

When Recorded Return to:

**SECOND MORTGAGE**

Closing Date: _____, 20____	Parish Where Subject Real Property is located: _____ Parish, Louisiana
Borrower (Name, Mailing Address and Zip Code): Name(s): _____ Address: _____ City, Louisiana, State, Zip: _____	Lender (Name, Mailing Address and Zip Code): _____ _____ _____  Note: the foregoing entities are collectively referred to herein as "Lender"

Obligation Secured:

Second Mortgage Note dated: \_\_\_\_\_, 20\_\_\_\_ (closing date) executed by the Borrower

Amount: \$ \_\_\_\_\_ (\$ \_\_\_\_\_)  
(Spell Out Amount)

Subject Real Property (Address or Location):

Property Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Subject Real Property (Legal Description copied from the preliminary Title Report, use Exhibit A if necessary):

**1. Conveyance.** Borrower irrevocably grants and conveys to Lender a mortgage on the Subject Real Property (hereinafter referred to as the “Property”), subject to covenants, conditions, restrictions, rights of way and easements of record, to be held as security for the payment by Borrower of the Obligation Secured as described in that certain Second Mortgage Note (hereinafter referred to as the “Note”) of even date herewith and any other documents memorializing the Obligation Secured and for the performance of other obligations of Borrower as set forth in this Second Mortgage (hereinafter referred to as this “Mortgage”).

**2. Appurtenances.** Borrower grants, together with the Property, all buildings and improvements now or hereafter erected thereon, and all fixtures attached to or used in connection with the Property (including, without limiting the generality of the foregoing, all ventilating, heating, air conditioning, refrigeration, plumbing and lighting fixtures), together with all leases, rents, issues, profits or income there from (hereinafter “Property Income”), subject however, to the right, power and authority hereinafter given to Lender to collect and apply such Property Income.

**3. Taxes and Assessments.** Borrower shall pay before delinquent taxes and assessments or any liens or encumbrances affecting the Property or any part thereof, which appear to be prior or superior hereto.

**4. Hazard Insurance.** Borrower shall, at Borrower’s expense, keep the improvements now existing or hereafter erected on the Property insured against loss by fire, wind, and such other hazards as Lender may require in any amount not less than full replacement cost of any improvements which may exist on the Property as established by the property insurer. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums upon request.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage. With the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within thirty (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 of the Property or to the sums secured by this Mortgage.

**5. Liability Insurance.** Borrower shall, at Borrower’s expense, maintain in force policies of liability insurance, with Lender as an additional insured thereunder, insuring Borrower against any claims resulting

from the injury to or the death of any person or the damage to or the destruction of any property belonging to any person by reason of Lender's interest hereunder or the use and occupancy of the Property by Borrower.

**6. Processing of Insurance Policies.** Borrower shall promptly deliver to Lender upon request the originals or true and exact copies of all insurance policies required by this Mortgage. Borrower shall not do or omit to do any act that will in any way impair or invalidate any insurance policy required by this Mortgage. All insurance policies shall contain a written obligation of the insurer to notify Lender in writing at least 10 days prior to any cancellation thereof.

**7. Indemnification of Lender.** Borrower shall hold Lender harmless from and indemnify Lender for, from and against any and all claims raised by any third party against Lender resulting from its interests hereunder or the acts of Borrower. Such indemnification shall include reasonable attorney's fees and costs, including cost of evidence of title.

**8. Right of Lender to Pay Obligations of Borrower.** If Borrower fails or refuses to pay any sums due to be paid by it under the provisions of this Mortgage, or fails or refuses to take any action as herein provided, then Lender shall have the right to pay any such sum due to be paid by Borrower and to perform any act necessary. The amount of such sums paid by Lender for the account of Borrower and the cost of any such action, together with interest thereon at the legal rate, from the date of payment until the satisfaction, shall be added to the Obligation Secured. The payment of Lender of any such sums or the performance of any such action shall be prima facie evidence of the necessity therefor.

**9. Condemnation.** Any award of damages in connection with any condemnation or injury to any of the Property by reason of public use or for damages for private trespass or injury thereto, are assigned in full and shall be paid to Lender, who shall apply them to payment of the principal of the Obligation Secured and any other charges or amounts secured hereby in such manner as Lender may elect.

