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LEASEHOLD MORTGAGE AND SECURITY AGREEMENT

Dated as of the 4th day of JUNE, 1992

between

INB BANKING COMPANY  
an Indiana corporation  
("Mortgagee")

and

THORNTON OIL CORPORATION  
a Delaware corporation  
("Mortgagor")

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CHARTER

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## LEASEHOLD MORTGAGE AND SECURITY AGREEMENT

THIS LEASEHOLD MORTGAGE AND SECURITY AGREEMENT (the "Mortgage"), is made and entered into as of the 4<sup>th</sup> day of JUNE, 1992, between:

(a) THORNTON OIL CORPORATION, a Delaware corporation, with a mailing address of STM Plaza West, Suite 200, 10101 Linn Station Road, Louisville, Kentucky 40223-3819 ("Mortgagor"), and

(b) INB BANKING COMPANY, an Indiana banking corporation, having its principal office and post office address at 460 Spring Street, Jeffersonville, Clark County, IN 47130 ("Mortgagee").

### RECITALS

A. Mortgagor is the owner of a Leasehold Interest in the real property (the "Land") described in Exhibit A attached hereto as a part hereof which arises under a ground lease dated the 15 day of November, 1991, between Mortgagor as Tenant and Foursome Partners, as Landlord (the "Lease"), a short form of which is recorded as Document 91614036, in the office of the Recorder of Cook County, Illinois. Mortgagor has entered into a Loan Agreement (as hereinafter defined) with Mortgagee dated January 9, 1992, as amended by First Amendment To Loan Agreement dated May 14, 1992, the terms of which, together with such amendments as are from time to time agreed to by the parties, are incorporated herein by reference as if fully set forth herein.

B. Pursuant to the Loan Agreement, Mortgagee has agreed to make advances to Mortgagor in the maximum principal sum of Seven Million Dollars (\$7,000,000.00). To evidence such debt, Mortgagor has executed and delivered to Mortgagee its promissory note (the "Note") dated January 9, 1992, for the maximum amount of such debt, with interest thereon as provided in the Note, said principal and interest being payable as stated in the Note, all of the terms and provisions of which are incorporated herein by reference. The Note is due and payable on January 9, 1999, which is the final maturity date thereof.

C. In order to secure its obligations to Mortgagee under the Note, as well as other obligations of Mortgagor to Mortgagee described herein, Mortgagor has executed and delivered this Mortgage.

### CERTAIN DEFINITIONS

The parties agree that, unless the context otherwise specifies or requires, the following terms shall have the following meanings, such definitions to be applicable equally to the singular and the plural forms of such terms.

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"Events of Default" means the events and circumstances described as such in Section 3.1 hereof.

"Lease" shall mean the ground lease under which Mortgagor holds its Leasehold Interest in the Property.

"Loan Agreement" shall mean that certain Loan Agreement dated January 9, 1992, as amended, between Mortgagee and Mortgagor.

"Loan Documents" shall mean the Loan Agreement, the Note, this Mortgage and all other documents required to be executed by Mortgagor pursuant to the Loan Agreement.

"Mortgaged Property" means and includes Mortgagor's Leasehold Interest in the real property described in Exhibit A attached hereto as a part hereof, and all improvements (the "Improvements") now or hereafter constructed, installed or placed on such real property and easements, rights, privileges, and appurtenances belonging or in any way appertaining to such real property, and all of the estate, right, title, interest, claim or demand whatsoever of Mortgagor in or to such real estate, either in law or in equity, in possession or expectancy, now or hereafter acquired.

"Tenant" shall mean Mortgagor, Tenant under the Lease.

## GRANTING CLAUSE

NOW, THEREFORE, in consideration of the premises and in order to secure (i) the payment of both the principal of, and the interest and any other sums payable under or by reason of, the Note or this Mortgage, (ii) the payment of all renewals and extensions of the Note, and of any additional indebtedness of Mortgagor to Mortgagee, whether direct, indirect, existing, future, contingent, or otherwise which additional indebtedness shall not exceed the maximum amount of \$1,000,000.00 and (iii) the performance and observance of all the provisions hereof and the Loan Documents, Mortgagor hereby grants, conveys, assigns and mortgages unto Mortgagee, its successors and assigns, with covenant of GENERAL WARRANTY, all its estate, right, title and interest in, to and under any and all of the following described property located in the County of Cook, and State of Illinois, to wit:

- (a) The Mortgaged Property;
- (b) All rents, issues, profits, royalties, income and other benefits from the Mortgaged Property; and
- (c) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including without limitations, proceeds of insurance and condemnation awards, except as limited by the provisions of Section 1.18 hereof; and

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(d) All right, title and interest of Mortgagor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Mortgaged Property, and any and all sidewalks, alleys and strips of land adjacent to or used in connection with the Mortgaged Property.

TO HAVE AND TO HOLD unto Mortgagee, its successors and assigns forever.

## 1. PARTICULAR COVENANTS OF MORTGAGOR

Mortgagor covenants and agrees with Mortgagee as follows:

1.1 Good Title. Mortgagor warrants that it has a good and marketable title to the Mortgaged Property subject to no lien, charge, encumbrance or exception except as are satisfactory to Mortgagee and listed as exceptions to title in the title insurance policy which insures the lien of this Mortgage and which is issued by a title insurance company acceptable to Mortgagee; and that this Mortgage is and will remain a valid and enforceable first mortgage lien on the Mortgaged Property subject only to the exceptions referred to above. Mortgagor has full power and lawful authority to mortgage the Mortgaged Property in the manner and form herein done or intended hereafter to be done. Mortgagor will preserve such title, and will forever warrant and defend the same to Mortgagee and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whomsoever.

1.2 Payment of Note and Observance of Covenants. Mortgagor will pay when due the principal and interest and all other sums to become due in respect of the Note and this Mortgage at the time and place and in the manner specified in the Note and Mortgage, according to the true intent and meaning thereof, all in any coin or currency of the United States of America which at the time of such payment shall be legal tender for the payment of public and private debts. Mortgagor shall duly and punctually perform and observe all of the covenants, agreements and provisions contained in this Mortgage and in the Loan Documents.

1.3 Additions to Mortgaged Property. All right, title and interest of Mortgagor in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to the Mortgaged Property, hereafter acquired by, or released to, Mortgagor, or constructed, assembled or placed by Mortgagor on the Mortgaged Property, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further mortgage, conveyance, assignment or other act by Mortgagor, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by Mortgagor and specifically described in the granting clause hereof,

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but at any and all times Mortgagor will execute and deliver to Mortgagee any and all such further assurances, mortgages, conveyances or assignments thereof as Mortgagee may reasonably require for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage.

1.4 Taxes, Utilities and Materialmen's Claims.

(a) Mortgagor, from time to time when the same shall become due, will pay and discharge all taxes of every kind and nature (including withholding, profits and gross receipts taxes), all general and special assessments, levies, permits, inspection and license fees, all water and sewer rents and charges, and all other public charges whether of a like or different nature, imposed upon or assessed against Mortgagor or the Mortgaged Property or any part thereof or upon the revenues, rents, issues, income and profits of the Mortgaged Property or arising in respect of the occupancy, use or possession thereof. Mortgagor will, upon the request of Mortgagee, deliver to Mortgagee satisfactory evidence of payment of all such taxes, assessments, levies, fees, rents and other public charges imposed upon or assessed against Mortgagor or the Mortgaged Property or the revenues, rents, issues, income or profits thereof.

