

41062653 (2/2)

UNOFFICIAL COPY

Illinois Anti-Predatory Lending Database Program

41062653 2/2
Certificate of Exemption



GIT

Report Mortgage Fraud
844-768-1713



2120047021

Doc# 2120047021 Fee \$98.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 07/19/2021 02:44 PM PG: 1 OF 33

The property identified as: PIN: 16-21-306-031-0000

Address:

Street: 1910-2100 S. 54th Ave

Street line 2:

City: Cicero

State: IL

ZIP Code: 60804

Lender: SSL Cicero, LLC

Borrower: ROM-ALT. LLC

Loan / Mortgage Amount: \$850,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

Certificate number: B0E785E9-80A9-41AB-A1F6-2FEFFD544557

Execution date: 4/12/2021

UNOFFICIAL COPY

Document prepared by and
Return recorded original to:

Scott E. Jensen
Murray, Jensen & Wilson, Ltd.
101 N. Wacker Dr., Suite 609
Chicago, IL 60606

41062653

**MORTGAGE, ASSIGNMENT OF LEASES
AND SECURITY AGREEMENT AND FIXTURE FILING**

THIS MORTGAGE, ASSIGNMENT OF LEASES AND SECURITY AGREEMENT AND FIXTURE FILING (this "Mortgage") is dated as of 12th day of April, 2021, by and among **ROM-ALT. LLC**, an Illinois limited liability company, of 4507 S. Kenilworth, Forest View, IL 60402 (hereinafter referred to as "**Mortgagor**"), in favor of **SSL Cicero, LLC**, a Colorado limited liability company, and whose mailing address is 7830 W. Alameda Ave, Ste 103-225, Lakewood, CO 80226, its successors and assigns (the "**Mortgagee**").

WITNESSETH:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and to secure

(a) the payment of an indebtedness of Mortgagor in the principal sum of Eight Hundred Fifty Thousand and 00/100 Dollars (\$850,000.00) (the "**Loan**"), or so much thereof as shall be advanced from time to time pursuant to the terms of that certain Promissory Note made by Mortgagor, evidencing such indebtedness bearing even date herewith, payable to the order of Mortgagee and together with all extensions, renewals and modifications thereof, or substitutions therefor (collectively, the "**Note**"), and

(b) the prompt performance of each and every covenant, term and condition made or to be complied with by Mortgagor pursuant to this Mortgage, the Note or set forth in any other documents evidencing or securing the Note (and all such documents evidencing or securing the Note, collectively, the "**Loan Documents**") together with all extensions, renewals and modifications thereof, and all of the costs and expenses incurred in respect to the Note or any instrument now or hereafter evidencing or securing such indebtedness, including without

UNOFFICIAL COPY

limitation attorneys' fees incurred or paid by Mortgagee, or by any person hereby secured, whether suit be brought or not, or on account of any litigation at law or in equity which may arise in respect to this Mortgage, the Note or the property hereinafter mentioned, and of all money which may be advanced as provided herein, with interest on all such costs and advances from the date thereof, Mortgagor has granted, bargained, sold and conveyed and by these presents does grant, bargain, sell and convey with power of sale unto Mortgagee, or its successor or successors:

Mortgagor's right, interest and title in all those certain lots, pieces or parcels of land lying and being in Cook County, Illinois, with a street address of **1910-2100 S. 54th Ave., Cicero, IL 60804**, as more fully described on Exhibit A, attached hereto and made a part hereof by reference (the "**Land**").

TOGETHER with the buildings, foundations, structures and improvements now or hereafter located on or in the Land (collectively, the "**Improvements**").

TOGETHER with all right, title and interest, if any, of Mortgagor in and to the streets and roads, opened or proposed, abutting the Land, all strips and gores within or adjoining the Land, the air space and right to use the air space above the Land, all rights of ingress and egress to and from the Land, all easements, rights of way, reversions, remainders, tenements, hereditaments, and appurtenances now or hereafter affecting the Land or the Improvements, all royalties and rights and privileges appertaining to the use and enjoyment of the Land or the Improvements, including all development, air, lateral support, alley, drainage, water, oil, gas and mineral rights, all options to purchase or lease, and all other interests, estates or claims, in law or in equity, which Mortgagor now has or hereafter may acquire in or with respect to the Land or the Improvements (collectively, the "**Appurtenances**").

The Land, the Improvements and the Appurtenances are hereinafter sometimes collectively referred to as the "**Real Property**";

TOGETHER with all of the following, whether now or hereafter located in or on the Real Property and used or to be used in connection with the construction, letting or operation thereof, in which Mortgagor now has or hereafter may acquire a possessory or title interest:

- (i) all equipment, fittings, furniture, furnishings, appliances, apparatus, communications apparatus, machinery;
- (ii) all apparatus, machinery, devices, fixtures, appurtenances, equipment and personal property now or hereafter located on or within the Real Property and necessary for the proper operation and maintenance of the Real Property (other than moveable equipment belonging to any management company servicing the Real Property), including but not limited to any and all awnings, shades, screens and blinds; asphalt, vinyl, composition and other floor, wall and ceiling coverings; partitions, doors and hardware; elevators, escalators and hoists; heating, plumbing and ventilating apparatus; gas, electric and steam fixtures; chutes, ducts and tanks; oil burners, furnaces, heaters, incinerators and boilers; air-cooling and air-

UNOFFICIAL COPY

conditioning equipment; washroom, toilet and lavatory fixtures and equipment; engines, pumps, dynamos, motors, generators, electrical wiring and equipment; tools, building supplies, lobby decorations and window washing hoists and equipment; garage equipment and gardening and landscaping equipment; swimming pool, recreational furniture and equipment; refrigerators, dishwashers, disposals, ranges and other kitchen appliances and all additions thereto and replacements thereof;

- (iii) all building materials, supplies and equipment;
- (iv) all fixtures, other goods and articles of personal property of whatever kind and nature, other than consumable goods and property owned by tenants which according to the terms of any applicable Lease (as hereinafter defined) may be removed by such tenants at the expiration of such Lease;
- (v) all of the right, title and interest of Mortgagor in and to any such items which may be subject to any title retention or security agreement or instrument superior in lien to the lien of this Mortgage; and

including (a) all accessions, accessories, increases, and additions to and all replacements of and substitutions for the above; (b) all products and produce of any of the above; all accounts, contract rights, general intangibles, instruments, rents, monies, payments, and all other rights, arising out of a sale, lease, or other disposition of any of the above; (c) all proceeds, including insurance proceeds, from the sale, destruction, loss, or other disposition of any of the above; (d) all records and data relating to any of the above; and (e) all right, title and interest of Mortgagor in and to any leases for the above (collectively, the "**Equipment**"). It is understood and agreed that all Equipment is to be deemed part and parcel of said Land and appropriated to the use of the Real Property and, whether affixed or annexed or not, shall for the purpose of this Mortgage be deemed conclusively to be real estate and conveyed hereby.

TOGETHER with all accounts receivable, computers, tables, inventory, equipment, machinery, chattel paper, accounts, contract rights, fixtures, furniture, general intangibles (including licenses, patents and trademarks), deposit accounts, articles of personal property of every kind and nature whatsoever, contracts and/or subcontracts of Mortgagor, and all other items located on or used in connection with the operation of Mortgagor's business (the "**Business**"), including, without limitation, all of Mortgagor's Accounts, Chattel Paper, Deposit Accounts, Documents, Electronic Chattel Paper, Equipment, General Intangibles, Goods, Instruments, Inventory, Investment Property, Letter of Credit Rights, Payment Intangibles, Promissory Notes, Tangible Chattel Paper and Supporting Obligations, as each such term is defined in the State of Illinois Uniform Commercial Code (the "**Code**"), whether now owned or hereinafter arising; it being intended that Mortgagee have a security interest in all assets of Mortgagor, and including all the following, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located: (a) all accessions, accessories, increases, and additions to and all replacements of and substitutions for any property described above; (b) all products and produce of any of the property described above; (c) all accounts, contract rights, general intangibles, instruments, rents, monies, payments, and all other rights,

UNOFFICIAL COPY

arising out of a sale, lease, or other disposition of any of the property described above; (d) all proceeds, including insurance proceeds, from the sale, destruction, loss, or other disposition of any of the property described above; and (e) all records and data relating to any of the property described above, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of Mortgagor's right, title, and interest in and to all computer software required to utilize, create, maintain, and process any such records or data on electronic media (hereinafter, the "**Business Assets**").

This Mortgage shall also constitute a security agreement between Mortgagor, as debtor, and Mortgagee, as secured party, as to all assets of Mortgagor, including both chattel and fixture items of every type now or hereafter owned by Mortgagor and used or useable in conjunction with the Real Property or in the business of Mortgagor, and the proceeds thereof, including but not limited to those types of items hereinabove itemized as constituting Equipment and Business Assets. Mortgagor agrees to execute and deliver, from time to time, such further instruments as may be requested by Mortgagee to confirm and/or perfect the lien of this Mortgage on any such Equipment, Business Assets, chattel items and/or fixtures.

TOGETHER with all right, title and interest of Mortgagor in and under all accounts, escrows, documents, instruments, chattel paper, and general intangibles, as the foregoing terms are defined in the Code, and all contract rights, franchises, books, records, plans, specifications, permits, licenses, approvals, inventions, designs, software and other intellectual property, patents, trademarks and applications therefor, trade names, trade styles, trade secrets, copyrights, registrations, licenses, customer lists, tax refund claims and the like, and all other general intangibles of Mortgagor wherever located, actions and causes of action, which now or hereafter relate to, are derived from or are used in connection with the Real Property or the use, operation, maintenance, occupancy or enjoyment thereof, or the conduct of any business or activities thereon (collectively, the "**Intangibles**").

TOGETHER with all right, title and interest of Mortgagor in and under all leases, lettings, tenancies and licenses of and occupancy agreements relating to the Real Property or any part thereof now or hereafter entered into and all amendments, extensions, renewals and guaranties thereof, all security therefor, and all moneys payable thereunder (each, a "**Lease**" and collectively, the "**Leases**").

TOGETHER with all rents, revenues, income, issues, profits, other payments, security deposits and other benefits to which Mortgagor may now or hereafter be entitled from the Real Property, the Equipment, the Business Assets, or the Intangibles or under or in connection with the Leases (collectively, the "**Property Income**").

TOGETHER with all proceeds, judgments, claims, compensation, awards of damages and settlements with respect to or hereafter made as a result of or in lieu of any condemnation or taking of the Real Property by eminent domain or any casualty loss of or damage to any of the Real Property, the Equipment, the Intangibles, the Business Assets, the Leases or the Property Income, all refunds with respect to the payment of property taxes and assessments, and all other proceeds of the conversion, voluntary or involuntary, of the Real Property, the Equipment, the

UNOFFICIAL COPY

Business Assets, the Intangibles, the Leases, including ancillary services provided in connection with the operation of the Real Property or the Property Income, or any part thereof, into cash or liquidated claims, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment by Mortgagee, and of the reasonable attorneys' fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or payment (collectively, the "**Proceeds**"). Mortgagor agrees to execute and deliver, from time to time, such further instruments as may be requested by Mortgagee to confirm and/or perfect such assignment to Mortgagee of any such award or payment.

