



Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia
Master Agreement

Order Date: 04-03-2023

CORRECT ORDER NUMBER MUST
 APPEAR ON ALL PACKAGES, INVOICES,
 AND SHIPPING PAPERS. QUESTIONS
 CONCERNING THIS ORDER SHOULD BE
 DIRECTED TO THE DEPARTMENT
 CONTACT.

| | | | |
|------------------------------|---|---|------------|
| Order Number: | CMA 0212 0212 FUELW21C 4 | Procurement Folder: | 861982 |
| Document Name: | FUELW21C- Statewide Contract -Miscellaneous Fuels | Reason for Modification: | |
| Document Description: | Awarded Districts - 3, 4, & 6 | CO# 03 is issued to assign the contract, CMA 0212 FUELW21D with Tri-State Petroleum Corp District 6 to CMA 0212 FUELW21C with Bruceton Petroleum Co Inc. | |
| Procurement Type: | Statewide MA (Open End) | | |
| Buyer Name: | | | |
| Telephone: | | | |
| Email: | | | |
| Shipping Method: | Best Way | Effective Start Date: | 2021-04-01 |
| Free on Board: | FOB Dest, Freight Prepaid | Effective End Date: | 2024-03-31 |

| VENDOR | | DEPARTMENT CONTACT | | | | | | | | | | | | | | | | | | | | | |
|---|---|--|----------------------|---------------------|------------------|---------------------|---------------|----|----|--------|---|----|----|--|--|----|----|--|--|----|----|--|--|
| Vendor Customer Code: | 000000206416 | Requestor Name: | Mark A Atkins | | | | | | | | | | | | | | | | | | | | |
| BRUCETON PETROLEUM CO INC 116 SHANNON DR | | Requestor Phone: | (304) 558-2307 | | | | | | | | | | | | | | | | | | | | |
| MORGANTOWN WV 26508 US | | Requestor Email: | mark.a.atkins@wv.gov | | | | | | | | | | | | | | | | | | | | |
| Vendor Contact Phone: | 999-999-9999 | <div style="font-size: 48pt; font-weight: bold;">23</div> <div style="font-size: 24pt; font-weight: bold;">FILE LOCATION</div> | | | | | | | | | | | | | | | | | | | | | |
| Extension: | | | | | | | | | | | | | | | | | | | | | | | |
| Discount Details: | | | | | | | | | | | | | | | | | | | | | | | |
| | <table border="1"> <thead> <tr> <th></th> <th>Discount Allowed</th> <th>Discount Percentage</th> <th>Discount Days</th> </tr> </thead> <tbody> <tr> <td>#1</td> <td>No</td> <td>0.0000</td> <td>0</td> </tr> <tr> <td>#2</td> <td>No</td> <td></td> <td></td> </tr> <tr> <td>#3</td> <td>No</td> <td></td> <td></td> </tr> <tr> <td>#4</td> <td>No</td> <td></td> <td></td> </tr> </tbody> </table> | | | | Discount Allowed | Discount Percentage | Discount Days | #1 | No | 0.0000 | 0 | #2 | No | | | #3 | No | | | #4 | No | | |
| | Discount Allowed | | | Discount Percentage | Discount Days | | | | | | | | | | | | | | | | | | |
| #1 | No | 0.0000 | 0 | | | | | | | | | | | | | | | | | | | | |
| #2 | No | | | | | | | | | | | | | | | | | | | | | | |
| #3 | No | | | | | | | | | | | | | | | | | | | | | | |
| #4 | No | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | |

| INVOICE TO | SHIP TO |
|---|---|
| ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER | STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER |
| No City WV 99999 US | No City WV 99999 US |

Total Order Amount: Open End

Purchasing Division's File Copy

ENTERED

MA 04/03/2023
 PURCHASING DIVISION AUTHORIZATION
 DATE: *4/6/23*
 ELECTRONIC SIGNATURE ON FILE

ATTORNEY GENERAL APPROVAL AS TO FORM
 DATE: *John L. Gray*
 ELECTRONIC SIGNATURE ON FILE

ENCUMBRANCE CERTIFICATION
 DATE: *4/11/2023*
 ELECTRONIC SIGNATURE ON FILE

4/10/2023

Extended Description:

Statewide Fuel Contract - Open-End

CHANGE ORDER No. 03: issued for the following:

Change Order No. 03 is issued to assign contract, CMA 0212 FUELW21D with Tri-State Petroleum Corp (District 6) to CMA 0212 FUELW21C with Bruceton Petroleum Co Inc., per the attached documents.

The Original Contract, CMA 0212 FUELW21D District 6 Pricing will remain in full force and effect under CMA 0212 FUELW21C.

Effective date of Assignment: 04/01/2023

Effective Contract Dates: 04/01/2023 - 03/31/2024

All provisions of the original Contract and subsequent Change Orders not modified herein shall remain in full force and effect. No other changes.

The vendor is awarded the following Districts: District 3, District 4, District 6.

West Virginia State Agencies utilizing this contract must purchase an OPIS license allowing the agency to OPIS weekly pricing. Contact OPIS at 888-301-2645.

| Line | Commodity Code | Manufacturer | Model No | Unit | Unit Price |
|------|---------------------|-------------------|----------|--------------------------------|------------|
| 1 | 15100000 | | | | 0.000000 |
| | Service From | Service To | | Service Contract Amount | |
| | 2021-04-01 | 2024-03-31 | | 0.00 | |

Commodity Line Description: Miscellaneous Fuels - Districts: 3,4, 6

Extended Description:

See attached Exhibit A Pricing Page for Fuel Pricing.

Awarded: District 3, District 4, District 6



MARK D. SCOTT
CABINET SECRETARY

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
2019 WASHINGTON STREET, EAST
CHARLESTON, WEST VIRGINIA 25305-0130

W. MICHAEL SHEETS
DIRECTOR

March 29, 2023

Mr. Mike Collins
Bruceton Petroleum Company, Inc.
1768 Mileground Road
Morgantown, WV 26505

Subject: WV Statewide Contract No.: CMA 0212 FUELW21D assignment to CMA FUELW21C

Dear Mr. Collins:

The State of West Virginia is offering to assign the contract, CMA 0212 FUELW21D issued to Tri-State Petroleum Corp. for District 6 to CMA 0212 FUELW21C issued to Bruceton Petroleum Company, Inc per the attached documentation. The effective dates for this assignment is April 01, 2023 through March 31, 2024. If your company agrees to this assignment, please sign below and return to my attention as soon as possible. Emailing of documents is acceptable.

We agree to the assignment of the contract CMA FUELW21D to CMA FUELW21C for the period as stated above under the same terms, conditions, and pricing in the original CMA FUELW21D contract including and any change orders thereto.

Michael Collins
Print Name

[Signature]
Signature

Director of Operations
Title

3-31-23
Date

Please call if you have any questions.

Very truly yours,

Mark A. Atkins, CPPB

Buyer Supervisor, Statewide Contracts
West Virginia Department of Administration
Purchasing Division
2019 Washington Street, East
POB 50130
Charleston, WV 25305-0130

Phone: 304.558.2307

Email: Mark.A.Atkins@wv.gov



Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia
Master Agreement

Order Date: 03-29-2021

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 AND SHIPPING PAPERS. QUESTIONS
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 CONTACT.

| | | | |
|------------------------------|---|---|------------|
| Order Number: | CMA 0212 0212 FUELW21D 1 | Procurement Folder: | 861983 |
| Document Name: | FUELW21D- Statewide Contract -Miscellaneous Fuels | Reason for Modification: | |
| Document Description: | Awarded Districts - 6 | Award of CRFQ SWC2100000014 PF: 853102 | |
| Procurement Type: | Statewide MA (Open End) | | |
| Buyer Name: | | | |
| Telephone: | | | |
| Email: | | | |
| Shipping Method: | Best Way | Effective Start Date: | 2021-04-01 |
| Free on Board: | FOB Dest, Freight Prepaid | Effective End Date: | 2022-03-31 |

| VENDOR | | | | DEPARTMENT CONTACT | |
|------------------------------|-------------------------|----------------------------|----------------------|-------------------------|----------------------|
| Vendor Customer Code: | 000000202498 | | | Requestor Name: | Mark A Atkins |
| TRI STATE PETROLEUM CORP | | | | Requestor Phone: | (304) 558-2307 |
| PO BOX 4006 | | | | Requestor Email: | mark.a.atkins@wv.gov |
| WHEELING | | WV | 26003 | | |
| US | | | | | |
| Vendor Contact Phone: | 304-277-3232 | Extension: | | | |
| Discount Details: | | | | | |
| | Discount Allowed | Discount Percentage | Discount Days | | |
| #1 | No | 0.0000 | 0 | | |
| #2 | No | | | | |
| #3 | No | | | | |
| #4 | No | | | | |

| INVOICE TO | SHIP TO |
|---|---|
| ALL STATE AGENCIES | STATE OF WEST VIRGINIA |
| VARIOUS LOCATIONS AS INDICATED BY ORDER | VARIOUS LOCATIONS AS INDICATED BY ORDER |
| No City | No City |
| WV 99999 | WV 99999 |
| US | US |

Total Order Amount: Open End

PURCHASING DIVISION AUTHORIZATION
 DATE:
 ELECTRONIC SIGNATURE ON FILE

ATTORNEY GENERAL APPROVAL AS TO FORM
 DATE:
 ELECTRONIC SIGNATURE ON FILE

ENCUMBRANCE CERTIFICATION
 DATE:
 ELECTRONIC SIGNATURE ON FILE

Extended Description:

Statewide Fuel Contract

Open-End

The vendor, Tri State Petroleum Corp, agrees to enter with the State of West Virginia into this Open-End Statewide Contract to supply Miscellaneous Fuels (Unleaded Gasoline/E-10, No. 2 Diesel, No. 2 diesel with Winter Additive, No. 1 Heating/Kerosene, and No. 2 Heating Oil by Tanker Wagon per the attached specifications, terms and conditions, bid requirements, Addendum No. 01 dated: 03/15/2021, addendum No. 02 dated 03/15/2021 and the vendor's submitted and accepted bid dated: 03/24/2021 incorporated herein by reference and made part hereof.

The vendor is awarded the following Districts:
District 6

The attached Vendor's pricing shows a firm markup per gallon.

Note: All state agencies and departments shall be responsible for placing orders with the awarded vendor.

West Virginia State Agencies utilizing this contract must purchase an OPIS license allowing the agency to OPIS weekly pricing. Contact OPIS at 888-301-2645.

| Line | Commodity Code | Manufacturer | Model No | Unit | Unit Price |
|------|---------------------|-------------------|----------|------|------------|
| 1 | 15100000 | | | | 0.000000 |
| | Service From | Service To | | | |
| | 2021-04-01 | 2022-03-31 | | | |

Commodity Line Description: Miscellaneous Fuels - District Six (6)

Extended Description:

See attached Exhibit A Pricing Page for Fuel Pricing.

Awarded: District 6

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of a Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or "Proposal" means the vendors submitted response to this solicitation.

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

2.5. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

2.6. "Award Document" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

2.7. "Solicitation" means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.8. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

2.9. "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

Term Contract

Initial Contract Term: This Contract becomes effective on April 01, 2021 and the initial contract term extends until One (1) Year.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to Three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Alternate Renewal Term – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

Fixed Period Contract: This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

Fixed Period Contract with Renewals: This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that maintenance, monitoring, or warranty services will be provided for _____ year(s) thereafter.

One Time Purchase: The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

Other: See attached _____

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for “Fixed Period Contract” or “Fixed Period Contract with Renewals” has been checked in Section 3 above. If either “Fixed Period Contract” or “Fixed Period Contract with Renewals” has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the contract via change order to memorialize the official date that work commenced.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

Open End Contract: Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

Service: The scope of the service to be provided will be more clearly defined in the specifications included herewith.

Combined Service and Goods: The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

One Time Purchase: This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General’s office.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

BID BOND (Construction Only): Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

PERFORMANCE BOND: The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Purchasing Division prior to Contract award.

LABOR/MATERIAL PAYMENT BOND: The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

MAINTENANCE BOND: The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

LICENSE(S) / CERTIFICATIONS / PERMITS: In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

Specification 3.2.2 - Vendor must provide proof that it is licensed by the West Virginia State Tax Department as a Motor Fuel Transporter, Motor Fuel Distributor, or Motor Fuel Importer. Should provide proof with bid but will be required prior to contract award.

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below and must include the State as an additional insured on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed in this section.

Vendor must maintain:

Commercial General Liability Insurance in at least an amount of: \$1,000,000.00 per occurrence.

Automobile Liability Insurance in at least an amount of: \$250,000.00 per occurrence.

Professional/Malpractice/Errors and Omission Insurance in at least an amount of: _____ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

Commercial Crime and Third Party Fidelity Insurance in an amount of: _____ per occurrence.

Cyber Liability Insurance in an amount of: _____ per occurrence.

Builders Risk Insurance in an amount equal to 100% of the amount of the Contract.

Pollution Insurance in an amount of: _____ per occurrence.

Aircraft Liability in an amount of: _____ per occurrence.

Notwithstanding anything contained in this section to the contrary, the Director of the Purchasing Division reserves the right to waive the requirement that the State be named as an additional insured on one or more of the Vendor's insurance policies if the Director finds that doing so is in the State's best interest.

9. WORKERS' COMPENSATION INSURANCE: The apparent successful Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. [Reserved]

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

_____ for _____

Liquidated Damages Contained in the Specifications

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence with regard to all matters of time and performance in this Contract.

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR CERTIFICATIONS: By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein.

Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. PURCHASING AFFIDAVIT: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State, Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Purchasing Division affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

38. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE: This Contract may be utilized by other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts (“Other Government Entities”), provided that both the Other Government Entity and the Vendor agree. Any extension of this Contract to the aforementioned Other Government Entities must be on the same prices, terms, and conditions as those offered and agreed to in this Contract, provided that such extension is in compliance with the applicable laws, rules, and ordinances of the Other Government Entity. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.

39. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

40. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.division@wv.gov.

41. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision. The State reserves the right to prohibit a service provider’s employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Revised 02/10/2021

Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

42. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
- c. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
- d. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

43. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a

“substantial labor surplus area”, as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

44. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the vendor must submit to the Agency a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-award interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

45. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

Cheryl Rogers, Sales Rep
(Name, Title)

Cheryl Rogers, sales rep
(Printed Name and Title)

2627 Vance Avenue, Wheeling WV 26003
(Address)

304-277-3232 / 304-277-1437
(Phone Number) / (Fax Number)

crogers@fueledbytristate.com
(email address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

Tri State Petroleum Corp.
(Company)

Cheryl Rogers, Sales Rep
(Authorized Signature) (Representative Name, Title)

Cheryl Rogers, Sales Rep.
(Printed Name and Title of Authorized Representative)

3/18/2021
(Date)

304-277-3232 / 304-277-1437
(Phone Number) (Fax Number)

**REQUEST FOR QUOTATION
CRFQ 0212 SWC210000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)**

SPECIFICATIONS

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the State of West Virginia to establish an open-end contract for Tank Wagon (T/W) delivery of Motor and Heating Fuels as defined below.

The Contract may be utilized by West Virginia State agencies and all political subdivisions of the State in all fifty-five (55) counties. This was originally solicited as: SWC170000011 and bids opened on: 02/22/2017. Bid Results may be viewed at: <http://www.state.wv.us/admin/purchase/Bids/FY2017/BO20170222.html> .

Current Operating Environment:

The State has been divided geographically into ten (10) Districts (which are the same as the ten (10) State of West Virginia DOH Districts). See **Exhibit_B** and are as follows:

- District 1:** Mason, Putnam, Kanawha, Clay and Boone counties.
- District 2:** Cabell, Wayne, Lincoln, Logan and Mingo counties.
- District 3:** Pleasants, Wood, Ritchie, Wirt, Calhoun, Roane, and Jackson counties.
- District 4:** Doddridge, Harrison, Marion, Taylor, Monongalia, and Preston counties.
- District 5:** Grant, Hardy, Mineral, Hampshire, Morgan, Berkeley and Jefferson counties.
- District 6:** Tyler, Wetzel, Marshall, Ohio, Brooke and Hancock counties.
- District 7:** Gilmer, Barbour, Lewis, Braxton, Upshur and Webster counties.
- District 8:** Tucker, Randolph, Pendleton and Pocahontas counties.
- District 9:** Nicholas, Fayette, Greenbrier, Summers and Monroe counties.
- District 10:** Raleigh, Wyoming, McDowell and Mercer counties.

NOTE: Vendors must provide Tank Wagon (T/W) deliveries to any location within the vendors quoted District. Submitting a bid for a District represents the vendor's express agreement to deliver to any location within that district as required.

- 2. DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
- 2.1 “Contract Item”, “Contract Items”, or “Fuel”** means the list of items identified in Section 3.1 below and on the Pricing Pages.
 - 2.2 “Pricing Pages”** means the schedule of prices, estimated order quantity, and totals contained in wvOASIS or attached hereto as Exhibit A, and used to evaluate the Solicitation responses.

REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)

- 2.3 **“Solicitation”** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
- 2.4 **“E10 Fuel”** means E10, a mixture of 10% anhydrous ethanol and 90% gasoline.
- 2.5 **“Cetane Rating”** CN means (C₁₆H₃₄) is an indicator of the combustion speed of diesel fuel and compression needed for ignition. It is an inverse of the similar octane rating for gasoline. The Cetane Number is an important factor in determining the quality of diesel fuel and is determined by ASTM D 613-86 “Ignition Quality of Diesel Fuel by the Cetane Method”.
- 2.6 **“Motor Fuel Transporter”** means an entity licensed as a Motor Fuel Transporter with the State of West Virginia to transport motor fuel outside the bulk transfer terminal system by means of transport vehicle.
- 2.7 **“Motor Fuel Distributer”** means an entity licensed as a Motor Fuel Distributor with the State of West Virginia to acquire motor fuel within West Virginia and distribute it within West Virginia.
- 2.8 **“Motor Fuel Importer”** means an entity licensed as a Motor Fuel Importer with the State of West Virginia to purchase fuel outside West Virginia and delivers it inside West Virginia.
- 2.9 **“Tank Wagon”** means a 2500 to 4500-gallon delivery vehicle.
- 2.10 **“Tank Truck”** means a 5000 to 11500-gallon delivery trailer. Combination Tractor and Trailer.
- 2.11 **“OPIS”** means Oil Price Information Service as published by United Communications Group, 1300 Rockville Pike, Suite 1100, Rockville, MD, 20852 1-800-929-4824. 9737 Washingtonian Blvd., Suite 200, Gaithersburg, MD. 20878 1.888.284.2000

3. GENERAL REQUIREMENTS:

- 3.1 **Contract Items and Mandatory Requirements:** Vendor shall provide Agency with the Contract Items listed below on an open-end and continuing basis. Contract Items must meet or exceed the mandatory requirements as shown below.

REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)

3.1.1 UNLEADED GASOLINE:

3.1.1.1 Unleaded Gasoline must comply with the most recent ASTM D 4814-07b “Standard Specification for Automotive Spark-Ignition Engine Fuel.”

3.1.1.2 Unleaded Gasoline must be compatible with octane 87

3.1.1.3 E10, Ethanol (87 Octane minimum) shall be an acceptable fuel for unleaded gasoline. Whenever E-10 is delivered it must be noted as such on the Vendor’s Invoice at time of delivery.

3.1.1.4 Unleaded Gasoline must be free from water, grit, acid, and fibrous or other foreign matter. Vendor is responsible for straining the Gasoline to ensure compliance with this subsection.

3.1.1.5 Unleaded gasoline must also be free from contamination. State Agencies and Political Subdivisions shall reserve the right to sample, inspect and test fuel quality in accordance with Federal Specifications upon delivery, prior to unloading. The supplier will allow samples to be taken prior to discharging of product into tanks. Should test results show fuel contains contamination, it will be rejected. Samples will be taken without prior notices.

3.1.1.6 Contamination is defined as any element which enters pure refined product either naturally or by purposeful action which is not a product of refined crude oil with the exception of winter additives, detergents, and identifying dyes.

3.1.1.7 Unleaded Gasoline not meeting specifications is unacceptable and must be removed from tank at vendor’s expense.

REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)

3.1.2 DIESEL FUEL

3.1.2.1 Diesel Fuel shall comply with the most recent version of ASTM D 975-07b “Standard Specification for Diesel Fuel Oils” except the Cetane Rating (CN) shall be a minimum of 50, maximum of .05 weight of sulfur, a maximum aromatic content of 35 volume percent, and free of visible evidence of blue dye 1.4 dialkylamine-anthraquinone.

3.1.2.2 Diesel Fuel cloud points must be complying as below
TYPE II +10F
TYPE II Ultra Low Sulphur

3.1.2.3 Diesel Fuel shall be an Ultra-Low Sulfur all-purpose diesel fuel intended for use in all automotive type diesel engines under normal conditions of service.

3.1.2.4 Diesel Fuel must be free from water, grit, acid, and fibrous or other foreign matter. Vendor is responsible for straining the Diesel Fuel to ensure compliance with this subsection.

3.1.2.5 Diesel Fuel must also be free from contamination. State Agencies and Political Subdivisions shall reserve the right to sample, inspect and test fuel quality in accordance with Federal Specifications upon delivery, prior to unloading. The supplier will allow samples to be taken prior to discharging of product into tanks. Should test results show fuel contains contamination, it will be rejected. Samples will be taken without prior notices. Contamination is defined as any element which enters pure refined product either naturally or by purposeful action which is not a product of refined crude oil with the exception of winter additives, detergents, and identifying dyes

3.1.2.6 Only clear (white) low sulfur diesel fuel is acceptable.

3.1.2.7 A bio-based fuel component not to exceed 5.0 Percent is acceptable.

REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)

3.1.3 SPECIAL DIESEL REQUIREMENTS:

3.1.3.1 During the period of November 1st to February 28th agencies may require winterized diesel motor fuels. If required, the diesel fuel shall be blended with a permissible diesel additive to reduce operability parameters (cloud point, cold filter plug point) and to increase winter operability, maintaining State/Federal mandated regulatory specifications for on-road diesel fuel.

Any after-market additive used shall be identified by brand or trade name and manufacturer's purchase/exchange. An additive, if used shall be Environmental Protection Agency (EPA) approved, and compatible with the refiner's product. Additives which increase emissions of sulfur and other substances proven to damage the environment which are disallowed by the EPA regulations will not be accepted.

3.1.3.2 Diesel Fuel not meeting specifications is unacceptable and must be removed from tank at vendor's expense.

3.1.4 HEATING OIL/KEROSENE:

3.1.4.1 Heating Oil must be Grade #1 or Grade #2, fuel oil for various types of fuel burning equipment.

3.1.4.2 Heating Oil specifications must meet the specifications of ASTM Heating Oil D396-08 "Standard Specification for Fuel Oils" the most recent edition.

3.1.4.3 The Heating Oil herein specified shall be hydrogen oils free from grit, acid and fibrous or other foreign matter.

3.1.4.4 Vendor must strain Heating Oil through a filter or wire of 16 mesh per inch. (U.S. Standard sieve 16, ASTM 1, 190 microns). The clearance area through the strainers shall be at least twice the area of the suction pipe and strainers shall be in duplicate.

3.1.4.5 Fuel oil shall conform to the detailed requirements for Fuel Oils "National Bureau of Standards" CS-12-48, dated September 25, 1948, or the latest edition.

3.1.4.6 Fuel oil not meeting specifications is unacceptable and must be removed from tank at vendor's expense.

REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)

3.2 ADDITIONAL REQUIREMENTS:

- 3.2.1** Vendor must have operated as a licensed refiner, distributor, or dealer of one or more of the Contract Items for a minimum of three (3) years. Must provide proof upon request.
- 3.2.2** Vendor must provide proof that it is licensed by the West Virginia State Tax Department as a Motor Fuel Transporter, Motor Fuel Distributor, or Motor Fuel Importer. Should provide proof with bid but will be required prior to contract award.
- 3.2.3** Vendor must file all required reports associated with the transport of Contract Items with the appropriate government entities.
- 3.2.4** Vendor must transport Contract Items in accordance with all applicable laws, rules, and regulations that govern the transport of all Contract Items.

4. CONTRACT AWARD:

- 4.1 Contract Award:** The Contract is intended to provide Agencies with a purchase price on **all** Contract Items listed for each District. A Contract will be awarded for each district to the vendor that has the lowest District Total in that district as shown on **Exhibit A Pricing Pages**.
- 4.2 Pricing Pages:** Vendor should complete the **Exhibit A Pricing Pages** by inserting the terminal location or locations from which each Fuel Item will be pulled. To aid in evaluation, each type of Fuel in every district being bid should have a terminal location Fuel is to be pulled from. For example:

| <u>District</u> | <u>Fuel Type</u> | <u>Terminal Location Fuel is Pulled From</u> |
|------------------------|-----------------------------|---|
| 1 | Unleaded Gasoline/E10 | CWV (Charleston, WV) |
| | No. 2 Diesel | CWV (Charleston, WV) |
| | No. 2 Diesel w/ Winter Add. | CWV (Charleston, WV) |
| | No. 1 Heating/Kerosene | CWV (Charleston, WV) |
| | No. 2 Heating | CWV (Charleston, WV) |

Notwithstanding the foregoing, if Vendor omits a terminal delivery location, the Purchasing Division reserves the right to request that information prior to contract award. Vendor must also list its Vendor Markup per Gallon for each Fuel type in each district being bid. The **Firm Fixed Markup must be quoted in dollar form.** For example, inserting a 0.5 would equal \$0.50 (fifty cents) per gallon markup. **(Percentage markups are not acceptable)** That Markup will then be added to the

REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)

OPIS Hypothetical Terminal Cost and multiplied by the Six Month Estimated Need to arrive at the Extended Cost. The Extended Cost for each Fuel type in the District in question will be added to arrive at the District Total.

Vendor Markup per Gallon must include all costs associated with the production and delivery of the Fuel via Tank Wagon to any location in the District being bid. The Markup per Gallon does not include, however, any applicable taxes and fees (see Item 5.3 of these specifications) payable by the State.

Vendor's should also include in the Pricing Pages its Emergency Delivery Fee for expedited 24-hour delivery. Failure to list an Emergency Delivery Fee will result in the Vendor being required to deliver on an expedited basis at no additional charge.

Vendor should complete the **Exhibit A Pricing Pages** in their entirety as failure to do so may result in Vendor's bids being disqualified.

The **Exhibit A Pricing Pages** were created in MS Excel and contain a list of the Contract Items and estimated purchase volume. The estimated purchase volume for each item represents the approximate volume of anticipated purchases only. No future use of the Contract or any individual item is guaranteed or implied. Vendor is responsible for ensuring the calculation for their bid is correct before submission. In the event of an error, Unit Pricing shall prevail.

Vendor should download and electronically enter the information into the **Exhibit A Pricing Pages** as attached as an electronic document within wvOASIS Vendor Self Service site. Vendors may request an electronic copy of the **Exhibit A Pricing Pages** for bid purposes by sending an email request to the following address: Mark.A.Atkins@wv.Gov.

NOTE: Vendor's Failure to bid every Fuel item in a district may result in disqualification of Vendor's Bid.

The bid prices for one (1) District shall not be conditioned on the award of any other District.

**REQUEST FOR QUOTATION
CRFQ 0212 SWC210000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)**

5. ORDERING AND PAYMENT:

5.1 Ordering: Vendor shall accept orders through wvOASIS, regular mail, facsimile, e-mail, or any other written form of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor has the ability to accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Any on-line ordering system must have the capability to restrict prices and available items to conform to the Pricing originally submitted and awarded with this solicitation. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Agency orders on-line.

5.1.1 Vendor Acknowledgement Procedure: The vendor must email State agencies and Political Subdivisions upon receipt of an order, showing order confirmation and providing tentative delivery information.

5.1.2 Minimum Order Quantity – Vendor is not required to deliver in quantities less than 500 gallons but is not prohibited from doing so provided contract pricing is maintained.

5.2 Billing and Payment: After delivery has occurred, Vendor will Bill agency for the quantity delivered. Quantity will be determined in accordance with the procedures outlined in the delivery section. The price billed will be determined as follows:
Pricing per gallon includes:

| | |
|---|---|
| Avg. Weekly terminal price from OPIS (for appropriate terminal) + | |
| State Excise Tax (motor fuels only) | + |
| Federal L.U.S.T. Fee | + |
| <u>Vendor's mark-up as quoted in the contract</u> | + |
| EQUALS Price per Gallon delivered | |

5.2.1 OPIS Terminal Price: The terminal from which Vendor obtains Weekly Average OPIS Price will be determined as follows:

5.2.1.1 Single Terminal Location, Pickup From Terminal Listed – If Vendor lists a single terminal location for a district on the Pricing Pages and picks up Fuel from that terminal then Vendor will utilize the OPIS WEEKLY AVERAGE on the DAY OF ORDER for that terminal

5.2.1.2 Single Terminal Location, Pickup From A Different Terminal – If Vendor lists a single terminal location for a district on the Pricing

REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)

Pages and picks up Fuel from a different terminal then Vendor will utilize the OPIS WEEKLY AVERAGE on the DAY OF ORDER for the less expensive of the two terminals.

5.2.1.3 Multiple Terminal Locations, Pickup From Terminal Listed – If Vendor lists multiple terminal locations for a district on the Pricing Pages and picks up Fuel from one of those listed terminals, then Vendor will utilize the OPIS WEEKLY AVERAGE on the DAY OF ORDER for the least expensive terminal listed.

5.2.1.4 Multiple Terminal Locations, Pickup From Terminal Not Listed – If Vendor lists multiple terminal locations for a district on the Pricing Pages and picks up Fuel from a terminal that is not listed, then Vendor will utilize the OPIS WEEKLY AVERAGE on the DAY OF ORDER for the least expensive of the terminals listed (submitted with the bid).

Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia. Methods of acceptable payment must include the West Virginia Purchasing Card (P Card). Payment in advance is not permitted.

5.3 TAXES: The State of West Virginia agencies are exempt from the Federal Excise Tax, and the State Consumers Sales Tax. State of West Virginia agencies are not exempt from State Excise Tax. West Virginia State agencies currently pay a variable rate component of the motor fuel excise tax on motor fuel sold or used of \$0.1520 per gallon. State agencies also currently pay \$0.2050 per gallon for the flat rate component of the West Virginia Excise Tax (See **Exhibit_C**). WV Motor Fuel Rates can also be accessed at: (<https://tax.wv.gov/Documents/TaxForms/2018/MotorFuelRates.pdf>) . The WV Motor Fuel Rates are from January 01 thru December 31 of each year and the current year rates will be published on the Statewide Contracts page of the Purchasing Division Website for each year of the contract.

In addition, state agencies are responsible for the **Federal L.U.S.T. Fee** which is assessed at 0.01cents per gallon.

No other fuel taxes or fees shall be charged to state agencies.

Any Superfund Tax must be included in the bidder's mark-up price. The State will not accept bids from bidders who cannot meet the above conditions regarding taxes.

REQUEST FOR QUOTATION
CRFQ 0212 SWC210000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)

5.4 Verification of Product Pricing: Since the commodities listed on this contract are subject to weekly price changes, State agencies utilizing this contract must be able to verify product pricing using the OPIS Weekly Average Price (as of the day of order). **This will require that Agencies obtain an OPIS subscription.**

| | |
|---|---------------|
| Average rack/terminal price from OPIS | + |
| State Excise Tax (motor fuels only) | + |
| Federal L.U.S.T. Fee | + |
| Vendor's mark-up as quoted in the contract | _____+ |
| EQUALS Price per Gallon delivered | |

5.5 Invoicing: Vendors are encouraged to utilize a paperless invoice process, submitting the following information via e-mail to the ordering location:

5.5.1 Delivery Ticket number (s) for the fuel delivery, date and time of delivery and order location.

5.5.2 Fuel type, total quantities, unit price, applicable taxes, total price and the terminal source of supply for all deliveries.

5.5.3 Vendors shall process invoices within four (4) calendar days of the delivery date.

6. DELIVERY AND RETURN:

6.1 DELIVERY TIME:

6.1.1 Standard Delivery: Vendor shall deliver standard orders within four (4) calendar days after orders are received. Vendor is prohibited from assessing additional charges for standard delivery. Unless prior arrangements have been made, deliveries shall be made during normal work hours 7:30 AM to 3:30 PM. EST. Monday through Friday.

6.1.2 Emergency Delivery: Vendor shall deliver emergency orders within twenty-four (24) hours after orders are received. Vendors may assess a one-time emergency delivery fee if the fee is included on the **Exhibit A, Pricing Page**. Unless prior arrangements have been made, deliveries shall be made during normal work hours 7:30 AM to 3:30 PM. EST. Monday through Friday.

REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)

6.2 DELIVERY LOCATION: Vendor must deliver to any location within the District for which Vendor is awarded a Contract. Delivery locations are not available to the purchasing division and therefore are not provided in this solicitation. Delivery location for each district will be provided by the agency upon order placement.

Delivery Quantity: Quantities delivered shall be based upon the actual quantities delivered to the Agency location. Vendors must provide Tank Wagon (T/W) deliveries to any location within the vendors quoted District. Submitting a bid for a District represents the vendor's express agreement to deliver to any location within that district as required.

6.2.1 Partial Compartment Delivery: Deliveries of partial compartments shall include a legible **metered** delivery ticket which has been processed through a meter certified and sealed by the State of West Virginia, Division of Weights and Measures and stamped with quantities location, time (am / pm), date driver and product. When bulk deliveries are made the driver must also stick the tank before and after the fuel is delivered and enter both readings onto the delivery ticket. In the event of a conflict between the metered measurement and the stick readings, the stick readings shall prevail. Delivery documents must be signed by the driver and include the location where the delivery was made, the product (s) delivered, the blend percentages, the number of gallons delivered, and the rack price or prices for blended fuels.