Any remaining balance shall be paid to Borrower. Lender may, at Lender's option, appeal from any such award in the name of Borrower.

**10. Care of Property.** Borrower shall take reasonable care of the Property and the buildings thereon and shall maintain them in good repair and condition as at the original date of this Mortgage, ordinary depreciation excepted. If Borrower shall commit or permit waste on the Property or do any act which will unduly impair or depreciate the value of the Property, then Lender, at its option, may make necessary repairs and add the cost thereof to the Obligation Secured.

**11. Right to Inspect Property.** At all convenient and reasonable times, upon prior notice to Borrower, Lender shall have the right and license to go on and into the Property to inspect it in order to determine whether the provisions of this Mortgage are being kept and performed.

**12. Event of Default.** Each of the following shall be considered an event of default under this Mortgage:

- a. The failure of Borrower to perform any duty required by this Mortgage or the Obligation Secured;
- b. The removal or attempted removal by Borrower of any property included in the Property without the consent of Lender;
- c. The abandonment of the Property by Borrower;
- d. Fraud or material misrepresentation by Borrower in obtaining the Obligation Secured or related to Borrower's fulfillment of Borrower's obligations under the Obligation Secured or this Mortgage;

- e. Failure of Borrower to reside in the Property; and
- f. To the extent permitted by applicable law, the filing, execution or occurrence of:
  - 1. A petition in bankruptcy by or against Borrower.
  - 2. A petition or answer seeking a reorganization, composition, readjustment, liquidation, dissolution or other relief of the same or different kind under any provision of the Bankruptcy Act.
  - 3. Adjudication of Borrower as a bankrupt or insolvent, or insolvency in the bankruptcy equity sense.
  - 4. An assignment by Borrower for the benefit of creditors, whether by trust, mortgage or otherwise.
  - 5. A petition or other proceedings by or against Borrower for the appointment of a trustee, receiver, guardian, conservator or liquidator of Borrower with respect to all or substantially all of its property.
  - 6. The taking of possession of Borrower's property by any governmental authority.
  - 7. A default on a prior encumbrance as described in Section 17.

**13. Remedies; Payment of Expenses.** If an event of default occurs as set forth in Section 12, Lender may take any one or more of the following actions:

- a. declare all sums secured hereby immediately due and payable in full without further demand;
- b. foreclose this Mortgage by judicial proceedings either in one parcel or separate lots and parcels, all in accordance with in the manner prescribed by law; and
- c. without notice or demand, institute suit or take any other action at law or in equity to enforce the rights of the Lender to the extent permitted by law, including, to the extent so permitted, the enforcement of the payment of the Note or performance of the Borrower's obligations hereunder, by action at law or by suit in equity, or both, concurrently or otherwise. No remedy conferred upon or reserved to Lender herein or in any other document or instrument evidencing, securing or otherwise relating to the Note is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every remedy given to Lender or now or hereafter existing at law or in equity or by statute.

Borrower agrees to pay all fees, charges, costs and expenses incurred by Lender in pursuing the remedies provided by this Section, including, but not limited to, fees and expenses relating to the examination of title to the Property, recording, documentary, transfer, registration or similar fees or taxes, and attorneys' fees.

**14. Confession of Judgment.** For purposes of foreclosure under Louisiana executory process procedures, I confess judgment and acknowledge to be indebted to Lender up to the full amount of the Indebtedness, in principal, interest, costs, expenses, attorneys' fees and other fees and charges, and in the amount of all Additional Advances that Lender may have advanced on my behalf as provided under this Mortgage, together with interest thereon. The Borrower further agrees that in the event any proceedings are taken under this mortgage by way of executory process or otherwise, any and all declarations of the facts made

by authentic act before a notary public and in the presence of two witnesses by a person declaring that such facts lie within his knowledge, shall constitute authentic evidence of such facts for the purposes of executory process.