The Equipment, the Business Assets, the Intangibles, the Leases, the Property Income and the Proceeds are hereinafter sometimes collectively referred to as the "**Collateral**." The Real Property and the Collateral are hereinafter sometimes collectively referred to as the "**Premises**."

TO HAVE AND TO HOLD the Premises, with all the privileges and appurtenances to the same belonging, unto Mortgagee and its successors and assigns forever and Mortgagor warrants specially the title to the Premises and will execute such further assurances of title as may be requisite.

PROVIDED, ALWAYS, and these presents are upon this express condition, that if Mortgagor, or the heirs, executors, administrators, successors or assigns of Mortgagor, shall well and truly pay unto Mortgagee the sum of money mentioned in the Note and the interest and other fees and charges, if any, thereon, at the time and in the manner mentioned in the Note, and shall well and truly abide by and comply with each and every covenant and condition set forth herein or in the Note and/or in any other Loan Documents, then these presents and the estate hereby granted shall cease, terminate and be void, provided, further, that until the happening of any occurrence or event which gives Mortgagee the option to cause the entire indebtedness then secured by this Mortgage to become due and payable, and the exercise by Mortgagee of that option, Mortgagor shall have the right to possess and enjoy the Premises and to receive the rents, issues and profits thereof; and provided further, that on full payment of the Note and indebtedness secured by this Mortgage and all proper costs, charges, expenses, prepayment charges, commissions and half commissions incurred at any time before the sale hereinafter provided for, Mortgagee hereunder shall be entitled to a fee for the release and reconveyance of the Premises, or any part thereof, unto and at the cost of Mortgagor. Any and all requests for "pay-off" amounts (in whole or in part) of the indebtedness evidenced by the Note shall be made in writing to Mortgagee at 7830 W. Alameda Ave, Ste.103-225, Lakewood, CO 80226.

AND Mortgagor jointly and severally covenants and agrees as follows:

1. PAYMENT OF INDEBTEDNESS. Mortgagor will pay the principal balance of the Loan as set forth in the Note and the interest thereon, and all other fees and charges, if any, constituting the indebtedness hereby secured (the "**Indebtedness**"), at the time and in the manner mentioned in the Note.

2. PAYMENT OF TAXES, ASSESSMENTS AND OTHER CHARGES.

UNOFFICIAL COPY

(a) Mortgagor will pay when due all real estate taxes and assessments, general and special, and all other taxes, assessments, water rates, sewer rents, utility charges of any kind or nature, whatsoever, and other charges, and any rents and/or other sums now or hereafter payable with reference to the Premises, or any part or parts thereof, or now or hereafter assessed as liens on or levied against the Premises or any part thereof (all of which taxes, assessments and other charges are hereinafter referred to as “**Impositions**”), and in case of default in the payment thereof when the same shall be due and payable, it shall be lawful for Mortgagee, without notice or demand to Mortgagor, to pay the same or any of them. The moneys paid by Mortgagee in discharge of taxes, assessments, water rates, sewer rents, other charges, rents and/or prior liens shall be a lien on the Premises added to the Indebtedness and secured by this Mortgage payable on demand with interest at the rate provided for in the Note from the time of payment of the same. Upon request of Mortgagee, Mortgagor will exhibit to Mortgagee receipts for the payment of all items specified in this paragraph prior to the date when the same shall become delinquent. If, at any time after the date hereof, there shall be assessed or imposed a license fee, tax, or assessment on Mortgagee that is measured by or based in whole or in part upon the amount of the outstanding obligations secured hereby, then all such taxes, assessments, or fees shall be deemed to be included within the term “**Impositions**” as defined herein, and Mortgagor shall pay and discharge the same as herein provided with respect to the payment of Impositions, or, if Mortgagor shall not be permitted by law to pay and discharge such Imposition either directly or indirectly, then, at the option of Mortgagee, all obligations secured hereby, together with all interest thereon, shall immediately become due and payable. Notwithstanding the foregoing, Mortgagor shall have no obligation to pay any franchise, estate, inheritance, income, or excess profits tax levied on Mortgagee or on the obligations secured hereby.

(b) If requested by Mortgagee, Mortgagor shall pay to Mortgagee, on such day that monthly installments are payable under the Note, until the Note is paid in full, a sum equal to one-twelfth (1/12th) of (i) the amount Mortgagee reasonably estimates will be needed to pay the annual Impositions next falling due, (ii) the amount of annual premiums for insurance required to be maintained pursuant to paragraph 3 hereof, and (iii) upon Mortgagee’s reasonable determination that the Premises and/or any Equipment are not being adequately maintained, the amount Mortgagee reasonably estimates will be needed to repair, maintain and replace the Premises and the Equipment (“**Repairs**”) during the next succeeding twelve (12) month period. In no event shall Mortgagee be obligated to pay interest on such deposits to Mortgagor. If Mortgagor is required to remit such funds to Mortgagee, Mortgagor agrees to cause all bills, statements, or other documents (collectively “**Invoices**”) relating to Impositions, insurance or Repairs to be sent or mailed to Mortgagee. Upon receipt of such bills, statements, or other documents, and providing Mortgagor has deposited sufficient funds with Mortgagee, Mortgagee shall pay such amounts as may be due thereunder out of the funds so deposited. If at any time and for any reason the funds deposited with Mortgagee are or will be insufficient to pay such amounts as may then or subsequently be due, Mortgagee shall notify Mortgagor and Mortgagor shall immediately deposit an amount equal to such deficiency with Mortgagee. Notwithstanding the foregoing, nothing contained herein shall cause Mortgagee to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Mortgagee. Should Mortgagor fail to deposit with Mortgagee sufficient sums to pay fully any Invoice for Imposition, insurance premium or Repairs at least thirty (30) days before it becomes delinquent as set forth in such Invoice, Mortgagee may, at Mortgagee’s election, but without any

UNOFFICIAL COPY

obligation so to do, advance any amounts required to make up the deficiency, which advances shall be secured hereby, bear interest at the Default Rate (as such term is defined in the Note), and shall be repayable to Mortgagee upon demand, or, at the option of Mortgagee, Mortgagee may, without making any advance whatsoever, apply any sums held by it to the Indebtedness in such manner and order as Mortgagee may determine. Should any Event of Default occur or exist on the part of Mortgagor under this Mortgage or any of the other Loan Documents, Mortgagee may, at Mortgagee's option, apply any sums it has received pursuant to this subparagraph (b), to the Indebtedness in such manner and order as Mortgagee may determine.

3. INSURANCE.

(a) Borrower shall or shall cause the tenant under a lease of the Land and Improvements to keep all buildings and improvements now or hereafter situated on the Property insured against liability claims and loss or damage by fire and other hazards as may reasonably be required by Lender, including, without limitation (1) rent loss or business interruption insurance sufficient to cover one (1) year's gross receipts from the Property from the date of such calamity and loss; (2) flood and earthquake insurance whenever in the opinion of Lender such protection is necessary; and (3) liquor liability insurance whenever in the opinion of Lender such protection is necessary. Borrower shall also provide liability insurance with such limits for personal injury and death and property damage as Lender may require.

(b) Borrower shall initially maintain, until Lender shall otherwise indicate in writing: (i) property insurance providing special form cause of loss coverage in an amount of not less than the full replacement cost of the Property with "agreed amount", "inflation guard", and "replacement cost" endorsements, a deductible of no greater than Ten Thousand Dollars (\$10,000), a Standard Mortgagee Clause naming Lender as first mortgagee in policy declarations, and law and ordinance coverage at twenty five percent (25%) of replacement value; And (ii) liability insurance with per occurrence coverage in the amount of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate limit for bodily injury, property damage, and personal injury with Lender as an additional insured and a deductible of no more than Ten Thousand Dollars (\$10,000). All policies of insurance shall be written by a company or companies that are reasonably acceptable to Lender.

(c) All policies of insurance to be furnished hereunder shall be in forms and amounts and issued by companies satisfactory to Lender, including, but not limited to, a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified without thirty (30) days' prior written notice to Lender. Borrower shall deliver all policies, including additional and renewal policies, to Lender, and, in the case of insurance about to expire, shall deliver renewal policies not less than ten (10) days prior to their respective dates of expiration.

(d) Borrower shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Lender is included thereon under a Standard Mortgagee Clause or Lender's Loss Payable Clause acceptable to Lender. Borrower shall immediately notify Lender whenever any such separate insurance is taken out and shall promptly deliver to Lender the policy or policies of such insurance. In the event of a foreclosure or other transfer of title to the Property in lieu of foreclosure, or by

UNOFFICIAL COPY

purchase at the foreclosure sale, all interest in any insurance policies in force shall pass to Lender, transferee or purchaser as the case may be.

(e) After the occurrence of any casualty or damage to the Premises, or any part thereof, Mortgagor shall give prompt written notice thereof to Mortgagee. All proceeds of insurance from such casualty or damage to the Premises shall be payable to Mortgagee to the extent of all Indebtedness, and Mortgagor hereby authorizes and directs any affected insurance company to make payment of such proceeds directly to Mortgagee. Mortgagor shall not settle, adjust, or compromise any claims for loss, damage, or destruction under any policy or policies of casualty or property damage insurance without the prior written consent of Mortgagee, who is hereby authorized and empowered by Mortgagor to participate with Mortgagor in the settlement, adjustment, or compromise of any such claims, provided, however, that following any Event of Default hereunder, Mortgagee is authorized and empowered to settle, adjust, or compromise such claims without the consent of, and on behalf of, Mortgagor. Mortgagee shall have the option, in its sole discretion, of applying all or part of the insurance proceeds resulting from casualty or property damage (i) to the Indebtedness and in such order as Mortgagee may determine, (ii) to the repair and restoration of the Premises upon such terms and conditions as Mortgagee may determine, or (iii) to the payment thereof to Mortgagor. Nothing contained herein shall be deemed to excuse Mortgagor from repairing or maintaining the Premises, regardless of whether or not the insurance proceeds are made available for such purpose or whether or not any such proceeds are sufficient for such purpose. The application by Mortgagee of any insurance proceeds to the Indebtedness shall not cure or waive any default or Event of Default under this Mortgage.

If Mortgagee shall make said proceeds available to Mortgagor, such proceeds shall be made available in the manner and under the conditions that Mortgagee may require, including, without limitation, (i) approval by Mortgagee of the plans and specifications for such work before such work is commenced; (ii) the making of progress payments to Mortgagor as the work progresses; and (iii) the furnishing by Mortgagor of suitable completion or performance bonds and builder's all risk insurance; further, no insurer shall claim any rights of participation and/or assignment of rights with respect to the Indebtedness. The buildings and improvements on the Premises shall be repaired and restored so as to be of at least equal value and substantially the same character as prior to such damage or destruction. If such proceeds are made available by Mortgagee to Mortgagor, any surplus which may remain out of said insurance proceeds after payment of all costs and expenses of such repairs and restoration shall, at the option of Mortgagee, be applied on account of the Indebtedness in such order as Mortgagee may determine.