6.2.2 Complete Compartment Delivery: Tank Wagons (T/W) may make a delivery of a complete compartment and are permitted to substitute the allocation metered ticket from the loading point for the metered delivery ticket. West Virginia Code 47-1-11 adopts National Institute of Standards and Technology Handbook 130 part "Uniform Engine Fuels...Regulation", Section 3 of that regulation subparagraph 3.1.1 concerning documentation. When complete compartment deliveries are made the driver must also stick the tank immediately after the Fuel is loaded at the loading point and after the fuel is delivered and enter both readings onto the allocation metered ticket. In the event of a conflict between the metered measurement and the stick readings, the stick readings shall prevail. A Bill of Lading from the terminal source location is an acceptable substitute for the allocation metered ticket provided that the bill of lading contains location, time, date, driver, product, and the stick measurements. Delivery documents must be signed by the driver and include the location where the delivery was made, the product (s) delivered, the blend percentages, the number of gallons delivered, and the rack price or prices for blended fuels.

REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)

6.2.3 State Agency or Political Subdivisions reserve the right to inspect bulkheads and to measure contents of tanks before, and the time of and/or after delivery. The State Agency or Political Subdivision measurement at the time of delivery shall prevail.

6.3 Fuel Tank Requirements: Vendors must have the capability to deliver to above ground storage tanks utilizing a remote fill system (catch can) on the tank. All Tank Wagon (T/W) fuel deliveries to underground storage tanks shall be made using a vapor recovery nozzle. Tank Wagon (T/W) deliveries to underground storage tanks without a properly equipped vapor nozzle will be denied by the state agency.

6.4 Late Delivery: The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party. Any Agency seeking to obtain items from a third party under this provision must first obtain approval of the Purchasing Division.

A penalty of \$250.00 (reduction of invoice total) can be imposed for failure to provide delivery of fuel within the four (4) calendar day period of the order placement, unless such delay is attributed to terminal allocations. Vendors are permitted to submit documentation related to allocation issues to avoid the penalty.

Notwithstanding the preceding paragraph, Vendors shall not be liable for damages for delays in shipment or failure to deliver caused by fire, flood, Acts of God, Acts of Government, Act of alien enemy, or by any other circumstance which in the opinion of the State agency is beyond the control of the Contract Vendor. The State Agency may, purchase the needed products on the open-market, until such time as products become available by the vendor/supplier. Agencies are required to document their purchases should any of delivery issues arise.

6.5 Delivery Payment/Risk of Loss: All deliveries shall be F.O.B. destination to the Agency's location. Vendor shall include the cost of standard order delivery charges in its bid pricing/discount and is not permitted to charge the Agency separately for such delivery.

6.6 Returns: The awarded vendor shall be responsible for the removal of the Fuel from State or Political Subdivision property within three (3) calendar days after requested to do so should the Fuel fail to comply with these specifications. The vendor shall also be responsible for all cleanup required to all State agency or Political Subdivision property, storage facilities and equipment as a result of noncompliance

REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)

with specifications. Furthermore, the vendor shall be fully responsible for any and all cost incurred by the State Agency or Political Subdivision for any equipment sustaining damage, which is attributed to a contaminated fuel), which the vendor has delivered.

6.7 Return Due to Agency Error: Vendors may charge \$250.00 fee for errors on the part of State Agencies and or Political subdivisions which disallow delivery of ordered product.

6.8 Spillage and Cleanup: Vendor shall be responsible for any and all spillage which may occur during transit and unloading operations. The vendor shall immediately report any spillage to the office that ordered the fuel and cleanup the spillage according applicable EPA, State, county, and city guidelines and requirements. Failure to do so will initiate corrective action and back charge to the vendor of any incurred cost.

7. VENDOR DEFAULT:

7.1 The following shall be considered a vendor default under this Contract.

7.1.1 Failure to provide Contract Items in accordance with the requirements contained herein.

7.1.2 Failure to comply with other specifications and requirements contained herein.

7.1.3 Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

7.1.4 Failure to remedy deficient performance upon request.

7.2 The following remedies shall be available to Agency upon default.

7.2.1 Immediate cancellation of the Contract.

7.2.2 Immediate cancellation of one or more release orders issued under this Contract.

7.2.3 Any other remedies available in law or equity.

**REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)**

8 MISCELLANEOUS:

- 8.1 No Substitutions:** Vendor shall supply only Contract Items submitted in response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.
- 8.2 Vendor Supply:** Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, Vendor certifies that it can supply the Contract Items contained in its bid response.
- 8.3 Reports:** Vendor shall provide quarterly reports and annual summaries to the Agency showing the Agency's items purchased, quantities of items purchased, and total dollar value of the items purchased. Vendor shall also provide reports, upon request, showing the items purchased during the term of this Contract, the quantity purchased for each of those items, and the total value of purchases for each of those items. Failure to supply such reports may be grounds for cancellation of this Contract.

- 8.3.1** The Contractor shall provide to the State of West Virginia's primary contact person quarterly utilization reports containing at a minimum the following information pertaining to the State of West Virginia agencies, boards, commissions, and political subdivisions:

Ordering Entity;
Purchase order number;
Description;
Quantity;
Location;
Price.

- 8.3.2** These reports will be provided in Excel format and sent via email to Mark.A.Atkins@wv.gov on a quarterly basis as follows:

| <u>PERIOD END</u> | <u>REPORT DUE</u> |
|-------------------|-------------------|
| December 31 | January 31 |
| March 31 | April 30 |
| June 30 | July 31 |
| September 30 | October 31 |

- 8.4 SAMPLING, INSPECTION, and TESTS:** Sampling, inspection and testing shall be in accordance with Federal Specifications to obtain a fuel which meets the detailed requirements as specified and determined in the Department of Highway Laboratory. No allowances shall be made for any reproducibility factors in the prescribed test methods. The supplier will allow samples to be taken prior to discharging of product into localities tanks. Samples will be taken without prior notices.

REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUEL TW21)

- 8.5 Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

Contract Manager: Cheryl Rogers

Telephone Number: 304-277-3232 Ext 220

Fax Number: 304-277-1437

Email Address: clrogers@fueledbytristate.com



Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

**State of West Virginia
 Centralized Request for Quote
 Fuels**

| | | | |
|---|----------------------------|-------------------------|---|
| Proc Folder: 853102 | | | Reason for Modification: Addendum_1 |
| Doc Description: FUEL - TANKER WAGON STATEWIDE CONTRACT (FUELTW21) | | | |
| Proc Type: Statewide MA (Open End) | | | |
| Date Issued | Solicitation Closes | Solicitation No | Version |
| 2021-03-15 | 2021-03-24 13:30 | CRFQ 0212 SWC2100000014 | 3 |

BID RECEIVING LOCATION

BID CLERK
 DEPARTMENT OF ADMINISTRATION
 PURCHASING DIVISION
 2019 WASHINGTON ST E
 CHARLESTON WV 25305
 US

VENDOR

Vendor Customer Code:

Vendor Name :

Address :

Street :

City :

State : **Country :** **Zip :**

Principal Contact :

Vendor Contact Phone: **Extension:**

FOR INFORMATION CONTACT THE BUYER
 Mark A Atkins
 (304) 558-2307
 mark.a.atkins@wv.gov

Vendor Signature X **FEIN#** **DATE**

All offers subject to all terms and conditions contained in this solicitation

ADDITIONAL INFORMATION

ADDENDUM_1: Is issued for the following:

1. To publish the Purchasing Divisions' response to the questions submitted by Vendors during the Technical Questioning period.

No other changes made.

Statewide Contract Request for Quotation

The West Virginia Purchasing Division is soliciting bids on behalf of the State of West Virginia to establish an open-end contract for Tank Wagon (T/W) delivery of Motor and Heating Fuels per the attached documents.

The Contract may be utilized by West Virginia State agencies and all political subdivisions of the State in all fifty-five (55) counties. This was originally solicited as: SWC170000011 and bids opened on: 02/22/2017. Bid Results may be viewed at: <http://www.state.wv.us/admin/purchase/Bids/FY2017/BO20170222.html>

This contract may be awarded to multiple vendors.

| INVOICE TO | | SHIP TO | |
|---|----------|---|----------|
| VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER | | STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER | |
| No City US | WV 99999 | No City US | WV 99999 |

| Line | Comm Ln Desc | Qty | Unit Issue | Unit Price | Total Price |
|------|--|---------|------------|------------|-------------|
| 1 | Motor and Heating Fuels - Tanker Wagon Delivery | 0.00000 | | | |

| Comm Code | Manufacturer | Specification | Model # |
|-----------|--------------|---------------|---------|
| 15100000 | | | |

Extended Description:

Note: Vendor shall complete Exhibit_A Pricing Page(s) for bid pricing and must attach with bid.

If vendor is submitting a bid online, Vendor should enter \$0.00 in the Oasis commodity line.

See section 18 of Instructions to Bidders for additional information.

SCHEDULE OF EVENTS

| Line | Event | Event Date |
|------|---|------------|
| 1 | Technical Questions due by 10:00am EST: | 2021-03-12 |

SOLICITATION NUMBER: CRFQ 0212 SWC2100000014
Addendum Number: 1

The purpose of this addendum is to modify the solicitation identified as CRFQ 0212 SWC2100000014 (“Solicitation”) to reflect the change(s) identified and described below.

Applicable Addendum Category:

- Modify bid opening date and time
- Modify specifications of product or service being sought
- Attachment of vendor questions and responses
- Attachment of pre-bid sign-in sheet
- Correction of error
- Other

Description of Modification to Solicitation:

- 1. To publish the Purchasing Divisions’ response to the questions submitted by Vendors during the Technical Questioning period.**

No other changes made.

Additional Documentation: Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

Terms and Conditions:

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

Question #1: We might bid on district 3 and need to know if there are any underground tanks used in that district.

Response #1: Per Specification 6.2 DELIVERY LOCATION; The Purchasing Division does not have access to this information. The vendor must be prepared to delivery Tank Wagon deliveries to any location within the quoted District. This will include the ability to provide fuel in both above ground and below ground tanks.

Question #2: Under #6 DELIVERY AND RETURN, 6.3, the trucks we would use to deliver fuel to District 3 locations do not have vapor recovery on them. If any tanks in that district are underground, that would change things for us.

Response #2: Please see response #1.

Question #3: Also, under 6.2 DELIVERY LOCATION, 6.2.1, it states that our drivers are required to stick tanks, however, in the past in District 6. Our drivers have been reprimanded by the safety personnel at a couple of DOH location for being on top of tanks. How do we handle this situation?

Response #3: The requirement will remain. Any delivery location that desires to prevent this requirement will need to forward their concerns to the DOH District buyer and the DOH Central Purchasing Group for assistance.

Question #4: Specification 3.1.2 Diesel Fuel requiring a minimum Cetane Rating of 50. Is this a typo error? Previous contracts have had cetane ration at 40. Very few fuels at the terminal level will have a Cetane of 50.

Response #4: This is not a typographical error. The minimum Cetane Rating of 50 for diesel fuel will remain as required. Minimum Cetane Rating of 50 is recommended by ASTM and by diesel engine manufacturers.



Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia
 Centralized Request for Quote
 Fuels

| | | | |
|---|----------------------------|-------------------------|---|
| Proc Folder: 853102 | | | Reason for Modification: ADDENDUM_2 |
| Doc Description: FUEL - TANKER WAGON STATEWIDE CONTRACT (FUELTW21) | | | |
| Proc Type: Statewide MA (Open End) | | | |
| Date Issued | Solicitation Closes | Solicitation No | Version |
| 2021-03-15 | 2021-03-24 13:30 | CRFQ 0212 SWC2100000014 | 4 |

BID RECEIVING LOCATION

BID CLERK
 DEPARTMENT OF ADMINISTRATION
 PURCHASING DIVISION
 2019 WASHINGTON ST E
 CHARLESTON WV 25305
 US

VENDOR

Vendor Customer Code:

Vendor Name :

Address :

Street :

City :

State : **Country :** **Zip :**

Principal Contact :

Vendor Contact Phone: **Extension:**

FOR INFORMATION CONTACT THE BUYER
 Mark A Atkins
 (304) 558-2307
 mark.a.atkins@wv.gov

| | | |
|---------------------------|--------------|-------------|
| Vendor Signature X | FEIN# | DATE |
|---------------------------|--------------|-------------|

All offers subject to all terms and conditions contained in this solicitation

ADDITIONAL INFORMATION

ADDENDUM_2: Is issued for the following:

1. To publish the Purchasing Divisions' response to the questions submitted by Vendors during the Technical Questioning period. Page two (2) of the response containing questions 5 and 6 was inadvertently omitted in the first addendum.

No other changes made.

Statewide Contract Request for Quotation

The West Virginia Purchasing Division is soliciting bids on behalf of the State of West Virginia to establish an open-end contract for Tank Wagon (T/W) delivery of Motor and Heating Fuels per the attached documents.

The Contract may be utilized by West Virginia State agencies and all political subdivisions of the State in all fifty-five (55) counties. This was originally solicited as: SWC1700000011 and bids opened on: 02/22/2017. Bid Results may be viewed at: <http://www.state.wv.us/admin/purchase/Bids/FY2017/BO20170222.html>

This contract may be awarded to multiple vendors.

| INVOICE TO | | | SHIP TO | | |
|---|----|-------|---|----|-------|
| VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER | | | STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER | | |
| No City | WV | 99999 | No City | WV | 99999 |
| US | | | US | | |

| Line | Comm Ln Desc | Qty | Unit Issue | Unit Price | Total Price |
|------|--|---------|------------|------------|-------------|
| 1 | Motor and Heating Fuels - Tanker Wagon Delivery | 0.00000 | | | |

| Comm Code | Manufacturer | Specification | Model # |
|-----------|--------------|---------------|---------|
| 15100000 | | | |

Extended Description:

Note: Vendor shall complete Exhibit_A Pricing Page(s) for bid pricing and must attach with bid.

If vendor is submitting a bid online, Vendor should enter \$0.00 in the Oasis commodity line.

See section 18 of Instructions to Bidders for additional information.

SCHEDULE OF EVENTS

| Line | Event | Event Date |
|------|---|------------|
| 1 | Technical Questions due by 10:00am EST: | 2021-03-12 |

SOLICITATION NUMBER: CRFQ 0212 SWC2100000014
Addendum Number: 2

The purpose of this addendum is to modify the solicitation identified as CRFQ 0212 SWC2100000014 (“Solicitation”) to reflect the change(s) identified and described below.

Applicable Addendum Category:

- Modify bid opening date and time
- Modify specifications of product or service being sought
- Attachment of vendor questions and responses
- Attachment of pre-bid sign-in sheet
- Correction of error: Page two (2) of the Addendum_1 Response containing questions 5 and 6 was inadvertently omitted in the first addendum.
- Other

Description of Modification to Solicitation:

- 1. To publish the Purchasing Divisions’ response to the questions submitted by Vendors during the Technical Questioning period. Page two (2) of the Addendum_1 Response containing questions 5 and 6 was inadvertently omitted in the first addendum.**

No other changes made.

Additional Documentation: Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

Terms and Conditions:

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

Question #5: Can you tell me if you will be requiring the districts to order their fuel under a purchase system that would result in us being paid by check?

Response #5: The Purchasing Division cannot enforce upon any user of the contract a specific payment method. Vendors must be prepared to accept all forms of payment such as EFT, Check, and Pcard. See General Terms & Conditions section 15 "Payment Methods" for further information.

Question #6: If a Pcard method of payment is utilized, would the State accept a convenience fee that would cover the cost of the credit card processing fees that we incur?

Response #6: The issuance of a separate convenience fee is prohibited for any payment method. The State can only pay the single contracted price submitted in the vendors bid response. Any fees not specifically identified and permitted to be itemized separately in the solicitation must be included in the vendor's markup per gallon bid pricing.

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ 0212 SWC2100000014

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input checked="" type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

Tri State Petroleum Corp
Company
Cheryl Rogus
Authorized Signature
3/18/2021
Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.

FUEL21

DISTRICT 1

Boone, Clay, Kanawha, Mason and Putnam counties

DISTRICT 2

Cabell, Lincoln, Logan, Mingo and Wayne counties

DISTRICT 3

Calhoun, Jackson, Pleasants, Ritchie, Roane, Wirt and Wood counties

DISTRICT 4

Doddridge, Harrison, Marion, Monongalia, Preston and Taylor counties

DISTRICT 5

Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral and Morgan counties

DISTRICT 6

Brooke, Hancock, Marshall, Ohio, Tyler and Wetzel counties

DISTRICT 7

Barbour, Braxton, Gilmer, Lewis, Upshur and Webster counties

DISTRICT 8

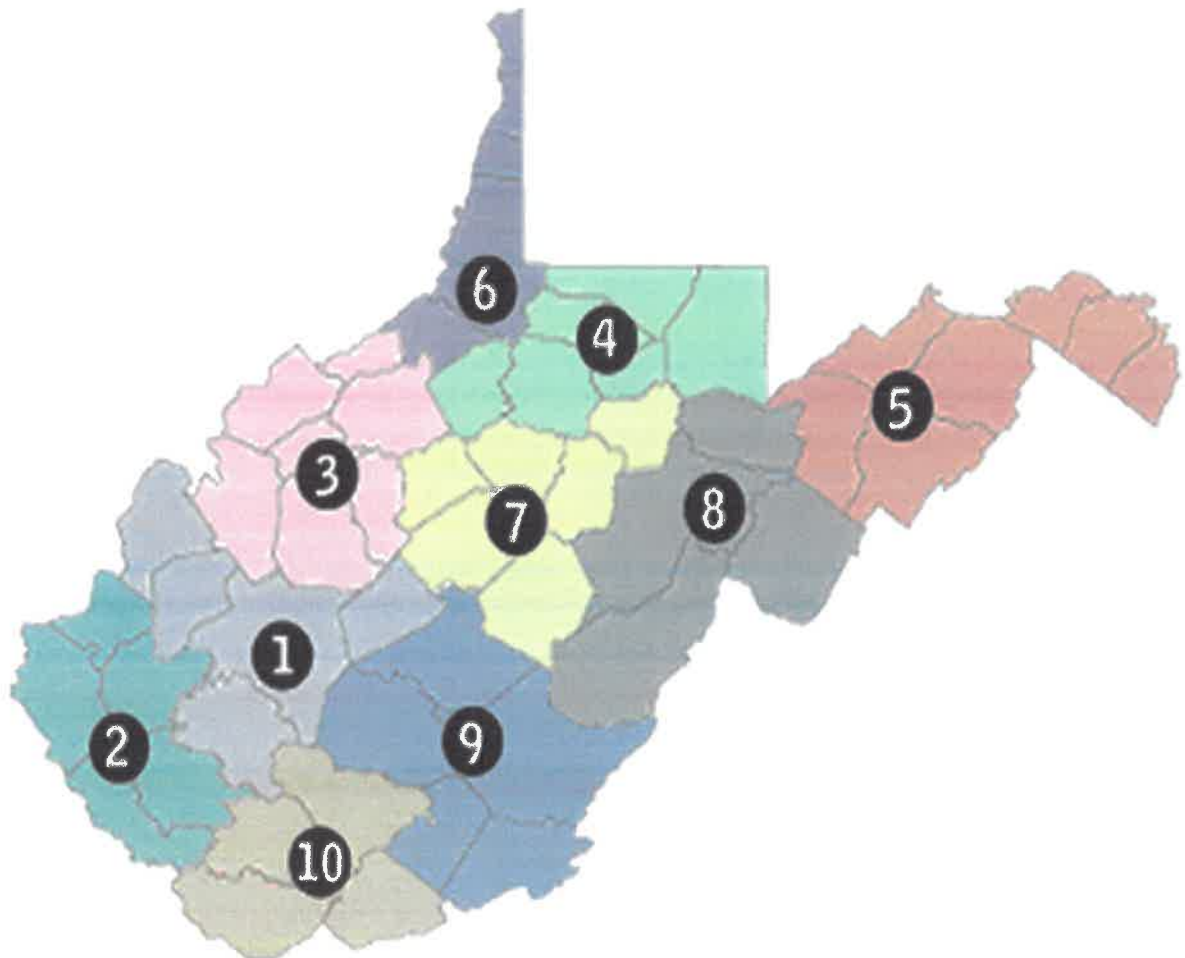
Pendleton, Pocahontas, Randolph and Tucker counties

DISTRICT 9

Fayette, Greenbrier, Monroe, Nicholas and Summers counties

DISTRICT 10

McDowell, Mercer, Raleigh and Wyoming counties



2021 Motor Fuel Rates

Effective January 1, 2021 to December 31, 2021

| Fuel Type | Flat Rate | Variable Rate | Combined Rate |
|-----------------------------|-----------|---------------|---------------|
| GA - Gasoline | \$0.2050 | \$0.1520 | \$0.3570 |
| DI - Diesel | \$0.2050 | \$0.1520 | \$0.3570 |
| GH - Gasohol | \$0.2050 | \$0.1520 | \$0.3570 |
| LP - Liquid Propane | \$0.1500 | \$0.0350 | \$0.1850 |
| NG - Liquid Natural Gas | \$0.1320 | \$0.0180 | \$0.1500 |
| CN - Compressed Natural Gas | \$0.2050 | \$0.0280 | \$0.2330 |
| ET - Ethanol | \$0.2050 | \$0.1520 | \$0.3570 |
| MT - Methanol | \$0.2050 | \$0.1520 | \$0.3570 |
| E8 - E-85 | \$0.2050 | \$0.1520 | \$0.3570 |
| M8 - M-85 | \$0.2050 | \$0.1520 | \$0.3570 |
| A5 - A55 | \$0.2050 | \$0.1520 | \$0.3570 |
| BD - Biodiesel | \$0.2050 | \$0.1520 | \$0.3570 |

See Administrative Notice 2020-23 regarding the revised 2021 Motor Fuel Rate Changes at www.tax.wv.gov.

VARIABLE RATE ONLY

| Fuel Type | Variable Rate |
|-------------------|---------------|
| Dyed Diesel | \$0.1520 |
| Aviation Gas | \$0.1520 |
| Aviation Jet Fuel | \$0.1520 |
| #1 Fuel Oil | \$0.1520 |
| Heating Oil | \$0.1520 |
| Dyed Biodiesel | \$0.1520 |
| Dyed Kerosene | \$0.1520 |

| | | | | | |
|---|-----------------------------|--|---------------------|--|---|
| VENDOR: Tri-State Petroleum Corporation | | Address: 2627 Vance Avenue, Wheeling, WV 26003 | | | |
| DISTRICT | FUEL TYPE | Terminal Location Fuel is to be pulled from | | | Fixed Firm Markup Gallon from OPIS Price |
| SIX | Unleaded Gasoline/E 10 | MOH | | | \$ 0.1147 |
| | No. 2 Diesel | MOH | | | \$ 0.1147 |
| | No. 2 Diesel w/ Winter add. | MOH | | | \$ 0.1147 |
| | No. 1 Heating/Kerosene | MOH | | | \$ 0.1147 |
| | No. 2 Heating | MOH | | | \$ 0.1147 |
| Emergency Delivery Fee (upcharge): \$ 100.00 | | | | | |
| Terminal Abbreviation | | | | | |
| | | Altoona, PA - APA | Fairfax, VA - Fv | | |
| | | Ashland, KY - AKY | Marietta, OH - MC | | |
| | | Charleston, WV - CWV | Pittsburgh, PA - PP | | |
| | | Roanoke, VA - Rv | | | |
| Vendor Contact/Coordinator: | | Cherly L Rogers | | | |
| Telephone Number: | | 304-277-3232 | | | |
| Fax Number: | | 304-277-1437 | | | |
| Email: | | clrogers@fueledbytristate.com | | | |



Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia Master Agreement

CORRECT ORDER NUMBER MUST APPEAR ON ALL PACKAGES, INVOICES, AND SHIPPING PAPERS. QUESTIONS CONCERNING THIS ORDER SHOULD BE DIRECTED TO THE DEPARTMENT CONTACT.

Order Date: 03-10-2022

| | | | |
|------------------------------|---|---------------------------------|---|
| Order Number: | CMA 0212 0212 FUELW21D 2 | Procurement Folder: | 861983 |
| Document Name: | FUELW21D- Statewide Contract -Miscellaneous Fuels | Reason for Modification: | CO#01: Issued To renew contract under the same terms, conditions and pricing and update the Variable Tax Rate for the Motor Fuel Excise Tax per the attached documents. |
| Document Description: | Awarded Districts - 6 | | |
| Procurement Type: | Statewide MA (Open End) | | |
| Buyer Name: | | | |
| Telephone: | | | |
| Email: | | | |
| Shipping Method: | Best Way | Effective Start Date: | 2021-04-01 |
| Free on Board: | FOB Dest, Freight Prepaid | Effective End Date: | 2023-03-31 |

| VENDOR | DEPARTMENT CONTACT | | | | | | | | | | | | | | | | | | | | |
|--|--|---------------------|---------------------|---------------|----|----|--------|---|----|----|--|--|----|----|--|--|----|----|--|--|--|
| Vendor Customer Code: 000000202498 TRI STATE PETROLEUM CORP PO BOX 4006 WHEELING WV 26003 US Vendor Contact Phone: 304-277-3232 Extension: | Requestor Name: Mark A Atkins Requestor Phone: (304) 558-2307 Requestor Email: mark.a.atkins@wv.gov | | | | | | | | | | | | | | | | | | | | |
| Discount Details: <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <thead> <tr style="background-color: #cccccc;"> <th></th> <th>Discount Allowed</th> <th>Discount Percentage</th> <th>Discount Days</th> </tr> </thead> <tbody> <tr> <td>#1</td> <td>No</td> <td>0.0000</td> <td>0</td> </tr> <tr> <td>#2</td> <td>No</td> <td></td> <td></td> </tr> <tr> <td>#3</td> <td>No</td> <td></td> <td></td> </tr> <tr> <td>#4</td> <td>No</td> <td></td> <td></td> </tr> </tbody> </table> | | Discount Allowed | Discount Percentage | Discount Days | #1 | No | 0.0000 | 0 | #2 | No | | | #3 | No | | | #4 | No | | | |
| | Discount Allowed | Discount Percentage | Discount Days | | | | | | | | | | | | | | | | | | |
| #1 | No | 0.0000 | 0 | | | | | | | | | | | | | | | | | | |
| #2 | No | | | | | | | | | | | | | | | | | | | | |
| #3 | No | | | | | | | | | | | | | | | | | | | | |
| #4 | No | | | | | | | | | | | | | | | | | | | | |

| INVOICE TO | SHIP TO |
|---|---|
| ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER No City WV 99999 US | STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER No City WV 99999 US |

| | |
|----------------------------|----------|
| Total Order Amount: | Open End |
|----------------------------|----------|

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|--|
| PURCHASING DIVISION AUTHORIZATION |
| DATE: ELECTRONIC SIGNATURE ON FILE |

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|---|
| ATTORNEY GENERAL APPROVAL AS TO FORM |
| DATE: ELECTRONIC SIGNATURE ON FILE |

| |
|---------------------------------------|
| ENCUMBRANCE CERTIFICATION |
| DATE: ELECTRONIC SIGNATURE ON FILE |

Extended Description:

Statewide Fuel Contract - Open-End

CHANGE ORDER No. 01: issued for the following:

1. To renew the original contract according to all terms, conditions, prices and specifications contained in the original contract including all authorized change orders.
2. To update the Variable Tax Rate for the 2022 Motor Fuel Excise Tax (effective 01/01/2022 through 12/31/2022) per the attachment.

Effective date of renewal 04/01/2022 through 03/31/2023.

Renewal Years/Months Remaining: (2 YEARS)

All provisions of the original Contract and subsequent Change Orders not modified herein shall remain in full force and effect.

NO OTHER CHANGES

The vendor, Tri-State Petroleum Corp, agrees to enter with the State of West Virginia into this Open-End Statewide Contract to supply Miscellaneous Fuels (Unleaded Gasoline/E-10, No. 2 Diesel, No. 2 diesel with Winter Additive, No. 1 Heating/Kerosene, and No. 2 Heating Oil by Tanker Wagon per the attached specifications, terms and conditions, bid requirements, Addendum No. 01 dated: 03/15/2021, addendum No. 02 dated 03/15/2021 and the vendor's submitted and accepted bid dated: 03/24/2021 incorporated herein by reference and made part hereof.

The vendor is awarded the following Districts: District 6

West Virginia State Agencies utilizing this contract must purchase an OPIS license allowing the agency to OPIS weekly pricing. Contact OPIS at 888-301-2645.

| Line | Commodity Code | Manufacturer | Model No | Unit | Unit Price |
|------|---------------------|-------------------|----------|------|------------|
| 1 | 15100000 | | | | 0.000000 |
| | Service From | Service To | | | |
| | 2021-04-01 | 2023-03-31 | | | |

Commodity Line Description: Miscellaneous Fuels - District Six (6)

Extended Description:

See attached Exhibit A Pricing Page for Fuel Pricing.

Awarded: District 6



MARK D. SCOTT
CABINET SECRETARY

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
2019 WASHINGTON STREET, EAST
CHARLESTON, WEST VIRGINIA 25305-0130

W. MICHAEL SHEETS
DIRECTOR

February 24, 2022

Ms. Cheryl Rogers
Tri-State Petroleum Corporation
2627 Vance Avenue
Wheeling, WV 26003

Subject: WV Statewide Contract No.: CMA 0212 FUEL TW21D

Dear Ms. Rogers:

The State of West Virginia is offering to renew subject contract under the same terms, conditions and pricing. The renewal dates are April 01, 2022 through March 31, 2023. If your company agrees to this renewal, please sign below and return to my attention as soon as possible. Emailing of documents is acceptable.

Also attached is an **Affidavit** that is to be part of the purchase order and is required to be signed and dated.

We agree to renew the contract for the period as stated above under the same terms and conditions in the original purchase order and any change orders thereto.

Cheryl Rogers
Print Name
3/8/22
Date

Cheryl Rogers
Signature

Juel Sales Manager
Title

Please call if you have any questions.

Very truly yours,

Mark A. Atkins, CPFB
Senior Buyer, Statewide Contracts
West Virginia Department of Administration
Purchasing Division
2019 Washington Street, East
POB 50130
Charleston, WV 25305-0130
Phone: 304.558.2307
Email: Mark.A.Atkins@wv.gov

Attachments

2022 Motor Fuel Rates

Effective January 1, 2022 to December 31, 2022

| Fuel Type | Flat Rate | Variable Rate | Combined Rate |
|-----------------------------|-----------|---------------|---------------|
| GA - Gasoline | \$0.2050 | \$0.1520 | \$0.3570 |
| DI - Diesel | \$0.2050 | \$0.1520 | \$0.3570 |
| GH - Gasohol | \$0.2050 | \$0.1520 | \$0.3570 |
| LP - Liquid Propane | \$0.1500 | \$0.0720 | \$0.2220 |
| NG - Liquid Natural Gas | \$0.1320 | \$0.0280 | \$0.1600 |
| CN - Compressed Natural Gas | \$0.2050 | \$0.0440 | \$0.2490 |
| ET - Ethanol | \$0.2050 | \$0.1520 | \$0.3570 |
| MT - Methanol | \$0.2050 | \$0.1520 | \$0.3570 |
| E8 - E-85 | \$0.2050 | \$0.1520 | \$0.3570 |
| M8 - M-85 | \$0.2050 | \$0.1520 | \$0.3570 |
| A5 - A55 | \$0.2050 | \$0.1520 | \$0.3570 |
| BD - Biodiesel | \$0.2050 | \$0.1520 | \$0.3570 |

See Administrative Notice 2021-26 regarding the revised 2022 Motor Fuel Rate Changes at www.tax.wv.gov.

VARIABLE RATE ONLY

| Fuel Type | Variable Rate |
|-------------------|---------------|
| Dyed Diesel | \$0.1520 |
| Aviation Gas | \$0.1520 |
| Aviation Jet Fuel | \$0.1520 |
| #1 Fuel Oil | \$0.1520 |
| Heating Oil | \$0.1520 |
| Dyed Biodiesel | \$0.1520 |
| Dyed Kerosene | \$0.1520 |



Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia Master Agreement

CORRECT ORDER NUMBER MUST
 APPEAR ON ALL PACKAGES, INVOICES,
 AND SHIPPING PAPERS. QUESTIONS
 CONCERNING THIS ORDER SHOULD BE
 DIRECTED TO THE DEPARTMENT
 CONTACT.

