

PREPARED BY *Lori Blitcon*

Lori Blitcon  
RECORDING REQUESTED BY AND  
WHEN RECORDED, MAIL TO:

NOVUS Financial Corporation  
811 East 10th Street,  
Sioux Falls, SD 57103

Loan Number: 940-2-390-375583

**94026314**

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

APR 7 3 42 PM '94  
S. RECORDER

STATE OF INDIANA

<b>NOVUS FINANCIAL CORPORATION</b>	<b>INDIANA MORTGAGE</b>
------------------------------------	-------------------------

THIS Mortgage, is made

**March 30, 1994**

among the Mortgagor, (herein "Borrower")

**ALAN R. MARTISEK SR and ROSANN MARTISEK**

with the Property Vesting/Relationship of

**HUSBAND AND WIFE**

whose mailing address is

**9675 OAKRIDGE W DR  
ST JOHN, IN 46373**

and the Mortgagee (herein "Lender")

**NOVUS FINANCIAL CORPORATION  
2500 Lake Cook Road  
3S  
Riverwoods, IL 60015**

**AMOUNT SECURED: Twenty Thousand Eight Hundred and 91/100 Dollars (\$20,800.91).**

**THIS AGREEMENT IS A SECOND MORTGAGE.**

WHEREAS, Borrower is indebted to Lender in the principal sum of Twenty Thousand Eight Hundred and 91/100 Dollars (\$20,800.91), which indebtedness is evidenced by Borrower's note of even date herewith (herein "Note"), providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on March 30, 2004.

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower contained herein, Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County of LAKE, State of Indiana: (here describe)

**LOT 72, CANDLELIGHT TRAILS THIRD ADDITION TO THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, AS RECORDED IN PLAT BOOK 65, PAGE 37 IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.**

which has the address of:

**9675 OAKRIDGE W DR  
ST JOHN, IN 46373**

(herein "Property Address").

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are herein referred to as the "Property."

BORROWER covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, that the Property is unencumbered, except encumbrances of record disclosed to Lender in writing, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

**UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:**

**1. Payment of Principal and Interest.** Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, prepayment and late charges as provided in the Note.

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**2. Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraph 1 hereof shall be applied by Lender first to prepayment penalties; second to all costs of collection, including, but not limited to attorney's fees; then to interest payable on the Note; and then to the principal of the Note.

**3. Prior Mortgage or Deed of Trust.** If applicable, Borrower promises to perform all of Borrower's obligations under any mortgage, deed of trust, or other security instrument which has priority over this Mortgage or Deed of Trust ("Prior Encumbrance"), including Borrower's promise to make payments as and when due and payable. If Borrower fails to make said payments as and when due and payable, then Lender may, but is not obligated to, make said payments to the holder of any Prior Encumbrance. Any such sums so paid by Lender will be added to the outstanding principal balance secured hereunder and will accrue interest at the rate specified in the Note. Borrower shall not enter into any agreement with the holder of any Prior Encumbrance by which the Prior Encumbrance or the indebtedness secured by the Prior Encumbrance is modified, amended, extended, or renewed without the prior written consent of Lender. Borrower shall neither request nor accept any further advances under any Prior Encumbrance without the prior written consent of Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage and ground rents, if any, by Borrower making payment, when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this Mortgage (excluding the lien of any Prior Encumbrance); provided that Borrower shall not be required to discharge any such lien so long as Borrower shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

**5. Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and such other hazards as Lender may require and in such amounts and for such periods as Lender may require; provided that Lender shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage plus the full amount of any Prior Encumbrance on the Property.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid by Borrower when due, directly to the insurance carrier.

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. 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 after notice 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.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraph 1 hereof or change the amount of such installments. If all or part of the Property is damaged or destroyed by a third party and sums are due from the party or its insurer as a result whether due to judgment, settlement or other process, then those sums shall be applied in the same manner as insurance proceeds under this paragraph 5. If under paragraph 21 hereof the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to the proceeds thereof (to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition) resulting from damage to the Property prior to the sale or acquisition shall pass to Lender.

**6. Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** 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 Mortgage is on a leasehold. If this Mortgage is on a condominium unit, Borrower shall perform all of Borrower's obligations under the declaration of condominium or master deed, the bylaws and regulations of the condominium project and constituent documents.

**7. Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, arrangements or proceedings involving a bankrupt or decedent, then, Lender at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to disbursement of reasonable attorney's fees and entry upon the Property to make repairs.

Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate permissible under applicable law. Nothing contained in this paragraph 7 shall require Lender to incur any expense or to do any act hereunder.

**8. Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.

**9. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Borrower.

If the Property is abandoned by Borrower, or if after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within thirty (30) days of the date of such notice, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraph 1 hereof or change the amount of such installments.

