

3.1
COLUMBIANA PLANT Shelby 1425

LANDLORD'S AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, That:

WHEREAS, the undersigned (herein referred to as "Landlord") has leased the premises described in Exhibit "A" attached hereto (the "Premises") to Suburban Gas Incorporated, an Alabama corporation (herein referred to as "Tenant") under a lease dated the 1 day of October, 1979 (the "Lease"); and

56 BOOK PAGE 339
WHEREAS, the Tenant has become indebted to SouthTrust Bank of Alabama, National Association, (herein referred to as "SouthTrust") and from time to time hereafter may become further indebted to SouthTrust for various loans (the "Loans") evidenced by various promissory notes (the "Notes") made by the Tenant and payable to the order of SouthTrust; and

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WHEREAS, as a precondition to making the Loans, SouthTrust may require the same to be secured by security interests in the Tenant's equipment, inventory, machinery, furniture and fixtures, whether now owned or hereafter acquired by Tenant (the "Collateral"); and

WHEREAS, a portion of the Collateral may from time to time be situated at the Premises; and

WHEREAS, as a precondition to making the Loans, SouthTrust is requiring that Landlord enter into this Agreement.

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Landlord

THOMAS, TALIAFERRO, FORMAN, BURR & MURRAY

1600 BANK FOR SAVINGS BUILDING
BIRMINGHAM, ALABAMA 35203

(205) 251-3000

agrees as follows:

1. All Collateral, regardless of the manner and extent of attachment to the Premises, shall at all times be treated as personal property of the Tenant and shall not be deemed fixtures or real property.

2. Any lien, claim for rent or other interests of the Landlord with respect to the Collateral shall be second, junior and subordinate in all respects to the security interests and liens now or hereafter granted by the Tenant to SouthTrust.

3. Any provision of law granting the Landlord a lien or right of distraint upon the Collateral is hereby specifically waived in favor of all liens and security interests now or hereafter granted to SouthTrust by the Tenant.

4. Upon default by the Tenant in the payment of the Notes, or any one or more of them, the Bank may, without interference or hinderance by or from the Landlord, (1) remove the Collateral from the Premises, (2) disconnect all water, gas, electricity and telephone lines and other facilities or installations necessary to effectuate such removal, and (3) exercise its remedies as a secured party under the Uniform Commercial Code and/or the security agreements under which the Tenant has granted the Bank security interests in the Collateral. From time to time, the Bank may enter upon and occupy the Premises for the purposes of inspecting, removing, taking possession or maintaining possession of the

BOOK
56 PAGE 340

Collateral and preparing for and conducting a sale of the same, whether private or public. The Landlord hereby irrevocably consents to SouthTrust taking the action hereinabove described in this paragraph 4 and warrants that it shall not take any action to bar, restrain or otherwise prevent SouthTrust from entering upon or occupying the Premises for the aforesaid purposes.

5. The Landlord consents to the Tenant's assignment of the Lease to SouthTrust as additional security for the Loans, and upon default in payment of the Loans, or any one or more of them, or the occurrence of an event entitling SouthTrust to accelerate the maturity of any one or more of the Notes, the Landlord shall allow SouthTrust to exercise all its remedies under such assignment, including, without limitation, the right to assume the Lease as lessee thereunder, and to assign the Tenant's interests in the Lease to an assignee of SouthTrust who shall expressly assume all the Tenant's obligations under the Lease. An assumption of the Lease by SouthTrust pursuant to the provisions of this paragraph, shall only be evidenced by a written declaration of assumption executed by SouthTrust and delivered to the Landlord, and such assumption shall obligate SouthTrust only to pay and perform the Tenant's obligations under the Lease until the Tenant's interests are assigned by SouthTrust to its assignee or until thirty (30) days after SouthTrust shall have given the Landlord notice of its intent to terminate

BOOK 56 PAGE 341

such assumption, which ever first occurs.