Order Date: 02-08-2023

| | | | |
|------------------------------|---|---|------------|
| Order Number: | CMA 0212 0212 FUELW21D 3 | Procurement Folder: | 861983 |
| Document Name: | FUELW21D- Statewide Contract -Miscellaneous Fuels | Reason for Modification: | |
| Document Description: | Awarded Districts - 6 | CO#02: Issued To renew contract under the same terms, conditions and pricing and update the Variable Tax Rate for the Motor Fuel Excise Tax per the attached documents. | |
| Procurement Type: | Statewide MA (Open End) | | |
| Buyer Name: | | | |
| Telephone: | | | |
| Email: | | | |
| Shipping Method: | Best Way | Effective Start Date: | 2021-04-01 |
| Free on Board: | FOB Dest, Freight Prepaid | Effective End Date: | 2024-03-31 |

| VENDOR | DEPARTMENT CONTACT | | | | | | | | | | | | | | | | | | | | |
|---|--|---------------------|---------------------|---------------|----|----|--------|---|----|----|--|--|----|----|--|--|----|----|--|--|--|
| Vendor Customer Code: 000000202498 TRI STATE PETROLEUM CORP PO BOX 4006 WHEELING WV 26003 US Vendor Contact Phone: 304-277-3232 Extension: | Requestor Name: Mark A Atkins Requestor Phone: (304) 558-2307 Requestor Email: mark.a.atkins@wv.gov | | | | | | | | | | | | | | | | | | | | |
| Discount Details: | | | | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>Discount Allowed</th> <th>Discount Percentage</th> <th>Discount Days</th> </tr> </thead> <tbody> <tr> <td>#1</td> <td>No</td> <td>0.0000</td> <td>0</td> </tr> <tr> <td>#2</td> <td>No</td> <td></td> <td></td> </tr> <tr> <td>#3</td> <td>No</td> <td></td> <td></td> </tr> <tr> <td>#4</td> <td>No</td> <td></td> <td></td> </tr> </tbody> </table> | | Discount Allowed | Discount Percentage | Discount Days | #1 | No | 0.0000 | 0 | #2 | No | | | #3 | No | | | #4 | No | | | |
| | Discount Allowed | Discount Percentage | Discount Days | | | | | | | | | | | | | | | | | | |
| #1 | No | 0.0000 | 0 | | | | | | | | | | | | | | | | | | |
| #2 | No | | | | | | | | | | | | | | | | | | | | |
| #3 | No | | | | | | | | | | | | | | | | | | | | |
| #4 | No | | | | | | | | | | | | | | | | | | | | |

| INVOICE TO | SHIP TO |
|---|---|
| ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER No City WV 99999 US | STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER No City WV 99999 US |

| | |
|----------------------------|----------|
| Total Order Amount: | Open End |
|----------------------------|----------|

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| PURCHASING DIVISION AUTHORIZATION |
| DATE: |
| ELECTRONIC SIGNATURE ON FILE |

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| ATTORNEY GENERAL APPROVAL AS TO FORM |
| DATE: |
| ELECTRONIC SIGNATURE ON FILE |

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|-------------------------------------|
| ENCUMBRANCE CERTIFICATION |
| DATE: |
| ELECTRONIC SIGNATURE ON FILE |

Extended Description:

Statewide Fuel Contract - Open-End

CHANGE ORDER No. 02: issued for the following:

1. To renew the original contract according to all terms, conditions, prices and specifications contained in the original contract including all authorized change orders.
2. To update the Variable Tax Rate for the 2023 Motor Fuel Excise Tax (effective 01/01/2023 through 12/31/2023) per the attachment.

Effective date of renewal 04/01/2023 through 03/31/2024.

Renewal Years/Months Remaining: (1 YEAR)

All provisions of the original Contract and subsequent Change Orders not modified herein shall remain in full force and effect.

NO OTHER CHANGES

The vendor, Tri-State Petroleum Corp, agrees to enter with the State of West Virginia into this Open-End Statewide Contract to supply Miscellaneous Fuels (Unleaded Gasoline/E-10, No. 2 Diesel, No. 2 diesel with Winter Additive, No. 1 Heating/Kerosene, and No. 2 Heating Oil by Tanker Wagon per the attached specifications, terms and conditions, bid requirements, Addendum No. 01 dated: 03/15/2021, addendum No. 02 dated 03/15/2021 and the vendor's submitted and accepted bid dated: 03/24/2021 incorporated herein by reference and made part hereof.

The vendor is awarded the following Districts: District 6

West Virginia State Agencies utilizing this contract must purchase an OPIS license allowing the agency to OPIS weekly pricing. Contact OPIS at 888-301-2645.

| Line | Commodity Code | Manufacturer | Model No | Unit | Unit Price |
|------|---------------------|-------------------|----------|--------------------------------|------------|
| 1 | 15100000 | | | | 0.000000 |
| | Service From | Service To | | Service Contract Amount | |
| | 2021-04-01 | 2024-03-31 | | 0.00 | |

Commodity Line Description: Miscellaneous Fuels - District Six (6)

Extended Description:

See attached Exhibit A Pricing Page for Fuel Pricing.

Awarded: District 6



MARK D. SCOTT
CABINET SECRETARY

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
2019 WASHINGTON STREET, EAST
CHARLESTON, WEST VIRGINIA 25305-0130

W. MICHAEL SHEETS
DIRECTOR

January 19, 2023

Mr. Brad Yocum
Tri-State Petroleum Corporation
2627 Vance Avenue
Wheeling, WV 26003

Subject: WV Statewide Contract No.: CMA 0212 FUEL TW21D

Dear Mr. Yocum:

The State of West Virginia is offering to renew subject contract under the same terms, conditions and pricing. The renewal dates are April 01, 2023 through March 31, 2024. If your company agrees to this renewal, please sign below and return to my attention as soon as possible. Emailing of documents is acceptable.

We agree to renew the contract for the period as stated above under the same terms and conditions in the original purchase order and any change orders thereto.

Michael Collins
Print Name

Michael Collins
Signature

Director of Operations
Title

1-31-23
Date

Please call if you have any questions.

Very truly yours,

Mark A. Atkins, CPPB

Buyer Supervisor, Statewide Contracts
West Virginia Department of Administration
Purchasing Division
2019 Washington Street, East
POB 50130
Charleston, WV 25305-0130

Phone: 304.558.2307

Email: Mark.A.Atkins@wv.gov

2023 Motor Fuel Rates

Effective January 1, 2023 to December 31, 2023

| Fuel Type | Flat Rate | Variable Rate | Combined Rate |
|-----------------------------|-----------|---------------|---------------|
| GA - Gasoline | \$0.2050 | \$0.1670 | \$0.3720 |
| DI - Diesel | \$0.2050 | \$0.1670 | \$0.3720 |
| GH - Gasohol | \$0.2050 | \$0.1670 | \$0.3720 |
| LP - Liquid Propane | \$0.1500 | \$0.0600 | \$0.2100 |
| NG - Liquid Natural Gas | \$0.1320 | \$0.0510 | \$0.1830 |
| CN - Compressed Natural Gas | \$0.2050 | \$0.0790 | \$0.2840 |
| ET - Ethanol | \$0.2050 | \$0.1670 | \$0.3720 |
| MT - Methanol | \$0.2050 | \$0.1670 | \$0.3720 |
| E8 - E-85 | \$0.2050 | \$0.1670 | \$0.3720 |
| M8 - M-85 | \$0.2050 | \$0.1670 | \$0.3720 |
| A5 - A55 | \$0.2050 | \$0.1670 | \$0.3720 |
| BD - Biodiesel | \$0.2050 | \$0.1670 | \$0.3720 |

See Administrative Notice 2022-06 regarding the revised 2023 Motor Fuel Rate Changes at www.tax.wv.gov.

VARIABLE RATE ONLY

| Fuel Type | Variable Rate |
|-------------------|---------------|
| Dyed Diesel | \$0.1670 |
| Aviation Gas | \$0.1670 |
| Aviation Jet Fuel | \$0.1670 |
| #1 Fuel Oil | \$0.1670 |
| Heating Oil | \$0.1670 |
| Dyed Biodiesel | \$0.1670 |
| Dyed Kerosene | \$0.1670 |



Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia Master Agreement

Order Date: 03-31-2023

CORRECT ORDER NUMBER MUST APPEAR ON ALL PACKAGES, INVOICES, AND SHIPPING PAPERS. QUESTIONS CONCERNING THIS ORDER SHOULD BE DIRECTED TO THE DEPARTMENT CONTACT.

| | | | |
|------------------------------|---|--|------------|
| Order Number: | CMA 0212 0212 FUELW21D 4 | Procurement Folder: | 861983 |
| Document Name: | FUELW21D- Statewide Contract -Miscellaneous Fuels | Reason for Modification: | |
| Document Description: | Awarded Districts - 6 | Change Order No. 03 is issued to cancel and reassign this contract per the attached documents. | |
| Procurement Type: | Statewide MA (Open End) | | |
| Buyer Name: | | | |
| Telephone: | | | |
| Email: | | Effective Start Date: | 2021-04-01 |
| Shipping Method: | Best Way | Effective End Date: | 2023-03-31 |
| Free on Board: | FOB Dest, Freight Prepaid | | |

| VENDOR | DEPARTMENT CONTACT | |
|--|--|---------------|
| Vendor Customer Code: 000000202498 TRI STATE PETROLEUM CORP PO BOX 4006 WHEELING WV 26003 US Vendor Contact Phone: 304-277-3232 Extension: | Requestor Name: Mark A Atkins Requestor Phone: (304) 558-2307 Requestor Email: mark.a.atkins@wv.gov | |
| Discount Details: | | |
| Discount Allowed | Discount Percentage | Discount Days |
| #1 No | 0.0000 | 0 |
| #2 No | | |
| #3 No | | |
| #4 No | | |

| INVOICE TO | SHIP TO |
|---|---|
| ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER No City WV 99999 US | STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER No City WV 99999 US |

| | |
|----------------------------|----------|
| Total Order Amount: | Open End |
|----------------------------|----------|

| | | |
|---|--|---|
| PURCHASING DIVISION AUTHORIZATION DATE: ELECTRONIC SIGNATURE ON FILE | ATTORNEY GENERAL APPROVAL AS TO FORM DATE: ELECTRONIC SIGNATURE ON FILE | ENCUMBRANCE CERTIFICATION DATE: ELECTRONIC SIGNATURE ON FILE |
|---|--|---|

Extended Description:

Statewide Fuel Contract - Open-End

CHANGE ORDER No. 03: issued for the following:

Change Order No. 03 is issued to cancel, memorialize, and reassign this contract. The original contract CMA 0212 FUEL21D, including all terms, conditions, prices, specifications, and change orders contained therein shall be memorialized and reassigned to the contract, CMA 0212 FUEL21C.

Effective date of cancellation: 03/31/2023

No other changes.

| Line | Commodity Code | Manufacturer | Model No | Unit | Unit Price |
|------|---------------------|-------------------|----------|--------------------------------|------------|
| 1 | 15100000 | | | | 0.000000 |
| | Service From | Service To | | Service Contract Amount | |
| | 2021-04-01 | 2023-03-31 | | 0.00 | |

Commodity Line Description: Miscellaneous Fuels - District Six (6)

Extended Description:

See attached Exhibit A Pricing Page for Fuel Pricing.

Awarded: District 6



March 20, 2023

Via e-mail Mark.A.Atkins@wv.gov

Mr. Mark A. Atkins
Buyer Supervisor, Statewide Contracts
West Virginia Department of Administration
Purchasing Division
2019 Washington Street, East
PO Box 50130
Charleston, WV 25305-0130

Re: Master Agreement with Tri-State Petroleum, Vendor # 000000202498; Order Number: CMA 0212 0212 FUELTW21D 3; FUELTW21D 3 Statewide Contract-Misc. Fuels, Awarded District 6 ("Master Agreement")

Dear Mark,

As we discussed last week, we recently received correspondence notifying Tri-State Petroleum that the Master Agreement between the State of West Virginia and Tri-State Petroleum had been extended through March 31, 2024. As we discussed on or about February 14, 2023, Tri-State Petroleum Corporation sold all of the assets of Tri-State Petroleum to MM BP Properties, LLC, including the Wheeling and New Martinsville Bulk Plants, and ceased all fuel sales operations on December 10, 2021. A redacted copy of the Purchase and Sale Agreement has previously been provided.

The individual who signed the renewal and extension of the Master Agreement on behalf of Tri-State Petroleum is not an employee or authorized agent of Tri-State Petroleum and has never had any other affiliation with Tri-State Petroleum. This individual has not been authorized to act on behalf of Tri-State Petroleum in any respect, including entering into a contract in the name of and on behalf of Tri-State Petroleum Corporation, nor has Tri-State granted the right to use or conduct business in the name "Tri-State Petroleum Corporation" to any third party.

It is our understanding that Brocton Farm Service, or an affiliate of this entity ("BFS"), purchased the Wheeling and New Martinsville Bulk Plants from MM BP Properties, LLC in 2022. Tri-State Petroleum did not sell any assets to BFS. Tri-State has no contract or agreement with BFS. Tri-State did not assign anything to BFS, including the right to use our corporate name. In fact, Tri-State Petroleum Corporation is still registered as an active corporation in the West Virginia Office of the Secretary of State, and BFS has filed no assumed name certificate with the West Virginia Secretary of State that we have been able to locate. This is further evidence that BFS does not have any authority to legally conduct business in the name of Tri-State Petroleum.

March 20, 2023

My contact at MM BP Properties LLC has advised me that there is no mention of Tri-State Petroleum in their Purchase and Sale Agreement with BFS, and that no assignment of any right to use the name was conveyed to BFS. MM BP Properties, LLC also did not have the right to conduct business in the name of Tri-State Petroleum under the terms of our Purchase and Sale Agreement. Therefore, MM BP Properties, LLC had no rights to use the name that could have been assigned to BFS. I have reached out to MM BP Properties, LLC to again confirm these facts. I am currently waiting to hear back from them.

Given the circumstances and the length of time that has elapsed since Tri-State ceased selling fuel to the State of West Virginia, we are now requesting that the referenced contract issued in the name of Tri-State Petroleum, Vendor # 000000202498, be immediately cancelled, terminated, and withdrawn.

Please advise if you need any additional information to process this request. Thank you for your prompt attention to this matter.

Very truly yours,



Colleen C. McGinn,
Chief Executive Officer

ASSIGNMENT AND ASSUMPTION OF CONTRACTS

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACTS (this "Agreement"), dated as of May 11, 2022 (the "Effective Date"), is by and among MM BP PROPERTIES, LLC, a Georgia limited liability company ("Assignor"); and BRUCETON FARM SERVICE, INC., a West Virginia corporation ("Assignee"). Each of Assignors and Assignee is a "Party" and, collectively, are the "Parties."

Recitals

A. The Parties are parties to that certain Asset Purchase Agreement, dated as of March 9, 2022, as amended by that First Amendment of Asset Purchase Agreement dated as of April 27, 2022, and as further amended by that Second Amendment of Asset Purchase Agreement dated as of May 11 2022 (as amended, the "Purchase Agreement").

B. Pursuant to the Purchase Agreement, Assignors have agreed to sell and transfer certain assets of Assignors to Assignee, and Assignee has agreed to assume certain liabilities and obligations of Assignors.

C. Assignors are party to certain contracts identified on Exhibit A (the "Assumed Contracts").

D. Assignors and Assignee desire that Assignors' right, title, and interest in, to, and under the Assumed Contracts be assigned to, and that all of the Assignors' obligations and Assumed Liabilities (as defined below) under the Assumed Contracts, be assumed by Assignee.

E. Assignee is willing to accept the assignment and effect the assumption referred to above in accordance with the terms and conditions of this Agreement.

F. The Parties now desire to effect and memorialize Assignors' assignment of Assignors' right, title, and interest in, to, and under each of the Assumed Contracts to Assignee, and Assignee's assumption of the Assignors' obligations and the Assumed Liabilities under each of the Assumed Contracts.

Agreement

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. **Definitions.** Any capitalized terms used, but not defined in this Agreement, have the meanings given to such terms in the Purchase Agreement.

2. **Assignment.** Assignor has assigned, transferred, sold, and conveyed, and by these presents does hereby assign, transfer, sell, and convey to Assignee, all of Assignors' right, title, and interest in, to, and under the Assumed Contracts.

3. **Assumption.** Assignee: (i) has assumed and agreed to timely pay, perform, and discharge, and by these presents does hereby assume and agree to pay, perform, and discharge, the Assumed Liabilities (defined below); and (ii) accepts all of Assignors' right, title, and interest in and to the Assumed Contracts. For purposes of this Agreement, "Assumed Liabilities" means the executory obligations of performance and liabilities of Assignors under the Assumed Contracts, to the extent such obligations and liabilities arise or relate to events, circumstances, or periods occurring after the Closing.

4. **Excluded Liabilities.** Assignors agree that Assignors have not assigned, and Assignee does not assume, any liability of any kind or nature whatsoever relating to the Assumed Contracts other than the Assumed Liabilities.

5. **Release of Assignor.** Upon the completion of the Closing on the Closing Date, and the assignment of the Assumed Contracts from Assignor to Assignee at Closing pursuant to this Agreement, Assignee does hereby remise, release, quit-claim, exonerate and discharge Assignor from the Assumed Liabilities.

6. **Other Agreements.** The Parties acknowledge and agree that the representations, warranties, covenants, agreements and indemnities contained in the Purchase Agreement shall not be superseded hereby but shall remain in full force and effect to the full extent provided therein, including, without limitation, the obligations and indemnities of Assignee with respect to the Assumed Liabilities.

7. **Governing Law.** This Agreement shall be governed by, construed under, and enforced in accordance with the laws of the State of West Virginia without regard to any conflicts of laws principles that would require the application of any other Laws.

8. **Counterparts; Execution of Agreement.** The Parties are permitted to execute this Agreement in one or more counterparts, each of such counterparts is to be deemed to be an original copy of this Agreement and all of which, when taken together, are to be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by electronic mail or other means of electronic transmission is to constitute effective execution and delivery of this Agreement as to the Parties. Signatures of the Parties transmitted by electronic mail or other means of electronic transmission are to be deemed to be their original signatures for all purposes.

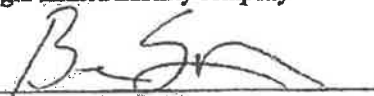
9. **Rules of Construction.** The headings of this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof. Except as otherwise explicitly specified in this Agreement to the contrary, references to a Section means a Section of this Agreement, unless another agreement is specified. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement is to be construed as if drafted jointly by the Parties and no presumption or burden of proof is to arise favoring or disfavoring either Party by virtue of the authorship of any of the provisions of this Agreement.

(Signature Page Follows)

Each of the Parties, intending to be legally bound, has caused this Agreement to be duly executed on such Party's behalf by an authorized Representative of such Party as of the Effective Date.

ASSIGNOR:

MM BP PROPERTIES, LLC,
a Georgia limited liability company

By: 
Printed Name: Ben Smith
Title: Authorized Signatory

ASSIGNEE:

BRUCETON FARM SERVICE, INC.,
a West Virginia corporation

By: 
Printed Name: Marshall F. Bishop
Title: President

Exhibit A

Assumed Contracts

1. Fixed Price Fuel Contract dated January 24, 2022 between MM CS Services, LLC and Tunnel Ridge, LLC.
2. Site Access Agreement dated as of October 1, 2021 between Tri-State Petroleum Corporation and Convenience Realty LP ("TSP Entities") and MM PA Properties, LLC and MM BP Properties, LLC for two of the properties identified in the Site Access Agreement located at 2627 Vance Avenue, Wheeling, WV and 98 S Main St., New Martinsville, WV.
3. Pricing Agreements – Gasoline and/or Diesel

| Customer Name | Type | Applies To | Price Starts With | Adjustment |
|---------------------------|------------------------|----------------------------------|-----------------------|------------|
| Ace Pipeline-Hannibal | Customer Location | 2 - Ace Pipeline - han | Inventory Cost | |
| AES | Customer | 800267 - AES Drilling Fluids LLC | Ergon Rack | |
| Alex Paris | Customer | 2 -Alex Paris | Inventory Cost | |
| Alex Paris | Customer | 4 -Alex Paris | Inventory Cost | |
| Atlas Trenchless | Customer | 800235 - Atlas Trenchless LLC | Pittsburgh OPIS Daily | |
| Belmont Aggregates | Customer | 800191 - Belmont Aggregates | Ergon Rack | |
| Capital Sands | Customer | 800259 Capital Sands Proppants | Ergon Rack | |
| Cardinal - Fire Pump # 5 | Customer Location | 5 - Unit 1 Fire Pump | Columbus OPIS Weekly | |
| Cardinal Plant - Heaters | Customer Location | 4 - Heaters /104-02762517 | Columbus OPIS Weekly | |
| Cardinal Plant - Kerosene | Customer Location | 7 - Cardinal Plant - Kerosene | Columbus OPIS Weekly | |
| DOH Dist # 6 | Customer Pricing Group | DOH Dist # 6 | Marietta OPIS Weekly | 0.1147 |

AMENDED AND RESTATED ASSET PURCHASE AGREEMENT

by and between

**TRI-STATE PETROLEUM CORPORATION,
CONVENIENCE REALTY LP, and
UNDERWOOD LIMITED PARTNERSHIP**

and

**MAJORS MANAGEMENT, LLC,
MM PA PROPERTIES, LLC,
MM PA MANAGEMENT, LLC,
MM BP PROPERTIES, LLC
EXCELL PETROLEUM, LLC**

Dated as of October 1, 2021

TABLE OF CONTENTS

| | | |
|------|---|----|
| I. | PURCHASE AND SALE OF ASSETS | 1 |
| 1.1. | Assets to be Sold | 2 |
| 1.2. | Excluded Assets..... | 3 |
| 1.3. | Assumed Liabilities | 5 |
| 1.4. | Excluded Liabilities | 5 |
| 1.5. | Definitions | 5 |
| II. | PURCHASE PRICE..... | 5 |
| 2.1. | Total Consideration | 5 |
| 2.2. | Deposit..... | 6 |
| 2.3. | Nature of Funds | 6 |
| 2.4. | Allocation of Total Consideration and Assumed Liabilities | 6 |
| 2.5. | Agreed Location Values | 6 |
| III. | PHYSICAL COUNT PROCEDURES AND VALUATION OF INVENTORY | 7 |
| 3.1. | Physical Count Inventory Procedures | 7 |
| 3.2. | Effect | 7 |
| 3.3. | Physical Inventory Procedures | 7 |
| 3.4. | Valuation of Inventory | 8 |
| 3.5. | Cost of Physical Inventory | 9 |
| IV. | CLOSING AND CLOSING DELIVERABLES | 9 |
| 4.1. | Closing | 9 |
| 4.2. | Proceedings at Closing | 10 |
| 4.3. | Deliveries by Sellers..... | 10 |
| 4.4. | Deliveries by Buyers | 11 |
| 4.5. | Payment of Excise Taxes..... | 12 |
| 4.6. | Property Tax Adjustments | 12 |
| 4.7. | Rents and Prepaid Expenses | 13 |
| 4.8. | Utilities | 13 |
| 4.9. | Fees Payable to Franchisors | 13 |
| V. | TRI-STATE'S REPRESENTATIONS AND WARRANTIES OF | 13 |
| 5.1. | Taxes..... | 13 |
| 5.2. | Assumed Contracts and Purchased Leases | 14 |
| 5.3. | Labor Matters | 15 |
| 5.4. | Financial Statements..... | 15 |
| 5.5. | Absence of Certain Changes or Events | 16 |
| 5.6. | Contracts; Equipment Leases | 17 |
| 5.7. | Branding and Other Incentives..... | 18 |
| 5.8. | Branding/Debranding | 18 |
| VI. | SELLERS' REPRESENTATIONS AND WARRANTIES..... | 18 |
| 6.1. | Organization and Existence | 18 |
| 6.2. | Due Authorization; Enforceability; Absence of Conflicts | 18 |

| | | |
|--------------|---|-----------|
| 6.3. | Consents | 19 |
| 6.4. | Proceedings..... | 19 |
| 6.5. | Warranty of Title | 19 |
| 6.6. | Brokerage Fees | 19 |
| 6.7. | Property Taxes..... | 19 |
| 6.8. | Condemnations | 19 |
| 6.9. | Compliance with Laws; Permits..... | 19 |
| 6.10. | Environmental Matters | 20 |
| 6.11. | Real Property Assets..... | 20 |
| 6.12. | Property and Equipment | 22 |
| 6.13. | Absence of Litigation | 22 |
| VII. | BUYERS' REPRESENTATIONS AND WARRANTIES..... | 22 |
| 7.1. | Organization and Good Standing | 22 |
| 7.2. | Due Authorization; Enforceability; Absence of Conflicts | 22 |
| 7.3. | Consents | 23 |
| 7.4. | Litigation | 23 |
| 7.5. | Brokerage Fees | 23 |
| 7.6. | Financial Capacity | 23 |
| 7.7. | OFAC | 23 |
| VIII. | DUE DILIGENCE AND DISCLAIMER OF WARRANTIES | 23 |
| 8.1. | Due Diligence; Confidential Information | 23 |
| 8.2. | Environmental Site Assessment | 24 |
| 8.3. | Notices to Governmental Entities | 24 |
| 8.4. | Buyers' Acknowledgements | 24 |
| 8.5. | Disclaimer of Other Representations and Warranties and Non-Reliance | 25 |
| IX. | ADDITIONAL AGREEMENTS AND COVENANTS | 26 |
| 9.1. | Title to Purchased Owned Real Properties | 26 |
| 9.2. | Announcements | 26 |
| 9.3. | Insurance and Casualty | 27 |
| 9.4. | Condemnation..... | 27 |
| 9.5. | Mutual Cooperation | 27 |
| 9.6. | Environmental Responsibilities..... | 28 |
| 9.7. | Title and Survey Review | 30 |
| 9.8. | Post-Closing Tank Fees..... | 31 |
| 9.9. | Lease Assignment | 31 |
| 9.10. | Operation of the Locations; Exclusivity | 32 |
| 9.11. | Access to Information; Due Diligence | 33 |
| 9.12. | Inspections and Entry | 33 |
| 9.13. | Update to Schedules | 33 |
| 9.14. | Tax Matters..... | 34 |
| 9.15. | Regulatory Matters | 35 |
| 9.16. | Employees and Employee Benefits | 37 |
| 9.17. | Post-Closing Access to Books and Records | 38 |
| 9.18. | Excluded Liabilities..... | 39 |

| | | |
|--------|--|----|
| 9.19. | Bulk Sales Laws | 39 |
| X. | CONDITIONS PRECEDENT TO CLOSING | 39 |
| 10.1. | Seller's Conditions Precedent | 39 |
| 10.2. | Buyers' Conditions Precedent..... | 40 |
| XI. | DEFAULT; REMEDIES; TERMINATION | 41 |
| 11.1. | Seller Inability to Convey | 41 |
| 11.2. | Sellers' Default | 41 |
| 11.3. | Buyers' Default | 41 |
| 11.4. | Waiver of Remedies | 42 |
| 11.5. | Acknowledgement as to Liquidated Damages | 42 |
| 11.6. | Termination | 42 |
| XII. | POST CLOSING AGREEMENTS; ALLOCATION OF COSTS..... | 43 |
| 12.1. | Registrations | 43 |
| 12.2. | Costs of Surveys, Title Examinations, Other Inspections and Recordings | 43 |
| XIII. | REMEDIES | 43 |
| 13.1. | Survival | 43 |
| 13.2. | Exclusive Remedies | 43 |
| 13.3. | Legal Costs | 43 |
| XIV. | MISCELLANEOUS | 44 |
| 14.1. | Payment of Expenses and Fees | 44 |
| 14.2. | Entire Agreement | 44 |
| 14.3. | No Third-Party Beneficiaries | 44 |
| 14.4. | Amendment | 44 |
| 14.5. | Notices | 44 |
| 14.6. | Business Days | 45 |
| 14.7. | Governing Law | 45 |
| 14.8. | Venue | 45 |
| 14.9. | Obligations of Parties; Successors and Assigns | 45 |
| 14.10. | Waiver | 46 |
| 14.11. | Counterparts | 46 |
| 14.12. | Descriptive Headings; Word Meaning | 46 |
| 14.13. | Time of the Essence | 46 |
| 14.14. | Construction of Contract | 47 |
| 14.15. | Severability | 47 |
| 14.16. | No Implied Contract | 47 |
| 14.17. | Attorney-Client Relationship and Privileged Communications | 47 |
| 14.18. | Sellers' Representative | 47 |

List of Exhibits

| | |
|-----------|---|
| Exhibit A | -- Definitions |
| Exhibit B | -- Form of Limited Warranty Deed |
| Exhibit C | -- Form of Bill of Sale |
| Exhibit D | -- Form of Site Access Agreement |
| Exhibit E | -- Disclosure Schedules To The Asset Purchase Agreement |

List of Schedules

| | |
|------------------|--|
| Schedule 1.1 | -- Buyer Party by Assets |
| Schedule 1.1(a) | -- Owned Locations |
| Schedule 1.1(b) | -- Leased Locations |
| Schedule 1.1(c) | -- Tenant Leases |
| Schedule 1.1(g) | -- Owned Fuel Equipment |
| Schedule 1.1(j) | -- Prospective Material Contracts |
| Schedule 1.1(k) | -- Fuel Supply Agreements |
| Schedule 1.2(j) | -- Select Excluded Assets |
| Schedule 1.3(a) | -- Assumed Liabilities Under Assumed Contracts |
| Schedule 2.4 | -- Allocation Schedule |
| Schedule 2.5(a) | -- Agreed Location Values |
| Schedule 3.4(a) | -- Non-Petroleum Inventory Valuation |
| Schedule 5.1(b) | -- Tri-State Tax Matters |
| Schedule 5.2 | -- Tri-State Assumed Contract and Purchased Leases Matters |
| Schedule 5.3 | -- Tri-State Labor Matters |
| Schedule 5.4(a) | -- Site-Level Financial Statements |
| Schedule 5.5 | -- Changes to Assets and Business |
| Schedule 5.6(b) | -- Amendments to Dealer Fuel Supply Agreements |
| Schedule 5.6(c) | -- Leased Equipment or Equipment Owned by Third Parties |
| Schedule 5.6(d) | -- Dealer Security Deposits |
| Schedule 5.7 | -- Branding and Other Incentives |
| Schedule 5.8 | -- Branded, Re-branded and Debranded Locations |
| Schedule 6.3 | -- Required Consents |
| Schedule 6.4 | -- Proceedings |
| Schedule 6.5 | -- Title to Assets |
| Schedule 6.8 | -- Condemnations |
| Schedule 6.9 | -- Violations/Citations |
| Schedule 6.10 | -- Known Pollution |
| Schedule 6.11(b) | -- Contracts Affecting Real Estate |
| Schedule 6.13 | -- Litigation Matters |
| Schedule 8.2 | -- Costs of Sellers' ESAs |
| Schedule 9.6(a) | -- Closure Letter Locations |
| Schedule 9.10 | -- Operation of Locations |
| Schedule 9.16(a) | -- Non-Transferred Employees |

AMENDED AND RESTATED ASSET PURCHASE AGREEMENT

THIS AMENDED AND RESTATED ASSET PURCHASE AGREEMENT (the "Agreement") is made and entered into effective as of the 1st day of October, 2021 (the "Effective Date") by and among TRI-STATE PETROLEUM CORPORATION, a West Virginia corporation ("Tri-State"); CONVENIENCE REALTY LP, a West Virginia limited partnership ("Convenience Realty"); UNDERWOOD LIMITED PARTNERSHIP, an Ohio limited partnership ("Underwood"); MAJORS MANAGEMENT, L.L.C. a Georgia limited liability company ("Majors"); MM PA PROPERTIES, L.L.C. a Georgia limited liability company ("PA Propco"); MM PA MANAGEMENT, L.L.C. a Georgia limited liability company ("PA Opco"); MM BP PROPERTIES, L.L.C. a Georgia limited liability company, ("BP Propco") and EXCELL PETROLEUM, L.L.C. a Georgia limited liability company ("Excell"). Tri-State, Convenience Realty, and Underwood may be referred to from time to time in this Agreement individually as a "Seller" and collectively as the "Sellers". Majors, PA Propco, PA Opco, BP Propco, and Excell may be referred to from time to time in this Agreement individually as a "Buyer" and collectively as the "Buyers". Each of the Sellers and Buyers is referred to herein individually as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, Sellers and Buyers, and certain other affiliates of Buyers, entered into that certain Asset Purchase Agreement ("Original Agreement") dated as of October 1, 2021 pursuant to which Buyers agreed to purchase from Sellers, and Sellers agreed to sell to Buyers: (i) either a fee or leasehold interest for each Location as specified in Schedule 1.1 attached to the Agreement; (ii) the related personal property used to operate the Locations; (iii) the fuel and merchandise inventory which is owned by Sellers and now situated at the Locations; and (iv) all of Sellers' rights under the Fuel Supply Agreements, upon the terms and conditions contained in the Agreement; and

WHEREAS, Sellers and Buyers wish to amend and restate the Previous Agreement in its entirety by entering into this Agreement which is in all material respects the same as the Original Agreement and to affirm that any conflicts between the terms and provisions of this Agreement and the Original Agreement shall be governed by the terms and provisions of this Agreement.

WHEREAS, nothing in this Agreement is intended to change the original effective date of October 1, 2021 to which Buyers and Sellers have been continuously bound without interruption under the Original Agreement, and that Buyers and Sellers agree to be bound under the amended and restated terms as if they were included in the Original Agreement dated and executed on October 1, 2021.

