

Recording Requested By: )

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After Recording Return To: )

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(Space Above Line for Recorder's Use Only)

A.P.N: \_\_\_\_\_

### DEED OF TRUST

THIS DEED OF TRUST entered into on \_\_\_\_\_, made by and between:

\_\_\_\_\_, \_\_\_\_\_, a \_\_\_\_\_

\_\_\_\_\_, whose address is \_\_\_\_\_,

\_\_\_\_\_, \_\_\_\_\_

(hereinafter referred to as "Borrower", and shall include the Borrower's successors, heirs, executors, administrators, legal representatives and assigns, whether voluntarily or by operation of the law), \_\_\_\_\_ whose address is \_\_\_\_\_,

\_\_\_\_\_, \_\_\_\_\_

(hereinafter referred to as "Trustee") and \_\_\_\_\_, organized and existing under the laws of the State of \_\_\_\_\_ and located at

\_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_ (hereinafter referred to as "Lender").

### WITNESSETH:

*IN CONSIDERATION OF* the herein contained obligations and sum loaned to the aforementioned Borrower by the Lender, for the principal amount of \_\_\_\_\_ (the "Principal Amount"), as evidenced by the promissory note (the

"Note") dated \_\_\_\_\_, the receipt by which the Borrower does hereby acknowledge itself indebted, the Borrower does hereby IRREVOCABLY GRANT, TRANSFER AND ASSIGN to the TRUSTEE IN TRUST WITH POWER OF SALE, that real property located at \_\_\_\_\_ in the City of \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_ with the following legal description: \_\_\_\_\_

**TOGETHER WITH** the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Lender by *Assignment Of Rents; Appointment Of Receiver; Lender In Possession* Section of the provisions incorporated herein by reference to collect and apply such rents, issues and profits. For the Purpose of Securing: 1. Performance of each agreement of Borrower incorporated by reference or contained herein. 2. Payment of the indebtedness evidenced by one promissory note of even date herewith, and any extension or renewal thereof, in the principal sum of \_\_\_\_\_ executed by Borrower in favor of Lender. 3. Payment of such further sums as the then record owner of said property hereafter may borrow from Lender, when evidenced by another note (or notes) reciting it is so secured.

**IN CONJUNCTION WITH** all the buildings and improvements now in place or erected on the Property hereafter, along with any and/or all easements, rights, appurtenances, and fixtures that are now or hereafter a part of the aforementioned Property. Any and all future replacements and/or additions shall also be covered by this Trust.

**THE BORROWER HEREIN PROMISES** that said Borrower is the entitled and legal owner of the estate that is hereby conveyed and that said Borrower therefore has the right to grant and convey said Property and that said Property is hereby unencumbered with the exception for any such encumbrances of record. In addition, the Borrower further guarantees and promises that s/he shall defend the title to the aforementioned Property against any and all claims and demands, which may be subject to any encumbrances of record.

**IN AN EFFORT TO PROTECT THE SECURITY** of this Deed of Trust, the parties do hereby agree as follows:

**PAYMENT TERMS**

**PAYMENT GUARANTEE**

TO SECURE to Lender the repayment of the indebtedness evidenced by Borrower's Note dated \_\_\_\_\_, and extensions and renewals thereof, in the principal sum of \_\_\_\_\_, with interest thereon, providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on \_\_\_\_\_; the payment of all other sums, with interest thereon, advanced in

accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Borrower herein contained.

***PAYMENT OF PRINCIPAL AND INTEREST***

Borrower fully acknowledges and thus agrees to promptly pay the principal and interest indebtedness evidenced in the Note and late charges as provided in the Note.

***ESCROW FUNDS***

There may be Periodic Payments due under this Deed of Trust, until such time as the Principal Amount has been paid in full, and there is no longer any money owing. As such, the Borrower herein agrees to pay to the Lender, \_\_\_\_\_, additional monies (the "Escrow Funds") to provide for the payment of the following "Escrow Items":

- a) Any and all yearly property and/or schools taxes, assessments or other items, which are considered a priority over this Deed of Trust as an encumbrance and/or lien on the Property;
- b) Lease Payment, if any, which may be associated with the Property;
- c) Payment for any and all insurance premiums related with the Property, including but not limited to, Mortgage Insurance which may be required by the Lender.

