IN THE SUPREME COURT OF THE STATE OF NEVADA

SUPERPUMPER, INC., an Arizona corporation; EDWARD BAYUK, individually and as Trustee of the EDWARD BAYUK LIVING TRUST; SALVATORE MORABITO, an individual; and SNOWSHOE PETROLEUM, INC., a New York corporation, Appellants, vs. WILLIAM A. LEONARD, Trustee for the Bankruptcy Estate of Paul Anthony Morabito, Respondent.	Case No. 79355 Electronically Filed Jun 02 2020 05:23 p.m. Elizabeth A. Brown Clerk of Supreme Court Appeal from the Second Judicial District Court, the Honorable Connie J. Steinheimer Presiding

APPELLANTS' APPENDIX, VOLUME 29
(Nos. 4898–5102)

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A-10	Defendants' Sixteenth Supplement to NRCP Disclosure of Witnesses and Documents (dated 05/03/2017)	Vol. 10, 1670–1682
A-11	Rough Draft Transcript of Garry M. Graber, Dated July 12, 2017 (Job Number 394849)	Vol. 10, 1683–1719
A-12	Sept. 15-Sept. 23, 2010 emails by and between Hodgson Russ LLP and Other Parties	Vol. 10, 1720–1723
Reply in Support of Motion to Quash Subpoena, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery from Hodgson Russ LLP, and Opposition to Motion for Sanctions (filed 08/03/2017)		Vol. 11, 1724–1734
Reply in Support of Countermotion for Sanctions and to Compel Resetting of 30(b)(6) Deposition of Hodgson Russ LLP (filed 08/09/2017)		Vol. 11, 1735–1740
Minutes of August 10, 2017 hearing on Motion to Quash Subpoena, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery from Hodgson Russ LLP, and Opposition to Motion for Sanctions (filed 08/11/2017)		Vol. 11, 1741–1742
Recommendation for Order RE: *Defendants' Motion to Quash Subpoena, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery from Hodgson Russ LLP*, filed on July 18, 2017 (filed 08/17/2017)		Vol. 11, 1743–1753
Motion for Partial Summary Judgment (filed 08/17/2017)		Vol. 11, 1754–1796
Statement of Undisputed Facts in Support of Motion for Partial Summary Judgment (filed 08/17/2017)		Vol. 11, 1797–1825

DOCUMENT DESCRIPTION		LOCATION
Exhibits to Statement of Undisputed Facts in Support of Motion for Partial Summary Judgment		
Exhibit	**Document Description**	
1	Declaration of Timothy P. Herbst in Support of Separate Statement of Undisputed Facts in Support of Motion for Partial Summary Judgment	Vol. 12, 1826–1829
2	Findings of Fact, Conclusions of Law, and Judgment in *Consolidated Nevada Corp., et al v. JH. et al.;* Case No. CV07-02764 (filed 10/12/2010)	Vol. 12, 1830–1846
3	Judgment in *Consolidated Nevada Corp., et al v. JH. et al.;* Case No. CV07-02764 (filed 08/23/2011)	Vol. 12, 1847–1849
4	Excerpted Transcript of July 12, 2017 Deposition of Garry M. Graber	Vol. 12, 1850–1852
5	September 15, 2015 email from Yalamanchili RE: Follow Up Thoughts	Vol. 12, 1853–1854
6	September 23, 2010 email between Garry M. Graber and P. Morabito	Vol. 12, 1855–1857
7	September 20, 2010 email between Yalamanchili and Eileen Crotty RE: Morabito Wire	Vol. 12, 1858–1861
8	September 20, 2010 email between Yalamanchili and Garry M. Graber RE: All Mortgage Balances as of 9/20/2010	Vol. 12, 1862–1863
9	September 20, 2010 email from Garry M. Graber RE: Call	Vol. 12, 1864–1867

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10	September 20, 2010 email from P. Morabito to Dennis and Yalamanchili RE: Attorney client privileged communication	Vol. 12, 1868–1870
11	September 20, 2010 email string RE: Attorney client privileged communication	Vol. 12, 1871–1875
12	Appraisal of Real Property: 370 Los Olivos, Laguna Beach, CA, as of Sept. 24, 2010	Vol. 12, 1876–1903
13	Excerpted Transcript of March 21, 2016 Deposition of P. Morabito	Vol. 12, 1904–1919
14	P. Morabito Redacted Investment and Bank Report from Sept. 1 to Sept. 30, 2010	Vol. 12, 1920–1922
15	Excerpted Transcript of June 25, 2015 Deposition of 341 Meeting of Creditors	Vol. 12, 1923–1927
16	Excerpted Transcript of December 5, 2015 Deposition of P. Morabito	Vol. 12, 1928–1952
17	Purchase and Sale Agreement between Arcadia Trust and Bayuk Trust entered effective as of Sept. 27, 2010	Vol. 12, 1953–1961
18	First Amendment to Purchase and Sale Agreement between Arcadia Trust and Bayuk Trust entered effective as of Sept. 28, 2010	Vol. 12, 1962–1964
19	Appraisal Report providing market value estimate of real property located at 8355 Panorama Drive, Reno, NV as of Dec. 7, 2011	Vol. 12, 1965–1995

	DOCUMENT DESCRIPTION	LOCATION
20	An Appraisal of a vacant .977± Acre Parcel of Industrial Land Located at 49 Clayton Place West of the Pyramid Highway (State Route 445) Sparks, Washoe County, Nevada and a single-family residence located at 8355 Panorama Drive Reno, Washoe County, Nevada 89511 as of October 1, 2010 a retrospective date	Vol. 13, 1996–2073
21	APN: 040-620-09 Declaration of Value (dated 12/31/2012)	Vol. 14, 2074–2075
22	Sellers Closing Statement for real property located at 8355 Panorama Drive, Reno, NV 89511	Vol. 14, 2076–2077
23	Bill of Sale for real property located at 8355 Panorama Drive, Reno, NV 89511	Vol. 14, 2078–2082
24	Operating Agreement of Baruk Properties LLC	Vol. 14, 2083–2093
25	Edward Bayuk, as trustee of the Edward William Bayuk Living Trust's Answer to Plaintiff's First Set of Interrogatories (dated 09/14/2014)	Vol. 14, 2094–2104
26	Summary Appraisal Report of real property located at 1461 Glenneyre Street, Laguna Beach, CA 92651, as of Sept. 25, 2010	Vol. 14, 2105–2155
27	Appraisal of Real Property as of Sept. 23, 2010: 1254 Mary Fleming Circle, Palm Springs, CA 92262	Vol. 15, 2156–2185
28	Appraisal of Real Property as of Sept. 23, 2010: 1254 Mary Fleming Circle, Palm Springs, CA 92262	Vol. 15, 2186–2216

	DOCUMENT DESCRIPTION	LOCATION
29	Membership Interest Transfer Agreement between Arcadia Trust and Bayuk Trust entered effective as of Oct. 1, 2010	Vol. 15, 2217–2224
30	PROMISSORY NOTE [Edward William Bayuk Living Trust ("Borrower") promises to pay Arcadia Living Trust ("Lender") the principal sum of $1,617,050.00, plus applicable interest] (dated 10/01/2010)	Vol. 15, 2225–2228
31	Certificate of Merger dated Oct. 4, 2010	Vol. 15, 2229–2230
32	Articles of Merger Document No. 20100746864-78 (recorded date 10/04/2010)	Vol. 15, 2231–2241
33	Excerpted Transcript of September 28, 2015 Deposition of Edward William Bayuk	Vol. 15, 2242–2256
34	Grant Deed for real property 1254 Mary Fleming Circle, Palm Springs, CA 92262; APN: 507-520-015 (recorded 11/04/2010)	Vol. 15, 2257–2258
35	General Conveyance made as of Oct. 31, 2010 between Woodland Heights Limited ("Vendor") and Arcadia Living Trust ("Purchaser")	Vol. 15, 2259–2265
36	Appraisal of Real Property as of Sept. 24, 2010: 371 El Camino Del Mar, Laguna Beach, CA 92651	Vol. 15, 2266–2292
37	Excerpted Transcript of December 6, 2016 Deposition of P. Morabito	Vol. 15, 2293–2295
38	Page intentionally left blank	Vol. 15, 2296–2297
39	Ledger of Edward Bayuk to P. Morabito	Vol. 15, 2298–2300

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40	Loan Calculator: Payment Amount (Standard Loan Amortization)	Vol. 15, 2301–2304
41	Payment Schedule of Edward Bayuk Note in Favor of P. Morabito	Vol. 15, 2305–2308
42	November 10, 2011 email from Vacco RE: Baruk Properties, LLC/P. Morabito/Bank of America, N.A.	Vol. 15, 2309–2312
43	May 23, 2012 email from Vacco to Steve Peek RE: Formal Settlement Proposal to resolve the Morabito matter	Vol. 15, 2313–2319
44	Excerpted Transcript of March 12, 2015 Deposition of 341 Meeting of Creditors	Vol. 15, 2320–2326
45	Shareholder Interest Purchase Agreement between P. Morabito and Snowshoe Petroleum, Inc. (dated 09/30/2010)	Vol. 15, 2327–2332
46	P. Morabito Statement of Assets & Liabilities as of May 5, 2009	Vol. 15, 2333–2334
47	March 10, 2010 email from Naz Afshar, CPA to Darren Takemoto, CPA RE: Current Personal Financial Statement	Vol. 15, 2335–2337
48	March 10, 2010 email from P. Morabito to Jon RE: ExxonMobil CIM for Florida and associated maps	Vol. 15, 2338–2339
49	March 20, 2010 email from P. Morabito to Vacco RE: proceed with placing binding bid on June 22nd with ExxonMobil	Vol. 15, 2340–2341

	DOCUMENT DESCRIPTION	LOCATION
50	P. Morabito Statement of Assets & Liabilities as of May 30, 2010	Vol. 15, 2342–2343
51	June 28, 2010 email from P. Morabito to George R. Garner RE: ExxonMobil Chicago Market Business Plan Review	Vol. 15, 2344–2345
52	Plan of Merger of Consolidated Western Corp. with and into Superpumper, Inc. (dated 09/28/2010)	Vol. 15, 2346–2364
53	Page intentionally left blank	Vol. 15, 2365–2366
54	BBVA Compass Proposed Request on behalf of Superpumper, Inc. (dated 12/15/2010)	Vol. 15, 2367–2397
55	Business Valuation Agreement between Matrix Capital Markets Group, Inc. and Superpumper, Inc. (dated 09/30/2010)	Vol. 15, 2398–2434
56	Expert report of James L. McGovern, CPA/CFF, CVA (dated 01/25/2016)	Vol. 16, 2435–2509
57	June 18, 2014 email from Sam Morabito to Michael Vanek RE: SPI Analysis	Vol. 17, 2510–2511
58	Declaration of P. Morabito in Support of Opposition to Motion of JH, Inc., Jerry Herbst, and Berry-Hinckley Industries for Order Prohibiting Debtor from Using, Acquiring, or Disposing of or Transferring Assets Pursuant to 11 U.S.C. §§ 105 and 303(f) Pending Appointment of Trustee; Case No. BK-N-13-51237 (filed 07/01/2013)	Vol. 17, 2512–2516

	DOCUMENT DESCRIPTION	LOCATION
59	State of California Secretary of State Limited Liability Company – Snowshoe Properties, LLC; File No. 201027310002 (filed 09/29/2010)	Vol. 17, 2517–2518
60	PROMISSORY NOTE [Snowshoe Petroleum ("Maker") promises to pay P. Morabito ("Holder") the principal sum of $1,462,213.00] (dated 11/01/2010)	Vol. 17, 2519–2529
61	PROMISSORY NOTE [Superpumper, Inc. ("Maker") promises to pay Compass Bank (the "Bank" and/or "Holder") the principal sum of $3,000,000.00] (dated 08/13/2010)	Vol. 17, 2530–2538
62	Excerpted Transcript of October 21, 2015 Deposition of Salvatore R. Morabito	Vol. 17, 2539–2541
63	Page intentionally left blank	Vol. 17, 2542–2543
64	Edward Bayuk's Answers to Plaintiff's First Set of Interrogatories (dated 09/14/2014)	Vol. 17, 2544–2557
65	October 12, 2012 email from Stan Bernstein to P. Morabito RE: 2011 return	Vol. 17, 2558–2559
66	Page intentionally left blank	Vol. 17, 2560–2561
67	Excerpted Transcript of October 20, 2015 Deposition of Dennis C. Vacco	Vol. 17, 2562–2564
68	Snowshoe Petroleum, Inc.'s letter of intent to set out the framework of the contemplated transaction between: Snowshoe Petroleum, Inc.; David Dwelle, LP; Eclipse Investments, LP; Speedy Investments; and TAD Limited Partnership (dated 04/21/2011)	Vol. 17, 2565–2572

	DOCUMENT DESCRIPTION	LOCATION
69	Excerpted Transcript of July 10, 2017 Deposition of Dennis C. Vacco	Vol. 17, 2573–2579
70	April 15, 2011 email from P. Morabito to Christian Lovelace; Gregory Ivancic; Vacco RE: $65 million loan offer from Cerberus	Vol. 17, 2580–2582
71	Email from Vacco to P. Morabito RE: $2 million second mortgage on the Reno house	Vol. 17, 2583–2584
72	Email from Vacco to P. Morabito RE: Tim Haves	Vol. 17, 2585–2586
73	Settlement Agreement, Loan Agreement Modification & Release dated as of Sept. 7, 2012, entered into by Bank of America and P. Morabito	Vol. 17, 2587–2595
74	Page intentionally left blank	Vol. 17, 2596–2597
75	February 10, 2012 email from Vacco to Paul Wells and Timothy Haves RE: 1461 Glenneyre Street, Laguna Beach – Sale	Vol. 17, 2598–2602
76	May 8, 2012 email from P. Morabito to Vacco RE: Proceed with the corporate set-up with Ray, Edward and P. Morabito	Vol. 17, 2603–2604
77	September 4, 2012 email from Vacco to Edward Bayuk RE: Second Deed of Trust documents	Vol. 17, 2605–2606
78	September 18, 2012 email from P. Morabito to Edward Bayuk RE: Deed of Trust	Vol. 17, 2607–2611
79	October 3, 2012 email from Vacco to P. Morabito RE: Term Sheet on both real estate deal and option	Vol. 17, 2612–2614

	DOCUMENT DESCRIPTION	LOCATION
80	March 14, 2013 email from P. Morabito to Vacco RE: BHI Hinckley	Vol. 17, 2615–2616
81	Page intentionally left blank	Vol. 17, 2617–2618
82	November 11, 2011 email from Vacco to P. Morabito RE: Trevor's commitment to sign	Vol. 17, 2619–2620
83	November 28, 2011 email string RE: Wiring $560,000 to Lippes Mathias	Vol. 17, 2621–2623
84	Page intentionally left blank	Vol. 17, 2624–2625
85	Page intentionally left blank	Vol. 17, 2626–2627
86	Order for Relief Under Chapter 7; Case No. BK-N-13-51236 (filed 12/22/2014)	Vol. 17, 2628–2634
87	Report of Undisputed Election (11 U.S.C § 702); Case No. BK-N-13-51237 (filed 01/23/2015)	Vol. 17, 2635–2637
88	Amended Stipulation and Order to Substitute a Party to NRCP 17(a) (filed 06/11/2015)	Vol. 17, 2638–2642
89	Membership Interest Purchase Agreement, entered into as of Oct. 6, 2010 between P. Morabito and Edward Bayuk	Vol. 17, 2643–2648
90	Complaint; Case No. BK-N-13-51237 (filed 10/15/2015)	Vol. 17, 2649–2686
91	Fifth Amendment and Restatement of the Trust Agreement for the Arcadia Living Trust (dated 09/30/2010)	Vol. 17, 2687–2726

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<tr><td colspan="2">Exhibit to Objection to Recommendation for Order</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>Plaintiff’s counsel’s Jan. 24, 2017, email memorializing the discovery dispute agreement</td><td>Vol. 18, 2735–2736</td></tr>
<tr><td colspan="2">Opposition to Objection to Recommendation for Order filed August 17, 2017 (filed 09/05/2017)</td><td>Vol. 18, 2737–2748</td></tr>
<tr><td colspan="2">Exhibit to Opposition to Objection to Recommendation for Order</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>A</td><td>Declaration of Teresa M. Pilatowicz, Esq., in Support of Opposition to Objection to Recommendation for Order (filed 09/05/2017)</td><td>Vol. 18, 2749–2752</td></tr>
<tr><td colspan="2">Reply to Opposition to Objection to Recommendation for Order filed August 17, 2017 (dated 09/15/2017)</td><td>Vol. 18, 2753–2758</td></tr>
<tr><td colspan="2">Defendants’ Opposition to Plaintiff’s Motion for Partial Summary Judgment (filed 09/22/2017)</td><td>Vol. 18, 2759–2774</td></tr>
<tr><td colspan="2">Defendants’ Separate Statement of Disputed Facts in Support of Opposition to Plaintiff’s Motion for Partial Summary Judgment (filed 09/22/2017)</td><td>Vol. 18, 2775–2790</td></tr>
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DOCUMENT DESCRIPTION		LOCATION
Exhibits to Defendants' Separate Statement of Disputed Facts in Support of Opposition to Plaintiff's Motion for Partial Summary Judgment		
Exhibit	**Document Description**	
1	Judgment in *Consolidated Nevada Corp., et al v. JH. et al.*; Case No. CV07-02764 (filed 08/23/2011)	Vol. 18, 2791–2793
2	Excerpted Transcript of October 20, 2015 Deposition of Dennis C. Vacco	Vol. 18, 2794–2810
3	Order Denying Motion to Dismiss Involuntary Chapter 7 Petition and Suspending Proceedings Pursuant to 11 U.S.C §305(a)(1); Case No. BK-N-13-51237 (filed 12/17/2013)	Vol. 18, 2811–2814
4	Excerpted Transcript of March 21, 2016 Deposition of P. Morabito	Vol. 18, 2815–2826
5	Excerpted Transcript of September 28, 2015 Deposition of Edward William Bayuk	Vol. 18, 2827–2857
6	Appraisal	Vol. 18, 2858–2859
7	Budget Summary as of Jan. 7, 2016	Vol. 18, 2860–2862
8	Excerpted Transcript of March 24, 2016 Deposition of Dennis Banks	Vol. 18, 2863–2871
9	Excerpted Transcript of March 22, 2016 Deposition of Michael Sewitz	Vol. 18, 2872–2879
10	Excerpted Transcript of April 27, 2011 Deposition of Darryl Noble	Vol. 18, 2880–2883

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11	Copies of cancelled checks from Edward Bayuk made payable to P. Morabito	Vol. 18, 2884–2892
12	CBRE Appraisal of 14th Street Card Lock Facility (dated 02/26/2010)	Vol. 18, 2893–2906
13	Bank of America wire transfer from P. Morabito to Salvatore Morabito in the amount of $146,127.00; and a wire transfer from P. Morabito to Lippes for $25.00 (date 10/01/2010)	Vol. 18, 2907–2908
14	Excerpted Transcript of October 21, 2015 Deposition of Christian Mark Lovelace	Vol. 18, 2909–2918
15	June 18, 2014 email from Sam Morabito to Michael Vanek RE: Analysis of the Superpumper transaction in 2010	Vol. 18, 2919–2920
16	Excerpted Transcript of October 21, 2015 Deposition of Salvatore R. Morabito	Vol. 18, 2921–2929
17	PROMISSORY NOTE [Snowshoe Petroleum ("Maker") promises to pay P. Morabito ("Holder") the principal sum of $1,462,213.00] (dated 11/01/2010)	Vol. 18, 2930–2932
18	TERM NOTE [P. Morabito ("Borrower") promises to pay Consolidated Western Corp. ("Lender") the principal sum of $939,000.00, plus interest] (dated 09/01/2010)	Vol. 18, 2933–2934
19	SUCCESSOR PROMISSORY NOTE [Snowshoe Petroleum ("Maker") promises to pay P. Morabito ("Holder") the principal sum of $492,937.30, plus interest] (dated 02/01/2011)	Vol. 18, 2935–2937

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20	Edward Bayuk's wire transfer to Lippes in the amount of $517,547.20 (dated 09/29/2010)	Vol. 18, 2938–2940
21	Salvatore Morabito Bank of Montreal September 2011 Wire Transfer	Vol. 18, 2941–2942
22	Declaration of Salvatore Morabito (dated 09/21/2017)	Vol. 18, 2943–2944
23	Edward Bayuk bank wire transfer to Superpumper, Inc., in the amount of $659,000.00 (dated 09/30/2010)	Vol. 18, 2945–2947
24	Edward Bayuk checking account statements between 2010 and 2011 funding the company with transfers totaling $500,000	Vol. 18, 2948–2953
25	Salvatore Morabito's wire transfer statement between 2010 and 2011, funding the company with $750,000	Vol. 18, 2954–2957
26	Payment Schedule of Edward Bayuk Note in Favor of P. Morabito	Vol. 18, 2958–2961
27	September 15, 2010 email from Vacco to Yalamanchili and P. Morabito RE: Follow Up Thoughts	Vol. 18, 2962–2964
Reply in Support of Motion for Partial Summary Judgment (dated 10/10/2017)		Vol. 19, 2965–2973
Order Regarding Discovery Commissioner's Recommendation for Order dated August 17, 2017 (filed 12/07/2017)		Vol. 19, 2974–2981

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Order Denying Motion for Partial Summary Judgment (filed 12/11/2017)		Vol. 19, 2982–2997
Defendants' Motions in Limine (filed 09/12/2018)		Vol. 19, 2998–3006
Exhibits to Defendants' Motions in Limine		
Exhibit	**Document Description**	
1	Plaintiff's Second Supplement to Amended Disclosures Pursuant to NRCP 16.1(A)(1) (dated 04/28/2016)	Vol. 19, 3007–3016
2	Excerpted Transcript of March 25, 2016 Deposition of William A. Leonard	Vol. 19, 3017–3023
3	Plaintiff, Jerry Herbst's Responses to Defendant Snowshoe Petroleum, Inc.'s Set of Interrogatories (dated 02/11/2015); and Plaintiff, Jerry Herbst's Responses to Defendant, Salvatore Morabito's Set of Interrogatories (dated 02/12/2015)	Vol. 19, 3024–3044
Motion in Limine to Exclude Testimony of Jan Friederich (filed 09/20/2018)		Vol. 19, 3045–3056
Exhibits to Motion in Limine to Exclude Testimony of Jan Friederich		
Exhibit	**Document Description**	
1	Defendants' Rebuttal Expert Witness Disclosure (dated 02/29/2016)	Vol. 19, 3057–3071
2	Condensed Transcript of March 29, 2016 Deposition of Jan Friederich	Vol. 19, 3072–3086

DOCUMENT DESCRIPTION		LOCATION
Opposition to Defendants' Motions in Limine (filed 09/28/2018)		Vol. 19, 3087–3102
Exhibits to Opposition to Defendants' Motions in Limine		
Exhibit	**Document Description**	
A	Declaration of Teresa M. Pilatowicz, Esq. in Support of Opposition to Defendants' Motions in Limine (filed 09/28/2018)	Vol. 19, 3103–3107
A-1	Plaintiff's February 19, 2016, Amended Disclosures Pursuant to NRCP 16.1(A)(1)	Vol. 19, 3108–3115
A-2	Plaintiff's January 26, 2016, Expert Witnesses Disclosures (without exhibits)	Vol. 19, 3116–3122
A-3	Defendants' January 26, 2016, and February 29, 2016, Expert Witness Disclosures (without exhibits)	Vol. 19, 3123–3131
A-4	Plaintiff's August 17, 2017, Motion for Partial Summary Judgment (without exhibits)	Vol. 19, 3132–3175
A-5	Plaintiff's August 17, 2017, Statement of Undisputed Facts in Support of his Motion for Partial Summary Judgment (without exhibits)	Vol. 19, 3176–3205
Defendants' Reply in Support of Motions in Limine (filed 10/08/2018)		Vol. 20, 3206–3217
Exhibit to Defendants' Reply in Support of Motions in Limine		
Exhibit	**Document Description**	

DOCUMENT DESCRIPTION		LOCATION
1	Chapter 7 Trustee, William A. Leonard's Responses to Defendants' First Set of Interrogatories (dated 05/28/2015)	Vol. 20, 3218–3236
Defendants' Opposition to Plaintiff's Motions in Limine to Exclude the Testimony of Jan Friederich (filed 10/08/2018)		Vol. 20, 3237–3250
Exhibits to Defendants' Opposition to Plaintiff's Motions in Limine to Exclude the Testimony of Jan Friederich		
Exhibit	**Document Description**	
1	Excerpt of Matrix Report (dated 10/13/2010)	Vol. 20, 3251–3255
2	Defendants' Rebuttal Expert Witness Disclosure (dated 02/29/2016)	Vol. 20, 3256–3270
3	November 9, 2009 email from P. Morabito to Daniel Fletcher; Jim Benbrook; Don Whitehead; Sam Morabito, etc. RE: Jan Friederich entered consulting agreement with Superpumper	Vol. 20, 3271–3272
4	Excerpted Transcript of March 29, 2016 Deposition of Jan Friederich	Vol. 20, 3273–3296
Defendants' Objections to Plaintiff's Pretrial Disclosures (filed 10/12/2018)		Vol. 20, 3297–3299
Objections to Defendants' Pretrial Disclosures (filed 10/12/2018)		Vol. 20, 3300–3303
Reply to Defendants' Opposition to Plaintiff's Motion in Limine to Exclude the Testimony of Jan Friederich (filed 10/12/2018)		Vol. 20, 3304–3311

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<tr><td colspan="2">Stipulated Facts (filed 10/29/2018)</td><td>Vol. 20, 3313–3321</td></tr>
<tr><td colspan="2">Defendants' Points and Authorities RE: Objection to Admission of Documents in Conjunction with the Depositions of P. Morabito and Dennis Vacco (filed 10/30/2018)</td><td>Vol. 20, 3322–3325</td></tr>
<tr><td colspan="2">Plaintiff's Points and Authorities Regarding Authenticity and Hearsay Issues (filed 10/31/2018)</td><td>Vol. 20, 3326–3334</td></tr>
<tr><td colspan="2">Clerk's Trial Exhibit List (filed 02/28/2019)</td><td>Vol. 21, 3335–3413</td></tr>
<tr><td colspan="2">Exhibits to Clerk's Trial Exhibit List</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>Certified copy of the Transcript of September 13, 2010 Judge's Ruling; Case No. CV07-02764</td><td>Vol. 21, 3414–3438</td></tr>
<tr><td>2</td><td>Findings of Fact, Conclusions of Law, and Judgment; Case No. CV07-02764 (filed 10/12/2010)</td><td>Vol. 21, 3439–3454</td></tr>
<tr><td>3</td><td>Judgment; Case No. CV07-0767 (filed 08/23/2011)</td><td>Vol. 21, 3455–3456</td></tr>
<tr><td>4</td><td>Confession of Judgment; Case No. CV07-02764 (filed 06/18/2013)</td><td>Vol. 21, 3457–3481</td></tr>
<tr><td>5</td><td>November 30, 2011 Settlement Agreement and Mutual Release</td><td>Vol. 22, 3482–3613</td></tr>
<tr><td>6</td><td>March 1, 2013 Forbearance Agreement</td><td>Vol. 22, 3614–3622</td></tr>
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8	Order Denying Motion to Dismiss Involuntary Chapter 7 Petition and Suspending Proceedings, Case 13-51237. ECF No. 94, (filed 12/17/2013)	Vol. 22, 3623–3625
19	Report of Undisputed Election– Appointment of Trustee, Case No. 13-51237, ECF No. 220	Vol. 22, 3626–3627
20	Stipulation and Order to Substitute a Party Pursuant to NRCP 17(a), Case No. CV13-02663, May 15, 2015	Vol. 22, 3628–3632
21	Non-Dischargeable Judgment Regarding Plaintiff's First and Second Causes of Action, Case No. 15-05019-GWZ, ECF No. 123, April 30, 2018	Vol. 22, 3633–3634
22	Memorandum & Decision; Case No. 15-05019-GWZ, ECF No. 124, April 30, 2018	Vol. 22, 3635–3654
23	Amended Findings of Fact, Conclusions of Law in Support of Judgment Regarding Plaintiff's First and Second Causes of Action; Case 15-05019-GWZ, ECF No. 122, April 30, 2018	Vol. 22, 3655–3679
25	September 15, 2010 email from Yalamanchili to Vacco and P. Morabito RE: Follow Up Thoughts	Vol. 22, 3680–3681
26	September 18, 2010 email from P. Morabito to Vacco	Vol. 22, 3682–3683
27	September 20, 2010 email from Vacco to P. Morabito RE: Spirit	Vol. 22, 3684–3684
28	September 20, 2010 email between Yalamanchili and Crotty RE: Morabito -Wire	Vol. 22, 3685–3687

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29	September 20, 2010 email from Yalamanchili to Graber RE: Attorney Client Privileged Communication	Vol. 22, 3688–3689
30	September 21, 2010 email from P. Morabito to Vacco and Cross RE: Attorney Client Privileged Communication	Vol. 22, 3690–3692
31	September 23, 2010 email chain between Graber and P. Morabito RE: Change of Primary Residence from Reno to Laguna Beach	Vol. 22, 3693–3694
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<tr><td colspan="2">Findings of Fact, Conclusions of Law, and Judgment (filed 03/29/2019)</td><td>Vol. 48, 8270–8333</td></tr>
<tr><td colspan="2">Notice of Entry of Findings of Fact, Conclusions of Law, and Judgment (filed 03/29/2019)</td><td>Vol. 48, 8334–8340</td></tr>
<tr><td colspan="2">Memorandum of Costs and Disbursements (filed 04/11/2019)</td><td>Vol. 48, 8341–8347</td></tr>
<tr><td colspan="2">Exhibit to Memorandum of Costs and Disbursements</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>Ledger of Costs</td><td>Vol. 48, 8348–8370</td></tr>
<tr><td colspan="2">Application for Attorneys’ Fees and Costs Pursuant to NRCP 68 (filed 04/12/2019)</td><td>Vol. 48, 8371–8384</td></tr>
<tr><td colspan="2">Exhibits to Application for Attorneys’ Fees and Costs Pursuant to NRCP 68</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>Declaration of Teresa M. Pilatowicz In Support of Plaintiff’s Application for Attorney’s Fees and Costs Pursuant to NRCP 68 (filed 04/12/2019)</td><td>Vol. 48, 8385–8390</td></tr>
<tr><td>2</td><td>Plaintiff’s Offer of Judgment to Defendants (dated 05/31/2016)</td><td>Vol. 48, 8391–8397</td></tr>
<tr><td>3</td><td>Defendant’s Rejection of Offer of Judgment by Plaintiff (dated 06/15/2016)</td><td>Vol. 48, 8398–8399</td></tr>
<tr><td>4</td><td>Log of time entries from June 1, 2016 to March 28, 2019</td><td>Vol. 48, 8400–8456</td></tr>
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DOCUMENT DESCRIPTION		**LOCATION**
5	Plaintiff's Memorandum of Costs and Disbursements (filed 04/11/2019)	Vol. 48, 8457–8487
Motion to Retax Costs (filed 04/15/2019)		Vol. 49, 8488–8495
Plaintiff's Opposition to Motion to Retax Costs (filed 04/17/2019)		Vol. 49, 8496–8507
Exhibits to Plaintiff's Opposition to Motion to Retax Costs		
Exhibit	**Document Description**	
1	Declaration of Teresa M. Pilatowicz In Support of Opposition to Motion to Retax Costs (filed 04/17/2019)	Vol. 49, 8508–8510
2	Summary of Photocopy Charges	Vol. 49, 8511–8523
3	James L. McGovern Curriculum Vitae	Vol. 49, 8524–8530
4	McGovern & Greene LLP Invoices	Vol. 49, 8531–8552
5	Buss-Shelger Associates Invoices	Vol. 49, 8553–8555
Reply in Support of Motion to Retax Costs (filed 04/22/2019)		Vol. 49, 8556–8562
Opposition to Application for Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 04/25/2019)		Vol. 49, 8563–8578
Exhibit to Opposition to Application for Attorneys' Fees and Costs Pursuant to NRCP 68		
Exhibit	**Document Description**	
1	Plaintiff's Bill Dispute Ledger	Vol. 49, 8579–8637

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<tr><th colspan="2"><u>DOCUMENT DESCRIPTION</u></th><th><u>LOCATION</u></th></tr>
<tr><td colspan="2">Defendants, Salvatore Morabito, Snowshoe Petroleum, Inc., and Superpumper, Inc.'s Motion for New Trial and/or to Alter or Amend Judgment Pursuant to NRCP 52, 59, and 60 (filed 04/25/2019)</td><td>Vol. 49, 8638–8657</td></tr>
<tr><td colspan="2">Defendant, Edward Bayuk's Motion for New Trial and/or to Alter or Amend Judgment Pursuant to NRCP 52, 59, and 60 (filed 04/26/2019)</td><td>Vol. 50, 8658–8676</td></tr>
<tr><td colspan="2">Exhibits to Edward Bayuk's Motion for New Trial and/or to Alter or Amend Judgment Pursuant to NRCP 52, 59, and 60</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>February 27, 2019 email with attachments</td><td>Vol. 50, 8677–8768</td></tr>
<tr><td>2</td><td>Declaration of Frank C. Gilmore in Support of Edward Bayuk's Motion for New Trial (filed 04/26/2019)</td><td>Vol. 50, 8769–8771</td></tr>
<tr><td>3</td><td>February 27, 2019 email from Marcy Trabert</td><td>Vol. 50, 8772–8775</td></tr>
<tr><td>4</td><td>February 27, 2019 email from Frank Gilmore to eturner@Gtg.legal RE: Friday Trial</td><td>Vol. 50, 8776–8777</td></tr>
<tr><td colspan="2">Plaintiff's Reply in Support of Application of Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 04/30/2019)</td><td>Vol. 50, 8778–8790</td></tr>
<tr><td colspan="2">Exhibit to Plaintiff's Reply in Support of Application of Attorneys' Fees and Costs Pursuant to NRCP 68</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>Case No. BK-13-51237-GWZ, ECF Nos. 280, 282, and 321</td><td>Vol. 50, 8791–8835</td></tr>
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<tr><th colspan="2"><u>DOCUMENT DESCRIPTION</u></th><th><u>LOCATION</u></th></tr>
<tr><td colspan="2">Plaintiff's Opposition to Defendants' Motions for New Trial and/or to Alter or Amend Judgment (filed 05/07/2019)</td><td>Vol. 51, 8836–8858</td></tr>
<tr><td colspan="2">Defendants, Salvatore Morabito, Snowshoe Petroleum, Inc., and Superpumper, Inc.'s Reply in Support of Motion for New Trial and/or to Alter or Amend Judgment Pursuant to NRCP 52, 59, and 60 (filed 05/14/2019)</td><td>Vol. 51, 8859–8864</td></tr>
<tr><td colspan="2">Declaration of Edward Bayuk Claiming Exemption from Execution (filed 06/28/2019)</td><td>Vol. 51, 8865–8870</td></tr>
<tr><td colspan="2">Exhibits to Declaration of Edward Bayuk Claiming Exemption from Execution</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>Copy of June 22, 2019 Notice of Execution and two Write of Executions</td><td>Vol. 51, 8871–8896</td></tr>
<tr><td>2</td><td>Declaration of James Arthur Gibbons Regarding his Attestation, Witness and Certification on November 12, 2005 of the Spendthrift Trust Amendment to the Edward William Bayuk Living Trust (dated 06/25/2019)</td><td>Vol. 51, 8897–8942</td></tr>
<tr><td colspan="2">Notice of Claim of Exemption from Execution (filed 06/28/2019)</td><td>Vol. 51, 8943–8949</td></tr>
<tr><td colspan="2">Edward Bayuk's Declaration of Salvatore Morabito Claiming Exemption from Execution (filed 07/02/2019)</td><td>Vol. 51, 8950–8954</td></tr>
<tr><td colspan="2">Exhibits to Declaration of Salvatore Morabito Claiming Exemption from Execution</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>Las Vegas June 22, 2019 letter</td><td>Vol. 51, 8955–8956</td></tr>
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DOCUMENT DESCRIPTION		LOCATION
2	Writs of execution and the notice of execution	Vol. 51, 8957–8970
Minutes of June 24, 2019 telephonic hearing on Decision on Submitted Motions (filed 07/02/2019)		Vol. 51, 8971–8972
Salvatore Morabito's Notice of Claim of Exemption from Execution (filed 07/02/2019)		Vol. 51, 8973–8976
Edward Bayuk's Third Party Claim to Property Levied Upon NRS 31.070 (filed 07/03/2019)		Vol. 51, 8977–8982
Order Granting Plaintiff's Application for an Award of Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 07/10/2019)		Vol. 51, 8983–8985
Order Granting in part and Denying in part Motion to Retax Costs (filed 07/10/2019)		Vol. 51, 8986–8988
Plaintiff's Objection to (1) Claim of Exemption from Execution and (2) Third Party Claim to Property Levied Upon, and Request for Hearing Pursuant to NRS 21.112 and 31.070(5) (filed 07/11/2019)		Vol. 52, 8989–9003
Exhibits to Plaintiff's Objection to (1) Claim of Exemption from Execution and (2) Third Party Claim to Property Levied Upon, and Request for Hearing Pursuant to NRS 21.112 and 31.070(5)		
Exhibit	**Document Description**	
1	Declaration of Gabrielle A. Hamm, Esq.	Vol. 52, 9004–9007
2	11/30/2011 Tolling Agreement – Edward Bayuk	Vol. 52, 9008–9023
3	11/30/2011 Tolling Agreement – Edward William Bayuk Living Trust	Vol. 52, 9024–9035

	DOCUMENT DESCRIPTION	LOCATION
4	Excerpts of 9/28/2015 Deposition of Edward Bayuk	Vol. 52, 9036–9041
5	Edward Bayuk, as Trustee of the Edward William Bayuk Living Trust's Responses to Plaintiff's First Set of Requests for Production, served 9/24/2015	Vol. 52, 9042–9051
6	8/26/2009 Grant Deed (Los Olivos)	Vol. 52, 9052–9056
7	8/17/2018 Grant Deed (El Camino)	Vol. 52, 9057–9062
8	Trial Ex. 4 (Confession of Judgment)	Vol. 52, 9063–9088
9	Trial Ex. 45 (Purchase and Sale Agreement, dated 9/28/2010)	Vol. 52, 9089–9097
10	Trial Ex. 46 (First Amendment to Purchase and Sale Agreement, dated 9/29/2010)	Vol. 52, 9098–9100
11	Trial Ex. 51 (Los Olivos Grant Deed recorded 10/8/2010)	Vol. 52, 9101–9103
12	Trial Ex. 52 (El Camino Grant Deed recorded 10/8/2010)	Vol. 52, 9104–9106
13	Trial Ex. 61 (Membership Interest Transfer Agreement, dated 10/1/2010)	Vol. 52, 9107–9114
14	Trial Ex. 62 ($1,617,050.00 Promissory Note)	Vol. 52, 9115–9118
15	Trial Ex. 65 (Mary Fleming Grant Deed recorded 11/4/2010)	Vol. 52, 9119–9121
Notice of Entry of Order Denying Defendants' Motions for New Trial and/or to Alter or Amend Judgment (filed 07/16/2019)		Vol. 52, 9122–9124

DOCUMENT DESCRIPTION		LOCATION
Exhibit to Notice of Entry of Order Denying Defendants' Motions for New Trial and/or to Alter or Amend Judgment		
Exhibit	**Document Description**	
1	Order Denying Defendants' Motions for New Trial and/or to Alter or Amend Judgment (filed 07/10/2019)	Vol. 52, 9125–9127
Notice of Entry of Order Granting Plaintiff's Application for an Award of Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 07/16/2019)		Vol. 52, 9128–9130
Exhibit to Notice of Entry of Order Granting Plaintiff's Application for an Award of Attorneys' Fees and Costs Pursuant to NRCP 68		
Exhibit	**Document Description**	
1	Order Granting Plaintiff's Application for an Award of Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 07/10/2019)	Vol. 52, 9131–9134
Notice of Entry of Order Granting in Part and Denying in Part Motion to Retax Costs (filed 07/16/2019)		Vol. 52, 9135–9137
Exhibit to Notice of Entry of Order Granting in Part and Denying in Part Motion to Retax Costs		
Exhibit	**Document Description**	
1	Order Granting in Part and Denying in Part Motion to Retax Costs (filed 07/10/2019)	Vol. 52, 9138–9141

DOCUMENT DESCRIPTION		LOCATION
Plaintiff's Objection to Notice of Claim of Exemption from Execution Filed by Salvatore Morabito and Request for Hearing (filed 07/16/2019)		Vol. 52, 9142–9146
Reply to Objection to Claim of Exemption and Third Party Claim to Property Levied Upon (filed 07/17/2019)		Vol. 52, 9147–9162
Exhibits to Reply to Objection to Claim of Exemption and Third Party Claim to Property Levied Upon		
Exhibit	**Document Description**	
1	March 3, 2011 Deposition Transcript of P. Morabito	Vol. 52, 9163–9174
2	Mr. Bayuk's September 23, 2014 responses to Plaintiff's first set of requests for production	Vol. 52, 9175–9180
3	September 28, 2015 Deposition Transcript of Edward Bayuk	Vol. 52, 9181–9190
Reply to Plaintiff's Objection to Notice of Claim of Exemption from Execution (filed 07/18/2019)		Vol. 52, 9191–9194
Declaration of Service of Till Tap, Notice of Attachment and Levy Upon Property (filed 07/29/2019)		Vol. 52, 9195
Notice of Submission of Disputed Order Denying Claim of Exemption and Third Party Claim (filed 08/01/2019)		Vol. 52, 9196–9199
Exhibits to Notice of Submission of Disputed Order Denying Claim of Exemption and Third Party Claim		
Exhibit	**Document Description**	
1	Plaintiff's Proposed Order Denying Claim of Exemption and Third-Party Claim	Vol. 52, 9200–9204

	DOCUMENT DESCRIPTION	LOCATION
2	Bayuk and the Bayuk Trust's proposed Order Denying Claim of Exemption and Third-Party Claim	Vol. 52, 9205–9210
3	July 30, 2019 email evidencing Bayuk, through counsel Jeffrey Hartman, Esq., requesting until noon on July 31, 2019 to provide comments.	Vol. 52, 9211–9212
4	July 31, 2019 email from Teresa M. Pilatowicz, Esq. Bayuk failed to provide comments at noon on July 31, 2019, instead waiting until 1:43 p.m. to send a redline version with proposed changes after multiple follow ups from Plaintiff's counsel on July 31, 2019	Vol. 52, 9213–9219
5	A true and correct copy of the original Order and Bayuk Changes	Vol. 52, 9220–9224
6	A true and correct copy of the redline run by Plaintiff accurately reflecting Bayuk's proposed changes	Vol. 52, 9225–9229
7	Email evidencing that after review of the proposed revisions, Plaintiff advised Bayuk, through counsel, that Plaintiff agree to certain proposed revisions, but the majority of the changes were unacceptable as they did not reflect the Court's findings or evidence before the Court.	Vol. 52, 9230–9236
Objection to Plaintiff's Proposed Order Denying Claim of Exemption and Third Party Claim (filed 08/01/2019)		Vol. 53, 9237–9240

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<tr><th colspan="2"><u>DOCUMENT DESCRIPTION</u></th><th><u>LOCATION</u></th></tr>
<tr><td colspan="2">Exhibits to Objection to Plaintiff's Proposed Order Denying Claim of Exemption and Third-Party Claim</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>Plaintiff's Proposed Order Denying Claim of Exemption and Third-Party Claim</td><td>Vol. 53, 9241–9245</td></tr>
<tr><td>2</td><td>Defendant's comments on Findings of Fact</td><td>Vol. 53, 9246–9247</td></tr>
<tr><td>3</td><td>Defendant's Proposed Order Denying Claim of Exemption and Third-Party Claim</td><td>Vol. 53, 9248–9252</td></tr>
<tr><td colspan="2">Minutes of July 22, 2019 hearing on Objection to Claim for Exemption (filed 08/02/2019)</td><td>Vol. 53, 9253</td></tr>
<tr><td colspan="2">Order Denying Claim of Exemption (filed 08/02/2019)</td><td>Vol. 53, 9254–9255</td></tr>
<tr><td colspan="2">Bayuk's Case Appeal Statement (filed 08/05/2019)</td><td>Vol. 53, 9256–9260</td></tr>
<tr><td colspan="2">Bayuk's Notice of Appeal (filed 08/05/2019)</td><td>Vol. 53, 9261–9263</td></tr>
<tr><td colspan="2">Defendants, Superpumper, Inc., Edward Bayuk, Salvatore Morabito; and Snowshoe Petroleum, Inc.'s, Case Appeal Statement (filed 08/05/2019)</td><td>Vol. 53, 9264–9269</td></tr>
<tr><td colspan="2">Defendants, Superpumper, Inc., Edward Bayuk, Salvatore Morabito; and Snowshoe Petroleum, Inc.'s, Notice of Appeal (filed 08/05/2019)</td><td>Vol. 53, 9270–9273</td></tr>
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<tr><th colspan="2"><u>DOCUMENT DESCRIPTION</u></th><th><u>LOCATION</u></th></tr>
<tr><td colspan="2">Exhibits to Defendants, Superpumper, Inc., Edward Bayuk, Salvatore Morabito; and Snowshoe Petroleum, Inc.’s, Notice of Appeal</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>Findings of Fact, Conclusions of Law, and Judgment (filed 03/29/2019)</td><td>Vol. 53, 9274–9338</td></tr>
<tr><td>2</td><td>Order Denying Defendants’ Motions for New Trial and/or to Alter or Amend Judgment (filed 07/10/2019)</td><td>Vol. 53, 9339–9341</td></tr>
<tr><td>3</td><td>Order Granting in Part and Denying in Part Motion to Retax Costs (filed 07/10/2019)</td><td>Vol. 53, 9342–9345</td></tr>
<tr><td>4</td><td>Order Granting Plaintiff’s Application for an Award of Attorneys’ Fees and Costs Pursuant to NRCP 68 (filed 07/10/2019)</td><td>Vol. 53, 9346–9349</td></tr>
<tr><td colspan="2">Plaintiff’s Reply to Defendants’ Objection to Plaintiff’s Proposed Order Denying Claim of Exemption and Third-Party Claim</td><td>Vol. 53, 9350–9356</td></tr>
<tr><td colspan="2">Order Denying Claim of Exemption and Third-Party Claim (08/09/2019)</td><td>Vol. 53, 9357–9360</td></tr>
<tr><td colspan="2">Notice of Entry of Order Denying Claim of Exemption and Third-Party Claim (filed 08/09/2019)</td><td>Vol. 53, 9361–9364</td></tr>
<tr><td colspan="2">Exhibit to Notice of Entry of Order Denying Claim of Exemption and Third-Party Claim</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>Order Denying Claim of Exemption and Third-Party Claim (08/09/2019)</td><td>Vol. 53, 9365–9369</td></tr>
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DOCUMENT DESCRIPTION		LOCATION
Notice of Entry of Order Denying Claim of Exemption (filed 08/12/2019)		Vol. 53, 9370–9373
Exhibit to Notice of Entry of Order Denying Claim of Exemption		
Exhibit	**Document Description**	
1	Order Denying Claim of Exemption (08/02/2019)	Vol. 53, 9374–9376
Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration (filed 08/19/2019)		Vol. 54, 9377–9401
Exhibits to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration		
Exhibit	**Document Description**	
1	Order Denying Claim of Exemption and Third Party Claim (filed 08/09/19)	Vol. 54, 9402–9406
2	Spendthrift Trust Amendment to the Edward William Bayuk Living Trust (dated 11/12/05)	Vol. 54, 9407–9447
3	Spendthrift Trust Agreement for the Arcadia Living Trust (dated 10/14/05)	Vol. 54, 9448–9484
4	Fifth Amendment and Restatement of the Trust Agreement for the Arcadia Living Trust (dated 09/30/10)	Vol. 54, 9485–9524
5	P. Morabito's Supplement to NRCP 16.1 Disclosures (dated 03/01/11)	Vol. 54, 9525–9529

	DOCUMENT DESCRIPTION	LOCATION
6	Transcript of March 3, 2011 Deposition of P. Morabito	Vol. 55, 9530–9765
7	Documents Conveying Real Property	Vol. 56, 9766–9774
8	Transcript of July 22, 2019 Hearing	Vol. 56, 9775–9835
9	Tolling Agreement JH and P. Morabito (partially executed 11/30/11)	Vol. 56, 9836–9840
10	Tolling Agreement JH and Arcadia Living Trust (partially executed 11/30/11)	Vol. 56, 9841–9845
11	Excerpted Pages 8–9 of Superpumper Judgment (filed 03/29/19)	Vol. 56, 9846–9848
12	Petitioners' First Set of Interrogatories to Debtor (dated 08/13/13)	Vol. 56, 9849–9853
13	Tolling Agreement JH and Edward Bayuk (partially executed 11/30/11)	Vol. 56, 9854–9858
14	Tolling Agreement JH and Bayuk Trust (partially executed 11/30/11)	Vol. 56, 9859–9863
15	Declaration of Mark E. Lehman, Esq. (dated 03/21/11)	Vol. 56, 9864–9867
16	Excerpted Transcript of October 20, 2015 Deposition of Dennis C. Vacco	Vol. 56, 9868–9871
17	Assignment and Assumption Agreement (dated 07/03/07)	Vol. 56, 9872–9887
18	Order Denying Morabito’s Claim of Exemption (filed 08/02/19)	Vol. 56, 9888–9890

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<tr><th colspan="2">DOCUMENT DESCRIPTION</th><th>LOCATION</th></tr>
<tr><td colspan="2">Errata to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration (filed 08/20/2019)</td><td>Vol. 57, 9891–9893</td></tr>
<tr><td colspan="2">Plaintiff's Opposition to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 08/30/2019)</td><td>Vol. 57, 9894–9910</td></tr>
<tr><td colspan="2">Errata to Plaintiff's Opposition to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 08/30/2019)</td><td>Vol. 57, 9911–9914</td></tr>
<tr><td colspan="2">Exhibits to Errata to Plaintiff's Opposition to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs Pursuant to NRS 7.085</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>Declaration of Gabrielle A. Hamm, Esq.</td><td>Vol. 57, 9915–9918</td></tr>
<tr><td>2</td><td>Plaintiff's Amended NRCP 16.1 Disclosures (February 19, 2016)</td><td>Vol. 57, 9919–9926</td></tr>
<tr><td>3</td><td>Plaintiff's Fourth Supplemental NRCP 16.1 Disclosures (November 15, 2016)</td><td>Vol. 57, 9927–9930</td></tr>
<tr><td>4</td><td>Plaintiff's Fifth Supplemental NRCP 16.1 Disclosures (December 21, 2016)</td><td>Vol. 57, 9931–9934</td></tr>
<tr><td>5</td><td>Plaintiff's Sixth Supplemental NRCP 16.1 Disclosures (March 20, 2017)</td><td>Vol. 57, 9935–9938</td></tr>
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<tr><td colspan="2">Reply in Support of Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs (filed 09/04/2019)</td><td>Vol. 57, 9939–9951</td></tr>
<tr><td colspan="2">Exhibits to Reply in Support of Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>19</td><td>Notice of Submission of Disputed Order Denying Claim of Exemption and Third Party Claim (filed 08/01/19)</td><td>Vol. 57, 9952–9993</td></tr>
<tr><td>20</td><td>Notice of Submission of Disputed Order Denying Claim of Exemption and Third Party Claim (filed 08/01/19)</td><td>Vol. 57, 9994–10010</td></tr>
<tr><td colspan="2">Order Denying Defendants’ Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration and Denying Plaintiff's Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 11/08/2019)</td><td>Vol. 57, 10011–10019</td></tr>
<tr><td colspan="2">Bayuk’s Case Appeal Statement (filed 12/06/2019)</td><td>Vol. 57, 10020–10026</td></tr>
<tr><td colspan="2">Bayuk’s Notice of Appeal (filed 12/06/2019)</td><td>Vol. 57, 10027–10030</td></tr>
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<tr><th colspan="2"><u>DOCUMENT DESCRIPTION</u></th><th><u>LOCATION</u></th></tr>
<tr><td colspan="2">Exhibits to Bayuk’s Notice of Appeal</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>1</td><td>Order Denying [Morabito’s] Claim of Exemption (filed 08/02/19)</td><td>Vol. 57, 10031–10033</td></tr>
<tr><td>2</td><td>Order Denying [Bayuk’s] Claim of Exemption and Third Party Claim (filed 08/09/19)</td><td>Vol. 57, 10034–10038</td></tr>
<tr><td>3</td><td>Order Denying Defendants’ Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration and Denying Plaintiff’s Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 11/08/19)</td><td>Vol. 57, 10039–10048</td></tr>
<tr><td colspan="2">Notice of Entry of Order Denying Defendants' Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration and Denying Plaintiff's Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 12/23/2019)</td><td>Vol. 57, 10049–10052</td></tr>
<tr><td colspan="2">Exhibit to Notice of Entry of Order</td><td></td></tr>
<tr><td>Exhibit</td><td>Document Description</td><td></td></tr>
<tr><td>A</td><td>Order Denying Defendants’ Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration and Denying Plaintiff’s Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 11/08/19)</td><td>Vol. 57, 10053–10062</td></tr>
<tr><td colspan="2">Docket Case No. CV13-02663</td><td>Vol. 57, 10063–10111</td></tr>
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Wholesale No. 421733

WHOLESALE MARKETER AGREEMENT

THIS AGREEMENT is effective June 11, 2007, ("Effective Date") between Shell Oil Products US ("Seller") whose address is 12700 Northborough Drive, Houston, TX 77067 and SUPERPUMPER INC ("Buyer") whose address is 8689 SAN ALBERTO DRIVE, SCOTTSDALE, AZ 85258.

1. **DEFINITIONS.** As used in this Agreement, the terms below have the following meanings, whether singular or plural:

(a) "Business Entity" – Any legal entity that is not an individual or sole proprietorship, including, without limitation, a partnership, corporation, limited liability company, limited liability partnership, or association.

(b) "Buyer's Marketing Premises" – Buyer's premises, including, but not limited to, Buyer's office and storage, and distribution facilities that Buyer uses in connection with the Products.

(c) "Buyer's Outlets" – Those retail outlets, including marinas and truck stops, operated or supplied by Buyer and which Seller has authorized Buyer to display the Identifications in connection with the resale of the Products to consumers.

(d) "Identifications" – The trademarks, trade dress, service marks, and color schemes relating to the Shell brand licensed to Buyer by Seller under the terms of this Agreement for use by Buyer and Buyer's Outlets in connection with the marketing and sale of the Products.

(e) "Law" – Any applicable statute, constitution, ordinance, regulation, rule, administrative order, or other requirement of any federal, state, or local government agency or authority in effect at the time of execution, or during the term, of this Agreement.

(f) "Plant" – The distributing plant(s) from which Seller has authorized Buyer to accept deliveries of Products.

(g) "PMPA" – The Petroleum Marketing Practices Act as may be amended from time to time (15 U.S.C. §2801 et seq.).

(h) "Products" – The gasoline and diesel fuel sold to Buyer by Seller for resale under the Identifications.

