

Fill in this information to identify your case:

Debtor Fuel Service Mart, Inc.

United States Bankruptcy Court for the: _____

Case number 15-42930-11
(if known)

RECEIVED
DEC 29 2015
BMC GROUP

Official Form 410
Proof of Claim

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Steven and Cornelia Sawle</u> <small>Name of the current creditor (the person or entity to be paid for this claim)</small> <small>Other names the creditor used with the debtor</small> _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? <small>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</small>	Where should notices to the creditor be sent? <u>Victor F.Weber</u> <u>Merrick, Baker & Strauss, P.C.</u> <u>1044 Main, Suite 500</u> <u>Kansas City, MO 64105</u> <small>Name, Number, Street, City, State & Zip Code</small> <small>Contact phone</small> _____ <small>Contact email</small> _____ <small>Uniform claim identifier for electronic payments in chapter 13 (if you use one):</small> _____	Where should payments to the creditor be sent? (if different) <u>Victor F.Weber</u> <u>Merrick, Baker & Strauss, P.C.</u> <u>1044 Main, Suite 500</u> <u>Kansas City, MO 64105</u> <small>Name, Number, Street, City, State & Zip Code</small> <small>Contact phone</small> _____ <small>Contact email</small> _____
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____		
7. How much is the claim?	\$ <u>472,718.60</u>	Does this amount include interest or other charges?	
		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).	
8. What is the basis of the claim?	<p>Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.</p> <p>Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).</p> <p>Limit disclosing information that is entitled to privacy, such as health care information.</p> <p><u>Lease</u></p>		
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes.	<p>The claim is secured by a lien on property.</p> <p>Nature of property:</p> <p><input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i>.</p> <p><input type="checkbox"/> Motor vehicle</p> <p><input type="checkbox"/> Other. Describe: _____</p> <p>Basis for perfection: _____</p> <p>Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)</p> <p>Value of property: \$ _____</p> <p>Amount of claim that is secured: \$ _____</p> <p>Amount of claim that is unsecured: \$ _____ <small>(The sum of the secured and unsecured amounts should match the amount in line 7.)</small></p> <p>Amount necessary to cure any default as of the date of the petition: \$ _____</p> <p>Annual Interest Rate (when case was filed) <u>0</u> %</p> <p><input type="checkbox"/> Fixed</p> <p><input type="checkbox"/> Variable</p>	
10. Is this claim based on a lease?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes.	<p>Amount necessary to cure any default as of the date of the petition: \$ <u>472,718.60</u></p>	
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____		

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check all that apply:

- ☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____
- ☐ Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____
- ☐ Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____
- ☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____
- ☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____
- ☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies. \$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both.

18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date December 24, 2015
MM/ DD / YYYY

/s/ Victor Weber
Signature

Print the name of the person who is completing and signing this claim:

Name Victor Weber

Title Lawyer

Company Merrick, Baker & Strauss, P.C.

Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 1044 Main Street, Suite 500

Kansas City, MO 64105

Number, Street, City, State and Zip Code

Contact phone 816/221-8855

Email bruces@merrickbakerstrauss.com

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY, ILLINOISⁱ

WILLIAM STEPHEN SAWLE, and
CORNELIA SAWLE,

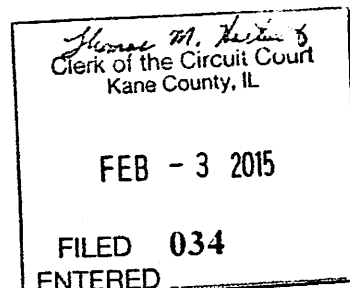
Plaintiffs,

v.

FUEL SERVICE MART, INC.,
GASMART USA, INC., and
UNKNOWN OCCUPANTS,

Defendants.

)
)
) No. 14 L 503
)
) Honorable
) *presiding*



AGREED ORDER

This matter coming before the court on status, the parties having entered into a Settlement Agreement, and Stipulation to Dismiss resolving this matter, and advising this Court in and on the premises; IT IS HEREBY ORDERED THAT:

1. This case is voluntarily dismissed without prejudice, subject to the terms of the Settlement Agreement dated 2/2/2015; and,
2. The Court retains jurisdiction over the parties to enforce the Settlement Agreement.

ENTER:

John G. Dalton

Judge
No.

Robert S. Reda
REDA & DES JARDINS, LLC.
736 N. Western Avenue
Suite 353
Lake Forest, Illinois 60045
p: 877-809-4567
e: service@rdlawyers.comⁱⁱ
a: 6199867

ⁱ Ill. Sup. Ct., R 131

ⁱⁱ Ill. Sup. Ct., R 131

**IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY, ILLINOIS¹**

WILLIAM STEPHEN SAWLE, and)	
CORNELIA SAWLE,)	
)	No. 14 L 503
<i>Plaintiffs,</i>)	
v.)	Honorable
)	<i>presiding</i>
FUEL SERVICE MART, INC.,)	
GASMART USA, INC., and)	
UNKNOWN OCCUPANTS,)	
<i>Defendants.</i>)	


STIPULATION OF DISMISSAL

It is hereby stipulated and agreed by and between the parties to the above entitled action, through their respective attorneys, that said action be dismissed without prejudice subject to the terms of the Settlement Agreement attached hereto as Exhibit "1".

The court shall retain jurisdiction over the parties for enforcement of the Settlement Agreement. In the event any Defendant shall default in its obligations under the Settlement Agreement, the plaintiff shall be entitled by Motion to vacate the Order of Dismissal, to void the Stipulation of Dismissal, and to have judgment entered in favor of Plaintiff and against the Defendants for Possession of the Premises, any outstanding indebtedness, plus costs and attorneys fees, and that enforcement of said Judgment issue thereupon.


TENANT:

FUEL SERVICES MART, INC.,
a Missouri Corporation,

By: 
Its: President & CEO

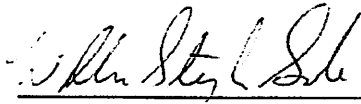
GUARANTOR:

GASMART USA, INC.,
a Missouri Corporation,

By: 
Its: President & CEO

LANDLORD:

WILLIAM STEPHEN SAWLE



CORNELIA BOWMAN SAWLE

Respectfully Submitted,

**WILLIAM STEPHEN SAWLE and
CORNELIA BOWMAN SAWLE**

Robert S. Reda
Kristina A. McClure
REDA & DES JARDINS, LLC.
736 N. Western Avenue
Suite 353
Lake Forest, Illinois 60045
p: 877-809-4567
e: service@rdlawyers.comⁱⁱ
a: 6199867

ⁱ Ill. Sup. Ct., R 131

ⁱⁱ Ill. Sup. Ct., R 131

SETTLEMENT AGREEMENT

by and between

William Stephen Sawle & Cornelia Bowman Sawle
As the Landlord

and

Fuel Service Mart, Inc., a Missouri Corporation,
As the Tenant,

GasMart USA, Inc., a Missouri Corporation,
As the Guarantor.

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is entered into this 30TH day of January, in the year 2015, by and between WILLIAM STEPHEN SAWLE and CORNELIA BOWMAN SAWLE ("Landlord"), and FUEL SERVICE MART, INC., a Missouri corporation ("Tenant"), and GASMART USA, INC., a Missouri corporation ("Guarantor") (hereinafter individually a "Party" and collectively the "Parties").

RECITALS

A. *Whereas*, the Parties hereto have a pending lawsuit in the Circuit Court of Sixteenth Judicial Circuit, Kane County, Illinois entitled *William Stephen Sawle and Cornelia Sawle v. Fuel Service Mart, Inc., GasMart USA, Inc., and Unknown Occupants*, bearing Docket No. 14 L 503 ("the Lawsuit").

B. *Whereas*, the Parties desire to provide for a settlement of the injuries, claims, and actions arising out of the Lawsuit.

NOW, THEREFORE, the Parties, jointly and severally, agree and stipulate, in exchange for fair and valuable consideration, the receipt and adequacy of which is hereby acknowledged, as follows:

1. **INCORPORATION.** The Parties incorporate the aforesaid Recitals as though fully set forth herein.

2. **GOOD FAITH.** The Parties agree that by entering into this Agreement, each is acting in good faith in an effort to reach a compromise of matters involving disputed issues between them, and this Agreement has been entered into with knowledge on the part of the Parties concerning the nature and circumstances of the occurrence(s) and the related damages and claims. The compromise is given in good faith by each Party and is taken in good faith by the other Parties.

3. **ACKNOWLEDGEMENT.** The Parties hereby acknowledge and agree that they are parties to, as defined above and therein, the Lease dated February 9, 2004 attached hereto as Exhibit "A" and incorporated herein by this reference. The Parties also acknowledge and agree that William Stephen Sawle and Cornelia Bowman Sawle are the current owner of the Property and the bona fide assignee Landlord under the Lease. The Lease, except as modified by this Settlement Agreement, shall remain in full force and effect and, together with this Settlement Agreement, define the rights and obligations of the Parties; provided, however, if and to the extent any of the terms and provisions of this Settlement Agreement contradict or conflict with the terms and provisions of the Lease, the terms and provisions of this Settlement Agreement shall govern and control.

4. **BANK APPROVAL.** This Settlement Agreement is subject to review and approval by BMO Harris Bank, N.A., or any lender holding an interest in the mortgage on the Property.

5. **DEFINED TERMS.** Unless otherwise defined in this Settlement Agreement, or the context otherwise clearly requires, each term used in this Settlement Agreement which has been specially defined in the Lease shall have the same meaning as in the Lease.

6. **CONDITIONAL SECTION 6(a) LEASE AMENDMENT.** Pursuant to, and subject to this Settlement Agreement, Section 6(a) of the Lease is hereby modified and amended as follows:

a. **BASIC RENT.** The Tenant shall pay to Landlord (or to Lender, if directed by Lender or Landlord), as minimum rent for the Leased Premises during the Term ("Basic Rent"), the amounts set forth herein. Basic Rent shall be due and payable on the first day of each month during the Term:

<u>Date</u>	<u>Monthly Rent</u>
i. January 31, 2015	\$15,000.00
ii. February 15, 2015	\$15,000.00
iii. March 15, 2015	\$15,000.00
iv. April 1, 2015 thru March 1, 2021- 2020	\$26,900.00
v. April 1, 2021- 2020 thru March 1, 2022- 2021	\$30,900.00
vi. April 1, 2022- 2021 thru March 1, 2023- 2022	\$30,900.00, increased by the Consumer Price Index as reported by the Wall Street Journal
vii. April 1, 2022 thru March 1, 2023	Previous year rent increased by the Consumer Price Index as reported by the Wall Street Journal
viii. April 1, 2023 thru February 1, 2024	Previous year rent increased by the Consumer Price Index as reported by the Wall Street Journal

b. **PAST DUE AMOUNT.** The Parties agree that if the Tenant pays the January, February and March payments totaling \$45,000.00 as required herein, the past due amount under the Lease as of March 31, 2015 equals Two Hundred Eight Five Thousand Five Hundred Eighty Three Dollars and Eight Cents (\$285,583.08) ("Past Due Amount"). See Exhibit "B" attached hereto and incorporated herein by this reference. In addition to Basic Rent, Tenant and/or Guarantor shall pay to Landlord (or to Lender, if directed by Lender or Landlord), the Past Due Amount in 8 equal monthly installments as follows:

i. April 1, 2015	\$35,697.89
ii. May 1, 2015	\$35,697.89
iii. June 1, 2015	\$35,697.89

5. DEFINED TERMS. Unless otherwise defined in this Settlement Agreement, or the context otherwise clearly requires, each term used in this Settlement Agreement which has been specially defined in the Lease shall have the same meaning as in the Lease.

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ii. May 1, 2015	\$35,697.89
iii. June 1, 2015	\$35,697.89

iv. July 1, 2015	\$35,697.89
v. August 1, 2015	\$35,697.89
vi. September 1, 2015	\$35,697.89
vii. October 1, 2015	\$35,697.89
viii. November 1, 2015	\$35,697.89

7. LEGAL FEES. On April 1, 2015, in addition to Basic Rent and Past Due Amount, Tenant and/or Guarantor shall pay to Landlord, Landlord's legal fees incurred on and after December 6, 2014 related to this dispute, but not to exceed \$7,500.00 dollars.

8. MANAGEMENT MEETINGS. Fuel Mart and/or Gas Mart shall conduct and participate in an on-site meeting with the station and regional managers with the Landlord to discuss repairs, operating improvements, and physical improvements to be made going forward with the intention of driving additional revenue to the facility. This meeting shall occur within sixty (60) days of the date of this Settlement Agreement. Follow-up meetings shall be scheduled on a regular basis, and in no event shall be more than six (6) months apart.

9. ACCESS TO STATION BOOKS AND RECORDS. Upon reasonable request by the Landlord, Fuel Mart and/or Gas Mart shall furnish or make available to the Landlord for inspection within 48 hours of such request, any and all station books and records, including, but not limited to licensing documentation.

10. CONDITIONAL DISMISSAL OF LAWSUIT. The Parties agree that the Lawsuit is being dismissed subject to the terms of this Settlement Agreement and the Court shall retain personal jurisdiction over the parties for the enforcement hereof. A copy of the Order of Dismissal is attached hereto as Exhibit "C" and incorporated herein by this reference

11. DEFAULT. In the event the Tenant fails to comply with the terms herein, or any other terms of the Lease, the Landlord shall have the right to vacate the Order of Dismissal, vacate this Settlement Agreement, reinstate the case, and immediately enter Judgment for Possession in favor of the Landlord. The Court shall then determine the amounts owed to Landlord under the Lease and enter Judgment thereon. The Parties shall execute the Stipulation for Dismissal attached hereto as Exhibit "D", and incorporated herein by this reference, to memorialize this Settlement Agreement.

12. NOTICE OF DEFAULT OF SETTLEMENT AGREEMENT. If Tenant defaults in the performance of this Settlement Agreement or any terms of the Lease and such default is not cured within five (5) days of Tenant's receipt of written notice of such default from Landlord, Landlord may treat such default as a breach of this Settlement Agreement. Such Notice shall be given pursuant to the terms of the Lease.

13. GUARANTOR's CONSENT. Guarantor hereby consents to this Settlement Agreement and its effect upon the Leased Premises, the Tenant and the Lease. The Corporate Guaranty executed by the undersigned as of February 9, 2004, with respect to the Lease, shall continue and remain in full force and effect notwithstanding this Settlement Agreement.. The undersigned has executed and delivered this Consent in order to induce Landlord to consent to and to execute, acknowledge, deliver and file of record this Settlement Agreement and the Exhibits attached hereto. The Guarantor acknowledges that Landlord and Lender will rely on this Consent.

14. MISCELLANEOUS.

a. *Amendment and Modification.* No amendment, modification or waiver of this Agreement shall be valid or binding upon the Parties unless made in writing, notarized, and signed by the Parties. The waiver by any Party of the breach of any provision of this Agreement by another shall not operate or be construed as a waiver of any subsequent breach by the other.

b. *Authority to Act.* The undersigned hereby represent and warrant to the other that they, individually and as the authorized officer of their respective companies, have full authority and power to enter into and perform its obligations under this Settlement Agreement, that the person executing this Settlement Agreement has full power to do so, and that no third party consent or authorization is necessary.

c. *Binding Effect.* This Agreement shall be binding upon and inure to the benefit of the transferees, successors and assigns of the Parties including any other entity with which a Party may merge or consolidate. Notwithstanding anything herein to the contrary, no Party shall assign her/his/its rights or delegate his obligations hereunder without the prior written consent of all the other Parties, which consent may be granted or denied in the Parties' sole and absolute discretion.

d. *Counterparts.* This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together, shall be and constitute one and the same instrument.

e. *Confidentiality of this Agreement.* The Parties acknowledge and agree that the terms and conditions of this Agreement are confidential between the Parties hereto and are not to be divulged or disclosed in any manner without the prior written consent and unless otherwise required by law.

f. *Cumulative Remedies.* The rights and remedies provided by this Settlement Agreement and the Lease are cumulative and the use of anyone right or remedy by any party shall not preclude or waive the party's right to use any or all other remedies. The rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

g. *Headings, etc.* The titles of the Articles, Sections and Subsections of this Agreement are for convenience of reference only, are not to be considered in construing this Agreement, and, where inconsistent with the text, are to be disregarded. When the context so requires in this

Agreement, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural and vice versa, and pronouns of whatsoever gender shall be deemed to include the masculine, feminine or neuter gender.

h. *Incorporation by Reference.* All exhibits to this Agreement, and all documents delivered as part hereof or incidents hereto, are incorporated as a part of this Agreement by reference.

i. *Severability.* Both Parties hereby expressly agree and contract that it is not the intention of either Party to violate any public policy, statutory or common law, and that if any provision of this Agreement is ultimately determined to be invalid as applied to any fact or circumstance, it is their desire that such provision shall be modified by the minimum extent necessary to render it valid and it shall not affect any other provision or the same provision, applied to any other fact or circumstance.


j. *Time of the Essence.* Time is of the essence in the performance and observance of each and every term, covenant and condition of this Agreement.

k. *Waiver.* No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances shall be deemed to be or construed as a further or continuing waiver of any such term, provision or condition of this Agreement. If either party waives a breach of this Agreement by the other party, that waiver will not operate or be construed as a waiver of later similar breaches.

IN WITNESS WHEREOF, the Parties have executed, or caused this Agreement to be executed, under seal, as of the date set forth hereinabove.

TENANT:

FUEL SERVICES MART, INC.,
a Missouri Corporation,

By: 
Its: President & CEO

GUARANTOR:

GASMART USA, INC.,
a Missouri Corporation,

By: 
Its: President & CEO

LANDLORD:

WILLIAM STEPHEN SAWLE

CORNELIA BOWMAN SAWLE

STATE OF KANSAS)
COUNTY OF Johnson) ss.

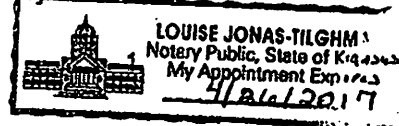
I, Louise Tilghman, Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that David George personally known to me to be the President of FUEL SERVICE MART, INC., a Missouri corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such officer, (s)he signed and delivered such instrument pursuant to authority given by said company, as his/her free and voluntary act and deed, and as the free and voluntary act and deed of such company, for the uses and purposes therein set forth.

Given under my hand and official seal this 2 day of February, in the year 2015.

Louise Jonas-Tilghman
Notary

My Commission Expires: 4/26/2017

[seal]



STATE OF Kansas)
) ss.
COUNTY OF Johnson)

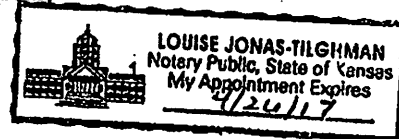
I, Louise Tilghman, Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Davis George personally known to me to be the President of GASMART USA, INC., a Missouri corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such officer, (s)he signed and delivered such instrument pursuant to authority given by said company, as his/her free and voluntary act and deed, and as the free and voluntary act and deed of such company, for the uses and purposes therein set forth.

Given under my hand and official seal this 2 day of February, in the year 2015.

Louise Jonas-Tilghman
Notary

My Commission Expires: 4/26/2017

[seal]



Agreement, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural and vice versa, and pronouns of whatsoever gender shall be deemed to include the masculine, feminine or neuter gender.

h. *Incorporation by Reference.* All exhibits to this Agreement, and all documents delivered as part hereof or incidents hereto, are incorporated as a part of this Agreement by reference.

i. *Severability.* Both Parties hereby expressly agree and contract that it is not the intention of either Party to violate any public policy, statutory or common law, and that if any provision of this Agreement is ultimately determined to be invalid as applied to any fact or circumstance, it is their desire that such provision shall be modified by the minimum extent necessary to render it valid and it shall not affect any other provision or the same provision, applied to any other fact or circumstance.

j. *Time of the Essence.* Time is of the essence in the performance and observance of each and every term, covenant and condition of this Agreement.

k. *Waiver.* No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances shall be deemed to be or construed as a further or continuing waiver of any such term, provision or condition of this Agreement. If either party waives a breach of this Agreement by the other party, that waiver will not operate or be construed as a waiver of later similar breaches.

IN WITNESS WHEREOF, the Parties have executed, or caused this Agreement to be executed, under seal, as of the date set forth hereinabove.

TENANT:

FUEL SERVICES MART, INC.,
a Missouri Corporation,

By: _____
Its:

GUARANTOR:

GASMART USA, INC.,
a Missouri Corporation,

By: _____
Its:

LANDLORD:

WILLIAM STEPHEN SAWLE



CORNELIA BOWMAN SAWLE

Sugar Grove, IL
Site No. 2706182

LEASE AGREEMENT

Between

**CRICGASMART LLC,
a Delaware limited liability company**

And

**FUEL SERVICE MART, INC.,
a Missouri corporation**

Dated as of February 9, 2004

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THIS LEASE AGREEMENT (the "Lease") made as of the 9th day of February, 2004 (the "Effective Date"), by and between CRICGASMART LLC, a Delaware limited liability company, having an office at One Exeter Plaza, 11th Floor, Boston, Massachusetts 02116 ("Landlord"), and FUEL SERVICE MART, INC., a Missouri corporation, having its principal office at 10147 W. 84th Terrace, Lenexa, Kansas 66214 ("Tenant").

FOR AND IN CONSIDERATION OF the rents and provisions herein stipulated to be paid and performed, Landlord and Tenant, intending to be legally bound, hereby covenant and agree as follows:

1. Demise of Premises. Landlord hereby leases, demises and lets to Tenant and Tenant hereby takes and leases from Landlord for the Term and upon the provisions hereinafter specified all of Landlord's right, title and interest in and to the following described property (the "Leased Premises"): (i) the lot or parcel of land described in Exhibit A attached hereto and made a part hereof, together with the easements, rights and appurtenances thereunto belonging or appertaining, including all right, title and interest of Landlord in and to any and all strips and gores of lands, and in, to and under any of the streets, sidewalks and alleys adjoining said land and all tenements, hereditaments, privileges, licenses and franchises belonging or in any way appertaining to such land (collectively, the "Land"); (ii) all buildings, structures and other improvements now existing or hereafter constructed or reconstructed on the Land (collectively, the "Improvements"); and (iii) all lighting, electrical, mechanical, plumbing, gasoline storage and dispensing, and heating, ventilation and air conditioning systems and fixtures used in connection with the Land and Improvements, together with and including machinery and equipment which is described on Schedule 2.3 hereto, together with all additions and accessions thereto, substitutions therefor and replacements thereof permitted by this Lease (collectively, the "Equipment"), excluding, however, the Trade Fixtures.

2. Certain Definitions. In addition to terms defined elsewhere in this Lease (including Paragraph 31 hereof), each of the following terms shall have the following meanings when used herein:

"Additional Rent" shall mean all amounts, costs, expenses, liabilities and obligations which Tenant is required to pay pursuant to the terms of this Lease other than Basic Rent including amounts, costs, expenses, liabilities and obligations due to or incurred by Landlord or Lender as a result of or in connection with the exercise of any right of Landlord or Lender under this Lease or Tenant's failure to perform any obligation hereunder.

"Affiliate" of a Person shall mean (i) any other Person directly or indirectly owning, controlling or holding with power to vote, fifty percent (50%) or more of the outstanding voting securities of such Person; (ii) any other Person fifty percent (50%) or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by such Person; and (iii) any other Person directly or indirectly controlling, controlled by or under common control with, such Person.

"Adjoining Property" shall mean all streets and public roadways, sidewalks, curbs, gores and vault spaces adjoining any of the Leased Premises.

"Alteration" or "Alterations" shall mean any or all changes, additions (whether or not adjacent to or abutting any then existing buildings), expansions (whether or not adjacent to or abutting any then existing buildings), improvements, reconstructions, removals or replacements of any of the Improvements or Equipment, both interior or exterior, and ordinary and extraordinary.

"Alterations Threshold Amount" shall mean (i) Twenty-Five Thousand and No/100 Dollars (\$25,000.00) with respect to structural Alterations, and (ii) One Hundred Thousand and No/100 Dollars (\$100,000.00) with respect to non-structural Alterations.

"Basic Rent" shall mean Basic Rent as defined in Paragraph 6.

"Basic Rent Payment Dates" shall mean the Basic Rent Payment Dates as defined in Paragraph 6.

"Business Day" means any day other than Saturdays, Sundays or a day which is a Federal holiday in the United States of America.

"Commencement Date" shall mean the Commencement Date as defined in Paragraph 5.

"Condemnation" shall mean a Taking and/or a Requisition.

"Condemnation Termination Date" shall mean the Condemnation Termination Date as defined in Paragraph 13(b).

"ConocoPhillips" shall mean ConocoPhillips Company, a Delaware corporation.

"ConocoPhillips Assignment Right" shall mean the right of ConocoPhillips to assume the obligations of Tenant under this Lease pursuant to that certain Terms of Seller's Repurchase Right set forth in Addendum 1 to that certain Real Estate Sales Contract between ConocoPhillips and Gas-Mart USA, Inc., as amended by that certain Modification Addendum No. 2 to Real Estate Sales Contract dated as of February 9, 2004, pursuant to which Landlord acquired the Leased Premises (as so amended, the "ConocoPhillips Contract").

"ConocoPhillips Supply Agreement" shall mean that certain Branded Marketer Sales Contract dated as of January 23, 2004, by and between ConocoPhillips and Gas-Mart USA, Inc., together with any renewals or extensions thereof and any agreements entered into in replacement thereof.

"CPI Factor" shall mean for any calendar year during the Term a fraction, the numerator of which is the CPI as of the first day of such calendar year and the denominator of which is the CPI as of January 1, 2004; provided, that in no event shall the CPI Factor be less

than one (1). The term "CPI" means the Consumer Price Index-U.S. City Averages for all Urban Consumers - All Items (1982-84=100), of the United States Bureau of Labor Statistics. If the CPI shall become unavailable to the public because publication is discontinued, or otherwise, Landlord will substitute therefor a comparable index based upon changes in the cost of living or purchasing power of the consumer dollar published by any other governmental agency or, if no such index shall be available then a comparable index published by a major bank or other financial institution.

"Default Rate" shall mean an annual rate of interest equal to five percent (5%) per annum over the prime commercial lending rate announced from time-to-time by Citibank, N.A., or its successor, or, if no longer in existence, another reputable national banking institution selected by Landlord; provided, that in no event shall the Default Rate exceed the highest lawful rate of interest which may be charged on past due rent under this Lease.

"Effective Date" shall have the meaning given to such term in the preamble paragraph of this Lease.

"Environmental Reports" means all environmental reports and other documents described on Schedule 2.1 hereto.

"Equipment" shall mean the Equipment as defined in Paragraph 1.

"Event of Default" shall mean an Event of Default as defined in Paragraph 19(a).

"Governmental Authority" means any federal, state, county, municipal or other government or governmental or regulatory arbitrator, board, body, commission, court, instrumentality, or other administrative, judicial, quasi-governmental or quasi-judicial tribunal, authority or agency of competent authority (or private Person in lieu thereof).

"Guarantor" shall mean Gas-Mart USA, Inc., a Missouri corporation.

"Impositions" shall mean the Impositions as defined in Paragraph 8.

"Improvements" shall mean the Improvements as defined in Paragraph 1.

"Insurance Requirement" or "Insurance Requirements" shall mean, as the case may be, any one or more of the terms of each insurance policy required to be carried by Tenant under this Lease and the requirements of the issuer of such policy, and whenever Tenant shall be engaged in making any Alteration or Alterations, repairs or construction work of any kind (collectively, "Work"), the term "Insurance Requirement" or "Insurance Requirements" shall be deemed to include a requirement that Tenant obtain or cause its contractor to obtain completed value builder's risk insurance when the estimated cost of the Work in any one instance exceeds the sum of Twenty-Five Thousand and No/100 Dollars (\$25,000.00) and that Tenant or its contractor shall obtain worker's compensation insurance or other adequate insurance coverage covering all Persons employed in connection with the Work, whether by Tenant, its contractors

or subcontractors and with respect to whom death or bodily injury claims could be asserted against Tenant or Landlord.

"Investment Grade" means any entity with a senior unsecured debt rating equal to or better than BBB by Standard and Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and Baa2 by Moody's Investors Service, Inc.

"Land" shall mean the Land as defined in Paragraph 1.

"Law" shall mean any constitution, statute, code, ordinance, regulation, judicial or administrative decision or other rule of law.

"Leased Premises" shall mean the Leased Premises as defined in Paragraph 1.

"Legal Requirement" or "Legal Requirements" shall mean, as the case may be, any one or more of all present and future Laws, codes, ordinances, orders, judgments, decrees, injunctions, rules, regulations and requirements, even if unforeseen or extraordinary, of every duly constituted governmental authority or agency (but excluding those which by their terms are not applicable to and do not impose any obligation on Tenant, Landlord or the Leased Premises) and all covenants, restrictions and conditions now of record which may be applicable to Tenant, (with respect to the Leased Premises), Landlord (with respect to the Leased Premises) or to all or any part of or interest in Leased Premises, or to the use, manner of use, occupancy, possession, operation, maintenance, alteration, repair or reconstruction of the Leased Premises, even if compliance therewith (i) necessitates structural changes or improvements (including changes required to comply with the "Americans with Disabilities Act") or results in interference with the use or enjoyment of the Leased Premises or (ii) requires Tenant to carry insurance other than as required by the provisions of this Lease.

"Lender" shall mean any entity identified as such in writing to Tenant which makes a Loan to Landlord, secured by a Mortgage and evidenced by a Note or Notes or which is the holder of the Mortgage and Note or Notes as a result of an assignment or purchase thereof.

"Loan" shall mean a loan made by a Lender to Landlord secured by a Mortgage and evidenced by a Note or Notes.

"Mortgage" shall mean a mortgage, deed of trust or similar security instrument encumbering the Leased Premises and executed by Landlord for the benefit of a Lender.

"Net Award" shall mean the entire award payable to Landlord by reason of a Condemnation, less any actual and reasonable expenses incurred by Landlord in collecting such award.

"Net Proceeds" shall mean the entire proceeds of any insurance required under clauses (i), (iv), (v), (vi) or (vii) of Paragraph 14(a), less any actual and reasonable expenses incurred by Landlord in collecting such proceeds.

"Note" or "Notes" shall mean a Promissory Note or Notes executed by Landlord and payable to Lender, which Note or Notes will be secured by a Mortgage and an assignment of leases and rents.

"Permitted Encumbrances" shall mean the Impositions, Legal Requirements, any matters consented to by Tenant, those covenants, restrictions, reservations, liens, conditions, encroachments, easements, encumbrances and other matters of title that affect the Leased Premises as of the Effective Date, or which arise from documents, instruments or agreements executed with Tenant's written consent to be effective on or about the Effective Date and which are related to Landlord's acquisition of the Leased Premises and/or leasing of the Leased Premises to Tenant, or which arise due to the acts or omissions of Tenant, or which arise due to the acts or omissions of Landlord with Tenant's written consent after the Effective Date. Without limitation of the foregoing, the Permitted Encumbrances include all matters specified on Schedule 2.2 to this Lease.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, trustee of a trust, unincorporated organization, Governmental Authority or any other entity.

"Primary Use" shall have the meaning given to such term in Paragraph 4(a).

"Prime Rate" shall mean the current rate of interest per annum announced from time to time by Citibank N.A. (or its successor) as its prime rate in New York, New York, or, if Citibank N.A. shall cease to announce such rate, then the current rate published as the prime rate in *The Wall Street Journal*.

"Replaced Equipment" or "Replacement Equipment" shall mean the Replaced Equipment and Replacement Equipment, respectively, as defined in Paragraph 11(d).

"Requisition" shall mean any temporary condemnation or confiscation of the use or occupancy of the Leased Premises by any Governmental Authority, civil or military, whether pursuant to an agreement with such Governmental Authority in settlement of or under threat of any such requisition or confiscation, or otherwise.

"Restoration" shall mean the restoration (including repair, improvement, rebuilding and/or replacement, as applicable) of the Leased Premises after any Taking or damage by fire or other casualty, as nearly as possible to their value, condition, character, utility and remaining useful life prior to such Taking or damage and in accordance with the repair and maintenance standards and obligations of this Lease.

"SNDA" shall have the meaning given to such term in Paragraph 16(a) hereof.

"State" shall mean the State or Commonwealth in which the Leased Premises is located.

"Taking" shall mean any taking of the Leased Premises in or by condemnation or other eminent domain proceedings pursuant to any Law, general or special, or by reason of any agreement with any condemnor in settlement of or under threat of any such condemnation or other eminent domain proceedings or by any other means, or any *de facto* condemnation.

"Term" shall mean the Term of this Lease as defined in Paragraph 5.

"Termination Fee" shall mean the amount of all prepayment premiums, charges and penalties, defeasance amounts, and all other charges, costs and expenses that Landlord is required to pay to the Lender as a result of a prepayment of any Loan, but in no event shall include any principal or interest payable to Lender with respect to such Loan.

