

This instrument was prepared by
and upon recording return to:

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Mayer, Brown & Platt
190 South LaSalle Street
Chicago, Illinois 60603

97089291

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

97 DEC 30 AM 10:33

MORTGAGE CENTER

04 93 953 40 6587 Meyer, Brown & Platt

**FIRST AMENDMENT TO MORTGAGE WITH ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

[Lake County, Indiana]

This First Amendment to Mortgage with Assignment of Rents, Security Agreement and Fixture Filing (this "Amendment") is entered into as of December 24, 1997 by and between DELRAY FARMS, INC., a Delaware corporation ("Old Delray"), DELRAY FARMS, L.L.C., a Delaware limited liability company ("New Delray"), (Old Delray and New Delray being herein collectively referred to as the "Mortgagor"), and BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, formerly known as Bank of America Illinois, with an address at 231 South LaSalle Street, Chicago, Illinois 60697 ("Mortgagee").

RECITALS

A. Mortgagor is the owner and holder of fee simple title in and to all of the land described in Exhibit A attached hereto, together with all existing and future easements and rights affording access to it (the "Land"), and all buildings and other improvements and fixtures situated thereon, and certain equipment and personal property located thereon or thereat.

B. Old Delray entered into with Mortgagee a certain Revolving Credit and Term Loan Agreement dated as of September 16, 1996, as amended, modified or supplemented from time to time, the "Prior Credit Agreement"), pursuant to which Mortgagee provided revolving credit and made certain term loans to Old Delray as evidenced by, among other things, that certain Replacement Tranche Note A dated as of December 5, 1997 in the maximum principal amount of \$13,283,130 (the "Prior Revolving Note");

C. The obligations of Old Delray to Mortgagee under the Prior Credit Agreement and the Prior Revolving Note are secured by and pursuant to certain Security Documents (as such term is defined in the Prior Credit Agreement);

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D. Old Delray's obligations under the Prior Revolving Note and Prior Credit Agreement are further secured and evidenced by a certain Mortgage dated September 11, 1997 and recorded on September 19, 1997 with the Lake County, Indiana Recorder of Deeds as Document No. 97063282 and re-recorded as Document No. 97066698 (the "Mortgage"), encumbering the real property legally described on Exhibit A attached hereto. The Prior Revolving Note, Prior Credit Agreement, Mortgage, Security Documents, and any other documents previously given to evidence, secure, guaranty or govern the loan to Old Delray are herein collectively referred to as the "Prior Loan Documents");

E. Concurrently herewith, Old Delray has merged with and into New Delray, with New Delray as the survivor. Pursuant to a certain Assignment and Assumption Agreement dated as of December 23, 1997 (the "Assignment and Assumption Agreement"), by, between and among, Old Delray, as assignor, New Delray, as assignee, and Mortgagee, as lender, New Delray has assumed each and every one of Old Delray's liabilities and obligations under the Prior Loan Documents;

F. New Delray desires to restructure the terms of the Prior Loan Documents, and in connection therewith, simultaneously herewith: (i) New Delray and Mortgagee are entering into a certain Credit Agreement (the "Credit Agreement"); (ii) New Delray is executing and delivering to Mortgagee a certain Revolving Note in the original principal amount of \$10,533,130.00 (the "Revolving Note"); and (iii) New Delray is executing and delivering to Mortgagee a certain Term Note in the original principal amount of \$2,500,000.00 (the "Term Note");

G. Mortgagor and Mortgagee are entering into this Amendment to amend the Mortgage to, among other things: (i) reflect the replacement of the Prior Revolving Note with the Revolving Note and Term Note; and (ii) reflect the replacement of the Prior Credit Agreement with the Credit Agreement.