2. **PURCHASE AND SALE OF PRODUCTS.**

(a) Subject to Articles 19 and 20, Seller shall sell and deliver to Buyer, and Buyer shall purchase and accept from Seller, the minimum quantities of Shell-branded gasoline identified in Exhibit A-1 during each month and year during the term of this Agreement to be resold through Buyer's Outlets ("Gasoline Minimum Quantities"). Buyer acknowledges that the Gasoline Minimum Quantities are necessary and reasonable for, among other reasons, Seller to plan its supply operations and, as such, are of material and reasonable significance to the franchise relationship. Buyer also acknowledges that Seller has established minimum volume levels for Shell-branded gasoline ("Base Volume") to be resold through Buyer's Outlets for its customers in order to retain a Wholesale Marketer Agreement. Accordingly, in no event may Buyer's Gasoline Minimum Quantities be less than the following Base Volume:

EXHIBIT 15
REPORTER Mayberry
DEPONENT Fadi Saad CPA
DATE 3/16/17

June 11, 2007 to June 10, 2008	4.2 million gallons
June 11, 2008 to June 10, 2009	4.4 million gallons
June 11, 2009 to June 10, 2010	4.6 million gallons
June 11, 2010 to June 10, 2011	4.8 million gallons
June 11, 2011 to June 10, 2012	5.0 million gallons
June 11, 2012 to June 10, 2013	5.2 million gallons

If Buyer fails to purchase the Base Volume and resell the Base Volume through Buyer's Outlets, Seller may take such action as Seller deems appropriate, including, without limitation, terminating or not renewing this Agreement.

(b) Subject to Articles 19 and 20, Seller shall sell and deliver to Buyer, and Buyer shall purchase and accept from Seller, the minimum quantities of Shell-branded diesel identified in Exhibit A-2 each year during the term of this Agreement ("Diesel Minimum Quantities"). Buyer acknowledges that the Diesel Minimum Quantities are necessary and reasonable for, among other reasons, Seller to plan its supply operations and, as such, are of material and reasonable significance to the franchise relationship.

(c) Seller may, but will not be obligated to, sell Buyer more than the "Gasoline Maximum Quantities" identified in Exhibit A-1 and "Diesel Maximum Quantities" identified in Exhibit A-2. Seller's exercise of its right to do so will not obligate Seller to continue to sell Buyer such excess quantities.

(d) To the extent practicable, Buyer shall take delivery of all Products on a ratable basis.

(e) If Buyer fails to purchase and accept the Gasoline or Diesel Minimum Quantities in any 12-month period, Seller may unilaterally downward adjust the Gasoline or Diesel Minimum/Maximum Quantities each succeeding 12-month period by the difference between the annual Gasoline or Diesel Minimum Quantities and the amount actually purchased for that 12-month period. In addition, Buyer may request that Seller downward adjust Buyer's Gasoline or Diesel Minimum/Maximum Quantities if the need for the downward adjustment is due to a reason beyond Buyer's reasonable control. If Seller agrees to such an adjustment the parties shall amend Exhibit A to reflect such adjustment. Likewise, if Buyer purchases more than the Gasoline or Diesel Minimum Quantities, Buyer may request that Seller upward adjust Buyer's Gasoline or Diesel Minimum/Maximum Quantities. If Seller agrees, the Gasoline or Diesel Minimum/Maximum Quantities in Exhibit A-1 or A-2 will be amended accordingly.

(f) If the term of this Agreement commences at any time after January 1 of any year, Buyer shall purchase and accept the Gasoline and Diesel Minimum Quantities during the remaining months of that 12-month period, but Seller's rights and remedies set forth in Articles 2(a) and (c) above will not commence until the next full 12-month period.

(g) If Buyer terminates this Agreement prior to expiration of its term or if Seller terminates this Agreement for cause in accordance with the PMPA or applicable Law, Seller will be entitled to all remedies however arising including, without limitation, all remedies available at law, in equity, or under contract including, without limitation, this Agreement or any incentive agreement pertaining to Buyer's Outlets.

3. PRICES AND TERMS OF PAYMENT.

(a) The prices Buyer shall pay Seller for the Products are as follows:

(1) Unless market area pricing is in effect as described below, Buyer shall pay Seller's marketer tank wagon price in effect for the Plant at the time of Seller's delivery to Buyer.

(2) If Seller determines, in its sole discretion, that market conditions warrant the use of market area pricing, upon notification to Buyer and for as long as such market conditions exist, Buyer shall pay Seller's marketer price in effect for Buyer's Outlets in the geographic market or trading area established by Seller at the time of Seller's delivery to Buyer. Buyer represents and warrants that the Products purchased at such prices will in fact be delivered only to Buyer's Outlets in the designated market or trade area. If Buyer delivers Products purchased at such prices to locations outside the designated market or trade area, (i) Buyer shall reimburse Seller for the difference between the price paid and Seller's highest applicable marketer price in effect for the

area on the date of delivery by Seller to Buyer and (ii) Seller may take such action as Seller deems appropriate, including, without limitation, terminating or not renewing this Agreement.

(b) Buyer shall pay for the Products in accordance with Seller's payment terms in effect from time to time, any of which may be altered or revoked by Seller with notification to Buyer. Buyer shall make all payments to Seller without deduction, setoff, discount, allowance, notice or demand, in United States dollars via Seller's electronic fund transfer ("EFT") system, unless Seller, in its sole discretion, requires Buyer to pay via wire transfer prior to the time of delivery or at such other time and place or by such other method as Seller may designate from time to time. Buyer shall provide any written authorizations required for EFT purposes. If Seller requires Buyer to pay by a method other than EFT, Seller may assess a reasonable administration charge. Buyer agrees that the amount of the transactions payable to Buyer pursuant to Article 12(b) may be used to pay the Product invoices (including but not limited to, applicable taxes, fees, and interest) owed by Buyer to Seller according to the terms and provisions of this Agreement.

(c) Seller's extension of credit for the purchase of the Products, the terms under which any such credit will be extended or maintained, and the amount of credit extended are subject to the sole discretion of Seller, any of which terms or amount may be altered or revoked with notification to Buyer. For the purposes of Seller's evaluation of Buyer's financial condition and creditworthiness, upon Seller's request at any time and from time to time during the term of this Agreement, Buyer shall provide Seller with information and documents relating to Buyer's financial condition and creditworthiness. If Seller elects not to extend Buyer credit, or elects to alter or revoke any extension of credit to Buyer, Seller may require Buyer to provide additional credit assurances including, but not limited to, advance cash payment, cash deposit, letter of credit in a form acceptable to Seller from a financial institution acceptable to Seller or any other security acceptable to Seller.

(d) All overdue amounts owed to Seller will bear interest from the date such have become overdue until paid at the rate of .5% per annum, or the maximum lawful rate, whichever is less. If Buyer fails to make timely payment of any amount due Seller, in addition to all other rights or remedies available to Seller, Seller may take such action as Seller deems reasonable under the circumstances. Without limiting the generality of the foregoing, Seller may: (1) offset, net, or recoup amounts due Seller by Buyer for Product invoices (including, but not limited to, applicable taxes, fees and interest) under this Agreement and any related agreements against any amounts due Buyer by Seller under this Agreement and any related agreement; (2) defer further deliveries of the Products until payment of all outstanding amounts is made, or (3) demand advance wire transfer payment for further deliveries. Buyer shall comply with the terms of any reclamation notice issued to Buyer by Seller under applicable Law.

4. TERM. The term of this Agreement begins on the Effective Date and ends on May 31, 2012, subject to Seller's right to terminate this Agreement in accordance with applicable Law. Upon expiration, this Agreement will continue on a month-to-month basis for no longer than 6 months until the parties either execute a new agreement or Seller terminates or does not renew this Agreement in accordance with applicable Law.

5. PERMISSION TO USE THE IDENTIFICATIONS.

(a) Seller grants to Buyer permission to use the Identifications only in connection with the resale of the Products and so long as Buyer complies with the terms of this Agreement. Buyer acknowledges that the Identifications are a valuable and important property right and are essential to the goodwill and reputation of the Products. Buyer further acknowledges Seller's interest in the Identifications, and Buyer shall not claim any right to or title or interest thereto.

(b) Buyer must obtain Seller's prior written authorization to use and display, or permit the use and display of, the Identifications at any retail outlet. Those retail outlets approved for the Shell brand and otherwise authorized by Seller to display the Identifications are identified in Exhibit B, as may be amended from time to time as retail outlets are added and removed from Buyer's Shell-branded network; provided, however, a formal amendment to Exhibit B will not be necessary and this exhibit will be deemed to be amended automatically by the addition or removal of outlets from Buyer's Shell-branded network. Buyer acknowledges that Seller may, in its sole discretion, approve or not approve any outlet Buyer requests Seller to brand under the Identifications.

(c) Buyer shall follow, and cause the operators of Buyer's Outlets to follow, all rules, regulations, standards, and guidelines Seller establishes from time to time relating to the use and display of the Identifications.

(d) Buyer shall not use, and shall prohibit the use by the operators of Buyer's Outlets of, the word "Shell" as part of Buyer's or the operators' Business Entity name. Buyer shall not use, and shall prohibit the operators of Buyer's Outlets from

using, the Identifications or the word "Shell" in Buyer's or the operators' trade style if the use is likely to: (1) create the impression that the business is owned or operated by Seller or (2) deceive or cause a likelihood of confusion to prospective customers.

(e) Any transfer of a Buyer's Outlet to another Shell-branded wholesaler requires Seller's prior authorization.

6. **PRODUCT STEWARDSHIP AND QUALITY.** Pursuant to Seller's permission granting Buyer use of the Identifications, Buyer shall comply with, and cause the operators of Buyer's Outlets to comply with, the following requirements relating to the marketing, storage, and resale of the Products.

(a) Buyer shall not resell, nor may any operator of Buyer's Outlets resell, gasoline to be resold as Shell-branded gasoline at Buyer's Outlets other than gasoline purchased by Buyer from Seller.

(b) The quality of the Products must be strictly maintained and not adulterated, commingled, or blended with any other products or substances in any manner without Seller's prior written consent.

(c) All Products must be clearly identified, correctly labeled, and resold under their proper identifications and grades.

(d) If Buyer, or any operator of a Buyer's Outlet, purchases, stores, distributes, markets, or sells gasoline or diesel fuel purchased from any other supplier or unbranded gasoline or diesel fuel from Seller, then adequate facilities must be maintained and correctly identified to keep those products segregated from all of the Products and the fuel must be correctly identified in accordance with Seller's standards.

(e) All signs and other advertising devices or materials furnished by Seller to Buyer will remain Seller's property, must be used solely in connection with the resale of the Products, and must be returned to Seller immediately upon demand at Buyer's expense.

(f) Buyer shall obtain Seller's prior written approval before using, or permitting the use of, any promotional materials or advertising that bear any of the Identifications.

7. **BRAND IDENTIFICATION AND MINIMUM STANDARDS.** Buyer acknowledges that the Identifications represent to the motoring public the manufacture and sale of quality Products. Buyer shall undertake no action of any kind that may harm or degrade the Identifications. Buyer further acknowledges that uniform standards of quality and appearance must be maintained at all retail outlets displaying the Identifications in order to properly market and sell the Products, preserve and promote the reputation of Seller, and achieve public acceptance of the Products. Accordingly, Buyer shall comply with, and cause the operators of Buyer's Outlets to comply with, all standards of operation and appearance established from time to time by Seller, including, without limitation, the following minimum obligations; provided, however, the means and the manner of performance are within the sole discretion of Buyer:

(a) Buyer shall comply with, and cause the operators of Buyer's Outlets to comply with, Seller's Retail Visual Identity ("RVI") Design Standards and Conversion guidelines or Seller's current image standards pertaining to the image of Buyer's Outlets ("Image Guidelines") as may be amended by Seller from time to time. If Seller amends the Image Guidelines, Seller shall provide Buyer written notice. Buyer acknowledges receipt of, or has been informed on how to access, the Image Guidelines through the Internet.

(b) Buyer acknowledges receipt of, or has been informed on how to access through Seller's online website, Seller's brand standards pertaining to Seller's operations, appearance, and cleanliness requirements ("Brand Standards") as may be amended by Seller from time to time. If Seller amends the Brand Standards, Seller shall provide Buyer notice. At all times during the term of this Agreement, Buyer shall maintain, and cause the operators of Buyer's Outlets to maintain, Buyer's Outlets in accordance with the Brand Standards. If any Buyer's Outlet fails to meet the Brand Standards, Seller may revoke its permission to display the Identifications at the Buyer's Outlet in accordance with Article 24.

(c) The Products must be diligently and efficiently merchandised and promoted at Buyer's Outlets.

(d) The operations at Buyer's Outlets must be conducted in a professional, business-like, ethical and moral manner and the public must be provided with prompt, courteous, and efficient service.

(e) Buyer shall promptly and courteously respond to any customer complaints (including written responses when appropriate) and take immediate action to satisfactorily resolve each customer complaint.

(f) In order to operate Buyer's Outlets in an organized and efficient manner, adequate and competent personnel who are able to converse in English with Seller, customers, government officials, and other persons, considering both the volume and nature of the business activity, must be maintained at Buyer's Outlets.

(g) The operators and employees at Buyer's Outlets shall wear neat, clean uniforms of a type and style approved by Seller; provided, however, for uniforms with Buyer logos, such approval will not be unreasonably withheld.

(h) All service work at Buyer's Outlets must be performed in a workmanlike manner utilizing only first-class new materials and parts except when the customer specifically authorizes rebuilt or used materials or parts.

(i) Buyer's Outlets must be kept in a clean, sanitary, and safe condition and all property and equipment kept in good operating condition and repair. The driveways, sidewalks, and other landscaped areas must be kept in a neat and orderly appearance free from weeds, debris, snow, ice, and rubbish.

(j) Buyer's Outlets may not be used for any fraudulent, unlawful, offensive, hazardous, unsightly, or other objectionable purpose, including, but not limited to, the sale or display of materials with dominant themes of sex, nudity, prurient interest, or pornography, which are unacceptable to Seller in its reasonable discretion. Merchandise or paraphernalia, including, without limitation, items that may be used in connection with illegal drugs, that is morally offensive or distasteful to the general public as determined by Seller in its reasonable discretion may not be displayed or offered for sale at Buyer's Outlets.

(k) Buyer's Outlets must be kept clear of vehicles, other mobile equipment, and obstructions that restrict traffic flow, endanger customer safety, or detract from appearance. Buyer's Outlets may not be used to sell, lease, or store motor vehicles, trailers, boats, or other mobile equipment, without Seller's prior written consent.

(l) Buyer's Outlets must be operated in a secure manner so that criminal activity is adequately deterred from occurring there and so that all persons at Buyer's Outlets are adequately protected from injury, harm, or loss. Buyer has complete control over and the sole responsibility for security at Buyer's Outlets.

8. **SELLER'S MARKETING RIGHTS.** Seller may, from time to time: (a) add, change, or modify the grade, Product brand name, delivery package, or other distinctive designation of any Product; (b) change or modify the formulations and specifications of any Product; and (c) upon 30 days' prior notice, discontinue at any time the sale of any Product in which event the parties will be relieved of any further obligation with respect to that Product.

9. **SALES AND MARKETING OBLIGATIONS.**

(a) Buyer shall use its reasonable efforts to develop and actively promote the sales of Products. Nothing in this Agreement grants Buyer an exclusive territory to market and resell the Products. Seller reserves the right to market and sell, and authorize others to market and sell, the Products in any manner Seller chooses, including, without limitation, through its own retail outlets or through designated wholesalers or other buyers.

(b) Subject to Articles 19 and 20, Buyer shall keep all Buyer's Outlets supplied on a timely basis with sufficient volumes and quantities of Products to meet the needs and demands of all Buyer's Outlets and their customers. Buyer shall maintain, or cause to be maintained, a sufficient amount of all grades of Shell-branded gasoline and, if applicable, branded diesel fuel at Buyer's Outlets.

(c) Buyer shall not sell, deliver, or otherwise supply the Products to retail outlets Seller has not authorized, in writing, Buyer to supply. Further, Buyer shall not supply the Products to any reseller who Buyer knows or has reason to know will resell the Products under trademarks or brand names other than those of Seller.

10. **TRAINING.**

(a) Buyer shall attend and shall cause all the operators of Buyer's Outlets to attend Seller approved training courses and courses deemed appropriate by local management of Seller as requested by Seller. Seller shall pay the costs for instructors, training materials, and the facility. The training will be conducted at a training facility designated by Seller.

(b) Upon Seller's request, Buyer shall provide proof of training for Buyer, Buyer's managers, and the operators of Buyer's Outlets. Buyer shall have available and utilize training equipment, materials, and programs made available by Seller from time to time for training purposes.

(c) Buyer shall distribute Seller's communications relating to training and Seller's training materials within 90 days after receipt to Buyer's employees and the operators and employees of Buyer's Outlets

(d) Buyer may request that Seller approve Buyer's training facilities and courses. If Seller approves such facilities and courses, the requirements set forth in Articles 10(a), as the case may be, will not be applicable.

11. **DELIVERIES.**

(a) All Products will be sold by Seller to Buyer F.O.B. origin (Seller's Plant). Seller may, from time to time, change the origin point to a different one by giving Buyer at least 15 days' prior notice or such shorter notice as may be reasonable under the circumstances.

(b) Title and risk of loss passes to Buyer when the Products pass from Seller's delivery line into the receiving connection of the transportation equipment supplied by Buyer.

(c) Buyer shall provide or arrange delivery for all Products. Whether Buyer uses its own transportation equipment to transport the Products, or engages a carrier to do so, Buyer or Buyer's carrier, as the case may be, shall comply with all rules and regulations at Seller's Plants, and shall execute any Seller agreement, pertaining to access to Seller's Plants. In addition, Buyer or the carrier, as the case may be, must provide evidence of Insurance (as defined in Article 22) when requested by Seller. If Buyer, or Buyer's carrier, does not provide evidence of Insurance upon request, Seller may deny access to the Plant.

(d) Loading of transportation equipment provided by Buyer or for Buyer's account will be on a first-come, first- served basis. All demurrage shall be for the account of Buyer except to the extent caused by Seller's fault.

12. **TRANSACTION CARDS.**

(a) As long as Seller elects to accept specified credit cards, credit identifications, debit cards, pre-paid cards, store-valued cards, or other transaction authorization cards (collectively "Transaction Cards") in the state in which Buyer's Outlets are located, Buyer shall accept, and cause the operators of Buyer's Outlets to accept, all Transaction Cards identified in Seller's Transaction Card guide ("Guide") for the purchase of authorized products and services. Buyer shall account for and process, and cause the operators of Buyer's Outlets to account for and process, all such transactions in strict compliance with the terms set forth in the Guide, as may be amended by Seller from time to time. If Seller amends the Guide, Seller shall provide Buyer with notice. Seller may assess Buyer a Transaction Card processing fee (which may include any VSAT/telecommunication related charges) for providing such services.

(b) Seller shall accept from Buyer all transactions generated as a result of purchases made with authorized Transaction Cards and processed in accordance with the terms in the Guide. At Seller's option, Seller shall pay the amount of the transactions to Buyer, after deducting any processing fee in effect under Seller's then current Guide, by: (1) netting, recouping, or offsetting the amount against Buyer's account with Seller; (2) a credit to Buyer's bank account by EFT; or (3) check to Buyer.

(c) For each transaction not authorized, disputed by a customer, or otherwise subject to chargeback under the Guide, Seller may either charge the amount to Buyer's account or require Buyer to immediately refund to Seller, including, without limitation, refund by draft or EFT initiated by Seller, without any deduction for any processing fee. Seller may also charge and collect from Buyer any fines or fees referenced in the Guide.

(d) In order to provide efficient service to the motoring public, Buyer shall comply with Seller's software and hardware standards, established from time to time by Seller, relating to Electronic Point of Sale ("EPOS") systems, including, but not limited to, Seller approved compatible hardware, customer activated terminals, integrated and non-integrated EPOS systems, and other requirements necessary to electronically accept and process the Transaction Cards at all times during the term of this Agreement. Buyer shall upgrade the EPOS system with any new release of the software within 9 months after notice from Seller.

(e) Buyer shall execute any applicable Seller agreement relating to the use or access of the EPOS system. In addition, if Seller loans or leases any imprinter, EPOS terminal, or other related equipment to Buyer in connection with acceptance of the Transaction Cards, Buyer shall: (1) comply with the terms of the Guide; (2) execute any applicable Seller agreement relating to the use of such equipment; and (3) reimburse Seller for any charges relating to the use of such equipment (whether third party or internal) incurred by Seller.

(f) Without limiting any rights or remedies available to Seller, if Buyer fails to comply, or any operator of Buyer's Outlets fails to comply, with this article or the Guide, Seller may limit or terminate Buyer's or the operator's right to participate in Seller's program for Transaction Cards; provided, however, if the failure is technical or immaterial, in Seller's sole discretion, Seller may provide Buyer or the operator of Buyer's Outlet, as the case may be, 30 days to correct such failure.

(g) Seller may terminate its Transaction Card program at any time upon notice to Buyer.

13. **INSPECTION AND AUDIT.** Buyer grants, and shall cause the operators of Buyer's Outlets to grant, Seller, its agents, and representatives the right to enter the Buyer's Marketing Premises and Buyer's Outlets at all reasonable times to inspect the facilities, procedures, and materials being used in connection with the purchase and sale of the Products, to obtain samples of and conduct tests on the Products, to inspect the books and records pertaining to the purchase and sale of the Products, and to audit, observe, and otherwise verify Buyer's compliance with this Agreement.

14. **TAXES.** Buyer shall pay all federal, state, and local excise taxes, license fees, inspection fees, environmental fees, and other similar assessments or charges, now or hereafter levied or assessed, by any governmental authority that Seller may be required to collect or pay on the importation, manufacture, sale, purchase, transportation, storage, resale, or use of the Products, insofar as the same is not expressly included in the price for the Products ("Taxes"). If Buyer pays directly any such Tax normally remitted by Seller, Buyer shall promptly provide proof of payment of such charges Further, Seller shall not collect, and Buyer will not be obligated to pay: (a) any such Tax for which Buyer furnishes to Seller a valid exemption certificate or valid fuel license; (b) charge based on or measured by the net income or net worth of Seller, or (c) any employment-related tax, fee, or charge.

15. **WARRANTY AND DISCLAIMER.** Seller warrants that all Products sold to Buyer will meet Seller's then current specifications at the time title to the Products transfers to Buyer as specified in Article 11. **SELLER MAKES NO OTHER WARRANTIES OF ANY KIND AS TO THE PRODUCTS SOLD TO BUYER, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

16. **LIMITATION OF LIABILITY.**

TO THE EXTENT PERMITTED BY LAW, BUYER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM ARISING FROM OR IN CONNECTION WITH BREACH OF SELLER'S WARRANTY SPECIFIED IN ARTICLE 15 WHICH CLAIM WAS NOT CAUSED OR CONTRIBUTED BY ANY NEGLIGENCE OR FAULT OF BUYER ("PRODUCT DEFECT"), WHETHER THE CLAIM IS MADE BY BUYER OR AN OPERATOR OF ANY BUYER'S OUTLET, FOR BREACH OF CONTRACT OR WARRANTY, OR IS UNDER TORT, STRICT LIABILITY, STATUTE OR OTHERWISE, WILL BE: (1) AT SELLER'S OPTION, REPLACEMENT OF THE FAILED, DEFECTIVE, OR NONCONFORMING PRODUCTS OR REIMBURSEMENT OF THE PURCHASE PRICE THEREOF, AND (2) REIMBURSEMENT OF THE REASONABLE COST OF REPAIR OR REPLACEMENT OF ANY MECHANICAL EQUIPMENT OR PARTS THAT ARE DAMAGED DIRECTLY BY THE USE OF SUCH PRODUCTS. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES ARISING UNDER ARTICLE 15 WHETHER UNDER TORT, CONTRACT, STRICT LIABILITY, WARRANTY, STATUTE, OR OTHERWISE.

17. **CLAIMS.**

(a) Seller will not be liable to Buyer for any defect in quality or shortage in quantity of the Products unless: (1) Buyer gives Seller notice within 4 business days after delivery for shortages and within 4 business days after delivery for quality defects (or 4 business days after discovery if the defect is latent) and (2) Buyer provides Seller with a reasonable opportunity to inspect, take samples, and test the Products that are the subject of the claim.

(b) Except as set forth in Article 21, claims relating to the Products or indebtedness, or as otherwise specified in this Agreement, the parties will not be liable to each other for any other claim arising out of this Agreement unless the claimant provides the other party with written notice of the claim (setting forth fully the facts on which the claim is based) within 180 days after the date on which the claim arose.

18. COMPLIANCE WITH LAWS.

(a) Buyer shall comply, and cause the operators of Buyer's Outlets to comply, with all Laws, licenses, and permits relating to its business and the receipt, handling, storage, dispensing, packaging, transportation, labeling, advertising, and sale of the Products at Buyer's Outlets.

(b) Without limiting the generality of the foregoing, Buyer shall comply, and cause the operators of Buyer's Outlets to comply, with all Laws relating to motor fuel and fuel additives as specified in Exhibit C, which Seller may amend from time to time upon written notice to Buyer. Further, if Buyer or any operator of a Buyer's Outlets owns or operates any UST system (as defined in applicable Laws), Buyer shall comply, and cause the operator to comply, with all applicable Laws governing UST systems, including but not limited to financial responsibility requirements through mechanisms provided for in such Laws such as guarantees, surety bonds, and insurance.

19. EXCUSES FOR NON-PERFORMANCE. Both parties will be excused from their obligations under this Agreement for any circumstance (except for financial obligations): (a) reasonably beyond the parties' control including, but not limited to: flood, ice storm, snowstorm, earthquake, other acts of God; or (b) caused by fire or explosion; delay or loss of transportation or delivery equipment; mechanical breakdown; strikes or other labor trouble; plant shutdown; riots, terrorism, acts of war, or other civil disturbances; or voluntary or involuntary compliance with any Law or request of any governmental authority.

20. ALLOCATION. If Seller, for any reason, does not have sufficient supplies of the Products to supply its customers, then during any period of short supply Seller may restrict deliveries of the Products to Buyer without liability and may allocate Seller's supply of the Products among its customers and classes of customers which in Seller's judgment is fair and reasonable under the circumstances. After cessation of any period of short supply, Buyer and Seller shall promptly resume deliveries and receipts of the Products but shall not be obligated to make up any deliveries or receipts not made because of such period of short supply.

21. INDEMNITY.

(a) To the extent permitted by Law, Buyer shall indemnify and defend Seller, its members, subsidiaries, affiliates and joint venture partners, and their respective directors, officers, employees, and agents ("Indemnified Party") against all claims, demands, causes of action, suits, damages, judgments, liens, penalties, and expenses, including, without limitation, attorneys' fees and litigation costs, whether incurred for an Indemnified Party's primary defense or for enforcement of its indemnification rights (collectively, "Claim") including, without limitation, any Claim for harm, injury or death to any person, or damage to property or to the environment arising out of or in connection with any of the following matters:

(1) Buyer's performance or nonperformance under this Agreement including, without limitation, Buyer's possession, sale, transportation, storage, handling, blending, and use of the Products;

(2) Any action or omission of Buyer or Buyer's employees, agents, contractors, assigns, or third parties; and

(3) Any event or occurrence at or involving the operation of any Buyer's Outlet.

BUYER'S OBLIGATION TO INDEMNIFY AND DEFEND EXTENDS TO ANY CLAIM CAUSED BY THE CONCURRENT OR CONTRIBUTORY NEGLIGENCE OR FAULT OF AN INDEMNIFIED PARTY.

(b) Notwithstanding Buyer's obligations in Article 21(a), Buyer shall indemnify and defend the Indemnified Party against all Claims arising solely at Plants owned or operated by Seller but only to the extent of the negligence of Buyer, Buyer's employees, agents, or contractors.

(c) Within a reasonable time after any occurrence which may result in a Claim, Buyer shall report the same to Seller by telephone and shall promptly thereafter confirm the same by written notice, including all circumstances thereof known to Buyer or the operator of Buyer's Outlet or their employees. **PROMPTLY AFTER RECEIVING NOTICE OF ANY SUCH OCCURRENCE, AT BUYER'S EXPENSE, BUYER SHALL INVESTIGATE SAID OCCURRENCE AND RESPOND TO AND DEFEND ANY CLAIM ASSERTED AGAINST ANY INDEMNIFIED PARTY, INCLUDING, WITHOUT LIMITATION, ANY CLAIM ALLEGING THE INDEMNIFIED PARTY'S SOLE NEGLIGENCE.** The Indemnified Party may participate in the defense and settlement of any Claim or litigation with attorneys of the Indemnified Party's selection without relieving Buyer of any obligations under this article; provided, however, the Indemnified Party will be responsible for its own attorney's fees. Seller shall reimburse Buyer for the amount of any judgment and reasonable defense costs paid by Buyer which represents the total liability found by final nonappealable judgment to have been caused by: (1) the Indemnified Party's sole negligence; (2) Product Defect as defined in Article 16; or (3) the amount of liability attributable to the negligence of Seller, its employees, agents or contractors as specified in Article 21(b).

(d) The Insurance requirements of Article 22 do not limit or restrict in any way Buyer's obligations under this article.

(e) Buyer's obligations under this article survive termination or nonrenewal of this Agreement.

22. INSURANCE.

(a) Buyer shall maintain, at all times under the term of this Agreement, the following insurance coverage satisfactory to Seller with limits not less than those limits required below (the "Insurance"). If Buyer does not own or operate Buyer's Outlet, upon renewal, or when entering into new agreements with its operators, Buyer shall require that those operators maintain adequate insurance that is consistent with the following requirements.

(1) Commercial General Liability Insurance unamended or Comprehensive General Liability Insurance with Broad Form CGL endorsement with limits of $2,000,000 each occurrence and $2,000,000 general aggregate for Buyers owning, operating, or supplying up to and including 5 Buyer's Outlets, Buyers owning, operating, or supplying 6 or more Buyer's Outlets shall amend their policy aggregate to $5,000,000. Limits in excess of $1,000,000 may be provided by Excess Liability or Umbrella Liability coverage. As applicable, Buyer shall maintain the following:

(i) Liquor Liability Insurance if Buyer owns and operates the Buyer's Outlet and alcoholic beverages are sold at the location, utilizing endorsement CG 24 08, CG 00 33, or an equivalent;

(ii) Marine Terminal or Wharfingers Liability Insurance if Buyer owns and operates a Buyer's Outlet which is a marine facility. If Buyer supplies the marine facility via watercraft the watercraft exclusion must be deleted or equivalent coverage purchased; and

(iii) Garagekeepers Legal Liability if Buyer owns and operates a Buyer's Outlet with service bays or car washes, with limits of not less than $60,000 per occurrence.

(2) Business Automobile Liability Insurance covering all vehicles used in the operations of the Buyer with limits of liability of $1,000,000 each accident, such policy to be endorsed with:

(i) MCS-90 when hazardous material transportation is involved;

(ii) Liability coverage for employees test driving customers' automobiles if Buyer has service bays; and

(ii) Garagekeepers coverage if Buyer has service bays or car washes.

(3) Workers' Compensation Insurance and Longshoremen's' and Harborworkers' Compensation Insurance as required by Laws applicable to and covering Buyer's employees. Such Insurance must include a waiver of subrogation in favor of Seller where permissible by Law.

(4) Employers' Liability Insurance protecting Buyer against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a limit of $1,000,000 Each Accident, $1,000,000 Disease-Policy Limit; $1,000,000 Disease-Each Employee. Such Insurance must include a waiver of subrogation in favor of Seller where permissible by Law.

(b) Buyer shall assure that the Insurance policies allow for the separation of insureds and provide for written notice of cancellation or material change. Notice of cancellation or change will not affect the Insurance until 30 days after written notice is received by Seller. Any deductible or retention of insurable risks will be for the Buyer's account.

(c) Buyer shall assure that the Insurance required in this article and evidence of the Insurance issued to Buyer names Seller and its members, subsidiaries, affiliates and joint venture partners, to the extent of their interest, as additional insureds, without regard to the allocation of liability provisions contained in this Agreement, to the extent of any claim, loss or liability within the scope of the required Insurance. The parties intend that, to the extent of their interest, the status of Seller and its members, subsidiaries, affiliates and joint venture partners as additional insureds will not be limited by the indemnity obligations under this Agreement or otherwise. Buyer shall secure from its insurance companies and provide to Seller, for all required Insurance, an additional insured endorsement without restrictions.

(d) At the time of execution of this Agreement and upon request during the term of this Agreement, Buyer shall provide Seller with evidence of Insurance that Buyer is in compliance with Seller's Insurance requirements. Buyer's failure to provide certificates evidencing the Insurance requirements or to purchase Insurance coverage in compliance with this article will not relieve Buyer of its obligations in this article.

23. **ASSIGNMENTS.**

(a) Assignment by Buyer. This Agreement is personal to Buyer. Buyer may not sell, transfer, assign, or encumber any of its interest under this Agreement, or assign any claim against Seller arising directly or indirectly out of or in connection with this Agreement, in whole or in part, whether voluntarily, involuntarily, or by operation of Law (collectively, "Transfer") without the prior written consent of Seller, which consent will not be unreasonably withheld. Seller will have 30 days (or any lesser period specified by Law) after receipt of Buyer's request for Seller's consent and all qualification information reasonably required by Seller to provide Buyer with written notice of its decision to grant or withhold consent. Seller's consent to any Transfer is not a waiver of the provisions of this article as to any future transaction. Any Transfer by Buyer without Seller's prior written consent is void.

(b) Successor in Interest. Notwithstanding the foregoing, if Buyer or the person currently in "control" of the ownership interest of Buyer ("control" being the authority to direct the operations of Buyer and to have or exercise management responsibility) dies or suffers severe physical or mental disability of at least 3 months which renders Buyer unable to perform all of its obligations under this Agreement, or if Buyer seeks to Transfer any of its interest in this Agreement for estate planning purposes, Seller consents to the Transfer of this Agreement, in whole or in part, to a qualified member of the individual's immediate family. For the purposes of this article a "qualified member" includes the individual's spouse, adult child, parent, brother and sister who is acceptable to Seller under Seller's current Transfer guidelines.

(c) Transfer Events. Without limiting the foregoing, the following events constitute a Transfer:

(1) Subject to Article 23(b) above, if Buyer is an individual and Buyer dies and Buyer's interest in this Agreement is transferred, whether by will or operation of Law;

(2) Buyer becomes bankrupt or insolvent, Buyer makes an assignment for the benefit of creditors, or a proceeding is instituted under the Bankruptcy Code, and, if it is an involuntary proceeding, Buyer or other affected party has not had it dismissed within 60 days;

(3) A writ of attachment or execution is levied on this Agreement and is not removed by Buyer within 30 days;

(4) A receiver is appointed with authority to take over Buyer's interest in this Agreement and is not removed within 60 days in any proceeding or action to which Buyer is a party;

(5) If Buyer is a partnership or a limited liability partnership, a withdrawal or any change of interest (voluntary, involuntary or by operation of Law) of any partner or the dissolution of the partnership; provided, however, a Transfer of interests between existing partner is not a Transfer requiring Seller's consent;

(6) If Buyer is a limited liability company or a corporation, any dissolution, merger, consolidation or other reorganization, or other arrangement having similar effect, or the Transfer by Buyer or any member or shareholder with a controlling interest or more of the voting shares of the capital stock of Buyer or of any lesser interest which cumulatively vests a controlling interest of such voting shares in the transferee; provided, however, if Buyer Transfers more than 25% of the interest in any one year or more than 49% of the interest over the term of this Agreement, Buyer must obtain Seller's consent in accordance with Article 23(a); and

(7) If Buyer is composed of more than one person, any change of interest (voluntary, involuntary or by operation of Law) of any such person.

(d) Notice of Pending Sale. If Buyer formalizes a plan to sell, or receives a proposal or offer to purchase, Buyer's business, Buyer's Marketing Premises, or any Buyer's Outlet, Buyer shall provide Seller or its designee with the necessary information relating to the proposed purchase or sale to afford Seller an opportunity to negotiate an agreement with Buyer to purchase the business or assets. Upon receipt of the notice, the parties shall execute a mutually acceptable confidentiality agreement pertaining to the sale and Seller will have a maximum of 30 days to make Buyer an offer to purchase; provided, however, Seller shall make a reasonable effort to respond to Buyer in less time. Buyer shall consider, but will not be obligated to accept, any purchase offer made by Seller.

(e) Assignment by Seller. Seller may transfer its interest, in whole or in part, in this Agreement.

24. DE-IDENTIFICATION OF BUYER'S OUTLETS.

(a) If any action is taken at any Buyer's Outlet that is prohibited by this Agreement, any action is not taken at a Buyer's Outlet that is required or contemplated by this Agreement, or the operations at a Buyer's Outlet are otherwise not conducted in accordance with this Agreement, Seller may revoke the permission Seller granted to use the Identifications at that Buyer's Outlet by giving written notice to Buyer. Without limiting the generality of the foregoing, if a Buyer's Outlet is abandoned, not operated, is no longer supplied by Buyer, or if a sufficient amount of all grades of Shell-branded gasoline and, if applicable, branded diesel fuel is not maintained at a Buyer's Outlet for 7 consecutive days, or such lesser period which under the facts and circumstances constitutes an unreasonable period of time, Buyer must notify Seller, immediately de-identify the outlet, and then notify Seller of the de-identification.

(b) Promptly after receiving notice from Seller as specified in Article 24(a) above, Buyer shall take, or shall cause the operator of Buyer's Outlet to take, all steps necessary and appropriate to cease the marketing and selling of Products, and otherwise using the Identifications, at the Buyer's Outlet. Without limiting the generality of the foregoing, at Buyer's expense, Buyer shall, or shall cause the operator of Buyer's Outlet to: (1) remove, and if requested by Seller, return all signs or materials bearing any of the Identifications including, if applicable, the Lazy S canopy fascia, illuminated light bar, and the building portico unless Buyer has received prior approval from Seller to relocate the same to another Buyer's Outlet; (2) remove and destroy, or permanently paint over, all advertising displays, color schemes and other materials and items bearing any of the Identifications (whether used on buildings, equipment, tanks, trucks, automobiles or stationery); (3) return any equipment loaned or leased to Buyer for use at Buyer's Outlet to a place designated by Seller; and (4) if requested by Seller, return the primary Identification sign including the poles and modules to a place designated by Seller if Seller provided any funds towards the purchase of such signage.

(c) If a Buyer's Outlet is temporarily closed with Seller's prior consent, Buyer shall cover or remove the primary Identifications at the Buyer's Outlet including, but not limited to, the canopy, street, and high rise signs, and shall keep, or cause the operator of the Buyer's Outlet to keep, the Buyer's Outlet cleaned and maintained.

25. TERMINATION OR NONRENEWAL.

(a) Termination by Seller. Subject to any limitations imposed by Law, Seller may terminate this Agreement for any of the following grounds.

(1) Buyer's failure to comply with any provision of this Agreement, which provision is both reasonable and of material significance to the relationship under this Agreement;

(2) Buyer's failure to exert good faith efforts to carry out the provisions of this Agreement;

(3) The occurrence of an event which is relevant to the relationship under this Agreement and as a result of which termination of this Agreement is reasonable, including, without limitation, the following events:

(i) Buyer's fraud or criminal misconduct relevant to the operation of Buyer's business, Buyer's Marketing Premises, or Buyer's Outlets;

(ii) Buyer's declaration of bankruptcy or judicial determination of insolvency of Buyer;

(iii) Buyer's continuing severe physical or mental disability if Buyer is an individual, or if Buyer is a Business Entity, the disability of any individual who is currently in "control" of the ownership interest ("control" being the authority to direct the operations of Buyer and to have or exercise management responsibility) of at least 3 months that renders Buyer unable to provide for the continued proper operation of Buyer's Marketing Premises or Buyer's Outlets;

(iv) Loss of Seller's right to grant the right to use the Identifications, which are the subject of the franchise;

(v) Buyer's failure to pay to Seller in a timely manner when due all sums to which Seller is legally entitled;

(vi) Buyer's failure to operate Buyer's Marketing Premises for 7 consecutive days, or such lesser period which under the facts and circumstances constitutes an unreasonable period of time;

(vii) Buyer's willful adulteration, mislabeling, or misbranding of motor fuels or other trademark violations;

(viii) Buyer's knowing failure to comply with the Laws relevant to the operation of Buyer's business, Buyer's Marketing Premises, or Buyer's Outlets;

(ix) Buyer's conviction of any felony involving moral turpitude;

(x) Subject to Article 23(b), Buyer's death if Buyer is an individual, or if Buyer is a Business Entity, the death of any individual who is currently in "control" of the ownership interest of Buyer ("control" being the authority to direct the operations of Buyer and to have or exercise management responsibility); and

(xi) Buyer's failure to comply with Buyer's obligations relating to Insurance set forth in Article 22.

(4) A determination is made by Seller in good faith and in the normal course of business to withdraw from marketing of motor fuel through retail outlets in the relevant geographic market area in which Buyer's Outlets are located;

(5) Termination by Seller for cause of any other branded Wholesaler Marketer Agreement between Buyer and Seller; or

(6) Any other ground for which termination is provided for in this Agreement or is otherwise allowed by the PMPA or other applicable Law.

(b) Termination After Execution. If after execution of this Agreement, but prior to the Effective Date, Seller has grounds to terminate or not renew any then existing Wholesale Marketer Agreement between the parties, or to terminate this Agreement as if it were then in its term, Seller may terminate this Agreement, as well as any existing Wholesale Marketer Agreement, based on those grounds.

(c) Nonrenewal by Seller. Subject to any limitations imposed by Law, Seller may not renew this Agreement for any of the grounds specified in Article 25(a) or any other ground for which nonrenewal is provided for in this Agreement or is otherwise allowed by the PMPA or other applicable Law.

(d) Mutual Termination. The parties may terminate or not renew this Agreement by mutual written agreement in the form and manner permitted by the PMPA.

(e) Acts Attributable to Buyer. In determining whether a ground for termination or nonrenewal exists under this article, the acts or omissions of Buyer's employees, agents, and contractors are the acts or omissions of Buyer. If Buyer is comprised of more than one person, the acts or omissions of each such person are the acts or omissions of Buyer. If Buyer is a Business Entity, in addition to those individuals mentioned above, the acts or omissions of each partner, shareholder or member, as the case may be, are the acts or omissions of Buyer.

26. RIGHTS AND DUTIES UPON TERMINATION OR NONRENEWAL.

(a) Upon termination or nonrenewal of this Agreement, Buyer shall immediately cease, and cause the operators of Buyer's Outlets to immediately cease, marketing and selling the Products and otherwise using the Identifications or any marks confusingly similar thereto. Without limiting the generality of the foregoing, at Buyer's expense, Buyer shall, or shall cause the operator of Buyer's Outlets to: (1) remove, and if requested by Seller return, all signs or materials bearing any of the Identifications including, if applicable, the Lazy S canopy fascia, illuminated light bar, and the building portico; (2) remove and destroy, or permanently paint over, all other advertising displays, color schemes and other materials and items bearing any of the Identifications (whether used on buildings, equipment, tanks, trucks, automobiles or stationery); (3) return any equipment loaned or leased by Seller to Buyer for use at Buyer's Outlets to a place designated by Seller; and (4) if requested by Seller, return the primary Identification signs including the poles and modules to a place designated by Seller if Seller provided any funds towards the purchase of such signage.

(b) If Buyer fails for any reason to cease marketing and selling the Products or otherwise using any of the Identifications immediately upon the effective date of termination or nonrenewal, then Seller may enter Buyer's Marketing Premises and the Buyer's Outlets operated by Buyer to carry out Buyer's obligations under Article 26(a), at Buyer's expense. Buyer shall not interfere, and will not permit any of its employees, agents or representatives to interfere, with Seller's rights under this article. Seller's exercise of its right of entry will not constitute a trespass or other tort.

(c) If Buyer fails for any reason to cause any operator of a Buyer's Outlet supplied by Buyer to cease marketing and selling Products or otherwise using any of the Identifications immediately upon the effective date of termination or nonrenewal, then Seller may take all necessary and appropriate action, in Buyer's name and at Buyer's expense, to cause the operator of that Buyer's Outlet to cease that activity.

(d) Seller will be entitled to injunctive and equitable relief for any violation of this article and Buyer shall pay all costs and expenses, including, without limitation, reasonable attorneys' fees and other legal costs Seller incurs, in enforcing this article.

27. INDEPENDENT CONTRACTOR. Buyer is an independent contractor, and nothing in this Agreement may be construed as reserving to Seller any right to exercise any control over, or to direct in any respect the conduct or management of, Buyer's business or operations conducted pursuant to this Agreement, but the entire control and direction of such business and operations are and will remain in Buyer, subject only to Buyer's performance of the obligations of this Agreement. Neither Buyer nor

any person performing any duties or engaged in any work at the Buyer's Outlets will be deemed an employee or agent of Seller, and none of them is authorized to impose on Seller any obligations or liability whatsoever.

28. BUSINESS ENTITY OR JOINT BUYER.

(a) If Buyer is comprised of more than one person, the obligations imposed under this Agreement are joint and several as to each person and all of the terms apply to each person with the same effect as though that person were the sole Buyer.

(b) If Buyer is a Business Entity, all obligations and provisions of this Agreement of a personal nature apply as if the Business Entity were an individual and, insofar as is legally possible and reasonably practicable, to those individuals who have or exercise management responsibility for the Business Entity, including, without limitation, officers, directors or agents of corporations and partners of partnerships. The Business Entity must manage its affairs with respect to the personal obligations and provisions in a manner so as to give full force and effect to the same.

29. **ATTORNEY'S FEES.** Except as provided under Article 30, Seller or Buyer, as the case may be, will be entitled to recover from the other party reasonable attorney's fees and other legal costs the prevailing party incurs in order to secure or protect the rights inuring to the prevailing party under this Agreement, or to enforce the terms thereof.

30. ALTERNATIVE DISPUTE RESOLUTION.

(a) Any and all claims, counterclaims, demands, causes of action, disputes, controversies and other matters arising out of or relating to this Agreement or the relationship established by this Agreement, any provision of this Agreement, the alleged breach of this Agreement, or in any way relating to the subject matter of this Agreement involving the parties or their respective representatives ("Claim"), whether such Claims are in contract, tort, or otherwise, at law or in equity, whether provided by statute or the common law, for damages or any other relief, if not capable of resolution through negotiation by the parties, must be submitted to non-binding mediation ("Mediation") as described below. Excepted from Mediation is: (1) Seller's determination to terminate or nonrenew this Agreement and the franchise relationship thereunder pursuant to the PMPA; (2) Seller's collection of indebtedness arising out of or relating to this Agreement; and (3) any Claim with a monetary value of less than $20,000.00.

(b) The Mediation process will be conducted according to the following procedure:

(1) Seller and Buyer shall submit a notice of Claim ("Notice") to the other party and to the office of the CPR Institute for Dispute Resolution ("CPR"), whose address is 366 Madison Avenue, New York, NY 10017-3122, which sets forth the details of the Claim.

(2) The Claim must be submitted to Mediation in accordance with: (i) the then current CPR Rules for Non-Administered Mediation of Business Disputes; and (ii) the provisions of this Agreement.

(3) The Mediation proceeding will be conducted on a confidential basis.

(4) The Mediation will be conducted in the county in which Seller's region office is located or in a mutually agreed city, such agreement being made within 10 days of the filing of the Notice.

(5) There will be one mediator. The CPR will furnish a Panels List of 5 potential mediators to the parties within 15 days of the Notice. Within 10 days from receipt of the Panels List, each party shall designate up to 3 members of the Panels List in order of preference and return their selections to the CPR. The CPR will have 10 days to notify the parties of an agreed upon mediator based upon the selections furnished by the parties. If the parties are unable or fail to agree upon a mediator, the CPR will select one within 30 days from the filing of the Notice. The mediator must not have any actual or perceived conflict of interest with any party to the Agreement, any affiliate or subsidiary of a party or their respective counsel.

(6) The mediator will order the parties to promptly exchange copies of all exhibits and, if requested by a party, to produce other relevant documents, to answer up to 20 interrogatories (which total includes any subparts), and to respond to up to 10 requests for admissions (which will be deemed admitted if not denied within 30 days). Any additional discovery will only occur by agreement of the parties or as ordered by the mediator upon a finding of good cause. All discovery must be completed 15 days prior to the commencement of the hearing process. If any dispute or disagreement arises with respect to the discovery

contemplated herein, the mediator will hear the nature of the dispute and make any rulings needed to resolve it. The hearing process will be postponed until all such disputes are resolved, so that there will be a 15 day period between the end of discovery and the commencement of the hearing process.

(7) The mediator will schedule one or more hearings, all of which will be conducted within 90 days from the filing of the Notice.

(c) Seller and Buyer will each be responsible for their own personal expenses, and Seller and Buyer shall each pay 50% of the fees and costs for the engagement of the CPR and the mediator. If advance payment or a deposit is required of any party prior to commencement of the Mediation, each party represents and warrants that it will timely pay and deposit this amount. The failure to timely pay any amounts requested by the mediator or the CPR (whether at commencement of the Mediation or otherwise) will constitute an immediate and material event of default of this Agreement. If these amounts are not timely paid within 10 business days following the defaulting party's receipt of a written notice and demand to pay (issued by the mediator or the non-defaulting party with a copy to the mediator), the non-defaulting party may seek to compel payment of such fees and costs by initiation of a court proceeding.

(d) All statutes of limitations and defenses based upon passage of time applicable to any Claim (including any counterclaim or setoff) will be tolled while the Mediation is pending.

(e) In order to prevent irreparable harm, a party may, notwithstanding any other provision of this agreement, seek temporary injunctive relief from any court of competent jurisdiction; provided that the party seeking such relief (if Mediation has not already been commenced) simultaneously commences Mediation.

(f) The provisions of this article survive any expiration or termination of this Agreement.

(g) BY EXECUTING THIS AGREEMENT, EACH PARTY IS AGREEING TO HAVE ANY APPLICABLE CLAIM SUBMITTED TO MEDIATION AS SET FORTH HEREIN, AND EACH PARTY ACKNOWLEDGES AND AGREES TO COMPLY WITH THIS REQUIREMENT PRIOR TO INITIATING LITIGATION OR OTHER COURT PROCEEDING. IF ANY PARTY REFUSES TO SUBMIT TO THE MEDIATION PROCESS AFTER AGREEING TO THIS PROVISION, SUCH PARTY MAY BE COMPELLED TO SUBMIT TO THE MEDIATION PROCESS. BUYER CERTIFIES THAT IT HAS READ AND UNDERSTANDS THE FOREGOING AND AGREES TO SUBMIT ALL APPLICABLE CLAIMS TO THE MEDIATION PROCESS.

31. NOTICES.

(a) Except as otherwise specified in this Agreement, all notices must be in writing, addressed to the parties as specified below and in compliance with the PMPA and other applicable Law. Subject to any requirements of Law, any notice (including price notifications) may be given to Buyer by personal service or by electronic mail or to either party by certified mail, regular mail, facsimile, or overnight or local courier. Notice will be deemed given when: (1) deposited in the U.S. Mail, postage or charges pre-paid and directed to the party for whom intended at the address in this Agreement or such other address as directed by the party upon written notice to the other if given by certified mail or regular mail; (2) deposited with the dispatching agency, postage or charges pre-paid and directed to the party for whom intended at the address in this Agreement or such other address as directed by the party upon written notice to the other if given by overnight or local courier; (3) confirmation is received by the sending party if given by facsimile; or (4) Seller is electronically notified by its electronic mail provider or program of delivery to Buyer if given by electronic mail.

(b) All notices must be addressed to the parties as follows:

If to Buyer:
SUPERMARKET INC.
PAUL MOORKOTT
4631 N. Scottsdale Rd. #125
Scottsdale AZ 85254-2711
Attn.: MICK KARANICAS
FAX: 480 222 1062
E-MAIL: pmoorkott@supermarket.com

If to Seller:
Shell Oil Products US
12700 Northborough Drive
Houston, Texas 77067
Attn.: Retail Administration
FAX: 281-775-5060

(c) If Buyer is a Business Entity, Seller may give notice to: (1) any officer or director of a corporation or limited liability company; (2) any partner of a partnership or limited liability partnership; or (3) any personal representative, agent, or employee of any other Business Entity.

(d) To enable Seller to send notices and communications to Buyer by electronic mail: (1) Buyer must have access to a computer that meets Seller's specifications in effect from time to time; (2) Buyer must have access to the internet; and (3) Buyer shall have at all times during the term of this Agreement an active E-mail address and Buyer shall promptly advise Seller of such address and of any change thereto.

32. GENERAL PROVISIONS.

(a) This Agreement as of the Effective Date hereof cancels and supersedes all prior and contemporaneous representations, inducements, agreements, commitments, and undertakings with respect to the subject matter of this Agreement, except those written agreements relating to any indemnification, reimbursement, indebtedness, or debt security obligations (including, but not limited to, any security interest, security agreement, guaranty, mortgage, deed of trust, promissory note, or UCC filing).

(b) Except as expressly provided under this Agreement, all amendments and supplements to this Agreement must be in writing and signed by both parties.

(c) Any waiver of any provision of this Agreement must be in writing signed by the parties. Either party's delay or failure to enforce any provision of this Agreement or any course of dealing or trade custom or usage will not operate as a waiver of compliance with that provision or a waiver or estoppel of the party's right to enforce any other provision of this Agreement.

(d) The provisions of this Agreement are severable. If any provision of this Agreement is, for any reason, invalid or unenforceable, the remaining provisions of this Agreement are valid and enforceable if the basic intent of the parties is still capable of being achieved.

(e) This Agreement is binding upon and enforceable against the parties' respective successors, permitted assignees, legal representatives, executors, administrators, heirs, and legatees.

(f) Neither this Agreement nor any subsequent agreement amending or supplementing this Agreement is binding unless a duly authorized representative of the parties signs the Agreement, amendment, or supplement.

(g) For the purpose of Articles 32(b), (c) and (f), signatures and writings in an electronic form do not constitute or create a writing signed by a party.

(h) Except to the extent that the PMPA requires the mandatory application of the Law of another jurisdiction, this Agreement is subject to and governed by the Law of the State of Texas, without giving effect to principles of conflicts of Law that would result in the application of the Laws of another jurisdiction.

(i) By entering into this Agreement Buyer is not releasing or waiving any right as a condition of entering into this Agreement by the provisions of Section 2805(f) of the PMPA that: (1) Seller is prohibited from requiring Buyer to release or waive; or (2) that Buyer cannot lawfully waive under state law.

Executed on the date shown below.

SUPERPUMPER INC
Buyer

By: _____

Title: PRESIDENT

Date: 6.8.07

Shell Oil Products US
Seller

By: _____
Charles G Whitlock

Title: Supervisor Contracts & Incentives

Date: 6/11/07

EXHIBIT A-1

GASOLINE MINIMUM/MAXIMUM QUANTITIES

Unless otherwise indicated below, the approximate monthly quantities of the Products will be 1/12th of the annual Gasoline Minimum and Maximum Quantities.

