



Doc#: 1015944032 Fee: \$102.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 06/08/2010 10:08 AM Pg: 1 of 34

Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 02-36-102-020-0000

Address:

Street: 2997 KIRCHOFF ROAD

Street line 2:

City: ROLLING MEADOWS

State: IL

ZIP Code: 60008

Lender: WELLS FARGO BANK, NATIONAL ASSOCIATION

Borrower: QSR, INC.

Loan / Mortgage Amount: \$34,500,000.00

This property is located within Cook County and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity.

Certificate number: F748983D-055F-44EE-A410-F675C47B9179

Execution date: 06/01/2010

Property of Cook County Clerk's Office

8502230
1/2

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11/2
 This instrument was prepared by
 and, when recorded, should be returned to:
 Morris, Manning & Martin, LLP
 1600 Atlanta Financial Center
 3343 Peachtree Road
 Atlanta, GA 30326
 Attn: Frederick C. C. Boyd, III, Esq.

Unit:
(Store No. 16815)
 2997 Kirchoff Rd
 Rolling Meadows, Illinois 60008
 Cook County
 Parcel No: 02-36-102-020-0000

85-02-230
**LEASEHOLD MORTGAGE,
 ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING**

dated as of June 1, 2010

from

QSR, INC., a Wisconsin corporation,

as Mortgagor,

to

WELLS FARGO BANK, NATIONAL ASSOCIATION,

in its capacity as Administrative Agent,

as Mortgagee

Premises: 2997 Kirchoff Rd, Rolling Meadows, Cook County, Illinois

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LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING

THIS LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (herein called this "Mortgage") dated as of June 1, 2010 is executed by QSR, INC., a Wisconsin corporation, as the mortgagor (herein, together with its successors and assigns, called "Mortgagor"), with a mailing address at 1834 Walden Office Square, Suite 130, Schaumburg, Illinois 60173, to WELLS FARGO BANK, NATIONAL ASSOCIATION, in its capacity as Administrative Agent (as defined in the Credit Agreement referred to below) for the Lenders which are parties from time to time to the Credit Agreement (herein, together with its successors and assigns, called "Mortgagee"), with a mailing address at 1808 Aston Avenue, Suite 250, Carlsbad, California 92008, Attn: Loan Administration (the Lenders, the Administrative Agent, and certain other Persons parties to Related Swap Contracts as more particularly described in Section 6.05 hereof, collectively referred to as the "Secured Parties").

RECITALS

A. Credit Agreement. Reference is hereby made to that certain Credit Agreement dated as of the date hereof, by and between Mortgagor, QSR, INC., a Wisconsin corporation, QSR IOWA, INC., an Iowa corporation, F2BL, L.L.C., a Wisconsin limited liability company, QSRE, L.L.C., a Wisconsin limited liability company, and QSRE IOWA, LLC, an Iowa limited liability company, as borrowers, and Mortgagee, as administrative agent for the lenders that are a party thereto (the "Lenders"), as lenders (as may be amended, supplemented, consolidated, replaced, renewed, extended or modified from time to time, the "Credit Agreement"). Pursuant to the Credit Agreement, Mortgagee and/or Lenders have agreed to loan certain funds to Mortgagor (the "Loan") and Mortgagor has executed and delivered to Mortgagee that certain Note or Notes evidencing Mortgagor's obligation to repay the Loan (collectively, the "Note").

B. Secured Obligations. The obligations secured by this Mortgage (the "Obligations") are comprised at any time of the following:

(i) the full and punctual payment by Mortgagor when due of (a) all principal of and interest on the Loan and the Note; and (b) all other amounts payable by Mortgagor pursuant to the Credit Agreement, the Note or any other document or instrument evidencing or securing the Loan (together with the Credit Agreement, the Note and this Mortgage, the "Loan Documents" or individually a "Loan Document");

(ii) the full and punctual payment when due of all amounts payable by Mortgagor under this Mortgage, including, without limitation, indemnification obligations and advances made pursuant to the Loan Documents;

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(iii) the performance and observance by Mortgagor of each other term, covenant, agreement, requirement, condition and other provision to be performed or observed by Mortgagor under any Loan Document;

(iv) the performance and observance by Mortgagor of each other term, covenant, agreement, requirement, condition and other provision to be performed or observed by Mortgagor under all amendments, supplements, consolidations, replacements, renewals, extensions or other modifications of the foregoing, in each case whether now existing or hereafter arising;

(v) all obligations of the Mortgagor under any Related Treasury Management Arrangements and any Related Swap Contracts (as defined in the Credit Agreement); and

(vi) any and all other indebtedness, liabilities and obligations of every nature whatsoever (whether or not otherwise secured or to be secured) of Mortgagor (whether as maker, endorser, surety, guarantor or otherwise) to Mortgagee and/or Mortgagee's affiliates, whether now existing or hereafter created or arising or now owned or howsoever hereafter acquired by Mortgagee and/or Mortgagee's affiliates, whether such indebtedness, liabilities and obligations are or will be joint or several, direct or indirect, absolute or contingent, liquidated or unliquidated, matured or unmatured, including, but not limited to, any letter of credit issued by Mortgagee for the account of Mortgagor; together with all expenses, attorneys' fees, paralegals' fees and legal assistants' fees incurred by Mortgagee and/or Mortgagee's affiliates in the preparation, execution, perfection or enforcement of any document relating to any of the foregoing.

The Obligations shall include, without limitation, any interest, costs, fees and expenses which accrue on or with respect to any of the foregoing, whether before or after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency or reorganization of Mortgagor.

GRANTING CLAUSES

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, for the purpose of securing the due and punctual payment, performance and observance of the Obligations and intending to be bound hereby, Mortgagor hereby grants, conveys, mortgages, bargains, sells, transfers and assigns to Mortgagee as expressly set forth below, and for the purpose and upon the terms and conditions hereinafter set forth, with power of sale and right of entry and possession, all of the property and rights described in the following Granting Clauses (all of which property and rights are herein collectively called the "Mortgaged Property"), to wit:

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GRANTING CLAUSE I

Leasehold Estate. All estate, right, title and interest of Mortgagor in, to, under or derived from the lease described in Exhibit A, Part II (the "Site Lease") affecting those certain lots, pieces, tracts or parcels of land located in certain cities and/or counties in the State of Illinois, more particularly described in Exhibit A, Part I attached hereto and incorporated herein by this reference (the "Real Estate"); together with all amendments, supplements, consolidations, extensions, renewals and other modifications of the Site Lease now or hereafter entered into in accordance with the provisions thereof (the "Leasehold Estate"); together with all other, further, additional or greater estate, right, title or interest of Mortgagor in, to, under or derived from the Real Estate, the Leasehold Estate and the Improvements now or hereafter located thereon which may at any time be acquired by Mortgagor by the terms of the Site Lease by reason of the exercise of any option thereunder or otherwise.

GRANTING CLAUSE II

Improvements. Subject to the terms of the Site Lease, all right, title and interest of Mortgagor in, to, under or derived from all buildings, structures, facilities and other improvements of every kind and description now or hereafter located on the Real Estate or attached to the improvements which by the nature of their location thereon or attachment thereto are real property under applicable law (the foregoing being collectively the "Improvements"; and the Leasehold Estate with the Improvements thereon and Equipment therein and Appurtenant Rights thereto being collectively called the "Premises").

GRANTING CLAUSE III

Equipment. All estate, right, title and interest of Mortgagor in, to, under or derived from all machinery, equipment, fixtures and accessories thereof and renewals, replacements thereof and substitutions therefor, and all other customary franchise restaurant equipment and other tangible property of every kind and nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall have an interest, now or hereafter located upon the Real Estate, or usable exclusively in connection with the present or future operation and occupancy of the Real Estate or the Improvements (hereinafter collectively called the "Equipment").

GRANTING CLAUSE IV

Appurtenant Rights. All estate, right, title and interest of Mortgagor in, to, under or derived from all tenements, hereditaments and appurtenances now or hereafter relating to the Leasehold Estate; all development, operating or similar rights appurtenant to the Leasehold Estate (including, without limitation, all rights arising from reciprocal access agreements, use or development agreements, and parking agreements); and all easements, licenses and rights of way now or hereafter appertaining to the Leasehold Estate (hereinafter collectively called "Appurtenant Rights").

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GRANTING CLAUSE V

General Intangibles, Payment Rights and Agreements. To the extent assignable, all estate, right, title and interest of Mortgagor in, to, under or derived from all contract rights, chattel paper, instruments, general intangibles, accounts, guaranties and warranties, letters of credit, and documents, in each case relating to the Premises or to the present or future operation or occupancy of the Premises, and all plans, specifications, maps, surveys, studies, records, insurance policies, guarantees and warranties, all relating to the Premises or to the present or future operation or occupancy of the Premises, all management contracts, all supply and service contracts for water, sanitary and storm sewer, drainage, electricity, steam, gas, telephone and other utilities relating to the Premises (the foregoing being herein collectively called the "Agreements") and all other agreements affecting or relating to the use, enjoyment or occupancy of the Real Estate or the Equipment.

GRANTING CLAUSE VI

Leases. All estate, right, title and interest of Mortgagor in, to, under and derived from any lease, tenancy, subtenancy, license, concession or other occupancy agreement relating to the Premises (together with all amendments, supplements, consolidations, replacements, restatements, extensions, renewals and other modifications of any thereof) (the "Leases"), other than the Site Lease assigned under Granting Clause I, now or hereafter in effect, whether or not of record; and the right to bring actions and proceedings under the Lease or for the enforcement thereof and to do anything which Mortgagor or any lessor is or may become entitled to do under the Lease.