NOW, THEREFORE, in consideration of the foregoing premises and the representations, warranties, covenants and agreements set forth in this Agreement, the Parties agree as follows:

ARTICLE I

PURCHASE AND SALE OF ASSETS

1.1. Assets to be Sold Upon the terms and subject to the conditions set forth in this Agreement, on the Closing Date, Sellers shall sell, transfer and assign to Buyers, and Buyers shall purchase, acquire, accept, assume, and receive, in accordance with Schedule 1.1, attached to and made a part of this Agreement, all of Sellers' right, title and interest in and to the following real property and other assets and rights related to or used or held for use in connection with the Business, as they may exist as of the Closing, except to the extent that any of the following are or consist of Excluded Assets (assets to be sold are, collectively, the "Assets");

(a) Any real property owned by Sellers comprising the Locations indicated on Schedule 1.1(a) as being "Owned Locations," together with all buildings, improvements, easements and appurtenances thereon and thereto, subject only to the Permitted Encumbrances (the "Purchased Owned Real Properties");

(b) The real property leases with Tri-State, as lessee, and third parties, as lessor (each, a "Purchased Lease") covering the Locations indicated on Schedule 1.1(b) as being "Leased Locations" (the "Purchased Leased Real Properties"), together with all of Tri-State's interest under each such Purchased Lease in the buildings, improvements, easements and appurtenances thereon and thereto;

(c) The real property leases with Sellers, as lessor, and third parties, as lessee (each, a "Tenant Lease"), identified on Schedule 1.1(c), attached to and made a part of this Agreement (collectively, the "Tenant Leases");

(d) All Merchandise Inventory, Supplies Inventory, Food Service Inventory, Alcoholic Beverages Inventory, Cigarette Inventory, cash on hand amounts, and Petroleum Inventory that are present at the Locations at the Closing (collectively, the "Inventory");

(e) All furniture, fixtures, equipment and other tangible personal property owned by Sellers that are present at the Locations at the Closing or stored off-site for use at the Locations (other than the Owned Fuel Equipment) (collectively, the "Tangible Owned Personal Property");

(f) All furniture, fixtures, equipment and other tangible personal property leased by Sellers at the Purchased Leased Real Properties leased under the Purchased Leases (the "Tangible Leased Personal Property");

(g) All fuel fixtures and equipment attached to or used in connection with the Locations at the Closing, as indicated on Schedule 1.1(g), attached to and made a part of this Agreement, including without limitation all petroleum pumps and dispensers, underground and aboveground fuel storage tanks, canopies, fuel lines, fittings and connections used in the Ordinary Course of Business at the Locations to receive, store and/or dispense fuels, to the extent any of the foregoing are owned by Sellers (collectively, the "Owned Fuel Equipment");

(h) All deposits and prepaid expenses for which a Seller is given a credit at the Closing pursuant to Section 4.6, 4.7, or 4.8 (collectively, the "Transferred Deposits");

(i) All plans and specifications, surveys, blueprints and drawings in Sellers' possession as of the Closing related solely to any buildings and improvements currently constructed or currently under construction at the Locations, and all records and documentation of Sellers relating to customers, distributors and suppliers of the Locations including, without limitation, customer, distributor and supplier lists, and all other business records of Sellers with respect to the Locations (including, without limitation, copies of all historical accounts of the Locations) other than the Sellers' Retained Records (collectively, the "Books and Records");

(j) The material Contracts identified on Schedule 1.1(j), attached to and made a part of this Agreement, and any other Contracts mutually designated by Buyer and Sellers in writing prior to the Closing. For purposes of this Section 1.1(j), a Contract is deemed material if the amount owed by the Seller which is a party thereto in any calendar year exceeds \$50,000.00;

(k) The Contracts identified on Schedule 1.1(k) attached to and made a part of this Agreement (each, a "Fuel Supply Agreement" and, collectively, the "Fuel Supply Agreements");

(l) All trademarks, patents, copyrights, software and other intellectual property of Sellers and Sellers' Affiliates, if any; all websites and domain names, telephone and telecopy numbers and listings used at the Locations, and corporate email addresses and listings; and

(m) The goodwill associated with the Locations.

1.2. Excluded Assets. Sellers are not by this Agreement selling, assigning, transferring, conveying or delivering to Buyers any assets, properties, rights, contracts or claims other than the Assets described specifically in Section 1.1. For the avoidance of doubt, those assets of Sellers that are excluded from the Assets and retained by Sellers (collectively, the "Excluded Assets") include without limitation the following:

(a) Sellers' Tax Returns and supporting documentation related thereto, corporate franchise, record books of equity ownership, record books containing minutes of meetings of shareholders, members or managers, such other records as have to do exclusively with a Seller's organization or equity capitalization, and records relating to the Sellers' personnel and employee benefits matters (the "Sellers' Retained Records");

(b) All insurance policies, and proceeds thereof payable to Sellers or Sellers' Affiliates, and their shareholders, partners, or members (except to the extent of, and subject to, the provisions of this Agreement regarding a casualty loss to the Locations that occurs on or after, or with respect to which restoration remains incomplete as of, the Closing Date);

(c) All cash, cash equivalents (other than the cash on hand amounts included in the Inventory, which are to be credited to Sellers), accounts receivable and other current assets of Sellers not described in Section 1.1(c); all depository accounts and other accounts with financial institutions;

- (d) All Tax refunds, credits and benefits with respect to the Assets to the extent the same relate to any taxable period, or portion thereof, ending on or before the date preceding the Closing Date;
- (e) Sellers' Contracts, other than the Purchased Leases and the Assumed Contracts;
- (f) Sellers' Permits;
- (g) All deposits and prepaid expenses for which Sellers are not given a credit at the Closing pursuant to Section 4.6, 4.7, or 4.8;
- (h) All properties, assets, rights and business interests of Sellers and their Affiliates other than the Locations;
- (i) All reimbursements to which Sellers are entitled under any state petroleum storage tank fund for any costs incurred by Sellers before the Closing;
- (j) Those items of select personal property listed on Schedule 1.2(j), attached to and made a part of this Agreement;
- (k) Any consigned petroleum products which are not owned by Sellers;
- (l) Any real properties owned by Sellers other than the Locations;
- (m) All rights and remedies of Sellers that occur, accrue, or arise prior to the Closing against third parties under warranties, or with respect to claims for defects of any kind relating to the Sellers' respective businesses or any of the Assets, including defects in workmanship, manufacturing or design;
- (n) Sellers' rights under this Agreement and any of the transaction documents related to the transactions contemplated by this Agreement (collectively, the "Transaction");
- (o) The attorney-client privilege of Sellers and all of Sellers' notes, files and correspondence (whether electronic or tangible) with or involving Sellers' attorneys;
- (p) Any oil and gas leases granted by a Seller at any Location;
- (q) All accounts receivable, including without limitation, any receivables earned prior to the Closing Date, but which may be due and payable after the Closing Date; and
- (r) All Rent, including without limitation, percentage rents and parking rental income, with respect to the Tenant Leases to the extent the same relate to any lease term, or portion thereof, ending on or before the date preceding the Closing Date, and which may not become due and payable until after the Closing Date.

1.3. Assumed Liabilities. Subject only to the limitations set forth in this Section 1.3, Section 1.4 and Section 9.6, effective as of and after the Closing, each Buyer will assume and shall pay, perform, and discharge, without duplication the following (collectively, the "Assumed Liabilities"):

(a) the executory obligations of performance and liabilities under the Assumed Contracts to the extent such obligations and liabilities arise or relate to events, circumstances or periods occurring on or after the Closing including without limitation those liabilities and obligations specified on Schedule 1.3(a), attached to and made a part of this Agreement;

(b) those obligations and liabilities arising under the Purchased Leases and the Tenant Leases assumed by such Buyer to the extent the same arise or relate to events, circumstances or periods occurring on or after the Closing; and

(c) liabilities imposed by applicable Law upon such Buyer: as owner of all or part of the Owned Fuel Equipment; as owner of a Purchased Owned Real Property; as tenant of a Purchased Leased Real Property; or otherwise with respect to the Locations, in each case including with respect to investigation, notification or remediation of any petroleum products and/or other Hazardous Material in, under or near the real property, to the extent the same arise or relate to events, circumstances or periods occurring after the Closing.

1.4. Excluded Liabilities. The Transaction involves the purchase and sale of assets and not a de facto merger of Sellers and Buyers. Buyers are not successors in interest to Sellers, and neither Sellers nor any Affiliate of Sellers shall have any continuing participation in the ownership or management of the Locations after the Closing. Except as otherwise provided in this Agreement (including, without limitation, Sections 1.3, 4.5, and 4.6), Buyers shall not assume or become liable for, and Sellers expressly retain and are solely responsible for, any debts, liabilities or obligations of any kind of Sellers existing on the Closing Date or thereafter incurred by Sellers, whether known or unknown, absolute or contingent, matured or unmatured, liquidated or unliquidated, or accrued or pending, including without limitation any debts, liabilities or obligations with respect to the Excluded Assets (collectively, the "Excluded Liabilities").

1.5. Definitions. Capitalized terms not defined elsewhere in this Agreement are defined in Exhibit A.

ARTICLE II

PURCHASE PRICE

2.1. Total Consideration. As consideration for the Assets, subject to adjustment as provided in this Agreement, Buyers shall pay to Sellers the sum of (a) _____ and No/100 Dollars (\$ _____00)(the "Asset Purchase Price"), plus (b) the aggregate value of the Inventory determined according to Section 3.4 (the "Inventory Value"). The aggregate consideration for the Assets (i.e., the sum of the Asset Purchase Price plus the Inventory Value) is referred to in this Agreement as the "Total Consideration".

2.2. Deposit. Of the Asset Purchase Price, an earnest money deposit in the amount of five percent (5%) of the Asset Purchase Price (the "Deposit") shall be paid within two (2) Business Days after the Effective Date by Buyer to Chicago Title Insurance Company ("Title Company"), as escrow agent, by wire transfer to an account designated by Title Company. The Deposit shall be held by Title Company in escrow, subject to the terms of an escrow agreement to be entered into among Sellers, Buyers and Title Company, which will be in a form and on terms reasonably satisfactory to Sellers, Buyers and Title Company (the "Escrow Agreement"). The Deposit shall be applied to and deducted from the Total Consideration at the Closing. If the Closing does not occur, the Deposit shall be disbursed to Sellers or returned to Buyers as specified in Article XI.

2.3. Nature of Funds. All payments to be made by Buyers to Sellers under this Agreement shall be made by wire transfer of immediately available funds to the account(s) specified by Seller for such purpose.

2.4. Allocation of Total Consideration and Assumed Liabilities. For Tax purposes, the Total Consideration and the Assumed Liabilities shall be allocated among the Assets in accordance with Code Section 1060 as set forth on Schedule 2.4, attached to and made a part of this Agreement (the "Allocation Schedule"). All Tax Returns filed by Buyers and Sellers shall be prepared consistently with the Allocation Schedule. Each Buyer and each Seller hereby covenants and agrees that such Party will not take a position on any Tax Return, before any Governmental Entity charged with the collection of any Tax, or in any Proceeding, that is in any way inconsistent with the terms of the Allocation Schedule; provided, however, that nothing prevents a Buyer or Seller from settling any proposed deficiency or adjustment by any Governmental Entity based on the Allocation Schedule and no Buyer or Seller shall be required to litigate any proposed adjustment by any Governmental Entity challenging the Allocation Schedule. For the avoidance of doubt, no Buyer or Seller shall take a position inconsistent with the Allocation Schedule as a defense or offset to any position taken by a Governmental Entity. Each Seller and each Buyer agrees to notify the Sellers or Buyers, as applicable, in the event any adjustment is so required or imposed.

2.5. Agreed Location Values.

(a) In addition to, and independent of, the allocation described in Section 2.4, the Parties have allocated the Asset Purchase Price among the Locations ("Agreed Location Values") as set forth on Schedule 2.5 (a), attached to and made a part of this Agreement, for the sole purpose of making necessary adjustments to the Asset Purchase Price in accordance with this Agreement, and such Agreed Location Values will not be used for any other purpose except as set forth in Section 2.5(b).

(b) Each Agreed Location Value shall be further allocated among (i) real property and (ii) all other property. The Parties agree that the allocation described in this Section 2.5(b) will be used for the sole purpose of determining the applicable conveyance fee and real property valuation for each Location.

ARTICLE III

PHYSICAL COUNT PROCEDURES AND VALUATION OF INVENTORY

3.1. Physical Count Inventory Procedures. Not more than four days before the Closing Date, a physical count of the Inventory at the Locations (the "Physical Inventory") shall be taken by the Independent Auditor. The procedures for conducting the Inventory count and valuing the Inventory are set forth in this Article III.

3.2. Effect. For the purposes of determining the Inventory Value, the results of the Physical Inventory shall be final and binding on the Parties (absent manifest error); provided however, that the Inventory Value shall be adjusted as of the Closing Date, in accordance with the valuation methods specified in Section 3.4, as follows: (a) as deductions from Inventory Value, all of Sellers' costs associated with the sales or consumption of Inventory (other than Petroleum Inventory) at each applicable Location between the time of the Physical Inventory at such Location and the Closing; and (b) as additions to Inventory Value, all of Sellers' costs associated with all deliveries of Inventory (other than Petroleum Inventory) at each applicable Location between the time of the Physical Inventory and the Closing (collectively, the "Inventory Adjustments"). Transfer of Inventory and results of operations at each Location will be effective as of an agreed upon time on the date of the Physical Inventory at each Location. Within thirty (30) days after the Closing Date, the representatives of Sellers and Buyers shall execute an inventory statement evidencing the results of the Physical Inventory at each Location and any applicable Inventory Adjustments (the "Inventory Statement," subject to Section 3.4(d)). All deliveries of Inventory to and all sales of Inventory at each Location before the applicable date of each Physical Inventory at each Location ("Physical Inventory Date") shall be for the benefit of and chargeable to the account of Sellers; all deliveries of Inventory to and all sales of Inventory at each Location from and after the Physical Inventory Date shall be for the benefit of and chargeable to the account of Buyers.

3.3. Physical Inventory Procedures. The Physical Inventory shall be conducted in accordance with the provisions of this Section 3.3:

(a) Observation Rights. Representatives of Sellers and Buyers may be present to observe the taking of any Physical Inventory.

(b) Merchandise and Supplies Inventory. A physical count of actual quantities of Merchandise Inventory and Supplies Inventory will be taken by the Parties as close as practicable to the Closing Date.

(c) Petroleum Inventory. A measurement of the amount of the Petroleum Inventory at each Location shall be made on the morning of the Closing. The Petroleum Inventory will be measured by automatic tank gauging system where available for reading the underground tanks. Manual sticking of the tanks only at tanks lacking automatic gauging systems and where those systems are available shall be done for the sole purpose of determining sediment and water levels, which shall be deducted from the automatic tank gauging gallon computation to compute the Petroleum Inventory. Simultaneously, retail pump meter readings will be taken and recorded. All tank inventories shall be taken at

ambient conditions and calculated at total observed volume using tank charts at each Location. A comparison of each Location's volumes as calculated from the Physical Inventory will be compared to the Location's book inventory and sales records. Excessive variances should be questioned and, if necessary, a second Physical Inventory shall be taken to ensure the accuracy of the reported readings.

3.4. Valuation of Inventory. The Inventory Value shall be determined in accordance with the following:

(a) The Supplies Inventory, Merchandise Inventory, Food Service Inventory, Alcoholic Beverages Inventory, and Cigarette Inventory at each Location shall be valued at either a specified percentage of Sellers' retail or the actual cost of the applicable Inventory, as set forth on Schedule 3.4(a) (the "Non-Petroleum Inventory Valuation"), attached to and made a part of this Agreement.

(b) Petroleum Inventory. Except as provided below in this Section 3.4(b), the Petroleum Inventory shall be valued at the sum of (i) Sellers' actual cost of purchase of each grade of product for the last delivery to the Location of that grade, plus (ii) the then-current freight rate (including applicable surcharge) charged by common carrier to transport the applicable volume of product to each Location, in each case inclusive of all local, state and federal excise taxes paid or to be paid by Sellers thereon ("Gasoline Taxes"), whether or not Buyers hold an exemption certificate. To the extent not previously paid by Sellers, all such Gasoline Taxes included in the Inventory Value shall be remitted by Sellers to the applicable taxing jurisdiction promptly following the Closing.

(c) Cash on Hand. All cash on hand amount at each Location (including that in the drawer, safe, but excluding ATM cash) shall be valued at cost, with no mark-up or mark-down.

(d) Disputes. Should any dispute arise as to the quantity, volume or value of any category of the Inventory which cannot readily be settled between the Parties before the Closing, the maximum value for that category of Inventory not disputed by the Parties (i.e., the value above which there is a dispute) shall be paid by Buyers to Sellers at the Closing, and the Inventory Statement required to be executed and delivered by Buyers and Sellers at the Closing shall be limited to the undisputed components of the Inventory. The Parties shall endeavor in good faith to agree on the disputed quantity, volume or value within fifteen (15) days after the Closing. If the Parties cannot reach agreement before the end of this fifteen (15) day period, then the Arbitrating Accountant shall resolve the disputed items. Buyers and Sellers shall each inform the Arbitrating Accountant in writing of their position concerning the disputed items as of the Closing Date, and each shall make readily available to the Arbitrating Accountant any books and records and work papers relevant to the preparation of the Arbitrating Accountant's computation of the disputed amounts. The resolution of any disputed item by the Arbitrating Accountant shall not be more favorable to Buyers than the amount set forth in Buyers' written statement(s) to the Arbitrating Accountant with respect to the subject item, or more favorable to Sellers than the amount set forth in Sellers' written statement(s) to the Arbitrating Accountant with respect to the subject item. The Arbitrating Accountant shall be instructed to complete its

analysis within thirty (30) days from the date of its engagement and, upon completion, to inform the Parties in writing of its own determination of the disputed amounts, the basis for its determination, whether Buyers' or Sellers' written position as to the disputed amounts in the aggregate is closer to its own determination, and whether its own determination of the disputed amounts is within a range that (i) equals 20% of the absolute difference between the written positions of Buyers and Sellers as to the disputed amounts (in the aggregate) and (ii) has a midpoint equal to the mean of such written positions of Buyers and Sellers (in the aggregate) (the "Mid-Range"). If the Arbitrating Accountant determines that the written position of Buyers concerning the disputed amounts is closer to its own determination (in the aggregate), Sellers shall pay the fees and disbursements of the Arbitrating Accountant in connection with its analysis. If the Arbitrating Accountant determines that the written position of Sellers concerning the disputed amounts is closer to its own determination (in the aggregate), Buyers shall pay the fees and disbursements of the Arbitrating Accountant in connection with its analysis. However, if the Arbitrating Accountant's determination of the disputed amounts is within the Mid-Range, each of Sellers and Buyers shall pay one-half of the fees and disbursements of the Arbitrating Accountant in connection with its analysis. Any determination by the Arbitrating Accountant in accordance with this Article III shall be final and binding on the Parties, absent manifest arithmetic error or a failure to apply the inventory valuation rules set forth in this Article III. Any amount ultimately determined by the Arbitrating Accountant to be payable by a Party to the other shall be so paid on or before the date that is ten days after the date of the Arbitrating Accountant's determination by wire transfer of immediately available funds to an account designated by the receiving Party for such purpose, and the Inventory Statement shall be deemed to be modified automatically in accordance with the Arbitrating Accountant's determination.

3.5. Cost of Physical Inventory. All of the costs and expenses of the Independent Auditor and any agents or contractors of the Independent Auditor with respect to the Physical Inventory conducted at the Locations shall be shared equally by the Parties.

ARTICLE IV

CLOSING AND CLOSING DELIVERABLES

4.1. Closing. Subject to the terms and conditions of this Agreement, the consummation of the Transaction (the "Closing") shall take place on a date and time as designated in writing by Sellers to Buyers (the "Closing Date"), which shall be on the latest of (a) thirty (30) days after the end of the Due Diligence Period, (b) fifteen (15) days after the expiration of Sellers' Cure Period, or (c) the date that all of the conditions to the Closing set forth in Article X are either satisfied or waived (other than conditions which, by their nature, are to be satisfied at the Closing); *provided, however*, that in no event shall the actual Closing occur later than December 10, 2021 (the "Drop Dead Date"). The Closing shall be effective as of 12:01 a.m. Eastern Time (with the then-applicable time convention applying) on the Closing Date.

4.2. Proceedings at Closing. All proceedings to be taken and any documents to be executed and delivered by any of the Parties at the Closing shall be deemed to have been taken, executed and delivered simultaneously, and no proceedings shall be deemed taken nor any documents executed or delivered until all such proceedings and documents have been taken, executed and delivered. At the Closing, Sellers shall be entitled to retain the Deposit, which shall be credited toward the Asset Purchase Price.

4.3. Deliveries by Sellers. At the Closing, Sellers shall execute and/or deliver or cause to be executed and/or delivered to Buyers the following instruments, documents and considerations, all of which shall be in form and substance reasonably satisfactory to Buyers:

(a) a Special or Limited Warranty Deed executed by the applicable Seller with respect to each Purchased Owned Real Property in substantially the same form as that attached as Exhibit B (each, a "Deed" and collectively the "Deeds");

(b) an assignment and assumption executed by the applicable Seller with respect to each Purchased Lease and Tenant Lease (subject to, and to the extent permitted under, the terms and conditions of the instruments granting or creating the foregoing) in form as is mutually agreed between the applicable Seller and the applicable Buyer (each an "Assignment and Assumption of Lease");

(c) a Bill of Sale executed by the applicable Seller for the Inventory, Tangible Owned Personal Property, Owned Fuel Equipment, Transferred Deposits and Books and Records in substantially the same form as that attached as Exhibit C (the "Bill of Sale");

(d) one or more assignment and assumptions executed by the applicable Seller in respect of the Assumed Contracts in form as is mutually agreed between the applicable Seller and the applicable Buyer (collectively, the "Assignment and Assumption Agreement");

(e) a settlement statement executed by Sellers showing all components of the Total Consideration and itemizing the closing costs and prorations contemplated by this Agreement (the "Settlement Statement");

(f) a certificate of good standing for each Seller issued by the Secretary of State of the State of Ohio, Pennsylvania or West Virginia, as the case may be, dated as of a date no more than seven (7) days before the Closing Date;

(g) if applicable, an amount equal to the total positive amount of any credits, prorations and other adjustments payable or allocable to Buyers pursuant to Sections 4.6, 4.7 and 4.8 (net of any such amounts payable or allocable to Sellers pursuant to Sections 4.6, 4.7 and 4.8);

(h) payoff letters from any lenders of Sellers having any Encumbrances on any Asset subject to this Agreement, evidencing the release, as of or prior to the Closing, of all such Encumbrances other than Permitted Encumbrances;

(i) the Inventory Statement, executed by Sellers;

(j) a certificate stating that Sellers are not foreign persons within the meaning of Code Section 1445, which certificate shall set forth all information required by, and otherwise be executed in accordance with, Treasury Regulation Section 1.1445-2(b)(2);

(k) a counterpart signature page to each amendment of the subject lease with respect to the Purchased Leased Real Properties and the Tenant Leases in form and substance reasonably satisfactory to the applicable landlord and the applicable Buyer, duly executed by the applicable landlord and Tri-State;

(l) an owner's affidavit reasonably satisfactory to the applicable Seller, the applicable Buyer, and Title Company;

(m) any other documents, instruments or agreements contemplated hereby or reasonably necessary or appropriate to consummate the Transaction, and in a form reasonably acceptable to Buyers and Sellers (it being understood that such instruments shall not require Buyers, Sellers or any other Person to make any additional representations, warranties or covenants, express or implied, not contained in or as contemplated by this Agreement).

4.4. Deliveries by Buyers. At the Closing, Buyers shall execute and/or deliver or cause to be executed and/or delivered to Sellers or as otherwise specified below the following instruments, documents and considerations, all of which shall be in form and substance reasonably satisfactory to Sellers:

(a) an amount (the "Closing Cash Payment") equal to the sum of (i) the Total Consideration, minus (ii) any Inventory Value amounts in dispute and not paid at the Closing pursuant to Section 3.4(d), minus (iii) the amount of the Deposit;

(b) if applicable, an amount equal to the total positive amount of any credits, prorations and other adjustments payable or allocable to Sellers pursuant to Sections 4.5, 4.6 and 4.7 (net of any such amounts payable or allocable to Buyers pursuant to Sections 4.5, 4.6 and 4.7);

(c) if required by applicable Law, an Environmental Agency Notification for Underground Storage Tanks listing Buyers as owner of the Owned Fuel Equipment;

(d) each Assignment and Assumption of Lease, the Bill of Sale, the Assignment and Assumption Agreement(s), and the Settlement Statement, each executed by the applicable Buyer;

(e) an executed real property transfer declaration affidavit, as applicable for each of the Purchased Owned Real Properties as provided in this Agreement;

(f) a certificate of good standing (or its equivalent) for each Buyer issued by the Secretary of State or the equivalent office of the jurisdiction of organization of each Buyer, dated as of a date no more than seven (7) days before the Closing Date;

(g) the Inventory Statement, executed by Buyers;

- (h) a copy of the R&W Insurance Policy;
- (i) a copy of the Environmental Insurance Policy;
- (j) certificates of exemption from sales tax for all Assets determined to be tax exempt;
- (k) a counterpart signature page to each amendment of the subject lease with respect to the Purchased Leased Real Properties and the Tenant Leases in form and substance reasonably satisfactory to the applicable landlord and the applicable Buyer, duly executed by the applicable Buyer;
- (l) a certificate, dated as of the Closing Date and signed by a duly authorized representative for each Buyer, certifying the names and signatures of the officers or managers of such Buyer authorized to sign this Agreement and the other transaction documents to which such Buyer is a party; and
- (m) any other documents, instruments or agreements contemplated hereby or reasonably necessary or appropriate to consummate the Transaction, and in a form reasonably acceptable to Buyers and Sellers (it being understood that such instruments shall not require Buyers, Sellers or any other Person to make any additional representations, warranties or covenants, express or implied, not contained in or as contemplated by this Agreement).

4.5: Payment of Excise Taxes. All Excise Taxes shall be paid on or before the applicable due date by Buyers, and Buyers and Sellers shall file such Tax Returns as each may be required to file in connection with such Excise Taxes in accordance with applicable Law.

4.6: Property Tax Adjustments. As applicable, all state, city, county and local real and personal property taxes and similar ad valorem obligations (a) constituting an encumbrance on any of the Assets, or (b) that Sellers are otherwise obligated to pay pursuant to each Purchased Lease ((a) and (b), collectively, "Property Taxes"), whether such Property Taxes are payable to a taxing authority, a landlord or other third party, shall be adjusted on the basis of the fiscal year (regardless of the date of assessment) of the state, county, city or town in which any respective Assets are situated (the "Fiscal Year"). Property Taxes that are assessed for the Fiscal Year in which the Closing occurs (whether due and payable in such Fiscal Year or thereafter) shall be prorated between Sellers and Buyers based upon, respectively, the number of calendar days in the portion of such Fiscal Year ending on the date preceding the Closing Date and the number of calendar days in the portion of such Fiscal Year commencing on the Closing Date. Property taxes that relate to a Fiscal Year commencing after the Closing shall be paid by Buyers. All installments of Property Taxes having a due date before the Closing Date shall be paid by Sellers before the Closing Date and Buyers shall pay all installments of Property Taxes having a due date on or after the Closing Date. The proration of undetermined Property Taxes shall be calculated using an amount equal to 100% of the most recently issued Property Tax bills. The proration of Property Taxes shall be final as of the Closing Date. Sellers and Buyers each shall pay one-half (1/2) of the transfer taxes and escrow fees. All other closing costs, including, without limitation, recording fees, shall be assessed to Buyers, as of the Closing Date.

4.7. **Rents and Prepaid Expenses.** Rents, prepaid expenses and similar items relating to the Assets and benefiting Buyers, if any, shall be prorated between the Parties as of the Closing Date, with Sellers responsible for the period prior to the Closing Date and Buyers responsible for the period on and after the Closing Date. For the avoidance of doubt, the preceding sentence shall apply to percentage rent (even if received by Buyers after the Closing Date), parking rental, tank fees, bond premiums, and insurance premiums paid by Sellers for the year in which the Closing occurs. To the extent that any Purchased Lease requires payment of insurance and other lease charges (but excluding Property Taxes which shall be prorated as provided in Section 4.6 above), Sellers shall be responsible for the same to the extent the same relate to periods before the Closing Date for the applicable Location, and Buyers shall be responsible for and shall pay the same for periods on and after the Closing Date for the applicable Location.

4.8. **Utilities.** Charges for water, gas, power, light, telephone and internet, and other utility service shall be prorated as of the Closing Date utilizing the most current evidence of the amount due, with Sellers responsible for the period prior to the Closing Date and Buyers responsible for the period on and after the Closing Date.

4.9. **Fees Payable to Franchisors.** If the Closing Date is not the last day of a calendar month or calendar quarter such monthly or quarterly charges and fees (i.e., POP, Mystery Shop, Cybers) shall be prorated as of the Closing Date utilizing the most current evidence of the amount due, with Sellers responsible for the period prior to the Closing Date and Buyers responsible for the period on and after the Closing Date.

ARTICLE V

TRI-STATE'S REPRESENTATIONS AND WARRANTIES OF

Subject to the exceptions, disclaimers and other matters set forth in this Agreement, Tri-State represents and warrants to Buyers that the statements contained in this Article V are true and correct as of the Effective Date.

5.1. Taxes.

(a) As used in this Agreement:

(i) "Audit" means any audit, assessment of Taxes, examination or other proceeding by the IRS (defined below) or any other Governmental Entity responsible for the administration of any Taxes, proceeding or appeal of such proceeding relating to Taxes.

(ii) "Code" means the Internal Revenue Code of 1986, as amended.

(iii) "IRS" means the Internal Revenue Service of the United States.

(iv) "Tax Returns" means all federal, state, local and foreign tax returns, declarations, estimates, statements, reports, claims for refund, schedules, forms,

and information returns and other documents (including any related supporting information) and any amended Tax Return filed or required to be filed in connection with the determination, assessment or collection of any Tax or the administration of any Law(s) or administrative requirements relating to any Tax.

(b) Except as set forth in Schedule 5.1(b), attached to and made a part of this Agreement: (i) Sellers have duly and timely filed all Tax Returns required to be filed on or prior to the Closing Date by Sellers, each such Tax Return has been prepared in compliance with the Laws, and all such Tax Returns are true, accurate, and complete in all respects.

(c) All Taxes owed by Sellers with respect to the Business have been duly paid on a timely basis, except for Taxes not yet due and payable. Specifically, but not by way of limitation, Sellers have paid in full all Taxes that have or may have become due with respect to the Fuel Supply Agreements, and there are no Tax liabilities of any Seller that could result in liability being imposed upon a Buyer as a transferee or successor as a result of the Transaction, or which otherwise attach to the Fuel Supply Agreements. Sellers have collected all sales and use Taxes required to be collected with the Business, and have remitted (or will remit on a timely basis) such amounts to the appropriate taxing authorities, or have been furnished properly completed exemption certificates. Sellers have also: (i) paid all Taxes imposed on Seller with respect to petroleum or petroleum products, motor fuels, taxable fuels, refined fuels, or other fuels or fuel products, whether imposed by federal, state, or local taxing authorities; and (ii) completed, filed, renewed, and maintained all available certificates, certifications, registrations, or similar documentation that may reduce or eliminate any such tax.

(d) Except as set forth in Schedule 5.1(b), attached to and made a part of this Agreement: (i) no Tax Return is currently under Audit by any taxing authority and no notice of any such Audit has been received, and (ii) no deficiencies for any Taxes have been proposed, asserted, or assessed by any taxing authority with respect to liabilities for Taxes which have not been fully paid or finally settled.

(e) The Transaction does not fall within the scope of, and is not otherwise subject to any Bulk Sales Law (as hereinafter defined), except for the Pennsylvania Bulk Sales Act.

5.2. Assumed Contracts and Purchased Leases. Each Assumed Contract and each Purchased Lease is in full force and effect and is valid and enforceable against Tri-State, and, to Tri-State's Knowledge, the other party or Parties thereto in accordance with its terms, except as such may be limited by bankruptcy, insolvency, reorganization or other Laws affecting creditors' rights generally, and by general equitable principles. Except as set forth on Schedule 5.2, attached to and made a part of this Agreement, Tri-State is in compliance in all material respects with all terms and requirements of each Assumed Contract and each Purchased Lease, and no material breach or default by Tri-State of any provision thereof, nor to Tri-State's Knowledge, any condition or event that, with notice or lapse of time or both, would constitute such a breach or default, has occurred. To Tri-State's Knowledge, and except as set forth on Schedule 5.2, no material breach or default by any other party to any Assumed Contract or any Purchased Lease of any provision

thereof, nor any condition or event that, with notice or lapse of time or both, would constitute such a breach or default, has occurred. Tri-State has delivered to Buyers true, correct and complete copies of each Assumed Contract, Tenant Lease and Purchased Lease applicable to Tri-State.

5.3. Labor Matters.

(a) Except as set forth on Schedule 5.3, attached to and made a part of this Agreement, there are no contracts or agreements, oral or written, and no current negotiations pertaining thereto, with any employee at any Location, including any employment, severance or retention agreements. For purposes of clarity, the term "employee" as used in this Agreement refers to full-time employees who worked for the Business at a Location immediately prior to the Closing.

(b) Except as set forth on Schedule 5.3:

(i) Tri-State is not a party to or bound by any collective bargaining agreement, labor contract or other written or oral agreement or understanding with any union or labor organization covering wages, hours or terms or conditions of employment with respect to any Location;

(ii) to Tri-State's Knowledge, there are no organizational campaigns, demands, petitions or Proceedings currently pending or overtly threatened by any union, labor organization or group of employees seeking recognition or certification as collective bargaining representative of any group of employees of Tri-State at any Location;

(iii) since January 1, 2020, Tri-State has not experienced any labor strike, work stoppage or lockout with respect to any Location and, to Tri-State's Knowledge, no labor strike, work stoppage or lockout has been overtly threatened against Tri-State with respect to any Tri-State Location; and

(iv) there are no material disputes, complaints or Proceedings relating to labor matters pending or, to Seller's Knowledge, threatened against Seller with respect to any Location.

5.4. Financial Statements.

(a) Tri-State has made available to Buyers internally prepared, unaudited, store-level summary profit and loss statements and store-level EBITDA (earnings before interest, tax, depreciation and amortization) for each of the Owned Locations for each of (A) the twelve-month period ended December 31, 2018, (B) the twelve-month period ended December 31, 2019, (C) the twelve-month period ended December 31, 2020 and (D) the six-month period ended June 30, 2021 (collectively, the "Site-Level Financial Statements"), which are attached hereto in Schedule 5.4(a), attached to and made a part of this Agreement. The Site-Level Financial Statements (X) fairly present in all material respects the results of operations for each of the Owned Locations as of the respective dates thereof and for the respective periods covered thereby, and (Y) were prepared consistently with the books and records of the Sellers.

(b) Tri-State has made available to Buyers internally prepared, unaudited, segment-level summary profit and loss statements and segment-level EBITDA (earnings before interest, tax, depreciation and amortization) for the Fuel Supply Business for each of (A) the twelve-month period ended December 31, 2018, (B) the twelve-month period ended December 31, 2019, (C) the twelve-month period ended December 31, 2020 and (D) the six-month period ended June 30, 2021 (collectively, the "Fuel Supply Business Financial Statements"), which are attached hereto in Schedule 5.4(a). The Fuel Supply Business Financial Statements (X) fairly present in all material respects the results of operations for the Fuel Supply Business as of the respective dates thereof and for the respective periods covered thereby, and (Y) were prepared consistently with the books and records of the Sellers.