YEAR 1: Total annual Minimum: 13,125,000 gallons
Total annual Maximum: 24,413,000 gallons

Monthly Quantities (gallons)

Month/Year	Minimum	Maximum	Month/Year	Minimum	Maximum
January '07			July '07	1,875,000	3,487,000
February '07			August '07	1,875,000	3,488,000
March '07			September '07	1,875,000	3,487,000
April '07			October '07	1,875,000	3,488,000
May '07			November '07	1,875,000	3,487,000
June '07	1,875,000	3,488,000	December '07	1,875,000	3,488,000

YEAR 2: Total annual Minimum: 23,616,000 gallons
Total annual Maximum: 43,932,000 gallons

Monthly Quantities (gallons)

Month/Year	Minimum	Maximum	Month/Year	Minimum	Maximum
January '08	1,968,000	3,661,000	July '08	1,968,000	3,661,000
February '08	1,968,000	3,661,000	August '08	1,968,000	3,661,000
March '08	1,968,000	3,661,000	September '08	1,968,000	3,661,000
April '08	1,968,000	3,661,000	October '08	1,968,000	3,661,000
May '08	1,968,000	3,661,000	November '08	1,968,000	3,661,000
June '08	1,968,000	3,661,000	December '08	1,968,000	3,661,000

EXHIBIT A-1

GASOLINE MINIMUM/MAXIMUM QUANTITIES
(Continued)

YEAR 3: Total annual Minimum: **24,804,000** gallons
Total annual Maximum: **46,128,000** gallons

Monthly Quantities (gallons)

Month/Year	Minimum	Maximum	Month/Year	Minimum	Maximum
January '09	2,067,000	3,844,000	July '09	2,067,000	3,844,000
February '09	2,067,000	3,844,000	August '09	2,067,000	3,844,000
March '09	2,067,000	3,844,000	September '09	2,067,000	3,844,000
April '09	2,067,000	3,844,000	October '09	2,067,000	3,844,000
May '09	2,067,000	3,844,000	November '09	2,067,000	3,844,000
June '09	2,067,000	3,844,000	December '09	2,067,000	3,844,000

YEAR 4: Total annual Minimum: 26,040,000 gallons
Total annual Maximum: 48,444,000 gallons

Monthly Quantities (gallons)

Month/Year	Minimum	Maximum	Month/Year	Minimum	Maximum
January '10	2,170,000	4,037,000	July '10	2,170,000	4,037,000
February '10	2,170,000	4,037,000	August '10	2,170,000	4,037,000
March '10	2,170,000	4,037,000	September '10	2,170,000	4,037,000
April '10	2,170,000	4,037,000	October '10	2,170,000	4,037,000
May '10	2,170,000	4,037,000	November '10	2,170,000	4,037,000
June '10	2,170,000	4,037,000	December '10	2,170,000	4,037,000

EXHIBIT A-1

GASOLINE MINIMUM/MAXIMUM QUANTITIES
(Continued)

YEAR 5: Total annual Minimum: 27,348,000 gallons
Total annual Maximum: 50,856,000 gallons

Monthly Quantities (gallons)

Month/Year	Minimum	Maximum	Month/Year	Minimum	Maximum
January '11	2,279,000	4,238,000	July '11	2,279,000	4,238,000
February '11	2,279,000	4,238,000	August '11	2,279,000	4,238,000
March '11	2,279,000	4,238,000	September '11	2,279,000	4,238,000
April '11	2,279,000	4,238,000	October '11	2,279,000	4,238,000
May '11	2,279,000	4,238,000	November '11	2,279,000	4,238,000
June '11	2,279,000	4,238,000	December '11	2,279,000	4,238,000

YEAR 6: Total annual Minimum: 11,960,000 gallons
Total annual Maximum: 22,250,000 gallons

Monthly Quantities (gallons)

Month/Year	Minimum	Maximum	Month/Year	Minimum	Maximum
January '12	2,392,000	4,450,000	July '12		
February '12	2,392,000	4,450,000	August '12		
March '12	2,392,000	4,450,000	September '12		
April '12	2,392,000	4,450,000	October '12		
May '12	2,392,000	4,450,000	November '12		
June '12			December '12		

EXHIBIT A-2

DIESEL MINIMUM/MAXIMUM QUANTITIES

YEAR 1:	Total annual Minimum:	0	gallons
	Total annual Maximum:	0	gallons
YEAR 2:	Total annual Minimum:	0	gallons
	Total annual Maximum:	0	gallons
YEAR 3:	Total annual Minimum:	0	gallons
	Total annual Maximum:	0	gallons
YEAR 4:	Total annual Minimum:	0	gallons
	Total annual Maximum:	0	gallons
YEAR 5:	Total annual Minimum:	0	gallons
	Total annual Maximum:	0	gallons
YEAR 6:	Total annual Minimum:	0	gallons
	Total annual Maximum:	0	gallons

EXHIBIT B

BUYER'S OUTLETS

SAP Account No. Ship to:	SAP Account No. Sold to:	BUYER'S OUTLET ADDRESS
421709	421733	13240 N SCOTTSDALE RD SCOTTSDALE, AZ 85254
421740	421733	15550 N THOMPSON PEAK PKWY SCOTTSDALE, AZ 85260
421741	421733	15752 N FRANK LLOYD WRIGHT BLVD SCOTTSDALE, AZ 85260
421742	421733	21015 N CAVE CREEK RD PHOENIX, AZ 85024
421743	421733	23609 N SCOTTSDALE ROAD SCOTTSDALE, AZ 85255
421744	421733	4740 E DYNAMITE BLVD CAVE CREEK, AZ 85331
421745	421733	4934 E SHEA BLVD SCOTTSDALE, AZ 85254
421746	421733	6324 E GREENWAY ROAD SCOTTSDALE, AZ 85254
421747	421733	704 E GREENWAY PKWY PHOENIX, AZ 85022
421748	421733	8646 E FRANK LLOYD WRIGHT BLVD SCOTTSDALE, AZ 85260
421749	421733	8990 E SHEA BLVD SCOTTSDALE, AZ 85260

EXHIBIT C

REGULATION OF FUELS AND FUEL ADDITIVES

Buyer shall strictly comply, and cause the operators of Buyer's Outlets to strictly comply, with the regulations of the Environmental Protection Agency ("EPA") promulgated as Part 80 - REGULATION OF FUELS AND FUEL ADDITIVES, of Chapter I, Title 40, Code of Federal Regulations ("C.F.R."), and with any applicable state regulations covering the Products, as amended from time to time (the "Regulations"), including, but not limited to, those obligations set forth below. "Gasoline," "Diesel Fuel," and other terms used in this exhibit have the same meanings as defined in the Regulations. With respect to the Buyers' Outlets, Seller and Buyer agree as follows:

(a) Seller's Responsibilities. Seller may:

(1) Continuing for the period as Seller, in Seller's sole judgment, deems appropriate, take periodic samples from the Product dispenser(s) at Buyer's Outlets or from other buyers supplied from the same Plant and test such samples to determine whether the Products are in compliance with the Regulations. Any such sampling and testing will not relieve Buyer of any obligation Buyer has under the Agreement or by Law to sell, dispense and offer for sale only Products complying with the Regulations.

(2) Give prompt notice and details to Buyer (by telephone, followed by formal notice) if any test performed under (1) above, or through other circumstances known to Seller, indicates that the Product inventory at a Buyer's Outlet is not in compliance with the Regulations. Seller shall cooperate with Buyer in any further action taken that is necessary (including pump out) to restore the availability of complying Products. The costs of any such further action, including further sampling and testing, will be at Buyer's expense if the cause of contamination was within Buyer's control.

(b) Buyer's Responsibilities.

(1) No unleaded Shell-branded gasoline may be mixed with any gasoline containing lead anti-knock agents. Unleaded Shell-branded gasoline may not be sold as any unleaded Shell-branded gasoline that is mixed with lead anti-knock agents.

(2) No leaded gasoline (i.e. gasoline containing unlawful amounts of lead or phosphorus) will be introduced into any motor vehicle which is labeled "UNLEADED GASOLINE ONLY" or which is equipped with a gasoline tank filler inlet which is designed for the introduction of unleaded gasoline only.

(3) Gasoline may not be sold, offered for sale, supplied, dispensed, offered for supply, transported, or be caused to be transported, in which the Reid Vapor Pressure exceeds the legally applicable standard or where the oxygen content is below the legally applicable standard. Buyer shall not sell, offer for sale, dispense, supply, offer for supply, or transport reformulated gasoline which is below the legally applicable standard under the Law for the geographical area and time period in which such gasoline is intended to be dispensed to motor vehicles.

(4) Diesel fuel for use in motor vehicles may not be sold, offered for sale, supplied, dispensed, offered for supply, transported, or be caused to be transported, unless the diesel fuel (i) either has a sulfur content, no greater than 15 parts per million (ppm) or a sulfur content of 500 ppm, to the extent allowed under federal and state regulations, (ii) has a cetane index of at least 40, or a maximum aromatic content of 35 volume percent, (iii) is free of visible evidence of the yellow solvent 124, and (iv) is free of visible evidence of the dye solvent red 164 unless it is used in a manner that is tax-exempt as defined under section 4082 of the Internal Revenue Code. If Buyer only sells, offers for sale, supplies, dispenses, or offers for supply diesel fuel with a sulfur content of 500 ppm, Buyer may downgrade 15 ppm sulfur content diesel fuel up to 20% of the total diesel product sold during each compliance period to the extent allowed under federal and state regulation. In addition, diesel fuel for use in motor vehicles may not be sold, offered for sale, supplied, dispensed, offered for supply, transported, or caused to be transported for use in Texas affected counties designated in 30 TAC § 114.319 unless the diesel fuel meets the following Texas low emission diesel fuel (LED) standards: (i) either has a maximum aromatic hydrocarbon content of 10% by volume per gallon, or complies with the Designated Alternative Limit (DAL) in 30 TAC § 114.313; and (ii) has a minimum cetane index of 48; (iii) or in the alternative, meets other approved compliance options identified in applicable Texas regulations for LED.

(5) Gasoline may not be sold, offered for sale, supplied, offered for supply, transported, or be caused to be transported, unless such gasoline is additized in accordance with the requirements of 40 C.F.R. section 80.161, as may be amended from time to time.

(6) Buyer shall use 10-micron particulate only filters for alcohol-blended fuels and use 10-micron particulate only or 10-micron particulate and hydrosorb type filters for non-alcohol blended fuels. A water management procedure for maintaining tank water bottoms below 1" must be implemented for tanks storing alcohol blended fuels. In some states, tank water bottoms must be maintained below ¼" to ½", and it is the Buyer's responsibility to ensure compliance with applicable state Regulations for water management procedures for tanks.

(7) An oversight compliance program must be established and enforced to assure that Buyer and the operators of Buyer's Outlets, and their respective employees or agents, and third parties (including the employees, agents or contractors of Buyer) will not cause, allow, or permit the gasoline or diesel to not be in compliance with the Regulations or become contaminated with any other gasoline or diesel fuel product or foreign substance, at any time after delivery by or for Seller to Buyer. The oversight program must include periodic sampling and testing of the Product inventory; securing the manhole covers, fill line caps and dispensers to avoid authorized entry or use; and supervising and instructing those employees and others having access to the gasoline or diesel fuel system regarding proper procedures to prevent the Products from becoming non-compliant with the Regulations and to prevent contamination of the Products.

(8) Buyer shall give prompt notice and details to Seller (by telephone to Seller's Region office) of (i) the EPA's or state agency's taking a sample of any Product at any Buyer's Outlet to test for compliance with the Regulations and (ii) the verbal or written receipt of any test results from any such sampling.

(9) Buyer shall give prompt notice and details to Seller (by telephone to Seller's Region office, followed by formal notice) of any circumstance or occurrence at a Buyer's Outlet which reasonably could cause the Products or dispensing equipment to not be in compliance with the Regulations. Upon discovery of any such condition the Products may not be sold, dispensed, or offered for sale until Seller and Buyer can mutually determine by sampling, testing, or other means whether the Product is in compliance and, if found to be not in compliance, take such further action as is necessary (including pump out) to restore the availability of a complying Product. The sampling, testing, or further action will be at Buyer's expense if the cause of contamination was within the control of Buyer or the operator of Buyer's Outlet.

(10) Buyer shall obtain, properly affix, and maintain all Product labels required by Law to be affixed at Buyer's Outlet, including gasoline and diesel fuel pump island and dispenser labels.

(11) If the Laws relating to UST systems or those set forth in this exhibit are not complied with by Buyer or any operator of a Buyer's Outlet, based upon evidence satisfactory to Seller, Seller may, in addition to other rights or remedies available to Seller, suspend deliveries of the affected Products to Buyer and enter Buyer's Outlet to take such appropriate action, in Seller's sole judgment (including padlocking the pump dispensers), to avoid any violation of this Agreement or the Regulations.

(12) Buyer certifies that Buyer has read, understands, and is fully informed of the relevant Regulations pertaining to the Products, and Buyer shall, and shall cause the operators of Buyer's Outlets to, fully comply with the provisions thereof whether or not such other obligations are referred to or restated in this Agreement.

WHOLESALE MARKETER
FACILITY DEVELOPMENT INCENTIVE PROGRAM AGREEMENT

NTI, Raze & Rebuild, Supersite, Rehab & Competitive Acquisition

Program Agreement No.: 330045-CC

BUYER

Wholesaler ("Buyer") Name: SUPERPUMPER INC

Buyer's Address: 8689 E SAN ALBERTO DRIVE, SCOTTSDALE, AZ 85258

Sold To No.: 421773

BUYER'S OUTLET

Address: 704 E GREENWAY PKWY, PHOENIX, AZ 85022

Buyer's Outlet Ship To No.: 421747

Type of Project: Competitive Conversion

THIS FACILITY DEVELOPMENT INCENTIVE PROGRAM AGREEMENT ("Agreement") is entered into as of the date of the last signature to this Agreement ("Effective Date") between Buyer and Motiva Enterprises LLC ("Seller"). The parties agree as follows:

1. **IMPROVEMENTS.**

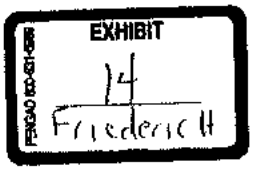
(a) Buyer, at Buyer's sole expense, shall make those improvements to Buyer's Outlet specified in the Facility Development Incentive Program Application ("Improvements") incorporated into this Agreement by reference and identified as Exhibit A in accordance with Seller's Brand Standards. Any deviation from the Brand Standards requires Seller's prior written approval.

(b) Buyer shall obtain all permits, approvals, licenses, and variances necessary for the construction of the Improvements and shall comply with all laws, ordinances, and regulations pertaining thereto.

(c) Within 30 days after completion of the Improvements, Buyer shall request Seller's approval of the Improvements by contacting Buyer's sales consultant. Upon Seller's verification that the Improvements have been constructed in conformance with the Seller's Brand Standards, Seller shall notify Buyer of Seller's approval thereof.

2. **FAILURE TO COMPLETE.** If Buyer fails to complete the Improvements within the time period specified in Exhibit A, this Agreement automatically terminates without notice unless Seller has approved an extension in writing.

3. **INCENTIVES.** Commencing the month following Seller's approval of the Improvements ("Incentive Commencement Date"), Seller shall commence paying Buyer a monthly incentive payment over the period of time specified in Exhibit B ("Reimbursement Period") based upon the Reported Volume (as defined below) multiplied by the incentive rate specified in Exhibit B. Seller shall pay this monthly incentive provided Buyer satisfies the requirements under Articles 4 and 5.



4. **INCENTIVE PAYMENT REQUIREMENTS.**

(a) Buyer's Outlet must remain branded Shell and be open for business for the resale of Shell branded gasoline ("Products").

(b) Buyer's Outlet must meet Seller's image and appearance guidelines as specified in the Wholesale Marketer Agreement ("WMA") and continue to meet those guidelines.

(c) Buyer shall purchase from Seller the Minimum Quantities of Products specified in the WMA.

(d) Buyer and Seller must have a current (unexpired) WMA.

5. **REPORTED VOLUME.** Within 20 days after the end of each month, Buyer shall report the volume of Products delivered to or sold at Buyer's Outlet through the Seller's Volume Entry system, or other system as designated by Seller ("Reported Volume").

6. **BRAND COMMITMENT - TERM.** Buyer's Outlet must remain branded Shell for 168 full months from the Incentive Commencement Date ("Brand Commitment"). The term of this Agreement expires when Buyer fulfills the Brand Commitment unless terminated pursuant to the terms of this Agreement.

7. **TAXES AND TAX DISCLAIMER.** Buyer shall pay all income and other tax, if any, associated with the incentives paid by Seller to Buyer under this Agreement. The execution of Agreement is not a representation by Seller that this transaction will be characterized as a loan or otherwise. Each party has the responsibility to consult with its own tax advisors to determine the appropriate characterization of this transaction for tax purposes.

8. **DEFAULT.**

(a) *If prior to the expiration of the Brand Commitment* Buyer's Outlet is debranded, this Agreement is terminated, or the WMA is terminated or not renewed ("Default Event"), Buyer shall reimburse Seller, within 30 days of Seller's written notice, as follows:

(1) If there are 48 months or more of the Brand Commitment remaining at the time of the Default Event, then 100% of the incentives paid to Buyer.

(2) If there are less than 48 months of the Brand Commitment remaining at the time of the Default Event, then a sum that is equal to the number of full months remaining in the Brand Commitment from the date of the Default Event to expiration of the Brand Commitment ("Default Months") divided by the total number of months in the Brand Commitment, multiplied by the incentives paid to Buyer.

Example:	Incentives paid to Buyer up to Default Event = $100,000	
	Brand Commitment = 168 months	
	Months from Incentive Commencement Date to Default Event = 144 months	
	Remaining months from Default Event to end of Brand Commitment = 24 months	
Default amount calculation:	24 / 168 months X $100,000 = $14,000	= Default Amount

(b) If Buyer fails to comply with the incentive payment requirements in Articles 4(b), 4(c), or 4(d) above, Seller will cease paying Buyer the monthly incentive payment commencing the month of Buyer's noncompliance. Thereafter, if Buyer comes into

compliance, the following month Seller will resume paying Buyer the monthly incentive payment for the remainder of the Reimbursement Period provided Buyer remains in compliance with the requirements in Articles 4(b), 4(c), and 4(d).

(c) If Buyer fails to timely report the volume as required under Article 5 above, Buyer will not receive the monthly incentive payment for the applicable month.

(d) If Seller inspects Buyer's Outlet or books and records as provided in Article 9 below and reasonably determines that the sales of the Products from Buyer's Outlet do not reasonably approximate Buyer's Reported Volume plus inventories of Products at Buyer's Outlet, Buyer shall reimburse Seller, within 30 days of the date of Seller's notice, all of the incentive monies paid to Buyer and Seller may terminate this Agreement.

9. **RECORDS AND RIGHT TO INSPECT.** To the extent reasonably necessary to observe and verify Buyer's compliance with this Agreement, Buyer grants to Seller, or shall cause the operator of Buyer's Outlet to grant to Seller, permission to enter and to inspect Buyer's Outlet, including the dispenser meters, and to examine the books and records as they relate to the sale and purchase of the Products at Buyer's Outlet. Buyer, or the operator of Buyer's Outlet, as the case may be, must keep these records for the term of this Agreement.

10. **TRANSFER OF FUNDS.** Pursuant to authorization granted Seller under the Electronic Funds Transfer Agreement ("EFT") between Buyer and Seller, Seller may pay Buyer the monthly incentive payment, and may collect from Buyer any amounts due Seller under this Agreement, by EFT.

11. **SETOFF.** If Buyer fails to make timely payment of any amount due Seller under this Agreement, the WMA, or any other agreement between Buyer and Seller, then, in addition to all other rights or remedies available, Seller may setoff or equitably recoup against any amount then due Buyer under this Agreement, the WMA, or any other agreement between Buyer and Seller.

12. **TERMINATION.** This Agreement automatically terminates without notice if the WMA is terminated, not renewed or Buyer's Outlet is debranded. Buyer's reimbursement obligations under this Agreement survive termination of this Agreement.

13. **ASSIGNMENT.** Buyer may not assign its rights or obligations under this Agreement without Seller's prior written consent.

14. **ENTIRETIES/MODIFICATION/WAIVER.** This Agreement cancels and supersedes all prior and contemporaneous representations, inducements, agreements, commitments, and undertakings with respect to the subject matter of this Agreement, except those written agreements relating to any indemnification, reimbursement, indebtedness, or debt security obligations (including, but not limited to, any security interest, security agreement, guaranty, mortgage, deed of trust, promissory note, or UCC filing). Any waiver of any provision, or modification, of this Agreement must be in writing signed by the parties. Either party's delay or failure to enforce any provision of this Agreement or any course of dealing or trade custom or usage will not operate as a waiver of compliance with that provision or a waiver or estoppel of the party's right to enforce any other provision of this Agreement.

15. **REMEDIES.** The remedies set forth in this Agreement are not exclusive but are cumulative and in addition to all other rights and remedies provided by law or equity including those under the WMA.

16. **ATTORNEYS' FEES.** Seller will be entitled to recover from Buyer reasonable attorneys' fees and other legal costs Seller incurs in order to secure or protect the rights inuring to Seller under this Agreement, or to enforce the terms hereof.

17. **APPROVALS.** Neither this Agreement nor any subsequent agreement amending or supplementing this Agreement is binding unless a duly authorized representative of Seller signs this Agreement, amendment, or supplement.

Executed on the date shown below.

SUPERPUMPER INC **Buyer**	Shell Oil Products US **Seller**
By: _____	By: _____ Allen Gimdt
Title: _____	Title: Manager Contracts
Date: _____	Date: 5/25/06

EXHIBIT A

FACILITY DEVELOPMENT PROGRAM APPLICATION

Superpumper 001866

SHELL REQUEST FOR WHOLESALE FACILITY DEVELOPMENT INCENTIVE (THIS IS NOT A BINDING CONTRACT)

AGREEMENT NO (REGION USE ONLY): _____ COMPANY NAME OF WHOLESALER: BERRY HINCKLEY INDUSTRIES / Superpumper

SAP#: 421733 WHOLESALER AGREEMENT NO: _____ PHONE: 775-689-1222

ADDRESS: 425 MAESTRO DRIVE - SUITE 100 CITY: RENO STATE: NV ZIP: 89510

PROJECT CATEGORY	○ NTI ○ Raze Rebuild	○ Rehab Interior/Exterior	○ Rehab Exterior Only	◉ Competitive Conversion
INCENTIVE RATE	☐ 2.0 CPG x 48 Months	○ 1.75 CPG x 36 Months	○ 1.25 CPG x 36 Month	☑ 5.03 CPG x 48 Months
INTERSTATE SITE	☐ 1.0 CPG x 48 Months	N/A	N/A	N/A
MAXIMUM REIMBURSEMENT	No Maximum	(2) 50% of Cost of Improvements not to exceed $100,000	(2) 50% of Cost of Improvements not to exceed $75,000	No Maximum
☐ ICR Approved Month only 5 yr. Term	N/A	(3) .25 CPG x 3 yrs x #ICR's Max : $3,000 per ICR : $18,000 per site		
Recommended Facility Standards (1)	RVI Level 2	RVI Level 3A	RVI Level 3A	RVI Level 3A
	Standard RVI building image required where Wholesaler does not brand APC			

BRANDING TERM 14 YEARS, IMAGE STANDARDS COMPLIANCE REQUIRED. CONSTRUCTION MUST BEGIN WITHIN SIX (6) MONTHS OF PROPOSAL.
COMPLETION OF FACILITY MUST OCCUR WITHIN TWELVE (12) MONTHS OF PROPOSAL.

PROP LOCN ST ADDRESS: 704 E. GREENWAY & 7TH ST CITY: PHOENIX STATE: AZ ZIP: 85022

SAP#: 421747 STARTRES ESTIMATED VOLUME: _____ VOLUME BEFORE: _____

MONTHLY PROJECTED VOLUME: 120,000 EST. WHOLESALER INVESTMENT: $ _____

EST. START CONSTRUCTION DATE: _____ EST. COMPLETION DATE: 06/01/2006

PRIMARY TERMINAL: 6160 PHOENIX BACKUP TERMINAL: _____

ATTACH THE FOLLOWING: PHOTOGRAPHS OF LOCATION * Site PLAN (GAP) * ELEVATION SKETCHES, as required.

SELECT ONE: ○ STANDARD ◉ NON-STANDARD

WHOLESALER SIGNATURE: _____ DATE: 4/21/06

MARKETING CONSULTANT: C. Tyrrell DATE: 4-25-06

SALES MANAGER: _____ DATE: 4-25-06

GENERAL MANAGER: _____ DATE: 5/4/06

MARKETING CONSULTANT INSPECTION APPROVAL: _____ DATE: _____

INCENTIVE START DATE: _____ ACTUAL CONSTRUCTION COST: $ _____

EXHIBIT B

FACILITY DEVELOPMENT INCENTIVE PROGRAM AGREEMENT

This Exhibit B is made a part of the Facility Development Incentive Program Agreement # 330045-CC between SUPERPUMPER INC ("Buyer") and Shell Oil Products US pertaining to Buyer's Outlet located at 704 E GREENWAY PKWY, PHOENIX, AZ 85022.

Sold To No.: 421733

Buyer's Outlet Ship To No.: 421747

Location No.: 170531

Category: Competitive Conversion

Actual Construction Cost: $ N/A

Maximum Incentive N/A%: $ N/A

Incentive Rate/Reimbursement Period/Buyer's Outlet Monthly Projected Volume

Start Month	End Month	Fuel Type	Rate ($/gal)	Projected Volume
1	48	MOGAS	0.0300	120,000

SUPERPUMPER INC
Buyer

By: _____
Title: _____
Date: _____

Shell Oil Products US
Seller

By: _____
Allen Girndt
Title: Manager Contracts
Date: 5/25/06

Rev 2005/12/01 (F325)
Exhibit B - FDIP 2005

MASTER LEASE AGREEMENT

THIS MASTER LEASE AGREEMENT (this "Lease") is made as of _____ day of June, 2007 (the "Effective Date"), by and between **SPIRIT SPE PORTFOLIO 2007-3, LLC**, a Delaware limited liability company ("Lessor"), whose address is 14631 N. Scottsdale Road, Suite 200, Scottsdale, Arizona 85254-2711, and **SUPERPUMPER, INC.**, an Arizona corporation ("Lessee"), whose address is 6451 S Virginia Street, Suit 306, Reno, Nevada 89511.

In consideration of the mutual covenants and agreements herein contained, Lessor and Lessee hereby covenant and agree as follows:

1. **Certain Defined Terms.** Capitalized terms not defined herein shall have the meanings set forth in Exhibit A hereto.

2. **Lease of Properties; Use.** In consideration of the Rentals and other Monetary Obligations to be paid by Lessee and of the other terms, covenants and conditions on Lessee's part to be kept and performed, Lessor hereby leases to Lessee, and Lessee hereby takes and hires, the Properties, subject to the Permitted Encumbrances, all Legal Requirements (including any existing violation thereof), and the condition of the Properties as of the Effective Date; *provided, however*, that the recital of the Permitted Encumbrances herein shall not be construed as a revival of any Permitted Encumbrance which may have expired or been terminated. During the Lease Term, the Properties shall be used solely for the operation of a Permitted Facility, and related purposes such as ingress, egress and parking. Lessee shall at all times during the Lease Term occupy the Properties and shall diligently operate its business on the Properties. Lessee shall not, by itself or through any assignment, sublease or other type of transfer, convert any of the Properties to an alternative use during the Lease Term without Lessor's prior written consent.

3. **Lease Term; Extension.** The initial term of this Lease ("Initial Term") shall commence as of the Effective Date and shall expire at midnight on [December 31, 2024] ("Expiration Date"), unless terminated sooner as provided in this Lease and as may be extended as provided herein. The time period during which this Lease shall actually be in effect, including any Extension Term, is referred to herein as the "Lease Term." Unless this Lease has expired or has been sooner terminated, or an Event of Default has occurred and is continuing at the time any extension option is exercised, and provided that all other agreements necessary to the continued operation of Lessee's business at each of the Properties are extended for a period of not less than the applicable extension periods (including without limitation, all Dealer Agreements), Lessee shall have the right and option (each, an "Extension Option") to extend the Initial Term for two (2) additional successive periods of ten (10) years each (each, an "Extension Term"), pursuant to the terms and conditions of this Lease then in effect. Lessee may only exercise the Extension Options by giving written notice thereof to Lessor of its election to do so first, no later than one hundred twenty (120) days prior to the Expiration Date and one hundred twenty (120) days prior to the immediately preceding Extension Term, as the case may be. If written notice of the exercise of any Extension Option is not received by Lessor by the applicable dates described above, then this Lease shall terminate on the last day of the Initial Term or, if applicable, the last day of the Extension Term then in effect. Upon the request of Lessor or Lessee, the parties

hereto will, at the expense of Lessee, execute and exchange an instrument in recordable form setting forth the extension of the Lease Term in accordance with this Section 3.

4. **Rental and Other Monetary Obligations.**

A. *Base Monthly Rental.* During the Initial Term, on or before the first day of each calendar month, Lessee shall pay in advance the Base Monthly Rental; *provided, however*, if the Effective Date is a date other than the first day of the month, Lessee shall pay to Lessor (or any other party designated by Lessor) on the Effective Date the Base Monthly Rental prorated by multiplying the Base Monthly Rental by a fraction, the numerator of which is the number of days remaining in the month (including the Effective Date) for which Rental is being paid, and the denominator of which is the total number of days in such month. During the Extension Terms, if any, Lessee shall pay the Rental (including the Base Monthly Rental) in the manner set forth in this Section 4. Unless otherwise specifically stated to the contrary herein, Lessee shall perform all its obligations under this Lease at its sole cost and expense and shall pay all Rental and any other Monetary Obligation due hereunder when due and payable, without notice or demand.

B. *Adjustments.* On the first Adjustment Date and on each Adjustment Date thereafter, the Base Annual Rental shall increase by an amount equal to the Rent Adjustment. The "Rent Adjustment" shall be an amount equal to the lesser of (1) two percent (2.0%) of the Base Annual Rental in effect immediately prior to the applicable Adjustment Date, or (2) the product of (i) the percentage change between the Price Index (as defined below) for the month two months prior to the Effective Date or the Price Index used for the immediately preceding Adjustment Date, as applicable, and the Price Index for the month two months prior to the applicable Adjustment Date, and (ii) the then current Base Annual Rental. "Price Index" shall mean the Consumer Price Index which is designated for the applicable month of determination as the United States City Average for All Urban Consumers, All Items, Not Seasonally Adjusted, with a base period equaling 100 in 1982 - 1984, as published by the United States Department of Labor's Bureau of Labor Statistics or any successor agency. Notwithstanding any provision contained herein, in no event shall Base Annual Rental be reduced as a result of the application of the Rent Adjustment described in this Section 4.B. In the event that the Price Index ceases to be published, its successor index as published by the same Governmental Authority which published the Price Index shall be substituted and any necessary reasonable adjustments shall be made by Lessor and Lessee in order to carry out the intent of this Section. In the event there is no successor index, Lessor shall reasonably select an alternative price index that will constitute a reasonable substitute for the Price Index.

C. *Additional Rental.* Lessee shall pay and discharge, as additional rental ("Additional Rental"), all sums of money required to be paid by Lessee under this Lease which are not specifically referred to as Rental. Lessee shall pay and discharge any Additional Rental when the same shall become due, provided that amounts which are billed to Lessor or any third party, but not to Lessee, shall be paid within thirty (30) days after Lessor's demand for payment thereof or, if later, when the same are due. In no

event shall Lessee be required to pay to Lessor any item of Additional Rental that Lessee is obligated to pay and has paid to any third party pursuant to any provision of this Lease.

D. *Payment of Rental and Other Monetary Obligations* All Rental and other Monetary Obligations which Lessee is required to pay hereunder shall be the unconditional obligation of Lessee and shall be payable in full when due without any setoff, abatement, defeirment, deduction or counterclaim whatsoever, except as set forth herein. Upon execution of this Lease, Lessee shall deliver to Lessor a complete Authorization Agreement - Pre-Arranged Payments to be provided by Lessor, together with a voided check for account verification, establishing arrangements whereby payments of the Base Monthly Rental, any Additional Rental, impound payments (if any), sales tax on real property tax (if any), and any other Monetary Obligations are transferred by Automated Clearing House Debit initiated by Lessor from an account established by Lessee at a United States bank or other financial institution to such account as Lessor may designate. Any delinquent payment shall, in addition to any other remedy of Lessor, incur a late charge of five percent (5%) (which late charge is intended to compensate Lessor for the cost of handling and processing such delinquent payment and should not be considered interest) and bear interest at the Default Rate, such interest to be computed from and including the date such payment was due through and including the date of the payment; *provided, however*, in no event shall Lessee be obligated to pay a sum of late charge and interest higher than the maximum legal rate then in effect.

5. **Representations and Warranties of Lessor.** The representations and warranties of Lessor contained in this Section are being made to induce Lessee to enter into this Lease and Lessee has relied and will continue to rely upon such representations and warranties. Lessor represents and warrants to Lessee as follows:

A. *Organization, Authority and Status of Lessor.* Lessor has been duly organized and is validly existing and in good standing under the laws of the State of Delaware. All necessary corporate action has been taken to authorize the execution, delivery and performance by Lessor of this Lease and of the other documents, instruments and agreements provided for herein. The person who has executed this Lease on behalf of Lessor is duly authorized to do so.

B. *Enforceability.* This Lease constitutes the legal, valid and binding obligation of Lessor, enforceable against Lessor in accordance with its terms.

6. **Representations and Warranties of Lessee** The representations and warranties of Lessee contained in this Section are being made to induce Lessor to enter into this Lease and Lessor has relied, and will continue to rely, upon such representations and warranties. Lessee represents and warrants to Lessor as follows:

A *Organization, Authority and Status of Lessee.* Lessee has been duly organized or formed, is validly existing and in good standing under the laws of the State of Arizona. All necessary corporate action has been taken to authorize the execution, delivery and performance by Lessee of this Lease and of the other documents, instruments and agreements provided for herein. Lessee's United States tax identification

number is correctly set forth on the signature page of this Lease. The person who has executed this Lease on behalf of Lessee is duly authorized to do so. The address of Lessee stated in Section 24 is the principal place of business and principal executive office of Lessee, and Lessee will provide Lessor with written notice of any change of location of its principal place of business or principal executive office, or any change in its state of organization, in either case within ten (10) days thereof.

B. *Enforceability* This Lease constitutes the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms.

C. *Litigation*. There are no suits, actions, proceedings or investigations pending, or to its knowledge, threatened against or involving Lessee or the Properties before any arbitrator or Governmental Authority which might reasonably result in any material adverse change in the contemplated business, condition, worth or operations of Lessee or the Properties.

D. *Absence of Breaches or Defaults*. Lessee is not in default under any document, instrument or agreement to which Lessee is a party or by which Lessee, the Properties or any of Lessee's property is subject or bound. The authorization, execution, delivery and performance of this Lease and the documents, instruments and agreements provided for herein will not result in any breach of or default under any document, instrument or agreement to which Lessee is a party or by which Lessee, the Properties or any of Lessee's property is subject or bound.

E. *Licenses and Permits*. Lessee has obtained all required licenses and permits, both governmental and private, to use and operate the Properties as a Permitted Facility, including but not limited to all general business licenses, retail liquor sales licenses, sales tax permits, and petroleum sales permits.

F. *Financial Condition; Information Provided to Lessor*. The financial statements, all financial data and all other documents and information heretofore delivered to Lessor by or with respect to Lessee, Guarantor and/or the Properties in connection with this Lease and/or relating to Lessee, Guarantor and/or the Properties are true, correct and complete in all material respects, there have been no amendments thereto since the date such items were prepared or delivered to Lessor, and no change has occurred to any such financial statements, financial data, documents and other information not disclosed in writing to Lessor, which would result in a Material Adverse Effect

G. *Compliance with OFAC*. Lessee, and to Lessee's knowledge, each of Lessee's Entities is not currently identified on the OFAC List, and is not a Person with whom a citizen of the United States is prohibited from engaging in transactions by any trade embargo, economic sanction, or other prohibition of United States law, regulation, or executive order of the President of the United States. Lessee has implemented procedures and will consistently apply those procedures throughout the Lease Term, to ensure the foregoing representations and warranties remain true and correct during the Lease Term.

H. *Solvency*. There is no contemplated, pending or threatened Insolvency Event or similar proceedings, whether voluntary or involuntary, affecting Lessee, or to Lessee's knowledge, its shareholders or Affiliates.

I. *Ownership* Lessee does not actually or constructively own ten percent (10%) or more of the outstanding capital stock of Lessor or any Affiliate of Lessor and no Affiliate of Lessee that actually or constructively owns ten percent (10%) or more of the outstanding capital stock of Lessee or any Affiliate of Lessee owns, directly or indirectly, (i) ten percent (10%) or more of the total combined voting power of all classes of voting capital stock of Lessor, or (ii) ten percent (10%) or more of the total value of all classes of capital stock of Lessor.

J. *Dealer Agreements.* Lessee has entered into all necessary Dealer Agreements and such Dealer Agreements are valid, binding and in full force and effect, permit Lessee to operate a Permitted Facility on the Properties and have a term which will not expire prior to the Lease Term.

7. **Rentals To Be Net to Lessor**: The Base Annual Rental payable hereunder shall be net to Lessor, so that this Lease shall yield to Lessor the Rentals specified during the Lease Term, and all Costs and obligations of every kind and nature whatsoever relating to the Properties shall be performed and paid by Lessee.

8. **Taxes and Assessments**. Lessee shall pay, prior to the earlier of delinquency or the accrual of interest on the unpaid balance, all taxes and assessments of every type or nature assessed against or imposed upon the Properties or Lessee during the Lease Term, including without limitation, all taxes or assessments upon the Properties or any part thereof and upon any personal property, trade fixtures and improvements located on the Properties, whether belonging to Lessor or Lessee, or any tax or charge levied in lieu of such taxes and assessments; all taxes, charges, license fees and or similar fees imposed by reason of the use of the Properties by Lessee; and all franchise, excise, transaction, privilege, license, sales, use and other taxes upon the Rental or other Monetary Obligations hereunder, the leasehold estate of either party or the activities of either party pursuant to this Lease.

Within thirty (30) days after each tax and assessment payment is required by this Section to be paid, Lessee shall, upon prior written request of Lessor, provide Lessor with evidence reasonably satisfactory to Lessor that such payment was made in a timely fashion After prior written notice to Lessor, Lessee, at its own expense, may contest or cause to be contested by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any taxes, provided that: (i) no Event of Default has occurred and shall be continuing hereunder beyond all notice or grace periods; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Lessee, Lessor or the Property is subject and shall not constitute a default thereunder; (iv) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited or lost by reason of such proceedings, terminated, cancelled or lost; (v) Lessee shall have set aside adequate reserves (which Lessor may at its option require to be placed in escrow with Lessor or Lessor's lender) for the payment of such taxes, together with all interest and penalties; and (vi) Lessee shall have furnished such

security as may be required in the proceeding, or as may be reasonably requested by Lessor to insure the payment of any such taxes or, together with all interest and penalties thereon.

9. **Utilities** Lessee shall contract, in its own name, for and pay when due all charges for the connection and use of water, gas, electricity, telephone, garbage collection, sewer use and other utility services supplied to the Properties during the Lease Term. Unless caused by the negligence or misconduct of Lessor, its agents, employees or contractors, Lessor shall not be responsible for any interruption of any utility service.

10. **Insurance**. Throughout the Lease Term, Lessee shall maintain, with respect to each of the Properties, at its sole expense, the following types and amounts of insurance, in addition to such other insurance as Lessor may reasonably require from time to time:

A. insurance against loss or damage by fire and against loss or damage by other risks and hazards covered by a standard extended coverage insurance policy providing "special" form coverage including, but not limited to, fire, lightning, explosion, windstorm or hail, smoke, aircraft or vehicles, riot or civic commotion, terrorism, vandalism, malicious mischief, burglary, theft, sprinkler leakage, sinkhole collapse, volcanic action, falling objects, weight of snow, ice or sleet or water damage, and to the extent required by Lessor or its lender, earthquake or any other risks insured against by persons operating like properties in the locality of the Properties. Such insurance shall be in an amount not less than the lesser of (i) the then full replacement cost of each Property, without deduction for physical depreciation, or (ii) the outstanding principal balance Lessor's financing secured by the Properties; but in any event an amount sufficient to ensure that the insurer issuing said policies would not deem Lessee a co-insurer under said policies. The policies of insurance carried in accordance with this paragraph shall be paid annually in advance, shall contain the "Replacement Cost Endorsement" with a waiver of depreciation, and, if required by Lender, shall contain "Ordinance and Law" coverage.

B. Flood insurance (meeting the current requirement of the Federal Insurance Administration) if any part of a Property is located in an area identified by the Federal Emergency Management Agency as an area having special flood hazards and in which flood insurance has been made available under the Flood Disaster Protection Act of 1973 (and any successor act thereto) in an amount at least equal to the lesser of (A) the outstanding principal balance Lessor's financing secured by the Properties; (B) the maximum amount of coverage available to Lessee under the National Flood Insurance Program; or (C) the then full replacement cost of each Property, without deduction for physical depreciation.

C. General liability insurance on an "occurrence basis", in the amount of at least $1,000,000.00 per occurrence, $2,000,000.00 general aggregate against claims for bodily injury or property damage occurring on, in or about the Properties.

D. Business Income and/or Rental Value insurance in an amount equal to the total anticipated Rental and other Monetary Obligations for a period of at least twelve (12) months after the date of the fire or other casualty in question; which insurance shall

be carved out of Lessee's business interruption coverage for a separate rental value insurance payable to Lessor, or if rental value insurance is included in Lessee's business interruption coverage, the insurer shall provide priority payment to any rent obligations, and such obligations shall be paid directly to Lessor. Such insurance is to follow form of the real property "all risk" coverage and is not to contain a co-insurance clause. The amount of such insurance shall be increased from time to time during the Lease Term as and when Lessor requires, to reflect all increases in Base Annual Rental, Additional Rental and other Monetary Obligations. No exclusions shall be allowed for any risks specifically enumerated in subsection (A) above.

E Boiler and Machinery Insurance if any steam boiler, air conditioning equipment, high pressure piping, machinery and equipment pressure vessels or similar apparatus now exists or is hereafter installed in the improvements on the Properties.

F. Workers' compensation insurance in the statutorily mandated limits covering all persons employed by Lessee on the Property in connection with any work done on or about any Property for which claims for death or bodily injury could be asserted against Lessor, Lessee or the Property.

G. Such other insurance as may from time to time be reasonably required by Lessor or Lessor's lender in order to protect their respective interests.

H. All policies of insurance (individually, a "Policy", and collectively the "Policies") required pursuant to this Lease: (i) shall be issued by an insurer satisfactory to Lessor or Lessor's lender, in their sole discretion; (ii) shall contain a mortgagee non-contribution clause satisfactory to Lessor or Lessor's lender, in their sole discretion, naming Lessor or Lessor's lender as the person to which all payments made by such insurance company shall be paid; (iii) shall be maintained throughout the Lease Term without cost to Lender; (iv) shall be assigned and delivered to Lessor or Lessor's lender; (v) shall contain such provisions as Lessor or Lessor's lender deems necessary or desirable to protect its interest including, without limitation, endorsements providing that none of Lessee, Lessor, Lessor's lender or any other party shall be a co-insurer under said Policies and that Lessor and Lessor's lender shall receive at least thirty (30) days prior written notice of any modification, termination or cancellation of the applicable Policy; and (vi) shall be satisfactory in form and substance to Lessor and Lessor's lender and shall be approved by Lessor and Lessor's lender as to amounts, form, risk coverage, deductibles, loss payees and insureds. Lessee shall pay the premiums for such Policies as the same become due and payable. Not later than twenty-five (25) days prior to the expiration date of each of the Policies, Lessee will deliver to Lessor satisfactory evidence of the renewal of each expiring Policy.

I. If insurance for earthquake or special hazards is obtained by Lessee in its sole discretion and without requirement of Lessor, then Lessee, when obtaining such insurance coverage, shall meet the insurance requirements hereof except as to matters requiring Lessor's further approval, and such insurance coverage: (i) shall be within the meaning of a "Policy" or "Policies"; and (ii) shall be for the benefit of Lessor and Lessor's lender, and Lessee or Lessee's lender shall have all rights with respect to and be

entitled to receive all proceeds in the same manner it would receive any insurance proceeds in the event that a Property is damaged or destroyed by a casualty or by any risk or loss insured against.

J. Any failure by Lessor to insist on full compliance with all of the above insurance requirements at closing does not constitute a waiver of Lessor's right to subsequently require full compliance with these requirements

K. All Policies shall:

(i) Provide (1) for a waiver of subrogation by the insurer as to claims against Lessor, its employees and agents, (2) that the insurer shall not deny a claim and that such insurance cannot be unreasonably cancelled, invalidated or suspended on account of the conduct of Lessee, its officers, directors, employees or agents, or anyone acting for Lessee or any subtenant or other occupant of the Properties, and (3) that any losses otherwise payable thereunder shall be payable notwithstanding any act or omission of Lessor or Lessee which might, absent such provision, result in a forfeiture of all or a part of such insurance payment;

(ii) Be primary and provide that any "other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by Lessor and the insurance policy shall not be brought into contribution with insurance maintained by Lessor;

(iii) Contain deductibles not to exceed $25,000.00;

(iv) Provide that the insurer shall not have the option to restore the Properties if Lessor elects to terminate this Lease in accordance with the terms hereof;

(v) Be in amounts sufficient at all times to satisfy any coinsurance requirements thereof;

(vi) Except for workers' compensation insurance referred to in Section 10.F above, name Lessor and any Lessor Affiliate or lender requested by Lessor, as an "additional insured" with respect to general liability insurance, and as a "named insured" with respect to real property and "loss payee" with respect to all real property and rent value insurance, as appropriate and as their interests may appear;

(vii) Be evidenced by delivery to Lessor and any lender designated by Lessor of an Acord Form 28 for property coverage (or any other form requested by Lessor) and an Acord Form 25 for liability, workers' compensation and umbrella coverage (or any other form requested by Lessor); provided that in the event that either such form is no longer available, such evidence of insurance shall be in a form reasonably satisfactory to Lessor and any lender designated by Lessor; and

(viii) It is expressly understood and agreed that (I) if any insurance required hereunder, or any part thereof, shall expire, be withdrawn, become void by breach of any condition thereof by Lessee, or become void or in jeopardy by reason of the failure or impairment of the capital of any insurer, Lessee shall immediately obtain new or additional insurance reasonably satisfactory to Lessor and any lender designated by Lessor; (II) the foregoing minimum limits of insurance coverage shall not limit the liability of Lessee for its acts or omissions as provided in this Lease; and (III) Lessee shall procure policies for all insurance for periods of not less than one year and shall provide to Lessor and any servicer or lender of Lessor certificates of insurance or, upon Lessor's request, duplicate originals of insurance policies evidencing that insurance satisfying the requirements of this Lease is in effect at all times.

L. Lessee shall pay as they become due all premiums for the insurance required by this Section 10. In the event that Lessee fails to comply with any of the foregoing requirements of this Section 10 within ten (10) days of the giving of written notice by Lessor to Lessee, Lessor shall be entitled to procure such insurance. Any sums expended by Lessor in procuring such insurance shall be Additional Rent and shall be repaid by Lessee, together with interest thereon at the Default Rate, from the time of payment by Lessor until fully paid by Lessee immediately upon written demand therefor by Lessor.

M. Anything in this Section 10 to the contrary notwithstanding, any insurance which Lessee is required to obtain pursuant to this Section 10 may be carried under a "blanket" policy or policies covering other properties or liabilities of Lessee provided that such "blanket" policy or policies otherwise comply with the provisions of this Section 10.

11. **Tax and Insurance Impound**. Upon the occurrence of a Reserve Event and until the occurrence of a Reserve Reversal Event, in addition to any other remedies, Lessor may require Lessee to pay to Lessor (i) an amount equal to the next one year of taxes, assessments and/or insurance premiums; and (ii) Two Hundred and Thirty Thousand and 00/100 Dollars ($230,000.00) per year for the payment of TI and Leasing Commissions. Upon such requirement, Lessor will estimate the amounts needed for such purposes and will notify Lessee to pay the same to Lessor annually in one full payment, as nearly as practicable, in addition to all other Monetary Obligations due under this Lease. Should additional funds be required at any time, Lessee shall pay the same to Lessor on demand. Lessee shall advise Lessor of all taxes and insurance bills which are due and shall cooperate fully with Lessor in assuring that the same are paid. Lessor may deposit all impounded funds in accounts insured by any federal or state agency and may commingle such funds with other funds and accounts of Lessor. Interest or other gains from such funds, if any, shall be the sole property of Lessor. In the event of any default by Lessee, Lessor may apply all impounded funds against any sums due from Lessee to Lessor. Lessor shall give to Lessee an annual accounting showing all credits and debits to and from such impounded funds received from Lessee. Lessor shall utilize all funds escrowed hereunder to pay or cause to be paid all taxes, assessments, insurance premiums and/or TI and Leasing Commissions, as applicable. The disbursement of all funds escrowed pursuant to this Section shall be subject to all reasonable terms and conditions deemed necessary by Lessor or Lessor's lender and Lessee shall be responsible for the payment of all costs and expenses incurred by

Lessor in connection with any funds escrowed pursuant to this Section and the disbursement thereof, including, without limitation, any fees and expenses charged by Lessor's lender.

12. **Compliance With Laws, Restrictions, Covenants and Encumbrances.**

A. *Compliance*. Lessee's use and occupation of each of the Properties, and the condition thereof, shall, at Lessee's sole cost and expense, comply fully with all Legal Requirements and all restrictions, covenants and encumbrances of record with respect to the Properties, in either event, the failure with which to comply could have a Material Adverse Effect. Upon Lessor's written request from time to time during the Lease Term, Lessee shall certify in writing to Lessor that Lessee's representations, warranties and obligations under Section 6.G and this Section 12.A remain true and correct and have not been breached. Lessee shall immediately notify Lessor in writing if any of the representations, warranties or covenants under Section 6.G and this Section 12.A are no longer true or have been breached or if Lessee has a reasonable basis to believe that they may no longer be true or have been breached. In connection with such an event, Lessee shall comply with all Legal Requirements and directives of Governmental Authorities and, at Lessor's request, provide to Lessor copies of all notices, reports and other communications exchanged with, or received from, Governmental Authorities relating to such an event. Lessee shall also reimburse Lessor for all Costs incurred by Lessor in evaluating the effect of such an event on the Properties and this Lease, in obtaining any necessary license from Governmental Authorities as may be necessary for Lessor to enforce its rights under the Transaction Documents, and in complying with all Legal Requirements applicable to Lessor as the result of the existence of such an event and for any penalties or fines imposed upon Lessor as a result thereof.

B. *Acts Resulting in Increased Insurance Rates*. Lessee will use its commercially reasonable efforts to prevent any act or condition to exist on or about the Properties which will materially increase any insurance rate thereon, except when such acts are required in the normal course of its business and Lessee shall pay for such increase.

C. *ADA*. Without limiting the generality of the other provisions of this Section, Lessee agrees that it shall be responsible for complying in all respects with the Americans with Disabilities Act of 1990, as such act may be amended from time to time, and all regulations promulgated thereunder (collectively, the "ADA"), as it affects the Properties. Lessee agrees that it will defend, indemnify and hold harmless the Indemnified Parties from and against any and all Losses caused by, incurred or resulting from Lessee's failure to comply with its obligations under this Section.

D *Environmental*.

(i) *Representations and Warranties*. Lessee represents and warrants to Lessor and Environmental Insurer, which representations and warranties shall survive the execution and delivery of this Lease, as follows:

(I) Except as disclosed in the Environmental Reports, the Properties and Lessee are not in violation of or subject to, any pending or, to Lessee's actual knowledge, threatened investigation or inquiry by any Governmental Authority or to any remedial obligations under any Environmental Laws that could have a Material Adverse Effect, nor has Lessee received any written or oral notice or other communication from any Person (including but not limited to a Governmental Authority) with respect to any Property relating to (I) Hazardous Materials, Regulated Substances or USTs, or Remediation thereof; (II) possible liability of any Person pursuant to any Environmental Law; (III) other environmental conditions; or (IV) any actual or potential administrative or judicial proceedings in connection with any of the foregoing that could have a Material Adverse Effect. The foregoing representations and warranties would continue to be true and correct following disclosure to the applicable Governmental Authorities of all relevant facts, conditions and circumstances, if any, pertaining to the Properties.

(2) Except as disclosed in the Environmental Reports, (I) all uses and operations on or of the Properties, whether by Lessee or any other Person, have been in compliance with all Environmental Laws and environmental permits issued pursuant thereto; (II) there have been no Releases in, on, under or from any of the Properties, or from other property migrating toward any of the Properties, except in Permitted Amounts; (III) there are no Hazardous Materials, Regulated Substances or USTs in, on, or under any of the Properties, except in Permitted Amounts; (IV) the Properties have been kept free and clear of all liens and other encumbrances imposed pursuant to any Environmental Law (the "Environmental Liens"); and (V) Lessee has not allowed any other tenant or other user of the Properties to do any act that materially increased the dangers to human health or the environment, posed an unreasonable risk of harm to any Person (whether on or off any of the Properties), impaired the value of any of the Properties in any material respect, is contrary to any requirement set forth in the insurance policies maintained by Lessor including without limitation, the Environmental Policy, constituted a public or private nuisance, constituted waste, or violated any covenant, condition, agreement or easement applicable to any of the Properties.

(ii) *Covenants.*

(1) Lessee covenants to Lessor and Environmental Insurer during the Lease Term, subject to the limitations of subsection (2) below, as follows:

(I) The Properties and Lessee shall not be (a) in violation of any Remediation required by any Governmental Authority or (b) subject to any Remediation obligations under any

Environmental Laws. Lessee shall not be in violation of any investigation or inquiry by any Governmental Authority.

(II) All uses and operations on or of the Properties, whether by Lessee or any other Person, shall be in compliance with all Environmental Laws and permits issued pursuant thereto.

(III) There shall be no Releases in, on, under or from the Properties, except in Permitted Amounts.

(IV) There shall be no Hazardous Materials, Regulated Substances, USTs in, on or under the Properties, except in Permitted Amounts.

(V) Lessee shall keep the Properties or cause the Properties to be kept free and clear of all Environmental Liens, whether due to any act or omission of Lessee or any other Person.

(VI) Lessee shall not do or allow any other tenant or other user of the Properties to do any act that (a) materially increases the dangers to human health or the environment, (b) poses an unreasonable risk of harm to any Person (whether on or off any of the Properties), (c) has a Material Adverse Effect, (d) is contrary to any material requirement set forth in the insurance policies maintained by Lessee, (e) constitutes a public or private nuisance or constitutes waste, or (f) violates any covenant, condition, agreement or easement applicable to the Properties.

(VII) Lessee shall, at its sole cost and expense, perform any environmental site assessment or other investigation of environmental conditions in connection with the Properties as may be reasonably requested by Lessor (including but not limited to sampling, testing and analysis of soil, water, air, building materials and other materials and substances whether solid, liquid or gas), and share with Lessor and Environmental Insurer the reports and other results thereof, and Lessor, Environmental Insurer and the other Indemnified Parties shall be entitled to rely on such reports and other results thereof.

(VIII) Lessee shall, at its sole cost and expense, fully and expeditiously cooperate in all activities pursuant to Section 12.D, including but not limited to providing all relevant information and making knowledgeable persons available for interviews.

(2) Notwithstanding any provision of this Lease to the contrary, an Event of Default shall not be deemed to have occurred as a result of the failure of Lessee to satisfy any one or more of the covenants

set forth in subsections (I) through (VI) above provided that Lessee shall be in compliance with the requirements of any Governmental Authority with respect to the Remediation of any Release at the Properties.

(iii) *Notification Requirements*. Lessee shall immediately notify Lessor and Environmental Insurer in writing upon Lessee obtaining actual knowledge of (1) any Releases or Threatened Releases in, on, under or from any of the Properties other than in Permitted Amounts, or migrating towards any of the Properties; (2) any non-compliance with any Environmental Laws related in any way to any of the Properties; (3) any actual or potential Environmental Lien; (4) any required or proposed Remediation of environmental conditions relating to any of the Properties required by applicable Governmental Authorities; and (5) any written or oral notice or other communication which Lessee becomes aware from any source whatsoever (including but not limited to a Governmental Authority) relating in any way to Hazardous Materials, Regulated Substances or USTs, or Remediation thereof at or on any of the Properties, other than in Permitted Amounts, possible liability of any Person relating to any of the Properties pursuant to any Environmental Law, other environmental conditions in connection with any of the Properties, or any actual or potential administrative or judicial proceedings in connection with anything referred to in this Section. Lessee shall, upon Lessor's or Environmental Insurer's written request, deliver to Lessor or Environmental Insurer a certificate stating that Lessee is and has been in full compliance with all of the environmental representations, warranties and covenants in this Lease.

