

20130403000138340 1/9 \$1236.00
Shelby Cnty Judge of Probate, AL
04/03/2013 01:02:02 PM FILED/CERT

SEND TAX NOTICES TO:
MOORE OIL CO., INC.
1800 Centerpoint Parkway
Birmingham, AL, 35215

WARRANTY DEED

Shelby County, AL 04/03/2013
State of Alabama
Deed Tax: \$1200.00

STATE OF ALABAMA
COUNTY OF SHELBY

KNOW ALL MEN BY THESE PRESENTS, that in consideration of the sum of One Million Two Hundred Thousand and 00/100 Dollars (\$1,200,000.00) to the undersigned grantor, in hand paid by the grantee herein, the receipt of which is hereby acknowledged, **HIGGINBOTHAM OIL COMPANY, INC., successor by merger with SUNNY STORES, INC.** an Alabama corporation (herein referred to as "Grantor"), hereby grants bargains, sells, and conveys unto **MOORE OIL CO., INC.**, an Alabama corporation (herein referred to as "Grantee") the real estate described on Exhibit "A" attached hereto and situated in Shelby County, Alabama along with all equipment and fixtures located thereon or attached thereto.

[This property does not constitute the homestead of Grantor nor of Grantor spouse.]

TO HAVE AND TO HOLD the described premises to Grantee, its successors and assigns forever.

AND THE GRANTOR does for itself, and its successors and assigns, covenant with said Grantee, its successors and assigns, that Grantor is lawfully seized in fee simple of the premises, that they are free from all encumbrances, unless otherwise noted on Exhibit "A", that Grantor has good right to sell and convey the same as aforesaid, and that Grantor will and its successors and assigns shall warrant and defend same to said Grantee, its successors and assigns forever, against the lawful claims of all persons.

IN WITNESS WHEREOF, the Grantor has signed and sealed this Deed on the 1 day of April, 2013.

**HIGGINBOTHAM OIL COMPANY, INC., successor by
merger with SUNNY STORES, INC.**

By: 

Print Name: Burnie A. Higginbotham, Jr.

Title: President

STATE OF ALABAMA
JEFFERSON COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Burnie A. Higginbotham, Jr., whose name as President of HIGGINBOTHAM OIL COMPANY, INC., successor by merger with SUNNY STORES, INC., a corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer, and with full authority, executed the same voluntarily, as an act of said corporation, acting in his capacity as aforesaid.

Given under my hand and official seal, this the 1 day of April, 2013.


NOTARY PUBLIC
My Commission Expires: 6/7/15

THIS INSTRUMENT PREPARED BY AND AFTER
RECORDATION SHOULD BE RETURNED TO:

William B. Hairston III
Engel, Hairston, & Johanson P.C.
P.O. Box 11405
Birmingham, AL 35202
(205) 328-4600



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EXHIBIT "A"

PARCEL I:

A part of the Northwest 1/4 of Northeast 1/4 of Section 36, Township 19 South, Range 3 West, more particularly described as follows:

Commence at the Northeast corner of the Northwest 1/4 of Northeast 1/4 of Section 36, Township 19 South, Range 3 West; thence Southerly along the East line of said 1/4 - 1/4 section to the South right of way line of the Old (abandoned) right of way of the Acton Branch Railroad, which is the point of beginning; thence continue South along said 1/4 - 1/4 section line 516.9 feet, more or less, to the centerline of the Helena-Acton Road; thence 60° 06' 30" right Southwesterly along said centerline a distance of 115.34 feet; thence 119° 53' 30" right Northerly and parallel to said 1/4 - 1/4 line a distance of 575.0 feet, more or less, to said South railroad right of way line; thence Easterly 100 feet, more or less, along said South railroad right of way line to the point of beginning.

PARCEL II:

That part of the Northeast 1/4 of the Northeast 1/4 of Section 36, Township 19 South, Range 3 West, lying Southwest of Old U.S. Highway 31 and Northwest of the Helena-Acton Road, more particularly described as follows:

Begin at the Northwest corner of the Northeast 1/4 of Northeast 1/4 of Section 36, Township 19 South, Range 3 West; thence Easterly along the North line of said 1/4 - 1/4 section 65.1 feet to the centerline of U.S. Highway 31; thence 52° 43' 30" right along said centerline a distance of 430.70 feet to the intersection with the centerline of the Helena-Acton Road; thence 98° 56' right along the last mentioned centerline 366.48 feet to the intersection with the West line of said 1/4 - 1/4 section; thence 117° 49' 30" right Northerly along said West line a distance of 516.9 feet to the point of beginning.