GRANTING CLAUSE VII

Rents, Issues and Profits. All estate, right, title and interest of Mortgagor in, to, under or derived from all rents, royalties, issues, profits, receipts, revenue, income, earnings and other benefits now or hereafter accruing with respect to all or any portion of the Premises, including all rents and other sums now or hereafter payable pursuant to the Leases; and all other claims, rights and remedies now or hereafter belonging or accruing with respect to the Premises, including oil, gas and mineral royalties (herein collectively called the "Rents"), all of which Mortgagor hereby irrevocably directs be paid to Mortgagee, subject to the license granted to Mortgagor pursuant to Section 5.07, to be held, applied and disbursed as provided in this Mortgage.

GRANTING CLAUSE VIII

Permits To the extent assignable, all estate, right, title and interest of Mortgagor in, to, under or derived from all licenses, certificates, variances, consents and other permits now or hereafter pertaining to the Premises and all estate, right, title and interest of Mortgagor in, to, under or derived from all tradenames or business names relating to the Premises or the present or future operation or occupancy of the Premises (herein collectively called the "Permits"), excluding, however, from the grant under this Granting Clause (but not the definition of the term

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"Permits" for the other purposes hereof) any Permits which cannot be transferred or encumbered by Mortgagor without causing a default thereunder or a termination thereof.

GRANTING CLAUSE IX

Proceeds and Awards. All estate, right, title and interest of Mortgagor in, to, under or derived from all proceeds of any sale, transfer, taking by condemnation (or any proceeding or purchase in lieu thereof), whether voluntary or involuntary, of any of the Mortgaged Property described above, including all insurance proceeds and awards and title insurance proceeds, now or hereafter relating to any of the Mortgaged Property, all of which Mortgagor hereby irrevocably directs be paid to Mortgagee to the extent provided hereunder, to be held, applied and disbursed as provided in this Mortgage.

TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee, its successors and assigns, under and subject to the terms and conditions of this Mortgage, and for the security and enforcement of the prompt and complete payment and performance when due of all of the Obligations and the performance and observance by Mortgagor of all covenants, obligations and conditions to be performed or observed by Mortgagor pursuant to the Credit Agreement, the Note, and the other Loan Documents.

PROVIDED, HOWEVER, that this Mortgage is upon the condition that, if Mortgagor shall pay in full all of the Obligations and perform and observe all such covenants, obligations and conditions, this Mortgage shall cease, terminate pursuant to and in accordance with Section 6.02 and, thereafter, be of no further force effect (except as provided in Sections 4.01, 4.02 and 5.06 hereof); otherwise this Mortgage shall remain and be in full force and effect.

FURTHER PROVIDED, that Mortgagee may from time to time release or reconvey all or a portion of the Mortgaged Property, in accordance with the terms and conditions of the Credit Agreement and applicable law.

The Mortgagor covenants with the Mortgagee that Mortgagor is the owner of a valid and subsisting leasehold interest in and to the Mortgaged Property; that the same is free from all encumbrances, except for the Permitted Liens (hereinafter defined); that Mortgagor has good right, full power and lawful authority to sell and convey the same to Mortgagee and that Mortgagor and its successors and assigns, executors and administrators shall and will warrant and defend the same to the Mortgagee and its successors and assigns forever against claims and demands of all persons.

MORTGAGOR ADDITIONALLY COVENANTS AND AGREES WITH MORTGAGEE AS FOLLOWS:

ARTICLE I

DEFINITIONS

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SECTION 1.01. Definitions. Capitalized terms used, but not otherwise defined herein, are defined in, or by reference to the Credit Agreement and have the same meanings herein as therein.

ARTICLE II

CERTAIN WARRANTIES AND COVENANTS OF MORTGAGOR

SECTION 2.01. Authority and Effectiveness. (a) Mortgagor represents, warrants and covenants that (i) Mortgagor is and shall be duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, and duly qualified to do business and in good standing in the state in which the Premises is located and has and will have all governmental licenses, authorizations, consents and other qualifications required to carry on its business as now conducted, to own the Mortgaged Property and to execute, deliver and perform this Mortgage, (ii) the execution, delivery and performance by Mortgagor of this Mortgage are within Mortgagor's power, have been duly authorized by all necessary action, require no action by or in respect of, or filing with, any governmental body, agency or official and do not and will not contravene, or constitute a default under, any provision of the organizational documents of Mortgagor or of any agreement, judgment, injunction, order, decree or other instrument binding upon Mortgagor or relating to the Premises; and (iii) this Mortgage constitutes a legal, valid, binding and enforceable agreement of Mortgagor.

(b) Mortgagor shall cause the representations and warranties in subsection (a) of this Section to continue to be true in each and every respect at all times prior to the termination of this Mortgage.

SECTION 2.02. Title and Further Assurances. (a) Mortgagor hereby represents and warrants to Mortgagee that:

(i) Mortgagor is the owner of a valid and subsisting leasehold interest in the Real Estate and the Improvements free from all liens, security interests, Leases, charges or encumbrances whatsoever, except for such liens as are permitted under the Credit Agreement ("Permitted Liens");

(ii) Mortgagor has good and lawful right to mortgage the Mortgaged Property to Mortgagee without the consent of any Person other than those consents which have been obtained;

(iii) the lien created by this Mortgage constitutes a valid, binding and enforceable lien on the Mortgaged Property;

(iv) the Site Lease creates and constitutes in the tenant thereunder a valid and subsisting leasehold interest in the Leasehold Estate; the Site Lease has not been modified or amended, except as disclosed to Mortgagee in writing; Mortgagor has no knowledge of and has not received any notice of a default under the Site Lease, all rents due have been paid in full; no action has commenced and is pending to terminate the Site Lease; and Mortgagor is the owner of the leasehold interest under the Site Lease

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and Mortgagor is the owner of the Improvements, in each case subject to the provisions of the Site Lease; and

(v) the Permitted Liens do not materially interfere with or materially adversely affect the use, value or operation of the Premises.

(b) Mortgagor shall (i) cause the representations and warranties in subsection (a) of this Section to continue to be true in each and every respect at all times prior to the termination of this Mortgage; and (ii) preserve, protect, warrant and defend (A) the estate, right, title and interest of Mortgagor in and to its Mortgaged Property (B) the validity, enforceability and priority of the lien of this Mortgage, and (C) the right, title and interest of Mortgagee and any purchaser at any sale of the Mortgaged Property hereunder or relating hereto.

(c) Upon full execution, acknowledgment and the recording of this Mortgage in the county recording office of the county in which the Real Estate is located, the lien of this Mortgage shall be a perfected mortgage lien and fixture filing on the Mortgaged Property.

(d) Mortgagor shall perform all acts that may be necessary to continue, maintain, preserve, protect and perfect the Mortgaged Property, the lien granted to Mortgagee therein and the perfected priority of such lien. Upon request by Mortgagee, Mortgagor shall at its sole cost and expense (i) promptly correct any defect or error which may be discovered in this Mortgage or any financing statement or other document relating hereto; and (ii) promptly execute, acknowledge, deliver, record, and re-record, register and re-register, and file and re-file this Mortgage and any fixture filings, financing statements or other documents which Mortgagee may reasonably require from time to time (all in form and substance reasonably satisfactory to Mortgagee) in order (A) to effectuate, complete, perfect, continue or preserve the lien of this Mortgage on the Mortgaged Property, whether now owned or hereafter acquired, (B) to correct or change the name of Mortgagor following any change in its identity or sale of the Mortgaged Property, or (C) to effectuate, complete, perfect, continue or preserve any right, power or privilege granted or intended to be granted to Mortgagee hereunder.

SECTION 2.03. Secured Obligations. Mortgagor shall duly and punctually pay, perform and observe the Obligations binding upon Mortgagor.

SECTION 2.04. Impositions. Subject to Section 2.06 and Section 2.09, Mortgagor shall (i) duly and punctually pay all Impositions before any fine, penalty, interest or cost may be added for nonpayment; and (ii) promptly notify Mortgagee of the receipt by Mortgagor of any notice of default in the payment of any Imposition. The term "Impositions" means all taxes, assessments and other governmental charges, ground rents, or other rents, charges, excises, levies, fees and other charges (public or private) which may be assessed, levied or imposed on, or in respect of or be a lien upon the Mortgaged Property or any part thereof or any interest therein.

SECTION 2.05. Compliance with Legal and Insurance Requirements. (a) Mortgagor represents and warrants that (i) as of the date hereof, the Premises and the use and operation thereof comply in all material respects with all Legal Requirements (as defined below),

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Insurance Requirements (as defined below) and contractual obligations; (ii) there is no material default under any Legal Requirement, Insurance Requirement and Contractual Obligation; and (iii) the execution, delivery and performance of this Mortgage does not require any consent the failure of which to obtain would contravene any provision of and constitute a material default under, any Legal Requirement, Insurance Requirement or Contractual Obligation. Notwithstanding the limitations set forth in the preceding sentence, Mortgagor represents and warrants that as of the date hereof, the Premises and the Mortgagor's use thereof comply with all Environmental Laws and that Mortgagor has complied and shall comply with all Environmental Laws.