(iv) *Remediation*. Lessee shall, at its sole cost and expense, and without limiting any other provision of this Lease, effectuate any Remediation required by any Governmental Authority of any condition (including, but not limited to, a Release) in, on, under or from the Properties and take any other reasonable action deemed necessary by any Governmental Authority for protection of human health or the environment. Should Lessee fail to undertake such Remediation in accordance with the preceding sentence, Lessor, after written notice to Lessee and Lessee's failure to immediately undertake such Remediation, shall be permitted to complete such Remediation, and all reasonable Costs incurred in connection therewith shall be paid by Lessee

(v) *Indemnification*. Lessee shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless each of the Indemnified Parties from and against any and all Losses, including, but not limited to, all Costs of Remediation (whether or not performed voluntarily), arising out of or in any way relating to any Environmental Laws, Hazardous Materials, Regulated Substances, USTs, or other environmental matters concerning the Properties, REGARDLESS OF WHETHER CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR STRICT LIABILITY OF ANY INDEMNIFIED PARTY. It is expressly understood and agreed that Lessee's obligations under this Section shall survive the expiration or earlier termination of this Lease for any reason.

(vi) *Right of Entry*. Lessor and any other person or entity designated by Lessor, including but not limited to Environmental Insurer, any receiver, any representative of a Governmental Authority, and any environmental consultant, shall have the right, but not the obligation, to enter upon the Properties at all reasonable times (including, without limitation, in connection with the exercise of any remedies set forth in this Lease) to assess any and all aspects of the environmental condition of any Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in Lessor's sole and absolute discretion) and taking samples of soil, groundwater or other water, air, or building materials, and conducting other invasive testing. Lessee shall cooperate with and provide access to Lessor, Environmental Insurer and any other person or entity designated by Lessor. Any such assessment or investigation shall be at Lessee's sole cost and expense.

(vii) *Inspections*. At its sole cost and expense, Lessee shall have the Properties inspected as may be required by any Environmental Law for seepage, spillage and other environmental concerns. Lessee shall maintain and monitor the USTs in accordance with all Environmental Laws Lessee shall provide Lessor with written certified results of all inspections performed on the Properties. All costs and expenses associated with the inspection, preparation and certification of results, as well as those associated with any corrective action, shall be paid by Lessee. All inspections and tests performed on the Properties shall be in compliance with all Environmental Laws.

(viii) *UST Compliance*. Lessee shall comply or cause the compliance with all applicable federal, state and local regulations and requirements regarding USTs, including, without limitation, any of such regulations or requirements which impose (1) technical standards, including, without limitation, performance, leak prevention, leak detection, notification reporting and recordkeeping, (2) corrective action with respect to confirmed and suspected Releases, and (3) financial responsibility for the payment of costs of corrective action and compensation to third parties for injury and damage resulting from Releases Lessee shall immediately notify Lessor, in writing, of (I) the presence on or under the Properties, or the escape, seepage, leakage, spillage, discharge, emission or release from any USTs on, above or under the Properties , of any Hazardous Materials or Regulated Substances, apparent or real and (II) any and all enforcement, clean-up, remedial, removal or other governmental or regulatory actions threatened, instituted or completed pursuant to any of the Environmental Laws affecting the Properties. Upon any such Release, escape, seepage, leakage, spillage, discharge, emission or release from any USTs on, above or under the Properties of any Hazardous Materials or Regulated Substances, Lessee shall immediately remedy such situation in accordance with all Environmental Laws and any request of Lessor. Should Lessee fail to remedy or cause the remedy of such situation in accordance with all Environmental Laws, Lessor shall be permitted to take such actions in its sole discretion to remedy such situation and any costs and expenses incurred in connection therewith will be paid by Lessee.

(ix) *Survival.* The obligations of Lessee and the rights and remedies of Lessor under this Section 12.D shall survive the termination, expiration and/or release of this Lease.

(x) *Environmental Policy.* Throughout the Lease Term, Lessee shall maintain, with respect to each of the Properties, at its sole expense, the Environmental Policy. Lessor shall cooperate in obtaining and renewing the Environmental Policy.

(xi) *Reliance by Environmental Insurer.* Lessee acknowledges and agrees that Environmental Insurer may rely on the representations, warranties and covenants set forth in Section 12.D of this Lease, that Environmental Insurer is an intended third-party beneficiary of such representations, warranties and consents and that Environmental Insurer shall have all rights and remedies available at law or in equity as a result of a breach of such representations, warranties and covenants, including to the extent applicable, the right of subrogation.

E. *Encumbrances.* Lessee shall comply with and perform all obligations of Lessor under all easements, declarations, covenants, restrictions and other items of record now or hereafter encumbering the Properties.

F. *Dealer Requirements.* In addition to the requirements set forth in this Lease, Lessee, in its use, occupancy and maintenance of the Properties shall comply with all requirements of the Dealer Agreements.

13. **Condition of Property; Maintenance.** Lessee hereby accepts the Properties "AS IS" and "WHERE IS" with no representation or warranty of Lessor as to the condition thereof. Lessee shall, at its sole cost and expense, be responsible for (a) keeping all of the building, structures and improvements erected on each of the Properties in good and substantial order and repair, (b) repair or reconstruct damage or destruction to any building, structures or improvements erected on the Properties from acts of God or any other catastrophes, and (c) making all structural, exterior and interior repairs and replacements which Lessee may desire or which otherwise may be required to any building, structures or improvements erected on the Properties.

14. **Waste; Alterations and Improvements.** Lessee shall not commit actual or constructive waste upon the Properties. During the Lease Term, Lessee shall not undertake any alterations or improvements to the Properties individually costing more than Four Hundred Thousand and 00/100 Dollars ($400,000.00) in each instance without the prior written consent of Lessor; *provided, however*, except for alterations required pursuant to Section 12.D, Lessee may not undertake any alteration or improvement that would be subject to any Environmental Laws (whether during construction or upon completion) without the prior written consent of Lessor. If Lessor's consent is required hereunder and Lessor consents to the making of any such alterations, the same shall be made by Lessee at Lessee's sole expense by a licensed contractor and according to plans and specifications approved by Lessor and subject to such other conditions as Lessor shall require. Any work at any time commenced by Lessee on the Properties shall be prosecuted diligently to completion, shall be of good workmanship and

materials and shall comply fully with all the terms of this Lease Upon completion of any alterations, Lessee shall promptly provide Lessor with (A) evidence of full payment to all laborers and materialmen contributing to the alterations, (B) an architect's certificate certifying the alterations to have been completed in conformity with the plans and specifications, (C) a certificate of occupancy (if the alterations are of such a nature as would require the issuance of a certificate of occupancy), and (D) any other documents or information reasonably requested by Lessor. Upon the occurrence of any addition to or alteration of the Properties, Lessee shall post a notice at the applicable Properties identifying Lessee as the responsible party for all work relating to any such additions or alterations. Any addition to or alteration of the Properties shall be deemed a part of the Properties and belong to Lessor, and Lessee shall execute and deliver to Lessor such instruments as Lessor may require to evidence the ownership by Lessor of such addition or alteration.

15. **Indemnification.** Lessee agrees to use and occupy the Properties at its own risk and hereby releases Lessor and Lessor's agents and employees from all claims for any damage or injury to the full extent permitted by law. Lessee agrees that Lessor shall not be responsible or liable to Lessee or Lessee's employees, agents, customers or invitees for bodily injury, personal injury or property damage occasioned by the acts or omissions of any other lessee or such lessee's employees, agents, contractors, customers or invitees. Lessee agrees that any employee or agent to whom the Properties or any part thereof shall be entrusted by or on behalf of Lessee shall be acting as Lessee's agent with respect to the Properties or any part thereof, and neither Lessor nor Lessor's agents, employees or contractors shall be liable for any loss of or damage to the Properties or any part thereof. Lessee shall indemnify, protect, defend and hold harmless each of the Indemnified Parties from and against any and all Losses, REGARDLESS OF WHETHER CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR STRICT LIABILITY OF ANY INDEMNIFIED PARTY, caused by, incurred or resulting from Lessee's use and occupancy of the Properties, whether relating to its original design or construction, latent defects, alteration, maintenance, use by Lessee or any Person thereon, supervision or otherwise, any claim raised by any tenant under the Assigned Leases, regardless of when such claim arose, or from any breach of, default under, or failure to perform, any term or provision of this Lease by Lessee, its officers, employees, agents or other Persons. It is expressly understood and agreed that Lessee's obligations under this Section shall survive the expiration or earlier termination of this Lease for any reason. Lessee hereby agrees to defend, indemnify and hold the Indemnified Parties harmless from and against any and all costs, damages, expenses, claims and/or liabilities (including reasonable attorneys' fees) arising out of or in connection with the Assigned Leases, REGARDLESS OF WHETHER CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR STRICT LIABILITY OF ANY INDEMNIFIED PARTY.

16. **Quiet Enjoyment** So long as Lessee shall pay the Rental and other Monetary Obligations herein provided and shall keep and perform all of the terms, covenants and conditions on its part herein contained, Lessee shall have, subject and subordinate to Lessor's rights herein, the right to the peaceful and quiet occupancy of the Properties.

17. **Inspection.** Lessor and its authorized representatives shall have the right, at all reasonable times and upon giving reasonable prior notice (except in the event of an emergency, in which case no prior notice shall be required), to enter the Properties or any part thereof and inspect the same. Following any such inspection, should Lessor determine that the Property has

not been maintained as required herein, Lessor shall have the right to demand that Lessee complete corrective measures within a ninety (90) day period of time. Lessee hereby waives, to the maximum extent permitted by law, any claim for damages for any injury or inconvenience to or interference with Lessee's business, any loss of occupancy or quiet enjoyment of the Properties and any other loss occasioned by such entry, but, subject to Section 37, excluding damages arising as a result of the negligence or intentional misconduct of Lessor.

18. **Condemnation and Casualty.**

A. *Notification.* Lessee shall promptly give Lessor and any mortgagee (if required by the terms of any applicable mortgage or deed of trust and Lessee has received notice thereof) written notice of (i) any Condemnation of any of the Properties, (ii) the commencement of any proceedings or negotiations which might result in a Condemnation of any of the Properties, and (iii) any Casualty to any of the Properties or any part thereof. Such notice shall provide a general description of the nature and extent of such Condemnation, proceedings, negotiations or Casualty, and shall include copies of any documents or notices received in connection therewith. Thereafter, Lessee shall promptly send Lessor copies of all notices, correspondence and pleadings relating to any such Condemnation, proceedings, negotiations or Casualty.

B. *Partial Condemnation or Casualty.* Except as otherwise provided in Section 18.C, in the event of a Condemnation which is not a Total Condemnation ("Partial Condemnation"), or a Casualty which is not a Total Casualty (a "Partial Casualty"), all Net Awards shall be paid to Lessor. In the event of a Partial Condemnation or a Partial Casualty, Lessor shall have the option to terminate this Lease with respect to the applicable Property affected by notifying Lessee in writing within thirty (30) days after Lessee gives Lessor notice of such Partial Condemnation or Partial Casualty or that title has vested in the condemning authority, or to continue this Lease in effect, which election shall be evidenced by either a notice from Lessor to Lessee, or Lessor's failure to notify Lessee in writing that Lessor has elected to terminate this Lease with respect to such Property within such thirty (30) day period. Lessee shall have a period of sixty (60) days after receipt of Lessor's notice to terminate referenced above during which to elect, despite such Lessor notice of termination, to continue this Lease with respect to such Property on the terms herein provided. If Lessee does not elect to continue this Lease with respect to such Property or shall fail during such sixty (60) day period to notify Lessor of Lessee's intent to continue this Lease with respect to such Property, then this Lease shall terminate with respect to such Property as of the last day of the month during which such sixty (60) day period expired. Lessee shall vacate and surrender such Property by such termination date, in accordance with the provisions of this Lease, and all obligations of either party hereunder with respect to such Property shall cease as of the date of termination, *provided, however*, Lessee's obligations to the Indemnified Parties under any indemnification provisions of this Lease with respect to such Property and Lessee's obligations to pay Rental and all other Monetary Obligations (whether payable to Lessor or a third party) accruing under this Lease with respect to such Property prior to the date of termination shall survive such termination). In such event, Lessor may retain all Net Awards related to the Partial Condemnation or Partial

Casualty, and Lessee shall immediately pay Lessor an amount equal to the insurance deductible applicable to any Partial Casualty.

If Lessor elects not to terminate this Lease, or if Lessor elects to terminate this Lease with respect to such Property (as provided above) but Lessee elects to continue this Lease with respect to such Property, then this Lease shall continue in full force and effect on the following terms: all Rental and other Monetary Obligations due under this Lease shall continue unabated, and Lessee shall promptly commence and diligently prosecute restoration of such Property to the same condition, as nearly as practicable, as prior to such Partial Condemnation or Partial Casualty as approved by Lessor. As the restoration of such Property progresses, upon the written request of Lessee (accompanied by evidence reasonably satisfactory to Lessor that such amount has been paid or is due and payable and is properly part of such costs and that Lessee has complied with the terms of Section 14 in connection with the restoration) and to the extent that Lessor's lender makes the Net Award available to Lessor, Lessor shall make available in installments an amount up to but not exceeding the amount of any Net Award received by Lessor with respect to such Partial Condemnation or Partial Casualty. Lessee shall be entitled to keep any portion of the Net Award which may be in excess of the cost of restoration, and Lessee shall bear all additional Costs of such restoration in excess of the Net Award. In the event that Lessor's lender elects not to make the Net Award available for the restoration of the Property, Lessee shall have the right, within thirty (30) days after notice of Lessor's lender election to retain the Net Award, to terminate this Lease as to the applicable Property, which election shall be evidenced by a written notice from Lessee to Lessor within such thirty (30) day period, in which event this Lease shall terminate as to the applicable Property in accordance with this Article 18.

All disbursements of any portion of any Net Awards shall be subject to all reasonable terms and conditions deemed necessary by Lessor or Lessor's lender, including: (i) Lessor's receipt of satisfactory requests for disbursements, paid bills and lien waivers, architect certificates or other certificates, and certificates or endorsements from title insurance companies; (ii) Lessee's deposit with Lessor of any additional funds necessary to supplement the Net Award, so as to cover, in advance, the entire cost of the necessary repairs or replacements to the Properties as established by the certificate of an architect or engineer (employed by Lender at Borrower's expense); (iii) such architect's or engineer's determination that such repairs or replacements may be effected within a period of six (6) months or less; (iv) Borrower's prompt and diligent completion of such repairs or replacements in accordance with plans and specifications submitted to and approved by Lender; and (v) Lender's inspection, at Borrower's cost and expense, of the repairs or replacements to the Mortgaged Property to verify that such repairs or replacements have been completed in a good and workmanlike manner and are otherwise acceptable to Lender. Lender, whether in possession of the Premises or not, shall not have any obligation to advance or make funds other than the Insurance Proceeds available for the repair or replacement of the Mortgaged Property.

C. *Total Condemnation and Total Casualty.* In the event of a Condemnation of all or substantially all of any of the Properties or a Partial Condemnation, in either event that results in Lessee making a good faith determination that the restoration and

continued use of the remainder of any such Properties as a Permitted Facility would be uneconomic (collectively, a "Total Condemnation"), or a Casualty of all or substantially all of any of the Properties or a Partial Casualty, in either event that results in Lessee making a good faith determination that the restoration and continued use of any such Property as a Permitted Facility would be uneconomic (collectively, a "Total Casualty"), then, in such event:

(i) *Awards*. Lessor shall be entitled to receive the entire Net Award in connection therewith without deduction for any estate vested in Lessee by this Lease, and Lessee hereby expressly assigns to Lessor all of its right, title and interest in and to every such Net Award and agrees that Lessee shall not be entitled to any Net Award or other payment for the value of Lessee's leasehold interest in this Lease. Lessee shall be entitled to claim and receive any award or payment from the condemning authority expressly granted for the taking of the Lessee Personalty, any insurance proceeds with respect to the Lessee Personalty, the interruption of its business and moving expenses, but only if such claim or award does not adversely affect or interfere with the prosecution of Lessor's claim for the Total Condemnation or Total Casualty or otherwise reduce the amount recoverable by Lessor for the Total Condemnation.

(ii) *Option To Terminate*. Lessee shall have the right to terminate this Lease with respect to the applicable Property by notice (the "Termination Notice") given to Lessor not later than thirty (30) days after the Total Condemnation or Total Casualty, as applicable. The Termination Notice must: (1) specify a date on which this Lease shall terminate, which date shall be the last day of a calendar month occurring not earlier than one hundred twenty (120) days and not later than one hundred fifty (150) days after the delivery of such notice (the "Early Termination Date"); (2) contain a certificate executed by an officer of Lessee which (I) describes the Total Condemnation or Total Casualty, and (II) represents and warrants that either all of such Property has been taken, damaged or destroyed, or that substantially all of such Property has been taken, damaged or destroyed, and Lessee has determined in good faith that the restoration and continued use of the remainder of such Property as a Permitted Facility would be uneconomic; and (3) if the Early Termination Date shall occur prior to the commencement of any Extension Options which may be exercised pursuant to Section 3, contain an irrevocable rejectable written offer (the "Rejectable Offer") of Lessee to purchase Lessor's interest in such Property and in the Net Award for such Total Condemnation or Total Casualty, as applicable, on the Early Termination Date for a purchase price (the "Loss Value") equal to the greater of the fair market value of such Property as of the Early Termination Date, or Lessor's Total Investment.

(iii) *Early Termination Date*. If the Early Termination Date shall occur prior to the commencement of any Extension Options which may be exercised pursuant to Section 3, Lessor shall have sixty (60) days from the delivery of the Termination Notice to deliver to Lessee written notice of its election to either accept or reject any Rejectable Offer contained in the Termination Notice.

Lessor's failure to deliver such notice within such time period shall be deemed to constitute Lessor's acceptance of the applicable Rejectable Offer.

(iv) *Lessor Acceptance of Rejectable Offer* If Lessor accepts or is deemed to have accepted the Rejectable Offer, then on the Early Termination Date or such other date as the parties may mutually agree in writing, Lessor shall sell and convey, and Lessee shall purchase for the applicable Loss Value, Lessor's interest in the particular Property and the Net Award. Lessee's obligations under this Lease with respect to such Property shall not be terminated until the applicable Loss Value and all Rental and other Monetary Obligations due and payable under this Lease prior to the Early Termination Date, or such other date as the parties may mutually agree in writing, are paid in full. Upon such payment, (1) Lessor shall convey such Property to Lessee "as-is" by special warranty deed, subject to all matters of record, except for consensual liens, encumbrances or other interests granted by Lessor (other than those granted by Lessor at the request of Lessee), and without representations other than those required by applicable Law; (2) the Base Annual Rental then in effect shall be reduced by an amount equal to the product of (x) a fraction, the numerator of which is the original purchase price allocated to such Property by Lessor, and the denominator of which is the original purchase price for all of the Properties, and (y) the Base Annual Rental then in effect; and (3) all obligations of either party hereunder with respect to such Property shall cease as of the Early Termination Date; *provided, however,* Lessee's obligations to the Indemnified Parties under any indemnification provisions of this Lease with respect to such Property and Lessee's obligations to pay any Monetary Obligations (whether payable to Lessor or a third party) accruing under this Lease with respect to such Property prior to the Early Termination Date shall survive the termination of this Lease with respect to such Property.

(v) *Lessor Rejection of Rejectable Offer*. If Lessor rejects the Rejectable Offer, or if the Early Termination Date shall occur after the commencement of any Extension Options exercised pursuant to Section 3, then (1) the Net Award shall be paid to and belong to Lessor; (2) on the Early Termination Date, Lessee shall pay to Lessor all Rental and other Monetary Obligations then due and payable under this Lease; (3) the Base Annual Rental then in effect shall be reduced by an amount equal to the product of (x) a fraction, the numerator of which is the original purchase price allocated to such Property by Lessor, and the denominator of which is the original purchase price for all of the Properties, and (y) the Base Annual Rental then in effect; and (4) all obligations of either party hereunder shall cease as of the Early Termination Date with respect to the applicable Property; *provided, however*, Lessee's obligations to the Indemnified Parties with respect to such Property under any indemnification provisions of this Lease with respect to such Property and Lessee's obligations to pay any sums (whether payable to Lessor or a third party) accruing under this Lease with respect to such Property prior to the Early Termination Date shall survive the termination of this Lease.

D. *Payment of Costs* Lessee shall be solely responsible for the payment of all Costs incurred in connection with the conveyance of a Property to Lessee pursuant to this Section 18, including, without limitation, to the extent applicable, the cost of title insurance, survey charges, stamp taxes, mortgage taxes, transfer fees, escrow and recording fees, taxes imposed on Lessor as a result of such conveyance, taxes imposed in connection with the transfer of a Property to Lessee or the termination of this Lease with respect to a Property pursuant to the provisions of this Section 18, Lessee's attorneys' fees, and the reasonable attorneys' fees and expenses of counsel to Lessor.

E. *Insurance.* Any loss under any property damage insurance required to be maintained by Lessee shall be adjusted by Lessor. Any award relating to a Total Condemnation or a Partial Condemnation shall be adjusted by Lessor or, at Lessor's election, Lessee. Notwithstanding the foregoing or any other provisions of this Section 18 to the contrary, if at the time of any Condemnation or any Casualty or at any time thereafter an Event of Default shall have occurred and be continuing, Lessor is hereby authorized and empowered but shall not be obligated, in the name and on behalf of Lessee and otherwise, to file and prosecute Lessee's claim, if any, for a Net Award on account of such Condemnation or such Casualty and to collect such Net Award and apply the same to the curing of such Event of Default and any other then existing Event of Default under this Lease and/or to the payment of any amounts owed by Lessee to Lessor under this Lease, in such order, priority and proportions as Lessor in its discretion shall deem proper

F. *Lessee Obligation in Event of Casualty.* During all periods of time following a Casualty, Lessee shall take reasonable steps to ensure that each Property is secure and does not pose any risk of harm to any adjoining property and Persons (including owners or occupants of such adjoining property).

G. *No Limitations.* Notwithstanding the foregoing, nothing in this Section 18 shall be construed as limiting or otherwise adversely affecting the representations, warranties, covenants and characterizations set forth in Lease.

19. **Fair Market Value.** With respect to the determination of fair market value for any purpose under this Lease, if the parties are unable to agree upon the fair market value, then an independent MAI appraiser shall prepare an appraisal of the fair market value of the Property, including any additions or renovations thereto. In determining the fair market value of such Property, the appraiser shall utilize leased fee income approach (assuming all option periods are exercised) to value, which shall constitute the fair market value of such Property

20. **Default, Conditional Limitations, Remedies and Measure of Damages.**

A. Each of the following shall be an event of default by Lessee under this Lease (each, an "Event of Default"):

(i) if any representation or warranty of Lessee set forth in this Lease is false in any respect, or if Lessee renders any false statement or account, that results in a Material Adverse Effect; *provided, however,* if any such breach of a

representation or warranty does not place any rights or property of Lessor in immediate jeopardy, as determined by Lessor in its reasonable discretion, then such breach shall not constitute an Event of Default hereunder, unless otherwise expressly provided herein, unless and until Lessor shall have given Lessee notice thereof and a period of thirty (30) days shall have elapsed, during which period Lessee may correct or cure such breach, upon failure of which an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required. If such breach cannot reasonably be cured within such thirty (30) day period, as determined by Lessor in its reasonable discretion, and Lessee is diligently pursuing a cure of such breach, then Lessee shall have a reasonable period to cure such breach beyond such thirty (30) day period, which shall in no event exceed ninety (90) days after receiving notice of such breach from Lessor, unless otherwise mutually agreed upon in writing. If Lessee shall fail to correct or cure such breach within such ninety (90) day period and said period is not extended by the parties, an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required;

(ii) if any Rental or other Monetary Obligation due under this Lease is not paid within three (3) Business Days of notice it is past due;

(iii) if Lessee fails to pay, prior to delinquency, any taxes, assessments or other charges the failure of which to pay will result in the imposition of a lien against any of the Properties;

(iv) if there is an Insolvency Event;

(v) if Lessee vacates or abandons the Property;

(vi) if Lessee fails to observe or perform any of the other covenants, conditions or obligations of Lessee in this Lease; *provided, however*, if any such failure does not involve the payment of any Monetary Obligation, does not place any rights or property of Lessor in immediate jeopardy, as determined by Lessor in its reasonable discretion, then such failure shall not constitute an Event of Default hereunder, unless otherwise expressly provided herein, unless and until Lessor shall have given Lessee notice thereof and a period of thirty (30) days shall have elapsed, during which period Lessee may correct or cure such failure, upon failure of which an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required. If such failure cannot reasonably be cured within such thirty (30) day period, as determined by Lessor in its reasonable discretion, and Lessee is diligently pursuing a cure of such failure, then Lessee shall have a reasonable period to cure such failure beyond such thirty (30) day period, which shall in no event exceed ninety (90) days after receiving notice of such failure from Lessor, unless otherwise mutually agreed upon in writing. If Lessee shall fail to correct or cure such failure within such ninety (90) day period and said period is not extended by the parties, an

Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required;

(vii) if a final, nonappealable judgment is rendered by a court against Lessee which has a Material Adverse Effect and is not discharged or provision made for such discharge within ninety (90) days from the date of entry thereof;

(viii) if Lessee shall be liquidated or dissolved or shall begin proceedings towards its liquidation or dissolution;

(ix) if the estate or interest of Lessee in any of the Properties 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 it is made;

(x) If any Dealer Agreement with respect to the Properties terminates or expires prior to the expiration of the Lease and a substitute agreement for the terminated or expired agreement is not entered into within thirty (30) days of such expiration or termination, which substitute agreement shall be in form and substance reasonably satisfactory to Lessor; or

(xi) if there is an "Event of Default" or other breach or default by Lessee under any of the other Transaction Documents or any Other Agreement, after the passage of all applicable notice and cure or grace periods.

B Upon the occurrence of an Event of Default, with or without notice or demand, except as otherwise expressly provided herein or such other notice as may be required by statute and cannot be waived by Lessee, Lessor shall be entitled to exercise, at its option, concurrently, successively, or in any combination, all remedies available at law or in equity, including without limitation, any one or more of the following:

(i) To terminate this Lease, whereupon Lessee's right to possession of the Properties shall cease and this Lease, except as to Lessee's liability, shall be terminated.

(ii) To the extent not prohibited by applicable law, to reenter and take possession of the Properties (or any part thereof), any or all personal property or fixtures of Lessee upon the Properties and, to the extent permissible, all Dealer Agreements, franchises, licenses, area development agreements, permits and other rights or privileges of Lessee pertaining to the use and operation of the Properties, and to expel Lessee and those claiming under or through Lessee, without being deemed guilty in any manner of trespass or becoming liable for any loss or damage resulting therefrom, without resort to legal or judicial process, procedure or action. Except as otherwise provided by applicable law, no notice from Lessor hereunder or under a forcible entry and detainer statute or similar law shall constitute an election by Lessor to terminate this Lease unless such notice specifically so states. If Lessee shall, after default, voluntarily give up possession

of the Properties to Lessor, deliver to Lessor or its agents the keys to the Properties, or both, such actions shall be deemed to be in compliance with Lessor's rights and the acceptance thereof by Lessor or its agents shall not be deemed to constitute a termination of the Lease. Lessor reserves the right following any reentry and/or reletting to exercise its right to terminate this Lease by giving Lessee written notice thereof, in which event this Lease will terminate.

(iii) To bring an action against Lessee for any damages sustained by Lessor or any equitable relief available to Lessor and to the extent not prohibited by applicable law, to seize all personal property or fixtures upon the Properties which Lessee owns or in which it has an interest, in which Lessor shall have a landlord's lien and/or security interest, and to dispose thereof in accordance with the laws prevailing at the time and place of such seizure or to remove all or any portion of such property and cause the same to be stored in a public warehouse or elsewhere at Lessee's sole expense, without becoming liable for any loss or damage resulting therefrom and without resorting to legal or judicial process, procedure or action.

(iv) To relet the Properties or any part thereof for such term or terms (including a term which extends beyond the original Lease Term), at such rentals and upon such other terms as Lessor, in its sole discretion, may determine, with all proceeds received from such reletting being applied to the Rental and other Monetary Obligations due from Lessee in such order as Lessor may, in it sole discretion, determine, which other Monetary Obligations include, without limitation, all commercially reasonable repossession costs, brokerage commissions, attorneys' fees and expenses, alteration, remodeling (which remodeling costs shall not exceed the greater of (i) $25,000.00 per Property or (ii) the amount escrowed pursuant to Section 11 hereof for TI and Leasing Commissions) and repair costs and expenses of preparing for such reletting. Except to the extent required by applicable Law, Lessor shall have no obligation to relet the Properties or any part thereof and shall in no event be liable for refusal or failure to relet the Properties or any part thereof, or, in the event of any such reletting, for refusal or failure to collect any rent due upon such reletting, and no such refusal or failure shall operate to relieve Lessee of any liability under this Lease or otherwise to affect any such liability. Lessor reserves the right following any reentry and/or reletting to exercise its right to terminate this Lease by giving Lessee written notice thereof, in which event this Lease will terminate as specified in said notice.

(v) To recover from Lessee all Costs paid or incurred by Lessor as a result of such breach, regardless of whether or not legal proceedings are actually commenced.

(vi) To immediately or at any time thereafter, and with or without notice, at Lessor's sole option but without any obligation to do so, correct such breach or default and charge Lessee all Costs incurred by Lessor therein. Any sum or sums so paid by Lessor, together with interest at the Default Rate, shall be

deemed to be Additional Rental hereunder and shall be immediately due from Lessee to Lessor. Any such acts by Lessor in correcting Lessee's breaches or defaults hereunder shall not be deemed to cure said breaches or defaults or constitute any waiver of Lessor's right to exercise any or all remedies set forth herein.

(vii) To immediately or at any time thereafter, and with or without notice, except as required herein, set off any money of Lessee held by Lessor under this Lease or any other Transaction Document or any Other Agreement against any sum owing by Lessee hereunder.

(viii) To seek any equitable relief available to Lessor, including, without limitation, the right of specific performance.

All powers and remedies given by this Section to Lessor, subject to applicable Law, shall be cumulative and not exclusive of one another or of any other right or remedy or of any other powers and remedies available to Lessor under this Lease, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements of Lessee contained in this Lease, and no delay or omission of Lessor to exercise any right or power accruing upon the occurrence of any Event of Default shall impair any other or subsequent Event of Default or impair any rights or remedies consequent thereto. Every power and remedy given by this Section or by Law to Lessor may be exercised from time to time, and as often as may be deemed expedient, by Lessor, subject at all times to Lessor's right in its sole judgment to discontinue any work commenced by Lessor or change any course of action undertaken by Lessor.

21. **Mortgage, Subordination and Attornment**. Lessor's interest in this Lease and/or the Properties shall not be subordinate to any liens or encumbrances placed upon the Properties by or resulting from any act of Lessee, and nothing herein contained shall be construed to require such subordination by Lessor. Lessee shall keep the Properties free from any liens for work performed, materials furnished or obligations incurred by Lessee. NOTICE IS HEREBY GIVEN THAT LESSEE IS NOT AUTHORIZED TO PLACE OR ALLOW TO BE PLACED ANY LIEN, MORTGAGE, DEED OF TRUST, SECURITY INTEREST OR ENCUMBRANCE OF ANY KIND UPON ALL OR ANY PART OF THE PROPERTIES OR LESSEE'S LEASEHOLD INTEREST THEREIN WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD, CONDITIONED OR DELAYED, AND ANY SUCH PURPORTED TRANSACTION SHALL BE VOID.

This Lease at all times shall automatically be subordinate to the lien of any and all ground leases, mortgages and trust deeds now or hereafter placed upon any of the Properties by Lessor, provided, that the holder of such interest shall not disturb Lessee's use and enjoyment of Lessee's rights under this Lease so long as Lessee is not in default hereunder. Lessee covenants and agrees to execute and deliver, upon demand, such further instruments subordinating this Lease to the lien of any or all such ground leases, mortgages or trust deeds as shall be desired by Lessor, or any present or proposed mortgagees under trust deeds; provided, that the terms and provisions of any such instrument are commercially reasonable.

If any mortgagee, receiver or other secured party elects to have this Lease and the interest of Lessee hereunder be superior to any such ground lease, mortgage or trust deed and evidences such election by notice given to Lessee, then this Lease and the interest of Lessee hereunder shall be deemed superior to any such ground lease, mortgage or trust deed, whether this Lease was executed before or after such ground lease, mortgage or trust deed and in that event such mortgagee, receiver or other secured party shall have the same rights with respect to this Lease as if it had been executed and delivered prior to the execution and delivery of such ground lease, mortgage or trust deed and had been assigned to such mortgagee, receiver or other secured party.

In the event any purchaser or assignee of any mortgagee at a foreclosure sale acquires title to any of the Properties, or in the event that any mortgagee or any assignee otherwise succeeds to the rights of Lessor as landlord under this Lease, Lessee shall attorn to mortgagee or such purchaser or assignee, as the case may be (a "Successor Lessor"), and recognize the Successor Lessor as lessor under this Lease, and, provided no Event of Default has occurred an is continuing, the Successor Lessor shall recognize and not disturb Lessee's tenancy created hereby. So long as no Event of Default has occurred and is continuing, this Lease shall continue in full force and effect as a direct lease between the Successor Lessor and Lessee, provided that the Successor Lessor shall only be liable for any obligations of Lessor under this Lease which accrue from and after the date that such Successor Lessor acquires title to such Property or otherwise succeeds to the rights of the Lessor as landlord hereunder. The foregoing provisions shall be self-operative and effective without the execution of further instruments.

Lessee shall give written notice to any lender or mortgagee of Lessor of whom Lessee is notified of in writing of any breach or default by Lessor of any of its obligations under this Lease and give such lender or mortgagee the same rights to which Lessor might be entitled to cure such default before Lessee may exercise any remedy with respect thereto. Upon request by Lessor, Lessee shall authorize Lessor to release to any lender or mortgagee Lessee's and/or Guarantor's financial statements delivered to Lessor pursuant to this Lease or any Other Agreement.

22. **Estoppel Certificate**. At any time, and from time to time, each party shall, promptly and in no event later than ten (10) days after a request from the other execute, acknowledge and deliver to the requesting party, as the case may be, a certificate in the form supplied by the requesting party, certifying: (A) that this Lease is in full force and effect and has not been modified (or if modified, setting forth all modifications), or, if this Lease is not in full force and effect, the certificate shall so specify the reasons therefor; (B) the commencement and expiration dates of the Lease Term; (C) the date to which the Rentals have been paid under this Lease and the amount thereof then payable; (D) whether there are then any existing defaults by Lessee or Lessor in the performance of its obligations under this Lease, and, if there are any such defaults, specifying the nature and extent thereof; (E) that no notice has been received by the certifying party of any default under this Lease which has not been cured, except as to defaults specified in the certificate; (F) the capacity of the person executing such certificate, and that such person is duly authorized to execute the same on behalf of Lessee; and; (G) and any other information reasonably requested by the requesting party.

23. **Assignment.**

A. As a material inducement to Lessor's willingness to complete the transactions contemplated by this Lease (the "Transaction") and the other Transaction Documents, Lessee hereby agrees that Lessor may, from time to time and at any time and without the consent of Lessee, engage in all or any combination of the following, or enter into agreements in connection with any of the following or in accordance with requirements that may be imposed by applicable securities, tax or other Laws: (i) the sale, assignment, grant, conveyance, transfer, financing, re-financing, purchase or re-acquisition of all, less than all or any portion of the Properties, this Lease or any other Transaction Document, Lessor's right, title and interest in this Lease or any other Transaction Document, the servicing rights with respect to any of the foregoing, or participations in any of the foregoing, or (ii) a Securitization and related transactions. Without in any way limiting the foregoing, the parties acknowledge and agree that Lessor, in its sole discretion, may assign this Lease or any interest herein to another Person (including without limitation, a taxable REIT subsidiary) in order to maintain Lessor's or any of its Affiliates' status as a REIT. In the event of any such sale or assignment other than a security assignment, Lessee shall attorn to such purchaser or assignee (so long as Lessor and such purchaser or assignee notify Lessee in writing of such transfer and such purchaser or assignee expressly assumes in writing the obligations of Lessor hereunder). At the request of Lessor, Lessee will execute such documents confirming the sale, assignment or other transfer and such other agreements as Lessor may reasonably request, provided that the same do not increase the liabilities and obligations of Lessee hereunder. Furthermore, upon the sale of any of the Properties to a third party and to the extent necessary, Lessee and Lessor shall execute an amendment to this Lease omitting the sold Property from this Lease and shall execute a new lease agreement relating to the sold Property in form and substance identical to this Lease, provided that the Base Annual Rental shall be limited to the sold Property. Lessor shall be relieved, from and after the date of such transfer or conveyance, of liability for the performance of any obligation of Lessor contained herein, except for obligations or liabilities accrued prior to such assignment or sale.

B. Lessee acknowledges that Lessor has relied both on the business experience and creditworthiness of Lessee and upon the particular purposes for which Lessee intends to use the Properties in entering into this Lease. Without the prior written consent of Lessor, which consent will not be unreasonably withheld, (i) Lessee shall not assign, transfer, convey, pledge or mortgage this Lease or any interest therein, whether by operation of law or otherwise, (ii) no Change of Control shall occur, and (iii) no interest in Lessee or any Guarantor shall be pledged, encumbered or assigned as collateral. With respect to any requested assignment, Lessor shall consider such matters as the experience and financial strength of any assignee, the assumption by any assignee of all of Lessee's obligations hereunder by undertakings enforceable by Lessor, and the transfer to or procurement of all necessary Dealer Agreements, licenses and franchises to an assignee in order to continue operating the Properties for the purposes herein provided. At the time of any assignment of this Lease which is approved by Lessor, the assignee shall assume all of the obligations of Lessee under this Lease pursuant to Lessor's standard form of

assumption agreement. Such assignment of the Properties shall relieve Lessee of its obligations respecting this Lease except for those obligations arising prior to such assignment. Any assignment, transfer, conveyance, pledge or mortgage in violation of this Section 23 shall be voidable at the sole option of Lessor. Any consent to an assignment given by Lessor hereunder shall not be deemed a consent to any subsequent assignment.

C. Lessee shall not sublet any or all of the Properties without the prior written consent of Lessor, which may be withheld by Lessor in its sole discretion and any such purported subletting shall be void. Notwithstanding the foregoing, Lessee may sublet any or all of the Properties without the consent of Lessor, provided, that (i) the subtenant is a nationally or regionally recognized company and will operated a Permitted Facility; (ii) the subtenant will not violate the representation in Section 6.I; (iii) the sublease expressly provides that it is subordinate and subject to this Lease; and (iv) Lessee provides prior written notice of the sublease and subtenant to Lessor and Lessor makes a determination that the sublease and subtenant will not have any adverse tax consequence or negatively impact the REIT status of Lessor and its Affiliates, which determination shall be made within fifteen (15) days of receipt of Lessee's written notice.

24. Notices. All notices, demands, designations, certificates, requests, offers, consents, approvals, appointments and other instruments given pursuant to this Lease (collectively called "Notices") shall be in writing and given by any one of the following: (A) hand delivery, (B) express overnight delivery service, (C) certified or registered mail, return receipt requested or (D) electronic mail message, provided that a copy of such electronic mail message is also sent via certified or registered mail, return receipt requested, within one Business Day of the transmission of such electronic mail message, and shall be deemed to have been delivered upon (i) receipt, if hand delivered, (ii) the next Business Day, if delivered by a reputable express overnight delivery service, (iii) the third Business Day following the day of deposit of such notice with the United States Postal Service, if sent by certified or registered mail, return receipt requested, or (iv) transmission, if delivered by electronic mail pursuant to the requirements of Section 24(D) above. Notices shall be provided to the parties and addresses (or electronic mail addresses) specified below:

If to Lessee:
Superpumper, Inc.
6451 S. Virginia Street, Suit 306
Reno, Nevada 89511
Attn: Paul Morabito
Telecopy: (480) 222-1062
E-mail: pmorabito@bigwheelnevada.com

With a copy to:
Hodgson Russ LLP
140 Pearl Street, Suite 100
Buffalo, New York 14202
Attn: Sujata Yalamanchili
Telephone: (716) 848-1657
Telecopy: (716) 849-0349
E-mail: syalaman@hodgsonruss.com

If to Lessor:	Spirit SPE Portfolio 2007-3, LLC 14631 N. Scottsdale Road, Suite 200 Scottsdale, Arizona 85254-2711 Attention: Michael T. Bennett SVP, Operations Telephone: (480) 606-6608 Telecopy: (480) 606-0826 E-Mail: mbennett@spiritfinance.com
With a copy to:	Kutak Rock LLP 1801 California Street, Suite 3100 Denver, Colorado 80202 Attention: Peggy A. Richter, Esq. Telephone: (303) 297-2400 Telecopy: (303) 292-7799 E-Mail: peggy.richter@kutakrock.com

or to such other address or such other person as either party may from time to time hereafter specify to the other party in a notice delivered in the manner provided above.

25. **Holdover**. If Lessee remains in possession of any Property after the expiration of the term hereof, Lessee, at Lessor's option and within Lessor's sole discretion, may be deemed a tenant on a month-to-month basis and shall continue to pay Rentals and other Monetary Obligations in the amounts herein provided, except that the Base Monthly Rental shall be automatically increased to one hundred fifty percent (150%) of the last Base Monthly Rent payable under this Lease allocable to the subject Property by Lessor based upon the original Purchase Price for the Properties and Lessee shall comply with all the terms of this Lease; provided that nothing herein nor the acceptance of Rental by Lessor shall be deemed a consent to such holding over. Lessee shall defend, indemnify, protect and hold the Indemnified Parties harmless from and against any and all Losses resulting from Lessee's failure to surrender possession upon the expiration of the Lease Term, including, without limitation, any claims made by any succeeding lessee.

26. **Intentionally Deleted.**

27. **Removal of Personalty**. At the expiration of the Lease Term, and if Lessee is not then in breach hereof, Lessee may remove from the Properties all personal property belonging to Lessee. Lessee shall repair any damage caused by such removal and shall leave all of the Properties broom clean and in good and working condition and repair inside and out. Any property of Lessee left on the Properties on the tenth day following the expiration of the Lease Term shall automatically and immediately become the property of Lessor.

28. **Financial Statements; Compliance Certificate.** Within forty five (45) days after the end of each fiscal quarter and within ninety (90) days after the end of each fiscal year of Lessee, Lessee shall deliver to Lessor (A) complete financial statements of Lessee and Guarantor, or more frequently upon request by Lessor including a balance sheet, profit and loss

statement, statement of changes in financial condition and all other related schedules for the fiscal period then ended; and (B) income statements for the business at the Properties All such financial statements shall be prepared in accordance with GAAP, consistently applied from period to period, be certified to be accurate and complete by an officer or director of Lessee and Guarantor, respectively, which certificate shall state that such financial statements fairly present, in all material respects, the financial condition and results of operations of Lessee in accordance with GAAP and shall provide an EBITDAR Ratio calculation. Lessee understands that Lessor will rely upon such financial statements and Lessee represents that such reliance is reasonable. The annual financial statements delivered to Lessor shall be audited by a nationally recognized accounting firm and Lessee shall deliver to Lessor copies of any other audited financial statements of Lessee and Guarantor which may be prepared, as soon as they are available. Within thirty (30) days after the end of each fiscal year of Lessee, and upon prior written request by Lessor, Lessee shall deliver such compliance certificate to Lessor as Lessor may reasonably require in order to establish that Lessee is in compliance with all of its obligations, duties and covenants under this Lease. Lessee acknowledges that Lessor's lender shall have the right to provide to prospective investors any information in Lessor's possession, including, without limitation, financial statements relating to Properties and Lessee.

29. **Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, acts of God, enemy or hostile governmental action, civil commotion, fire or other casualty beyond the control of the party obligated to perform (each, a "Force Majeure Event") shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage, expressly excluding, however, the obligations imposed upon Lessee with respect to Rental and other Monetary Obligations to be paid hereunder.

30. **No Merger.** 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 Properties 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 Properties 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 Properties or any part thereof sought to be merged shall join in a written instrument effecting such merger and shall duly record the same.

31. **Characterization.**

A. Lessor and Lessee acknowledge and warrant to each other that each has been represented by independent counsel and has executed this Lease after being fully advised by said counsel as to its effect and significance. This Lease shall be interpreted and construed in a fair and impartial manner without regard to such factors as the party which prepared the instrument, the relative bargaining powers of the parties or the domicile of any party. Whenever in this Lease any words of obligation or duty are used, such words or expressions shall have the same force and effect as though made in the form of a covenant.

B The following expressions of intent, representations, warranties, covenants, agreements, stipulations and waivers are a material inducement to Lessor entering into this Lease:

(i) It is the intent of the parties hereto, and the parties acknowledge and agree that they have executed and delivered this Lease with the understanding that (1) this Lease constitutes an unseverable and single lease of all, but not less than all, of the Properties, and, if at any time this Lease covers other real property in addition to the Properties, neither this Lease, nor Lessee's obligations or rights hereunder may be allocated or otherwise divided among such properties by Lessee; (2) this Lease is a "true lease," is not a financing lease, capital lease, mortgage, equitable mortgage, deed of trust, trust agreement, security agreement or other financing or trust arrangement, and the economic realities of this Lease are those of a true lease; and (3) the business relationship created by this Lease and any related documents is solely that of a long-term commercial lease between Lessor and Lessee, the Lease has been entered into by both parties in reliance upon the economic and legal bargains contained herein, and none of the agreements contained herein is intended, nor shall the same be deemed or construed, to create a partnership between Lessor and Lessee, to make them joint venturers, to make Lessee an agent, legal representative, partner, subsidiary or employee of Lessor, nor to make Lessor in any way responsible for the debts, obligations or losses of Lessee. Lessee acknowledges that Lessor (or any Affiliate or partner of Lessor) and the parties under the Dealer Agreement are not affiliates, agents, partners or joint venturers, nor do they have any other legal, representative or fiduciary relationship.

(ii) Each of the parties hereto covenants and agrees to the following: (1) each will treat this Lease (I) as an operating lease pursuant to Statement of Financial Accounting Standards No. 13, as amended; and (II) as a true lease for state law reporting purposes and for federal income tax purposes. For federal income tax purposes, each party shall report this Lease as a true lease with Lessor as the owner of the Properties and Lessee as the lessee of such Properties including: (a) treating Lessor as the owner of the Property eligible to claim depreciation deductions under Section 167 or 168 of the Code with respect to the Properties; (b) Lessee reporting its Rental payments as rent expense under Section 162 of the Code; and (c) Lessor reporting the Rental payments as rental income under Section 61 of the Code; (2) each party will not, nor will it permit any Affiliate to, at any time, take any action or fail to take any action with respect to the preparation or filing of any statement or disclosure to Governmental Authority, including without limitation, any income tax return (including an amended income tax return), to the extent that such action or such failure to take action would be inconsistent with the intention of the parties expressed in this Section 31.B; (3) with respect to the Properties, the Lease Term (including any Extension Term) is less than eighty percent (80%) of the estimated remaining economic life of the Properties; and (4) the Base Annual Rental is the fair market value for the use of the Properties and was agreed to by Lessor and Lessee on that

basis, and the execution and delivery of, and the performance by Lessee of its obligations under, this Lease do not constitute a transfer of all or any part of the Properties.

(iii) Lessee waives any claim or defense based upon the characterization of this Lease as anything other than a true lease and as a master lease of all of the Properties. Lessee stipulates and agrees (1) not to challenge the validity, enforceability or characterization of the lease of the Properties as a true lease and/or as a single, unseverable instrument pertaining to the lease of all, but not less than all, of the Properties, and (2) not to assert or take or omit to take any action inconsistent with the agreements and understandings set forth in this Section 31.B.

(iv) The parties agree that, notwithstanding any provision contained in this Lease, any party (and each employee, representative or other agent of any party) may disclose to *any and all persons, without limitation of any kind*, any matter required under the Securities Act of 1933, as amended (the "Securities Act"), or the Securities Exchange Act of 1934, as amended (the "Exchange Act").

32. **Easements**. During the Lease Term, Lessor shall have the right to grant easements on, over, under and above the Properties without the prior consent of Lessee, provided that such easements will not unreasonably or materially interfere with Lessee's use of the Properties.

33. **Bankruptcy**. As a material inducement to Lessor executing this Lease, Lessee acknowledges and agrees that Lessor is relying upon (A) the financial condition and specific operating experience of Lessee and Lessee's obligation to use the Properties as a Permitted Facility specifically in accordance with a Dealer Agreement and (B) Lessee's timely performance of all of its obligations under this Lease notwithstanding the entry of an order for relief under the Bankruptcy Code for Lessee. Accordingly, in consideration of the mutual covenants contained in this Lease and for other good and valuable consideration, Lessee hereby agrees that: (i) subject to applicable law, all obligations that accrue under this Lease (including the obligation to pay Rentals), from and after an Insolvency Event shall be timely performed exactly as provided in this Lease and any failure to so perform shall be harmful and prejudicial to Lessor; (ii) to the extent permitted by law, any and all Rentals that accrue from and after the filing for bankruptcy and that are not paid as required by this Lease shall, in the amount of such Rentals, constitute administrative expense claims allowable under the Bankruptcy Code with priority of payment at least equal to that of any other actual and necessary expenses incurred after the filing for bankruptcy; (iii) any extension of the time period within which Lessee may assume or reject this Lease without an obligation to cause all enforceable obligations under this Lease to be performed as and when required under this Lease shall be harmful and prejudicial to Lessor; (iv) any time period designated as the period within which Lessee must cure all enforceable defaults and compensate Lessor for all pecuniary losses which extends beyond the date of assumption of this Lease shall be harmful and prejudicial to Lessor; (v) subject to applicable law, any assignment of this Lease must result in all terms and conditions of this Lease being assumed by the assignee without alteration or amendment, and any assignment which results in an amendment or alteration of the terms and conditions of this Lease without the

express written consent of Lessor shall be harmful and prejudicial to Lessor; (vi) any proposed assignment of this Lease shall be harmful and prejudicial to Lessor if made to an assignee: (1) that does not possess financial condition adequate to operate a Permitted Facility upon the Properties or operating performance and experience characteristics satisfactory to Lessor equal to or better than the financial condition, operating performance and experience of Lessee as of the Effective Date, or (2) that does not provide guarantors of the lease obligations with financial condition equal to or better than the financial condition of the Guarantor as of the Effective Date; or (3) that will not use the Properties specifically in accordance with a Dealer Agreement; and (vii) subject to applicable law, the rejection (or deemed rejection) of this Lease for any reason whatsoever shall constitute cause for immediate relief from the automatic stay provisions of the Bankruptcy Code, and Lessee stipulates that such automatic stay shall be lifted immediately and possession of the Properties will be delivered to Lessor immediately without the necessity of any further action by Lessor. No provision of this Lease shall be deemed a waiver of Lessor's rights or remedies under the Bankruptcy Code or applicable Law to oppose any assumption and/or assignment of this Lease, to require timely performance of Lessee's obligations under this Lease, or to regain possession of the Properties as a result of the failure of Lessee to comply with the terms and conditions of this Lease or the Bankruptcy Code Notwithstanding anything in this Lease to the contrary, subject to applicable law, all amounts payable by Lessee to or on behalf of Lessor under this Lease, whether or not expressly denominated as such, shall constitute "rent" for the purposes of the Bankruptcy Code. For purposes of this Section addressing the rights and obligations of Lessor and Lessee upon an Insolvency Event, the term "Lessee" shall include Lessee's successor in bankruptcy, whether a trustee, Lessee as debtor in possession or other responsible person.

34. **Attorneys' Fees.** In the event of any judicial or other adversarial proceeding concerning this Lease, to the extent permitted by Law, Lessor the prevailing party will be entitled to recover all of its reasonable attorneys' fees and other Costs in addition to any other relief to which it may be entitled. In addition, the prevailing party shall, upon demand, be entitled to all attorneys' fees and all other Costs incurred in the preparation and service of any notice or demand hereunder, whether or not a legal action is subsequently commenced.

35. **Memorandum of Lease.** Concurrently with the execution of this Lease, Lessor and Lessee are executing Lessor's standard form memorandum of lease in recordable form, indicating the names and addresses of Lessor and Lessee, a description of the Properties, the Lease Term, but omitting Rentals and such other terms of this Lease as Lessor may not desire to disclose to the public Further, upon Lessor's request, Lessee agrees to execute and acknowledge a termination of lease and/or quit claim deed in recordable form to be held by Lessor until the expiration or sooner termination of the Lease Term.

36. **No Brokerage.** Lessor and Lessee represent and warrant to each other that they have had no conversation or negotiations with any broker concerning the leasing of the Properties. Each of Lessor and Lessee agrees to protect, indemnify, save and keep harmless the other, against and from all liabilities, claims, losses, Costs, damages and expenses, including attorneys' fees, arising out of, resulting from or in connection with their breach of the foregoing warranty and representation.

37. **Waiver of Jury Trial and Punitive, Consequential, Special and Indirect Damages. To the maximum extent permitted by law, Lessor and Lessee hereby knowingly, voluntarily and intentionally waive the right either may have to a trial by jury with respect to any and all issues presented in any action, proceeding, claim or counterclaim brought by either of the parties hereto against the other or its successors with respect to any matter arising out of or in connection with this Lease, the relationship of Lessor and Lessee, Lessee's use or occupancy of the Properties, and/or any claim for injury or damage, or any emergency or statutory remedy. This waiver by the parties hereto of any right either may have to a trial by jury has been negotiated and is an essential aspect of their bargain. Furthermore, to the maximum extent permitted by law, Lessee hereby knowingly, voluntarily and intentionally waives the right it may have to seek punitive, consequential, special and indirect damages from Lessor and any of the Affiliates, officers, directors, members, managers or employees of Lessor or any of their successors with respect to any and all issues presented in any action, proceeding, claim or counterclaim brought with respect to any matter arising out of or in connection with this Lease or any document contemplated herein or related hereto. The waiver by Lessee of any right it may have to seek punitive, consequential, special and indirect damages has been negotiated by the parties hereto and is an essential aspect of their bargain.**

38. **Securitizations and Other Transactions**. As a material inducement to Lessor's willingness to complete the Transactions contemplated by this Lease and the other Transaction Documents, Lessee hereby acknowledges and agrees that Lessor may, from time to time and at any time (A) upon receipt of Lessee's consent, which consent shall not be unreasonably withheld or delayed, advertise, issue press releases, send direct mail or otherwise disclose information regarding the Transaction for marketing purposes; and (B) (i) act or permit another Person to act as sponsor, settler, transferor or depositor of, or a holder of interests in, one or more Persons or other arrangements formed pursuant to a trust agreement, indenture, pooling agreement, participation agreement, sale and servicing agreement, limited liability company agreement, partnership agreement, articles of incorporation or similar agreement or document; and (ii) permit one or more of such Persons or arrangements to offer and sell stock, certificates, bonds, notes, other evidences of indebtedness or securities that are directly or indirectly secured, collateralized or otherwise backed by or represent a direct or indirect interest in whole or in part in any of the assets, rights or properties described in Section 23.A of this Lease, in one or more Persons or arrangements holding such assets, rights or properties, or any of them (collectively, the "Securities"), whether any such Securities are privately or publicly offered and sold, or rated or unrated (any combination of which actions and transactions described in both clauses (i) and (ii) in this paragraph, whether proposed or completed, are referred to in this Lease as a "Securitization"). Lessee shall cooperate fully with Lessor and any Affected Party with respect to all reasonable requests and due diligence procedures and to use reasonable efforts to facilitate such Securitization, including without limitation, providing for inclusion in any prospectus or other Securities offering material such documents, financial and other data, and other information and materials which would customarily be required with respect to Lessee by a purchaser, transferee, assignee, servicer, participant, investor or rating agency involved with respect to such Securitization, and Lessee shall indemnify and hold harmless Lessor for any and all liabilities, losses and expenses arising under the Securities Act, or the Exchange Act, in connection with any material misstatement (or alleged misstatement) contained in such

information provided in writing (including, without limitation, electronically) by Lessee or its officers, managers, members, employees, or agents, or any omission (or alleged omission) of a material fact by Lessee or its officers, managers, members, employees, or agents, the inclusion of which was necessary to make such written information not misleading, unless such material misstatement or alleged misstatement or omission or alleged omission is caused by Lessor or its directors, officers, managers, members, shareholders, employees, or agents. Lessee shall deliver to Lessor, any Affected Party and to any Person designated by Lessor, such statements and audit letters of reputable, independent certified public accountants pertaining to the written information provided by Lessee pursuant to this Section as shall be requested by Lessor or such Affected Party, as the case may be. Lessee also shall deliver to Lessor, any Affected Party and to any Person designated by Lessor or any Affected Party, such opinions of counsel (including without limitation, local counsel opinions), appraisals, environmental reports and zoning letters, or updates of any of the foregoing, as are customarily delivered in connection with Securitizations or as may be required by any rating agency in connection with any Securitization.