(b) Mortgagor will pay or cause to be paid, from time to time, when the same shall become due, all charges for utilities or services to the Mortgaged Property and lawful claims and demands of mechanics, materialmen, laborers, and others which, if unpaid, might result in, or permit the creation of, a lien on the Mortgaged Property or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom and in general will do or cause to be done everything necessary so that the lien of this Mortgage shall be fully preserved, at the cost of Mortgagor, without expense to Mortgagee.

(c) Nothing in this Section 1.4 shall require the payment or discharge of any obligation imposed upon Mortgagor by this Section so long as Mortgagor shall in good faith and at its own expense contest the same or the validity thereof by appropriate legal proceeding which shall operate to prevent the collection thereof or other realization thereon and the sale or forfeiture of the Mortgaged Property or any part thereof to satisfy the same; provided that if at any time payment of any obligation imposed upon Mortgagor by subparagraph (a) hereof shall become necessary to prevent the delivery of a tax or other deed conveying the Mortgaged Property or any portion thereof because of nonpayment, then Mortgagor shall pay the same in sufficient time to prevent the delivery of such deed.

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## 1.5 Insurance.

(a) Mortgagor will keep in force during the term of this Mortgage insurance against loss by fire and extended coverage insurance on the improvements on the Mortgaged Property and all tangible personal property of Mortgagor as described on Exhibit B attached hereto and made a part hereof in the amount of the full insurable value thereof and by companies satisfactory to Mortgagee. Said policies shall contain a clause that the same may not be canceled without twenty (20) days' prior written notice to Mortgagee and shall contain certain endorsements that no act or negligence of the insured or any occupant, and no occupancy or use of the property for purposes more hazardous than permitted by the terms of the policy will affect the validity or enforceability of such insurance. All such insurance policies shall be written in amounts sufficient to prevent Mortgagor from becoming a coinsurer under the applicable policies. The policy or policies of such insurance, or certificates relating to the same, shall be delivered to Mortgagee. Mortgagor will promptly pay when due any premiums on any policy or policies of insurance required under this Section and will deliver to Mortgagee renewals of the same at least ten (10) days prior to the expiration dates thereof, with such policies and renewals marked "paid" by the issuing company or agent.

(b) Mortgagor shall give Mortgagee prompt notice of any loss covered by such insurance, and Mortgagee shall have the right to join Mortgagor in adjusting any loss. All monies received as payment for any loss under such insurance shall be held, used and disbursed in accordance with the provisions of Section 1.18, below. If the insurance proceeds are applied to the payment of the sums secured by this Mortgage, any such application of proceeds to principal shall not extend or postpone the due date of the installments referred to in Section 1.2 hereof or change the amount of such installments.

(c) Delivery to Mortgagee of any policy of insurance or certificate required under this Section or any renewal thereof shall constitute an assignment to Mortgagee of all unearned premiums thereon as further security for the payment of the Note and all other sums secured hereby. In the event of enforcement of the lien of this Mortgage or other transfer of title to the Mortgaged Property and the improvements thereon in extinguishment of the indebtedness secured hereby, all right, title and interest of Mortgagor in and to any such insurance policy then in force shall pass to the purchaser or Mortgagee.

1.6 Examination of Records. Mortgagor shall (a) permit Mortgagee at any reasonable time to examine the books, records and accounts of Mortgagor insofar as they relate to the Mortgaged Property and to make copies thereof and (b) exhibit such books, records and accounts to Mortgagee, or to any person designated by it for the purpose, at Borrower's principal place of business located at 10101 Linn Station Road, Louisville, Kentucky.

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1.7 Access to Mortgaged Property. Mortgagee shall have access to and the right to inspect the Mortgaged Property during normal business hours upon reasonable notice.

1.8 Change in Taxation. In the event of the passage after the date of this Mortgage of any law deducting from the value of real property for the purpose of taxation any lien thereon, or changing in any way the laws now in force for the taxation of mortgages, deeds of trust, or debts secured thereby, for state or local purposes, or the manner of the collection of any such taxes so as to affect this Mortgage or the interest of Mortgagee hereunder, then and in such event, Mortgagor shall bear and pay the full amount of such taxes. If for any reason payment by Mortgagor of any such new or additional taxes would be unlawful or if the payment thereof would constitute usury or render the loan or indebtedness secured hereby wholly or partially usurious under any of the terms or provisions of the Note, this Mortgage, or otherwise, Mortgagee may, at its option, declare the whole sum secured by this Mortgage with interest thereon to be immediately due and payable, or Mortgagee may, at its option, pay that amount or portion of such taxes as renders the loan or indebtedness secured hereby unlawful or usurious, in which event Mortgagor shall concurrently therewith pay the remaining lawful and nonusurious portion or balance of said taxes.

1.9 Additional Security Documents. Mortgagor, from time to time, within 15 days after request by Mortgagee, shall execute, acknowledge and deliver to Mortgagee, such chattel mortgages, security agreements or other similar security instruments, in form and substance reasonably satisfactory to Mortgagee, covering all property of any kind whatsoever owned by Mortgagor or in which Mortgagor may have any interest which, in the reasonable opinion of Mortgagee, are essential to the operation of the Mortgaged Property. Mortgagor shall further, from time to time, within 15 days after request by Mortgagee, execute, acknowledge and deliver any financing statement, renewal, affidavit, certificate, continuation statement, or other document as may be necessary in order to perfect, preserve, continue, extend or maintain the security interest under, and the priority of, this Mortgage or such chattel mortgage or other security instrument as a first lien. Mortgagor further agrees to pay to Mortgagee on demand all costs and expenses incurred by Mortgagee in connection with the preparation, execution, recording, filing and refiling of any such instrument or document including the charges for examining title and the attorney's fee for rendering an opinion as to the priority of this Mortgage and of such chattel mortgage or other security instrument as a valid first and subsisting lien. However, neither a request so made by Mortgagee nor the failure of Mortgagee to make such a request shall be construed as a release of the Mortgaged Property, or any part thereof, from the lien of this Mortgage, it being understood and agreed that this covenant and any such chattel mortgage, security agreement or other similar security instrument,

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delivered to Mortgagee, are cumulative and given as additional security.

## 1.10 Transfer or Sublease of Mortgaged Property.

(a) Mortgagor, or any successor in interest to Mortgagor, shall not (i) sell, (ii) convey, (iii) transfer, (iv) sublease, (v) mortgage, pledge or encumber (all of the foregoing being hereinafter referred to as "Transfer") all or any part of the Mortgaged Property, or any legal or equitable interest therein, unless consented to in writing by Mortgagee, pursuant to Section 1.10(c), below.

(b) Mortgagor, or any successor in interest to Mortgagor, shall not (i) grant or create any easement, license, right-of-way, condition or covenant with respect to any portion or interest in the Mortgaged Property without the prior written consent of Mortgagee (which consent shall not be unreasonably withheld with respect to easement, license or right-of-way). Such consent may be conditioned upon such modifications of this Mortgage and the indebtedness which it secures, as Mortgagee may deem necessary at the time of such consent, including, without limitations, changing the interest rate applicable to said loan for the remaining term of the loan, and the proposed purchaser or transferee of the Mortgaged Property meeting the then existing standards of credit and financial responsibility required of borrowers by Mortgagee.