**15. Waivers.** To the extent permitted under applicable Louisiana law, I am waiving: (a) the benefit of appraisal as provided in Articles 2332, 2336, 2723, and 2724 of the Louisiana Code of Civil Procedure, and all other laws with regard to appraisal upon judicial sale; (b) the demand and three (3) days' delay as provided under Articles 2639 and 2721 of the Louisiana Code of Civil Procedure; (c) the notice of seizure as provided under Articles 2293 and 2721 of the Louisiana Code of Civil Procedure; (d) the three (3) days' delay provided under Articles 2331 and 2722 of the Louisiana Code of Civil Procedure; and (e) all other benefits provided under Articles 2331, 2722 and 2723 of the Louisiana Code of Civil Procedure and all other Articles not specifically mentioned above. I further agree that any declaration of fact made by authentic act before a Notary Public and two witnesses, by a person declaring that such facts are within his or her knowledge, shall constitute authentic evidence of such facts for purposes of foreclosure under applicable Louisiana law and for purposes of La. R. S. 9:3504(D)(6), where applicable.

**16. Additional Waivers.** In granting this Mortgage, I am waiving any homestead and other exemptions from seizure with regard to the mortgaged Property to which I may be entitled under the laws of the State of Louisiana (the "State"). I am also waiving the production of Mortgage, Conveyance and any and all other Certificates and relieve and release the Notary Public before whom this Mortgage was passed from all responsibility and liability in connection therewith.

**17. Defaults on Prior Encumbrances.** If there are mortgages upon the Property or other encumbrances which are prior in time or prior in right, then Borrower promises to comply with the terms of these prior mortgages or encumbrances. If Borrower fails to comply with such terms and defaults on these mortgages or obligations, such default shall also be considered a default of this Mortgage, and Lender herein may advance the monies necessary to remedy such defaults, and, if it does, such monies shall be added to the Obligation Secured and shall bear interest at the legal rate from the date monies are tendered. Lender may also proceed on this default by exercising the same remedies it has on this Mortgage.

**18. Assignment of Property Income.** As additional security, Borrower hereby gives Lender the right, power and authority during the continuance of this Mortgage, to collect the Property income.

Upon any such default, to the extent permitted by applicable law, Lender may at any time, without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof; in its own name sue for or otherwise collect such property income, including that past due and unpaid; and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby; and in such order as Lender may determine. The entering upon and taking possession of the Property, the collection of such property income and the application thereof, shall not cure or waive any default or notice of Lender's sale hereunder or invalidate any act done pursuant to such notice.

**19. Acts of Lender Affecting Property.** Lender may, at any time, without notice and without liability, release and reconvey all or any part of the Property; consent to the making and/or recording of any map or plat of all or any part of the Property; join in granting any easement on the Property; or join in or consent to any extension agreement or any agreement subordinating the lien, encumbrance or charge of this Mortgage. Any such action by Lender may be taken without affecting the personal liability of any person liable for payment of the Obligation Secured, without affecting the security hereof for the full amount secured hereby on all property remaining subject hereto, and without the necessity that any sum representing the value or any portion thereof of the property affected by Lender's action be credited to the indebtedness.

**20. Satisfaction of the Obligation Secured.** On the Maturity Date of the Note, the Lender shall deliver the original of said Note to Borrower so that Borrower may cancel this Second Mortgage at Borrower's expense.

**21. Notices.** Copies of all notices and communication concerning this Mortgage shall be mailed to the parties at the addresses specified in this Mortgage, and any change of address shall be communicated to the other party in writing. Any documents which may adversely affect the rights of any party to this Mortgage shall be mailed by certified mail, return receipt requested.

**22. Headings.** The marginal or topical headings of the provisions herein are for convenience only and do not define, limit or construe the contents of these provisions.

**23. Interpretation.** In this Mortgage, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural and vice versa.

**24. Applicable Law.** This Mortgage shall be subject to and governed by the laws of the State of Louisiana and the laws of the local jurisdiction in which the Property is located, regardless of the fact that one or more parties is now or may become a resident of a different state.

**25. Waiver.** Any waiver by either party of a breach of any provision of this Mortgage shall not operate or be constructed as a waiver of any subsequent breach hereof.

**26. Succession of Benefits.** The provisions of this Mortgage shall inure to the benefit of and be binding upon the parties hereto, their heirs, personal representatives, conservators and permitted assigns.