"Trade Fixtures" shall mean all fixtures, equipment and other items of personal property (whether or not attached to the Improvements) which are owned by Tenant and used in the operation of the business conducted by Tenant on the Leased Premises.

3. Title and Condition: Quiet Enjoyment.

(a) The Leased Premises are demised and let to Tenant subject to (i) the Permitted Encumbrances, (ii) all Legal Requirements and Insurance Requirements, including any existing violation of any thereof, and (iii) the condition of the Leased Premises as of the Commencement Date, without representation or warranty by Landlord; it being understood and agreed, however, that the recital of the Permitted Encumbrances herein shall not be construed as a revival of any thereof which for any reason may have expired.

(b) **OTHER THAN ANY MORTGAGE (AND ANY ASSIGNMENT OF LEASES, SNDA AND OTHER INSTRUMENTS RELATED TO ANY MORTGAGE) AND ANY ITEMS LISTED ON SCHEDULE 2.2 TO THIS LEASE, LANDLORD REPRESENTS AND WARRANTS THAT ON THE COMMENCEMENT DATE THE LEASED PREMISES ARE FREE FROM ANY LIENS RESULTING FROM ANY ACT OF LANDLORD. LANDLORD HAS NOT MADE AND WILL NOT MAKE AN INSPECTION OF ANY OF THE LEASED PREMISES, AND LANDLORD LEASES AND WILL LEASE AND TENANT TAKES AND WILL TAKE THE LEASED PREMISES "AS IS", AND TENANT ACKNOWLEDGES THAT LANDLORD (WHETHER ACTING AS LANDLORD HEREUNDER OR IN ANY OTHER CAPACITY) HAS NOT MADE, EXCEPT AS PROVIDED IN THE PRECEDING SENTENCE, AND WILL NOT MAKE, NOR SHALL LANDLORD BE DEEMED TO HAVE MADE, ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO ANY OF THE LEASED PREMISES, INCLUDING ANY WARRANTY OR REPRESENTATION AS TO ITS FITNESS FOR USE OR PURPOSE, DESIGN OR CONDITION FOR ANY PARTICULAR USE OR PURPOSE, AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREIN, LATENT OR PATENT, AS TO LANDLORD'S TITLE THERETO, OR AS TO VALUE, COMPLIANCE WITH SPECIFICATIONS, LOCATION,**

USE, CONDITION, MERCHANTABILITY, QUALITY, DESCRIPTION, DURABILITY OR OPERATION, IT BEING AGREED THAT ALL RISKS INCIDENT THERETO ARE TO BE BORNE BY TENANT. TENANT ACKNOWLEDGES THAT THE LEASED PREMISES ARE OF ITS SELECTION AND TO ITS SPECIFICATIONS, AND THAT THE LEASED PREMISES HAVE BEEN INSPECTED BY TENANT AND ARE SATISFACTORY TO IT. IN THE EVENT OF ANY DEFECT OR DEFICIENCY IN ANY OF THE LEASED PREMISES OF ANY NATURE, WHETHER PATENT OR LATENT, LANDLORD SHALL NOT HAVE ANY RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO OR FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT). THE PROVISIONS OF THIS PARAGRAPH 3(b) HAVE BEEN NEGOTIATED, AND THE FOREGOING PROVISIONS ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY WARRANTIES BY LANDLORD, EXPRESS OR IMPLIED, WITH RESPECT TO ANY OF THE LEASED PREMISES, ARISING PURSUANT TO THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW NOW OR HEREAFTER IN EFFECT OR OTHERWISE.

(c) Without limitation of Landlord's representation and warranty in the first sentence of Paragraph 3(b), Tenant acknowledges and agrees that Tenant has examined the title to the Leased Premises prior to the execution and delivery of this Lease and has found such title to be satisfactory for the purposes contemplated by this Lease.

(d) Subject to all of the provisions of this Lease, so long as no Event of Default exists hereunder, Landlord covenants to do no act to disturb the peaceful and quiet occupation and enjoyment of the Leased Premises by Tenant. Notwithstanding the preceding sentence, Landlord and Lender may enter upon and examine any of the Leased Premises at reasonable times after reasonable notice and during business hours and may exercise any rights and privileges granted to Landlord under the provisions of this Lease or by Law; provided, that neither Landlord nor Lender shall be required to give any notice prior to entering upon the Leased Premises in the event of an emergency or at any time while an Event of Default has occurred and is continuing. Any failure by Landlord to comply with its obligations under this Paragraph 3(d) shall not give Tenant any right to cancel or terminate this Lease, or to abate, reduce or make deduction from or offset against any Basic Rent or Additional Rent or other sum payable under this Lease, or to fail to perform or observe any other covenant, agreement or obligation hereunder or to recover any damages against Landlord resulting therefrom. Subject to the foregoing sentence, Tenant shall have the right to obtain injunctive or other relief against Landlord for breach of its covenants and agreements contained in this Paragraph 3(d).

(e) Landlord hereby assigns, without recourse or warranty whatsoever, to Tenant, all warranties, guaranties and indemnities, express or implied, and similar rights which Landlord may have against any manufacturer, engineer, contractor or builder in respect of any of the Improvements or Equipment included within the Leased Premises, including, but not limited to, any rights and remedies existing under contract or pursuant to the Uniform Commercial Code (collectively, the "guaranties"). Such assignment shall

remain in effect until the termination of this Lease. Landlord shall also retain the right to enforce any guaranties assigned in the name of Tenant upon the occurrence of an Event of Default. Landlord hereby agrees to execute and deliver at Tenant's expense such further documents as Tenant may reasonably request in order that Tenant may have the full benefit of the assignment effected or intended to be effected by this Paragraph 3(e). Upon the termination of this Lease, the guaranties shall automatically revert to Landlord. The foregoing provision of reversion shall be self-operative and no further instrument of reassignment shall be required. In confirmation of such reassignment Tenant shall execute and deliver promptly any certificate or other instrument which Landlord may request. Any monies collected by Tenant under any of the guaranties after the occurrence of and during the continuation of an Event of Default shall be held in trust by Tenant and promptly paid over to Landlord and credited against Tenant's obligations hereunder in such order and priority as Landlord deems appropriate.

4. Use of Leased Premises.

(a) Except as hereinafter expressly permitted, Tenant shall use the Leased Premises solely for the operation of a gas station and convenience store (the "Primary Use") or for any other lawful purpose so long as such other lawful purpose would not (i) have an adverse effect on the value of the Leased Premises, (ii) increase the likelihood that Tenant, Landlord or Lender would incur liability under any provisions of any Environmental Laws referred to in Paragraph 26 of this Lease, or (iii) result in a violation of any Environmental Laws; provided, that Tenant may use the Leased Premises for any purpose commonly associated with gas stations or convenience stores (including a quick service restaurant), subject to all other terms and conditions of this Lease. Notwithstanding the foregoing, in no event shall the Leased Premises be used (x) for any purpose which would constitute a public or private nuisance or waste or which would violate any of the provisions of any Permitted Encumbrance, any Legal Requirements, any Insurance Requirements or any covenants, restrictions or agreements hereafter created by or consented to by Tenant applicable to the Leased Premises, or (y) for an adult book store, adult theater, adult amusement or entertainment facility, any facility selling or displaying pornographic or sexually explicit materials, massage parlor, blood plasma donor center, abortion clinic, flea market, ballroom, dance hall or discotheque, a bar or establishment that generates more than fifty percent (50%) of its revenues from the sale of alcoholic beverages.

(b) Tenant shall continuously operate a business pursuant to Section 4(a) from the Leased Premises during the Term of this Lease; provided, however, Tenant may temporarily cease its operations at the Leased Premises for the time reasonably required (i) for repair obligations pursuant to the terms of this Lease; (ii) for the performance of Alterations permitted under this Lease; (iii) as a result of any emergency, casualty or event of force majeure; or (iv) for any other reasonable purpose not to exceed fifteen (15) days.

(c) Subject to Tenant's rights under Paragraph 18 hereof, Tenant shall not permit any unlawful occupation, business or trade to be conducted on the Leased

Premises or any use to be made thereof contrary to applicable Legal Requirements or Insurance Requirements. Subject to Tenant's rights under Paragraph 18, Tenant shall not use, occupy or permit any of the Leased Premises to be used or occupied, nor do or permit anything to be done in or on any of the Leased Premises, in a manner which would (i) make void or voidable any insurance which Tenant is required hereunder to maintain then in force with respect to any of the Leased Premises, (ii) prevent Tenant from obtaining any insurance which Tenant is required to furnish hereunder, or (iii) cause any injury or damage to any of the Improvements (provided, that this subpart (iii) shall not limit Tenant's right to make Alterations permitted under Paragraph 12 hereof).

(d) Tenant agrees that with respect to the Permitted Encumbrances and any covenants, restrictions or agreements affecting the Leased Premises which are hereafter created by or consented to by Tenant, Tenant shall observe, perform and comply with, and cause the Leased Premises to comply with, and carry out the provisions thereof which are required therein to be observed and performed by the owner of the Leased Premises, and shall pay all costs and expenses required to be paid by the owner of the Leased Premises thereunder (regardless of whether such costs and expenses arise prior to or during the Term of this Lease).

(e) Landlord agrees, and its Lender, by accepting an assignment of this Lease, agrees, that so long as no Event of Default shall have occurred and be continuing, upon request by Tenant and subject to the written approval of ConocoPhillips so long as the ConocoPhillips Assignment Right remains in effect (and only after all documentation required by Landlord to consummate the relevant transaction shall have been provided to Landlord), (i) to enter into or modify with Tenant, at Tenant's expense, such easements, covenants, waivers, approvals or restrictions for utilities, parking or other matters as Tenant may desire for the operation of the Leased Premises (collectively, "Easements"), or (ii) to dedicate or transfer, at Tenant's expense, minor non-essential unimproved portions of the Leased Premises for road, highway or other public purposes to the extent such dedications or transfers are consistent with commercially reasonable development of the Leased Premises (the "Dedications"); provided, that Landlord and Lender shall be obligated to take any such action only if (A) any such Easement or Dedication does not adversely affect the value of the Leased Premises in its then current use (or does not reduce the fair market value of the Leased Premises by an amount greater than the amount of the consideration being paid to Landlord for such Easement or Dedication), adversely affect the useful life of the Leased Premises, or unreasonably render the use of the Leased Premises dependent upon any other property or unreasonably condition the use of the Leased Premises upon the use of any other property, (B) any such Easement or Dedication does not materially impair Tenant's use or operation of the Leased Premises and is not detrimental in any material respect to the proper conduct of Tenant's business on the Leased Premises, (C) Tenant advises Landlord of the amount of the consideration, if any, being paid for such Easement or Dedication and that Tenant considers the consideration, if any, being paid for such Easement or Dedication to be fair and adequate, and all such consideration is paid to Landlord, (D) for so long as this Lease is in effect, Tenant will perform all obligations, if any, of Landlord under the applicable instrument and Tenant will remain obligated under this Lease in accordance with its terms, (E) any such

Easement or Dedication does not adversely affect Landlord's ability to obtain a Loan secured by a Mortgage on the Leased Premises, and (F) Tenant pays all out-of-pocket costs and expenses incurred by Landlord and Lender in connection with said Easements or Dedications including, without limitation, reasonable attorneys' fees, all of which (items (A) - (F) above) Tenant shall certify to Lender and Landlord in writing (in the form of Schedule 4 to this Lease) at the time the request is made for any such Easement or Dedication. Notwithstanding the foregoing, Tenant shall be allowed to grant temporary easements beneficial to the operation of Tenant's business at the Leased Premises for no longer than twelve (12) months or, if shorter, until the expiration or earlier termination of this Lease. Tenant's request shall also include (i) the authorized undertaking of Tenant, in form and substance reasonably satisfactory to Landlord, to the effect that Tenant will remain obligated hereunder to the same extent as if such Easements or Dedications had not been made, (ii) confirmation of the lien priority of the Mortgage and such instruments, certificates, surveys, title insurance policy endorsements and opinions of counsel reasonably acceptable to Landlord or its Lender as Landlord or its Lender may reasonably request, (iii) a letter from a qualified appraiser reasonably acceptable to Landlord and Lender addressed to Landlord and its Lender establishing that the requirements of subpart (A) of the first sentence of this Paragraph 4(e) has been satisfied, and that the Easements or Dedications are not estimated to reduce the fair market value of the Leased Premises by an amount greater than the amount of the consideration being paid to Landlord therefor, and (iv) such other instruments, certificates, title insurance policy endorsements and opinions of counsel as Lender may reasonably request.

(f) Tenant shall (i) maintain and continue the ConocoPhillips Supply Agreement in full force and effect throughout its term, (ii) comply with the obligations of the Buyer under the ConocoPhillips Supply Agreement, and (iii) during the entire Term of this Lease, cause the Leased Premises to either (A) be a "branded Retail Unit" under the ConocoPhillips Supply Agreement so that the Leased Premises will display signage reflecting that it sells ConocoPhillips products, or (B) purchase gasoline and other petroleum products from another reputable regional or national oil company and display signage at the Leased Premises reflecting that it sells the products of such oil company.

5. Term.

(a) Subject to the provisions hereof Tenant shall have and hold the Leased Premises for an Initial Term (herein so called) commencing on February 11, 2004 (the "Commencement Date"), and ending on February 29, 2024 (the "Expiration Date"). As used herein, the "Term" of this Lease shall mean the Initial Term and any Renewal Term (as hereinafter defined) which becomes effective hereunder.

(b) (i) Provided this Lease shall not have been terminated pursuant to the provisions of Paragraphs 13(b) or 19, and provided that no Event of Default exists hereunder at the time the Renewal Term Notice (as hereinafter defined) is given or at the end of the then current Term, Tenant shall have the option to extend this Lease and the Term for up to a maximum of four (4) consecutive renewal terms (each a "Renewal Term" and collectively, "Renewal Terms") of five (5) years each. Tenant may exercise

its option to extend the Term of this Lease for a Renewal Term by giving notice (the "Renewal Term Notice") to Landlord in writing at least twelve (12) months, but not more than twenty-four (24) months prior to the expiration of the then current Term. If Tenant for any reason fails to give a Renewal Term Notice by the required date, then this Lease and the Term shall terminate and come to an end as of the last day of the then current Term. Each Renewal Term shall be subject to all of the provisions of this Lease, and all such provisions shall continue in full force and effect, except that the annual Basic Rent for each Renewal Term shall be the amounts determined for the respective Renewal Term in accordance with Exhibit B attached hereto and made a part hereof (with such annual Basic Rent payable in equal monthly installments), and except that there shall thereafter be one less Renewal Term available to Tenant. If Tenant shall fail to properly exercise a Renewal Term option, then all options with regard to subsequent Renewal Terms shall expire and be null and void. In no event shall Tenant be entitled to Renewal Options for more than a total of four (4) Renewal Terms.

6. Rent.

(a) Commencing on the Commencement Date, Tenant shall pay to Landlord (or to Lender, if directed by Landlord), as minimum rent for the Leased Premises during the Term ("Basic Rent"), the amounts set forth in Exhibit B attached hereto and incorporated herein by this reference for the respective periods shown on such Exhibit B. Basic Rent shall be due and payable in arrears on the last day of each month during the Term (commencing February 29, 2004, and continuing on the last day of each month thereafter during the Term) (the said days being called the "Basic Rent Payment Dates"), and Tenant shall pay the same at Landlord's address set forth in the first paragraph of this Lease, or at such other place as Landlord from time to time may designate to Tenant in writing, in funds which at the time of such payment shall be legal tender for the payment of public or private debts in the United States of America and if required by Landlord by wire transfer in immediately available federal funds to such account in such bank as Landlord shall designate from time to time; provided, that Landlord will give Tenant ninety (90) days prior written notice if it will require Basic Rent to be paid by wire transfer of funds pursuant to this Paragraph 6(a). Notwithstanding the foregoing, if the Commencement Date shall occur on a date other than the first day of any month, Basic Rent for the period from and including the Commencement Date through and including the last day of the month in which the Commencement Date occurs, shall be paid on the Commencement Date. Basic Rent for any partial month shall be prorated based upon the actual number of days in such month. If any Basic Rent Payment Date falls on a date which is not a Business Day, Basic Rent shall be due and payable on the immediately preceding Business Day.

(b) Tenant shall pay and discharge before the imposition of any fine, lien, interest or penalty may be added thereto for late payment thereof, as Additional Rent, all other amounts and obligations which Tenant assumes or agrees to pay or discharge pursuant to this Lease, together with every fine, penalty, interest and cost which may be added by the party to whom such payment is due for nonpayment or late payment thereof. In the event of any failure by Tenant to pay or discharge any of the foregoing, Landlord

shall have all rights, powers and remedies provided herein, by Law or otherwise, in the event of nonpayment of Basic Rent.

(c) If any installment of Basic Rent is not paid within five (5) days after the same is due, Tenant shall pay to Landlord, on demand, as Additional Rent, a late charge equal to five percent (5%) (the "Late Charge") on such overdue installment of Basic Rent. If Tenant shall fail to make payment of any installment of Basic Rent or any Additional Rent on or before the date when each such payment is due, Tenant shall pay to Landlord interest at the Default Rate on the amount unpaid computed from the date such payment of Basic Rent or Additional Rent was due to and including the date of payment.

(d) Landlord and Tenant stipulate and agree that this Lease is a true lease and does not represent a financing arrangement. To the extent permitted by applicable Laws, each party shall reflect the transactions represented by this Lease in all applicable books, records and reports (including income tax filings) in a manner consistent with "true lease" treatment rather than "financing" treatment.

7. Net Lease; Non-Terminability.

(a) This is a net lease and Basic Rent, Additional Rent and all other sums payable hereunder by Tenant shall be paid without notice, demand, setoff, counterclaim, recoupment, abatement, suspension, deferment, diminution, deduction, reduction or defense. Tenant assumes the sole responsibility for the condition, use, operation, maintenance and management of the Leased Premises and Landlord shall have no responsibility in respect thereof and shall have no liability for damages to the property of Tenant or any sublessee of Tenant or anyone claiming by, through or under Tenant for any reason whatsoever, unless such damage is caused by the negligence or willful misconduct of Landlord or Landlord's agents, contractors, invitees or employees, provided that such negligence or willful misconduct shall not entitle Tenant to abate, suspend, defer, diminish or reduce the payment of Basic Rent or Additional Rent. All costs and expenses (other than depreciation, interest on and amortization of debt incurred by Landlord, and costs incurred by Landlord in financing or refinancing the Leased Premises) and other obligations of every kind and nature whatsoever relating to the Leased Premises and the appurtenances thereto and the use and occupancy thereof which may arise or become due and payable with respect to the period which ends on the expiration of the Term in accordance with the provisions hereof (whether or not the same accrue or shall become payable before or during the Term or thereafter) shall be paid and performed by Tenant. Without limitation of the foregoing, Tenant shall pay all expenses related to the maintenance and repair of the Leased Premises, and all Impositions and insurance costs with respect to the Leased Premises.

(b) This Lease shall not terminate (except as otherwise expressly provided in Paragraphs 13 and 19(b) of this Lease), and Tenant shall not have any right to terminate this Lease (except as expressly provided in Paragraph 13), during the Term. Tenant shall not be entitled to any setoff, counterclaim, recoupment, abatement, suspension, deferment, diminution, deduction, reduction or defense of or to Basic Rent, Additional

Rent or any other sums payable under this Lease; and the obligations of Tenant under this Lease shall not be affected by any interference with Tenant's use of any of the Leased Premises for any reason, including the following: (i) any damage to or destruction of any of the Leased Premises by any cause whatsoever, (ii) any Condemnation (except as otherwise expressly provided in Paragraph 13), (iii) the prohibition, limitation or restriction of Tenant's use of any of the Leased Premises, (iv) any eviction by paramount title or otherwise, (v) Tenant's acquisition of ownership of any of the Leased Premises other than pursuant to an express provision of this Lease, (vi) any default on the part of Landlord under this Lease or under any other agreement, (vii) any latent or other defect in, or any theft or loss of any of the Leased Premises, (viii) the breach of any guaranties of any manufacturer, engineer, contractor or builder of any of the Improvements or Equipment, (ix) any violation of Paragraph 3(d) by Landlord, or (x) any other cause, whether similar or dissimilar to the foregoing, any present or future Law to the contrary notwithstanding. It is the intention of the parties hereto that the obligations of Tenant under this Lease shall be separate and independent covenants and agreements, and that Basic Rent, Additional Rent and all other sums payable by Tenant hereunder shall continue to be payable in all events (or, in lieu thereof, Tenant shall pay amounts equal thereto), and that the obligations of Tenant under this Lease shall continue unaffected, unless this Lease shall have been terminated pursuant to Paragraph 13 of this Lease.

(c) Tenant agrees that it shall remain obligated under this Lease in accordance with its provisions and that it shall not take any action to terminate, rescind or avoid this Lease, notwithstanding (i) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding-up or other proceeding affecting Landlord, (ii) the exercise of any remedy, including foreclosure, under the Mortgage, or (iii) any action with respect to this Lease (including the disaffirmance hereof) which may be taken by Landlord under the Federal Bankruptcy Code or by any trustee, receiver or liquidator of Landlord or by any court under the Federal Bankruptcy Code or otherwise.

(d) This Lease is the absolute and unconditional obligation of Tenant. Tenant waives all rights which are not expressly stated in this Lease but which may now or hereafter otherwise be conferred by Law (i) to quit, terminate or surrender this Lease or any of the Leased Premises, (ii) to any setoff, counterclaim, recoupment, abatement, suspension, deferment, diminution, deduction, reduction or defense of or to Basic Rent, Additional Rent or any other sums payable under this Lease, and (iii) for any statutory lien or offset right against Landlord or its property.

8. Payment of Impositions; Compliance with Legal Requirements and Insurance Requirements.

(a) (i) Subject to the rights of Tenant under the provisions of Paragraph 18 hereof relating to contests, Tenant shall, before interest or penalties are due thereon, pay and discharge (all of the following being herein collectively called the "Impositions"): all taxes of every kind and nature (including real, *ad valorem*, personal property, gross income, franchise, withholding, profits and gross receipts taxes) on or with respect to the Leased Premises (including any Impositions assessed against any real

property other than the Leased Premises which is included within the tax parcel which includes the Leased Premises); all charges and/or taxes for any easement or agreement maintained for the benefit of the Leased Premises; all general and special assessments, levies, permits, inspection and license fees on or with respect to the Leased Premises; all water and sewer rents and other utility charges on or with respect to the Leased Premises; state franchise or doing business taxes or similar taxes (but only those relating to or resulting solely from Landlord's ownership of the Leased Premises and not any other property or any other activity of Landlord); transfer taxes resulting solely from the conveyance of the Leased Premises (or any portion thereof) to or from Tenant or its affiliates to Landlord or in connection with the exercise of remedies by Landlord's Lender after an Event of Default under this Lease; and all other public charges and/or taxes whether of a like or different nature, even if unforeseen or extraordinary, imposed or assessed upon or with respect to the Leased Premises, prior to or during the Term, against Landlord, Tenant or any of the Leased Premises as a result of or arising in respect of the ownership, occupancy, leasing, use, maintenance, operation, management, repair or possession of the Leased Premises, or any activity conducted on the Leased Premises, or the Basic Rent or Additional Rent payable under this Lease, including any gross income tax, sales or use tax, occupancy tax or excise tax levied by any governmental body on or with respect to such Basic Rent or Additional Rent. If received by Landlord, Landlord shall promptly deliver to Tenant any bill or invoice with respect to any Imposition. Without limitation of any other provisions of this Section 8, Tenant agrees to pay all Impositions which accrue or become due with respect to any period prior to or during the Term.

(ii) Nothing herein shall obligate Tenant to pay, and the term "Impositions" shall exclude, (A) except in connection with a conveyance by Landlord pursuant to the terms of this Lease, transfer taxes as the result of a conveyance by (or suffered by) Landlord, (B) except as expressly provided in Paragraph 8(a)(i) above, franchise, capital stock or similar taxes if any, of Landlord, (C) net income, excess profits or other taxes, if any, of Landlord, determined on the basis of or measured by its net income, or (D) any estate, inheritance, succession, gift, capital levy or similar taxes, unless the taxes referred to in clauses (B) and (C) above are in lieu of or a substitute for any other tax or assessment upon or with respect to any of the Leased Premises which, if such other tax or assessment were in effect at the commencement of the Term, would be payable by Tenant. In the event that any assessment against any of the Leased Premises may be paid in installments, Tenant shall have the option to pay such assessment in installments; and in such event, Tenant shall be liable only for those installments which become due and payable prior to or during the Term. Tenant shall prepare and file all tax reports required by Governmental Authorities which relate to the Impositions. Tenant shall deliver to Landlord, within twenty (20) days after Landlord's written request therefor, copies of all settlements and notices pertaining to the Impositions which may be issued by any Governmental Authority and receipts for payments of all Impositions made during each calendar year of the Term, within thirty (30) days after payment.

(b) Subject to the provisions of Paragraph 18 hereof, Tenant shall promptly comply with and conform to all of the Legal Requirements and Insurance Requirements.

9. Liens; Recording and Title.

(a) Subject to Tenant's rights under the provisions of Paragraph 18, Tenant shall not, directly or indirectly, create or permit to be created or to remain, and shall promptly (but in any event no later than thirty (30) days after Tenant's knowledge of the filing thereof and in any event prior to the enforcement of the same), discharge of record (including, without limitation, by any statutory bonding procedure which is sufficient to prevent the foreclosure of any such lien or security interest and the loss of Landlord's and any Lender's interest in the Leased Premises), any lien, security interest, charge or encumbrance on the Leased Premises or on the Basic Rent, Additional Rent or on any other sums payable by Tenant under this Lease, other than the Mortgage, the Permitted Encumbrances and any mortgage, lien, encumbrance or other charge created by or resulting from any act or omission by Landlord or those claiming by, through or under Landlord (except Tenant or any subtenant). Subject to Tenant's rights under the provisions of Paragraph 18, if Tenant shall fail to discharge any such lien, security interest charge or encumbrance within the time permitted by this Lease, Landlord may discharge the same by payment or bond or both, and Tenant shall thereafter prepay to Landlord, upon demand, any and all amounts paid therefor, or by reason of any liability on such bond and any and all reasonable expenses (including reasonable attorneys' fees) incurred by Landlord in connection therewith together with interest and all such amounts calculated at the Default Rate.

(b) Notice is hereby given that Landlord shall not be liable for any labor, services or materials furnished or to be furnished to Tenant, or to anyone holding any of the Leased Premises through or under Tenant, and that no mechanic's or other liens for any such labor, services or materials shall attach to or affect the interest of Landlord in and to any of the Leased Premises. Upon request of Landlord, Tenant shall execute, acknowledge and record any instrument necessary or appropriate to give timely public notice of the provisions of the immediately preceding sentence.

(c) Each of Landlord and Tenant shall execute, acknowledge and deliver to the other a written Memorandum of this Lease to be recorded in the appropriate land records of the jurisdiction in which the Leased Premises is located, in order to give public notice and protect the validity of this Lease including renewal rights of Tenant and the Tenant's rights under Section 33 hereof. In the event of any discrepancy between the provisions of said recorded Memorandum of this Lease and the provisions of this Lease, the provisions of this Lease shall prevail. Upon request of Landlord after the expiration or earlier termination of this Lease, the Tenant shall execute, acknowledge and deliver, in recordable form, an instrument terminating such Memorandum; and if at such time ConocoPhillips has continuing rights of access to the Leased Premises under the Environmental Addendum (as hereinafter defined) of the ConocoPhillips Contract, upon request of Tenant such instrument shall recognize such access rights.

(d) Nothing in this Lease and no action or inaction by Landlord shall be deemed or construed to mean that Landlord has granted to Tenant any right, power or

permission to do any act or to make any agreement which may create, give rise to, or be the foundation for, any right, interest, claim or lien in or upon the estate of Landlord in any of the Leased Premises; provided, that this Paragraph 9(d) shall not be deemed to limit the rights of Tenant or obligations of Landlord under Paragraph 4(e) hereof.

10. Indemnification.

(a) TENANT AGREES TO INDEMNIFY, DEFEND, PROTECT, SAVE AND HOLD HARMLESS LANDLORD AND LENDER FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, DAMAGES, PENALTIES, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES), CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS OR JUDGMENTS OF ANY NATURE WHATSOEVER, HOWSOEVER CAUSED, ARISING OR ALLEGED TO ARISE FROM THE LEASED PREMISES OR THE USE, NON-USE, OCCUPANCY, CONDITION, DESIGN, CONSTRUCTION, MAINTENANCE, REPAIR OR REBUILDING OF THE LEASED PREMISES, ANY BREACH OF THIS LEASE BY TENANT OR LANDLORD'S ENFORCEMENT OF THE PROVISIONS OF THIS LEASE, AND ANY INJURY TO OR DEATH OF ANY PERSON OR PERSONS OR ANY LOSS OF OR DAMAGE TO ANY PROPERTY, REAL OR PERSONAL, IN ANY MANNER ARISING THEREFROM, CONNECTED THEREWITH OR OCCURRING THEREON, AND ANY CLAIMS, DEMANDS, CAUSES OF ACTION, SUITS OR JUDGMENTS BY THIRD PARTIES RESULTING FROM VIOLATIONS OR ALLEGED VIOLATIONS BY TENANT OR ANY SUBTENANT OF ANY PROVISION OF THIS LEASE, ANY LEGAL REQUIREMENT, ANY SUBLEASE OR ANY OTHER CONTRACT OR AGREEMENT TO WHICH TENANT OR ANY SUBTENANT IS A PARTY, WHETHER OR NOT LANDLORD OR LENDER HAS OR SHOULD HAVE KNOWLEDGE OR NOTICE OF THE DEFECT OR CONDITIONS, IF ANY, CAUSING OR CONTRIBUTING TO SAID INJURY, DEATH, LOSS, DAMAGE, LIABILITY, PENALTY, COST, EXPENSE, CAUSE OF ACTION, SUIT, DEMAND, JUDGMENT OR OTHER CLAIM; EXCEPT TO THE EXTENT THAT ANY SUCH LIABILITY, LOSS, DAMAGE, PENALTY, COST, EXPENSE, CAUSE OF ACTION, SUIT, CLAIM, DEMAND OR JUDGMENT IS THE RESULT OF THE NEGLIGENCE OF LANDLORD OR LENDER OR ANY PARTY CLAIMING BY, THROUGH OR UNDER EITHER LANDLORD OR LENDER, OR THE INTENTIONAL WRONGFUL ACT OF LANDLORD OR LENDER OR ANY PARTY CLAIMING BY, THROUGH OR UNDER EITHER LANDLORD OR LENDER. IN CASE ANY ACTION OR PROCEEDING IS BROUGHT AGAINST LANDLORD OR LENDER BY REASON OF ANY SUCH CLAIM AGAINST WHICH TENANT HAS AGREED TO DEFEND, PAY, PROTECT, INDEMNIFY, SAVE AND HOLD HARMLESS PURSUANT TO THE PRECEDING SENTENCE, TENANT COVENANTS THAT UPON NOTICE FROM LANDLORD OR LENDER TENANT SHALL RESIST SUCH ACTION OR PROCEEDING AND DEFEND LANDLORD AND LENDER IN SUCH ACTION OR PROCEEDING, WITH THE EXPENSES OF SUCH DEFENSE PAID BY TENANT, TENANT SHALL CONTROL THE SELECTION

OF COUNSEL (WHICH MUST BE ACCEPTABLE TO LANDLORD IN ITS REASONABLE DISCRETION) AND LANDLORD WILL COOPERATE AND ASSIST IN THE DEFENSE OF SUCH ACTION OR PROCEEDING IF REASONABLY REQUESTED SO TO DO BY TENANT, AT NO COST TO LANDLORD.

(b) The obligations of Tenant under this Paragraph 10 shall survive any termination or expiration of this Lease.