(c) If the Mortgaged Property is Transferred with the written consent of Mortgagee, the purchaser or transferee shall assume the balance then owing on the indebtedness and all of the obligations relating thereto (including any modifications required for Mortgagee's consent to the Transfer) and shall pay to Mortgagee a transfer fee customary at the time of Transfer.

(d) Mortgagee may declare the entire debt secured hereby immediately due and payable and enforce this Mortgage, without notice to Mortgagor, in the event the Mortgaged Property is Transferred without the written consent of Mortgagee or the purchaser or transferee declines to assume the indebtedness secured by this Mortgage as herein provided. If the Mortgaged Property is Transferred with or without Mortgagee's written consent, such Transfer shall not operate to release, discharge, modify, change or affect the original liability of Mortgagor or any subsequent persons who become obligated by reason of the assumption of the debt secured, either in whole or in part.

## 1.11 Indemnification; Subrogation; Waiver of Offset.

(a) If Mortgagee is made a party defendant to any litigation concerning this Mortgage or the Mortgaged Property or any part thereof or therein, or the occupancy thereof by Mortgagor, then Mortgagor shall indemnify, defend, and hold Mortgagee harmless

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from all liability by reason of said litigation, including reasonable attorneys' fees and expenses incurred by Mortgagee in any such litigation, whether or not any such litigation is prosecuted to judgment. If Mortgagee commences an action against Mortgagor to enforce any of the terms hereof or because of the breach by Mortgagor of any of the terms hereof, or for the recovery of any sums secured hereby, to the extent allowed by law, Mortgagor shall pay to Mortgagee its reasonable attorneys' fees and expenses actually incurred, and the right to such attorneys' fees and expenses shall be deemed to have accrued on the commencement of such action, and shall be enforceable whether or not such action is prosecuted to judgment. If Mortgagor breaches any term of this Mortgage, Mortgagee may employ an attorney or attorneys to protect its rights hereunder; and in the event of such employment following any breach by Mortgagor and to the extent allowed by law, Mortgagor shall pay Mortgagee its reasonable attorneys' fees and expenses actually incurred by Mortgagee, whether or not an action is actually by law commenced against Mortgagor by reason of breach. Any amounts payable to or for the benefit of Mortgagee under this Section which are not paid within ten (10) days after written demand therefor shall bear interest from the date of such demand at the rate provided in the Note with respect to the principal balance due under the Note, and such amounts, together with such interest, shall be indebtedness secured by this Mortgage. The obligations of Mortgagor under this Section shall survive any defeasance of this Mortgage.

(b) Mortgagor waives any and all right to claim or recover against Mortgagee, its officers, employees, agents and representatives, for loss of or damage to Mortgagor, the Mortgaged Property, any other property of Mortgagor or the property of others under its control from any cause insured against or required to be insured against by the provisions of this Mortgage.

(c) All sums payable by Mortgagor hereunder shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Mortgagor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Mortgaged Property or any part thereof; (ii) any restriction or prevention of or interference with any use of the Mortgaged Property or any part thereof; (iii) any title defect or encumbrance or any eviction from the Mortgaged Property or the Improvements or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Mortgagor, or any action taken with respect to this Mortgage by any trustee or receiver of Mortgagor, or by any court, in any such proceeding; (v) any claim which Mortgagor has or might have against Mortgagee; (vi) any default or failure on the part of Mortgagee to perform or comply with any of the terms hereof or any

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other agreement with Mortgagor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; and whether or not Mortgagor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, Mortgagor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sums secured hereby and payable to Mortgagor.

**1.12 Actions Affecting Mortgaged Property.** Mortgagor shall appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Mortgagee and shall pay all costs and expenses, including cost of evidence of title and attorney's fees, in any such action or proceeding in which Mortgagee may appear.

**1.13 Advances by Mortgagee.** If Mortgagor shall fail to perform any of the covenants contained in Sections 1.2, 1.4, and 1.5, Mortgagee may make advances to perform the same in Mortgagor's behalf, and all sums so advanced shall be a lien upon the Mortgaged Property and shall be secured prior to the Note. Mortgagor will repay on demand all sums so advanced on its behalf with interest at the rate charged Mortgagor by Mortgagee on the principal as specified in the Note. The provisions of this Section 1.13 shall not prevent any default in the observance of any covenant contained in said Sections 1.2, 1.4, and 1.5 from constituting an Event of Default. Further, Mortgagee, at its option, may make any payment which Mortgagor should have made and may also pay any other sum necessary to preserve or protect the security of this instrument. All such sums so advanced or paid, as well as costs reasonably incurred or paid by Mortgagee pursuant to this instrument, shall thereupon become additional indebtedness secured hereby and shall bear interest at the rate charged Mortgagor on the unpaid principal balance of the Note, from the date when any such sums are paid. Any and all sums advanced or paid by Mortgagee under the provisions of this instrument shall, together with interest, be repaid to Mortgagee upon demand.

**1.14 No Waste, Use and Repairs.** Mortgagor will not commit any waste on the Mortgaged Property, make any change in the use of the Mortgaged Property which will in any way increase the risk of fire or other hazard arising out of construction or operation, or take any actions that might invalidate any insurance carried on the Mortgaged Property. Mortgagor will, at all times maintain the Mortgaged Property in good order and condition and will promptly make, from time to time, all repairs, renewals, replacements, additions and improvements in connection therewith which are needful or desirable to such end and will not make any substantial change in the use of the Mortgaged Property. Mortgagor shall not remove, demolish or substantially alter the Mortgaged Property without the prior written consent of the Mortgagee, except where appropriate replacements free of superior title, liens and claims are immediately made of value at least equal to the value of the Improvements removed.

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1.15 Condemnation. Mortgagor shall give Mortgagee prompt written notice of any condemnation or eminent domain action, actual or threatened, and hereby assigns, transfers, and sets over to Mortgagee the entire proceeds of any award or claim for damages for all or any part of the Mortgaged Property taken or damaged under the power of eminent domain or condemnation, Mortgagee being hereby authorized to intervene in any such action and to collect and receive from the condemning authority and give proper receipts and acquittances for, such proceeds. Mortgagor will not enter into any agreement with the condemning authority permitting or consenting to the taking of the Mortgaged Property unless prior written consent of the Mortgagee is first obtained. Any expenses incurred by Mortgagee in intervening in such action or collecting such proceeds shall be reimbursed to Mortgagee first out of the condemnation proceeds. The proceeds or any part thereof shall be held by Mortgagee pursuant to Section 1.18.

1.16 Assumption of Mortgagor's Obligation. Mortgagor covenants and agrees that without the prior written consent of the holder of the Note, it will not permit any other party to assume Mortgagor's obligation to make payments under the Note. For the purposes of this Mortgage, any merger or consolidation of Mortgagor with a corporation and/or a partnership or any sale, mortgage or other disposition of all or any portion of Mortgagor's interest in the Mortgaged Property or any sale, transfer, conveyance or other disposition by Mortgagor, whether directly or indirectly, of substantially all of its assets to another person, partnership or corporation, in any case shall be deemed a sale, transfer or conveyance of the Mortgaged Property requiring the prior written consent of Mortgagee or the holder of the Note.

