

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

**INTERCREDITOR AGREEMENT**

2005 054128

2005 JUN 30 AM 10:17

This Inter-Creditor Agreement is effective as of this 17<sup>th</sup> day of June, 2005, by and between **BANK CALUMET NATIONAL ASSOCIATION** ("Calumet") and **SAND RIDGE BANK** ("Sand Ridge").

**RECITALS**

1. Calumet has made loans from time to time to Borrowers, and such loans are secured by the Calumet Collateral Documents, which Calumet Collateral Documents place a lien on Borrowers' Real Estate. The Calumet Collateral Documents have a priority in time of filing over the Sand Ridge Collateral Documents and contain provisions to secure Calumet Future Advances.
2. Sand Ridge anticipates making loans to Borrowers, which loans will also be secured by the Sand Ridge Collateral Documents, which Sand Ridge Collateral Documents will create a lien on Borrower's Real Estate.
3. If Calumet elects to make Calumet Future Advances, the future advances may have a secured position in the Real Estate ahead of the Sand Ridge Loans with the effect of undermining Sand Ridge's collateral position with respect to the Sand Ridge Loans.
4. Calumet has agreed to subordinate its lien in the Real Estate under the Calumet Collateral Documents with respect to Calumet Future Advances. Sand Ridge has agreed to subordinate its lien in the Real Estate under the Sand Ridge Collateral Documents with respect to the Calumet Loan.
5. Sand Ridge and Calumet wish to enter into this Agreement to clarify their respective rights and priorities.

**AGREEMENT**

In consideration of the mutual covenants, agreements, promises and undertakings herein, and subject to the terms, conditions and agreements hereinafter set forth, the Parties agree as follows:

1. **Definitions.** The Parties agree that, throughout this Agreement and all other documents executed in connection with this transaction, the following terms will have the following meanings (terms defined in the singular to have the same meaning when used in the plural and vice-versa):

"Agreement" shall mean this Intercreditor Agreement, as amended, supplemented, or modified from time to time.

"Borrowers" shall mean collectively White Hawk Clubhouse Corp., Hawk Development Corp., and White Hawk Country Club Corp., their respective

1065391 ②

**HOLD FOR THE TALON GROUP**

23-  
IP  
TJ

successors and assigns, with their chief executive offices located at 1001 White Hawk Drive, Crown Point, Indiana 46307.

"Calumet" shall mean Bank Calumet National Association, a national banking association with its principal offices located at 5231 Hohman Avenue, Hammond, Indiana 46320.

"Calumet Collateral" shall mean all right title and interest of Calumet in and to the Real Estate, or any part thereof, arising under or resulting from the Calumet Collateral Documents, all payments with respect to the above referenced property and property interests which, after Default, are received by Calumet by way of foreclosure or which are received as a result of a voluntary assignment or deed in lieu of foreclosure by any Borrower to Calumet occurring after a Default. Also included in such definition are any distributions or payments with respect to the above referenced property or property interests which are ordered by any Court in the event of any proceedings, state or federal, affecting any Borrower, under bankruptcy, receivership, assignment or insolvency laws relating to relief of debtors, adjustment, composition or extension of indebtedness, rehabilitation or reorganization or bulk sales liquidation, state or judicial sale..

"Calumet Collateral Documents" shall mean any one or more of the following documents, as amended or revised from time to time:

- 1) Real Estate Mortgage, Security Agreement, Collateral Assignment of Rents and Leases, and Fixture Filing given by White Hawk Country Club Corp. as Mortgagor to Calumet to secure the Calumet Loans which document was filed with the recorder of Lake County, Indiana on January 4, 2000 as document number 2000000279, and any and all amendments or revisions thereto from time to time executed by such mortgagor.
- 2) Mortgage Modification Agreement recorded December 5, 2001, as Document No. 2001-098683.
- 3) Mortgage Modification Agreement dated effective October 28, 2004.

"Calumet Future Advances" shall mean any and all future loans, obligations and advancements (exclusive of unpaid balances of advances made with respect to the Real Estate for the payment of taxes, assessments, insurance premiums, costs incurred for the protection of the Real Estate and all other costs which Calumet is authorized by any Calumet Collateral Document to pay on any Borrower's behalf) made by Calumet to Borrowers, or any one or more of them, pursuant to Section 1.04 of that certain Real Estate Mortgage, Security Agreement, Collateral Assignment of Rents and Leases, and Fixture Filings given by White Hawk Country Club Corp. as Mortgagor to Calumet to secure the Calumet Loans which document was filed with the recorder of Lake County, Indiana on January 4, 2000 as document number 2000000279, and any and all amendments or revisions thereto from time to

time executed by such mortgagor and will include any sums due under the Calumet Loan to the extent that such loan exceeds \$5,000,000.

