

LEASE

4744

THIS IS A LEASE, dated April 1st, 1965, between Natt Smith, Jr.,

U.S. Hwy #31, RFD of Siluria in Alabama (herein called "Lessor", whether one or more), and SHELL OIL COMPANY, a Delaware corporation with offices at 600 Shell Bldg., 925 Common Street in New Orleans, Louisiana (herein called "Shell"):

1. DEMISE. Lessor hereby leases to Shell, and Shell hereby leases from Lessor, the following described land situated at U.S. Hwy 31, RFD

in Siluria, County of Shelby, State of Alabama:

Part SW 1/4 and SW 1/4 of SE 1/4, beginning SW corner SW 1/4, N 2 deg. 30' W 1989 ft.; E 718.5 ft to E line L & N RR for beginning; N 87 deg. E 1466.5 ft. to W line Hwy 31; S 27 deg. 32' E 210.5 ft.; S 33 deg. 45' E 174.5 ft. to point of beginning of subject lease; S 33 deg. 45' E 175 ft.; SW 90 deg. 75 ft.; NW 90 deg. 175 ft.; NE 90 deg. 75 ft. to point of beginning.

40 ft. [Handwritten note]

Note: The above described property is adjacent to and contiguous with the west right of way line of U.S. Hwy 31 and this lease does not include the living quarters of Mr. Natt C. Smith, Sr., but pertains only to business premises.

together with all rights, privileges and appurtenances thereto, and all of Lessor's buildings, improvements, equipment and other property now or hereafter located thereon, including those described in Exhibit A hereof (and which, with the land, are herein collectively called "premises").

2. TERM. The primary term of this Lease shall be eight (8) years beginning on the 1st day of June 1st, 1965. Shell shall have options to extend this Lease for one (1) additional period(s) of two (2) year(s) each, on the same covenants and conditions as herein provided, any one or more of which options Shell may exercise by giving Lessor notice at least forty-five (45) days prior to the expiration of the primary term or the then-current extension period, as the case may be. If Shell does not have or does not exercise any then-current option to extend, this Lease shall be automatically extended from year to year, on the same covenants and conditions as herein provided, unless and until either Lessor or Shell terminates this Lease at the end of the primary term or the then-current extension period or any subsequent year, by giving the other at least thirty (30) days' notice.

[Handwritten initials]

3. RENT. Shell shall pay, as rent for each calendar month during the term of this lease, a sum equal to one and one-quarter cents (1 1/4c) for each gallon of gasoline delivered to the premises during such month, as shown by Shell's records, payable by check to the order of Natt Smith, Jr., on or before the fifteenth day of the following calendar month.

4. USE OF PREMISES. Shell shall have the rights, at Shell's expense: to use the premises for any lawful purpose; to paint all or any part of the premises in colors of Shell's selection; to make any alterations that Shell may desire in the premises; and to construct and install on the premises, and alter, any additional buildings, improvements and equipment (including advertising signs and billboards) that Shell may desire. Lessor shall remove from the premises any of Lessor's equipment that Shell elects to replace with its own equipment.

5. TAXES-LIENS. Lessor shall pay all taxes, assessments and other charges on the premises, excepting taxes on Shell's property on the premises, and license, utilities and other such charges incurred by Shell's use of or operations on the premises. If Lessor defaults at any time in any such payment or in the performance of the obligations of any mortgage or other lien affecting the premises, Shell may remedy such default, in whole or in part, charge to Lessor all costs incurred thereby, and be subrogated to the rights of the holder of such mortgage or other lien.

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6. **REPAIRS—REPLACEMENTS.** Lessor shall maintain the premises in good condition and repair, and shall repair or replace any of the buildings, improvements and equipment damaged or destroyed by any cause other than Shell's negligence, or by fire or explosion whether or not caused by Shell's negligence. If Lessor fails to commence making repairs or replacements within five (5) days after Shell gives notice requesting Lessor so to do, or fails to complete the same promptly, Shell may make such repairs or replacements and charge to Lessor the cost thereof. If the premises are rendered wholly or partially unfit for occupancy by any such damage or destruction, or if, for any reason other than Shell's negligence, possession or beneficial use of the premises is interfered with, the rent shall abate until the premises are fully restored to fitness for occupancy or such interference has ceased.