(b) Subject to Section 2.06 and Section 2.09, Mortgagor shall promptly perform and observe, or cause to be performed and observed and cause the Premises to comply with, if the failure to so perform and observe would have a Material Adverse Effect, (i) all laws, rules, regulations, judgments, orders, permits, licenses, authorizations and other requirements of and agreements with all governments, department agencies, courts and officials, which now or hereafter shall be applicable to the Mortgaged Property or any part thereof or any use or condition thereof including, without limitation, all Environmental Laws (herein collectively called the "Legal Requirements"); (ii) all terms of any insurance policy covering or applicable to the Mortgaged Property or any part thereof as required by the Credit Agreement, all requirements of the issuer of any such policy, and all orders, rules, regulations and other requirements of the National Board of Fire Underwriters (or any other body exercising similar functions) applicable to the Mortgaged Property or any part thereof or any use or condition thereof (herein collectively called the "Insurance Requirements"); and (iii) all Permits required for any construction, reconstruction, repair, alteration, addition, improvement, maintenance, use and operation of the Premises.

(c) Mortgagor shall promptly notify Mortgagee of the receipt by Mortgagor of any notice of default under any Legal Requirement, Insurance Requirement, Contractual Obligation, Permitted Lien or Permit or of the receipt by Mortgagor of any notice of any threatened or actual termination of any Permit, Insurance Policy or Site Lease and furnish to Mortgagee a copy of such notice of default or termination.

SECTION 2.06. Impound and Security Account. Upon the occurrence of an Event of Default (but not until then), at Mortgagee's option and upon its demand and except where and to the degree prohibited by law, Mortgagor shall, until all Obligations have been paid in full, pay to Mortgagee each month an amount estimated by Mortgagee to be equal to (i) the Impositions, (ii) all payments and premiums with respect to the Insurance Requirements, and (iii) all lease payments under the Site Lease next due. Estimated payments of Impositions, Insurance Requirements and Site Lease payments shall be calculated by dividing the amount next due by, in each instance, the number of months to lapse preceding the month in which the same, respectively, will become due. All sums so paid shall not bear interest, except to the extent and in the minimum amount required by law, and Mortgagee shall, unless Mortgagor is otherwise in default hereunder or under any obligation secured hereby, apply said funds to the payment of, or at the sole option of Mortgagee release said funds to Mortgagor for application to and payment of, such Impositions, Insurance Requirements and Site Lease payments. However, upon the occurrence of an Event of Default by Mortgagor hereunder or under any obligation secured

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hereby, Mortgagee may, at its sole option, apply all or any part of said sums to any Obligations or to advance sums to pay such Imposition, Insurance Requirement or Site Lease payment, which advance shall not cure Mortgagor's default hereunder.

SECTION 2.07. Sale; Liens. (a) Except as otherwise provided in the Credit Agreement, Mortgagor shall not sell, assign, transfer, convey, lease, mortgage, pledge, hypothecate, or permit to be sold, assigned, transferred, conveyed, leased, mortgaged, pledged, hypothecated or otherwise disposed of, the Mortgaged Property or any part thereof or interest therein (for the purposes of this Section, a "Transfer"), and shall not create, suffer or permit to be created or exist any lien attaching to the Mortgaged Property or any part thereof or interest therein, except as permitted by the Credit Agreement. In the event of any Transfer or the creation, suffering, permitting to be created of any lien attaching to the Mortgaged Property or any part thereof, that is not expressly permitted hereunder or under the terms of the Credit Agreement and is without the prior written consent of Mortgagee, Mortgagee shall have the absolute right at its option, without prior demand or notice, to declare all of the Obligations immediately due and payable and pursue its rights and remedies under Article V. Consent to one such Transfer or lien shall not be deemed to be a waiver of the right to require the consent to future or successive Transfers or liens. Mortgagee shall have the right to grant or deny such consent in its absolute discretion. If consent should be given to a Transfer and if this Mortgage is not released to the extent of the Mortgaged Property transferred or subjected to a lien by a writing signed by Mortgagee and recorded in the proper city, town, county or parish records, then any such Transfer or lien shall be subject to this Mortgage and any such transferee shall assume all obligations hereunder and agree to be bound by all of the provisions contained hereunder.

(b) The Loan may be not assumed by a new borrower without the express written consent of Mortgagee, which consent may be withheld in Mortgagee's sole discretion.

SECTION 2.08. Status and Care of the Premises.

(a) Mortgagor represents and warrants that (i) the Premises is served by all necessary water, sanitary and storm sewer, electric, gas, telephone and other utility facilities which facilities have capacities which are sufficient to serve the current and anticipated future use and occupancy of the Premises as presently constructed; (ii) the Premises has legal access to public streets or roads sufficient to serve the current and anticipated future use and operation of the Premises as presently constructed; (iii) to the extent that the Premises is located in an area identified by the Secretary of Housing and Urban Development or a successor thereto as an area having special flood hazards or as an area designated as "flood prone" or a "flood risk area" pursuant to the National Flood Insurance Act of 1968 or the Flood Disaster Protection Act of 1973, and any amendments or supplements thereto or substitutions therefor, Mortgagor has purchased flood insurance to the extent available; and (iv) all activities and conditions on the Premises are currently in compliance with all Legal Requirements in all material respects.

(b) Mortgagor (i) shall use and operate the Premises, or cause the same to be used and operated as a restaurant; (ii) agrees that all activities on the Premises shall at all times comply with all Legal Requirements in all material respects; (iii) shall operate and maintain the

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Premises, or cause the same to be operated and maintained, in good order, repair and condition except (subject to the provisions of this Section) for reasonable wear and tear; (iv) subject to the provisions of Section 3.02, shall make, or cause to be made, all repairs, replacements, alterations, additions and improvements of and to the Premises necessary or appropriate to keep the Premises in good order, repair and condition; (v) shall not initiate or affirmatively support any change in the applicable zoning adversely affecting the Premises, seek any variance (or any change in any variance), under the zoning adversely affecting the Premises; and (vi) shall, promptly after receiving notice or obtaining knowledge of any proposed or threatened change in the zoning affecting the Premises which would result in the current use of the Premises being a non-conforming use, notify Mortgagee thereof and diligently contest the same at Mortgagor's expense by any action or proceeding deemed appropriate by Mortgagee or requested by Mortgagee.

SECTION 2.09. Permitted Contests. After prior notice to Mortgagee, Mortgagor may contest at Mortgagor's expense, by appropriate legal or other proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any Imposition or lien therefor, any Legal Requirement, or any lien of any laborer, mechanic, materialman, supplier or vendor, provided that (a) the Mortgaged Property, or any part thereof or estate or interest therein, shall not be in any danger of being sold, forfeited or lost by reason of such proceedings; (b) in the case of (i) liens of laborers, mechanics, materialmen, suppliers or vendors or (ii) the Impositions, or liens therefor, such proceedings shall suspend the foreclosure of any such lien or any other collection thereof from the Mortgaged Property; (c) in the case of a Legal Requirement, Mortgagee shall not be in any danger of any criminal liability or, unless Mortgagor shall have furnished a bond or other security therefor reasonably satisfactory to Mortgagee, any additional civil liability for failure to comply therewith, and the Mortgaged Property, or any part thereof or estate or interest therein, shall not be subject to the imposition of any lien as a result of such failure which is not properly contested pursuant to this Section 2.09; and (d) if reasonably required by Mortgagee, Mortgagor shall have furnished to Mortgagee a bond or other security reasonably satisfactory to Mortgagee.

SECTION 2.10. Inspection. Mortgagee and its authorized agents and employees and any person designated by Mortgagee shall have the right to enter on and into the Premises at all reasonable times and, except in the event of an emergency, after reasonable notice for the purpose of inspecting the same, provided such inspection shall not unreasonably disturb business activities at the Premises.

SECTION 2.11. Compliance with Instruments. Mortgagor shall promptly perform and observe, or cause to be performed and observed, all of the terms, covenants and conditions of all other instruments affecting the Premises if the failure to so perform or observe would have a Material Adverse Effect and shall do or cause to be done all things necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and rights in favor of or constituting any portion of the Mortgaged Property if the failure so to do would have a Material Adverse Effect.

SECTION 2.12. Improvements. To the best of Mortgagor's knowledge, and except as disclosed in surveys of the Premises provided to Mortgagee, all improvements on the

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Real Estate lie wholly within the boundary and building restriction lines of the Real Estate and no improvements on adjoining properties encroach upon the Real Estate in any respect so as to have a Material Adverse Effect on the use, operation or value of the Premises.

SECTION 2.13. Casualty; Condemnation. The Mortgaged Property is free of material damage and waste and, to Mortgagor's knowledge, there is no proceeding pending or threatened for the total or partial condemnation thereof.

SECTION 2.14. Zoning and Other Laws. The Premises and the use thereof, separate and apart from any other properties, constitute a legal and conforming use in compliance with the zoning regulations for which the Premises is located. The Premises complies with all applicable subdivision laws, ordinances and regulations, such that failure to comply would not have a Material Adverse Effect. All inspections, licenses and certificates required, whether by law, ordinance, regulation or insurance standards, to be made or issued with respect to the Premises have been made by or issued by appropriate authorities, such that a failure to obtain such inspections, licenses or certificates would not have a Material Adverse Effect.

SECTION 2.15. Site Lease. (a) Mortgagor represents and warrants that (i) Exhibit A, Part II contains a description of the Site Lease; (ii) Mortgagor has furnished to Mortgagee a copy of the Site Lease certified as true and correct by Mortgagor; (iii) except as described in Exhibit A, Part II, the Site Lease has not been modified, assigned by Mortgagor or, to the knowledge of Mortgagor, assigned by the landlord thereunder; (iv) the Site Lease is in full force and effect and, to the knowledge of Mortgagor, there is no default, or existing condition which with the giving of notice or passage of time or both would cause a default under the Site Lease; and (v) the execution, delivery and performance of this Mortgage do not require any consent under, and will not contravene any provision of or cause a default under the Site Lease.