"Calumet Loan" shall mean the obligations and indebtedness of White Hawk Country Club Corp. to Calumet evidenced by the Calumet Note; provided that the Calumet Loan will not exceed the lesser of: (a) \$5,000,000, or (b) the principal balance outstanding under the Calumet Note, plus all accrued but unpaid interest, out-of-pocket fees, costs and charges.

"Calumet Note" shall mean that certain Commercial Promissory Note (Renewal/Replacement Note) dated October 28, 2004 by White Hawk Country Club Corp. in favor of Calumet in the original principal amount of \$3,778,931.39, and any extension, modification, renewal, replacement or substitution thereof from time to time made, and all accrued and accruing interest thereon and costs of collection associated therewith, including reasonable attorney fees.

"Default" shall mean any one or more of those events defined as a default or an event of default in either the Calumet Collateral Documents or the Sand Ridge Collateral Documents or in any other promissory note, loan agreement, mortgage, or other loan document now in effect or hereafter executed by any Borrower in favor of either Calumet or Sand Ridge.

"Loan Documents" shall mean any one or more of the promissory notes, mortgages, assignment of leases and rents, loan agreements, security agreements, or any other document executed by the Borrower to either Calumet or Sand Ridge in connection with either the Calumet Loans or the Sand Ridge Loans.

"Parties" shall mean Calumet and Sand Ridge.

"Persons" shall mean any individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated associations, joint venture, governmental authority or other entity of whatever nature.

"Real Estate" shall mean the real estate situated in Lake County, Indiana described in Exhibit "A" attached hereto and by this reference made a part hereof including, without limitation, all rights, privileges, interests, mineral rights, water rights, air rights, timber rights and/or gas rights, easements, buildings, improvements, appurtenances, fixtures and hereditaments therein, thereon, or thereto belonging and the rents and profits and other income thereof whether now existing or hereafter acquired.

"Sand Ridge" shall mean Sand Ridge Bank, with offices located at 450 W. Lincoln Highway, Schererville, IN 46375.

"Sand Ridge Collateral" shall mean shall mean all right title and interest of Sand Ridge in and to the Real Estate, or any part thereof, arising under or resulting the Sand Ridge Collateral Documents, all payments made with respect to the above referenced property and property interests which, after Default, are received by Sand Ridge by way of foreclosure or which are received as a result of a voluntary assignment or deed in lieu of foreclosure by any Borrower

to Sand Ridge occurring after a Default. Also included in such definition are any distributions or payments with respect to the above referenced property or property interests, which are ordered by any Court in the event of any proceedings, state or federal, affecting any Borrower, under bankruptcy, receivership, assignment or insolvency laws relating to relief of debtors, adjustment, composition or extension of indebtedness, rehabilitation or reorganization or bulk sales liquidation, state or judicial sale.

"Sand Ridge Collateral Documents" shall mean that certain Open-End Mortgage, Assignment of Rents and Leases, Security Agreement, and Fixture Filing dated as of June 17, 2005 securing the Sand Ridge Loan, as defined below.

"Sand Ridge Future Advances" shall mean any and all future loans, obligations, or advancements made by Sand Ridge to Borrowers, or any one or more of them, which are or will be secured by a security interest in and to all or any part of the Real Estate.

"Sand Ridge Loan" shall mean all obligations and indebtedness of White Hawk Country Club Corp. to Sand Ridge evidenced by the Sand Ridge Note.

"Sand Ridge Note" shall mean that certain Non-Revolving Credit Note dated June 17, 2005, in the original principal amount of \$3,200,000.00, and any extension, modification, renewal, replacement or substitution thereof from time to time made, and all accrued and accruing interest thereon and costs of collection associated therewith, including reasonable attorney fees.