SUBJECT TO:

- i) taxes and assessments for the year 2013, a lien but not yet payable;
- ii) coal, oil, gas and mineral and mining rights which are not owned by Grantor;
- iii) Right of way to the City of Pelham, recorded in Real 110, page 940, in the Probate Office of Shelby County, Alabama;
- iv) Mineral and mining rights and rights incident thereto recorded in Deed Volume 6, page 80 (Parcel I) and Deed Volume 121, page 437, in the Probate Office of Shelby County, Alabama;
- v) Right of way to Shelby County, recorded in Deed Volume 135, page 371 (Parcel II) and Deed Volume 135, page 370 (Parcels I & II), in the Probate Office of Shelby County, Alabama;
- vi) Right of way to Alagasco, recorded in Instrument 20090121000018450, in the Probate Office of Shelby County, Alabama; and
- vii) Less and except any portion of subject property lying within a road right of way.

Real Estate Sales Validation Form

This Document must be filed in accordance with Code of Alabama 1975, Section 40-22-1

Grantor's Name Higginbotham Oil Co. Inc Grantee's Name Moore Oil Co., Inc
Mailing Address 562 Cahaba Valley Rd Mailing Address 1800 Centenary Pkwy
Pelham AL 35124 Birmingham AL 35215
Property Address 9249 Highway 261 Date of Sale 4/1/13
Pelham AL 35124 Total Purchase Price \$ 1,200,000.00
or
Actual Value \$ _____
or
Assessor's Market Value \$ _____



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The purchase price or actual value claimed on this form can be verified in the following documentary evidence: (check one) (Recordation of documentary evidence is not required)

☐ Bill of Sale ☐ Appraisal
☒ Sales Contract ☐ Other
☐ Closing Statement

If the conveyance document presented for recordation contains all of the required information referenced above, the filing of this form is not required.

Instructions

Grantor's name and mailing address - provide the name of the person or persons conveying interest to property and their current mailing address.

Grantee's name and mailing address - provide the name of the person or persons to whom interest to property is being conveyed.

Property address - the physical address of the property being conveyed, if available.

Date of Sale - the date on which interest to the property was conveyed.

Total purchase price - the total amount paid for the purchase of the property, both real and personal, being conveyed by the instrument offered for record.

Actual value - if the property is not being sold, the true value of the property, both real and personal, being conveyed by the instrument offered for record. This may be evidenced by an appraisal conducted by a licensed appraiser or the assessor's current market value.

If no proof is provided and the value must be determined, the current estimate of fair market value, excluding current use valuation, of the property as determined by the local official charged with the responsibility of valuing property for property tax purposes will be used and the taxpayer will be penalized pursuant to Code of Alabama 1975 § 40-22-1 (h).

I attest, to the best of my knowledge and belief that the information contained in this document is true and accurate. I further understand that any false statements claimed on this form may result in the imposition of the penalty indicated in Code of Alabama 1975 § 40-22-1 (h).

Date 4/1/13

Unattested _____
(verified by)

Print Higginbotham Oil Company Inc
Sign [Signature] (President)
(Grantor/Grantee/Owner/Agent) circle one

C-STORE SALES CONTRACT

The undersigned Purchaser (or its assigns), hereby agrees to purchase and the undersigned Seller, hereby agrees to sell the real estate described on Exhibit "A" attached hereto, together with all equipment, fixtures, tanks, pumps, dispensers, POS equipment, and appurtenances located thereon on the terms stated below.

1. **THE PURCHASE PRICE** for the real estate, equipment, fixtures, tanks, pumps, dispensers, POS equipment and appurtenances shall be \$ 1,200,000.00, payable as follows:

Earnest Money \$ 225,000.00
Cash on closing this sale \$ 975,000.00

All cost involved in the transfer to Purchaser shall be paid for by Purchaser in addition to the Purchase Price, unless specifically provided herein to be paid by Seller. These costs to be paid by Purchaser shall include, but not be limited to recording cost, 1/2 of the costs of title insurance, 1/2 the costs of preparing the deed and closing the sale, any attorney fees or expenses of Purchaser's counsel, appraisal costs, any and all costs of obtaining financing, termite bond (if any required by Purchaser), and survey (if any required by Purchaser). The cost to be paid by Seller shall include 1/2 of the costs of title insurance, and 1/2 of the costs to prepare the deed and close the sale (but not any of the costs in closing Purchaser's loan). Taxes, license fees, utilities and other ongoing charges shall be prorated to the day of closing.