(c) Tri-State has made available to Buyers, true, correct and completed copies of the audited financial statements consisting of the consolidated balance sheets of EJC Legacy Inc. and subsidiaries as of December 31st in each of the years 2020, 2019 and 2018, and the related consolidated statements of income, members' equity and consolidated cash flows for the years then ended (the "Audited Financial Statements"). The Audited Financial Statements have been prepared in accordance with Generally Accepted Accounting Principles ("GAAP") applied on a consistent basis throughout the period involved. The Audited Financial Statements are based on the books and records of the Business, and fairly present the financial condition of the Business as of the respective dates they were prepared and the results of the operations of the Business for the periods indicated.

(d) Except as set forth in any financial statement(s) identified in this Section 5.4 above, to the Knowledge of Seller, (i) the Business is not subject to any liability or obligation (whether direct or indirect, accrued, fixed, contingent, or otherwise), other than immaterial current liabilities and obligations incurred in the ordinary and usual course of business consistent with past practice, and (ii) and there are no facts or circumstances relating to the Business that would, alone or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.5. Absence of Certain Changes or Events: Except as set forth in Schedule 5.5, attached to and made a part of this Agreement, since January 1, 2021:

(a) Sellers have operated the Assets and the Business only in the ordinary and usual course of business consistent with past practice;

(b) There has not occurred any event or circumstance that would have required the consent of, or notice to, Buyers pursuant to this Agreement had it been in effect on such date; and

(c) There has not occurred any other event, circumstance, or change in the Assets or the activities, holdings, results of operations, or condition (financial or otherwise) of the Business that, alone or in the aggregate, has had or reasonably could reasonably be expected to have a Material Adverse Effect.

5.6. Contracts: Equipment Leases. To Tri-State's Knowledge:

(a) The Assumed Contracts constitute all of the Contracts to which a Seller is a party that relate in any material way to the Business. True, correct and complete copies of all of the Assumed Contracts, in each case as amended through the date hereof, have been delivered to Buyers.

(b) In addition, with respect to each Fuel Supply Agreement, (i) such agreement is in full force and effect and no uncured breach or default exists on the part of the Seller(s) party thereto or the buyer/retailer/dealer thereunder ("Dealer"); (ii) such Dealer has not previously asserted, and is not currently asserting, any claim of offset or other defense with respect to its obligations and/or Seller's rights under the Fuel Supply Agreement; (iii) except as expressly set forth in the applicable Fuel Supply Agreement, such Dealer is not entitled to any concession, rebate, or allowance under the Fuel Supply Agreement or any other written or oral agreement with Seller; (iv) Seller is, and at all times has been, in compliance with all material terms and conditions of the Fuel Supply Agreement; (v) Seller has not given to or received from the Dealer any notice or other communication regarding, and is not otherwise aware of, any actual, alleged, possible, or potential violation or breach of, or default under, the Fuel Supply Agreement; and (vi) there has been no renegotiation of, nor or has there been any request or attempt to renegotiate, any amounts paid or payable to Seller under the Fuel Supply Agreement, nor are there any outstanding rights entitling Dealer to such renegotiation. Except as set forth on Schedule 5.6(b), attached to and made a part of this Agreement, there have been and are no amendments or modifications of the Fuel Supply Agreement, whether written or oral, and Seller has not waived or suspended compliance with any provision(s) thereof and is enforcing the Fuel Supply Agreement in accordance with its terms.

(c) In addition, with respect to each Assumed Contract that is a lease of equipment or other personal property, except as set forth in Schedule 5.6(c), attached to and made a part of this Agreement: (i) such lease creates a valid leasehold interest in all property purported to be leased thereunder; (ii) all rent and other required payments have been timely paid by Seller through the date of this Agreement; (iii) Seller is in possession and quiet enjoyment of all of such property; and (iv) Seller has the right, subject to the consent of the lessor, to assign such lease to Buyer hereunder and, upon such assignment, Buyer will have all rights of the lessee thereunder for its own use and benefit for the remaining term of such lease and any renewals thereof.

(d) Schedule 5.6(d), attached to and made a part of this Agreement, contains a true and complete list of all security (or similar) deposits made by any buyer (retailer/dealer) to Seller under or in connection with the Fuel Supply Agreements, including the specific amounts and forms thereof (i.e., cash, letter of credit, or some other form). Such deposits (the "Dealer Security Deposits") are the only such deposits held by Seller and are held in accordance with the respective Fuel Supply Agreements. None of the Dealer Security Deposits is subject to any contest, claim, or right of set-off, including any claim relating to the amount or validity of such Dealer Security Deposit; no such contest, claim, or right has been threatened or asserted; and, to the knowledge of Seller, no

event has occurred, or circumstance exists which is likely to give rise to or serve as a basis for the commencement of any such contest or claim.

5.7. Branding and Other Incentives. Schedule 5.7, attached to and made a part of this Agreement, accurately and completely lists all of the Assumed Contracts governing the repayment by Seller or its dealers of branding and other incentive funds and describes, (i) all Unamortized Funds which are presently a liability of a Seller for all Locations; (ii) all incentive funds received by a Seller in connection with the Locations, whether such funds have been retained by such Seller or remitted to the pertinent dealer, and Seller's obligation to repay such funds; and (iii) all incentive funds provided to dealers by Seller from Seller's own funds.

5.8. Branding/Debranding. Except as described on Schedule 5.8, attached to and made a part of this Agreement, none of the Locations is presently in the process of being branded, re-branded, or debranded by or for a petroleum supplier.

ARTICLE VI

SELLERS' REPRESENTATIONS AND WARRANTIES

Subject to the exceptions, disclaimers and other matters set forth in this Agreement, each Seller represents and warrants to Buyers that the statements contained in this Article VI are true and correct as of the Effective Date.

6.1. Organization and Existence. Seller is duly organized and validly existing under the Laws of the state of its incorporation or organization, and is duly qualified or licensed to do business in all states in which it is necessary and required to be so qualified or licensed in order to perform the obligations and effect the Transaction.

6.2. Due Authorization; Enforceability; Absence of Conflicts. Seller has the corporate or limited partnership power and authority to enter into and perform its obligations under this Agreement and each other agreement, document, instrument or certificate contemplated by this Agreement to be executed by Seller in connection with the consummation of the Transaction (all such other agreements, documents, instruments and certificates required to be executed by one or more Sellers being hereinafter referred to, collectively, as the "Seller Documents"). The execution, delivery and performance by Seller of this Agreement and each Seller Document has been duly authorized and approved by all necessary corporate action on the part of Seller. This Agreement has been, and the Seller Documents at or before the Closing will be, duly executed and delivered by Seller and, assuming the due authorization, execution and delivery by the other Parties and thereto, this Agreement constitutes, and the Seller Documents when so executed and delivered will constitute, legal, valid and binding obligations of Seller, enforceable against Seller according to their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity. Neither the execution and delivery by Seller of this Agreement or any of the Seller Documents, nor the consummation of the Transaction or the Seller Documents, nor compliance by Seller with any of the provisions of this Agreement or the Seller Documents, will (a) conflict with, or result in the breach of, any provision of the organizational documents of Seller,

(b) conflict with, violate, result in the breach or termination of, or constitute a default under, any agreement to which Seller is a party or by which it or any of its properties or assets is bound or subject (so long as the Consents set forth or referred to on Schedule 6.3, attached to and made a part of this Agreement, are obtained or satisfied prior to the Closing), or (c) constitute a violation of any Law applicable to Seller.

6.3. Consents. Except as set forth on Schedule 6.3, no Consent, approval of or by, or filing or notice to any other Person is required on the part of Seller in connection with the execution and delivery of this Agreement or any of the Seller Documents or the compliance by Seller with any of the provisions of this Agreement or the Seller Documents, except where the failure to obtain such consent or approval, make such filing or give such notice would not reasonably be expected to have a Material Adverse Effect on the ownership, operation, use or value of the Assets.

6.4. Proceedings. Except as set forth on Schedule 6.4, there is no Proceeding pending or, to the Knowledge of Seller, threatened against any Seller relating to the Assets or the Locations, or that seeks to enjoin or obtain damages in respect of the consummation of the Transaction, or that questions the validity of this Agreement, any Seller Document or any action taken by Seller(s) in connection with the consummation of the Transaction or any Seller Document.

6.5. Warranty of Title. Sellers are the true and lawful owners of, and own all right, title, and interest in and to, all of the Assets, free and clear of all liens not constituting a Permitted Encumbrance, but subject to the matters set forth on Schedule 6.5. Upon the Closing pursuant to this Agreement, (i) all right, title, and interest in and to all of the Assets, free and clear of all liens not constituting a Permitted Encumbrance, will pass to Buyers, and (ii) all of the Assumed Contracts and assignable Permits included in the Assets shall be validly assigned to Buyers and Buyers shall have all of the rights and privileges thereunder to the same extent as though Buyers were original parties thereto or permittees thereunder. To Seller's Knowledge, no person has any right to assert any lien not constituting a Permitted Encumbrance in any amount against any of the Assets.

6.6. Brokerage Fees. Sellers have agreed to pay a brokerage fee to MCMG Capital Advisors, Inc. when due and payable. No Seller is a party to any contract or undertaking to pay any broker's, finder's, or financial advisor's fee in connection with the origin, negotiation, execution or performance of this Agreement that will require the payment of any such fee by Buyers.

6.7. Property Taxes. All Property Taxes owed by Seller have been duly paid on a timely basis.

6.8. Condemnations. Except as set forth on Schedule 6.8, attached to and made a part of this Agreement, Seller has not received any written notice of any condemnation, expropriation, eminent domain or similar Proceeding affecting all or any portion of any Location, nor to the Seller's Knowledge is there any pending condemnation, expropriation, eminent domain or other similar Proceeding affecting all or any portion of any Location.

6.9. Compliance With Laws: Permits. To Seller's Knowledge, except as set forth on Schedule 6.2, since January 1, 2020, Seller has not received official notice of any alleged violation

of, or any citation for noncompliance with, any Law or Permit relating to the Assets, except for violations, noncompliance or other matters, if any, which would not reasonably be expected to have a Material Adverse Effect on the ownership, transferability, operation, use or value or any of the Assets. To Seller's Knowledge, except as set forth on Schedule 6.9, Seller is in compliance with all Laws and Permits applicable to the Assets and the operation and/or ownership of the Assets as currently operated and owned, in all material respects. A list of all Permit-related violations or citations issued with respect to any Location owned by one or both Seller(s): (i) since January 1, 2020 and previously resolved, or (ii) which are unresolved, regardless of when issued, is set forth on Schedule 6.9.

6.10. Environmental Matters. To Seller's Knowledge:

(a) except as set forth on Schedule 6.10, there are no releases of Hazardous Materials on, under, or from any of the Purchased Owned Real Properties or Purchased Leased Real Properties that are required to be reported or for which Remedial Measures are required to be performed under any Environmental Law(s);

(b) the Purchased Owned Real Properties and Purchased Leased Real Properties and the operations conducted thereon by Tri-State are in material compliance with all applicable Environmental Laws;

(c) Tri-State holds all material Permits which are required pursuant to Environmental Laws for the operation of the Assets as currently operated;

(d) since January 1, 2018 and through the Effective Date, Seller has not received any written notice from a Governmental Entity of any material violation of Environmental Laws in, on, under or from any Purchased Owned Real Properties or Purchased Leased Real Properties other than any such violation related to investigatory, corrective or remedial obligations under Environmental Laws which has been dismissed or for which Tri-State has received a Closure Letter; and

(e) as of the Closing Date, the Owned Fuel Equipment complies in all material respects with applicable requirements relating to the registration, reporting, licensing, and use of underground storage tank systems (the "UST Systems"), and the UST Systems and Sellers, as owners and/or operators thereof, qualify for inclusion in the Ohio or Pennsylvania leaking underground storage tank reimbursement fund, and the UST Systems have been registered and are in compliance in all material respects with all substantive and administrative requirements of such programs so as to qualify for all applicable reimbursements pursuant thereto.

This Section 6.10 contains the sole and exclusive representations and warranties of Seller with respect to all matters, specifically including, without limitation, environmental matters, including any matters arising under Environmental Laws.

6.11. Real Property Assets.

(a) Sellers have good, marketable, and indefeasible fee simple title to the Purchased Owned Real Properties, subject only to the Permitted Encumbrances.

(b) Except for the obligations under Contracts identified on Schedule 6.11(b), there are no covenants, contracts, restrictions, or other arrangements or understandings (whether or not in writing or of record) respecting the Purchased Owned Real Properties or Purchased Leased Real Properties or the use or possession thereof that would require payment by Buyers to any person, owners' association or other entity of or for shared easements, improvements, utilities, services, or for other reasons.

(c) Except with respect to the Tenant Leases and the Contracts identified on Schedule 6.11(b), no person or entity has a right to use or possession of any Purchased Owned Real Properties or Purchased Leased Real Properties pursuant to any lease or otherwise.

(d) There is not presently pending any special assessment of any nature with respect to the Locations or any part thereof, and Seller has not received notice of or become aware of any special assessment being contemplated, planned, or proposed.

(e) Seller is not involved in any proceedings by or against Seller in any court under federal or state bankruptcy laws or any other insolvency or debtor's relief act, or for the appointment of a trustee, receiver, liquidator, or assignee or other similar official.

(f) Neither Seller nor any Location is subject to any contract, including, without limitation, any right of first refusal, option to purchase, or lease granted to a third person, which could or would prevent such Seller from completing, or impair such Seller's ability to complete, the Transaction, or which would bind Seller, any Buyer, or the Locations subsequent to consummation of the Transaction.

(g) Seller is not bound by any contract, or subject to any restriction imposed by any Governmental Entity, or subject to any legal requirement, which could restrict or interfere with the use or ownership of the Locations as currently used.

(h) To Seller's Knowledge, except as set forth in Schedule 6.11(b): (i) the Locations comply in all material respects with all Laws, including, without limitation, all health, building, fire, safety, and other codes, ordinances, and requirements; (ii) the Locations are in compliance in all material respects with all applicable zoning requirements and the use of the Locations for bulk plant, restaurant, or convenience store/retail fuel sales, as applicable, is a permitted or legally established use under all applicable zoning requirements and other Laws.

(i) There is available to each Property, through public or private easements or rights-of-way abutting or crossing such Property, a water supply and sanitary sewer service approved by all applicable Governmental Entities having jurisdiction, as well as electric, gas (if applicable), and telephone service, all in sufficient capacity to serve the needs of such Property. On the Closing Date, each Location will be served by public utilities sufficient to permit full utilization of such Location consistent with the use thereof as of the Closing Date and all utility connection fees will have been paid in full.

(j) No condemnation or eminent domain proceedings affecting any of the Locations have been commenced or, to the Knowledge of Seller, are contemplated.

(k) There are no outstanding mechanics' liens, or rights to claim a mechanic's lien, in favor of any mechanic, materialman, laborer, or any other person in connection with labor or materials furnished to or performed on any portion of the Locations that will not have been fully paid for on or prior to the Closing Date. No work has been performed or is in progress at, nor have materials been supplied to, any of the Locations, nor have any agreements been entered into for work to be performed on or materials to be supplied to any of the Locations prior to the Effective Date which will not have been fully paid for on or prior to the Closing Date or which might provide the basis for the filing of such liens against the Locations or any portion thereof. After the Effective Date, Seller will not create, permit or suffer any lien or other encumbrance to attach to or affect the Locations, except for the lien of non-delinquent Property Taxes.

6.12. Property and Equipment. To Seller's Knowledge, Schedule 1.1(g) sets forth a true, correct and complete list of all of the Owned Fuel Equipment as of the Effective Date.

6.13. Absence of Litigation. Except as set forth in Schedule 6.13, attached to and made a part of this Agreement: (i) there is no claim, action, suit, proceeding or investigation of any kind, at law or in equity (including actions or proceedings seeking injunctive relief), by or before any Governmental Entity pending or, to the Knowledge of Seller, threatened against or related to Seller, the Assets, or the use thereof; and (ii) Seller is not a party or subject to, or in default under, any judgment, order, or decree of any Governmental Entity.

ARTICLE VII

BUYERS' REPRESENTATIONS AND WARRANTIES

Subject to the exceptions, disclaimers and other matters set forth in this Agreement, each Buyer represents and warrants to Sellers as follows:

7.1. Organization and Good Standing. Buyer is a business entity duly organized, validly existing and in good standing under the Laws of its state of organization or incorporation, and is duly qualified or licensed to do business in all states where it is necessary and required to be so qualified or licensed in order to perform the obligations and effect the Transaction.

7.2. Due Authorization; Enforceability; Absence of Conflicts. Buyer has the organizational power and authority to own its property and to carry on its business as now conducted and to enter into and to carry out the terms and conditions of this Agreement and each other agreement, document, instrument or certificate contemplated by this Agreement to be executed by Buyer in connection with the consummation of the Transaction (all such other agreements, documents, instruments and certificates required to be executed by Buyer being hereinafter referred to, collectively, as the "Buyer Documents") and to perform fully its obligations under this Agreement and the Buyer Documents. The execution, delivery and performance by Buyer of this Agreement and each Buyer Document has been duly authorized and approved by all necessary entity action on the part of Buyer. This Agreement has been, and the Buyer Documents at or before the Closing will be, duly executed and delivered by Buyer and (assuming the due authorization, execution and delivery by the other Parties hereto and thereto) this Agreement constitutes, and the Buyer Documents when so executed and delivered will constitute, the legal,

valid and binding obligations of Buyer, enforceable against Buyer according to their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity. Neither the execution and delivery by Buyer of this Agreement or any of the Buyer Documents, nor the consummation of the Transaction or the Buyer Documents, nor compliance by Buyer with any of the provisions of this Agreement or the Buyer Documents, will (a) conflict with, or result in the breach of, any provision of the organizational or governing documents of Buyer, (b) conflict with, violate, result in the breach or termination of, or constitute a default under, any agreement to which Buyer is a party or by which it or any of its properties or assets is bound or subject or (c) constitute a violation of any Law applicable to Buyer.

7.3. Consents. No Consent or Permit of, or declaration or filing with, or notification to, any Person is required on the part of Buyer in connection with the execution and delivery of this Agreement or any of the Buyer Documents or the compliance by Buyer with any of the provisions of this Agreement or the Buyer Documents.

7.4. Litigation. There is no Proceeding pending or, to the knowledge of Buyer, threatened against Buyer that seeks to enjoin or obtain damages in respect of the consummation of the Transaction or the Buyer Documents or that questions the validity of this Agreement, any of the Buyer Documents or any action taken or to be taken by Buyer in connection with the consummation of the Transaction or the Buyer Documents.

7.5. Brokerage Fees. Buyer has not acted in a manner that could cause Sellers to incur liability to any Person for brokerage commissions, finder's fees or other remuneration in connection with the sale of the Assets or the Transaction.

7.6. Financial Capacity. Buyers have cash available or has existing borrowing facilities which together are sufficient to enable it to consummate the Transaction.

7.7. OFAC. Buyer is currently (a) in compliance with, and shall at all times during the term of this Agreement remain in compliance with, the regulations of the Office of Foreign Assets Control ("OFAC") of the U.S. Department of Treasury and any statute, executive order (including Executive Order 13224, dated September 24, 2001 and entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"), or regulation relating thereto, and (b) not listed on, and shall not during the term of this Agreement be listed on, the Specially Designated Nationals and Blocked Persons List maintained by OFAC and/or on any other similar list maintained by OFAC or other Governmental Entity pursuant to any authorizing statute, executive order, or regulation.

ARTICLE VIII

DUE DILIGENCE AND DISCLAIMER OF WARRANTIES

8.1. Due Diligence: Confidential Information. Buyers acknowledge that, except for those limited items of due diligence within the scope of the provisions of Section 8.2 and Section 9.7, Buyers have completed Buyers' due diligence investigation of the Locations to Buyers' satisfaction and, in connection with such due diligence, has received information about the Locations (the "Confidential Information"). Buyers shall continue to be bound by all agreements

under which Buyers received such Confidential Information and agreed to maintain the confidentiality of such Confidential Information (the "Confidentiality Agreement"). If this Agreement is terminated before the Closing, Buyers promptly shall, at Sellers' request, return to Sellers or destroy all Confidential Information and shall not retain copies thereof; provided, that Buyers shall not provide any ESA or other environmental reports of any kind to Sellers unless Sellers expressly request Buyers to provide any such items to Sellers.

8.2. Environmental Site Assessment. Sellers recently obtained Phase I Environmental Site Assessments for each Location (collectively, "Sellers' ESAs"). Upon execution of this Agreement, Buyers shall arrange for reliance letters to be issued to Buyers from the issuer and shall reimburse Seller at Closing for the documented expense incurred by Sellers for such Phase I Environmental Site Assessments, as set forth in Schedule 8.2, attached to and made a part of this Agreement, less the cost of the reliance letters obtained by Buyers. In addition, Buyers, at their sole expense, shall have the right to perform an Environmental Site Assessment ("ESA") at each Location during the first sixty (60) days after the Effective Date, provided that (a) any Phase I ESA conforms to American Society for Testing and Materials (ASTM) Standard E1527-13 or any applicable updated ASTM standard as of the date of Closing, (b) the ESA does not damage or interfere with the operation of the respective Location; and (c) Buyers provide Sellers, at Sellers' request, with a copy of the ESA report promptly after the report is issued. Buyers' right to conduct an ESA, shall not be a condition to the Closing, and failure to perform or complete the ESA shall not extend the date for the Closing. If Buyers elect to perform any ESA at a Location, Buyers shall notify Sellers in writing at least forty-eight (48) hours in advance of the date that such assessment is to occur. Neither Buyers nor Buyers' agents or consultants shall communicate with any employees at a Location about the reason for the ESA or about anything related to a potential sale to Buyers. Buyers' entry upon a Location for the purposes of any ESA shall be done at its sole risk and expense, and Buyers shall comply with any other legal requirements such as obtaining licenses, drilling permits, and other authorizations that may be necessary to conduct the desired activities. Buyers shall indemnify and hold Sellers harmless from and against any losses incurred by Sellers arising out of the actions or omissions of Buyers, or Buyers' agents or contractors in the performance of any such ESA. Buyers shall return each Location substantially to its previous condition upon completion of its activities in connection with the ESA. Sellers may have representatives present for Buyers' ESAs and Buyers will reasonably cooperate to facilitate the same. Buyers' agent conducting any due diligence at the Locations shall provide written proof of insurance covering any accidental injury to persons or damage to property.

8.3. Notices to Governmental Entities. If Buyers are aware of any condition at the Locations (revealed by an ESA or otherwise) that in Buyers' judgment may require disclosure by a Seller or Buyers to any Governmental Entity, Buyers shall immediately notify Sellers of such judgment. In such event, Sellers, and not Buyers, Buyers' agents, or anyone acting on Buyers' behalf, shall make such legal determinations regarding disclosures as Sellers deem appropriate, and in no event shall Buyers, Buyers' agents, or anyone acting on Buyers' behalf, make disclosures to any Governmental Entity.

8.4. Buyers' Acknowledgements. Buyers specifically acknowledge that, except for Sellers' representations and warranties set forth in this Agreement, and subject to Sellers' obligations contained in this Agreement, Buyers are not relying on any representations or warranties of any kind whatsoever, express or implied, from Sellers or any director, officer,

shareholder, partner, trust, employee, representative, broker, Affiliate or agent of Sellers, as to any matters concerning the Locations, the Assets and/or the operations or financial results of the same, including without limitation: (a) the condition or safety of the Assets, the Locations or any improvements thereon, including plumbing, sewer, heating and electrical systems, roofing, air conditioning, if any, foundations, soils and geology, lot size, or suitability of the Locations or their improvements for a particular purpose; (b) whether the appliances, if any, plumbing or utilities are in working order; (c) the habitability or suitability for occupancy of any structure and the quality of its construction; (d) the fitness or condition of any personal property; (e) whether the fixtures or improvements, including the Owned Fuel Equipment, are structurally sound, in good condition, or in compliance with applicable Laws; (f) the profits or losses relating to operations at the Locations; (g) the legal or Tax consequences of this Agreement or the Transaction; (h) the environmental condition of the Locations, including without limitation the possible presence of petroleum products or other Hazardous Material in, under or near the Purchased Owned Real Properties or Purchased Leased Real Properties; (i) the compliance of the Assets or the operation of the Assets with any Laws; or (j) the completeness or accuracy of any information provided to Buyers by Sellers or its agents. Without limiting the generality of the foregoing, Buyers acknowledge that they are not relying on any of the following information that may have been provided to Buyers by Sellers or any director, officer, employee, shareholder, partner, trust, representative, broker, Affiliate or agent of Sellers, any management presentation, information or offering memorandum, supplemental information, data room, estimate, projection, forecast, budget or other forward-looking information or other materials or information with respect to any of the above. Buyers understand the legal significance of the foregoing provisions and acknowledges that they are a material inducement to Sellers' willingness to enter into this Agreement.

8.5. Disclaimer of Other Representations and Warranties and Non-Reliance. BUYERS ACKNOWLEDGES THAT BUYERS HAVE BEEN GIVEN THE OPPORTUNITY TO EXAMINE ALL ASPECTS OF THE PURCHASED OWNED REAL PROPERTIES AND PURCHASED LEASED REAL PROPERTIES AND OTHER ASSETS BEFORE BUYERS' EXECUTION AND DELIVERY OF THIS AGREEMENT (ALTHOUGH BUYERS HAVE NOT YET COMPLETED THOSE ITEMS OF DUE DILIGENCE WITHIN THE SCOPE OF THE PROVISIONS OF SECTION 8.2 AND SECTION 9.7). ACCORDINGLY, BUYERS AGREE THAT, SUBJECT TO SELLERS' REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT, THE ASSETS SHALL BE SOLD AND THAT BUYERS SHALL ACCEPT POSSESSION OF THE ASSETS AT THE CLOSING STRICTLY ON AN "AS IS, WHERE IS, WITH ALL FAULTS" BASIS, WITH NO RIGHT OF SET-OFF OR REDUCTION IN THE TOTAL CONSIDERATION AND THAT, EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES OF SELLERS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SALE OF ASSETS AND OTHER TRANSACTION SHALL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF INCOME POTENTIAL, OPERATING EXPENSES, USES, MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, AND SELLERS DO HEREBY DISCLAIM AND RENOUNCE ANY SUCH OTHER REPRESENTATION OR WARRANTY.

BUYERS ACKNOWLEDGE THAT THEY ARE SOPHISTICATED BUYERS WHO (EXCEPT FOR THOSE LIMITED ITEMS OF DUE DILIGENCE WITHIN THE SCOPE OF

THE PROVISIONS OF SECTION 8.2 AND SECTION 9.7) HAVE HERETOFORE HAD OPEN ACCESS TO, AND SUFFICIENT TIME TO REVIEW, ALL INFORMATION, DOCUMENTS, AGREEMENTS, STUDIES AND TESTS RELATING TO THE ASSETS THAT BUYERS DEEMED OR DEEM NECESSARY TO REVIEW IN THEIR SOLE DISCRETION, AND HAVE OR HEREAFTER SHALL HAVE CONDUCTED A COMPLETE AND THOROUGH INSPECTION, ANALYSIS AND EVALUATION OF THE ASSETS, INCLUDING BUT NOT LIMITED TO AN ESA (IF BUYERS ELECT TO PERFORM AN ESA IN ACCORDANCE WITH SECTION 8.2). EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES OF SELLERS EXPRESSLY SET FORTH IN THIS AGREEMENT, BUYERS HEREBY RELEASE SELLERS, SHAREHOLDERS, DIRECTORS, MANAGERS, OFFICERS, PARTNERS, TRUSTS, OWNERS, AND THEIR RESPECTIVE AGENTS, AFFILIATES AND EMPLOYEES, FROM ANY AND ALL LIABILITY, RESPONSIBILITY, CLAIMS, DAMAGES, LOSSES AND EXPENSES ARISING OUT OF OR RELATED TO THE CONDITION OF THE ASSETS OR THEIR SUITABILITY FOR ANY PURPOSE.

EXCEPT AS SET FORTH HEREIN OR IN THE SCHEDULES, SELLERS MAKE NO REPRESENTATION OR WARRANTY AS TO THE TRUTH, ACCURACY OR COMPLETENESS OF ANY MATERIALS, DATA OR OTHER INFORMATION, INCLUDING THE BOOKS AND RECORDS, DELIVERED BY SELLERS TO BUYER (OR OTHERWISE MADE AVAILABLE) IN CONNECTION WITH THE TRANSACTION.

BUYERS ACKNOWLEDGE THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT AND THE RELATED INFORMATION IN THE SCHEDULES, BUYERS ARE NOT RELYING ON ANY REPRESENTATION OR WARRANTY OF SELLER OR ANY OWNER, SHAREHOLDER, TRUST, PARTNER, DIRECTOR, OFFICER, EMPLOYEE, REPRESENTATIVE, BROKER, AFFILIATE OR AGENT OF SELLERS IN DECIDING TO ENTER INTO THE TRANSACTION.

THE SURVIVAL OF THE PROVISIONS OF THIS SECTION 8.5 ARE A MATERIAL INDUCEMENT TO SELLERS ENTERING INTO THIS AGREEMENT AND ACCORDINGLY SHALL SURVIVE THE CLOSING OR EARLIER TERMINATION OF THIS AGREEMENT AND SHALL BE DEEMED TO BE INCORPORATED INTO THE CLOSING DOCUMENTS TO BE DELIVERED AT THE CLOSING.

ARTICLE IX

ADDITIONAL AGREEMENTS AND COVENANTS

9.1. Title to Purchased Owned Real Properties. At the Closing, and in accordance with Schedule L.1, Sellers, as applicable, shall convey to Buyers, title to the Purchased Owned Real Properties by the Deeds, free from all liens, claims and encumbrances except the Permitted Encumbrances.

9.2. Announcements. None of the Sellers nor Buyers shall issue or permit to be issued any press release or public announcement concerning the execution and delivery of this Agreement or the Transaction without first obtaining the prior written consent of the other Parties, such approval not to be unreasonably withheld; provided that, such press release or public

announcement specifically shall not disclose the amount of Total Consideration or the amount of the Asset Purchase Price; and provided further that, notwithstanding the foregoing, (a) Sellers or Buyers may make any disclosures as required by applicable Law or agreement with any securities exchange; (b) Sellers may disclose this Agreement to any lender holding an Encumbrance on any Asset subject to this Agreement, to any landlord or landlord lender and any counterparty to any Assumed Contract in order to comply with Seller's obligations under this Agreement; (c) Sellers or Buyers may disclose the identity of the other Parties and terms of this Agreement to their respective employees, vendors, outside counsel or other outside professionals on a need-to-know basis in connection with pursuing consummation of the Transaction; provided that, such disclosing Parties shall ensure that all such employees, vendors, outside counsel or other outside professionals who are given access to the identity of the other Party and terms of this Agreement are bound by nondisclosure and limited use obligations at least as stringent as those contained in this Agreement; and (d) Sellers, or their Affiliates, and Buyers, or their Affiliates, may provide general information about the subject matter of this Agreement (which specifically does not permit Sellers or Buyers or any Affiliate to disclose the amount of Total Consideration or the amount of the Asset Purchase Price) in connection with their normal fund raising, marketing, information or reporting activities.

9.3. Insurance and Casualty. Sellers shall keep the Assets insured, at Sellers' expense, with such policy types and coverage amounts as Sellers maintain in the Ordinary Course of Business until the Closing or termination of this Agreement. If there is any material damage to or destruction of a Location or any portion thereof, before the Closing, the Closing shall, at Seller's sole discretion, nevertheless proceed; provided, however, that, unless before the Closing the same shall have been remedied and restored to substantially the same condition as it was on the Effective Date, at the Closing, Sellers shall pay over or assign to Buyers any insurance proceeds due Sellers as a result of such damage or destruction (without recourse to Sellers) and Buyers shall assume responsibility for such repair and receive a credit against the Total Consideration for any applicable policy deductible, unless Sellers previously paid all or any portion of such deductible, in which event Buyers shall only receive a credit for the unpaid portion of the subject deductible.

9.4. Condemnation. If, before the Closing, any part of the Purchased Owned Real Properties or Purchased Leased Real Properties is taken, or noticed for taking, by eminent domain, Sellers shall promptly give Buyers written notice thereof and the Closing shall at Sellers' sole discretion nevertheless proceed; provided, however, Sellers shall, at the Closing, deliver to Buyers the net proceeds of any award or other proceeds of such taking which may have been collected by Sellers before the Closing or, if the award or other proceeds have not been fully collected, deliver to Buyers an assignment (without recourse to Sellers) of Sellers' right to any such award or other proceeds which may be payable as a result of any such taking, and Buyers shall pay the full Total Consideration without offset or reduction.

9.5. Mutual Cooperation. From and after the Effective Date and until the Closing or earlier termination of this Agreement:

(a) Buyers shall use commercially reasonable efforts to cause the consummation of the Transaction according to the terms and conditions of this Agreement, and Sellers shall use commercially reasonable efforts to cause the consummation of the Transaction according to the terms and conditions hereof.

(b) Sellers shall use commercially reasonable efforts to obtain the written Consent to the transfer or assignment to Buyers of any of the Assets, where the Consent of any other party may be legally required for such assignment and transfer. Buyers agree to cooperate as reasonably necessary with Sellers to secure such Consents, including supplying information about Buyers as may be reasonably requested by third parties, if applicable. Buyers shall bear the any charges imposed for any transfer and any Consent fees.