39. **Intentionally Deleted.**

40. **Performance at Lessee's Expense.** Lessee acknowledges and confirms that Lessor, upon notice to Lessee, may impose certain reasonable, administrative, processing or servicing fees, and collect its attorneys' fees, costs and expenses in connection with (a) any extension, renewal, modification, amendment and termination of this Lease, (b) the procurement of certain consents, waivers and approvals with respect to the Properties or any matter related to this Lease, (c) the review of any assignment or sublease or proposed assignment or sublease or the preparation or review of any subordination, non-disturbance agreement, (d) the collection, maintenance and/or disbursement of reserves created under this Lease or the other Transaction Documents, and (e) inspections required to make certain determinations under this Lease or the other Transaction Documents. Lessee hereby acknowledges and agrees to pay, immediately upon demand, all such fees (as the same may be increased or decreased from time to time), and any additional fees of a similar type or nature which may reasonably be imposed or incurred by Lessor from time to time.

41. **Miscellaneous.**

A. *Time Is of the Essence*. Time is of the essence with respect to each and every provision of this Lease.

B. *Waiver and Amendment.* No provision of this Lease shall be deemed waived or amended except by a written instrument unambiguously setting forth the matter waived or amended and signed by the party against which enforcement of such waiver or amendment is sought. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion. No acceptance by Lessor of an amount less than the Rental and other Monetary Obligations stipulated to be due under this Lease shall be deemed to be other than a payment on account of the earliest such Rental or other Monetary Obligations then due or in arrears nor shall any endorsement or statement on any check or letter accompanying any such payment be deemed a waiver of Lessor's right to collect any unpaid amounts or an accord and satisfaction.

C. *Successors Bound.* Except as otherwise specifically provided herein, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of the respective heirs, successors, executors, administrators and assigns of each of the parties hereto.

D. *Captions.* Captions are used throughout this Lease for convenience of reference only and shall not be considered in any manner in the construction or interpretation hereof.

E. *Severability.* The provisions of this Lease shall be deemed severable. If any part of this Lease shall be held unenforceable by any court of competent jurisdiction, the remainder shall remain in full force and effect, and such unenforceable provision shall be reformed by such court so as to give maximum legal effect to the intention of the parties as expressed therein.

F. *Other Documents.* Each of the parties agrees to sign such other and further documents as may be necessary or appropriate to carry out the intentions expressed in this Lease; provided such documents are reasonably acceptable to each parties' counsel.

G. *Entire Agreement* This Lease and any other instruments or agreements referred to herein, constitute the entire agreement between the parties with respect to the subject matter hereof, and there are no other representations, warranties or agreements except as herein provided.

H. *Forum Selection; Jurisdiction; Venue; Choice of Law.* For purposes of any action or proceeding arising out of this Lease, the parties hereto expressly submit to the jurisdiction of all federal and state courts located in the State of Nevada. Lessee consents that it may be served with any process or paper by registered mail or by personal service within or without the State of Arizona in accordance with applicable law. Furthermore, Lessee waives and agrees not to assert in any such action, suit or proceeding that it is not personally subject to the jurisdiction of such courts, that the action, suit or proceeding is brought in an inconvenient forum or that venue of the action, suit or proceeding is improper. Nothing contained in this Section shall limit or restrict the right of Lessor to commence any proceeding in the federal or state courts located in the state where each Property is located to the extent Lessor deems such proceeding necessary or advisable to exercise remedies available under this Lease. This Lease shall be governed by the laws of the state in which the Properties are located.

I. *Counterparts.* This Lease may be executed in one or more counterparts, each of which shall be deemed an original.

42. **Guaranty.** On or before the execution of this Lease, Lessee shall cause Guarantor to execute and deliver to Lessor the Guaranty.

IN WITNESS WHEREOF, Lessor and Lessee have entered into this Lease as of the date first above written.

LESSOR:

SPIRIT SPE PORTFOLIO 2007-3, LLC, a Delaware limited liability company

By: _____
Printed Name: Michael T. Bennett
Title: Senior Vice President
Tax Identification No 26-0377971

LESSEE:

SUPERPUMPER, INC., an Arizona corporation

By: _____
Printed Name: Trevor Lloyd
Title: Secretary
Tax Identification No. _____

STATE OF Arizona)
) ss
COUNTY OF Maricopa)

The foregoing instrument was acknowledged before me on June 29, 2007 by Michael T. Bennett, as Senior Vice President of **SPIRIT SPE PORTFOLIO 2007-3, LLC**, a Delaware limited liability company, on behalf of the company.

Notary Public

My Commission Expires: April 13, 2011

LEAH LANSING
Notary Public - Arizona
Maricopa County
My Comm. Expires Apr 13, 2011

STATE OF Nevada)
) ss
COUNTY OF Washoe)

The foregoing instrument was acknowledged before me on July 9, 2007 by Trevor Lloyd as Secretary of **SUPERPUMPER, INC.**, an Arizona corporation, on behalf of the corporation.

Notary Public

My Commission Expires: Mar 2, 2008

SUSAN HILL
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 92-0404-2 - Expires March 2, 2008

4812-9537-4273.3
Spirit/Superpumper
6 properties in Phoenix, AZ
6321/02-1000

EXHIBIT A

DEFINED TERMS

The following terms shall have the following meanings for all purposes of this Lease:

"*ADA*" has the meaning set forth in Section 12.C.

"*Additional Rental*" has the meaning set forth in Section 4.C

"*Adjustment Date*" means July 1, 2008, and every anniversary thereafter during the Lease Term (including any Extension Term).

"*Affected Party*" means each direct or indirect participant or investor in a proposed or completed Securitization, including, without limitation, any prospective owner, any rating agency or any party to any agreement executed in connection with the Securitization

"*Affiliate*" means any Person which directly or indirectly controls, is under common control with or is controlled by any other Person. For purposes of this definition, "controls", "under common control with", and "controlled by" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or otherwise.

"*Bankruptcy Code*" means the United States Bankruptcy Code, 11 U.S.C. Sec. 101 et seq., as amended.

"*Base Annual Rental*" means $2,794,391.91.

"*Base Monthly Rental*" means an amount equal to 1/12 of the applicable Base Annual Rental.

"*Business Day*" means a day on which banks located in Scottsdale, Arizona are not required or authorized to remain closed.

"*Casualty*" means any loss of or damage to any property included within or related to any Property or arising from an adjoining property caused by fire, flood or other casualty.

"*Change of Control*" shall be deemed to have taken place upon the occurrence of any of the following events: (i) any person, entity or affiliated group acquiring 50% or more of the then outstanding voting shares of Lessee, Guarantor or PAMCO, respectively; (ii) the consummation of any merger or consolidation of Lessee, Guarantor or PAMCO into another company, such that the holders of the voting shares of Lessee, Guarantor or PAMCO, respectively, immediately prior to such merger or consolidation own less than 50% of the combined voting power of the securities of the surviving company or the parent of such surviving company; (iii) the complete liquidation of Lessee, Guarantor or PAMCO or the sale or disposition of all or substantially all of the assets of Lessee, Guarantor or PAMCO, respectively, such that after the transaction, the

holders of the voting shares of Lessee, Guarantor or PAMCO, respectively, immediately prior to the transaction own less than 50% of the voting securities of the acquirer or the parent of the acquirer; or (iv) a majority of the members of the Board of Lessee, Guarantor or PAMCO votes in favor of any event described in items (i), (ii) or (iii) above.

"*Code*" means the Internal Revenue Code of 1986, as the same may be amended from time to time.

"*Condemnation*" means a Taking and/or a Requisition.

"*Costs*" means all reasonable costs and expenses incurred by a Person, including without limitation, reasonable attorneys' fees and expenses, court costs, expert witness fees, costs of tests and analyses, travel and accommodation expenses, deposition and trial transcripts, copies and other similar costs and fees, brokerage fees, escrow fees, title insurance premiums, appraisal fees, stamp taxes, recording fees and transfer taxes or fees, as the circumstances require.

"*Dealer Agreement*" means any written agreement or other document granting Lessee the rights necessary for the operation of a Permitted Facility, including the WMA Dealer Agreement any and all other agreements relating to the sale and distribution of petroleum products.

"*Default Rate*" means 18% per annum or the highest rate permitted by law, whichever is less.

"*Early Termination Date*" has the meaning set forth in Section 18.C(ii)(1).

"*EBITDAR*" means, for any twelve (12) month trailing period, an amount equal to (without duplication): (i) the consolidated net income for such period, plus (ii) depreciation, amortization and other non-cash charges (including, but not limited to, imputed interest, deferred compensation and charges associated with impairment of goodwill pursuant to FASB 142) for such period (to the extent deducted in the computation of consolidated net income of such Person), all in accordance with GAAP, plus (iii) interest expense for such period (to the extent deducted in the computation of consolidated net income), plus (iv) the provision for taxes for such period (to the extent deducted in the computation of consolidated net income), plus (v) EBITDAR Rent (to the extent such EBITDAR Rent was deducted in the computation of consolidated net income of such Person), plus (vi) non-recurring items and unusual items, including management fees and dividends to shareholders, less (vii) all non-recurring income items.

"*EBITDAR Event*" means either (i) any time that Lessee fails to maintain (y) an EBITDAR Ratio of 1.45 to 1 or higher (tested quarterly on a twelve (12) month trailing basis) and (z) a book value of stockholders' equity of at least Six Million ($6,000,000.00); or (ii) any time that Lessee fails to maintain an EBITDAR Ratio of 1.20 to 1 or higher (tested quarterly on a twelve (12) month trailing basis).

"*EBITDAR Ratio*" means the ratio of Lessee's EBITDAR divided by EBITDAR Rent.

"*EBITDAR Rent*" means, collectively, any rental amounts (excluding reimbursables for expenses such as Taxes, Insurance and maintenance) payable by such Person under any leases then in effect to which such Person is a party, utilizing the rental amounts in effect at the time of the EBITDAR calculation.

"*Effective Date*" has the meaning set forth in the introductory paragraph of this Lease.

"*Environmental Insurer*" means such environmental insurance company as Lessor shall select in its sole discretion.

"*Environmental Laws*" means federal, state and local laws, ordinances, common law requirements and regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees having the effect of law in effect now or in the future and including all amendments, that relate to Hazardous Materials, Regulated Substances, USTs, and/or the protection of human health or the environment, or relating to liability for or Costs of Remediation or prevention of Releases, and apply to Lessee and/or the Properties.

"*Environmental Liens*" has the meaning set forth in Section 12.D(i)(2).

"*Environmental Policy*" means, collectively, a (i) pollution legal liability insurance policy or policies issued by Environmental Insurer to Lessor and Lessor's lender with respect to the Properties, which Environmental Policy shall be in form and substance satisfactory to Lessor in its sole discretion and shall be in amounts of not less than $2,000,000.00 per occurrence and $6,000,000.00 annual aggregate for losses caused by known and unknown pollution conditions that arise from the operations of the tenant, their contractors, or their sub-contractors, with coverage to include: (a) bodily injury, sickness, disease, mental anguish or shock sustained by any person, or death, (b) property damage, including physical injury to or destruction or tangible property, including the resulting loss of use thereof, (c) clean up costs and the loss of use of tangible property that has not been physically damaged or destroyed, and (d) defense, including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for damages; and (ii) underground storage tank insurance policy or policies issued by Environmental Insurer to Lessor and Lessor's lender in form and substance and in such amounts as are satisfactory to Lessor in its sole discretion. Additionally, such Environmental Insurance shall comply with Lessor's lender's guidelines set forth in Exhibit C attached hereto.

"*Environmental Reports*" means, collectively, (i) that certain Phase I Environmental Assessment dated June 21, 2007 prepared by Nova Consulting Group, Inc. (Project No. B07-2012) with respect to the Property located at 13240 N. Scottsdale Road, Scottsdale, Arizona 85254; (ii) that certain Phase I Environmental Assessment dated June 22, 2007 prepared by Nova Consulting Group, Inc. (Project No. B07-2014) with respect to the Property located at 6324 East Greenway Parkway, Scottsdale, Arizona 85254; (iii) that certain Phase I Environmental Assessment dated June 22, 2007 prepared by Nova Consulting Group, Inc. (Project No. B07-2016) with respect to the Property located at 21015 North Cave Creek Road, Scottsdale, Arizona 85050; (iv) that certain Phase I Environmental Assessment dated June 22, 2007 prepared by Nova Consulting Group, Inc. (Project No. B07-2018) with respect to the Property located at 15550 North Thompson Peak Parkway, Scottsdale, Arizona 85260; (v) that certain Phase I

Environmental Assessment dated June 22, 2007 prepared by Nova Consulting Group, Inc. (Project No. B07-2020) with respect to the Property located at 4740 East Dynamite Blvd., Phoenix, Arizona 85331; and (vi) that certain Phase I Environmental Assessment dated June 22, 2007 prepared by Nova Consulting Group, Inc. (Project No. B07-2021) with respect to the Property located at 8646 East Frank Lloyd Wright Blvd., Scottsdale, Arizona 85260.

"*Event of Default*" has the meaning set forth in Section 20.A.

"*Exchange Act*" has the meaning set forth in Section 31.B(iv).

"*Expiration Date*" has the meaning set forth in Section 3.

"*Extension Option*" has the meaning set forth in Section 3.

"*Extension Term*" has the meaning set forth in Section 3.

"*Force Majeure Event*" has the meaning set forth in Section 29.

"*GAAP*" means generally accepted accounting principles in the United States of America as of the date of the applicable financial report.

"*Governmental Authority*" means any governmental authority, agency, department, commission, bureau, board, instrumentality, court or quasi-governmental authority of the United States, any state or any political subdivision thereof with authority to adopt, modify, amend, interpret, give effect to or enforce any federal, state and local laws, statutes, ordinances, rules or regulations, including common law, or to issue court orders.

"*Guarantor*" means, collectively, P.A. MORABITO ARIZONA & CO., LIMITED, a Nevada corporation, and Paul A. Morabito, an individual, or any other additional or replacement guarantor approved by Lessor in its sole and absolute discretion

"*Guaranty*" means that certain Unconditional Guaranty of Payment and Performance dated as of the date hereof between Guarantor and Lessor; provided, however, the Guaranty provided by Paul A. Morabito shall be limited to the obligations of Lessee under Section 11 hereof.

"*Hazardous Materials*" includes: (a) oil, petroleum products, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other materials, contaminants or pollutants which pose a hazard to any of the Properties or to Persons on or about any of the Properties, cause any of the Properties to be in violation of any local, state or federal law or regulation, (including without limitation, any Environmental Law), or are defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "toxic substances", "contaminants", "pollutants", or words of similar import under any applicable local, state or federal law or under the regulations adopted, orders issued, or publications promulgated pursuant thereto, including, but not limited to: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq.; (ii) the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §1801, et seq.; (iii) the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6901,

et seq.; and (iv) regulations adopted and publications promulgated pursuant to the aforesaid laws; (b) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of fifty (50) parts per million; (c) underground storage tanks; and (d) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or which may or could pose a hazard to the health and safety of the occupants of any of the Properties or the owners and/or occupants of any adjoining property.

"*Indemnified Parties*" means Lessor, Environmental Insurer, and their members, managers, officers, directors, shareholders, partners, employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns, including, but not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of the assets and business of Lessor or Environmental Insurer, as applicable.

"*Initial Term*" has the meaning set forth in Section 3.

"*Insolvency Event*" means (a) Lessee's (i) failure to generally pay its debts as such debts become due; (ii) admitting in writing its inability to pay its debts generally; or (iii) making a general assignment for the benefit of creditors; (b) any proceeding being instituted by or against Lessee (i) seeking to adjudicate it a bankrupt or insolvent; (ii) seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors; or (iii) seeking the entry of an order for relief or the appointment of a receiver, trustee, or other similar official for it or for any substantial part of its property, and in the case of any such proceeding instituted against Lessee, either such proceeding shall remain undismissed for a period of one hundred twenty (120) days or any of the actions sought in such proceeding shall occur; or (c) Lessee taking any corporate action to authorize any of the actions set forth above in this definition.

"*Law(s)*" means any constitution, statute, rule of law, code, ordinance, order, judgment, decree, injunction, rule, regulation, policy, requirement or administrative or judicial determination, even if unforeseen or extraordinary, of every duly constituted Governmental Authority, court or agency, now or hereafter enacted or in effect.

"*Lease Term*" shall have the meaning described in Section 3.

"*Legal Requirements*" means the requirements of all present and future Laws (including without limitation, Environmental Laws and Laws relating to accessibility to, usability by, and discrimination against, disabled individuals), all judicial and administrative interpretations thereof, including any judicial order, consent, decree or judgment, and all covenants, restrictions and conditions now or hereafter of record which may be applicable to Lessee or to any of the Properties, or to the use, manner of use, occupancy, possession, operation, maintenance, alteration, repair or restoration of any of the Properties, even if compliance therewith necessitates structural changes or improvements or results in interference with the use or enjoyment of any of the Properties.

"*Lessee Entities*" means, collectively, Lessee and all Affiliates of Lessee.

"*Lessor Entities*" means, collectively, Lessor and all Affiliates of Lessor.

"*Lessor's Total Investment*" means, with respect to any Property, the sum of (a) the gross purchase price paid for such Property by Lessor (or Lessor's predecessor-in-interest) (including, without limitation, any mortgage debt incurred or assumed in connection therewith), plus (b) the closing costs and expenses incurred by Lessor (or Lessor's predecessor-in-interest) with respect to the purchase of such Property.

"*Loss Value*" has the meaning set forth in Section 18.C(ii)(3)

"*Losses*" means any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, Costs, diminutions in value, fines, penalties, interest, charges, fees, judgments, awards, amounts paid in settlement and damages of whatever kind or nature, inclusive of bodily injury and property damage to third parties (including, without limitation, attorneys' fees and other Costs of defense).

"*Material Adverse Effect*" means a material adverse effect on (i) any of the Properties, including, without limitation, the operation of any of the Properties as a Permitted Facility and/or the value of any of the Properties, (ii) Lessee's ability to perform its obligations under this Lease, or (iii) Lessor's interests in any of the Properties, this Lease or the other Transaction Documents.

"*Monetary Obligations*" means all Rental and all other sums payable or reimbursable by Lessee under this Lease to Lessor, to any third party on behalf of Lessor, or to any Indemnified Party.

"*Net Award*" means (a) the entire award payable with respect to a Property by reason of a Condemnation whether pursuant to a judgment or by agreement or otherwise, or (b) the entire proceeds of any insurance required under Section 10 payable with respect to a Property, as the case may be, and in either case, less any Costs incurred by Lessor in collecting such award or proceeds.

"*Notices*" has the meaning set forth in Section 24.

"*OFAC List*" means the list of specially designated nationals and blocked persons subject to financial sanctions that is maintained by the U.S. Treasury Department, Office of Foreign Assets Control and any other similar list maintained by the U.S. Treasury Department, Office of Foreign Assets Control pursuant to any Legal Requirements, including, without limitation, trade embargo, economic sanctions, or other prohibitions imposed by Executive Order of the President of the United States. The OFAC List currently is accessible through the internet website www.treas.gov/ofac/t11sdn.pdf.

"*PAMCO*" means Paul A. Morabito & Co., Limited, a Nevada corporation.

"*Partial Casualty*" has the meaning set forth in Section 18.B.

"*Partial Condemnation*" has the meaning set forth in Section 18.B.

"*Permitted Amounts*" shall mean, with respect to any given level of Hazardous Materials or Regulated Substances, that level or quantity of Hazardous Materials or Regulated Substances in any form or combination of forms which does not constitute a violation of any Environmental Laws and is customarily employed in, or associated with, similar businesses located in the states where the Properties are located.

"*Permitted Encumbrances*" shall mean those covenants, restrictions, reservations, liens, conditions, encroachments, easements and other matters of title that affect the Properties as of the date of Lessor's acquisition thereof and those items which hereafter affect title as permitted under this Lease.

"*Permitted Facility*" means a gasoline service center and convenience store and uses incidental thereto.

"*Person*" means any individual, partnership, corporation, limited liability company, trust, unincorporated organization, Governmental Authority or any other form of entity.

"*Personalty*" has the meaning set forth in Section 26.

"*Price Index*" has the meaning set forth in Section 4.B.

"*Properties*" means, those parcels of real estate legally described on Exhibit B attached hereto, all rights, privileges, and appurtenances associated therewith, all buildings, fixtures and other improvements now or hereafter located on such real estate (whether or not affixed to such real estate).

"*Regulated Substances*" means "petroleum" and "petroleum-based substances" or any similar terms described or defined in any of the Environmental Laws and any applicable federal, state, county or local laws applicable to or regulating USTs.

"*REIT*" means a real estate investment trust as defined under Section 856 of the Code.

"*Rejectable Offer*" has the meaning set forth in Section 18.C(ii)(3).

"*Release*" means any presence, release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Materials, Regulated Substances or USTs.

"*Remediation*" means any response, remedial, removal, or corrective action, any activity to cleanup, detoxify, decontaminate, contain or otherwise remediate any Hazardous Materials, Regulated Substances or USTs, any actions to prevent, cure or mitigate any Release, any action to comply with any Environmental Laws or with any permits issued pursuant thereto, any inspection, investigation, study, monitoring, assessment, audit, sampling and testing, laboratory or other analysis, or any evaluation relating to any Hazardous Materials, Regulated Substances or USTs

"*Rental*" means, collectively, the Base Annual Rental and the Additional Rental.

"*Rent Adjustment*" has the meaning set forth in Section 4.B.

"*Requisition*" means any temporary requisition or confiscation of the use or occupancy of any of the Properties 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.

"*Reserve Event*" means the occurrence of (i) an Event of Default or (ii) an EBITDAR Event.

"*Reserve Reversal Event*" shall mean the absence of a Reserve Event for a period of four (4) consecutive financial quarters.

"*Securities*" has the meaning set forth in Section 38.

"*Securities Act*" has the meaning set forth in Section 31.B(iv).

"*Securitization*" has the meaning set forth in Section 38.A.

"*Successor Lessor*" has the meaning set forth in Section 21.

"*Taking*" means (a) any taking or damaging of all or a portion of the Properties (i) in or by condemnation or other eminent domain proceedings pursuant to any Law, general or special, or (ii) by reason of any agreement with any condemnor in settlement of or under threat of any such condemnation or other eminent domain proceeding, or (iii) by any other means, or (b) any de facto condemnation. The Taking shall be considered to have taken place as of the later of the date actual physical possession is taken by the condemnor, or the date on which the right to compensation and damages accrues under the law applicable to the Properties.

"*Termination Notice*" has the meaning set forth in Section 18.C(ii).

"*Threatened Release*" means a substantial likelihood of a Release which requires action to prevent or mitigate damage to the soil, surface waters, groundwaters, land, stream sediments, surface or subsurface strata, ambient air or any other environmental medium comprising or surrounding any Property which may result from such Release.

"*TI and Leasing Commissions*" means third party tenant improvement costs and expenses and leasing commissions paid to an independent leasing agent.

"*Total Casualty*" has the meaning set forth in Section 18.C.

"*Total Condemnation*" has the meaning set forth in Section 18.C.

"*Transaction*" has the meaning set forth in Section 23.A.

"*Transaction Documents*" means this Lease, the Guaranty and all documents related thereto.

"USTs" means any one or combination of tanks and associated product piping systems used in connection with storage, dispensing and general use of Regulated Substances.

"WMA Dealer Agreement" means that certain Wholesale Marketer Agreement dated June 11, 2007 between Lessee and Shell Oil Products US.

EXHIBIT B

LEGAL DESCRIPTION OF PROPERTY

Parcel located at 6324 Greenway Road, Phoenix, Arizona (Tax Parcel No. 215-38-001R):

THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 3 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER SECTION 4;

THENCE NORTH ALONG THE EASTERLY LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 67.00 FEET;

THENCE SOUTH 89 DEGREES 49 MINUTES 39 SECONDS WEST, A DISTANCE OF 75.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 89 DEGREES 49 MINUTES 39 SECONDS WEST, PARALLEL WITH AND 67.00 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 59.00 FEET;

THENCE NORTH 00 DEGREES 10 MINUTES 21 SECONDS WEST, A DISTANCE OF 5.42 FEET;

THENCE SOUTH 89 DEGREES 49 MINUTES 39 SECONDS WEST, A DISTANCE OF 34.61 FEET;

THENCE SOUTH 00 DEGREES 10 MINUTES 21 SECONDS EAST, A DISTANCE OF 5.42 FEET;

THENCE SOUTH 89 DEGREES 49 MINUTES 39 SECONDS WEST, A DISTANCE OF 105.39 FEET;

THENCE NORTHERLY A DISTANCE OF 220.00 FEET;

THENCE NORTH 89 DEGREES 49 MINUTES 39 SECONDS EAST, A DISTANCE OF 224.27 FEET;

THENCE SOUTH 05 DEGREES 45 MINUTES 07 SECONDS WEST, A DISTANCE OF 42.60 FEET;

THENCE SOUTHERLY, PARALLEL WITH AND 54.00 FEET WEST OF THE EAST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 156.63 FEET;

THENCE SOUTH 44 DEGREES 54 MINUTES 49 SECONDS WEST, A DISTANCE OF 29.74 FEET TO THE TRUE POINT OF BEGINNING

Parcel located at 8646 East Frank Lloyd Wright Boulevard, Scottsdale, Arizona (Tax Parcel No. 215-51-001J):

THAT PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 3 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1;

THENCE SOUTH 00 DEGREES 27 MINUTES 59 SECONDS WEST, ALONG THE WEST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 420.30 FEET TO A POINT ON THE SOUTHERLY LINE OF THE GRANITE REEF AQUEDUCT RIGHT-OF-WAY, AS RECORDED IN DOCKET 11594, PAGE 159 THROUGH 162, RECORDS OF MARICOPA COUNTY, ARIZONA, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE SOUTH 76 DEGREES 27 MINUTES 37 SECONDS EAST, ALONG SAID SOUTHERLY LINE, A DISTANCE OF 331.20 FEET;

THENCE SOUTH 13 DEGREES 32 MINUTES 23 SECONDS WEST, PERPENDICULAR TO SAID SOUTHERLY LINE, A DISTANCE OF 140.15 FEET;

THENCE SOUTH 34 DEGREES 22 MINUTES 37 SECONDS WEST, A DISTANCE OF 45.83 FEET TO A POINT ON THE NORTHERLY LINE OF FRANK LLOYD WRIGHT BOULEVARD (C.A.P. PARKWAY), AS RECORDED IN DOCUMENT NOS. 85-016485 AND 85-016489, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE NORTH 55 DEGREES 37 MINUTES 23 SECONDS WEST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 273.75 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 3065.00 FEET;

THENCE NORTHWESTERLY ALONG SAID NORTHERLY LINE AND THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 00 DEGREES 51 MINUTES 02 SECONDS, A DISTANCE OF 45.51 FEET TO A POINT ON THE WEST LINE OF SAID NORTHEAST QUARTER;

THENCE NORTH 00 DEGREES 17 MINUTES 59 SECONDS EAST, A DISTANCE OF 71.63 FEET TO THE TRUE POINT OF BEGINNING;

TOGETHER WITH THE EASEMENTS AND RIGHTS SET FORTH IN THAT CERTAIN RECIPROCAL EASEMENT AGREEMENT RECORDED IN THE OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA AS 88-304199, MODIFIED BY MODIFICATION RECORDED IN THE OFFICIAL RECORDS AS 92-323732.

Parcel located at 21015 N. Cave Creek Road, Phoenix, Arizona (Tax Parcel No. 213-10-004)

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 4 NORTH, RANGE 3 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 23;

THENCE NORTH 00 DEGREES 40 MINUTES 50 SECONDS WEST, ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 290.01 FEET;

THENCE NORTH 89 DEGREES 43 MINUTES 09 SECONDS EAST, PARALLEL WITH AND 290.00 FEET NORTH OF THE SOUTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 315.45 FEET;

THENCE SOUTH 00 DEGREES 40 MINUTES 50 SECONDS EAST, PARALLEL WITH AND 315.44 FEET EAST OF THE WEST LINE, A DISTANCE OF 290.01 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER;

THENCE SOUTH 89 DEGREES 43 MINUTES 09 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 315.45 FEET TO THE POINT OF BEGINNING;

EXCEPT THAT PORTION QUIT CLAIMED TO THE CITY OF PHOENIX, A MUNICIPAL CORPORATION OF THE STATE OF ARIZONA, BY INSTRUMENT RECORDED IN DOCUMENT NO. 1999-0567432, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 65 FEET AND THE SOUTH 40 FEET OF THE SOUTH 290.00 FEET OF THE WEST 315.44 FEET OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 4 NORTH, RANGE 3 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

TOGETHER WITH THAT PART OF THE SAID NORTHWEST QUARTER, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE SAID WEST 65 FEET AND THE NORTH LINE OF THE SAID 40 FEET;

THENCE NORTHERLY ALONG SAID EAST LINE A DISTANCE OF 15 FEET;

THENCE SOUTHEASTERLY TO A POINT ON THE SAID NORTH LINE, WHICH IS 15 FEET EAST OF THE POINT OF BEGINNING;

THENCE TO THE POINT OF BEGINNING;

TOGETHER WITH THE EASEMENTS AND RIGHTS SET FORTH IN THAT CERTAIN CROSS ACCESS EASEMENT AGREEMENT RECORDED IN THE OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA AS 99-0333899, AND RE-RECORDED TO ADD EXHIBIT C THERETO, AS 20060520728.

Parcel located at 13240 N. Scottsdale Road, Phoenix, Arizona (Tax Parcel No. 175-05-193)

LOT ONE (1), "SUPERPUMPER NO. 5", ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 511 OF MAPS, PAGE 18;

TOGETHER WITH THE RIGHTS AND EASEMENTS SET FORTH IN THAT CERTAIN DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS RECORDED AS 91-

039067 OF OFFICIAL RECORDS AS MODIFIED BY INSTRUMENT RECORDED AS 99-0908827.

Parcel located at 15550 N. Thompson Peak Parkway, Scottsdale, Arizona (Tax Parcel No. 217-14-003I)

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

THE BASIS OF BEARINGS FOR THE BEARINGS USED IN THIS DESCRIPTION ARE FROM THE NORTH LINE OF THE NORTHEAST QUARTER SECTION 5, TOWNSHIP 3 NORTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, HAVING A BEARING OF NORTH 89 DEGREES 59 MINUTES 05 SECONDS WEST;

COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER (SOUTH QUARTER CORNER SECTION 5);

THENCE MEASURE ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER NORTH 00 DEGREES 14 MINUTES 58 SECONDS WEST, 629.22 FEET;

THENCE NORTH 45 DEGREES 24 MINUTES 00 SECONDS EAST, 482.49 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 45 DEGREES 24 MINUTES 00 SECONDS EAST, 120.56 FEET;

THENCE NORTH 26 DEGREES 28 MINUTES 31 SECONDS EAST, 37.00 FEET;

THENCE NORTH 45 DEGREES 24 MINUTES 00 SECONDS EAST, 78.00 FEET;

THENCE NORTH 00 DEGREES 24 MINUTES 00 SECONDS EAST 29.70 FEET;

THENCE NORTH 44 DEGREES 36 MINUTES 00 SECONDS WEST, 253.73 FEET;

THENCE SOUTH 44 DEGREES 36 MINUTES 00 SECONDS WEST, 180.99 FEET;

THENCE SOUTH 133.32 FEET;

THENCE SOUTH 44 DEGREES 36 MINUTES 00 SECONDS EAST, 118.23 FEET;

THENCE EAST 28.09 FEET;

THENCE SOUTH 44 DEGREES 36 MINUTES 00 SECONDS EAST, 51.32 FEET TO THE POINT OF BEGINNING;

EXCEPT ALL MINERALS IN THE LAND, AS SET FORTH IN THE PATENT THEREOF; AND

EXCEPT ALL URANIUM, THORIUM, AND OTHER MATERIALS WHICH IS OR MAY BE DETERMINED TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, WHETHER OR NOT OF COMMERCIAL VALUE,

PURSUANT TO THE PROVISIONS OF THE ACT OF AUGUST 01, 1960 (60 STAT. 755), AS SET FORTH IN THE PATENT OF SAID LAND; AND

TOGETHER WITH THE RIGHTS AND EASEMENTS SET FORTH IN THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, ASSESSMENTS, CHARGES, SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS FOR MCDOWELL MOUNTAIN RANCH RECORDED IN THE OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA AS 94-0730728, AS AMENDED BY FIRST AMENDMENT THERETO RECORDED AS 94-0793818 AND IN THAT CERTAIN RECIPROCAL EASEMENT AGREEMENT RECORDED AS 2002-0640384

Parcel located at 4740 E. Dynamite Boulevard, Phoenix, Arizona (Tax Parcel Nos. 211-40-006O and 211-40-006E)

PARCEL NO. 1:

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 30;

THENCE NORTH 89° 59' 14" WEST, ALONG THE SOUTH LINE OF SAID SECTION 30, A DISTANCE OF 360.00 FEET;

THENCE NORTH 00° 00' 46" EAST, DEPARTING SAID SOUTH LINE, A DISTANCE OF 71.00 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00° 00' 46" EAST, A DISTANCE OF 16.69 FEET TO THE BEGINNING OF A TANGENT CURVE OF 53.44 FOOT RADIUS, CONCAVE SOUTHEASTERLY;

THENCE NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 31° 29' 21", A DISTANCE OF 29.37 FEET TO A POINT ON A 112.51 FOOT RADIUS CURVE, WHOSE CENTER BEARS NORTH 62° 40' 54" WEST;

THENCE NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 55° 48' 51", A DISTANCE OF 109.60 FEET;

THENCE NORTH 28° 29' 45" WEST, A DISTANCE OF 4.32 FEET;

THENCE NORTH 57° 30' 00" EAST, A DISTANCE OF 178.93 FEET;

THENCE NORTH 32° 30' 00" WEST, A DISTANCE OF 29.96 FEET;

THENCE NORTH 57° 30' 00" EAST, A DISTANCE OF 29.00 FEET;

THENCE SOUTH 89° 40' 45" EAST, A DISTANCE OF 138.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF TATUM BOULEVARD, AS SHOWN ON THE TATUM RANCH MAP OF DEDICATION RECORDED IN BOOK 319 OF MAPS, PAGE 45, RECORDS OF MARICOPA COUNTY, ARIZONA, SAID LINE BEING PARALLEL WITH

AND 60.00 FEET WESTERLY, AS MEASURED AT RIGHT ANGLES FROM THE EAST LINE OF SAID SECTION 30;

THENCE SOUTH 00° 19' 15" WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 280.00 FEET;

THENCE SOUTH 45° 10' 00" WEST, A DISTANCE OF 29.78 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF DYNAMITE BOULEVARD, AS SHOWN ON SAID TATUM RANCH MAP OF DEDICATION, SAID LINE BEING PARALLEL WITH, AND 60.00 FEET NORTHERLY AS MEASURED AT RIGHT ANGLES FROM THE SOUTH LINE OF SAID SECTION 30;

THENCE NORTH 80° 56' 46"WEST, A DISTANCE OF 70.00 FEET;

THENCE NORTH 89° 59' 10" WEST, A DISTANCE OF 210.19 FEET TO THE POINT OF BEGINNING

NOTE: THE PREVIOUS TWO PARAGRAPHS HAVE BEEN ADDED SINCE THE TIME THE PREVIOUS DEED HAD BEEN RECORDED

PARCEL NO. 2:

NON-EXCLUSIVE EASEMENT FOR THE USE AND ENJOYMENT OF THE COMMON AREAS AS CREATED AND SET FORTH IN SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR TATUM RANCH RECORDED IN DOCUMENT NO. 1988-625068 AND TRACT DECLARATION RECORDED IN DOCUMENT NO. 1996-667171, MARICOPA COUNTY RECORDS.

PARCEL NO. 3:

NON-EXCLUSIVE EASEMENTS FOR THE INGRESS AND EGRESS AND ACCESS AS CREATED AND SET FORTH IN EASEMENT AGREEMENT RECORDED IN DOCUMENT NO. 1998-403619, MARICOPA COUNTY RECORDS.

EXHIBIT C

ENVIRONMENTAL INSURANCE GUIDELINES

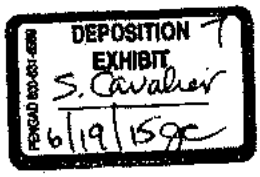
Following is a list of criteria we use to assess the acceptability of an environmental insurance policy. The criteria is divided between the two most commonly used types of policies –a lender's policy and an owner's or borrower's policy.

Lender's Policies Criteria:

1. Meet rating agency criteria to the extent possible, and understand where the shortfall is between your policy and the rating agency criteria.
2. Ensure that the insurer is rated AA or Aa2.
3. Ensure lender and any successor in interest is listed as additional insured.
4. Ensure policy term of 5 years beyond maturity date of loan; or recommend loan documents require additional coverage on rolling basis.
5. Determine policy form best suited for issue (loan balance, lesser-of, clean-up cost), and coverage limits (loan balance $125% of OPB, lesser-of or clean-up cost: an arbitrary amount typically higher than any anticipated issues could cost to resolve – based on market acceptability).
6. Deductibles or self-insured retentions should be zero (0), or an escrow fund established with the borrower to make up the difference.
7. Policies should not contain any retroactive dates for coverage.
8. No exclusions for known or pre-existing conditions.
9. Obtain a "disclosed document" endorsement stipulating which reports were delivered to the insurance company prior to binding the policy.
10. Ensure that any USTs are scheduled onto the policy for coverage.
11. Ensure that all conditions of coverage listed on a quote are removed prior to binding policy (except for payment of premium).
12. Limit opportunity of insurer to cancel policy due to fraudulent acts of insured in application.
13. Ensure no termination of coverage in the event loan ownership changes.
14. Ensure guaranteed assignability of policy to lender's successor in interest.
15. Most insurers have endorsements specific to the CMBS markets, ensure they are offered for your policy.
16. Ensure loan does not contain hyper-amortization feature.
17. All other terms and conditions must be acceptable to lender.

OWNER'S / BORROWER'S POLICIES CRITERIA

1. Ensure that the insurer is rated AA or Aa2
2. Ensure insured is record title holder to property
3. Ensure lender and any successor in interest in the mortgage loan is listed as additional insured/ loss payee.
4. Ensure policy term of 5 years beyond maturity date of loan, or provide for rolling renewal of minimum 10 year policy.
5. Ensure appropriate coverage dependant upon circumstances affecting property, i.e., pre-existing and subsequently occurring contamination of both known and unknown conditions, affecting either on-site or off-site properties and providing for bodily injury coverage.
6. Coverage limits: depends upon the risk being covered.
7. Deductibles or self-insured retentions should be zero (0), or an escrow fund established with the borrower to make up the difference.
8. Policies should not contain any retroactive dates for coverage.
9. No exclusions for known or pre-existing conditions.
10. Obtain a "disclosed document" endorsement stipulating which reports were disclosed and/or delivered to the insurance company prior to binding the policy.
11. If policy excludes USTs from coverage unless scheduled by endorsement, ensure that any USTs are scheduled onto the policy for coverage.
12. Ensure that all conditions of coverage listed on a quote are removed prior to binding policy (except for payment of premium).
13. The policy should specify that misrepresentation, concealment, breach of condition or violation of any duty under the policy by any insured shall not affect the rights and interests of any other insured under the policy.
14. Limit opportunity of insurer to cancel policy due to fraudulent acts of insured in application.
15. Ensure no termination of coverage in the event property ownership changes.
16. Ensure notice to all insureds under policy.
17. Ensure guaranteed assignability of lender's coverage of policy to lender's successor in interest.
18. Ensure loan does not contain hyper-amortization feature.
19. All other terms and conditions must be acceptable to lender.



SUPERPUMPER, INC.

FINANCIAL STATEMENTS

December 31, 2008

Gursey | Schneider LLP
CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS

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Gursey | Schneider LLP
CERTIFIED
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Independent Auditors' Report

Board of Directors
Superpumper Inc.
Scottsdale, Arizona

We have audited the accompanying balance sheet of Superpumper, Inc. (the "Company") as of December 31, 2008 and the related statements of operations, stockholder's equity and cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Superpumper, Inc. as of December 31, 2008, and the results of its operations and its cash flows for the fiscal year then ended in conformity with accounting principles generally accepted in the United States of America.

Gursey | Schneider LLP

February 23, 2009
Los Angeles, California

SUPERPUMPER INC.
Balance Sheet
December 31, 2008

ASSETS

CURRENT ASSETS:	
Cash and cash equivalents	$ 506,632
Accounts receivable	234,400
Inventories	1,289,197
Prepaid expenses	90,830
Total Current Assets	2,121,059
PROPERTY, PLANT AND EQUIPMENT, net	1,727,508
OTHER ASSETS	
Due from affiliates	5,718,135
Trademarks	1,482,063
Rent deposits	117,128
TOTAL ASSETS	$ 11,165,893

LIABILITIES AND STOCKHOLDER'S EQUITY

CURRENT LIABILITIES	
Accounts payable	$ 948,672
Accrued liabilities	901,120
Line of credit	1,535,000
Total Current Liabilities	3,384,792
STOCKHOLDER'S EQUITY	
Common stock, no par value;	
Authorized shares - 1,000,000	
Issued and outstanding shares - 1,000	10,000
Additional paid-in capital	4,284,605
Retained earnings	3,486,496
Total Stockholder's Equity	7,781,101
TOTAL LIABILITIES AND STOCKHOLDER'S EQUITY	$ 11,165,893

See Accompanying Notes to Financial Statements

SUPERPUMPER INC.
Statement of Operations
Year Ended December 31, 2008

REVENUES	
Fuel	$ 77,122,928
Grocery and merchandise	15,318,568
Car wash, propane and other income, net	1,128,787
Lottery, net	121,259
Total Revenues	93,691,542
COST AND EXPENSES	
Cost of fuel	69,829,296
Cost of grocery and merchandise sold	10,418,440
General and administrative	11,655,718
Depreciation and amortization	330,705
Total Cost and Expenses	92,234,159
NET INCOME FROM OPERATIONS	1,457,383
OTHER INCOME AND EXPENSE	
Interest income	235,474
Interest expense	(66,937)
Total Other Income, net	168,537
NET INCOME	1,625,920
RETAINED EARNINGS - Beginning of Year	3,310,576
Distributions to stockholder	(1,450,000)
RETAINED EARNINGS - End of Year	$ 3,486,496

See Accompanying Notes to Financial Statements

SUPERPUMPER INC.
Statement of Stockholder's Equity
For the Year Ended December 31, 2008

	Common Stock No Par Value 1,000,000 Share Authorized 1,000 Shares Issued and Outstanding		Additional Paid-In Capital	Retained Earnings	Total
	Shares	Amount			
Balance, December 31, 2007	1,000	$ 10,000	$ 4,284,605	$ 3,310,576	$ 7,605,181
Net income	-	-	-	1,625,920	1,625,920
Shareholder distributions	-	-	-	(1,450,000)	(1,450,000)
Balance, December 31, 2008	1,000	$ 10,000	$ 4,284,605	$ 3,486,496	$ 7,781,101

See Accompanying Notes to Financial Statements

4989

SUPERPUMPER INC.
Statement of Cash Flows
For the Year Ended December 31, 2008

CASH FLOWS PROVIDED BY (USED IN) OPERATING ACTIVITIES	
Net income	$ 1,625,920
Adjustments to reconcile net income to net cash provided by (used in) operating activities:	
Depreciation and amortization	330,705
Change in current assets and liabilities:	
Decrease in accounts receivable	151,219
Decrease in inventories	528,487
Increase in prepaid expenses	(13,770)
Decrease in accounts payable	(1,168,122)
Increase in accrued liabilities	222,912
NET CASH PROVIDED BY OPERATING ACTIVITIES	1,657,351
CASH FLOWS USED IN INVESTING ACTIVITIES:	
Purchase of property and equipment	(181,049)
CASH FLOWS USED IN FINANCING ACTIVITIES:	
Proceeds from line of credit, net	1,099,912
Advances to affiliates	(1,759,203)
Distributions to stockholder	(1,450,000)
NET CASH USED IN FINANCING ACTIVITIES	(2,109,291)
NET DECREASE IN CASH	(632,989)
CASH - December 31, 2007	1,139,621
CASH AND CASH EQUIVALENTS - December 31, 2008	$ 606,632

SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION

Cash paid for:	
Interest	$ 66,937

See Accompanying Notes to Financial Statements

NOTE 1 — SUMMARY OF ACCOUNTING POLICIES AND PRACTICES

Description of Business — Superpumper Inc. (an Arizona corporation) (the "Company") is engaged in the retail sale of petroleum products. The Company operates eleven convenience stores / gas stations, which market petroleum products, grocery and general merchandise items to the general public. Four locations also provide car wash service. All of the stores are located in the Phoenix / Scottsdale, Arizona metropolitan area. The stations are all branded under the "Superpumper" brand and dispense fuel purchased primarily from Shell Oil Products US.

Basis of Presentation — On April 24, 2006, P.A. Morabito Arizona & Co., Limited, A Nevada Corporation, ("PAMAZ"), which is controlled by Paul Morabito, purchased the common stock and real estate of Superpumer Inc. (the "Predecessor Company"). The real estate occupied by Superpumper was owned by an entity under common ownership of the owners of the Predecessor Company and leased to the Predecessor Company under long-term land leases. Immediately after the purchase, PAMAZ sold the real estate assets to a finance company. The Company then entered into a new land lease with the finance company to lease back the land from the finance company. After these transactions, all real estate and leasehold rights previously owned by affiliates of the Predecessor Company are now held by third parties.

In accordance with *EITF 88-16, Basis in Leveraged Buyout Transactions*, due to the change in control of voting interest, a change in accounting basis is appropriate, and as a result, the purchase method of accounting was used. Under the purchase method of accounting, $4.3 million purchase price was allocated to Superpumper Inc.'s net tangible and intangible assets based upon their estimated fair values as of the acquisition date.

PAMAZ subsequently changed its name to Consolidated Western Corporation (a Nevada corporation) ("CWC").

Revenue Recognition — The Company recognizes revenue at the point-of-sale for retail sales. The Company also earns promotional rebates and allowances. Vendors pay the Company to promote and sell their product and thus these rebates and allowances are usually computed as a percentage of products sold. Promotional and rebate allowances are recorded as a reduction of cost of goods sold when invoiced or expected collection criteria have been met.

Receivables — Trade accounts receivable consist primarily of promotional allowances and rebates. The Company considers these receivables to be fully collectible; accordingly, no allowance for doubtful accounts are required. If amounts become uncollectible they will be charged to operations when that determination is made.

Inventories — Petroleum products, grocery and general merchandise inventories are stated at the lower of cost or market. Cost is determined for petroleum products using the average cost method. Due to the relatively high turnover of fuel, average cost approximates net realizable value. Grocery and general merchandise inventory is valued using the first-in, first-out (FIFO) method, using retail and cost method.

NOTE 1 — SUMMARY OF ACCOUNTING POLICIES AND PRACTICES – (CONTINUED)

Property, Plant and Equipment — Property, plant and equipment are state at cost. Costs of improvements are capitalized. Costs of normal repairs and maintenance are charged to expense as incurred. Upon the sale or retirement of property and equipment, the cost and related accumulated depreciation are removed from the respective accounts, and the resulting gain or loss, if any, is included income.

Depreciation is calculated on the straight-line method over the estimated useful lives of the assets. The estimated useful lives of building and improvements are 17 1/2 years, while computers, vehicles and other equipment are depreciated over 5 - 7 years. Plant and equipment held under capital leases and leasehold improvements are amortized straight line over the shorter of the lease term or estimated useful life of the asset. Total depreciation expense for the year ended December 31, 2008 was $330,705.

Goodwill and Intangible Assets — Goodwill represents the excess of costs over fair value of assets of businesses acquired. The Company adopted the provisions of *SFAS No. 142, Goodwill and Other Intangible Assets, as of January 1, 2002.* Goodwill and intangible assets acquired in a purchase business combination and determined to have an indefinite useful life are not amortized, but instead tested for impairment at least annually in accordance with the provisions of SFAS No. 142. SFAS No. 142 also requires that intangible assets with estimable useful lives be amortized over their respective estimated useful lives to their estimated residual values, and reviewed for impairment in accordance with *SFAS No. 144, Accounting for Impairment or Disposal of Long-Lived Assets.*

Intangible assets at December 31, 2008 arise from the change in accounting basis discussed above, and consist solely of trademarks with an indefinite life.

Advertising — Advertising costs are expensed as incurred. Advertising costs amounted to $919 in 2008.

Income Taxes – Superpumper Inc. is treated as a Qualified Subchapter S subsidiary of CWC for tax purposes. Income taxes on net earnings of Superpumper Inc. are payable personally by the stockholder of CWC pursuant to the election under Subchapter S of the Internal Revenue Code not to have the Company taxed as a corporation. Accordingly, no provision for income taxes is included in these financial statements.

Shipping and Handling Fees and Costs – Shipping and handling fees, consisting primarily of in-bound fuel delivery costs, are expensed and included as part of cost of goods sold.

Fair Value of Financial Instruments — The carrying amounts of cash and cash equivalents, accounts receivable, due from related parties, inventories, accounts payable and accrued liabilities approximate fair value because of the short-term maturity of these instruments. Notes and leases payable approximate fair value because the interest rates are tied to current market conditions.

NOTE 1 — SUMMARY OF ACCOUNTING POLICIES AND PRACTICES (CONTINUED)

Concentrations of Risk

Business Concentrations -- The Company's operations are dependent upon having a supply of fuel to purchase from vendors. The Company currently has a multi-year contract with Shell Oil Products U.S. to purchase a set quantity of fuel ranging from minimum to maximum quantities each month. This agreement expires on April 30, 2011. Without such contracts, the Company would have to purchase its fuel supplies at the market spot price, which are subject to price and supply volatility. In exchange, the Company is given the rights to use Shell logo branding and participation in a dealer rebate incentive program.

The Company also has supply agreements with other consumer products companies for the purchase of fountain drinks, grocery and general merchandise.

Credit Concentrations – The Company maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The Company has not experienced any losses in such accounts. The Company believes it is not exposed to any significant credit risk on cash.

Impairment of Long-Lived Assets — In accordance with SFAS No. 144, long lived assets, such as property, plant, and equipment, and purchased intangibles subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized by the amount by which the carrying amount of the asset exceeds the fair value of the asset. Assets to be disposed of would be separately presented in the balance sheet and reported at the lower of the carrying amount or fair value less costs to sell, and are no longer depreciated. The assets and liabilities of a disposed group classified as held for sale would be presented separately in the appropriate asset and liability sections of the balance sheet.

Goodwill and intangible assets not subject to amortization are tested annually for impairment, and are tested for impairment more frequently if events and circumstances indicate that the asset might be impaired. An impairment loss is recognized to the extent that the carrying amount exceeds the asset's fair value.

Commitments and Contingencies — Liabilities for loss contingencies arising from claims, assessments, litigation, fines, and penalties and other sources are recorded when it is probable that a liability has been incurred and the amount of the assessment and/or remediation can be reasonably estimated

Statement of Cash Flows — The Company considers cash and cash equivalents to be all highly liquid investments with an original maturity of three months or less. Amounts in-transit from banks for customer credit card, debit card and electronic benefit transfer transactions that process in less than seven days are classified as cash and cash equivalents.

NOTE 1 — SUMMARY OF ACCOUNTING POLICIES AND PRACTICES – (CONTINUED)

Use of Estimates – The preparation of financial statements requires management of the Company to make a number of estimates and assumptions relating to the reported amount of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the period. Significant items subject to such estimates and assumptions include the carrying amount of property, plant and equipment; valuation allowances for receivables, and contingent liabilities. Actual results could differ from those estimates.

NOTE 2 — INVENTORIES

Inventories at December 31, 2008 consist of the following:

Fuel	$ 508,607
Grocery and general merchandise	780,590
	$ 1,289,197

NOTE 3 — PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment are stated at cost and consist of the following at December 31, 2008:

Equipment	$ 1,579,071
Building and leasehold improvements	508,483
Computers	300,515
Vehicles	35,411
	2,423,480
Less: Accumulated depreciation	695,972
	$ 1,727,508

NOTE 4 — LEASES

The Company is obligated under several noncancelable operating leases, primarily for use of land and convenience store structure, that expire over the next twenty years. These leases generally contain renewal options for periods ranging from up to an additional forty years and require the Company to pay all executory costs such as maintenance, property taxes and insurance. Certain leases also contain escalations tied to various indices. Rental expense during 2008 was $4,648,613.

Future minimum lease payments under noncancelable operating leases (with initial or remaining lease terms in excess of one year) as of December 31, 2008 are:

Year ending December 31:	
2009	$ 4,372,080
2010	4,414,525
2011	4,347,181
2012	4,263,370
2013	4,320,678
Later years, through 2027	53,621,268
Total minimum lease payments	$ 75,339,102

NOTE 5 — LINE OF CREDIT

The Company maintains a Revolving Line of Credit that allows borrowings up to $2,000,000. Borrowings bear interest at the LIBOR plus 2.00% (which amounted to 5.85% at December 31, 2008). The line of credit matures on December 31, 2009 and is guaranteed by the Company's shareholder.

The debt agreement contains certain affirmative and negative covenants including maintenance of certain financial ratios as defined in the agreement. The Company believes it is in compliance with its debt covenants at December 31, 2008.

NOTE 6 — RELATED PARTY TRANSACTIONS

Due from Affiliates — Related parties represent advances made to the following individuals or companies as of December 31, 2008:

Note receivable - shareholder, 5.0%, due December 31, 2009	$ 623,021
Advances to shareholder, 5.4%, due on demand	4,521,085
Advances to affiliate, unsecured, due on demand	339,341
	$ 5,483,447

These amounts have been classified as non current in the accompanying balance sheet because repayment is not anticipated during the next year.

NOTE 7 — CONTINGENCIES

The Company is subject to loss contingencies pursuant to environmental laws and regulations that in future will require the Company to take action to correct the effects on the environment of prior disposal or release of petroleum substances by the Company or other parties. Such contingencies may exist for various sites including, land development areas, whether operating, closed or sold. The amount of such future cost is interminable due to such factors as the unknown magnitude of possible contamination, the unknown timing and extent of corrective actions that may be required, the determination of the Company's liability in proportion to other responsible parties and the extent to which such costs are recoverable from third parties. While the Company provides for known environmental obligations that are probable.