(c) WITHOUT LIMITATION OF ANY INDEMNIFICATION OR OTHER PROVISIONS SET FORTH IN THIS LEASE, IT IS SPECIFICALLY AGREED THAT ANY OBLIGATIONS OF TENANT SET FORTH IN THIS LEASE TO SAVE, PROTECT, INDEMNIFY, DEFEND AND HOLD LANDLORD, LENDER OR ANY OTHER PERSONS OR ENTITIES HARMLESS FOR, FROM AND AGAINST ANY LIABILITIES, OBLIGATIONS, CLAIMS, DAMAGES, ACTIONS, CAUSES OF ACTION, COSTS, EXPENSES, FINES, PENALTIES OR OTHER MATTERS (COLLECTIVELY, THE "INDEMNIFIED LIABILITIES"), SHALL INCLUDE THE OBLIGATION THAT TENANT SAVE, PROTECT, INDEMNIFY, DEFEND AND HOLD LANDLORD, LENDER AND SUCH OTHER INDEMNIFIED PERSONS AND ENTITIES HARMLESS FOR, FROM AND AGAINST ANY AND ALL INDEMNIFIED LIABILITIES ARISING AS A RESULT OF THE STRICT LIABILITY OF LANDLORD, LENDER OR ANY OTHER INDEMNIFIED PERSONS OR ENTITIES. TENANT'S INDEMNITY OBLIGATIONS HEREUNDER SHALL BE PAYABLE AND PERFORMABLE WITHOUT DEDUCTION OR OFFSET. ADDITIONALLY, ALL TENANT'S OBLIGATIONS IN THIS LEASE TO INDEMNIFY, DEFEND, AND HOLD LANDLORD, LENDER AND ANY OTHER INDEMNIFIED PERSONS OR ENTITIES HARMLESS HEREUNDER SHALL ALSO ACCRUE TO THE BENEFIT OF LANDLORD'S, LENDER'S AND SUCH OTHER PERSONS' OR ENTITIES' PARTNERS, AFFILIATES, OFFICERS, DIRECTORS, SHAREHOLDERS, TRUSTEES, BENEFICIAL OWNERS, MEMBERS, MANAGERS, AGENTS, EMPLOYEES AND REPRESENTATIVES.

11. Maintenance and Repair.

(a) Tenant shall at all times, including during any Requisition period, put, keep and maintain the Leased Premises (including the roof, landscaping, walls, footings, foundations and structural components of the Leased Premises and the Equipment, including all underground storage tanks and piping and all petroleum dispensing equipment) in good and safe condition and repair (but in any event not any lesser standard or condition than the condition of the Leased Premises on the Commencement Date) in accordance with the standards of maintenance, repair and Restoration which are common to reputable owners and managers of other facilities similar to the Leased Premises subject to ordinary wear and tear. The Tenant shall promptly make all repairs and replacements of every kind and nature, whether foreseen or unforeseen, which may be required to be made upon or in connection with the Leased Premises in order to keep and

maintain the Leased Premises in the order and condition required by this Paragraph 11(a). Tenant shall do or cause others to do all shoring of the Leased Premises or of foundations and walls of the Improvements to the extent necessary or appropriate for the preservation and safety thereof and every other act necessary or appropriate for preservation and safety thereof, by reason of or in connection with any excavation or other building operation upon any of the Leased Premises, whether or not Landlord shall, by reason of any Legal Requirements or Insurance Requirements, be required to take such action or be liable for failure to do so. Landlord shall not be required to make any repair, whether foreseen or unforeseen, or to maintain any of the Leased Premises or Adjoining Property in any way, and Tenant hereby expressly waives the right to make repairs at the expense of the Landlord, which right may be provided for in any Law now or hereafter in effect. Nothing in the preceding sentence shall be deemed to preclude Tenant from being entitled to insurance proceeds or condemnation awards for Restoration pursuant to Paragraphs 13(c) and 14(g) of this Lease. Tenant shall, in all events, make all repairs for which it is responsible hereunder promptly, and all repairs shall be in a good, proper and workmanlike manner.

(b) In the event that any Improvement constructed on the Leased Premises during the Term of this Lease shall encroach upon any property, street or right-of-way adjoining or adjacent to the Leased Premises, shall violate any Permitted Encumbrances, shall violate any Legal Requirements or Insurance Requirements, or shall hinder, obstruct or impair any easement or right-of-way to which the Leased Premises is subject, then Tenant, at the reasonable request of Landlord, shall either (i) obtain valid and effective waivers or settlements of all claims, liabilities and damages resulting from each such violation, whether the same shall affect Landlord, Tenant or both, or (ii) take such action as shall be necessary to remove such encroachment, violation, hindrance, obstruction or impairment, including, if necessary, making any required Alteration. Any such repair or Alteration shall be made in conformity with the provisions of Paragraph 12.

(c) Unless Tenant is properly contesting such matter in accordance with the provisions of Paragraph 18 hereof, if Tenant shall be in default under any of the provisions of this Paragraph 11 or Paragraph 26, Landlord may after thirty (30) days written notice given to Tenant and failure of Tenant to cure during said period, but without notice in the event of an emergency or during the continuance of an Event of Default, and even though the existence of such default or the nature thereof is denied or contested by Tenant or any other Person, do whatever is necessary to cure such default as may be appropriate under the circumstances for the account of and at the expense of Tenant. In the event of an emergency, Landlord shall make reasonable efforts to notify Tenant of the situation by phone or other available communication before taking any action to cure such default. All reasonable sums so paid by Landlord and all reasonable costs and expenses (including reasonable attorneys' fees and expenses) so incurred, together with interest thereon at the Default Rate from the date of payment or incurring the expense, shall constitute Additional Rent payable by Tenant under this Lease and shall be paid by Tenant to Landlord on demand.

(d) Tenant shall from time to time replace with other operational equipment or parts (the "Replacement Equipment") any of the Equipment (the "Replaced Equipment") which shall have become worn out or unusable for the purpose for which it is intended, been taken by a Condemnation as provided in Paragraph 13, or been lost, stolen, damaged or destroyed as provided in Paragraph 14, to the extent necessary to assure the continuity of Tenant's use of the Leased Premises. Tenant shall repair at its sole cost and expense all damage to the Leased Premises caused by the removal of Equipment or Replaced Equipment or other personal property of Tenant or the installation of Replacement Equipment. All Replacement Equipment shall become the property of Landlord, shall be free and clear of all liens and rights of others and shall become a part of the Equipment as if originally demised herein.

(e) Tenant shall at its own expense provide Landlord and Lender with certificates every year during the Term of this Lease (except the last year of the Term, during which year the Tenant shall provide such certificate each fiscal quarter of Tenant) certifying that the Leased Premises (i) are in good and safe condition and repair and (ii) are and have been maintained in good order, repair and condition (including all structural and non-structural elements) consistent with maintenance procedures and standards which would generally be applied by commercially reasonable and responsible operators of properties which are of similar use and construction, taking into account the age of the Improvements on the Leased Premises and ordinary wear and tear. One (1) year prior to the termination of the Lease, Tenant shall at its own expense cause the Leased Premises to be inspected by a qualified independent inspector, the results of which shall be made available to Landlord and Lender not less than eleven (11) months prior to the end of the Term, to determine whether the condition of the Leased Premises complies with the requirements set forth in this Lease. Landlord and Tenant shall jointly review those matters requiring repair or restoration prior to surrender of the Leased Premises. Without limitation of Landlord's regular inspection rights under this Lease, prior to expiration or termination of the Term, Landlord and Tenant shall re-evaluate the condition of the Leased Premises and update the inspection report. Tenant agrees not to defer any capital maintenance or replacement work during the final twenty-four (24) months of the Term; provided, that Landlord will not require Tenant to make capital improvements during the last twenty-four (24) months of the Term which are unreasonable in light of the then current physical condition of the Leased Premises provided that Tenant has maintained the Leased Premises in accordance with the requirements of this Lease.

(f) Upon request of Landlord, Tenant shall provide to Landlord copies of all results from underground tank and line testing or monitoring, functional testing of vapor recovery systems, and hydrostatic testing or inspections of the containment devices and related equipment and systems located on the Leased Premises.

12. Alterations.

(a) Without the prior written consent of Landlord, Tenant shall not make any Alterations to the Leased Premises if (i) any Event of Default exists hereunder or (ii) the total cost of such Alterations exceeds the Alterations Threshold Amount; provided, that

any Alterations must comply with all of the provisions of Paragraph 12(b) hereof and with all other provisions of this Paragraph 12; and provided, further, the Landlord's consent shall not be unreasonably withheld, conditioned or delayed with respect to any Alterations contemplated by subpart (ii) above so long as no Event of Default then exists hereunder.

(b) In the event that Landlord gives its prior written consent to any Alterations, or if such consent is not required, Tenant agrees that as a condition to any Alteration: (i) after the completion of any such Alteration, (A) neither the fair market value nor the useful life nor the utility of the Leased Premises shall be decreased or impaired thereby (other than to a de minimis extent), (B) the operations at the Leased Premises shall not be materially adversely affected thereby, and (C) the structural integrity of any Improvements shall not be impaired thereby; (ii) the Alterations to be made will be constructed using new materials of a quality and workmanship at least as good as the original work; (iii) all such Alterations shall be performed in a good and workmanlike manner, and shall be expeditiously completed in a commercially reasonable time period in compliance with all Legal Requirements; (iv) all work done in connection with any such Alteration shall comply with all Insurance Requirements; (v) Tenant shall promptly pay all costs and expenses of any such Alteration, and shall (subject to Tenant's rights under the provisions of Paragraph 18 hereof) discharge all liens filed against any of the Leased Premises arising out of the same; (vi) Tenant shall procure and pay for all permits and licenses required in connection with any such Alteration; (vii) all such Alterations shall be the property of Landlord and shall be subject to this Lease; and (viii) all Alterations, the estimated cost of which in any one instance exceeds the Alterations Threshold Amount, shall be made under the supervision of an architect or engineer and in accordance with plans and specifications which shall be submitted to Landlord for review and approval prior to the commencement of the Alterations.

(c) If any Alteration involves alterations, modifications, improvements or additions which will affect the structural elements or building systems of the Improvements (other than with respect to building systems in a non-material manner), prior to commencing such Alteration, Tenant shall have delivered to Landlord a certificate of a structural engineer or architect licensed in the state in which the Leased Premises is located certifying that such Alteration, if constructed in accordance with the proposed plans and specifications, will not adversely affect the structural integrity of the Improvements and will conform with all applicable laws, rules, regulations and ordinances. If the cost of any Alteration will exceed the Alterations Threshold Amount, prior to commencing such Alteration, Tenant shall have delivered to Landlord a certificate of an officer of Tenant certifying that such Alteration will neither adversely affect the fair market value of the Leased Premises nor materially impair the structural integrity, utility, useful life or operation thereof, and that all of the conditions of this Paragraph 12 have been or will be complied with in connection with such Alterations.

(d) Tenant hereby grants, conveys and transfers to Landlord all of Tenant's right, title and interest in and to the Improvements (whether now existing or hereafter constructed), and Tenant agrees that any and all Alterations and Improvements of

whatever nature at any time constructed, placed or maintained upon any part of the Land shall be and remain the property of Landlord, subject to Tenant's rights under this Lease. Tenant agrees, at its sole cost and expense, to execute, acknowledge, deliver and file all documents necessary or appropriate or reasonably requested by Landlord to effect the purposes of this Paragraph 12(d).

13. Condemnation.

(a) Tenant hereby assumes all risk of loss, damage or destruction, whether (i) by fire or hazard or other casualty, or the theft of all or any portion of the Leased Premises, or (ii) by taking, condemnation, seizure, confiscation, requisition or other taking or sale of the use, access, occupancy, easements, rights to or title of all or any portion of the Leased Premises, whether permanent or temporary, by or on account of any actual or threatened eminent domain proceedings or other action by any Governmental Authority or any transfer in lieu or in anticipation thereof. Tenant, promptly upon obtaining knowledge of the institution of any proceeding for Condemnation, shall notify Landlord thereof and Landlord shall be entitled to participate in any Condemnation proceeding. Landlord, promptly upon obtaining knowledge of the institution of any proceeding for Condemnation, shall notify Tenant thereof and Tenant shall have the right to participate in such proceedings. Subject to the provisions of this Paragraph 13 and Paragraph 15, Tenant hereby irrevocably assigns to Lender or to Landlord, in that order, any award or payment in respect of any Condemnation of Landlord's interest in the Leased Premises; provided, that (except as hereinafter provided) nothing in this Lease shall be deemed to assign to Landlord or Lender any award relating to the value of the leasehold interest created by this Lease or any award or payment on account of the Trade Fixtures, moving expenses and out-of-pocket expenses incidental to the move, if available, to the extent Tenant shall have a right to make a separate claim therefor against the condemnor, it being agreed, however, that Tenant shall in no event be entitled to any payment that reduces the award to which Landlord is or would be entitled for the condemnation of Landlord's interest in the Leased Premises.

(b) If the entire Leased Premises or at least fifty percent (50%) of the applicable Land or the buildings constructed on the Land or all means of ingress, egress or access to the Leased Premises, shall be subject of a Taking by a duly constituted Governmental Authority having jurisdiction, and the loss thereof would, even after Restoration, in Tenant's reasonable business judgment, be substantially and materially adverse to the business operations of Tenant at the Leased Premises, then Tenant may, not later than ninety (90) days after a Taking has occurred, serve notice ("Tenant's Termination Notice") upon Landlord of Tenant's intention to terminate this Lease on any Basic Rent Payment Date specified in such Tenant's Termination Notice, which date (the "Condemnation Termination Date") shall be no sooner than the first Basic Rent Payment Date occurring at least thirty (30) days after the date of such Tenant's Termination Notice. If Tenant properly and timely delivers such Tenant's Termination Notice then the Term of this Lease shall expire on the Condemnation Termination Date specified therein, and the entire award made in the Condemnation proceeding with respect to the Leased Premises shall be paid to Landlord. Tenant shall be obligated to and shall pay all Basic

Rent and Additional Rent which accrues through and including the Condemnation Termination Date and any such Basic Rent or Additional Rent which has accrued but has not yet been paid on the Condemnation Termination Date shall be due and payable on such date by Tenant to Landlord in immediately available funds. If Tenant does not properly and timely deliver the Tenant's Termination Notice, this Lease shall continue in full force and effect in accordance with its provisions and Tenant shall continue to be obligated to pay Basic Rent and Additional Rent in accordance with this Lease and to perform all other obligations of Tenant in accordance with this Lease, without setoff, abatement, counterclaim, recoupment, suspension, deferment, diminution, reduction, deduction or defense whatsoever.

(c) (i) In the event of a Condemnation of any part of the Leased Premises which does not result in a termination of this Lease, subject to the requirements of Paragraph 15, the Net Award of such Condemnation shall be retained by Landlord; and promptly after such Condemnation, Tenant shall commence and diligently continue to completion the Restoration of the Leased Premises in accordance with the provisions of this Lease, including but not limited to the provisions of Paragraphs 11(a), 12 and 15.

(ii) Upon the payment to Landlord of the Net Award of a Taking which falls within the provisions of this Paragraph 13(c), so long as no Event of Default exists Landlord and Lender shall, to the extent received, make that portion of the Net Award equal to the cost of Restoration (the "Restoration Award") available to Tenant for Restoration, in accordance with the provisions of Paragraph 15, and the balance of the Net Award shall be paid to Landlord and all Basic Rent, Additional Rent and other sums payable hereunder shall continue unabated and unreduced.

(iii) In the event of a Requisition of the Leased Premises, Landlord shall apply the Net Award of such Requisition, to the extent received and available, to the installments of Basic Rent, Additional Rent or other sums payable by Tenant hereunder thereafter payable and Tenant shall pay any balance remaining thereafter. Upon the expiration of the Term, any portion of such Net Award which shall not have been previously credited to Tenant on account of the Basic Rent and Additional Rent shall be retained by Landlord.

(d) Except with respect to an award or payment to which Tenant is entitled pursuant to the provisions of Paragraph 13(a), 13(b) and 13(c), no agreement with any condemnor in settlement of or under threat of any Condemnation shall be made by either Landlord or Tenant without the written consent of the other, and of Lender, if the Leased Premises are then subject to a Mortgage, which consent shall not be unreasonably withheld or delayed.

14. Insurance.

(a) Tenant shall maintain at its sole cost and expense the following insurance on the Leased Premises:

(i) "All Risks of Physical Loss" property insurance covering the Leased Premises and all replacements and additions thereto, and all building materials and other property which constitute part of the Leased Premises in a manner consistent with insurance maintained by Tenant on properties similar to the Leased Premises and in any event in amounts not less than one hundred percent (100%) of the full replacement value of the Leased Premises less Land and other uninsurable items, subject to an agreed value endorsement, together with an endorsement providing for law and ordinance coverage in an amount equal to the full replacement value of all Improvements, all of such insurance to have a deductible not greater than Twenty-Five Thousand and No/100 Dollars (\$25,000.00) as adjusted by the CPI Factor.

(ii) Contractual and comprehensive commercial general liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Leased Premises and the Adjoining Property, which insurance shall be written on a so-called "Occurrence Basis," and shall provide minimum protection with a combined single limit in an amount not less than Five Million and No/100 Dollars (\$5,000,000.00) (or in such increased limits from time to time to reflect declines in the purchasing power of the dollar as Landlord may reasonably request) for any one occurrence, and such insurance shall have a deductible of not greater than Ten Thousand and No/100 Dollars (\$10,000.00);

(iii) Workers' compensation insurance covering all Persons employed by Tenant on the Leased Premises in connection with any work done on or about any of the Leased Premises for which claims for death or bodily injury could be asserted against Landlord, Tenant or the Leased Premises to the extent required by law;

(iv) During periods of war or national emergency, war risk insurance in an amount not less than the actual replacement cost of the Improvements and Equipment (excluding footings and foundations and other parts of the Improvements which are not insurable), when and to the extent obtainable from the United States Government or an agency thereof at reasonable cost;

(v) Broad form general boiler and machinery insurance (without exclusion for explosion) covering physical damage to the Leased Premises and to the major components of any central air conditioning ventilation systems, steam boilers, pipes, turbines, engines or similar apparatus in an amount which is not less than one hundred percent (100%) of the full replacement value of the Leased Premises;

(vi) Whenever Tenant, whether as Landlord's construction agent or otherwise, shall be engaged in making any Alteration or Alterations, repairs or construction work of any kind ("Work"), Tenant shall obtain or cause its contractor to obtain completed value builder's risk insurance and Tenant or its contractor shall obtain worker's compensation insurance or other adequate

insurance coverage covering all Persons employed in connection with the Work, whether by Tenant, its contractors or subcontractors and with respect to whom death or bodily injury claims could be asserted against Tenant or Landlord;

(vii) If any portion of the Improvements is located in an area designated by the Federal Emergency Management Agency as having special flood and mudslide hazards, flood insurance in the maximum available amount under the Flood Disaster Protection Act of 1973 and otherwise meeting the requirements of the Federal Insurance Administration;

(viii) Business interruption and loss of rent insurance in amounts sufficient to compensate Landlord for all Basic Rent, Additional Rent and other amounts payable hereunder for a period of not less than twelve (12) months, the amount of such coverage to be adjusted annually to reflect the Basic Rent, Additional Rent and other amounts payable during the succeeding twelve (12) month period; and

(ix) Such additional and/or other insurance with respect to the Improvements located on the Leased Premises and in such amounts as at the time is customarily carried by prudent owners or tenants with respect to improvements similar in character, location and use and occupancy to the Improvements located on the Leased Premises.

(b) Every insurance policy maintained pursuant to this Lease shall (i) provide that the issuer waives all rights of subrogation against Landlord, any successor to Landlord's interests in the Leased Premises and Landlord's Lender, and (ii) provide that thirty (30) days' advance written notice of cancellation, modification, termination or lapse of coverage shall be given to Landlord and Landlord's Lender and that such insurance, as to the interest of Landlord and Landlord's Lender, shall not be invalidated by any act or neglect of Landlord, Landlord's Lender, Tenant or any party, nor by any foreclosure or any other proceedings relating to the Leased Premises, nor by any change in the title ownership of the Leased Premises, nor by use or occupation of the Leased Premises for purposes more hazardous than are permitted by such policy, and (iii) be primary and without right or provision of contribution as to any other insurance carried by Landlord or any other interested party, and (iv) in the event any insuring company is not domiciled within the United States of America, include a United States Service of Suit clause (providing any actions against the insurer by the named insured or Landlord are conducted within the jurisdiction of the United States of America).

(c) Except as otherwise provided in Paragraph 14(b), the insurance required by Paragraph 14(a) shall be written by companies having a claims paying ability rating by Standard & Poors of not less than "A", and all such companies shall be domiciled in the United States of America and be authorized to do an insurance business in the State, or otherwise agreed to by Landlord and Lender. The insurance policies (i) shall be in amounts sufficient at all times to satisfy any coinsurance requirements thereof, and (ii) shall (except for the worker's compensation insurance referred to in

Paragraph 14(a)(iii) hereof) name Landlord, Tenant and any Lender as additional insured parties, as their respective interests may appear. If said insurance or any part thereof shall expire, be withdrawn, become void by breach of any condition thereof by Tenant or become void or unsafe by reason of the failure or impairment of the capital of any insurer, Tenant shall immediately obtain new or additional insurance reasonably satisfactory to Landlord and Lender.

(d) All policies of property insurance provided for herein shall name the Landlord as loss payee and Landlord's Lender as loss payee, mortgagee and additional insured, as its interest may appear, and all liability policies shall name the Landlord and the Landlord's Lender as additional insured, as their respective interests may appear, and the policies required under subparagraphs (i), (iv), (v), (vii) and (viii) of Paragraph 14(a) above shall identify the Landlord as the owner of the Leased Premises. Each insurance policy referred to in clauses (i), (iv), (v) (and (vi) if requested by Lender), (vii) and (viii) of Paragraph 14(a), shall contain standard non-contributory mortgagee clauses in favor of any Lender which holds a Mortgage on the Leased Premises. Each policy shall provide that it may not be canceled except after thirty (30) days prior notice to Landlord and any Lender. Each policy shall also provide that any losses otherwise payable thereunder shall be payable to Landlord and/or Lender notwithstanding (i) any act or omission of Landlord or Tenant which might, absent such provision, result in a forfeiture of all or a part of such insurance payment, or (ii) the occupation or use of any of the Leased Premises for purposes more hazardous than permitted by the provisions of such policy.

(e) Tenant shall pay as they become due all premiums for the insurance required by this Paragraph 14, shall renew or replace each policy, and shall deliver to Landlord and Lender a certificate (on Accord Form 27 or other form reasonably acceptable to Landlord) or other evidence (reasonably satisfactory to Landlord) of the existing policy and such renewal or replacement policy at least thirty (30) days prior to the Policy Expiration Date (as hereinafter defined) of each policy. Each such policy shall provide that it shall not expire until the Landlord and Lender shall receive a notice from the insurer to the effect that a policy will expire on a date (the "Policy Expiration Date") which shall be thirty (30) days following the date of the receipt by Landlord and Lender of such notice. In the event of Tenant's failure to comply with any of the foregoing requirements of this Paragraph 14 within three (3) business days of the giving of written notice by Landlord to Tenant, Landlord shall be entitled to procure such insurance. Any sums expended by Landlord in procuring such insurance shall be Additional Rent and shall be repaid by Tenant, together with interest thereon at the Default Rate, from the time of payment by Landlord until fully paid by Tenant immediately upon written demand therefor by Landlord.

(f) Anything in this Paragraph 14 to the contrary notwithstanding, any insurance which Tenant is required to obtain pursuant to Paragraph 14(a) may be carried under a "blanket" policy or policies covering other properties or liabilities of Tenant, provided that such "blanket" policy or policies otherwise comply with the provisions of this Paragraph 14. In the event any such insurance is carried under a blanket policy, Tenant shall deliver to Landlord and Lender evidence of the issuance and effectiveness of

the policy, the amount and character of the coverage with respect to the Leased Premises and the presence in the policy of provisions of the character required in the above sections of this Paragraph 14.

(g) In the event of any casualty loss exceeding Twenty-Five Thousand and No/100 Dollars (\$25,000.00) Tenant shall give Landlord immediate notice thereof. Tenant shall adjust, collect and compromise any and all claims, with the consent of Lender and Landlord, not to be unreasonably withheld or delayed, and Landlord and Lender shall have the right to join with Tenant therein. If the estimated cost of Restoration or repair shall be less than Twenty-Five Thousand and No/100 Dollars (\$25,000.00), all proceeds of any insurance required under clauses (i), (iv), (v) (and (vi) if requested by Lender), (vii) and (viii) of Paragraph 14(a) shall be payable to Tenant, provided that no Event of Default then exists, and in all other events to a Trustee which shall be a federally insured bank or other financial institution selected by Landlord and Tenant and reasonably satisfactory to Lender (the "Trustee"). If the Leased Premises shall be covered by a Mortgage, Lender, if it so desires, shall be the Trustee. Each insurer is hereby authorized and directed to make payment under said policies directly to such Trustee instead of to Landlord and Tenant jointly; and Tenant and Landlord each hereby appoints such Trustee as its attorney-in-fact to endorse any draft therefor for the purposes set forth in this Lease after approval by Tenant of such Trustee, if Trustee is other than Lender. In the event of any casualty (whether or not insured against) resulting in damage to the Leased Premises or any part thereof, the Term shall nevertheless continue and there shall be no abatement or reduction of Basic Rent, Additional Rent or any other sums payable by Tenant hereunder, and Tenant shall, whether or not the Net Proceeds are sufficient for the purpose, promptly complete the Restoration of the Leased Premises in accordance with the provisions of Paragraphs 11(a) and 12 hereof. The Net Proceeds of such insurance payment shall be retained by the Trustee in trust in an FDIC-insured (to the extent such insurance is available) and interest-bearing account approved by the parties and, promptly after such casualty, Tenant, as required in Paragraphs 11(a) and 12, shall commence and diligently continue to perform the Restoration of the Leased Premises, and shall complete such Restoration in a commercially reasonable time period. Upon payment to the Trustee of such Net Proceeds, the Trustee shall, to the extent available, make the Net Proceeds available to Tenant for Restoration subject to and in accordance with the provisions of Paragraph 15. In the event that any damage or destruction shall occur at such time as Tenant shall not have maintained third-party insurance in accordance with Paragraph 14(a)(i), (iv), (v), (vi), (vii) or (viii), Tenant shall pay to the Trustee the amount of the proceeds that would have been payable had such insurance been in effect (the "Tenant Insurance Payment").

15. Restoration. Any Net Proceeds, Restoration Award and Tenant Insurance Payment in excess of Twenty-Five Thousand Dollars (\$25,000.00) with respect to any individual Condemnation or Casualty (the aggregate of which being herein defined as the "Restoration Fund") shall be disbursed by the Trustee in accordance with the following conditions:

(a) If the total cost of Restoration will exceed the Alterations Threshold Amount, prior to commencement of the Restoration the architects, general contractor(s),

and plans and specifications for the Restoration shall be approved by Landlord, which approval shall not be unreasonably withheld or delayed; and which approval shall be granted to the extent that the plans and specifications depict a Restoration which is substantially similar to the Improvements and Equipment which existed prior to the occurrence of the Casualty or Taking, whichever is applicable.

(b) At the time of any disbursement, no Event of Default shall exist and no mechanics' or materialmen's liens shall have been filed and remain undischarged or unbonded except to the extent the disbursement would pay the sums with respect thereto so that no such lien would remain thereafter.

(c) Disbursements shall be made monthly in an amount not exceeding the hard and soft cost of the work and costs incurred since the last disbursement upon receipt of (1) architects' certificates of the stage of completion, of the estimated cost of completion and of performance of the work to date in a good and workmanlike manner in accordance with the contracts, plans and specifications, (2) partial releases of liens, and (3) other reasonable evidence of cost and payment so that Landlord can verify that the amounts disbursed from time to time are represented by work that is completed in place or delivered to the site and free and clear of mechanics' lien claims.

(d) Each request for disbursement shall be accompanied by a certificate of Tenant describing the work, materials or other costs or expenses, for which payment is requested, stating the cost incurred in connection therewith and stating that Tenant has not previously received payment for such work or expense and the certificate to be delivered by Tenant upon completion of the work shall, in addition, state that the work has been substantially completed and complies with the applicable requirements of this Lease.

(e) The Trustee may retain ten percent (10%) of all draws submitted for payment from the Restoration Fund until the Restoration is complete.

(f) The Restoration Fund shall be kept in a separate interest-bearing federally insured account by the Trustee or by Lender.

(g) At all times the undisbursed balance of the Restoration Fund held by Trustee plus any funds contributed thereto by Tenant, at its option, shall be not less than the cost of completing the Restoration, free and clear of all liens.

(h) In addition, prior to commencement of Restoration and at any time during Restoration, if the estimated cost of Restoration, as reasonably determined by Landlord, exceeds the amount of the Restoration Fund available for such Restoration, the amount of such excess shall be paid by Tenant to the Trustee to be added to the Restoration Fund or Tenant shall fund at its own expense the costs of such Restoration until the remaining Restoration Fund is sufficient for the completion of the Restoration. So long as no Event of Default exists, any sum in the Restoration Fund which remains in the Restoration Fund upon the completion of Restoration shall be paid to Tenant. For purposes of determining

the source of funds with respect to the disposition of funds remaining after the completion of Restoration, the Net Proceeds or the Restoration Award shall be deemed to be disbursed prior to any amount added by Tenant.

16. Subordination to Financing.

(a) (i) Subject to the provisions of Paragraph 16(a)(ii), Tenant agrees that this Lease shall at all times be subject and subordinate to the lien of any Mortgage or ground lease of the Leased Premises, and Tenant agrees, upon demand, without cost, to execute instruments as may be required to further effectuate or confirm such subordination.

(ii) Except as expressly provided in this Lease by reason of the occurrence of an Event of Default, Tenant's tenancy and Tenant's rights under this Lease shall not be disturbed, terminated or otherwise adversely affected, nor shall this Lease be affected, by any default under any Mortgage, and in the event of a foreclosure or other enforcement of any Mortgage, or sale in lieu thereof, the purchaser at such foreclosure sale shall be bound to Tenant for the Term of this Lease and any Renewal Term, the rights of Tenant under this Lease shall expressly survive, and this Lease shall in all respects continue in full force and effect so long as no Event of Default has occurred and is continuing.

(b) Notwithstanding the provisions of Paragraph 16(a), the holder of any Mortgage to which this Lease is subject and subordinate shall have the right, at its sole option, at any time, to subordinate and subject the Mortgage, in whole or in part, to this Lease by recording a unilateral declaration to such effect.

(c) Tenant agrees to attorn, from time to time, to the holder of each Mortgage and/or the holder of such subsequent mortgage, or any purchaser of the Leased Premises, for the remainder of the Term, provided that such holder or such purchaser, shall then be entitled to possession of the Leased Premises subject to the provisions of this Lease. The provisions of this Paragraph 16(c) shall inure to the benefit of such holder or such purchaser, shall apply notwithstanding that, as a matter of law, this Lease may terminate upon the foreclosure of the Mortgage (in which event the parties shall execute a new lease for the remainder of the Term on the same terms set forth herein), shall be self-operative upon any such demand, and no further instrument shall be required to give effect to said provisions. Each such party, however, upon demand of the other, hereby agrees to execute, from time to time, instruments in confirmation of the foregoing provisions hereof, reasonably satisfactory to the requesting party acknowledging such subordination, non-disturbance and attornment as are provided herein and setting forth the terms and conditions of its tenancy.

(d) Each of Tenant and Landlord, however, upon demand of the other, hereby agrees to execute (and Landlord agrees to cause its Lender to execute), from time to time, instruments in confirmation of the foregoing provisions of Paragraphs 16(a) and 16(c) (subject to Paragraph 16(b) however), reasonably satisfactory to the requesting party

acknowledging such subordination, non-disturbance and attornment as are provided in such subsections and setting forth the terms and conditions of its tenancy.

(e) Tenant agrees that, if requested by Landlord or Lender, it shall, without charge, enter into a Subordination, Non-Disturbance and Attornment Agreement (the "SNDA") reasonably requested by Lender; provided, such SNDA is reasonably acceptable to Tenant and further provided Lender executes and delivers the SNDA to Tenant. Tenant hereby agrees for the benefit of Lender that Tenant will not, (i) without in each case the prior written consent of Lender, which may be withheld in Lender's sole discretion, amend or modify this Lease, or enter into any agreement with Landlord so to do, (ii) without the prior written consent of Lender which may be withheld in Lender's sole discretion, cancel or surrender or seek to cancel or surrender the Term hereof, or enter into any agreement with Landlord to do so (the parties agreeing that the foregoing shall not be construed to affect the rights or obligations of Tenant, Landlord or Lender with respect to any termination permitted under the express terms hereof following certain events of Condemnation as provided in Section 13 hereof), or (iii) pay any installment of Basic Rent more than one (1) month in advance of the due date thereof or otherwise than in the manner provided for in this Lease.