1.17 Other Liens. Without the prior written consent of Mortgagee, Mortgagor will not voluntarily create or otherwise permit any lien, other than the lien created hereby in favor of Mortgagee, to attach to the Mortgaged Property including any and all improvements now or hereafter erected thereon. Any mortgage or other lien which is expressly permitted under the terms of this Mortgage and which is subordinate to the lien of this Mortgage shall at all times be and remain subordinate to this Mortgage, including any amendment hereto.

## 1.18 Application and Disbursement of Insurance and Condemnation Proceeds.

(a) Any proceeds (hereinafter called "Proceeds"), or part thereof resulting from a casualty loss (not including condemnation) shall be applied as follows:

(1) If, in Mortgagee's sole discretion, which shall be reasonably exercised, the Improvements are not totally damaged or destroyed by fire, explosion or any other casualty such that reconstruction could be completed within six (6) months after the occurrence of such casualty and if Mortgagor is not in default

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hereunder, then the Mortgagee shall disburse such proceeds to Mortgagor to replace the damaged or destroyed collateral. The Mortgagee shall disburse such proceeds as set forth in Section 1.18(b) hereof.

(2) In the event that such damage or destruction is, in Mortgagee's sole discretion, which shall be reasonably exercised, deemed to be total, then and in that event said proceeds shall be either

(i) disbursed by Mortgagee to Mortgagor for the construction and furnishing of like improvements at a new facility, subject to Mortgagee's approval, which shall not be unreasonably withheld, in which case Mortgagor shall grant to Mortgagee a Mortgage and Security Interest on the new property, and the fixtures and equipment thereon (with respect to Borrower-owned facilities), or a Leasehold Mortgage and Security Interest on the improvements, fixtures and equipment thereon (with respect to Borrower-leased facilities), or

(ii) retained by the Mortgagee and applied to the reduction of the loan, and after full payment thereof, together with any accrued and unpaid interest thereon, the remaining proceeds shall go to Mortgagor.

In the event the proceeds are applied pursuant to subsection (i), above, the terms and conditions of the Loan Documents, including without limitation the Repayment Period, shall remain unchanged.

(3) In the event that such damage or destruction is not total, then the Proceeds shall be disbursed according to the provisions of Section 1.18(b) hereof.

(b) In any case where the Proceeds are applied to repair or restoration, the Proceeds shall be held by Mortgagee in an interest-bearing account with Mortgagee designated for such purpose. The interest therefrom shall be the property of Mortgagor prior to an Event of Default and the property of Mortgagee after an Event of Default. Mortgagee shall hold such Proceeds in order to defray the costs of such restoration or repair under such safeguards and controls (including without limitation disbursement under the supervision of an architect approved by Mortgagee) as Mortgagee may reasonably require to assure completion of all repair and restoration of the Mortgaged Property free of liens or claims, as a complete architectural and economic unit and pursuant to plans and specifications approved by Mortgagee. Mortgagor shall, on demand, deposit with Mortgagee any sums necessary to make up any deficits between the actual cost of the work and the Proceeds and provide such lien waivers and completion bonds as Mortgagee may reasonably require. Any surplus which may remain, shall be applied on account of the indebtedness secured hereby then most remotely to be paid, whether due or not.

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(c) Any Proceeds or part thereof resulting from condemnation shall be applied as follows:

(1) If the Mortgaged Property or the Improvements are taken as the result of condemnation such that the taking is deemed to be total, then the proceeds of such taking shall be applied to the payment of the indebtedness secured hereby; such Proceeds shall be applied first to the payment of any other sums required to be paid by Mortgagor under this Mortgage or other instruments securing payment of the Note, second to accrued interest on the Note, and third, to outstanding principal balance of the Note;

(2) in the event that such taking is not total, then the Proceeds shall be disbursed according to the provisions of Section 1.18(c) hereof.

## 1.19 Hazardous Materials.

(a) Neither the Mortgagor nor, to the best of Mortgagor's knowledge, any other person has ever caused or permitted any Hazardous Material (hereinafter defined), except gasoline and petroleum products used in the ordinary course of the business of Thornton Oil Corporation, to be placed, held, located or disposed of on, under or at the Land or any part thereof, and neither the Land, nor the Improvements nor any part thereof has ever been used (whether by the Mortgagor or, to the best of Mortgagor's knowledge, by any other person) as a dump site or storage (whether permanent or temporary) site for any Hazardous Material as hereinafter defined, except gasoline and petroleum products used in the ordinary course of the business of Thornton Oil Corporation.

(b) Mortgagor hereby agrees to indemnify the Mortgagee and hold the Mortgagee harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses (including reasonable attorney's fees) and claims of any and every kind whatsoever paid, incurred, suffered by or asserted against Mortgagee for, or with respect to the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Land or the Improvements of any Hazardous Material (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses, reasonable fees of legal counsel to Mortgagee, or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "Superfund" or "Superlien" law, or any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree relating to or imposing liability or standard of conduct concerning any Hazardous Material).

(c) For purposes of this Mortgage, "Hazardous Material" means and includes any hazardous, toxic or dangerous waste, substance or material defined as such in, or for purposes of, the

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Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.), any so-called "Superfund" or "Superlien" law, or any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

(d) For purposes of this Mortgage, "Hazardous Discharge" means and includes the happening of any event involving the use, spill, discharge or cleaning up of any Hazardous Material and "Environmental Complaint" means and includes any complaint, order, citation or notice with regard to air emissions, water discharges, noise emissions or any other environmental, health or safety matter affecting Mortgagor from any person or entity, including, without limitation, the United States Environmental Protection Agency ("EPA"). Mortgagor shall adhere to, and comply with, all rules and regulations promulgated by Thornton Oil Corporation in order to avoid and preclude a Hazardous Discharge or an Environmental Complaint. If, within thirty (30) days after the occurrence of a Hazardous Discharge or an Environmental Complaint (except in an emergency), Mortgagor has not commenced remediation activities, then, without limiting Mortgagee's rights under this Mortgage, Mortgagee shall have the right, but not the obligation, to enter onto the Mortgaged Property or to take such other actions as it deems necessary or advisable to clean up, remove, resolve or minimize the impact of, or otherwise deal with, any such Hazardous Discharge or Environmental Complaint including, without limitation, the EPA, asserting the existence of any Hazardous Discharge or Environmental Complaint on or pertaining to the Land or the Improvements which, if true, could result in an order, suit or other action against Mortgagor and/or any part of the Land or the Improvements by any governmental agency or otherwise which in the sole opinion of Mortgagee, could jeopardize its security under this Mortgage. All reasonable costs and expenses incurred by Mortgagee in the exercise of any such rights, including, without limitation, reasonable fees of legal counsel to Mortgagee, shall be secured by this Mortgage and shall be payable by Mortgagor upon demand.