(b) Mortgagor (i) shall duly and punctually pay, perform and observe (unless being paid pursuant to Section 2.06 or being contested pursuant to Section 2.09) all of its obligations under the Site Lease; (ii) shall do all things reasonably necessary or appropriate to enforce, preserve and keep unimpaired the rights of Mortgagor; (iii) except as permitted by the Credit Agreement, shall not enter into any amendment or other agreement or take any other action or fail to take any action that would modify or terminate any rights or obligations of Mortgagor or of the landlord under the Site Lease or subordinate any right of Mortgagor under the Site Lease to any lien; (iv) shall notify Mortgagee in writing not later than ninety (90) days prior to the last date on which Mortgagor can exercise (A) any right to extend the term of the Site Lease or (B) any option to purchase or otherwise acquire the interest of the landlord under the Site Lease, of the existence of such right or option; (v) except as permitted by the Credit Agreement, to the extent the current term of the Site Lease does not extend beyond the maturity date of the Loan, shall exercise (not later than thirty (30) days prior to the last date on which Mortgagor may timely do so) each right or option of Mortgagor under the Site Lease to extend the term thereof; (vi) shall notify Mortgagee (promptly after receipt or contemporaneously when given, as the case may be) of the receipt or giving by Mortgagor of any notice of default under, or any notice of the possible or actual termination of, the Site Lease, accompanied by a copy of such notice (the failure of Mortgagor to comply with this subclause (vi) shall constitute an Event

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of Default hereunder); and (vii) shall promptly notify Mortgagee, upon Mortgagor's acquisition of knowledge thereof, of the occurrence of any event or condition which with the passage of time or giving of notice would constitute a default under the Site Lease. Mortgagee is hereby irrevocably appointed the true and lawful attorney-in-fact of Mortgagor to exercise upon the occurrence and during the continuance of an Event of Default, in its own name and stead or in the name of Mortgagor, each right or option of Mortgagor under the Site Lease to extend the term thereof or to purchase or otherwise acquire the interest of the landlord under the Site Lease, and for that purpose Mortgagee may execute all necessary documents and instruments to exercise each option and may substitute Persons with like power, Mortgagor hereby ratifying and confirming all that their said attorney or such substitutes shall lawfully do by virtue hereof. Nevertheless, Mortgagor, if so requested in writing by Mortgagee shall ratify and confirm the exercise of any such option by executing and delivering to Mortgagee or to such purchasers any instrument which, in the judgment of Mortgagee, is suitable or appropriate therefor. Mortgagor acknowledges (i) that this power of attorney is given to Mortgagee in consideration for Mortgagee's (A) making of the Loan and (B) not requiring Mortgagor to exercise the option to extend the term of the Site Lease or exercise any purchase option before the Closing Date, (ii) that it is reasonable for Mortgagee to require the leasehold term to extend beyond the maturity of the Note; (iii) that if any option is exercised by Mortgagee, Mortgagor agrees it is and shall remain solely liable with respect thereto as tenant under the Site Lease and releases Mortgagee from any and all liability with respect thereto or claims relating thereto.

(c) So long as any portion of the Obligations shall remain unpaid, unless Mortgagee shall otherwise consent, the fee title to the Real Estate and the leasehold estate therein created pursuant to the provisions of the Site Lease shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in Mortgagor, the owner, or in any other person by purchase, operation of law or otherwise. Mortgagee reserves the right, at any time, to release portions of the Mortgaged Property, including, but not limited to, the leasehold estate created by the Site Lease, with or without consideration, at Mortgagee's election, without waiving or affecting any of its rights hereunder or under the Loan Documents and any such release shall not affect Mortgagee's rights in connection with the portion of the Mortgaged Property not so released.

(d) So long as any portion of the Obligations remains unpaid, if Mortgagor shall become the owner and holder of the fee title to the Real Estate, the lien of this Mortgage shall be spread to cover Mortgagor's fee title to the Real Estate and said fee title shall be deemed to be included in the Mortgaged Property. Mortgagor agrees to execute any and all documents or instruments necessary to subject its fee title to the Real Estate to the lien of this Mortgage, in form and substance satisfactory to Mortgagee.

(e) Mortgagor hereby unconditionally assigns, transfers and sets over to Mortgagee all of Mortgagor's claims and rights to the payment of damages arising from any rejection by the owner of the Site Lease under the Bankruptcy Code. Mortgagee shall have the right to proceed in its own name or in the name of Mortgagor in respect of any claim, suit, action or proceeding relating to the rejection of the Site Lease, including, without limitation, the right to file and prosecute, to the exclusion of Mortgagor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the owner under the

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Bankruptcy Code. Subject to the provisions of Section 5.07, this assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the Obligations shall have been satisfied and discharged in full. Any amounts received by Mortgagee as damages arising out of the rejection of the Site Lease as aforesaid shall be applied first to all costs and expenses of Mortgagee (including, without limitation, attorneys' fees and disbursements) incurred in connection with the exercise of any of its rights or remedies under this Section 2.15(e).

(f) Mortgagor shall not, without Mortgagee's prior written consent, elect to treat the Site Lease as terminated under Section 365(h)(1) of the Bankruptcy Code. Any such election made without Mortgagee's prior written consent shall be void.

(g) If pursuant to Section 365(h)(1) of the Bankruptcy Code, Mortgagor seeks to offset against the Rent reserved in the Site Lease the amount of any damages caused by the non-performance by the owner of any of the owner's obligations under the Site Lease after the rejection by the owner of the Site Lease under the Bankruptcy Code, Mortgagor shall, prior to effecting such offset, notify Mortgagee of its intention to do so, setting forth the amounts proposed to be so offset and the basis therefor. Mortgagee shall have the right, within (10) days after receipt of such notice from Mortgagor, to reasonably object to all or any part of such offset, and, in the event of such reasonable objection, Mortgagor shall not effect any offset of the amounts so objected to by Mortgagee for a period of thirty (30) days after Mortgagee has delivered its objection notice to Mortgagor during which time Mortgagee shall have the right to bring its objections to the attention of any court supervising the bankruptcy of the owner of the Site Lease and both Mortgagee and Mortgagor agree to abide by the decision of any such court. If (A) Mortgagee has failed to object as aforesaid within ten (10) days after notice from Mortgagor or (B) the court fails to render its decision within the above-mentioned thirty (30) day period, Mortgagor may proceed to effect such offset in the amounts set forth in Mortgagor's notice. Neither Mortgagee's failure to object as aforesaid nor any objection or other communication between Mortgagee and Mortgagor relating to such offset shall constitute an approval of any such offset by Mortgagee.

(h) If any action, proceeding, motion or notice shall be commenced or filed in respect of Mortgagor or the Mortgaged Property in connection with any case under the Bankruptcy Code (other than a case under the Bankruptcy Code commenced with respect to Mortgagor), Mortgagee shall have the option, to the exclusion of Mortgagor, exercisable upon notice from Mortgagee to Mortgagor, to conduct and control any such litigation with counsel of Mortgagee's choice. Mortgagee may proceed in its own name or in the name of Mortgagor in connection with any such litigation, and Mortgagor agrees to execute any and all powers, authorizations, consents and other documents required by Mortgagee in connection therewith. Mortgagor shall pay to Mortgagee all costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) paid or incurred by Mortgagee in connection with the prosecution or conduct of any such proceedings within five (5) days after notice from Mortgagee setting forth such costs and expenses in reasonable detail. Any such costs or expenses not paid by Mortgagor as aforesaid shall be secured by the lien of this Mortgage and shall be added to the principal amount of the indebtedness secured hereby. Mortgagor shall not commence any action, suit, proceeding or case, or file any application or make any motion, in

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respect of the Site Lease in any such case under the Bankruptcy Code (other than a case under the Bankruptcy Code commenced with respect to Mortgagor) without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld.

(i) Mortgagor shall promptly, after obtaining knowledge thereof, notify Mortgagee of any filing by or against the owner of the Real Estate of a petition under the Bankruptcy Code, setting forth any information available to Mortgagor as to the date of such filing, the court in which such petition was filed, and the relief sought therein. Mortgagor shall promptly deliver to Mortgagee following receipt any and all notices, summonses, pleadings, applications and other documents received by Mortgagor in connection with any such petition and any proceedings relating thereto.

(j) If there shall be filed by or against Mortgagor a petition under the Bankruptcy Code, and Mortgagor, as the tenant under the Site Lease, shall determine to reject the Site Lease pursuant to Section 365(a) of the Bankruptcy Code, then Mortgagor shall give Mortgagee not less than ten (10) days' prior notice of the date on which Mortgagor shall apply to the bankruptcy court for authority to reject the Site Lease. Mortgagee shall have the right, but not the obligation, to serve upon Mortgagor within such 10-day period a notice stating that (i) Mortgagee demands that Mortgagor assume and assign the Site Lease to Mortgagee pursuant to Section 365 of the Bankruptcy Code and (ii) Mortgagee covenants to cure or provide adequate assurance of prompt cure of all defaults and provide adequate assurance of future performance of Mortgagor's obligations under the Site Lease. If Mortgagee serves upon Mortgagor the notice described in the preceding sentence, Mortgagor shall not seek to reject the Site Lease and shall seek court approval to comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Mortgagee of the covenant provided for in clause (ii) of the preceding sentence.

(k) Effective upon the entry of an order for relief in respect of Mortgagor under the Bankruptcy Code, Mortgagor hereby assigns and transfers to Mortgagee a non-exclusive right to apply to the bankruptcy court under Section 365(1)(4) of the Bankruptcy Code for an order extending the period during which the Site Lease may be rejected or assumed.

