

INSTRUMENT PREPARED BY/
RETURN TO:

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

Mail After Recording To:
Empire Funding Corp.
13751 S. Wadsworth Park Dr. STE 150
Draper, UT 84020
(800) 447-8864

97085619

97 DEC 15 AM 9:18

MORRIS W. CARTER
RECORDER

Space above this line reserved for recording data

LOAN# 4475838

INDIANA MORTGAGE

THIS MORTGAGE executed between the Mortgagor(s)

JOHN M DEGAND SR, CLAUDIA M DEGAND
HUSBAND AND WIFE

whose address is **1229 N. ARBOGAST ST. GRIFFITH, IN 46319**
(Herein "Borrower"), and the Mortgagee **EMPIRE FUNDING CORP.**, 9737 Great Hills Trail, Austin, Texas 78759, a corporation organized and existing under the laws of Oklahoma (herein "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of U.S \$ **37,500.00**, which indebtedness is evidenced by Borrower's note dated **12/11/97** and extensions and renewals thereof (herein "Note"), providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on **12/16/17** ;

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 herein contained, Borrower does hereby mortgage, grant and convey to Lender, with power of sale, the following described property located in the County of **LAKE**, State of Indiana:

LOT 5 IN CORRECTED PLAT OF LAWNDALE GARDENS 7TH ADDITION TO GRIFFITH, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 36, PAGE 19 IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

which has the address of **1229 N. ARBOGAST ST. GRIFFITH, IN 46319**
(herein "Property Address");

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents, all of which 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 hereinafter referred to as the "Property." Borrower covenants that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

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

- 1. Payment of Principal and Interest.** Borrower shall pay when due the principal and interest indebtedness and late charges evidenced by the Note.
- 2. Taxes.** Borrower shall pay when due all taxes, liens, assessments, charges, fines, impositions, leasehold payments, ground rents, and any other charges whatsoever now existing or hereafter levied or assessed upon the Property, or upon the interest therein created by this Mortgage and, upon Lender's request, shall deliver to Lender satisfactory evidence of payment thereof. Borrower shall preserve and maintain the liens created hereby on the Property, including any improvements hereafter made a part of the realty. Borrower will not let any mechanic's or other workmen's judgment lien attach to the Property.
- 3. Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender shall be applied by Lender according to the terms of the Note.
- 4. Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain priority over this Mortgage, and any leasehold payments or ground rents.
- 5. Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire,

Borrower(s) initials JMS CD
Lender - Original Borrower - 1 copy

Space below this line reserved for recording data

**NATIONS TITLE AGENCY
OF INDIANA, INC.**
3292 N. MERIDIAN ST. • SUITE #110
INDIANAPOLIS, IN 46260

9725070

15.00
11318

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. 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 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, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage. 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. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed 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. In addition, Borrower agrees to maintain flood insurance with Beneficiary as loss payee in an amount equal to the principal outstanding during the term of said indebtedness if required pursuant to the Flood Disaster Protective Act (42 U.S.C. 4012a).

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 unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, 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, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law. Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured hereby. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph 7 shall require Lender to incur any expense or take any action 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 therefor 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, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

10. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender 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 such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured hereby by reason of any demand made by the original Borrower and Borrower's successors in interest. Any forbearance by Lender 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 such right or remedy.

11. Successors and Assigns Bound; Joint and Several Liability; Co-signers. 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 16 hereof. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Note, (a) is co-signing this Mortgage only to grant and convey that Borrower's interest in the Property to Trustee under the terms hereunder, (b) is not personally liable on the Note or under this Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make other accommodations with regard to the terms of this Mortgage or the Note, without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

12. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Deed of Trust shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

13. Governing Law; Severability. The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of federal law to this Mortgage. 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 provision, and to this end the provisions of this Mortgage and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

14. Borrower's Copy. Borrower shall be furnished a copy of the Note and Mortgage at the time of execution or after recordation hereof.

15. Rehabilitation Loan Agreement. Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair or other loan agreement which Borrower enters into with Lender. Lender, at Lender's option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

16. 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 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.

Borrower(s) initials W.S.

C.D.

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

17. **Acceleration; Remedies.** Except as provided in paragraph 16 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 give notice to Borrower as provided in paragraph 12 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 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, foreclosure by judicial proceeding, and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Borrower to acceleration and foreclosure. 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 attorneys' fees, and costs of documentary evidence, abstracts and title reports.

18. **Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to entry of a judgement enforcing this Mortgage if: (a) Borrower pays Lender all sums which would be then due 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 17 hereof, including, but not limited to, reasonable attorneys' 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.

19. **Assignment of Rents; Appointment of Receiver.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 17 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 17 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 attorneys' fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

20. **Release.** Upon payment of all sums secured by this Mortgage, lender shall release this Mortgage without charge to Borrower.

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

REQUEST FOR NOTICE OF DEFAULT AND FORECLOSURE UNDER SUPERIOR MORTGAGES OR DEEDS OF TRUST. Mortgagor and Mortgagee request the holder of any Mortgage or other encumbrance with a lien which has priority over this Mortgage to give Notice to Mortgagee, at Mortgagee's address set forth on page one of this Mortgage Deed, of any default under the superior encumbrance and of any sale or other foreclosure action.

NOTE: This document is a mortgage which gives your contractor and its assignees a security interest in your property. The mortgage is taken as collateral for the performance of your obligations under your home improvement obligation.

(PLEASE SIGN THE ORIGINAL WHITE COPY IN THE PRESENCE OF A NOTARY)

IN WITNESS WHEREOF, the undersigned have executed this instrument on the 11th day of Dec, 1997.

TWO WITNESS SIGNATURES REQUIRED

Edie M. Drach
Name:

Regina M. Moore
Name:

MORTGAGORS:

John M Degand Sr
JOHN M DEGAND SR

Claudia M Degand
CLAUDIA M DEGAND

STATE OF INDIANA, Lake County ss:
Before me, a Notary Public in and for said County and State, personally appeared the above named Mortgagors
JOHN M DEGAND SR, CLAUDIA M DEGAND

who acknowledged they he/she/they did sign the foregoing instrument and that the same is his/her/their free act and deed. WITNESS my hand and official seal this 11th day of Dec, 1997.

My Commission Expires:
(SEAL)

Edie M. Drach
Notary Public Name:
Resident of:

EDIE M. DRACH
NOTARY PUBLIC, Lake County, Indiana
My Commission Expires February 17, 2001
Resident Of Lake County, Indiana