ltd. to Continental Bank, N.A. dated as of January 29, 1993 and recorded February 1, 1993 as Document No. 93 R 00600 in McHenry County, Illinois, as modified by that certain Mortgage/Deed of Trust Modification Agreement dated as of February 6, 1997 and recorded February 10, 1997 as Document No. 97R006188 in McHenry County, Illinois, and that certain Mortgage Modification Agreement dated as of June 1, 1999 and recorded December 6, 1999 as Document No. 199R0061910 in McHenry County, Illinois, encumbering the property legally described on Exhibit B-3 attached hereto and made a part hereof.

1999 R-
0082970

09177408

UNOFFICIAL COPY

EXHIBIT B-1

Parcel 1

That part of the Southwest Quarter of the Southeast Quarter 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 Quarter of the Southeast Quarter and also excepting the street and alley adjoining said lots on the East and North and 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 $0^{\circ} 24'$ West in the East line of said Wolcott Avenue, a distance of 141 Feet to a point in the North Line of the East and West 16 Feet 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 $17^{\circ} 30'$ East, a distance of 277.17 feet; thence North $3^{\circ} 07'$ East, a distance of 117.64 feet to the Southeast corner of a brick building; thence North $4^{\circ} 51'$ West along the Easterly face of said brick building and the same extended Northerly, a distance of 47.83 feet; thence North $3^{\circ} 03' 36''$ 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's Addition being a subdivision of part of the Southeast Quarter of Section 30, Township 40 North, Range 14 East of the Third Principal Meridian, lying West of the North Branch of Chicago River and that part of the North Half of the Northeast Quarter of Section 31, Township 40 North, Range 14 East of the Third Principal Meridian, lying West of Chicago River and West of 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 South East Quarter of Section 30, and of the Northeast Quarter 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 in the Southeast Quarter of Section 30, 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 in Section 30, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

UNOFFICIAL COPY

Parcel 6

Lots 31 and 32 in Block 8 in Fullerton's Addition to Chicago, being a Subdivision of parts of Section 30 and 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, a Subdivision of Section 30, 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 in the Southeast Quarter of Section 30, 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, a Subdivision in Section 30, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PINS: 14-30-401-003; -004; -008; -009; -012; -013; -014; -016; -017; -019

ADDRESS: 2501 North Damen Avenue, Chicago, Illinois
1902, 1904, 1908, 1910, 1912, 1920-22 West Fullerton Avenue, Chicago, Illinois
2401 and 2407 Elston Avenue, Chicago, Illinois

09177408

UNOFFICIAL COPY

EXHIBIT B-2

Lot 27 in Block 8 in Fullerton's Addition to Chicago, being a Subdivision of parts of Section 30 and Section 31, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 14-30-401-005

ADDRESS: 1930 West Fullerton Avenue, Chicago, Illinois

Property of Cook County Clerk's Office

09177408

UNOFFICIAL COPY

EXHIBIT B-3

Parcel 1

Commencing 12 rods South of the Northeast corner of the Northwest fractional Quarter of Section 1 and running thence South 10 rods; thence West 10 rods; thence North 10 rods; thence East 10 rods to the place of beginning, being in the East Half of the Southwest Quarter of Section 1, Township 46 North, Range 5 East of the Third Principal Meridian, in McHenry County, Illinois

Parcel 2

That part of the Northeast Quarter of the Southwest Quarter of fractional Section 1, Township 46 North, Range 5 East of the Third Principal Meridian, described as follows: Beginning at the Southeast corner of the School House Lot, which Southeast corner is 22 rods South of the Northeast corner of the Northeast fractional Quarter of said Section; thence West along the South Line of said School House Lot, 10 rods to the Southwest corner thereof; thence South parallel with the East Line of Southwest Quarter, 13 rods to the Northwest Corner of the piece of land conveyed by Richard C. Hubbell and wife to the Trustees of the Free Will Baptist Church of Big Foot Prairie by Deed dated November 13, 1861 and recorded in the Recorder's Office in Book 39 of Deeds, Page 589; thence East along the North line of land formerly owned and occupied by the Free Will Baptist Church, 10 rods to the Northeast corner thereof; thence North along the East Line of said Southwest Quarter 13 rods to the place of beginning, in McHenry County, Illinois

Parcel 3

That part of Lots 5 and 10 of County Clerk's Plat of Fractional Section 1, Township 46 North, Range 5 East of the Third Principal Meridian described as follows: commencing at the Southwest Corner of Lot 3 and Northwest Corner of Lot 4 and running thence West 10 rods, being a continuation of the line between said Lots 3 and 4; thence South parallel with the East line of said Lots 4 and 5, 14 rods 3 feet and 6 inches; thence East parallel with the line between said Lots 3 and 4 so produced as aforesaid, 20 rods to the East line of said Lot 5; thence North on the East line of said Lots, 20 Feet to the Southeast corner of said Lot 4; thence West on the South line of Lot 4, 10 rods to the Southwest corner of said Lot 4; thence North 13 rods to the place of beginning, in McHenry County, Illinois

Parcel 4

09177408

Part of the Northeast Quarter of the Northwest Quarter of Section 12 and that part of the Southeast Quarter of the Southwest Quarter of Section 1, described as follows: beginning at the Southeast corner of the Southeast Quarter of the Southwest Quarter of said Section 1 and running thence North on the East line thereof, for a distance of 10.55 feet to a point; thence Southwesterly in a straight and direct line, for a distance of 1,327.54 feet to a point on the West line of the Northeast Quarter of the Northwest Quarter of said Section 12, said point being 143.49 feet South of the Northwest corner thereof; thence South on the last described line, for a distance of 234.21 feet to a point; thence Northeasterly in a straight and direct line, for a distance of 1,328.87 feet to a point on the East line of the Northeast Quarter of the Northwest Quarter of said Section 12, said point being

UNOFFICIAL COPY

223.52 feet South of the place of beginning; thence North on the last described line, for a distance of 223.52 feet to the place of beginning, all in Township 46 North, Range 5 East of the Third Principal Meridian, in McHenry County, Illinois

PINS: 01-01-326-010; -011; 01-01-376-007; 01-12-100-006

ADDRESS: 11511 Route 14, Harvard, Illinois

Property of Cook County Clerk's Office

09177408