

17

M

2007 044430

2007-010606

STATE OF INDIANA
PORTER COUNTY
FILED FOR RECORD

STATE OF INDIANA
PORTER COUNTY
FILED FOR RECORD
04/09/2007 02:21PM
LINDA D. TRINKLER
RECORDER

2007-04-11 10:19

REC FEE: \$46.00
PAGES: 17

**REAL ESTATE MORTGAGE, SECURITY AGREEMENT,
COLLATERAL ASSIGNMENT OF RENTS AND LEASES, AND FIXTURE FILING
(PORTER COUNTY REAL ESTATE)**

FOR PURPOSES OF THE SECURITY AGREEMENT CONTAINED IN
THIS INSTRUMENT THE "SECURED PARTY" AND THE "DEBTOR"
AND THEIR RESPECTIVE ADDRESSES ARE AS FOLLOWS:

SECURED PARTY: FIRST FINANCIAL BANK, N.A.
P.O. BOX 598
SCHERERVILLE, INDIANA 46375

DEBTOR: LUKE OIL CO., INC., AN INDIANA CORPORATION
3592 NORTH HOBART ROAD
HOBART, INDIANA 46342

THIS INSTRUMENT WHEN RECORDED SHALL CONSTITUTE A "FIXTURE FILING" FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE. THE ADDRESS OF THE SECURED PARTY SHOWN ABOVE IS THE ADDRESS AT WHICH INFORMATION CONCERNING THE SECURED PARTY'S SECURITY INTEREST MAY BE OBTAINED.

LUKE OIL CO., INC., a corporation organized under Indiana law ("**Mortgagor**"), MORTGAGES AND WARRANTS to **FIRST FINANCIAL BANK, N.A.**, with its principal office in Schererville, Indiana (the "**Mortgagee**"), and the Mortgagor GRANTS A SECURITY INTEREST to the Mortgagee in the following property, to-wit:

All that real estate situated in Porter County, State of Indiana, described in Exhibit "A" which is attached to this Real Estate Mortgage, Security Agreement, Collateral Assignment of Rents and Leases, and Fixture Filing ("**Mortgage**") and incorporated herein by this reference (the "**Real Estate**");

and any and all items of furniture, machinery, equipment or other tangible personal property which are now or hereafter become attached to any portion of the Real Estate or any improvement thereon so as to constitute a fixture, whether now owned or hereinafter acquired (the "**Personal Property**");

\$46
TI
CR

TICOR CP 720064118 / 920069414
TICOR TITLE INS.

TOGETHER WITH all present and future improvements, rights, privileges, interests, easements, hereditaments, and appurtenances thereunto belonging or in any manner pertaining thereto, and the proceeds therefrom (all of such Real Estate, Personal Property and other rights being hereafter referred to as the "Mortgaged Premises").

This Mortgage is given to secure the guarantee of the Mortgagor for all obligations of Luke Land, LLC, to Mortgagee. The term "Obligations" as used in this Mortgage means all obligations of Luke Land, LLC, which have been guaranteed by Mortgagor in favor of the Mortgagee of every type and description, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, including but not limited to all Obligations of Luke Land, LLC, which Mortgagor has guaranteed in favor of the Mortgagee arising under the following Commercial Promissory Notes and obligations:

- A. Commercial Promissory Note (Term Loan) executed by Luke Land, LLC, in favor of Mortgagee dated December 1, 2006, which Note is in the original principal amount of Two Million Five Hundred Thousand Dollars (\$2,500,000.00). This Note has been guaranteed by Mortgagor by virtue of the Continuing Guaranty dated December 1, 2006;
- B. Commercial Promissory Note (combined Construction and Term Loan) executed by Luke Land, LLC, in favor of Mortgagee dated December 1, 2006, which Note is in the original principal amount of One Million Eight Hundred Fifty Thousand Dollars (\$1,850,000.00). This Note has been guaranteed by Mortgagor by virtue of the Continuing Guaranty dated December 1, 2006;
- C. Commercial Promissory Note (combined Construction and Term Loan) executed by Luke Land, LLC, in favor of Mortgagee dated December 1, 2006, which Note is in the original principal amount of One Million Six Hundred Fifty Thousand Dollars (\$1,650,000.00). This Note has been guaranteed by Mortgagor by virtue of the Continuing Guaranty dated December 1, 2006;
- D. Commercial Promissory Note (combined Construction and Term Loan) executed by Luke Land, LLC, in favor of Mortgagee dated December 1, 2006, which Note is in the original principal amount of One Million Dollars (\$1,000,000.00). This Note has been guaranteed by Mortgagor by virtue of the Continuing Guaranty dated December 1, 2006;
- E. Commercial Promissory Note (combined Construction and Term Loan) executed by Luke Land, LLC, in favor of Mortgagee dated December 1, 2006, which Note is in the original principal amount of One Million Dollars (\$1,000,000.00). This Note has been guaranteed by Mortgagor by virtue of the Continuing Guaranty dated December 1, 2006;