(f) In the event of a foreclosure of this Mortgage by virtue of judicial proceedings or otherwise, Mortgagee shall succeed to all rights of Mortgagor, including any right to unearned premiums, in and to all policies of insurance assigned and delivered to Mortgagee or required to be so assigned and delivered pursuant to the provisions of this Section.

4. REMOVAL OF IMPROVEMENTS OR EQUIPMENT. No building or other property now or hereafter covered by the lien of this Mortgage shall be removed, demolished or materially structurally altered without the prior written consent of Mortgagee, except that

UNOFFICIAL COPY

Mortgagor shall have the right, without such consent, to remove and dispose of, free from the lien of this Mortgage, such Equipment as from time to time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal any such Equipment shall be replaced with other Equipment of a value equal to or greater than that of the replaced Equipment and free from any title retention or security agreement or other encumbrance, and by such removal and replacement Mortgagor shall be deemed to have subjected such Equipment to the lien of this Mortgage, or (b) any net cash proceeds received from such disposition shall be paid over promptly to Mortgagee to be applied to the payment of monies owed to Mortgagee under the Loan Documents if and as the same become due.

5. DEFAULT AND ACCELERATION OF INDEBTEDNESS. The whole of the principal sum and the interest on the Note, together with all other applicable fees and charges secured hereby, shall immediately become due at the option of Mortgagee upon the occurrence of any one or more of the following which shall constitute an “**Event of Default**” hereunder: (a) if a default shall be made in the payment when due of any principal, interest or other sum payable under any of the Note, this Mortgage or any other Loan Document, whether due at the stated maturity date, by reason of acceleration or otherwise, without notice of default being required; or (b) default shall be made in the due observance or performance of any covenant or agreement on the part of Mortgagor contained in Sections 2, 3, 25, 29, 30 and 39 (for the purposes of this clause, if any representation made in Section 39 shall be incorrect, it shall be deemed to be a default); or (c) except as otherwise provided in paragraph 5(a) and 5(b) hereof, if default shall be made in the due observance or performance of any covenant or agreement on the part of Mortgagor contained herein, and such default remains uncured for a period of thirty (30) days after written notice of default; or (d) if any Event of Default shall occur under the Loan Agreement; or (e) upon default in the observance or performance of any term, covenant or condition of any other financing secured by the Premises from time to time; or (f) if legal or equitable title to the Premises or any part thereof shall hereafter change by any means in violation of this Mortgage.

6. MORTGAGEE’S RIGHT TO PERFORM. Upon the occurrence of any Event of Default in the performance of any of Mortgagor’s covenants or agreements herein or in any other Loan Document, Mortgagee may, at the option of Mortgagee, perform the same and the cost thereof, with interest at the rate provided for in the Note, shall immediately be due from Mortgagor to Mortgagee on demand and shall be deemed to be secured by this Mortgage and evidenced by the Note. In the event that Mortgagee takes any action or pays any sums on behalf of Mortgagor to any other party, Mortgagee shall be subrogated to the rights of such other party and shall have all rights against Mortgagor that such other party would have had against Mortgagor.

7. APPOINTMENT OF RECEIVER. In any action to foreclose this Mortgage, or upon the occurrence of any actual or threatened waste to any part of the Premises, or upon an Event of Default, Mortgagee shall be at liberty to apply for the appointment of a receiver of the rents and profits of the Premises without notice, and shall be entitled to the appointment of such a receiver as a matter of right, without consideration of the value of the Premises as security for the amounts due Mortgagee or the solvency of any person liable for the payment of such amounts.

UNOFFICIAL COPY

8. ESTOPPEL CERTIFICATES. Mortgagor, upon written request of Mortgagee, shall certify in writing to Mortgagee or to any proposed assignee of the Indebtedness and the Note secured by this Mortgage, the amount of principal, interest and other fees and charges, if any, then owing on the Note and whether any offsets or defenses exist against the debt secured hereby or against this Mortgage or any other documents issued in conjunction therewith, within ten (10) days after the mailing of such request.

9. NOTICE PROVISIONS. Every provision for notice and demand or request shall be deemed fulfilled by written notice and demand or request either (i) personally served on one or more of the persons who shall at the time hold the record title to the Premises, or on their heirs, executors, administrators, personal representatives or successors, or (ii) three (3) business days after deposited in any post office or letter box, postage prepaid, by certified mail, return receipt requested, addressed to such person or persons, or their heirs, executors, administrators, personal representatives or successors, at his, their or its address last known to Mortgagee, or (iii) on the next business day after deposited with a recognized overnight courier. All notices shall be sent to the following addresses (or such other address as the parties hereto may provide from time to time):

If to Mortgagor to: ROM-ALT, LLC
4507 S. Kenilworth
Forest View, IL 60402
Attn: Josafat Javier and Evangelina Roman

If to Mortgagee to: SSL Cicero, LLC
7830 W. Alameda Ave. Ste 103-225
Lakewood, CO 80226

with copy to: Kristin N. Schelwat, Esq.
Schelwat Law, LLC
16281 Quail Trail
Bokeelia, FL 33922

10. INDEMNIFICATION; SUBROGATION; WAIVER OF OFFSET.

(a) Mortgagor shall indemnify, defend, and hold Mortgagee harmless from and against all claims, demands, obligations, liabilities arising from or related to this Mortgage, the Premises, or any part thereof or interest therein, or the occupancy thereof by Mortgagor (except those arising out of the gross negligence or willful misconduct of Mortgagee), including attorneys' fees and expenses incurred by Mortgagee whether or not Mortgagee is named as a party in such litigation or proceeding, so long as Mortgagee is required to participate or appear in such litigation or proceeding, or if Mortgagee reasonably believes that such participation or appearance is necessary to protect the lien of this Mortgage or the value of the Premises secured hereby. If Mortgagee commences an action to enforce any of the terms hereof because of any Event of Default by Mortgagor hereunder or for the recovery of any sum secured hereby, in

UNOFFICIAL COPY

addition to all other liabilities of Mortgagor to Mortgagee, Mortgagor shall be liable for Mortgagee's attorneys' fees, court costs, witness fees (including the fees of expert witnesses) and expenses, and the right to such fees and expenses shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment, unless such action is prosecuted and judgment is rendered against Mortgagee. Upon an Event of Default hereunder, Mortgagee may employ an attorney or attorneys for advice and to protect its rights hereunder, and Mortgagor shall pay attorneys' fees and expenses incurred by Mortgagee, whether or not an action is actually commenced against Mortgagor by reason of such Event of Default.

(b) Mortgagor waives any and all rights to claim or recover from Mortgagee, or any of its officers, employees, agents, or representatives, for any loss or damage to Mortgagor, the Premises, Mortgagor's other assets, or to the property of others under Mortgagor's control, from any cause insured against or required to be insured against under the provisions of this Mortgage.

(c) It is understood and agreed that all payments due under the Note shall be made when due without any set-off or deduction whatsoever. Mortgagor agrees that it will not interpose, and hereby waives its right to interpose, any plea of recoupment, counterclaim, offset, or claim for deduction in any action to enforce collection of the Note or to foreclose the Mortgage. Any claim which Mortgagor may have against Mortgagee that arises under any of the Loan Documents or any other agreement between Mortgagor and Mortgagee, or that arises out of any dispute or controversy of any nature whatsoever between Mortgagor and Mortgagee, shall be pursued by Mortgagor in a separate and independent action, it being the express intent of this provision that Mortgagor's covenant to pay the Note is independent of any agreements or obligations of Mortgagee, and any alleged or asserted claims or rights of Mortgagor against Mortgagee shall not excuse Mortgagor from its obligation to pay all sums due under the Note when such sums become due and payable.

11. PROTECTION OF MORTGAGEE'S RIGHTS. If Mortgagee shall incur or expend any sums, including attorneys' fees, whether in connection with any action or proceeding or not, to sustain the lien of this Mortgage or its priority, or to protect or enforce any of its or their rights hereunder, or to recover the Indebtedness hereby secured, or for any title examination or title insurance policy relating to the title to the Premises, all such sums shall on notice and demand be paid by Mortgagor, together with the interest thereon at the Default Rate provided for in the Note, and shall be deemed to be secured by this Mortgage and evidenced by the Note; and that in any action or proceeding to foreclose this Mortgage, or to recover or collect the Indebtedness secured hereby, the provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

12. PRESERVATION OF CONDITION OF PREMISES. Mortgagor will maintain the Premises in good condition and repair, will not commit or suffer any waste of the Premises, and shall constantly keep and maintain all improvements and buildings on the Premises and abutting grounds, sidewalks, roads, parking areas, and landscaped areas in good and neat order and repair, and will comply with, or cause to be complied with, all statutes, ordinances and requirements of any governmental authority relating to the Premises; provided that Mortgagor

UNOFFICIAL COPY

may contest in good faith any such statutes, ordinances and requirements so long as such contest does not result in a lien upon the Premises or imposition of any civil or criminal penalty during the pursuit of such contest. Mortgagor will complete and pay for, within a reasonable time, any structure at any time in the process of construction on the Premises. Mortgagor will at all times keep the Premises free and clear of any mechanics' and/or materialman's liens, and if a mechanics' or materialman's lien is placed upon the Premises, Mortgagor will satisfy or bond off such lien within thirty (30) days after its filing. Without the prior written consent of Mortgagee, Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance, or other public or private restrictions, limiting or defining the uses that may be made of the Premises or any part thereof. Mortgagor shall retain possession of the Premises until Mortgagee has acquired legal title to the Premises upon an Event of Default.

13. CONDEMNATION.

(a) Mortgagor shall give Mortgagee immediate notice of the actual or threatened commencement of any eminent domain proceedings affecting all or any part of the Premises or any easement therein or appurtenance thereof, including severance and consequential damage and change in the grade of streets, and shall deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagor hereby assigns, transfers, and sets over to Mortgagee all rights of Mortgagor to any award or payment in respect of (i) any taking of all or a portion of the Premises as a result of, or by agreement in anticipation of, the exercise of the right of condemnation or eminent domain; and (ii) any damage to the Premises or any part thereof due to governmental action, but not resulting in a taking of any portion of the Premises, such as, but without limitation, the changing of the grade of any street adjacent to the Premises. Mortgagor hereby agrees to file and prosecute its claim or claims for any such award or payment in good faith and with due diligence and to cause the same to be collected and paid over to Mortgagee, and Mortgagor hereby irrevocably authorizes and empowers Mortgagee, in the name of Mortgagor or otherwise, to collect any such award or payment. In the event Mortgagor fails to act diligently, or if an Event of Default has occurred and is continuing hereunder, Mortgagee is hereby authorized and empowered to file and prosecute such claim or claims.

(b) All proceeds received by Mortgagee in respect of a taking of all or part of the Premises, or in respect of damage to all or any part of the Premises from governmental action resulting in a taking of the Premises, shall be applied first to reimburse Mortgagee for all costs and expenses, including attorneys' fees, incurred in connection with the collection of such proceeds. The balance of such proceeds may be applied, at the option of Mortgagee, to the Indebtedness in such manner and order as Mortgagee may determine, or toward the restoration of the Premises, upon such conditions as Mortgagee may determine.