- NOT OFFICIAL!**  
This Document is the property of  
the Lake County Recorder!
2. Security Interest Priorities. Notwithstanding (a) the date, manner or order of perfection of the security interests and liens granted in favor of the Parties, (b) the provisions of the UCC or any other applicable law or decisions, (c) the provisions of any contract or Loan Documents in effect between either Party, on the one hand, and the Borrowers or any of them, on the other, and (d) whether either Party or any agent or bailee thereof holds possession of any part or all of the Real Estate, the following, as among the Parties, shall be the relative priority of the perfected security interests and liens of the Parties in the Real Estate:
- 2.1 Calumet shall have a first lien in the Real Estate to the extent of the Calumet Loan.
  - 2.2 Sand Ridge shall have a second lien in the Real Estate to the extent of the Sand Ridge Loan.
  - 2.3 Calumet shall have a third lien in the Real Estate to the extent that the Calumet Loan exceeds \$5,000,000 plus the Calumet Future Advances, if any.
  - 2.4 Sand Ridge shall have a fourth lien in the Real Estate to the extent of the Sand Ridge Future Advances.
- RECORDER'S OFFICE  
SEAL

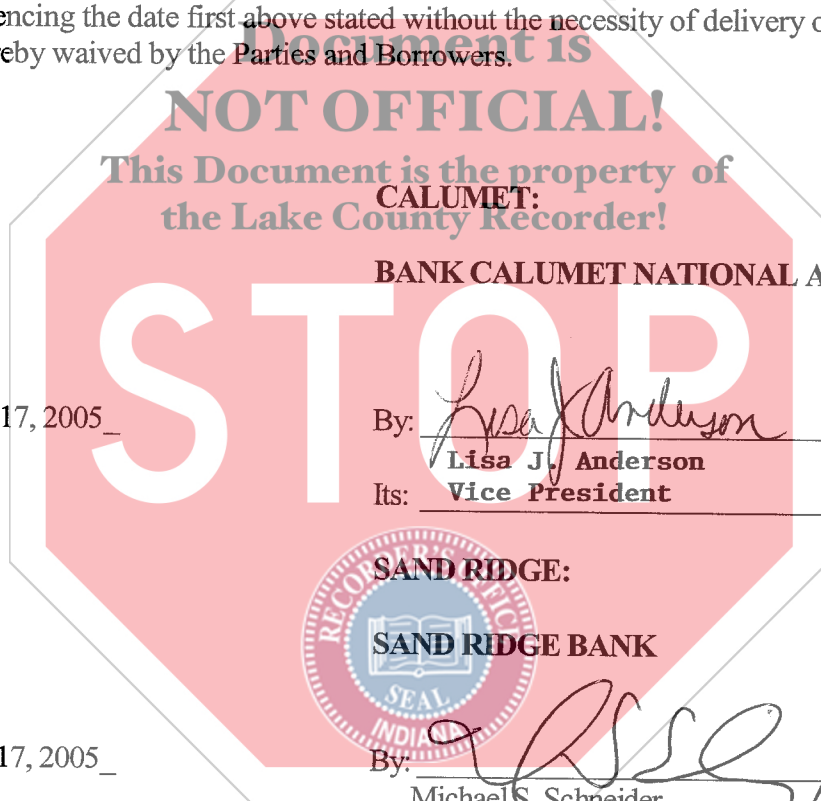
The priorities set forth herein are solely for the purpose of establishing the relative rights of the Parties and there are no other Persons who are intended to be benefited in any way by this Agreement.

3. Distribution of Proceeds of the Real Estate. Any and all realizations upon the Real Estate by either of the Parties shall be distributed in accordance with the following procedure:
  - 3.1 All realizations upon the Real Estate shall be applied first to Calumet to pay the Calumet Loan.
  - 3.2 After the Calumet Loan is paid or otherwise satisfied in full, the realizations upon the Real Estate shall be paid to Sand Ridge until Sand Ridge has been paid the amount of the Sand Ridge Loan.
  - 3.3 After the Sand Ridge Loan is paid or otherwise satisfied in full, the realizations on the Real Estate shall be paid to Calumet for the Calumet Future Advances, if any.
  - 3.4 After the Calumet Future Advances have been paid or otherwise satisfied, the realizations on the Real Estate shall be paid to Sand Ridge for the Sand Ridge Advances, if any.
  - 3.5 After all of the foregoing have been paid or otherwise satisfied in full, the balance of realizations upon the Real Estate, if any, shall be paid to Borrowers or as otherwise required by applicable law.
4. Waiver of Right to Require Marshaling. Each Party hereby expressly waives any right that it otherwise might have to require the other Party to marshal assets or to resort to the Real Estate in any manner, whether provided for by common law or statute.
5. Exercise of Remedies. Each Party may exercise its good faith discretion with respect to exercising or refraining from exercising any of its rights and remedies under its Loan Documents. Sand Ridge agrees that Calumet shall not incur any liability to Sand Ridge for taking or refraining from taking any action with respect to the Real Estate so long as Calumet exercises its discretion in good faith. Calumet agrees that Sand Ridge shall not incur any liability to Calumet for taking or refraining from taking any action with respect to the Real Estate so long as Sand Ridge exercises its discretion in good faith.
6. Agreement Not to Challenge Collateral Documents. Subject only to the priorities established in this Agreement, neither Party hereto shall challenge the validity or enforceability of either the Calumet Collateral Documents or the Sand Ridge Collateral Documents.
7. Binding Effect. This Agreement shall be binding on and inure to the benefit of the respective legal representatives, successors, and assigns of the Parties hereto.
8. No Benefit to Third Parties. The Parties, by executing this Agreement, intend no benefit to be granted to or conferred upon any other Person, with the exception of the Party's respective successors and/or assigns. This Agreement is not intended as a third-party

