INSTRUMENT PREPARED BY/RETURN TO:
Empire Funding Corp.
5000 Plaza on the Lake, Suite 100
Austin, Texas 78746
Prepared by: Cindy Broderick
Signature: Cindy Broderick
8575420

# INDIANA MORTGAGE

THIS INDENTURE WITNESSETH, that this Mortgage is executed between Frank Lamar and Anna Ree Lamar, Mortgagor(s), and who have an address at 4225 Pennsylvania St., Gary, Lake County, Indiana, AND Holloway Lumber & Construction Co. Inc., Mortgagee, whose principal place of business is at 300 W. Ridge Rd., Gary, Lake County, Indiana, and its successors and assigns.

WITNESSETH: Mortgagor(s), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and to secure the indebtedness hereinafter described, HEREBY MORTGAGE AND WARRANT all their right, title and interest in the property located in Lake County, Indiana, and being further described as follows:

Lot 40 and the South 20 feet of Lot 41, Block 4, Pleitner's First Addition to Gary, as shown in Plat Book 10, page 29, in Lake County, Indiana

Key#46-377-42

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which has an address of 4225 Pennsylvania St., Gary, Indiana, 46409

TO HAVE AND TO HOLD the same unto Mortgagee together with all improvements and fixtures now or hereafter built on the Property, and all rights, easements, appurtenances, rents, issues, income and profits thereof, all collectively referred to as the "Property";

WITNESSETH: THAT THIS MORTGAGEE IS GIVEN, UPON THE STATUTORY CONDITION, TO SECURE TO MORTGAGEE: a) all sums, with interest thereon, advanced in accordance with this Mortgage; b) the payment of indebtedness evidenced by a Retail Installment Contract (the "Contract") of even date herewith, in the Principal Sum of U.S. $ 15,125.00, plus Finance Charge thereon, payable according to the terms of the Contract, without relief from valuation or appraisement laws, together with the payment of all other sums, with Credit Service Charge thereon, according to the terms of the Contract, executed by Mortgagor and delivered to Mortgagee, and any and all extensions, renewals, or modifications thereof (the "Indebtedness"); and c) the performance of Mortgagor's covenants and agreements under this Mortgage and the Contract.

MORTGAGOR COVENANTS with Mortgagee that Mortgagor is lawfully seized of the estate here conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Mortgagor warrants and will defend generally the title to the Property against the claims and demands of all persons except as set forth herein.

MORTGAGOR FURTHER COVENANTS AND AGREES AS FOLLOWS:

**1. Payment.** Mortgagor agrees to make all payments of the Indebtedness in accordance with the terms of the Contract described above and any extensions, renewals, or modifications thereof, and hereby subjects the Property to payment or performance of the Contract. Mortgagor also agrees to perform all of Mortgagor's obligations under any superior mortgage or security agreement, including Mortgagor's covenants to make payments when due. Mortgagor may not make or permit any changes to prior security interests without Mortgagee's written consent.

**2. Taxes.** Mortgagor will pay when due, all taxes, assessments, charges, fines, impositions, leasehold payments, ground rents, and other charges levied upon or with respect to the Property and will, upon request, deliver to Mortgagee satisfactory evidence of payment thereof. Upon request, Mortgagor will assign any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the property.

**3. Maintenance and Repair.** Mortgagor will maintain the Property and improvements in good repair and condition, will not permit or commit any waste or remove, demolish, or substantially alter any structure or fixture on the Property without Mortgagee's prior written consent, and will cause to be complied with all laws, ordinances or requirements of any governmental authority. Mortgagor will give Mortgagee prompt notice of any loss or damage to the property.

**4. Insurance.** Mortgagor shall keep the Property insured against loss or damage by fire, windstorm, and such other hazards commonly known as Extended Coverage Risks, as Mortgagee may reasonably require from time to time and in such amounts and for such periods as Mortgagee shall require. The insurer shall be chosen by Mortgagor subject to Mortgagee's approval, which shall not be unreasonably withheld. All insurance policies and renewals thereof shall include a standard mortgage clause in favor of and in a form acceptable to Mortgagee. Mortgagee shall have the right to hold the policies and renewals. In the event of loss or damage, Mortgagor shall give immediate notice to the insurance carrier and Mortgagee. Mortgagee may make proof of loss if not made immediately by Mortgagor. Mortgagee may collect and apply the insurance proceeds at Mortgagee's option either to restoration or repair of the Property or to the sums secured by this Mortgage. Mortgagor agrees to maintain flood insurance with Mortgagee as loss payee in an amount equal to the principal outstanding during the term of said Indebtedness pursuant to the Flood Disaster Protective Act (42 U.S.C. 4012a).

**5. Mortgagee's Right to Perform; Receiver.** If Mortgagor fails to perform the covenants and agreements contained herein, or if any action or proceeding is commenced which materially affects Mortgagee's interest in the Property, then Mortgagee at its option, after notice to Mortgagor, may do and pay for whatever is necessary to protect the value of the Property and Mortgagee's rights in the Property. Any amounts paid by Mortgagee, with Credit Service Charge thereon at the Contract rate, shall become additional indebtedness of Mortgagor secured hereby. Such amounts shall be payable upon notice from Mortgagee to Mortgagor requesting payment thereof. This paragraph shall not require Mortgagee to incur any expense or take any action hereunder. Upon prior notice

STATE OF INDIANA LAKE COUNTY FILED FOR RECORD



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to this paragraph shall become additional indebtedness of Grantor secured by this Deed of Trust, with finance charge thereon, at the Contract rate, and shall be payable upon Beneficiary's demand. Nothing contained herein shall require Beneficiary to incur any expense or take any action.