(c) Sellers and Buyers each shall prepare any and all documentation and supply any and all information required by any Governmental Entity to be filed by Buyers or Sellers, as the case may be, before conveying the Assets as contemplated by this Agreement, and in connection with such conveyance shall timely make the necessary filings or applications relating thereto. Each of Buyers and Sellers agrees to cooperate with the other in the completion, execution and submission of any such filings or applications.

9.6. Environmental Responsibilities

(a) Known Pollution. Any releases or suspected release of Hazardous Materials (a "Release"), pollution, or contamination identified in the Sellers' ESAs or any ESA (as defined herein), at a Location for which a Closure Letter (as defined in 9.6(c)) has not been received by Seller, shall be set forth on Schedule 6.10, attached to and made a part of this Agreement, and the Releases or suspected Releases listed on Schedule 6.10 shall be referred to hereinafter, collectively, as "Known Pollution." Schedule 6.10 shall include the specific Location store number, the Location address, and the estimated cost of Remedial Measures (as defined below) as determined by an environmental contractor chosen by Sellers. Schedule 6.10 shall be updated on or prior to the Closing with all Known Pollution at the Locations, and shall be mutually agreed to by the Parties as evidenced by signatures of the appropriate representative of the Parties on Schedule 6.10. For avoidance of doubt, (i) any Release or suspected Release, pollution, or contamination at a Location which is not listed on Schedule 6.10 shall not be Known Pollution; and (ii) Known Pollution shall not include any Release, pollution or contamination at a Location for which a Closure Letter has been received by Seller. The Locations for which a Closure Letter have been received as of the Effective Date are set forth on Schedule 9.6(a), and Schedule 9.6(a) shall be updated prior to Closing to reflect any additional Locations for which Closure Letters have been received. Any Release, pollution, or contamination that is not Known Pollution shall be referred to hereinafter as "New Pollution."

(b) Remedial Measures. If any Known Pollution is required to be reported to the Environmental Agency, the applicable Seller shall promptly report the same to the Environmental Agency. Such Seller shall thereafter undertake, at its expense, minimum necessary Remedial Measures (as described below) for Known Pollution to the extent and as required by Law at such Location. Sellers shall use reasonable commercial efforts to seek funds which may be available from the Underground Storage Tank Insurance Fund ("USTIF") in the Commonwealth of Pennsylvania, and Bureau of Underground Storage Tank Regulations ("BUSTR") in the State of Ohio (each, respectively, referred to as the "Tank Fund"), as applicable, or any pollution insurance maintained by Seller in relation to Locations in the State of West Virginia or the State of Ohio, to offset the cost of any

required Remedial Measures. For purposes of clarity, no Seller has any obligation to: (i) undertake Remedial Measures at any Location relating to New Pollution, or (ii) remove, treat, or dispose of any contaminated soil or groundwater encountered by Buyer or its agents or contractors as part of any activity conducted by or on behalf of Buyer after Closing. "Remedial Measures" shall consist of the minimum activities required by applicable Law and by the Environmental Agency at a Location to investigate, assess and/or remediate such releases in order to comply with all applicable Law and regulatory requirements, considering appropriate risk-based approaches. "Remedial Measures" do not include activities that exceed what is required by applicable Law, the Environmental Agency or other applicable Governmental Entities for the existing use of the applicable Location. Seller and Buyer shall cooperate with each other in Seller's performance of the Remedial Measures, including execution of documents, including environmental covenants or deed restrictions, that may be necessary to obtain reimbursement. Buyer shall provide Seller with reasonable access to each Location, and Seller shall perform the Remedial Measures in a manner that does not unreasonably interfere with Buyer's business at such Location, and at Closing Buyer shall execute and deliver to Seller a Site Access Agreement substantially in the form attached to this Agreement as Exhibit D (the "Site Access Agreement") for each Location requiring Remedial Measures. If New Pollution is commingled with Known Pollution ("Commingled Pollution") at any Location at which Seller is in the process of conducting Remedial Measures ("Open Case Location"), Buyer shall be responsible for the incremental increase in the cost of Seller's Remedial Measures attributable to the Commingled Contamination. In the event an Environmental Agency opens a new matter or case covering New Pollution ("New Case"), Buyer shall be responsible for all costs and expenses related to the New Case, including the cost of Remedial Measures, and Seller's responsibility for the performance of Remedial Measures shall be confined to Known Pollution. In the event no New Case is opened at an Open Case Location, Buyer shall be solely responsible for the costs of Remedial Measures related to Commingled Contamination at any Location that is not an Open Case Location.

(c) Closure Letter. Seller's obligation to conduct Remedial Measures at a Location shall be deemed completed for purposes of this Agreement upon receipt by the applicable Seller, and delivery to Buyer, of a written letter or statement from the Environmental Agency or other appropriate Governmental Entity stating that, subject to the agency's usual and customary reservation of rights, it will require no further action by Seller with respect to the release or suspected release on any Location (a "Closure Letter"). For avoidance of doubt, upon Seller's receipt, and delivery to Buyer, of a Closure Letter for a Location, no further action will be required by Seller with respect to Known Pollution at such Location. Upon receipt of Closure Letters for all Locations for which Seller is required to perform Remedial Measures with respect to Known Pollution, Seller shall not be required to take any further action under Section 9.6(b) with respect to Known Pollution. In connection with Seller's performance of the Remedial Measures or the issuance of a Closure Letter, Seller shall have the right to place reasonable deed restrictions on a Location, including, without limitation, prohibiting the use of groundwater under such Location for potable purposes, requiring the installation of a vapor barrier or subsurface ventilation system, and/or restricting use of such Location to non-residential purposes, provided that no such restriction shall unreasonably limit Buyer's use of said Location for its current use.

(d) Release and Indemnification. In consideration of the making of this Agreement, and the conveyance of the Locations to Buyer, and the covenants of Seller to remediate as provided in Section 9.6(b), except to the extent set forth in this Section 9.6 and as provided in Section 6.10 and the related disclosure schedule, Sellers shall have no other obligation to Buyer, and Buyer hereby releases and discharges Seller for, any liabilities, fines or penalties, costs, expenses, losses, damages, or claims ("Environmental Liabilities"), whether arising at law or in equity, whether known or unknown, and whether arising before or after the Closing, in connection with or relating to: (i) the environmental condition of any Location, including the condition of the soil or groundwater at, on, under or near any Location; and (ii) subject to Section 5.10(e), any matters relating to the Owned Fuel Equipment or releases of petroleum products or other Hazardous Material therefrom, and Buyer agrees to make no claim relating to 9.6(d)(i) or (ii) above. Except to the extent caused by, related to, or connected with a Seller's failure to conduct Remedial Measures in accordance with Environmental Laws or the requirements of Section 9.6(b), the performance of which is made such Seller's responsibility by this Agreement or any Environmental Law(s), Majors shall defend, indemnify, and hold Sellers and their Affiliates harmless from and against all Environmental Liabilities arising from or related to claims asserted by any Environmental Agency or any other instrumentality of government, related to the Known Pollution or New Pollution. Buyer acknowledges that this Section 9.6(d) was a negotiated part of this Agreement and serves as an essential component of the consideration for the Transaction. The provisions of this Section 9.6(d) shall survive the Closing for a period of thirty (30) months.

(e) Environmental Insurance Policy. Buyer shall procure the Environmental Insurance Policy as of the Closing Date, covering all of the Locations under this Agreement, and naming Buyers (and Buyers' Affiliates) as the named insured, and also naming Sellers (and Sellers' Affiliates) as additional insureds thereunder. Coverage of the above-described additional insured shall be primary, not contributory or excess, provided that coverage shall be expressly excess of amounts payable from any Tank Fund in the States of Ohio and Pennsylvania, or any pollution insurance maintained by Buyer in the State of West Virginia and Ohio. The Environmental Insurance Policy shall have a five (5) year term and minimum policy limits of Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00) aggregate coverage. Sellers agree to pay at Closing one-half (1/2) of the premium of the Environmental Insurance Policy. The Environmental Insurance Policy shall provide coverage for the costs of Remedial Measures for New Pollution whether existing as of the Closing Date or first occurring after the Closing Date. The Environmental Insurance Policy also shall provide coverage for third-party liability associated with New Pollution. Buyer will provide Sellers with written notice at least thirty (30) days prior to cancellation, non-renewal or material change in the Environmental Insurance Policy.

9.7. Title and Survey Review. Seller recently obtained from the Title Company title commitments for owner's or leasehold coverage, as applicable, for each Location (the "Proforma Commitments"). As of the Effective Date, Seller has made the Proforma Commitments, together with the vesting deed(s) for the Owned Locations and copies of all exception documents referenced in the Proforma Commitments (each deed[s] and documents constituting the "Title Materials"), available to Majors. Within ten (10) days after the Effective Date, Majors shall: (i) request the

Title Company to update the Proforma Commitments to reflect a designated Buyer as the proposed named insured and the amount of the pertinent real property component of the Agreed Location Value as the policy amount for the Purchased Owned Real Properties and Purchased Leased Real Properties (such updated Proforma Commitments constituting the "Updated Commitments"); and (ii) if Majors so elects, order ALTA/NSPS Land Title Surveys of each of the Locations in conformance with Majors' requirements therefor (the "Surveys"). The Surveys shall be obtained at Buyers' sole cost and expense. If: (i) on or before the date that is sixty (60) days after the Effective Date (the "Title Review Date"), a Buyer notifies Sellers that, in a Buyer's reasonable determination, an Updated Title Commitment and/or a Survey discloses or reflects an encumbrance, exception, requirement, term, or other condition of title (each, a "Title Defect") that will have a Material Adverse Effect on the use of and/or operations at a Location; or (ii) at any time prior to thirty (30) days prior to the Drop Dead Date a Buyer notifies Sellers that such Buyer has discovered a condition of title not acceptable to such Buyer in such Buyer's reasonable judgment, which was not reflected in the Updated Commitments and which, in such Buyer's reasonable determination, would, absent additional and significant expense to Buyers, reasonably be expected to have a Material Adverse Effect on the use of and/or operations at a Location (each, a "New Title Defect"). Sellers shall have twenty (20) days from the date such Buyer notifies Seller of such defect to elect to cure such Title Defect or New Title Defect ("Sellers' Cure Period"). The terms "Title Defect" and "New Title Defect" shall exclude any Encumbrance or matter created or arising as a result of Buyers' actions in performing any examination or inspection of the Assets including any entry upon the real property in connection therewith, and any set back encroachments wholly within the property lines of any Location and such encroachments shall be excluded from any indemnification provisions under this Agreement. If the Title Defect or New Title Defect cannot be corrected in a manner reasonably acceptable to Buyers, in Buyers' commercially reasonable discretion, or Seller is unwilling or unable to correct a Title Defect or New Title Defect, prior to the date set for the Closing, Buyers may, at Buyers' option, (a) remove the Location with the uncured Title Defect or New Title Defect from the Assets and reduce the Asset Purchase Price by the Agreed Location Value for such Location, or (b) accept title to the affected Location subject to such Title Defect or New Title Defect and proceed to the Closing without any reduction in the Total Consideration and with Buyers forever and irrevocably waiving any right or remedy they otherwise may have under this Agreement with respect to the subject issue. Buyers' failure to elect one of the foregoing (a) or (b) within three (3) business days after the expiration of Sellers' Cure Period will (i) be deemed to be an election to accept the defect pursuant to the foregoing subsection (b), and (ii) result in such defect being deemed to be a Permitted Encumbrance.

9.8. Post-Closing Tank Fees. In addition to the payments contemplated by Section 4.7, Buyers shall pay all applicable tank fees for each Location to the extent those fees arise or relate to periods occurring on or after the Closing.

9.9. Lease Assignment. If (a) Sellers are unable to assign any of the Purchased Leased Real Properties for any reason, or (b) any landlord party to any Purchased Lease places restrictions on the assignment of such Purchased Lease that Sellers, in Sellers' sole discretion, deem to be unreasonable, Sellers shall be permitted to remove the applicable Purchased Lease from the Assets to be sold at Closing and Buyers' sole remedy will be to reduce the Purchase Price by the Agreed Location Value allocated to such Location.

9.10. Operation of the Locations: Exclusivity. From and after the Effective Date, and pending the Closing, unless Buyers shall otherwise consent in writing, Sellers shall: (i) operate the Locations and otherwise conduct the Business only in the ordinary and usual course of business diligently and in good faith, consistent with past practice; (ii) maintain the tangible Assets in good operating condition and repair consistent with past practice; and (iii) maintain all existing policies of insurance (or comparable policies) of or relating to the Locations in full force and effect. Sellers shall confer with Buyer on a regular basis to keep it informed with respect to operational matters of a material nature and to report the general status of the ongoing operations of the Locations. Between the Effective Date and the Closing Date, Seller shall not do any of the following without the prior written consent of Buyer:

- (a) sell, lease, transfer, convey, or otherwise dispose of, or cause or permit any lien to exist on, any of the Assets except for the sale of Inventory in the ordinary and usual course of business;
- (b) default in the performance of any material Contract, or waive any default or potential default by any other party to any material Contract, or waive, release, compromise, settle or assign any rights or claims under any material Contract, or amend, modify or terminate any material Contract, whether orally or in writing;
- (c) except as to those matters disclosed in Schedule 9.10, attached to and made a part of this Agreement, enter into any Contract that would be material to the Business;
- (d) violate, terminate, or permit the lapse of, or otherwise fail to preserve, any Permit necessary for the operation of the Business as it exists on the Effective Date;
- (e) except as to those matters disclosed in Schedule 9.10, release, compromise, or settle any material claim, action, or legal proceeding;
- (f) except as to those matters disclosed in Schedule 9.10, enter into any other material transaction or make any other material commitment in connection with the Business;
- (g) except as to those matters disclosed in Schedule 9.10, enter into any agreement, or adopt any resolution, to do any of the things described in subsections (a) through (f) above; or
- (h) directly or indirectly, solicit, make, respond to (other than to decline), discuss with any third party or negotiate the terms of any offer or proposal from or to any Person (other than from or to a Buyer or its Affiliates) relating to any acquisition of direct or indirect control of the Locations, or any purchase of any material amount of the Assets (other than in the ordinary course of business consistent with past practice); provided, however, that nothing in this Section 9.10(h) or otherwise in this Agreement shall be deemed to restrict or prohibit Sellers from taking all actions reasonable, necessary or appropriate to obtain or satisfy the Consents set forth or referred to on Schedule 6.3, nor shall it be deemed to prohibit the pursuit of the purchase or the assignment to a Buyer of the Purchase and Sale Agreement executed between Seller and Dealer No. 527786, a copy of which Sellers have delivered to Buyers.

9.11. Access to Information; Due Diligence. During the Due Diligence Period, upon reasonable written notice by a Buyer, Sellers shall furnish or cause to be furnished to Buyers and their representatives, at reasonable times and upon reasonable notice, (a) such access, during normal business hours, to the Locations as Buyers from time to time reasonably requests with due regard to minimizing disruption of the conduct of the business at the Locations; provided, that Buyers and their agents or consultants shall not communicate with any employees at a Location about the reason for their presence or about anything related to a potential sale to Buyers, and (b) such access to the books, records and other information and data of the business of the Locations as Buyers from time to time reasonably requests, as permitted by confidentiality obligations of the Sellers.

9.12. Inspections and Entry. All inspections of the Locations conducted by or on behalf of Buyers shall be conducted at Buyers' expense by qualified inspectors or contractors, selected by Buyers. Any entry upon the real property by a Buyer or a Buyer's representatives for the purpose of conducting such inspections shall be upon not less than forty-eight (48) hours' prior notice to Sellers, and shall be subject, in any event, to prior scheduling and coordination with Seller. At Seller's election, a representative of Sellers shall be present during any entry by a Buyer or a Buyer's representatives upon the real property to conduct the inspections. All inspections shall be performed in a manner reasonably calculated to avoid disclosure of the purpose of the inspection or the fact that Buyers are considering purchasing the property, minimize disturbance of the ongoing operations at the applicable Location, and avoid causing any damage, loss, disturbance to business, cost or expense to, or claims against, Sellers or the Assets. Prior to the Closing (or earlier termination of this Agreement), Buyers assume all responsibility for the acts of themselves, their agents or representatives in exercising their rights hereunder and agrees to indemnify and hold harmless Sellers from any damages resulting therefrom. Buyers shall not approach, contact or involve themselves in any discussions or negotiations with any employee or with any other occupant of the real property, without Seller's prior written consent (which may be withheld in Seller's sole discretion) and without Seller (or Seller's designated agent) being present thereat. Prior to Buyers or their agents accessing the Locations and conducting tests thereon, Buyers shall provide Sellers with a certificate of insurance naming Sellers as an additional insured and evidencing liability coverage in form and substance reasonably acceptable to Sellers in an amount not less than \$1,000,000 per occurrence with an aggregate limit of not less than \$2,000,000.

9.13. Update to Schedules.

(a) From time to time before the Closing, if necessary, Seller will supplement or otherwise update the Schedules with respect to any fact, event, circumstance or change that, if not disclosed as part of the Schedules, would render any representation or warranty in Articles V or VI inaccurate if such representation or warranty were given at or immediately before the Closing (all of such updates, together with the Schedules that were made a part of this Agreement upon its execution, the "Updated Schedules").

(b) For purposes of determining the presence of a breach of a representation or warranty, the Schedules will be deemed to contain the items contained in the Updated Schedules. For avoidance of doubt, the Updated Schedules will not, and will not be deemed to, prevent or cure any breach of any representation or warranty made on the Effective Date; provided, however, that, consistent with the preceding sentence, if the Closing

occurs, then Buyer shall be deemed to have waived any right or claim it may otherwise have or have had for breach based on or with respect to events, facts or circumstances disclosed in the Updated Schedules.

9.14. Tax Matters.

(a) Seller shall timely make all U.S. federal, state, local and foreign filings and pay all taxes with respect to income taxes for the business of Seller for any taxable period (or portion thereof) ending on or before the date preceding the Closing Date. All liabilities with respect to income taxes under U.S. federal, state, local and foreign income tax Laws attributable to Seller's operations with respect to the Assets through the date preceding the Closing Date shall be borne by Seller, and any refunds or credits or rights to refunds or credits with respect thereto shall be Seller's.

(b) Subject to Section 4.6, all Tax liabilities of Seller (other than income taxes) attributable to Seller's ownership of, and operations with respect to, the Assets for taxable periods (or portions thereof) ending on or before the date preceding the Closing Date shall be borne by Seller, and any refunds or credits or rights to refunds or credits with respect thereto shall be Seller's.

(c) Subject to Section 4.6, all Taxes attributable to the ownership of, and operations with respect to, the Assets for taxable periods (or portions thereof) beginning on or after the Closing Date shall be borne by Buyers, and any refunds or credits or rights to refunds or credits with respect thereto shall be Buyers'. Buyers shall timely make all U.S. federal, state, local and foreign filings and pay all taxes with respect to income taxes for the business of Seller for any taxable period (or portion thereof) ending on or after the Closing Date.

(d) If either Party pays any Taxes to be borne by the other Party under this Agreement, the other Party shall promptly reimburse such Party for the Taxes paid. If, in preparing Tax Returns after the Closing, it appears to Buyers that a Seller will be asked to pay additional Taxes, Buyers shall so notify Sellers, and provide Sellers a reasonable opportunity to review and approve any related Tax Returns, which approval will not be unreasonably withheld or delayed, prior to filing them and paying the Tax. If a Party receives any refunds or credits which are the property of another Party under this Agreement, such Party shall promptly pay the amount of such refunds or credits to the other Party.

(e) To the extent the failure to do so and obtain a tax clearance certificate (each, a "Tax Clearance Certificate") could subject Buyers to liability or responsibility for any Taxes of Sellers, Sellers shall: (i) notify all Governmental Entities with taxing authority in jurisdictions that impose Taxes on Sellers (or in which Sellers have a legal obligation to file Tax Returns) (each, a "Tax Agency") of the transactions contemplated under this Agreement in the form and manner required in such jurisdictions; and (ii) obtain and provide to Buyers copies of all required Tax Clearance Certificates within fifteen (15) Business Days after Sellers' receipt of such Tax Clearance Certificate. If any Tax Agency asserts that Seller is liable for any Tax, such liability shall be treated as an Excluded

Liability and Seller shall promptly pay all such amounts and shall provide evidence reasonably acceptable to Buyer evidencing full payment or other satisfaction of all such liabilities.

(f) Prior to or following the Closing Date, Sellers shall (i) file a bulk sales notice with the Pennsylvania Department of Revenue and the Pennsylvania Department of Labor and Industry, (ii) file a REV-181 Application for Tax Clearance Certificate with the Business Clearance Section of the Pennsylvania Department of Revenue and the Clearance Unit of the Bureau of Employer Tax Operations of the Pennsylvania Department of Labor and Industry; and (iii) obtain the Pennsylvania Tax Clearance Certificate(s). Upon receipt of corporate/franchise tax clearance certificates issued by any such state agency (the "Pennsylvania Tax Clearance Certificate(s)"), Sellers shall promptly deliver copies of such Tax Clearance Certificate(s) to Buyers. To further protect Buyers from any liability under Pennsylvania's "tax" bulk sales laws contained in the Pennsylvania Tax Reform Code of 1971, as amended, and the Pennsylvania Fiscal Code, as amended (more specifically meaning, without limitation, those statutory provisions contained in 72 P.S. § 1403, 72 P.S. § 7240, 69 P.S. § 529 and 43 P.S. § 788.3 (collectively, the "Pennsylvania Bulk Sales Act"), at least five (5) days prior to the Closing, Sellers shall deliver to Buyers (i) Sellers' estimate of the amount of Taxes due (or which will become due) under the Pennsylvania Bulk Sales Act in connection with the Transaction (the "Estimated Taxes"), which amount of Estimated Taxes shall be subject to agreement by Buyers, in Buyers' reasonable judgment; and (ii) written documentation reasonably satisfactory to Buyers evidencing that all such Estimated Taxes have been paid. At Closing, Sellers shall deposit in escrow an amount equal to one hundred ten percent (110%) of the Estimated Taxes, less the amount of any prepayments of Estimated Taxes paid by Sellers to the Pennsylvania tax authorities prior to Closing (the "Escrowed Taxes"), pending the preparation and filing of Sellers' final Tax Returns and the issuance and delivery to Buyer of the Pennsylvania Tax Clearance Certificate(s). Upon the issuance of the Pennsylvania Tax Clearance Certificate(s) and delivery to Buyers of a copy of such Certificate(s), all remaining Escrowed Taxes shall be released to Tri-State or its designees.

(g) In any and all events, Sellers shall defend, indemnify, and save harmless Buyers from any debts, liabilities, liens, claims, taxes, encumbrances, obligations or suits of any kind imposed upon Buyers or upon any of the Assets by reason of, or based upon, arising out of, or caused by the failure of the respective Seller to comply with any Bulk Sales Law. The indemnity contained in this Section shall survive the Closing until the date which is ninety (90) days after the last date any Tax Agency can assert a claim against Buyers or any Asset under any Bulk Sales Law as a result of a Seller's failure to pay taxes; provided that notice of such claim is given to Seller promptly and in all events prior to the end of such ninety (90) day period.

9.15. Regulatory Matters

(a) The Parties shall coordinate and cooperate with one another and shall each use commercially reasonable efforts to comply with all Laws, and as promptly as practicable after the Effective Date, but in no event later than twenty (20) days thereafter, each Party, as applicable, shall make all filings, notices, petitions, statements, registrations,

submissions of information, applications or submissions of other documents required by any Governmental Entity in connection with the Transaction, including Notification and Report Forms with the FTC and the Antitrust Division of the DOJ as required by the HSR Act or any other legal requirement relating to the Transaction. Each Party shall, in accordance with all Laws, (1) cooperate and coordinate with the other in the identification of any necessary filings and in the making of such filings, (2) supply the other with any information that may be reasonably required in order to make such filings, (3) supply any additional information that reasonably may be required or requested by the FTC, the DOJ or the Governmental Entities of any other applicable jurisdiction in which any such filing is made, and (4) use commercially reasonable efforts to cause the expiration or termination of the applicable waiting periods under the HSR Act and any other antitrust laws applicable to the transaction as soon as practicable, and to obtain any required Consents under any other antitrust laws applicable to the Transaction as soon as practicable following the Effective Date. Each Party will cause all documents that it is responsible for filing with any Governmental Entity under this Section 9.15(a) to comply in all material respects with all applicable Laws. To the extent permitted by applicable Law, each Party will permit the other to review in advance any proposed written submissions to the FTC or DOJ and will, to the extent allowed by the FTC or DOJ, permit the other to attend any meetings with the FTC or DOJ, but no Party will be required to share the other Party any competitively sensitive information or information relating to valuation.

(b) Each Party shall use commercially reasonable efforts to obtain all Consents of all Governmental Entities that may be or become necessary for its and its Affiliates' execution and delivery of this Agreement and the consummation of the Transaction and shall cooperate fully with the other Party in promptly seeking to obtain and maintain all such Consents. Notwithstanding anything to the contrary herein, Buyers agree to use commercially reasonable efforts, and to take any and all steps reasonably necessary, to eliminate each and every impediment under any antitrust, competition or trade regulation Law that is asserted by any Governmental Entity or any other party so as to enable the Parties to close the Transaction, prior to the Closing Date, including but not limited to (i) negotiating, committing to and effecting by consent decree, hold separate orders, or otherwise, the sale, divestiture or disposition of such of Buyers' assets, properties or businesses or of Sellers' properties or businesses to be acquired by Sellers pursuant hereto, and the entrance into such other arrangements, as are necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the Transaction prior to the Closing Date and (ii) defending through litigation on the merits any claim asserted in court by any Person in order to avoid entry of, or to have vacated or terminated, any decree, order or judgment (whether temporary, preliminary or permanent) that would prevent the Closing from occurring on or prior to the Closing Date; provided, however, that such litigation in no way limits the obligation of Buyers to use commercially reasonable efforts, and to take any and all steps reasonably necessary, to eliminate each and every impediment under any antitrust, competition or trade regulation Law to close the Transaction on the Closing Date.

(c) Subject to all applicable Laws, each Party will notify the other promptly upon the receipt of (i) any comments from any officials of any Governmental Entity in

connection with any filings made pursuant to this Section 9.15 and (ii) any request by any officials of any Governmental Entity for amendments or supplements to any filings made pursuant to, or information provided to comply in all material respects with, any Laws. Whenever any event occurs that is required to be set forth in an amendment or supplement to any filing made pursuant to Section 9.15, the Party filing such amendment or supplement will promptly inform the other of such occurrence.

9.16. Employees and Employee Benefits.

(a) Other than the employees set forth on Schedule 9.16(a) ("Non-Transferred Employees"), attached to and made a part of this Agreement, asset-level employees of Sellers shall become employees of Buyers upon the Closing Date, on terms and conditions of employment that are substantially similar to those in place by Sellers immediately prior to the applicable Closing Date ("Transferred Employees"). Within a reasonable period of time prior to the Closing Date, Sellers will provide Buyers with reasonable opportunity to meet with any Employee and to obtain any relevant employment information from them. Each offer of employment shall be effective upon the Closing and may be conditioned upon the satisfactory completion by the Transferred Employee of Buyers' normal pre-employment screening requirements and the completion of customary employment documentation.

(b) Sellers shall be responsible for payment of any severance benefits required to be paid by any Seller which may arise with respect to the termination of employment of any Non-Transferred Employee listed on Schedule 9.16(a).

(c) With respect to any employee benefit plan maintained by Buyers or an Affiliate of Buyers (collectively, "Buyer Benefit Plans") for the benefit of any Transferred Employee, effective as of the Closing, Buyers shall, or shall cause their Affiliate to, recognize all service of the Transferred Employees with Sellers, as if such service were with Buyers, for vesting, eligibility and accrual purposes; *provided, however*, such service shall not be recognized to the extent that such recognition would result in a duplication of benefits.

(d) Effective as soon as practicable following the Closing Date, Sellers, or any applicable Affiliate, shall effect a transfer of assets and liabilities from the defined contribution retirement plan that it maintains to the Transferred Employees and the Non-Transferred Employees, in connection with the Transaction. Any such transfer shall be in an amount sufficient to satisfy Section 414(l) of the Code.

(e) Effective as of the Closing, the Transferred Employees shall cease active participation in the Benefit Plans. Sellers shall remain liable for all eligible claims for benefits under the Benefit Plans that are incurred by the Transferred Employees prior to the Closing Date. For purposes of this Agreement, the following claims shall be deemed to be incurred as follows: (i) life, accidental death and dismemberment, short-term disability, and workers' compensation insurance benefits, on the event giving rise to such benefits; (ii) medical, vision, dental, and prescription drug benefits, on the date the applicable services, materials or supplies were provided; and (iii) long-term disability benefits, on the

eligibility date determined by the long-term disability insurance carrier for the plan in which the applicable Employee participates.

(f) Buyers and Sellers intend that the Transaction should not constitute a separation, termination or severance of employment of any Employee who accepts an employment offer by Buyers made in compliance with applicable law, including for purposes of any Benefit Plan that provides for separation, termination or severance benefits, and that each such Employee will have continuous employment immediately before and immediately after the Closing. Buyers shall be liable and hold Sellers harmless for: (i) any statutory, common law, contractual or other severance with respect to any Employee, other than an Employee who has received an offer of employment by Buyers made in compliance with applicable law and declines such offer; and (ii) any claims relating to the employment of any Transferred Employee arising in connection with or following the Closing.

(g) This Section 9.16 shall be binding upon and inure solely to the benefit of each of the Parties to this Agreement, and nothing in this Section 9.16, express or implied, shall confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Section 9.16. Nothing contained herein, express or implied, shall be construed to establish, amend or modify any benefit plan, program, agreement or arrangement. The Parties acknowledge and agree that the terms set forth in this Section 9.16 shall not create any right in any Transferred Employee or any other Person to any continued employment with Buyer or any of its Affiliates or compensation or benefits of any nature or kind whatsoever.

9.17. Post-Closing Access to Books and Records.

(a) In order to facilitate the resolution of any Proceedings made against any Seller(s) with respect to an event or occurrence that occurred prior to the Closing, or for any reasonable Tax purpose, for a period of three (3) years after the Closing, Buyers shall:

(i) retain the books and records (including personnel files) of Tri-State relating to periods prior to the Closing in a manner reasonably consistent with the prior practices; and

(ii) upon reasonable notice, afford the Sellers and their agents reasonable access (including the right to make, at the subject Seller's expense, photocopies), during normal business hours, to such books and records in connection with any Proceeding made against any Seller or any reasonable Tax purpose.

(b) In order to facilitate the resolution of any Proceedings made by or against Buyers after the Closing, or for any reasonable Tax purpose, for a period of three (3) years following the Closing, each Seller shall:

(i) retain the books and records (including personnel files) of such Seller which relate to Tri-State and its operations for periods prior to the Closing; and

(ii) upon reasonable notice, afford Buyers and their agents reasonable access (including the right to make, at Buyers' expense, photocopies), during normal business hours, to such books and records in connection with a Proceeding made against Buyers or any reasonable Tax purpose.

(c) Neither any Buyer nor any Seller shall be obligated to provide another Party with access to any books or records (including personnel files) pursuant to this Section 9.17 where such access would (x) cause significant competitive harm to Tri-State; (y) jeopardize any attorney-client or other privilege; or (z) violate any Law, fiduciary duty or binding agreement; *provided that*, in the case of clauses (x), (y) or (z), Buyer or any Seller, as applicable, shall use commercially reasonable efforts to permit disclosure to the maximum extent possible and develop substitute arrangements for providing such information in accordance with the terms of this Section 9.17.

9.18. Excluded Liabilities. Sellers shall, and shall cause their respective Affiliates to, retain, pay, perform, and discharge when due all of the Excluded Liabilities and take all other actions reasonably necessary to ensure that neither Buyers nor any of their Affiliates become liable for any of the Excluded Liabilities.

9.19. Bulk Sales Laws. The Parties agree that any and all liabilities arising out of the failure of Sellers to comply with the requirements and provisions of the Pennsylvania Bulk Sales Act or any similar bulk sales, bulk transfer, or Law (each, a "Bulk Sales Law") shall be treated as Excluded Liabilities.

ARTICLE X

CONDITIONS PRECEDENT TO CLOSING

10.1. Sellers' Conditions Precedent. The obligations of Sellers to consummate the Transaction are subject to satisfaction, or waiver by Sellers, on or before the Closing Date, of each of the following conditions:

(a) Representations and Warranties True. The representations and warranties made by Buyers in this Agreement shall be true in all material respects when made and on and as of the Closing as though such representations and warranties were made on and as of the Closing, except for any representation or warranty that is made as of a specific time.

(b) Performance. Buyers shall have performed and complied in all material respects with all provisions of this Agreement required to be performed or complied with by Buyers on or prior to the Closing Date.

(c) Litigation. No Proceeding shall be pending or threatened before any court or other Governmental Entity or other Person wherein an unfavorable Order would (i) prevent consummation of the Transaction or (ii) cause the Transaction to be rescinded following consummation.

(d) Buyers' Closing Certificate. Majors shall have delivered to Sellers a closing certificate, executed by a duly authorized officer of Majors, attesting as to the satisfaction of the conditions set forth in Sections 10.1(a), (b), and (c).

(e) Executed Documents. Buyers shall have executed and delivered to Sellers at the Closing each of the Buyer Documents, including but not limited to the documents set forth in Section 4.5, and such additional documents as may be reasonably requested by Sellers in order to consummate the Transaction.

(f) Environmental Due Diligence. Buyers shall have paid or made provisions acceptable to Sellers for the payment or reimbursement of all fees, costs and expenses for obtaining all environmental due diligence, surveys, title examinations, inventory audits, and other inspections performed in connection with the transfer of the Assets pursuant to this Agreement.

(g) Consents. Subject to Sections 9.9 and 11.1, each of the Consents required by Schedule 6.3 shall have been obtained.

(h) R&W Insurance Policy. At or prior to the Closing, Buyers shall have paid in full the premiums for the R&W Insurance Policy, which policy shall be in full force and effect as of the Closing Date.