- F. Commercial Promissory Note (Revolving Line of Credit) executed by the Mortgagor in favor of Mortgagee dated December 1, 2006, which Note is in the original principal amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00). This Note matures no later than December 1, 2007;
- G. Any and all future loans, obligations and advancements made by Mortgagee to Mortgagor (including advances under the Loans referenced in paragraphs A through F immediately above) except that the maximum amount of unpaid indebtedness under this Paragraph G secured hereby which may be outstanding at any time shall not exceed Nine Million Five Hundred Thousand Dollars (\$9,500,000.00), exclusive of interest thereon and 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 Mortgagee is authorized by this Mortgage to pay on Mortgagor's behalf;
- H. Any renewal, extension, modification, refinancing or replacement of the indebtedness referred to in paragraphs A through F above, together with any extensions or renewals thereof;
- I. All interest, attorney fees, and costs of collection with respect to the obligations referred to in paragraphs A through G above, together with any extensions or renewals thereof; and
- J. The performance by Mortgagor of all Mortgagor's covenants, agreements, promises, payments and conditions contained in this Mortgage agreement.

All of the Obligations are secured as they now exist and as they may be increased or otherwise changed by any amendment to any instrument or agreement which now or hereafter evidences, secures or expresses terms applicable to any of the Obligations, including but not limited to amendments to the above referenced notes and any other loan document executed in connection with the above referenced notes.

As additional security for the Obligations, the Mortgagor assigns to the Mortgagee the rents, issues and profits of the Mortgaged Premises, including any rents, whether denominated minimum rental, additional rental, monthly operating expense payments, annual operating expense adjustments, or otherwise, and all other amounts or payments to be received (collectively "Lease Payments") which are due or shall become due to the Mortgagor under the terms of any present or future lease (a "Lease"), oral or written, of all or any portion of the Mortgaged Premises (all such rents, issues, profits and Lease Payments are hereafter collectively referred to as the "Rents"), and all other rights of the Mortgagor with respect to any such Leases or Rents. This assignment of Rents and leasehold rights is an absolute assignment, contingent only upon the occurrence of a Default (as hereafter defined) or as otherwise provided herein, and includes the right of the

Mortgagee to collect all Rents and exercise such rights subject to the conditional license to collect Rents and exercise such rights granted by the Mortgagee to the Mortgagor hereinbelow.

The Mortgagor further covenants and agrees as follows:

1. **PAYMENT OF OBLIGATIONS.** The Mortgagor shall pay and perform all of the Obligations promptly when payment or performance is due, with attorneys' fees and costs of collection, and without relief from valuation and appraisal laws.
2. **CONDITION OF PREMISES.** The Mortgagor shall keep the Mortgaged Premises in good repair and shall not commit or permit waste thereon or do or permit to be done anything that may impair the value of the Mortgaged Premises. The Mortgagor shall promptly restore any part of the Mortgaged Premises which may be damaged or destroyed.
3. **TAXES AND ASSESSMENTS.** The Mortgagor shall pay when due all taxes and assessments levied or assessed against the Mortgaged Premises or any part thereof.
4. **TITLE; NO MORTGAGES.** Mortgagor does hereby represent and warrant that Mortgagor is the owner of the Mortgaged Premises in fee simple; that there are no other mortgages, liens, encumbrances or claims against said Mortgaged Premises or which may affect said Mortgaged Premises except the lien of real estate taxes not yet due and owing, and except for those liens and encumbrances to the extent they are specifically permitted by the terms of the Business Loan Agreement entered into by, between and among Mortgagor, Mortgagee and others of even date with this Mortgage ("Loan Agreement"). Capitalized terms not otherwise defined in this Mortgage shall have the same meaning given such terms in the Loan Agreement.
5. **LEASES.** Mortgagor will observe and perform all covenants, conditions and agreements contained in any Lease or Leases now or hereafter affecting the Mortgaged Premises, or any portion thereof, on the part of the Mortgagor to be observed and performed. Mortgagor, upon request, from time to time, will furnish to Mortgagee a statement in such reasonable detail as Mortgagee may request, certified by Mortgagor, of all Leases relating to the Mortgaged Premises; and on demand, Mortgagor will furnish to Mortgagee executed counterparts of any and all such Leases. With respect to all Leases Mortgagor warrants and represents as follows:
 - a. The Leases are in full force and effect;
 - b. No default exists on the part of any tenant or Mortgagor under the Leases;

- c. No rent has been collected in advance;
- d. Neither the Leases nor any interest therein has been previously assigned or pledged;
- e. No tenant under any Lease has any defense, set off or counterclaims against Mortgagor;
- f. All rent due to date under the Leases has been collected and no concession has been granted to any tenant in the form of a waiver, release, reduction, discount or other alteration of rent due or to become due.

