

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2004 093113

2004 NOV -1 10:11:26

MORTGAGE
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**CITIZENS FINANCIAL SERVICES, FSB
MORTGAGE**

This Mortgage secures a revolving line of credit is made this 21st day of October 2004 by and between Rafael D. Garza and Carmen Garza, husband and wife (Mortgagor) and **Citizens Financial Services, FSB** which is organized and existing under the laws of the United States of America, and whose address is 707 Ridge Road, Munster, Indiana 46321 (Mortgagee).

Mortgagor and Mortgagee have entered into a certain Promissory Note dated 10/21/2004, whereby Mortgagee will make advances (loans) to Mortgagor from time to time under the terms and conditions of the Note provided that the aggregate principal amount of such advances outstanding and unpaid at any one time shall not exceed \$ 7,500.00. The Mortgagor may make principal payments at any time during the term of the line of credit except however the entire outstanding principal amount if, not sooner paid, shall be due and payable on October 21, 2024

Therefore, to secure to Mortgagee the repayment of: (A) any and all indebtedness or liabilities to Mortgagee as evidenced by said Note, together with any extensions or renewals thereof, and any other instrument given by Mortgagor to Mortgagee as evidenced or in payment of any indebtedness arising out of said Note; (B) the payment of all other sums advanced to protect the security of this Mortgage; and (C) the performance of all covenants and agreements of the Mortgagor herein contained; the Mortgagor does hereby mortgage, grant and convey to Mortgagee, its successors and assigns, the following described real estate located in Lake County, in the State of Indiana, legally described as follows:

*** SEE ATTACHED LEGAL DESCRIPTION ***

which has the address of 4927 Euclid Ave, East Chicago, IN 46312

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by the Mortgage. All of the foregoing is referred to in this Mortgage as the Property.

**Stewart Title Services
of Northwest Indiana
The Pointe
5521 W. Lincoln Hwy.
Crown Point, IN 46307**

215 DC
SAS

Mortgagor hereby covenants and agrees with Mortgagee as follows:

1. **WARRANTY OF RIGHT TO MORTGAGE.** Mortgagor covenants that mortgagor is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant, convey and assign the Property, and the Mortgagor will warrant and defend generally the title to the Property against all claims and demands, subject to any liens, easements, covenants, conditions and restrictions of record listed in a schedule of exceptions to coverage in any title insurance policy insuring Mortgagee's interest in the Property.

2. **TAXES AND CHARGES.** Mortgagor shall pay from time to time, when due, and before any penalty attaches, all general and special taxes and assessments, water and sewer charges, and all other public charges imposed or assessed against the Property or arising in respect to the use, occupancy or possession thereof. Mortgagor shall promptly furnish to Mortgagee, upon request by Mortgagee, all notices, bills and statements received by Mortgagor of amounts so due, and Mortgagor shall, upon request by Mortgagee, promptly furnish Mortgagee receipts evidencing such payments. Mortgagor may in good faith contest at its own expense the validity of any tax, assessment or charge provided Mortgagor pays the same in full under protest or deposits said sum with the Mortgagee as security for payment thereof.

3. **INSURANCE.** Mortgagor shall keep all buildings and improvements now existing or hereafter erected or situated on the Property insured against fire, lightning, windstorm, vandalism, malicious damage, and any such other hazards included with the term "extended coverage", together with such other hazards, liabilities and contingencies in such amounts and for such periods as Mortgagee may from time to time reasonably require. Mortgagor shall keep all buildings and improvements insured against loss or damage by flood if the Property is located in a Flood Hazard Zone. Mortgagor shall obtain premises liability insurance with respect to the Property in an amount acceptable to the Mortgagee.

All said insurance policies and renewals thereof shall be issued by carriers satisfactory to the Mortgagee, and shall include a standard mortgage clause, loss payee clause or endorsement in favor of the Mortgagee and in form and substance acceptable to the Mortgagee. Each such policy shall not be cancelled by the insurance company without at least thirty (30) days prior written notice to the Mortgagee. Any such insurance policy shall be in a sum sufficient to pay in full the cost of repairing and replacing the buildings and improvements on the Property and in no event shall be less than the maximum amount of Mortgagor's line of credit pursuant to said Note secured hereby plus the outstanding balance on any prior mortgage. The Mortgagor shall deliver the original of any such policy to the Mortgagee to be held by it. The Mortgagor shall promptly furnish to Mortgagee, on request, all renewal notices and receipts for paid premiums. At least thirty (30) days prior to the expiration date of any such policy, Mortgagor shall deliver to Mortgagee any such renewal policy.

In the event of loss, Mortgagor shall give immediate written notice to the insurance carrier and to Mortgagee. Mortgagor authorizes and empowers Mortgagee as attorney-in-fact for Mortgagor to adjust and compromise any claim under any such insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, to endorse and deposit any insurance checks or drafts payable to Mortgagor, and to deduct therefrom Mortgagee's expenses incurred in the collection of such proceeds; provided however, that nothing contained in this paragraph 3 shall require Mortgagee to incur any expense or take any action hereunder, nor prevent the Mortgagee from asserting any independent claim or action versus any such insurance carrier in its own name.

