**Indenture of Second Mortgage**

**THIS INDENTURE OF** **SECOND** **MORTGAGE** executed at \_\_\_\_\_\_\_ this \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_ 200\_\_ between M/S. ABC LTD., a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereinafter referred to as **“THE MORTGAGOR”** (which expression shall unless it be repugnant to the context or meaning thereof mean and include its successors and assigns) of the **ONE PART**; AND P Q R of \_\_\_\_\_\_\_, Indian Inhabitant, having his address at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (which expression shall unless it be repugnant to the context or meaning thereof be deemed to mean and include his heirs, executors and administrators) hereinafter referred to as **“THE MORTGAGEE”** of the OTHER PART;

WHEREAS:

(a) The Mortgagor is the Owner of and well and sufficiently seized and possessed of the property more particularly described in the Schedule hereunder written (hereinafter referred to as **“the said property”**).

(b) The Mortgagor was in need of finance and has borrowed a sum of Rs. 20,00,000/- (Rupees twenty laks only) from one XYZ against the security of the said property by way of Mortgage for repayment of the principal and interest thereof. By an Indenture of Mortgage dated \_\_\_\_\_\_\_ registered with sub-Registrar of Assurances at Mumbai under No. \_\_\_\_\_\_\_\_\_, the Mortgagor herein has mortgaged the said property in favour of the said XYZ on the terms and conditions appearing therein (hereinafter referred to as **“the First Mortgagee”)**.

(c) As on date a sum of Rs. 5,00,000/- (Rupees five laks only) being the principal amount and interest thereof is due and payable by the Mortgagor to the said XYZ.

(d) The Mortgagor has requested the Mortgagee to advance to the Mortgagor a sum of Rs. 5,00,000/- (Rupees five laks only) on the security of the said property and subject to the aforesaid First mortgage.

(e) The Mortgagee has agreed to lend to the Mortgagor the said sum of Rs. 5,00,000/- on the repayment thereof with interest being secured to him by the Second Mortgage on the said property in the manner hereinafter expressed.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of Rs. 5,00,000/- now paid to the Mortgagor by the said Mortgagee (the receipt whereof the Mortgagor doth hereby acknowledge and of and from the same doth hereby release and discharge the Mortgagee), the Mortgagor doth hereby subject to the **FIRST MORTGAGE** referred hereinabove grant release convey and assure unto the Mortgagee the said property more particularly described in the schedule hereunder written with all and singular the buildings, courts, compounds, yards, areas, ways, paths, passages, commons, gullies, sewers, drains, trees, plants, shrubs, wells, waters, water-courses, lights, liberties, privileges, easements, advantages and appurtenances, whatsoever to the said property or any part thereof belonging or in anywise appertain or usually held or enjoyed or occupied therewith or reputed to belong or be appurtenant thereto AND ALL the estate, right, title, interest, claim and demand whatsoever of the Mortgagor in to and upon the said property and every part thereof TO HAVE AND TO HOLD the said property hereby granted unto and to the use of the Mortgagee subject to the proviso for redemption next hereinafter contained and subject to the First Mortgage mentioned herein.

The Mortgagor doth hereby covenant with the Mortgagee as under:—

(i) They shall re-pay the said amount of Rs. 5,00,000/- together with interest thereof @ 1.25 percent per month with monthly rest (payable monthly along with the principal amount) by equal 12 monthly installments, the first of such payments shall be made on the \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_ and the subsequent installments shall be made on or before 10th day of each and every succeeding month.

(ii) If any payment of interest is not made on the due date (whether or not demanded) it shall be added to the principal sum and compounded accordingly and for all intents and purposes shall be chargeable upon the mortgaged property herein, however, this provision shall not in any way permit the MORTGAGOR to allow any interest to fall in arrears.