With respect to the Leases, the Mortgagor covenants and agrees with Mortgagee as follows:

- a. The Mortgagor will not enter into any agreement which would result in the merger of the interest of Mortgagor and tenants under the Leases, or any of them. Mortgagor shall not transfer or convey fee simple title to the Mortgaged Premises, or any portion thereof, to any tenant without the prior written consent of Mortgagee. Where such consent is given or where under applicable law the requirement for such consent is not enforceable, Mortgagor shall require the tenants, in writing, to assume and agree to pay the Obligations in accordance with the terms, covenants and conditions of any note evidencing the same. In no event shall any such transfer or conveyance operate or release or relieve Mortgagor of any liability to Mortgagee unless Mortgagee specifically agrees otherwise in writing;
- b. Mortgagor shall not terminate any Lease (except pursuant to the terms of the Lease upon a default by the tenants), or modify or amend any Lease or any of the terms thereof or grant any concessions in connection therewith or accept a surrender thereof except to (i) increase the term of the Lease; (ii) increase the Rent payable, and/or (iii) increase any financial or other obligation on the part of a tenant, without the prior written consent of the Mortgagee;
- c. Mortgagor shall not collect any Rents more than one (1) month in advance of the date on which such Rent becomes due under the terms of the Lease relating thereto;
- d. Mortgagor shall not discount any future accruing Rents;

- e. Mortgagor shall not consent to an assignment of any of the Leases, or subletting thereunder if such consent is required by the terms of any such Lease, without the prior written consent of Mortgagee;
- f. Mortgagor shall not execute any further assignment of any of the Rents or any interest therein or suffer or permit any such assignment to occur by operation of law;
- g. Mortgagor shall not request, consent to, agree to or accept a subordination of any Lease to any mortgage, deed of trust or other encumbrance, or any other Lease, now or hereafter affecting the Mortgaged Premises, or any part thereof, or permit conversion of any Lease to a sublease, with the exception of a subordination of any such Lease to this Mortgage;
- h. Mortgagor will perform and discharge all obligations of the Landlord under the Leases, and will give proper written notice to Mortgagee of any notice of default received from any tenant or any other person. Mortgagor shall appear in and defend, at no cost to Mortgagee, any action or proceeding arising under or in any manner connected with the Leases, or any of them. If requested by Mortgagee, Mortgagor shall enforce the Leases and all remedies available to Mortgagor against the tenants in the case of default under any Lease by any tenant;
- i. Mortgagor shall manage the Mortgaged Premises through their own personnel or as otherwise permitted in the Loan Agreement, and shall not hire, retain or contract with any third party for property management services without the prior written approval by Mortgagee of such party and the terms of its contract for management services;
- j. Mortgagor shall deliver to Mortgagee, promptly upon request, a duly executed estoppel certificate from the tenants as required from time to time by Mortgagee attesting that the Leases are in full force and effect with no defaults thereunder on the part of any party, that no Rent has been paid more than one month in advance, and that the tenants claim no defense or offset affecting their obligation of full and timely performance under the Leases.

This Mortgage and the assignment of Leases and Rents provided for herein shall not operate to place responsibility for the control, care, management or repair of the Mortgaged Premises upon Mortgagee, nor for the carrying out of any of the terms and conditions of the Leases unless such responsibility is specifically assumed by Mortgagee in writing; nor shall it operate to make Mortgagee responsible or liable for any waste committed on the Mortgaged Premises by the lessees or any other party,

or for any dangerous or defective condition of the Mortgaged Premises, or for any negligence in the management, upkeep, repair or control of the Mortgaged Premises resulting in loss or injury or death to any tenant, licensee, employee or stranger.

Mortgagor hereby indemnifies and agrees to hold Mortgagee harmless of and from any and all liability, loss or damage which Mortgagee may incur under any of the Leases or by reason of this assignment and of and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligation or undertaking to be performed or discharged by Mortgagee under any of the Leases or this Mortgage. Should Mortgagee incur any such liability, loss or damage under any of the Leases or under or by reason of this Mortgage, or in the defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorney's fees, shall be secured hereby, and Mortgagor shall reimburse Mortgagee therefor immediately upon demand, and upon the failure of Mortgagor to do so Mortgagee may declare all sums secured hereby immediately due and payable.

