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Chicago Title Insurance Company

WHEN RECORDED MAIL TO:  
Citizens Financial Services,FSB  
707 Ridge Road  
Munster, Indiana 46321  
Attention: Natalie Kaluf

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

97082778

97 DEC -2 PM 1:27

MOFFAT W. CARTER

**MORTGAGE**

494591/4034

THIS MORTGAGE ("Security Instrument") is made this 25th day of November, 1997 between Caribbean Pools, Inc., an Indiana Corporation ("Mortgagor") and CITIZENS FINANCIAL SERVICES, FSB, a Corporation organized and existing under the laws of the United States of America, whose address is 707 Ridge Road, Munster, IN 46321 ("Mortgagee").

Mortgagor is indebted to Mortgagee in the principal sum not to exceed Five Hundred Twenty Five Thousand Dollars and 00/100 (\$525,000.00), which indebtedness is evidenced by Mortgagor's Note dated November 25, 1997 ("Note"), providing for monthly installments of interest, with the balance of the indebtedness, if not sooner paid, due and payable on December 1,2002.

This Security Instrument secures to Lender: (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, and all renewals, extensions and modifications thereof; (b) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Security Instrument; and (c) the performance of the covenants and agreements of Mortgagor herein contained, Mortgagor does hereby mortgage, grant, convey and assign to Mortgagee the following described property located in the County of Lake, State of Indiana:

Lots "A" and "B", block 3, Schererville, Manor, in the Town of Schererville as shown in Plat Book 29, page 115, in Lake County, Indiana, commonly known as 36 East US 30, Schererville, IN 46375

TOGETHER with all buildings, improvements, and tenements now or hereafter erected on the property, and all heretofore or hereafter vacated alleys and streets abutting the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the property. Mortgagor covenants that Mortgagor is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant, convey and assign the property, that the property is unencumbered, and that Mortgagor will warrant and defend generally the title to the property against claims and demands, subject to any easements and restrictions listed in a schedule of exceptions to coverage in any title insurance

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policy insuring Mortgagee's interest in the property.

The Mortgagor does hereby further covenant and agree as follows:

1. The Mortgagor will keep all improvements now on said premises; or hereafter erected thereon in a good state of repair and will not permit any waste thereon and will neither do nor permit to be done upon said premises anything that might tend to diminish the value thereof.
2. That Mortgagor will pay, before the same become delinquent, all taxes, charges and assessments of every kind that may be levied on said premises or any part thereof.
3. That in case the Mortgagor fails to pay any tax, or assessments, or fails to keep the buildings on said premises in good repair and insured as provided hereby, the Mortgagee may pay such taxes, or assessments, or may redeem said premises from sale for taxes or assessments, make repairs or procure insurance, and may pay, remove or discharge any claim, lien or encumbrance, or may purchase any tax title or claim against said premises, and protect the title and possession thereof, in order to preserve the priority of the lien of this mortgage thereon, and may employ attorneys at law to perform any service connected with the mortgage, or to prosecute or defend any suit affecting or involving this mortgage or the title or possession of said premises, and that all moneys paid for any such purpose and all moneys paid out by the Mortgagee to protect the lien of this mortgage and the security intended to be effected hereby, shall be immediately due and payable with interest thereon and become so much additional indebtedness, secured by this mortgage, provided, however, that it shall not be obligatory upon the Mortgagee to advance funds for any of the purposes aforesaid, or to inquire into the validity of such taxes or assessments, or tax sale (the receipts of the proper officers being conclusive evidence of the validity) and amount thereof or into the necessity of such repairs.
4. That if default be made in the performance of any of the covenants or agreements herein or in said note contained, on the part of the Mortgagor to be kept and performed, then the whole of said indebtedness secured hereby, including all payments for liens, taxes, assessments, insurance, attorneys' fees, costs, charges or expenses, shall at the election of the Mortgagee, and without notice of such election, at once become and be due and payable at the place of payment aforesaid, anything in said note or herein to the contrary notwithstanding and thereupon the Mortgagee shall have the right (either with or without possess), to hold and enjoy said property, and to lease the same or any part thereof upon such terms as it shall deem best, and to collect and receive all the rents issues and profits thereof, and to make alterations, improvements and repairs, effect insurance, pay taxes, assessments and do all such other things as may be deemed necessary for the proper protection of the property; and the Mortgagee shall have the right to foreclose this Security Instrument and shall have all the other rights and remedies that the law provides; all without relief from Valuation and Appraisalment Laws.

5. The Mortgagor shall keep the improvements now existing of hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Mortgagee's approval which shall not be unreasonably withheld. If Mortgagor fails to maintain coverage described above, Mortgagee may, at Mortgagee's option, obtain coverage to protect Mortgagee's rights in the Property in accordance with paragraph 3.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Mortgagee shall have the right to hold the policies and renewals. If Mortgagee requires, Mortgagor shall promptly give to Mortgagee all receipts of paid premiums and renewal notices. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and Mortgagee. Mortgagee may make proof of loss if not made promptly by Mortgagor.

