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MICHAEL A. BROWN
RECORDER

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MORTGAGE

THIS INDENTURE WITNESSETH, that IL. & IN. Restaurant Realty LLC, an Illinois limited liability company ("Mortgagor") with its principal office at 296 Lexington Court, Schaumburg, Illinois 60173, hereby MORTGAGES and WARRANTS to National City Bank, (with National City Bank hereinafter referred to as "Mortgagee") with its principal offices at 110 West Berry Street, 8th Floor, Fort Wayne, Indiana 46802, and its successors and assigns the following described real estate located in Lake County, Indiana commonly known as 740 East 81st Avenue, Merrillville, Indiana 46410, and legally described as follows:

LOT 5-1, RESUBDIVISION OF LOT 5, HOLIDAY PLAZA, UNIT 2, IN THE TOWN OF MERRILLVILLE, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 60, PAGE 12, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

together with all rights, privileges, interest, easements, hereditaments, appurtenances, improvements and fixtures, and in the proceeds thereof, now or hereafter located upon or appertaining to such real estate (collectively referred to as the "Mortgaged Premises"), and all leases, rents, issues, income and profits thereof, to secure the payment when due of any and all present and future obligations and liabilities (the "Obligations"), of Mortgagor owed to Mortgagee, including but not limited to, those obligations pursuant to and arising under a Commercial Note: Term Single Advance in the principal amount of One Million Five Hundred Seventy Five Thousand and 00/100 Dollars (\$1,575,000.00), dated February 28, 2008, and all renewals, extensions, amendments or replacements of the above, and those Obligations owed by Mortgagor to National City Bank, whether absolute or contingent, whether now existing or hereafter created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) under (a) any agreement, device or arrangement designed to protect Mortgagor from fluctuations of interest rates, exchange rates or forward rates, including, but not limited to, dollar-denominated or cross-currency exchange agreements, forward currency exchange agreements, interest rate caps, collars or floors, forward rate currency or interest rate options, puts, warrants, swaps, swaptions, U.S. Treasury locks and U.S. Treasury options, (b) any other interest rate hedging transactions, such as, but not limited to, managing the Mortgagor's interest rate risk associated with any pending or potential capital market transactions such as fixed rate bond issues and (c) any and all cancellations, buybacks, reversals, terminations or assignments of any of the foregoing, of Mortgagor to Mortgagee, and all renewals, extensions, amendments or replacements of the above.

BANK INCLUDES PREDECESSORS. The term "Bank" shall include all entities which were merged into, or whose name was changed to, National City Bank or a predecessor thereof, including but not limited to National City Bank of Indiana.

NOT OFFICIAL!
This document is the property of
the Lake County Recorder!

CHICAGO TITLE INSURANCE COMPANY
dm 620080809

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FOR THE PURPOSE OF inducing the Mortgagee to make the loans hereby secured, Mortgagor represents to Mortgagee that Mortgagor is the owner in fee-simple of the Mortgaged Premises, that legal title thereto is free and clear from all other liens, encumbrances of whatsoever kind or nature, and that the undersigned has full authority and power to execute this Mortgage on behalf of Mortgagor.

MORTGAGOR COVENANTS AND AGREES with Mortgagee that:

FIRST. That the Mortgagor will pay to the Mortgagee the sums of money above mentioned without relief from valuation or appraisal laws.

SECOND. That until the Obligations have been paid in full, the Mortgagor shall take proper care of the Mortgaged Premises and the buildings thereon and neither commit waste nor allow waste to be committed, nor suffer anything to be done that will impair the value thereof or of the security hereby given, and the Mortgagor shall keep all legal taxes and assessments against the Mortgaged Premises and the buildings thereon paid; and keep and pay for extended coverage insurance against loss or destruction on account of fire, windstorm or other such hazards, casualties and contingencies customarily insured against, and injury to the person or property. All insurance policies are to be held by and, to the extent of its interest, for the benefit of and payable in case of loss to Mortgagee, and Mortgagor shall deliver to Mortgagee a new policy as replacement for any expiring policy at least fifteen (15) days before the date of such expiration. All such policies of insurance shall contain a waiver of defenses clause within the standard lender's loss payee endorsement in favor of Mortgagee with cancellation only upon at least ten (10) days' prior written notice to Mortgagee. All amounts recoverable under any policy are hereby assigned to Mortgagee. Each insurance company concerned shall make payment for such loss directly payable to the Mortgagee rather than jointly, and the amount collected shall, at the option of Mortgagee, be used in any one or more of the following ways: (a) applied upon the Obligations secured hereby, whether or not such Obligations are then due and payable, (b) used to fulfill any of the covenants contained herein, or (c) used to replace or restore the Mortgaged Premises to a condition satisfactory to Mortgagee. In the event of the foreclosure of this Mortgage or its transfer in lieu thereof, or in the event of a default hereunder or under the terms of the Obligations, all rights, title and interest of Mortgagor in and to such policies of insurance shall pass to the purchaser or grantee. Mortgagor hereby irrevocably appoints Mortgagee as attorney-in-fact to assign any policies in lieu of foreclosure. If the Mortgagor fails to perform as set forth above, then Mortgagee may effect such insurance and the amount paid therefor shall become part of the debt secured hereby, together with interest thereon at the rate specified in the Notes.