(c) Notwithstanding any taking by eminent domain, alteration of the grade of any street or other injury to or decrease in value of the Premises by any public or quasi-public authority or corporation, Mortgagor shall continue to pay interest on the entire principal sum secured hereby until any award or payment based thereon shall have been actually received by Mortgagee and any reduction in the principal sum resulting from the application by Mortgagee of such award or payment as hereinafter set forth shall be deemed to take effect only on the date of

UNOFFICIAL COPY

such receipt. Said award or payment may, at the option of Mortgagee, be retained and applied by Mortgagee toward payment of the moneys secured by this Mortgage, whether or not the same are then due and payable, or be paid over wholly or in part to Mortgagor for the purpose of altering, restoring or rebuilding any part of the Premises which may have been altered, damaged or destroyed as a result of any such taking, alteration of grade, or other injury to the Premises, or for any other purpose or object satisfactory to Mortgagee, but Mortgagee shall not be obligated to see to the application of any amount paid over to Mortgagor; and that if prior to the receipt by Mortgagee of such award or payment the Premises shall have been sold on foreclosure of this Mortgage, Mortgagee shall have the right to receive said award or payment to the extent of any deficiency found to be due upon such sale, with interest thereon, at the rate provided in the Note, whether or not a deficiency judgment on this Mortgage shall have been sought or recovered or denied.

14. RIGHT OF ENTRY; MANAGEMENT. Subject to the rights of any tenants leasing space in the Premises, Mortgagee and any persons authorized by Mortgagee shall have the right to enter and inspect the Premises at all reasonable times; and that if, at any time after an Event of Default hereunder or under the Note, the management or maintenance of the Premises shall be determined by Mortgagee to be unsatisfactory, Mortgagor shall employ, for the duration of such Event of Default, as managing agent of the Premises, any person or firm from time to time designated by Mortgagee, all at Mortgagor's sole cost and expense.

15. FINANCIAL STATEMENTS; BOOKS; RECORDS. Mortgagor shall keep and maintain accurate books of record and account in which full and correct entries will be made of all dealings or transactions of or in relation to the business and affairs of Mortgagor and the Premises, and will permit such books to be inspected and copied, and the Premises to be inspected and photographed by Mortgagee (or its representatives) during normal business hours and at any other reasonable times. Mortgagor shall furnish or cause to be furnished the financial information in such manner and detail as required under the Loan Agreement.

16. TENANT LEASES AND RENTS.

(a) Mortgagor does hereby absolutely and irrevocably assign, convey, transfer and set over to Mortgagee all of Mortgagor's right, title, estate and interest in and to all current and future Leases and Property Income. The foregoing assignment is an absolute present transfer and assignment to Mortgagee of the Leases and Property Income and is made by Mortgagor as security for the payment and performance of all obligations arising under the Guaranty and any other Loan Document. Such assignment shall not impose upon Mortgagee any duty to produce income from the Premises. Mortgagee hereby grants to Mortgagor a license to collect, not more than one month in advance, and as trustee for the benefit of Mortgagee, the Property Income. Mortgagor shall apply the Property Income so collected first to payment of any and all amounts due under the Loan Documents and second to the funding of any escrows required under the Loan Documents. Thereafter, so long as no Event of Default exists, Mortgagor may use the Property Income in any manner not inconsistent with its obligations under the Loan Documents. The license granted hereby shall be revoked automatically upon the occurrence of an Event of Default hereunder, but shall be reinstated upon a cure of such Event of Default.

UNOFFICIAL COPY

(b) All leases, licenses, and rental agreements now or hereafter covering the Premises or any part thereof (hereinafter referred to collectively as “leases”, and individually as a “lease”), shall be on a standard lease form approved by Mortgagee in advance. Mortgagor shall not enter into any lease with a prospective tenant without the prior written approval of Mortgagee unless such lease is on the standard lease form approved by Mortgagee with only customary and reasonable changes made at the request of the prospective tenant and containing economic terms that are consistent with the then-market.

(c) All leases shall be subordinate and inferior to the lien of this Mortgage and to all modifications, extensions, renewals, and refinancings hereof. Mortgagor shall not enter into any lease with a prospective tenant unless such lease shall provide that, and such tenant expressly covenants and agrees therein that, upon the written request of Mortgagee, all rents will be paid directly to Mortgagee or a person or entity designated by Mortgagee and that in the event of the enforcement by Mortgagee of any of the remedies provided for by law or by this Mortgage or any of the Loan Documents, the lessee under any lease not extinguished (at Mortgagee’s option) by a foreclosure of this Mortgage will, upon request of any person succeeding to the interest of Mortgagor in the Premises (“successor in interest”), as the result of said enforcement, automatically attorn to such successor in interest, without any change in the terms or other provisions of the respective lease; provided, however, that said successor in interest shall not be (i) bound by any payment of rent or additional rent for more than one (1) month in advance, except payments in the nature of security for the performance by the lessee of its obligations under the lease, but only to the extent such payments have been delivered to such successor in interest, (ii) bound by any amendment or modification (including any agreement providing for early termination or cancellation of the lease) in the lease made without the consent of Mortgagee or any such successor in interest, (iii) liable for damages for any act or omission of any prior lessor, including Mortgagor, or (iv) subject to any offsets or defenses which such lessee might have against any prior lessor, including Mortgagor. Each such lease shall also provide that upon request by said successor in interest, the lessee shall execute and deliver an instrument or instruments confirming its attornment.

(d) Mortgagor shall enforce all terms and conditions of all leases and shall not permit any default by a tenant thereunder to continue longer than necessary to pursue its remedies. Mortgagor shall perform all of its obligations under and in respect of all leases. In the event of a default by Mortgagor under any such lease, which default, if not corrected, could entitle the tenant to cancel such lease, Mortgagor will give written notice thereof to Mortgagee not later than ten (10) days after the occurrence of said default, or not less than thirty (30) days prior to the time when Mortgagor’s default might permit a cancellation of the lease by the tenant, whichever shall be the earlier date. Mortgagee shall have the right, but not obligation, to cure such default if Mortgagor fails to do so within the applicable grace or cure period, if any, specified in the lease between Mortgagor and the tenant. In the event of a default by tenant under a lease, Mortgagor shall give written notice thereof to Mortgagee no later than sixty (60) days after the occurrence of said default, unless such default is cured before the expiration of said sixty (60) day period.

UNOFFICIAL COPY

17. ENFORCEMENT OF LEGAL AND EQUITABLE REMEDIES. Mortgagee shall have the right from time to time to enforce any legal or equitable remedy against Mortgagor and to sue for any sums, whether interest, principal or any installment thereof, taxes, assessments, sewer rates, water rents, or any installment thereof, or any other sums required to be paid under the terms of this Mortgage, as the same become due, without regard to whether or not the principal sum secured or any other sums evidenced by the Note and secured by this Mortgage shall be due, and without prejudice to the right of Mortgagee thereafter to enforce any appropriate remedy against Mortgagor, including an action of foreclosure, or any other action, for a default or defaults by Mortgagor existing at the time such earlier action was commenced.

18. RECEIPT OF PAYMENTS BY MORTGAGEE. Any payment made in accordance with the terms of this Mortgage by any person at any time liable for the payment of the whole or any part of the sums now or hereafter secured by this Mortgage, or by any subsequent owner of the Premises, or by any other person whose interest in the Premises might be prejudiced in the event of a failure to make such payment, or by any stockholder, officer or director of a corporation, any partner of a general or limited partnership or any member of a limited liability company that at any time may be liable for such payment or may own or have such an interest in the Premises, shall be deemed, as between Mortgagee and all persons who at any time may be liable as aforesaid or may own the Premises, to have been made on behalf of all such persons.

19. NON-WAIVERS. Any failure by Mortgagee to insist upon the strict performance by Mortgagor of any of the terms and provisions hereof shall not be deemed to be a waiver of any of the terms and provisions hereof, and Mortgagee, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Mortgagor of any and all of the terms and provisions of this Mortgage to be performed by Mortgagor. Neither Mortgagor nor any other person now or hereafter obligated for the payment of the whole or any part of the sums now or hereafter secured by this Mortgage shall be relieved of such obligation by reason of the failure of Mortgagee to comply with any request of Mortgagor or of any other person so obligated to take action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage or of any obligations secured by this Mortgage, or by reason of the release, regardless of consideration, of the whole or any part of the security held for the Indebtedness secured by this Mortgage, or by reason of any agreement or stipulation between any subsequent owner or owners of the Premises and Mortgagee extending the time of payment or modifying the terms of the Note or of this Mortgage without first having obtained the consent of Mortgagor or such other person, and in the latter event, Mortgagor and all such other persons shall continue to be liable to make such payments according to the terms of any such agreement of extension or modification unless expressly released and discharged in writing by Mortgagee. Regardless of consideration and without the necessity for any notice to or consent by the holder of any subordinate lien on the Premises, Mortgagee may release the obligation of anyone at any time liable for any of the Indebtedness secured by this Mortgage or any part of the security held for the Indebtedness and may extend the time of payment or otherwise modify the terms of the Note or this Mortgage without, as to the security or the remainder thereof, in anyway impairing or affecting the lien of this Mortgage or the priority of such lien, as security for the payment of the Indebtedness as it may be so extended or modified, over any subordinate lien. The holder of any subordinate lien shall have no right to terminate any lease affecting the Premises whether or not

UNOFFICIAL COPY

such lease is subordinate to this Mortgage. Mortgagee may resort for the payment of the Indebtedness to any other security therefor held by Mortgagee in such order and manner as Mortgagee may elect.

20. **POWER OF SALE.** If at the maturity of the Indebtedness, however such maturity may be brought about (including without limitation the unrevoked election of Mortgagee pursuant to the provisions of paragraph 5 hereof to accelerate the maturity of the Indebtedness), default should be made in the payment of the Indebtedness, Mortgagee shall have the following rights:

(a) Mortgagee is authorized and shall have the power and the duty to proceed, by suit or suits at law or in equity or by any other appropriate remedy, to protect and enforce the rights of Mortgagee, whether for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or to enforce payment of the Note, or to foreclose this Mortgage under the power of sale expressly herein contained, or to sell the Premises under the judgment or decree of a court or courts of competent jurisdiction, or otherwise.

(b) In the event that Mortgagee elects to institute proceedings for foreclosure under this Mortgage, Mortgagor: (i) assents to the passage of a decree for the sale of the Premises and/or (ii) authorizes and empowers Mortgagee to sell the Premises. Any sale of the Premises, whether by way of assent to decree or power of sale, shall be carried out in accordance with the then applicable provisions of the laws of the State of Illinois relating to the foreclosure of mortgages which do not materially change or impair the remedy. The assent to decree and power of sale herein granted shall not be deemed to be exhausted in the event that a foreclosure proceeding is dismissed until the Indebtedness is paid in full. In the event of default by any purchaser to go to settlement, Mortgagee has the power to resell the Premises.