NOW, THEREFORE, in consideration of the foregoing RECITALS and the mutual promises and undertakings set forth herein, and in consideration of the execution and delivery of this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, Mortgagor and Mortgagee agree as follows:

1. The foregoing Recitals are true and correct and incorporated herein by reference as if set forth in this Section 1.

2. The Mortgage is hereby amended as follows:

a. All references in the Mortgage to the terms "Revolving Note(s)" or "Term Note(s)" shall mean, respectively, the Revolving Note and Term Note as each such capitalized term is defined in this Amendment, and any and all substitution notes, replacement notes and

supplements and amendments thereof. All references in the Mortgage to the term "Note" shall mean the Revolving Note and Term Note, collectively;

b. All references in the Mortgage to the term "Credit Agreement" shall mean the Credit Agreement as such capitalized term is defined in this Amendment;

c. All references in the Mortgage to the term "Mortgagor" shall mean Old Delray and New Delray (as such capitalized terms are defined in this Amendment);

d. All references in the Mortgage to the term "Maturity Date" shall mean "April 2, 1999";

e. The last two grammatical paragraphs of Section 1.1 of the Mortgage are deleted in their entirety and the following is inserted in lieu thereof:

"Capitalized terms used above and elsewhere in this Mortgage without definition have the meanings given to them in that certain Credit Agreement bearing even date herewith, among Delray Farms, L.L.C., as "Borrower", and Mortgagee, as the "Bank" (as the same may be from time to time amended, modified or supplemented, the "Credit Agreement").

At the date hereof, the latest maturity date set forth in the Credit Agreement for any Secured Obligation is April 2, 1999 ("Maturity Date"), but such Maturity Date is subject to extension by written agreement between Mortgagor and Mortgagee, and, if so extended, the references herein to the Maturity Date shall mean the same as so extended without the necessity of recording any amendment to this Mortgage."

f. All initially capitalized terms used in the Mortgage which are not defined therein shall have the meanings given to them in the Credit Agreement (as such term is defined in this Amendment);

3. References to the Mortgage. Each reference in the Mortgage to "this Mortgage," "hereunder," "hereof," "herein" or words of like import, and each reference to the Mortgage in any related agreement shall, except where the context may otherwise require, mean and be a reference to the Mortgage as amended hereby.


4. Confirmation of the Mortgage. Except as amended hereby, the Mortgage shall remain in full force and effect and is hereby ratified and confirmed in all respects. It is the intent of the parties hereto that nothing contained herein shall be construed to release, cancel, terminate or otherwise adversely affect the liens, claims, rights and security interests granted to Mortgagee under the Mortgage, which shall now secure the Revolving Note, Term Note and Credit Agreement and all obligations thereunder (as all of such capitalized terms are defined in this Amendment) with all the priorities enjoyed by the Mortgage at its inception.

5. Reaffirmation. Mortgagor hereby repeats, reaffirms and remakes all representations, warranties, covenants and agreements contained in the Mortgage, each and all of which shall be applicable to the indebtedness secured by this Mortgage as amended hereby and to all of the properties, rights and privileges subject to the lien thereof as amended hereby.
6. References. No reference to this Amendment need be made in any instrument or document at any time referring to the Mortgage as amended hereby and any reference in any such instrument or documents to the Mortgage shall be deemed to be a reference to the Mortgage as amended hereby.
7. Authorization. Each person or entity executing this Amendment on behalf of Mortgagor represents and warrants to Mortgagee that such execution has been duly authorized by all necessary corporate or other action on behalf of Mortgagor.
8. Successors. This Amendment shall be binding upon and shall inure to the benefit of Mortgagor and Mortgagee and their respective successors and assigns.
9. Governing Law. This Amendment shall be construed in accordance with and governed by the internal laws of the State of Illinois.
10. Counterparts. This Amendment may be executed in any number of counterparts and by each of the undersigned on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Amendment.


IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first written above.

MORTGAGOR:

DELRAY FARMS, L.L.C., a Delaware limited liability company

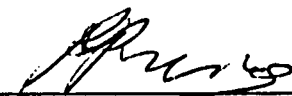
By: 
Name: STEPHAN ARZOO
Title: CO-CEO

DELRAY FARMS, INC., a Delaware corporation

By: 
Name: STEPHAN ARZOO
Title: CO-CEO

MORTGAGEE:

BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION

By: 
Name: MR RONALD PRINCE
Title: VICE PRESIDENT

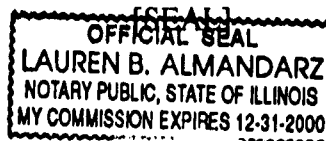
STATE OF ILLINOIS)
)
COUNTY OF COOK) SS.