(e) It shall be a default under this Mortgage if the EPA or any other state or federal agency asserts or creates a lien upon any or all of the Land, the Improvements or otherwise upon the Mortgaged Property by reason of the occurrence of a Hazardous Discharge or Environmental Complaint or otherwise; or if the EPA or any other state or Federal agency asserts a claim against Mortgagor, the Land, the Improvements or Mortgagee for damages or cleanup costs related to a Hazardous Discharge or Environmental Complaint; provided, however, such claim shall not constitute a default if, within seven (7) days of Mortgagor's receipt or rejection of same, both: [1] Mortgagor can prove to Mortgagee's satisfaction that Mortgagor has commenced and is diligently pursuing either: [1] a cure or correction of the event which constitutes the basis for the claim and is continuing diligently to

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pursue such cure or correction to completion, or [11] proceedings for an injunction, a restraining order or other appropriate emergency relief preventing such agency or agencies from asserting such claim, which relief is granted within ten (10) days of the occurrence giving rise to the claim and the injunction, order or emergency relief is not thereafter dissolved or reversed on appeal; and [2] in either of the foregoing events, Mortgagor has posted a bond, letter of credit or other security satisfactory in form, substance and amount to both Mortgagee and the agency asserting the claim to secure the proper and complete cure or correction of the event which constitutes the basis for the claim. The indemnities of Mortgagor contained in this Section 1.19 shall survive the release of this Mortgage.

## 2. SECURITY AGREEMENT

### 2.1 Security Agreement.

(a) Mortgagor (as "Debtor") hereby grants to Mortgagee (as "Creditor" and "Secured Party") a security interest in and to the personal property (the "Collateral") described on Exhibit B attached hereto as a part hereof.

(b) This security agreement is self-operative with respect to the Mortgaged Property, but Mortgagor agrees to execute and deliver on demand such other security agreements, financing statements and other instruments as Mortgagee may reasonably request in order to perfect its security interest or to impose the lien hereof more specifically upon any of such property. Mortgagee shall have all the rights and remedies in addition to those specified herein of a secured party under the Uniform Commercial Code of Indiana and the state in which the Mortgaged Property is located.

(c) Mortgagor and Mortgagee agree that the filing of a financing statement in the records normally having to do with personal property shall never be construed as in any wise derogating from or impairing the express declaration and intention of the parties hereto as herein stated, that everything used in connection with the production of income from the Mortgaged Property, and/or adapted for use therein and/or which is described or reflected in this instrument is secured by the lien created by this security agreement irrespective of whether (i) any such item is physically attached to the Improvements, (ii) serial numbers are or may be used for better identification in a recital contained herein or in any list filed with the holder of the Note, or (iii) any such item is referred to or reflected in any security agreement and/or financing statement filed at any time. Similarly, the mention in any such security agreement and financing statement of rights to any award in eminent domain proceedings for a taking or for loss of value, or Mortgagor's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Mortgaged Property, whether pursuant to a lease or

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otherwise, shall never be construed as in any wise altering any of the rights of Mortgagee as determined by this instrument or impugn the priority of Mortgagee's lien granted hereby or by any other recorded document, but such mention is declared to be SOLELY for the protection of Mortgagee in the event any court shall at any time hold that notice of Mortgagee's priority of interest to be effective against a particular class of persons, including but not limited to the federal government and any subdivisions of the federal government, must be filed in the Uniform Commercial Code records.

(d) Upon the occurrence of an Event of Default under this Mortgage, the Note, the Loan Documents or any other agreement executed as further security for the Note, the Mortgagee shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real property, in which event the default provisions of the Uniform Commercial Code shall not apply.

(e) To the extent permitted under the Uniform Commercial Code, Mortgagor waives all rights of redemption and all other rights and remedies of a debtor thereunder and all formalities prescribed by law relative to the sale or disposition of the collateral after the occurrence of any Event of Default and to all other rights and remedies of Mortgagor with respect thereto. In exercising its rights to take possession of the collateral upon the occurrence of an Event of Default, Mortgagee may enter upon the Mortgaged Property without being guilty of trespass or any other wrongdoing, and without liability for damages thereby occasioned. To the extent any notice of sale or other disposition of the Collateral is required and cannot be waived, in the event Mortgagee elects to proceed with respect to the Collateral separately from the real property, Mortgagee need give no more than ten (10) days notice of the sale of the Collateral. All recitals in any instrument of assignment or any other instrument executed by Mortgagee incident to any sale, transfer, assignment, lease or other disposition or utilization of the Collateral or any part thereof shall be full proof of the matter stated therein and no other proof shall be required to establish full legal propriety of the sale or other action taken by Mortgagee or of any fact or condition incident thereto, all of which shall be deemed conclusively to have been performed or to have occurred.

(f) Mortgagor shall reimburse Mortgagee, on demand, for all reasonable expenses of retaking, holding, preparing for sale, lease or other use or disposition, selling, leasing or otherwise suing or disposing of the Collateral which are incurred or paid by Mortgagee, including, without limitation, all attorneys' fees, legal expenses and costs, and all such expenses shall be added to Mortgagor's obligations to Mortgagee and shall be secured hereby.

(g) This security agreement secures an indebtedness in excess of \$200.00.

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(h) The address of the Secured Party from which information concerning the security interest may be obtained is 460 Spring Street, Jeffersonville, Indiana 47130.

## 3. EVENTS OF DEFAULT AND REMEDIES

3.1 Events of Default. The following shall constitute Events of Default hereunder:

(a) if Mortgagor shall fail to pay any payment of principal and/or interest on the Note or to perform any covenant to be satisfied by the payment of money within ten (10) days after the giving of notice of Mortgagor's failure to make such payment on the due date;

(b) if Mortgagor shall fail to observe, perform or comply with any nonmonetary covenant or condition on the part of Mortgagor in the Loan Documents, the Note or in this Mortgage unless such nonmonetary default is cured within thirty (30) days after written notice from Mortgagee to Mortgagor specifying such default;

(c) if Mortgagor shall sell or permit the Mortgaged Property or any legal or equitable interest therein to be sold, assigned, or conveyed in any manner without the prior written consent of Mortgagee;

(d) if Mortgagor shall mortgage or encumber the Mortgaged Property or the improvements, or any interest therein, without the prior written consent of Mortgagee;

(e) if Mortgagor shall alter, remove, or demolish the Improvements (other than as a result of a casualty covered by the insurance referred to in Paragraph 1.18 hereof), or sever, remove, or sell any fixtures or equipment on, in, or about said Improvements or on the Mortgaged Property (unless Mortgagor replaces same with similar items of fixtures or equipment). Mortgagor may not mortgage any of the aforesaid (except as permitted above) without the prior written consent of Mortgagee and any such mortgaging will be considered an event of default;

(f) if Mortgagor shall permit, commit, or suffer any waste, impairment, or deterioration of the improvements or any part thereof, or of the equipment on the Mortgaged Property, or fail to keep and maintain the same and every part thereof in good condition and repair and, from time to time, make all needful and proper replacements so that said improvements, fixtures, and equipment will, at all times, be in good condition, fit and proper for the purposes for which they were originally erected or installed and such deficiency is not cured within 30 days after notice from Mortgagee;

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(g) if the occupancy or use of the Mortgaged Property shall be restricted, impaired, or enjoined by action of any third party, including, without limitation, any federal, state, or local authority, and such restriction, impairment, or injunction is not removed within 30 days after notice from Mortgagee;

(h) if the Landlord under the Lease shall declare a default thereunder, and such default is not cured within any applicable grace period thereunder;