THIRD. That upon failure of Mortgagor to perform or fulfill any of its Obligations or upon any default by Mortgagor under this Mortgage or upon failure to pay the taxes, assessments or insurance as hereinafter provided when due, or to do and perform any of the other provisions, conditions or agreements of this Mortgage on the part of the Mortgagor to be performed and fulfilled, then all Obligations shall, at the option of the Mortgagee, without notice, become immediately due and payable and this Mortgage may then be foreclosed.

FOURTH. That upon failure of Mortgagor to perform or fulfill any of its Obligations or upon any default by the Mortgagor under this Mortgage, the Mortgagee shall, from the date of such default and as often as the same may occur, have the right at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Obligations hereby secured, enter upon and take possession of the Mortgaged Premises and in its own name sue for or otherwise collect the rents, issues and profits therefrom and apply the same, less costs and

expenses of operation and collection, including reasonable attorney fees, toward the payment of the Obligations with interest and expenses thereon, or this Mortgage may be foreclosed and Mortgagee shall have the right to have a receiver appointed to take possession of and collect the rents and profits from the Mortgaged Premises during foreclosure proceedings and during the period of redemption. In anticipation of foreclosure, Mortgagee may continue the abstract of title to the Mortgaged Premises, obtain other appropriate evidence of title or title insurance, and obtain all environmental assessments or testing deemed appropriate by Mortgagee. All costs and expenses related thereto shall be reimbursed by Mortgagor to Mortgagee upon demand, or at Mortgagee's option, may be added to the unpaid principal balance of the Obligations secured by this Mortgage. The collection of such rents, issues, and profits, or the entering upon and taking possession of the Mortgaged Premises, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default.

FIFTH. That upon failure of Mortgagor to perform or fulfill any of their Obligations, upon any default by Mortgagor under this Mortgage, if Mortgagor shall abandon the Mortgaged Premises or shall be adjudged bankrupt, or if a trustee or receiver shall be appointed for Mortgagor or for any part of the Mortgaged Premises, all Obligations secured hereby shall, at the option of Mortgagee, and without notice or demand, become immediately due and payable and this Mortgage may be foreclosed accordingly.

SIXTH. Mortgagee shall be entitled to immediate reimbursement from the Mortgagor for all costs and expenses incurred by Mortgagee in connection with the collection of the Obligations, foreclosure of this Mortgage or protection or preservation of the Mortgaged Premises, including but not limited to, reasonable attorneys' fees, or Mortgagee may at its option elect to add said attorneys' fees and expenses to the principal balance of the Obligations.

SEVENTH. All rights and remedies of Mortgagee hereunder are cumulative and are in addition to and not in limitation of any rights or remedies which Mortgagee may otherwise have by law. No waiver of any default or failure or delay to exercise any right or remedy by Mortgagee shall operate as a waiver of any other default or of the same default in the future or as a waiver of any right or remedy with respect to the same or any other occurrence.

EIGHTH. If Mortgagor shall sell, assign or otherwise transfer ownership of the Mortgaged Premises or create or permit to exist any other liens or encumbrances on the Mortgaged Premises, or any part thereof, without the prior written consent of Mortgagee, all Obligations secured by this Mortgage shall, at the option of Mortgagee and without notice or demand, become immediately due and payable.

NINTH. All awards made by any public or quasi-public authority for damages to the Mortgaged Premises by virtue of an exercise of the right of eminent domain by such authority, including any award for a taking of title, possession or right of access to a public way, or for any change of grade of streets affecting the Mortgaged Premises, are hereby assigned to Mortgagee and Mortgagee, at its option, is hereby authorized, directed and empowered to collect and receive the proceeds of any such award to the extent of the Obligations secured by or payable under this Mortgage from the appropriate governmental authority. Such award shall be used in any one or more of the following ways at the option of Mortgagee: (i) applied upon the Obligations secured hereby or payable hereunder, whether or not such indebtedness is then due and payable, or (ii) used to replace or restore the Mortgaged Premises to a condition satisfactory to Mortgagee. In the event of a default hereunder or under the terms of the Obligations, Mortgagee is authorized, at its option, to appear in and prosecute in its own

name any action or proceeding or, with consent and joinder of Mortgagor, to make any compromise or settlement in connection with such taking or damage. Mortgagor will, upon request by Mortgagee, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning in the event of a default under the terms of this Mortgage or under the Obligations all proceeds from such awards to Mortgagee free and clear and discharged of any and all encumbrances or claims of any kind or nature whatsoever.