It is the responsibility of the Borrower to ensure that the Lender is made aware of any and all monies that require payments with regards to this Section. Upon the request of the Lender, the Borrower shall provide any receipts, bills, and/or invoices verifying or validating such payments to the Lender. Should the Borrower fail to make said payments in a timely manner, the Lender, at its discretion, make any and all past due payments of the aforementioned "Escrow Items," and as such, the Borrower shall then be obligated to repay the Lender for any such amount paid. The Lender shall have the option to waive any of the Borrower's obligations to repay monies to the Lender for any and all "Escrow Items" as it may deem fit by providing to the Borrower written notice of said waiver.

If the Lender provides no such waiver, it then becomes the responsibility of the Borrower to make immediate payment directly to the Lender, when and where payable as designated by the Lender, for the full amount due for any and all Escrow Items. Should the Borrower be obligated to ensure payment of "Escrow Items" directly, and said Borrower fails to ensure such payments are made in a timely fashion, then the Lender reserves the right under this Section to make payment for such amounts and Borrower shall be obligated to repay the Lender for any such amount.

It is the responsibility of the Borrower to collect and deposit "Escrow Funds" in accordance with the Real Estate Settlement Procedures Act ("RESPA"). The Lender shall provide an estimate of the amount of the "Escrow Funds" due in accordance with applicable State and/or Federal Law.

Should there be a surplus of funds held in escrow, as defined in the RESPA, the Lender shall then provide to the Borrower the excess funds in accordance with the RESPA guidelines. However, should there be a deficiency of said funds held in escrow, then the Lender shall immediately notify the Borrower in writing of such deficiency and the Borrower, at that time, must make immediate payment to the Lender any amount necessary to offset the deficiency.

Once payment has been made in full of all "Escrow Items," the Lender shall then promptly refund to the Borrower any excess funds which may be held by the Lender.

### ***PAYMENT OBLIGATION***

The Borrower does hereby agree to pay any and all monies that are due and payable pursuant to this Deed of Trust and all additional amounts that are secured by this Deed of Trust without abatement (lowering the amount or rate), off-set or counterclaim. However, if the Borrower later makes a claim against the Lender, either by abatement, off-set or counterclaim, the Borrower herein agrees that any such claim filed shall not in any way reduce or postpone their obligation to pay all payments as provided for by this Trust.

### ***PAYMENT APPLICATION***

Any and all payments submitted by the Borrower and received by the Lender shall first be applied towards the payment of the interest calculated at the aforementioned Interest Rate, and the balance of the monies paid shall then be applied towards the payment of the Principal Amount. All received payments shall be applied in the order in which it became due and payable. However, in the event that the Borrower defaults on any payment the Lender shall then have the right to apply any payment received, while in default, as the Lender deems necessary.

### ***ADDITIONAL CHARGES AND ENCUMBRANCES***

Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust, including Borrower's covenants to make payments when due. It shall be the sole responsibility of the Borrower to ensure that all payments are made for any and all taxes, assessments, charges, fines, and all other obligations or impositions be attributable to the Property. Should any of the above mentioned items be titled as "Escrow Items", the Borrower must pay them in the manner outlined under "Escrow Funds."

### ***RELEASE AND RECONVEYANCE***

Once payment in full has been received for all the sums that have been secured by this Deed of Trust including, but not limited to, the Principal Amount and Interest, the Lender at that time will request the Trustee to reconvey (re-transfer) the Property and shall surrender this Deed of Trust and all notes evidencing indebtedness secured by this Deed of Trust to the named Trustee. The Trustee shall then reconvey said Property without warranty to the person or persons legally entitled to the Property. The "entitled" person or persons shall be solely responsible to pay any associated costs for the recording of said Property. In addition, the Lender reserves the right to charge

"entitled" person or persons a fee for reconveying the Property. This fee only applies when said fee is first paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law.

### ***SALE WITH CONSENT***

The Trustee guarantees and states that they will not sell, transfer, assign, or otherwise dispose of all or any part of said Property or any interest in the Property without the prior written consent of the Lender. Lender or Trustee shall mail copies of such notice in the manner prescribed by applicable law.