(c) If an Event of Default shall occur, Mortgagee shall thereupon or at any time thereafter, at the request of Mortgagee, declare all the debts and obligations secured hereby to be at once due and payable and take possession of the Premises, and sell the Premises or any portion thereof requested by Mortgagee to be sold, as an entirety or in parcels, by one sale or by several sales, held at one time or at different times, and with such postponement of sales as may be deemed by Mortgagee to be appropriate and without regard to any right of Mortgagor or any other person to the marshalling of assets, at public auction, at such time or times, at such place or places, and upon such terms and conditions as Mortgagee shall deem appropriate, and any fixtures or personal property encumbered by this instrument may be sold at the same sale as the real property or in one or more separate sales, and in such order as the person conducting such sale or sales in his sole discretion may elect. Upon compliance with the terms of sale, Mortgagee shall convey to and at the cost of the purchaser the Premises so sold, free and discharged of and from all estate, right, title or interest of Mortgagor at law or in equity, such purchaser being hereby discharged from all liability to see to the application of the purchase money. Upon any sale of the Premises under this Mortgage whether under the assent to a decree, the power of sale, or by equitable foreclosure, the proceeds of sale shall be applied (after paying all expenses of sale, including attorneys' fees, and a commission to Mortgagee making the sale equal to two and one half percent (2.5%) of the amount of the said sale or sales, and also all taxes and

UNOFFICIAL COPY

assessments, rents and prior liens thereon due which Trustees or Mortgagee deem it advisable or expedient to pay, and all sums advanced as herein provided for with interest thereon) to the payment of the aggregate Indebtedness and interest thereon and all other applicable fees and charges, if any, to the date of payment, paying over the surplus, if any, to Mortgagor or to any person entitled thereto upon the surrender and delivery to the purchaser of possession of the Premises so as aforesaid sold and conveyed, less the expense, if any, of obtaining possession thereof; and that immediately upon the first insertion of any advertisement or notice of sale, there shall be and become due and owing by Mortgagor all expenses incident to said advertisement or notice, all court costs and all expenses incident to any foreclosure proceedings under this Mortgage, including attorneys' fees, and a commission on the total amount of the Indebtedness, principal and interest, equal to two and one-half percent (2.5%) of the amount of the Indebtedness, and no party shall be required to receive only the Indebtedness with the interest thereon to the date of payment unless the same be accompanied by a tender of the said expenses, costs and commission.

21. TAX STAMPS. If at any time the United States of America or any State or Territory thereof shall require internal revenue or other tax stamps to be affixed to the Note, Mortgagor will pay for the same with any interest or penalties imposed in connection therewith.

22. JOINT AND SEVERAL LIABILITY. If Mortgagor consists of more than one party, such Mortgagor shall be jointly and severally liable under any and all obligations, covenants and agreements of Mortgagor contained herein.

23. NO ELECTION OF REMEDIES. The rights, powers, privileges and discretions of Mortgagee arising under the clauses and covenants contained in this Mortgage shall be separate, distinct and cumulative and none of them shall be in exclusion of the others. No act of Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding.

24. [Reserved].

25. ENCUMBRANCE OF THE PREMISES. Without the prior written consent of Mortgagee, which consent may be granted or withheld in Mortgagee's sole absolute and non-reviewable discretion, Mortgagor shall not grant, create, or allow to remain any mortgage, deed of trust, lien, security interest, or other encumbrance in, on, or against the Premises, or any portion thereof, whether or not the same be prior or subordinate to the lien of this Mortgage. Mortgagor will keep and maintain the Premises free from the claims of all persons supplying labor or materials on the Premises, notwithstanding by whom such labor or materials may have been contracted. If any lien is involuntarily filed against the Premises, including but not limited to mechanic's or supplier's liens or any federal, state, or local tax liens, then, within thirty (30) days after the filing thereof, Mortgagor shall either discharge such lien or furnish a good and sufficient bond, surety, or other security satisfactory to Mortgagee if Mortgagor desires to contest the validity of such lien. Any default under any other mortgage of the Premises permitted hereunder, shall be a default under this Mortgage.

UNOFFICIAL COPY

26. DEFINITIONS; CAPTIONS. Wherever used in this Mortgage, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, the words “**Mortgage**” shall mean this Mortgage and any supplement or supplements hereto, the word “**Mortgagor**” shall mean “Mortgagor and/or any subsequent owner or owners of the Premises”, the word “**Mortgagee**” shall mean “Mortgagee or any subsequent holder or holders of the Note secured by this Mortgage”, the word “**Note**” shall mean “note(s) or bond(s) secured by this Mortgage”, the word “**person**” shall mean “an individual, corporation, partnership, limited liability company, limited liability partnership, trust or unincorporated association”, the word “**Premises**” shall include the real estate hereinbefore described, together with all Equipment, condemnation awards and any other rights or property interests at any time made subject to the lien of this Mortgage by the terms hereof, and pronouns of any gender shall include the other genders, and either the singular or plural shall include the other. Captions herein are inserted for the convenience of the parties only and are not intended to limit, define or alter the rights and obligations of the parties hereto.

27. BINDING EFFECT/GOVERNING LAW.

(a) This Mortgage, the Note and the other documents evidencing and/or securing the same shall be binding upon the parties hereto and thereto and their respective heirs, executors, administrators, personal representatives, successors and assigns, may not be changed orally, but only by an agreement in writing signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought. Mortgagor represents and warrants that the execution and delivery by Mortgagor of the Loan Documents and the borrowing evidenced by the Note: (i) are within the legal powers of Mortgagor; (ii) have been duly authorized by all appropriate action; (iii) have received all necessary government approval; and (iv) will not violate any provision of law, court order or other agency or governmental directive, or any contract or other instrument to which Mortgagor is a party or by which it may be bound, nor shall such execution or delivery result in a breach of or constitute a default under any such agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of its property or assets, except as contemplated hereby; and that the Loan Documents, when executed and delivered by Mortgagor, shall constitute the legal, valid and binding obligations of Mortgagor, and shall be enforceable in accordance with their respective terms.

(b) The parties hereto agree that this Mortgage was negotiated in the State of Illinois and the proceeds of the Note secured hereby were or are to be disbursed by Mortgagee from the State of Illinois. Mortgagor and Mortgagee agree that the State of Illinois has a substantial relationship to the transaction evidenced hereby. Consequently, in all respects, including, without limiting the generality of this provision, matters of construction, validity, and performance of this Mortgage and the obligations arising hereunder, this Mortgage shall be governed by, and construed in accordance with, the laws of the State of Illinois (without giving effect to principles of conflicts of law). Notwithstanding the foregoing, at all times and in all respects the provisions contained herein regarding the creation and enforcement of the liens on the Real Property created pursuant hereto shall be governed by and construed in accordance with the laws of the State of Illinois, it being understood that, to the fullest extent permitted by the laws of the State of Illinois, the law of the State of Illinois shall govern the construction, validity,

UNOFFICIAL COPY

and performance of this Mortgage and all of the Indebtedness arising and/or secured hereunder and that the creation, perfection and security interests created herein in the Premises governed by Article 9 of the Uniform Commercial Code, shall be governed by the Illinois Uniform Commercial Code.

28. APPLICATION OF PREPAYMENTS. Whenever a prepayment of principal shall be made to Mortgagee hereunder, from whatever source, including but not limited to payments received pursuant to paragraphs 3, 4, 13 or 16 hereof, or otherwise, all such payments shall be applied by Mortgagee in accordance with the provisions of the Note, and such prepayments shall not relieve Mortgagor or any party or parties otherwise liable for the payment of said Note from the obligation to make periodic installments of principal and/or interest and/or any other fees or charges on the Note as and when such installments would otherwise fall due.

29. DUE ON SALE CLAUSE; PROHIBITED TRANSACTIONS. The Premises shall at all times during the term of the Loan, be owned and operated by Mortgagor, both legally and equitably. Without Mortgagee's prior written consent: the Premises shall not be the subject matter of any transaction whereby the legal or equitable title to all or any part of said Premises shall be transferred, directly or indirectly, to any other person or entity, nor shall any member's interest, if Mortgagor is a limited liability company, or any of the partnership interest, if Mortgagor is a partnership, or any of the common stock of Mortgagor, if Mortgagor is a corporation, be sold, transferred, conveyed, encumbered or assigned to any parties nor shall Mortgagor convert, whether by operation of law or otherwise, to any other form of business entity, nor shall the Premises be further encumbered except for such junior or subordinate financing as Mortgagee shall specifically approve in advance in writing. The foregoing restrictions on transfer shall apply to any limited liability company, corporation or partnership owning an interest in Mortgagor. If legal or equitable title to the Premises or any part thereof shall hereafter change by any means in violation of this Mortgage, or if there shall be a violation of any of the other preceding restrictions, then the indebtedness secured hereby shall become immediately due and payable on the demand of Mortgagee. Further, Mortgagor shall not enter into any management agreement for the management of the Premises without the prior written consent of Mortgagee, which consent may be granted or withheld in Mortgagee's sole and absolute discretion.

30. TITLE/PRIORITY OF LIEN. Mortgagor covenants, warrants, represents and agrees that it has good and marketable title to an indefeasible fee simple estate in the Premises, subject in all cases to no lien, charge or encumbrance, except such as are listed as exceptions to title in the title policy insuring the lien of this Mortgage. Mortgagor shall warrant and defend generally the title to the Premises and the validity and priority of the lien hereof against all claims and demands. It is understood and agreed that the lien of this Mortgage is a first lien on the fee simple interest of the property described on Exhibit A and on the Premises.

31. FURTHER ACTS, ETC. Mortgagor will, at the cost of Mortgagor, and without expense to Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, Uniform Commercial Code financing statements or continuation statements, transfers and assurances as Mortgagee shall, from time to time, require, for the better assuring, conveying, assigning, transferring, and

UNOFFICIAL COPY

confirming unto Mortgagee the property and rights hereby deeded, mortgaged, given, granted, bargained, sold, alienated, enfeoffed, conveyed, confirmed, pledged, assigned and hypothecated or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage. Upon foreclosure, the appointment of a receiver or any other relevant action, Mortgagor will, at the cost of Mortgagor and without expense to Mortgagee, cooperate fully and completely to effect the assignment or transfer of any license, permit, agreement or any other right necessary or useful to the operation of the Premises. Mortgagor grants to Mortgagee an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Mortgagee at law and in equity, including, without limitation, such rights and remedies available to Mortgagee pursuant to this paragraph.