TENTH. Mortgagor will indemnify Mortgagee and save it harmless from any and all loss, damage or expense, including attorney's fees, resulting from or arising out of the execution and delivery of this Mortgage and the terms hereof and the same is made a part of the Obligations secured hereby. All sums paid by Mortgagee, including attorneys' fees, to cure a default by Mortgagor hereunder or for the expense of any litigation against Mortgagor hereunder or for the expense of any litigation to prosecute or defend the rights and lien created hereby in any action or proceeding to which Mortgagee is made a party by reason of this Mortgage or the Obligations, or in which it becomes necessary to defend or uphold the lien of this Mortgage, shall be paid by Mortgagor to Mortgagee, together with interest thereon from date of payment at the default rate specified under the Notes, and any such sums and the interest thereon shall be immediately due and payable and secured hereby, having the benefit of the lien hereby created as a part thereof and with its priority, all without relief from valuation or appraisal laws.

ELEVENTH. Mortgagor covenants that Mortgagor will not violate any Environmental Law in connection with the use, ownership, lease, maintenance or operation of the Mortgaged Premises. For purposes herein, the term "Environmental Law(s)" shall mean any federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance, as now or at any time hereafter in effect. For purposes herein, the term "Hazardous Substance(s)" shall have the meaning ascribed in and shall include those substances listed under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. and the regulations promulgated thereunder (as amended from time to time) and the Clean Air Act, 42 U.S.C. 7401, et seq. and the regulations promulgated thereunder (as amended from time to time) and includes oil, waste oil, and used oil as those terms are defined in the Clean Water Act, 33 U.S.C. 1251 et seq. and regulations promulgated thereunder (as amended from time to time) and the Resource, Conservation and Recovery Act, 42 U.S.C. 6901 et seq. and regulations promulgated thereunder (as amended from time to time) and the Oil Pollution Act of 1990, 33 U.S.C. 2701 et seq. and regulations promulgated thereunder (as amended from time to time) and shall include any other pollutant or contaminant designated as such by Congress or the United States Environmental Protection Agency (EPA) or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

TWELFTH. Mortgagor hereby represents and warrants that (i) no violation of any Environmental Law currently exists in connection with use, ownership, lease, maintenance or operation of the Mortgaged Premises; (ii) based upon reasonable investigation, that, except for such substances which have been used in the normal course of operation of business, neither Mortgagor nor any other person within Mortgagor's knowledge or control, including any lessee of the Mortgaged Premises, has ever caused or permitted any Hazardous Substance to be released, spilled or disposed of on, under or at the Mortgaged Premises or any part thereof and neither the Mortgaged Premises nor any part thereof has ever been used by Mortgagor or any other person as a dump site or storage site, whether permanent or temporary, for any Hazardous Substance; (iii) they are not a party to any litigation or administrative

proceeding, nor so far as is known by Mortgagor is any litigation or administrative proceeding threatened against them, which in either case asserts or alleges that (a) Mortgagor violated any Environmental Law, (b) Mortgagor is required to clean up or take other response action due to the release or threatened release or transportation of any Hazardous Substance, or (c) Mortgagor is required to pay all or a portion of the cost of any past, present or future cleanup or other response action which arises out of or is related to the release or threatened release or transportation of any Hazardous Substance; and (iv) there are not now, nor to Mortgagor's knowledge after reasonable investigation have there ever been, tanks or other facilities on, under or at the Mortgaged Premises which contained materials which, if known to be present in soils or groundwater, would require cleanup or other corrective action. If there are such tanks or other facilities, Mortgagor represents and warrants that after reasonable investigation that nothing contained therein has ever been spilled, leaked or released into the environment, soil or groundwater and that such tanks or other facilities are in compliance with all Environmental Laws.

THIRTEENTH. If Mortgagor acquires any knowledge of or receive any notice or other information regarding (i) the happening of any event involving any Hazardous Substance with respect to the Mortgaged Premises or to any activity of the Mortgagor or (ii) any noncompliance with regard to any environmental, health or safety matter with respect to the Mortgaged Premises or to any activity of the Mortgagor, then Mortgagor shall immediately notify Mortgagee orally and in writing and provide Mortgagee with copies of any written notice or information.