### ***PROPERTY INSURANCE***

The Borrower, shall be obligated to keep and maintain the improvements that now exist or may later be erected on the Property and that which shall be insured against loss by fire, any hazards which may be included within the term of "extended coverage," and any other such hazards which shall include, but are not limited to, earthquakes and floods, of which the Lender herein requires insurance. The Borrower has the right to select an insurance carrier of his/her choosing, so long as said insurance carrier meets the approval of the Lender, provided that such approval shall not be unreasonably withheld. Borrower shall be required to maintain a minimum coverage of \_\_\_\_\_.

At any time, should the Borrower fail to maintain any of the prescribed coverage, the Lender then reserves the right to obtain said insurance coverage at the Borrower's expense. The Borrower herein acknowledges that the cost of the insurance obtained by the Lender may exceed the cost that the Borrower may have paid to obtain the same insurance coverage. Furthermore, any amounts that may have been paid by the Lender shall become an additional debt to the Borrower and therein secured by this Trust. In addition, any amounts which have been paid by the Lender shall incur interest at the herein stipulated Interest Rate, if any, from the date of payment and shall be payable, along with interest, upon written notice from the Lender to the Borrower requesting said payment.

Any insurance policy or renewal purchased by the Borrower, shall include the standard mortgage and/or trust clause and shall name the Lender as mortgagee and/or as an additional loss payee, and with any loss sustained to be payable to the Lender. Furthermore, the Borrower herein agrees to generally assign rights of the insurance proceeds to the Lender up to the outstanding loan balance. At the request of the Lender, the Borrower shall provide to the Lender: 1) a copy of the obtained insurance policy; 2) any and all receipts of paid premiums and renewal notices.

In the event of a loss, it shall be the obligation of the Borrower to provide prompt written notice to the acquired insurance carrier and to the Lender, as well. Lender may make proof of loss if not made promptly by Borrower. In addition, unless otherwise agreed to in writing by the Lender and Borrower, any insurance proceeds received must be applied to any restoration or repair of said property, as long as the restoration and/or repairs are deemed economically feasible. However, should the restoration and/or repairs be deemed not economically feasible, then the insurance

proceeds shall be applied to the balance of this Trust, despite whether or not any balance of the Trust is due, and any excess, if any, shall be paid to the Borrower.

If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair for the Property or to the sums secured by this Deed of Trust.

#### ***PRESERVATION AND MAINTENANCE OF PROPERTY***

Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Deed of Trust is on a leasehold.

#### ***OCCUPANCY, MAINTENANCE, AND REPAIR***

The Borrower shall have the right to occupy, establish and/or use the Property as their principle residence upon the completion and execution of this Trust. The Borrower herein agrees not to allow the said Property to become abandoned and/or vacant without the prior written consent of the Lender. The Borrower has the obligation and responsibility to ensure the Property is not damaged, destroyed or compromised, nor allow the Property to become blighted, uninhabitable or allow waste to accumulate on said Property. Regardless of whether or not the Borrower inhabits said Property, it shall remain the Borrower's responsibility to maintain said Property and to ensure that it does not deteriorate or fall into disrepair, nor decrease in value due to its condition. Furthermore, the Borrower shall be responsible to ensure that prompt repairs, replacements and improvements are made to avoid the likelihood of further deterioration or damage that may occur.

In the event that it may become necessary, the Lender may make reasonable entry and/or inspections of the Property and premises. Should the Borrower neglect to maintain the Property in sound and good condition, or allow the Property to fall into a deteriorated state that would result in decreased property value, the Lender shall reserve the right to make such repairs and improvements deemed necessary to maintain the Property.

#### ***HAZARDOUS SUBSTANCES***

The Borrower shall not cause, create nor permit the presence, use, disposal, storage or release of any type of hazardous material or substance in, on or around the Property. The types of hazardous materials would include, but are not limited to, any pollutants, toxic wastes, and any such substances that may be defined as toxic or hazardous substances as defined by environmental law, and shall also include the following types of substances: gasoline, kerosene, flammable or petroleum products, pesticides and herbicides, unstable solvents, any materials which may contain asbestos or formaldehyde, as well as any type of radioactive materials. In addition, the Borrower shall not permit anyone else to do anything which might adversely affect or negatively impact the value of said Property. The Borrower hereby agrees to promptly take all necessary, remedial

actions in accordance with federal, state and/or local law and/or regulations with regards to any hazardous substances.