There are no known or reported claims or environmental issues as of December 31, 2008. Accordingly, no provision for environmental contingencies has been provided in the accompanying financial statements.

The Company is involved in various other claims and legal actions arising in the ordinary course of business. In the opinion of management, the ultimate disposition of these matters will not have a material adverse effect on the Company's consolidated financial position, results of operations, or liquidity.

NOTE 8 — PROFIT SHARING PLAN

The Company has a Profit Sharing Plan and Trust which includes a 401 (k) arrangement. The plan and trust is intended to qualify as a profit sharing plan with a salary reduction arrangement. Profit sharing contributions are voluntary and at the discretion of the Board of Directors. There were no plan contributions made for the period ended December 31, 2008.

Rebecca Post

From: Paul Morabito <pmorabito@cowestco.com>
Sent: Monday, November 9, 2009 4:30 PM
To: Daniel Fletcher; Jim Benbrook; Don Whitehead; Sam Morabito; janfriede@aol.com; stan@bernstein-cpabiz.com; SYalaman@hodgsonruss.com
Subject: Consultant

Jan Friederich/GDi has entered into a consulting agreement with Superpumper Inc. to supervise and direct the operations of the company. Effective immediately all operations management and staff other than finance will report directly to Jan. Sam and I should be copied on all directives and communications.

Paul Morabito
Chairman
Cowesto Investment LLC
US: (775) 682-3910
CDN: (416) 915-4160
UK: 0-777-0 385385
fax: (480) 222-1062
pmorabito@cowestco.com

Sent wirelessly from my BlackBerry device on the Verizon network.
Envoyé sans fil par mon terminal mobile BlackBerry sur le réseau de Verizon.

4997

BBVA Compass

2860 East Camelback Road Suite 140
Phoenix, AZ 85016

September 30, 2010

VIA E-MAIL AND OVERNIGHT DELIVERY

Superpumper Inc.
14631 North Scottsdale Road, #125
Scottsdale, Arizona 85254

Mr. Paul A. Morabito
59 Damonte Ranch Parkway, Suite B335
Reno, Nevada 89521

Consolidated Western Corporation
c/o Superpumper Inc.
14631 North Scottsdale Road, #125
Scottsdale, Arizona 85254

RE: Business Loan Agreement dated November 5, 2009 (as amended, the "Revolving Loan Agreement") by and between Superpumper, Inc. ("Superpumper") and Compass Bank ("BBVA Compass"), as amended by that certain Modification to Loan Agreement dated as of August 13, 2010 (the "Modification"); Loan Agreement dated August 13, 2010 by and between Superpumper and BBVA Compass ("Term Loan Agreement")

Ladies and Gentlemen:

Reference is made to the Revolving Loan Agreement and the Term Loan Agreement described above. Capitalized terms used herein without definition have the meaning ascribed to them in the Revolving Loan Agreement and the Term Loan Agreement, as applicable.

Under the terms and conditions of the Revolving Loan Agreement, BBVA Compass made a revolving credit facility available to Superpumper in the original principal amount of $3,000,000.00 (the "Revolving Loan"), as evidenced by that certain Promissory Note dated November 5, 2009 executed by Superpumper in favor of BBVA Compass (as amended, the "Revolving Note", and together with the Revolving Loan Agreement and all other agreements, documents, and instruments evidencing, securing or otherwise relating to the Revolving Loan Agreement, as amended, the "Revolving Loan Documents"). Under the terms of the Modification, the face amount of the Revolving Note was reduced to $2,500,000.00. Payment

and performance of Superpumper's obligations under the Revolving Loan Documents is guaranteed by Paul A. Morabito ("Mr. Morabito") pursuant to that certain Guaranty dated as of November 5, 2009.

Under the terms and conditions of the Term Loan Agreement, BBVA Compass made a term loan to Superpumper in the original principal amount of $3,000,000.00 (the "Term Loan", and together with the Revolving Loan, the "Loans"), as evidenced by that certain Promissory Note dated as of August 13, 2010 executed by Superpumper in favor of BBVA Compass (the "Term Note", and together with the Term Loan Agreement and all other agreements, documents, and instruments evidencing, securing or otherwise relating to the Term Loan Agreement, as amended, the "Term Loan Documents"). Payment and performance of Superpumper's obligations under the Term Loan Documents is guaranteed by Mr. Morabito and by Consolidated Western Corporation, a Nevada corporation ("CWC", and together with Mr. Morabito, the "Guarantors"), pursuant to that certain Unconditional Guaranty dated August 13, 2010.

We are in receipt of Mr. Morabito's e-mail dated September 24, 2010 (the "9/24/10 Notice"). In the 9/24/10 Notice, Mr. Morabito acknowledges that Superpumper is in default of several of the provisions contained in the Revolving Loan Documents and the Term Loan Documents (the "Acknowledged Events of Default"). In addition, Mr. Morabito has advised BBVA Compass that the Acknowledged Events of Default have been triggered by the entry of an approximately $75,000,000.00 judgment against Mr. Morabito and other defendants.

As a result of the Acknowledged Events of Default: (i) BBVA Compass is entitled to exercise its rights and remedies under the Revolving Loan Documents, the Term Loan Documents, at law and in equity, against Superpumper, Guarantors, and the collateral securing the amounts owed by Superpumper to BBVA Compass, and (ii) BBVA Compass is not obligated to make any advances available to Superpumper, and any advances made by BBVA Compass, on or after the date of this letter are made as an accommodation only, and the same do not constitute nor may be deemed to constitute a waiver by BBVA Compass of any of its rights or remedies under the Revolving Loan Documents, the Term Loan Documents, at law or in equity. BBVA Compass hereby reserves all rights and remedies under the Revolving Loan Documents, the Term Loan Documents, at law and in equity with regard to the foregoing Acknowledged Events of Default.

Superpumper and Guarantors have requested that BBVA Compass enter into discussions regarding a potential workout of the Loans. Although not obligated to do so, BBVA Compass is willing to enter into workout discussions regarding the Loans but only with the understanding that such discussions are non-binding in nature and that, notwithstanding the existence or content of any communication, including, but not limited to, any verbal

conversations, by or between Superpumper, Guarantors, and BBVA Compass, or any of their representatives, regarding the Acknowledged Events of Default or any other default or Event of Default, no waiver, forbearance, loan modification, or other similar action by BBVA Compass with regard to such default or Event of Default will be effective unless the same has been reduced to writing and executed by an authorized representative of BBVA Compass, Superpumper, and every other entity deemed necessary or appropriate by BBVA Compass.

Superpumper and Guarantors have also requested that BBVA Compass agree to an increase in the face amount of the Revolving Note to $3,000,000.00. In light of Superpumper's current circumstances, including the existence of the Acknowledged Events of Default, BBVA Compass is unwilling to agree to this request. In accordance with the Revolving Loan Documents, Superpumper is required to reduce the amount outstanding under the Revolving Loan to $2,500,00.00. Superpumper's failure to do so will result in further events of default under the Revolving Loan Documents and the Term Loan Documents. Please contact me as soon as possible to confirm the reduction of the outstanding amounts due under the Revolving Loan.

Additional events may have occurred which would constitute defaults or, if uncured within any applicable cure periods, would constitute Events of Default. BBVA Compass hereby reserves the right to declare any such events as defaults or Events of Default, as applicable, at any time in the future and hereby reserves all of BBVA Compass's rights and remedies under the Revolving Loan Documents, the Term Loan Documents, at law and in equity, with regard thereto. Any failure to specify such events in this letter will not constitute a waiver of any default or Event of Default resulting from such events.

Any failure or delay by BBVA Compass in exercising any right, power, or remedy under the Revolving Loan Documents, the Term Loan Documents, at law or in equity, or any acceptance of partial performance or partial payment: (i) will not operate as a waiver of such right, power, or remedy, nor will any single or partial exercise of any such right, power, or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power, or remedy; and (ii) will not be sufficient, by itself or together with any other action or inaction by BBVA Compass, to establish a course of dealing or course of conduct by BBVA Compass upon which Superpumper or Guarantors are entitled to rely.

Nothing contained in this letter is a waiver or modification of any right, power, or remedy of BBVA Compass under the Revolving Loan Documents, the Term Loan Documents, nor a waiver or modification of any provision thereof; and nothing in this letter will be or will be construed as any such waiver, modification, or agreement.

Please contact the undersigned if you would like to discuss this matter further.

Sincerely,

Shawn R. Hollenbach
Vice President
BBVA Compass Bank

Quarles & Brady LLP

One Renaissance Square
Two North Central Avenue
Phoenix, Arizona 85004-2391
Tel 602.229.5200
Fax 602.229.5690
www.quarles.com

Attorneys at Law in:
Phoenix and Tucson, Arizona
Naples, Florida
Chicago, Illinois
Milwaukee and Madison, Wisconsin

CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO ARIZONA AND FEDERAL RULES OF EVIDENCE, RULE 408

October 15, 2010

VIA E-MAIL AND OVERNIGHT DELIVERY

Dennis C. Vacco, Esq.
Lippes Mathias Wexler Friedman LLP
665 Main Street, Suite 300
Buffalo, New York 14203

Re: ***Defaults under Business Loan Agreement dated November 5, 2009 (as amended, the "Revolving Loan Agreement") by and between Superpumper, Inc. ("Borrower") and Compass Bank, an Alabama banking corporation ("Compass"), under the terms and conditions of which Compass made a revolving loan available to Borrower in the original principal amount of $3,000,000.00 (the "Revolving Loan") as evidenced by that certain Promissory Note dated November 5, 2009 executed by Borrower in favor of Compass (the "Revolving Note", and together with all related loan documents, the "Revolving Loan Documents")***

Defaults under Loan Agreement dated August 13, 2010 (as amended, the "Term Loan Agreement") by and between Borrower and Compass, under the terms and conditions of which Compass made a term loan to Borrower in the original principal amount of $3,000,000.00 (the "Term Loan") as evidenced by that certain Promissory Note dated August 13, 2010 executed by Borrower in favor of Compass (the "Term Note", and together with all related loan documents, the "Term Loan Documents")

Mr. Vacco:

Our Firm represents Compass with respect to the Revolving Loan, the Term Loan, and other related matters. Reference is made to the Revolving Loan Documents and Term Loan Documents described above. The Revolving Loan Documents and the Term Loan Documents are collectively referred to in this letter as the "Loan Documents". Capitalized terms used herein without definition will have the meanings assigned thereto in the Loan Documents, as applicable.

By letter dated October 15, 2010, Compass through its counsel notified Borrower of the occurrence of certain events of default under the Revolving Loan Agreement and the Term Loan Agreement (collectively, the "Acknowledged Events of Default"). Borrower confirms that it previously acknowledged the existence of the Acknowledged Events of Default. Notwithstanding the existence of the Acknowledged Events of Default, however, Borrower has requested that Compass proceed in discussions and negotiations with Borrower to address issues related to the Acknowledged Events of Default (the "Discussions"). Compass is willing to enter into Discussions with Borrower regarding Borrower's proposal. To encourage free and open discussions while ensuring and confirming that Compass is not amending, modifying, or otherwise limiting in any way Compass's rights under the Loan Documents or pursuant to applicable law, unless and until a final written agreement acceptable in all respects to Compass has been executed, Compass and Borrower have prepared and signed this letter.

As a result of the Acknowledged Events of Default, Compass is entitled to exercise its rights and remedies under the Revolving Loan Agreement, the Term Loan Agreement, and the other Loan Documents, at law and in equity, against Borrower and the collateral. Borrower should understand that by entering into these Discussions at Borrower's request, Compass is making no assurances that it will forbear in any way from exercising its rights and remedies to protect its interests. Accordingly, with respect to the Discussions, Borrower agrees as follows:

- **Compass has no obligation to enter any further agreement with Borrower.**
- **The Loan Documents will only be modified by the execution of a separate final written agreement.**
- **Compass does not waive, and hereby reserves, all of its rights and remedies under the Loan Documents, at law or in equity.**
- **The Discussions are in the nature of settlement negotiations subject to Rule 408, Federal Rules of Evidence (and any similar provision of any applicable state statutes, evidentiary rules, or rules of procedure) and, accordingly, the content of the Discussions shall not be admissible in, and shall not be used in, any proceeding (judicial or otherwise), arbitration, administrative proceeding, or other binding dispute resolution proceeding of any kind for any purpose, including, but not limited to, use as evidence.**
- **Borrower should not pass up or ignore other opportunities that might arise to resolve, through other means, any issues with Compass, the Revolving Loan, or the Term Loan.**
- **Borrower should not take any action, or fail to take action, in reliance upon Compass's willingness to enter Discussions.**

- **The Discussions with Compass will not relieve Borrower of its obligation to fully and timely perform under the terms and conditions of the Loan Documents.**

- **The parties acknowledge that the Discussions are entered into for the sole benefit of Borrower and Compass, and no other person or entity shall have any rights by reason of the Discussions or this letter agreement.**

- **Compass has no obligation to make any loans to Borrower, and any loans made by Compass on or after the date of this letter are made as an accommodation only, and do not constitute, nor shall be deemed to constitute, a waiver by Compass of any rights or remedies under the Loan Documents, at law or in equity.**

- **The acceptance by Compass of any partial payment or performance from Borrower shall not constitute a commitment by Compass to modify the Loan Documents, reinstate any loans or cure any default or event of default, constitute an agreement by Compass to forbear from exercising its rights and remedies, or act to waive any of Compass's rights and remedies under the Loan Documents, at law or in equity.**

- **For purposes of the Discussions to be undertaken pursuant to this letter, each signatory will designate in writing, within 3 business days of its execution of this letter, its authorized representative(s) for conducting the Discussions, including the contact phone numbers and e-mail addresses of such representatives. Borrower acknowledges that any and all requests to change, modify, or amend the Revolving Loan, the Term Loan, or the Loan Documents in any way will be communicated through Compass's representative (as identified pursuant to this paragraph) and in the manner determined by Compass in its sole and absolute discretion. As an initial matter, Compass designates its representatives as follows:**

Chris Webster
Executive Vice President
BBVA Compass
2850 E. Camelback Road, Suite 140
Phoenix, AZ 85016
United States of America
(602) 522-7520 (Tel)
(602) 778-0778 (Fax)

Ken Ehrhardt
Senior Vice President
Commercial Banking Manager
BBVA Compass
2850 E. Camelback Rd., Suite 140
Phoenix, AZ 85016
(602) 522-6888 (Tel)
(205) 524-0187 (Fax)

Any failure or delay by Compass in exercising any right, power, or remedy under the Revolving Loan Agreement, the Term Loan Agreement, or the other Loan Documents, at law or in equity, or any acceptance of partial performance or partial payment (i) shall not operate as a waiver of such right, power, or remedy, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power, or remedy, and (ii) shall not be sufficient, by itself or together with any other action or inaction by Compass, to establish a course of dealing or course of conduct by Compass upon which Borrower shall be entitled to rely.

Notwithstanding the existence or content of any communication by or between Borrower and Compass, or any of their respective representatives, regarding any default or event of default, no waiver, forbearance, or other similar action by Compass with regard to such default or event of default shall be effective unless the same has been reduced to writing and executed by an authorized representative of Compass, Borrower, and every other entity deemed necessary and desirable by Compass.

Nothing contained in this letter is a waiver or modification of any right, power, or remedy of Compass under the Revolving Loan Agreement, the Term Loan Agreement, or the other Loan Documents, nor a waiver or modification of any provision thereof, nor an agreement to make any loans after the date of this letter, and nothing in this letter will be or will be construed as any such waiver, modification, or agreement.

Please discuss this matter with Borrower, and if it is in agreement, please have Borrower sign below where indicated and return a copy of this letter to our attention.

Very truly yours,

Brian Strower
FOR THE FIRM

cc Ken Ehrhardt
Chris Webster

QB\11500297.4

ACCEPTED AND AGREED TO this ____ day of _____, 2010.

"BORROWER":

SUPERPUMPER, INC., an Arizona corporation

By: _____
Name: _____
Title: Authorized Signatory

Your branch address:

10TH FLOOR
1 FIRST CANADIAN PLACE
TORONTO, ON
M5X1A3

BMO Account Tracker®™

Your investment and banking report

October 1 to October 31, 2010

BMACT41000_1752022_004 E D 3213 01168
MR PAUL A. MORABITO
74 BRECKINRIDGE AVENUE
ST CATHERINES ON L2W 1C4

Your BMO Account Tracker reference number
3213-3021-506

Your branch
BMO HARRIS PRIVATE BANKING
Transit number: 3213

Your contact at the branch
[illegible] DOUCET
(416) 3[illegible]4695

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DUPLICATE

Summary of your portfolio

Change in the value of your accounts

Canadian $ accounts	Opening value	Value on October 31, 2010
Everyday Banking accounts		
Chequing	57[illegible].17	578.17
Total	$[illegible].17	**$578.17**
US $ accounts		
Everyday Banking accounts		
Chequing	[illegible]8.53	48.53
Savings	97,151.30	614,084.93
Total	**$197,199.83**	**$614,133.46**

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Summary of your portfolio (continued)

Here's a breakdown of your accounts

Canadian $ accounts	Value on October 31, 2010	Details start on
Everyday Banking accounts		
Primary Chequing Account # 3213 3021-506	$578.17	Page 3
Total	**$578.17**	
US $ accounts		
Everyday Banking accounts		
US$ Primary Chequing Account # 3213 4513-392	48.53	Page 3
US$ Premium Rate Savings # 3213 4513-982	614,084.93	Page [illegible]
Total	**$614,133.46**	

DUPLICATE

Everyday Banking accounts

Summary of your accounts

Account	Opening balance	Total amounts - [illegible]	Total amounts [illegible]	=	Closing balance on Oct 31, 2010
Primary Chequing Account # 3213 3021-506	$578.17	$0.00	$0.00		$578.17
US$ Primary Chequing Account # 3213 4513-392	[illegible]	$0.00	$0.00		(US)$48.53
US$ Premium Rate Savings # 3213 4513-982	[illegible]	[illegible]2,334.15	$1,229,267.78		(US)$614,084.93

THANK YOU!

We appreciate your business.

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BMO Account Tracker®™

Your investment and banking report
MR PAUL A. MORABITO - October 1 to October 31, 2010

Here's what happened in your accounts

Date	Description	Amounts deducted from your account ($)	Amounts added to your account ($)	Balance ($)
	Primary Chequing Account # 3213 3021-506			
	Plan type: Platinum Banking			
Owner: MR PAUL A. MORABITO				
	Opening balance			578.17
Oct 31	**Closing totals**	$0.00	0.00	**$578.17**

Number of cheques or related items enclosed with your statement..... 0

	US$ Primary Chequing Account # 3213 4513-392			
	Plan type: Platinum Banking			
Owner: MR PAUL A. MORABITO				
	Opening balance			48.53
Oct 31	**Closing totals**	$0.00	$0.00	**(US)$48.53**

DUPLICATE

BMACCT41000_1752002_004 - 0016171 HRI - - 04 - 03 - 09 - - 011245

Here's what happened in your accounts (continued)

Date	Description	Amounts deducted from your account ($)	Amounts added to your account ($)	Balance ($)
	US$ Premium Rate Savings # 3213 4513-982			
	Plan type: Platinum Banking			
	Owner: MR PAUL A. MORABITO			
	Opening balance			197,151.30
Oct 01	Outgoing Wire Payment, WIRE PYMT 3213 321338654	40,000.00		157,151.30
Oct 01	Outgoing Wire Handling Fee	80.00		157,071.30
Oct 01	Outgoing Wire Comm. Fee	10.00		157,061.30
Oct 01	Outgoing Wire Payment, WIRE PYMT 3213 321338663	28,000.00		129,061.30
Oct 01	Outgoing Wire Handling Fee	56.00		129,005.30
Oct 01	Outgoing Wire Comm. Fee	10.00		128,995.30
Oct 01	Incoming Wire Payment, US, 15210958		1,035,068.10	1,164,063.40
Oct 01	Wire Payment Fee, HANDLING CHG 035963000	14.00		1,164,049.40
Oct 01	Outgoing Wire Payment, WIRE PYMT 3213 321338706	146,147.00		1,017,902.40
Oct 01	Outgoing Wire Handling Fee	125.00		1,017,777.40
Oct 01	Outgoing Wire Comm. Fee	10.00		1,017,767.40
Oct 01	Outgoing Wire Payment, WIRE PYMT 3213 321338	146,147.00		871,620.40
Oct 01	Outgoing Wire Handling Fee	125.00		871,495.40
Oct 01	Outgoing Wire Comm. Fee	10.00		871,485.40
Oct 01	Outgoing Wire Payment, WIRE PYMT 3213 321338735	17,000.00		854,485.40
Oct 01	Outgoing Wire Handling Fee	34.00		854,451.40
Oct 01	Outgoing Wire Comm. Fee	10.00		854,441.40
Oct 01	Incoming Wire Payment, US, EDWARD BAYUK		60,115.70	914,557.10
Oct 01	Wire Payment Fee, HANDLING CHG 047863000	14.00		914,543.10
Oct 04	Incoming Wire Payment, US, 15210958		25.00	914,568.10
Oct 04	Wire Payment Fee, HANDLING CHG 036309000	14.00		914,554.10
Oct 06	Outgoing Wire Payment, WIRE PYMT 3213 321339174	40,005.00		874,549.10
Oct 06	Outgoing Wire Handling Fee	80.01		874,469.09
Oct 06	Outgoing Wire Comm. Fee	10.00		874,459.09
Oct 06	Outgoing Wire Payment, WIRE PYMT 3213 321339178	15,000.00		859,459.09
Oct 06	Outgoing Wire Handling Fee	30.00		859,429.09
Oct 06	Outgoing Wire Comm. Fee	10.00		859,419.09

(continued on next page)

DUPLICATE

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Here's what happened in your accounts (continued)

Date	Description	Amounts deducted from your account ($)	Amounts added to your account ($)	Balance ($)
	US$ Premium Rate Savings # 3213 4513-982			
Oct 07	Deposit		28,000.00	887,419.09
Oct 08	Outgoing Wire Payment, WIRE PYMT 3213 321339352	208,000.00		679,419.09
Oct 08	Outgoing Wire Handling Fee	125.00		679,294.09
Oct 08	Outgoing Wire Comm. Fee	10.00		679,284.09
Oct 15	Deposit		7,575.38	686,859.47
Oct 15	Outgoing Wire Payment, WIRE PYMT 3213 321339947	4,453.93		682,405.54
Oct 15	Outgoing Wire Handling Fee	15.00		682,390.54
Oct 15	Outgoing Wire Comm. Fee	10.00		682,380.54
Oct 15	Outgoing Wire Payment, WIRE PYMT 3213 321339952	27,732.00		654,633.54
Oct 15	Outgoing Wire Handling Fee	55.49		654,578.05
Oct 15	Outgoing Wire Comm. Fee	10.00		654,568.05
Oct 15	Outgoing Wire Payment, WIRE PYMT 3213 321339980	48,457.29		606,110.76
Oct 15	Outgoing Wire Handling Fee	96.91		606,013.85
Oct 15	Outgoing Wire Comm. Fee	10.00		606,003.85
Oct 15	Outgoing Wire Payment, WIRE PYMT 3213 321340002	4,400.00		601,603.85
Oct 15	Outgoing Wire Handling Fee	15.00		601,588.85
Oct 15	Outgoing Wire Comm. Fee	10.00		601,578.85
Oct 15	Incoming Wire Payment, US CONSOLIDATED NEVADA C		70,598.70	672,177.55
Oct 15	Wire Payment Fee, HANDLING CHG 049695000	14.00		672,163.55
Oct 18	Credit, RETURN WIRE 3213321339952		27,732.00	699,895.55
Oct 19	Outgoing Wire Payment, WIRE PYMT 3213 321340268	27,747.00		672,148.55
Oct 19	Outgoing Wire Handling Fee	55.49		672,093.06
Oct 19	Outgoing Wire Comm. Fee	10.00		672,083.06
Oct 26	Outgoing Wire Payment, WIRE PYMT 3213 321340974	10,000.00		662,083.06
Oct 26	Outgoing Wire Handling Fee	20.00		662,063.06
Oct 26	Outgoing Wire Comm. Fee	10.00		662,053.06
Oct 29	Outgoing Wire Payment, WIRE PYMT 3213 321341363	48,015.00		614,038.06
Oct 29	Outgoing Wire Handling Fee	96.03		613,942.03

(continued on next page)

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BMO Financial Group

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PRIVILEGE

MORABITO (341).005361

Here's what happened in your accounts (continued)

Date	Description	Amounts deducted from your account ($)	Amounts added to your account ($)	Balance ($)
	US$ Premium Rate Savings # 3213 4513-982			
Oct 29	Outgoing Wire Comm. Fee	10.00		613,932.03
Oct 29	Interest Earned		152.90	614,084.93
Oct 31	**Closing totals**	**$812,334.15**	**$1,229,267.78**	**(US)$614,084.93**

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BMACT41000_1758022_004 - 0016171 011248

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Your investment and banking report
MR PAUL A. MORABITO · October 1 to October 31, 2010

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How to reach us
For more information regarding one of your accounts, please contact JOE DOUCET, or call or visit us at:

- BMO Term Investments 1-877-225-5266 www.bmo.com/gic
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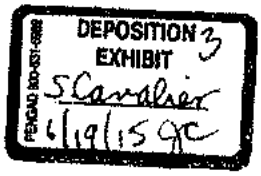
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DUPLICATE

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SUPERPUMPER, INC.

VALUATION OF 100 PERCENT OF THE COMMON EQUITY IN SUPERPUMPER, INC. ON A CONTROLLING, MARKETABLE BASIS
As of August 31, 2010

Prepared for:
Superpumper, Inc.
c/o Dennis Vacco, Esquire
Lippes Mathias Wexler Friedman, LLP
665 Main Street, Suite 300
Buffalo, NY 14203

Prepared by:
Spencer P. Cavalier, CFA, ASA
Sean P. Dooley
Matrix Capital Markets Group, Inc.
100 S. Charles Street, Suite 1350
Baltimore, MD 21201

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MATRIX

Maximizing The Value Of Private Business

October 13, 2010

PERSONAL AND CONFIDENTIAL

Superpumper, Inc.
c/o Dennis Vacco, Esquire
Lippes Mathias Wexler Friedman, LLP
665 Main Street, Suite 300
Buffalo, NY 14203

RE: Superpumper, Inc.

Dear Mr. Vacco:

At your request, we have performed a valuation engagement to determine the fair market value of 100 percent of the common equity (Subject Interest) in Superpumper, Inc. (Superpumper or the Company), on a controlling, marketable basis, as of August 31, 2010 (the Valuation Date).

Fair market value is based in large part upon the expectation of future benefits to be received by the prospective purchaser and to be given up by the prospective seller, which are directly attributable to the asset being transferred.

Fair market value is defined in Section 25.2512-1 of the U.S. Treasury regulations as:

> "The price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of relevant facts."

The objective of a valuation is to express an unambiguous opinion as to the value of the business, business ownership interest, or security, which is supported by all procedures that the valuator deems to be relevant to the valuation.

A valuation has the following qualities:

1. Its conclusion of value is expressed as either a single dollar amount or a range.

2. It considers all relevant information as of the valuation date available to the valuator at the time of the performance of the valuation.

3. The valuator conducts appropriate procedures to collect and analyze all information expected to be relevant to the valuation.

4. The valuation is based upon consideration of all conceptual approaches deemed to be relevant by the valuator.

For our valuation, we used standard valuation approaches and methodologies. The financial information in this valuation, including the accompanying exhibits, is presented solely to assist in the development of our conclusion of value, and it should not be used for any other purpose. Because of the limited purpose of this information, it may contain departures from generally accepted accounting principles. The conclusion of value given is based on information provided in part by the management of Superpumper.

This report is a restricted-use report and is an abridged version of the information that would be provided in a detailed valuation report and therefore does not contain the same level of detail as a detailed report. This restricted-use report is restricted for use by the shareholders of Superpumper for corporate planning purposes only. No other third parties should rely on the information contained in this report without seeking professional advice. We have no obligation to update this report or our conclusion of value for information that comes to our attention after the date of this report.

Based on our analysis as described in this valuation report, it is our estimate that the fair market value of 100 percent of the common equity in Superpumper, Inc., on a controlling, marketable basis, as of August 31, 2010 is $6,484,514.

This conclusion or opinion of value is subject to the Statement of Valuation Assumptions and Limiting Conditions included in the report on pages 5 through 7. Neither Matrix Capital Markets Group, Inc. nor the individuals involved in preparing this valuation has any present or contemplated future interest in Superpumper, Inc. or any other interests that might tend to prevent making a fair and unbiased valuation. The details of the valuation and the basis for conclusions are summarized in this report and the details of

our conclusions are included in our workpaper files. This restricted-use report is to be used solely by you for corporate planning purposes and should not be used for any other purpose. If you have any questions, please contact Spencer P. Cavalier or Sean P. Dooley, the report preparers.

Matrix Capital Markets Group

MATRIX CAPITAL MARKETS GROUP

Spencer P. Cavalier, CFA, ASA
Report Preparer

Sean P. Dooley
Report Preparer

SUPERPUMPER, INC.
VALUATION OF 100 PERCENT OF THE COMMON EQUITY IN SUPERPUMPER, INC. ON A CONTROLLING, MARKETABLE BASIS
As of August 31, 2010

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INTRODUCTION AND BACKGROUND

A. Purpose of the Valuation

Matrix Capital Markets Group, Inc. (Matrix) was retained to determine the fair market value of 100 percent of the common equity in Superpumper, Inc. (Superpumper or the Company), on a controlling, marketable basis as of August 31, 2010 (the Valuation Date). It is our understanding that this restricted-use valuation report will be utilized by the Company and its shareholders for corporate planning purposes.

B. Standard of Value and Premise of Value

Fair market value is based in large part upon the expectation of future benefits to be received by the prospective purchaser and to be given up by the prospective seller, which are directly attributable to the asset being transferred.

Fair market value is defined in Section 25.2512-1 of the U.S. Treasury regulations as:

> "The price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of relevant facts."

Our valuation analysis was conducted under the premise of value in continued use, as a going concern enterprise. It is our opinion that this value represents the appropriate premise of value of the Subject Interest.

C. Description of Information Considered

In formulating our opinion of value, we have relied upon numerous sources of information including, but not limited to, the following:

- U.S. economy sources include: Business Valuation Resources: "*Economic Outlook, 2nd Quarter 2010.*"
- Interest Rates from http://www.federalreserve.gov/releases/h15/data.htm
- Ibbotson Associates "Stocks, Bonds, Bills, and Inflation 2010 Yearbook"
- Other Company information, as provided by the Company, including, but not limited to store and corporate level financials for the years ending December 31, 2007, 2008, and 2009, as well as for the trailing twelve month period ended August 31, 2010.

This information is believed to be reliable, but we make no representation as to the accuracy or completeness of the information made publicly available or as furnished to us by the management of Superpumper.

THE APPRAISAL PROCESS

A. Revenue Ruling 59-60

Our valuation analysis takes into consideration Revenue Ruling 59-60. Revenue Ruling 59-60 outlines and reviews the general factors to be considered in the valuation of capital stock of closely held companies and thinly traded public corporations, as follows:

- The nature of the business and the history of the enterprise from its inception.
- The economic outlook in general and the conditions and outlook of the specific industry in particular.
- The book value of the stock and financial condition of the business.
- The earnings capacity of the Company.
- The dividend paying capacity.
- Whether or not the Company has goodwill or other intangible value.
- Sales of the stock and the size of the block of stock to be valued.
- The market prices of stocks of corporations engaged in the same or a similar line of business having their stock actively traded in a free and open market, either on an exchange or over-the-counter.

B. Approaches and Methods Considered

Three approaches and several methods are available for valuing closely held corporate interests in accordance with generally accepted valuation principles. The three generally accepted approaches are: (1) the Income Approach, (2) the Market Approach, and (3) the Cost (or Asset-Based) Approach. That is, the value of an entity or its securities is based upon either: (1) the present value of an income stream generated by or attributable to the property being valued, (2) arms-length transactions of generally similar entities or securities, or (3) the aggregate value of the underlying assets. These three approaches are defined by the American Society of Appraisers as follows:

Income Approach - A general way of determining a value indication of a business, business ownership interest, or security using one or more methods wherein a value is determined by converting anticipated benefits. This approach is based on the fundamental valuation principle that the value of a business is equal to the present worth of the future benefits of ownership.

Market Approach - A general way of determining a value indication of a business, business ownership interest, or security using one or more methods that compare the subject to similar businesses, business ownership interests, or securities that have been sold.

Cost Approach - A general way of determining a value indication of a business' assets and/or equity interest using one or more methods based directly on the value of the assets of the business less liabilities.

The approaches and methods used depend upon the purpose of the engagement, type of business being valued, and the nature of the business being valued. In some cases, all three approaches may be called for; in others, only one may be appropriate.

APPRAISAL PROCEDURES AND VALUATION METHODS USED

A. Methods Used or Not Used on a Specific Basis

For our valuation, we considered the use of the following five valuation methods:

Income Approach – Discounted Cash Flow Method – This method is based on the premise that the value of a business, business ownership interest, or security interest is estimated by the present value of the future benefits of ownership.

Income Approach – *Capitalization of* Net Cash Flow Method – This method is based on the premise that the value of a business, business ownership interest, or security interest is estimated by dividing the expected business economic benefit, such as the seller's discretionary cash flow, by the capitalization rate.

Market Approach – Guideline Publicly Traded Company Method – This method is based on the premise that the value of the business, business ownership interest, or security interest is estimated based upon what astute and rational capital market investors would pay to own such an interest.

Market Approach – Guideline Merged and Acquired Company Method – This method is based on the premise that the value of the business, business ownership interest, or security interest is estimated by comparing the subject company to guideline companies that have been merged or acquired during a time period near the valuation date.

Cost (or Asset-Based) Approach – Adjusted Balance Sheet Method – The current values of all the subject company's assets is discretely estimated and accumulated. In addition, the current values of all of the subject company's liabilities are estimated. The value of the equity of the business enterprise is the current value of all of the assets of the subject company less the current value of all of the subject company's liabilities.

In our valuation, we used (1) the capitalization of net cash flow method – both adjusted historical cash flow and normalized single period (Income Approach), (2) the guideline publicly traded company method (Market Approach), and (3) the adjusted balance sheet (Cost Approach).

SUMMARY AND CONCLUSION

A. Summary of Value Indications and Conclusion of Value

Exhibit 4 presents the indicated value of a 100 percent common equity ownership interest in Superpumper on a controlling, marketable basis using the Capitalization of Normalized Single Period Cash Flow Method, Capitalization of Adjusted Historical Cash Flow Method, Guideline Publicly Traded Company Method, and the Adjusted Balance Sheet Method.

This resulted in a concluded fair market value of 100 percent of the common equity in Superpumper, Inc., on a controlling, marketable basis, as of August 31, 2010 of $6,484,514.

This valuation engagement was conducted in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation. This valuation engagement is subject to the Statement of Valuation Assumptions and Limiting Conditions included in the report on pages 5 through 7.

Neither Matrix Capital Markets Group, Inc. nor the individuals involved in preparing this valuation have any present or contemplated future interest in Superpumper, Inc. or any other interests that might tend to prevent making a fair and unbiased valuation. The details of the valuation and the basis for conclusions are summarized in this restricted-use report and the details of our conclusions are included in our workpaper files. This valuation engagement was performed solely for the purpose described in this restricted-use report and the resulting estimate of value should not be used for any other purpose. The estimate of value resulting from a valuation engagement is expressed as a conclusion of value. We have no obligation to update the report or the conclusion of value for information that comes to our attention after the date of the report. If you have any questions, please contact please contact Spencer P. Cavalier or Sean P. Dooley, the preparers of this report.

STATEMENT OF VALUATION ASSUMPTIONS AND LIMITING CONDITIONS

STATEMENT OF VALUATION ASSUMPTIONS AND LIMITING CONDITIONS

This valuation report has been prepared pursuant to the following general assumptions and limiting conditions:

1. Full compliance with all applicable Federal, state, and local regulations and laws is assumed. The valuation has been prepared in conformity with, and is subject to, the requirements of the code of professional ethics and standards of professional conduct of the American Society of Appraisers as well as Standard 10 of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation (USPAP).

2. No part of the contents of this report, especially any conclusions of value, the identity of the valuators, or the firm with which the valuators are associated or any reference to any of their professional designations, shall be disseminated to the public through advertising, public relations, reproduction, news, sales, or other media without our prior written consent and approval. Should you reproduce, disclose, or distribute this report and its conclusions in violation of this agreement, you agree to defend and indemnify us for defense costs and any resulting liability that may be incurred due to such unauthorized release.

3. The opinion of value presented in this report applies to this valuation only and may not be used out of the context presented herein. This valuation is valid only for the valuation date or dates, and transfer date or dates specified herein and only for the appraisal purpose or purposes specified herein. Our value opinion is based on the purchasing power of the United States dollar as of the appraisal date.

4. Neither Matrix Capital Markets Group, Inc. nor any individual signing or associated with this report have any present or future contemplated interest in the assets valued.

5. Neither our employment nor our compensation in connection with this report is in any way contingent upon the conclusions reached or values estimated. The concluded value determined by Matrix Capital Markets Group, Inc. was not based on a minimum valuation, a specific valuation, or the approval of a loan.

6. Information furnished by others, upon which all or portions of this report are based, is believed to be reliable but has not been verified in all cases. No warranty is given as to the accuracy of such information and we assume no responsibility for such information

7. This valuation report cannot be included, or referred to, in any Securities and Exchange Commission filings or other public documents.

8. Neither Matrix Capital Markets Group, Inc. nor any individuals signing or associated with this report shall be required by reason of this report to give testimony or appear in court or other legal proceedings, unless specific arrangements therefore have been made.

9. The concluded value is predicated on the financial structure prevailing as of the effective date of this report.

10. No responsibility is taken for changes in market conditions, and no obligation is assumed to revise this report to reflect events or conditions which occur subsequent to the date hereof. We have no obligation to update the report or the conclusion of value for information that comes to our attention after the date of the report.

12. It is assumed that all required licenses, certificates of occupancy, consents, intangible assets, intellectual property, trademarks, trade names, franchise rights, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

13. An independent appraisal of the fixed assets of Superpumper, Inc. was not obtained. Had an independent appraisal been obtained, the resulting opinion of value may have been different, which would cause our opinion of value to be different.

14. We have relied, in part, on management's forecasts for Superpumper, Inc. We do not provide assurance on the achievability of the results forecasted by management because events and circumstances frequently do not occur as expected; differences between actual and expected results may be material; and achievement of the forecasted results is dependent on actions, plans, and assumptions of management. Accordingly, if management's assumptions were to change, our valuation conclusions may change.

15. The conclusion of value arrived at herein is based in the assumption that the current level of management expertise and effectiveness would continue to be maintained, and that the character and integrity of the enterprise through any sale, reorganization, exchange, or diminution of the owners' participation would not be materially or significantly changed.

16. This report and the conclusion of value arrived at herein are for the exclusive use of our client for the sole and specific purposes as noted herein. They may not be used for any other purpose or by any other party for any purpose. Furthermore, the report and conclusion of value are not intended by the author and should not be construed by the reader to be investment advice in any manner whatsoever. The conclusion of value represents the considered opinion of Matrix Capital Markets Group, Inc., based on information furnished to them by Superpumper, Inc. and other sources.

17. No change of any item in this appraisal report shall be made by anyone other than Matrix Capital Markets Group, Inc., and we shall have no responsibility for any such unauthorized change.

18. Unless otherwise stated, no effort has been made to determine the possible effect, if any, on the subject business due to future Federal, state, or local legislation, including any environmental or ecological matters or interpretations thereof.

19. We have conducted interviews with the Chief Executive Officer, Chief Financial Officer and other personnel of Superpumper concerning past, present, and prospective operating results of the Company.

20. Except as noted, we have relied on the representations of the Company and other third parties concerning the value and useful condition of all equipment, real estate, investments used in the business, and any other assets or liabilities except as specifically stated to the contrary in this report. We have not attempted to confirm whether or not all assets of the business are free and clear of liens and encumbrances or that the entity has good title to all assets.

21. Matrix Capital Markets Group, Inc. has not made a specific compliance survey or analysis of the subject property or store locations to determine whether it is subject to, or in compliance with, the Americans With Disabilities Act of 1990, and this valuation does not consider the effect, if any, of noncompliance.

22. The parties for which the information and use of the valuation report is restricted are identified; the valuation report is not intended to be and should not be used by anyone other than such parties.

VALUATORS' REPRESENTATION AND CERTIFICATION

VALUATORS' REPRESENTATION AND CERTIFICATION

We hereby certify, to the best of our knowledge and belief, the following statements regarding this valuation engagement:

1. The statements of facts contained in this report, upon which the analyses, opinions, and conclusions expressed herein are based, are assumed to be true and correct.

2. The reported analyses, opinions, and conclusions of value included in the valuation report are subject to the specified assumptions and limiting conditions and they are the personal analyses, opinions, and conclusion of value of the valuation analyst.

3. We have no present or prospective future interest in Superpumper, Inc.

4. We have no personal interest or bias with respect to the subject matter of this report or the parties involved.

5. Our compensation is fee-based and is not contingent on any action or event resulting from the analyses, opinions, or conclusions in, or the use of, this report.

6. The valuation has been prepared in conformity with, and is subject to, the requirements of the code of professional ethics and standards of professional conduct of the American Society of Appraisers as well as Standard 10 of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation (USPAP).

7. The economic and industry data included in the valuation report have been obtained from various printed or electronic reference sources that the valuation analyst believes to be reliable. The valuation analyst has not performed any corroborating procedures to substantiate that data.

8. The valuation analyst has no obligation to update the report or the opinion of value for information that comes to his or her attention after the date of the report.

Spencer P. Cavalier, CFA, ASA
Report Preparer

Sean P. Dooley
Report Preparer

VALUATORS' QUALIFICATIONS

Spencer P. Cavalier, CFA, ASA

Spencer is a member of the Energy & Multi-Site Retail Team. He is responsible for client development and co-managing all aspects of transactions including preparing selling memoranda and providing valuation and corporate finance expertise. Prior to joining Matrix, Mr. Cavalier was a senior business valuation consultant with Ellin & Tucker, Chartered, a nationally recognized business valuation, consulting and accounting firm and a commercial lender with NationsBank (now Bank of America).

As a holder of the Chartered Financial Analyst designation, he is a member of the CFA Institute and is also recognized as an Accredited Senior Appraiser by the American Society of Appraisers. Spencer holds a B.S. degree (with honors) from West Virginia University and an M.B.A. from Baylor University. He is actively involved with The Bennett Institute's Physically Challenged Sports Program at Kennedy Krieger and previously served on the Board of Visitors for University of Maryland's Hospital for Children and the Board of Directors for The CollegeBound Foundation. He is qualified as a Series 7, Series 63 and Series 79 FINRA General Securities Representative.

Sean P. Dooley

Sean is a member of the Energy & Multi-Site Retail Team and is responsible for conducting financial, industry, and buyer research, creating valuation and financing models, and preparing selling and private placement memoranda. Prior to joining Matrix in 2010, Sean was an associate in the Forensic and Valuation Services Group for the public accounting firm of Eilin & Tucker, Chartered in Baltimore, Maryland, where his experience included a variety of valuation engagements.

Sean also held an analyst position in the Federal Systems Group of Unisys Corporation. Sean received a B.S.B.A. with a concentration in Finance from East Carolina University. He is a candidate member of the American Society of Appraisers.

EXHIBITS

SUPERPUMPER, INC.

VALUATION ANALYSIS

AS OF :
August 31, 2010

Matrix Capital Markets Group, Inc.

SUPERPUMPER, INC.

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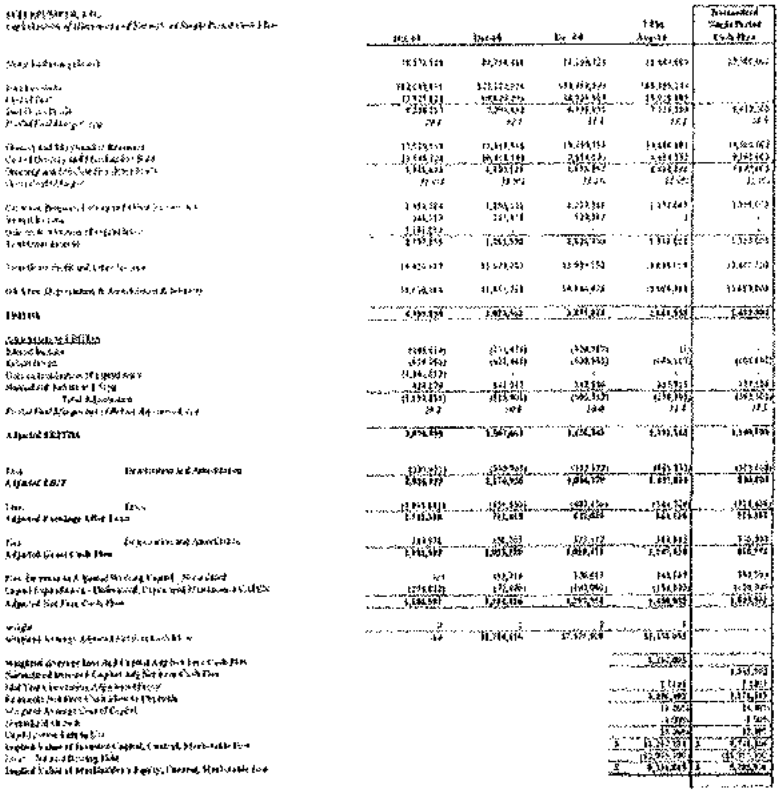
SUPERPUMPER, INC.

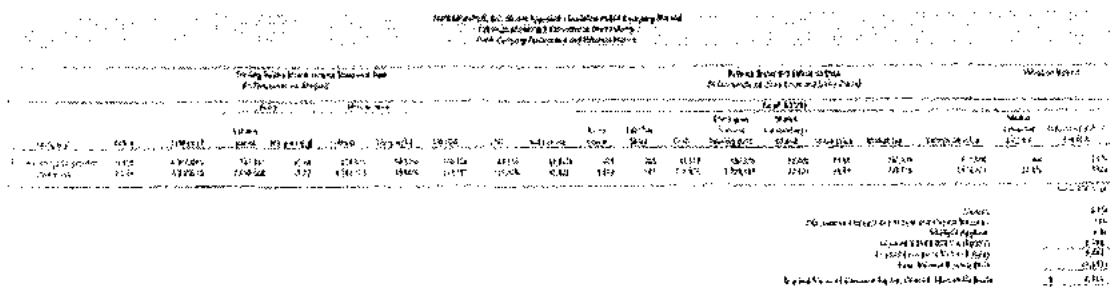
VALUATION OVERVIEW

OBJECTIVE:	To perform a calculation of value of invested capital and common equity of Superpumper, Inc.
PURPOSE:	Corporate Planning Purposes
STANDARD OF VALUE:	Fair Market Value: "the amount at which property would change hands between a willing seller and a willing buyer when neither is under compulsion and when both have reasonable knowledge of the relevant
BASIS:	Controlling, Marketable
AS OF:	August 31, 2010
PRIMARY ASSUMPTIONS:	No potential future acquisitions were incorporated into normalized cash flow.

SUPERPUMPER, INC.
RECONCILIATION OF VALUATION APPROACHES

Exhibit No.	Valuation Approach and Methodology	Control, Marketable Common Equity Value	Weight	Estimated Value
5	Income Approach: Capitalization of Normalized Single Period Cash Flow Method	5,785,976	50.0%	57,893,988
5	Income Approach: Capitalization of Adjusted Historical Cash Flow Method	8,331,845	10.0%	843,184
6	Market Approach: Guideline Public Company Method	6,233,197	10.0%	623,320
7	Cost Approach: Adjusted Balance Sheet Method	6,956,737	30.0%	2,087,021
	Implied Value of Common Equity on a Control, Marketable Basis		**100.0%**	**$ 6,484,514**





SUPERPUMPER, INC.
Adjusted Balance Sheet

ASSETS	As of 8/31/10	Adjustments	Adjusted Balance Sheet
CURRENT ASSETS			
Cash and cash equivalents	$862,055	-	$862,055
Accounts receivable	560,151	-	560,151
Inventories	1,253,257	-	1,253,257
Prepaid expenses	126,233	-	126,233
Total Current Assets	2,801,696	-	2,801,696
Fixed Assets			
Buildings & improvements	542,190	(542,190)	-
Equipment	1,942,774	(1,942,774)	-
Vehicles	35,411	-	35,411
Total Fixed Assets	2,520,374	(2,484,964)	35,411
Depreciation	(1,316,787)	1,311,787	-
Net Fixed Assets	1,524,106	(1,173,176)	350,930
OTHER ASSETS			
Retail Assets Marked-to-FMV	-	9,888,012	9,888,012
Due from affiliates	8,925,708	(8,925,708)	-
Trademarks	1,482,063	(1,482,063)	-
Rent deposits	117,128	-	117,128
Total Other Assets	10,524,899	(519,759)	10,005,140
TOTAL ASSETS	$14,850,701	(1,692,935)	13,157,766
LIABILITIES & EQUITY			
CURRENT LIABILITIES			
Accounts payable	$2,168,784	-	$2,168,784
Accrued liabilities	1,076,855	-	1,076,855
Line of credit	2,955,215	-	2,955,215
Total Current Liabilities	6,200,854	-	6,200,854
LONG-TERM DEBT			
Due to shareholder	175	-	175
Total Long-Term Liabilities	175	-	175
Total Liabilities	6,201,029	-	6,201,029
STOCKHOLDER'S EQUITY			
Common stock	10,000	-	10,000
Additional paid-in capital	4,284,605	-	4,284,605
Retained earnings	4,355,068	(1,692,935)	2,662,132
Total Stockholder's Equity	8,649,672	(1,692,935)	6,956,737
Total Liabilities & Stockholder's Equity	14,850,701	(1,692,935)	13,157,766
Total interest bearing debt			2,955,390

SUPERPUMPER, INC.
Cost of Capital

Risk Free Rate as of	8/31/2010	20 Year T-Note Constant Maturity Yield	3.23%
Market Risk Premium (Supply Side) from Ibbotson's SBBI 2010 Valuation Yearbook			5.26%
Small Company Risk Premium from Ibbotson's SBBI 2010 Valuation Yearbook (Decile 10			6.26%

Specific Company Risk:		
Volatility of supply and wholesale price of fuel	2.00%	
Declining motor fuels volumes	2.00%	
Concentrated geographical region	2.00%	
Unknown risk related to unknown environmental remediation	1.00%	
Potential threat of new competitors	1.50%	
Credit card fees	1.00%	
Labor turnover	1.00%	
Alternative fuels	0.50%	
Specific Company Risk		11.00%

		Rounded
Next Year's Equity Discount Rate	25.71%	25.50%
Less: Normalized Growth Rate of Cash Flow	-1.00%	
Next Year's Equity Capitalization Rate	24.71%	24.50%

Weighted Average Cost of Capital
Invested Capital Analysis

Use of Market or Industry Standard		% of Total	Market Return	% Contribution	Rounded
1)	Market Value of Equity	50.00%	25.50%	12.75%	
2)	Market Value of Debt	50.00%	3.16%	1.68%	
	Total Invested Capital	100.00%		14.43%	14.40%
	Historical WACC Rate	14.36%			

Notes
1) Market return of equity based on calculation above
2) Estimated weighted average cost of debt
Debt also has a tax shield that should be considered

Cost of Debt (Ba1 Rated Bond as of 8/31/10)	5.08%
Tax Shield @ 38.52%	-2.52%
After Tax Cost of Debt	3.36%

SUPERPUMPER, INC.
Balance Sheet Analysis

ASSETS	Audited Dec-07	Audited Dec-08	Audited Dec-09	Interim Aug-10
CURRENT ASSETS				
Cash and cash equivalents	$1,339,923	$566,612	$970,611	$962,665
Accounts receivable	585,617	334,490	418,113	566,151
Inventories	1,847,474	1,249,197	1,147,916	1,253,357
Prepaid expenses	27,950	90,839	334,935	127,733
Total Current Assets	3,800,964	2,241,138	2,871,575	2,909,906
PROPERTY AND EQUIPMENT				
Net Fixed Assets	5,677,165	6,272,793	6,660,237	6,534,165
OTHER ASSETS				
Tax Credits	3,918,923	3,918,145	2,685,918	2,925,918
Trademarks	1,267,063	1,382,063	1,382,063	1,382,063
Security deposits	117,135	117,135	117,135	117,135
Loan costs	-	-	6,556	-
Total Other Assets	5,338,121	5,317,328	5,189,665	5,425,116
TOTAL ASSETS	$15,816,251	$13,831,259	$14,721,478	$14,869,187

SUPERPUMPER, INC.
Balance Sheet Analysis

LIABILITIES & EQUITY	Audited Dec-07	Audited Dec-08	Audited Dec-09	Interim Aug-10
CURRENT LIABILITIES				
Accounts payable	$2,336,793	$918,572	$1,491,133	$2,166,784
Accrued liabilities	678,708	901,120	1,367,650	1,026,368
Line of credit	635,088	1,535,600	2,230,000	2,955,215
Current maturities of equipment loans	-	-	77,246	-
Total Current Liabilities	3,740,590	3,355,292	5,166,028	6,148,367
LONG-TERM DEBT				
Equipment loan, net of current portion	-	-	92,566	-
Due to shareholder	-	-	-	175
Total Long Term Debt	-	-	92,566	175
TOTAL LIABILITIES	3,740,590	3,355,292	5,258,594	6,148,542
STOCKHOLDER'S EQUITY				
Common stock	10,000	10,000	10,000	10,000
Additional paid-in capital	4,354,605	4,354,605	4,354,605	4,354,605
Retained earnings	7,710,956	6,111,362	5,098,279	4,355,968
Total Stockholder's Equity	12,075,561	10,475,967	9,462,884	8,720,573
TOTAL LIABILITIES & STOCKHOLDER'S EQUITY	$15,816,251	$13,831,259	$14,721,478	$14,869,187

SUPERPUMPER, INC.
Common Sized - Balance Sheet Analysis

ASSETS	Audited Dec-07	Audited Dec-08	Audited Dec-09	Interim Aug-10
CURRENT ASSETS				
Cash and cash equivalents	10.50%	3.84%	6.90%	5.80%
Accounts receivable	3.55%	2.30%	1.17%	2.72%
Inventories	16.74%	11.53%	10.00%	8.44%
Prepaid expenses	0.71%	0.81%	1.09%	0.85%
Total Current Assets	31.51%	19.00%	19.16%	18.82%
FIXED ASSETS				
Net Fixed Assets	17.29%	15.47%	13.95%	10.20%
OTHER ASSETS				
Due from affiliates	36.47%	51.25%	57.04%	60.10%
Trademarks	13.65%	13.27%	11.90%	9.98%
Rent deposits	1.05%	1.01%	0.83%	0.79%
Loan costs	0.00%	0.00%	0.05%	0.06%
Total Other Assets	51.20%	65.53%	68.87%	70.93%
TOTAL ASSETS	100.00%	100.00%	100.00%	100.00%

