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## CONSENT TO LEASEHOLD MORTGAGE

73-11-24  
W. Hall

THIS CONSENT TO LEASEHOLD MORTGAGE is made and entered into this 4th day of JUNE, 1992, by and among the following parties:

FOURSOME PARTNERS, a Kentucky General Partnership, STM Plaza West, Suite 200, 10101 Linn Station Road, Louisville, Kentucky 40223 ("Landlord");

THORNTON OIL CORPORATION, a Delaware corporation, STM Plaza West, Suite 200, 10101 Linn Station Road, Louisville, Kentucky 40223 ("Tenant"); and

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INB BANKING COMPANY, 460 Spring Street, Jeffersonville, Indiana 47130 ("Bank").

### WITNESSETH:

Landlord and Tenant have executed a certain Lease agreement (the "Lease") dated as of the 15 day of November, 1991, relating to certain real property located in the County of Cook, State of Illinois, which is more particularly described on Exhibit "A" attached hereto and made a part hereof by reference.

Subject to the execution of the herein Consent, Bank has committed to make a loan to Tenant for permanent financing to be secured by a Mortgage and Security Interest on Tenant's leasehold estate (the "Leasehold"), the improvements (the "Improvements") on the real property (the "Property") covered by the Lease, and fixtures, equipment and personal property owned by the Tenant. In order to induce Bank to make such loan, Landlord is willing to enter into this Consent to permit Bank to take a mortgage on Tenant's Leasehold and the Improvements and a security interest in the fixtures, equipment, personal property and other collateral, and is willing to provide the further undertakings and commitments set forth herein.

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NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

A. Landlord consents to Tenant's granting to Bank the mortgage lien and security interest created by the Leasehold Mortgage and Security Agreement recorded as Document 92711689, in the office of the Recorder of the County of Cook, State of Illinois (the "Mortgage"). In so consenting, Landlord acknowledges that the granting of such mortgage and security interest does not constitute an assignment or transfer of the Lease, nor shall the Bank be deemed an assignee or transferee of the Lease so as to require the Bank to assume the performance of any of the covenants or agreements on the part of Tenant to be performed thereunder.

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B. Landlord subordinates its Landlord's lien rights to the lien and security interest of the Bank in and to the Leasehold, the Improvements and any and all fixtures, equipment and personal property owned by Tenant. Such subordination of Landlord's lien includes any and all liens which Landlord might have as a Landlord under the terms of any law or regulation or any contractual provision establishing any lien right in favor of Landlord as to such fixtures, equipment and personal property.

C. Landlord further specifically agrees to the following provisions:

1. All policies of fire insurance required by the terms of the Lease shall contain an endorsement insuring the Bank as its interest may appear; and

2. All moneys which may be payable to Tenant under any policy(ies) of insurance by reason of fire or other casualty, or by reason of condemnation of the property, shall be used in the manner provided in the Mortgage granted by Tenant to Bank of Tenant's Leasehold Interest in the Property; and

3. Landlord's rights under the Lease with respect to insurance or condemnation proceeds, to which Tenant claims an interest or is otherwise entitled, are expressly subordinated to, and subject in all respects to, the Bank's rights under the Mortgage to the proceeds thereof in accordance with the terms of the Mortgage. To the extent of any inconsistency between the provisions of the Lease and the provisions of the Mortgage with respect to the disposition of insurance or condemnation proceeds, the provisions of the Mortgage shall prevail in all respects; and

4. Landlord will not exercise any right to grant or reserve easements or rights of way on or over the Property without the prior written consent of Bank, which consent will not be unreasonably withheld or delayed as long as such easements or rights of way do not unreasonably impair Tenant's use of the Property or priority of the Bank's lien, or otherwise unreasonably impair the value of, or result in damage to, the Property; and

5. Landlord acknowledges that the terms of the Mortgage do not violate the provisions of the Lease; and

6. Landlord acknowledges that a default by Tenant of the provisions of section N/A of the Lease is not susceptible to cure by the Bank. A violation of the provisions of section N/A of the Lease shall not be considered or treated as a default under the Lease with respect to the Bank or any assignee of the Bank.