SECTION 2.16. Use of Loan Proceeds. Mortgagor shall use the proceeds of the Loan only for the purposes set forth in the Credit Agreement.

ARTICLE III

INSURANCE, CASUALTY AND CONDEMNATION

SECTION 3.01. Insurance. Mortgagor shall comply with all of the terms and provisions and shall maintain, or cause to be maintained, with respect to the Premises the insurance required by the Credit Agreement.

SECTION 3.02. Casualty and Condemnation. Mortgagor's right to collect or use any insurance proceeds or awards resulting from any casualty loss or condemnation shall be subject to, and applied in accordance with, the terms and provisions of the Credit Agreement. Mortgagor hereby authorizes and directs any affected insurance company and any affected

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governmental body responsible for such condemnation to make payment of the insurance proceeds or awards directly to Mortgagee. Mortgagor hereby irrevocably assigns to Mortgagee all insurance proceeds and awards to which Mortgagor may become entitled by reason of its interests in the Premises if a loss occurs.

ARTICLE IV

EXPENSES AND INDEMNIFICATION

SECTION 4.01. Expenses. Upon written demand, Mortgagor (a) shall reimburse Mortgagee for all out-of-pocket expenses, including reasonable attorneys' fees and expenses, paid or incurred by Mortgagee in connection with (i) any default or alleged default, (ii) the perfection, protection, exercise or enforcement of any right or remedy under or with respect to this Mortgage or any other Loan Document, and (iii) the execution, delivery, administration or performance of this Mortgage or any other Loan Document and any consent or waiver thereunder and any amendment thereof, or (b) if an Event of Default occurs, shall reimburse Mortgagee for all out-of-pocket expenses, including reasonable attorneys' fees and expenses, (i) paid or incurred by Mortgagee in connection with (A) such Event of Default and collection, bankruptcy, insolvency and enforcement proceedings resulting therefrom or (B) the exercise or enforcement of any right or remedy under or with respect to this Mortgage or any other Loan Document or (ii) otherwise paid or incurred with respect to this Mortgage or any other Loan Document, together, in each case, with interest thereon at the Default Rate from the date paid by Mortgagee through the date repaid to Mortgagee, as the case may be. All such funds advanced in the reasonable exercise of Mortgagee's judgment that the same are needed to protect the Mortgaged Property, the lien of this Mortgage, or the Obligations are to be deemed obligatory advances hereunder and shall constitute additional indebtedness secured by this Mortgage. The obligations of Mortgagor under this Section shall be part of the Obligations and shall survive any foreclosure or transfer in lieu of foreclosure of this Mortgage and the release of this Mortgage.

SECTION 4.02. Indemnification. To the fullest extent permitted by law, Mortgagor shall protect, defend, indemnify and save harmless Mortgagee, and its stockholders, members, directors, managers, officers, employees, beneficial owners, attorneys, agents and other representatives or affiliates of, and partners in, Mortgagee (each an "Indemnified Person") from and against any and all liabilities, losses, actions, fines, injunctions, obligations, claims, damages, penalties, causes of action, costs and expenses of any kind or nature (including, without limitation, in respect of or for reasonable attorneys' fees and expenses whether incurred within or outside the judicial process), imposed upon or incurred by or asserted against any such Indemnified Person including, without limitation, by reason of (i) this Mortgage or the Mortgaged Property or any interest therein or receipt of any Rents; (ii) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Mortgaged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (iii) any failure on the part of Mortgagor to perform or comply with any of the terms of this Mortgage; (iv) any violation or failure to comply with any Legal Requirement by Mortgagor or the Premises in any way; and (v) performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Property or any part thereof, provided that any claims arising out of the willful misconduct or gross

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negligence of any Indemnified Person or act of any Indemnified Person after taking title to the Premises shall be excluded from the foregoing indemnification of such Indemnified Person. Any amounts payable to Mortgagee by reason of the application of this Section 4.02 shall be secured by this Mortgage as an Obligation and shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Mortgagee until paid. The obligations and liabilities of Mortgagor under this Section 4.02 shall survive any termination, satisfaction, assignment, entry of a judgment of foreclosure or delivery of a deed in lieu of foreclosure of this Mortgage and the exercise of any rights or remedies by Mortgagee.

SECTION 4.03. Interest. If any Obligation arising hereunder (including, to the extent permitted under applicable law, any interest obligation) shall not be paid when due, such Obligation shall bear interest at the Default Rate commencing from the due date through the date paid. Such interest shall be part of the Obligations and shall be secured by this Mortgage.

SECTION 4.04. Increased Costs; Change of Taxation. In the event of the enactment after the date hereof of any applicable law deducting from the value of the Premises for the purpose of taxation of any lien thereon or changing in any way the applicable taxation of mortgages, deeds of trust or other liens or obligations secured thereby, or the manner of collection of such taxes, so as to affect this Mortgage, the Obligations or Mortgagee, upon demand by Mortgagee, to the extent permitted under applicable law, Mortgagor shall pay or reimburse Mortgagee for all taxes, assessments, or other charges which Mortgagee is obligated to pay as a result thereof; provided, however, if for any reason payment by the Mortgagor of any such new or additional taxes, assessments or other charges would be unlawful or if the payment thereof would constitute usury or render the Loan wholly or partially usurious under any of the terms or provisions of the Credit Agreement, Note, or this Mortgage, or otherwise, the Mortgagee may, at its sole option, upon thirty (30) days' written notice to the Mortgagor, declare the whole indebtedness secured by this Mortgage, with interest thereon, to be immediately due and payable. Such taxes, assessments or other charges shall be part of the Obligations and shall be secured by this Mortgage.

ARTICLE V

DEFAULTS, REMEDIES AND RIGHTS

SECTION 5.01. Events of Default. The occurrence of any of the following events shall be deemed an event of default ("Event of Default") hereunder and shall, at the option of Mortgagee make all amounts then remaining unpaid on the Obligations immediately due and payable, all without further demand, presentment, notice or other requirements of any kind, all of which are expressly waived by Mortgagor, and the lien, encumbrance and security interest evidenced or created hereby shall be subject to foreclosure in any manner provided for herein or provided for by law and all other remedies available at law or in equity:

(a) The occurrence of any Event of Default (as defined in the Credit Agreement) under the Credit Agreement; or

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(b) Mortgagor shall default in the performance or observance of any term, covenant or condition required to be observed by Mortgagor under this Mortgage and such failure continues for 30 days after the earlier of (i) notice of such failure is delivered to the Mortgagor by Mortgagee or (ii) Mortgagor has actual knowledge of such failure.

SECTION 5.02. Fixtures. Upon the occurrence of any Event of Default, or at any time thereafter, Mortgagee may, to the extent permitted under applicable law, elect to treat the fixtures included in the Mortgaged Property either as real property or personal property, or both, and proceed to exercise such rights as apply thereto. With respect to any sale of real property included in the Mortgaged Property made under the power of sale herein granted and conferred, Mortgagee may, to the extent permitted by applicable law, include in such sale any personal property and fixtures included in the Mortgaged Property relating to such real property.

SECTION 5.03. Remedies Cumulative. All notice and cure periods provided in this Mortgage, the Credit Agreement or any other Loan Document shall run concurrently with any notice or cure periods provided under applicable law. No remedy or right of Mortgagee hereunder, under the Credit Agreement and any other Loan Document or otherwise, or available under applicable law, shall be exclusive of any other right or remedy, but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing at law or in equity under any such document or under applicable law. No failure or delay by Mortgagee in exercising any right hereunder shall operate as a waiver thereof or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right. Unless otherwise specified in such waiver or consent, a waiver or consent given hereunder shall be effective only in the specific instance and for the specific purpose for which given. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee. All obligations of Mortgagor, and all rights, powers and remedies of Mortgagee expressed herein shall be in addition to, and not in limitation of, those provided by law, equity or in the Credit Agreement and any other Loan Document.

SECTION 5.04. Possession of Premises. Mortgagor hereby waives, while any Event of Default exists, all right to the possession, income, earnings, revenues, issues, profits and Rents of the Premises. Mortgagee or a Receiver (as the case may be as the Person exercising the rights under this Section) is hereby expressly authorized and empowered to the extent permitted by applicable law, but not obligated, while any Event of Default exists, (i) to enter into and upon and take possession of, and operate all facilities on, the Premises or any part thereof, personally, or by its agents or attorneys, and exclude Mortgagor therefrom without liability for trespass, damages or otherwise; (ii) to enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of Mortgagor relating to the possession and operation of the Mortgaged Property; (iii) to conduct, either personally or by its agents, the business of the Premises; (iv) to exercise all rights of Mortgagor with respect to the Mortgaged Property, including, without limitation, the right to sue for or otherwise collect the Rents, including those that are unpaid; (v) to complete any alteration or restoration in progress on the Premises at the expense of Mortgagor at reasonable and customary cost or at such cost previously agreed to by Mortgagor, and (vi) to apply all income of the Premises less the necessary or appropriate expenses of collection thereof, either for the operation, care and

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preservation of the Premises, or, at the election of the Person exercising the rights under this Section in its sole discretion, as provided in Section 5.09 hereof. The Person exercising the rights under this Section is also hereby granted full and complete authority while any Event of Default exists (vii) to employ watchmen to protect the Mortgaged Property; (viii) to continue any and all outstanding contracts for the erection and completion of Improvements to the Premises; (ix) to make all necessary and proper repairs, renewals, replacements, alterations, additions, betterments and improvements to the Premises that, in its sole discretion, it may deem appropriate; (x) to insure and reinsure the Premises for all risks incidental to Mortgagee's possession, operation and management thereof; (xi) to make and enter into any contracts or obligations wherever necessary in its own name for the operation, care and preservation of the Mortgaged Property, and (xii) to pay and discharge all debts, obligations and liabilities incurred thereby, all at the expense of Mortgagor. The Person exercising the rights under this Section shall not be liable to account for any action taken hereunder, and shall not be liable for any loss sustained by Mortgagor resulting from any act or omission of such Person, except to the extent such loss is caused by such Person's willful misconduct or gross negligence. All such expenditures by the Person exercising the rights under this Section shall be Obligations hereunder.