beneficiary agreement and shall not be interpreted or construed to confer any rights or remedies upon any Borrower, or any Borrower's successors or assigns.

9. Choice of Law. The Parties hereto agree that certain material events, occurrences and transactions relating to this Agreement bear a measurable relationship to the State of Indiana. The validity, terms, performance and enforcement of this Agreement shall be governed by those laws of the State of Indiana which are applicable to agreements which are negotiated, executed, delivered and performed solely in the State of Indiana.
10. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior negotiations or agreements. This Agreement cannot be modified, altered or amended except by an agreement in writing signed by an authorized officer or representative of the Parties hereto.
11. Counterparts. This Agreement may be executed in any number of counterparts, all of which shall constitute one and the same instrument, and either Party hereto may execute this Agreement by signing and delivering one or counterparts.

IN WITNESS WHEREOF, Borrowers, Calumet, and Sand Ridge hereby have executed this Agreement on the dates appearing opposite their respective signatures. This Agreement shall be effective commencing the date first above stated without the necessity of delivery or acceptance, both of which are hereby waived by the Parties and Borrowers.



Dated as of June 17, 2005\_

By: *Lisa J. Anderson*  
Lisa J. Anderson  
Its: Vice President

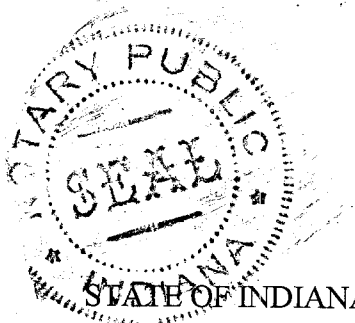
Dated as of June 17, 2005\_

By: *Michael S. Schneider*  
Michael S. Schneider  
Vice President

STATE OF INDIANA )  
 )SS:  
LAKE COUNTY )

**ACKNOWLEDGMENT**

Before me, a Notary Public in and for said County and State personally appeared  Lisa J. Anderson , the  Vice President  of Bank Calumet National Association, and acknowledged the execution of the above and foregoing Inter-Creditor Agreement for and on behalf of Bank Calumet National Association, this day of  June 17 , 2005.



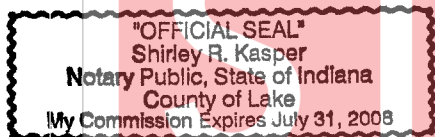
Connie Johnson  
Notary Public, Connie Johnson  
My commission expires: 12/13/08

Residing in  Lake  County, Indiana

STATE OF INDIANA )  
 )SS:  
LAKE COUNTY )

**ACKNOWLEDGMENT**

Before me, a Notary Public in and for said County and State personally appeared Michael S. Schneider, the duly authorized officer of Sand Ridge Bank and acknowledged the execution of the above and foregoing Inter-Creditor Agreement for and on behalf of Sand Ridge Bank, this  17th  day of June, 2005.



Shirley R. Kasper  
Notary Public  
My commission expires: \_\_\_\_\_  
Residing in \_\_\_\_\_ County, Indiana

This instrument was prepared by:

Lewis C. Laderer, Jr.  
Laderer & Fischer, P.C.  
112 West Jefferson Blvd., Suite 310  
South Bend, Indiana 46601

