

SECURED PROMISSORY NOTE

1/1/18

\$10,000.00

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, to induce John Doh (“**Lender**”) to fund the loan evidenced by the issuance of this promissory note (the “**Note**”), ABC Company, LLC (“**Borrower**”) agrees as follows:

1. **Obligation to Pay.** For value received, Borrower promises to pay Lender, or order, in lawful money of the United States of America, the principal sum of 10 thousand dollars and zero cents. \$10,000.00, plus interest as set forth in Section 2, all in accordance with the terms and conditions as set forth herein.
2. **Interest.** All sums from time to time owing hereon shall bear interest from the date hereof at the rate of ten percent (10%) per annum. Interest accruing under this Note will be computed on basis of a 360 day year.
3. **Payments.** Borrower shall not be required to make monthly payments under this Note. The entire principal balance then unpaid and any accrued interest shall be due and payable in full on the earlier of (i) 6/11/19 or (ii) the day on which the Borrower sells or refinances that certain real property generally located at 123 Main St, Somewhere USA, 12345 (the “**Property**”).
4. **Prepayment.** The principal balance owing under this Note or any portion of the principal balance owing under this Note may be prepaid without penalty at any time.
5. **Security.** This Note and sums evidenced hereby are secured by a Deed of Trust dated as of the same date as this Note (“**Deed of Trust**”), executed and delivered by Borrower to Lender. Borrower agrees to perform and comply with all of the agreements, terms and conditions contained in the Deed of Trust.
6. **Event of Default.** The occurrence of any of the following will constitute an event of default (each an “**Event of Default**”) under this Note:
 - a. Any event of default under this Note or the Deed of Trust that is not fully cured following any applicable notice and/or prior to the expiration of any applicable grace or cure period;
 - b. Any failure by Borrower to duly and punctually pay when and as due any payment for taxes and assessments required to be paid or shall fail to provide the insurance coverage for the Property, and such failure shall continue for ten (10) days following written notice from Lender specifying such failure;
 - c. Borrower or sole of the Borrower dies, Borrower becomes insolvent or Borrower is dissolved;
 - d. Borrower shall make an assignment for the benefit of its respective creditors, or the Borrower shall generally not be paying its debts as they become due, or a petition shall be filed by or against the Borrower under the United States Bankruptcy Code, or the Borrower shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of a material part of its properties or of all or any part of the Property or shall not, within sixty (60) days after the appointment (without its consent or acquiescence) of a trustee, receiver or liquidator of any material part of its properties or of the Property, have such appointment vacated;
 - e. A judgment, writ or warrant of attachment or execution, or similar process shall be entered and become a lien on, issued or levied against, any Property or any part thereof and shall not be released, vacated or fully bonded within thirty (30) days after its entry, issue or levy;
 - f. Property is sold, transferred or assigned without the Lender being paid in full or otherwise agreeing to such sale, transfer or assign in writing in advance; or

g. Any proceeding is commenced against the Borrower or the Property by any other creditor or lienholder or any city, county, state or federal governmental body that jeopardizes Lender's lien against the Property, could result in the Property being taken, foreclosed upon, forfeited, repossessed or causes Lender to believe itself to be insecure as a result of such action.

7. **Lender's Remedies upon Default; Acceleration.** Upon the occurrence of an Event of Default:

- a. Interest on the Loan will accrue at the Default Rate (as defined below);
- b. Lender may declare the indebtedness immediately due and payable; and
- c. Lender may pursue any and all remedies provided for hereunder and in the Note or otherwise available at law or in equity.

8. **Default Rate.** In the event of an Event of Default, all sums owing under this Note shall bear interest from the date of such default at the lesser of (i) fifteen percent (15%) per annum or (ii) the highest rate permitted by law ("**Default Rate**").

9. **Commercial Purpose.** Borrower represents that this Note is being incurred by Borrower solely for the purpose of carrying on a business or commercial enterprise, and not for personal, family or household purposes. Borrower agrees that the indebtedness evidenced by this Note is an exempted transaction under the Truth in Lending Act, 15 U.S.C. § 1601, *et. seq*

10. **Usury Savings Clause.** Anything in this Note to the contrary notwithstanding, no provision contained in this Note which purports to obligate the Borrower to pay any amount of interest or any fees, costs or expenses which are in excess of the maximum permitted by applicable law, shall be effective to the extent it calls for the payment of any interest or other amount in excess of such maximum. If interest would otherwise be payable to Lender in excess of the maximum lawful amount, the interest payable to Lender shall be reduced to the maximum amount permitted under applicable law. If Lender receives anything of value to deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall, at the option of Lender, be refunded to Borrower or be applied to the reduction of the amount owed under this Note, as if a regular payment were made or, if such excessive interest exceeds the amounts owing under this Note, such excess shall be refunded to Borrower.