**10. Borrower not Released.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage or release of any security for the obligations secured hereby, or any other amendment or modification of the Note or this Mortgage granted by Lender to Borrower or to any successor in interest of Borrower, shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against Borrower or such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage or release any security or make any amendment to or modification of the Note or this Mortgage by reason of any demand made by the original Borrower or Borrower's successor in interest.

**11. Forbearance by Lender not a Waiver.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver or preclude the exercise of any such right or remedy hereunder. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage.

**12. Remedies Cumulative.** All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

**13. Successors and Assigns Bound; Joint and Several Liability; Captions.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

**14. Notice.** Any notice to Borrower provided for in this Mortgage shall be given by mailing such notice by certified mail addressed to Borrower at the Property Address stated on the first page of this Mortgage, except for any notice required under paragraph 21 hereof to be given to Borrower in the manner prescribed by applicable law. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower when given in the manner designated herein.

**15. Uniform Mortgage; Governing Law; Severability.** This form of Mortgage combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property. This Mortgage shall be governed by the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provisions, and to this end the provisions of the Mortgage and the Note are declared to be severable.

**16. Borrower's Copy.** Borrower shall be furnished with a conformed copy of this Mortgage at the time of execution or after recordation hereof.

**17. Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Mortgage.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than thirty (30) days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Mortgage. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

**18. Sale of Note; Change of Loan Servicer.** The Note or a partial interest in the Note (together with this Mortgage) may be sold one or more times without prior notice to Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Mortgage. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change in accordance with paragraph 14 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

**19. Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 19 "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 19, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

**20. Post Judgment.** Borrower agrees that the interest rate payable after a judgment is entered on the Note or in an action of mortgage foreclosure, shall be the rate stated in the Note or, if the State does not permit the Lender to charge the Note rate, then the judgment rate required under applicable law shall apply.

Any advances made by Lender after a judgment is entered on the Note or in an action of mortgage foreclosure, including but not limited to payments of insurance premiums and real estate taxes, shall become additional indebtedness of the Borrower and shall continue to be the obligation of the Borrower until the indebtedness is paid in full.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

**21. Acceleration; Remedies.** Except as provided in paragraph 17 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender, prior to acceleration, shall mail notice to Borrower as provided in paragraph 14 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than thirty (30) days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and the sale of the Property. If the breach is not cured on or before the date specified in the notice, 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 may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorney's fees, and costs of documentary evidence, abstracts and title reports.

**22. Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to a judgment enforcing this Mortgage if: (a) Borrower pays Lender all sums under this Mortgage, and the Note had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage, and in enforcing Lender's remedies as provided in paragraph 21 hereof including, but not limited to, reasonable attorney's fees and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

**23. Assignment of Rents; Appointments 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 paragraph 21 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 21 hereof or abandonment of the Property, Lender shall be entitled, to the extent provided by applicable law, to have a receiver appointed by a court 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 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 Mortgage. The receiver shall be liable to account only for those rents actually received.

24. Release. Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.

25. Waiver of Valuation and Appraisal. Borrower hereby waives all right of valuation and appraisal.

IN WITNESS WHEREOF, ALAN R. MARTISEK SR and ROSANN MARTISEK, the said Borrower has hereunto set Borrower's hand and seal this 30<sup>th</sup> day of March, 19 94.

 Alan R. Martisek Sr.  
ALAN R. MARTISEK SR's Signature

March 30, 1994  
Date

 Rosann Martisek  
ROSANN MARTISEK's Signature

March 30, 1994  
Date

STATE OF INDIANA LAKE COUNTY SS:

Document is  
**NOT OFFICIAL!**

This Document is the property of  
the Lake County Recorder!

30<sup>th</sup> day of March, 19 94,  
Before me, the undersigned, a Notary Public in and for said County, this  
ALAN R. MARTISEK SR and ROSANN MARTISEK and acknowledged the execution of the foregoing  
instrument. Witness my hand and official seal.

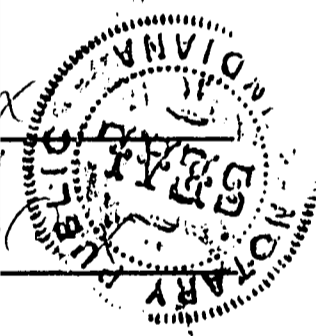
**NOTARY**

SUE M COX  
NOTARY PUBLIC STATE OF INDIANA  
LAKE COUNTY  
My Commission Expires: MY COMMISSION EXP JULY 19 1997

Sue M. Cox  
NOTARY PUBLIC

OF LAKE COUNTY

SUE  
PRINTED NAME



This Instrument prepared by:

STATE OF INDIANA, LAKE COUNTY filed for record \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_ RECORDER Book Page