Unless Mortgagee and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Mortgagee's security is not lessened. If the restoration or repair is not economically feasible or Mortgagee's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Mortgagee that the insurance carrier has offered to settle a claim, then Mortgagee may collect the insurance proceeds. Mortgagee may use the proceeds to repair or restore the property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Mortgagee and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments, or change the amount of the payments. If the Property is acquired by Mortgagee, Mortgagor's right to any insurance policies and proceeds resulting from the damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. That upon commencement of any foreclosure, or at any time thereafter, and prior to the expiration of the time for redemption from any sale of said premises on foreclosure, any court of contempt jurisdiction, upon application of the Mortgagee, may appoint a receiver for said premises to take possession thereof, to collect the rents, issues and profits therefrom during the pendency of such foreclosure, and until the time to redeem the same from foreclosure sale shall have expired, and out of rents, issues and profits, to make necessary repairs and to keep the said premises in proper condition and repair, and to pay all taxes, or assessments, to redeem from tax or assessments sales, to pay insurance premiums necessary to keep said premises insured in

accordance with the provisions of this Security Instrument and to pay the expense of the receivership, and said receiver shall apply the net proceeds to the payment of the indebtedness secured hereby, and such receiver shall have all the other usual powers of receivers in such cases.

7. That in case suit be brought to foreclose this mortgage a reasonable sum shall be allowed to the Mortgagee in such proceeding for attorney's fees, title or other expense incident to such foreclosure proceeding, which several sums shall be so much additional indebtedness secured hereby, and shall be recoverable as such whether the suit proceeds to decree or not and shall be included in the decree entered in such foreclosure.

8. That the Mortgagee, at its option, may extend the maturity of the note and indebtedness secured hereby, or any balance due thereon, from time to time, upon written agreement executed by the Mortgagor, for such further periods, at such rate of interest, and upon such conditions as may then be agreed upon, and no such extension, and no forbearance or delay of the Mortgagee in enforcing any of the provisions of this indenture, shall operate to impair the lien thereof or waive any rights accrued or that might accrue hereunder.

9. That in the event the mortgaged property or any part thereof, be taken by condemnation, the Mortgagee is hereby empowered to collect and receive all compensation which may be paid for damages to any property not taken, and all condemnation money so received shall at Mortgagee's election, be applied either to the reduction of the indebtedness hereby secured, or to the repair and restoration of any property so damaged, provided that any excess over the amount of the indebtedness shall be delivered to the Mortgagor.

10. That Mortgagor will not convey, lease, or transfer the mortgaged premises or transfer all or any part of the beneficial interest of a trust if Mortgagor is a Trustee so long as any part of the indebtedness hereby secured remains unpaid, without the written consent of the Mortgagee, and that a violation of this provision will, at the option of the Mortgagee and without notice, accelerate maturity of the indebtedness hereby secured and cause the entire unpaid balance thereof to become immediately due and payable.

11. That each right, power and remedy herein conferred upon the Mortgagee is cumulative of every other right or remedy of the Mortgagee, whether herein or by law conferred, and may be enforced concurrently therewith, that no waiver by the Mortgagee of performance of any covenant herein or in said obligation contained shall thereafter in any manner affect the right of Mortgagee to require to enforce performance of the same or any other of said covenants; that whenever the context hereof requires, the masculine gender, as used herein, shall include the feminine and the neuter and the singular number, as used herein, shall include the plural; that all rights and obligations under this mortgage shall extend to and be binding upon the respective heirs, executors, administrators, successors and assigns of the Mortgagor, and the successors and assigns of the Mortgagee; and that the powers herein mentioned may be exercised as often as

occasion therefore arises.

12. The following Rider is attached hereto and made a part of this document:

Commercial Property Rider

CARIBBEAN POOLS, INC.  
an Indiana Corporation

BY: Franklin Giberson  
Franklin Giberson, President

**ACKNOWLEDGMENT**

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

On this 25th day of November, 1997, before me the undersigned, a Notary Public in and for said county personally appeared Caribbean Pools, Inc., an Indiana Corporation by Franklin Giberson, President and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal.

Suzanne M. Myers  
Notary Public

My Commission Expires: 11-28-97  
County of Residence: Lake

THIS INSTRUMENT PREPARED BY:

Brian L. Goins, Attorney-at-Law #8616-45  
CITIZENS FINANCIAL SERVICES, FSB  
707 Ridge Road, Munster, IN 46321

## COMMERCIAL PROPERTY RIDER

**THIS** Commercial Property Rider is made this 25th day of November, 1997 and is incorporated into and shall be deemed to amend and supplement the Mortgage (the "Security Instrument") of the same date given by the undersigned (the "Mortgagor") to secure a Note to **CITIZENS FINANCIAL SERVICES, FSB** (the "Mortgagee") of the same date and covering the Property described in the Security Instrument and located at:

36 East US 30, Schererville, IN 46375  
(Property Address)

**COMMERCIAL PROPERTY COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Mortgagor and Mortgagee further covenant and agree as follows:

**A. ADDITIONAL PROPERTY SUBJECT TO THE SECURITY INSTRUMENT.** In addition to the Property described in the Security Instrument, the following items are added to the Property description, and shall also constitute the Property covered by the Security Instrument: building materials, appliances and goods of every nature whatsoever now or hereafter located in, on or used, or intended to be used in connection with the Property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, attached mirrors, cabinets, panelling and attached floor coverings 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 the Security Instrument. All of the foregoing together with the Property described in the Security Instrument (or the leasehold estate if the Security Instrument is on a leasehold) are referred to in this Commercial Property Rider and the Security Instrument as the "Property."