SUPERPUMPER, INC.
Common Sized - Balance Sheet Analysis

LIABILITIES & EQUITY	Dec-07	Dec-08	Dec-09	Aug-10
CURRENT LIABILITIES				
Accounts payable	19.68%	8.50%	11.15%	14.60%
Accrued liabilities	6.23%	8.07%	8.67%	9.25%
Line of credit	4.01%	13.75%	16.85%	15.90%
Current maturities of equipment loan	0.00%	0.00%	0.18%	0.00%
Total Current Liabilities	29.94%	30.31%	36.85%	41.75%
LONG-TERM DEBT				
Equipment loan, net of current portion	0.00%	0.00%	0.66%	0.00%
Due to shareholder	0.00%	0.00%	0.66%	0.00%
Total Long Term Debt	0.00%	0.00%	0.66%	0.00%
TOTAL LIABILITIES	29.94%	30.31%	37.53%	41.76%
STOCKHOLDER'S EQUITY				
Common stock	0.06%	0.06%	0.06%	0.03%
Additional paid-in capital	39.47%	38.37%	31.41%	28.85%
Retained earnings	30.54%	31.27%	30.99%	29.35%
Total Stockholder's Equity	70.06%	69.69%	62.47%	58.24%
TOTAL LIABILITIES & STOCKHOLDER'S EQUITY	100.00%	100.00%	100.00%	100.00%

SUPERPUMPER, INC.
Income Statement Analysis

	Audited Dec-07	Audited Dec-08	Audited Dec-09	Internal - TTM Aug-10
Motor Fuels (in gallons)	28,371,928	32,734,085	32,169,721	21,812,669
Revenues				
Fuel	$82,033,891	$77,122,928	$51,959,599	$61,135,277
Grocery and merchandise	17,099,598	15,416,566	13,969,353	13,858,183
Car wash, propane and other income, net	1,249,698	1,128,787	1,178,267	1,215,050
Lottery, net	100,586	121,259	120,976	122,121
Total Revenues	100,484,773	93,693,542	66,228,395	78,317,131
Cost of Sales				
Cost of Fuel	73,805,634	69,829,795	48,023,662	55,938,583
Cost of grocery and merchandise sold	11,645,118	10,416,440	9,614,096	9,414,333
Total Cost of Sales	85,450,752	80,247,236	57,637,760	65,353,232
Total Gross Profit	15,034,021	13,446,306	12,590,635	12,963,898
Fuel Gross Profit	8,228,257	7,293,132	6,935,935	7,196,694
Grocery and Merchandise Gross Profit	5,455,470	4,900,128	4,355,257	4,443,848
Operating Expenses				
G&A (ex. Depreciation & Amortization & Interest)	11,690,384	11,655,718	10,886,878	10,904,554
Total Operating Expenses	11,690,384	11,655,718	10,886,878	10,904,554
Income from Operations	3,343,637	1,788,588	1,703,557	2,059,344
Other Income				
Interest income	245,919	218,474	329,717	1
Gain on termination of capital lease	1,141,052	-	-	-
Total Other Income	1,386,971	334,474	309,717	109
EBITDA	4,730,608	2,023,562	2,033,274	2,059,555
Depreciation/Amortization	239,971	330,705	372,372	473,332
EBIT	4,490,637	1,692,857	1,660,902	1,586,223
Interest	157,338	66,937	77,599	81,213
EBT	$4,333,299	$1,625,920	$1,583,303	$1,605,009
Income Taxes	-	-	-	-
Net Income	$ 4,333,299	$ 1,625,920	$ 1,583,303	$ 1,605,009

SUPERPUMPER, INC.
Income Statement Analysis

	Audited Dec-07	Audited Dec-08	Audited Dec-09	Internal - TTM Aug-10
Revenues				
Fuel	81.6%	82.3%	78.3%	80.5%
Grocery and merchandise	17.0%	16.3%	19.9%	17.7%
Car wash, propane and other services, net	1.2%	1.2%	1.5%	1.6%
Lottery, net	0.1%	0.1%	0.2%	0.2%
Total Revenues	100.00%	100.00%	100.00%	100.00%
Cost of Sales				
Cost of Fuel	73.4%	74.5%	68.4%	71.3%
Cost of grocery and merchandise sold	11.6%	11.1%	13.7%	12.1%
Total Cost of Sales	85.0%	85.7%	82.1%	83.4%
Total Gross Profit	14.96%	14.3%	17.9%	16.6%
Fuel Gross Profit	10.0%	9.5%	12.6%	11.4%
Grocery and Merchandise Gross Profit	31.9%	32.0%	31.2%	31.9%
Operating Expenses				
O&A (ex. Depreciation & Amortization & Interest)	11.63%	15.11%	19.81%	17.36%
Total Operating Expenses	11.63%	15.11%	19.81%	17.36%
Income from Operations	3.35%	1.9%	2.4%	2.6%
Other Income				
Interest income	0.2%	0.3%	0.5%	0.0%
Gain on termination of capital lease	1.1%	0.0%	0.0%	0.0%
Total Other Income	1.4%	0.3%	0.5%	0.0%
EBITDA	4.7%	2.2%	2.9%	2.6%
Depreciation/Amortization	0.2%	0.4%	0.5%	0.5%
EBIT	4.5%	1.8%	2.4%	2.2%
Interest	0.2%	0.1%	0.1%	0.1%
EBT	4.3%	1.7%	2.3%	2.0%
Income Taxes	0.0%	0.0%	0.0%	0.0%
Net Income	4.3%	1.7%	2.3%	2.0%

SUPERPUMPER, INC.
Ratio Analysis

	Dec-07	Dec-08	Dec-09	TTM Ending Aug-10	FY07 - TTM 8.31.10 Average	Compound Growth
LIQUIDITY						
Current Ratio	1.65	0.63	0.53	0.45		
Quick Ratio	0.41	0.23	0.12	0.13		
ASSET MANAGEMENT						
AR Turn	54.54	71.70	51.17	61.47		
Days Inv	2.36	5.86	8.53	7.05		
Inv Turn	47.61	62.25	42.79	52.17		
Asset Turn	8.26	8.39	4.21	6.28		
PA Turn	55.51	64.24	41.61	51.45		
Working Capital/Sales	0.13%	-1.35%	-1.41%	-1.33%	-1.23%	
Sales/Working Capital	791.46	(74.14)	(29.35)	(21.02)		
DEBT MANAGEMENT						
Times Interest Earned	28.51	23.29	31.50	28.76		
Interest Bearing Debt/Equity	0.06	0.20	0.28	0.34		
Interest Bearing Debt/Adjusted EBITDA	0.2	1.0	1.7	1.6		
Total Liab/Equity	0.43	0.44	0.60	0.72		
PBIT/Sales	4.87%	1.81%	2.37%	2.15%	2.70%	
EBT/Sales	4.31%	1.74%	2.25%	2.05%	2.59%	
EBT/Assets	39.92%	14.56%	13.75%	10.83%		
EBT/Equity	50.68%	24.06%	18.82%	18.56%		
GROWTH						
Gallons	38,231,926	22,714,483	22,159,724	21,847,669		-9.24%
Gallons, Annual Growth		-19.59%	-2.46%	-1.43%		
Revenues	100,484,173	93,691,581	76,228,108	78,417,125		-3.96%
Rev Annual Growth		-6.76%	-35.06%	11.66%		
PBT	4,894,299	1,695,920	1,583,103	1,686,409		
EBT Growth		-62.48%	-2.62%	1.19%		
RETURN ON EQUITY						
EBT Profit Margin	4.18%	1.74%	2.24%	2.05%		
Pre-Tax Return on Assets	48.37%	15.36%	12.33%	11.15%		
Financial Leverage	1.43	1.44	1.60	1.72		
Pre-Tax ROE	59.96%	20.95%	18.82%	18.56%		
PAT	4,333,209	1,635,920	1,183,303	1,608,869		
Distributions	1,892,064	1,455,000	955,000	-		
Retension	56.44%	10.82%	40.06%	100.00%		
Sustainable Growth	32.16%	2.26%	7.51%	18.56%	15.17%	

SUPERPUMPER, INC.
Tax Calculator

		Historical				Normalized
		FY Dec-07	FY Dec-08	FY Dec-09	TTM Aug-10	Single Period Normalized
Adjusted EBIT		$2,836,979	$1,176,956	$1,054,170	$1,407,830	$860,606
State Tax	7.00%	198,589	82,387	73,792	98,548	58,808
Adjusted EBIT after State		2,638,390	1,094,569	980,378	1,309,282	781,799

Federal Taxes

Above	Below	Tax Rate					
-	50,000	15.00%	7,500	7,500	7,500	7,500	7,500
50,000	75,000	25.00%	6,250	6,250	6,250	6,250	6,250
75,000	100,000	34.00%	8,500	8,500	8,500	8,500	8,500
100,000	335,000	39.00%	91,650	91,650	91,650	91,650	91,650
335,000	10,000,000	34.00%	783,153	258,253	219,428	331,256	151,708
10,000,000	15,000,000	35.00%	-	-	-	-	-
15,000,000	18,333,333	38.00%	-	-	-	-	-
18,333,333	n/a	35.00%	-	-	-	-	-
Sum of Federal Taxes			$897,053	372,153	333,328	445,156	265,608
State Taxes			198,589	82,387	73,792	98,548	58,800
Total Taxes			$1,095,641	$454,540	$407,120	$543,704	$324,408
Effective Historical Taxes		36.62%	38.62%	38.62%	38.62%	38.62%	38.62%



SUPERPUMPER, INC.

VALUATION ANALYSIS

AS OF :
August 31, 2010

SUPERPUMPER, INC.

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SUPERPUMPER, INC.

VALUATION OVERVIEW

OBJECTIVE:	To perform a calculation of value of invested capital and common equity of Superpumper, Inc.
PURPOSE:	Corporate Planning Purposes
STANDARD OF VALUE:	Fair Market Value: "the amount at which property would change hands between a willing seller and a willing buyer when neither is under compulsion and when both have reasonable knowledge of the relevant
BASIS:	Controlling, Marketable
AS OF:	August 31, 2010
PRIMARY ASSUMPTIONS:	No potential future acquisitions were incorporated into normalized cash flow.

SUPERPUMPER, INC.
RECONCILIATION OF VALUATION APPROACHES

Exhibit No.	Valuation Approach and Methodology	Control, Marketable Common Equity Value	Weight	Estimated Value
5	*Income Approach:* Capitalization of Normalized Single Period Cash Flow Method	5,785,976	50.0%	$2,892,988
5	Income Approach: Capitalization of Adjusted Historical Cash Flow Method	8,331,845	10.0%	833,184
6	Market Approach: Guideline Public Company Method	6,713,197	10.0%	671,320
7	Cost Approach: Adjusted Balance Sheet Method	6,956,737	30.0%	2,087,021
	Implied Value of Common Equity on a Control, Marketable Basis		**100.0%**	**$ 6,484,514**

SUPERPUMPER, INC.
Capitalization of Historical and Normalized Single Period Cash Flow

	Dec-07	Dec-08	Dec-09	TTM Aug-10	Normalized Single Period Cash Flow
Motor Fuels (in gallons)	26,221,926	22,734,455	23,169,724	21,542,689	22,500,000
Fuel Revenues	$62,040,891	$72,122,923	$54,959,506	$43,135,277	
Cost of Fuel	55,805,624	64,929,291	48,024,182	35,929,884	
Fuel Gross Profit	6,235,267	7,293,632	6,935,933	7,205,393	6,412,500
Fuel Gross Profit Margin	*10.1%*	*10.1%*	*11.3%*	*16.7%*	*28.5%*
Grocery and Merchandise Revenues	13,090,595	15,319,566	13,569,383	11,955,181	14,560,000
Cost of Grocery and Merchandise Sold	11,645,125	13,418,440	9,414,196	9,451,332	9,360,000
Grocery and Merchandise Gross Profit	1,445,470	1,900,126	4,155,187	2,453,848	5,200,000
Gross Profit Margin	*11.0%*	*12.4%*	*30.6%*	*20.5%*	*35.7%*
Car wash, Propane, Lottery and Other Income, net	1,350,214	1,350,066	1,299,761	1,371,667	1,350,000
Interest Income	245,919	235,474	329,717	1	-
Gain on termination of capital lease	1,141,052	-	-	-	-
Total Other Income	2,737,185	1,585,539	1,629,478	1,371,668	1,350,000
Total Gross Profit and Other Income	14,420,992	13,679,210	12,920,152	13,033,909	12,962,500
G&A (ex. Depreciation & Amortization & Interest)	11,690,184	11,655,718	10,886,878	10,964,354	11,660,000
EBITDA	2,730,805	2,023,562	2,033,274	2,069,555	1,302,500
Adjustments to EBITDA					
Interest Income	(245,919)	(235,474)	(329,717)	(1)	
Rebate Given	(690,966)	(621,445)	(699,561)	(696,310)	(699,000)
Gain on Termination of capital lease	(1,141,052)	-	-	-	-
Normalized Rebate at 1 Sprg	424,079	341,012	332,546	327,915	332,500
Total Adjustments	(1,653,858)	(515,906)	(696,732)	(778,396)	(366,500)
Pro-forma Fuel Margin net of Rebate Maintenance exp.	*20.2*	*20.6*	*20.6*	*21.5*	*27.8*
Adjusted EBITDA	3,076,950	1,507,661	1,436,542	1,291,162	1,140,000
Less: Depreciation and Amortization	(239,971)	(330,736)	(322,372)	(383,332)	(300,000)
Adjusted EBIT	2,836,979	1,176,926	1,054,170	1,407,830	840,000
Less: Taxes	(1,095,641)	(454,540)	(407,121)	(543,704)	(324,408)
Adjusted Earnings After Taxes	1,741,338	722,385	647,049	864,126	515,592
Plus: Depreciation and Amortization	239,971	330,736	372,372	383,332	300,000
Adjusted Gross Cash Flow	1,981,309	1,053,120	1,019,421	1,247,458	815,592
Plus: Decrease in Adjusted Working Capital - Normalized	0.4	143,715	370,613	344,597	370,000
Capital Expenditures - Unfinanced, Capitalized Maintenance CAPEX	(294,302)	(172,420)	(102,000)	(134,668)	(120,000)
Adjusted Net Free Cash Flow	1,686,307	1,314,416	1,287,954	1,458,955	1,065,592
Weight	0	1	2	3	
Weighted Average Adjusted Net Free Cash Flow	50	$1,314,416	$2,575,908	$4,376,865	
Weighted Average Invested Capital Adj Net Free Cash Flow				2,335,095	
Normalized Invested Capital Adj Net Free Cash Flow					1,065,592
Mid Year Convention Adjustment Factor				1.1491	1.1200
Economic Net Free Cash Flow to Capital				3,890,397	1,171,543
Weighted Average Cost of Capital				14.26%	14.40%
Normalized Growth				1.00%	1.00%
Capitalization Rate to Use				13.26%	13.40%
Implied Value of Invested Capital, Control, Marketable Basis				$ 11,387,234	$ 8,741,366
Less: Interest Bearing Debt				($2,955,390)	($2,955,390)
Implied Value of Stockholder's Equity, Control, Marketable Basis				$ 8,331,845	$ 5,785,976

SUPERPUMPER, INC. Market Approach - Guideline Public Company Method
Petroleum Marketing & Convenience Store Industry
Public Company Performance and Valuation Metrics

		Trailing Twelve Month Income Statement Data (in Thousands, ex. Margins)								Balance Sheet and Valuation Data (in Thousands, ex. Store Count and Share Prices)								Valuation Metrics	
			Fuels		Merchandise					As of 4/21/10									
Company	Ticker	TTM as of	Volume (Gals)	Margin (cpg)	Sales ($)	Margin (%)	EBITDA	EBIT	Net Income	Store Count	EBITDA/ Store	Cash	Long term interest bearing debt	Shares outstanding - diluted	Share price	Market cap	Enterprise value	Market Value/Net Income	Enterprise Value/ EBITDA
Sunoco Holdings Corporation	SUSS	6/30/2010	731,153	20.03	$01,855	35.25%	186,708	50,285	(1,512)	521	358	44,178	630,076	92,566	33.61	197,476	827,508	n/a	5.83x
Pantry, Inc	PTRY	6/30/2010	2,052,008	33.72	1,344,142	33.65%	241,152	121,708	15,429	1,642	147	215,270	1,221,147	22,521	13.83	421,620	1,644,767	27.47x	9.82x

Source: SEC Filings

Median	5.83x
Discount to Multiple due to Size and Capital Structure	15%
Multiple Applied	5.4x
Adjusted ITM EBITDA ($'000's)	1,701
Implied Enterprise Value ($'000's)	9,669
Less: Interest Bearing Debt	(2,955)
Implied Value of Common Equity, Control, Marketable Basis	$ 6,783

SUPERPUMPER, INC.
Adjusted Balance Sheet

ASSETS	As of 8/31/10	Adjustments	Adjusted Balance Sheet
CURRENT ASSETS			
Cash and cash equivalents	$862,055	-	$862,055
Accounts receivable	560,151	-	560,151
Inventories	1,253,257	-	1,253,257
Prepaid expenses	126,233	-	126,233
Total Current Assets	2,801,696	-	2,801,696
Fixed Assets			
Buildings & improvements	542,190	(542,190)	-
Equipment	1,942,774	(1,942,774)	-
Vehicles	35,411	-	35,411
Total Fixed Assets	2,520,374	(2,484,964)	35,411
Depreciation	(1,311,787)	1,311,787	-
Net Fixed Assets	1,524,106	(1,173,176)	350,930
OTHER ASSETS			
Retail Assets Marked-to-FMV	-	9,888,012	9,888,012
Due from affiliates	8,925,708	(8,925,708)	-
Trademarks	1,482,063	(1,482,063)	-
Rent deposits	117,128	-	117,128
Total Other Assets	10,524,899	(519,759)	10,005,140
TOTAL ASSETS	$14,850,701	(1,692,935)	13,157,766
LIABILITIES & EQUITY			
CURRENT LIABILITIES			
Accounts payable	$2,168,784	-	$2,168,784
Accrued liabilities	1,076,855	-	1,076,855
Line of credit	2,955,215	-	2,955,215
Total Current Liabilities	6,200,854	-	6,200,854
LONG-TERM DEBT			
Due to shareholder	175	-	175
Total Long-Term Liabilities	175	-	175
Total Liabilities	6,201,029	-	6,201,029
STOCKHOLDER'S EQUITY			
Common stock	10,000	-	10,000
Additional paid-in capital	4,284,605	-	4,284,605
Retained earnings	4,355,068	(1,692,935)	2,662,132
Total Stockholder's Equity	8,649,672	(1,692,935)	6,956,737
Total Liabilities & Stockholder's Equity	14,850,701	(1,692,935)	13,157,766
Total interest bearing debt			2,955,390

SUPERPUMPER, INC.
Cost of Capital

Risk Free Rate as of	8/31/2010	20 Year T-Note Constant Maturity Yield	3.23%
Market Risk Premium (Supply Side) from Ibbotson's SBBI 2010 Valuation Yearbook			5.20%
Small Company Risk Premium from Ibbotson's SBBI 2010 Valuation Yearbook (Decile 10			6.28%

Specific Company Risk:

Volatility of supply and wholesale price of fuel	2.00%
Declining motor fuels volumes	2.00%
Concentrated geographical regior	2.00%
Unknown risk related to unknown environmental remediatior	1.00%
Potential threat of new competitior	1.50%
Credit card fees	1.00%
Labor turnover	1.00%
Alternative fuels	0.50%
Specific Company Risk	*11.00%*

		Rounded
Next Year's Equity Discount Rate	25.71%	**25.50%**
Less: Normalized Growth Rate of Cash Flow	-1.00%	
Next Year's Equity Capitalization Rate	24.71%	**24.50%**

Weighted Average Cost of Capital
Invested Capital Analysis

Use of Market or Industry Standard		% of Total	Market Return	% Contribution	Rounded
1)	Market Value of Equity	50.00%	25.50%	12.75%	
2)	Market Value of Debt	50.00%	3.36%	1.68%	
	Total Invested Capital	100.00%		14.43%	**14.40%**
	Historical WACC Rate	**14.26%**			

Notes
1) Market return of equity based on calculation above
2) Estimated weighted average cost of debt
Debt also has a tax shield that should be considered

Cost of Debt (Baa Rated Bond as of 8/31/10):		5.48%
Tax Shield @	38.62%	-2.12%
After Tax Cost of Debt		3.36%

SUPERPUMPER, INC.
Balance Sheet Analysis

ASSETS	Audited Dec-07	Audited Dec-08	Audited Dec-09	Internal Aug-10
CURRENT ASSETS				
Cash and cash equivalents	$1,139,621	$506,632	$930,033	$862,055
Accounts receivable	285,619	234,400	158,132	560,151
Inventories	1,817,684	1,289,197	1,347,016	1,253,257
Prepaid expenses	77,060	90,830	134,815	126,233
Total Current Assets	3,419,984	2,121,059	2,569,996	2,801,696
PROPERTY AND EQUIPMENT				
Net Fixed Assets	1,877,164	1,727,508	1,610,337	1,524,106
OTHER ASSETS				
Due from affiliates	3,958,932	5,718,135	7,683,918	8,925,708
Trademarks	1,482,063	1,482,063	1,482,063	1,482,063
Rent deposits	117,128	117,128	117,128	117,128
Loan costs	-	-	6,556	-
Total Other Assets	5,558,123	7,317,326	9,289,665	10,524,899
TOTAL ASSETS	$10,855,271	$11,165,893	$13,469,998	$14,850,701

SUPERPUMPER, INC.
Balance Sheet Analysis

LIABILITIES & EQUITY	Audited Dec-07	Audited Dec-08	Audited Dec-09	Internal Aug-10
CURRENT LIABILITIES				
Accounts payable	$2,136,794	$948,672	$1,501,413	$2,168,784
Accrued liabilities	678,208	901,120	1,167,929	1,076,855
Line of credit	435,088	1,535,000	2,270,000	2,955,215
Current maturities of equipment loan	-	-	23,686	-
Total Current Liabilities	3,250,090	3,384,792	4,963,028	6,200,854
LONG-TERM DEBT				
Equipment load, net of current portion	-	-	92,566	-
Due to shareholder	-	-	-	175
Total Long Term Debt	-	-	92,566	175
TOTAL LIABILITIES	3,250,090	3,384,792	5,055,594	6,201,029
STOCKHOLDER'S EQUITY				
Common stock	10,000	10,000	10,000	10,000
Additional paid-in capital	4,284,605	4,284,605	4,284,605	4,284,605
Retained earnings	3,310,576	3,486,496	4,119,799	4,355,068
Total Stockholder's Equity	7,605,181	7,781,101	8,414,404	8,649,672
TOTAL LIABILITIES & STOCKHOLDER'S EQUITY	$10,855,271	$11,165,893	$13,469,998	$14,850,701

SUPERPUMPER, INC.
Common Sized - Balance Sheet Analysis

ASSETS	Audited Dec-07	Audited Dec-08	Audited Dec-09	Internal Aug-10
CURRENT ASSETS				
Cash and cash equivalents	10.50%	4.54%	6.98%	5.80%
Accounts receivable	3.55%	2.10%	1.17%	3.77%
Inventories	16.74%	11.55%	10.06%	8.44%
Prepaid expenses	0.71%	0.81%	1.06%	0.85%
Total Current Assets	31.51%	19.08%	19.08%	18.87%
FIXED ASSETS				
Net Fixed Assets	17.29%	15.47%	11.95%	10.26%
OTHER ASSETS				
Due from affiliates	36.42%	51.21%	57.04%	60.10%
Trademarks	13.65%	13.27%	11.00%	9.98%
Rent deposits	1.08%	1.05%	0.87%	0.79%
Loan costs	0.00%	0.00%	0.05%	0.00%
Total Other Assets	51.20%	65.53%	68.97%	70.87%
TOTAL ASSETS	100.00%	100.00%	100.00%	100.00%

SUPERPUMPER, INC.
Common Sized - Balance Sheet Analysis

LIABILITIES & EQUITY	Dec-07	Dec-08	Dec-09	Aug-10
CURRENT LIABILITIES				
Accounts payable	19.68%	8.50%	11.15%	14.60%
Accrued liabilities	6.25%	8.07%	8.67%	7.25%
Line of credit	4.01%	13.75%	16.85%	19.90%
Current maturities of equipment loan	0.00%	0.00%	0.18%	0.00%
Total Current Liabilities	29.94%	30.31%	36.85%	41.75%
LONG-TERM DEBT				
Equipment loan, net of current portion	0.00%	0.00%	0.69%	0.00%
Due to shareholder	0.00%	0.00%	0.00%	0.00%
Total Long Term Debt	0.00%	0.00%	0.69%	0.00%
TOTAL LIABILITIES	29.94%	30.31%	37.53%	41.76%
STOCKHOLDER'S EQUITY				
Common stock	0.09%	0.09%	0.07%	0.02%
Additional paid-in capital	39.47%	38.37%	31.81%	28.55%
Retained earnings	30.50%	31.22%	30.59%	29.33%
Total Stockholder's Equity	70.06%	69.69%	62.47%	58.24%
TOTAL LIABILITIES & STOCKHOLDER'S EQUITY	100.00%	100.00%	100.00%	100.00%

SUPERPUMPER, INC.
Income Statement Analysis

	Audited Dec-07	Audited Dec-08	Audited Dec-09	Internal - TTM Aug-10
Motor Fuels (in gallons)	28,271,928	22,734,488	22,169,724	21,847,669
Revenues				
Fuel	$82,043,891	$77,122,928	$54,959,599	$63,155,277
Grocery and merchandise	17,090,598	15,318,568	13,969,353	13,888,181
Car wash, propane and other income, net	1,249,698	1,128,787	1,178,267	1,245,940
Lottery, net	100,586	121,259	120,976	127,727
Total Revenues	100,484,773	93,691,542	70,228,195	78,417,125
Cost of Sales				
Cost of Fuel	73,805,624	69,829,296	48,023,664	$55,928,885
Cost of grocery and merchandise sold	11,645,128	10,418,440	9,614,096	9,454,332
Total Cost of Sales	85,450,752	80,247,736	57,637,760	65,383,217
Total Gross Profit	15,034,021	13,443,806	12,590,435	13,033,908
Fuel Gross Profit	8,238,267	7,293,632	6,935,935	7,226,393
Grocery and Merchandise Gross Profit	5,445,470	4,900,128	4,355,257	4,433,848
Operating Expenses				
G&A (ex. Depreciation & Amortization & Interest)	11,690,184	11,655,718	10,886,878	10,964,354
Total Operating Expenses	11,690,184	11,655,718	10,886,878	10,964,354
Income from Operations	3,343,837	1,788,088	1,703,557	2,069,554
Other Income				
Interest income	245,919	235,474	329,717	1
Gain on termination of capital lease	1,141,052	-	-	-
Total Other Income	1,386,971	235,474	329,717	1.00
EBITDA	4,730,808	2,023,562	2,033,274	2,069,555
Depreciation/Amortization	239,971	330,705	372,372	383,332
EBIT	4,490,837	1,692,857	1,660,902	1,686,222
Interest	157,538	66,937	77,599	81,213
EBT	$4,333,299	$1,625,920	$1,583,303	$1,605,009
Income Taxes	-	-	-	-
Net Income	$ 4,333,299	$ 1,625,920	$ 1,583,303	$ 1,605,009

SUPERPUMPER, INC.
Income Statement Analysis

	Audited Dec-07	Audited Dec-08	Audited Dec-09	Internal - TTM Aug-10
Revenues				
Fuel	81.6%	82.3%	78.3%	80.5%
Grocery and merchandise	17.0%	16.4%	19.9%	17.7%
Car wash, propane and other income, net	1.2%	1.2%	1.7%	1.6%
Lottery, net	0.1%	0.1%	0.2%	0.2%
Total Revenues	100.00%	100.00%	100.00%	100.00%
Cost of Sales				
Cost of Fuel	73.4%	74.5%	68.4%	71.3%
Cost of grocery and merchandise sold	11.6%	11.1%	13.7%	12.1%
Total Cost of Sales	85.0%	85.7%	82.1%	83.4%
Total Gross Profit	14.96%	14.3%	17.9%	16.6%
Fuel Gross Profit	10.0%	9.5%	12.6%	11.4%
Grocery and Merchandise Gross Profit	31.9%	32.0%	31.2%	31.9%
Operating Expenses				
G&A (ex. Depreciation & Amortization & Interest)	11.63%	15.11%	19.81%	17.36%
Total Operating Expenses	11.63%	15.11%	19.81%	17.36%
Income from Operations	3.3%	1.9%	2.4%	2.6%
Other Income				
Interest income	0.2%	0.3%	0.5%	0.0%
Gain on termination of capital lease	1.1%	0.0%	0.0%	0.0%
Total Other Income	1.4%	0.3%	0.5%	0.0%
EBITDA	4.7%	2.2%	2.9%	2.6%
Depreciation/Amortization	0.2%	0.4%	0.5%	0.5%
EBIT	4.5%	1.8%	2.4%	2.2%
Interest	0.2%	0.1%	0.1%	0.1%
EBT	4.3%	1.7%	2.3%	2.0%
Income Taxes	0.0%	0.0%	0.0%	0.0%
Net Income	4.3%	1.7%	2.3%	2.0%

SUPERPUMPER, INC.
Ratio Analysis

	Dec-07	Dec-08	Dec-09	TTM Ending Aug-10	FY07 - TTM 8.31.10 Average	Compound Growth
LIQUIDITY						
Current Ratio	1.05	0.63	0.52	0.45		
Quick Ratio	0.47	0.22	0.22	0.23		
ASSET MANAGEMENT						
AR Turn	54.54	71.70	51.17	61.47		
Days Inv	7.76	5.86	8.53	7.00		
Inv Turn	47.01	62.25	42.79	52.17		
Asset Turn	9.26	8.39	5.21	5.28		
FA Turn	53.53	54.24	43.61	51.45		
Working Capital/Sales	0.17%	-1.35%	-3.41%	-4.33%	-2.23%	
Sales/Working Capital	591.46	(74.14)	(29.35)	(23.07)		
DEBT MANAGEMENT						
Times Interest Earned	28.51	25.29	21.40	20.76		
Interest Bearing Debt/Equity	0.06	0.20	0.28	0.34		
Interest Bearing Debt/Adjusted EBITDA	0.1	1.0	1.7	1.6		
Total Liab/Equity	0.43	0.44	0.60	0.72		
EBIT/Sales	4.47%	1.81%	2.37%	2.15%	2.70%	
EBT/Sales	4.31%	1.74%	2.25%	2.05%	2.59%	
EBT/Assets	39.92%	14.56%	11.75%	10.81%		
EBT/Equity	56.98%	20.90%	18.82%	18.56%		
GROWTH						
Gallons	28,271,928	22,734,488	22,169,724	21,847,669		-9.24%
Gallons, Annual Growth		-19.59%	-2.48%	-1.45%		
Revenues	100,484,773	93,691,542	70,228,195	78,417,125		-8.90%
Rev Annual Growth		-6.76%	-25.04%	11.66%		
EBT	4,333,299	1,625,920	1,583,303	1,605,009		
EBT Growth		-62.48%	-2.62%	1.37%		
RETURN ON EQUITY						
EBT Profit Margin	4.31%	1.74%	2.25%	2.05%		
Pre-Tax Return on Assets	41.37%	15.16%	12.33%	11.35%		
Financial Leverage	1.43	1.44	1.60	1.72		
Pre-Tax ROE	56.98%	20.90%	18.82%	18.56%		
EBT	4,333,299	1,625,920	1,583,303	1,605,009		
Distributions	1,892,064	1,450,000	950,000	-		
Retention	56.34%	10.82%	40.00%	100.00%		
Sustainable Growth	32.10%	2.26%	7.53%	18.56%	15.11%	

Frank Gilmore

From: Sam Morabito <smorabito@superpumper.com>
Sent: Wednesday, June 18, 2014 4:19 PM
To: Michael.Vanek@wellsfargo.com
Subject: FW: SPI Analysis
Attachments: Image001.png

Michael, here is an analysis of the Superpumper transaction in 2010, from our attorney. As discussed Edward and I (through Snowshoe) also assumed a large obligation on the LOC at Compass (some 2.5 million dollars). Note that we already owned 20% of the company, hence the 80% acquisition value.

Sam

Analysis of Superpumper Acquisition

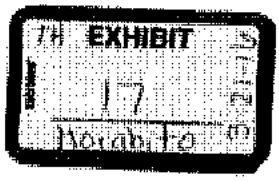
Matrix Appraised Value:	$6,484,515
Compass Term Loan:	$1,682,000
Net Value:	$4,802,514
Risk Discount (35%)	$1,680,880
Discounted Net Value:	$3,121,634
80% Acquisition Value[N]:	$2,497,307
Less Cash Paid:	$1,035,094
Balance Due:	$1,462,213

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[H] Consolidated Western Corporation (CWC) owned 80% of SPI. Bayuk and Sam Morabito owned 10% each of SPI.

Superpumper 000098

SUPERPUMPER MARCH 2010 YTD INCOME STATEMENT

Company - Company

	Year to Date Actual
* * * INCOME * * *	
MERCHANDISE SALES:	
H B C	25,897
Cigarettes	1,219,756
Fin/Coffee	173,625
Gen Mdse	87,020
Beer/Wine	457,026
Pckg'd Bev	631,164
Grocery	482,721
Food Service	44,928
Deli	16,896
O T P	214,505
Total Sales MDSE	3,353,538
COST OF SALES-MDSE:	
Cost of Sales MDSE	2,289,169
Inventory +/-	31,140
Total COS - MDSE	2,320,309
Gross Profit MDSE	1,033,229
FUEL SALES:	
Gasoline Sales	15,035,011
Diesel Sales	1,189,036
Total Fuel Sales	16,224,047
COST OF SALES-FUEL:	
Cost of Sales-Gasoline	13,401,805
Cost of Sales-Diesel	1,010,427
Total COS - Fuel	14,412,032
Gross Gas Profit	1,633,406
Gross Diesel Profit	178,608
Gross Fuel Profit	1,812,015
Total Sales	19,577,585
Total Cost of Sales	16,732,341
GROSS INCOME	2,845,244
EXPENSES:	
Bank Fees	11,038
Cash Over/Short	416
Car Wash Expense	41,422
Computer Expense	16,803
Contributions	100
Customer Relations	181
Credit Card Discount	343,613
Discounts Given	156,786-
Depreciation Expense	90,000
Employee Relations	3,304
Equipment Lease & Rental	6,325
Health Insurance	35,177
General Liability Insurance	38,685
Interest Expense	28,967
Inventory Services	6,600
Legal Fees	6,481
Dues & Subscriptions	1,464
Licenses and Fees	7,427
Misc. Expense	527
Office Supplies	26

SUPERPUMPER MARCH 2010 YTD INCOME STATEMENT

Company - Company

	Year to Date Actual
Postage Expense	412
Professional Fees	99,930
Property Lease	1,092,324
Rent Expense	108,858
Recruiting & Training	3,193
R&M - Building	31,934
R&M - Equipment	54,486
R&M - Landscaping	9,318
R&M - Auto	8,434
Payroll - Office	123,092
Payroll - Stores	459,190
Payroll Overhead	80,638
Security	32,661
Supplies Expense	24,731
Tax Expense - Income	1,296
Tax Expense - Property	76,394
Tax Expense - Personal Prop	1,567
Telephone Expense	22,377
Travel Expense	0
Uniforms	826
Utilities Expense	108,781
Total Expenses	2,802,004
OTHER INCOME / EXPENSE:	
Lottery - Agent Net	35,724
Propane Income	83,334
ATM Revenue	14,175
Payphone Revenue	571
Air/Water Revenue	4,495
Misc. Income	4,443
Car Wash Income	151,900
Total Other Income / Expenses	294,241
NET PROFIT	337,481
GASOLINE GALLONS SOLD:	
Gasoline in Gallons	5,224,077
Diesel in Gallons	389,526
Total Gasoline Gallons Sold	5,613,604
Gasoline CPG	31.27
Diesel CPG	45.85

SUPERPUMPER JUNE 2010 YTD INCOME STATEMENT

Company - Company

	Year to Date Actual
* * * INCOME * * *	
MERCHANDISE SALES:	
H B C	55,200
Cigarettes	2,490,686
Fin/Coffee	364,797
Gen Mdse	180,556
Beer/Wine	951,530
Pckg'd Bev	1,412,940
Grocery	1,015,916
Food Service	91,640
Deli	36,526
O T P	430,536
Total Sales MDSE	7,030,327
COST OF SALES-MDSE:	
Cost of Sales-MDSE	-4,732,729
Inventory +/-	43,631
Total COS - MDSE	-4,776,360
Gross Profit MDSE	2,253,967
FUEL SALES:	
Gasoline Sales	29,983,080
Diesel Sales	2,305,784
Total Fuel Sales	32,288,864
COST OF SALES FUEL:	
Cost of Sales-Gasoline	26,701,616
Cost of Sales-Diesel	1,963,484
Total COS - Fuel	28,665,100
Gross Gas Profit	3,281,464
Gross Diesel Profit	342,300
Gross Fuel Profit	3,623,763
Total Sales	39,319,190
Total Cost of Sales	33,441,460
GROSS INCOME	5,877,730
EXPENSES:	
Advertising	0
Bank Fees	22,427
Cash Over/Short	6,282
Car Wash Expense	115,298
Computer Expense	94,752
Contributions	200
Customer Relations	451
Credit Card Discount	704,297
Discounts Given	-304,175
Depreciation Expense	180,000
Employee Relations	4,622
Equipment Lease & Rental	10,120
Health Insurance	66,882
General Liability Insurance	97,379
Interest Expense	42,852
Inventory Services	14,000
Legal Fees	6,622
Dues & Subscriptions	2,705
Licenses and Fees	26,015
Misc. Expense	1,303

SUPERPUMPER JUNE 2010 YTD INCOME STATEMENT

Company - Company

	Year to Date Actual
Office Supplies	217
Postage Expense	714
Professional Fees	136,173
Property Lease	2,184,648
Rent Expense	199,705
Recruiting & Training	11,029
R&M - Building	68,747
R&M - Equipment	115,269
R&M - Landscaping	16,990
R&M - Auto	18,025
Payroll - Office	264,280
Payroll - Stores	937,041
Incentive	0
Payroll Overhead	115,416
Security	65,473
Supplies Expense	53,483
Tax Expense - Income	2,613-
Tax Expense - Property	152,788
Tax Expense - Personal Prop	3,159
Telephone Expense	45,056
Travel Expense	0
Uniforms	826-
Utilities Expense	241,996
Total Expenses	5,718,603
OTHER INCOME / EXPENSE:	
Lottery - Agent Net	63,845
Propane Income	160,245
ATM Revenue	27,542
Payphone Revenue	875
Air/Water Revenue	8,576
Misc. Income	55,888
Car Wash Income	381,071
Interest Income-Tax Exempt	1
Total Other Income / Expenses	706,094
NET PROFIT	865,222
GASOLINE GALLONS SOLD:	
Gasoline in Gallons	10,179,325
Diesel in Gallons	742,317
Total Gasoline Gallons Sold	10,921,642
Gasoline CPG	32.24
Diesel CPG	46.11

SUPERPUMPER AUGUST 2010 YTD INCOME STATEMENT

Company - Company

	Year to Date Actual
* * * INCOME * * *	
MERCHANDISE SALES:	
H B C	70,633
Cigarettes	3,290,670
Fnt/Coffee	493,343
Gen Mdse	235,819
Beer/Wine	1,267,928
Pckg'd Bev	1,920,071
Grocery	1,344,412
Food Service	119,618
Deli	47,038
O T P	574,322
Total Sales MDSE	9,359,253
COST OF SALES-MDSE:	
Cost of Sales-MDSE	6,257,140
Inventory +/-	62,329
Total COS - MDSE	6,319,468
Gross Profit MDSE	3,039,785
FUEL SALES:	
Gasoline Sales	39,515,026
Diesel Sales	2,984,220
Total Fuel Sales	42,499,246
COST OF SALES-FUEL:	
Cost of Sales-Gasoline	35,137,389
Cost of Sales-Diesel	2,538,066
Total COS - Fuel	37,675,455
Gross Gas Profit	4,377,637
Gross Diesel Profit	446,154
Gross Fuel Profit	4,823,791
Total Sales	51,858,499
Total Cost of Sales	43,994,923
GROSS INCOME	7,863,576
EXPENSES:	
Advertising	0
Bank Fees	29,446
Cash Over/Short	11,554
Car Wash Expense	148,643
Computer Expense	108,730
Contributions	300
Customer Relations	451
Credit Card Discount	930,893
Discounts Given	398,370-
Depreciation Expense	250,000
Employee Relations	6,313
Equipment Lease & Rental	12,650
Health Insurance	96,404
General Liability Insurance	122,942
Interest Expense	58,460
Inventory Services	19,000
Legal Fees	0,165
Dues & Subscriptions	7,613
Licenses and Fees	32,780

SUPERPUMPER AUGUST 2010 YTD INCOME STATEMENT

Company - Company

	Year to Date Actual
Misc. Expense	1,822
Office Supplies	217
Postage Expense	1,136
Professional Fees	151,722
Property Lease	2,022,840
Rent Expense	270,217
Recruiting & Training	14,841
Pest Control	237
R&M - Building	101,059
R&M - Equipment	144,775
R&M - Landscaping	21,460
R&M - Auto	25,215
Payroll - Office	355,236
Payroll - Stores	1,267,066
Incentive	0
Payroll Overhead	158,163
Security	87,458
Supplies Expense	70,018
Tax Expense - Income	3,235
Tax Expense - Property	203,718
Tax Expense - Personal Prop	4,281
Telephone Expense	60,593
Travel Expense	0
Uniforms	1,742
Utilities Expense	340,387
Total Expenses	7,636,873
OTHER INCOME / EXPENSE:	
Lottery - Agent Net	83,311
Propane Income	219,189
ATM Revenue	35,906
Payphone Revenue	1,019
Air/Water Revenue	11,616
Misc. Income	58,349
Car Wash Income	496,606
Interest Income-Tax Exempt	1
Total Other Income / Expenses	905,997
NET PROFIT	1,132,700
GASOLINE GALLONS SOLD:	
Gasoline in Gallons	13,403,733
Diesel in Gallons	961,237
Total Gasoline Gallons Sold	14,364,971
Gasoline CPG	32.65
Diesel CPG	46.41

SUPERPUMPER SEPTEMBER 2010 INCOME STATEMENT

Company - Company

	Year to Date Actual
* * * INCOME * * *	
MERCHANDISE SALES:	
H B C	78,856
Cigarettes	3,674,629
Pm/Coffee	552,093
Gen Mdse	265,344
Beer/Wine	1,414,720
Pckg'd Bev	2,162,279
Grocery	1,503,238
Food Service	134,309
Deli	51,720
O T P	649,125
Total Sales MDSE	10,486,313
COST OF SALES-MDSE:	
Cost of Sales-MDSE	6,977,349
Inventory +/-	81,973
Total COS - MDSE	7,059,322
Gross Profit MDSE	3,426,991
FUEL SALES:	
Gasoline Sales	44,255,319
Diesel Sales	3,321,537
Total Fuel Sales	47,576,857
COST OF SALES-FUEL:	
Cost of Sales-Gasoline	39,304,687
Cost of Sales-Diesel	2,828,638
Total COS - Fuel	42,133,325
Gross Gas Profit	4,950,632
Gross Diesel Profit	492,900
Gross Fuel Profit	5,443,532
Total Sales	58,063,170
Total Cost of Sales	49,193,647
GROSS INCOME	8,870,523
EXPENSES:	
Advertising	0
Bank Fees	33,018
Cash Over/Short	11,229
Car Wash Expense	171,074
Computer Expense	113,852
Contributions	30,300
Customer Relations	451
Credit Card Discount	1,041,947
Discounts Given	446,688-
Depreciation Expense	285,000
Employee Relations	6,929
Equipment Lease & Rental	13,915
Health Insurance	101,039
General Liability Insurance	135,724
Interest Expense	66,586
Inventory Services	21,600
Legal Fees	13,993
Dues & Subscriptions	8,208
Licenses and Fees	37,102

SUPERPUMPER SEPTEMBER 2010 INCOME STATEMENT

Company - Company

	Year to Date Actual
Misc. Expense	1,756
Office Supplies	319
Postage Expense	1,130
Professional Fees	176,721
Property Lease	3,291,936
Rent Expense	303,428
Recruiting & Training	15,304
Pest Control	237
R&M - Building	109,882
R&M - Equipment	158,478
R&M - Landscaping	23,520
R&M - Auto	26,615
Payroll - Office	398,843
Payroll - Stores	1,426,608
Incentive	0
Payroll Overhead	175,631
Security	58,398
Supplies Expense	79,222
Tax Expense - Income	2,204-
Tax Expense - Property	229,182
Tax Expense - Personal Prop	4,723
Telephone Expense	68,237
Travel Expense	0
Uniforms	1,742
Utilities Expense	390,850
Total Expenses	8,605,525
OTHER INCOME / EXPENSE:	
Lottery - Agent Net	96,367
Propane Income	241,490
ATM Revenue	39,690
Payphone Revenue	1,158
Air/Water Revenue	11,616
Misc. Income	58,919
Car Wash Income	557,551
Interest Income-Tax Exempt	1
Total Other Income / Expenses	1,008,791
NET PROFIT	1,271,789
GASOLINE GALLONS SOLD:	
Gasoline in Gallons	15,060,314
Diesel in Gallons	1,071,837
Total Gasoline Gallons Sold	16,132,151
Gasoline CPG	32.87
Diesel CPG	45.99

SUPERPUMPER DECEMBER 2010 INCOME STATEMENT

	Year to Date Actual
*** INCOME ***	
MERCHANDISE SALES:	
H B C	106,686
Cigarettes	4,859,054
Ftn/Coffee	732,875
Gen Mdse	373,768
Beer/Wine	1,868,829
Pckg'd Bev	2,800,131
Grocery	1,979,320
Food Service	180,685
Deli	66,631
O T P	867,554
Total Sales MDSE	13,826,933
COST OF SALES-MDSE:	
Cost of Sales MDSE	9,183,656
Inventory +/-	111,194
Total COS - MDSE	9,294,850
Gross Profit MDSE	4,532,083
FUEL SALES:	
Gasoline Sales	60,160,368
Diesel Sales	4,460,686
Total Fuel Sales	64,621,054
COST OF SALES-FUEL:	
Cost of Sales-Gasoline	53,628,906
Cost of Sales-Diesel	3,847,090
Total COS - Fuel	57,475,995
Gross Gas Profit	6,531,463
Gross Diesel Profit	613,597
Gross Fuel Profit	7,145,059
Total Sales	78,447,987
Total Cost of Sales	66,770,845
GROSS INCOME	11,677,143
EXPENSES:	
Advertising	0
Bank Fees	45,805
Cash Over/Short	14,485
Car Wash Expense	179,780
Computer Expense	119,967
Contributions	10,920
Customer Relations	481
Credit Card Discount	1,409,633
Discounts Given	571,187-
Depreciation Expense	456,941
Employee Relations	11,373
Equipment Lease & Rental	15,180
Health Insurance	136,194
General Liability Insurance	180,243

SUPERPUMPER DECEMBER 2010 INCOME STATEMENT

	Year to Date Actual
Interest Expense	140,521
Inventory Services	28,400
Legal Fees	24,214
Dues & Subscriptions	9,489
Licenses and Fees	48,329
Misc. Expense	1,111
Office Expense	55
Office Supplies	809
Postage Expense	1,949
Professional Fees	221,267
Property Lease	4,389,253
Rent Expense	399,214
Recruiting & Training	20,781
Pest Control	237
R&M - Building	155,287
R&M - Equipment	146,108
R&M - Landscaping	33,450
R&M - Auto	32,770
Payroll - Office	$11,425
Payroll - Stores	2,000,949
Incentive	2,500
Payroll Overhead	239,959
Security	131,960
Supplies Expense	118,029
Tax Expense - Income	808
Tax Expense - Property	326,897
Tax Expense - Personal Prop	5,371
Telephone Expense	90,336
Travel Expense	0
Uniforms	458
Utilities Expense	513,692
Total Expenses	11,595,827
OTHER INCOME / EXPENSE:	
Lottery - Agent Net	137,895
Propane Income	325,073
ATM Revenue	51,799
Payphone Revenue	1,406
Air/Water Revenue	14,386
Misc. Income	65,311
Car Wash Income	704,315
Interest Income-Tax Exempt	898,863
Gain/<Loss> on SWAP	26,144-
Total Other Income / Expenses	2,172,904
NET PROFIT	2,254,219
GASOLINE GALLONS SOLD:	
Gasoline in Gallons	20,356,982
Diesel in Gallons	1,423,638
Total Gasoline Gallons Sold	21,780,620
Gasoline CPG	32.08
Diesel CPG	43.10

SUPERPUMPER UNAUDITED MARCH 2010 BALANCE SHEET

	Beginning Balance	Net Change	Ending Balance	% Change
ASSETS:				
CURRENT ASSETS:				
Cash Register Fund	2,200	0	2,200	0.00
Cash in Banks	927,834	536,256-	391,577	57.80-
Accounts Receivable	97,518	491,890	589,408	504.46
Rebate Receivable	60,622	5,563-	55,059	9.18-
Cost Inventory	75,836	477	76,313	0.63
Retail Inventory	746,849	35,516	782,364	4.76
Fuel Inventory	524,331	113,416	637,747	21.63
Deposits & Prepaids	251,943	5,103-	246,840	2.03-
Total Current Assets	2,687,123	94,385	2,781,508	3.51
FIXED ASSETS:				
Buildings & Improvements	524,433	10,866	535,299	2.07
Equipment	1,818,322	40,796	1,859,117	2.24
Vehicles	35,411	0	35,411	0.00
Computers	908,515	0	908,515	0.00
Amortizable Assets	1,482,063	0	1,482,063	0.00
Accum Depr. & Amort.	1,061,787-	90,000-	1,151,787-	8.48
Total Fixed Assets	3,098,957	38,339-	3,060,618	1.24-
OTHER ASSETS:				
Other Investments	0	3-	3-	0.00
Notes Receivable	7,683,918	401,914	8,085,832	5.23
Total Other Assets	7,683,918	401,911	8,085,820	5.23
Total Assets	13,469,998	457,958	13,927,955	3.40
LIABILITIES:				
CURRENT LIABILITIES:				
A/P - Trade	590,818	28,968	619,782	4.90
A/P - Non-Trade	94,452	53,328	147,779	56.46
A/P - Fuel	816,136	93,324	909,460	11.43
A/P - Other	930	625-	301	67.66
Payroll Taxes Payable	63,425	24,834	88,259	39.16
Sales Tax Payable	69,613	3,478	73,091	5.00
Property Tax Payable	148,079	74,054	222,133	50.01
Payroll Accrual	73,685	21,250	94,935	28.84
Current Portion on L/T Liab.	2,270,000	2,250,000-	20,000	99.12-
Other Accruals	812,203	148,428	960,631	18.27
Total Current Liabilities	4,939,341	1,802,969-	3,136,372	36.50-
LONG-TERM LIABILITIES:				
Notes Payable	116,252	2,223,462	2,339,714	1912.82
Due to Shareholders	0	17-	17-	0.00
Total Long-Term Liabilities	116,252	2,223,446	2,339,698	1912.63
Total Liabilities	5,055,593	420,477	5,476,070	8.32
CAPITAL:				
Capital	10,000	0	10,000	0.00
Additional Paid in Capital	4,284,605	0	4,284,605	0.00
Retained Earnings	5,069,800	950,000	4,119,800	18.74-
Current Year Earnings	0	337,481	337,481	0.00
Corporate Distribution	950,000-	650,000	300,000-	68.42-
Total Capital	8,414,404	37,481	8,451,885	0.45
Total Liabilities & Capital	13,469,998	457,958	13,927,955	3.40

SUPERPUMPER UNAUDITED JUNE 2010 BALANCE SHEET

	Beginning Balance	Net Change	Ending Balance	% Change
ASSETS:				
CURRENT ASSETS:				
Cash Register Fund	2,200	0	2,200	0.00
Cash in Banks	927,834	802,552-	125,281	86.50-
Accounts Receivable	97,510	410,075	507,585	420.55
Rebate Receivable	60,622	12,313	48,309	20.31-
Cost Inventory	75,836	5,783-	70,052	7.63-
Retail Inventory	746,849	15,346	762,194	2.05
Fuel Inventory	524,331	33,551	557,881	6.40
Deposits & Prepaids	251,943	24,135-	227,808	9.58-
Total Current Assets	2,687,123	385,811-	2,301,312	14.36-
FIXED ASSETS:				
Buildings & Improvements	524,433	14,513	538,946	2.77
Equipment	1,818,322	107,238	1,925,560	5.90
Vehicles	35,411	0	35,411	0.00
Computers	300,515	15,004	315,519	4.99
Amortizable Assets	1,482,063	0	1,482,063	0.00
Accum Depr. & Amort.	1,061,787-	180,000-	1,241,787-	16.95
Total Fixed Assets	3,098,957	43,244-	3,055,713	1.40-
OTHER ASSETS:				
Other Investments	0	2,861-	2,861-	0.00
Notes Receivable	7,683,918	924,487	8,608,405	12.03
Total Other Assets	7,683,918	921,626	8,605,544	11.99
Total Assets	13,469,998	492,571	13,962,569	3.66
LIABILITIES:				
CURRENT LIABILITIES:				
A/P - Trade	590,818	150,855-	439,962	25.53-
A/P - Non-Trade	94,452	9,216	103,668	9.76
A/P - Fuel	816,136	229,652-	586,484	28.14-
A/P - Other	930	93,254	94,184	10024.29
Payroll Taxes Payable	63,425	17,571	80,996	27.70
Sales Tax Payable	69,613	827	70,440	1.19
Property Tax Payable	148,079	29	148,108	0.02
Payroll Accrual	73,685	5,405-	68,280	7.34-
Current Portion on L/T Liab.	2,270,000	2,250,000-	20,000	99.12-
Other Accruals	812,203	217,813	1,030,017	26.82
Total Current Liabilities	4,939,341	2,297,202-	2,642,139	46.51-
LONG-TERM LIABILITIES:				
Notes Payable	116,252	2,673,687	2,789,939	2299.91
Due to Shareholders	0	864	864	0.00
Total Long-Term Liabilities	116,252	2,674,551	2,790,803	2300.65
Total Liabilities	5,055,593	377,349	5,432,942	7.46
CAPITAL:				
Capital	10,000	0	10,000	0.00
Additional Paid in Capital	4,284,605	0	4,284,605	0.00
Retained Earnings	5,069,800	950,000-	4,119,800	18.74-
Current Year Earnings	0	865,222	865,222	0.00
Corporate Distribution	950,000-	200,000	750,000-	21.05-
Total Capital	8,414,401	115,222	8,529,627	1.37
Total Liabilities & Capital	13,469,998	492,571	13,962,569	3.66

SUPERPUMPER UNAUDITED AUGUST 2010 BALANCE SHEET

	Beginning Balance	Net Change	Ending Balance	% Change
ASSETS:				
CURRENT ASSETS:				
Cash Register Fund	2,200	0	2,200	0.00
Cash in Banks	927,834	161,329-	766,505	17.39-
Accounts Receivable	97,510	41,100	138,610	42.15
Rebate Receivable	60,622	3,834	64,456	6.32
Cost Inventory	75,836	7,112-	68,724	9.38-
Retail Inventory	746,849	42,482-	704,367	5.69-
Fuel Inventory	524,331	44,165-	480,166	8.42-
Deposits & Prepaids	251,943	8,582-	243,361	3.41-
Total Current Assets	2,687,123	218,734-	2,468,389	8.14-
FIXED ASSETS:				
Buildings & Improvements	$24,433	17,756	542,190	3.39
Equipment	1,818,322	124,452	1,942,774	6.84
Vehicles	35,411	0	35,411	0.00
Computers	300,515	15,004	315,519	4.99
Amortizable Assets	1,482,063	0	1,482,063	0.00
Accum Depr. & Amort.	1,061,787-	250,000-	1,311,787-	23.55
Total Fixed Assets	3,098,957	92,787-	3,006,169	2.99-
OTHER ASSETS:				
Notes Receivable	7,683,918	1,241,790	8,925,708	16.16
Total Other Assets	7,683,918	1,241,790	8,925,708	16.16
Total Assets	13,469,998	930,268	14,400,266	6.91
LIABILITIES:				
CURRENT LIABILITIES:				
A/P - Trade	590,818	107,384-	483,434	18.18-
A/P - Non-Trade	94,452	246,582	341,034	261.07
A/P - Fuel	816,136	99,161-	716,976	12.15-
A/P - Other	930	74,417	75,347	7999.38
Payroll Taxes Payable	63,425	40,732	104,157	64.22
Sales Tax Payable	69,613	9,073	78,686	13.03
Property Tax Payable	148,079	49,396	197,475	33.36
Payroll Accrual	73,685	15,804	89,489	21.45
Current Portion on L/T Liab.	2,270,000	2,270,000-	0	100.00-
Other Accruals	812,203	284,652	1,096,855	35.05
Total Current Liabilities	4,939,341	1,755,889	3,103,452	35.55-
LONG-TERM LIABILITIES:				
Notes Payable	116,252	2,453,457	2,569,709	2110.46
Total Long-Term Liabilities	116,252	2,453,457	2,569,709	2110.46
Total Liabilities	5,055,593	697,568	5,753,161	13.80
CAPITAL:				
Capital	10,000	0	10,000	0.00
Additional Paid in Capital	4,284,605	0	4,284,605	0.00
Retained Earnings	5,069,800	950,000-	4,119,800	18.74-
Current Year Earnings	0	1,132,700	1,132,700	0.00
Corporate Distribution	950,000-	50,000	900,000-	5.26-
Total Capital	8,414,404	232,700	8,647,105	2.77
Total Liabilities & Capital	13,469,998	930,268	14,400,266	6.91

SUPERPUMPER UNAUDITED SEPTEMBER 2010 BALANCE SHEET

	Beginning Balance	Net Change	Ending Balance	% Change
ASSETS:				
CURRENT ASSETS:				
Cash Register Fund	2,200	0	2,200	0.00
Cash in Banks	927,834	195,218-	732,616	21.04-
Accounts Receivable	97,510	89,114	186,623	91.39
Rebate Receivable	60,622	20,379	81,001	33.62
Cost Inventory	75,836	7,935-	67,901	10.46-
Retail Inventory	746,849	18,789-	728,060	2.52-
Fuel Inventory	524,331	66,455-	457,876	12.67-
Deposits & Prepaids	251,943	12,286-	239,657	4.88-
Total Current Assets	2,687,123	191,189-	2,495,934	7.12-
FIXED ASSETS:				
Buildings & Improvements	524,433	28,758	553,191	5.48
Equipment	1,818,322	131,834	1,950,156	7.25
Vehicles	35,411	0	35,411	0.00
Computers	300,515	29,096	329,611	9.68
Amortizable Assets	1,482,063	0	1,482,063	0.00
Accum Depr. & Amort.	1,061,787-	285,000-	1,346,787-	26.84
Total Fixed Assets	3,098,957	95,312-	3,003,645	3.08-
OTHER ASSETS:				
Notes Receivable	7,683,918	1,470,714	9,154,632	19.14
Total Other Assets	7,683,918	1,470,714	9,154,632	19.14
Total Assets	13,469,998	1,184,213	14,654,211	8.79
LIABILITIES:				
CURRENT LIABILITIES:				
A/P - Trade	590,819	136,787-	454,030	23.15-
A/P - Non-Trade	94,452	300,540	394,992	318.19
A/P - Fuel	816,136	253,686-	562,450	31.08-
A/P - Other	930	139,086	140,017	14951.03
Payroll Taxes Payable	63,425	41,498	104,923	65.43
Sales Tax Payable	69,613	5,963	75,576	8.57
Property Tax Payable	148,079	74,080	222,159	50.03
Payroll Accrual	73,685	28,305	101,990	38.41
Current Portion on L/T Liab.	2,270,000	1,044,297-	1,225,703	46.00-
Other Accruals	812,203	337,722	1,149,925	41.58
Total Current Liabilities	4,939,341	507,576-	4,431,765	10.28-
LONG-TERM LIABILITIES:				
Notes Payable	116,252	0	116,252	0.00
Total Long-Term Liabilities	116,252	0	116,252	0.00
Total Liabilities	5,055,593	507,576-	4,548,017	10.04-
CAPITAL:				
Capital	10,000	0	10,000	0.00
Additional Paid in Capital	4,284,605	1,318,000	5,602,605	30.76
Retained Earnings	5,069,800	950,000	4,119,800	18.74-
Current Year Earnings	0	1,273,789	1,273,789	0.00
Corporate Distribution	950,000-	50,000	900,000-	5.26-
Total Capital	8,414,405	1,691,789	10,106,194	20.11
Total Liabilities & Capital	13,469,998	1,184,213	14,654,211	8.79

SUPERPUMPER DECEMBER 2010 BALANCE SHEET

	Beginning Balance	Net Change	Ending Balance	% Change
ASSETS:				
CURRENT ASSETS:				
Cash Register Fund	2,200	0	2,200	0.00
Cash in Banks	927,834	136,191-	791,643	14.68-
Accounts Receivable	97,510	510,541	608,050	523.58
Rebate Receivable	60,622	11,849	72,471	19.55
Cost Inventory	75,836	2,267-	73,569	2.99-
Retail Inventory	746,849	11,036	757,885	1.48
Fuel Inventory	524,331	120,353	644,683	22.95
Deposits & Prepaids	251,943	79,909-	172,034	31.72-
Total Current Assets	2,687,123	435,412	3,122,535	16.20
FIXED ASSETS:				
Buildings & Improvements	524,433	36,025	560,459	6.87
Equipment	1,818,322	436,490	2,253,811	73.95
Vehicles	35,411	0	35,411	0.00
Computers	300,515	29,096	329,611	9.68
Amortizable Assets	1,482,063	0	1,482,063	0.00
Accum Depr. & Amort.	1,061,787-	456,941-	1,518,728-	43.04
Total Fixed Assets	3,098,957	43,670	3,142,627	1.41
OTHER ASSETS:				
Notes Receivable	7,683,918	540,943	8,224,861	7.04
Total Other Assets	7,683,918	540,943	8,224,861	7.04
Total Assets	13,469,998	1,020,025	14,490,022	7.57
LIABILITIES:				
CURRENT LIABILITIES:				
A/P - Trade	590,818	298,460-	292,357	50.52-
A/P - Non-Trade	94,452	22,985	117,437	24.34
A/P - Fuel	816,135	8,435-	807,701	1.03-
A/P - Other	930	121,094	122,024	13016.89
Payroll Taxes Payable	63,425	14,717	78,142	23.20
Sales Tax Payable	69,613	10,760	80,373	15.46
Property Tax Payable	148,079	10,228	158,307	6.91
Payroll Accrual	73,685	7,722	81,407	10.48
Current Portion on L/T Liab.	2,270,000	608,201-	1,661,799	26.79-
Other Accruals	812,203	352,332	1,164,535	43.38
Total Current Liabilities	4,939,341	375,259-	4,564,082	7.60-
LONG-TERM LIABILITIES:				
Notes Payable	116,252	2,864,024	2,980,276	2463.63
Capital Lease Liability	0	567,326	567,326	0.00
Total Long-Term Liabilities	116,252	3,431,350	3,547,602	2951.65
Total Liabilities	5,055,593	3,056,091	8,111,684	60.45
CAPITAL:				
Capital	10,000	0	10,000	0.00
Additional Paid in Capital	4,284,605	3,390,634-	893,971	79.14-
Retained Earnings	5,069,800	950,000-	4,119,800	18.74-
Current Year Earnings	0	2,254,568	2,254,568	0.00
Corporate Distribution	950,000-	50,000	900,000-	5.26
Total Capital	8,414,404	2,036,066-	6,378,338	24.20
Total Liabilities & Capital	13,469,998	1,020,025	14,490,022	7.57

ASSIGNMENT AGREEMENT

This Assignment Agreement (the "Agreement") is entered into as of the 1st day of February, 2011, by and between Superpumper, Inc., an Arizona corporation ("Assignee"), Paul A. Morabito, an individual ("Assignor") and Snowshoe Petroleum, Inc., a New York corporation, with an address at 14631 N. Scottsdale Road, Suite 125, Scottsdale Arizona 85254 ("SnowPet").

