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33

STATE OF ALABAMA }  
Jefferson County }

THIS LEASE, made this 30th day of June, 1962

by and between Mrs. Lena Johnson

hereinafter called "Lessor," of the one part, and

, as agents and

Winters Petroleum, Inc.

hereinafter called "Lessee," of the other part:

WITNESSETH: That the Lessor does hereby demise and let unto the Lessee the following described premises in the City of Birmingham, Alabama, to-wit: The Lena Johnson property 18 miles South of Birmingham on the East side of Highway 31. The property hereby leased is the same property as that now being operated by Lessee as a service station and upon which its equipment, driveways, etc. are located.

for use and occupation by the Lessee as a service station

and for no other or different use or purpose, for and during the term of Five Years beginning on 1st day of July, 1962, and ending on the 30th day of June, 1967

- 1 IN CONSIDERATION WHEREOF, the Lessee agrees to pay the Lessor, or said Agent, at the office of said agent
- 2 in Birmingham, Ala., on the first day of each month of said term, in advance, as rent for said premises, the
- 3 sum of One Hundred Fifty Dollars (\$ 150.00 ) per month, being at the rate of
- 4 One Thousand Eight Hundred Dollars (\$ 1800.00 ) per annum.

In addition to said monthly rental of \$150.00 Lessee agrees to pay one-half of one cent (1/2 of 1¢) per gallon, payable monthly, on each gallon of gasoline sold on said premises during each calendar month in excess of 20,000 gallons.

5 This lease is made upon the following terms, conditions and covenants:

6 The Lessor covenants to keep the Lessee in possession of said premises during said term, but shall not be  
7 liable for the failure or inability of the Lessee to obtain possession thereof provided the Lessor shall exercise due  
8 diligence and effort to place the Lessee in possession. Nothing herein contained shall be construed as a war-  
9 ranty that said premises are in good condition or are fit or suitable for the use or purpose for which they  
10 are let. The Lessor or Lessor's agent have made no representations or promises with respect to said building  
11 or the demised premises except as herein expressly set forth.

Repairs

12 Lessor shall not be obligated or required to make any repairs or do any work on or about said premises or  
13 the elevator therein if any or any other part thereof, or on or about any premises connected therewith, but not  
14 hereby leased, unless and only to the extent hereinafter agreed. However, Lessor reserves the right to enter upon said  
15 premises and to make such repairs and to do such work on or about said premises as Lessor may deem necessary or proper,  
16 or that Lessor may be lawfully required to make. Lessor reserves the right to visit and inspect said premises at all  
17 reasonable times, and the right to show said premises to prospective tenants and purchasers, and the right to display "For  
18 Sale" and "For Rent" signs on said premises.

19 Should the Lessee fail to make repairs agreed to by him under this lease, the Lessor may enter the premises and  
20 make such repairs and collect the cost thereof from the Lessee as additional rent.

Lessee  
Cove-  
nants

21 Lessee will make no material alterations in said building and will not paint any part of the outside of said building  
22 without the written consent of the Lessor. No signs of any character shall be erected on roof without Lessor or  
23 Agents written consent. Lessee will replace all plate and other glass, if and when broken, and failing so to do the  
24 Lessor may replace the same and the Lessee will pay the Lessor the cost and expense thereof upon demand. Lessee  
25 will replace all keys lost or broken, and will pay all bills for water, light and heat used on said premises. Lessee will  
26 keep all elevators, electric wiring, water pipes, water closets and other plumbing on said premises in such good order  
27 and repair as may be required by the laws or ordinances of the City of Birmingham. Lessor shall not be liable for  
28 any damages caused by, or growing out of, any breakage, leakage, getting out of order or defective condition of said  
29 elevators, electric wiring, pipes, closets or plumbing, or any of them. Lessee will comply, at all times and in all re-  
30 spects, with all the laws of the City of Birmingham, relating to nuisance, insofar as the building and premises hereby  
31 let, and the streets and highways bounding the same, are concerned, and the Lessee will not by any act, or omission  
32 render the Lessor liable for any violation thereof. Lessee will not commit any waste of property, or permit the same  
33 to be done, and will take good care of said building and said premises at all times.

34 Lessor shall not be liable for any damages caused by, or growing out of, any defect in said building, or in said  
35 premises, or caused by, or growing out of fire, rain, wind or other cause.