Nothing herein contained shall be construed to bind Mortgagee to the performance of any of the terms and provisions contained in any of the Leases or otherwise to impose any obligation on Mortgagee to do any act which it may be authorized hereunder to do.

6. **NO LIENS.** The Mortgagor shall not permit any lien of mechanics or material men to attach to and remain on the Mortgaged Premises or any part thereof for more than thirty (30) days after receiving notice thereof except for Permitted Encumbrances, as that term is defined in the Loan Agreement. Nothing herein contained, however, shall be construed as preventing or interfering with the contesting by Mortgagor, at its cost and expense, of the validity of such lien or the underlying indebtedness, if the same may be contested without loss or forfeiture of title, and Mortgagor may so contest the same, and during such contest Mortgagor shall not be treated as being or taken to be in default with respect to the subject matter of such contest; provided, however, that if Mortgagee shall so require, Mortgagor shall furnish to Mortgagee reasonable security for the payment at the termination of such contest of the indebtedness secured by such lien. For the purpose of complying with the proviso in the foregoing sentence, Mortgagor may, at its election, furnish a bond in an amount equal to the amount of the item so contested and with surety satisfactory to Mortgagee.
7. **COMPLIANCE WITH LAWS.** The Mortgagor shall comply in all material respects with all statutes, ordinances, rules, regulations, orders, and directions of any legislative, executive, administrative, or judicial body or official applicable to the Mortgaged Premises, or any part thereof, or to the Mortgagor, or to the operation of any business of Mortgagor which directly affects the Mortgaged Premises; provided, however, that the Mortgagor may contest any of the matters referred to in this

paragraph as provided in the Notes or otherwise in any reasonable manner which in the judgment of the Mortgagee will not adversely affect the rights of the Mortgagee, its successors or assigns.

8. **INSURANCE.** The Mortgagor will procure and maintain in effect at all times insurance written by insurance companies acceptable to the Mortgagee which insures against rent interruption as well as loss or destruction of the Mortgaged Premises by fire, wind storm, lightning, vandalism and malicious mischief and such other perils as are generally covered by "extended coverage" insurance for the full replacement value of the Mortgaged Premises all as more particularly required under the Loan Agreement. All policies providing such insurance shall provide that any loss thereunder shall be payable to the Mortgagee under a standard form of secured lender's loss payable endorsement. The Mortgagor authorizes the Mortgagee to endorse on Mortgagor's behalf and to negotiate drafts representing proceeds of such insurance, provided that the Mortgagee shall remit to the Mortgagor such surplus, if any, as remains after the proceeds have been applied at the Mortgagee's option:

- a. to the satisfaction of the Obligations or to the establishment of a cash collateral account securing the Obligations, or
- b. to the restoration of the Mortgaged Premises; provided, however, that no Default (as hereafter defined) has occurred and is continuing;

provided, however, such proceeds shall be applied, at the option and to the extent necessary, as provided in the foregoing clause (b) and any balance shall be remitted to the Mortgagor, if the proceeds are equal to or less than Five Thousand Dollars (\$5,000.00), or the Mortgagor can demonstrate to the Mortgagee's satisfaction that restoration of the Mortgaged Premises is physically and economically feasible. Copies of any insurance policies required under the terms of this Mortgage shall be delivered to the Mortgagee and shall provide that such policies may not be modified, amended, or canceled without thirty (30) days prior written notice to Mortgagee.

9. **PRESERVATION OF SECURITY INTEREST.** Upon demand and failure of the Mortgagor so to do, the Mortgagee may, in its discretion, advance and pay all sums necessary to protect and preserve the Mortgaged Premises, and all sums so advanced and paid by the Mortgagee shall become a part of the indebtedness secured hereby, shall bear interest from date of payment at a rate equal to the Interest Rate, as defined in the Loan Agreement, and shall be payable to the Mortgagee upon demand. Such sums shall include, but not by way of limitation:

- a. taxes, assessments and other charges which may be or become senior to this Mortgage as liens on the Mortgaged Premises, or any part thereof;

- b. the cost of any title insurance, surveys, or other evidence which in the discretion of the Mortgagee may be required in order to evidence, confirm, insure or preserve the lien of this Mortgage;
- c. all costs, expenses, and attorneys' fees incurred by the Mortgagee in respect of any and all legal and equitable actions which relate to this Mortgage or to the Mortgaged Premises;
- d. the cost of any repairs respecting the Mortgaged Premises which are reasonably deemed necessary by the Mortgagee;
- e. the cost of all reasonable and necessary expenses for the operation, protection, and preservation of the Mortgaged Premises, including the usual and customary fees for management services; and
- f. the cost of premiums due and payable with respect to insurance policies required by this Mortgage.
- g. nonpayment of any taxes or assessments or any utility rates levied, assessed or imposed upon the mortgaged premises and nonpayment of any premiums for any insurance thereon shall constitute waste. The Mortgagor hereby consents to the appointment of a receiver should the Mortgagee elect to seek such relief.