WITNESSETH:

WHEREAS, the parties hereto are parties to a certain term note dated September 1, 2010 in the principal amount of $939,000.00 in which the Assignor is the Maker and the Assignee is the successor corporation following a merger with the original Holder, Consolidated Western Corporation, the merger having been consummated September 29, 2010 (the "PM Note"); and

WHEREAS, the Assignor is a Holder under a certain promissory note dated November 1, 2010 in the principal amount of $1,462,213.00, in which SnowPet is the Maker (the "SnowPet Note"); and

WHEREAS, the Assignor wishes to assign and the Assignee desires to assume payments in the principal amount of $939,000 from SnowPet (the "Assigned Payments"); and

WHEREAS, upon the assignment herein, Assignee shall forgive all amounts due to Asignee by Assignor under the PM Note.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The above recitals are hereby incorporated herein and made a part of this Agreement.

2. Assignment. As of the date hereof, the Assignor assigns, transfers, conveys and delivers over to the Assignee, and the Assignee accepts delivery of, the Assigned Payments.

3. Assumption. The Assignee fully and completely succeeds to, assumes the Assigned Payments from SnowPet under a Successor Note (as hereafter defined) and further agrees to discharge and forgive all obligations of Assignor under the PM Note.

4. Successor Notes. On the date hereof, successor notes to the SnowPet Note shall be delivered to Assignee and Assignor by SnowPet in the principal amounts of $939,000 and $492,937.30 (being the remaining principal balance on the SnowPet Note as of the date hereof and following the assignment herein), respectively, along substantially the same terms and conditions of the SnowPet Note (each, a "Successor Note").

5. Further Assurances. Each party agrees to perform such further acts and deliver such further documents as may be reasonably necessary to carry out the terms and intent of this Agreement.

6. Benefits; Binding Effect. This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns. Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any other person other than the parties hereto and their respective successors and assigns, any rights or remedies under or by reason of this Agreement.

7. Governing Law. This Agreement shall be governed by, and shall be construed and interpreted in accordance with, the laws of the State of New York, without regard to conflicts of laws provisions thereof.

8. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which taken together shall constitute a single agreement.

[Remainder of page intentionally blank; Signature page follows]

[Signature page to Assignment Agreement]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the date first written above.

ASSIGNOR:

Paul A. Morabito

ASSIGNEE:

SUPERPUMPER, INC.

By:
Name: Edward Bayuk
Title: President

SNOWPET:

SNOWSHOE PETROLEUM INC.

By:
Name: Edward Bayuk
Title: President

THIRD AMENDMENT
TO
FORBEARANCE AGREEMENT

This THIRD AMENDMENT TO FORBEARANCE AGREEMENT (this "**Amendment**") is made and entered into as of July __, 2011, SUPERPUMPER, INC., an Arizona corporation ("**Borrower**") and COMPASS BANK ("**Lender**").

RECITALS

A. Borrower and Lender are parties to that certain Business Loan Agreement dated November 5, 2009, as amended by that certain Modification to Loan Agreement dated as of August 13, 2010 and as amended by the Forbearance Agreement defined below (as amended, supplemented, or otherwise modified from time to time, the "**Revolving Loan Agreement**"). The Revolving Loan Agreement, together with that certain Promissory Note (the "**Revolving Note**") dated November 5, 2009 in the original principal amount of $3,000,000.00 (the "**Revolving Loan**"), and all other documents, agreements, instruments, and certificates evidencing or relating to the obligations of Borrower owing to Lender under the Revolving Loan Agreement, including but not limited to, all notes, security agreements, and guaranties, shall herein be referred to collectively as the "**Revolving Loan Documents**". This Amendment constitutes one of the Revolving Loan Documents.

B. Borrower and Lender are parties to that certain Loan Agreement dated as of August 13, 2010 (as amended, supplemented, or otherwise modified from time to time, the "**Term Loan Agreement**", and together with the Revolving Loan Agreement, the "**Loan Agreements**"). The Term Loan Agreement, together with that certain Promissory Note (the "**Term Note**", and together with the Revolving Note, the "**Notes**") dated August 13, 2010, in the original principal amount of $3,000,000.00 (the "**Term Loan**"), and all other documents, agreements, instruments, and certificates evidencing or relating to the obligations of Borrower owing to Lender under the Term Loan Agreement, including but not limited to, all notes, security agreements, and guaranties, shall herein be referred to collectively as the "**Term Loan Documents**". This Amendment constitutes one of the Term Loan Documents. The Revolving Loan Documents and the Term Loan Documents are collectively referred to herein as the "**Loan Documents**."

C. Borrower and Lender also are parties to that certain Forbearance Agreement dated as of December 23, 2010, as amended by that certain First Amendment to Forbearance Agreement dated as of December 24, 2010 and by that certain Second Amendment to Forbearance Agreement dated as of June 2, 2011 (as amended, the "**Forbearance Agreement**"), addressing, among other things, the Existing Defaults as that term is defined therein.

D. Notwithstanding that the Existing Defaults are continuing, Borrower has requested that Lender amend the Forbearance Agreement as provided herein. Although not obligated to do so, Lender is willing to accommodate Borrower's request but only pursuant to the terms and conditions set forth in this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals.** Borrower hereby acknowledges that all of the Recitals stated above are true and accurate and by this reference are incorporated into and made a part of the body of this Amendment.

2. **Definitions.** Capitalized terms used but not otherwise defined in this Amendment shall have the meanings given to them in the Loan Agreements and the Forbearance Agreement, as applicable.

3. **Effectiveness.** This Amendment shall be, and shall be deemed to be, effective upon, and only upon, the delivery to Lender of the following, all in form, content and detail satisfactory to Lender:

   3.1 **This Amendment.** This Amendment duly executed by each of Borrower and Lender.

   3.2 **Guarantor's Consent.** A Guarantor's Consent duly executed by Guarantor as required by Section 8 below.

   3.3 **Secretary's Certificates.** If required by Lender, Secretary's certificate of Borrower certifying and attaching copies of the resolutions of Borrower, which resolutions, among other things, authorize Borrower's execution, delivery, and performance of this Amendment and the incurrence of the obligations hereunder, as well as the names and signatures of the officers of Borrower authorized to execute this Amendment on its behalf, all as certified as of the date of this Amendment.

4. **Limited Forbearance.** Section 4 of the Forbearance Agreement is hereby modified, restated, and replaced by the following provisions:

   4. **Limited Forbearance.** Subject to all the provisions of this Agreement, Lender shall forbear from exercising its rights and remedies under the Loan Agreements, the other Loan Documents and otherwise on account of the Existing Defaults, until the earliest to occur of: (i) any failure by Borrower to perform under this Agreement, (ii) the occurrence of any default or Event of Default, other than the Existing Defaults, by Borrower under either of the Loan Agreements or any of the other Loan Documents, or (iii) September 1, 2011 (the "**Forbearance Period**") if, and only if, each and all of the following are satisfied timely and continue to be satisfied:

4.1 **Revolving Loan Amount**. On or before January 4, 2011, Superpumper shall make payment to Lender in the amount necessary to reduce the principal amount outstanding under the Revolving Loan Agreement to an amount not to exceed $1,500,000.00. From and after January 4, 2011, the aggregate outstanding principal balance under the Revolving Loan Agreement shall not exceed $1,500,000.00.

4.2 **Deposits of Collections**. For the duration of the Forbearance Period, Superpumper shall cause all collections of accounts receivable, all proceeds received by Superpumper from the sale of any of its assets, and any other income received by Superpumper (collectively, "**Superpumper's Income**") to be deposited into Superpumper's depository Account #2519846880 maintained at Lender, and in the name of Lender (the "**Superpumper Collection Account**"), within one (1) Business Day of receipt thereof by Superpumper, and Superpumper acknowledges and agrees that on each Business Day the full amount of the opening available balance in the Superpumper Collection Account, at the beginning of such Business Day, will be transferred by Lender and applied to the obligations of Superpumper owing to Lender under the Revolving Loan Agreement.

4.3 **Term Loan Principal Reduction Payments**. Superpumper shall pay to Lender, in readily available funds, two (2) principal reduction payments to be applied toward the unpaid principal balance of the Term Loan, each in the amount of $200,000.00 (collectively, the "**Principal Reduction Payments**"). Superpumper shall pay the first Principal Reduction Payment on or before July 1, 2011, and shall pay the second Principal Reduction Payment on or before August 1, 2011. Lender's acceptance and application of the Principal Reduction Payments is not, and shall not be deemed to be, a waiver, release, or estoppel of Lender's right to demand, receive, and collect the balance of the Obligations and Indebtedness, as applicable, or any other sums due under the Loan Documents. Lender's acceptance of the Principal Reduction Payments shall not reinstate the Revolving Loan or the Term Loan, or operate to waive or cure the Existing Defaults or any other default which may now exist or later occur under the Loan Documents. Notwithstanding any provision of the Loan Documents, Superpumper's failure to pay either Principal Reduction Payment on the date on which it is due shall constitute an immediate Event of Default under each of the Loan Agreements.

4.4 **No Default.** No default or Event of Default, other than the Existing Defaults, occurs under either of the Loan Agreements or any of the other Loan Documents.

Upon any failure by Superpumper to perform and satisfy fully and to continue to perform and satisfy fully the conditions set forth in Sections 4.1 through 4.4 above, Superpumper acknowledges that Lender, may, in Lender's sole discretion, terminate the Forbearance Period upon written notice of the reason for termination. Upon termination or expiration of the Forbearance Period, Lender may exercise any and all rights available to Lender under the Loan Documents or any of them, at law, and in equity. Superpumper acknowledges and agrees that Lender shall have no obligation to extend the Forbearance Period beyond September 1, 2011.

5. **Extension Fee.** As a one-time accommodation to Borrower, Lender will not charge an extension fee in connection with this Agreement. Lender reserves its right to charge an extension or forbearance fee in the future, including without limitation, in connection with any further amendment of the Forbearance Agreement or in connection with any extension of the Forbearance Period.

6. **Amendment to Loan Documents.**

6.1 **Maturity Date.** The maturity date set forth in the Loan Agreements and the other Loan Documents is hereby extended to September 1, 2011.

7. **Acknowledgements.** Borrower hereby acknowledges, confirms, and agrees that:

7.1 As of July 1, 2011: (i) the total principal amount owing by Borrower under the Revolving Loan Agreement was Eight Hundred Fifty Four Thousand Thirty Seven and 39/100 Dollars ($854,037.39), (ii) all amounts outstanding under the Revolving Loan Documents are immediately due and payable to Lender, (iii) all amounts (including, but not limited to, principal, interest and default interest accrued and accruing thereon, and fees, costs, expense and other charges) asserted to be due now or hereafter by Lender under the Revolving Loan Documents are justly and unconditionally due and owing to Lender without any defense of any kind, nature or description whatsoever of Borrower or any right of Borrower to set off, recoup, or counterclaim, and (iv) interest and default interest, fees, costs, expenses and other charges continue to accrue under the Revolving Loan Agreement and the other Revolving Loan Documents until all of the Indebtedness defined therein is indefeasibly paid to Lender in full by Borrower.

7.2 As of July 1, 2011: (i) the total principal amount owing by Borrower under the Term Loan Agreement was Two Million Five Hundred Eighty Seven Thousand Eight Hundred Ninety Six and 59/100 Dollars ($2,587,896.59), (ii) all amounts outstanding under the Term Loan Documents are immediately due and payable to Lender, (iii) all amounts (including, but not limited to, principal, interest and

default interest accrued and accruing thereon, and fees, costs, expense and other charges) asserted to be due now or hereafter by Lender under the Term Loan Documents are justly and unconditionally due and owing to Lender without any defense of any kind, nature or description whatsoever of Borrower or any right of Borrower to set off, recoup, or counterclaim, and (iv) interest and default interest, fees, costs, expenses and other charges continue to accrue under the Term Loan Agreement and the other Term Loan Documents until all of the Obligations defined therein are indefeasibly paid in full to Lender by Borrower

7.3 All amounts (including, but not limited to, principal, interest accrued and accruing thereon, and fees, costs, expense and other charges) asserted to be due now or hereafter by Lender under the Loan Documents (including, but not limited to, the Forbearance Agreement) are justly and unconditionally due and owing to Lender, without any defense of any kind, nature or description whatsoever of Borrower or any right of Borrower to set off, recoup, or counterclaim.

7.4 The Loan Documents are valid and enforceable in accordance with their respective terms, and are not subject to avoidance under applicable state law or federal law.

7.5 The liens and security interests granted to Lender in the Loan Documents are valid, enforceable, and properly perfected, and are not subject to avoidance under applicable state law or federal law. Borrower hereby confirms its existing grant to Lender of liens and security interests in the Collateral. Borrower hereby confirms that all liens and security interests at any time granted by Borrower to Lender continue in full force and effect and secure and shall continue to secure the liabilities and Obligations and Indebtedness, as applicable, so long as any such liabilities or Obligations and Indebtedness remain outstanding, and that all property subject thereto remain free and clear of any liens or encumbrances other than (i) those in favor of Lender, (ii) those, if any, expressly permitted under the Forbearance Agreement, and (iii) liens, if any, expressly permitted in the Loan Agreements, and exhibits thereto. Nothing herein contained is intended to impair or limit in any way the validity, priority, and extent of Lender's existing security interest in and liens upon the Collateral.

7.6 There are no defaults by Borrower under the Loan Documents other than the Existing Defaults.

7.7 Borrower has full authority and power to enter into, execute, deliver and perform this Amendment.

7.8 Borrower has had the opportunity to review this Amendment and to consult with counsel of its choosing with respect to this Amendment.

8. **Guarantor Consent.** Upon execution of this Amendment, Borrower will deliver to Lender the Consent And Agreement Of Guarantor form attached to this Agreement (the

"**Guarantor's Consent**") duly executed by Guarantor. Lender will accept Guarantor's signatures in pdf or facsimile upon execution of this Agreement, provided, however, that the original signature of Guarantor is delivered to Lender within five (5) Business Days of the date of this Amendment.

9. **Valid Liens**. Borrower hereby reaffirms and confirms the grant of the security interests and liens which it previously granted to Lender in the Loan Agreements and the other Loan Documents. Further, Borrower acknowledges and agrees that the liens, security interests, pledges, and assignments created by the Loan Documents are valid, effective, properly perfected and enforceable continuing first priority liens, security interests, pledges and assignments.

10. **Costs and Expenses**. Lender shall be entitled to charge and add to the amount owing by Borrower under the Loan Documents, all of Lender's costs and expenses (including, but not limited to, reasonable attorneys' fees) incurred in relation to the Existing Defaults, the Loan Documents, the Forbearance Agreement, and this Amendment, and any of the requirements stated herein. Lender has incurred, and will continue to incur, legal fees and costs with respect to the Forbearance Agreement (as amended by this Amendment) and the other Loan Documents, and Borrower is responsible under each of the Loan Agreements to pay such legal fees and costs.

11. **Release.**

11.1 For the good and valuable consideration provided herein, Borrower hereby fully, finally, absolutely, and forever releases and discharges Lender and its present and former directors, shareholders, officers, employees, agents, representatives, attorneys, consultants, fiduciaries, predecessors, successors, assigns, and affiliates, related corporate divisions, and their separate and respective heirs, personal representatives, attorneys, successors, assigns, and affiliates (collectively, "**Released Parties**") from any and all actions, causes of action, claims, debts, damages, demands, liabilities, obligations, suits, judgments, executions, and expenses and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever (individually, a "**Claim**" and collectively, "**Claims**") of any and every character, now known or unknown, direct or indirect, contingent or matured, of whatever kind or nature, for or because of any matter or things done, omitted or permitted to be done by any of the Released Parties, at law or in equity: (i) in respect of each and all of the Loan Agreements, the Forbearance Agreement, this Amendment and the other Loan Documents and the actions or omissions of Lender in respect of each and all of the Loan Agreements, the Forbearance Agreement, this Amendment and the other Loan Documents, and (ii) arising from events occurring prior to and including the date of execution hereof.

11.2 Borrower understands, acknowledges and agrees that the release set forth above may be pleaded as a full and complete defense and may be used as a basis for an

injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release.

11.3 Borrower agrees that no fact, event, circumstance, evidence, or transaction which could now be asserted or which may hereafter be discovered shall affect in any manner the final, absolute, and unconditional nature of the release set forth above.

12. **Waiver of Claims.** Borrower waives and affirmatively agrees not to allege or otherwise pursue any or all defenses, affirmative defenses, counterclaims, claims, causes of action, set-offs, recoupments, or other rights that it may have to contest (i) any provision of the Loan Agreements or other Loan Documents, or (ii) Lender's liens and security interests in the Collateral under the Loan Documents.

13. **Covenant Not To Sue.** Borrower, on behalf of itself and its successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Released Party that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Released Party on the basis of any Claim released, remised and discharged by Borrower pursuant to Section 11 above. If Borrower or any of its successors, assigns or other legal representations violates the foregoing covenant, Borrower, for itself and its successors, assigns and legal representatives, agrees to pay, in addition to such other damages as any Released Party may sustain as a result of such violation, all attorneys' fees and costs incurred by any Released Party as a result of such violation.

14. **Continuing Effect.** Except as expressly modified in this Amendment, all of the provisions of the Loan Agreements, the Forbearance Agreement, and other Loan Documents shall remain in full force and effect, and nothing in this Amendment shall be, or shall be construed to be, a modification of any provision in the Loan Agreements, the Forbearance Agreement, or other Loan Documents. Further, nothing in this Amendment shall be, or be construed to be, a waiver or a modification of any right, power, or remedy of Lender under the Loan Agreements, the Forbearance Agreement, or other Loan Documents, and Lender hereby reserves all of its and Lender's rights and remedies under the Loan Agreements, the Forbearance Agreement, the other Loan Documents, and applicable law.

15. **General Provisions.**

15.1 **Further Assurances.** Borrower shall execute and deliver such further documents and do such things as in the judgment of Lender are necessary or desirable to effect the intent of this Amendment and to secure to Lender the benefits of all rights and remedies conferred upon them by the terms of this Amendment.

15.2 **Entire Agreement.** The Forbearance Agreement, as modified by this Amendment, constitutes the entire agreement and understanding of the parties with respect to the subject matter thereof and supersedes all prior written or oral

understandings and agreements between the parties in connection with its subject matter.

15.3 **Counterparts and Telecopy Execution.** This Amendment may be executed in counterpart, and any number of counterparts of this Amendment which have been executed by Lender and Borrower shall constitute a single original. Lender's attorney may integrate into one or more documents signature pages from documents executed in counterpart. Unless otherwise required by Lender, the telecopied or pdf signature of a person shall be deemed the original signature of that person and shall be binding for all purposes.

15.4 **Ratification.** Borrower and Lender hereby ratify and confirm the Forbearance Agreement, as amended by this Amendment, in all respects; and, except as expressly modified by this Amendment, the Forbearance Agreement shall remain in full force and effect.

15.5 **Governing Law.** This Amendment shall in all respects be governed by, and construed and enforced in accordance with the laws of the State of Arizona, except for its rules relating to conflicts of laws.

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to Forbearance Agreement as of the day and year first above written.

"LENDER"

COMPASS BANK, an Alabama banking corporation

By: _____
Name: Lynne B. Herndon
Title: City President

"BORROWER"

SUPERPUMPER, INC., an Arizona corporation

By: _____
Name: Edward Bayuk
Title: President

Superpumper, Inc.
1/2010 thru 09/2015

Cash paid by Edward Bayuk

Date	Description	Amount	
09/30/2010	E Bayuk	659,000.00	ACTUAL CASH
01/07/2011	Capital advance	50,000.00	ACTUAL CASH
01/07/2011	Capital - E Bayuk	250,000.00	ACTUAL CASH
06/29/2011	Jun11 EWB wire	100,000.00	ACTUAL CASH
07/28/2011	Jul11 EWB in	100,000.00	ACTUAL CASH
09/29/2011	Sep11 EWB wire IN	50,000.00	ACTUAL CASH
11/18/2011	EWB Wire IN	450,000.00	ACTUAL CASH
		1,659,000.00	

Cash paid by Salvatore Morabito

09/30/2010	S Morabito	659,000.00	ACTUAL CASH
01/07/2011	Capital advance	50,000.00	ACTUAL CASH
01/07/2011	Capital - S Morabito	250,000.00	ACTUAL CASH
06/30/2011	Jun11 SRM wire (net)	100,000.00	ACTUAL CASH
07/28/2011	Jul11 SRM in	100,000.00	ACTUAL CASH
09/28/2011	SP Dep Sep 28th	50,000.00	ACTUAL CASH
11/18/2011	SRM wire IN	450,000.00	ACTUAL CASH
		1,659,000.00	

this shows not because no credit for 4/18/11 wire, I recieve 100k wire in on 6/30/11 therefore my credit is 180k on 6/30/11

GL dger Print

For Period: 01/2006 thru 12/2011

Date	Description	Amount	
CASH PAID TO EDWARD BAYUK			
09/23/2011	Sep11 EWB wire OUT	50,000.00	ACTUAL CASH
12/20/2011	Dec-11 Wires OUT EWB	50,000.00	ACTUAL CASH
		100,000.00	
CASH PAID TO SALVATORE MORABITO			
03/30/2011	Mar11 SRM wire OUT	100,000.00	ACTUAL CASH
09/22/2011	Sep11 SRM wire OUT	50,000.00	ACTUAL CASH
12/20/2011	Dec-11 Wires OUT SRM	50,000.00	ACTUAL CASH
		200,000.00	

to be found still

Speak with a banker about your retirement

Wells Fargo offers solutions and guidance to see you to and through retirement. Talk to one of our bankers to open an IRA, make your annual IRA contribution or roll over to an IRA. A banker will meet with you to look at where you are now, where you want to go, and how to get there.

PMA® Prime Checking Account

Activity summary

[redacted]

Account number: [redacted]
SALVATORE BIONDO
Wells Fargo Bank, N.A. Member FDIC
Questions about your account: 1-800-742-4932
Worksheet to balance your account and General Statement Policies can be found towards the end of this statement.

Interest you've earned

[redacted]

Transaction history

Date	Description	Check No.	Withdrawals / Additions	Deposits / Subtractions	Ending Daily Balance
Beginning balance on 3/1					[redacted]
3/10	[redacted]				
3/14					
3/16					
3/18					
3/22					
3/24					
3/25					
3/28					
3/29					
3/30					
3/31	Wire Transfer Service - Sequence: 20110300[illegible] Srf# 110330081119[illegible] Trn# 110330[illegible] Rfb#			100,000.00	
3/31	[redacted]		10.00		
Ending balance on 3/31					[redacted]
Totals					

Helpful Symbols: ATM Automatic Teller Machine transaction ■ Debit Card transaction ■ Point of Sale transaction ■ Recurring debit card transaction ■ Check number is missing in the sequence

Unlimited check writing privileges and no minimum balance requirements.

SRM - Wire In
(not credited on my chart)

BMO Bank of Montreal

Requisition for Wire Transfer

18/APR/2011

Serial Number 321358957	Posting Date 18/APR/2011	Amount USD	200,000.00

ORDERING CUSTOMER

Name MR SALVATORE ROBERT MORABITO

Source of Funds ACCOUNT 3213 4513-931

QUOTED RATE & EXCHANGE

N/A

BENEFICIARY

Name SUPERPUMPER INC

Address 14631 NORTH SCOTTSDALE RD, SUITE128

City SCOTTSDALE

State ARIZONA ZIP Code 85254

Country UNITED STATES

BENEFICIARY BANK

Bank Name BBVA COMPASS BANK

Address 2850 E CAMELBACK ROAD, SUITE 140

City PHOENIX

State ARIZONA ZIP Code 85016

Country UNITED STATES Bank ID FEDWIRE 122105744

CORRESPONDENT BANK

Bank Name WELLS FARGO BANK N.A. Code 1000106

DETAILS OF PAYMENT

Notify by Phone NO Regular Number

Credit Account YES Account 2519846380 Pay on Application & Identification NO

Remittance Information BANK CONTACT SHAWN HOLLENBACH (602)522-5 850.

WIRE TRANSFER AGREEMENT

In consideration of the Bank of Montreal (the "Bank") processing and receiving wire transfers ("Transfers") from time to time for our account, we agree as follows:

We acknowledge that the Bank is not responsible for and we agree to indemnify and save the Bank harmless from and against any and all charges, expenses, losses, claims, damages, penalties, costs or inconvenience resulting to us or any other person arising from any delay or failure ofperformance due to causes beyond the control of the Bank, including, without limitation, the acts or omissions of or the insolvency or bankruptcy of other financial institutions or systems failures respecting the processing and receipt of Transfers. The Bank is not liable to us or any other person for incorrect or improper payment to or from us or any person arising out of the processing of any Transfer, unless caused solely by the negligence or wilful misconduct of the Bank.

We acknowledge that the Bank may delay the sending of a Transfer in the event that any restrictions applicable to the Bank in any clearing system used to effect the Transfer, including, without limitation, insufficient credit or other limits delay the Bank from sending the Transfer. We acknowledge that the Bank and other financial institutions involved in processing Transfers may rely solely on any account or identification number (s) provided and will not seek to confirm whether the number (s) specified correspond with the name of the payee or the payee's financial institution provided in the payment order and are not obliged in any other way to verify the information contained in the payment order. The payee may be required to provide identification to the satisfaction of the paying financial institution.

Transfers executed by the Bank are irrevocable. While the Bank shall use its best efforts to request a return of funds upon our instructions, the Bank cannot guarantee a return of funds or a return of funds without charge of fee to us. If the Bank is able to obtain a return of funds, the Bank will credit our account less any applicable charges or fees, at the bank's quoted rate of exchange (where foreign currency exchange is requested by us) on the date such credit is made. The funding account number information may be provided to the beneficiary's financial institution as part of processing this Transfer.

We agree to pay any Bank charges or fees and to reimburse the Bank for any fees or deductions charged by other financial institutions, withholding or other taxes, interest and penalties that may be paid by the Bank, in connection with any Transfers. We acknowledge that other financial institutions may charge or deduct a fee for processing Transfers (including fees for refund requests and corrections).

Transfers are subject to cut-off times, time zone differences and local laws and regulations of the destination country, including Canada.

Customer Signature

L. IT
Completed by

K. SMITH
Authorized by

Form 90135

SRM - wire in

Lu

BMO Bank of Montreal

Requisition for Wire Transfer 28/JUL/2011

Serial Number 321369948	Posting Date 28/JUL/2011	Amount USD	100,000.00

ORDERING CUSTOMER

Name MR SALVATORE ROBERT MORABITO

Source of Funds ACCOUNT 3213 4513-931

QUOTED RATE & EXCHANGE

N/A

BENEFICIARY

Name SUPERPUMPER INC

Address 14631 NORTH SCOTTSDALE RD, SUITE125

City SCOTTSDALE

State ARIZONA ZIP Code 85254

Country UNITED STATES

BENEFICIARY BANK

Bank Name BBVA COMPASS BANK

Address 2850 E CAMELBACK ROAD, SUITE 140

City PHOENIX

State ARIZONA ZIP Code 85016

Country UNITED STATES Bank ID FEDWIRE 122105744

CORRESPONDENT BANK

Bank Name WELLS FARGO BANK N.A. Code 1000106

DETAILS OF PAYMENT

Notify by Phone NO Regular Number

Credit Account YES Account 2519846880 Pay on Application & Identification NO

Remittance Information BANK CONTACT SHAWN HOLLENBACH (602)522-6890

WIRE TRANSFER AGREEMENT

In consideration of the Bank of Montreal (the "Bank") processing and receiving wire transfers ("Transfers") from time to time for our account, we agree as follows:

We acknowledge that the Bank is not responsible for and we agree to indemnify and save the Bank harmless from and against any and all charges, expenses, losses, errors, damages, penalties, costs or inconvenience resulting to us or any other person arising from any delay or failure of performance due to causes beyond the control of the Bank, including, without limitation, the acts or omissions of or the insolvency or bankruptcy of other financial institutions or systems failures respecting the processing and receipt of Transfers. The Bank is not liable to us or any other person for incorrect or improper payment to or from us or any person arising out of the processing of any Transfer, unless caused solely by the negligence or wilful misconduct of the Bank.

We acknowledge that the Bank may delay the sending of a Transfer in the event that any restrictions applicable to the Bank in any clearing system used to effect the Transfer, including, without limitation, insufficient credit or other limits delay the Bank from sending the Transfer. We acknowledge that the Bank and other financial institutions involved in processing Transfers may rely solely on any account or identification number (s) provided and will not seek to confirm whether the number (s) specified correspond with the name of the payee or the payee's financial institution provided in the payment order and are not obliged in any other way to verify the information contained in the payment order. The payee may be required to provide identification to the satisfaction of the paying financial institution.

Transfers executed by the Bank are irrevocable. While the Bank shall use its best efforts to request a return of funds upon our instructions, the Bank cannot guarantee a return of funds or a return of funds without charge or fee to us. If the Bank is able to obtain a return of funds, the Bank will credit our account less any applicable charges or fees, at the bank's posted rate of exchange (where foreign currency exchange is requested by us) on the date such credit is made. The funding account number information may be provided to the beneficiary's financial institution as part of processing this Transfer.

We agree to pay any Bank charges or fees and to reimburse the Bank for any fees or deductions charged by other financial institutions, including but not limited to withholding or other taxes, interest and penalties that may be paid by the Bank, in connection with any Transfers. We acknowledge that other financial institutions may charge or deduct a fee for processing Transfers (including fees for refund requests and corrections) and that the Bank may receive remuneration from the other financial institutions.

Transfers are subject to cut-off times, time zone differences and local laws and regulations of the destination country, including Canada.

Customer Signature

C. SPARKS

Completed by

Authorized by

Form 90135

Customer Copy

U.S. TRUST

Your Bank of America Prima Account Statement

Statement Period:
December 1 through December 30, 2011

Account Number: [redacted]

1114 P P
H 2-3

SALVATORE MORABITO
AKA SAM MORABITO
10645 N TATUM BLVD # 200-626
PHOENIX AZ 85028-3068

At Your Service
Call: 1.800.878.7878 - Customer Service

Palm Desert Private Bank
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Palm Desert, CA 92260-4341

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Premium Tiered Interest Checking

Summary of Your Prima Interest Checking Account

Beginning Balance on 12/01/11	$14,718.09
Total Deposits	+ 105,111.69
Total Checks, Withdrawals, Transfers, Account Fees	- 61,111.10
Interest Paid	+ 3.89
Ending Balance	$58,722.57

Annual Percentage Yield earned this period	0.08%
Interest paid year-to-date	$178.94
Number of ATM withdrawals and transfers	3
Number of purchase transactions	16
Number of 24 Hour Customer Service Calls	
Self-Service	0
Assisted	0

Checks Paid

* Gap in sequential check numbers.

Date Paid	Number	Amount
12/22	1115	$ 84.00
12/01	* 1156	120.00

Date Paid	Number	Amount
12/01	1157	120.00
Total of 3 Checks Paid		$324.00

Account Activity

Date Posted	Description	Reference Number	Amount
	Deposits and Credits		
12/02	Agent Assisted transfer from Chk 0101 Confirmation# 3886265360		
12/02	Wire Type:Wire In Date: 111202 Time:1326 Et Trn:2011120200195210 Seq:11120202419200 0a/328245 Orig:Mr Salvatore Robert Morab ID:32134513931 Snd Bk:Wells Fargo NY Intl ID:0509 Pmt Det:Op32138 3205 /Rec/Yr 73525 El Paseo Palm Desert CA US 9226		$156.31
12/13	ATM deposit on 12/13, Bank of America ATM #IAZD0091 (Card #318524790)	006748	49,980.00 1,132.50
12/15	ATM deposit on 12/15, Bank of America ATM #IAZD0091 (Card #318524790)	007088	3,842.68
12/20	Wire Type:Wire In Date: 111220 Time:0931 Et Trn:2011122000133251 Seq:11122008025 7h400/000214 Orig:Superpumper Inc ID:412519846880 Snd Bk:Compas S Bank ID:122105744 Pmt Det:Dec-11		50,000.00

Wire In

Continued on next page

Superpumper 001376

5094

Statement Period: September 1 through September 30, 2011
Account Number: [redacted]

Account Activity

Date Posted	Description	Reference Number	Amount
	Deposits and Credits		
09/02	Wire Type:Wire In Date: 110902 Time:1447 Et Trn:2011090200216141 Seq:11090232588800a/318279 Orig:Mc Salvatore Robert Morab ID:[redacted] Snd Bk:Wells Fargo NY Intl ID:0509 Pmt Det:Op32131		$49,980.00
09/08	ATM deposit on 09/08, 3774 /Acc/Yr 73525 El Paseo Suite 2504	007248	1,105.00
09/22	ATM deposit on 09/08, Bank of America ATM #INYN0011 (Card #318524790)		
	Wire Type:Wire In Date: 110922 Time:0901 Et Trn:2011092200108759 Seq:11092208010 5h400/000012 Orig:Superpumper Inc ID:4125198468 80 Snd Bk:Compas S Bank ID:122105744 Pmt Det:Sep11		50,000.00
	Total Deposits and Credits		*$101,085.00*
	Withdrawals, Transfers and Account Fees		
			$62.87

Wire In

Superpumper 001377

U.S. TRUST

Your Bank of America Prima Account Statement

Statement Period:
June 1 through June 30, 2011

Account Number: [redacted]

1114 P P
H 3-3

SALVATORE MORABITO
AKA SAM MORABITO
10645 N TATUM BLVD #200-626
PHOENIX AZ 85028-3068

At Your Service
Call: 1.800.878.7878 - Customer Service

Palm Desert Private Bank
73-525 El Paseo
Palm Desert, CA 92260-4341

Customer since 2002
Bank of America appreciates your business and we enjoy serving you.

Our Online Banking service allows you to check balances, track account activity and more. With Online Banking you can also view up to 18 months of this statement online and even turn off delivery of your paper statement. Enroll at www.bankofamerica.com.

Premium Tiered Interest Checking

Summary of Your Prima Interest Checking Account

Beginning Balance on 06/01/11	$116,146.91
Total Deposits	+ 100,000.00
Total Checks, Withdrawals, Transfers, Account Fees	- 49,892.12
Interest Paid	+ 20.71
Ending Balance	$166,275.50

Annual Percentage Yield earned this period	0.25%
Interest paid year-to-date	$108.39
Number of ATM withdrawals and transfers	2
Number of purchase transactions	8
Number of 24 Hour Customer Service Calls	
Self-Service	0
Assisted	0

Checks Paid

* Gap in sequential check numbers.

Date Paid	Number	Amount
06/21	1110	$ 120.71
06/15	* 1233	120.00
06/21	* 1241	165.00

Date Paid	Number	Amount
06/21	1242	157.00
06/27	* 1248	434.00
Total of 5 Checks Paid		$996.71

Account Activity

Date Posted	Description	Reference Number	Amount
	Deposits and Credits		
06/30	Wire Type:Wire In Date: 110630 Time:1643 Et Trn:2011063000396556 Seq:110630154503h400/003858 Orig:Superpumper Inc ID:412519846880 Snd Bk:Compas S Bank ID:122105744		$100,000.00
	Withdrawals, Transfers and Account Fees		
06/01	Bnwfinancial Svs DES:Bnwfs Pymt ID:Xxxxxxxxx INDN:Salvatore Mo4001227824 Co ID:1222568977 PPD Ref:011151013555735		$854.12
06/01	Chase DES:Loans ID:1093081358460O INDN:Morabito S201105297080 Co ID:9607281001 PPD Ref:011151010460685		1,104.50
06/02	Bank Of America DES:Line Pymt ID:0682401279100 99 INDN:Morabito S 00020040653 Co ID:1331887665 PPD Ref:011152006780694		600.00

Continued on next page

California

Wire In — But Credit is 100 K due to offset of 4/18/11 wire.

Superpumper 001378

5096

Quarles & Brady LLP

One Renaissance Square
Two North Central Avenue
Phoenix, Arizona 85004-2391
Tel 602.229.5200
Fax 602.229.5690
www.quarles.com

Attorneys at Law in:
Phoenix and Tucson, Arizona
Naples, Florida
Chicago, Illinois
Milwaukee and Madison, Wisconsin

October 15, 2010

VIA E-MAIL AND OVERNIGHT DELIVERY

Superpumper Properties, LLC
14631 North Scottsdale Road, #125
Scottsdale, Arizona 85254

Mr. Paul A. Morabito
59 Damonte Ranch Parkway, Suite B335
Reno, Nevada 89521

RE: Loan Agreement dated as of March 9, 2010 (the "Loan Agreement") by and between Superpumper Properties, LLC ("Superpumper") and Compass Bank ("BBVA Compass")

Ladies and Gentlemen:

Reference is made to the Loan Agreement described above. Capitalized terms used herein without definition have the meaning ascribed to them in the Loan Agreement, as applicable.

Under the terms and conditions of the Loan Agreement, BBVA Compass made a term loan to Superpumper in the original principal amount of $1,050,560.00 (the "Loan"), as evidenced by that certain Promissory Note dated March 9, 2010 executed by Superpumper in favor of BBVA Compass (the "Note", and together with the Loan Agreement and all other agreements, documents, and instruments evidencing, securing or otherwise relating to the Loan Agreement, the "Loan Documents"). Payment and performance of Superpumper's obligations under the Loan Documents is guaranteed by Paul A. Morabito ("Guarantor") pursuant to that certain Unconditional Guaranty dated March 9, 2010.

We are in receipt of Guarantor's e-mail dated September 24, 2010 (the "9/24/10 Notice"). In the 9/24/10 Notice, Guarantor acknowledges that Superpumper is in default of several of the provisions contained in the Loan Documents (the "Acknowledged Events of Default"). In addition, Guarantor has advised BBVA Compass that the Acknowledged Events of Default have been triggered by the entry of an approximately $75,000,000.00 judgment against Guarantor and other defendants.

As a result of the Acknowledged Events of Default: (i) BBVA Compass is entitled

to exercise its rights and remedies under the Loan Documents, at law and in equity, against Superpumper, Guarantor, and the collateral securing the amounts owed by Borrowers to BBVA Compass, and (ii) BBVA Compass is not obligated to make any advances available to Superpumper, and any advances made by BBVA Compass, on or after the date of this letter are made as an accommodation only, and the same do not constitute nor may be deemed to constitute a waiver by BBVA Compass of any of its rights or remedies under the Loan Documents, at law or in equity. BBVA Compass hereby reserves all rights and remedies under the Loan Documents, at law and in equity with regard to the foregoing Acknowledged Events of Default.

Superpumper and Guarantor have requested that BBVA Compass enter into discussions regarding a potential workout of the Loan. Although not obligated to do so, BBVA Compass is willing to enter into workout discussions regarding the Loan but only with the understanding that such discussions are non-binding in nature and that, notwithstanding the existence or content of any communication, including, but not limited to, any verbal conversations, by or between Superpumper, Guarantor, and BBVA Compass, or any of their representatives, regarding the Acknowledged Events of Default or any other default or Event of Default, no waiver, forbearance, loan modification, or other similar action by BBVA Compass with regard to such default or Event of Default will be effective unless the same has been reduced to writing and executed by an authorized representative of BBVA Compass, Superpumper, and every other entity deemed necessary or appropriate by BBVA Compass. To document this understanding, contemporaneously with this letter, BBVA Compass is sending a prenegotiation letter agreement to Superpumper for its review and signature.

Additional events may have occurred which would constitute defaults or, if uncured within any applicable cure periods, would constitute Events of Default. BBVA Compass hereby reserves the right to declare any such events as defaults or Events of Default, as applicable, at any time in the future and hereby reserves all of BBVA Compass's rights and remedies under the Loan Documents, at law and in equity, with regard thereto. Any failure to specify such events in this letter will not constitute a waiver of any default or Event of Default resulting from such events.

Any failure or delay by BBVA Compass in exercising any right, power, or remedy under the Loan Documents, at law or in equity, or any acceptance of partial performance or partial payment: (i) will not operate as a waiver of such right, power, or remedy, nor will any single or partial exercise of any such right, power, or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power, or remedy; and (ii) will not be sufficient, by itself or together with any other action or inaction by BBVA Compass, to establish a course of dealing or course of conduct by BBVA Compass upon which Superpumper or Guarantor are entitled to rely.

Nothing contained in this letter is a waiver or modification of any right, power, or remedy of BBVA Compass under the Loan Documents, nor a waiver or modification of any provision thereof; and nothing in this letter will be or will be construed as any such waiver, modification, or agreement.

Please ask your counsel to contact the undersigned if you would like to discuss this matter further.

Sincerely,

for

Brian Sirower
FOR THE FIRM

cc Dennis C. Vacco, Esq.

QB\130585.00069\11401693.2

Bank of America

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PAGE 1 OF 1

BANK OF AMERICA, N.A.
WIRE TRANSFER ADVICE
1 FLEET WAY PA6-580-04-05
SCRANTON, PA 18507

WX 0000 000 432 013544 0001 A2 0.357
SALVATORE MORABITO
AKA SAM MORABITO
3983 S MCCARRAN BLVD # 104
RENO NV 89502-7510

DATE: 10/01/10
DIRECT INQUIRIES TO:
800.729.9473 OPTION 2
ACCOUNT: [redacted]

THE FOLLOWING WIRE WAS CREDITED TODAY: USD AMOUNT $146,127.00

SP Properties Sale

TRANSACTION REF:	2010100108347015	SERVICE REF: 011740
SENDER'S REF:	101001510011740	RELATED REF: OP321338723
IMAD:	20101001B6B7001C011740	
ORIGINATOR:	MR PAUL A. MORABITO	ID: 32134513982
ORIGINATOR'S BANK:	BANK OF MONTREAL	ID: BOFMCAM2
SENDING BANK:	WACHOVIA NY INTL	ID: 026005092
BENEFICIARY:	SALVATORE MORABITO	ID: 1114560091
PAYMENT DETAIL:	CONTACT YOLANDA SMITH OR KAREN FALEN (760)636-7508 /REC/YR 73 525 EI P ASEO SUITE 2504 PALM DESERT CA	

THE FOLLOWING WIRE WAS DEBITED TODAY: USD AMOUNT $25.00

SP Purchase Balance Owing

TRANSACTION REF:	2010100100346507	SERVICE REF: 017060
RELATED REF:	TSZ0101001045140	IMAD: 20101001B6B7HU1R017060
INSTRUCTING BANK:	TRUSTWEB	ID: TRNB
BENEFICIARY:	LIPPES MATHIAS WEXLER FRIEDMAN LLP	ID: 15210958
BENEFICIARY'S BANK:	MANUFACTURERS AND TRADERS BANK	ID: 022000046
PAYMENT DETAIL:	CLIENT TRUST ACCOUNT 15210958 /ACC/CLIENT TRUST ACCOUNT 15210958	

Superpumper Properties

Superpumper 000948 ✓

5100

Seller: SUPERPUMPER PR RTIES, LLC

Property: 920 Mountain City Highway, Elko, NV

DESCRIPTION		DEBITS	CREDITS
TOTAL CONSIDERATION			1,470,000.00
PRORATIONS/ADJUSTMENTS:			
August Rent-Cedar @ 4,303.16 per 1 month(s) 8/26/2011 to 9/01/2011		717.19	
August Rent-Industrial Parkway @ 4,303.16 per 1 month(s) 8/26/2011 to 9/01/2011		717.19	2151.57
August Rent 14th & 15th Street @ 4,303.16 per 1 month(s) 8/26/2011 to 9/01/2011		717.19	
TITLE CHARGES			
Sub-Escrow Fee: First American Title Company		125.00	
Clark County Transfer Tax $3.90 per $1000.00: First American Title Company		3,823.95	
Wire Fee/Overnight Delivery (Payoff): First American Title Company		50.00	
Owner's Premium-for Cedar Property: First American Title Company		1,701.00	
Owner's Premium-15th Street: First American Title Company		1,358.70	
Owner's Premium-14th Street: First American Title Company		898.60	
Owners Premium for Industrial Prkwy: First American Title Company		1,701.00	
Record Reconveyance Post Closing: First American Title Company		75.00	
ESCROW CHARGES TO: Citywide Escrow Services, Inc.			
Escrow Fee		3,061.50	
Administration Fee		25.00	
Messenger Fee-Fed Ex Fees		50.00	
LOAN PAYOFF: BBVA Compass			
Principal Balance	974,869.29		
Interest Per Diem From 8/11/2011 To 8/29/2011, 18 Days, @ 108.3200	1,949.76		
Current Interest Due	216.64		
Total Loan Payoff		977,035.69	
ADDITIONAL DISBURSEMENTS:			
Document Transfer Tax: Pershing County Recorder-Auditor		1,911.00	
BALANCE DUE YOU		476,031.99	
TOTALS		1,470,000.00	1,470,000.00

Selling Expense 14,780.75

Cash Posted to Books 476,292.63
v From Escrow 476,031.99

Cost to Sell Adjustment <260.64>

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL THEREOF.
CITYWIDE ESCROW SERVICES, INC.
BY _____

14520.11

THIS IS A FINAL CLOSING STATEMENT

MORABITO (341).002560

Raffles Insurance Limited
Member Summary
September 30, 2010

130159
Berry-Hinckley Industries

	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	Total
UNDERWRITING						
Gross Premium	1,670,393	240,951	0	0	0	1,911,344
Cash Flow Deferral	0	0	0	0	0	0
	1,670,393	240,951	0	0	0	1,911,344
A Fund						
Net Premium	808,236	121,515	0	0	0	929,752
Losses Paid	(254,826)	(190,772)	0	0	0	(445,598)
Loss Reserves	0	0	0	0	0	0
	553,410	(69,257)	0	0	0	484,154
Assessments	0	70,444	0	0	0	70,444
Transfer from B Fund	0	0	0	0	0	0
Deficit Reallocation	(6,732)	(1,187)	0	0	0	(7,919)
Transfer to B Fund	0	0	0	0	0	0
Final A Fund Balance	546,678	(0)	0	0	0	546,678
B Fund						
Net Premium	203,586	24,149	0	0	0	227,735
Losses Paid	(1,561)	(142,593)	0	0	0	(144,153)
Loss Reserves	0	0	0	0	0	0
	202,025	(118,444)	0	0	0	83,581
Transfer from A Fund	0	0	0	0	0	0
C Fund Deficit Reallocated	0	0	0	0	0	0
Deficit Reallocation	(89,659)	118,444	0	0	0	28,785
Transfer to A Fund	0	0	0	0	0	0
Final B Fund Balance	112,366	0	0	0	0	112,366
C Fund						
Net Premium	125,279	18,071	0	0	0	143,351
Losses Paid	(68,908)	(4,039)	0	0	0	(72,947)
Loss Reserved	(28,223)	(3,837)	0	0	0	(32,060)
Profit or (Loss)	28,148	10,196	0	0	0	38,344
Transfer Deficit to B Fund	0	0	0	0	0	0
Final C Fund Balance	28,148	10,196	0	0	0	38,344
Total A, B, & C Funds	687,193	10,196	0	0	0	697,389
Contribution to Operating Costs	533,291	77,216	0	0	0	610,507
Actual Operating Costs	(551,778)	(80,094)	0	0	0	(631,873)
Investment Income	71,375	(17,669)	0	0	0	53,706
Tail Fund	1,725	965	0	0	0	2,690
NET EQUITY BALANCE	741,806	(9,387)	0	0	0	732,419
Capital						31,000
Cash Security						0
Investment Income on Capital & Security						(15,321)
Unpaid Assessments						(41,795)
Cash Flow Deferral						0
Letters of Credit						1,134,685
Dividends Payable						393,187
TOTAL EQUITY						$ 2,234,175