17. Assignment, Subleasing.

(a) Other than assignments to an Affiliate of Tenant or an assignment to ConocoPhillips pursuant to the ConocoPhillips Assignment Right, Tenant shall not sell, encumber, assign or transfer this Lease or any interest herein, nor sublet all or any part of the Leased Premises, without the prior written consent of Landlord, which consent shall not be unreasonably withheld so long as such proposed assignee or subtenant is a capable operator of a gas station and convenience store facility and has a financial condition and creditworthiness sufficient to meet the financial obligations of Tenant under this Lease. In connection with any request for Landlord's consent to any assignment or subletting, the following provisions shall apply:

(i) there shall be submitted to Landlord current financial information and information regarding the business reputation and experience regarding the proposed assignee/sublessee, including, with respect to any proposed assignment of this Lease, information to establish whether or not the proposed assignee is Investment Grade (which may be satisfied by then current reports from Standard & Poor's and Moody's);

(ii) the business reputation and experience of the proposed assignee or sublessee (and the principals or owners thereof) shall meet or exceed generally acceptable commercial standards for like properties;

(iii) in the case of an assignment, the proposed assignee shall agree in writing to assume and abide by all terms and provisions of this Lease from and after the date of such assignment;

(iv) Tenant shall submit to Landlord a copy of all documents and agreements relating to any proposed assignment of this Lease (including the assignment and assumption agreement with respect thereto, and the terms and provisions of such assignment and assumption agreement shall be acceptable to Landlord in its reasonable discretion), and the form of sublease, and all documents and agreements related thereto, with respect to any proposed sublease; and

(v) no Event of Default shall have occurred and be continuing.

Landlord agrees to respond within thirty (30) days after receipt of Tenant's written request for Landlord's consent to a proposed assignment or sublease (together with the information specified above and other information reasonably requested by Landlord). If Landlord fails to respond by the expiration of said thirty (30) day period, the transaction which is the subject of Tenant's notice to Landlord shall be deemed disapproved. If Landlord provides its written consent for an assignment of this Lease to a Person which is Investment Grade, then the Tenant making such assignment shall be released from its obligations under this Lease to the extent the same accrue after the date of such assignment so long as (i) the senior unsecured debt of such proposed assignee has had an Investment Grade rating for a continuous period of not less than five (5) years immediately preceding the date of such assignment, (ii) its Investment Grade rating has not declined over the immediately preceding twelve (12) months, and (iii) such proposed assignee is not on "credit watch" and has not had any negative credit report issued by any credit rating agency within the immediately preceding twelve (12) months. Consent by Landlord to any assignment or subletting shall not waive the necessity for consent to any subsequent assignment or subletting.

(b) Notwithstanding the Landlord's consent to a sublease of any portion of the Leased Premises, (i) no such sublease shall release the Tenant from any of its obligations or liabilities under this Lease; (ii) no such sublease may be entered into if an Event of Default has occurred and is continuing; (iii) the subtenant under any sublease shall not be party to any bankruptcy, insolvency or similar proceeding at the inception of the sublease; (iv) the subtenant under any sublease shall be permitted to use the Leased Premises for any purpose permitted under Paragraph 4(a) of this Lease; and (v) any such sublease shall not be for a term that extends beyond the Term of this Lease. Notwithstanding the Landlord's consent to any assignment of the Tenant's interest in this Lease or if Landlord's consent to such assignment is not required under Paragraph 17(a) hereof, (i) no such assignment shall release the Tenant from any of its obligations or liabilities under this Lease (except as and to the extent expressly provided in Paragraph 17(a) above in connection with an assignment to an Investment Grade assignee); (ii) no such assignment may be entered into if an Event of Default has occurred and is continuing; (iii) the assignee under any assignment shall not be party to any bankruptcy, insolvency or similar proceeding at the inception of the assignment; (iv) the assignee under any assignment shall be permitted to use the Leased Premises for any purpose permitted under Paragraph 4(a) of this Lease; (v) any assignee shall expressly assume all obligations of the Tenant under this Lease; and (vi) Tenant shall not be permitted to assign or sublease if, as

a result, the Leased Premises or any part thereof would be "tax-exempt use property" within the meaning of Section 168(h) of the Internal Revenue Code of 1986, as amended.

(c) Each sublease of the Leased Premises or any part thereof shall be subject and subordinate to the provisions of this Lease. No assignment or sublease shall affect or reduce any of the obligations of Tenant hereunder, and all such obligations shall continue in full force and effect as obligations of a principal and not as obligations of a guarantor, as if no assignment or sublease had been made. Notwithstanding any assignment or subletting Tenant shall continue to remain liable and responsible for the payment of the Basic Rent and Additional Rent and the performance of all its other obligations under this Lease (except as and to the extent expressly provided in Paragraph 17(a) above in connection with an assignment of this Lease to an Investment Grade assignee). No assignment or sublease shall impose any obligations on Landlord under this Lease. Further, each sublease must provide that any rent and other amounts payable thereunder may not be paid more than one (1) month in advance and shall include all provisions required by applicable Legal Requirements. To the extent required by applicable Legal Requirements, all security deposits and other deposits delivered under any sublease shall be held in separate interest-bearing accounts and, in any event, shall be held and disposed of as required by applicable Legal Requirements. Tenant agrees that as a condition to any assignment of the Lease, Tenant shall, prior to the execution and delivery of any such assignment, deliver to Landlord (i) a duplicate original of such assignment in recordable form (which must be acceptable to Landlord in its reasonable discretion), and (ii) an agreement (which must be acceptable to Landlord in its reasonable discretion) executed and acknowledged by the assignee in recordable form wherein the assignee shall agree to assume and agree to observe and perform all of the terms and provisions of this Lease on the part of the Tenant to be observed and performed from and after the date of such assignment. As an additional condition to any sublease, Tenant shall, immediately upon request of Landlord, deliver to Landlord and Lender a duplicate original or certified copy of such sublease.

(d) If any excess rent is payable under a sublease or assignment over the Basic Rent and Additional Rent payable hereunder or any payment is made to Tenant specifically on account of or in consideration of an assignment of Tenant's interest hereunder or a sublease of all or any portion of the Leased Premises, then Tenant shall pay Landlord an amount equal to fifty percent (50%) of all such excess rent or other payment within five (5) days of the date on which such amount is payable to Tenant pursuant to its agreement with the sublessee, assignee or other transferee of Tenant's interest hereunder. Any such excess rent or other payment shall be determined net of the reasonable brokerage commissions, legal fees, tenant improvement costs and related architectural costs incurred by Tenant in connection with any such sublease, assignment or transfer, all of which shall be amortized over the term of such assignment or sublease on a straight line basis.

(e) Tenant hereby irrevocably and unconditionally assigns to Landlord all rents and other sums of money (the "Sublease Rents") payable under any sublease of any of the Leased Premises. Tenant shall have a revocable license to collect and enjoy the

Sublease Rents and to retain and use the Sublease Rents. Such license may be revoked by Landlord, without notice to Tenant, upon the occurrence of an Event of Default under this Lease. Unless and until such license is to be revoked, Tenant agrees to apply the proceeds of the Sublease Rents to the payment of Rent under this Lease and to operation and maintenance charges relating to the Leased Premises which are due and payable at the time of collection of such proceeds of the Sublease Rents before using such proceeds for any other purpose. Landlord agrees to re-assign to Tenant all of Landlord's right, title and interest in and to the Sublease Rents upon any acquisition of the Leased Premises by Tenant.

18. Permitted Contests.

(a) After prior written notice to Landlord and so long as no Event of Default has occurred and is continuing, Tenant shall not be required to pay any Imposition, pay any Lien or comply with any Legal Requirement so long as Tenant shall contest, in good faith and at its expense, the existence, the amount or the validity thereof, the amount of the damages caused thereby, or the extent of its or Landlord's liability therefor, by appropriate proceedings which shall operate during the pendency thereof to prevent (i) the collection of, or other realization upon, the Imposition or lien so contested, (ii) the sale, forfeiture or loss of any of the Leased Premises, any Basic Rent or any Additional Rent to satisfy the same or to pay any damages caused by the violation of any such Legal Requirement or by any such violation, (iii) any interference with the ownership, use or occupancy of any of the Leased Premises, (iv) any interference with the payment of any Basic Rent or any Additional Rent, and (v) the cancellation of any fire or other insurance policy. As a condition to any such contest, Tenant shall furnish Landlord with such security as Landlord shall reasonably request to insure payment of any Imposition or compliance with any Legal Requirements so contested.

(b) In no event shall Tenant pursue any contest with respect to any Imposition, Legal Requirement, lien, or violation, referred to above in such manner that exposes Landlord or Lender to (i) criminal liability, penalty or sanction, (ii) any civil liability, penalty or sanction for which Tenant has not made provisions reasonably acceptable to Landlord and Lender, or (iii) defeasance of its interest in the Leased Premises.

(c) Tenant agrees that each such contest shall be promptly and diligently prosecuted to a final conclusion, except that Tenant shall have the right to attempt to settle or compromise such contest through negotiations. Tenant shall pay and save Lender and Landlord harmless against any and all losses, judgments, decrees and costs (including all attorneys' fees and expenses) in connection with any such contest and shall, promptly after the final determination of such contest, fully pay and discharge the amounts which shall be levied, assessed, charged or imposed or be determined to be payable therein or in connection therewith, together with all penalties, fines, interest, costs and expenses thereof or in connection therewith, and perform all acts the performance of which shall be ordered or decreed as a result thereof or which shall be necessary to comply (and cause the Leased Premises to comply) with the Legal Requirements so contested.

19. Conditional Limitations; Default Provisions.

(a) The occurrence of any one or more of the following events (any such event being specified herein as a "failure" or "default") shall constitute an Event of Default under this Lease: (i) a failure by Tenant to make (regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency or other proceedings, in law, in equity or before any administrative tribunal which had or might have the effect of preventing Tenant from complying with the provisions of this Lease) (x) any payment of Basic Rent or Net Award (to the extent received by Tenant) which continues unremedied for a period of five (5) days, or (y) any payment of Additional Rent or other sum herein required to be paid by Tenant (other than Basic Rent or Net Award as provided in subpart (x) above) which continues unremedied for a period of ten (10) days after written notice thereof is given to Tenant by Landlord or Lender; (ii) the failure by Tenant to maintain insurance as and to the extent required by Paragraph 14 of this Lease; (iii) the failure by Tenant to perform and observe, or a violation or breach by Tenant of, any other provision in this Lease and such default shall continue for a period of thirty (30) days after written notice thereof is given by Landlord or Lender to Tenant or if such default is of such a nature that it can be cured by Tenant but cannot reasonably be cured within such period of thirty (30) days, such period shall be extended for such longer time as is reasonably necessary (but in any event not to exceed the earlier of (A) a total of ninety (90) days or (B) the last day of the Term) provided that Tenant has commenced to cure such default within said period of thirty (30) days, and is actively, diligently and in good faith proceeding with continuity to remedy such default and provided that any delay in curing such default shall not result in a material adverse effect on the value of the Leased Premises; (iv) Tenant or any guarantor of Tenant's obligations hereunder shall (A) voluntarily be adjudicated a bankrupt or insolvent, (B) or voluntarily consent to the appointment of a receiver or trustee for itself or for any of the Leased Premises, (C) voluntarily file a petition seeking relief under the bankruptcy or other similar laws of the United States, any state or any jurisdiction, or (D) voluntarily file a general assignment for the benefit of creditors; (v) a court shall enter an order, judgment or decree appointing, with the voluntary consent of Tenant or any guarantor of Tenant's obligations hereunder, a receiver or trustee for Tenant or any guarantor of Tenant's obligations hereunder or for the Leased Premises or approving a petition filed against Tenant or any guarantor of Tenant's obligations hereunder which seeks relief under the bankruptcy or other similar laws of the United States or any state, and such order, judgment or decree shall remain in force, undischarged or unstayed, ninety (90) days after it is entered; (vi) Tenant or any guarantor of Tenant's obligations hereunder shall in any insolvency proceedings be liquidated or dissolved or shall voluntarily commence proceedings towards its liquidation or dissolution; (vii) the estate or interest of Tenant in the Leased Premises shall be levied upon or attached in any proceeding and such estate or interest is about to be sold or transferred or such process shall not be vacated or discharged within ninety (90) days after such levy or attachment; (viii) if Tenant has made a material misrepresentation under this Lease or any certificate or writing tendered in connection with the execution and delivery of this Lease; or (ix) the Guarantor's guaranty of Tenant's obligations under this Lease shall be terminated for any reason, or Guarantor shall assert

in writing or in any judicial or administrative proceeding that such guaranty is void or unenforceable in any respect or that Guarantor is not liable thereunder.

(b) (i) If any Event of Default shall have occurred, Landlord shall have the right at its option, then or at any time thereafter, to do any one or more of the following without demand upon or notice to Tenant:

(A) Landlord may give Tenant notice of Landlord's intention to terminate this Lease on a date specified in such notice. Upon the date therein specified, unless the Event of Default for which the termination is effected has been cured by Tenant, the Term and the estate hereby granted and all rights of Tenant hereunder shall expire and terminate as if such date were the date hereinabove fixed for the expiration of the Term, but Tenant shall remain liable for all its obligations hereunder through the date hereinabove fixed for the expiration of the Term, including its liability for Basic Rent and Additional Rent as hereinafter provided.

(B) Landlord may, whether or not the Term of this Lease shall have been terminated pursuant to clause (A) above give Tenant notice to surrender the Leased Premises to Landlord on a date specified in such notice, on which date Tenant shall surrender and deliver possession of the Leased Premises to Landlord unless the Event of Default for which the surrender is required has been cured by Tenant. Upon or at any time after taking possession of the Leased Premises in the manner prescribed by law, Landlord may remove any Persons or property therefrom in the manner prescribed by law. Landlord shall be under no liability for or by reason of any such entry, repossession or removal. No such entry or repossession shall be construed as an election by Landlord to terminate this Lease unless Landlord gives a written notice of such intention to Tenant pursuant to clause (A) above.

(C) After repossession of any of the Leased Premises pursuant to clause (B) above, whether or not this Lease shall have been terminated pursuant to clause (A) above, Landlord may relet the Leased Premises or any part thereof to such tenant or tenants for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term) for such rent, on such conditions (which may include concessions or free rent) and for such uses as Landlord, in its reasonable discretion, may determine; and Landlord shall collect and receive any rents payable by reason of such reletting. The rents received on such reletting shall be applied (1) first to the reasonable and actual expenses of such reletting and collection, including necessary renovation and Alterations of the Leased Premises, reasonable and actual attorneys' fees and any reasonable and actual real estate commissions paid, and (2) thereafter toward payment of all sums due or to become due Landlord hereunder. If a sufficient amount to pay such expenses and sums shall not be realized or secured, then Tenant shall pay Landlord any such deficiency monthly, and Landlord may bring an action therefor as such monthly deficiency shall arise. Landlord shall not, in

any event, be required to pay Tenant any sums received by Landlord on a reletting of the Leased Premises in excess of the Rent provided in this Lease, but such excess shall reduce any accrued present or future obligations of Tenant hereunder. Landlord's re-entry and reletting of the Leased Premises without termination of this Lease shall not preclude Landlord from subsequently terminating this Lease as set forth above. Landlord may make such Alterations as Landlord in its reasonable discretion may deem advisable. Tenant agrees to pay Landlord, as Additional Rent, immediately upon demand, all reasonable expenses incurred by Landlord in obtaining possession, in performing Alterations and in reletting any of the Leased Premises, including fees and commissions of attorneys, architects, agents and brokers.

(D) Landlord may exercise any other right or remedy now or hereafter existing at law or in equity.

(ii) Further, in addition to all other rights and remedies available to Landlord under this Lease, at Law or in equity, Tenant shall pay the following:

(A) If Tenant shall fail to make payment of any installment of Basic Rent or any Additional Rent after the date when each such payment is due, Tenant shall pay to Landlord interest at a rate equal to the Default Rate on the amount unpaid computed from the date such payment of Basic Rent or Additional Rent was due to and including the date of payment.

(B) If an Event of Default shall have occurred, Tenant shall pay to Landlord, upon demand following the Event of Default, as Additional Rent, an amount equal to the amount of any Termination Fee due and payable in connection with prepayment of the Loan as a result of an event of default under the Note, Mortgage or any documents, instruments or agreements related to the Loan arising directly or indirectly from an Event of Default by Tenant under this Lease.

(c) In the event of any termination of this Lease or repossession of any of the Leased Premises by reason of the occurrence of an Event of Default, Tenant shall pay to Landlord Basic Rent, Additional Rent and all other sums required to be paid by Tenant to and including the date of such termination or repossession and, thereafter, Tenant shall, until the end of what would have been the Term in the absence of such termination or repossession, and whether or not any of the Leased Premises shall have been relet, be liable to Landlord for and shall pay to Landlord as liquidated and agreed current damages: (i) Basic Rent, Additional Rent and all other sums which would be payable under this Lease by Tenant in the absence of such termination or repossession, less (ii) the net proceeds, if any, of any reletting pursuant to Paragraph 19(b)(i)(C), after deducting from such proceeds all of Landlord's reasonable expenses in connection with such reletting (including all reasonable repossession costs, brokerage commissions, legal expenses, attorneys' fees, costs of Alteration and expenses of preparation for reletting). Tenant hereby agrees to be and remain liable for all sums aforesaid and Landlord may recover

such damages from Tenant and institute and maintain successive actions or legal proceedings against Tenant for the recovery of such damages. Nothing herein contained shall be deemed to require Landlord to wait to begin such action or other legal proceedings until the date when the Term would have expired by limitation had there been no such Event of Default.

(d) At any time after such termination of this Lease pursuant to Paragraph 19 or pursuant to Law or if Landlord shall have reentered or repossessed the Leased Premises, as the case may be, whether or not Landlord shall have recovered any amounts under Paragraph 19(b)(i)(C) or 19(c) (and without limitation of Landlord's rights under such paragraphs), Landlord, at its option, shall be entitled to recover from Tenant and Tenant shall pay to Landlord, on demand, as and for liquidated and agreed final damages for Tenant's default, (i) the amount by which the Basic Rent, and all Additional Rent reserved hereunder for the unexpired portion of the Term demised herein as if the Lease had not expired or been terminated exceeds the then fair and reasonable rental value of the Leased Premises for the same period, discounted to present worth at an annual rate equal to the lesser of (A) the rate of interest on the Loan existing at the time or (B) nine and eighty-five one-hundredths of one percent (9.85%), minus any such monthly deficiencies previously recovered from Tenant for such unexpired portion of the Term demised herein under Paragraph 19(b)(i)(C), plus (ii) all reasonable legal fees and other costs and expenses incurred by Landlord and Lender as a result of Tenant's default under this Lease and the exercise of any rights and remedies hereunder.

(e) If any statute or rule of law governing a proceeding in which such liquidated final damages provided for in Paragraph 19(d) are to be proved shall validly limit the amount thereof to an amount less than the amount above agreed upon, Landlord shall be entitled to the maximum amount allowable under such statute or rule of law.

20. Additional Rights of Landlord and Tenant.

(a) No right or remedy conferred upon or reserved to Landlord in this Lease is intended to be exclusive of any other right or remedy; and each and every right and remedy shall be cumulative and in addition to any other right or remedy contained in this Lease. No delay or failure by Landlord or Tenant to enforce its rights under this Lease shall be construed as a waiver, modification or relinquishment thereof. In addition to the other remedies provided in this Lease, Landlord and Tenant shall be entitled, to the extent permitted by applicable Law, to injunctive relief in case of the violation or attempted or threatened violation of any of the provisions of this Lease, or to specific performance of any of the provisions of this Lease.

(b) Tenant hereby waives and surrenders for itself and all those claiming under it, including creditors of all kinds, any right and privilege which it or any of them may have under any present or future law to redeem any of the Leased Premises or to have a continuance of this Lease after termination of this Lease or of Tenant's right of occupancy or possession pursuant to any court order or any provision hereof.

(c) Landlord acknowledges and agrees in the future to acknowledge (in a written form reasonably satisfactory to Tenant) to such Persons and entities at such times and for such purposes as Tenant may reasonably request that the Trade Fixtures are Tenant's property and not part of the Improvements or otherwise subject to the terms of this Lease.

(d) Each of Tenant and Landlord (herein called "Paying Party") agrees to pay to the other party (herein called "Demanding Party") any and all reasonable costs and expenses incurred by the Demanding Party in connection with any litigation or other action instituted by the Demanding Party to enforce the obligations of the Paying Party under this Lease, to the extent that the Demanding Party has prevailed in any such litigation or other action. Further, Tenant agrees to pay or reimburse Landlord on demand for any costs or expenses (including reasonable attorneys' fees) incurred by Landlord in connection with enforcing the terms of this Lease in the event of any default by Tenant or any subtenant in complying with the terms and conditions of this Lease. Any amount payable by Tenant to Landlord pursuant to this Paragraph 20(d) shall be due and payable by Tenant to Landlord as Additional Rent. No sum payable by Landlord to Tenant under this subparagraph will be payable or recoverable from any sums pledged or assigned by Landlord to Lender.

21. Notices. All notices, demands, requests, consents, approvals, offers, statements and other instruments or communications required or permitted to be given pursuant to the provisions of this Lease (collectively "Notice" or "Notices") shall be in writing and shall be deemed to have been given for all purposes on the earlier of receipt or (i) three (3) business days after having been sent by United States mail, by registered or certified mail, return receipt requested, postage prepaid, addressed to the other party at its address as stated below, or (ii) one (1) business day after having been sent by Federal Express or other nationally recognized air courier service.

To the Addresses stated below:

If to Landlord:

CRICGASMART LLC
One Exeter Plaza, 11th Floor
Boston, Massachusetts 02116
Attention: Marjorie S. Palace

With a copy to:

Liechty & McGinnis, P.C.
7502 Greenville Avenue, Suite 750
Dallas, Texas 75231
Attention: Lorne O. Liechty, Esq.

If to Tenant:

Fuel Service Mart, Inc.
10147 W. 84th Terrace
Lenexa, Kansas 66214
Attention: Abe Gustin, Chief Executive Officer

With a copy to:

Blackwell Sanders Peper Martin LLP
2300 Main Street, Suite 1000
Kansas City, Missouri 64108
Attention: James M. Ash, Esq.

If any Lender shall have advised Tenant by Notice in the manner aforesaid that it is the holder of a Mortgage and states in said Notice its address for the receipt of Notices, then simultaneously with the giving of any Notice by Tenant to Landlord, Tenant shall send a copy of such Notice to Lender in the manner aforesaid. For the purposes of this Paragraph 21, any party may substitute its address by giving fifteen (15) days' notice to the other party in the manner provided above. Any Notice may be given on behalf of any party by its counsel.

22. Estoppel Certificates. Landlord and Tenant shall at any time and from time to time, upon not less than twenty (20) days' prior written request by the other, execute, acknowledge and deliver to the other a statement in writing, certifying (i) that this Lease is unmodified and in full effect (or, if there have been modifications, that this Lease is in full effect as modified, setting forth such modifications), (ii) the dates to which Basic Rent payable hereunder has been paid, (iii) that to the knowledge of the signer of such certificate no default by either Landlord or Tenant exists hereunder or specifying each such default of which the signer may have knowledge, (iv) the remaining Term hereof, (v) with respect to a certificate signed on behalf of Tenant, (A) that to the knowledge of the signer of such certificate, there are no proceedings pending or threatened against Tenant before or by any court or administrative agency which if adversely decided would materially and adversely affect the financial condition and operations of Tenant or if any such proceedings are pending or threatened to said signer's knowledge, specifying and describing the same, and (B) that the Tenant has no claims of offset, abatement or deduction of Basic Rent, Additional Rent or other amounts payable hereunder, and (vi) such other matters as may reasonably be requested by the party requesting the certificate. It is intended that any such statements may be relied upon by Lender, the recipient of such statements or their assignees or by any prospective purchaser, assignee or subtenant of the Leased Premises.

23. Surrender and Holding Over.

(a) Upon the expiration or earlier termination of this Lease, Tenant shall peaceably leave and surrender the Leased Premises to Landlord. Tenant shall remove from the Leased Premises on or prior to such expiration or earlier termination the Trade Fixtures and personal property which is owned by Tenant or third parties other than

Landlord, and Tenant at its expense shall, on or prior to such expiration or earlier Termination, repair any damage caused by such removal. Trade Fixtures and personal property not so removed at the end of the Term (or, if earlier, upon termination of the Term for any reason whatsoever) shall, at Landlord's option, become the property of Landlord, and Landlord may thereafter cause such property to be removed from the Leased Premises. The cost of removing and disposing of such property and repairing any damage to any of the Leased Premises caused by such removal shall be borne by Tenant. Landlord shall not in any manner or to any extent be obligated to reimburse Tenant for any property which becomes the property of Landlord as a result of such expiration or earlier termination.

(b) Any holding over by Tenant of the Leased Premises after the expiration or earlier termination of the Term of this Lease or any extensions thereof, with the consent of Landlord, shall operate and be construed as a tenancy from month to month only, at one hundred fifty percent (150%) of the Basic Rent reserved herein for the month immediately prior to the expiration or termination of this Lease, and otherwise upon the same terms and conditions as contained in this Lease except that Tenant shall have no right to renew or extend the Term of this Lease. Notwithstanding the foregoing, any holding over without Landlord's consent shall entitle Landlord, in addition to collecting Basic Rent at a rate of one hundred fifty percent (150%) thereof, to exercise all rights and remedies provided by law or in equity, including the remedies of Paragraph 19(b).

(c) The provisions of this Paragraph 23 shall survive the expiration or earlier termination of this Lease.

24. No Merger of Title. There shall be no merger of this Lease nor of the leasehold estate created by this Lease with the fee estate in or ownership of any of the Leased Premises by reason of the fact that the same Person, corporation, firm or other entity may acquire or hold or own, directly or indirectly, (a) this Lease or the leasehold estate created by this Lease or any interest in this Lease or in such leasehold estate and (b) the fee estate or ownership of any of the Leased Premises or any interest in such fee estate or ownership. No such merger shall occur unless and until all Persons, corporations, firms and other entities having any interest in (i) this Lease or the leasehold estate created by this Lease and (ii) the fee estate in or ownership of the Leased Premises or any part thereof sought to be merged shall join in a written instrument effecting such merger and shall duly record the same.

25. Special Provisions Regarding Landlord.

(a) Anything contained herein to the contrary notwithstanding, any claim based on or in respect of any liability of Landlord under this Lease shall be enforced only against the Landlord's interest in the Leased Premises and shall not be enforced against the Landlord individually or personally.

(b) Subject to the assumption of obligations arising under this Lease after the date of the transfer by any transferee, the term "Landlord" as used in this Lease so far as covenants or obligations on the part of Landlord are concerned, shall be limited to mean

and include only the owner or owners of the Leased Premises or holder of the Mortgage in possession at the time in question of the Leased Premises and in the event of any transfer or transfers of the title of the Leased Premises, the Landlord herein named (and in case of any subsequent transfers or conveyances, the then grantor) shall be automatically freed and relieved from and after the date of such transfer and conveyance of all personal liability as respects the performance of any covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed.

26. Hazardous Substances.

(a) For the purposes hereof, the term "Hazardous Materials" shall include, without limitation, any material, waste or substance which is (i) included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," or "hazardous wastes" in or pursuant to any Laws, or subject to regulation under any Law; (ii) listed in the United States Department of Transportation Optional Hazardous Materials Table, 49 C.F.R. Section 172.101, as enacted as of the date hereof or as hereafter amended, or in the United States Environmental Protection Agency List of Hazardous Substances and Reportable Quantities, 40 C.F.R. Part 302, as enacted as of the date hereof or as hereafter amended; or (iii) explosive, radioactive, asbestos, asbestos-containing materials, lead-based paint, polychlorinated biphenyls, petroleum or a petroleum product or waste oil. The term "Environmental Laws" shall include all Laws pertaining to health, industrial hygiene, Hazardous Materials or the environment, including, but not limited to, each of the following, as enacted as of the date hereof or as hereafter amended: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 *et seq.*; the Resource Conservation and Recovery Act of 1976, in the Solid Waste Disposal Act, 42 U.S.C. §6901 *et seq.*; the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.*; the Federal Water Pollution Control Act (containing the Clean Water Act), 33 U.S.C. §1251 *et seq.*; the Clean Air Act, 42 U.S.C. §7401 *et seq.*; the Hazardous Materials Transportation Act of 1994, 49 U.S.C. §5101 *et seq.*; and the Illinois Environmental Protection Act.

(b) Except to the extent expressly permitted by the terms of this Paragraph 26(b) in connection with the operation and maintenance of the Leased Premises as a gas station or convenience store with underground storage tanks containing petroleum products and the presence of other substances in commercially reasonable quantities as a consumer and in accordance with all Environmental Laws, and except as disclosed in the Environmental Reports, Tenant represents and warrants to Landlord that, (i) neither the Leased Premises, nor any portion thereof, has been used by Tenant or, to the best of Tenant's knowledge, by any prior owner for the generation, manufacture, storage, handling, transfer, treatment, recycling, transportation, processing, production, refinement or disposal of any Hazardous Materials (each, a "Regulated Activity"); and (ii) to the best of Tenant's knowledge, there are no Hazardous Materials present on, in or under the Leased Premises or any portion thereof. Tenant covenants that it (i) will comply, and will cause the Leased Premises to comply, with all Environmental Laws applicable to the Leased Premises, (ii) will not use, and shall prohibit the use of the Leased Premises for any Regulated Activity or for the storage, handling or disposal of

Hazardous Materials (other than in connection with the operation and maintenance of the Leased Premises as a gas station or convenience store with underground storage tanks containing petroleum products and the presence of other substances in commercially reasonable quantities as a consumer thereof, subject to compliance with applicable Environmental Laws), (iii) (A) will not install or permit the installation on the Leased Premises of any additional underground storage tanks (excluding the repair or replacement of existing underground storage tanks) or surface impoundments and shall not permit there to exist any petroleum contamination in soil, surface or groundwater originating on the Leased Premises in violation of any applicable Environmental Laws, and (B) with respect to any petroleum contamination on the Leased Premises which originates from a source off the Leased Premises, shall notify all responsible third parties and appropriate Governmental Authority (collectively, "Third Parties") and shall prosecute the cleanup of the Leased Premises by such Third Parties, including undertaking legal action, if necessary, to enforce the cleanup obligations of such Third Parties, and, to the extent not done so by such Third Parties and to the extent technically feasible and commercially practicable, Tenant shall remediate such petroleum contamination, (iv) shall cause any Alterations of the Leased Premises to be done in a way which complies with applicable Environmental Laws relating to the exposure of Persons working on or visiting the Leased Premises to Hazardous Materials and, in connection with any such Alterations, shall remove any Hazardous Materials present upon the Leased Premises which are not in compliance with applicable Environmental Laws or which present a danger to Persons working on or visiting the Leased Premises, (v) shall comply with and perform all of the obligations of the "Buyer" under the Environmental Matters, Remediation and Indemnification Addendum (the "Environmental Addendum") to the ConocoPhillips Contract and shall enforce the obligations of ConocoPhillips thereunder, and (vi) shall maintain and operate all underground storage tanks on the Leased Premises in accordance with the standards of a prudent owner and operator thereof (including the financial responsibility requirements of 40 CFR Part 280 subpart H, and standards and requirements promulgated by the United States Environmental Protection Agency and the Illinois State Fire Marshal pursuant to the obligations described in the Resource Conservation and Recovery Act and the Illinois Environmental Protection Act), shall maintain inventory and tank/line tightness records, and shall register all underground storage tanks at the Leased Premises and shall pay all taxes, fees and other amounts and file all reports necessary to enable the Leased Premises and all such tanks to be eligible for reimbursement of costs under the Illinois Underground Storage Tank Fund. Additionally, Landlord agrees that Tenant may use household and commercial cleaners and chemicals to maintain the Leased Premises, provided that such use is in compliance with all Environmental Laws. For the purposes of subdivisions (c) and (f) of this Paragraph 26, the term "Hazardous Materials" shall exclude the Hazardous Materials permitted in this paragraph so long as the use and storage of such Hazardous Materials is in accordance with the provisions and requirements of this Paragraph 26(b).

(c) If, at any time during the Term, Hazardous Materials shall be found in or on the Leased Premises at concentrations that may create liability for any Person under applicable Environmental Laws, then Tenant shall (at Tenant's sole expense), or shall

cause such responsible Third Parties to, promptly commence and diligently prosecute to completion all investigation, site monitoring, containment, cleanup, removal, restoration or other remedial work of any kind or nature (collectively, "Remedial Work") to the extent required by Environmental Laws, and in compliance with Environmental Laws, and at Tenant's sole cost; provided, that Landlord shall not be required to accept any institutional control (such as a deed restriction) that interferes with the Primary Use or the then current permitted use of the Leased Premises as a condition to any remedial plan approved by any Governmental Authority in connection with such Remedial Work.