7. **CHARGES.** All sums charged to Lessor by Shell hereunder shall be indebtedness of Lessor to Shell payable on demand. If any such indebtedness or any other indebtedness of Lessor to Shell is due at any time, Shell may, in addition to other remedies, withhold all or any part of the rent thereafter accruing and apply the same to the payment of such indebtedness. If all such indebtedness is not fully paid at the end of the primary term or any extension period, Shell may, at its option, extend this Lease on the same covenants and conditions as herein provided, until such indebtedness is fully paid by application of all rent thereto.

~~8. **PURCHASE OPTION.** At any time during the primary term, any extension period or any tenancy after either, Shell shall have the option to purchase the premises for the sum of _____ Dollars (\$ _____), on the terms provided in article 10, which option Shell may exercise by notice to Lessor.~~

9. **PURCHASE REFUSAL.** If at any time during the primary term, any extension period or any tenancy after either, Lessor receives from a ready, willing and able purchaser, an acceptable bona fide offer to purchase, or makes a bona fide offer to sell to such a purchaser, the premises or any part thereof or any property which includes all or part of the premises: Lessor shall give Shell notice, specifying the name and address of the purchaser and the price and terms of the offer, accompanied by Lessor's affidavit that the proposed sale is in good faith. Shell shall thereupon have, in addition and without prejudice to its rights under article 8, the prior option to purchase the premises or the part thereof or the entire property covered by such offer, at the price and on the terms of the offer but subject to the terms provided in article 10, which option Shell may exercise by giving Lessor notice within thirty (30) days after Shell's receipt of Lessor's notice of the offer. Shell's failure at any time to exercise its option under this article shall not affect this Lease or the continuance of Shell's rights and options under this article or any other article hereof.

10. **PURCHASE PROCEDURE.** In Shell's notice exercising any purchase option herein, Shell shall designate an Escrow Agent; and within twenty (20) days after receipt of such notice, Lessor shall deposit with Escrow Agent Lessor's recordable deed to Shell, in form satisfactory to Shell, of the property covered by the exercised option. Promptly thereafter, Lessor shall deliver to Shell evidence of Lessor's title to such property, and shall clear the title of all liens, encumbrances, restrictions and other defects. Upon receipt from Shell of the purchase price and notice that title is acceptable, Escrow Agent shall deliver to Shell the deed and to Lessor the purchase price, less the amount of any liens subject to which Shell accepted title, and all documentary, transfer and like taxes not otherwise paid by Lessor. Taxes and rent shall be prorated as of the date of delivery of the deed. Upon receipt from Shell of notice that title is not acceptable, Escrow Agent shall return the deed to Lessor; and this Lease shall continue in effect. Evidence of Lessor's title shall be, at Shell's election and Lessor's expense: such evidence as Lessor may possess, a complete abstract or current certificate of title, an attorney's opinion, or a title insurance company's report and subsequent owner's title insurance policy in Shell's favor (the abstracter, attorney or title company to be of Shell's selection).

11. **LEASE REFUSAL.** If at any time during the primary term, any extension period or any tenancy after either, Lessor receives from a ready, willing and able lessee an acceptable bona fide offer, or makes a bona fide offer to such a lessee, to lease the premises or any part thereof or any property which includes all or part of the premises, for a term beginning after the termination of this Lease, Lessor shall give Shell notice thereof, specifying the name and address of the lessee and the term, rent and other covenants and conditions of the proposed lease, accompanied by Lessor's affidavit that such lease is in good faith. Shell shall thereupon have the prior option to lease the premises or the part thereof or the entire property covered by the offer, for the term, at the rent and upon the other covenants and conditions specified in such notice, which option Shell may exercise by giving Lessor notice within thirty (30) days after Shell's receipt of Lessor's notice of the offer; and promptly upon Shell's submission to Lessor of a written lease providing such term, rent and other covenants and conditions, Lessor shall execute the same with Shell in recordable form. Shell's failure at any time to exercise its option under this article shall not affect this Lease or the continuance of Shell's rights and options under this article or any other article hereof.

12. **ASSIGNMENT—SUBLEASING.** Shell may at any time assign this Lease or sublease all or any part of the premises.