D. Landlord and Tenant jointly and severally make the following representations, warranties, and covenants:

1. The Lease is in full force and effect, unrevoked, and unmodified; there exists no default or breach thereunder by

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either party as of the date hereof; and no event has occurred at this time which would constitute an event of default or breach thereunder, with the giving of notice, the passage of time, or both;

2. Landlord and Tenant will not cause or permit any modification or amendment of the Lease without the prior written consent of the Bank (which consent will not be unreasonably withheld or delayed, provided that it shall be reasonable for the Bank to withhold consent to any modification or amendment if, in the opinion of the Bank, such modification or amendment would adversely affect the rights of the Bank under the mortgage) as long as the Bank holds a mortgage on the Leasehold and Improvements and/or a security interest in any of the collateral securing Bank's loan to Tenant. Any such modification or amendment without the Bank's consent shall not be binding upon, or in any way adversely affect, the Bank and its rights under the mortgage; and

3. The Lease will not be voluntarily terminated, canceled, or surrendered by mutual agreement, nor will any party having liability on said Lease be released of said liability, without the prior written consent of the Bank, which may be withheld at its discretion, so long as the Bank holds a Mortgage and/or Security Interest on the Leasehold and Improvements and any of the fixtures, equipment or other personal property on the Property securing Bank's loan to Borrower.

E. In the event that Landlord determines that Tenant is in default under the Lease, Landlord shall, by certified or registered mail, return receipt requested, and concurrently with giving notice to Tenant, give Bank written notice of any such default claimed by Landlord, specifying the details thereof, as soon as possible after Landlord learns of any such default. No notice of termination shall be effective with respect to the termination of this Lease nor shall Landlord have the right to cancel this Lease or re-enter the Property or exercise any other rights permitted it by reason of any Default by Tenant, unless a copy of the prior notice of default shall have been sent to Bank in the manner above provided, and the time as hereinafter specified for the curing of such default or the commencement of such curing shall have expired without the same having been cured or commenced.

F. The Bank shall have the same period of time as Tenant to remedy the particular default, which cure period in favor of the Bank shall commence at the end of the Tenant's cure period. Landlord shall accept performance by or on behalf of the Bank as if the same had been timely done by Tenant.

G. The Bank may,

1. but shall not be required to, directly cure any default of Tenant under the Lease by paying any amount due and owing under the Lease to Landlord or by performing any other act or

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correcting any omission of Tenant constituting a default under the Lease; or

2. elect to declare a default under the terms of its loan to Tenant (it being expressly understood that an uncured default declared by Landlord under the Lease may be declared by Bank to be a default under the loan) and to pursue its rights as a mortgagee and secured party under the laws of the State of Illinois. As long as the Bank is proceeding diligently to foreclose under the Mortgage, and continues to pay, or cause to be paid, the rent under the Lease as it comes due, Landlord agrees that it will not pursue its remedies upon default under the terms of the Lease, including, without limitation, retaking possession of the Property.

The Bank shall have authority to enter onto the premises and to otherwise have access to all property covered by the Lease if necessary for the Bank to attempt to cure a default.

H. In the event the Bank declares Tenant to be in default of its loan pursuant to Section G.2, above, the Bank shall have the right, but not the obligation, to assume possession of the Property and to perform all of Tenant's obligations under the Lease. In such event, Bank shall have the right to sell, transfer and convey, or to sublet, the Leasehold interest in the property to a third party, subject to the Landlord's approval which shall not be unreasonably withheld.