### **DEFAULT AND REMEDIES**

#### ***DEFAULT***

Pursuant to the terms and conditions of this Trust, the Borrower may be deemed to be in default in the event that any of the following conditions are met:

- a) Borrower neglects to ensure the monthly payment of the Principal Amount, interest, or any other said amounts associated with and due as stipulated within this Trust;
- b) Borrower neglects to perform and/or comply with any of the herein contained terms, conditions, obligations and/or responsibilities stipulated within the Trust;
- c) At any time during the loan application process, Borrower has provided and/or declared any statement or information of a false, misleading, or inaccurate nature to the Lender or any other party who may be associated with this Trust and/or in connection with the loan;
- d) Should any civil or criminal legal action or proceeding be brought or initiated, which could result in a loss of said Property or any other damage or injury with regards to the Lender's interest in said Property or which may negatively impact the Lender's rights provided under this Trust;
- e) Should a lien of any type or manner be brought, placed and/or filed against said Property, or should a default arise as a result of any other lien and/or encumbrance already in existence on said Property;
- f) In the event that the Borrower abandons, relinquish, or neglects to maintain occupancy of the Property; and/or
- g) Should said Property or any physical aspect of said Property be confiscated or seized.

#### ***PAYMENT ACCELERATION***

At any time throughout the duration of this Trust, if the Borrower shall be deemed to be in default in accordance with and pursuant to the terms and conditions of this Trust, then it shall be the obligation of the Lender, at that time, to ensure that the Borrower is provided with written notice regarding the default. The contents of the written notice must stipulate and identify: i) the details related to the default (i.e. the breach); ii) action or steps deemed necessary to correct or rectify the default, if any such action or steps are permissible (i.e. cure the breach); iii) the date, of not less than TEN days from the date that written notice is provided, in which the default must be rectified;

and iv) if the default is not cleared or cured on or before the date specified within the written notice said default shall result in the expediting of all sums due and payable in full, principal amount, interest and any other amount which may be secured by this Trust. Once the default has been rectified or cured, the Trust shall be reinstated in full force and effect. However, should the Borrower fail to rectify or cure the default, the Lender has the option to invoke the STATUTORY POWER OF SALE and initiate foreclosure proceedings.

The Lender shall reserve the right to demand immediate payment in full in the event of a default, without limitations. Upon default, any delaying of the enforcement of the terms of this Trust, on the part of the Lender, which may include, but shall not be limited to, the acceptance of any late payment from the Borrower or a third party, and/or acceptance of any payment that is less than the amount due at the time, shall not constitute a waiver to enforce acceleration on default.

### ***STATUTORY POWER OF SALE***

In the event a breach is not cured on or before the date specified in the notice, the Lender at Lender's option may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and Lender may invoke the STATUTORY POWER OF SALE and any other remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, any and all reasonable attorney's fees.

If Lender invokes the STATUTORY POWER OF SALE, Lender shall execute a written notice of the occurrence and mail a copy of a notice of sale to Borrower, and to any other person required by applicable law, in the manner provided by applicable law. Lender shall publish the notice of sale and the Property shall be sold in the manner prescribed by applicable law. Lender or Lender's designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order: (a) to all reasonable costs and expenses of the sale, including reasonable attorney's fees and costs of title evidence; (b) to all sums secured by this Mortgage; and (c) the excess, if any, to the person or persons legally entitled thereto. Lender and Trustee shall adhere to all applicable local, state and federal laws in the event of a STATUTORY POWER OF SALE.

### ***ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION***

As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under Payment Acceleration Section above, or abandonment of Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration (as described above) or abandonment of the Property, Lender, in person, by agent or judicially appointed receiver shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on



receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Deed of Trust. Lender and the receiver shall be liable to account only for those rents actually received.

### ***LENDER'S INTEREST***

In the event that the Borrower should neglect to perform any of the terms, conditions and/or agreements contained within this Trust, or should any legal proceeding be brought bear that would negatively impact the Lender's interest in the Property, or should the Borrower desert, vacate or abandon said Property, then the Lender shall have the right to do and/or pay for whatever is deemed to be reasonable and/or appropriate to protect the Lender's interest and rights in said Property as contained within this Trust, and of which includes, but is not limited to:

- a) The payment of any such sums of money which have been secured by an encumbrance or lien, and of which take priority over this Trust;
- b) Any required court appearance;
- c) The reasonable payment of attorney's fees, which may be incurred in an effort to protect its interest in said Property and/or any rights provided for within this Trust;
- d) The payment for the reasonable cost of any required repair or maintenance performed in an effort to ensure said property to maintain the premises in good condition; and
- e) Take any action as is necessary to protect Lender's interest.