**27. Successor Lender.** Lender may appoint a successor lender in the manner prescribed by applicable law. A successor lender herein shall, without conveyance from the predecessor Lender, succeed to all predecessors' title, estate, rights, powers and duties. Lender may resign by mailing or delivering notice thereof to Borrower.

**28. Entire Agreement.** The terms of this Mortgage and any attached addendum hereto executed this date constitutes the entire agreement among the parties, and the parties represent that there are no collateral or side agreements not otherwise provided for within the terms of this Mortgage.

**29. Time of Essence.** Time is of the essence in this Mortgage and every term, condition, covenant and provision hereof.

**30. Modification.** No other modification of this Mortgage shall be binding unless evidenced by an agreement in writing and signed by all parties.

**31. Partial Invalidity.** If any provision of this Mortgage is held to be invalid or unenforceable, all the remaining provisions shall nevertheless continue in full force and effect.

**32. DUE ON SALE OR TRANSFER. THE OUTSTANDING PRINCIPAL BALANCE OF THIS NOTE SHALL BE DUE AND PAYABLE IMMEDIATELY WITHOUT FURTHER NOTICE UPON SALE OR SALE, TRANSFER OR OTHER DISPOSITION OF ALL OF, OR ANY OWNERSHIP INTEREST IN, THE PROPERTY PRIOR TO THE MATURITY DATE OF THIS NOTE.**

**33. Indemnification of Lender.** Borrower shall indemnify Lender for, from and against any and all liability for the violation by Borrower of any Federal or state statute, law or regulation dealing with the environment. Borrower warrants that he or she will comply with those laws or regulations. Borrower warrants the Property does not contain any hazardous substance and that he or she indemnifies Lender

against any and all liability for hazardous waste disposal or cleanup. This warranty and indemnification shall survive any foreclosure of this Mortgage or the acceptance of a deed in lieu of foreclosure. Borrower shall promptly notify Lender of any suspected or alleged environmental violations during the term of the Obligation Secured.

**34. Prohibition on Assumptions.** Except where otherwise required or permitted by Lender or applicable law in connection with a transfer on death, divorce, legal separation, or legal incapacity of a Borrower, this Mortgage may not be assumed.

**35. Subordination.**

- a. Notwithstanding any provision of this Mortgage to the contrary, Lender and Borrower acknowledge and agree that this Mortgage is subject and subordinate in all respects to the liens, terms, covenants and conditions of the first mortgage loan relating to the Property, including the recorded mortgage constituting a first mortgage lien on the Property granted contemporaneously herewith (the "First Mortgage") and to all advances heretofore made or which may hereafter be made pursuant to the First Mortgage, including all sums advanced for the purpose of (a) protecting or further securing the lien of the First Mortgage or (b) constructing, renovating, repairing, furnishing, fixturing or equipping the Property.
- b. The terms and provisions of the First Mortgage are paramount and controlling, and they supersede any terms and provisions of this Mortgage in conflict therewith.
- c. In the event of a judicial foreclosure or deed in lieu of foreclosure of the First Mortgage, any provisions herein or any provisions in any collateral agreement restricting the use of the Property or otherwise restricting Borrower's ability to sell the Property shall have no further force or effect on subsequent owners or purchasers of the Property. Any person, including Borrower's successors or assigns (other than Borrower or a person or entity related to Borrower), receiving title to the Property through judicial foreclosure or deed in lieu of foreclosure of the First Mortgage shall receive title to the Property free and clear from such restrictions.
- d. Further, if the senior lien holder acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of this Mortgage shall automatically terminate upon the senior lien holder's acquisition of title, provided that Lender has been given written notice of a default under the First Mortgage.
- e. The lien created by this Mortgage will be released upon judicial foreclosure, transfer of deed in lieu of foreclosure, assignment to HUD or market sale.

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THUS DONE AND PASSED on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public, qualified in the State of Louisiana and \_\_\_\_\_ Parish, and in the presence of the undersigned competent witnesses who have signed with Lender, Borrower and me, Notary, after due reading of the whole.

WITNESSES:

\_\_\_\_\_  
Borrower:

\_\_\_\_\_  
Co-Borrower:

\_\_\_\_\_  
Co-Borrower:

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NOTARY PUBLIC

In and for \_\_\_\_\_ Parish and the State of Louisiana