(i) if Mortgagor shall suffer the loss of any privilege, franchise, license, permit, or other authorization necessary for the operation of the Mortgaged Property, the loss of which would materially affect the operation of the Mortgaged Property, and such privilege, franchise, license, permit, or other authorization is not restored within 30 days after notice from Mortgagee;

(j) if Mortgagor shall suffer the filing of any lien or encumbrance, including, without limitation, any mechanic's or materialman's lien, other statutory lien, or any other lien arising by operation of law and the same is not removed within 30 days after such filing;

(k) if the Lease shall be cancelled, surrendered, or terminated;

(l) if the Mortgagee or its representatives are not permitted, at all reasonable times, to enter upon the Mortgaged Property to inspect the Mortgaged Property;

(m) if the Mortgagee reasonably and in good faith believes that the prospect of payment of the Note secured hereby or any part thereof is impaired and Mortgagor cannot within 30 days of notice from Mortgagee provide evidence satisfactory to Mortgagee, in its sole discretion, that such belief is not accurate;

(n) if Mortgagor shall (i) be adjudicated bankrupt, (ii) admit in writing its inability to pay its debts generally as they become due, (iii) become insolvent in that either the total assets of the Mortgagor are in the aggregate worth less than all of its liabilities or that the Mortgagor is not paying its debts generally as they become due, (iv) make a general assignment for the benefit of creditors, or (v) file a petition, or admit (by answer, default or otherwise) the material allegations of any petition filed against it, in bankruptcy under the federal bankruptcy laws (as in effect on the date of this Mortgage or as they may be amended from time to time), or under any other law for the relief of debtors, or for the discharge, arrangement or compromise of its debts;

(o) if a petition shall have been filed against Mortgagor in proceedings under the federal bankruptcy laws (as in effect on the date of this Mortgage, or as they may be amended from time to time), or under any other laws for the relief of debtors,

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or for the discharge, arrangement or compromise of their debts, or an order shall be entered by any court of competent jurisdiction appointing a receiver, trustee or liquidator of all or part of the assets of Mortgagor and such petition or order is not dismissed or stayed within sixty (60) consecutive days after entry thereof;

(p) if the Mortgagor or any person, firm or corporation affiliated with it, takes any action that is intended to result in the termination, dissolution or liquidation of the Mortgagor;

(q) if Mortgagor shall make any materially false or misleading representation or statement, or deliver any materially false or misleading document, to Mortgagee in connection with this mortgage and the loan agreement; or

(r) if Mortgagor, in any manner, shall fail to keep and perform any of the covenants, stipulations, and agreements set out in the Note or herein contained on its part to be performed, or fail to keep or perform any covenant, agreement, condition, or stipulation of the Loan Agreement or in the other Loan Documents or within any applicable grace period provided thereunder.

**3.2 Remedies.** Upon the happening of any Event of Default, Mortgagee may without any further notice:

(a) declare the entire principal of the Note then outstanding, and all accrued and unpaid interest thereon, to be due and payable immediately, and upon any such declaration the principal of the Note and said accrued unpaid interest shall become and be immediately due and payable, anything in the Note or in this Mortgage to the contrary notwithstanding, and/or

(b) enter into possession of and manage and operate the Mortgaged Property and carry on the business thereof and exercise all rights and powers of Mortgagor, with respect thereto either in the name of Mortgagor, or otherwise as it shall deem best; and Mortgagee shall be entitled to collect and receive all earnings, revenues, rents, issues, profits and income of the Mortgaged Property and every part thereof, all of which shall for all purposes constitute property of Mortgagee; and after deducting the expenses of conducting the business thereof and of all maintenance, repairs, renewals, replacements, alterations, additions, and betterments, Mortgagee shall credit the net amount of income received by it from the Mortgaged Property by virtue of this Mortgage to the payment of the principal of the note and the interest thereon, when and as the same shall become payable and second, to the payment of any other sums required to be paid by Mortgagor under this Mortgage; and/or

(c) institute proceedings to enforce the lien of this Mortgage; and/or

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(d) take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Note or in the Loan Documents or in this Mortgage, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal, or equitable remedy or otherwise as Mortgagee shall elect, including appointment of a receiver for the Mortgaged Property.

(e) Enter upon the Mortgaged Property, and perform any and all work and take all steps necessary to manage and operate the Mortgaged Property by itself or through a receiver.

All sums thus expended by Mortgagee upon default shall be deemed paid to Mortgagor and be secured by the applicable Loan Documents. For this purpose, the Mortgagor hereby constitutes and appoints Mortgagee its true and lawful attorney-in-fact, with full power of substitution, to operate and manage the Mortgaged Property thereon in the name of the Mortgagor and hereby empowers Mortgagee as its said attorney-in-fact as follows:

(1) To enter upon, take possession of, conduct tests of, manage, and operate the Mortgaged Property or any part thereof, and do all things necessary or appropriate, in Mortgagee's sole discretion, in connection therewith;

(2) To make all necessary or proper repairs, renewals, replacements, or required alterations, additions, betterments, and improvements to and upon the Mortgaged Property as the Mortgagee may deem judicious and pay all costs and expenses of so taking, holding, and managing the same;

(3) To enforce any bond or policy of insurance or otherwise, and, without limitation, to deal with any bonding or insurance company under any policy required hereunder as mortgagor might do in its own behalf;

(4) To pay, settle, or compromise all existing bills and claims which are or may be liens against the Mortgaged Property or Improvements thereon, or which may be necessary or desirable for the removal of liens and encumbrances;

(5) To prosecute and defend all actions or proceedings in connection with the Mortgaged Property and to take such action and require such performance as Mortgagee deems necessary; and

(6) To make, enforce, modify, or accept surrender of leases, obtain or evict tenants, fix or modify rents, or sue for or otherwise collect and receive all earnings, revenues, rents, issues, profits, and income of the Mortgaged Property, the Improvements, the leases, or every part thereof.

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The foregoing power of attorney shall be deemed coupled with an interest and cannot be revoked.

(f) Rents and Profits. All rents, issues, profits, and proceeds from the Mortgaged Property are hereby assigned to Mortgagee. Upon the occurrence of any event of default under Section 3.1 hereof, all such rents, issues, profits, and proceeds shall be paid directly to Mortgagee by the person(s) obligated therefor.

(g) Receiver. In any action to foreclose this Mortgage, Mortgagee may, at its option as a matter of contract right (subject to the provisions contained in the Consent to Mortgage), have a receiver appointed to take charge of the Mortgaged Property and to collect such rents, issues, profits, and proceeds, all without consideration of the value of the Mortgaged Property as security for the amount of indebtedness secured hereby. All such rents, issues, profits, and proceeds paid to Mortgagee or collected by such receiver shall be first applied to the cost of collection thereof (including the cost of such receivership, if any) and then to the payment of the interest on and principal of the Note. Mortgagor, for itself and any subsequent owner of the Mortgaged Property, hereby waives any and all defenses to the application for such receiver and hereby specifically consents to such appointment without notice. The rights and remedies herein provided for shall be deemed to be cumulative and in addition to, not in limitation of, any other such rights or remedies provided by law.

(h) Power of Sale. Mortgagee may elect to cause the Mortgaged Property or any part thereof to be sold under the power of sale herein granted in any manner permitted by applicable law.