2. **INVENTORY:** In addition to the real estate, equipment, fixtures and appurtenances making up the property, Seller shall sell to Purchaser and Purchaser shall purchase from Seller the inventory located on the property as of the day of closing. Prior to such closing, Seller and Purchaser shall cause an inventory to be taken of the inventory located on the property. The costs of this inventory shall be split between Purchaser and Seller. The Purchaser shall pay to the Seller at closing as the purchase price for Seller's inventory an amount that is the sum of:

- (1) Seller's last cost per gallon for each type of gasoline,
- (2) NA % of Seller's retail charge for cigarettes,
- (3) % of Seller's retail charge for beer,
- (4) % of Seller's retail charge for oil listed in the inventory, and
- (5) % of Seller's retail charge for groceries and all other inventory items.

3. **ACCOUNT RECEIVABLES and ACCOUNTS PAYABLE:** All cash on hand, all accounts receivables and all accounts payable up to the day of closing shall remain the property and responsibility of Seller.

4. **TITLE INSURANCE:** The Seller agrees to order a standard form title insurance policy, issued by a company qualified to insure titles in Alabama, in the amount of the purchase price, insuring the Purchaser against loss on account of any defect or encumbrance in the title, unless herein excepted. If such title insurance contains exceptions which are reasonably unacceptable to Purchaser then upon notice to Seller and the opportunity to correct such problem, or exception, and upon the failure of Seller to correct such problem or exception within a reasonable time then



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the Purchaser may elect to terminate this contract, and obtain a refund of the Earnest Money paid.

5. **MINERALS/ZONING/FLOOD:** Said property is sold and is to be conveyed subject to any mineral and mining rights not owned by the undersigned Seller and subject to present zoning classification, and is not located in a flood plain.

6. **PRORATIONS & HAZARD INSURANCE:** The taxes, utilities and any other ongoing charges, as determined on the date of closing, are to be prorated between the Seller and Purchaser as of the date of delivery of the deed (for the purposes of this proration, City taxes will be considered as paid in advance). The Seller will keep in force sufficient hazard insurance on the property to protect all interests until this sale is closed and the deed delivered.

7. **CLOSING & POSSESSION DATES:** The sale shall be closed and the deed and bill of sale delivered on or before 60 days following this date, except the Seller shall have a reasonable length of time within which to perfect title or cure defects in the title to the said property. Possession is to be given on delivery of the deed.

8. **SURVEY:** Seller shall deliver to Purchaser the existing survey of the property. If Purchaser desires, Purchaser at his expense may obtain a current survey of the property.

9. **WARRANTIES AND CONVEYANCE:** Seller hereby warrants that he has or will obtain good title to the property, and same shall not be subject to any leases, encumbrances, or restrictions not acceptable to Purchaser. The Seller agrees to convey said property to the Purchaser by general warranty deed, free of all leases, encumbrances and exceptions, except as hereinafter set out. Seller and Purchaser agree that any encumbrances not herein excepted or assumed may be cleared at the time of closing from sales proceeds.

10. **NO RESTRICTIONS ON PROPERTY:** Seller warrants and represents to Purchaser that Seller has not imposed and will not impose any restrictions on the use of the property, and that Seller is not aware of any restrictions as to the use of the property (other than those associated with its current zoning), and to Seller's knowledge the property can be used for any use consistent with its current zoning.

11. **REAL ESTATE AGENT:** Seller and Purchaser represent and warrant to each other that there is no real estate agent or broker involved in this transaction, participating in this transaction or entitled to a fee or commission arising out of this transaction.

12. **CONDITION OF PROPERTY:** Seller makes no representation or warranty or any kind as to the condition of the property, the structure located thereon, the equipment, the inventory, or the fixtures (if any) contained therein. Seller is selling the property to Purchaser AS IS, and WITH ALL FAULTS. It shall be the responsibility of Purchaser, at Purchaser's expense, to inspect the property before the closing and to satisfy himself/herself prior to the closing as to the condition of the property being purchased.

13. **CONTINGENCY AND INSPECTION PERIOD:** Purchaser shall have a period of forty-five (45) days from the date Seller executes this Contract to inspect the property. During this period, Purchaser may, at its expense, enter into and inspect the property, undertake a title

delivered to Seller, funds representing the earnest money in this transaction. Upon consummation of this transaction, this earnest money will be applied toward payment of the purchase price. In the event Purchaser, for whatever reason, cannot comply with the terms of this transaction, then this contract shall be cancelled upon Purchaser's request, and Seller shall be entitled to this earnest money as liquidated damages due to Purchaser's inability to perform. In the event Seller desires not to perform under this contract, then Purchaser shall be entitled to either specific performance or the return this earnest money.