The insurance proceeds after the deduction of the Mortgagee's expenses incurred in collecting the same, shall be applied to the payment of the sums secured by this Mortgage. Any such application of the proceeds shall not extend or postpone the due dates of the payments provided by said Note. If the Property is sold or if Mortgagee

acquires title to the Property, Mortgagee shall have all of the right, title and interest of Mortgagor in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

4. ESCROW AMOUNTS. If Mortgagor presently pays escrow amounts for taxes, assessments, and other charges to the holder of the superior mortgage, Mortgagor will not have to make escrow payments to Mortgagee. However, if the Mortgagor is not making these payments to another lender, Mortgagee retains the option to require Mortgagor to pay, in addition to Mortgagor's payment each month, taxes and assessments, which may attain priority over the mortgage, and ground rents on the Property, if any, plus one-twelfth of the yearly premium installments for hazard insurance, plus one-twelfth of the yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time adjusted by Mortgagee on the basis of assessments and bills and of reasonable estimates of the insurance premiums. Such escrow payments are required to ensure that there will be amounts sufficient to pay all Mortgagor's taxes, assessments, hazard insurance premiums, and, if any, ground rents, flood insurance premiums, and mortgage insurance premiums when due. Failure to make any of these escrow payments may result in Mortgagor being in default.

5. PRESERVATION AND MAINTENANCE OF PROPERTY. Mortgagor (A) shall not commit waste or permit impairment or deterioration of the Property, make any material alterations therein, nor demolish or remove the same; (B) shall not abandon the Property; (C) shall keep the Property including improvements thereon in good condition and repair; (D) shall not mortgage or otherwise encumber nor allow any judgment liens, tax liens or mechanic's liens to be imposed against the Property; (E) shall promptly pay when due any indebtedness which may be secured by any other mortgage, lien or charge on the Property; (F) shall comply with all laws, ordinances, regulations, codes and requirements of any governmental body applicable to the Property; and shall give notice in writing to Mortgagee of and, unless otherwise directed in writing by Mortgagee, appear in and defend any action or proceeding purporting to affect the Property, the security of this Mortgage or the rights or powers of Mortgagee.

6. USE OF PROPERTY. Unless required by applicable law or unless Mortgagee has otherwise agreed in writing, Mortgagor shall not allow changes in the use for which all or any part of the Property was intended at the time this Mortgage was executed. Mortgagor shall not initiate or acquiesce to a change in the zoning classification of the Property without Mortgagee's prior written consent.

7. OCCUPANCY. If the Property is to be occupied as Mortgagor's principal residence as indicated on Mortgagor's loan application, the Mortgagor shall continue to occupy the Property unless Mortgagee otherwise agrees in writing.

8. PROTECTION OF MORTGAGEE'S SECURITY. If Mortgagor fails to perform any of the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which affects the Property of title thereto or the interest of Mortgagee therein, then Mortgagee at Mortgagee's option may disburse such sums, may make such appearances and take such action as Mortgagee deems necessary, in its sole discretion, to protect Mortgagee's interest.

Any amounts disbursed by Mortgagee pursuant to this Paragraph 8 shall become an additional indebtedness of Mortgagor secured by this Mortgage. Such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate stated in the Note. Mortgagor hereby convenants and agrees that Mortgagee shall be subrogated to the rights of the holder of any lien so discharged, in whole or in part, by the Mortgagee. Nothing contained in this Paragraph 8 shall require Mortgagee to incur any expense or take any action hereunder. If Mortgagee makes any payment authorized by this Paragraph 8, including but not limited to taxes, assessments, charges, liens security interests or insurance premiums, Mortgagee may do so according to any

notice, bill, statement or estimate received from the appropriate party without inquiry into the accuracy or validity of such notice, bill, statement or estimate. The payment of any such sums by the Mortgagee shall not be deemed a waiver of Mortgagee's right to accelerate the maturity of the indebtedness secured by this Mortgage and declare this Mortgage in default, and failure to so act shall not be considered as a waiver of any right accruing to Mortgagee on account of any default hereunder on the part of the Mortgagor.

9. **INSPECTION.** Mortgagee may make or cause to be made reasonable entries upon and inspection of the Property at all reasonable times and access thereto shall be permitted for that purpose by the Mortgagor.

10. **CONDEMNATION.** Mortgagor shall promptly notify Mortgagee of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or any part thereof, and Mortgagor shall appear in and prosecute any such action or proceeding unless otherwise directed by Mortgagee in writing. Mortgagor authorizes Mortgagee, at Mortgagee's option, as attorney-in-fact for Mortgagor, to commence, appear in and prosecute, in Mortgagee's or Mortgagor's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Mortgagee.

