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## COVENANTS, CONDITIONS, RESTRICTIONS AND DECLARATION AND GRANT OF EASEMENT

THIS COVENANTS, CONDITIONS, RESTRICTIONS, AND DECLARATION AND GRANT OF EASEMENT ("Agreement") is made and entered into this 4<sup>th</sup> day of November, 1991 by RICHARD J. PORTILLO (hereinafter "Portillo") and GARY-WHEATON BANK, N.A., not individually, but as Trustee under the provisions of a Trust Agreement dated the 23<sup>rd</sup> day of November, 1991, known as Trust No. 8559 (hereinafter "Trust").

The following recitations are incorporated herein and by this reference made a part hereof:

1. Portillo is the fee simple owner of the following parcel of real estate located in the Village of Schaumburg, County of Cook, State of Illinois.

LOTS 1 and 2 in Portillo's Subdivision of the North 450 feet of the West 500 feet of the Northeast Quarter of the Northwest Quarter lying South of State Route No. 58 (Golf Road) of Section 14, Township 41 North, Range 10, East of the Third Principal Meridian, in Cook County, Illinois. (Hereinafter Parcel 1)

Commonly known as 611 Golf Road, Schaumburg, Illinois

P.I. No.: 07-14 - 101-016 # 015

2. Trust is purchasing from Portillo's and or will be the fee simple owner of the following parcel of real estate located in the Village of Schaumburg, County of Cook, State of Illinois. (Hereinafter Parcel 2)

Lot 2 in Portillo's Subdivision of the North 450 feet ~~of the East 215 feet~~ of the West 500 feet of the Northeast Quarter of the Northwest Quarter lying South of State Route No. 58 (Golf Road) of Section 14, Township 41 North, Range 10, East of the Third Principal Meridian, in Cook County, Illinois.

Commonly known as 611 Golf Road, Schaumburg, Illinois

P.I. No.: 07-14 - 101-016

3. Each of the lots will have its own parking area which may be reduced and expanded or relocated from time to time ("Parking Area").

4. The property currently has three (3) entranceways across the lots from Golf Road ("Entranceways").

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5. Declarants desire to create and grant by this Agreement, certain covenants, conditions, restrictions and reciprocal easements to run with the land perpetually on, over, under and across the property. The future owners and mortgagees of the property and all persons declaring any interest therein (collectively the "Owners") hereafter shall at all times enjoy the benefits of and shall hold their said individual lots subject to the rights, easements, burdens, uses and privileges hereinafter set forth.

NOW THEREFORE, in consideration of Ten Dollars (\$10.00) and of the terms, covenants and conditions hereinafter set forth, Declarants for themselves, their successors, beneficiaries, grantees and assigns, hereby declare and establish the following grants, agreements, covenants and restrictions.

## I. EASEMENTS:

### A. GRANT AND USE OF EASEMENT FOR PARKING

1. Parking Area Grant. A non-exclusive, irrevocable right to the use of the Parking Area for the benefit and common use of all owners, agents, tenants, guests and invitees for the purpose of parking automobiles; provided, however, the Owners shall not permit their employees or the employees of any of their leasees to park upon the Parking Area of the other's lot. Further, notwithstanding this grant for non-exclusive use, each Parcel shall at all times maintain parking sufficient to meet zoning requirements as set by the applicable governmental body according to the parcels then current use.

2. Use of Parking Area. The Parking Area on each lot shall be used only for parking of vehicles used by persons using or visiting any improvements constructed on the property. Rights under this Declaration shall be used so as to not unreasonably interfere with the use of the property by any persons using or visiting any improvements or the lots. There shall be no overnight parking of any vehicles.

### B. GRANT AND USE OF EASEMENT FOR ENTRANCE ROADS

1. Entranceway Grant. A non-exclusive, irrevocable right and easement for all owners, their employees, agents, tenants, guests, and invitees to use the Entranceways for the purposes of pedestrian and automobile ingress and egress to and from the property, as delineated on the Plat of Portillo's Subdivision recorded as document number 89-516453 as "Ingress and Egress Easement" and further continuing on and across Lot 2 as follows: [to be inserted]

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2. Use of Entrancesways. The use of the Entrancesways shall be for ingress and egress by owners, their employees, agents, tenants, guests and invitees to any improvements constructed on the lots from time to time. Neither Declarants or any owners will take any action pursuant to its rights under this Declaration which will unreasonably interfere with the use of the Entrancesways by the respective owners or otherwise operate to their detriment or damage to the respective owners or their property. More specifically, but without limitation, said use shall not be such as to block access to any improvement hereafter constructed on the lots.

