

# UNOFFICIAL COPY

## MORTGAGE



THIS MORTGAGE made as of this 11<sup>th</sup> day of November, 2007, by Luis Villalva and Ofelia Sotelo, husband and wife, ("Mortgagor") and Albert Mancini and Mary Mancini, husband and wife ("Mortgagee")

Doc#: 0733805163 Fee: \$38.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 12/04/2007 02:38 PM Pg: 1 of 8

### WITNESSETH:

WHEREAS, the Mortgagor, has concurrently herewith, executed and delivered to Mortgagee, Mortgagor's Promissory Note (herein called the "Note") bearing even date herewith, in the principal sum of One Hundred Thousand and No/100 Dollars (\$100,000.00) with interest at the rate of seven percent (7%) per annum, on the unpaid principal balance with a final payment of principal, interest and all other sums set forth under the Note due on or before December 31, 2008 payable to the order of the Mortgagee.

WHEREAS, the indebtedness evidenced by the Note, including the principal thereof and interest, thereon, and all other sums which may be at any time due or owing or required to be paid as herein provided, are herein called the "Indebtedness Hereby Secured."

NOW, THEREFORE, THIS MORTGAGE WITNESSETH:

That to secure the payment of the principal of and interest on the Note according to its tenor and effect, and to secure the payment of all other Indebtedness Hereby Secured, and the performance and observance of all the covenants, agreements, and provisions herein and in the Note contained and in consideration of the Premises and of the sum of TEN DOLLARS (\$10.00) paid by the Mortgagee to the Mortgagor, and for other valuable considerations, the receipt and sufficiency whereof is hereby acknowledged by the Mortgagor, the Mortgagor does hereby mortgage and warrant unto the Mortgagee, the real estate located in Cook County, Illinois, owned by Mortgagor, as legally described on Exhibit "A" attached hereto.

P.I.N. 13-28-302-034-0000

Property Address: 5324 W. Parker, Chicago, IL 60639

Prepared by and upon recording return to:  
Byron L. Faermark  
Faermark, Mindel & Williams, LLC  
1900 S. Highland Ave., Suite 100  
Lombard, IL 60148

PNTN  
70 W MADISON STE 1600  
CHICAGO IL 60602

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TOGETHER WITH:

1. Any and all improvements, tenements, easements, fixtures, privileges, reservations, allowances, hereditaments, and appurtenances thereunto belonging or pertaining.

2. Any and all rights and estates in reversion or remainder and any and all rights and interest of every name and nature now or hereafter owned by any mortgagor forming part of or used in connection with the real estate and/or the operation and convenience of the buildings and improvements located thereon.

AND TOGETHER WITH all of the rents, income, receipts, revenues, issues and profits thereof and therefrom.

AND all of the land, estate, property, and rights hereinabove described and hereby conveyed and intended so to be, whether real, personal or mixed, and whether or not affixed or annexed to said real estate are intended to be as a unit and are hereby understood, agreed and declared to form a part of said real estate and to be appropriated to the use of said real estate and for the purposes hereof shall be deemed to be real estate conveyed hereby.

TO HAVE AND TO HOLD all the Premises hereby warranted and mortgaged or intended so to be, together with the rents, issues and profits thereof, unto the Mortgagee forever, for the uses and purposes herein set forth, together with all right to retain possession of the Premises after any default in the payment of all or any part of the Indebtedness Hereby Secured, or the breach of any covenant or agreement herein contained.

PROVIDED, NEVERTHELESS, and these presents are on the express conditions that if the Mortgagor shall pay when due the Indebtedness Hereby Secured and shall duly and timely perform and observe all of the terms, provisions, covenants and agreements herein provided to be performed and observed by the Mortgagor, then this Mortgage and the estate, right and interest of the Mortgagee in the Premises shall cease and become void of and of no effect, otherwise to remain in full force and effect.

AND the Mortgagor does further covenant and agree as follows:

1. The Mortgagor will pay when due **(a)** the principal and the interest and premium, if any, on the indebtedness evidenced by the Note; and **(b)** any and all sums which may be or become due or owing or required to be paid under the terms of this Mortgage or the Note, any Senior Mortgage or Note, or any other instrument given to secure the Indebtedness Hereby Secured.