(d) To the extent that Tenant has knowledge thereof, Tenant shall promptly provide notice to Landlord and any Lender of any of the following matters:

(i) any proceeding or investigation commenced or threatened by any Governmental Authority with respect to the presence of any Hazardous Material affecting the Leased Premises;

(ii) any proceeding or investigation commenced or threatened by any Governmental Authority, against Tenant or Landlord, with respect to the presence, suspected presence, release or threatened release of Hazardous Materials from any property owned by Landlord;

(iii) all written notices of any pending or threatened investigation or claims made or any lawsuit or other legal action or proceeding brought by any Person against (A) Tenant or Landlord or the Leased Premises, or (B) any other party occupying the Leased Premises or any portion thereof, in any such case relating to any loss or injury allegedly resulting from any Hazardous Material or relating to any violation or alleged violation of Environmental Laws;

(iv) the discovery of any occurrence or condition on the Leased Premises, or written notice received by Tenant of an occurrence or condition on any real property adjoining or in the vicinity of the Leased Premises, which reasonably could be expected to lead to the Leased Premises or any portion thereof being in violation of any Environmental Laws or subject to any restriction on ownership, occupancy, transferability or use of the Leased Premises under any Environmental Laws or which might subject Landlord or Lender to any Environmental Claim. "Environmental Claim" means any claim, action, investigation or written notice by any Person alleging potential liability (including potential liability for investigatory costs, cleanup costs, governmental response costs, natural resource damages, property damages, personal injuries or penalties) arising out of, based on or resulting from (A) the presence, or release into the environment, of any Hazardous Materials at the Leased Premises, or (B) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law; and

(v) the commencement and completion of any Remedial Work at or involving the Leased Premises.

(e) TENANT SHALL BE SOLELY RESPONSIBLE FOR AND SHALL DEFEND, REIMBURSE, INDEMNIFY AND HOLD LANDLORD AND LENDER HARMLESS FROM AND AGAINST ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, ASSESSMENTS, LOSSES, DAMAGES, LIABILITIES (INCLUDING, WITHOUT LIMITATION, GENERAL CORRECTIVE ACTION, CLEANUP AND STRICT LIABILITY IN TORT), INVESTIGATIONS, OR WRITTEN NOTICES INCLUDING COSTS AND EXPENSES OF ANY KIND (INCLUDING DIMINUTION IN PROPERTY VALUE AND REASONABLE EXPENSES OF INVESTIGATION BY ENGINEERS, ENVIRONMENTAL CONSULTANTS AND SIMILAR TECHNICAL PERSONNEL AND REASONABLE FEES AND DISBURSEMENTS OF COUNSEL), ARISING OUT OF, IN RESPECT OF OR IN CONNECTION WITH (I) TENANT'S BREACH OF ITS REPRESENTATIONS, WARRANTIES, COVENANTS OR OBLIGATIONS IN THIS LEASE, (II) THE OCCURRENCE OF ANY REGULATED ACTIVITY AT, ON OR UNDER THE LEASED PREMISES AT ANY TIME DURING OR PRIOR TO THE TERM OF THIS LEASE EXCEPT AS PERMITTED UNDER PARAGRAPH 26(b), (III) ANY ENVIRONMENTAL CLAIM WITH RESPECT TO THE LEASED PREMISES AGAINST ANY INDEMNIFIED PARTY OR ANY PERSON WHOSE LIABILITY FOR SUCH ENVIRONMENTAL CLAIM LANDLORD OR TENANT HAS OR MAY HAVE ASSUMED OR RETAINED EITHER CONTRACTUALLY OR BY OPERATION OF LAW (PROVIDED, THAT AFTER THE COMMENCEMENT DATE LANDLORD SHALL NOT CONTRACTUALLY ASSUME LIABILITY FOR AN ENVIRONMENTAL LIABILITY WHICH LANDLORD WOULD NOT OTHERWISE HAVE BY OPERATION OF LAW WITHOUT THE CONSENT OF TENANT), (IV) THE RELEASE, THREATENED RELEASE OR PRESENCE OF ANY HAZARDOUS MATERIALS AT, ON OR UNDER THE LEASED PREMISES, REGARDLESS OF HOW DISCOVERED BY TENANT, LANDLORD OR ANY THIRD PARTY, TO THE EXTENT THAT SUCH RELEASE, THREATENED RELEASE OR PRESENCE OCCURRED PRIOR TO OR DURING THE TERM OF THIS LEASE, (V) ANY REMEDIAL OR REMOVAL WORK REQUIRED TO BE PERFORMED AT THE LEASED PREMISES PURSUANT TO ANY ENVIRONMENTAL LAW OR THE TERMS HEREOF WITH RESPECT TO MATTERS ARISING OR OCCURRING PRIOR TO OR DURING THE TERM, OR (VI) ANY MATTERS ARISING UNDER OR RELATING TO ANY ENVIRONMENTAL LAW AND CAUSED BY THE TENANT OR RELATING TO THE LEASED PREMISES.

(f) Upon Landlord's request, at any time after the occurrence and during the continuation of an Event of Default hereunder or at such other time as Landlord has reasonable grounds to believe that Hazardous Materials (except to the extent those substances are permitted to be stored and used by Tenant under Paragraph 26(b) in the ordinary course of its business and in compliance with all Environmental Laws) are or have been released, stored or disposed of on or around the Leased Premises or that the Leased Premises may be in violation of any Environmental Law, Tenant shall provide, at

Tenant's sole cost and expense, an inspection or audit of the Leased Premises prepared by a hydrogeologist or environmental engineer or other appropriate consultant approved by Landlord and Lender indicating the presence or absence of the reasonably suspected Hazardous Materials on the Leased Premises or an inspection or audit of the Leased Premises prepared by an engineering or consulting firm approved by Landlord and Lender indicating the presence or absence of friable asbestos or substances containing asbestos on the Leased Premises. If Tenant fails to provide such inspection or audit within thirty (30) days after such request, Landlord may order the same, and Tenant hereby grants to Landlord and Lender and their respective employees and agents access to the Leased Premises upon reasonable notice and a license to undertake such inspection or audit. The cost of such inspection or audit, together with interest thereon at the Default Rate from the date incurred by Landlord until actually paid by Tenant, shall be immediately paid by Tenant on demand.

(g) Without limiting the foregoing, where recommended by the Environmental Reports delivered to Landlord in connection with its purchase of the Leased Premises and/or any other "Phase I" or "Phase II" assessment and where the particular conditions on the Leased Premises which formed the basis for such recommendation still exist, Tenant shall establish and comply with a remedial plan or an operations and maintenance program relative to the Leased Premises, in form and substance acceptable to Landlord and Lender, prepared by an environmental consultant reasonably acceptable to Landlord and Lender, which program shall address any Hazardous Materials (including asbestos containing material or lead based paint) that may now or in the future be detected on the Leased Premises. Without limiting the generality of the preceding sentence, Landlord may require (i) periodic notices or reports to Landlord and Lender in form, substance and at such intervals as Landlord may specify to address matters raised in the Environmental Reports and/or a "Phase I" or "Phase II" assessment, (ii) an amendment to such remedial plan or operations and maintenance program to address changing circumstances, Environmental Laws or other matters, (iii) at Tenant's sole cost and expense, supplemental examination of the Leased Premises by consultants reasonably acceptable to Landlord and Lender to address matters raised in the Environmental Reports delivered to Landlord in connection with its purchase of the Leased Premises and/or a "Phase I" or "Phase II" assessment (provided, however, that Landlord or Lender has reasonable grounds to believe such supplemental examination is warranted), (iv) access to the Leased Premises upon reasonable notice, by Landlord or Lender, and their respective agents or servicer, to review and assess the environmental condition of the Leased Premises and Tenant's compliance with any remedial plan or operations and maintenance program, and (v) variation of the remedial plan or operation and maintenance program in response to the reports provided by any such consultants. Additionally, Tenant shall provide for and permit such access to the Leased Premises (at no cost to Landlord) by ConocoPhillips and/or its employees, agents, and/or contractors, as any of them may reasonably require and for such time as is reasonably required, for any of them to meet all of their respective environmental obligations as contemplated by the ConocoPhillips Contract (including the Environmental Addendum to the ConocoPhillips Contract). The terms and conditions of such access for any of them shall be as described for "Seller" in the ConocoPhillips

Contract, and the obligations of Tenant with respect thereto shall be as described for "Buyer" in the ConocoPhillips Contract.

(h) The representations, warranties and obligations of Tenant, and the rights and remedies of Landlord, Lender and each other indemnified Person under this Paragraph 26, are in addition to and not in limitation of any other representations, warranties, obligations, rights and remedies provided in this Lease or otherwise available at Law or in equity. Except as hereinafter provided, the indemnity and other obligations of the Tenant and the rights and remedies of the Landlord, Lender and any other Person under this Paragraph 26 shall survive the termination of this Lease. Notwithstanding the immediately preceding sentence, if, on or prior to the last day of the Term of this Lease Tenant delivers to Landlord a Phase II Baseline Site Assessment Report of the Leased Premises prepared within ninety (90) days prior to the last day of the Term of this Lease which shows no contamination of the Leased Premises which would require any remediation, clean-up or mitigation under any applicable Environmental Law with respect to the Leased Premises, then the obligation of Tenant to indemnify Landlord, Lender and any other Persons under Section 26(e) hereof (except for the obligation to indemnify Landlord, Lender and such other Persons with respect to any demands, claims, actions, causes of action and suits brought by any Governmental Authority or any third party, which indemnity shall survive in perpetuity), shall survive and be limited to matters arising on or prior to the date which is two (2) years after the last day of the Term of this Lease.

(i) Tenant agrees as follows with respect to the Environmental Addendum to the ConocoPhillips Contract:

(i) Tenant will immediately deliver to Landlord copies of any and all notices or correspondence received from or sent to ConocoPhillips or its successors and assigns under the Environmental Addendum;

(ii) neither Tenant nor Guarantor will agree to transfer the responsibility for the Remediation of Covered Contamination (as such terms are defined in such Environmental Addendum) from ConocoPhillips to Guarantor as contemplated by Section 7 of such Environmental Addendum without the prior written consent of Landlord (which shall not be unreasonably withheld);

(iii) in the event any amount is payable with respect to any Remediation costs as contemplated by Section 4(c)(ii), Section 6(j) or Section 7 of such Environmental Addendum, if such payment is in excess of Twenty-Five Thousand Dollars (\$25,000.00) such payment shall be paid to a Trustee and disbursed only after the Remediation work for which such payment is made has been completed, and such funds shall be disbursed as such work is completed as contemplated by and subject to and in accordance with the provisions of Paragraph 15 of this Lease, as fully as if such funds were the "Restoration Fund" and as if such Remediation were the "Restoration" contemplated under such Paragraph 15. As a condition to the disbursement of any such funds, Landlord may require

certifications of qualified environmental consultants as to the stages of completion of such Remediation work; and

(iv) the Environmental Addendum to the ConocoPhillips Contract shall not be amended or terminated without the prior written consent of Landlord (which consent shall not be unreasonably withheld with respect to an amendment which does not materially affect ConocoPhillips' obligations with respect to the Leased Premises thereunder).

27. Entry by Landlord. Landlord and its authorized representatives shall have the right upon reasonable notice (which shall be not less than two (2) business days except in the case of emergency or as otherwise provided herein) to enter the Leased Premises at all reasonable business hours (and at all other times in the event of an emergency): (a) for the purpose of inspecting the same or for the purpose of doing any work under Paragraph 11(c), and may take all such action thereon as may be necessary or appropriate for any such purpose (but nothing contained in this Lease or otherwise shall create or imply any duty upon the part of Landlord to make any such inspection or do any such work), provided, that Tenant may have a representative present at any such inspection or during the performance of any such work, and (b) upon twenty-four (24) hours prior notice (which may be verbal notice), for the purpose of showing the Leased Premises to prospective purchasers and mortgagees and, at any time within twelve (12) months prior to the expiration of the Term of this Lease for the purpose of showing the same to prospective tenants. Further, during the three (3) month period preceding the date on which the then current Term of this Lease shall expire, Landlord may place signs in reasonable locations on the Leased Premises advertising that the same will be available for rent or purchase. No such entry shall constitute an eviction of Tenant but any such entry shall be done by Landlord in such reasonable manner as to minimize any disruption of Tenant's business operations at the Leased Premises.

28. Financial Statements; Certificates. Tenant will cause to be delivered to Landlord and Landlord's Lender the following financial statements of Tenant at the following times:

(a) for any period that Tenant is a subject to the reporting requirements of Section 13 of the Securities Exchange Act of 1934 (as amended), as soon as practicable, copies of all regular, current or periodic reports (including reports on Form 10-K, Form 8-K and Form 10-Q) which Tenant is or may be required to file with the Securities and Exchange Commission or any Governmental Authority succeeding to the functions of the Securities and Exchange Commission;

(b) if Tenant shall not be a company subject to the reporting requirements of Section 13 of the Securities Exchange Act of 1934 (as amended), then within one hundred twenty (120) days after the end of each fiscal year, a consolidated statement of earnings, and a consolidated statement of changes in financial position, a consolidated statement of stockholders' equity, and a consolidated balance sheet of such entity as of the end of each such year, setting forth in each case in comparative form the corresponding consolidated figures from the preceding fiscal year, as appropriate, all in reasonable detail and prepared in accordance with generally accepted accounting

principles consistently applied (subject to the absence of footnotes), and certified by the Chief Financial Officer of Tenant as being true, correct and complete;

(c) within sixty (60) days of the end of each calendar quarter, a quarterly operating statement for Tenant's operations at the Leased Premises, detailing revenue, expenses and cash flow, such statement to be certified as true, correct and complete by Tenant's Chief Financial Officer; and

(d) within sixty (60) days of the end of each calendar year, an annual operating statement for Tenant's operations at the Leased Premises, detailing revenue, expenses, cash flow, debt service, and capital improvement made to the Leased Premises, together with a projection of such capital improvements for the next calendar year, such statement to be certified as true, correct and complete by Tenant's Chief Financial Officer.

Concurrently with the delivery of annual financial statements pursuant hereto, Tenant will cause to be delivered to Landlord and Lender a certificate by an Executive Officer of Tenant that to the best of such officer's knowledge based on reasonable inquiry, there exists no default or Event of Default under this Lease or if any such default or Event of Default exists, specifying the nature thereof, the period of existence thereof and what action Tenant proposes to take with respect thereto. In addition, Tenant agrees upon prior written request to have Tenant's officers meet with Landlord and Landlord's Lender during normal business hours at mutually convenient times and locations, from time to time, to discuss this Lease and such information about Tenant's business and financial condition as may be reasonably requested by Landlord.

29. No Usury. The intention of the parties being to conform strictly to the applicable usury laws, whenever any provision herein provides for payment by Tenant to Landlord of interest at a rate in excess of the highest legal rate permitted to be charged, such rate herein provided to be paid shall be deemed reduced to such highest legal rate.

30. Separability. Each and every covenant and agreement contained in this Lease is, and shall be construed to be, a separate and independent covenant and agreement, and the breach of any such covenant or agreement by Landlord shall not discharge or relieve Tenant from its obligation to perform the same. If any term or provision of this Lease or the application thereof to any Person or circumstances shall to any extent be invalid and unenforceable, the remainder of this Lease, or the application of such term or provision to Person or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and shall be enforced to the greatest extent permitted by law.

31. Miscellaneous.

(a) The paragraph headings in this Lease are used only for convenience in finding the subject matters and are not part of this Lease or to be used in determining the intent of the parties or otherwise interpreting this Lease.

(b) As used in this Lease the singular shall include the plural as the context requires and the following words and phrases shall have the following meanings: (i) "including" shall mean "including but not limited to"; (ii) "provisions" shall mean "provisions, terms, agreements, covenants and/or conditions"; (iii) "lien" shall mean "lien, charge, encumbrance, title retention agreement, pledge, security interest, mortgage and/or deed of trust"; and (iv) "obligation" shall mean "obligation, duty, agreement, liability, covenant or condition".

(c) Any act which Landlord is permitted to perform under this Lease may be performed at any time and from time to time by Landlord or any Person or entity designated by Landlord. Any act which Tenant is required to perform under this Lease shall be performed at Tenant's sole cost and expense.

(d) This Lease may be modified, amended, discharged or waived only by an agreement in writing signed by the party against whom enforcement of any such modification, amendment, discharge or waiver is sought.

(e) The covenants of this Lease shall run with the Land and bind and inure to the benefit of Tenant, the successors and assigns of Tenant and all present and subsequent encumbrancers and subtenants of any of the Leased Premises, and shall inure to the benefit of and bind Landlord, its successors and assigns.

(f) This Lease will be simultaneously executed in several counterparts, each of which when so executed and delivered shall constitute an original, fully enforceable counterpart for all purposes.

(g) This Lease shall be governed by and construed according to the Laws of the State in which the Leased Premises is located.

(h) Nothing contained herein shall be deemed to limit Landlord's right to sell, assign or otherwise transfer the Leased Premises and this Lease, and Landlord may effect any such sale, assignment or transfer without the consent of Tenant.

(i) All references to "business days" contained herein are references to normal working business days, *i.e.*, Monday through Friday of each calendar week, exclusive of federal and national bank holidays. Except as otherwise expressly provided herein, in the event that any event hereunder is to occur, or a time period is to expire, on a date which is not a business day, such event shall occur or such time period shall expire on the next succeeding business day.

(j) No provision of this Lease shall be construed in favor of, or against, any particular party by reason of any presumption with respect to the drafting of this Lease; both parties, being represented by counsel and having fully participated in the negotiation of this instrument, hereby agree that this Lease shall not be subject to the principle that a contract would be construed against the party which drafted the same.

(k) Time is of the essence with respect to all matters under this Lease.

(l) When the context in which words are used in this Lease indicates that such is the intent, words in the singular number shall include the plural and vice versa, and words in the masculine gender shall include the feminine and neuter genders and vice versa. Further, references to "Person" or "Persons" in this Lease shall mean and include any natural Person and any corporation, partnership, joint venture, limited liability company, trust or other entity whatsoever.

(m) **LANDLORD AND TENANT HEREBY WAIVE TRIAL BY JURY IN ANY LITIGATION BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE OR THE LEASED PREMISES.**

32. Tenant Representations. In order to induce Landlord to enter into this Lease, Tenant hereby represents and warrants to Landlord that the following are true and correct as of the Commencement Date:

(a) Tenant has been duly organized and is validly existing as a corporation under the laws of the State of Missouri. Tenant has the full right and authority to enter into this Lease and to consummate or cause to be consummated the transaction contemplated by this Lease. Upon execution of this Lease, this Lease will be valid and subsisting and in full force and effect. This Lease and any SNDA have been duly authorized, executed and delivered by Tenant. The execution and delivery of this Lease and any SNDA does not violate or breach any of the terms of any other agreement of Tenant, its organizational documents or any court decree to which Tenant is subject. No authorization, consent or approval of any governmental authority is required for execution, delivery and performance by it of this Lease or, if such authorization is required, Tenant has obtained such authorization.

(b) To the best of Tenant's knowledge, no Condemnation or eminent domain proceedings have commenced against the Leased Premises, nor has Tenant received notice of any Condemnation or eminent domain proceedings and to the best of Tenant's knowledge, no such Condemnation or eminent domain proceedings are threatened against the Leased Premises, and no actions are pending or, to the best of Tenant's knowledge, threatened for the relocation of roadways providing access to the Leased Premises.

(c) Tenant is the sole occupant of the Leased Premises and there are no other adverse or other parties in possession of the Leased Premises or any part thereof, and except for this Lease there are no leases, licenses or other occupancy agreements demising space at or otherwise encumbering the Leased Premises.

(d) To the best of Tenant's knowledge, there are no equipment leases, contracts, service agreements, maintenance contracts or similar agreements affecting the Leased Premises or to which Tenant is a party or by which it is bound that are binding

upon Landlord or that give rise to or result in the creation or imposition of any lien, charge or encumbrance affecting the Leased Premises.

(e) Tenant has delivered to Landlord a true and correct copy of the Environmental Reports with respect to the Leased Premises. To Tenant's knowledge and except as disclosed by the Environmental Reports, (i) the Leased Premises is not in violation of any Environmental Law, (ii) the Leased Premises is free of any Hazardous Materials in violation of any Environmental Law and no Hazardous Substances have been handled, generated, stored, processed, disposed of on or released or discharged from the Leased Premises (including underground contamination), the removal of which (in either case) from the Leased Premises is required or the existence or maintenance of which on the Leased Premises is prohibited by any Environmental Law, (iii) there is no asbestos on the Leased Premises, (iv) there are no existing or closed underground storage tanks or other underground storage receptacles located on the Leased Premises other than as expressly permitted in Paragraph 26(b) in connection with the operation and maintenance of the Leased Premises as a gas station or convenience store with underground storage tanks containing petroleum products, (v) the Leased Premises is not subject to any government or private lien or judicial or administrative proceeding, notice or action relating to Hazardous Materials, (vi) Tenant has received no notice of and there exists no investigation, action, proceeding or claim by any agency, authority, or unit of government or by any third party which could result in any liability, penalty, sanction, or judgment under any Environmental Law with respect to any condition, use or operation of the Leased Premises nor does Tenant know of any basis for such a claim, and (vii) Tenant has received no notice that, and to the best of Tenant's knowledge, there has been no claim by any party that any use, operation or condition of the Leased Premises violates any Environmental Law. Tenant does not now, nor has it or any of its Affiliates ever (A) manufactured, treated, released or disposed of any Hazardous Materials on or from the Leased Premises (except as permitted in Paragraph 26(b) hereof in connection with Tenant's business operations at the Leased Premises and in accordance with all Environmental Laws), and to the best of Tenant's knowledge, the Leased Premises was never used for such purpose, or (B) dumped, landfilled or in any other way disposed of any solid waste, garbage or refuse on the Leased Premises, and to the best of Tenant's knowledge, the Leased Premises was never used for such purpose.

(f) Tenant has made no prior assignment of this Lease which is currently effective or of any portion of the income due and payable or to become due and payable with regard to the Leased Premises.

(g) To Tenant's knowledge there is no action, suit, arbitration, unsatisfied order or judgment, government investigation or proceeding pending or threatened against Tenant with respect to all or any portion of the Leased Premises or which, if adversely determined, could individually or in the aggregate materially interfere with the Tenant's performance of its obligations under this Lease or have a material adverse effect on the business or operations of Tenant.

(h) Tenant has not received any notices of violation from any municipal authority or any other party (including notices of violations or claims of violations of Environmental Laws) with respect to the Leased Premises which remain uncured.

(i) To the best of Tenant's knowledge, sewer, water, gas, telephone, electric lines and drainage facilities (i) are adequate to presently service the Leased Premises, and (ii) are installed to the property lines of the Leased Premises and connected to the Leased Premises with valid permits to the extent required so as to permit full compliance with all existing requirements of Law and usage of the Leased Premises for its current and proposed use. Further, to the best of Tenant's knowledge, the Leased Premises has adequate rights of access to public ways (and the Leased Premises makes no material use of any means of access, ingress or egress that is not pursuant to dedicated public ways or recorded, irrevocable rights-of-way or easements), and all roads necessary for full utilization of the Leased Premises for its current purpose have been completed and Tenant has no knowledge that such roads have not been dedicated to public use and accepted by all governmental authorities.

(j) To the best of the Tenant's knowledge and subject to the Permitted Encumbrances, (i) there are no public plans or proposals for changes in road grade, access or other improvements which would materially affect the Leased Premises or result in any general or specific assessment against it which will not be paid by Tenant, (ii) there is no pending ordinance or other action authorizing improvements, the cost of which might be assessed in whole or in part against Purchaser or the Leased Premises which will not be paid by Tenant, (iii) the Leased Premises is in good condition, free of any material damage or waste and is free of structural defects and all building systems contained therein are in good working order subject to ordinary wear and tear, and (iv) the Leased Premises and the operation of the Leased Premises, or any part thereof, is in compliance with all applicable Laws (including the Americans with Disabilities Act of 1990, as amended), zoning ordinances, rules, covenants and restrictions affecting the construction, occupancy, use and operation of the Leased Premises and all permits, inspections, approvals, licenses, easements, rights-of-way, franchises and certificates required by law, regulation, insurance standards or otherwise to be made or issued with respect to the use and occupancy of the Leased Premises, have been made or obtained from the appropriate authorities and are valid and in full force and effect and the Leased Premises is lawfully occupied under and is in compliance with all applicable Laws. Tenant has received no notice from any insurer of any deficiencies at the Leased Premises or that any policy of insurance will be canceled by reason of a condition at the Leased Premises, nor notice from any governmental or quasi-governmental agency requiring correction of any condition with respect to the Leased Premises.

(k) To the best of Tenant's knowledge, the Improvements located on the Leased Premises are structurally sound, in good condition, free of any material damage or waste and are free of structural defects, and all building systems are in good working order and condition. To the best of Tenant's knowledge, the Improvements have been substantially completed and installed in accordance with the plans and specifications approved by the governmental authorities having jurisdiction over the Leased Premises,

to the extent applicable, and permanent Certificates of Occupancy (or their equivalents) have been issued for all the Improvements.

(l) To the best of Tenant's knowledge, the Improvements located on the Leased Premises and all of Tenant's current and contemplated operations conducted or to be conducted on or from the Leased Premises are not in violation of any terms or conditions of any of the covenants, conditions, restrictions or other matters affecting title to the Leased Premises.

(m) This Lease and all other agreements and instruments signed or to be signed by Tenant related hereto, are each a legal, valid and binding obligation of Tenant, enforceable against Tenant in accordance with the terms thereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors, mortgagees' or Landlord's rights in general.

(n) No bankruptcy, reorganization, arrangement or insolvency proceedings are pending, threatened or contemplated by Tenant. Tenant has not made a general assignment for the benefit of creditors and Tenant is able to pay its debts as they become due.

(o) Tenant is not the subject of any pending criminal proceeding.

(p) All tax returns and reports of Tenant required by Law to be filed have been duly filed, and all Taxes of any Governmental Authority upon Tenant and upon the assets or income of Tenant, which are due and payable and are not being contested by Tenant by appropriate legal proceedings, have been paid. All Impositions of any Governmental Authority upon the Leased Premises which are due and payable have been paid.

(q) Tenant does not have knowledge of any septic system or other individual sewer system on the Leased Premises.

(r) To Tenant's knowledge, all curb cuts, driveways and traffic signals shown on the survey delivered to Landlord before the execution and delivery of this Lease are existing and have been fully approved by the appropriate Governmental Authorities.

(s) The Leased Premises are free from unrepaired damage caused by any casualty.

(t) Tenant is not a party to any agreement or instrument or subject to any restriction which might materially adversely affect the Leased Premises or Tenant's business, operations, financial condition or creditworthiness, and Tenant is not in default in the performance, observance or fulfillment of any of the material obligations, covenants or conditions contained in any agreement or instrument (i) to which Tenant is a party or by which the Tenant is bound, or (ii) to which the Leased Premises are subject or bound.

(u) There is no fact of which Tenant has knowledge which has not been disclosed to Landlord which materially and adversely affects or, so far as Tenant reasonably foresees, would materially and adversely affect the Leased Premises or the business, properties, assets, operations or condition, financial or otherwise, of Tenant.

(v) The ConocoPhillips Supply Agreement is in full force and effect and has not been amended or modified from the form delivered to Landlord prior to the Effective Date. The Leased Premises are a "branded" Retail Unit under and pursuant to the terms of ConocoPhillips Supply Agreement.

33. Tenant's Rights of First Offer.

(a) If Landlord desires to sell the Leased Premises other than in an Excluded Transaction (as hereinafter defined), it shall first, before entering into any binding Contract of Sale with respect thereto, deliver to Tenant a written offer (the "Offer") setting forth the price for which Landlord proposes to sell the Leased Premises and offering to sell the Leased Premises to Tenant for cash at the same price. Tenant shall have ten (10) business days after Landlord's delivery of the Offer in which to accept the Offer by delivery of written notice of such acceptance to Landlord. If Tenant does not give Landlord written notice accepting the Offer within such ten (10) business day period, Landlord may at any time within the twelve (12) month period after the expiration of such ten (10) business day period, sell the Leased Premises to any Person without reoffering the interest to Tenant, provided that the terms and conditions of such sale shall not be "Materially More Favorable" (as defined in Paragraph 33(b)) to the transferee than those set forth in the Offer. If Landlord does not enter into a sale before the expiration of the aforesaid twelve (12) month period, but Landlord desires to enter into a sale of the Leased Premises thereafter, Landlord shall again deliver to Tenant an Offer in accordance with this Paragraph 33(a) (but offering the Leased Premises to Tenant on the same terms as will be offered to a third party), and Tenant shall have the right to accept such Offer pursuant to this Paragraph 33(a) for another period of ten (10) business days after receipt of such Offer.

(b) If Landlord proposes to enter into a sale of the Leased Premises at any time within the twelve (12) month period after delivery of the Offer on terms and conditions Materially More Favorable to the proposed transferee than those contained in the Offer, Landlord shall again deliver to Tenant an Offer in accordance with Paragraph 33(a), offering the Leased Premises to Tenant on the More Favorable Terms, and Tenant shall have a right of first refusal for ten (10) business days after receipt of the better Offer to accept such Offer. For purposes of this Paragraph 33(a), the terms and conditions shall be "Materially More Favorable" if the sale price is less than ninety percent (90%) of the sales price of the original Offer made by Landlord to Tenant.

(c) If Tenant accepts an Offer, Tenant and Landlord shall execute and deliver a purchase and sale contract to purchase the Leased Premises for cash for the sale price set forth in the Offer, and otherwise on terms acceptable to Landlord, together with such other appropriate documentation as may be necessary to effect the sale of the Leased

Premises to Tenant, within ten (10) days after Tenant's written notice of acceptance of the Offer. The purchase and sale contract shall provide that the Leased Premises shall be sold by Landlord to Tenant without any representations and warranties whatsoever and shall be conveyed "AS IS, WHERE IS AND WITH ALL FAULTS", that closing costs will be apportioned in accordance with the normal practice in the county in which the Leased Premises are located, that Basic Rent under this Lease will be prorated through the closing date, and that the sale of the Leased Premises shall close within thirty (30) days after Tenant's written notice of acceptance of the Offer. If Tenant fails to execute and deliver such a purchase and sale contract within such ten (10) day period, then Tenant shall be deemed to have rejected the Offer, and Landlord may sell the Leased Premises to a third party as contemplated in Paragraph 33(a) above. The sale to Tenant shall be consummated by Tenant's payment of the required consideration and Landlord's delivery to Tenant of such documentation as is consistent with the Offer, which shall consist of a special warranty deed in recordable form, conveying to Tenant all of Landlord's right, title and interest in the Leased Premises free and clear of any and all liens except for Permitted Encumbrances, liens or encumbrances created or suffered by Tenant or arising by reason of the failure of Tenant to have observed and performed any term, covenant or agreement in this Lease to be observed or performed by Tenant, and the lien of any Impositions then affecting the Leased Premises.

(d) The Landlord may sell or convey all or any portion of the Leased Premises in an Excluded Transaction without being required to comply with the provisions of this Paragraph 33. As used herein, the term "Excluded Transaction" shall mean any sale or conveyance of the Leased Premises (i) to an Affiliate of the Landlord; (ii) to any Lender pursuant to foreclosure, deed in lieu of foreclosure or any other payment or settlement of any indebtedness secured by a Mortgage; or (iii) occurring during the period on or prior to the first (1st) anniversary of the Effective Date of this Lease.

(e) The rights granted to Tenant under this Paragraph 33 shall not survive the expiration or termination of this Lease.

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IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed as of the day and year first above written.

LANDLORD:

CRICGASMART LLC,
a Delaware limited liability company

By: Marjorie Palace
Its: Authorized Person

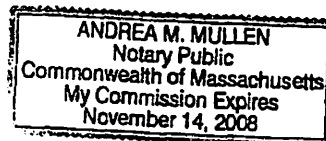
STATE OF MA §
COUNTY OF Suffolk §
§

This instrument was acknowledged before me on this 9th day of February, 2004, by Marjorie Palace, Authorized Person of CRICGASMART LLC, a Delaware limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said company.

Andrea M. Mullen
Notary Public, State of MA

My Commission Expires:
11-14-2008

Andrea M. Mullen
Printed Name of Notary Public



IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed as of the day and year first above written.

TENANT:

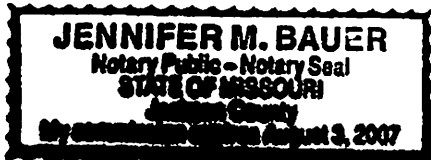
FUEL SERVICE MART, INC.,
a Missouri corporation

By: [Signature]
Its: President

STATE OF Missouri

COUNTY OF Jackson

This instrument was acknowledged before me on this 3 day of February, 2004, by David S. George, President of FUEL SERVICE MART, INC., a Missouri corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.