36 If the demised premises, or any part thereof, consists of first floor space, adjacent upon the street, the Lessee will  
37 keep the sidewalk and curb in front thereof or adjacent thereto clean and free from snow and ice, and save harmless  
38 the Lessor from all damages or claims for damages for failure so to do.

39 Upon the happening of any one or more of the events as expressed below in (a) to (h) inclusive, the Lessor

See description in deed book 230 p 256  
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**Defaults and Re-entry**

40 shall have the right at the option of the Lessor, to either annul and terminate this lease, upon two (2) days written  
41 notice to Lessee, and thereupon re-enter and take possession of said premises; or the right upon two (2) days written  
42 notice to Lessee to re-enter and re-let said premises from time to time, as agents of the Lessee, and such re-entry and/or  
43 re-letting shall not discharge the Lessee from any liability or obligations hereunder, except that net rents (that is,  
44 gross rents less the expense of collecting and handling, and less commissions) collected as a result of such re-letting  
45 shall be a credit on the Lessee's liability for rents under the terms of this lease. Nothing herein, however, shall be  
46 construed to require the Lessor to re-enter and re-let in such event. Nor shall anything herein be construed to  
47 postpone the right of the Lessor to sue for rents, whether matured by acceleration or otherwise, nor on the con-  
48 trary the Lessor is hereby given the right to sue therefor at any time after default.

49 (a) In the event the Lessee should fail to pay any one or more of said monthly installments of rent as and  
50 when the same become due, and such default should continue for ten (10) days after written demand for the pay-  
51 ment thereof is made by the Lessor upon Lessee.

52 (b) In the event Lessee removes, attempts to remove or permits to be removed from said premises, except  
53 in the usual course of trade, the goods, furniture, effects or other property of the Lessee brought thereon.

54 (c) In the event an execution or other legal process is levied upon the goods, furniture, effects or other prop-  
55 erty of the Lessee brought on said premises, or upon the interest of the Lessee in this lease.

56 (d) In the event a petition in bankruptcy is filed by or against the Lessee (or either of them, if more than one) or  
57 the Lessee is adjudged a bankrupt.

58 (e) In the event an assignment for the benefit of creditors is made by the Lessee.

59 (f) In the event of the appointment of a Receiver of Lessee's property.

60 (g) In the event the Lessee, before the expiration of said term, and without the written consent of the Lessor,  
61 vacates said premises or abandons the possession thereof, or uses the same for purposes other than the purposes for which  
62 the same are hereby let, or ceases to use said premises for the purposes herein specified.

63 (h) In the event the Lessee violates any of the other terms, conditions or covenants on the part of the Lessee  
64 herein contained, and fails to remedy the same within ten (10) days after written notice thereof is given by Lessor to  
65 Lessee.

66 Upon the termination of this lease or re-entry upon said premises for any one or more of the causes set forth  
67 above or upon any termination of this lease or re-entry of said premises whether by acceleration or otherwise, the rents  
68 hereunder for the entire rental period and other indebtedness, if any, payable under provision hereof shall be and be-  
69 come immediately due and payable and without regard whether or not possession of the premises shall have been sur-  
70 rendered to or taken by the Lessor.

**Improvements and Fixtures**

71 All improvements and additions to the leased premises shall adhere to the leased premises, and become the property  
72 of the Lessor, with the exception of such additions as are usually classed as furniture and trade fixtures; said  
73 furniture and trade fixtures are to remain the property of the Lessee, and may be removed by the Lessee upon the  
74 expiration of this lease, provided all terms, conditions and covenants of within contract have been complied with by  
75 Lessee and said Lessee restores building and premises to its original condition.

76 This lease shall become null and void in the event said building should be entirely destroyed by fire or other casualty,  
77 or in the event said building should be condemned and ordered torn down or removed by due process of the law,  
78 and the liability of the Lessee for the rents thereafter accruing hereunder shall cease upon the happening of said  
79 events.