2. The Mortgagor shall **(a)** promptly repair, restore or rebuild any building or improvement now or hereafter on the Premises which may become damaged or be destroyed; **(b)** keep in good order and repair all of the Mortgaged Equipment, and forthwith replace and pay for the replacement of any item of Mortgaged Equipment which may be or become worn out, destroyed or obsolete with a new substitute item at least equal in value and utility to the value and utility, when new, of the item being replaced; **(c)** keep the Premises in good condition and repair, without waste and free from mechanics', materialmen's or laborer's liens or other liens or claims for lien; **(d)** pay, when due, any indebtedness which may be secured by a lien or charge on the Premises superior to the lien hereof and upon request, exhibit to the Mortgagee, satisfactory evidence of the discharge of such prior lien; **(e)** comply with all requirements of law, municipal ordinances or restrictions of record with respect to the Premises and the use and operation thereof; **(f)** make or permit no material alterations in the Premises, except as required by law or ordinances without the prior written consent of the Mortgagee; **(g)** suffer or permit no change in the general nature of the occupancy or operation of the Premises; and **(h)** suffer or permit no unlawful use of, or nuisance to exist upon, the Premises.

3. The Mortgagor shall pay before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges and other fees, taxes, charges and assessments of every kind and nature

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whatsoever (all herein generally called "Taxes"), and Mortgagor shall, upon written request, furnish to the Mortgagee, duplicate receipts therefor. To prevent default thereunder, the Mortgagor shall pay in full under protest in the manner provided by statute, any Taxes which the Mortgagor may desire to contest, provided, however, that if deferment of payment of any such taxes is required to conduct any contest or review, the Mortgagor shall deposit with the Mortgagee, the full amount thereof, together with an amount equal to the estimated interest and penalties thereon during the period of contest, and in any event, shall pay such Taxes, notwithstanding such contest, if in the opinion of the Mortgagee, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed; and if the Mortgagor shall not pay the same when required so to do, the Mortgagee may do so and may apply such deposit for the purpose.

4. The Mortgagor will insure and keep insured all of the buildings and improvements now or hereafter constructed or erected upon the Premises and each and every part and parcel thereof, against such perils and hazards as the Mortgagee may from time to time reasonably require, and in any event, including:

Insurance against loss by fire, risks covered by the so-called extended coverage endorsement, and other risks as the Mortgagee may reasonably require, in amounts equal to the full replacement value of the Premises;

5. All policies of insurance to be maintained and provided as required by Section 4 hereof shall be in forms, companies and amounts reasonably satisfactory to the Mortgagee and all policies of casualty insurance shall have attached thereto Mortgagee clauses or endorsements in favor of and with loss payable to and in form satisfactory to the Mortgagee.

6. The Mortgagor will give the Mortgagee prompt notice of any damage to or destruction of the Premises, and:

A) In the event of any insured damage to or destruction of the Premises or any part thereof (herein called an "Insured Casualty"), if no Event of Default as hereinafter defined shall have occurred and be then continuing and the Mortgagor shall not be in default hereunder, the proceeds of insurance shall be applied to reimburse the Mortgagor or the cost of restoring, repairing, replacing or rebuilding the Premises or part thereof subject Insured Casualty; and the Mortgagor hereby covenants and agrees forthwith to commence and to diligently prosecute such restoring, repairing, replacing or rebuilding;

B) Upon the proceeds of insurance being made available to the Mortgagor for the restoring, repairing, replacing or rebuilding of the Premises, the Mortgagor hereby covenants to restore, repair, replace or rebuild the same, to be of at least equal value, and of substantially the same character as prior to such damage or destruction; all to be effected in accordance with plans and specifications to be first submitted to and approved by the Mortgagee.