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

**8. 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 Beneficiary, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.

**9. Successors and Assigns, Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Beneficiary and Grantor. All covenants and agreements of Grantor shall be joint and several. Any Grantor who signs this Deed of Trust, but does not execute the Contract is signing this Deed of Trust only to mortgage, grant and convey that Grantor's interest in the Property under the terms of this Deed of Trust, and agrees that Beneficiary and any other Grantor hereunder may agree to extend, modify, forbear, or make other accommodations with regard to this Deed of Trust or the Contract, without that Grantor's consent and without releasing that Grantor or modifying this Deed of Trust as to that Grantor's interest in the Property.

**10. Notices.** All notices to Grantor and Beneficiary shall be deemed to be duly given if and when mailed, with postage prepaid, to the respective addresses of Grantor and Beneficiary appearing on the first page hereof, or at such other address as Grantor or Beneficiary may designate in writing, or if and when delivered personally.

**11. Governing Law.** The state and local laws applicable to this Deed of Trust shall be the laws of the jurisdiction in which the Property is located, subject to any preemption by federal law. In the event that any provision hereof is prohibited by or unenforceable under applicable law, such provision shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

**12. Transfer of Property.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Grantor is sold or transferred and Grantor is not a natural person) without Beneficiary's prior written consent, Beneficiary may, at its option, require immediate payment in full of all sums secured by this Deed of Trust, unless prohibited by federal law. If Beneficiary exercises this option, Beneficiary shall give Grantor notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Grantor must pay all sums secured by this Deed of Trust. If Grantor fails to pay these sums prior to the expiration of this period, Beneficiary may invoke any remedies permitted by this Deed of Trust without further notice or demand on Grantor.

**13. Acceleration; Remedies.** Upon Grantor's breach of any promise of Grantor in this Security Agreement or the Contract, Beneficiary may declare all sums secured hereby immediately due and payable. Thereupon, Beneficiary shall file notice of election and demand for sale, and said Public Trustee, after advertising notice of said sale weekly, for not less than four weeks or as otherwise required by law, in some newspaper of general circulation in said county, shall sell said Property in the manner provided by law in effect at the time of filing said notice and demand, at public auction for cash, at any property place designated in the notice of sale. Out of the proceeds of said sale, said Trustee shall retain or pay first all fees, charges and costs and all moneys advanced for taxes, insurance and assessments, or on any prior encumbrance, with interest thereon, and pay the principal and credit service charge due on said Contract, rendering the surplus, if any, unto the Grantor, and after the expiration of the time of redemption, said Trustee shall execute and deliver to the purchaser a deed to the Property sold. The Beneficiary may purchase said Property or any part thereof at such sale. Any forbearance by Beneficiary in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any other right or remedy.

**14. Assignment of Rents.** As additional security for the indebtedness secured hereby, Grantor hereby assigns to Beneficiary the rents of the Property, provided that Grantor shall, prior to acceleration under Paragraph 14 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 14 or abandonment of the Property, Beneficiary may at any time without notice, either in person, by agent or otherwise, be entitled to enter upon and take possession of the Property or any part thereof, in his own name sue for or otherwise collect such rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of rents and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

**15. Expenses.** Except when prohibited by law, Grantor agrees to pay all of Beneficiary's expenses if Grantor breaches any covenant herein. Grantor agrees to pay all costs and expenses incurred by Beneficiary in collecting, enforcing or protecting Beneficiary's rights and remedies hereunder, including without limitation, attorney's fees, court costs and other legal expenses. Upon payment of all sums secured by this Deed of Trust, Beneficiary shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all notes evidencing debt secured hereby to Trustee. Trustee shall reconvey the Property without warranty to the persons legally entitled to it. Such persons shall pay any recordation costs and the Trustee's reconveyance fee.

**16. Trustee.** Beneficiary, at its option, may from time to time remove any Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Beneficiary and recorded in the county in which the Property is located. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred herein and by applicable law.

**REQUEST FOR NOTICE OF DEFAULT AND FORECLOSURE UNDER ANY SUPERIOR MORTGAGES OR DEEDS OF TRUST**

Grantor requests that copies of the notice of default and notice of sale be sent to Grantor's address which is the Property Address. Grantor and Beneficiary request the holder of any mortgage, deed of trust or other encumbrance with a lien which has priority over this Deed of Trust to give Notice to Beneficiary, at Beneficiary's address set forth on page one of this Deed of Trust, of any default under the superior encumbrance and of any sale or other foreclosure action.

IN WITNESS WHEREOF, Grantor has executed this Deed of Trust on the 10th day of September, 19 96.

**(PLEASE SIGN AND NOTARIZE ORIGINAL WHITE COPY)**

X _____ Name: Frank LaMar

X _____ Name: Anna Ree LaMar

Name: _____

Name _____

STATE OF ~~IDAHO~~ Indiana, COUNTY OF Lake SS.

On this 10th day of September in the year 19 96, before me, a Notary Public, personally appeared Frank LaMar and Anna Ree LaMar, husband & wife

known or identified to me to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

My commission expires:

NOTARY STAMP/SEAL

Felipa Ortiz

Notary Public, residing at Lake County, Indiana, ~~Idaho~~

Felipa Ortiz, Commission expires: 11-16-97

STATE OF ~~IDAHO~~ Indiana, COUNTY OF Lake

I Hereby Certify that this instrument was filed for record at the request of _____ at _____ minutes past _____ o'clock ___M., this _____ day of _____, 19_____ in my office, and duly recorded in Book _____ of Mortgages at page _____.

_____, Ex-Officio Recorder

Fees: $_____

By: _____, Deputy

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