19. **ENTIRE AGREEMENT:** THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN PURCHASER AND SELLER REGARDING THE PROPERTY, AND SUPERSEDES ALL PRIOR DISCUSSIONS, NEGOTIATIONS, AND AGREEMENTS BETWEEN PURCHASER AND SELLER, WHETHER ORAL OR WRITTEN. NEITHER PURCHASER, SELLER, NOR REAL ESTATE AGENTS, NOR ANY SALES AGENT SHALL BE BOUND BY ANY UNDERSTANDING, AGREEMENT, PROMISE, OR REPRESENTATION CONCERNING THE PROPERTY, EXPRESSED OR IMPLIED, NOT SPECIFIED HEREIN.

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF YOU DO NOT UNDERSTAND THE LEGAL EFFECT OF ANY PART OF THIS CONTRACT, SEEK LEGAL ADVICE BEFORE SIGNING.

Each of the parties acknowledges that they have a right to be represented at all times in connection with this Contract and at the closing, by an attorney of their own choosing, at their own expense.

The date of this Contract shall be the date this Contract is fully executed by all parties.


PURCHASER:

Moore Oil Co. Inc. or its assigns
BY: [Signature]
(Its PRESIDENT)
Date: March 6, 2013

SELLER:

Higginbotham Oil Co., Inc.
BY: [Signature]
(Its PRESIDENT)
Date: March 6, 2013

[Signature]
WITNESS


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search, test the soils, perform engineering and site planning, perform environmental studies, have the property surveyed, engage in feasibility and financing studies, verify zoning and utilities, and undertake such other matters concerning the property as Purchaser shall determine is necessary or desirable. If during this period, Purchaser, for any reason, determines that the property is not satisfactory for Purchaser's intended uses and purposes, Purchaser shall have the right to cancel this Contract by written notice sent to Seller during such period. Such cancellation shall entitle Purchaser to the return of the Earnest Money, and upon Purchaser's receipt of this Earnest Money, Purchaser and Seller shall have no further obligations to one another under the terms of this Contract.

14. **HAZARDOUS SUBSTANCES:** Seller hereby expressly represents, warrants, and covenants to Purchaser that (i) neither Seller nor, to the actual knowledge of Seller, any other person has used or permitted any Hazardous Substances (as herein defined) to be placed, held, stored, or disposed of on the property or any portion thereof, in violation of any Environmental Laws (as defined herein). The term "Hazardous Substances" shall mean asbestos, petroleum products and by-products, any other hazardous or toxic building material, and any hazardous, toxic, or dangerous waste, substances or material defined as such in or for the purposes of the Environmental Laws. The term "Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et. seq.), any so-called "Super-fund" or "Super-lien" law or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards or conduct concerning, any hazardous, toxic, or dangerous waste, substance or material or underground storage tanks, now in effect. In this regard, and if Purchaser so requests, Seller will deliver to Purchaser copies of all environmental reports and data dealing with the property which are in the possession of Seller. Prior to closing Seller shall cause a tank and line tightness test to be performed on the property and deliver the results of such test to Purchaser, for its acceptance in its sole discretion.

15. **SELLER WARRANTIES** that he has not received notification from any lawful authority regarding any assessments, pending public improvements, repairs, replacements, or alterations to said premises that have not been satisfactorily made. The Seller warrants that there is no unpaid indebtedness on the subject property except for a mortgage that will be paid in full with the sales proceeds. These warranties shall survive the delivery of the above deed.

16. **RISK OF LOSS:** Seller agrees to keep in force sufficient hazard insurance on the property to protect all interests until this sale is closed and the deed is delivered. If the property is destroyed or materially damaged between the date hereof and the closing, and Seller is unable or unwilling to restore it to its previous condition prior to closing, Purchaser shall have the option of canceling this Contract and receiving the Earnest Money back or accepting the property in its then condition. If Purchaser elects to accept the property in its damaged condition, any insurance proceeds otherwise payable to Seller by reason of such damage shall be applied to the balance of the purchase price or otherwise be payable to Purchaser.

17. **1031 EXCHANGE:** In connection with this transaction, Purchaser may be planning to accomplish a 1031 like kind exchange, and if requested by Purchaser, Seller will execute all documents and cooperate with Purchaser to effectuate this 1031 like kind exchange.

18. **EARNEST MONEY:** In connection with the execution of this agreement, Purchaser has

EXHIBIT "A"

DESCRIPTION OF REAL ESTATE

Pelham Shell
9249 VALLEY DALE ROAD
Pelham, AL 35124

" 9249 "

PARTIAL IN # 11-7-36-1-001
- 004,000 RR



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