The Mortgagee shall be subrogated to the rights of the holder of each lien or claim paid with moneys secured hereby.

10. **CONDEMNATION.** If all or any part of the Mortgaged Premises is damaged, taken, or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, or by the alteration of the grade of any street affecting the Mortgaged Premises, the amount of any award or other payment for such taking or damages made in consideration thereof, to the extent of the full amount of the then remaining unpaid Obligations, is hereby assigned to the Mortgagee, which is empowered to collect and receive the same and to give proper receipts therefor in the name of the Mortgagor, and all such sums shall be paid forthwith directly to the Mortgagee. Any award or payment so received by the Mortgagee may, at the option of the Mortgagee:
- a. be applied to the satisfaction of the Obligations or to the establishment of a cash collateral account for the Obligations, or

- b. be released, in whole or in part, to the Mortgagor for the purpose of altering, restoring, or rebuilding any part of the Mortgaged Premises which may have been altered, damaged or destroyed as a result of such taking, alteration, or proceeding;

provided, however, that so long as no Default has occurred and is continuing, and provided that the Mortgagor can demonstrate to the Mortgagee's satisfaction that any proposed alteration, restoration or rebuilding is physically and economically feasible, such awards shall be applied at the Mortgagor's option and to the extent necessary as provided in the foregoing clause (b).

11. **ASSIGNMENT OF LEASES AND COLLECTION OF RENTS.** As further security for the Obligations Mortgagor hereby assigns to Mortgagee all Leases already in existence and to be created in the future, together with all Rents due and to become due under existing or future leases in which Mortgagor has or may have an interest, and relating to any portion of the Mortgaged Premises. At any time an event defined as a Default in this Mortgage, or in the Loan Agreement or any note secured hereby has occurred and is continuing, the Mortgagee may enter upon and take possession of the Real Estate or any part thereof, and at any such time, or at any other time if the Mortgagee in the reasonable exercise of its discretion determines that payment or performance of any of the Obligations is insecure, the Mortgagee may demand, sue for, receive and give receipts, releases and satisfactions for all Rents, and for such purposes Mortgagor hereby irrevocably appoints and constitutes the Mortgagee as its true and lawful attorney-in-fact with full power of substitution for and on behalf of Mortgagor and in a manner not adverse to the interests of Mortgagor, to request, demand, enforce payment, collect and receive the Rents payable under the Leases, to endorse any checks, drafts or orders evidencing the payment of Rents under the Leases, and to do and perform any act which Mortgagor might do for and on its own behalf. The collection of such Rents shall not operate as an affirmation of any tenant or lease in the event the Mortgagor's title to the Mortgaged Premises or any portion thereof shall be acquired by the Mortgagee. The Mortgagee shall be liable to account only for Rents actually received by the Mortgagee. In exercising any of the powers contained in this Mortgage, Mortgagee may also take possession of, and for these purposes use, any and all personal property contained in the Mortgaged Premises and used by the Mortgagor in the maintenance, rental or leasing thereof or any part thereof. Mortgagor does not assign to Mortgagee any of Mortgagor's obligations under any such Lease, and Mortgagor shall be and remain solely responsible for performing or fulfilling such obligations. At any time that the Mortgagee has not exercised its right to take possession of the Real Estate and there is not in effect any demand by the Mortgagee for the direct payment of Rents to the Mortgagee, the Mortgagor may collect and retain Rents or use them for any proper purpose in the ordinary course of the Mortgagor's business. Any demand by the Mortgagee upon any tenant of the Mortgaged Premises accompanied by a copy of this Mortgage shall be sufficient authority for such tenant thereafter to make all payments of Rents directly to the