SECTION 5.05. Foreclosure; Receiver. While any Event of Default exists, Mortgagee, with or without entry, shall also have the following rights:

(a) to institute a proceeding or proceedings, by advertisement, judicial process or otherwise, as provided under applicable law, for the complete or partial foreclosure of this Mortgage or the complete or partial sale of the Mortgaged Property under the power of sale hereunder or under any applicable provision of law;

(b) to sell the Mortgaged Property and all estate, right, title and interest of Mortgagor therein as a whole or in separate parcels, at one or more sales, at such time and place and upon such terms and conditions as may be required by applicable law;

(c) to take such steps to protect and enforce rights, whether by action, suit or proceeding in equity or at law, for the specific performance of any provision in the Loan Documents, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy Mortgagee shall elect;

(d) to apply for the appointment of a receiver, supervisor, trustee, liquidator, conservator or other custodian (a "Receiver") of the Mortgaged Property or any part thereof and all earnings, revenues, Rents, issues, profits and income thereof, to the extent permitted by law without giving notice to any other party and without regard to the adequacy or inadequacy of the security of the Mortgaged Property or the solvency of either Mortgagor or any other Person and Mortgagor agrees that it shall not oppose the appointment of a Receiver; and

(e) to take all such other steps and to assert all such other rights and remedies as shall be permitted by applicable law.

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The purchase money, proceeds or avails of any foreclosure or sale after default and any other sums which then may be held by Mortgagee under this Mortgage shall be applied as provided in Section 5.09 hereof.

SECTION 5.06. No Liability on Mortgagee. Notwithstanding anything contained herein, this Mortgage is only intended as security for the Obligations and Mortgagee shall not be obligated to perform or discharge, and Mortgagee need not perform or discharge, any obligation, duty or liability of Mortgagor with respect to any of the Mortgaged Property. Mortgagee shall not have responsibility for the control, care, management or repair of the Premises nor shall Mortgagee be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Mortgaged Property resulting in loss or injury or death to any licensee, employee, tenant or stranger. No liability shall be enforced or asserted against Mortgagee in its exercise of the powers herein granted to it, and Mortgagor expressly waives and releases any such liability. Should Mortgagee or any Person exercising rights on its behalf incur any such liability, loss or damage, under or by reason hereof, or in the defense of any claims or demands, Mortgagor agrees to reimburse Mortgagee and such Person, immediately upon demand (provided such demand is accompanied by an itemized statement) for the amount thereof, including costs, expenses and reasonable attorneys' fees, and any such obligations of Mortgagor shall be Obligations hereunder and shall survive any foreclosure or transfer in lieu of foreclosure of this Mortgage and the release of this Mortgage.

SECTION 5.07. Assignment of Leases. (a) Subject to paragraph (d) below, the assignments of the Leases and the Rents under Granting Clauses VI and VII are and shall be present, absolute and irrevocable assignments by Mortgagor to Mortgagee and, subject to the license to Mortgagor under Section 5.07(b), Mortgagee or a Receiver appointed pursuant to Section 5.05(d) (as the case may be as the Person exercising the rights under this Section) shall have the absolute, immediate and continuing right to collect and receive all Rents now or hereafter, including during any period of redemption, accruing with respect to the Premises. At the request of Mortgagee or such Receiver, Mortgagor shall promptly execute, acknowledge, deliver, record, register and file any additional general assignment of the Leases or specific assignment of any Lease which Mortgagee or such Receiver may require from time to time (all in form and substance reasonably satisfactory to Mortgagee or such Receiver) to effectuate, complete, perfect, continue or preserve the assignments of the Leases and the Rents under Granting Clauses VI and VII.

(b) As long as no Event of Default exists, Mortgagor shall have the right under a license granted hereby, subject to Section 5.07(c), to collect all Rents upon, but not prior to fifteen (15) days before, the due date thereof.

(c) If any Event of Default exists, Mortgagee or Receiver appointed pursuant to Section 5.05(d) (as the case may be as the Person exercising the rights under this Section) shall have the right to do any of the following: (i) terminate the license granted under Section 5.07(b) by notice to Mortgagor (ii) exercise the rights and remedies provided to Mortgagor under the Site Lease; (iii) exercise the rights and remedies provided under Section 5.04, Section 5.05 or under applicable law; (iv) as attorney in-fact or agent of Mortgagor, or in its own name as the Person exercising the rights under this Section and under the powers herein granted, hold,

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operate, manage and control the Premises and all other Mortgaged Property, either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper and necessary to enforce the payment of any Rents, the Leases and other Mortgaged Property relating thereto (including actions for the recovery of Rent, actions in forcible detainer and actions in distress of Rent); (v) cancel or terminate any Lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (vi) elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof; and (vii) perform such other acts in connection with the management and operation of the Mortgaged Property as the Person exercising the rights under this Section in its discretion may deem proper, Mortgagor hereby granting full power and authority to exercise each and every one of the rights, privileges and powers contained herein at any and all times while an Event of Default exists without notice to Mortgagor.

(d) Nothing in this Section 5.07 shall be construed to be an assumption by the Person exercising the rights under this Section, or to otherwise make such Person liable for the performance, of any of the obligations of Mortgagor under the Leases.

SECTION 5.08. Sales. Except as otherwise provided herein, to the extent permitted under applicable law, at the election of Mortgagee, the following provisions shall apply to any sale of the Mortgaged Property hereunder, whether made pursuant to the power of sale hereunder, any judicial proceeding, or any judgment or decree of foreclosure or sale or otherwise;

(a) Mortgagee or the court officer (as the case may be as the Person conducting any sale) may conduct any number of sales as Mortgagee may direct from time to time. The power of sale hereunder or with respect hereto shall not be exhausted by any sale as to any part or parcel of the Mortgaged Property which is not sold, unless and until the Obligations shall have been paid in full, and shall not be exhausted or impaired by any sale which is not completed or is defective. A sale may be as a whole or in part or parcels, and Mortgagor hereby waives its right to direct the order in which the Mortgaged Property or any part or parcel thereof is sold.

(b) Any sale may be postponed or adjourned by public announcement at the time and place appointed for such sale or such postponed or adjourned sale without further notice.

(c) Any statement of fact or other recital made in any instrument given by the Person conducting any sale as to the nonpayment of any Obligation, the existence of an Event of Default, the amount of the Obligations due and payable, the request to Mortgagee to sell, the notice of the time, place and terms of sale and of the Mortgaged Property to be sold having been duly given, or any other act or thing having been duly done or not done by Mortgagor, Mortgagee, or any other Person, shall be taken as conclusive and binding against all other Persons as evidence of the truth of the facts so stated or recited.

(d) Any sale shall operate to divest all of the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Mortgagor in and to the Mortgaged

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Property sold, and (to the extent permitted under applicable law) shall be a perpetual bar both at law and in equity against Mortgagor and any and all Persons claiming such Mortgaged Property or any interest therein by, through or under Mortgagor.

(e) At any sale, Mortgagee may bid for and acquire the Mortgaged Property sold and, in lieu of paying cash therefor may make settlement for the purchase price by causing the Secured Parties to credit against the Obligations, including the expenses of the sale and the cost of any enforcement proceeding hereunder, the amount of the bid made therefor to the extent necessary to satisfy such bid.

(f) In the event that Mortgagor or any Person claiming by, through or under Mortgagor shall transfer or fail to surrender possession of the Mortgaged Property after any sale thereof, then Mortgagor or such Person shall be deemed tenant at sufferance of the purchaser at such sale, subject to eviction by means of forcible entry and unlawful detainer proceedings, or subject to any other right or remedy available, hereunder or under applicable law.

(g) Upon any sale, it shall not be necessary for the Person conducting such sale to have any Mortgaged Property being sold present or constructively in its possession.

(h) To the extent permitted under applicable law, in the event that a foreclosure hereunder shall be commenced by Mortgagee, Mortgagee may at any time before the sale abandon the sale, and may institute suit for the collection of the Obligations or for the foreclosure of this Mortgage; or in the event that Mortgagee should institute a suit for collection of the Obligations or the foreclosure of this Mortgage, Mortgagee may at any time before the entry of final judgment in said suit dismiss the same and sell the Mortgaged Property in accordance with the provisions of this Mortgage.

SECTION 5.09. Application of Proceeds. The proceeds of any sale of any of the Mortgaged Property made pursuant to this Article V shall be applied as follows:

(a) First, to the payment of all costs and expenses incident to the enforcement of this Mortgage paid or incurred by Mortgagee or the agent for enforcement, protection or collection, including, without limitation, reasonable costs, reasonable attorneys' fees, stenographers' fees, costs of advertising, costs of documentary evidence of title (including title search and insurance), all other related charges and costs, and a reasonable compensation to the agents, attorneys and in-house counsel of Mortgagee and of agent;

(b) Second, to the payment or prepayment of the Obligations, in such order as Mortgagee shall elect; and

(c) Third, the remainder, if any, shall be paid to Mortgagor or such other person or persons as may be entitled thereto by law;

provided, however, if applicable law requires such proceeds to be paid or applied in a manner other than as set forth above in this Section 5.09, then such proceeds shall be paid or applied in accordance with such applicable law.