(i) Environmental Insurance Policy. At or prior to the Closing, Buyers shall have paid in full the premiums for the Environmental Insurance Policy, which policy shall be in full force and effect as of the Closing Date.

10.2. Buyers' Conditions Precedent. The obligations of Buyers to consummate the Transaction are subject to satisfaction, or waiver by Buyers, of each of the following conditions:

(a) Representations and Warranties True. The representations and warranties made by Sellers in this Agreement shall be true in all material respects when made and on and as of the Closing Date as though such representations and warranties were made on and as of the Closing, except for any representation or warranty that is made as of, and expressly limited to, a specific time. Buyer shall have received from Sellers at the Closing a satisfactory certificate to such effect signed by an authorized officer of Sellers.

(b) Performance. Each Seller shall have performed and complied in all material respects with all provisions of this Agreement required to be performed or complied with by such Seller before or at the Closing. Buyers shall have received from each Seller at the Closing a satisfactory certificate to such effect signed by an authorized officer of each Seller.

(c) Litigation. No Proceeding shall be pending or threatened before any court or other Governmental Entity or other Person wherein an unfavorable Order would (i) prevent consummation of any of the Transaction or (ii) cause any of the Transaction to be rescinded following consummation. No such Order shall be in effect.

(d) Seller's Closing Certificate. Buyers shall have received from each Seller a closing certificate, executed by a duly authorized officer of Seller, attesting as to the satisfaction of the conditions set forth in Sections 10.2(a), (b), and (c).

(e) Executed Documents. Sellers shall have executed and delivered to Buyers at the Closing each of the Seller Documents, including but not limited to the documents set forth in Section 4.4, and such additional documents as may be reasonably requested by Buyer in order to consummate the Transaction.

(f) Consents. Subject to Sections 9.9 and 11.1, each of the Consents required by Schedule 6.3 shall have been obtained and shall be in full force and effect.

ARTICLE XI

DEFAULT; REMEDIES; TERMINATION

11.1. Sellers' Inability to Convey. If Sellers are unable to convey the Assets as provided herein or otherwise satisfy the conditions to Buyers' obligation to consummate the transactions contemplated in this Agreement on or before the Closing Date, Sellers shall have the right by notice to Buyers to extend the Closing Date two consecutive times, (i) first, to a date not later than fifteen (15) days after the Closing Date, and (ii) second, to a date not later than ten (10) days after the first extension of the Closing Date, and in no event to a date later than the Drop Dead Date, for no additional consideration. If, on the Drop Dead Date, Sellers are still unable to convey the Assets or otherwise satisfy such conditions, Buyers' sole remedy shall be either (a) to accept such title as the applicable Seller is able to convey (without any claim on its part for abatement or reduction of the Total Consideration) or (b) to terminate this Agreement, but only as to the Location(s) affected, whereupon the Asset Purchase Price shall be reduced by the Agreed Location Value for such Location.

11.2. Sellers' Default. Subject to the provisions of Section 11.1 above, if Sellers shall, in any material respect, breach a covenant or otherwise default in the performance of Sellers' obligations under this Agreement before the Closing, Buyers may elect to: (a) seek specific performance of this Agreement; or (b) terminate this Agreement as provided for in Section 11.6(b), in which event the Deposit shall be refunded to Buyers and Sellers shall reimburse Buyer an amount equal to Buyer's actual and reasonable out-of-pocket costs related to due diligence and other preparations for closing under this Agreement, capped at an amount not to exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00)

11.3. Buyers' Default. In recognition of the fact that damages for a breach by a Buyer may be difficult to determine, if Buyers shall, in any material respect, breach a covenant or otherwise default in the performance of an obligation of Buyers under this Agreement before the Closing and Sellers terminate this Agreement pursuant to Section 11.6, then (a) Buyers shall pay to Sellers an amount equal to five percent (5%) of the Asset Purchase Price (the "Agreed Damages"), as liquidated damages and not as a penalty, and (b) if the Closing has not occurred, Sellers may apply the Deposit as a credit against the Agreed Damages. Sellers agree to accept payment of the Agreed Damages by Buyers, as a result of or in connection with such default and

termination of this Agreement by Sellers pursuant to Section 11.6(a) in full settlement and discharge of all obligations of Buyers hereunder, without further recourse at law or in equity. If Sellers elect to accept the Deposit as a credit against the Agreed Damages, Sellers shall provide written notice of same to Buyers within five (5) Business Days of termination as described in this Section, and the Sellers shall then notify and direct the Title Company to disburse the Deposit to Sellers as soon as commercially practicable.

11.4. Waiver of Remedies. Sellers specifically waive any and all right to specific performance of this Agreement (except with respect to a breach or threatened breach of the confidentiality provisions of this Agreement) or to maintain any cause of action arising out of the failure of the Closing to occur other than Sellers' right to seek delivery of the Deposit to Sellers for credit against the Agreed Damages and, to the extent that the Deposit is less than the Agreed Damages, to seek recovery of the balance of the Agreed Damages from Buyers as liquidated damages according to the provisions of this Agreement.

11.5. Acknowledgement as to Liquidated Damages. BUYERS AND SELLERS HEREBY ACKNOWLEDGE AND AGREE THAT, THE AMOUNT OF SELLERS' DAMAGES IN THE EVENT OF A BREACH OF THIS AGREEMENT BY BUYER WOULD BE DIFFICULT OR IMPOSSIBLE TO DETERMINE AND THAT AN AMOUNT EQUAL TO THE AGREED DAMAGES IS THE PARTIES' BEST AND MOST ACCURATE ESTIMATE OF THE DAMAGES SELLERS WOULD SUFFER IN THE EVENT THE TRANSACTION PROVIDED FOR IN THIS AGREEMENT FAILS TO CLOSE AS A RESULT OF THE BREACH OR DEFAULT BY A BUYER AND THAT SUCH ESTIMATE IS REASONABLE UNDER THE CIRCUMSTANCES EXISTING AS OF THE DATE OF THIS AGREEMENT AND UNDER THE CIRCUMSTANCES THAT SELLERS AND BUYERS REASONABLY ANTICIPATE WOULD EXIST AT THE TIME OF SUCH BREACH.

11.6. Termination. This Agreement may be terminated at any time before the Closing upon the written agreement of both Parties. In addition:

(a) Sellers may terminate this Agreement before the Closing by written notice to Buyers, which notice shall specify in reasonable detail the nature of such failure or breach: (i) upon the failure of the satisfaction of any condition set forth in Section 10.1 on or before the Closing Date (as and if extended in Sellers' sole discretion pursuant to Section 11.1), or (ii) upon a Buyer's breach of any material provision of this Agreement at any time; provided, however, that, in the case of (i) or (ii), Buyers shall have until the earlier of (A) five (5) days after receipt of written notice of such failure or breach is given to Buyers by Sellers, or (B) the Closing Date (as and if extended pursuant to Section 11.1) to cure such failure or breach, or (iii) in the event that either two (2) or more Locations, or Assets have a combined Agreed Location Value constituting ten percent (10%) or more of the aggregate Agreed Location Values of all Asset(s) being transferred under this Agreement, are removed from this Agreement, as provided in Sections 9.7, 9.9 or 11.1, or otherwise under this Agreement.

(b) Buyers may terminate this Agreement before the Closing by written notice to Sellers, which notice shall specify in reasonable detail the nature of such failure or breach, (i) upon the failure of the satisfaction of any condition set forth in Section 10.2 on

or before the Closing Date (as and if extended in Sellers' sole discretion pursuant to Section 11.1), or (ii) subject to Sections 9.9 and 11.1, upon Sellers' breach of any material provision of this Agreement at any time; provided, however, that, in the case of (i) or (ii), Sellers shall have until the earlier of (A) five (5) days after receipt of written notice of such failure or breach is given to Seller by Buyer, (B) the Closing Date (as and if extended pursuant to Section 11.1) to cure such failure or breach.

ARTICLE XII

POST-CLOSING AGREEMENTS; ALLOCATION OF COSTS

12.1. Registrations. To the extent not completed as of the Closing, Buyers, at their own expense, shall change or transfer all registration and licensing names in any way related to each Location, including without limitation registration of and financial assurance for the underground and aboveground fuel storage tanks, if any, at each Location, with the appropriate federal, state and local agencies, promptly following the Closing but in all events within thirty (30) days following the Closing Date. Buyers shall obtain, in Buyers' own name or in the name of Buyers' designee, and at Buyers' sole expense, all Permits necessary for Buyers' operations at the Locations following the Closing.

12.2. Costs of Surveys, Title Examinations, Other Inspections and Recordings. Buyers shall be solely responsible for all costs and expenses of all surveys, title examinations, third party inventory audit expenses (if any), recording costs for the Deeds (as applicable) and other inspections performed in connection with the transfer of the Assets pursuant to this Agreement.

ARTICLE XIII

REMEDIES

13.1. Survival. Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein as well as covenants requiring performance after the Closing, will survive the Closing for a period of thirty-six (36) months, other than Seller Fraud.

13.2. Exclusive Remedies. Buyers acknowledge and agree that Buyers' sole and exclusive remedy with respect to any and all claims (other than Seller Fraud) for any breach of any representation or warranty set forth herein, shall be the R&W Insurance Policy and the Environmental Insurance Policy.

13.3. Legal Costs. If any Buyer brings any suit or other proceeding involving a claim based upon Seller Fraud, or if any Buyer or Seller brings any suit or other proceeding for breach of a covenant by any other Party or seeks to enforce any provision(s) of this Agreement, the prevailing party (as determined by the court, agency or other authority before which such suit or proceeding is commenced), in addition to such other relief as may be awarded, shall be entitled to recover reasonable attorneys' fees, expenses and costs of investigation actually incurred from the non-prevailing party. The foregoing includes reasonable attorneys' fees, expenses and costs of investigation (including those incurred in appellate proceedings), costs incurred in establishing the right to indemnification, or in any action or participation in, or in connection with, any case or

proceeding under Chapter 7, 11 or 13 of the Bankruptcy Code (11 United States Code Sections 101 et seq.), or any successor statutes.

ARTICLE XIV

MISCELLANEOUS

14.1. Payment of Expenses and Fees. Except as otherwise provided in this Agreement, each of Buyers and Sellers shall bear their own costs and expenses, including attorneys' fees, incurred in connection with the Transaction. Sellers may direct Buyers to pay certain of Sellers' costs and expenses at time of Closing, and those payments are a credit to Buyers when calculating the Total Compensation.

14.2. Entire Agreement. This Agreement and the Seller Documents and Buyer Documents once executed and delivered at the Closing, including the Exhibits and Schedules to this Agreement and such other documents, constitute the entire agreement between Seller and Buyer with respect to the subject matter hereof, and supersede all prior oral or written agreements, commitments or understandings with respect thereto, except the Confidentiality Agreement.

14.3. No Third-Party Beneficiaries. This Agreement is not intended to and does not confer any rights or obligations on any party that is not a signatory to this Agreement.

14.4. Amendment. This Agreement may not be amended, modified or supplemented except upon the execution and delivery of a written agreement executed by the Parties.

14.5. Notices. All notices and other communications among the Parties shall be in writing and shall be deemed to have been duly given (i) when delivered in person, (ii) when delivered after posting in the United States mail (or other nationally recognized carrier) having been sent registered or certified mail return receipt requested, postage prepaid, (iii) when delivered by FedEx or other nationally recognized overnight delivery service, or (iv) when delivered by telecopy or email (in each case in this clause (iv), if receipt is confirmed or if the recipient does not confirm receipt if such email delivery is followed by overnight delivery service sent the following Business Day after such email is sent), addressed set forth below or to any other or additional addresses as the Parties may from time to time designate in a writing delivered in accordance with this Section 14.5.

If to Sellers:

Tri-State Petroleum Corporation
2627 Vance Avenue
Wheeling, WV 26003
Attention: Colleen C. McGlinn
Telephone number: 412 283-4377
Email address: cmcglinn@fuelcdbytristate.com

With a copy to: Al Alfano, Esq.
Bassman, Mitchell & Alfano & Leiter, Chid.
1707 L Street, N.W., Suite 560
Washington, DC 20036
Telephone number: (202) 466-6502
Facsimile number: (202) 331-7510

If to Buyers: Majors Management, LLC
P.O. Box 1565
Lawrenceville, GA 30046
Attention: Benjamin Smith
Telephone number: (770) 338-2620
Email: Ben@majorsmgmt.com

With a copy to: Dinsmore & Shohl LLP
211 North Pennsylvania Street
One Indiana Square, Suite 1800
Indianapolis, IN 46204-4208
Attention: Mark L. Boos
Telephone number: (317) 639-6151
Email: Mark.Boos@dinsmore.com

14.6. **Business Days.** If the day for performance of any action described in this Agreement shall fall on a day that is not a Business Day, the time for such action shall be extended to the next Business Day after such day.

14.7. **Governing Law.** This Agreement shall be deemed to be a contract entered into in the Commonwealth of Pennsylvania and it and all matters arising out of the transactions contemplated hereby or related thereto shall be governed, construed, enforced and interpreted in all respects according to the Laws of the Commonwealth of Pennsylvania, without reference to principles of conflicts of law thereof.

14.8. **Venue.** Any Proceeding permitted by the terms of this Agreement to be filed in a court, which Proceeding is brought to enforce, challenge or construe the terms or making of this Agreement or any Seller Document or Buyer Document, and any claims arising out of or related to this Agreement or any Seller Document or Buyer Document, shall be brought and litigated exclusively in a state or federal court having subject matter jurisdiction and located in Pittsburgh, Allegheny County, Pennsylvania. For purpose of any such Proceeding, each Party hereby irrevocably submits to the exclusive jurisdiction of the state or federal courts having subject matter jurisdiction and located in Pittsburgh, Pennsylvania. Each Party hereby irrevocably waives any objection or defense which it may now or hereafter have of improper venue, forum non conveniens or lack of personal jurisdiction.

14.9. **Obligations of Parties, Successors and Assigns.** Subject to the following provisions of this Section 14.9, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, personal representatives, successors and assigns. Without the prior written consent of Sellers and in Sellers' sole discretion, Buyers shall not, directly or indirectly,

assign this Agreement or any of its rights hereunder. Any attempted assignment by Buyers in violation hereof shall, at the election of Sellers, be of no force or effect and shall constitute a default by Buyers. Notwithstanding the foregoing, or any other provision(s) of this Agreement to the contrary: (i) Buyers may elect by written notice to Seller to have the title to or ownership of any Asset transferred directly to a designated Affiliate of Buyers at the Closing; and (ii) any Buyer may assign any such Buyer's rights under or with respect to this Agreement as collateral to any financing institution providing financing to any Buyer(s).

14.10. Waiver. The excuse or waiver of the performance by a Party of any obligation of the other Party under this Agreement shall only be effective if evidenced by a written statement signed by the Party so excusing or waiving. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by Sellers or Buyers of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

14.11. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile, email or other electronic transmission (including via .pdf format documents) shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by facsimile, e-mail or other electronic transmission (including via .pdf format documents) shall be deemed to be their original signatures for all purposes.

14.12. Descriptive Headings; Word Meaning. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any provisions of this Agreement. Words such as "herein," "hereinafter," "hereof" and "hereunder" when used in reference to this Agreement, refer to this Agreement as a whole and not merely to a subdivision in which such words appear, unless the context otherwise requires. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. The word "including" shall not be restrictive and shall be interpreted as if followed by the words "without limitation." Each Schedule and Exhibit referenced herein shall be deemed part of this Agreement and incorporated herein wherever any reference is made thereto. Unless otherwise defined therein, capitalized terms used in the Schedules and Exhibits to this Agreement shall have the meanings given to such terms respectively in the body of this Agreement or in Exhibit A.

14.13. Time of the Essence. **TIME IS OF THE ESSENCE WITH RESPECT TO EACH PROVISION OF THIS AGREEMENT.** Without limiting the foregoing, Buyers and Sellers hereby confirm their intention and agreement that time shall be of the essence of each and every provision of this Agreement, notwithstanding any subsequent modification or extension of any date or time period that is provided for under this Agreement. The agreement of Buyers and Sellers that time is of the essence of each and every provision of this Agreement shall not be waived or modified by any conduct of the Parties, and the agreement of Buyers and Sellers that time is of the essence of each and every provision of this Agreement may only be modified or waived by the express written agreement of Buyers and Sellers that time shall not be of the essence with respect to a

particular date or time period, or any modification or extension thereof, which is provided under this Agreement.

14.14. Construction of Contract. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared primarily by counsel for one of the Parties, it being recognized that both Buyers and Sellers are represented by competent legal counsel and have contributed substantially and materially to the preparation of this Agreement.

14.15. Severability. The Parties intend and believe that each provision in this Agreement comports with all applicable Laws. If, however, any provision in this Agreement is found by a court of law to be in violation of any applicable Law or public policy, or if in any other respect such a court declares any such provision to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of the Parties that, consistent with and with a view towards preserving the economic and legal arrangements among the Parties as expressed in this Agreement, such provision shall be given force and effect to the fullest possible extent, and that the remainder of this Agreement shall be construed as if such illegal, invalid, unlawful, void, or unenforceable provision were not contained herein, and that the rights, obligations, and interests of the Parties under the remainder of this Agreement shall continue in full force and effect.

14.16. No Implied Contract. No Party shall have any obligations in connection with the Transaction unless all Parties, each acting in its sole discretion, elect to execute and deliver this Agreement to the other Party/ies. No correspondence, course of dealing, or submission of drafts or final versions of this Agreement between the Parties shall be deemed to create any binding obligations in connection with the Transaction, and no contract or obligation on the part of a Party shall arise unless and until a counterpart of this Agreement is fully executed by all Parties.

14.17. Attorney-Client Relationship and Privileged Communications.

(a) Sellers' Representation. Bassman, Mitchell, Alfano & Leiter, Chd. ("BMAL, Chd.") acted as counsel to Sellers in connection with the negotiation, preparation, execution, and delivery of this Agreement and the consummation of the Transaction.

(b) BMAL, Chd. & Company Attorney Client Privilege. All communications between Sellers and BMAL, Chd. related to this Agreement and the consummation of the Transaction are deemed to be attorney-client privileged and the expectation of client confidence belongs solely to Sellers and does not pass to Buyer. Among other things, this means that BMAL, Chd. has no duty to disclose or reveal these communications to Buyer.

14.18. Sellers' Representative.

(a) Each Seller hereby irrevocably appoints Colleen C. McGlenn ("Sellers' Representative") as its representative, agent, proxy and attorney-in-fact (coupled with an interest) for all purposes under this Agreement or any other documents contemplated in connection with this Agreement. Such agency and proxy are coupled with an interest, are therefore irrevocable without the consent of Seller Representative and shall survive the death, incapacity, bankruptcy, dissolution or liquidation of any Seller. The execution of

this Agreement by each Seller shall constitute approval of the appointment of Seller Representative and all actions of Seller Representative pursuant to this Agreement and any other transaction documents contemplated hereby. All decisions and actions by Seller Representative pursuant to this Agreement shall be binding upon each Seller, and no Seller shall have the right to object, dissent, protest or otherwise contest the same.

(b) Each Seller agrees that Buyers are entitled to rely on the understanding that any actions, statements or representations taken or made by Seller Representative are taken or made on behalf of each Seller, and no Seller shall assert any action or make any claim against Buyer in connection with any such actions, statements or representations taken or made by Seller Representative.

(c) Seller Representative shall at all times act in its capacity as a representative of each Seller in a manner that it reasonably believes to be in the best interest of all Sellers. Seller Representative shall not be liable to any Seller for any error of judgment, or any action taken, suffered or omitted to be taken under this Agreement or any other transaction documents contemplated hereby or in its capacity as a representative of each Seller, except in the case of its gross negligence, bad faith or willful misconduct. Seller Representative may consult with legal counsel, accountants and other experts selected by it, the reasonable fees and expenses of which shall be paid pro rata by each Seller. Seller Representative, solely in its capacity as a representative of each Seller, shall not have any duty to any Seller to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or any other transaction documents contemplated hereby.

(d) Each Seller, jointly and severally, shall indemnify and hold harmless and reimburse Seller Representative from and against such Seller's pro-rata portion of any and all Losses suffered or incurred by Seller Representative arising out of or resulting from any action taken or omitted to be taken by Seller Representative, solely in its capacity as a representative of each Seller, under this Agreement or any other transaction documents contemplated hereby, other than such Losses arising out of or resulting from Seller Representative's gross negligence, bad faith or willful misconduct.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TRI-STATE PETROLEUM CORPORATION,
a West Virginia corporation

By: Colleen C. McGinn
Printed Name: Colleen C. McGinn
Title: Chief Executive Officer

CONVENIENCE REALTY LP,
a West Virginia limited partnership

By: **TRI-STATE PETROLEUM CORPORATION,** its general partner

By: Colleen C. McGinn
Printed Name: Colleen C. McGinn
Title: Chief Executive Officer

UNDERWOOD LIMITED PARTNERSHIP,
an Ohio limited partnership

By: **INTERSTATE SERVICE STATIONS HOLDINGS, INC.,** its general partner

By: Colleen C. McGinn
Printed Name: Colleen C. McGinn
Title: Vice President

MAJORS MANAGEMENT, LLC,
a Georgia limited liability company

By: Ben Smith

Printed Name: BEN SMITH

Title: President

MM PA PROPERTIES, LLC,
a Georgia limited liability company

By: Ben Smith

Printed Name: BEN SMITH

Title: Authorized Signatory

MM PA MANAGEMENT, LLC,
a Georgia limited liability company

By: Ben Smith

Printed Name: BEN SMITH

Title: Authorized Signatory

MM BP PROPERTIES, LLC,
a Georgia limited liability company

By: Ben Smith

Printed Name: BEN SMITH
Title: Authorized Signatory

EXCELL PETROLEUM, LLC,
a Georgia limited liability company

By: 

Printed Name: BEN SMITH
Title: Authorized Signatory

EXHIBIT A DEFINITIONS

In addition to the terms and phrases defined elsewhere in the Agreement, the following capitalized terms and phrases, when used in this Agreement, shall have the meanings set forth below:

- "Affiliate" means any Person who controls, is controlled by, or is under common control with, any other Person.
- "Agreed Damages" has the meaning set forth in Section 11.3.
- "Agreed Inventory Value" has the meaning set forth in Section 3.2(d)(iii).
- "Agreed Location Values" has the meaning set forth in Section 2.5(a).
- "Agreement" has the meaning set forth in the preamble to this Agreement, including all Exhibits and Schedules attached to this Agreement.
- "Alcoholic Beverages Inventory" means Sellers' inventory of alcoholic beverages at the Locations as of the Closing Date.
- "Allocation Schedule" has the meaning set forth in Section 2.4.
- "Arbitrating Accountant" means the independent certified public accountant firm as may be mutually designated by Sellers and Buyer.
- "Assets" has the meaning set forth in Section 1.1.
- "Asset Purchase Price" has the meaning set forth in Section 2.1.
- "Assignment and Assumption of Lease" has the meaning set forth in Section 4.3(b).
- "Assignment and Assumption Agreement" has the meaning set forth in Section 4.3(d).
- "Assumed Contracts" means the Contracts described in Schedule 1.1(i) and the Contracts described in Schedule 1.1(k).
- "Assumed Liabilities" has the meaning set forth in Section 1.3(c).
- "Audited Financial Statements" has the meaning set forth in Section 5.4(c).
- "Bill of Sale" has the meaning set forth in Section 4.3(c).
- "BMAL, Chtd." has the meaning set forth in Section 14.17(a).
- "Books and Records" has the meaning set forth in Section 1.1(j).
- "Business" means the business of operating and managing convenience (including beer and wine), stores and fuel stations.
- "Business Day" means any day other than (a) Saturday or Sunday or (b) any other day on which banks in Pittsburgh, Pennsylvania are permitted or required to be closed.
- "BUSTR" has the meaning set forth in Section 9.6(b).
- "Buyer" has the meaning set forth in the preamble to this Agreement.
- "Buyer Documents" has the meaning set forth in Section 7.2.

"Cigarette Inventory" means Sellers' inventory of combustible cigarettes at the Locations as of the Closing Date.

"Closing" has the meaning set forth in Section 4.1.

"Closing Cash Payment" has the meaning set forth in Section 4.4(a).

"Closing Date" has the meaning set forth in Section 4.1.

"Closing Date Inventory Payment" has the meaning set forth in Section 3.2(a).

"Closure Letter" has the meaning set forth in Section 9.6(c).

"Code" means the Internal Revenue Code of 1986, as amended.

"Commingled Pollution" has the meaning set forth in Section 9.6(b).

"Confidential Information" has the meaning set forth in Section 8.1.

"Confidentiality Agreement" has the meaning set forth in Section 8.1.

"Consent" means any approval, consent, ratification, waiver or other authorization.

"Contract" means any indenture, mortgage, deed of trust, lease, licensing agreement, contract, instrument or other agreement (whether written or oral, and whether express or implied), that is legally binding.

"Conveyance Date" has the meaning set forth in Section 3.1(b).

"Cut-Over Time" has the meaning set forth in Section 3.1(a).

"Dealer" has the meaning set forth in Section 5.6(b).

"Dealer Security Deposits" has the meaning set forth in Section 5.6(d).

"Deed" has the meaning set forth in Section 4.3(a).

"Deposit" has the meaning set forth in Section 2.2.

"DOJ" means the United States Department of Justice.

"Drop Dead Date" has the meaning set forth in Section 4.1.

"Due Diligence Period" means the period starting at 12:01 a.m. (Eastern) on the Effective Date and ending at 11:59 p.m. (Eastern) on the date that is Sixty(60) days after the Effective Date, during which period Buyer will conduct due diligence on the operations, finances, the Assets, and any other matters as Buyer deems necessary or appropriate; provided, however, that such period may be terminated earlier by Buyer if Buyer delivers written notice to Sellers indicating an earlier end date to such period or by termination of this Agreement pursuant to the terms set forth herein.

"Encumbrances" means any charge, claim, community property interest, condition, covenant, easement, encroachment, equitable interest, lien, option, ordinance, pledge, security interest, regulation, reservation, right of first refusal, right of way or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

"Environmental Agency" means the Ohio, Pennsylvania, and West Virginia Departments of Environmental Protection, or its equivalent.

"Environmental Insurance Policy" means that certain pollution legal liability insurance policy with an aggregate liability coverage limit of not less than Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00), with a coverage term to include not less than the five (5) year period subsequent to the Closing Date, and otherwise on terms mutually acceptable to Sellers and Buyer.

"Environmental Laws" means any Laws existing as of the Closing Date related to the protection of the environment.

"Environmental Liabilities" has the meaning set forth in Section 9.6(d).

"ESA" has the meaning set forth in Section 8.2.

"Escrow Agreement" has the meaning set forth in Section 2.2.

"Excise Taxes" means all excise, sales, use, documentary stamp, conveyance, transfer and other Taxes attributable to the sale or transfer of the Assets or the Assumed Liabilities.

"Excluded Assets" has the meaning set forth in Section 1.2.

"Excluded Liabilities" has the meaning set forth in Section 1.4.

"Fiscal Year" has the meaning set forth in Section 4.6.

"Food Service Inventory" means all items used in the preparation or dispensing at the Locations of food items for immediate consumption, including such resulting food items in the "Hot Dispensed," "Cold Dispensed" and "Prepared Dell" categories.

"Fraud" means, with respect to any Party hereto, an actual and intentional fraud with respect to the making of any representation or warranty set forth in Article V, Article VI, or ARTICLE VII hereof, as applicable, provided that such actual and intentional fraud of any of the Sellers or Buyer, as applicable, shall only be deemed to exist if any individual with "knowledge" with respect to such Party, as applicable, had actual knowledge (as opposed to imputed or constructive knowledge) that the subject representation or warranty made by such Party pursuant to, in the case of the Sellers, Article V or Article VI hereof, as qualified by the disclosure schedules attached hereto, or in the case of Buyer, Article VII hereof, was actually breached when made, with the express intention that the other Party hereto would rely thereon to its detriment.

"FTC" means the United States Federal Trade Commission.

"Fuel Supply Agreement" means the Contracts listed on Schedule 1.1(k).

"Fuel Supply Business" means the petroleum bulk storage assets located in Wheeling, WV and New Martinsville, WV used in connection with the sale of petroleum to commercial accounts (excluding wholesale/dealer accounts) and all related fuel hauling business and equipment, including, without limitation, tank wagon trucks and trailers, other trucks, and all related fuel distribution equipment used to service such commercial accounts.

"Fuel Supply Business Financial Statements" has the meaning set forth in Section 5.4(b).

"GAAP" has the meaning set forth in Section 5.4(c).

"Gasoline Taxes" has the meaning set forth in Section 3.4(b).

"Governmental Entity" means any federal, state, local or foreign legislative, executive, judicial, quasi-judicial, administrative or other public authority, agency, department, bureau, division, unit, court or other public body, governmental authority or instrumentality.

"Hazardous Material" means any substance, material, or waste that is or will foreseeably be regulated by any Governmental Body, including any material, substance, or waste that is defined or classified as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "pollutant," "restricted hazardous waste," "contaminant," "toxic waste," "pollutant," or "toxic substance" under any provision of Environmental Law, including petroleum or petroleum hydrocarbons, asbestos or asbestos-containing material, urea formaldehyde, or polychlorinated biphenyls.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Independent Auditor" shall mean the independent inventory company as may be mutually designated by Sellers and Buyer.

"Inventory" has the meaning set forth in Section 1.1(d).

"Inventory Adjustments" has the meaning set forth in Section 3.2(c).

"Inventory Dates" has the meaning set forth in Section 3.1(a).

"Inventory Escrow" has the meaning set forth in Section 3.2(a).

"Inventory Estimate" has the meaning set forth in Section 3.2(a).

"Inventory Objection Notice" has the meaning set forth in Section 3.2(d)(iii).

"Inventory Statement" has the meaning set forth in Section 3.2(d)(i).

"Inventory Value" has the meaning set forth in Section 2.1.

"Knowledge" means, with respect to any individual, such individual is (a) actually aware of such fact or other matter. A Person (other than an individual) will be deemed to have "Knowledge" of a particular fact or other matter if any individual who is serving as an officer of such Person was actually aware of such fact or other matter.

"Known Pollution" has the meaning set forth in Section 9.6(a).

"Law" or "Laws" means all applicable United States local, state or federal laws, statutes, regulations, ordinances or administrative or judicial decisions.

"Location" and "Locations" has the meaning set forth in the recitals to this Agreement.

"Loss" means any claim, action, arbitration, mediation, audit, hearing, investigation Proceeding (whether civil, criminal, administrative, investigative or informal); any judgment, injunction, writ, order, ruling, award or decree; and any complaint, claim, demand, damage, deficiency, penalty, fine, cost, amount paid in settlement, liability, obligation, Tax, Encumbrance, loss, expense or fee, including court costs and reasonable attorneys' fees and expenses.

"Material Adverse Effect" or "Material Adverse Change" means any effect or change that would be materially adverse to the business, assets, condition (financial or otherwise) operating results or operations of Sellers, taken as a whole, other than (i) changes, conditions or events that are applicable to the petroleum industry generally, or the petroleum marketing and sales and convenience store retailing businesses specifically, including without limitation, war, embargo,

natural or man-made disaster or global price fluctuations; (ii) worsening domestic or global economic conditions or other economic factors that adversely affect the Business substantially more than other businesses in the petroleum sales and convenience store business; (iii) any changes to applicable Laws or accounting rules or principles, including changes in GAAP; (iv) any action required by this Agreement; or (v) public announcement of the sale contemplated in this Agreement prior to the Closing.

"Merchandise Inventory" means saleable items of merchandise of every type and description at the Locations as of the Closing Date, as set forth on Schedule 3.4(a), excluding Petroleum Inventory, Supplies Inventory, Cigarette Inventory, Alcoholic Beverages Inventory, and Food Service Inventory. For purposes of determining Merchandise Inventory, "saleable" shall mean all items other than (a) items that violate applicable government code specifications; (b) spoiled or damaged items, including packaging thereof; and (c) items that are stale dated as of the date of the inventory audit.

"New Case" has the meaning set forth in Section 9.6(b).

"New Pollution" has the meaning set forth in Section 9.6(a).

"New Title Defect" has the meaning set forth in Section 9.7.

"Non-Transferred Employees" has the meaning set forth in Section 9.16(a).

"OFAC" has the meaning set forth in Section 7.7.

"Order" means any award, injunction, judgment, decree, order, ruling, subpoena or verdict or other decision issued, promulgated or entered by or with any Governmental Entity of competent jurisdiction.

"Open Case Location" has the meaning set forth in Section 9.6(b).

"Ordinary Course of Business" means, with respect to Sellers, the ordinary course of business of Sellers consistent with past custom and practice (including with respect to quantity and frequency).

"Owned Fuel Equipment" has the meaning set forth in Section 1.1(g).

"Permit" means authorizations, licenses, permits, permissions, filings and other governmental authorizations, agreements, contracts and approvals and similar grants of authority.

"Permitted Encumbrances" means (a) statutory liens for Taxes assessed or accrued with respect to the Assets for the period from and after the Closing that are not yet delinquent, which Taxes shall be adjusted as provided in this Agreement; (b) existing encroachments, easements, rights of way, covenants, reservations, restrictions, and other matters of record (other than monetary encumbrances) in the chain of title to the Purchased Owned Real Properties or Purchased Leased Real Properties which are acceptable or deemed to be acceptable to Buyer as provided for herein; (c) all building and zoning Laws affecting the Locations; (d) Encumbrances and any matters created or arising as a result of Buyer's or its agents', employees', contractors' or representatives' entry upon the real property or other inspection of the Assets; (e) matters shown in the Surveys or that would otherwise be shown on an accurate ALTA/NSPS Land Title survey of the real property; and (f) Encumbrances arising by operation of Law in connection with worker's compensation, unemployment insurance, old age pensions and social security benefits which are not overdue.