56 PAGE 342
BOOK
6. In the event of any default under the Lease, Landlord shall not terminate the Lease or take any action to enforce any claim with respect thereto without giving to SouthTrust at least sixty (60) days prior written notice thereof and the right to cure such default within said sixty (60) day period. Should SouthTrust cure any such default or otherwise pay or perform any obligations of the Tenant under the Lease, whether or not the same are in default, such payment or performance shall not be deemed as an assumption by SouthTrust of any obligations of the Tenant under the Lease. Any conduct of SouthTrust, oral commitments or any other events to the contrary notwithstanding, SouthTrust shall be deemed to have assumed the obligations of the Tenant under the Lease only as provided in paragraph 5 hereof.

7. The Landlord warrants that as of the date hereof all rentals due under the Lease are paid and current and neither the Landlord nor the Tenant is in default under the Lease, nor has any event occurred which, with the passing of time or the giving of notice, would constitute a default under the Lease by Tenant or Landlord.

8. The terms and conditions of this agreement shall be made known by the Landlord to any transferee of the Premises, or any other person who may hereafter obtain an interest in the Premises.

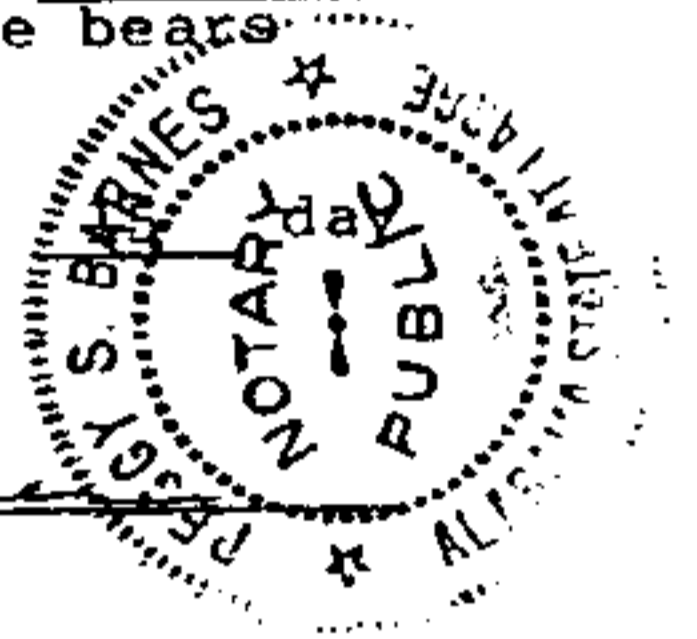
STATE OF ALABAMA)
)
Jefferson COUNTY)

ACKNOWLEDGMENT

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that F. Catherine Faulkner and Lonher F. McLeroy whose name s _____ signed to the foregoing agreement and who _____ known to me, acknowledged before me on this day that, being informed of the contents of the agreement, executed the same voluntarily on the day the same bears _____ date.

Given under my hand and official seal, this _____ of February, 1984.

Deann A. Barnes
NOTARY PUBLIC



BOOK 56 PAGE 344

EXHIBIT A

The following described real estate situated in Shelby County, Alabama, to-wit:

A part of the NW1/4 of NW1/4 of Section 26 Township 21 South, Range 1 West, described as follows: Commence at the NW corner of Columbiana Homes, Inc., as shown map as recorded in Probate Office of Shelby County, Alabama and run thence South 16 deg. 32' East along the Westerly line of said Columbiana Homes, Inc. 454 feet to the North right of way line of Columbiana-Saginaw cut-off road; thence turn and angle of 93 deg. 22' to the right and run along said right of way line 70 feet to the point of beginning of tract of land herein described; thence run North 16 deg. 32' West to the South right of way line of Southern Railroad right of way; thence run in a Southwesterly direction along said Railroad right of way to a point which would be 200 feet West of the East line of property herein described; thence run in a Southeasterly direction to the North right of way line of Columbiana-Saginaw Cut-Off Highway to a point which would be 200 feet West of the East line of property herein described (said last described line being parallel to the East line of property herein described); thence run in a Easterly direction along the North right of way line of said Highway a distance of 200 feet more or less to point of beginning.

BOOK 50 PAGE 345

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1984 APR 27 AM 11:59
JUDGE OF PROBATE

Rec. 1050
Ind. 100
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