The Lender shall reserve the right, at all times, to initiate any action deemed necessary under this Section to preserve and maintain the Lender's interest in said Property. However, the Lender is not beholden to do so and in no way under any duty or responsibility to do so. All parties acknowledge and agree that the Lender shall in no way sustain or be held be liable for failing to take any and/or all actions in the performance of such tasks. In addition, and monies paid by the Lender to protect its interests shall become additional debt of the Borrower, and as such is protected and safeguarded by this Trust.

### ***AUTHORITY TO SELL OR FORECLOSE***

In the event that the Borrower is deemed to be in default pursuant with the terms and conditions of this Trust, at any time, the Lender shall reserve the right and authority to initiate foreclosure proceedings and thus force the sale of the Property without the need of any judicial proceeding or intervention. If there is a delay in the Lender exercising this right, it shall in no way constitute a waiver of this right at a later date, should the Borrower continue to be in default or deemed in default again anytime in the future. Lender must adhere to all applicable local and state foreclosure laws.

### ***LEGAL REMEDIES***

The Lender shall, at all times, reserve the right to impose any and all legal remedies allowable in accordance with Applicable Law, despite whether or not any such remedies may be specifically or explicitly granted within the terms and conditions of this Trust, including but not limited to the initiating of any foreclosure proceeding.

Should the Lender, impose said power of sale, the Trustee shall have the authority and power to execute a written notice of the incident causing the default and of the Lender's desire to sell the Property. It shall be the responsibility of either the Lender or the Trustee to ensure copies of the written notice are mailed to both the Borrower and the Guarantor, and also to ensure that public notice of the sale is provided in such a manner pursuant to Applicable Law.

When the allocated time required by Applicable Law has been satisfied, the Trustee shall then proceed with the sale of the Property at a public auction and that the sale of the Property shall be awarded to the highest bidder in accordance with the terms and conditions designated by the Trustee within the notice of sale. The Trustee shall have the power and authority and shall reserve the right to postpone sale of said Property through the issuance of a public announcement at the time and place of the previously schedule sale. In addition, the Lender or its Agent shall have the power and authority and shall reserve the right to purchase said Property at any publicized sale.

### **MISCELLANEOUS TERMS & CONDITIONS**

#### ***GOVERNING LAW***

The state and local laws applied to this Deed of Trust shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of federal law to this Deed of Trust. As used herein, "costs," "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

#### ***SEVERABILITY***

Should any term, condition, or provision of this Deed of Trust be deemed or held to be invalid or unenforceable for any reason, those remaining terms, conditions and provisions shall remain valid and enforceable. Should a court of law determine that any term, condition or provision of this Deed of Trust is invalid or unenforceable, but that by limiting such term, condition or provision it would become valid and enforceable, then such term, condition and/or provision shall be deemed to be written, construed and enforced as so limited.

#### ***JOINT SIGNATURES***

Should there be more than one Borrower or legal entity, each Entity or Borrower who signs this Deed of Trust shall then be jointly and severally required to comply with all the herein contained duties, responsibilities and liabilities of the other Borrower.

#### ***STATUTORY PROVISIONS***

All provisions contained within this Deed of Trust are additional and supplemental to the extent permissible by law, and in conjunction with the provisions set forth in the Applicable Law with regards to trusts.

***SUBSTITUTE TRUSTEE***

The Lender shall reserve the right and shall have the option to appoint a Successor Trustee by such instrument that has been executed and acknowledged by said Lender, and that said instrument shall be recorded within the Office of the Recorder of the County in which said Property is located. Said instrument shall contain the name of the original Lender, Trustee and Borrower, the book and page number as to where this Instrument is recorded, and the name and address of the Successor Trustee. The herein name Successor Trustee shall assume and take on all power, authority, duties and title, without conveyance of said Property, of the Trustee herein and by applicable law. The procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.