**B. USE OF PROPERTY; COMPLIANCE WITH LAW.** Mortgagor shall not seek, agree to or make a change in the use of the Property or its zoning classification, unless Mortgagee has agreed in writing to the change. Mortgagor shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property.

**C. SUBORDINATE LIENS.** Except as permitted by federal law, Mortgagor shall not allow any lien inferior to the Security Instrument to be perfected against the Property without Mortgagee's prior written permission.

**D. RENT LOSS INSURANCE.** Mortgagor shall maintain insurance against rent loss in addition to the other hazards for which insurance is required by Uniform Covenant 5.

**E. ASSIGNMENT OF LEASES.** Upon Mortgagee's request, Mortgagor shall assign to Mortgagee all leases of the Property and all security deposits made in connection with leases of the Property. Upon the assignment, Mortgagee shall have the right to modify, extend or terminate the existing leases and to execute new leases, in Mortgagee's sole discretion. As used in this paragraph E, the word "lease" shall mean "sublease" if the Security Instrument is on a leasehold.

**F. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; MORTGAGEE IN POSSESSION.** Mortgagor absolutely and unconditionally assigns and transfers to Mortgagee all the rents and revenues ("Rents") of the Property, regardless of to whom the Rents of the Property are payable. Mortgagor authorizes Mortgagee or Mortgagee's agents to collect the Rents, and agrees that each tenant of the Property shall pay the Rents to Mortgagee or Mortgagee's agents. However, Mortgagor shall receive the Rents until (i) Mortgagee has given Mortgagor notice of default pursuant to the Security Instrument and (ii) Mortgagee has given notice to the tenant(s) that the Rents are to be paid to Mortgagee or Mortgagee's agents. This assignment of Rents constitutes an absolute assignment and not an assignment for additional security only.

If Mortgagee gives notice of breach to Mortgagor: (i) all Rents received by Mortgagor shall be held by Mortgagor as trustee for the benefit of Mortgagee only, to be applied to the sums secured by the Security Instrument; (ii) Mortgagee shall be entitled to collect and receive all the Rents of the Property; (iii) Mortgagor agrees that each tenant of the Property shall pay all Rents due and unpaid to Mortgagee or Mortgagee's agents upon Mortgagee's written demand to the tenant; (iv) unless applicable law provides otherwise, all Rents collected by Mortgagee or Mortgagee's agents shall be applied first to the costs of taking control of and managing the Property and collecting the Rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, repair and maintenance costs, insurance premiums, taxes, assessments and other charges on the Property, and then to the sums secured by the Security Instrument; (v) Mortgagee, Mortgagee's agents or any judicially appointed receiver shall be liable to account for only those Rents actually received; and (vi) Mortgagee shall be entitled to have a receiver appointed to take possession of and manage the Property and collect the Rents and profits derived from the Property without any showing as to the inadequacy of the Property as security.

If the Rents of the Property are not sufficient to cover the costs of taking control of and managing the Property and of collecting the Rents any funds expended by Mortgagee for such purposes shall become indebtedness of Mortgagor to Mortgagee secured by the Security Instrument pursuant to paragraph 3 of the Mortgage.

Mortgagor represents and warrants that Mortgagor has not executed any prior assignment of the Rents and has not and will not perform any act that would prevent Mortgagee from exercising its rights under this paragraph.

Mortgagee, or Mortgagee's agents or a judicially appointed receiver, shall not be required to enter upon, take control of or maintain Property before or after giving notice of default to Mortgagor. However, Mortgagee, or Mortgagee's agents or a judicially appointed receiver, may do so at any time when a default occurs. Any application of Rents shall not cure or waive any default or invalidate any other right or remedy of Mortgagee. This


assignment of Rents of the Property shall terminate when all the sums secured by the Security Instrument are paid in full.

**G. CROSS-DEFAULT PROVISION.** Mortgagor's default or breach under any note or agreement in which Mortgagee has an interest shall be a breach under the Security Instrument and Mortgagee may invoke any of the remedies permitted by the Security Instrument.

**H. RELEASE.** In addition to the covenants and agreements made in the Security Instrument, Mortgagor and Mortgagee further covenant and agree that "Upon payment of all sums secured by this Security Instrument, Mortgagee shall release this Security Instrument. Mortgagor shall pay Mortgagee for expenses incurred in releasing the Security Instrument, including but not limited to, preparation of payoff statements, preparation of and processing the Satisfaction of Mortgage and recordation or filing fees."

**BY SIGNING BELOW, Mortgagor accepts and agrees to the terms and provisions contained in pages 1, 2 and 3 of this COMMERCIAL PROPERTY RIDER.**

CARIBBEAN POOLS, INC.,  
an Indiana Corporation

By:   
Franklin Giberson, President