3.3 No Merger of Lease and Fee. In the event Mortgagor shall acquire the fee interest in the Mortgaged Property, notwithstanding any other provision contained in this Mortgage or in any of the other Loan Documents, the lien of the Mortgage shall continue in, and extend to, the entire interest of Mortgagor in the Mortgaged Property including such fee interest. Unless Mortgagee shall expressly consent in writing, neither the fee title nor any other estate shall, under any circumstances, be deemed to merge with the leasehold, notwithstanding the union of the leasehold and the fee title or other estate either in the tenant or landlord under the lease or any third party by purchase or otherwise.

3.4 Foreclosure; Expense of Litigation. In any suit to foreclose the lien hereof or enforce any other remedy of Mortgagee under this Mortgage, the Loan Documents or the Note, there shall be allowed and included as additional indebtedness in the decree for sale or other judgment or decree to the extent allowed by law all reasonable expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs of procuring all such

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abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Mortgaged Property. All expenditures and expenses of the nature in this paragraph mentioned, and such expenses and fees as may be incurred in the protection of the Mortgaged Property and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or the Mortgaged Property, including bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the rate specified in the Note and shall be secured by this Mortgage.

**3.5 Application of Proceeds of Foreclosure Sale.** The proceeds of any foreclosure sale of the Mortgaged Property shall be distributed and applied in the following order of priority: First, to accrued interest on the Note; second, on account of any amounts due to Mortgagee under this Mortgage or any other instrument securing payment of the Note, including without limitation, all costs and expenses incident to the foreclosure proceedings (including all such allowable items as are mentioned in the preceding paragraph hereof); third, to the principal of the Note; and fourth, any surplus to Mortgagor, its successors or assigns.

**3.6 Remedies Not Exclusive.** No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of Mortgagee to exercise any right or power accruing upon any Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such Event of Default or an acquiescence therein; and every power and remedy given by this Mortgage to Mortgagee may be exercised from time to time as often as may be deemed expedient by Mortgagee. Nothing in this Mortgage or in the Note shall affect the obligation of Mortgagor to pay the principal of, and interest on, the Note in the manner and at the time and place therein respectively expressed.

## **4. MISCELLANEOUS**

**4.1 Agreements Separable.** In the event any one or more of the provisions contained in this Mortgage or in the Note or in the Loan Documents shall for any reason be held to be invalid, illegal or unenforceable in any respect, this mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

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## 4.2 Notices.

(a) Any requirement of applicable law of reasonable notice shall be met if such notice is given at least ten (10) days before the time of sale, disposition or other event or thing giving rise to the requirement of notice.

(b) All notices or communications under this Mortgage shall be in writing and mailed or delivered to the parties at the addresses given below or to such other addresses of which a party has given the other party written notice. Any notice or communication so addressed shall be deemed to have been given (i) if mailed to such address by registered or certified mail, return receipt requested, postage prepaid, on the date of receipt or three days after mailing whichever first occurs, or (ii) if delivered to a small package air courier offering service to the address of the intended recipient, shipping charges prepaid, on the date of receipt or two days after mailing whichever first occurs.

Addresses for notices are:

### Mortgagor:

THORNTON OIL CORPORATION,  
a Delaware corporation  
STM Plaza West, Suite 200  
10101 Linn Station Road  
Louisville, KY 40223-3819

### Copy to:

David A. Bridgers, Esq.  
General Counsel  
Thornton Oil Corporation  
STM Plaza West, Suite 200  
10101 Linn Station Road  
Louisville, KY 40223-3819

### Mortgagee:

INB BANKING COMPANY  
460 Spring Street  
Jeffersonville, IN 47130  
Attention: Thomas G. Fangman,  
Asst. Vice-President

### Copy to:

Joseph E. Fineman, Esq.  
Taustine, Post, Sotsky, Berman,  
Fineman & Kohn  
812 Marion E. Taylor Building  
Louisville, KY 40202-3083

(c) The Mortgagor or Mortgagee may at any time, and from time to time, change the address to which notice shall be mailed by written notice setting forth the changed address.

**4.3 Covenants Run with the Land.** All of the grants, covenants, terms, provisions and conditions herein shall run with the land and shall apply to, bind and inure to the benefit of the heirs, personal representatives, successors and assigns of Mortgagor and the successors and assigns of Mortgagee.

**4.4 Future Advances, Renewals, Extensions and Additional Indebtedness.** This Mortgage shall secure all amendments to the Note and all renewal Notes executed in lieu of the Note and also any extension of the Note. This Mortgage shall secure any

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additional indebtedness, not to exceed \$1,000,000.00, which Mortgagor may owe to Mortgagee, whether direct or indirect, existing, future, contingent or otherwise and whether arising under this Mortgage or otherwise.

**4.5 Captions.** The captions or headings at the beginning of each section of this Mortgage are for the convenience of the parties and are not a part of this Mortgage.

**4.6 Mortgagee's Powers.** Without affecting the liability of any other person liable for the payment of any obligations secured hereby or the performance of any obligation herein mentioned, and without affecting the lien or charge of this Mortgage upon any portion of the Mortgaged Property not then or theretofore released as security for the full amount of all unpaid obligations, Mortgagee may, from time to time and without notice to or the consent of the Mortgagor or any such other person, (i) release any person so liable; (ii) extend the maturity or alter any of the terms of any such obligation; (iii) grant other indulgences; (iv) release or reconvey, or cause to be released or reconveyed at any time at Mortgagee's option, any parcel, portion or all of the Mortgaged Property; (v) take or release any other or additional security for any obligation herein mentioned; (vi) make compositions or other arrangements with debtors in relation thereto; or (vii) resort to any security agreements, pledges, contracts of guarantee, assignments of rents and leases or other securities, and exhaust any one or more of said securities and the security hereunder, either concurrently or independently and in such order as it may determine.

**4.7 Mortgagor's Waiver of Rights.** To the full extent Mortgagor may do so, Mortgagor waives the benefit of all laws now existing or that hereafter may be enacted providing for (a) any apportionment before sale of any portion of the Mortgaged Property, and (b) the benefit of all laws that may be hereafter enacted in any way extending the time for the enforcement of the collection of the Note or the debt evidenced thereby or creating or extending a period of redemption from any sale made in collecting said debt. To the full extent Mortgagor may do so, Mortgagor agrees that Mortgagor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, extension or redemption, and Mortgagor, for Mortgagor and its representatives, successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged Property, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and marshaling in the event of foreclosure of the liens hereby created. If any law referred to in this section and now in force of which Mortgagor and its successors and assigns or other person may take advantage despite this section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to

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preclude the application of this section. Mortgagor expressly waives and relinquishes any and all rights and remedies which Mortgagor may have or be able to assert by reason of the laws of Indiana or any other state in which the Mortgaged Property is located pertaining to the rights and remedies of sureties.

**4.8 Notice to Landlord of Default; Landlord's Rights.** Mortgagee agrees that in the event it elects to declare an event of default as provided in Section 3 hereof, Mortgagee shall provide written notice to the Landlord under the Lease, by hand delivery or by registered or certified mail (which may be a copy of any default notice sent to Mortgagor) of its intention to declare a default under the terms of this Mortgage and to pursue its remedies hereunder. The Landlord may (but shall not be required to) directly cure any default of Mortgagor under the Mortgage by paying any amount due and owing to Mortgagee or by performing or causing to be performed any other act or omission of Mortgagor constituting a default under the Mortgage. The Landlord shall have the same period of time as Mortgagor to remedy the particular default, and Mortgagee shall accept performance by the Landlord as if it had been done or performed by the Mortgagor. If Landlord pays the outstanding principal balance due under the Note, the Loan Agreement and the other loan documents, together with all interest, penalties, and other amounts due thereunder, Mortgagor shall release the lien of this Mortgage of record.