***NOTICE***

Except for any notice required under applicable law to be given in another manner, any and all legal notices provided by either party that are in connection with this Trust, must be done so in writing, and said notice shall be considered satisfactorily delivered when it has been mailed by way of first class or certified mail to the herein provided or otherwise provided address of the recipient. The recipient's address shall be the Property address as stated and contained herein this Trust, unless another separate address has been designated. If any change of address has been instituted by any party to this Trust, then that party must immediately notify all concerned parties under this Trust of said change of address. Said change of address shall be considered effective as of the date that such notice was sent, unless said date falls on a national holiday, Saturday or Sunday, in which case, the next business day shall be considered as the day of receipt.

***IN WITNESS WHEREOF*** this Deed of Trust has been executed by the Borrower in the manner prescribed by law as of \_\_\_\_\_ as stated above.

\_\_\_\_\_  
(Borrower Signature)

**NOTARY ACKNOWLEDGEMNT**

STATE OF \_\_\_\_\_

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\_\_\_\_\_ **JUDICIAL DISTRICT**

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***THIS IS TO CERTIFY THAT*** on \_\_\_\_\_, before me, \_\_\_\_\_, the undersigned Notary Public in and for the State of \_\_\_\_\_, duly commissioned and sworn as such, personally appeared who acknowledged to me that s/he/they executed the within and foregoing instrument, as a voluntary act and deed, for the uses and purposes therein mentioned.

***WITNESS*** my hand and official seal the day and year herein and above written.

\_\_\_\_\_  
(Notary Public Signature)

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

# PROMISSORY NOTE

Promissory Amount: \_\_\_\_\_

Dated: \_\_\_\_\_

For the value received, the undersigned \_\_\_\_\_, hereinafter referred to as the "Borrower," residing at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, promises to pay to \_\_\_\_\_, hereinafter referred to as the "Lender," located at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, the principal sum of \_\_\_\_\_ together with annual interest rate percentage of \_\_\_\_\_ from the date hereof until the sum owed is paid in full, as hereinafter provided and upon the following terms and conditions.

## **PAYMENT OF PRINCIPAL AND INTEREST**

Borrower fully acknowledges and thus agrees to promptly pay the principal and interest indebtedness evidenced in this Note and late charges as provided in this Note.

In return for the loan that Borrower has received, Borrower promises to pay \_\_\_\_\_ (the amount will be called "Principal Amount"), plus interest, to the order of the Lender. Borrower understands that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note will be called the "Note Holder".

- a) Borrower will pay interest at a yearly rate of \_\_\_\_\_ percent (the "Interest Rate"). Interest will be charged on unpaid principal until the full amount of principal has been paid.
- b) Borrower will pay consecutive monthly installment payments for principal and interest in the amount of \_\_\_\_\_.
- c) Borrower will shall make my payments on the \_\_\_\_\_ day of each month.
- d) Borrower will make these principal and interest payments, and any other charges described below, every month until Borrower has paid all of the principal and interest and any other charges, described below, that Borrower owes under this Note. If, on \_\_\_\_\_, Borrower still owes amounts under this Note, Borrower will pay all those amounts, in full, on that date.
- e) Any Principal Amount and/or any interest balance due, or any other money owed under or with regards to this Promissory Note shall become due and payable as of the loan maturity date of \_\_\_\_\_.

### **REMIT PAYMENT**

Any and all payments made by the Borrower to the Note Holder with regards to this Promissory Note shall be made payable to \_\_\_\_\_ and mailed to \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, or any other address designated by the Note Holder at any future date.

### **THIS NOTE SECURED BY DEED OF TRUST**

In addition to the protections given to the Note Holder under this Note, a Deed of Trust, dated \_\_\_\_\_, protects the Note Holder from possible losses which might result if Borrower does not keep the promises made under this Note. The Deed of Trust describes how and under what conditions Borrower may be required to make immediate payment in full of all amounts Borrower owes under this Note.

### **BREACH OF PROMISSORY NOTE**

The aforementioned parties acknowledge that no breach of any provision of the Promissory Note shall be deemed waived unless evidenced in writing. A waiver of any one breach shall not be deemed as a waiver of any other breach of the same or any other provision of the Promissory Note.

This note may be accelerated and demand for immediate full payment can be made by the Note Holder upon breach of any condition of this Promissory Note. In the event of any default, the Borrower shall be responsible for any cost of collection, including, but not limited to, filing fees and attorney's fees.