**Fire Clause**

80 In the event said building should be damaged or injured by fire or other casualty to the extent of more than  
81 sixty-one per cent (61%) thereof, then, and in that event, the Lessor may elect to restore said building to sub-  
82 stantially the same condition it was in before said fire or other casualty occurred, or may elect to cancel this lease,  
83 by giving thirty (30) days' written notice of such election to the Lessee within thirty (30) days after said fire or  
84 other casualty occurred. In the event the Lessor elects to restore said building to said substantial condition, and  
85 give written notice of said election to the Lessee within said time, then, and in those events, the Lessor will so re-  
86 store said building as soon thereafter as the Lessor can do so by the exercise of reasonable diligence, and the rents  
87 due for that part of said term, beginning on the date of said fire or other casualty and ending on the date said restoration  
88 is fully completed, shall be reduced in the proportion that the damaged or injured portion of said building bears  
89 to the whole of said building. In the event the Lessor elects to cancel this lease as aforesaid, and gives written notice of said  
90 election to the Lessee within said time, then, and in those events, this lease shall cease and determine without further notice,  
91 upon the expiration of thirty (30) days from the date said notice is given to the Lessee. In the event the Lessor fails, within  
92 said period of thirty (30) days, to elect to restore said building to said substantial condition, and fails, within said  
93 time, to elect to cancel this lease, then, and in those events, the Lessee may, within thirty (30) days thereafter, terminate  
94 this lease, on account of said damage or injury to said building as aforesaid, upon giving ten (10) days' written notice  
95 thereof to the Lessor. In the event the Lessee, having the right so to do, fails within thirty (30) days to terminate  
96 this lease, then, and in that event, this lease shall be and remain in full force and effect, notwithstanding said building  
97 may have been damaged or injured as aforesaid.

98 In the event said building is damaged or injured by fire or other casualty, to the extent of Sixty-one per cent (61%)  
99 or less of said building, then, and in that event, the Lessor will restore said building to the condition that it was in  
100 before said fire or other casualty occurred, as soon thereafter as the Lessor can do so by the exercise of reasonable  
101 diligence; and the rents due for that part of said term, beginning on the date of said fire or other casualty and ending  
102 on the date said restoration is fully completed, shall be reduced in the proportion that the damage or injured portion  
103 of said building bears to the whole of said building.

**Sub-Letting and Transfer**

104 ~~REMOVED BY THE LESSEE~~  
105 ~~AND THE PART THEREOF, OR ANY INTEREST THEREIN, SHALL BE CONSIDERED AS A PART OF THE PREMISES~~  
106 ~~HEREIN~~

107 The Lessee will, upon the expiration or termination of this lease, surrender the quiet and peaceable possession of said  
108 premises in the like good order as the same were in at the commencement of said term, natural wear and tear  
109 excepted.

110 The Lessee will pay Lessor a reasonable attorney's fee in the event Lessor employs an attorney to collect any rents  
111 due hereunder by Lessee, or to protect the interest of Lessor in the event the Lessee is adjudged a bankrupt, or legal  
112 process is levied upon the goods, furniture, effects or personal property of the Lessee upon the said premises, or upon  
113 the interest of the Lessee in this lease or in said premises, or in the event the Lessee violates any of the terms, condi-  
114 tions or covenants on the part of the Lessee herein contained. In order to further secure the prompt payment of said  
115 rents, and when the same mature, and the faithful performance by the Lessee of all and singular the terms, conditions  
116 and covenants on the part of the Lessee herein contained, and all damages and costs that the Lessor may sustain by rea-  
117 son of the violation of said terms, conditions and covenants, or any of them, the Lessee does hereby waive any and all  
118 right to claim personal property as exempt from levy and sale.

**Notices**

119 All notices and demands authorized or required to be given to the Lessee hereunder, may be served upon the Lessee in  
120 person or mailed to the Lessee at said premises.

121 Every provision hereof applicable to the Lessor and every provision hereof applicable to the Lessee shall also bind,  
122 apply to and run in favor of "their respective successors in interest, heirs, executors, administrators or personal represen-  
123 tatives" as fully as if said quoted words were inserted after the words "Lessor" and the "Lessee" wherever they appear  
124 herein, and the Lessor covenants that the Lessee on paying the rent and additional rent reserved and performing all the  
125 covenants and agreements herein contained shall peaceably and quietly have, hold and enjoy the demised premises, pro-  
126 vided, however, that no eviction of the Lessee by reason of the foreclosure of any mortgage now or hereafter on the de-  
127 mised premises shall be construed as a breach of this covenant, nor shall any action by reason thereof be brought against  
128 the Lessor; and further provided that this covenant shall bind and be enforceable against Lessor only so long as said  
129 Lessor is the owner of the fee of the land and building of which the demised premises are a part.