I, the undersigned, a Notary Public in and aforesaid County, in the State aforesaid, DO HEREBY CERTIFY that Stefan Kaluzny, the Co-CEO of DELRAY FARMS, L.L.C., a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Co-CEO, appeared before me this day in person and acknowledged that he signed and delivered said instrument as is own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and official seal, this 24th day of December, 1997.

Lauren B. Almandarz
Notary Public

My commission expires: 12/31/2000



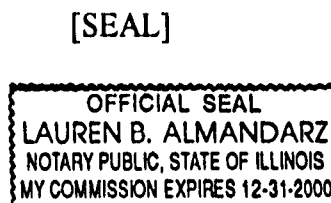
STATE OF ILLINOIS)
)
COUNTY OF COOK) SS.

I, the undersigned, a Notary Public in and aforesaid County, in the State aforesaid, DO HEREBY CERTIFY that Stefan Kaluzny, the Co-CEO of DELRAY FARMS, INC., a Delaware corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Co-CEO, appeared before me this day in person and acknowledged that he signed and delivered said instrument as is 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 official seal, this 24th day of December, 1997.

Lauren B. Almandarz
Notary Public

My commission expires: 12/31/2000



STATE OF ILLINOIS)
)
COUNTY OF COOK) SS.

I, the undersigned, a Notary Public in and aforesaid County, in the State aforesaid, DO HEREBY CERTIFY that RONALD PRINCE, the VICE PRESIDENT of BANK OF AMERICA TRUST AND SAVINGS ASSOCIATION, who is 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 signed and delivered said instrument as is own free and voluntary act and as the free and voluntary act of said association, for the uses and purposes therein set forth.

Given under my hand and official seal, this 24th day of DECEMBER, 1997.

Sylvia Angarone
Notary Public

[SEAL]

My commission expires: April 5, 1999

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"OFFICIAL SEAL"  
Sylvia Angarone  
Notary Public, State of Illinois  
My Commission Expires 04/05/99  
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EXHIBIT A

LEGAL DESCRIPTION

LOTS 1 TO 10, BOTH INCLUSIVE, BLOCK 3, SUBDIVISION OF PART OF BLOCKS 3, 13, 14, 15 AND 16 A SUBDIVISION OF THE NORTH 70.48 ACRES OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF EAST CHICAGO, AS SHOWN IN PLAT BOOK 2, PAGE 41, IN LAKE COUNTY, INDIANA, AND ALSO THAT PART OF BARING AVENUE AND WEST CHICAGO AVENUE DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF LOT 10, BLOCK 3 IN SUBDIVISION OF PART OF BLOCKS 3, 13, 14, 15 AND 16, OF SUBDIVISION OF NORTH 70.48 ACRES OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF EAST CHICAGO, AS SHOWN IN PLAT BOOK 2, PAGE 41, IN LAKE COUNTY, INDIANA; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 10 A DISTANCE OF 12.14 FEET (11.3 PLAT) TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT 10 AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING WEST ALONG THE WESTWARD EXTENSION OF THE SOUTH LINE OF SAID LOT 10 A DISTANCE OF 58.56 FEET TO THE POINT OF INTERSECTION OF SAID SOUTH LINE OF LOT 10 WITH THE WEST LINE OF LOT 10 EXTENDED SOUTH; THENCE NORTH ALONG THE SOUTHERLY EXTENSION OF THE WEST LINE OF LOT 10 A DISTANCE OF 53.16 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF LOT 10, SAID POINT BEING 96.84 FEET SOUTH OF THE NORTHWEST CORNER OF LOT 10; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF LOT 10 A DISTANCE OF 80.13 FEET AS MEASURED ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 111.30 FEET, TO THE POINT OF BEGINNING, ALL IN THE CITY OF EAST CHICAGO, LAKE COUNTY, INDIANA.

**PROPERTY ADDRESS: 4624 MAGOUN AVENUE
EAST CHICAGO, INDIANA**

**KEY NOS.: 30-110-1 (TAX UNIT NO. 24)
30-110-2**