**4.9 Subrogation.** To the extent that proceeds of the Note are used to pay any outstanding lien, charge or prior encumbrance against the Mortgaged Property, such proceeds have been or will be advanced by Mortgagee at Mortgagor's request and Mortgagee shall be subrogated to any and all rights and liens owned by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released.

**4.10 Time of the Essence.** Time shall be of the essence in the performance of all of the Mortgagor's obligations under this Mortgage.

**4.11 Governing Law.** This Mortgage shall be governed by and construed and interpreted in accordance with the laws of the State of Indiana; and the jurisdiction and venue for any litigation regarding this Mortgage, the Note or the Loan Documents shall be Clark County, Indiana.

PROVIDED, HOWEVER, that if the Note shall be paid in full according to the terms thereof and Mortgagor shall perform all of the covenants, conditions, stipulations and agreements set out in the same, and in this Mortgage and the Loan Documents, then this Mortgage shall be cancelled, except as stated in Section 1.19 hereof, and Mortgagee shall, at Mortgagor's cost, release the same.

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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage, as of the day and year set forth above.

ATTEST:

THORNTON OIL CORPORATION

D. A. Bridgers  
David A. Bridgers,  
General Counsel

By:

David M. Brauckmann  
David M. Brauckmann,  
Vice President of Finance

STATE OF KENTUCKY )  
COUNTY OF JEFFERSON ) SS.

The foregoing instrument was acknowledged before me this 4th day of JUNE, 1992, by David M. Brauckmann and David A. Bridgers, Vice President of Finance and General Counsel, respectively, of Thornton Oil Corporation, a Delaware corporation, on behalf of the corporation.

My commission expires:

November 18, 1993

(SEAL)

Joseph E. Fineman  
Notary Public, JEFFERSON County,  
State of KENTUCKY

JOSEPH E. FINEMAN  
(Printed or Typed Name of Notary Public)

County of Residence of Notary Public:

JEFFERSON

This instrument prepared by: & MAIL TO:

Taustine, Post, Sotsky, Berman, Fineman & Kohn  
Attorneys at Law  
812 Marion E. Taylor Building  
Louisville, Kentucky 40202-3083  
(502) 589-5160

By:

H. Edwin Bornstein

H. Edwin Bornstein

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## EXHIBIT A

Located in the State of Illinois, County of Cook, and described as follows:

Leasehold estate created by lease from Foursome Partners, a Kentucky general partnership, Lessor, to Thornton Oil Corporation, a corporation of Delaware, Lessee, which lease was recorded November 21, 1991, as Document 91614036, which lease demises the following described land for a term of years beginning November 15, 1991 and ending November 15, 2001, to wit:

The South 266.90 feet of the North 333.45 feet of Block 14 (except that part of Block 14 taken for the widening of Cicero Avenue) in Arthur T. McIntosh's Addition to Midlothian Farms, being a subdivision of the Southwest 1/4 of the South East 1/4 and the East 1/2 of the said South East 1/4 of Section 9, the West 1/2 of the Southwest 1/4 and the West 33/80 of the East 1/2 of said Southwest 1/4 of Section 10, Township 36 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

Permanent Real Estate Index Number: 28-10-300-095-0000

Address of Property: 14805 South Cicero Avenue, Oak Forest, Illinois.

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## EXHIBIT "B"

The "Collateral" is more fully described as follows:

All goods, equipment, machinery, fixtures, furniture, storage tanks, personal property, accounts receivable, contract rights, rents, condemnation awards, insurance proceeds and refunds of insurance premiums now or hereafter used on the Mortgaged Property, together with all proceeds of all nonmonetary collateral where sold, including without limitation the following:

a. all retail motor fuel outlet and convenience market machinery, apparatus, office equipment, telephone systems, equipment, fittings, fixtures, furnishings, operating equipment, now or hereafter located in, on or under the property described in Exhibit A, and used or useable in connection with any present or future operation of said real estate (hereinafter called "equipment") and now owned or hereafter acquired by the Debtor, including, but without limiting the generality of the foregoing, all heating, lighting, maintenance, snow removal, incinerating and power equipment, signs, engines, pipes, pumps, tanks, motor fuel dispensers, consoles, approach lighting, well monitors, flagpoles, vacuum equipment, illuminated awnings, motors, conduits, switchboards, cash registers, adding machines, calculators, computers, safes, plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating and communications apparatus, stoves, microwave ovens, dishwashers, refrigerators, freezers, coolers, air-cooling and air-conditioning apparatus, shades, awnings, screens, storm doors and windows, shelving, cabinets, partitions, ducts and compressors, linoleum, carpets and drapes; and all the right, title and interest of the Debtor in and to any equipment which may be subject to any title retention or security agreement superior in lien to the lien of this Agreement;

b. all building materials of the Debtor located on the Mortgaged Property;

c. all rights of the Debtor to the use of any trade name, trademark, or servicemark now or hereafter associated with the business or businesses conducted on said premises (subject, however, to any franchise or license agreements relating thereto);

d. all rents, issues, and profits due or to become due to the Debtor from or pertaining to the Mortgaged Property;

e. all rights of the Debtor under any policy or Policies of insurance covering the Mortgaged Property, and all proceeds, loss payments, and premium refunds which may become payable with respect to such insurance policies;

f. all rights of the Debtor under any contribution, service, engineering, consulting, architectural and other similar contracts as such may be modified, amended or supplemented from time to time, concerning the decision, construction, management, operation,

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occupancy use, and/or disposition of any or all of the Mortgaged Property;

g. all rights of the Debtor to any specifications, soil tests, feasibility studies, architecture drawings or plans, appraisals, engineering reports and similar materials relating to any or all of the Mortgaged Property;

h. all rights of the Debtor to any payment and performance bonds or guarantees and any and all modifications and extensions thereof relating to the Mortgaged Property;

i. all rights of the Debtor to any governmental permissions, environmental clearances, authority to subdivide the Mortgaged Property, rights, licenses and permits as are necessary for the commencement, continuation, completion, occupancy, use and disposition of any or all of the Mortgaged Property;

j. all rights of the Debtor under any sales contracts and proceeds, escrow agreements and broker's agreements concerning the sale of any or all of the Mortgaged Property;

k. all rights of the Debtor to any reserves, deferred payments, deposits, refunds, cost savings and payments of any kind relating to the construction, operations, occupancy, use and disposition of any or all of the Mortgaged Property;

l. all rights of the Debtor to any proceeds of any commitment by any lender to extend financing relating to the Mortgaged Property; and

m. all accounts receivable, all contract rights, and all notes, drafts, acceptances, general intangibles, chattel paper and other forms of obligations and receivables.

This instrument covers all of the above whether now owned or hereafter acquired and all proceeds and products, renewals, accessions, additions, substitutions and replacements of the above, all of which may be referred to as "Collateral".

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