Mortgagee and any such tenant shall have no obligation or authority to inquire into the propriety of any such demand. Upon making payments of Rents to the Mortgagee pursuant to the Mortgagee's demand, any tenant of the Mortgaged Premises shall be as fully discharged of its obligations under any Lease to the extent of such payments as if such payments had been made directly to the Mortgagor. If at any time payments of Rents are required to be made directly to the Mortgagee under the terms of this paragraph and notwithstanding such requirement such payments are made to the Mortgagor, the Mortgagor will receive such payments in trust for the Mortgagee and will forward them immediately to the Mortgagee in the form in which received, adding only such endorsements or assignments as may be necessary to perfect the Mortgagee's title thereto. Any amounts collected by the Mortgagee pursuant to the assignment of rents contained in this Mortgage shall be applied by the Mortgagee to the payment of such of the Obligations as are then due and payable as the Mortgagee in its sole discretion shall determine. If no Obligations are then due and payable, such amounts may be held by the Mortgagee as cash collateral for the Obligations, without liability for interest thereon. Any portion or all of the cash collateral account which is not applied to Obligations pursuant to the terms of this paragraph may at the discretion of the Mortgagee be released to the Mortgagor. The authority given to collect Rents conferred upon the Mortgagee under the terms of this Mortgage is irrevocable.

12. **UNIFORM COMMERCIAL CODE FILINGS.** The Mortgagor grants to the Mortgagee as secured party a security interest in the Personal Property in accordance with the provisions of the Uniform Commercial Code as enacted in Indiana. The Mortgagor authorizes the Mortgagee at the expense of the Mortgagor to file any other financing statements deemed necessary by the Mortgagee to perfect its security interest in the Personal Property and to file such financing statements in those public offices deemed necessary by the Mortgagee. In addition, the Mortgagor shall execute and deliver any financing statement or other document that the Mortgagee may request to perfect or to further evidence the security interest created by this Mortgage.
13. **MORTGAGE TAXES.** If, after the execution of this Mortgage, applicable law requires the taxation of this Mortgage or any Obligation secured by this Mortgage, the Mortgagor, upon demand by the Mortgagee, shall pay such taxes or reimburse the Mortgagee therefor unless it is unlawful to require the Mortgagor to do so. Notwithstanding the foregoing, the Mortgagor shall not be obligated to pay any portion of any of the Mortgagee's federal or state income taxes.
14. **ENVIRONMENTAL COVENANTS AND INDEMNIFICATION.** During the term of this Mortgage and until all of the Obligations secured hereby have been fully paid and satisfied Mortgagor shall comply in all respects with each and all of the environmental covenants and environmental indemnification provisions contained in paragraphs 11 and 12, respectively, of the Loan Commitment incorporated into the Loan Agreement, the same being incorporated herein by reference and made a part of this Mortgage.

15. **DEFAULT.** The occurrence of any of the following events shall be deemed a "Default" under this Mortgage:

- a. If any event defined as a Default in the notes secured hereby or in the Loan Agreement shall have occurred and be continuing or the Mortgagor shall otherwise fail to pay or perform any of the Obligations promptly when such payment or performance is due or within such grace period as may be applicable;
- b. If the Mortgagor shall abandon the Mortgaged Premises, or any portion thereof, for a period of 60 days or longer;
- c. The institution of any foreclosure proceeding by the holder of any mortgage or lien upon the Mortgaged Premises, or any portion thereof, or security interest in the Personal Property and failure of the Mortgagor to obtain dismissal or termination of such action within thirty (30) days; but such proceeding shall not be deemed a Default under this Mortgage if Mortgagor is diligently contesting such proceeding having posted such bond or additional collateral as Mortgagee may require and so long as Mortgagee does not determine that the continuation of such proceeding shall adversely affect Mortgagee's interest in the Mortgaged Premises or payment of the Obligations.

16. **REMEDIES ON DEFAULT.** Upon the occurrence and continuance of a Default beyond any applicable cure period, all indebtedness secured hereby shall, at the option of the Mortgagee, become immediately due and payable and without relief from valuation and appraisal laws, and this Mortgage may be foreclosed accordingly. Should proceedings to foreclose this Mortgage be instituted, the Mortgagee may apply for the appointment of a receiver (and the Mortgagor hereby consents to the appointment of a receiver if there has been any Default), and such receiver is hereby authorized to take possession of the Mortgaged Premises or any portion thereof, collect any rental, accrued or to accrue, whether in money or kind, for the use or occupancy of said Mortgaged Premises by any person, firm or corporation, or may let or lease said Mortgaged Premises or any part thereof, receive the rents, income and profits therefrom, and hold the proceeds subject to the orders of the court, or the judge thereof, for the benefit of the Mortgagee, pending the final decree in said proceedings, and said receiver may be appointed irrespective of the value of the Mortgaged Premises or its adequacy to secure or discharge indebtedness due or to become due or the solvency of the Mortgagor. The Mortgagee shall have the option of proceeding as to both the Real Estate and the Personal Property in accordance with its rights and remedies in respect of the Real Estate, in which event the default provisions of the Indiana Uniform Commercial Code shall not apply. If the Mortgagee elects to proceed with respect