130 The Lessee will indemnify and save harmless the Lessor of and from all fines, suits, claims, demands and actions  
131 of any kind or nature, by reason of any breach, violation or non-performance of any condition hereof on the part  
132 of the Lessee. The Lessee will indemnify, protect and save harmless the Lessor herein, from any loss, cost, damage, or  
133 expense caused by injuries to persons or property, while in, on, or about said premises herein leased, and any and all  
134 property of said Lessee which may be located or stored either in the demised premises, or the building of which the de-  
135 mised premises form a part shall be at the sole risk of said Lessee.

200 230 704

136 The failure of the Lessor to insist, in any one or more instances, upon a strict performance of any of the covenants,  
137 of this lease, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the  
138 future, of such covenant or option, but the same shall continue and remain in full force and effect. The receipt by the  
139 Lessor of rent, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach,  
140 and no waiver by the Lessor of any provision hereof shall be deemed to have been made unless expressed in writing,  
141 and assigned by the Lessor.

142 Should the Lessee continue to occupy the premises after the expiration of the said term or after a forfeiture in-  
143 curred, whether with or against the consent of the Lessor, such tenancy shall be a tenancy at sufferance and in no event  
144 a tenancy from month to month, or from year to year.

145 Lessor, in consideration of the services rendered by \_\_\_\_\_, as agent of Lessor in  
146 leasing said premises to Lessee, does hereby authorize said \_\_\_\_\_, its successors or assigns,  
147 to collect and receipt for the rents payable hereunder during the entire term hereof and any renewals or extensions of the  
148 within lease, whether renewed or extended, or the premises re-leased to the Lessee hereunder, or Lessee's successors or  
149 assigns, and hereby agrees to pay to the said \_\_\_\_\_, its successors or assigns, for the  
150 services rendered in effecting this lease or any renewal, extension or re-leasing as above provided, an amount equal to five  
151 (5%) per cent of all rents paid by virtue thereof, whether or not effected by  
152 or any other person, firm or corporation, or whether or not said rent is paid direct to

Approval  
of Owner

153 \_\_\_\_\_, its successors or assigns, payment of said commissions to be made as and when rents are received by the Lessor,  
154 its successors or assigns, and the said \_\_\_\_\_, its successors or assigns, shall be entitled to said  
155 commission from the present Lessor, the Lessor's personal representatives, heirs, successors, assigns, or grantees in title of  
156 the property herein described, and the same shall be a charge upon the land, tenements and hereditaments herein described.

Further  
Terms  
and  
Condi-  
tions  
Made a  
Part of  
This  
Lease

Lessee has placed and may place in the future, service station  
equipment and tanks on said property and Lessee shall have the  
right to remove all of its equipment and tanks at the expiration  
or other termination of this lease and shall have the right to  
substitute other equipment for existing equipment during the term  
of this lease.

Lessee, Winters Petroleum, Inc, agrees to operate said service  
station in a businesslike manner and further agrees to keep  
said leased premises and service station clean and free from  
rubbish.

Lessee shall have the right at its option to renew this lease  
for an additional period of five years from the date of the  
expiration hereof, upon the same terms and at the same rental  
as above set forth, provided lessee shall first give to lessor  
written notice of its election to exercise this option at least  
60 days prior to the expiration of this lease.

The covenants, conditions, and agreements contained in this Lease shall bind and insure to the benefit of the Lessor and  
the Lessee and their respective heirs, executors, administrators, successors, and, except as otherwise provided in lines 104 to 106  
hereof inclusive, their assigns.

IN WITNESS WHEREOF, the Lessor and the Lessee have respectively executed these presents this.....

day of July 31, 1962

Witness for Lessee:

*R. J. Walter*

*Mrs. Lena Johnson*  
Mrs. Lena Johnson (Lessor) XXXX

Witness for Lessee:

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS INSTRUMENT  
WAS FILED ON 7/29/62  
RECORDED 7/29/62 PAYING TAX  
& 2.00 HAS BEEN  
PD. CH. T. \_\_\_\_\_

By.....  
WINTERS PETROLEUM, INC.  
BY *Chas. H. ...* (L.S.)  
Lessee

\_\_\_\_\_  
JUDGE OF PROBATE

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