The occurrence of any of the following events shall be deemed as a default of this agreement, and as such shall cause this Promissory Note to become due immediately, without any written or oral demand notice: (i) Failure of the Borrower to make scheduled payments when due; (ii) Death of the Borrower or Note Holder; (iii) Filing of any bankruptcy proceedings that would involve or include the Borrower as the debtor; (iv) Insolvency of the Borrower; and (v) Any misrepresentation on the part of the Borrower to the Note Holder with the intention or purpose of obtaining or extending credit.

### **GUARANTEED DEBT**

\_\_\_\_\_ agree(s) that the Guaranteed Debt shall consist of all amounts owed by Borrower under this Promissory Note, including, but not limited to: (i) the Principal amount; (ii) Note Interest; (iii) Default Interest; (iv) Late Charges, (v) Insufficient Funds Charges; (vi) amounts owed as a consequence of a declared Event of Default and acceleration by Note Holder; and (vii) Note Holder's other costs and expenses of enforcing the Promissory Note including, but not limited to, attorneys' fees, and the costs of any arbitration proceeding to enforce the Note against Borrower.

### **CONTINUING GUARANTY**

This Guaranty is a continuing and irrevocable guaranty of the Guaranteed Debt and shall remain in full force and effect until the Guaranteed Debt and any other services or amounts payable under this Guaranty, is paid in full. This Guaranty shall continue to be effective, or be reinstated, as if

such payment or services had not been made, if at any time any payment or services of any portion of the Guaranteed Debt is rescinded or must be restored or returned by Note Holder to Borrower upon the insolvency or bankruptcy of the Borrower or otherwise, this Guaranty shall: (i) bind Borrower and Borrower's executors, administrators, successors and assigns, guarantors, provided that the Borrower may not assign rights or obligations under this Guaranty without Note Holder's prior written consent; and (ii) inure to the benefit of Note Holder and its successors and assigns.

### **NOTICE**

Any notice that must be given to Borrower under this Note will be given by delivering it or by mailing it by certified mail addressed to Borrower at the Property Address above. A notice will be delivered or mailed to Borrower at a different address if Borrower gives the Note Holder a notice of change of address. Any notice that must be given to the Note Holder under this Note will be given by mailing by certified mail to the Note Holder at the Note Holder's address, as stated above. If Note Holder provides a different address, than the address listed above, Borrower must give the Note Holder notice at that address.

### **MODIFICATION**

No modification or waiver of any of the terms of the Agreement shall be allowed unless by written agreement signed by both parties. No waiver of any breach or default hereunder shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

### **GOVERNING LAW**

This Note shall be construed in accordance with and governed by the laws of the State of \_\_\_\_\_.

### **SUCCESSORS**

The terms and conditions of this Promissory Note shall inure to the benefit of and shall be binding and severally upon the successors, assigns, heirs, survivors and personal representatives of the Borrower and Note Holder and shall inure to the benefit of any Note Holder, legal representatives, successors and assigns.

### **SEVERABILITY**

In the event that any provision, clause, sentence, section or other part of this Promissory Note is held to be invalid, illegal, inapplicable, unconstitutional, contrary to public policy, void or unenforceable in law to any person or circumstance, Borrower and Note Holder intend that the balance of this Promissory Note shall nevertheless remain in full force and effect so long as the purpose of this Promissory Note is not affected in any manner adverse to either party.

### **AMENDMENT OF PROMISSORY NOTE**

This Promissory Note may be amended or modified only by way of written agreement duly executed by the Note Holder and Borrower of this Promissory Note.

### **RESPONSIBILITY OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each is fully and personally obligated to pay the full amount owed and to keep all of the promises made in this Note. Any guarantor, surety, or endorser of this Note is also obligated to do these things. The Note Holder may enforce its rights under this Note against each Borrower, Guarantor, Covenantor, and/or Cosigner against each individually or together. This means that any one person/entity may be required to pay all of the amounts owed

under this note. Any person who takes over Borrower's rights or obligations under this Note will have all Borrowers' rights and must keep all promises made under this Note. Any person who takes over all rights or obligations of a guarantor, surety, or endorser of this Note is also obligated to keep all of the promises made in this Note.

**SIGNATURES:**

\_\_\_\_\_  
(Signature of Lender) \_\_\_\_\_  
\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature of Borrower) \_\_\_\_\_  
\_\_\_\_\_  
(Date)