PROVIDED always that if the Mortgagor shall pay to the Mortgagee the sum of Rs. 5,00,000/- (Rupees five laks only) on
the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 200\_\_\_ with the agreed rate of interest and in the foretasted manner and also all other moneys by law or under these presents payable by the Mortgagor to the Mortgagee (hereinafter collectively referred to as **“the Mortgage debt”)** then and in such case the Mortgagee shall at the requests, costs, charges and expenses of the Mortgagor re-convey the said property unto and to the use of the Mortgagor and in the meantime and until any default shall have been made by the Mortgagor, the Mortgagor shall remain in the possession or receipt of the rents and profits of the said property and if the Mortgagor shall fail to pay to the Mortgagee on the due date the Mortgage debt then the said property hereby granted shall not be redeemable by the Mortgagor or any other person or persons interested in the equity of redemption thereof at any time thereafter and the Mortgagee shall be entitled to refuse to accept payment of the Mortgage debt unless the Mortgagor or such person or persons shall have given to the Mortgagee three months previous notice in writing making an appointment to pay off the Mortgage debt on any working day during banking hours and shall pay the same accordingly and in conformity with such notice on such appointed day or unless and in the alternative and in default or in lieu of such notice the Mortgagor or such person or persons shall pay to the Mortgagee in addition to the Mortgage debt and at the same time a further sum equivalent to three months’ interest on the Mortgage debt at the rate of 1.25 percent per month with monthly rest and every failure on the part of the Mortgagor or such person or persons to pay off the Mortgage debt strictly in accordance with such notice as aforesaid and on the day thereby appointed shall entitle the Mortgagee to a fresh notice of the same sort or in default thereof to three month’s further interest at the rate aforesaid.

**Agreed, Recorded and confirmed as under:**—

(a) The present Mortgage is the Second Mortgage subject to the First Mortgage recited above and shall not affect the rights, authorities and powers of the said X Y Z, being the Mortgagee under the First Mortgage.

(b) Upon the First Mortgage being satisfied, the Mortgagee herein will ipso facto step in the shoes of the Mortgagee under the First Mortgage with all the rights, authorities and powers of the First Mortgagee including power of appointment of Receiver and of sale without any further writing or consent from the Mortgagor as if the same were specifically granted hereunder and formed part hereof.

(c) The Mortgagor shall comply with all their obligations, restrictions and covenants as recorded in the First Mortgage until the entire Mortgage debt under the Second Mortgage is paid in full as if the said obligations and covenants are conferred herein in favour of the present Mortgagee.

(d) That in the event of the First Mortgagee exercising his right of sale and realising his security, all surplus sale proceeds in his hands to the extent of mortgage debt hereunder shall be receivable by the Mortgagee herein towards satisfaction of the mortgage debt.

(e) That in the event of the default on the part of the Mortgagor and the Mortgagee herein being required to enforce and realize his security, subject to first payment there from of the First Mortgage, the Mortgagee herein shall be entitled to apply the surplus (after satisfying the First Mortgage) remaining towards the Mortgage debt herein and to pay over the remaining surplus, if any to the Mortgagor.

**THE SCHEDULE ABOVE REFERRED TO:**

*(Description of the said property)*

 IN WITNESS WHEREOF the parties hereto have executed these presents on the day and year find hereinabove written.

THE COMMON SEAL OF the )

ABC LTD., the MORTGAGOR above named )

is hereunto affixed pursuant to the )

Resolution of its Board of Directors )

passed in that behalf, on the \_\_\_\_\_\_ )

day of \_\_\_\_\_\_\_\_\_\_\_ 200\_\_\_ in the presence of )

(1) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Managing Director and )

(2) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Director and in )

the presence of:— )

SIGNED, SEALED AND DELIVERED by )

P Q R, the MORTGAGEE )

Above named, in the presence of: — )

**R E C E I P T**

RECEIVED the day and year first above written of and from the within named Mortgagee the sum of Rs. 5,00,000/- (Rupees five laks only) being the full consideration money as aforesaid in the following manner:—

Rs. 5,00,000/-

 I say Received

 (THE MORTGAGOR)