My Commission Expires:

August 3, 2007

[Signature]
Notary Public, State of Missouri

Jennifer M. Bauer
Printed Name of Notary Public

Sugar Grove, IL
Site No. 2706182

Schedule 2.1

Phase I Environmental Site Assessment

Phillips 66 Gasoline Station
Route 47 and Galena Road
Sugar Grove, IL 60554
Site No. 2706182

Prepared by:
Kingston Environmental Services
File Number 03-4187
December 2, 2003

Focused Phase II Baseline Site Assessment Report

Phillips 66 Gasoline Station
Route 47 and Galena Road
Sugar Grove, IL 60554
Site No. 2706182

Prepared by:
Handex of Illinois, Inc.
November 14, 2003

Sugar Grove, IL
Site No. 2706182

SCHEDULE 2.2

1. GENERAL TAXES FOR THE YEAR(S) 2003 AND SUBSEQUENT YEARS.
2. GRANT RECORDED SEPTEMBER 2, 1960 AS DOCUMENT NUMBER 928401 MADE BY WALTER J. AND ALMA L. THEIS TO THE ILLINOIS BELL TELEPHONE COMPANY FOR UTILITY PURPOSES AFFECTING THE NORTH 5 FEET OF THE SOUTH 109.08 FEET OF THE EAST 310.30 FEET OF THE WEST 669.30 FEET OF THE NORTHEAST 1/4 SECTION 16 AND THE EAST 5 FEET OF THE WEST 673.20 FEET OF THE SOUTH 104 FEET OF THE NORTHEAST 1/4 OF SECTION 16 AND THE EAST 5 FEET OF THE WEST 673.20 FEET OF THE NORTH 199.91 FEET OF THE SOUTHEAST 1/4 OF SECTION 16.
3. GRANT OF EASEMENT TO THE ILLINOIS BELL TELEPHONE COMPANY RECORDED JULY 20, 1970 AS DOCUMENT 1168849 AND 1168850 UPON, UNDER, AND ACROSS THE NORTH 1/2 OF THE HIGHWAY KNOWN AS AURORA-GALENA ROAD.
4. MEMORANDUM OF PUBLIC IMPROVEMENT AND RECAPTURE AGREEMENT RECORDED AUGUST 14, 1997 AS DOCUMENT 97K054021.
5. NOTATION ON THE PLAT OF SUBDIVISION RECORDED FEBRUARY 17, 1999 AS DOCUMENT 1999K017787: "A CROSS ACCESS EASEMENT IS HEREBY GRANTED TO THE OWNERS OF LOTS 1 AND 2 THEIR SUCCESSORS AND ASSIGNS, OVER THAT PORTION OF LOTS 1 AND 2 LYING BETWEEN THE RIGHT OF WAY LINES AND THE BUILDING SETBACK LINE, AS SHOWN HEREON FOR THE RIGHT TO ATTACH AN INTERNAL DRIVEWAY FOR THE PURPOSE OF INGRESS AND EGRESS TO THE ADJACENT DRIVEWAYS, PARKING LOTS AND HIGHWAY ACCESS."
6. PUBLIC UTILITIES AND DRAINAGE EASEMENTS SHOWN ON THE PLAT OF SUBDIVISION RECORDED FEBRUARY 17, 1999 AS DOCUMENT 1999K017787, GRANTED TO THE VILLAGE OF SUGAR GROVE, THE ILLINOIS BELL TELEPHONE COMPANY, NORTHERN ILLINOIS GAS COMPANY, THE COMMONWEALTH EDISON COMPANY, TRIAX CABLEVISION, AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, OVER THE WEST 10 FEET AND EAST 5 FEET AND THE NORTH, AND SOUTH 10 FEET OF THE LAND.
7. COVENANTS AND RESTRICTIONS RELATING TO PERPETUAL CROSS EASEMENT, AS SHOWN ON PLAT OF SUBDIVISION, RESERVATION OF AN EASEMENT TO ACCESS, REPLACE, REPAIR, OPERATE, INSTALL, INSPECT, CONSTRUCT, MAINTAIN AND UTILIZE THE WATER WELL AND SEPTIC FIELD IN AN 80 X 110 FOOT SECTION OF THE NORTHWEST CORNER OF THE PROPERTY AND THAT FOR A PERIOD OF 20 YEARS FROM DATE OF DEED OR UNTIL GRANTOR CEASES TO UTILIZE LOT 1 FOR SALE OF GASOLINE AND A CONVENIENCE STORE, THAT GRANTEE, ITS SUCCESSORS AND/OR ASSIGNS

WILL NOT USE THE LAND FOR SAME, CONTAINED IN THE DEED RECORDED MARCH 1, 1999 AS DOCUMENT NO. 1999K021512.

8. 25 FOOT BUILDING SETBACK LINE ALONG THE WEST AND SOUTHERLY PROPERTY LINES.
9. EASEMENT FOR THE PURPOSE OF INSTALLING, OPERATING AND MAINTAINING ALL EQUIPMENT NECESSARY FOR THE PURPOSE OF SERVING THE SUBDIVISION AND OTHER PROPERTY WITH TELEPHONE AND ELECTRIC SERVICE AND ALSO WITH RIGHT OF ACCESS THERETO AS GRANTED TO THE ILLINOIS BELL TELEPHONE COMPANY AND THE COMMONWEALTH EDISON COMPANY AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, AS SHOWN ON THE PLAT OF SUBDIVISION RECORDED AS DOCUMENT NUMBER 1999K017787.
10. ACCESS AGREEMENT BY AND BETWEEN CRICGASMART LLC AND CONOCOPHILLIPS COMPANY, DATED AS OF _____, 2004, RECORDED _____, 2004, AS DOCUMENT NO. _____.

Location: Sugar Grove, IL
Site No. 2706182

SCHEDULE 2.3**LANDLORD PROPERTY ON LEASED PREMISES**

Petroleum and Other Site Equipment	
<u>All Units of the following types of Equipment</u>	<u>Estimated Number of Units</u>
Elec. Dispenser-6 Hose MPD w/ Card Reader	6 each
Diesel Dispenser-High Vol.-Dual Hose Master	1 each
Diesel Dispenser – Single Hose Satellite	2 each
USTs existing on the Property as of the effective date of the Lease	4
Underground Piping and Wiring	
Overfill Containment, Spill Protection, etc.	1 each
Tank Monitor	1 each
Vapor Recovery	1 each
Additional Installation	1 each
Submersible Pumps	4 each
Control Console and Cash Register	3 each
Yard Lights	8 each
Yard Lights	1 each
ID Sign	2 each
Coin-Operated Air Station	1 each
Auto Vacuums	1 each
Misc. Petro & Sit Equipment	1 package

C-Store & QSR Equipment	
<u>Item</u>	<u>Units</u>
Walk-in cooler, single- and double-sided gondolas, hot dog merchandiser, drink dispenser, coffee system, 2 ice merchandisers, safe, security system, refrigerator, microwave, 40' counter, and misc. sales and merchandising equipment	1 package

Car Wash Equipment	
<u>Item</u>	<u>Units</u>
Brush Type – Roll Over – With Blower	1

SCHEDULE 4

CERTIFICATE AND AGREEMENT
REGARDING
MATTERS OF RECORD

This Certificate and Agreement Regarding Matters of Record (this "Certificate") is delivered by _____, a _____ corporation ("Tenant"), pursuant to Paragraph 4(d) of that certain Lease Agreement dated as of _____, 2004, by and between _____, as Landlord (herein so called), and Tenant (the "Lease").

Tenant has prepared or had prepared a [description of instrument], a copy of which is attached hereto (the "Instrument"), to be filed of record with respect to the Leased Premises (as defined in the Lease) and has requested, and does hereby request, that Landlord and Lender (as defined in the Lease) consent to, execute, acknowledge and deliver the Instrument which will be filed of record by Tenant, and that Lender subordinate its Mortgage (as defined in the Lease) and other loan documents to the Instrument or, in connection with any Dedications (as defined in the Lease), that Lender release its Mortgage with respect to the portion of the Leased Premises that is the subject of such Dedication. In order to induce Landlord and Lender to take such actions, and with the understanding that Landlord and Lender will rely on the matters set forth herein, Tenant does hereby represent, warrant and certify to, and agree with for the benefit of Landlord and Lender as follows:

1. Tenant hereby consents to the Instrument, and agrees that the Instrument shall constitute a Permitted Encumbrance as defined in the Lease.
2. Tenant hereby represents, warrants and certifies to Landlord and Lender that:
 - (a) A true, correct and complete copy of the Instrument is attached to this Certificate;
 - (b) The Instrument is not detrimental in any material respect to the proper conduct of Tenant's business on the Leased Premises;
 - (c) The Instrument does not adversely affect the value of the Leased Premises (or does not reduce the fair market value of the Leased Premises by an amount greater than the amount of the consideration being paid to Landlord for such Instrument), or adversely affect the useful life of the Leased Premises, or unreasonably render the use of the Leased Premises dependent upon any other property or unreasonably condition the use of the Leased Premises upon the use of any other property;

- (d) The Instrument does not materially impair Tenant's use or operation of the Leased Premises;
 - (e) The consideration, if any, being paid for such Instrument is _____ Dollars (\$ _____), and Tenant considers the consideration, if any, being paid for such Instrument to be fair and adequate, and Tenant hereby waives any right to such consideration and agrees that all such consideration shall be paid to Landlord; and
 - (f) The Instrument will not adversely affect Landlord's ability to obtain a Loan secured by a Mortgage on the Leased Premises.
3. Tenant agrees that for so long as the Lease is in effect, it will perform all obligations, if any, of Landlord under or pursuant to the Instrument and will remain obligated under the Lease in accordance with its terms.
4. **[IF APPLICABLE]** Attached hereto is a true, correct and complete copy of an updated ALTA survey of the Leased Premises prepared by **[name of surveyor]** which shows the location on the Leased Premises of all grants, releases, easements and other rights or encumbrances arising pursuant to the Instrument, or which otherwise indicates the effect of the Instrument on the Leased Premises.
5. **[IF APPLICABLE]** Attached hereto are true, correct and complete copies of certificates or agreements by **[name of other property owners or governmental authorities required to approve the matters affected by the Instrument]** necessary or appropriate to consent to, create or implement the matters contained in the Instrument.
6. Attached hereto is the commitment of **[name of title insurer]** to issue an endorsement to the loan policy of title insurance delivered to Lender with respect to the Leased Premises indicating that after filing the Instrument, **[the Mortgage will remain a first lien on the Leased Premises][OR, WITH RESPECT TO A DEDICATION: the Mortgage will remain a first lien on the portion of the Leased Premises remaining after the Dedication]** subject only to the exceptions which were contained in such policy of title insurance and the Instrument.
7. Tenant agrees that all of its obligations under the Lease shall continue notwithstanding the execution, acknowledgment, delivery and filing of the Instrument.
8. Tenant agrees to immediately notify Landlord and Lender in writing in the event of any changes to any of the matters set forth in this Certificate.
9. Tenant will promptly pay all out-of-pocket costs and expenses incurred by Landlord and Lender in connection with said Instrument including, without limitation, reasonable attorneys' fees.

IN WITNESS WHEREOF, the undersigned has executed this Certificate effective as of

_____.

[NAME OF TENANT],

a _____

By: _____

Its: _____

[Acknowledgment Form to be modified as necessary to comply
with the laws of the state in which the Leased Premises are located]

STATE OF _____

COUNTY OF _____

BEFORE ME, on the ____ day of _____, _____, personally appeared
_____, _____ of _____, a _____,
and acknowledged that he executed the above instrument as his free act and deed and on behalf
of said _____.

Notary Public

My Commission Expires:

GUARANTOR'S CONSENT

This Guarantor's Consent (this "Consent") is a part of the foregoing Certificate and Agreement Regarding Matters of Record. The undersigned hereby executes and delivers this Consent to indicate and evidence the following:

1. The undersigned consents to the Instrument and its effect upon the Leased Premises, the Tenant and the Lease.
2. The Corporate Guaranty executed by the undersigned as of February 9, 2004, with respect to the Lease shall continue and remain in full force and effect notwithstanding the Instrument.
3. The undersigned has executed and delivered this Consent in order to induce Landlord and Lender to consent to and to execute, acknowledge, deliver and file of record the Instrument, and the undersigned acknowledges that Landlord and Lender will rely on this Consent.

EXECUTED this ____ day of _____, ____.

GAS-MART USA, INC.,
a Missouri corporation

By: _____
Its: _____

CONSENT OF CONOCOPHILLIPS

This Consent of ConocoPhillips (this "Consent") is a part of the foregoing Certificate and Agreement Regarding Matters of Record. The undersigned hereby executes and delivers this Consent to indicate and evidence the following:

1. The undersigned consents to the Instrument and its effect upon the Leased Premises, the Tenant and the Lease.

2. The undersigned has executed and delivered this Consent in order to induce Landlord and Lender to consent to and to execute, acknowledge, deliver and file of record the Instrument, and the undersigned acknowledges that Landlord and Lender will rely on this Consent.

EXECUTED this ____ day of _____, ____.

CONOCOPHILLIPS COMPANY,
a Delaware corporation

By: _____
Its: _____

Sugar Grove, IL
Site No. 2706182

EXHIBIT A

LOT 1 IN PHILLIPS 66 RESUBDIVISION, IN THE VILLAGE OF SUGAR GROVE, KANE
COUNTY, ILLINOIS, RECORDED AS DOCUMENT NUMBER 1999K017787.

Property Address: Rt. 47 & 30
Sugar Grove, Illinois

Tax ID. No.: 14-16-401-004

EXHIBIT B**BASIC RENT AMOUNTS****Subpart A. Basic Rent During Initial Term**

During the Initial Term, Basic Rent shall be paid in the amounts hereinafter set forth for the following periods, such Basic Rent to be paid monthly (in the amounts set forth below) as provided in Paragraph 6 (a) of this Lease:

**Sugar Grove
Rent Schedule**

Year	Annual Rent	Monthly Rent
February 9, 2004 - February 28, 2005 ¹	\$404,660	\$31,738
March 1, 2005 - February 28, 2006	\$387,521	\$32,293
March 1, 2006 - February 28, 2007	\$394,303	\$32,859
March 1, 2007 - February 29, 2008	\$401,203	\$33,434
March 1, 2008 - February 28, 2009	\$408,224	\$34,019
March 1, 2009 - February 28, 2010	\$415,368	\$34,614
March 1, 2010 - February 28, 2011	\$422,637	\$35,220
March 1, 2011 - February 29, 2012	\$430,033	\$35,836
March 1, 2012 - February 28, 2013	\$437,559	\$36,463
March 1, 2013 - February 28, 2014	\$445,216	\$37,101
March 1, 2014 - February 28, 2015	\$453,007	\$37,751
March 1, 2015 - February 29, 2016	\$460,935	\$38,411
March 1, 2016 - February 28, 2017	\$469,001	\$39,083
March 1, 2017 - February 28, 2018	\$477,209	\$39,767
March 1, 2018 - February 28, 2019	\$485,560	\$40,463
March 1, 2019 - February 29, 2020	\$494,057	\$41,171
March 1, 2020 - February 28, 2021	\$502,703	\$41,892
March 1, 2021 - February 28, 2022	\$511,501	\$42,625
March 1, 2022 - February 28, 2023	\$520,452	\$43,371
March 1, 2023 - February 29, 2024	\$529,560	\$44,130

1) Annual Rent Includes Stub Rent from February 9, 2004 - February 28, 2004.

Subpart B. Basic Rent During Renewal Terms:

During any Renewal Term annual Basic Rent shall be paid in an amount equal to the greater of (i) one hundred percent (100%) of the Fair Market Rental Value of the Leased Premises for such Renewal Term as determined by an Appraiser as hereinafter set forth in this Exhibit B based upon the then current use of the Leased Premises, or (ii) the annual Basic Rent during the last year of the immediately preceding Term (or Renewal Term, as applicable) of this Lease. During each Renewal Term such annual Basic Rent shall be paid in equal monthly installments as provided in Paragraph 6(a) of this Lease. In the event Tenant exercises an option to extend this Lease for a Renewal Term, then Landlord and Tenant shall attempt in good faith for a period of ten (10) days to agree upon a single Appraiser; and if Landlord and Tenant are so able to agree, the determination by such single Appraiser of a Fair Market Rental Value for the Leased Premises for such Renewal Term shall be final and binding on the parties. If Landlord and Tenant are unable to agree upon a single Appraiser within the above-stated ten (10) day period, then the following procedures shall apply:

(a) Within seven (7) days after the conclusion of the ten (10) day period, each party shall submit to the other party an independent third-party Appraiser who must have not less than ten (10) years experience approving properties similar to the Leased Premises, and neither of whom (i) may be a present or former employee or business associate (or a relative of any such employee or business associate) of either Landlord or Tenant, or (ii) shall have any other financial or economic interest in, or relationship with, Landlord or Tenant.

(b) The two Appraisers so selected shall promptly proceed to determine the Fair Market Rental Value of the Leased Premises (considering the other terms of this Lease) for such Renewal Term; and if the two Appraisers agree on such Fair Market Rental Value, their determination shall be final and binding on all parties. If the two appraisers so selected are unable to agree on the Fair Market Rental Value but the appraisals are no more than ten percent (10%) apart, computed from the base of the higher appraisal, the two appraisals shall be averaged and the average shall constitute the Fair Market Rental Value of the Leased Premises for such Renewal Term. If the appraisals differ by more than ten percent (10%), such two Appraisers shall select a third Appraiser (who must satisfy the qualifications for an Appraiser set forth above); and if the two Appraisers are unable to agree upon a third Appraiser within fifteen (15) days, then they shall in lieu thereof each select the names of two willing persons qualified to be Appraisers hereunder and from the four persons so named, one name shall be drawn by lot by a representative of Landlord in the presence of a representative of Tenant, and the person whose name is so drawn shall be the third Appraiser. If either of the first two Appraisers fails to select the names of two willing, qualified Appraisers and to cooperate with the other Appraiser so that a third Appraiser can be selected by lot, the third Appraiser shall be selected by lot from the two Appraisers which were selected by the other Appraiser for the drawing. Any vacancy in the office of the first two Appraisers shall be filled by the party who initially selected that Appraiser, and if the appropriate party fails to fill any vacancy within fifteen (15) days after such vacancy occurs, then such

vacancy shall be filled by the other party. Any vacancy in the office of the third Appraiser shall be filled by the first two Appraisers in the manner specified above for the selection of a third Appraiser. The third Appraiser shall, within fifteen (15) days after having been selected, render his or her opinion of which of the amounts proposed by the original two Appraisers most closely represents the actual Fair Market Rental Value of the Leased Premises for such Renewal Term, and the amount so selected by the third Appraiser shall be the Fair Market Rental Value of the Leased Premises for such Renewal Term.

If the parties choose a single Appraiser, then the fees of such Appraiser shall be borne equally by Landlord and Tenant. If the parties choose two Appraisers, each party shall bear the fees of the Appraiser it has chosen. If the parties choose a third Appraiser, the fees of such third Appraiser shall be borne equally by Landlord and Tenant.

[SCHEDULE 2 CONTINUED ON NEXT PAGE]

EXHIBIT "B"
TO THE
ASSIGNMENT AND ASSUMPTION
OF LEASE, GUARANTEE AND ADDENDUM

CORPORATE GUARANTY

[SEE ATTACHED]

Location: Site No. 2706182
Sugar Grove, Illinois

CORPORATE GUARANTY

In consideration of and as an inducement for the granting, execution and delivery of that certain Lease Agreement, dated as of February 9, 2004 (together with any amendments thereto, hereinafter called "Lease"), by CRICGASMART LLC, a Delaware limited liability company, the Landlord therein named (whether one or more, collectively hereinafter called "Landlord"), to FUEL SERVICE MART, INC., a Missouri corporation, the Tenant therein named (hereinafter called "Tenant"), with respect to that certain parcel of real property located in Sugar Grove, Illinois, which is more fully described on Exhibit A attached hereto, and in further consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by Landlord to the undersigned, GAS-MART USA, INC., a Missouri corporation (hereinafter called "Guarantor"), Guarantor, intending to be legally bound, hereby irrevocably guarantees to Landlord (i) the full and prompt payment when due (whether at stated maturity, by acceleration, or otherwise) of all Basic Rent and Additional Rent and any and all other sums and charges payable by Tenant under the Lease, and (ii) the full, faithful and prompt performance and observance of all the covenants, terms, conditions, and agreements contained in the Lease which are to be performed and observed by Tenant (all payment and performance obligations referred to in clauses (i) and (ii) being referred to herein, collectively, as the "Obligations"); and Guarantor does hereby become primary obligor, and not only surety to Landlord, for and with respect to all of the Obligations. Terms used herein with their initial letters capitalized which have been specifically defined in the Lease shall have the same meaning herein as in the Lease unless such terms are otherwise defined in this Corporate Guaranty (sometimes referred to herein as this "Guaranty").

Guarantor further agrees to pay all damages and all costs and expenses that may arise in consequence of any default by Tenant under the Lease or in connection with the enforcement of any rights under this Guaranty (including, without limitation, all reasonable attorneys' fees incurred by Landlord or caused by any such default and/or by the enforcement of this Guaranty). Without limiting any other provision of this Guaranty, the Guarantor's liability under this Guaranty shall extend to and include all amounts which constitute part of the Obligations and would be owed by the Tenant under the Lease but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving the Tenant. The provisions of this paragraph shall survive the payment and performance of the Obligations, and the termination of this Guaranty.

This Guaranty is an absolute, irrevocable and unconditional guaranty of payment (and not merely of collection) and of performance. Guarantor's liability hereunder is direct and is independent of the Obligations, and may be enforced without Landlord being required to resort to any other right, remedy or security and this Guaranty shall be enforceable against Guarantor without the necessity for any suit or proceedings on Landlord's part of any kind or nature whatsoever against Tenant or the joinder of Tenant in any suit or proceeding, and without the necessity of any notice of non-payment, non-performance or non-observance of any of the

Obligations by Tenant or of any notice of acceptance of this Guaranty or of Landlord's intention to act in reliance hereon or of any other notice or demand to which Guarantor might otherwise be entitled, all of which Guarantor hereby expressly waives; and Guarantor hereby expressly agrees that the validity of this Guaranty and the obligations of Guarantor hereunder shall in nowise be terminated, affected or impaired by reason of the assertion or the failure to assert by Landlord against Tenant, of any of the rights or remedies reserved to Landlord pursuant to the provisions of the Lease. The Guarantor further waives promptness and diligence with respect to the Obligations.

This Guaranty shall be a continuing Guaranty, and (whether or not Guarantor shall have notice or knowledge of any of the following) the liability and obligations of Guarantor hereunder shall be absolute and unconditional and shall remain in full force and effect without regard to, and shall not be released, discharged or in any way impaired by (a) any amendment or modification of, or supplement to, or extension or renewal of, the Lease or any assignment or transfer thereof; (b) any exercise or non-exercise of any right, power, remedy or privilege under or in respect of the Lease or this Guaranty or any waiver, consent or approval by Landlord with respect to any of the covenants, terms, conditions or agreements contained in the Lease or any indulgences, forbearances or extensions of time for performance or observance allowed to Tenant from time to time and for any length of time; (c) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or similar proceeding relating to Tenant, or its properties; (d) any limitation on the liability or obligation of Tenant under the Lease or its estate in bankruptcy or of any remedy for the enforcement thereof, resulting from the operation of any present or future provision of the federal or any state bankruptcy law or any other statute or from the decision of any court; (e) any sublease or transfer by Tenant or any assignment, mortgage or pledge of its interest under the Lease; (f) any termination of the Lease prior to the expiration of its Term (except that Guarantor shall not be liable for amounts that would have otherwise accrued under the Lease after proper termination of the Lease in compliance with the terms of Paragraph 13(b) of the Lease and payment of any and all amounts due to Landlord and Lender (as such term is defined in the Lease) in connection with or related to such termination); (g) any agreement entered into between the Landlord and an assignee or subtenant of Tenant; (h) any security provided for the Obligations; or (i) any sale, assignment, transfer or conveyance (A) by Landlord of all or any portion of the Leased Premises (as such term is defined in the Lease) or of Landlord's interest in the Lease, or (B) of any ownership interest in the Landlord.

All of Landlord's rights and remedies under the Lease and under this Guaranty are intended to be distinct, separate and cumulative and no such right or remedy therein or herein mentioned is intended to be in exclusion of or a waiver of any of the others or of any rights or remedies provided by law. No termination of the Lease or taking or recovering of the premises demised thereby shall deprive Landlord of any of its rights and remedies against Guarantor under this Guaranty. This Guaranty shall apply to the Obligations of Tenant under the Lease as in effect on the date hereof as well as to the Obligations of Tenant under the Lease as it may be extended, renewed, amended, modified or supplemented.

The Guarantor hereby waives any requirement that the Landlord protect, secure, perfect or insure any security interest or lien or any property subject thereto or exhaust any right or take

any action against any person or entity or any collateral (including any rights relating to marshaling of assets).

The Guarantor guarantees that the Obligations will be paid and performed strictly in accordance with the terms of the Lease, regardless of the value, genuineness, validity, regularity or enforceability of the Obligations, and of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of the Landlord with respect thereto. The liability and obligations of the Guarantor under this Guaranty shall be absolute and unconditional, not subject to any reduction, limitation, impairment, termination, defense, offset, counterclaim or recoupment whatsoever (all of which are hereby expressly waived by the Guarantor) whether by reason of any claim of any character whatsoever, including, without limitation, any claim of waiver, release, surrender, alteration or compromise, or by reason of any liability at any time to the Guarantor or otherwise, whether based upon any obligations or any other agreements or otherwise, howsoever arising, whether out of action or inaction or otherwise and whether resulting from default, willful misconduct of Tenant, negligence or otherwise, and without limiting the foregoing irrespective of (and whether or not Guarantor shall have notice or knowledge of): (a) any lack of validity or enforceability of the Lease or of any agreement or instrument relating thereto; (b) any change in the time, manner or place of payment or performance of, or in any other term in respect of, all or any of the Obligations, or any other amendment or waiver of or consent to any departure from the Lease or any other agreement relating to any Obligations; (c) any increase in, addition to, exchange or release of, or non-perfection of any lien on or security interest in, any collateral or any release or amendment or waiver of or consent to any departure from or failure to enforce any other guarantee, for all or any of the Obligations; (d) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Tenant or the Guarantor; (e) the absence of any action on the part of the Landlord to obtain payment for the Obligations from the Tenant; (f) any insolvency, bankruptcy, reorganization or dissolution, or any proceeding of the Tenant or the Guarantor, including, without limitation, rejection of the guaranteed Obligations in such bankruptcy; (g) the absence of notice or any delay in any action to enforce any Obligations or to exercise any right or remedy against the Guarantor or the Tenant, whether hereunder, under any Obligations or under any agreement or any indulgence, compromise or extension granted; or (h) the termination or cessation of a corporate relationship between Guarantor and Tenant.

Guarantor further agrees that, to the extent that the Tenant or the Guarantor makes a payment or payments to the Landlord, which payment or payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to the Tenant or the Guarantor or their respective estate, trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then to the extent of such payment or repayment, this Guaranty and the advances or part thereof which have been paid, reduced or satisfied by such amount shall be reinstated and continued in full force and effect as of the date such initial payment, reduction or satisfaction occurred. The provisions of this paragraph shall survive the payment and performance of the Obligations and the termination of this Guaranty.

Until such time as all the Obligations have been fully and indefeasibly paid to Landlord and performed in full, Guarantor shall have no rights (direct or indirect) of subrogation,

contribution, reimbursement, indemnification or other rights of payment or recovery from the Tenant for any payments made by the Guarantor hereunder. If any amount shall be paid to the Guarantor in violation of the preceding sentence and the Obligations shall not have been paid and performed in full, such amount shall be deemed to have been paid to the Guarantor for the benefit of, and held in trust for the benefit of, the Landlord and shall forthwith be paid to the Landlord to be credited and applied upon the Obligations, whether matured or unmatured, in accordance with the terms of the Lease. The Guarantor acknowledges that it will derive substantial direct and indirect benefit from the granting, execution and delivery of the Lease by the Landlord and that the waiver set forth in this paragraph is knowingly made in contemplation of such benefits. The provisions of this paragraph shall survive the payment and performance of the Obligations and the termination of this Guaranty.

Guarantor represents and warrants to Landlord that (a) the execution and delivery of this Guaranty has been duly authorized by the Board of Directors of Guarantor and does not contravene any law, or any contractual or legal restriction, applicable to it, (b) no authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for its execution, delivery and performance of this Guaranty, (c) there are no conditions precedent to the effectiveness of this Guaranty that have not been satisfied or waived, (d) Tenant is a direct wholly owned subsidiary of Guarantor, (e) Guarantor will, directly or indirectly, benefit from the transaction which is the subject of the Lease, and (f) neither the execution, delivery or performance of this Guaranty, nor compliance with the terms and provisions hereof, conflicts or will conflict with or results or will result in a default under or a breach of any of the terms, conditions or provisions of the Certificate of Incorporation or the Bylaws of the Guarantor or of any contract to which the Guarantor is a party or by which it is bound.

This Guaranty shall be legally binding upon Guarantor and its successors and assigns and shall inure to the benefit of Landlord and Lender and each of their respective successors and assigns. Reference herein to Landlord shall be deemed to include Landlord and its successors and assigns. Reference herein to Tenant shall be deemed to include Tenant and its successors and assigns. Without limiting the generality of the foregoing, the Landlord may assign or otherwise transfer (whether as an outright assignment or transfer or as collateral) all or any portion of its rights and obligations under the Lease to any other person or entity (any such person or entity, a "Landlord Assign") and such Landlord Assign shall thereupon become vested (on a non-exclusive basis, as an additional beneficiary) with all the benefits in respect thereof granted to the Landlord herein or otherwise.

THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF ILLINOIS WITHOUT REGARD TO CONFLICT OF LAW PROVISIONS THEREOF. GUARANTOR HEREBY SUBMITS TO PERSONAL JURISDICTION IN SAID STATE AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN SAID STATE (AND ANY APPELLATE COURTS TAKING APPEALS THEREFROM) FOR THE ENFORCEMENT OF GUARANTOR'S OBLIGATIONS HEREUNDER, AND WAIVES ANY AND ALL PERSONAL RIGHTS UNDER THE LAW OF ANY OTHER STATE TO OBJECT TO JURISDICTION WITHIN SUCH STATE FOR THE

PURPOSES OF SUCH ACTION, SUIT, PROCEEDING OR LITIGATION TO ENFORCE SUCH OBLIGATIONS. GUARANTOR HEREBY WAIVES AND AGREES NOT TO ASSERT, AS A DEFENSE IN ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY, (A) THAT IT IS NOT SUBJECT TO SUCH JURISDICTION OR THAT SUCH ACTION, SUIT OR PROCEEDING MAY NOT BE BROUGHT OR IS NOT MAINTAINABLE IN THOSE COURTS OR THAT THIS GUARANTY MAY NOT BE ENFORCED IN OR BY THOSE COURTS OR THAT IT IS EXEMPT OR IMMUNE FROM EXECUTION, (B) THAT THE ACTION, SUIT OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM, OR (C) THAT THE VENUE OF THE ACTION, SUIT OR PROCEEDING IS IMPROPER (BUT NOTHING HEREIN SHALL AFFECT THE RIGHT OF LANDLORD OR ANY LANDLORD ASSIGN TO BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM). IN THE EVENT ANY SUCH ACTION, SUIT, PROCEEDING OR LITIGATION IS COMMENCED, GUARANTOR AGREES THAT SERVICE OF PROCESS MAY BE MADE, AND PERSONAL JURISDICTION OVER GUARANTOR OBTAINED, BY SERVICE OF A COPY OF THE SUMMONS, COMPLAINT AND OTHER PLEADINGS REQUIRED TO COMMENCE SUCH LITIGATION UPON GUARANTOR AT GUARANTOR'S ADDRESS SET FORTH HEREIN.

Without the prior written consent thereto by Landlord, Guarantor will not enter into any amendment to this Guaranty and without such consent no such amendment will be effective in any event. No waiver of any provision of this Guaranty, and no consent to any departure by Guarantor herefrom, shall be effective without the prior written consent thereto by Landlord, and any waiver or consent for which such written consent is given shall be effective only in the specific instance and for the specific purpose for which given. No failure on the part of the Landlord to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. Guarantor will from time to time during the Term (as defined in the Lease), promptly following request of Landlord, cause an appropriate officer to certify in writing to Landlord and to such persons and entities as Landlord may reasonably request that a copy of this Guaranty is a true and correct copy of the original hereof, that there have been no amendments or modifications to this Guaranty (or if there have been amendments or modifications in accordance with the terms of this Guaranty, specifying same), and that this Guaranty remains in full force and effect in accordance with its terms.

At any time when Guarantor is not a reporting company under the Securities and Exchange Act of 1934, as amended, it will deliver to Landlord the following information:

(a) within one-hundred twenty (120) days after the end of each fiscal year of Guarantor, a balance sheet of Guarantor and its consolidated subsidiaries as at the end of such year, a statement of profits and losses of Guarantor and its consolidated subsidiaries for such year, and a statement of cash flows of Guarantor, and its consolidated subsidiaries for such year, setting forth in each case, in comparative form, the corresponding figures for the preceding fiscal year in reasonable detail and scope and prepared by an accountant selected by Guarantor and certified by the chief financial officer of Guarantor to be true, correct and complete; and (b) within sixty (60) days after the end of each of the first three

(3) fiscal quarters of Guarantor a balance sheet of Guarantor and its consolidated subsidiaries as at the end of such quarter, statements of profits and losses of Guarantor and its consolidated subsidiaries for such quarter and a statement of cash flows of Guarantor and in each case, in comparative form, the corresponding figures for the similar quarter of the preceding year, in reasonable detail and scope, and certified to be true, correct and complete by a financial officer of Guarantor having knowledge thereof; the foregoing financial statements all being prepared in accordance with generally accepted accounting principles, consistently applied (except as otherwise stated therein).