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ARTICLE VI

GENERAL

SECTION 6.01. Fixture Filing. To the extent that the Mortgaged Property includes items of personal property which are or are to become fixtures under applicable law, and to the extent permitted under applicable law, the filing of this Mortgage in the real estate records of the county in which such Mortgaged Property is located shall also operate from the time of filing as a fixture filing with respect to such Mortgaged Property, and the following information is applicable for the purpose of such fixture filing, to wit:

- (a) Name and Address of the Debtor:

QSR, INC.
1834 Walden Office Square, Suite 130
Schaumburg, Illinois 60173

- (b) Name and Address of the Secured Party:

Wells Fargo Bank, National Association
1808 Aston Avenue, Suite 250
Carlsbad, California 92008

- (c) This financing statement covers goods or items of personal property which are or are to become fixtures upon the Premises.

- (d) Name and address of record owners:

S&S Petroleum Products
400 S. Curren Road
Grayslake, IL 60030

SECTION 6.02. Defeasance. If all of the Obligations shall have been paid in full, and if Mortgagor shall have performed and observed all the covenants, obligations and conditions to be performed by Mortgagor pursuant to the Loan Documents, and each of the Loan Documents shall have been terminated, then this Mortgage shall cease, terminate and, thereafter, be of no further force or effect (except as provided in Sections 4.01, 4.02 and 5.06). Upon such termination and Mortgagor's request, appropriate release shall promptly be made by Mortgagee to the Person or Persons legally entitled thereto at Mortgagor's expense.

SECTION 6.03. Notices. Each notice, demand or other communication given to Mortgagor or Mortgagee in connection with this Mortgage shall be given in the manner set forth in the Credit Agreement and shall be sent to the addresses shown below or such other addresses which the parties may provide to one another in accordance with the Credit Agreement.

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To Mortgagee: Wells Fargo Bank, National Association
 1808 Aston Avenue, Suite 250
 Carlsbad, California 92008
 Attn: Loan Administration
 Telecopy No.: (760) 918-2727

With a copy to: Morris, Manning & Martin, LLP
 1600 Atlanta Financial Center
 3343 Peachtree Road, N.E.
 Atlanta, Georgia 30326
 Attention: Frederick C. C. Boyd, III, Esq.
 Telecopy No.: (404) 365-9532

To Mortgagor: QSR, INC.
 1834 Walden Office Square, Suite 130
 Schaumburg, Illinois 60173
 Attention: Ralph Freitag
 Telecopy No.: (847) 925-9700

With copies to: Reinholdt Boerner Van Deuren s.c.
 1000 North Water Street, Suite 1700
 Milwaukee, WI 53202
 Attn: Stephen C. Elliott, Esq.
 Facsimile No.: (414) 298-8097

Ralph Freitag
 505 Indigo Lane
 Georgetown, Texas 78628

SECTION 6.04. Amendments in Writing. No amendment, consent, waiver or supplement in any way affecting Mortgagor's obligations or Mortgagee's rights under this Mortgage shall in any event be effective unless contained in a writing signed by Mortgagee.

SECTION 6.05. Related Swap Contracts. All obligations of the Mortgagor under Related Swap Contracts to which any Lender or its Affiliates are a party shall be deemed to be liabilities of the Mortgagor ("Liabilities"), and each Lender or Affiliate of a Lender party to any such Related Swap Contract shall be deemed to be a Secured Party hereunder with respect to such Liabilities; provided, however, that such obligations shall cease to be Liabilities at such time, prior to the Facility Termination Date (as defined below), as such Person (or Affiliate of such Person) shall cease to be a "Lender" under the Credit Agreement.

No Person who obtains the benefit of this Mortgage by virtue of the provisions of this Section shall have, prior to the Facility Termination Date, any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Obligations (including the release or modification of any Obligations or security therefor) other than in

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its capacity as a Lender and only to the extent expressly provided in the Loan Documents. Each Secured Party not a party to the Credit Agreement who obtains the benefit of this Agreement by virtue of the provisions of this Section shall be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of the Credit Agreement, and that with respect to the actions and omissions of the Administrative Agent hereunder or otherwise relating hereto that do or may affect such Secured Party, the Administrative Agent and each of its Related Parties shall be entitled to all the rights, benefits and immunities conferred under Article IX of the Credit Agreement.

“Facility Termination Date” means the date as of which all of the following shall have occurred: (a) the Borrowers shall have permanently terminated the credit facilities under the Loan Documents by final payment in full of all Outstanding Amounts, together with all accrued and unpaid interest and fees thereon; (b) all Commitments shall have terminated or expired; (c) the obligations and liabilities of the Borrower and each other Loan Party under all Related Swap Contracts shall have been fully, finally and irrevocably paid and satisfied in full and the Related Swap Contracts shall have expired or been terminated, or other arrangements satisfactory to the counterparties shall have been made with respect thereto; and (d) the Borrower and each other Loan Party shall have fully, finally and irrevocably paid and satisfied in full all of their respective obligations and liabilities arising under the Loan Documents, including the Obligations (except for future Obligations consisting of continuing indemnities and other contingent Obligations of the Borrower or any Loan Party that may be owing to the Agent, any of its Related Parties or any Lender pursuant to the Loan Documents and expressly survive termination of the Credit Agreement or any other Loan Document).

SECTION 6.06. Governing Law; Construction. This Mortgage shall be governed by the law of the state in which the Real Estate is situated.

SECTION 6.07. Successors and Assigns The covenants and agreements of Mortgagor hereunder, and the provisions hereof affecting Mortgagor, shall bind Mortgagor hereunder, its successors and assigns and all Persons claiming by, through or under Mortgagor and shall inure to the benefit of Mortgagor and its successors and permitted assigns. The rights and privileges of Mortgagee hereunder, and the provisions hereof affecting Mortgagee, shall inure to the benefit of Mortgagee hereunder and its successors and assigns.

SECTION 6.08. Waiver. Mortgagor waives, on behalf of itself and all Persons now or hereafter interested in the Premises or the other Mortgaged Property, to the fullest extent permitted by applicable law, (i) all rights under all appraisal, homestead, moratorium, valuation, exemption, stay, extension, redemption, single action, election of remedies and marshalling statutes, laws or equities now or hereafter existing, (ii) any benefit of any law providing for the valuation or appraisal of the Premises or the other Mortgaged Property or any part thereof prior to any sale thereof; (iii) after any such sale, claim or exercise any right to

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redeem the property so sold or any part thereof; (iv) all benefit or advantage of any such law and covenants not to hinder, delay or impede the execution by Mortgagee of any power or remedy herein granted or available at law or in equity, but to suffer and permit the execution of every power and remedy as though no such law existed and (v) any and all requirements that at any time any action may be taken against any other Person. Mortgagor hereby acknowledges and agrees that no defense based on any of the foregoing will be asserted in any action enforcing this Mortgage.

SECTION 6.09. WAIVER OF JURY TRIAL. MORTGAGOR AND MORTGAGEE HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS MORTGAGE, THE NOTE OR ANY OTHER LOAN DOCUMENT OR FOR ANY COUNTERCLAIM THEREIN.

SECTION 6.10. No Redemption. Mortgagor hereby waives, to the fullest extent permitted by applicable law, any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage or under any power contained herein on its own behalf and on behalf of each and every Person acquiring any interest in or title to the Premises subsequent to the date of this Mortgage.

SECTION 6.11. Limitation by Law. All rights, remedies and powers provided in this Mortgage may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Mortgage are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Mortgage illegal, invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered, or filed under the provisions of any applicable law.

SECTION 6.12. Mortgagee's Performance If Mortgagor shall fail to pay or perform any of its obligations herein contained (including, without limitation, payment of expenses of foreclosure and court costs) or under the Loan Documents each with respect to the Mortgaged Property, Mortgagee upon five (5) days prior written notice to Mortgagor (except as otherwise expressly permitted by any Loan Document in the event of an emergency when no notice need be given) may, but need not, make (or cause to be made) any such payment or perform (or cause to be performed) any such obligation of Mortgagor hereunder or thereunder (provided Mortgagor is not contesting such payment or performance in accordance with Section 2.09 and the failure to so perform such obligation would have a Material Adverse Effect), in any form and manner deemed reasonably expedient by Mortgagee as agent or attorney-in-fact of Mortgagor, and any amount so paid or expended (plus reasonable compensation to Mortgagee for its out-of-pocket and other expenses (including legal expenses) for each matter for which it acts under this Mortgage), with interest thereon at the Default Rate, shall be added to the Obligations and shall be repaid to Mortgagee upon demand. No such action of Mortgagee shall be considered as a waiver of any right accruing to it on account of the occurrence of any default on the part of Mortgagor under this Mortgage, any default, any Event of Default, or any default or event of default under any other Loan Document.

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SECTION 6.13. Subrogation. To the extent that Mortgagee, after the date hereof, pays pursuant to the terms of this Mortgage any sum due under any provision of law or any instrument or documents creating any lien prior or superior to the lien of this Mortgage, Mortgagee shall have and be entitled to a lien on the Mortgaged Property equal in priority to that discharged, and Mortgagee shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence for the benefit of Mortgagee to secure the amount expended by Mortgagee on account of or in connection with such lien.

SECTION 6.14. Conflicting Provisions. To the extent there exists any conflict or inconsistency between the terms of this Mortgage and the terms of the Credit Agreement, the terms of the Credit Agreement shall govern.