to the Personal Property separately from the Real Estate, the requirement of the Indiana Uniform Commercial Code as to reasonable notice of any proposed sale or disposition of the Personal Property shall be met if such notice is delivered or mailed to the Mortgagor at its address stated above at least ten (10) days prior to such sale or disposition. In any action to foreclose this Mortgage, the Mortgagee shall be entitled to recover, in addition to all attorney and related paraprofessional expenses incurred in connection therewith, all other costs and expenses associated with foreclosure including, without limitation, all expenses incurred for title searches, abstracts of title, title insurance, appraisals, surveys and environmental assessments reasonably deemed necessary by the Mortgagee, all of which costs and expenses shall be additional amounts secured by this Mortgage. As used in the preceding sentence, the term "environmental assessments" means inspections and reports of environmental engineers or firms of environmental engineers or other appropriate experts or consultants, and associated samplings and testings of soil or groundwater, the purpose of which is to determine whether there is any contamination associated with the Mortgaged Premises and if so, the extent thereof, and to estimate of the cost of clean-up of any contamination, and to determine whether there are any underground storage tanks or any asbestos in, on, or under the Mortgage Premises and if so, whether there are any violations of environmental laws in connection therewith.

17. **EXTENSIONS; REDUCTIONS; RENEWALS; CONTINUED LIABILITY OF MORTGAGOR.** The Mortgagee, at its option and on such terms as it may desire, may extend the time of payment or performance of any part or all of the Obligations or reduce the payments thereon, or accept a renewal note or notes therefor, without the consent of any junior lien holder, and without the consent of the Mortgagor if the Mortgagor has then parted with title to the Mortgaged Premises. No such extension, reduction or renewal shall affect the priority of this Mortgage or impair the security hereof in any manner whatsoever, or release, discharge or affect in any manner the personal liability of the Mortgagor or any guarantors or sureties of or for any of the Obligations. The Mortgagee, at its option and on such terms as it may desire, may release any part of the Mortgaged Premises from the lien of this Mortgage without impairing the lien of this Mortgage except as to the portion of the Mortgaged Premises expressly released and without releasing the Mortgagor or any guarantors or sureties of or for any of the Obligations. No delay by the Mortgagee in the exercise of any of its rights under this Mortgage shall preclude the subsequent exercise thereof so long as any Default continues uncured, and no waiver by the Mortgagee of any Default of the Mortgagor shall operate as a waiver of subsequent or other Defaults. The making of any payment by the Mortgagee for any of the purposes herein permitted shall not constitute a waiver of any breach of the Mortgagor's covenant to perform such act. Notice by the Mortgagee of its intention to exercise any right or option under this Mortgage is expressly waived by the Mortgagor, and any one or more of the Mortgagee's rights or remedies under this Mortgage may be enforced successively or concurrently. Time is of the essence of this Mortgage.

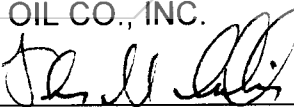
18. **JUNIOR LIENS.** Any person, firm or corporation taking a junior mortgage, or other lien, upon the Mortgaged Premises, shall take the said lien or mortgage subject to the rights of the Mortgagee herein to extend the maturity of the indebtedness hereby secured without obtaining the consent of the holder of said junior lien or mortgage and without the lien of this Mortgage losing its priority over any such junior lien or mortgage. This Mortgage shall have priority over any such junior lien or mortgage, not only with respect to advances made by the Mortgagor prior to the existence and/or recording of such junior lien or mortgage, but also with respect to any advances and other Obligations made or otherwise incurred after the existence and/or recording of such junior lien or mortgage.
19. **INSUFFICIENCY OF PROCEEDS.** In the event the property pledged by this instrument is sold under foreclosure and the proceeds are insufficient to pay the total costs of said foreclosure and the indebtedness evidenced and secured by this instrument, the Mortgagee will be entitled to a deficiency judgment.
20. **DEPOSITS FOR ASSESSMENTS AND TAXES.** In addition to the payments to be made by the Mortgagor as herein provided and also as provided in the Notes hereby secured, the Mortgagor agrees, if requested by the Mortgagee at any time or from time to time while this Mortgage remains unsatisfied, to deposit monthly with the Mortgagee approximately one-twelfth (1/12) of the annual property taxes and any and all assessments for public improvements levied upon the mortgaged property, and also one-twelfth (1/12) of the annual insurance premiums required by this Mortgage of the Note.
21. **SUCCESSOR AND ASSIGNS.** All obligations of the Mortgagor under this Mortgage shall extend to and be binding upon the successors and assigns of the Mortgagor, and shall inure to the benefit of the Mortgagee and its successors and assigns.
22. **COMMERCIAL MORTGAGE.** This Mortgage secures indebtedness incurred for a business purpose.
23. **CHOICE OF LAW.** This Mortgage shall be governed by and construed and enforced in all cases by the substantive laws of the State of Indiana, notwithstanding the fact that Indiana conflicts of law rules might otherwise require the substantive rules of law of another jurisdiction to apply.