## C. MAINTENANCE OF EASEMENTS

1. Parking. Each party covenants and agrees to cause the parking area on its property to be maintained, repaired, and renewed in a good and safe condition at its own cost and expense and in compliance with the requirements of the Village of Schaumburg and the State of Illinois, if applicable thereto.

2. Ingress and Egress. Each party covenants and agrees to cause the ingress and egress easements located on its property to be maintained, repaired and renewed in a good and safe condition at its own cost and expense and in compliance with the requirements of the Village of Schaumburg and the State of Illinois, if applicable thereto.

## II. ADDITIONAL COVENANTS, CONDITIONS AND RESTRICTIONS:

A. For so long as Parcel 2 is used for the sale of bridal gowns and related accessories and services, Parcel 1 shall not build any structure within eighty (80) feet of Golf Road. The drive-thru lane currently exists within this eighty (80) foot area and such drive-thru related facilities shall not be deemed to constitute a "structure" nor be deemed to be a violation of this Agreement, nor shall changes or modifications as are necessary or reasonable to the drive-thru facility be deemed a violation of this Agreement.

## III. MISCELLANEOUS:

### A. ENFORCEMENT OF RIGHTS AND OBLIGATIONS

The rights herein granted to any party hereto or reserved by any party hereto may be enforced by specific performance, and if any party hereto shall be required to institute legal proceedings seeking specific performance to enforce the rights herein granted to it or reserved by it, and if such party shall prevail in such

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legal proceedings, such party shall be entitled to reimbursement from the other party hereto and shall be entitled to the entry of a judgment in such legal proceedings against the other party hereto, for the costs and expenses incurred in connection with such legal proceedings, including, but not limited to, the reasonable fees of its attorneys.

If any party hereto shall fail to perform maintenance herein required to be performed by it and continues to fail to perform said maintenance for 30 days after written notice from the other party, the other party hereto may perform the maintenance required of the defaulting party ("Defaulting Party") and the cost and expense of said maintenance, together with interest thereon at the rate of 15% per annum from the date of advancement thereof to the date of repayment thereof, shall be paid by the Defaulting Party upon the written demand of the party making the repairs.

If legal proceedings shall be instituted to collect the amounts advanced on behalf of a Defaulting Party, and if judgment shall be entered in such proceedings against the Defaulting Party, the Defaulting Party shall pay to the Plaintiffs in such legal proceedings, and said Plaintiffs shall be entitled to the entry of a judgment in such legal proceedings against the Defaulting Party for the costs and expenses incurred by the Plaintiffs in connection with such legal proceedings, including, but not limited to, the reasonable fees of the Plaintiffs' attorneys.

## B. RUNNING OF BENEFITS AND BURDENS

All easements herein granted are easements appurtenant, and together with the covenants and agreements contained herein, including benefits and burdens, shall run with the land perpetually; said easements and obligations shall inure to the benefit of and be binding upon all present and future owners, purchasers, mortgagees, tenants, occupants, any persons requiring any interest in the lots, their employees, agents, guests and invitees. Reference to the easements and covenants herein contained, and the rights and obligations hereby created and imposed in any deed or instrument of conveyance, lease, mortgage, trust deed or other evidence of obligation with respect to the property or any part or portion thereof, shall be sufficient to grant such easement, and the rights and obligations thereunder, to the respective grantees, leasees, mortgagees or trustees, as fully and as completely as though such easements, and rights and obligations thereunder were recited fully and set forth in their entirety in any such document.

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## C. NOTICE

All notices, demands, elections or other instruments required, permitted or desired to be served hereunder shall be in writing and shall be delivered in person or mailed as certified or registered matter, postage prepaid, addressed as below stated:

To Lot 1 Owner: Richard J. Portillo  
Portillo's Hot Dogs, Inc.  
555 Pierce Street, Suite 275  
Itasca, Illinois 60143

With a Copy to: Gerard B. Gallagher  
Gallagher & Joslyn  
One Lincoln Centre, Suite 300  
Oakbrook Terrace, Ill, 60181

To Lot 2 Owner: Gary-Wheaton Bank, N.A.  
As Trustee under Trust  
Agreement dated \_\_\_\_\_,  
1991, known as Trust No. 8559  
4461 Fox Valley Center Drive  
Aurora, IL 60504

With a Copy to: Kenneth L. Popejoy  
Pietsch, Cuchna, Popejoy  
& Whelan  
1776 Naperville Road  
Building A, Suite 200  
Wheaton, IL 60187

Any owner may notify the other owners of a different mailing address by delivery of a written notice thereof in person or by certified or registered mail, postage prepaid addressed to said owner.