I. Bank covenants with Landlord that it shall, from time to time, upon written request by Landlord, advise Landlord of the status of the loan and whether any default exists thereunder. In addition, concurrently with giving notice to Tenant, the Bank agrees to provide Landlord written notice (which may be a copy of any default notice sent to Tenant) of its intention to declare a default under the terms of the loan and to pursue its remedies under the Mortgage or any other security document. The Landlord may, but shall not be required to, directly cure any default of Tenant under the loan. The Landlord shall have the same period of time as Tenant to remedy the particular default. The cure period in favor of the Landlord shall commence at the end of the Tenant's cure period; and Bank shall accept performance by the Landlord as if it had been done or performed by the Tenant.

J. Landlord shall, from time to time, upon written request by Bank, advise Bank of the status of the Lease and as to whether any default exists thereunder.

K. All notices, elections, requests, demands, and other communications hereunder shall be in writing and shall be deemed given at the time delivered or deposited in the United States mail, by certified or registered mail, postage prepaid, addressed to the parties as follows (or to such other person or place of which any party shall have given written notice to the others):

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If to the Bank:

INB Banking Company  
Attention: Mr. Thomas G.  
Fangman, Assistant Vice  
President  
460 Spring Street  
Jeffersonville, Indiana 47130  
If to Tenant:

If to Landlord:

Foursome Partners  
STM Plaza West, Suite 200  
10101 Linn Station Road  
Louisville, Kentucky 40223

Thornton Oil Corporation  
STM Plaza West, Suite 200  
10101 Linn Station Road  
Louisville, Kentucky 40223

L. This consent shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. The Bank may assign its rights under this Consent in conjunction with any assignment or other transfer of the Mortgage and any or all indebtedness secured thereby.

IN TESTIMONY WHEREOF, witness the signatures of the parties as of the day and year first written above.

FOURSOME PARTNERS, a Kentucky  
General Partnership


By:

  
Paul J. Perconti,  
Managing Partner

"Landlord"

92711890

ATTEST:

  
David A. Bridgers  
General Counsel

By:

  
David M. Brauckmann  
Vice President of Finance

"Tenant"

INB BANKING COMPANY,

By:

  
Thomas G. Fangman,  
Assistant Vice President

"Bank"

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STATE OF INDIANA )  
COUNTY OF CLARK ) SS.

The foregoing Consent to Leasehold Mortgage was acknowledged before me this 27<sup>th</sup> day of June, 1992, by Thomas G. Fangman, ~~Assistant~~ Vice-President of INB Banking Company, an Indiana corporation, on behalf of the corporation.

My commission expires: 8-15-72

(SEAL)

Cynthia Mickey Smith  
Notary Public, Clark County, Indiana

CYNTHIA MICKEL SMITH  
(Printed or Typed Name of Notary Public)

County of Residence of Notary Public:

CLARK

STATE OF INDIANA )  
COUNTY OF CLARK )

The foregoing Consent to Leasehold Mortgage was acknowledged before me this 4<sup>th</sup> 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: May 19, 1996

(SEAL)

Heidorn Bornstein  
Notary Public, ~~Clark County, Indiana~~  
State at large, Kentucky

HEIDORN BORNSTEIN  
(Printed or Typed Name of Notary Public)

County of Residence of Notary Public:

JEFFERSON

STATE OF KENTUCKY )  
COUNTY OF JEFFERSON )

The foregoing Consent to Leasehold Mortgage was acknowledged before me this 1<sup>st</sup> day of JUN, 1992, by

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Paul J. Perconti, Managing Partner, on behalf of Foursome Partners,  
a Kentucky General Partnership

My commission expires: 7.22.95

(SEAL)

J. Laver Mathias  
Notary Public, Jefferson County,  
Kentucky

J. Laver Mathias  
(Printed or Typed Name of Notary Public)

County of Residence of Notary Public:  
Jefferson County

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Prepared by: J. MAIL TO  
TAUSTINE, POST, SOTSKY, BERON, FINEMAN & KOHN

By: H. Edwin Bornstein  
H. Edwin Bornstein  
812 Marion E. Taylor Building  
Louisville, Kentucky 40202-3083  
(502) 589-5760

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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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