7. In case of default therein, the Mortgagee may, but shall not be required to make any payment or perform any act herein required of the Mortgagor (whether or not the Mortgagor is personally liable therefor) in any form and manner deemed expedient to the Mortgagee; and the Mortgagee may, but shall not be required to make full or partial payments of Principal or Interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises, or contest any tax sale or forfeiture affecting the Premises, or contest any tax or assessment. All monies paid for any of the purposes herein authorized, and all expenses paid or incurred in connection therewith, including attorneys' fees and any other monies advanced by the Mortgagee to protect the Premises and the lien hereof, shall be so much additional Indebtedness Hereby Secured, and shall become immediately due and payable without notice, and with interest thereon at the Default Rate specified in the Note (herein called the "Default Rate"). Inaction of the Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of the Mortgagor. The Mortgagee, in making any payment hereby authorized (a) relating to the taxes and assessments, may do so according to any bill, statement

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or estimate, without inquiry into the validity of any tax, assessment; or (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

8. The Mortgagee shall have the right to inspect the Premises at all reasonable times upon written notice, and access thereto shall be permitted for that purpose.

9. If one or more of the following events (herein called "Events of Default") shall occur:

A) Failure to make payment within three (3) days after any payment or principal or interest is due under the Note;

B) Failure to perform or observe within thirty (30) days after written notice from Mortgagee or any Senior Mortgagee, to Mortgagor, any other condition, covenant, term, agreement or provision required to be performed or observed by Mortgagor under this Mortgage or any Senior Mortgage;

C) IF:

(i) Mortgagor shall file a petition in voluntary bankruptcy under any chapter of the Federal Bankruptcy Act or any similar law, state or federal, now or hereafter in effect, or

(ii) The Mortgagor shall file an answer admitting insolvency or inability to pay its debts, or

(iii) Within thirty (30) days after the filing against Mortgagor of any involuntary proceedings under such Bankruptcy Act or similar law, such proceedings shall not have been vacated or stayed, or

(iv) The Mortgagor shall be adjudicated a bankrupt, or a trustee or receiver shall be appointed for the Mortgagor or for all or the major part of the Mortgagor's property or the Premises, in any involuntary proceeding, or a court shall have taken jurisdiction of all or part of the major part of the Mortgagor's property or the Premises in any involuntary proceedings for the reorganization, dissolution, liquidation or winding up of the Mortgagor, and such trustee or receiver shall not be discharged or such jurisdiction relinquished or vacated or stayed on appeal or otherwise stayed within thirty (30) days, or

(v) The Mortgagor shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due or shall consent to the appointment of a receiver or trustee or liquidator of all or the major part of its property, or the Premises; provided that for the purpose of this Subsection, the term "Mortgagor" shall mean the Mortgagor herein or any person, firm or corporation who may now or hereafter be in title to all or any part of the Premises; or

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**D)** If the Premises shall be abandoned;

**E)** Mortgagor shall fail to perform or observe any condition, covenant, term, agreement or provision required to be performed or observed by Mortgagor under said Senior Mortgage.

then the Mortgagee is hereby authorized and empowered, at its option, and without affecting the lien hereby created or the priority of said lien or any right of the Mortgagee hereunder, to declare, with prior notice, all Indebtedness Hereby Secured to be immediately due and payable, whether or not such default be thereafter remedied by the Mortgagor, and the Mortgagee may immediately proceed to foreclose this Mortgagee and/or to exercise any right, power or remedy provided by the Mortgage and the Note, by the Assignment or provided by this Mortgage and the Note, by the Assignment or by law or in equity conferred, all without presentment, demand, notice of broker conditions or other whatsoever.

**10.** At any time after the commencement of an action for foreclosure, or during the period redemption, the court having jurisdiction of the case shall, if applicable law permits, at the request of the Mortgagee, appoint a receiver to take immediate possession of the Premises, and of the rent, issues and profits accruing therefrom, with full power to protect, control, manage, operate and rent the Premises, and all other customary powers to be exercised as he may deem best for all parties concerned; and shall be liable to the Mortgagor only for the net profits, after application of the rents, issues and profits upon the costs and expenses of receivership and foreclosure (including Foreclosure Expenses) and upon the Indebtedness Hereby Secured.