EXECUTED effective as of December 1, 2006.

MORTGAGOR:

LUKE OIL CO., INC.

By: _____



Thomas M. Collins, President

STATE OF INDIANA)
) SS:
LAKE COUNTY)

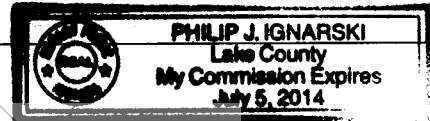
Before me, a Notary Public in and for the above County and State, personally appeared THOMAS M. COLLINS, the President of LUKE OIL CO., INC., a corporation organized under Indiana law, and acknowledged the execution of the foregoing Real Estate Mortgage, Security Agreement, Collateral Assignment of Rents and Leases, and Fixture Filing for and on behalf of Luke Oil Co., Inc.

WITNESS my hand and Notarial seal this 1st day of December, 2006.



Notary Public

Printed Name: _____



My Commission Expires: _____

County of Residence: _____

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.



Rhett L. Tauber

Prepared by: Rhett L. Tauber, Esq.
Tauber Westland & Jasaitis, P.C.
1415 Eagle Ridge Drive
Scherville, Indiana 46375
(219) 865-8400

EXHIBIT "A"
TO REAL ESTATE MORTGAGE, SECURITY AGREEMENT, COLLATERAL
ASSIGNMENT OF RENTS AND LEASES, AND FIXTURE
FILING DATED DECEMBER 1, 2006
(PORTER COUNTY REAL ESTATE)

PARCEL 5
(3 EAST U.S. HIGHWAY 6, VALPARAISO, INDIANA)

A parcel of land in the West Half of the Southwest Quarter of Section 24, Township 36 North, Range 6 West, described as follows: Commencing at the Southwest corner of said Section 24 and running thence North 40 rods; thence East 20 rods; thence South 40 rods; thence West 20 rods to the place of beginning, Porter County, Indiana.

EXCEPTING THEREFROM THE FOLLOWING: Part of the West 1/2 of the Southwest 1/4 of Section 24, Township 36 North, Range 6 West, Porter County, Indiana, being more particularly described as follows: Beginning at the Southwest corner of said Section 24; thence North 236.51 feet along the West line of the Southwest 1/4 of said Section 24 to the point of beginning; thence continuing North 116.0 feet along the West line of the Southwest 1/4 of said Section 24; thence deflecting 90 degrees 00 minutes 00 seconds right from the prolongation of the preceding course for a distance of 172.00 feet; thence deflecting 90 degrees 00 minutes 00 seconds right from the prolongation of the preceding course for a distance of 116.00 feet; thence deflecting 90 degrees 00 minutes 00 seconds right from the prolongation of the preceding course for a distance of 172.00 feet to the point of beginning.



G:\Clients\Commercial Loan Documents\FFB-Luke Land & Luke Oil\Mortgage etc -Porter County-LOC-draft 3.doc

PARCEL 7
(2178 RIPLEY, LAKE STATION, INDIANA)

Lots 1 to 10, both inclusive (except that part thereof taken for highway purposes), Block 2, in Greater Gary Subdivision Number 1, in the Town of East Gary, as per plat thereof, recorded in Plat Book 13 page 15, in the Office of the Recorder of Lake County, Indiana; also known as: that part of Lots 1 to 10, inclusive, described as follows: Beginning at the Northwest corner of Lot 1 aforesaid and running thence South along the West line of said Lots 1 to 10 to the Southwest corner of Lot 10 aforesaid; thence South 88 degrees 53 minutes East, along the South line of Lot 10 aforesaid, a distance of 81.0 feet, more or less, to the West line of Ripley Street as widened; thence North along the West line of Ripley Street as widened, to the North line of Lot 1, aforesaid; thence North 88 degrees 53 minutes West along the North line of Lot 1, aforesaid, a distance of 81.0 feet, more or less to the place of beginning.