SECTION 6.15. Counterparts. This Mortgage may be executed in any number of identical counterparts, any set of which signed by all the parties hereto shall be deemed to constitute a complete, executed original for all purposes.

SECTION 6.16. Instrument Under Seal. This Mortgage is intended to be and shall be construed as an instrument under seal.

SECTION 6.17. State Specific Provisions. In the event of any conflict between the provisions of this Section 6.17 and any other provision of this Mortgage, the provisions of this Section 6.17 shall control.

(a) Mortgagor represents and warrants to Mortgagee that the proceeds of the Loans secured hereby shall be used solely for business purposes and in furtherance of the regular business affairs of Mortgagor, and the entire principal obligation secured by this Mortgage constitutes (i) a "business loan" as that term is defined in, and for all purposes of, 815 ILCS 205/4(1)(c) and (ii) a "loan secured by a mortgage on real estate" within the purview and operation of 815 ILCS 205/4(1)(l).

(b) Pursuant to the terms of the Collateral Protection Act, 815 ILCS 180/1 et seq., Mortgagor is hereby notified that unless Mortgagor provides Mortgagee with evidence of the insurance coverage required by this Mortgage, Mortgagee may purchase insurance at Mortgagor's expense to protect Mortgagee's interests in the Mortgaged Property which insurance may, but need not, protect the interests of Mortgagor. The coverage purchased by Mortgagee may not pay any claim made by Mortgagor or any claim made against Mortgagor in connection with the Mortgaged Property. Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained the insurance as required hereunder. If Mortgagee purchases insurance for the Mortgaged Property, the Mortgagor will be responsible for the costs of such insurance, including interest and any other charges imposed in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations secured hereby. The costs of such insurance may be greater than the cost of insurance Mortgagor may be able to obtain for itself.

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(c) It is the intention of Mortgagor and Mortgagee that the enforcement of the terms and provisions of this Mortgage shall be accomplished in accordance with the Illinois Mortgage Foreclosure Law (the "Act"), 735 ILCS 5/15-1101 et seq., and with respect to such Act, Mortgagor agrees and covenants that:

(i) Mortgagee shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the Act which is specifically referred to herein may be repealed, to the maximum extent permitted by law, Mortgagee shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference. If any provision in this Mortgage shall be inconsistent with any provision of the Act, provisions of the Act shall take precedence over the provisions of this Mortgage but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act. If any provision of this Mortgage shall grant to Mortgagee (including Mortgagee acting as a mortgagee-in-possession) or a receiver, any powers, rights or remedies prior to or upon the occurrence and during the continuance of an Event of Default, which are more limited than the powers, rights or remedies that would otherwise be vested in Mortgagee or in such receiver under the Act in the absence of said provision, Mortgagee and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Mortgagee, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Mortgage, shall be added to the Obligations and shall have the benefit of all applicable provisions of the Act.

(ii) Wherever provision is made in this Mortgage for insurance policies to bear mortgagee clauses or other loss payable clauses or endorsements in favor of Mortgagee, or to confer authority upon to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control the use of insurance proceeds, from and after the entry of judgment of foreclosure, all such rights and powers of the Mortgagee shall continue in the Mortgagee as judgment creditor or mortgagee until confirmation of sale.

(iii) In addition to any provision of this Mortgage authorizing the Mortgagee to take or be placed in possession of the Premises, or for the appointment of a receiver, Mortgagee shall have the right, in accordance with Sections 15-1701 and 15-1702 of the Act, to be placed in the possession of the Premises or at its request to have a receiver appointed, and such receiver, or Mortgagee, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all rights, powers, immunities, and duties and provisions for in Sections 15-1701 and 15-1703 of the Act.

(d) Mortgagor acknowledges that the Premises do not constitute residential real estate as defined in Section 15-1219 of the Act.

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(e) Mortgagor hereby expressly waives any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of reinstatement and redemption of Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Section 5/15-1601 of the Act or other applicable law or replacement statutes.

(f) This Mortgage secures a "revolving credit" loan and also secures future advances as both are defined and authorized under applicable Illinois statutes, including, without limitation, 205 ILCS 5/5d, 205 ILCS 105/1-6b, 815 ILCS 205/4.1, 735 ILCS 5/15-1207 and 735 ILCS 5/15-1302 and it shall secure not only presently existing indebtedness under the Credit Agreement and the other Loan Documents but also future advances that constitute Secured Obligations under the Credit Agreement (whether such advances are obligatory or to be made at the option of Mortgagee, or otherwise) as are made within twenty years (or the maximum period permitted by applicable law, whichever is longer) from the date of this Mortgage, to the same extent and with the same priority as if such future advances were made on the date of the execution of this Mortgage and without regard as to whether or not there is any advance made at the time of execution of this Mortgage and without regard as to whether or not there is any indebtedness outstanding at the time any advance is made. This Mortgage secures all present and future disbursements of the Loans under the Credit Agreement, and all other sums from time to time owing to the Lenders by Borrowers and/or Mortgagor under the Loan Documents. The maximum principal amount which may be secured hereby at any one time is Thirty-Four Million Five Hundred Thousand and No/100 Dollars (\$34,500,000.00), plus interest thereon, and any disbursements made by Mortgagee for the payment of taxes, special assessments, or insurance on the Mortgaged Property, with interest on such disbursements; provided, however, that the foregoing limitation shall apply only to the maximum amount of the lien created by this Mortgage, and it shall not in any manner limit, affect or impair any grant of a security interest or other right in favor of the Mortgagee or the other Lenders under the provisions of the Credit Agreement or under any of the other Loan Documents at any time executed by Borrowers or Mortgagor. To the fullest extent permitted by applicable law, the lien of this Mortgage, as to all such sums so advanced, shall have priority over all subsequent liens and encumbrances, including statutory liens (excepting solely taxes and assessments levied on the Mortgaged Property secured by this Mortgage).

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, Mortgagor has duly executed and delivered this Mortgage as of the date first written above.

MORTGAGOR:

QSR, INC., a Wisconsin corporation

By: *Robert E. Bellin*

Name: Robert E. Bellin

Title: Secretary

(CORPORATE SEAL)

Property of Cook County Clerk's Office

Acknowledgement

STATE OF WISCONSIN)

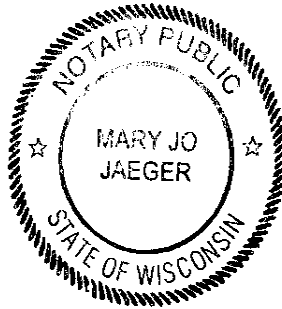
COUNTY OF milwaukee) ss.

BE IT REMEMBERED, that on this 26th day of May, 2010, before me the undersigned, a Notary Public in and for the county and state aforesaid, came Robert E. Bellin, the Secretary of QSR, INC., a Wisconsin corporation, who is personally known to me to be the same person who executed the within instrument of writing in such capacity and on behalf of said corporation, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, the day and year last above written.

Mary Jo Jaeger
Printed Name: Mary Jo Jaeger
Notary Public

My commission expires:
07/22/2012



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Unit:

(Store No. 16815)

2997 Kirchoff Rd

Rolling Meadows, Illinois 60008

Cook County

EXHIBIT A, PART I

DESCRIPTION OF REAL ESTATE

(see attached)

Property of Cook County Clerk's Office

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Unit:

Store No. 16815
2997 Kirchoff Road
Rolling Meadows, Illinois
Cook County

EXHIBIT "A"

Legal Description

The Northerly 150 feet of the Westerly 150 feet of Lot "B-B" (as measured on the Southerly line of Kirchoff Road and on the Easterly line of Meadow Drive) in Rolling Meadow Unit Number 10, being a subdivision of Lot "U" in Rolling Meadows Unit Number 8, being a subdivision in that part of the West 1/2 of Section 36, Township 42 North, Range 10, East of the Third Principal Meridian, lying South of Kirchoff Road, according to the plat thereof registered in the Office of Registrar of Titles on September 7, 1955 as Document 1618893, in Cook County, Illinois.

Also described as follows:

Beginning at the Northwest corner of Lot "B-B" in Rolling Meadow Unit No. 10, being a subdivision of Lot U, in Rolling Meadows Unit Number 8, being a subdivision in that part of the West 1/2 of Section 36, Township 42 North, Range 10, East of the Third Principal Meridian, according to the plat thereof registered in the Office of the Registrar of Titles on September 7, 1955 as Document Number 1618893; thence North 90 degrees 00 minutes 00 seconds East, along the North line of Lot "B-B" (also being the South line of Kirchoff Road), a distance of 150.00 feet; thence South 00 degrees 00 minutes 00 seconds East, parallel with the West line of the aforesaid Lot "B-B" (also being the East line of Meadow Drive), a distance of 150.00 feet; thence South 90 degrees 00 minutes 00 seconds West, parallel with the aforementioned North line of Lot "B-B", a distance of 150.00 feet; thence North 00 degrees 00 minutes 00 seconds East, along the aforementioned West line of Lot "B-B", a distance of 150.00 feet to the point of beginning, in Cook County, Illinois.

Tax Key No: 02-36-102-020-0000

Address: 2997 Kirchoff Road, Rolling Meadows, Illinois

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Unit:
(Store No. 16815)
2997 Kirchoff Rd
Rolling Meadows, Illinois 60008
Cook County

EXHIBIT A, PART II

DESCRIPTION OF LEASE

Ground Lease, dated August 5, 1994 between S&S Petroleum Products as landlord and Taco Bell Corp. as tenant, as assigned to QSR, Inc. by that certain Assignment and Assumption of Lease Agreement between Taco Bell Corp. as lessee and QSR, Inc. as assignee.

Property of Cook County Clerk's Office