**11.** Upon, or at any time after, the filing of a complaining to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises. Such appointment may be made either before or after sale, without notice, without regard to solvency or insolvency or any Mortgagor at the time of application for such receiver and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not; and the Mortgagee hereunder of any holder of the Note may be appointed as such receiver. Such receiver shall have the power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suite and, in case of a sale of a deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during any further times when the Mortgagor, except for the intervention of such receiver, would be entitled to collection of such rents, issues and profits and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period. The court may, from time to time, authorize to apply the net income from the Premises in his hands in payment in whole or in part of:

**A)** The Indebtedness Hereby Secured or the Indebtedness secured by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to the foreclosure sale; or

**B)** The deficiency in case of sale and deficiency.

**12.** Nothing herein contained shall be construed as constituting the Mortgagee a Mortgagee in Possession.

**13.** The Mortgagor will cause this Mortgage and all other documents securing the Indebtedness Hereby Secured at all times to be properly filed and/or recorded at Mortgagor's own expense and in such manner and in such places as may be required by law in order to fully preserve and protect the rights of the Mortgagee and will furnish to the Mortgagee promptly after the execution and delivery of this Mortgage, an opinion of Counsel, stating that in the opinion of such counsel, this Mortgage has been properly recorded or filed for record so as to make effective of record the lien intended to be created hereby.

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14. Each right, power, and remedy herein conferred upon the Mortgagee, is cumulative and in addition to every other right, power, or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power, and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Mortgagee, and the exercise of the beginning of the exercise of one right, power, or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power, or remedy; and no delay or omission of the Mortgagee in the exercise of any right, power, or remedy accruing hereunder or arising otherwise shall impair any such right, power, or remedy, or be construed to be a waiver of any default or acquiescence therein.

15. This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon the Mortgagor and his heirs and representatives (including, without limitation, each and every from time to time record owner of the Premises or any other person having an interest therein), and shall inure to the benefit of the Mortgagee and her heirs and assigns. Wherever herein the Mortgagee is referred to, such reference shall be deemed to include the holder from time to time of the Note, whether so expressed or not; and each such from time to time holder of the Note shall have and enjoy all of the rights, privileges, powers, options, and benefits afforded hereby and hereunder, and may enforce all and every of the terms and provisions hereof, as fully and to the same extent and with the same effect as if such from time to time holder were herein by name specifically granted such rights, privileges, powers, options, and benefits and was herein by name designated the Mortgagee.

16. The unenforceability or invalidity of any provision or provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

17. No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and available to the party interposing the same in an action at law upon the Note.

18. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall be freely interchangeable.

19. Any notice or communication required or permitted to be given pursuant hereto shall be in writing, and the mailing thereof by United States mail, certified or equivalent, return receipt requested, postage prepaid, addressed to the parties at the following addresses:

If to Mortgagor:

Luis Villalva and Ofelia Sotelo  
5144 West Deming  
Chicago, IL

If to Mortgagee:

Albert Mancini and Mary Mancini  
6N304 Fairway Lane  
Itasca, IL 60143

or at such other address as may be hereafter specified by such parties by notice in writing, shall constitute service of notice hereunder two (2) days after the date of such mailing.

20. Mortgagor hereby releases and waives all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

21. The obligations hereunder shall be joint and several among the Mortgagors.

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IN WITNESS WHEREOF, Mortgagor has signed and executed this Mortgage on the date first appearing above at DuPage County, Illinois.

Luis A. Villalva  
Luis Villalva

Ofelia Sotelo  
Ofelia Sotelo

STATE OF ILLINOIS }  
                                  } SS  
COUNTY OF DUPAGE }

I, Karen Hawkins, a Notary Public in and for said County, in the State aforesaid, does hereby certify that Luis Villalva and Ofelia Sotelo 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 acknowledged that they signed and delivered the said instrument as their free and voluntary act, and deed for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 11<sup>th</sup> day of November, 2007

Karen K Hawkins  
Notary Public



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EXHIBIT "A" – LEGAL DESCRIPTION  
P.I.N.

Lot 24 in the Hulbert Fullerton Avenue Highlands Subdivision No. 18 in the East ½ of the Southwest ¼ of Section 28, Township 40 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois

PIN 13-28-302-034-0000

Address: 5324 W. Parker, Chicago, IL 60639

Property of Cook County Clerk's Office