32. ENVIRONMENTAL PROTECTION.

(a) As used herein, the term “**Environmental Law**” or “**Environmental Laws**” shall mean any and all applicable Federal, state, regional, county, or local laws, codes, statutes, ordinances, rule, regulation, permit, consent, approval, license, judgment, order, writ, decree, policy, injunction or other authorization, whether now existing or hereafter enacted or promulgated, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“**CERCLA**”), as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 USC Section 9601 et seq., the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984, 42 USC Section 6901 et seq., the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 USC Section 1251 et seq., the Toxic Substances Control Act of 1976, 15 USC Section 2601 et seq., the Emergency Planning and Community Right-to-Know Act of 1986, 42 USC Section 11001 et seq., the Clean Air Act of 1966, as amended, 42 USC Section 7401 et seq., the National Environmental Policy Act of 1975, 42 USC Section 4321, the Rivers and Harbors Act of 1899, 33 USC Section 401 et seq., the Endangered Species Act of 1973, as amended, 16 USC Section 1531 et seq., the Occupational Safety and Health Act of 1970, as amended, 29 USC Section 651 et seq., the Safe Drinking Water Act of 1974, as amended, 42 USC Section 300(f) et seq., and all rules, regulations and guidance documents promulgated or published thereunder, Illinois Compiled Statutes Chapter 415, and any other Illinois, regional, county or local statute, law, rule, regulation, ordinance, decree or order relating to or imposing liability or standards of conduct concerning public health, safety or the environment, including, without limitation, relating (i) to releases, discharges, emissions or disposals of Hazardous Materials (as defined below) into ambient air, water, land or groundwater; (ii) to the withdrawal or use of groundwater; (iii) to the use, handling or disposal of polychlorinated biphenyls (“**PCB’s**”), asbestos or urea formaldehyde; (iv) to the use, treatment, storage, transportation, manufacture, refinement, handling, production, disposal or management of Hazardous Materials (including, without limitation, petroleum, its derivatives, by-products or other hydrocarbons), and any other solid, liquid or gaseous substance, exposure to which is prohibited, limited or regulated, or may or could pose a hazard to the health and safety of the occupants of the Premises or the property adjacent to or surrounding the Premises; (v) to the exposure of persons to toxic, hazardous, or other controlled, prohibited or regulated substances, including the exposure to Hazardous

UNOFFICIAL COPY

Materials; or (vi) to the transportation, storage, disposal, management or release of gaseous or liquid substances, and any regulation, order, injunction, judgment, declaration, notice or demand issued thereunder, or (vii) otherwise relating to the pollution or protection of health, property or the environment. Further, the term "**Hazardous Materials**" means any substance, material or waste which is regulated by any federal, state or local governmental or quasi-governmental authority, and includes, without being limited to (a) any substance, material or waste which is now or hereafter defined, used or listed as a "hazardous waste", "extremely hazardous waste", "restricted hazardous waste", "hazardous substance", "hazardous material", "hazardous air pollutant", "toxic substance", "toxic chemical", or other similar or related term as defined, used or listed in any Environmental Law, (b) any petroleum products, asbestos, polychlorinated biphenyls, corrosives, infectious substances, lead, urea formaldehyde, flammable explosives or radioactive materials and (c) radon at levels that exceed the U.S. Environmental Protection Agency Action Level Guidelines.

(b) Mortgagor represents, warrants and covenants that Mortgagor has not used and that, to Mortgagor's knowledge, no other person or entity has used Hazardous Materials on, from or affecting the Premises in any manner which violates any Environmental Law and no prior owner of the Premises or any tenant, subtenant, prior tenant or prior subtenant has used Hazardous Materials on, from or affecting the Premises in any manner which violates any Environmental Law. Mortgagor represents, warrants and covenants that to its knowledge, no actions, investigations or lawsuits have been commenced or threatened by any person claiming non-compliance by Mortgagor or the Premises with any Environmental Law. Mortgagor represents, warrants and covenants that the Premises is in compliance with all Environmental Laws and that no asbestos or other Hazardous Materials have been, or are at present at, incorporated in, stored on, treated on or disposed of on or from the Premises. Mortgagor shall keep or cause the Premises to be kept free of Hazardous Materials. Without limiting the foregoing, Mortgagor shall not cause or permit the Premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, nor shall Mortgagor cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagor or any tenant or subtenant, a release of Hazardous Materials onto or from the Premises. Mortgagor shall comply with and use commercially reasonable efforts to ensure compliance by all tenants and subtenants with all applicable Environmental Laws whenever and by whomever triggered, and shall obtain and comply with any and all approvals, registrations or permits required thereunder. Mortgagor shall (a) conduct and complete all investigations, studies, sampling and testing and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Premises (i) in accordance with all applicable federal, state and local laws, ordinances, rules, regulations and policies, and (ii) in accordance with the orders and directions of all federal, state and local governmental authorities, and (b) defend, indemnify and hold harmless Mortgagee and its employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to (i) the presence, disposal, release or threatened release of any Hazardous Materials on, from or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or other persons or things; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; (iii) any lawsuit brought or threatened, settlement

UNOFFICIAL COPY

reached, or government order relating to such Hazardous Materials; and/or (iv) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of Mortgagee that are based upon or in any way related to such Hazardous Materials, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses. In the event of Mortgagor's failure to comply with the provisions of this paragraph 32, Mortgagee may apply any or all of such sums so deposited with Mortgagee to affect the removal or other remedy as required pursuant to this paragraph 32. So long as there is no default or Event of Default hereunder, any sums not so applied shall be returned to Mortgagor by Mortgagee promptly upon completion of the removal or other remedy required hereunder to the satisfaction of Mortgagee. In the event this Mortgage is foreclosed, or Mortgagor tenders a deed in lieu of foreclosure, Mortgagor shall deliver the Premises to Mortgagee free of any and all Hazardous Materials so that the condition of the Premises shall conform with all applicable federal, state and local laws, ordinances, rules and regulations affecting the Premises. The provisions of this paragraph 32 shall be in addition to any and all obligations and liabilities Mortgagor may have to Mortgagee at common law, and shall survive repayment of the Indebtedness and the transactions contemplated herein.

(c) Any amounts disbursed by Mortgagee pursuant to the provisions of this paragraph 32 shall be added to, and deemed part of, the Indebtedness secured hereby, shall be secured in the same manner as the Note is secured, shall bear interest from the date of the disbursement thereof at the lower of the rate set forth in the Note or the highest rate permitted by law, and shall, together with the interest thereon, be repayable by Mortgagor on demand.

33. BUSINESS PURPOSES. Mortgagor warrants that the proceeds of the Note and any and all other secured indebtedness shall be used exclusively for the acquisition or conduct of a business or commercial enterprise and that the loan evidenced by the Note is a "commercial loan" under Section 12-101(c) of the Commercial Law Article of the Annotated Code of Illinois.

34. SEVERABILITY. In the event any one or more of the provisions contained in this Mortgage shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

35. ADDITIONAL REMEDIES. Upon an Event of Default under this Mortgage, Mortgagee, without notice to Mortgagor, except as may be required by the laws of the jurisdiction where the Premises are located, (i) may enter upon and take possession of the Premises or any part thereof and perform any actions that Mortgagee deems necessary or proper to conserve the Premises, including the right to construct, complete, operate, maintain, repair, remodel, renovate, refurbish and rent any part or all of the Premises, and (ii) may collect and receive all rents, royalties, issues and profits thereof, including those past due as well as those accruing thereafter. Mortgagee shall also be entitled to have a receiver appointed by a court of competent jurisdiction to enter upon and take possession of the Premises, collect the rents and profits therefrom, and apply the same as the court may direct, without regard of the value of the Premises or to the solvency of Mortgagor. Mortgagee, or any such receiver may also take possession of, and for these purposes use, any and all personal property situated in, on, or about

UNOFFICIAL COPY

the Premises and owned and used by Mortgagor in the operation, maintenance, rental or leasing thereof or any part thereof. All expenses (including, but not limited to, receiver's fees), attorneys' fees, costs and agent's compensation incurred by Mortgagee in enforcing its rights and remedies contained in this Mortgage or any other Loan Documents, together with interest thereon at the rate of interest specified in the Note shall be added to and become part of the Indebtedness and shall be paid by Mortgagor to Mortgagee within ten (10) days following demand therefor. After payment of all costs and expenses incurred, such receiver and Mortgagee shall apply any rents and other proceeds collected (after payment therefrom of all expenses to Mortgagee) to the Indebtedness, in such order as set forth in the Loan Documents and otherwise as Mortgagee determines. The right to enter and take possession of the Premises, to manage, operate, maintain, repair, remodel, renovate, refurbish and rent the Premises or any part thereof, whether by a court appointed receiver or otherwise, shall be in addition to, and not in limitation of, any other right or remedy provided hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. Such court appointed receiver and/or Mortgagee shall be liable to account only for such rents, royalties, issues and profits and other proceeds actually received, respectively, by any of them.

36. RECORDATION/FILING. Mortgagor shall promptly cause this Mortgage to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully protect the lien of this Mortgage upon and the interest of Mortgagee in the Premises. Mortgagor will pay all filing, registration, mortgage and recording fees, and all reasonable expenses incident to the preparation, execution and acknowledgement of this Mortgage, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges, if any, arising out of or in connection with the filing, registration, recording, execution and delivery of this Mortgage and Mortgagor shall defend, hold harmless and indemnify Mortgagee against any liability incurred by reason of the imposition of any tax (other than taxes based on income) on the issuance, making, filing, registration or recording of this Mortgage or the making of the loan secured by this Mortgage and Mortgagor hereby waives any contrary provisions of any law or rules of court now or hereafter in effect.

37. SECURITY AGREEMENT AND FIXTURE FILING. For the purpose of securing the Note and all obligations of Mortgagor contained in the Loan Documents, this Mortgage shall constitute a Security Agreement creating a security interest in all items of personal property of Mortgagor included within or located on or to be delivered to the Premises described above, including all such items of personal property hereafter acquired, and the proceeds thereof. Mortgagor hereby agrees to execute and/or deliver such further agreements, instruments, financing statements, continuation statements, and other documents as may be necessary or appropriate to perfect and maintain the security interest herein granted to Mortgagee. Upon the occurrence of an Event of Default hereunder, Mortgagee shall have the remedies of a secured party under the Code including, without limitation, the right to take immediate possession of any collateral. Any sale of collateral may be held as a part of and in conjunction with a sale by Mortgagee of any real property included in the Premises. This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Premises and is to be filed for record in the real estate records of each county or district where any part of the property (including said fixtures) is situated. This

UNOFFICIAL COPY

Mortgage shall also be effective as a financing statement covering any other property (including but not limited to tangible and intangible personalty, accounts, rights, and minerals, oil and gas) and may be filed in any other appropriate filing or recording office as prescribed by Article 9 of the UCC. The mailing address of Mortgagor and Mortgagee are set forth in Section 9 of this Mortgage. A carbon, photographic or other reproduction of this Mortgage or of any financing statement relating to this Mortgage or the secured indebtedness shall be sufficient as a financing statement for any of the purposes referred to in this Section. Mortgagor agrees that Mortgagee may file UCC-1 Financing Statements with the following description of the collateral or a substantially similar description: "All assets of the Debtor, wherever located, whether now owned or existing or hereafter acquired or arising, together with all proceeds thereof."

38. [Reserved].

39. REPRESENTATIONS AND WARRANTIES OF MORTGAGOR. In order to induce Mortgagee to enter into this Mortgage, Mortgagor hereby expressly represents and warrants to Mortgagee that:

- a. Mortgagor is not acting under any duress, undue influence, misapprehension or misrepresentation in connection with the execution of this Mortgage and the performance of the terms and conditions contained herein.
- b. Mortgagee has performed no management or oversight role with respect to the business of Mortgagor and has acted only as the lender of funds advanced pursuant to the Note.
- c. Mortgagor is not now in default under any instrument or obligation relating to the Premises, nor would it be in default with the passage of time, the giving of notice, or both.
- d. All statements and submissions, financial or otherwise, submitted by Mortgagor to Mortgagee in connection with this transaction are true and correct in all respects; have been prepared in accordance with generally accepted accounting principles (with respect to any financial statements); and fairly present the financial condition of the parties or entities covered by such statements as of the date thereof.
- e. The lien of this Mortgage on the Premises is valid and the Note and other Loan Documents are enforceable in accordance with their terms.
- f. As of the date hereof, Mortgagor has no defenses to payment and performance of the Note nor to the lien, covenants, terms, conditions and enforceability of this Mortgage.
- g. As of the date hereof, there exists no claim, demand or legal action, whether pending or threatened, or any basis therefore, arising from, in

UNOFFICIAL COPY

connection with or related to the Note or the other Loan Documents or the Loan evidenced and secured thereby.