In the event of a total or partial taking of the Property, Mortgagor authorizes Mortgagee to apply such awards, payments, proceeds or damages, after the deduction of Mortgagee's expenses incurred in the collection of such amounts to payment of the sums secured by this Mortgage, whether or not then due, with the balance, if any, to Mortgagor. Any application of the proceeds shall not extend or postpone the due date of the monthly installments referred to in said Note. Mortgagor agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Mortgagee may require.

11. **TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN MORTGAGOR.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Mortgagor is sold or transferred and Mortgagor is not a natural person) without Mortgagee's prior written consent, Mortgagee will refuse to make any advance permitted by the Note and may, at its option, require immediate payment in full of all sums secured by this Mortgage. If Mortgagee exercises this option, Mortgagee shall give Mortgagor 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 Mortgagor must pay all sums secured by this Mortgage. If Mortgagor fails to pay these sums prior to the expiration of this period, Mortgagee may invoke any remedies permitted by the Note and this Mortgage without further notice or demand on Mortgagor.

12. **SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CO-SIGNERS.** The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Mortgagee and Mortgagor, subject to the provisions of paragraph 11. Mortgagor's covenants and agreements shall be joint and several. Any Mortgagor who co-signs this Mortgage but does not execute the Note: (A) is co-signing this Mortgage only to mortgage, grant and convey that Mortgagor's interest in the Property under the terms of this Mortgage; (B) is not personally obligated to pay the sums secured by the Mortgage; and (C) agrees that Mortgagee and any other Mortgagor may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Note without that Mortgagor's consent.

13. **GOVERNING LAW; SEVERABILITY.** This Mortgage shall be governed by federal law and 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 provision. To this end the provisions of this Mortgage and the Note are declared to be severable.

14. DEFAULT; ACCELERATION; EXTENSION; REMEDIES. Upon Mortgagor's default of any covenant, warranty, condition or agreement of Mortgagor in this Mortgage, including but not limited to, the covenants to pay when due any sums secured by this Mortgage, or the default by Mortgagor of any one or more of the events or conditions defined as Default and Remedies in the Note secured hereby, or in any other obligation secured by the Mortgage or upon the default by Mortgagor in any obligation under any mortgage having priority over this Mortgage, Mortgagee, at Mortgagee'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 proceedings and may invoke any other remedies permitted by applicable law or provided herein.

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, forbearance, or delay of the Mortgagee in enforcing any of the provisions of this Mortgage, shall operate to impair the lien thereof or waive any rights accrued or that might accrue hereunder.

The Mortgagee shall also be entitled to collect all costs and expenses, including, but not limited to, title reports, appraisal fees and reasonable attorney's fees incurred by Mortgagee in connection with (A) any proceeding, without limitation in probate, bankruptcy, receivership or proceedings to which the Mortgagee may be a party, either as plaintiff, claimant or defendant by reason of this Mortgage or any indebtedness secured hereby; (B) preparation of the commencement of a suit for foreclosure of this Mortgage after accrual of the right to foreclose whether or not actually commenced; or (C) the defense of this Mortgage in any proceeding instituted by any other lienholder. All costs, expenses and attorney's fees when incurred or paid by Mortgagee shall become additional indebtedness secured by this Mortgage and which shall be immediately due and payable by Mortgagor with interest at the rate stated in said Note.

15. WAIVERS.

Except to the extent prohibited by law, Mortgagor waives and releases and all rights and remedies Mortgagor may have now or have or acquire in the future relating to: (1) redemption; (2) reinstatement; (3) the marshalling of liens and assets; (4) rights of valuation and appraisal; and (5) homestead exemption in the property.

16. MISCELLANEOUS.

(A) The word Mortgagor as used herein shall include all persons executing this Mortgage and the word Mortgagee shall mean its respective successors and assigns. The singular shall mean the plural and the plural shall mean the singular and the use of any gender shall be applicable to all genders.

(B) Any forbearance by Mortgagee in exercising any right or remedy hereunder or otherwise afforded by applicable law or equity, shall not be a waiver of or preclude the exercise of any such right or remedy.

(C) Each remedy provided for in this Mortgage is distinct and cumulative to all other rights and remedies under this Mortgage or afforded by applicable law or equity, and may be exercised concurrently, independently or successively in any order whatsoever.

(D) No change, amendment or modification of this Mortgage shall be valid unless in writing and signed by the Mortgagor and Mortgagee or their respective successors and assigns.

(E) Upon payment of all sums secured by this Mortgage, Mortgagee shall release this Mortgage. Borrower shall pay Mortgagee for expenses incurred in releasing the Mortgage, including but not limited to, preparation of payoff statements, preparation of and processing of Satisfaction of Mortgage and recordation or filing fees.

The South 7.5 feet of Lot 13, all of Lot 14, and the North 7.50 feet of Lot 15, Block 28, Calumet Addition to East Chicago, as shown in Plat Book 8, page 32, in Lake County, Indiana.