The Guarantor shall permit the Landlord and Lender and their representatives, at the expense of such person or entity, except in the event of an Event of Default under the Lease, in which case at Guarantor's expense, and upon reasonable prior notice to the Guarantor, to visit the principal executive office of the Guarantor, to discuss the affairs, finances and accounts of the Guarantor with the Guarantor's officers, and (with the consent of the Guarantor, which consent will not be unreasonably withheld) its independent public accountants, and (with the consent of the Guarantor, which consent will not be unreasonably withheld) to visit the other offices and properties of the Guarantor and each subsidiary, all at such reasonable times and as often as may be reasonably requested in writing.

GUARANTOR AND LANDLORD (BY ITS ACCEPTANCE OF THIS GUARANTY) HEREBY MUTUALLY WAIVE TRIAL BY JURY IN CONNECTION WITH ANY DISPUTE ARISING HEREUNDER. The provisions of this paragraph shall survive the payment and performance of the Obligations and the termination of this Guaranty.


All notices and other communications provided for hereunder shall be in writing (including telecopier, telegraphic, telex or cable communication) and mailed, telecopied, telegraphed, telexed, cabled or delivered to it, if to the Guarantor, at its address at 10147 W. 84th Terrace, Lenexa, Kansas 66214, Attention: Chief Executive Officer, and if to Landlord or any successor thereof at its address at One Exeter Plaza, 11th Floor, Boston, Massachusetts 02116 or at such other address as may be designated by such party in a written notice to the other party. All such notices and other communications shall, when mailed, telecopied, telegraphed, telexed or cabled, be effective when deposited in the mails, telecopied, delivered to the telegraph company, confirmed by telex answerback or delivered to the cable company, respectively.

Except for provisions of this Guaranty which by their terms survive the termination hereof, this Guaranty shall terminate after all of the following shall have occurred: (i) all Basic Rent, all Additional Rent and all other sums and charges payable by the Tenant under the Lease shall have been indefeasibly paid in full in cash; and (ii) all other Obligations of the Tenant under the Lease shall have been performed in full in strict accordance with the terms and provisions of the Lease.

IN WITNESS WHEREOF, Guarantor, intending to be legally bound hereby, has caused this Corporate Guaranty to be executed by its duly authorized officer as of February 9, 2004.

GAS-MART USA, INC.,
a Missouri corporation

[SEAL]

By: 
Name: David O. G. Smith
Title: President

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Sugar Grove, IL
Site No. 2706182

EXHIBIT A

LOT 1 IN PHILLIPS 66 RESUBDIVISION, IN THE VILLAGE OF SUGAR GROVE, KANE COUNTY, ILLINOIS, RECORDED AS DOCUMENT NUMBER 1999K017787.

Property Address: Rt. 47 & 30
Sugar Grove, Illinois

Tax ID. No.: 14-16-401-004

EXHIBIT "C"
TO THE
ASSIGNMENT AND ASSUMPTION
OF LEASE, GUARANTEE AND ADDENDUM

ENVIRONMENTAL MATTERS, REMEDIATION AND INDEMNIFICATION
ADDENDUM

[SEE ATTACHED]

**ENVIRONMENTAL MATTERS, REMEDIATION
AND INDEMNIFICATION ADDENDUM**

THIS ADDENDUM TO REAL ESTATE SALES CONTRACT ("Addendum") is entered into by and between ConocoPhillips Company ("Seller") and Gas Mart ("Buyer") to amend or add to provisions of that certain Real Estate Sales Contract (the "Contract") of even date herewith between the parties for the above Real Property.

1. Selected Definitions. Below are selected definitions of major terms used herein. Other defined terms shall have the meanings set forth in the Contract to which this Addendum is attached..

"Agency" means any federal, state or local agency with the power to regulate the operation of underground storage tanks and/or the reporting, assessment and remediation of contaminated soil and/or groundwater.

"Agency Standards" means any and all applicable laws, regulations, rules, policies, procedures or other guidance of an Agency.

"Baseline Report" means the evidence and results of previous Remediation and/or supplemental assessment(s) conducted pursuant to Section 3.

"Closure" means, with respect to Covered Contamination, the satisfaction of either of the following:

(i) Receipt of written notice from the Agency that either (1) no further Remediation of the Covered Contamination is required, or (2) that the approved plan for Remediation of Covered Contamination has been completed; or

(ii) Seller has requested closure notice from the Agency, has not received any response of any kind to its request for a closure notice for twelve (12) months and Seller has determined that the soil and groundwater has been remediated to satisfactory levels of Covered Contamination based on four (4) successive quarterly monitoring tests by a recognized environmental remediation contractor that show the level of petroleum hydrocarbons on the Real Property as being below or equal to the limit required by the Agency and Seller so notifies Buyer in writing.

"Covered Contamination" means recoverable free liquid hydrocarbons, dissolved hydrocarbon components, absorbed and vapor phase hydrocarbon contamination, soil contamination which:

(i) was caused by Seller's operations on the Real Property prior to the Closing Date, or occurs prior to or after the Closing Date and is the result of the migration off the Real Property of contamination that was located on the Real Property prior to the Closing Date, or

(ii) either (1) is shown in the Baseline Report, as defined in Section 3 if applicable, or (2) is shown by Buyer to have been located on the Real Property prior to the Closing Date pursuant to Paragraph 4(b) and Section 13 below, and

(iii) is required to be assessed and remediated under applicable Agency Standards in effect on the Closing Date.

Covered Contamination shall not include contamination which can be reasonably demonstrated by Seller to be the obligation of a third party (including Seller's predecessors-in-interest), including contamination migrating to the Real Property from outside the Real Property boundaries.

"New Contamination" means any environmental contamination which:

- (i) is not disclosed in the Baseline Report for the Real Property, if applicable,
- (ii) is discovered after the Closing Date on the Real Property or
- (iii) is caused after the Closing Date by Buyer, Buyer's tenants, franchisees, or contractors, or is caused by third parties, and
- (iv) is required to be Remediated under applicable Agency Standards.

New Contamination shall also specifically include regulated asbestos-containing materials required to be abated or encapsulated under Agency Standards which are disturbed or uncovered after the Closing Date as a result of Buyer's operations, construction, renovation or destruction of improvements at the Real Property.

"Remediation" means collectively any environmental assessment, investigation, response, monitoring, remediation, and/or other corrective action of contamination whether Covered Contamination or New Contamination.

"Remediation Completion Date" means the date that Seller completes the Remediation of Covered Contamination set forth in Paragraph 4(a).

2. **Equipment Fitness.** Seller shall deliver to Buyer copies of existing results from tank and line testing or monitoring, functional testing of the vapor recovery (Stage II) systems, and hydrostatic testing or inspections of the containment devices, including at the dispensers, turbines, and fills (collectively referred to as "Tests") at the Real Property in the possession of the Seller which Seller believes in good faith accurately reveal the conditions of the underground tanks and lines, Stage II systems, and spill containment devices at the Real Property to Buyer as soon as possible but not later than ten (10) days after the commencement of the Investigation Period.

Seller, at Seller's expense, may, but shall not be obligated to, cause supplemental Tests of underground tanks and lines, vapor recovery (Stage II) systems, and/or containment devices (including at the dispensers, turbines, and fills) at the Real Property to be conducted within thirty (30) days prior to the Closing Date using methodologies which are agreed to upon mutual agreement by Seller and Buyer. Upon completion of such supplemental Tests, Seller shall furnish copies of the results of the supplemental Tests to Buyer. Buyer may have representatives present for such supplemental Tests.

If Seller elects not to conduct supplemental Tests of the underground tanks and lines, vapor recovery (Stage II) systems, and/or containment devices, Buyer, at Buyer's expense, may, but shall not be obligated to, cause supplemental Tests within thirty (30) days after to the Closing Date using methodologies which are agreed to upon mutual agreement by Seller and Buyer. Upon completion of such supplemental Tests, Buyer shall furnish copies of the results of the Tests to Seller. Seller may have representatives present for such tests.

Seller and Buyer will rely on the results of the above referenced existing Tests or supplemental Tests, if applicable, to determine the fitness of the equipment at the Real Property to be operated under applicable Agency Standards. Upon receipt of the results of the Tests, Buyer will have ten (10) days to notify Seller in writing of any non-tight tanks or lines, non-functional Stage II systems, or non-tight containment devices.

Any unfit or non-functional tanks or lines, Stage II systems, or containment devices (including at the dispenser, turbine, and fill) discovered pursuant to such tests may be repaired by Seller rather than replaced if (i) Seller would repair rather than replace such items under Seller's normal procedures, (ii) such repairs are permitted under applicable Agency Standards, (iii) the repair is effected by the manufacturer, the manufacturer's authorized contractors or the Seller's authorized contractors, and (iv) the repaired items are tested as tight or functioning within the regulatory requirement. In the event that Seller is unable or unwilling to repair or replace any item in accordance with the standards set forth above, Buyer will receive for such items a credit toward the Purchase Price in the amount equal to the replacement costs of the unfit or non-functional equipment minus installation costs, and Buyer will be responsible for the installation of replacement items on such Real Property.

To the extent required by Agency Standards, Seller shall report all equipment failures to the relevant Agency

3. Baseline Report: Environmental Assessment.

(a) Environmental Information. Buyer acknowledges that the Real Property has been used for the storage and/or sale of motor vehicle fuels, that USTs are installed at the Real Property, and that there is or may be surface and/or subsurface contamination at the Real Property. If Seller has previously conducted, or is currently conducting, or is planning to conduct any environmental assessment or remediation activities, Seller shall deliver to Buyer copies of file Remediation data ("Seller Existing Case Data") which data Seller believes in good faith accurately reveal the present environmental condition of the Real Property. The Seller Existing Case Data shall be delivered to Buyer as soon as possible but not later than ten (10) days after the commencement of the Investigation Period. This information, Seller Existing Case Data, as may be supplemented or modified as provided in Section 3 herein, shall constitute the Baseline Report for the Real Property. The Baseline Report for the Real Property shall be dispositive of quantitative and qualitative matters as to the presence of Covered Contamination as of the Closing Date.

(b) Environmental Assessment. Seller, at Seller's expense, may, but shall not be obligated to, undertake a supplemental environmental assessment of the Real Property to determine the presence of Covered Contamination. Likewise, Buyer, at Buyer's expense, may, but shall not be obligated to, undertake a supplemental environmental assessment of the Real Property to determine the presence of Covered Contamination. If Buyer conducts a supplemental assessment, Seller and Buyer shall agree on the methodology for such supplemental assessment. Soil and/or groundwater samples shall be analyzed using approved industry and/or Agency Standards. Any subsurface drilling prior to Closing Date shall be at times and in locations reasonably acceptable to and approved in advance by Seller, such approval not to be unreasonably withheld. Seller shall have the right to obtain split samples obtained during such drilling. If undertaken, Buyer will use reasonable efforts to complete such assessments before the Closing Date or such other date as the parties may mutually agree. A copy of the supplemental assessment shall be provided to Seller promptly after Buyer's receipt thereof.

The report of such supplemental assessment, if undertaken by the Seller and/or Buyer, or the Seller Existing Case Data, if applicable, shall be deemed part of the Baseline Report evidence for the Real Property. Buyer also may undertake additional assessment on the Real Property up to thirty (30) days

after the Closing Date, and such supplemental assessment may constitute amendments of the Baseline Reports for the Real Property affected thereby, if applicable.

(c) To the extent required by Agency Standards, Seller shall report all Covered Contamination reflected in the Baseline Report to the Agency and provide appropriate notification thereof to property owners as required by Agency Standards.

(d) Seller shall conduct Remediation of Covered Contamination in accordance with all Agency Standards and the provisions set forth in this Addendum, provided that the Closing Date occurs. Seller's obligations to conduct Remediation of Covered Contamination shall continue until Closure is obtained pursuant to Paragraph 4(a).

4. Environmental Responsibility.

(a) Environmental Responsibility for Covered Contamination.

(i) Seller shall conduct all negotiations with the Agency with respect to the Remediation of Covered Contamination related to the Real Property, for which Seller is responsible under Paragraph 3(d); provided, however, that Buyer may attend, but not actively participate in, any such negotiations. The Buyer acknowledges that Seller shall have the lead responsibility for setting policy, establishing direction and conducting negotiations with the Agency relating to the Remediation of Covered Contamination, and Buyer shall neither contact nor negotiate with the Agency independently of Seller in connection with the Remediation of Covered Contamination. Seller shall provide Buyer with copies of all correspondence or other documents it receives from the Agency, and shall furnish Buyer copies of all correspondence and other documents it supplies to the Agency, relating to any remedial action plan submitted by Seller with regard the Remediation of Covered Contamination related to the Real Property. Buyer shall provide Seller with copies of all correspondence and documents it receives from or provides to the Agency during the period of Seller's Remediation of Covered Contamination related to the Real Property.

(ii) Seller shall undertake after the Closing Date, at its expense, all reporting and notification and all Remediation of Covered Contamination on, under or originating from the Real Property, in compliance with the requirements of the Agency Standards and until satisfaction of the Closure conditions set forth in Section 1. Notwithstanding the above, Seller shall not be responsible for the cost of removing and handling soil and groundwater as a result of Elective Work pursuant to Paragraph 6(k).

(iii) Seller shall conduct Remediation of Covered Contamination to the levels set forth by Agency Standards using any approved methodology (including risk-based closure). If the Agency determines that less stringent cleanup levels are appropriate for the Real Property, provided that such site is subject to a deed notice, use restriction or other covenant running with the title to the land ("Restriction"), Buyer shall accept such Restriction, provided it does not interfere with the Real Property's then current use. The Remediation of Covered Contamination shall be accomplished in such a way as to reasonably accommodate Buyer's business operations, within reason and subject to requirements imposed by the Agency.

(iv) Seller makes no representation or warranty regarding the length of time required for Seller to complete any Remediation of Covered Contamination.

(v) Seller's obligation for Remediation of Cover Contamination shall expire seven (7) years after the Closing Date, except for a discrete Remediation begun prior to such expiration and subject to Closure, but at Seller's option, Seller may exclude its obligations associated with long-term monitoring of environmental conditions and other ongoing passive remediation that are incurred more than seven (7) years after the Closing Date.

(b) Environmental Responsibility for New Contamination. Buyer will be responsible for Remediation of New Contamination. To the extent required by Agency Standards, Buyer shall report all New Contamination to the Agency and provide appropriate notification thereof to property owners.

If environmental contamination is discovered by the Buyer or Seller (each referred as "Party") on the Real Property after the Closing Date, but prior to the Remediation Completion Date, the Party discovering contamination shall promptly notified the other Party within thirty (30) days of the discovery. If environmental contamination is discovered by the Buyer, Buyer shall act promptly to minimize the effects of such environmental contamination. If environmental contamination is discovered by the Seller, upon thirty (30) days of the Seller notifying Buyer of any environmental contamination, suspected to be New Contamination, Buyer shall bear the burden of proof to establish that such environmental contamination is Covered Contamination to the satisfaction of the Seller. If any environmental contamination, not quantitatively and qualitatively disclosed in the Baseline Report for the Real Property, is discovered before or after the Remediation Completion Date and prior to the expiration of Seller's obligation pursuant to Paragraph 4(a)(v), Buyer shall bear the burden of proof to establish that such environmental contamination is Covered Contamination to the satisfaction of the Seller. If Buyer meets its burden of proving that discovered environmental contamination is not New Contamination but solely Covered Contamination, Seller shall conduct Remediation of such Covered Contamination, in compliance with applicable Agency Standards in effect at such time.

(c) Environmental Responsibility for Commingled Contamination. If, pursuant to Paragraph 4(b), Buyer does not establish that such environmental contamination is solely Covered Contamination, and Seller determines that such New Contamination will make Seller's Remediation at the Real Property significantly more difficult, more expensive, or will extend significantly the time required to complete such Remediation, Buyer will hire at Buyer's sole expense a consultant mutually acceptable to Buyer and Seller to assess the effect of such New Contamination on the environmental condition and to determine the fractional cost percentage of the Remediation of the Real Property. This assessment shall include a review of the Remediation that had been completed to date, the remaining cost to complete the Remediation absent the New Contamination, and the additional cost of Remediation that will be required due to the New Contamination. The fractional cost percentage of Remediation performed by Seller at the Real Property, determined by the following formula:

(i) Buyer will pay its share of costs and expenses to Seller, for all Remediation effected by the New Contamination, from the discovered contamination notification referenced in Paragraph 4(b) and all further Remediation, as it is performed by Seller and as invoices for such Remediation, with supporting documentation, are presented to Buyer. Buyer's share of costs and expenses for such work by Seller shall be determined by dividing the estimated cost to complete Remediation prior to New Contamination by the estimated cost to complete Remediation after the New Contamination and subtracting the quotient from one. As an example, if the estimated cost to complete Remediation prior to New Contamination is \$100,000 (calculated at the time the New Contamination occurs), and the estimated cost to complete Remediation after New Contamination is \$150,000, then Buyer's fractional cost equals: $1 - (100,000 \text{ divided by } 150,000)$, or $1 - .667$, which results in Buyer paying one-third (.333) of Remediation costs incurred after the New Contamination occurs.

(ii) The above notwithstanding, if Buyer's fractional cost as so calculated should exceed fifty percent (50%), Buyer shall, upon request by Seller, take over the ongoing Remediation at the Real Property with the costs of such Remediation continuing to be shared between Seller and Buyer (referred collectively herein as "Remediating Parties" as set forth in this Paragraph. In such event, the Remediating Parties shall attempt to negotiate a buyout to transfer the Remediation responsibility for known Covered Contamination at the Real Property from Seller to Buyer. If the Remediating Parties are unable to agree upon the present value of the expected costs of completing the Remediation of Covered Contamination ("Remediation Cost") at the Real Property, the Remediating Parties shall select a consultant satisfactory to all Remediating Parties who shall attempt to mediate between the Remediating Parties to resolve such differences in a mutually satisfactory manner. The fees and expenses of such consultant shall be borne equally by the Remediating Parties. If the Remediating Parties agree upon the Remediation Cost for the Real Property, Seller shall pay to Buyer an amount equal to the Remediation Cost and Buyer shall assume responsibility for the completion of the Remediation of Covered Contamination at the Real Property. Buyer shall also execute and deliver to Seller a release of Remediation liability for Covered Contamination, respectfully, in the form of Schedule 2 attached to this Addendum. Such release shall include an assignment to Buyer of Seller's rights, with respect to the Real Property, to reimbursement from the relevant reimbursement fund, if any, pursuant to Section 8.

5. Access.

(a) Access for Seller. After the Closing Date, Buyer shall provide for and permit such access, at no cost to Seller, and/or its employees, agents, and/or contractors, as Seller may require to the Real Property, for such time as is required for Seller to meet all environmental obligations contemplated by this Addendum. Such access shall include the right to conduct such tests, take such groundwater or soil samples, excavate, remove, dispose of, and treat the soil and groundwater, and undertake such other actions as are necessary in the sole judgment of Seller. Seller or its employees, agents, and/or contractors shall expeditiously remove from the Real Property as soon as reasonably practicable all drums containing drill cuttings, soil, debris or liquids generated from Seller's Remediation. Seller shall restore the surface and existing structures, if any, on the Real Property to a condition substantially similar to that at the time immediately prior to the action taken by Seller and shall replace or repair damage to Buyer's equipment and personal property on the Real Property caused by Seller or its employees, agents, and/or contractors. Seller shall, to the extent practical, undertake the actions necessary to complete its Remediation of Covered Contamination in a manner that will not unreasonably disrupt the operations of Buyer on the Real Property. In no event, however, shall Seller have liability to anyone, including Buyer, for business disruption, lost profits, or consequential damages arising from such actions or access. Seller or its employees, agents, and/or contractors shall provide Buyer as much advance notice as possible (but at least five (5) business days' notice) of all potentially disruptive or intrusive activities to be taken on the Real Property; such notice may be in the form of a periodic schedule of activities. No advance notice shall be required for non-disruptive activities such as periodic monitoring of wells on the Real Property. Seller and Buyer agree to cooperate on the placement and the location of Seller's remediation equipment. Any cost or expense to repair or replace monitoring and remediation equipment resulting from the acts or omissions of Buyer or Buyer's contractors shall be the responsibility of Buyer. Buyer and Seller shall cooperate in determining the order in which Seller implements its Remediation on the Real Property, but the final determination shall be Seller's.

(b) Access Agreement. Upon the disclosure of or discovery of Covered Contamination, Buyer shall promptly execute and deliver an Access Agreement in the form attached hereto as Exhibit C,

granting Seller such access to the Real Property, at no cost, as Seller, its agents and contractors may require, for such time as is required for Seller to meet all environmental obligations hereunder.

(c) Access for Buyer. If Buyer elects to conduct supplemental Tests pursuant to Section 2, or to conduct a supplemental assessment pursuant to Section 3, Buyer shall indemnify and hold Seller, its officers, directors, employees and agents harmless from and against all claims, expenses (including reasonable attorneys fees), loss or liability (including liability for property damage, bodily injury or death) arising from or related to Buyer's conduct of supplemental Tests or supplemental assessment. Buyer shall conduct all supplemental Tests or supplemental assessment with due care to avoid damage to the Real Property. If any damage is caused, Buyer shall immediately repair and restore the Real Property to its former condition. If Buyer's investigation includes soil boring, sampling of soil or groundwater, or groundwater well installation, Buyer shall expeditiously remove from the Real Property as soon as reasonably practicable all drums containing drill cuttings, soil, debris or liquids generated from Buyer's investigation activities. Buyer shall restore the surface and existing structures, if any, on the Real Property to a condition substantially similar to that at the time immediately prior to the action taken by Buyer and shall replace or repair damage to equipment and personal property on the Real Property caused by Buyer or its contractors. Buyer shall be responsible to Seller for, and indemnify, defend, and hold Seller harmless from all losses and claims arising from or related to Buyer's environmental assessment.

6. Buyer's Responsibilities During Seller's Remediation of Covered Contamination. During the course of Remediation of Covered Contamination related to the Real Property, the Buyer agrees to the following:

(a) Tests and Certification Results. Buyer will provide all preliminary or final results of Tests and certification of distribution and storage systems at the Real Property (including all failures, inconclusive, passing results) conducted by Buyer, either voluntarily, at the request of the Seller, pursuant to Paragraph 6(e), at the request of Agency or as required to comply with all Agency Standards. Examples include but may not be limited to the following:

- (i) tightness tests of all underground tanks and lines,
- (ii) functional testing of the vapor recovery (Stage II) systems and monitoring systems,
- (iii) hydrostatic testing of the containment devices (including at the interstitial tanks and line walls, dispensers, turbines, and fills),
- (iv) monitoring certifications,
- (v) facility inspections.

(b) Facility Audits. Seller may conduct random audits of the Real Property and Buyer's equipment on the Real Property to be assured of the integrity of Buyer's distribution and storage systems at the Real Property. Seller will have access to all portions of the facility and equipment and all inventory and maintenance records that are maintained at the Real Property that are regulated by Agency Standards. These Agency Standards are those currently enacted or those Agency Standards that may be enacted prior to Remediation Completion Date. Seller shall have the right to be present at all audits conducted by Agency. Seller will notify Buyer twenty-four (24) hours before conducting Seller's random facility audit. Buyer will notify Seller twenty-four (24) hours before Agency conducts a facility audit, if such Agency audit is known to Buyer. Any suspected non-compliance by the Buyer of Agency Standards which is identified in the facility audits and reported to Buyer must be reported to the Agency by the Buyer as

required but no longer than forty-eight (48) hours. After this forty-eight (48) hour period, Seller has the right to report such suspected non-compliance to the Agency.

(c) Maintenance of Records. Buyer shall maintain inventory and maintenance records for such Real Property as required to comply with all Agency Standards which are currently enacted or those Agency Standards that may be enacted prior to Remediation Completion Date. Seller shall have the right to review these records, as Seller deems necessary so as to be assured of the integrity of Buyer's distribution and storage systems at the Real Property. Buyer will provide records for the Real Property as required by the Seller within fifteen (15) working days, or other mutually agreeable delivery date.

(d) Buyer's Correspondence. Buyer will furnish Seller copies of any notices, correspondence, manifests, reports, permits or other documents to or from Agency or third party related to the Buyer's operations conducted at the Real Property, discovered contamination or New Contamination of the Real Property and the Remediation to be performed by Buyer within fifteen (15) days of submittal to or receipt from the Agency or third party.

(e) Requested Testing or Certification. In the event of a suspected or actual release or discovered contamination, and at the request of Seller, Buyer will conduct and pay for Tests, audits, inspections or certifications of any component of the distribution, storage or monitoring systems at the Real Property within fifteen (15) days of the indication of a release and/or request and furnish the results of such testing to Seller within fifteen (15) days of receipt of the report and/or results, unless Buyer can reasonably demonstrate that distribution, storage systems are not the source of the release or discovered contamination.

(f) Compliance with Agency Standards. Buyer agrees to maintain Real Property in compliance with Agency Standards which are currently enacted or those Agency Standards that may be enacted prior to Remediation Completion Date, and Buyer shall indemnify Seller for any damages and increased Remediation costs, which Seller incurs, attributable to noncompliance by Buyer with the Agency Standards. This indemnity will include reimbursing Seller for any Remediation costs for which Seller would otherwise be reimbursed by UST Funds from the applicable Agency, but for Buyer's noncompliance with the Agency Standards.

(g) Reporting to Agency. Buyer will report all discovered contamination, releases and spills to the Agency as required under Agency Standards which are currently enacted or those Agency Standards that may be enacted prior to Remediation Completion Date.

(h) Reporting to Seller. Buyer will report all releases, spills and discovered contamination to Seller via standard electronic formatted reporting within twenty-four (24) hours and summarized quarterly via standard electronic formatted reporting. Electronic format is shown on Schedule 1 attached.

(i) Future Lease Expiration or Termination of Real Property (if Applicable). Buyer will give notice to Seller of the expiration or termination of the lease for any Leased Premises. Seller shall be responsible for arranging access to the Real Property, at Seller's expense, for the purpose of undertaking and completing its Remediation, including payment by Seller to the landowner of any rental or access fee charged by the landowner in respect to such access to and use of the Real Property; provided, however, that if such lease expiration is the result of Buyer's decision not to exercise any extension or renewal option provided for in such lease, Buyer shall give Seller at least six (6) months notice of such election to not extend or renew the lease.

(j) Future Sale of Real Property (if Applicable). Seller shall have the option to extinguish its share of commingled Remediation costs for the Real Property in exchange for an agreed lump-sum

payment to Buyer upon the sale of the Real Property. Notice of such a pending sale of the Real Property shall be made by written notice to Seller no later than sixty (60) days prior to the pending sale. Buyer and Seller shall negotiate in good faith in an attempt to agree on the appropriate lump-sum payment. In the event the parties are unable to agree on the lump-sum payment, Seller shall have the option to submit the matter for dispute resolution in accordance with Section 14. Upon payment of the agreed upon amount or the amount determined by either good faith negotiations or by the Independent Consultant (as defined in Section 14) to be appropriate, Seller shall be released by Buyer from any further environmental obligations with respect to Covered Contamination for the Real Property and shall be entitled to indemnification by Buyer pursuant to Section 10. Buyer shall also execute and deliver to Seller a release of remediation liability for known Covered Contamination in the form of Schedule 2 attached hereto. Such release shall include an assignment to Buyer of Seller's rights with respect to the Real Property, and to reimbursement from the relevant state reimbursement fund, if any.

(k) Elective Work. If Buyer encounters and excavates or removes contaminated soil or groundwater on the Real Property while conducting construction, remodeling, or demolish-and-rebuild work on the Real Property, including the installation of new tanks and/or lines, not required by Seller ("Elective Work"), Buyer will (a) share the design and location of Elective Work with the Seller prior to initiation of the work; (b) agrees to pay all costs reasonably incurred by Seller to redesign or relocate remediation equipment to accommodate the Elective Work; and (c) agrees to solely bear the costs of removing, recycling or disposing of the contaminated soil and groundwater, regardless of whether the soil or groundwater on the Real Property contains Covered Contamination. Buyer will be deemed to be the generator of all hazardous waste caused by or originating from the Elective Work on the Real Property. Buyer will report any such hazardous waste and environmental contamination, including Covered Contamination, and contaminated and non-contaminated soil and groundwater excavated, removed, recycled or disposed of by Buyer in connection with Elective Work on the Real Property, to the Agency if required to do so by Agency Standards. Buyer also will sign all manifests for transportation and disposal of any such hazardous waste and contaminated soil or groundwater. Buyer will pay the cost of clean fill required for any excavation caused by Elective Work on the Real Property.

(l) Failure to Perform/Prohibited Actions. If the Buyer fails to perform any of the actions required by Paragraphs 6(a) through 6(k) above or performs any acts prohibited by the above Paragraphs 6(a) through 6(k), and such failure or prohibited action continues after thirty (30) days written notice from Seller, such non-action or prohibited actions shall be considered a breach of the Contract and this Addendum. Buyer's noncompliance shall entitle Seller to pursue any remedy available at law or equity, including liquidated damages or injunctive relief. If the Buyer breaches the contract by failure to act or by performing acts prohibited by this Addendum, the Buyer shall, in place of actual damages, pay to Seller liquid damages in the amount of \$50,000 for every month of delay that Buyer fails to perform or for every month that Buyer continues to act contrary to this Addendum. Additionally failure to act or by performing acts prohibited by this Addendum, may terminate all or a portion of Seller's obligations under this Addendum.

7. Transfer of Responsibility. Buyer and Seller may from time to time attempt to agree upon the Remediation Cost at the Real Property and the transfer of the responsibility for the Remediation of Covered Contamination from Seller to Buyer. If the Buyer and Seller agree upon such Remediation Cost and transfer, Seller shall pay to Buyer an amount equal to the Remediation Cost and Buyer shall assume responsibility for the completion of the Remediation of Covered Contamination. Buyer shall also execute and deliver to Seller a release of Remediation liability for Covered Contamination in the form of Schedule 2 attached hereto. Such release shall include an assignment to Buyer of Seller's rights to receive reimbursement from the relevant reimbursement fund, if any, pursuant to Section 8.

In such event, the Remediating Parties shall attempt to negotiate a buyout to transfer the Remediation responsibility for known Covered Contamination at the Real Property from Seller to Buyer. If the Remediating Parties are unable to agree upon the present value of the expected Remediation Cost at the Real Property, the Remediating Parties shall select a consultant satisfactory to all Remediating Parties who shall attempt to mediate between the Remediating Parties to resolve such differences in a mutually satisfactory manner. The fees and expenses of such consultant shall be borne equally by the Remediating Parties. If the Remediating Parties agree upon the Remediation Cost for the Real Property, Seller shall pay to Buyer an amount equal to the Remediation Cost and Buyer shall assume responsibility for the completion of the Remediation of Covered Contamination at the Real Property. Buyer shall also execute and deliver to Seller a release of Remediation liability for Covered Contamination, respectfully, in the form of Schedule 2 attached hereto.

8. UST Fund.

(a) Reimbursement claims have been and will continue to be submitted to federal, state and local government petroleum storage tank funds ("UST Funds") to seek reimbursement of Remediation Costs. Buyer and Seller shall have the right to pursue, control, settle, waive or release reimbursement claims they have filed with the UST Funds and for which they have paid Remediation Costs. Any reimbursement claim not on file as of the Closing Date shall be filed and pursued by Seller, if Remediation is commenced prior to the Closing Date.

(b) Seller shall have the right to any reimbursement amount received from a UST Fund as a result of Remediation Costs incurred by Seller at the Real Property prior to the Closing Date or as a result of Remediation Costs for which Seller is responsible and for which Seller has reimbursed Buyer.

(c) Buyer shall have the right to any reimbursement amount received from a UST Fund as a result of Remediation Costs for which Buyer is responsible.

(d) Seller and Buyer shall cooperate with each other in qualifying for, filling for, pursuing and collecting reimbursement, which cooperation shall include without limitation, compliance with all Agency Standards, execution of necessary forms and agreements and performance of all other Agency requirements. Seller and Buyer shall take all actions necessary to preserve the other's right to reimbursement and shall refrain from taking any action that would disqualify the other from obtaining reimbursement. Seller and Buyer shall provide to the other, upon request, copies of any documents made available or submitted to the Agency related to applications for reimbursement.