- h. MORTGAGOR (i) HAS READ EACH AND EVERY PROVISION OF THIS MORTGAGE, (ii) HAS CONSULTED, OR BEEN GIVEN THE OPPORTUNITY TO HAVE THIS MORTGAGE REVIEWED BY COMPETENT LEGAL COUNSEL OF ITS CHOOSING, AND (iii) UNDERSTANDS, AGREES TO AND ACCEPTS THE PROVISIONS HEREOF.

40. RENEWAL OR EXTENSION OF NOTE; SUBSTITUTE NOTES. This Mortgage and all other instruments evidencing or securing the Note shall likewise secure any extension, modification, renewal, or recasting of the Note and any note or notes which may be executed and delivered in substitution for the Note. The lien and priority of this Mortgage shall in no manner be affected by any such extension, modification, renewal, recasting or substitution.

41. REMEDIES CUMULATIVE.

(a) All remedies available to Mortgagee with respect to this Mortgage and the Indebtedness, whether provided under this Mortgage or any of the other Loan Documents, or by law or in equity or by any statute, or otherwise, shall be cumulative and may be pursued concurrently or successively. No delay by Mortgagee in exercising any such remedy shall operate as a waiver of any Event of Default or preclude the exercise of any such remedy during the continuance of that or any subsequent Event of Default.

(b) The obtaining of a judgment or decree on the Note shall not in any manner affect the lien of this Mortgage upon the Premises, and any judgment or decree so obtained shall be secured hereby to the same extent as the Note is now secured.

(c) It is expressly understood that Mortgagee has taken no part in the determination of the value of the Premises for recordation tax, insurance, or other purposes. In the event of any foreclosure sale hereunder, all net proceeds shall be available for application to the Indebtedness whether or not such proceeds exceed the value of the Premises for recordation tax, insurance, or other purposes.

(d) The only limitation upon the foregoing agreements as to the exercise of Mortgagee's remedies is that there shall be but one full and complete satisfaction of the indebtedness secured hereby.

(e) In the event that any provision in this Mortgage shall be inconsistent with any provision of the statutes or common law of the jurisdiction in which the Premises are located governing the foreclosure of this Mortgage (collectively, the "Foreclosure Laws"), the provisions of the Foreclosure Laws 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 Foreclosure Laws. If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of Mortgagor which are more

UNOFFICIAL COPY

limited than the rights that would otherwise be vested in Mortgagee under the Foreclosure Laws in the absence of said provision, Mortgagee shall be vested with the rights granted in the Foreclosure Laws to the full extent permitted by law.

42. ALL INDEBTEDNESS. This Mortgage is given to secure certain present and future indebtedness which is intended to be secured hereby, including future advances and readvances, as provided in the Note, and cash advances made by Mortgagee pursuant to any provision in this Mortgage or on account of any letter of credit issued by Mortgagee to or on behalf of Mortgagor, or is represented by the execution of other promissory notes, with interest as provided in such notes, for cash advanced by Mortgagee. Reference to “note” and “notes” herein shall be construed to mean any present, future or further note or notes executed by Mortgagor, payable to Mortgagee, whether one or more, upon such terms and conditions as provided therein, the same as if any such note or notes were incorporated and fully described herein, it being contemplated that from time to time Mortgagor may become further indebted to Mortgagee, and this Mortgage and the liens created hereby shall secure any and all indebtedness of Mortgagor to Mortgagee of every nature whatsoever, whether created heretofore or hereafter, primary or secondary until such indebtedness is fully released by Mortgagee in writing, at the request of Mortgagor, otherwise it shall remain in full force and effect to secure all present and future indebtedness of Mortgagor to Mortgagee however the same be evidenced. This Mortgage and lien shall not affect or be affected by any additional security that may be taken as to any indebtedness due Mortgagee by Mortgagor and shall not be affected by renewals or extensions of all or any part thereof, or by partial releases of any character whatsoever.

43. COUNTERPARTS. This Mortgage may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same document.

44. RELEASES. The lien of this Mortgage and the other Loan Documents shall be released at the expense of Mortgagor upon payment in full of the indebtedness and satisfaction and discharge of all obligations hereunder and under the Loan Documents.

45. ILLINOIS PROVISIONS.

Maturity Date. The maturity date of the Note (the “Maturity Date”) shall be deemed to mean October 1, 2021; provided to the extent that the maturity date of the Note is extended, amended or modified from time to time under the Loan Agreement, the Maturity Date hereunder shall also be so extended, amended or modified, but in no circumstances will this Mortgage secure Obligations advanced under the Loan Agreement after the date 25 years from the Maturity Date set forth above unless this Mortgage is modified to reflect a new maturity date.

Interest Rate; Late Charge.

A. Beginning on the date hereof, interest shall accrue on the outstanding principal amount at a rate equal to 18.0% per annum (the “Interest Rate”). Interest shall be computed for the actual number of days elapsed on the basis of a 360-day year and

UNOFFICIAL COPY

actual days elapsed. Payments of accrued interest under this Promissory Note shall be due and payable on a monthly basis on the first business day of each month, commencing on May 1, 2021 through the Maturity Date, when all of the accrued and unpaid interest under this Promissory Note shall be paid.

B. Late Charges. If any amount due under this Note is not received by the holder hereof within five (5) days of the date such payment is due and payable hereunder, the Maker shall pay to the Lender a late charge equal to five percent (5%) of the overdue amount, which late charge shall be immediately due and payable upon demand by the Lender. Such five (5) day period shall not be construed as in any way extending the due date of any payment. The late charge is imposed for the purpose of defraying the expenses of the Lender incident to handling such delinquent payment. This charge shall be in addition to, and not in lieu of, any other amount that the Lender may be entitled to receive or action that the Lender may be authorized to take as a result of such late payment. Any and all such late charges shall be added to the principal due under this Note and shall be secured by the Loan Documents.

C. Default Interest. Notwithstanding the entry of any decree, order, judgment or other judicial action under, pursuant to, in connection with, or otherwise concerning this Note or any of the Loan Documents, upon the occurrence of an Event of Default and/or after the maturity of this Note (whether by acceleration, declaration, extension or otherwise), the Maker promises to pay to the Lender, whenever demanded by the Lender, interest on this Note and all other amounts then and thereafter due and payable hereunder or otherwise under any of the Loan Documents at a fixed per annum rate of interest (the "**Default Rate**") equal to two percent (2%) per annum in excess of the interest rate which otherwise would apply as herein above set forth from the date of such Event of Default for so long as such Event of Default continues or from the date of such maturity until payment in full of the unpaid principal balance of this Note, as applicable, all accrued and unpaid interest thereon and any and all other amounts due or payable hereunder or under any of the Loan Documents.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage on the day and year first above written.

ROM-ALT. LLC,
an Illinois limited liability company

By: 

Name: Josafat Javier Roman

Title: Member/Manager

By: 

Name: Evangelina Roman

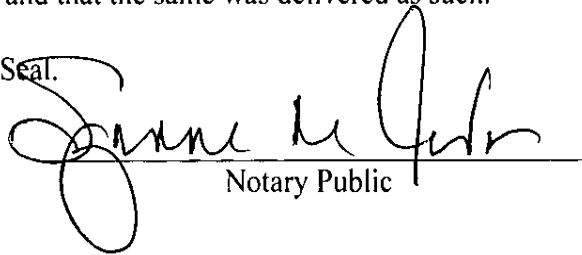
Title: Member/Manager

UNOFFICIAL COPY

State of IL)
)
County of Cook)

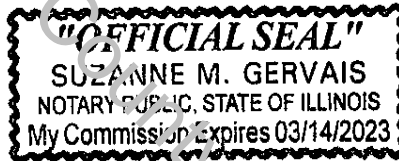
I HEREBY CERTIFY that on this 12th day of April, 2021, before me, the subscriber, a Notary Public in and for the jurisdiction aforesaid, personally appeared in said jurisdiction Josafat Javier Roman and Evangelina Roman, personally well known to me (or satisfactorily proven) to be the person who executed the foregoing instrument as the Member/Manager of ROM-ALT. LLC, an Illinois limited liability company, and did acknowledge the foregoing instrument to be the act and deed of the company and that the same was executed for the purposes therein contained, and that the same was delivered as such.

WITNESS my hand and Notarial Seal.


Notary Public

My Commission Expires:

3.14.23



UNOFFICIAL COPY

EXHIBIT A

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THAT PART OF BLOCKS 6 AND 18 DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID BLOCK 6, BEING ALSO THE INTERSECTION OF THE WEST LINE OF SOUTH 54TH AVENUE AND A LINE 311 FEET NORTH OF THE SOUTH LINE OF SECTION 21; THENCE WEST ON A LINE PARALLEL TO THE SOUTH LINE OF SAID SECTION 21, 333.81 FEET TO A POINT 50 FEET WEST OF THE ANGLE CORNER OF BLOCK 6; THENCE NORTHWESTERLY ALONG A LINE DRAWN TO A POINT 130 FEET NORTH OF THE SOUTH LINE OF BLOCK 18 AND 50 FEET WEST OF THE EAST LINE OF BLOCK 18, A DISTANCE OF 141.42 FEET; THENCE NORTH ALONG A LINE 50 FEET WEST OF AND PARALLEL TO THE EAST LINE OF BLOCK 18, A DISTANCE OF 725 FEET TO THE NORTH LINE OF SAID BLOCK 18, BEING ALSO THE SOUTH LINE OF WEST 19TH STREET EXTENDED EAST; THENCE EAST ON THE NORTH LINE OF BLOCK 18, 21.06 FEET; THENCE NORTH ON A LINE 412.75 FEET WEST OF AND PARALLEL TO THE EAST LINE OF BLOCK 6, A DISTANCE OF 56.08 FEET; THENCE NORTHEASTERLY 149.7 FEET ALONG THE WESTERLY LINE OF A 20 FEET EASEMENT STRIP GRANTED TO THE BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD COMPANY; THENCE SOUTHEASTERLY AT RIGHT ANGLES TO THE WESTERLY LINE OF SAID EASEMENT STRIP 20 FEET TO THE EASTERLY LINE OF SAID EASEMENT STRIP; THENCE SOUTHERLY ON A STRAIGHT LINE DEFLECTING TO THE EAST FROM SAID SOUTHEASTERLY LINE OF SAID EASEMENT STRIP 4 DEGREES 55 MINUTES 1 1/2 SECONDS, A DISTANCE OF 70 FEET; THENCE SOUTH ON A LINE AT RIGHT ANGLES TO THE SOUTH LINE OF WEST 19TH STREET EXTENDED EAST, 80.36 FEET TO A LINE 50 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF WEST 19TH STREET EXTENDED EAST; THENCE EAST ON SAID LINE 50 FEET NORTH AND PARALLEL TO THE SOUTH LINE OF WEST 19TH STREET EXTENDED EAST, A DISTANCE OF 19.39 FEET; THENCE SOUTH PARALLEL TO THE EAST LINE OF BLOCK 6, A DISTANCE OF 50 FEET TO THE SOUTH LINE OF WEST 19TH STREET EXTENDED EAST; THENCE EAST ALONG THE SOUTH LINE OF WEST 19TH STREET EXTENDED EAST, A DISTANCE OF 354 FEET TO THE WEST LINE OF SOUTH 54TH AVENUE; THENCE SOUTH ON THE WEST LINE OF SOUTH 54TH AVENUE, A DISTANCE OF 824.88 FEET TO THE SOUTHEAST CORNER OF BLOCK 6 AND THE PLACE OF BEGINNING, ALL OF THE ABOVE DESCRIBED PROPERTY BEING IN GRANT LAND ASSOCIATION RESUBDIVISION OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN,