13. **TERMINATION—ABATEMENT.** If, without Shell's fault, the operation on the premises of an automobile service station becomes illegal or is prevented or substantially impaired for more than ninety (90) days by any act or omission of any governmental authority, or by the closing, relocation, change of grade or alteration of, or rerouting of traffic on or away from, any street or highway adjoining the premises, or by the deprivation or limitation of any access thereto or therefrom; or if all or any part of the premises is acquired or taken for public or quasi-public use as a result of negotiation or a condemnation proceeding: Shell may terminate this Lease by giving Lessor at least thirty (30) days' notice; provided that, in the event of any such acquisition or taking, such notice may be given at any time not later than ninety (90) days after physical possession of the premises

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is taken or the judgment in the condemnation proceeding becomes final, whichever occurs later; and if the taking is total, the rent shall immediately abate, or if only partial but sufficient, in Shell's judgment, to prevent or substantially impair operation of the service station as then located on the premises, the rent shall abate when physical possession of the premises is taken. Neither the existence nor Shell's exercise of any right under this Lease to terminate, nor any abatement of rent, shall waive, limit or affect in any way Shell's rights, then accrued or thereafter to accrue, in any proceeding, settlement or award for condemnation or for damages resulting from any other of the events specified in this article. Shell may terminate this Lease at any time by giving Lessor at least ninety (90) days' notice.

14. **REMOVAL-SURRENDER-FORFEITURE.** All buildings, improvements, equipment and other property constructed, installed or placed on the premises by Shell or acquired by Shell, at any time during the continuance of this or any previous Lease or any tenancy thereafter, shall be and remain Shell's property, and Shell shall have the right to remove any or all of the same from the premises at any time during, and within thirty (30) days after any termination of, this Lease or any tenancy thereafter. At any termination of this Lease or any tenancy thereafter, Shell shall surrender the premises to Lessor, subject to ordinary wear and tear, to any damage or destruction which Lessor is obligated to repair or replace under article 6, and to Shell's rights under articles 4 and 14. Any holdover by Shell after any termination of this Lease shall create no more than a month-to-month tenancy at the rent and on all other applicable conditions herein provided. If forfeiture of this Lease is permitted by law for Shell's default, Lessor shall not be entitled to declare any such forfeiture unless Lessor has given Shell notice of such default and Shell has failed to remedy same within twenty (20) days after receipt of such notice.

15. **WARRANTY OF TITLE.** Lessor covenants that Lessor is well seized of and has good right to lease the premises, will warrant and defend the title thereto, and will indemnify Shell against any damage and expense which Shell may suffer by reason of any lien, encumbrance, restriction or defect in the title to or description herein of the premises. If at any time Lessor's title or right to receive rent hereunder is disrupted, or there is a change of ownership of Lessor's estate by act of the parties or operation of law, Shell may withhold rent thereafter accruing until Shell is furnished proof satisfactory to it as to the party entitled thereto.

16. **NOTICES.** Notices hereunder shall be given only by registered letter or telegram and shall be deemed given when the letter is deposited in the mail or the telegram filed with the telegraph company, postage or charges prepaid, and addressed to the party for whom intended at such party's address first herein specified, or at such other address as such party may have substituted therefor by proper notice to the other.

17. **ENTIRETY-EXECUTION-SUCCESSION.** This Lease merges and supersedes all prior negotiations, representations and agreements, and constitutes the entire contract, between Lessor and Shell concerning the leasing of the premises and the consideration therefor. Neither this Lease nor any amendment or supplement hereto shall be binding on Shell unless and until it is signed in Shell's behalf by a representative duly authorized by its Board of Directors. This Lease and all options herein shall bind and inure to the benefit of the heirs, administrators, executors, successors and assigns of Lessor, and the successors and assigns of Shell.

EXECUTED as of the date first herein written.

Witnesses to execution by Lessor:

John S. Thompson
John J. Lee

Natt Smith, Jr. (Seal)
..... (Seal)

Witnesses to execution by Shell:

Earl E. Humberg
J. J. Seaman

SHELL OIL COMPANY
By J. J. Seaman
DIVISION MANAGER

EXHIBIT A

(Lessor's buildings, improvements, equipment and other property located on the premises.)

Grocery store type building, with one pump island, concrete apron,
gravel drives and outside F/C lift.

STATE OF ALABAMA)

SHELBY COUNTY)

I, _____, a Notary Public in and for said County in said State, hereby certify that Natt Smith, Jr., whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 11 day of March A.D., 1965.

Art C. [Signature]
Notary Public

STATE OF ALA. SHELBY CO.
I CERTIFY THIS INSTRUMENT
WAS FILED ON 8/23
7-1 65
RECORDED ✓
& 16.00 TAX
PD. ON 7-1 65
Conroy M. [Signature]
JUDGE OF PROBATE

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West Hill Co
Box 60673
Reed Millers Ko
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19.50

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