(e) If the UST Fund requires that only the Party conducting the Remediation be able to file and pursue reimbursement of Remediation Costs, the other Party shall allow the party conducting the Remediation to complete the submission and pursuit of these reimbursement claims at the expense of the Party to whom the UST Funds will ultimately be paid pursuant to this Addendum. The Party that submits and receives reimbursement credits must refund the other Party its respective share of the credit upon receipt of the reimbursement credit from UST Funds. In the event of a dispute as to whether a particular reimbursement claim should be submitted by Buyer or Seller, Seller shall have the right to submit such claim pending resolution of the dispute in accordance with the dispute resolution provisions of Section 14. If Buyer is determined to have the right to such claim, Seller shall promptly transfer control of the claim and execute any necessary authorization in favor of Buyer. Except as provided in this Paragraph, Buyer and Seller shall pay their respective costs associated with the submission and pursuit of any reimbursement claim.

9. Seller's Indemnification. For a period of five (5) years from the Closing Date, Seller shall defend, indemnify and hold Buyer and its affiliates harmless from and against all claims, expenses

(including reasonable attorneys' fees), loss or liability arising from or related to Covered Contamination. This indemnity also will apply to any claim by a third party or the Agency that relates to the migration of Covered Contamination off the Real Property. This indemnity shall not be assignable by Buyer. This indemnity will not apply to, and Seller will have no liability for, claims by Buyer or third parties for a) diminution in value, lost profits, business disruption or consequential damages relating to Covered Contamination, b) damages arising out of a breach of any Buyer's obligations under this Addendum, or c) damages relating to New Contamination.

10. Buyer's Indemnification. Buyer shall defend, indemnify and hold Seller and its affiliates harmless from and against all claims, expenses (including reasonable attorneys' fees), loss or liability arising from or related to any New Contamination and to Buyer's ownership and/or operation of the Real Property and Buyer's obligations under this Addendum.

11. Buyer's Release. In consideration of the making of this Addendum, the conveyance of the Real Property to Buyer, and the covenants of Seller to remediate and to indemnify Buyer as provided in Paragraphs 4(a) and Section 9 ("Seller's Obligations"), Buyer agrees to accept the conveyance of the Real Property in their present condition and, if Seller fulfills Seller's Obligations, to make no claim regarding the environmental condition of the Real Property. Buyer hereby releases Seller from all claims (including claims under the Comprehensive Environmental Response Compensation and Liability Act of 1980 as amended, (CERCLA) and the Resource Conservation and Recovery Act of 1976, as amended (RCRA) and other environmental laws) for injury, death, destruction, loss or damage to the person or property of Buyer and its employees arising out of (i) the environmental condition of the Real Property and the improvements and the equipment on the Real Property, and (ii) the existence of Covered Contamination on, under or originating from the Real Property. This release does not include: (a) Seller's Obligations; and (b) claims by third parties and Agency relating to Covered Contamination.

12. Limitations on Liability. Seller shall not be responsible for Remediation of any Covered Contamination at the Real Property after the Remediation Completion Date if such remediation would be required only as a result of changes in applicable Agency Standards enacted or promulgated after the Remediation Completion Date.

13. Burden of Proof. If any environmental contamination is discovered in connection with the Real Property subsequent to the Remediation Completion Date, Buyer shall bear the burden of proof to establish that such contamination is Covered Contamination.

14. Dispute Resolution and Limitation of Liability. Buyer and Seller agree that any disputed claim or demand against the other arising out of or relating to this Addendum shall be resolved in accordance with and subject to the procedures and limitations of this Section 14. If a dispute arises between the parties under this Addendum and that dispute is not resolved within a reasonable period of time, either party may notify the other in writing that the dispute is to be submitted to arbitration. Such arbitration shall be held in the County where the Real Property is located. The parties shall jointly select an environmental consultant, engineer, or other professional reasonably qualified (including at least seven (7) years' experience in the appropriate environmental field) to arbitrate such dispute ("Independent Consultant"). The Independent Consultant shall not be an attorney. The parties shall each bear their respective legal fees and costs, and one-half of the cost of the Independent Consultant. If the parties cannot agree on the Independent Consultant within sixty (60) days, either party may apply to the American Arbitration Association for the appointment of the Independent Consultant. The Seller shall establish an expedited procedure for hearing and resolving the dispute. The Independent Consultant shall order either the proposal proposed by the Buyer or the proposal proposed by the Seller, and shall not order any other result. Unless the parties agree otherwise, the Independent Consultant shall, no more than sixty (60) days after the Independent Consultant is retained, render a decision resolving the dispute, with a

written opinion stating the reasons therefor. The decision of the Independent Consultant shall be final and binding, and a court of competent jurisdiction may enter judgment thereon. The dispute resolution procedures of this Section 14 shall constitute the exclusive remedy of the parties hereto with respect to any disputes arising out of this Addendum.

15. Notices. Notices shall be sent in the same manner as set forth in the Contract until the expiration of six (6) months from the Closing Date. Thereafter, any Notices required under this Addendum shall be sent by overnight express mail, certified mail, or personal delivery as herein provided. The date of service will be the date on which notice is received by the noticed party. Notices shall be sent to the following addresses:

Buyer:	Gas Mart 8349 Melrose Lenexa KS 66214
Seller:	Bill Lundeen ConocoPhillips Company P.O. Box 2097 600 North Dairy Ashford Houston, TX 77079-1175

16. Survival. The provisions of this Addendum shall survive the Closing. Except as provided herein, all other terms and conditions of the Contract shall remain the same. In the event of a conflict between this Addendum and the Contract, provisions of this Addendum shall govern.

IN WITNESS WHEREOF the parties have executed this Addendum as of the date below written.

BUYER:

SELLER:

GAS MART

CONOCOPHILLIPS COMPANY

By: [Signature]

By: [Signature]

Its: President

Its: Attorney in Fact

Date: Sept 23 03

Date: 10/2/03

SCHEDULE 1
Required Report Format

Suggested format for Buyer's quarterly report of all releases, spills and discovered contamination to Seller.

Comments	Buyer Contact	Buyer Phone #
Previous open release case discovered in 1991. Contamination found during UST replacement in May, 2001. Limited over excavation. No evidence of release since 4/1/97. Contamination is consistent with baseline.	John Smith	123-456-7890

SCHEDULE 2
ENVIRONMENTAL RELEASE

THIS AGREEMENT ("Agreement") is made and entered into this _____ of _____ ("Effective Date") by and between _____ a _____ corporation ("Seller") and _____ a _____ corporation ("Buyer") upon the terms and conditions set forth herein.

WHEREAS, pursuant to the terms of Real Estate Sales Contract (the "Contract") dated _____ between Seller and Buyer, Seller has been, or is currently, conducting environmental testing and/or remediation operations of known Covered Contamination (as defined in Section 1 in the Remediation and Indemnification Addendum to the Contract (the "Addendum") on all or a portion of the Real Property, and

WHEREAS, the nature and extent of all known Covered Contamination is set forth in the Baseline Report (as defined in Section 1 in Addendum); and

WHEREAS, pursuant to Section 7 of the Addendum , Seller and Buyer may, at any time, negotiate and agree upon the present value of the expected cost of completing assessment and remediation of known Covered Contamination on the Real Property, whereupon Seller will pay to Buyer an amount equal to the Remediation Cost, in exchange for Buyer's assumption of environmental responsibility and Buyer's execution of a release of remediation liability with respect to known Covered Contamination in favor of Seller; and

WHEREAS, Seller and Buyer have agreed upon the Remediation Cost for the Real Property and an amount equal to the Remediation Cost has been paid to Buyer;

NOW, THEREFORE, for and in consideration of Seller's payment to Buyer of the Remediation Cost of the Real Property, and other good and valuable consideration, the receipt of which is hereby acknowledged, Buyer, its officers and directors, employees, agents, subsidiary and affiliate companies and divisions, and all of its successors and assigns, does hereby **RELEASE, ACQUIT, QUIT-CLAIM and FOREVER DISCHARGE**, and by virtue of these presents, does for itself, its successors and assigns, hereby **RELEASE, ACQUIT and FOREVER DISCHARGE** Seller, its respective officers and directors, its employees, agents, attorneys, their subsidiary and affiliate companies and divisions, their insurers and underwriters at interest, and all of their successors and assigns, of and from any obligation and liability for further assessment, cleanup and remediation of known Covered Contamination on the Real Property (as reflected in the Baseline Report attached hereto), and hereafter **ASSUME** all such liability and obligations.

EXECUTED the _____ day of _____, 200__.

SELLER

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT ONLY

EXHIBIT "D"
TO THE
ASSIGNMENT AND ASSUMPTION
OF LEASE, GUARANTEE AND ADDENDUM

MODIFICATION ADDENDUM NO. 2 TO REAL ESTATE SALES CONTRACT

[SEE ATTACHED]

MODIFICATION ADDENDUM NO. 2
TO
REAL ESTATE SALES CONTRACT

THIS MODIFICATION ADDENDUM NO. 2 TO REAL ESTATE SALES CONTRACT (this "Addendum") is dated as of the 9th day of February, 2004, by and between Gas-Mart USA, Inc., a Missouri corporation ("Gas-Mart"), Fuel Service Mart, Inc., a Missouri corporation and a wholly-owned subsidiary of Gas-Mart ("FSM"), CRICGASMART LLC, a Delaware limited liability company ("CRIC Buyer") and ConocoPhillips Company, a Delaware corporation ("Seller").

RECITALS

A. Gas-Mart and Seller previously entered into a Real Estate Sales Contract (together with all Exhibits, Schedules and Addenda designated therein, the "Contract"), pursuant to which, among other things, Seller agreed to sell and Gas-Mart (itself or on behalf of an affiliate to be designated) agreed to buy certain real and personal property described in the Contract (all such property collectively, the "Property"). Capitalized terms used but not otherwise defined in this Addendum have the meaning assigned to them in the Contract.

B. Gas-Mart has arranged with CRIC Buyer for CRIC Buyer, instead of Gas-Mart or an affiliate of Gas-Mart, to buy from Seller the five Fee Properties identified on Schedule 1 hereto (collectively, the "CRIC Real Property") and certain of the related Personal Property (the "CRIC Personal Property") and, together with the CRIC Real Property, the "CRIC Property"), with FSM to lease the CRIC Property after the closing of the purchase pursuant to a long-term lease.

C. In respect of all Property except the CRIC Property, Gas-Mart desires to designate its affiliate, FSM, as Buyer (as defined in the Contract) by assigning to FSM all of its rights and obligations under the Contract in respect of such Property, and FSM desires to assume such rights and obligations.

D. CRIC Buyer desires to assume the obligation under the Contract to pay to Seller, through escrow as described in the Contract, Eighteen Million Sixteen Thousand Two Hundred Seventy-Eight Dollars (\$18,016,278) (the "CRIC Consideration"), and to receive title to the CRIC Property, but to assume no other obligations of Buyer under the Contract.

E. Gas-Mart, FSM, CRIC Buyer and Seller wish to amend the Contract in certain particulars to facilitate the above-described transactions, all as described in and subject to the terms and conditions stated in this Addendum.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The Recitals stated above are an integral part of this Addendum and are agreed and incorporated herein by this reference.

2. Except as described in Section 3, Gas-Mart hereby designates FSM as "Buyer" under the Contract and assigns all of its rights and obligations under the Contract to FSM, and FSM accepts said assignment and assumes and agrees to perform such rights and obligations.

3. Gas-Mart hereby assigns the right and obligation to purchase the CRIC Property to CRIC Buyer, and CRIC Buyer accepts said assignment and agrees to purchase the CRIC Property from Seller on the Closing Date, subject to the provisions of this Addendum.

4. CRIC Buyer shall pay the CRIC Consideration at Closing; provided, that CRIC Buyer shall not assume any other obligations of Buyer under the Contract. The CRIC Consideration shall be deposited with the Escrow Agent to be disbursed to Seller at Closing, all in accordance with the terms of the Contract, as amended by this Addendum.

5. Notwithstanding anything to the contrary in the Contract or in this Addendum, the parties hereto hereby agree as follows with respect to the following provisions:

(a) CRIC Buyer shall not grant to Seller an option, and Seller shall have no right, to repurchase any portion of the CRIC Real Property. If, upon the occurrence of a Repurchase Option Event within ten (10) years after the Closing Date, Seller elects to exercise its Repurchase Option under Addendum 1 to the Contract (or any other provision of the Contract), then rather than purchase any parcels of the CRIC Real Property, FSM shall assign to Seller and Seller shall unconditionally assume all of the obligations of FSM under the Lease Agreements by and between CRIC Buyer, as Landlord, and FSM, as Tenant, dated as of February 9, 2004, with respect to the CRIC Property. Such assignment by FSM and assumption by Seller shall be effected by an Assignment and Assumption Agreement in form and substance reasonably acceptable to CRIC Buyer. No Memorandum of Repurchase Option shall be filed with respect to any parcel of the CRIC Real Property.

(b) CRIC Buyer shall have no obligations under, and the CRIC Property shall not be subject to or bound by, (i) the Addendum to Real Estate Sales Contract (Supply Agreement Addendum - S1), (ii) the Addendum to Real Estate Sales Contract (Open Store Addendum), or (iii) Exhibit UST-1 to Real Estate Sales Contract; and the provisions of all such Addenda and Exhibits (in (i), (ii) and (iii) of this subparagraph (b)) shall be personal obligations of Gas-Mart and FSM only, as the case may be. Notwithstanding the foregoing provisions of this subparagraph (b), CRIC Buyer (or its transferees, successors and assigns, as applicable) shall be the owner of the USTs (as described in Exhibit UST-1 to Real Estate Contract) located on the CRIC Real Property, and the representations and warranties of Seller thereunder shall be for the benefit of and enforceable by CRIC Buyer.

6. Paragraph OS-1 of the Open Store Addendum to the Contract is amended and restated in its entirety, as follows:

OS-1. The parties acknowledge that Buyer is purchasing the Real Property as an open, operating convenience store or service station. Notwithstanding anything to the contrary contained in the Contract, Buyer agrees to deposit with Escrow Agent, on or before the Closing Date, the remaining balance of the Purchase Price. In addition, notwithstanding the first sentence of Paragraph OS-3.2, Buyer shall pay for the Inventory as described in Paragraph OS-3.2 of the Open Store Addendum as follows:

Gasoline and Diesel: On or before the date ten (10) days following Buyer's receipt of an invoice therefor, but not later than February 23, 2004.

Store Merchandise: On or before the date ten (10) days following Buyer's receipt of an invoice therefor, but not later than February 23, 2004.

7. With respect to CRIC Buyer's purchase of the CRIC Property, Seller hereby waives any requirement that Gas-Mart or FSM provide Seller any other or further notice in respect of said purchase, including the notice required by Section 6(j) of the Environmental Matters, Remediation and Indemnification Addendum to the Contract (the "Environmental Addendum").

8. The representations, warranties and indemnities made by Seller contained in the Contract as amended, and the obligations of Seller contained in the Environmental Addendum, in respect of the CRIC Property shall be deemed made to and for the benefit of CRIC Buyer as well as to and for the benefit of FSM and, further, shall run with the CRIC Property for so long as they survive under the Contract, as amended. For the avoidance of doubt, nothing in this Section 8 enlarges or diminishes the representations, warranties or indemnities made by Seller contained in the Contract, as amended, or the obligations of Seller contained in the Environmental Addendum, other than by allowing CRIC Buyer and its successors-in-title to the CRIC Property (as well as FSM) to rely on and enforce such representations, warranties and indemnities made by Seller and the obligations of Seller contained in the Environmental Addendum during their respective periods of effectiveness and survival.

9. Seller shall convey the CRIC Property and all other Personal Property related to the CRIC Real Property directly to CRIC Buyer, and all other Property directly to FSM. CRIC Buyer shall immediately convey to FSM any Personal Property conveyed to it by Seller other than the CRIC Personal Property.

10. After the Closing Date, CRIC Buyer shall provide for and permit such access to the CRIC Real Property, at no cost to Seller, Gas-Mart, FSM, and/or their employees, agents, and or contractors, as any of them may reasonably require and for such time as is reasonably required, for any of them to meet all of their respective environmental obligations as contemplated by the Contract. The terms and conditions of such access for any of them shall be as described for "Seller" in the Contract, and the obligations of CRIC Buyer with respect thereto shall be as described for "Buyer" in the Contract.

11. Notwithstanding any other terms of the Contracts, as amended, Unit No. 276250 located at 4106 Harrison, Rockford, Illinois, shall be withdrawn from the transaction and the

definition of Leased Premises, and the Purchase Price shall be reduced by Two Hundred Thousand Dollars (\$200,000) if, prior to the Closing, Seller shall have received and accepted a Mutual Termination and Release Agreement to terminate the Lease of said Premises on terms satisfactory to Seller.

12. Except as and to the extent expressly set forth herein, the rights and obligations under the Contract, as amended, in respect of the CRIC Property are not assigned to CRIC Buyer, but shall be the personal rights and obligations of FSM in accordance with Section 2.

13. Seller hereby expressly consents to the assignments contained in this Addendum.

14. This Addendum shall be effective only at such time as all conditions to closing escrow that are specified by Gas-Mart, FSM, Hillcrest Bank, CRIC Buyer and Seller are satisfied or waived, and the purchase and sale transaction contemplated by the Contract, as amended, shall then close.

15. The provisions of this Amendment shall be binding upon the parties hereto and their respective transferees, successors and assigns; provided, that no assignment or transfer of this Amendment by any party hereto shall release such party from any of its obligations hereunder.

16. This Addendum may be executed in counterparts and/or by facsimile signatures, and all so executed shall constitute one and the same Addendum, notwithstanding that all of the parties are not signatories to the original or the same counterpart.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first written above.

GAS-MART USA, INC.

CONOCOPHILLIPS COMPANY

By: 
Print Name: David George
Its: President

By: _____
Print Name: _____
Its: _____

FUEL SERVICE MART, INC.

CRICGASMART, LLC

By: 
Print Name: David George
Its: President

By: _____
Print Name: _____
Its: _____

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first written above.

GAS-MART USA, INC.

CONOCOPHILLIPS COMPANY

By: _____
Print Name: David George
Its: President

By: _____
Print Name: _____
Its: _____

FUEL SERVICE MART, INC.

CRICGASMART, LLC

By: _____
Print Name: David George
Its: President

By: Marym's Palmer
Print Name: _____
Its: _____

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first written above.

GAS-MART USA, INC.

CONOCOPHILLIPS COMPANY

By: _____
Print Name: David George
Its: President

By: Randall Amer
Print Name: Randall Amer
Its: Attorney IN FACT

FUEL SERVICE MART, INC.

CRICGASMART, LLC

By: _____
Print Name: David George
Its: President

By: _____
Print Name: _____
Its: _____

Schedule 1
CRIC Real Property

<u>Store Number</u>	<u>Address</u>	<u>City</u>	<u>State</u>
2706179	2501 Light Rd.	Oswego	IL
2706182	Rt. 47 & 30	Sugar Grove	IL
2706218	10 S Randall Rd.	Algonquin	IL
2706249	12819 143 rd St.	Lockport	IL
2706178	200 Fabyan Parkway	Batavia	IL

EXHIBIT "E"
TO THE
ASSIGNMENT AND ASSUMPTION
OF LEASE, GUARANTEE AND ADDENDUM

ACCESS AGREEMENT

[SEE ATTACHED]

When recorded, return to:
ConocoPhillips Company
Attn: Real Property Administration
Plaza Office Building, Room 810G
315 S Johnstone
Bartlesville OK 74004

ACCESS AGREEMENT
Site No. 2706178

THIS AGREEMENT is entered into by and between CRICGASMART LLC, a Delaware limited liability company ("Grantor"), and CONOCOPHILLIPS COMPANY, a Delaware corporation ("Grantee"), shall be effective on the date that this Agreement shall have been executed by all of the parties hereto.

RECITALS:

WHEREAS, Grantor is the fee simple owner of that certain real property (the "Property") which is the subject of that certain Real Estate Sales Contract (the "Contract") between Grantee, as Seller, and Grantor, as Buyer; as legally described on the attached Exhibit A; and

WHEREAS, Grantee is seeking Grantor's consent to enter the Property for the purpose of testing, assessing and remediating Covered Contamination existing as of the sale date of the Property to Grantor, all as required by the Contract; and

WHEREAS, Grantor and Grantee desire to set forth their respective rights, responsibilities and obligations regarding the Grantee's entry to, assessment, and remediation of the Property.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein, Grantor and Grantee agree as follows:

1. The above Recitals are hereby incorporated by reference.
2. Capitalized terms shall have the meaning set forth either herein or in the Contract.
3. Grantor hereby grants to Grantee the right to enter the Property (the "Right") from time to time for the purpose of performing necessary tests, assessment and remediation of Covered Contamination (the "Work"), pursuant to the following conditions:
 - A. The Right granted herein shall be exercised by Grantee and/or Grantee's agents, employees and representatives.

B. The Right granted herein may be exercised from time to time and for so long as reasonably necessary or required in Grantee's discretion, but subject to limitations in the Contract, to accomplish the tests and remediation herein described.

C. The Right granted herein shall be exercised by Grantee with due regard to the limitations in the Contract and Grantor's use of the Property and without any unreasonable disruption of such use.

4. Liability for any and all costs, expenses, fees and/or any other expenditures necessitated by the Work shall be borne solely by Grantee, who shall indemnify, defend and hold Grantor harmless therefrom; provided, however, that the obligations described in this Section 4 shall not apply to any New Contamination, as that term is defined in the Contract. Grantee shall at all times keep the Grantor Site free and clear of all liens and encumbrances relating to the Work. Grantee shall provide, at its sole expense, any security necessary for the protection of the Work.

5. The Work shall be performed at all times in compliance with all applicable laws, regulations and orders of the Agency. Grantee shall dispose of soil and groundwater removed during the performance of the Work in accordance with such laws, regulations and orders.

6. Grantee shall indemnify, defend and hold harmless Grantor, its agents, employees, officers and directors from and against any and all Damages connected with: (a) Grantee's exercise of the Right granted herein; (b) any personal injury or property damage occurring on or about the Grantor Site during the performance of the Work; or (c) any negligent or intentional act or omission of the Grantee, its agents, employees, or representatives in the performance of this Agreement. This indemnity shall not apply to Damages arising from disruption of Buyer's operations at the Property, unless such disruption results from Seller's gross negligence or intentional misconduct.

7. Upon the expiration of this Agreement, Grantee shall remove or close in place its remediation equipment located at the Property and repair and replace with equivalent materials, any portion of the Property affected thereby to its present condition, in compliance with industry standards and Agency Standards.

8. Grantee (or its environmental consultant), at its sole expense, shall procure and maintain throughout the term of this Agreement commercial general public liability insurance with combined single limit coverage of \$1,000,000. Upon request, Grantee shall furnish Grantor with a certificate of such coverage prior to any entry upon Grantor's Site.

9. This Agreement shall remain in force until the earlier to occur of (a) the granting of a "no further action" letter (or similar) by the Agency; or (b) five (5) years from the date of full execution hereof. After the termination of this Agreement and upon written request from Grantor, Grantee shall deliver a Termination of Access Agreement in recordable form to Grantor.

10. This Agreement, and all of the terms, provisions and obligations hereof, shall be covenants running with the Premises and shall inure to the benefit of and be binding upon Grantor and Grantee and their respective heirs, successors and assigns.

11. Any notice required or permitted to be given to any party shall be in writing and shall be delivered by hand, mailed by first class mail, postage prepaid, telecopied or sent by overnight courier to the addresses set forth below. Any such notice shall be deemed to be received: (a) if delivered personally, on the date of such delivery; (b) if mailed, on the third business day following mailing; (c) if telecopied, on the date of transmission; or (d) if sent by overnight courier, on the first business day following delivery to courier.

To Grantor:
8349 Melrose
Lenexa KS 66214
Attn: David George
Fax (913) 599-5798

To Grantee:
315 S Johnstone
Bartlesville OK 74004
Attn: Real Property Administration
Plaza Office Building, Room 810G
Fax (918) 662-2226

The parties may change their respective notice address to any other location within the United States by giving a notice of the change in accordance with this Section.

IN WITNESS WHEREOF, the parties authorized representatives have executed this Agreement.

Grantor:

Grantee:

CRICGASMART LLC
A Delaware limited liability company

CONOCOPHILLIPS COMPANY,
a Delaware corporation

By: _____
Name: _____
Its: _____
Date Executed: _____

By: Randall Amen
Name: Randall Amen
Its: Attorney-in-Fact
Date Executed: _____

ACKNOWLEDGMENTS ON FOLLOWING PAGE

STATE OF _____)
) ss.
 COUNTY OF _____)

On the date below, before me, the undersigned, a Notary Public in and for said State, duly commissioned and sworn, personally appeared _____, known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal this date: _____.

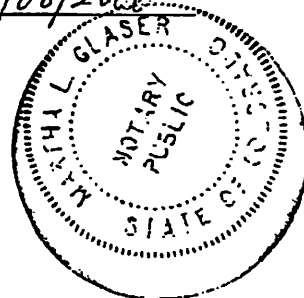
 Notary Public
 Commission Expires _____

STATE OF COLORADO)
) ss.
 COUNTY OF ARAPAHOE)

On the date below, before me, the undersigned, a Notary Public in and for said State, duly commissioned and sworn, personally appeared Randall Amen, known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal this date: February 3, 2004.

Michael L. Glaser
 Notary Public
 Commission Expires 06/08/2006



10. This Agreement, and all of the terms, provisions and obligations hereof, shall be covenants running with the Premises and shall inure to the benefit of and be binding upon Grantor and Grantee and their respective heirs, successors and assigns.

11. Any notice required or permitted to be given to any party shall be in writing and shall be delivered by hand, mailed by first class mail, postage prepaid, telecopied or sent by overnight courier to the addresses set forth below. Any such notice shall be deemed to be received: (a) if delivered personally, on the date of such delivery; (b) if mailed, on the third business day following mailing; (c) if telecopied, on the date of transmission; or (d) if sent by overnight courier, on the first business day following delivery to courier.

To Grantor:
8349 Melrose
Lenexa KS 66214
Attn: David George
Fax (913) 599-5798

To Grantee:
315 S Johnstone
Bartlesville OK 74004
Attn: Real Property Administration
Plaza Office Building, Room 810G
Fax (918) 662-2226

The parties may change their respective notice address to any other location within the United States by giving a notice of the change in accordance with this Section.

IN WITNESS WHEREOF, the parties authorized representatives have executed this Agreement.

Grantor:

Grantee:

CRICGASMART LLC
A Delaware limited liability company

CONOCOPHILLIPS COMPANY,
a Delaware corporation

By: Margerie S. Palace
Name: Margerie S. Palace
Its: Authorized Signatory
Date Executed: 2-5-04

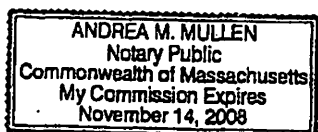
By: _____
Name: Randall Amen
Its: Attorney-in-Fact
Date Executed: _____

ACKNOWLEDGMENTS ON FOLLOWING PAGE

STATE OF MA)
COUNTY OF Suffolk) ss.

On the date below, before me, the undersigned, a Notary Public in and for said State, duly commissioned and sworn, personally appeared Marjorie Palace, known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal this date: 2-5-04.



Andrea M. Mullen
Notary Public
Commission Expires 11-14-08

STATE OF COLORADO)
COUNTY OF ARAPAHOE) ss.

On the date below, before me, the undersigned, a Notary Public in and for said State, duly commissioned and sworn, personally appeared Randall Amen, known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal this date: _____.

Notary Public
Commission Expires _____



David J. Rickert, Kane County Treasurer
Make Checks Payable to: KANE COUNTY TREASURER
Please remit to: P.O. Box 4025, Geneva, IL 60134-4025

Parcel Number: 14-16-401-004



1st
2
0
1
4

****DUPLICATE****

SAWLE, CORNELIA B & W STEPHEN
FUEL SERVICE MART INC
10777 BERKLEY ST STE 200
OVERLAND PARK, KS 66211

1st Installment for 2014

DUE BY 06/01/15

1

ABATEMENT
PENALTY
OTHER FEES
TOTAL DUE

\$42389.73
Paid On

1416401004100042389730601159

Remove stub and remit with payment



David J. Rickert, Kane County Treasurer
Make Checks Payable to: KANE COUNTY TREASURER
Please remit to: P.O. Box 4025, Geneva, IL 60134-4025

Parcel Number: 14-16-401-004



2nd
2
0
1
4

****DUPLICATE****

SAWLE, CORNELIA B & W STEPHEN
FUEL SERVICE MART INC
10777 BERKLEY ST STE 200
OVERLAND PARK, KS 66211

2nd Installment for 2014

DUE BY 09/01/15

2

ABATEMENT
PENALTY
OTHER FEES
TOTAL DUE

\$42389.73
Paid On

1416401004200042389730901156

Remove stub and remit with payment

Rate 2013	Tax 2013	Taxing District	Rate 2014	Tax 2014
0.374538	\$2680.30	KANE COUNTY	0.379454	\$2862.50
0.087754	\$627.99	KANE COUNTY PENSION	0.089906	\$670.69
0.297499	\$2128.98	KANE FOREST PRESERVE	0.305927	\$2307.82
0.006369	\$45.58	KANE FOREST PRESERVE PENSION	0.006703	\$50.57
0.119992	\$858.70	SUGAR GROVE TOWNSHIP	0.122650	\$925.24
0.163630	\$1170.98	SUGAR GROVE TWP ROAD DIST	0.163455	\$1233.06
0.510698	\$3654.69	SUGAR GROVE VILLAGE	0.525891	\$3974.71
0.097232	\$695.82	SUGAR GROVE VILLAGE PENSION	0.094089	\$709.79
7.172189	\$51326.12	KANELAND C.U.S.D. 302	7.370914	\$55604.07
0.200090	\$1431.90	KANELAND C.U.S.D. 302 PENSION	0.216790	\$1635.44
0.580694	\$4155.60	WAUBONSEE COLLEGE 518	0.595432	\$4491.77
0.199128	\$1425.01	SUGAR GROVE PARK DISTRICT	0.202953	\$1531.02
0.020486	\$146.61	SUGAR GROVE PARK DISTRICT PENSION	0.019376	\$146.17
0.300434	\$2149.98	SUGAR GROVE LIBRARY DIST	0.305413	\$2303.95
0.004488	\$32.12	SUGAR GROVE LIBRARY DIST PENSION	0.004318	\$32.57
0.782553	\$5600.16	SUGAR GROVE FIRE DISTRICT	0.800340	\$6037.54
0.002956	\$21.15	SUGAR GROVE WATER AUTH	0.002943	\$22.20
0.032079	\$229.57	SUGAR GROVE COMM BUILDING	0.031861	\$240.35

Kane County Real Estate Tax Bill
David J. Rickert, County Treasurer
719 S. Batavia Avenue, Bldg. A
Geneva, IL 60134

10.852809	\$78,381.26	TOTAL	11.238415	\$84,779.46
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Parcel Number
14-16-401-004

Late Payment Schedule

	1st	2nd
Jun 2 thru Jul 1	\$43025.58	
Jul 2 thru Aug 1	\$43661.42	
Aug 2 thru Sep 1	\$44297.27	
Sep 2 thru Oct 1	\$44933.11	\$43025.58
Oct 2 thru Oct 23	\$45568.98	\$43661.42

Payment on or after 10/02/15 please see instructions on reverse side for late payments.

Mail To:
SAWLE, CORNELIA B & W STEPHEN
FUEL SERVICE MART INC
10777 BERKLEY ST STE 200
OVERLAND PARK, KS 66211

Property Location:
201 N RTE 47
SUGAR GROVE

Township SG	Tax Code SG022	Acres 0.0000	TIF BASE N/A
Tax Rate 11.238415	Sold at Tax Sale	Forfeited Tax	FAIR CASH VALUE \$2,263,340.00
First Installment Tax \$42389.73	Second Installment Tax \$42389.73		LAND VALUE \$150,874.00
Abatement \$0.00	Abatement \$0.00		+ BUILDING VALUE \$603,498.00
Penalty	Penalty		- HOME IMPROVEMENT/VET \$0.00
Other Fees	Other Fees		= ASSESSED VALUE \$754,372.00
Total Due Due By 06/01/15	Total Due Due By 09/01/15		x STATE MULTIPLIER 1.000000
			= EQUALIZED VALUE \$754,372.00
			- HOMESTEAD EXEMPTION -
			- SENIOR EXEMPTION -
			- OTHER EXEMPTIONS -
			+ FARM LAND -
			+ FARM BUILDING -
			= NET TAXABLE VALUE \$754,372.00
			x TAX RATE 11.238415
			= CURRENT TAX \$84,779.46
			+ DRAINAGE \$0.00
			+ BACK TAX / FORF AMT. \$0.00
			- ENTERPRISE ZONE \$0.00
			= TOTAL TAX DUE \$84,779.46