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED 4 PARCELS OF LAND:

EXCEPTED PARCEL A:

A STRIP OF LAND 16 FEET IN WIDTH, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID BLOCK 6, BEING ALSO THE INTERSECTION OF THE WEST LINE OF SOUTH 54TH AVENUE AND A LINE 311 FEET

UNOFFICIAL COPY

NORTH FROM AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 21, AND RUNNING THENCE WEST ALONG SAID SOUTH LINE OF BLOCK 6 AND ALONG A WESTWARD EXTENSION OF SAID LINE, SAID SOUTH LINE BEING PARALLEL WITH SAID SOUTH LINE OF SECTION 21, A DISTANCE OF 333.81 FEET TO A POINT 50 FEET WEST OF THE ANGLE CORNER OF SAID BLOCK 6; THENCE NORTHWESTERLY ALONG A LINE DRAWN TO A POINT 130 FEET NORTH OF THE SOUTH LINE OF BLOCK 18 AND 50 FEET WEST OF THE EAST LINE OF SAID BLOCK 18, A DISTANCE OF 22.65 FEET TO A POINT 16 FEET (MEASURED PERPENDICULARLY) NORTH FROM THE AFORESAID WESTWARD EXTENSION OF THE SOUTH LINE OF SAID BLOCK 6; THENCE EAST ALONG A LINE PARALLEL WITH THE HEREIN FIRST DESCRIBED LINE, A DISTANCE OF 349.81 FEET TO AN INTERSECTION WITH THE AFORESAID WEST LINE OF SOUTH 54TH AVENUE, AND THENCE SOUTH ALONG SAID WEST LINE OF SOUTH 54TH AVENUE, A DISTANCE OF 16 FEET TO THE POINT OF BEGINNING;

EXCEPTED PARCEL B:

THAT PART OF BLOCK 6 BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT OF INTERSECTION OF THE WEST LINE OF SOUTH 54TH AVENUE WITH THE SOUTH LINE OF 19TH STREET EXTENDED EAST; THENCE WEST ALONG SAID EXTENDED LINE 354 FEET; THENCE NORTH PARALLEL WITH SAID WEST LINE 50 FEET; THENCE WEST 16.39 FEET; THENCE SOUTHEASTERLY TO A POINT ON A LINE 69.98 FEET SOUTH OF THE SOUTH LINE OF 19TH STREET EXTENDED EAST, SAID POINT BEING 353.8 FEET WEST OF THE WEST LINE OF SOUTH 54TH AVENUE AS MEASURED ALONG SAID PARALLEL LINE; THENCE EAST ALONG SAID PARALLEL LINE 80.54 FEET; THENCE NORTH PARALLEL WITH SAID WEST LINE 60.98 FEET; THENCE EAST PARALLEL WITH SAID EXTENDED LINE 273.26 FEET TO A POINT ON THE WEST LINE OF SOUTH 54TH AVENUE; THENCE NORTH ALONG SAID WEST LINE 9 FEET TO THE POINT OF BEGINNING;

EXCEPTED PARCEL C:

THAT PART LYING NORTH OF THE SOUTH LINE OF WEST 19TH STREET EXTENDED EAST;

EXCEPTED PARCEL D:

THAT PART OF THE EAST 50 FEET OF BLOCK 18 LYING NORTH OF THE SOUTH LINE OF BLOCK 6 EXTENDED WEST, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF BLOCK 18 COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF THE SOUTH 30 FEET OF BLOCK 18 WITH THE WEST LINE OF SOUTH 54TH AVENUE, SAID NORTHERLY LINE BEING 311 FEET NORTH OF THE SOUTH LINE OF SECTION 21; THENCE WEST ON SAID NORTH LINE OF THE SOUTH 30 FEET OF BLOCK 18, 333.81 FEET TO A POINT 50 FEET WEST OF THE ANGLE CORNER OF SAID BLOCK 18; THENCE NORTHWESTERLY ON A LINE MAKING AN ANGLE TO THE LEFT 44 DEGREES 56 MINUTES 10 SECONDS WITH THE NORTH LINE OF THE SOUTH 30 FEET OF SAID BLOCK 18 EXTENDED WEST, 20.53 FEET, MORE OR LESS, TO A

UNOFFICIAL COPY

POINT 14.5 FEET NORTH MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF THE SOUTH 30 FEET OF BLOCK 18 EXTENDED WEST, SAID POINT BEING THE POINT OF BEGINNING OF THE REAL ESTATE TO BE DESCRIBED; THENCE WEST PARALLEL WITH SAID NORTH LINE OF THE SOUTH 30 FEET OF BLOCK 18, 43.47 FEET, MORE OR LESS, TO A POINT 42 FEET EAST OF A LINE 50 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID BLOCK 18 EXTENDED SOUTH; THENCE NORTH ON A LINE 8 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID BLOCK 18 EXTENDED SOUTH 43.41 FEET TO A POINT 61.43 FEET, MORE OR LESS, NORTHWESTERLY FROM THE POINT OF BEGINNING; THENCE SOUTHEASTERLY ON A LINE MAKING AN ANGLE TO THE RIGHT WITH THE LAST DESCRIBED COURSE AT LAST DESCRIBED POINT OF 44 DEGREES 56 MINUTES 10 SECONDS 61.43 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. (EXCEPT THAT PART LYING WEST OF THE WEST LINE OF BLOCK 6 EXTENDED SOUTH), ALL IN GRANT LAND ASSOCIATION RESUBDIVISION OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

BEGINNING AT THE SOUTH EAST CORNER OF BLOCK 6 IN GRANT LAND ASSOCIATION RESUBDIVISION OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, BEING ALSO THE INTERSECTION OF THE WEST LINE OF SOUTH 54TH AVENUE AND A LINE 311 FEET NORTH OF THE SOUTH LINE OF SECTION 21; THENCE WEST ON A LINE PARALLEL TO THE SOUTH LINE OF SAID SECTION 21, 333.81 FEET TO A POINT 50 FEET WEST OF THE ANGLE CORNER OF BLOCK 6; THENCE NORTHWESTERLY ALONG A LINE DRAWN TO A POINT 130 FEET NORTH OF THE SOUTH LINE OF BLOCK 18 AND 50 FEET WEST OF THE EAST LINE OF BLOCK 18, A DISTANCE OF 141.42 FEET TO THE POINT OF BEGINNING; THENCE NORTH ALONG A LINE 50 FEET WEST OF AND PARALLEL TO THE EAST LINE OF BLOCK 18, A DISTANCE OF 725 FEET TO THE NORTH LINE OF SAID BLOCK 18, BEING ALSO THE SOUTH LINE OF 19TH STREET EXTENDED EAST; THENCE EAST ALONG THE NORTH LINE OF BLOCK 18, 50 FEET; THENCE SOUTH 725 FEET; THENCE WEST ON A LINE PARALLEL TO THE SOUTH LINE OF SECTION 21, A DISTANCE OF 50 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

BEGINNING AT THE SOUTH EAST CORNER OF BLOCK 6 IN GRANT LAND ASSOCIATION RESUBDIVISION OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, BEING ALSO THE INTERSECTION OF THE WEST LINE OF SOUTH 54TH AVENUE AND A LINE 311 FEET NORTH OF THE SOUTH LINE OF SECTION 21; THENCE WEST ON A LINE PARALLEL TO THE SOUTH LINE OF SAID SECTION 21, 333.81 FEET TO A POINT 50 FEET WEST OF THE ANGLE CORNER OF BLOCK 6; THENCE NORTHWESTERLY ALONG A LINE DRAWN TO A POINT 130 FEET NORTH OF THE SOUTH LINE OF BLOCK 18 AND 50 FEET WEST OF THE EAST LINE OF BLOCK 18, A DISTANCE OF 141.42 FEET; THENCE NORTH ALONG A LINE 50 FEET WEST OF AND PARALLEL TO THE EAST LINE OF BLOCK 18,

UNOFFICIAL COPY

A DISTANCE OF 725 FEET TO THE NORTH LINE OF SAID BLOCK 18, BEING ALSO THE SOUTH LINE OF 19TH STREET EXTENDED EAST; THENCE EAST ALONG THE NORTH LINE OF BLOCK 18, 21.06 FEET TO THE POINT OF BEGINNING; THENCE NORTH ON A LINE 412.75 FEET WEST OF AND PARALLEL TO THE EAST LINE OF BLOCK 6, A DISTANCE OF 56.08 FEET; THENCE NORTHEASTERLY 149.7 FEET ALONG THE WESTERLY LINE OF A 20 FEET EASEMENT STRIP GRANTED TO THE BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD COMPANY; THENCE SOUTHEASTERLY AT RIGHT ANGLES TO THE WESTERLY LINE OF SAID EASEMENT STRIP 20 FEET TO THE EASTERLY LINE OF SAID EASEMENT STRIP; THENCE SOUTHERLY ON A STRAIGHT LINE DEFLECTION TO THE EAST FROM SAID SOUTHEASTERLY LINE OF SAID EASEMENT STRIP 4 DEGREES 55 MINUTES 1.5 SECONDS A DISTANCE OF 70 FEET; THENCE SOUTH ON A LINE AT RIGHT ANGLES TO THE SOUTH LINE OF WEST 19TH STREET EXTENDED EAST, 80.36 FEET TO A LINE 50 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF WEST 19TH STREET EXTENDED EAST; THENCE EAST ON SAID LINE 50 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF WEST 19TH STREET EXTENDED EAST, A DISTANCE OF 3.00 FEET; THENCE SOUTHEASTERLY 50.43 FEET ALONG A LINE THAT IS 20.33 FEET EAST OF THE EAST LINE OF BLOCK 18 TO THE SOUTH LINE OF WEST 19TH STREET EXTENDED; THENCE WEST ALONG SAID LINE A DISTANCE OF 70.33 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS

c/k/a: 1910-2100 South 54th Ave., Cicero, IL 60304

P.I.N.s: 16-21-306-031-0000; 16-21-306-034-0000