FOURTEENTH. Mortgagee shall have the right but not the obligation, to enter the Mortgaged Premises and take such other actions as it deems necessary or advisable at any time (i) to clean up or otherwise deal with any Hazardous Substance (ii) following receipt of any notice or other information which, in the sole opinion of Mortgagee, could result in action against Mortgagor or Mortgagee or could adversely affect the value of the Mortgaged Premises. Mortgagee further shall have the right but not the obligation, to enter the Mortgaged Premises to investigate the environmental condition of the Mortgaged Premises and shall have the right to grant access to environmental professionals to perform investigations, including without limitation sampling and borings, to determine the environmental condition of the Mortgaged Premises in anticipation of foreclosure or acceptance of a deed in lieu of foreclosure. Notwithstanding the indemnification set forth below, Mortgagor agrees that all reasonable costs and expenses incurred by Mortgagee in the exercise of any entry, investigation or mitigation rights (including without limitation those incurred in anticipation of foreclosure or acceptance of a deed in lieu of foreclosure) shall be payable by Mortgagor upon demand by Mortgagee or added to the outstanding principal balance of the Obligations.

FIFTEENTH. Mortgagor hereby agrees to indemnify Mortgagee and hold Mortgagee harmless from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees (which fees shall include the allocated cost of in-house counsel and staff), claims for damage to the environment, claims for fines or civil penalties, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by or asserted against Mortgagee by any person, entity or governmental agency for, with respect to or as a direct or indirect result of Mortgagor's noncompliance or alleged noncompliance with any Environmental Law or the presence on, under or at the Mortgaged Premises of, or the release or threatened release or transportation of, any Hazardous Substance, regardless of whether or not caused by or within the control of Mortgagor unless caused by Mortgagee. The covenants, representations, warranties, and indemnities under this Mortgage shall be deemed continuing covenants, representations, warranties and indemnities for the benefit of Mortgagee, its successors and assigns, and any purchaser of the Mortgaged Premises

at a foreclosure sale, any transferee of title to the Mortgaged Premises from Mortgagee, and any subsequent owner of the Mortgaged Premises claiming through or under the title of Mortgagee, and shall survive any enforcement of Mortgagee's rights against collateral securing payment of the Obligations or the satisfaction of the Obligations. The liability of Mortgagor hereunder shall in no way be limited by (i) any renewals, extensions, amendments or replacement of the Loan Agreement or Notes, (ii) any sale or assignment of any of the Obligations or any sale or transfer of all or part of the Mortgaged Premises after the enforcement of any of Mortgagee's rights and warranties, or Mortgagee's or its assignees' acquisition of all or part of the Mortgaged Premises by a deed-in-lieu of foreclosure, at foreclosure sale or upon exercise of any rights or remedies of the Mortgagee. Mortgagor hereby waives any right or claim of right to cause a marshalling of collateral for the Obligations, all rights and remedies (including any rights of subrogation) accorded by applicable law to indemnitors, sureties or guarantors, and agrees that any payments required to be made hereunder shall become due on demand.

SIXTEENTH. That it is contemplated that the Mortgagee may make future advances to the Mortgagor in which event this Mortgage shall secure the payment of any and all future advances in a total aggregate amount not to exceed a maximum of One Million Five Hundred Seventy Five Thousand and 00/100 Dollars (\$1,575,000.00), whether by renewals or extensions of the current Obligations or additional loans, and such future advances shall be secured and to the same extent as the amount originally advanced on the security of this Mortgage. Such future advances, with interest thereon, plus all costs of collection and rights of indemnification and reimbursement hereunder, including reasonable attorneys' fees shall be secured by this Mortgage. The Mortgagee, at its option, may accept a renewal note, or notes, at any time for any portion of the Obligations hereby secured and may extend the time for the payment of any part of said indebtedness without affecting the security of this Mortgage in any manner.

SEVENTEENTH. All rights and Obligations of Mortgagor hereunder shall be binding upon their respective successors, assigns and legal representatives and shall inure to the benefit of Mortgagee and its successors and assigns.

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed on this 28th day of February, 2008.

"MORTGAGOR"

IL. & IN. Restaurant Realty LLC,
an Illinois limited liability company

By: 
Name: Michael J. Ruben
Title: Member



State of IL
COUNTY OF COOK) SS

Before me, a Notary Public in and for said County and State, appeared **Michael J. Ruben** as Member of IL. & IN. **Restaurant Realty LLC**, an Illinois limited liability company, who being duly sworn, acknowledged the execution of the foregoing Mortgage to be a voluntary act and deed on behalf of said limited liability company.

Witness my hand and Notarial Seal this 28th day of February 2008.

My commission expires 9/20/2011
Residing in said county IL, COOK

[Signature]
Notary Public
Kristi Jacobsen
Printed Name:



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Name: Kathy Meyers
Printed Name: Kathy Meyers

This instrument prepared by Kathy Meyers (deal #153409).

NCB P.O. Box 2977
Pittsburgh, PA 15230

Return To: National City Bank
P.O. Box 2977
Pittsburgh, PA 15230