11. **Notices.** Any notice required to be given shall be given to the place stated above unless the party has given written notice of another place for giving of notice. Any notice given by mail shall be deemed given three (3) business days after deposit of the notice into the United States Mail with first class postage affixed thereto. Any notice given by facsimile transmission shall be deemed received on the following business day. Any notice given by any method that requires a delivery confirmation shall be deemed given on the date of confirmed delivery. Confirmation of delivery shall be sufficient; no confirmation of receipt shall be required.

12. **Application of Payments.** All payments under this Note will be applied first, to the payment of late fees and other costs and charges due in connection with this Note, then to the payment of accrued but unpaid interest, and then to reduction of the outstanding principal balance.

13. **Severability.** If for any reason any provision of this Note is determined by a tribunal of competent jurisdiction to be legally invalid or unenforceable, the validity of the remainder of this Note will not be affected and such provision will be deemed modified to the minimum extent necessary to make such provision consistent with applicable law and, in its modified form, such provision will then be enforceable and enforced.

14. **Counting of Days; Time of Essence.** Except where otherwise specifically provided, any reference in this Note to a period of "days" means calendar days, not business days. Time is of the essence with respect to all provisions of this Note.

15. Negotiable Instrument; No Partnership. Borrower agrees that this Note is a negotiable instrument. Borrower acknowledges that Lender will not be construed for any purpose to be a partner, joint venturer, agent or associate of Borrower or of any lessee, operator, concessionaire or licensee of Borrower in the conduct of its business. By execution of this Note, Borrower agrees to indemnify, defend and hold Lender harmless from and against any and all damages, costs, expenses and liability that may be incurred by Lender as a result of a claim that Lender is such a partner, joint venturer, agent or associate.

16. Assignment. Lender has the absolute right to sell transfer or assign this Note. Borrower may not transfer or assign the loan or indebtedness represented by this Note by operation of law or otherwise to any other entity, without the prior written consent of Lender, which consent may be withheld by Lender in its sole and absolute discretion.

17. Governing Law; Consent to Jurisdiction and Venue. Lender and Borrower specifically acknowledge and agree that this Note and its interpretation and enforcement are governed by the laws of the state of Arizona. Furthermore, each of Lender and Borrower irrevocably (i) submits to the jurisdiction of any court of the state of Arizona located in Maricopa County for the purpose of any suit, action or other proceeding arising out of this Note (each, a “**Proceeding**”), (ii) agrees that all claims in respect of any Proceeding may be heard and determined in any such court, (iii) waives, to the fullest extent permitted by law, any immunity from jurisdiction of any such court or from any legal process therein, (iv) agrees not to commence any Proceeding other than in such courts and (v) waives, to the fullest extent permitted by law, any claim that such Proceeding is brought in an inconvenient forum.

18. Successors in Interest. This Note is binding upon and enforceable against the Borrower and its successors and assigns. This Note will inure to the benefit of Lender and may be enforced by Lender and its successors and assigns

19. WAIVER OF TRIAL BY JURY. THE BORROWER AND LENDER EACH HAVING BEEN REPRESENTED BY COMPETENT COUNSEL EACH (I) AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS NOTE, THE SECURITY INSTRUMENT, THE RELATED LOAN DOCUMENTS OR ANY RELATED DOCUMENT OR THE RELATIONSHIP BETWEEN THE PARTIES AS LENDER AND BORROWER THAT IS TRIABLE OF RIGHT BY A JURY AND (II) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

20. Miscellaneous. From time to time, without affecting the obligation of the undersigned or the successors or assigns of the undersigned to pay the outstanding principal balance of this Note and observe the covenants of the undersigned contained herein, without affecting the guaranty of any person, corporation, partnership or other entity for payment of the outstanding principal balance of this Note, without giving notice to or obtaining the consent of the undersigned, the successors or assigns of the undersigned or guarantors, and without liability on the part of the holder hereof, the holder hereof may, at the option of the holder hereof, extend the time for payment of said outstanding principal balance or any part thereof, reduce the payments thereon, release anyone liable on any of said outstanding principal balance, accept a renewal of this Note, modify the terms and time of payment of said outstanding principal balance, join in any extension or subordination agreement, release any security given heretofore, take or release other or additional security, and agree in writing with the undersigned to modify the rate of interest or period of amortization of this Note or change the amount of the monthly installments payable hereunder.

[Signature page follows]

**SIGNATURE PAGE
TO
SECURED PROMISSORY NOTE**

The undersigned Borrower has duly executed this Note effective as of the date and year first written above.

BORROWER:

ABC Company, LLC

By: _____

Name: Betty Smith _____

Title: Manager _____

LENDER:

John Doh

Signature: _____

Name: John Doh _____