## D. SEVERABILITY

In case one or more of the provisions of this agreement shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions shall be in no way affected, prejudiced or disturbed thereby.

This document is executed by GARY-WHEATON BANK, N.A., not individually, but as Trustee under the provisions of a Trust Agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 1991, known as Trust No. 8559, in the exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed by the parties herein and by every person now or hereafter claiming any right or security hereunder that nothing contained herein shall be construed as creating any liability on GARY-WHEATON BANK, N.A., not individually, but as

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Trustee under the provisions of a Trust Agreement dated the 20 day of November, 1991, known as Trust No. 8559 to perform any covenants either express or implied herein contained, all such liability, if any, being expressly waived, and that any recovery on this document shall be solely against and out of the property hereby conveyed by enforcement of the provisions hereof, but this waiver shall in no way affect the personal liability of any co-signer, endorser or guarantor of said document.

Portillo's Hot Dogs, Inc.,

By: Richard J. Portillo  
Richard J. Portillo,  
President

GARY-WHEATON BANK, N.A., as  
Trustee under Trust Agreement  
dated \_\_\_\_\_, 1991,  
Trust No. 8559

Attest: Sharon Portillo  
Sharon Portillo, Secretary

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest: \_\_\_\_\_  
Title: \_\_\_\_\_

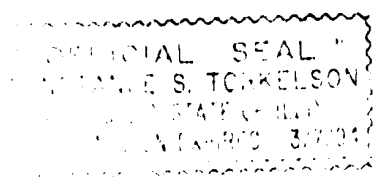
STATE OF ILLINOIS    )  
                                  ) ss.  
COUNTY OF DuPAGE    )

I, the undersigned, a Notary Public in and for the County, in the State aforesaid, DO HEREBY CERTIFY that Richard J. Portillo, personally known to me to be the President of the Portillo's Hot Dogs, Inc. corporation, and Sharon Portillo, Secretary of the Portillo's Hot Dogs, Inc. corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Secretary, they signed and delivered the said instrument as President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 20 day of November, 1991.

Thomas S. Tomkelson  
NOTARY PUBLIC

My Commission Expires: March 1994



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Trustee under the provisions of a Trust Agreement dated the 21st day of January, 1991, known as Trust No. 8559 to perform any covenants either express or implied herein contained, all such liability, if any, being expressly waived, and that any recovery on this document shall be solely against and out of the property hereby conveyed by enforcement of the provisions hereof, but this waiver shall in no way affect the personal liability of any co-signer, endorser or guarantor of said document.

Portillo's Hot Dogs, Inc.,

GARY-WHEATON BANK, N.A., as  
Trustee under Trust Agreement  
dated \_\_\_\_\_, 1991,  
Trust No. 8559

By: \_\_\_\_\_  
Richard J. Portillo,  
President

Attest: \_\_\_\_\_  
Sharon Portillo, Secretary

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF ILLINOIS     )  
                                  ) ss.  
COUNTY OF DUPAGE    )

I, the undersigned, a Notary Public in and for the County, in the State aforesaid, DO HEREBY CERTIFY that Richard J. Portillo, personally known to me to be the President of the Portillo's Hot Dogs, Inc. corporation, and Sharon Portillo, Secretary of the Portillo's Hot Dogs, Inc. corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Secretary, they signed and delivered the said instrument as President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this \_\_\_\_ day of \_\_\_\_\_, 1991.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

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STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF DUPAGE )

I, Jerry Hernandez, a Notary Public in and for said County, in the state aforesaid, do hereby certify that [redacted], respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said GARY-WHEATON BANK, N.A., not individually, but as Trustee under the provisions of a Trust Agreement dated the 21<sup>st</sup> day of NOV, 1991, known as Trust No. 8553, for the uses and purposes therein set forth; and the said JAN NERIMANIAN, as custodian of the corporate seal of said [redacted], to said instrument as said [redacted] own free and voluntary act and as the free and voluntary act of said [redacted], for the uses and purposes therein set forth.

Given under my hand and notarial seal this 26<sup>th</sup> day of November, 1991.

Jerry Hernandez  
Notary Public

My Commission Expires:

February 23, 1993

THIS INSTRUMENT PREPARED BY AND MAIL TO: Susan B. Shelton,  
Gallagher & Joslyn, One Lincoln Centre, Suite 300, Oakbrook  
Terrace, Illinois 60181

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