"Person" means an individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture, other entity or a Governmental Entity.

"Pennsylvania Bulk Sales Act" has the meaning set forth in Section 9.14(f).

"Pennsylvania Tax Clearance Certificate" has the meaning set forth in Section 9.14(f).

"Petroleum Inventory" means saleable gasoline, kerosene and diesel fuel at the Locations as of the Closing Date. For purposes of determining Petroleum Inventory, "saleable" shall mean conforming to the octane, brand and applicable requirements of Law for sales of fuel from the Owned Fuel Equipment at the Locations.

"Physical Inventory" has the meaning set forth in Section 3.1.

"Proceeding" means any action, arbitration, mediation, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Entity or arbitrator.

"Proforma Commitments" has the meaning set forth in Section 9.7.

"Property Taxes" has the meaning set forth in Section 4.6.

"Purchased Lease" has the meaning set forth in Section 1.1(b).

"Purchased Leased Real Properties" has the meaning set forth in Section 1.1(b).

"Purchased Owned Real Properties" has the meaning set forth in Section 1.1(a).

"Release" has the meaning set forth in Section 9.6(a).

"Remedial Measures" has the meaning set forth in Section 9.6(b).

"R&W Insurance Policy" means the buyer-side representation and warranty insurance policy to be obtained by Buyers to be issued to Buyers by an insurance company or underwriter as may be designated by Buyer and is mutually agreeable to Buyers and Sellers on terms and conditions reasonably satisfactory to Buyer and Sellers. The cost of the R&W Insurance Policy, including all underwriting fees and Taxes related to such policy, shall be paid in full by Buyer. The R&W Insurance Policy must include a full waiver of subrogation.

"Schedules" means the schedules appended to this Agreement.

"Seller" and "Sellers" has the meaning set forth in the preamble to this Agreement.

"Seller Documents" has the meaning set forth in Section 6.2.

"Sellers' Cure Period" has the meaning set forth in Section 9.7.

"Sellers' ESAs" has the meaning set forth in Section 8.2.

"Sellers' Representative" has the meaning set forth in Section 14.18(a).

"Sellers' Retained Records" has the meaning set forth in Section 1.2(a).

"Settlement Statement" has the meaning set forth in Section 4.3(e).

"Site Access Agreement" has the meaning set forth in Section 9.6(b).

"Site-Level Financial Statements" has the meaning set forth in Section 5.4(a).

"Supplies Inventory" means consumable operating items not intended for retail sale at the Locations as of the Closing Date, excluding any forms.

"Surveys" has the meaning set forth in Section 9.7.

"Tangible Leased Personal Property" has the meaning set forth in Section 1.1(f).

"Tangible Owned Personal Property" has the meaning set forth in Section 1.1(e).

"Tank Fund" has the meaning set forth in Section 9.6(b).

"Tax" or **"Taxes"** means all federal, state, local, foreign and other income, franchise, profits, gross receipts, capital gains, capital stock, employment, disability, transfer, real and personal property, sales, use, registration, customs duties, alternative or add-on minimum, value added, occupation, excise, severance, windfall profits, stamp, license, payroll, social security, withholding and other taxes, assessments, charges, duties, fees or levies of any kind whatsoever (whether payable directly or by withholding and whether or not requiring the filing of a Tax Return) imposed by any Governmental Entity, and all estimated taxes, deficiency assessments, additions to tax, penalties and interest, whether disputed or not, imposed by any Governmental Entity, and shall include any liability for such amounts as a result either of being a member of a combined, consolidated, unitary or affiliated group or of a contractual obligation to indemnify any Person.

"Tax Agency" has the meaning set forth in Section 9.14(e).

"Tax Clearance Certificate" has the meaning set forth in Section 9.14(e).

"Tax Return" means any return, statement, form, declaration, report, disclosure, estimate, claim for refund or information return or statement required to be supplied to a Governmental Entity relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"Tenant Leases" has the meaning set forth in Section 1.1(c).

"Third Party" means a Person that is not a party to this Agreement.

"Title Commitment" has the meaning set forth in Section 9.7.

"Title Company" means Chicago Title Insurance Corporation, or such other qualified independent title company as may be mutually designated by Sellers and Buyer.

"Title Defect" has the meaning set forth in Section 9.7.

"Title Materials" has the meaning set forth in Section 9.7.

"Title Review Date" has the meaning set forth in Section 9.7.

"Total Consideration" has the meaning set forth in Section 2.1.

"Treasury Regulations" means those regulations promulgated under the Code, as currently in effect, and as modified and clarified by amendment or successor regulation.

"Transaction" has the meaning set forth in Section 1.2(n).

"Transferred Deposits" has the meaning set forth in Section 1.1(b).

"Updated Commitments" has the meaning set forth in Section 9.7.

"Updated Schedules" has the meaning in Section 9.13(a).

"UST Systems" has the meaning set forth in Section 6.10(e).

"USTIF" has the meaning set forth in Section 9.6(b).

EXHIBIT D

FORM OF SITE ACCESS AGREEMENT

WHEREAS, Tri-State Petroleum Corporation, a West Virginia corporation, and Convenience Realty LP a West Virginia Limited Partnership (the "TSP Entities") occupied each of the properties described in the attached Exhibit 1 (the "Locations") which Locations are currently owned by _____ ("Owner");

WHEREAS, the TSP Entities are conducting Remedial Measures as such term is defined in that certain Asset Purchase Agreement dated _____ 2021 between the TSP Entities and Owner (the "APA");

WHEREAS, Owner is willing to grant TSP Entities the right of access to the Locations to conduct Remedial Measures as provided in the APA.

NOW THEREFORE, in consideration of the mutual benefits to the parties, Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner grants to TSP Entities the right to access the Locations ("Access Rights") on the following terms and conditions:

1. Term.

a. TSP Entities shall have Access Rights over the entirety of all Locations to the extent reasonably needed to complete the work contemplated by the APA. This Site Access Agreement shall continue until the later of:

- (i) completion of the Remedial Measures pursuant to applicable environmental laws and regulations;
- (ii) some other time mutually agreed to by the parties; or
- (iii) five (5) years from the effective date of this Site Access Agreement.

b. Owner agrees that any lease, sublease, conveyance or the like to a third party will specifically recognize the existence of this Site Access Agreement. Upon termination of the Access Rights in accordance with the above provisions and the APA, the applicable members of the TSP Entities will execute a termination of this Agreement in recordable form if Owner so requests in writing.

2. Scope of Work. Owner agrees that TSP Entities and its consultants and contractors may carry out any activity deemed appropriate to conduct the Remedial Measures at TSP Entities' sole cost and expense and that TSP Entities may investigate, assess and/or remediate and install, maintain and monitor environmental remediation units (including without limitation, monitoring and recovery wells and groundwater remediation systems) on or under the Locations. Owner agrees to be responsible and reimburse TSP Entities for any damage that Owner, its employees, agents, lessors, successors, assigns or contractors cause to the TSP Entities' environmental investigation or remediation units and associated

equipment ("TSP Equipment"). Owner is not responsible for damage to TSP Equipment caused by invitees, customers or the public, and TSP Entities is responsible to properly secure the TSP Equipment. Remedial Measures have the same meaning as contained in the APA. Anything in the APA or this Agreement to the contrary notwithstanding, Owner agrees at Owner's sole cost and expense, to provide the TSP Entities and its consultants and contractors with reasonable access to and use of all utilities, water and sewer required to conduct the Remedial Measures.

3. **Notice.** TSP Entities agree to notify Owner at least five (5) working days in advance of planned activities on the Locations in accordance with Section 10 below.
4. **Documents.** TSP Entities will provide Owner with copies of any correspondence, reports or any other documents pertaining to the Remedial Measures and submitted by TSP Entities to the applicable governmental authority, within fourteen (14) days of submission by TSP Entities.
5. **Interference with Operations.** TSP Entities and its environmental consultants and contractors in exercising the rights granted hereunder shall act reasonably and minimize to the extent possible any interference with Owner's operations and, in any event shall not unreasonably interfere with Owner's access or use of the Locations.
6. **Quality of Work.** The Remedial Measures shall be performed in a workmanlike manner and appurtenances maintained in good condition and repair. TSP Entities shall in good faith complete the Remedial Measures within a reasonable time period pursuant to applicable environmental laws and regulations.
7. **Confidentiality.** Each party hereby agrees that, except for required submissions to the relevant governmental authorities, it will keep the results of Remedial Measures confidential, and that neither it nor any of those acting on its behalf or following its instructions, or performing any Remedial Measures, will divulge such information to any third party unless required to do so by law or after having obtained the prior written approval of the other party, provided however that the results of the Remedial Measures may be disclosed by Owner to its lenders to the extent that the lenders require such disclosure.
8. **Compliance With Laws.** In connection with conducting Remedial Measures on the Locations, including the disposition of any wastes generated in connection therewith, TSP Entities shall comply at its cost with all laws, ordinances, orders, rules, regulations, and requirements of all federal, state, county, and municipal governments, including all administrative agencies thereof.
9. **Notification Requirements.** Prior to the start of the Remedial Measures, TSP Entities shall notify Owner in writing (using the "Notification of Consultant for Site Access Agreement" form attached as Exhibit 2) of the name, address and contact of TSP Entities' environmental consultants, contractors and subcontractors who will conduct work on the Locations. If TSP Entities changes environmental consultants during the term of this Site Access Agreement, TSP Entities shall provide Owner advance written notice of such

change and shall include the name, address and contact of such new environmental consultant.

10. **Restoration of Locations.** As soon as is practicable, but in no event longer than sixty (60) days, after the conclusion of the Remedial Measures, TSP Entities at its sole cost and expense will restore the Locations, including Owner's personal property, affected or damaged by the Remedial Measures, to as close to its condition existing at the time such work began as is reasonably possible. This Section 11 shall survive the termination of this Site Access Agreement.
11. **Claims and Indemnification.**
 - a. For purposes of this Site Access Agreement, "Claim(s)" means claims, demands and causes of action asserted by any person (including Owner's, TSP Entities, and TSP Entities' environmental consultants' employees or any other third party) for personal injury or death or for loss of or damage to property arising from Remedial Measures undertaken pursuant to this Site Access Agreement.
 - b. TSP Entities shall indemnify, defend and hold harmless Owner from Claims asserted against Owner, including without limitation, reasonable attorneys' fees, for claims arising out of or in connection with TSP Entities or TSP Entities' environmental consultants' performance of the Remedial Measures. Where Claims result from the joint negligence or willful misconduct of Owner, TSP Entities' duty of indemnity shall be in proportion to TSP Entities' and its environmental consultants' allocable share of joint negligence or willful misconduct.
12. **Notice of Claims.** The indemnity described in Section 11 above is subject to Owner providing written notice to TSP Entities within one hundred twenty (120) days of the date after Owner receives an initial notice or has actual knowledge of a Claim. The foregoing notice provision shall not cause TSP Entities to suffer material prejudice to its defense. Until such time that Owner provides TSP Entities with said notice, Owner shall take all steps necessary to defend the Claim and to prevent prejudice to the defense and/or TSP Entities. In addition, Owner shall fully cooperate with TSP Entities in the investigation and defense of such Claims. TSP Entities' selection of counsel to represent Owner in the defense of any such Claim shall be subject to Owner's approval, which approval shall not be unreasonably withheld.
13. **Insurance.** TSP Entities and its environmental consultants shall maintain at least the following insurance, with limits of liability no less than those stated below, while performing the Remedial Measures:
 - a. **Comprehensive General Liability:** Combined single limit for bodily injury and property damage of not less than \$1,000,000.00 each occurrence and \$2,000,000.00 annual aggregate.
 - b. **Worker's Compensation Insurance and Employer's Liability Insurance:** With limits of liability not less than those required by law.

- c. Alternatively, TSP Entities may provide a program of self-insurance for itself and require that its consultants and contractors maintain the levels of insurance specified in subparagraphs (a)-(b). If TSP Entities opts to self-insure, TSP Entities shall provide Owner with a letter of self-insurance within thirty (30) calendar days of the effective date of this Site Access Agreement or prior to any work beginning on the Locations, whichever is earlier.

14. **Scope of Access Rights.** The Access Rights granted herein by Owner extend only to that access required to carry out the obligations imposed upon TSP Entities under the APA. Owner's consent must be obtained for access to the Locations for any other reason.

15. **Miscellaneous.**

- a. No provision under this Site Access Agreement nor any actions under or by reason of this Site Access Agreement shall in any action, proceeding or litigation operate or be construed as an admission by TSP Entities or Owner or any other party of any violation of law or regulation, any liability, fault, or past or present wrongdoing, or any breach of duty at any time.
- b. All notices desired or required to be given hereunder shall be in writing and shall be given: (i) next day express courier, or (ii) by certified mail, return receipt requested, postage prepaid, or by facsimile (with a copy sent by U.S. mail or next day courier), addressed as follows:

If to TSP Entities: Tri-State Petroleum Corporation
P.O. Box 4006
Wheeling, WV 26003
Attn: Colleen C. McGlinn
Email: pcmcglinn@msn.com

If to Owner: Majors Management, LLC
P.O. Box 1565
Lawrenceville, GA 30046
Attention: Benjamin Smith
Telephone number: (770) 338-2620
Email: Ben@majorsmgmt.com

- c. If any part of this Site Access Agreement is for any reason found to be unenforceable, all other portions nevertheless remain enforceable.
- d. The waiver of any breach or any term or condition of this Site Access Agreement does not waive any other breach of that term or condition or of any other term or condition.
- e. This Site Access Agreement must be construed, and its performance enforced, under the law of the Commonwealth of Pennsylvania.

- f. This Site Access Agreement, executed in duplicate originals, shall be effective on the date last written below.
- g. The provisions of this Site Access Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successors or assigns.
- h. Each person executing this Site Access Agreement represents that the party on whose behalf the person is executing this Site Access Agreement has duly authorized the execution of this Site Access Agreement and that such person is authorized to execute the Site Access Agreement on behalf of such party.
- i. If there is any conflict between any provision of this Site Access Agreement and any provision of the APA executed between TSP Entities and Owner of even date herewith, the provision of the APA will govern.

MAJORS MANAGEMENT, LLC

By: _____
Name: _____
Title: _____

**TSP ENTITIES:
Tri-State Petroleum Corporation**

By: _____
Colleen C. McGlinn, CEO

Convenience Realty LP

By: Tri-State Petroleum Corporation, its general partner

By: _____
Colleen C. McGlinn, CEO

EXHIBIT 1 TO SITE ACCESS AGREEMENT

Locations

EXHIBIT 2 TO SITE ACCESS AGREEMENT

**NOTIFICATION OF CONSULTANT
FOR SITE ACCESS AGREEMENT**

Please refer to the Site Access Agreement ("Agreement") executed by Tri-State Petroleum Corporation, a West Virginia corporation, and Convenience Realty LP a West Virginia Limited Partnership ("TSP Entities"), part of the TSP Entities (as defined in the Agreement), and Majors Management, LLC, a Georgia limited liability company ("Owner"). Under the terms of the Agreement for the purposes of conducting an environmental investigation, Owner grants TSP Entities and/or TSP Entities' environmental consultant access to the Locations (as defined in the Agreement) to perform environmental investigations.

Pursuant to Section 10 of said Agreement, please be advised that, for the period starting on the ____ day of _____, 20__, TSP Entities' environmental consultant(s) ("Consultant") shall be:

Consultant :

Contact :

By their signatures below, TSP Entities and its Consultant acknowledge that the Consultant has been provided with a copy of the Agreement and agrees to perform the work that is the subject of said Agreement according to the terms specified therein.

TSP ENTITIES:

Tri-State Petroleum Corporation

Date

By: _____
Colleen C. McGinn, CEO

Convenience Realty LP

By: **Tri-State Petroleum Corporation,
its general partner**

Date

By: _____
Colleen C. McGinn, CEO

CONSULTANT:

Date

By: _____

Name: _____

Title: _____

Notice Received by:

Date: _____

Name: _____

Title: _____

SCHEDULE 1 TO SITE ACCESS AGREEMENT

Locations

| Owned Locations | | | |
|-------------------------|------------------------|----------------------|--------------|
| Store # | Address | City | State |
| 102 | 2060 National Rd | Wheeling | WV |
| 201 | 956 Greentree Rd | Pittsburgh | PA |
| 202 | 2699 Mossie Blvd | Monroeville | PA |
| 203 | Rt. 50 & Greentree | Heidelberg | PA |
| 204 | 831 National Rd | Wheeling | WV |
| 213 | 150 Route 30 | Oakdale | PA |
| 214 | 214 Underwood St | Zanesville | OH |
| 215 | 1100 First Ave | Conway | PA |
| 216 | 2603 Constitution Blvd | Beaver Falls | PA |
| 221 | 100 E 7th Ave | Tarentum | PA |
| 222 | 2601 Freeport | Harmarville | PA |
| 223 | 6680 Frankstown Ave | Pittsburgh | PA |
| 224 | 4010 Penn Ave | Pittsburgh | PA |
| 809 | 3775 Main St | Weirton | WV |
| 810 | 3700 Penn Ave | Weirton | WV |
| 811 | 2110 Warwood Ave | Wheeling | WV |
| 812 | 725 Commerce | Wellsburg | WV |
| 814 | #2 Chapel | Wheeling | WV |
| 815 | 1243 National Rd | Wheeling | WV |
| 816 | 200 Jefferson Ave | Moundsville | WV |
| 818 | 201 South Main St | Woodsfield | OH |
| Leased Locations | | | |
| Store # | Address | City | State |
| 211 | 461 Race Track Road | N. Strabane Township | PA |
| 820 | 160 North Lafayette St | Moundsville | WV |
| 821 | 2180 E. Wheeling Ave | Cambridge | OH |
| 822 | 1101 Gilman St | Marietta | OH |
| Bulk Plants | | | |
| Site # | Address | City | State |
| 301 | 2627 Vance Ave | Wheeling | WV |
| 302 | 98 S. Main Street | New Martinsville | WV |

EXHIBIT E
DISCLOSURE SCHEDULES
TO THE
ASSET PURCHASE AGREEMENT

The following are the disclosure schedules (each a "Schedule" and collectively, the "Schedules") of THIS ASSET PURCHASE AGREEMENT (the "Agreement") which is made and entered into effective as of this _____ day of _____, 2021 (the "Effective Date"), by and between TRI-STATE PETROLEUM CORPORATION, a West Virginia corporation ("Tri-State") and, together with CONVENIENCE REALTY LP, a West Virginia corporation, and UNDERWOOD LIMITED PARTNERSHIP, an Ohio limited partnership, sometimes hereinafter referred to individually, a "Seller" and collectively, the "Sellers") and MAJORS MANAGEMENT, LLC, a Georgia limited liability company ("Buyer"). Each of the Sellers and Buyer is referred to herein individually as a "Party" and collectively as the "Parties." Capitalized terms used but not defined herein shall have the same meanings given them in the Agreement.

The headings contained in these Schedules are for the convenience of reference only and shall not be deemed to modify or influence the interpretation of the Agreement or the information contained in these Schedules. No reference to or disclosure of any item or other matter in these Schedules (i) shall be construed as an admission or indication that such item or other matter is material (nor shall it establish a standard of materiality for any purpose whatsoever) or that such item or other matter is required to be referred to or disclosed in these Schedules or (ii) relating to any possible breach or violation of any contract or any law, regulation, order or similar legal requirement will be construed as an admission or indication that any breach or violation exists or has actually occurred. The information set forth in these Schedules is disclosed solely for the purposes of the Agreement.

These Schedules are qualified in their entirety by reference to specific provisions of the Agreement, and are not intended to constitute, and shall not be construed as constituting, representations or warranties of any Party except to the extent provided in the Agreement, and shall not be deemed to expand the scope or effect of the relevant party's representations or warranties in the Agreement or create any covenant, except to the extent provided in the Agreement. Any information set forth in any schedule of these Schedules conclusively shall be deemed to be disclosed and incorporated by reference in each of the other schedules of these Schedules to which its relevance is apparent on the face of such disclosure, as though fully set forth in such other schedules (whether or not specific cross-references are made).

The attachments to these Schedules form an integral part of these Schedules and are incorporated by reference for purposes as if set forth fully herein. The contents of any document referred to in a Disclosure Schedule are incorporated by reference into such Disclosure Schedule as though fully set forth in such Disclosure Schedule, in each case to the extent that a copy of such document has been made available to Buyer in the data room established for this transaction.

Schedule 1.1
Buyer Party By Assets

| ASSETS | BUYER |
|---|--|
| Purchased Owned Real Properties | MM PA PROPERTIES, LLC for all Purchased Owned Real Properties except the bulk plants to be conveyed to MM BP PROPERTIES, LLC |
| Purchased Leases | MM PA PROPERTIES, LLC |
| Tenant Leases | MM PA PROPERTIES, LLC |
| Fuel Inventory | MM PA MANAGEMENT, LLC |
| Other Inventory | MM PA MANAGEMENT, LLC |
| Owned Personal Property | MM PA PROPERTIES, LLC |
| Tangible Leased Personal Property | MM PA PROPERTIES, LLC |
| Owned Fuel Equipment | MM PA PROPERTIES, LLC |
| Transferred Deposits | MM PA PROPERTIES, LLC |
| Books and Records | MM PA PROPERTIES, LLC |
| Contracts (excluding Fuel Supply Agreement) | MM PA MANAGEMENT, LLC |
| Fuel Supply Agreement | EXCELL PETROLEUM, LLC |
| IP | MAJORS MANAGEMENT, LLC |
| Goodwill | MM PA PROPERTIES, LLC |

Schedule 1.1(a)
Owned Locations

OWNED LOCATIONS

| Store # | Address | City | State |
|---------|------------------------|--------------|-------|
| 102 | 2060 National Rd | Wheeling | WV |
| 201 | 956 Greentree Rd | Pittsburgh | PA |
| 202 | 2699 Mosside Blvd | Monroeville | PA |
| 203 | Rt. 50 & Greentree | Heidelberg | PA |
| 204 | 831 National Rd | Wheeling | WV |
| 213 | 150 Route 30 | Calcdale | PA |
| 214 | 214 Underwood St | Zanesville | OH |
| 215 | 1100 First Ave | Conway | PA |
| 216 | 2603 Constitution Blvd | Beaver Falls | PA |
| 221 | 100 E 7th Ave | Taranna | PA |
| 222 | 2601 Freepart | Harmarville | PA |
| 223 | 6680 Frankstown Ave | Pittsburgh | PA |
| 224 | 4010 Penn Ave | Pittsburgh | PA |
| 809 | 3775 Main St | Weirton | WV |
| 810 | 3700 Penn Ave | Weirton | WV |
| 811 | 2110 Warwood Ave | Wheeling | WV |
| 812 | 725 Commerce | Wellsturg | WV |
| 814 | #2 Chapel | Wheeling | WV |
| 815 | 1243 National Rd | Wheeling | WV |
| 816 | 200 Jefferson Ave | Moundsville | WV |
| 818 | 201 South Main St | Woodsfield | OH |

BULK PLANTS

| Site # | Address | City | State |
|--------|----------------|------------------|-------|
| 301 | 2664 Vance Ave | Wheeling | WV |
| 302 | Main Street | New Martinsville | WV |

Schedule 1.1(b)
Leased Locations

LEASED LOCATIONS

| Store # | Address | City | State |
|---------|------------------------|----------------------|-------|
| 211 | 461 Race Truck Road | N. Strabane Township | PA |
| 820 | 160 North Lafayette St | Moundsville | WV |
| 821 | 2180 E. Wheeling Ave | Cambridge | OH |
| 822 | 1101 Gilman St | Marietta | OH |

Schedule 6.10

Known Pollution

| Location No. | Address | Site ID # | Pollution/Event/Leak No. | USTIF Coverage % | Source of Estimate | Estimated Cost Remaining to Achieve NFA according to current RCAP? | USTIF Budget | Other Insurance | Tri-State Budget | USTIF Coverage Units | Amount Spent to Date | Amount Available to Complete | Deductible amount |
|--------------|--|--|--------------------------|------------------|------------------------------|--|--------------|-----------------|------------------|-------------------------------|------------------------------|------------------------------|-------------------|
| 202 | 2699 Mosside Drive Monroeville, PA. | PA UST Site ID # S15133 | 02-R037 | 100 | Seller and Seller Consultant | \$2,500.00 | \$2,500.00 | \$0.00 | \$0.00 | USTIF # 2002-0187 \$1,500,000 | As of 6.16.21 \$1,094,103.39 | \$408,893 | \$0. |
| 202 | 2699 Mosside Drive Monroeville, PA. (New Clinic) | PA UST Site ID # S15133 | PA UST Facility # 577139 | 100 | Seller and Seller Consultant | \$50,000.00 | \$50,000.00 | \$8.00 | \$0.00 | USTIF # 2017-0030 \$1,500,000 | As of 6.16.21 \$63,613.38 | \$1,436,387 | \$0. |
| 216 | 2693 Constitution Blvd, Beaver Falls, PA | PA UST Facility ID # S15101 | PA UST Facility #578769 | N/A | Seller and Seller Consultant | \$15,000.00 | \$0.00 | \$0.00 | \$15,000.00 | NA | NA | NA | \$0. |
| 224 | 4810 Penn Avenue Pittsburgh, PA | PA UST Site ID # S15052 | PA UST Site # 575613 | N/A | Seller and Seller Consultant | \$50,000.00 | \$0.00 | \$0.00 | \$50,000.00 | NA | NA | NA | \$0. |
| 204 | 831 National Road Wheeling, WV | WV UST Facility # 3504250 and EPA ID # UC05720976 | Leak # 02-009 | N/A | Seller and Seller Consultant | \$95,000 | NA | \$0 | \$95,000 | NA | NA | NA | \$0. |
| 301 | 2627 Vance Ave Wheeling WV | WV Facility ID # A100406142 | WV DEP Claim # 15-20401 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| 303 | 98 South Main Street New Martinsville, WV (VRP) | WV UST Site ID: S205814 and other ID # 1037-06-183 | 93-287 and VRP # 13681 | N/A | Seller and Seller Consultant | \$65,000 | NA | \$65,000 | \$0 | 3rd Party Insurance | NA | NA | \$0. |
| 812 | 725 Commerce Street Wellisburg, WV | WV UST Facility ID # 0560287 | 17-019 | N/A | Seller and Seller Consultant | \$100,000 | NA | \$100,000 | \$0 | 3rd Party Insurance | NA | NA | \$0. |

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| 816 | 200 Jefferson Street, Moundsville, WV | WVUST Facility ID # 2602343 | WV Lien Leak# 15- .009 and SPILLIS-ID #26-25187 | N/A | Seller and Seller- Consultant | \$100,000 | NA | NA | \$100,000 | NA | NA | NA | \$0 |
| Dealer Site # | 64516 and 64510 Wintersgrove Road, Old Washington, OH | UST Facility ID # 30090049 | Release # 30000275- 200002 and -N00003 | N/A | Seller and Seller- Consultant | \$20,000 | NA | NA | \$20,000 | NA | NA | NA | \$0 |

Total
Budget

\$497,500.00 \$52,500.00 \$165,000.00 \$260,000.00
\$477,500.00

Note: Estimator based
on Seller cost
estimates as of
8/5/2021.

Schedule 9.6(a)
Closure Letter Locations

| Location No. | Address | Site ID # | Pollution/Event/Leak No. for which a NFA, statement of cleanup completion, or other permit has been issued |
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| 102 | 2060 National Road, Wheeling, WV | WV LUST Facility ID # 3504349, EPA ID # 1J003770075 | Leak ID #91-9931-L35-Leak Number 91-9931-L35 was confirmed on November 21, 1991. The USTs were subsequently removed on September 27, 1993. The release reportedly impacted groundwater at the Subject Property. Based on available regulatory information from the West Virginia Department of Environmental Protection (WVDEP) LUST database, the status of this release was reported as "Cleanup was completed on June 11, 2007." |
| 201 | 956 Greentree Rd, Pittsburgh, PA | Facility ID # 02-07089 | A release of gasoline-related constituents was discovered during a 2002 subsurface investigation. The subsurface investigation was conducted as the result of a divestment activities performed by Exxon. According to information found in the PADEP leaking underground storage tank database, the release was remediated to the satisfaction of the PADEP on September 18, 2007. A relief of liability was granted in 2007 through PADEP's Acc2 program under Statewide Health Standards. |
| 202 | 3699 Mosside Drive Monroeville, PA | PA UST Site ID # 515133 | None. |
| 202 | 3699 Mosside Drive Monroeville, PA (New Claim) | PA UST Site ID # 515133 and Other ID # 02-06837 | None. |

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| 203 | 2022 Washington Pike, Heidelberg, PA | PA UST and PA ARCHIVE UST Site ID # 515142 and Other ID # 02-06837 | PA LUST Site ID 515142. Incident ID # 19314- listing is the result of a December 1, 1997 release of gasoline constituents to the groundwater that has since been remediated and its status is now classified as "Cleanup Completed." The cleanup date is reported as December 19, 2006. The release was remediated to the satisfaction of the PADEP, and a release of liability was granted in 2006 through PADEP's Act 2 Program. (See pages 159-160 of the Envirotrack Phase I dated August 2021 for copies of DEP Data Base statement of record.) |
| 204 | 431 National Road Wheeling, WV | WV UST Facility # 3504250 and EPA ID # U003770076, WV RGA LUST EPA # 5116368855 and 5116367914 | Leak # 19-106. NPA issued June 29, 1999-This Location previously had an open release of gasoline constituents in groundwater dating back to 1989 that has received a No Further Action designation from the WVDEP on June 29, 1999. (Note: A second leak is part of Known Contamination at this Location. Leak # 02-009-On February 13, 2002. The release impacted groundwater at the Property.) |
| 211 | 461 Racetrack Road, Washington, PA | PA SITE ID # 623196 and Other ID # 63- 38775 | Facility ID # 642426 and other ID # 781088 listing five environmental health and safety violations issued during a facility inspection. All violations were corrected/abated. |
| 213 | 150 U.S. Route 30, Imperial, PA | PA UST Site ID # 515046 and other ID # 02-06783 | PA EFACTS Env Remediation and PA LUST. In 1989 a release of gasoline-related constituents was discovered in soil and groundwater at the Location. Soil and groundwater investigation/remediation was conducted in subsequent years. The release was remediated to the satisfaction of the PADEP, and a relief of liability (ROL) was granted on April 26, 2002 through PADEP's Act 2 program. |

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| LJP 214 | 214 Underwood Street, Zanesville OH | OH UST Facility # 60002017 | <p>The LUST listing is the result of two identified release numbers: 60002017-N00001 and -N00002. The 60002017-N00001 listing is the result of a line closure for replacement in 2009. Status is listed as No Further Action (NFA) required. The second listing (60002017-N00002) is the result of a bad shear valve failure in the containment sump of Dispenser 9/10 that would not close. The shear valve was replaced on April 30, 2019. On December 11, 2019, line and leak detector testing was performed on the UST system product lines with a passing result. On April 2, 2020, a letter from the Ohio Department of Commerce indicated that the Sheer Valve Replacement Form, completed on April 30, 2019, meets the requirements of Ohio Administrative Code 1301.7-9-12(D)(d) and no additional closure assessment activities will be required. Spill # 0210-60-3888 was an overfill of 23 gallons. No further investigation was necessary.</p> |
| 215 | 1100 First Avenue, Conway, PA | PA UST Site ID # S15102 and Other ID 04-06840 | <p>The PA EFACTS Env. Remediation, PA HIST SPILLS and PA LUST database listings are related to a confirmed release that was identified on February 12, 2002, during a Phase II investigation performed as part of property divestment activities. The release of petroleum products impacted groundwater beneath the Property. The release was remediated to the satisfaction of the Pennsylvania Department of Environmental Protection (PADEP) in 2013. A relief of liability was granted on August 30, 2013 through PADEP's Act 2 program.</p> |

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| 216 | 2603 Constitution Blvd. Beaver Falls, PA | PA UST Facility ID # 515101 | <p>PA LUST Facility #578769 and Other ID # 04-06969-A release of gasoline-related constituents was originally discovered in 1972. Various site characterization and remediation activities have been performed at the site since a release from the original UST system in 1972, as documented by Exxon. The original steel UST system was replaced by the current fiberglass USTs in 1980. Through a combination of statewide health standard generation, site-specific standard generation, pathway elimination and monitored natural attenuation, the Property was remediated to the satisfaction of the Pennsylvania Department of Environmental Protection (PADEP) and a relief of liability was granted in August 2006 through PADEP's Act 2 program and is currently in Post Remediation Care monitoring activities. EPA AAI indicates status of Location as being "Cleanup Completed" as of December 22, 2006. (See pages 401-403 of August 2021 Phase I report prepared by Environac.)</p> <p>(Note: Conditions or ROL: Quarterly groundwater is on-going. All constituents except for methyl-tert-butyl-ethene (MTBE) in one well exhibit concentrations below applicable medium specific concentrations for groundwater at non-residential sites.)</p> |
| 221 | 100 East 7th Street, Titusville, PA | PA IST Site ID # 515061 and Other ID # 02-80752 | <p>A release of gasoline-related constituents was discovered during a 2002 subsurface investigation. The subsurface investigation was conducted as the result of divestment activities performed by Exxon, the previous Property owner. No additional releases have been reported since that time. The Property has achieved eight straight quarters of clean groundwater sampling. In December 2016, a SCR/RAP/RACR was submitted to the PADEP for ROL of all previous impacts to Property groundwater. The SCR/RAP/RACR demonstrating attainment of SHS standards was approved by PADEP on April 26, 2017. A request for closure has been submitted to and accepted by PADEP.</p> |

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| 222 | 2601 Freeport Road, Harris Township, PA | Facility ID # 02-06972 | A release of gasoline constituents was discovered during Exxon-led divestment activities in February 2002. Over the course of the next few years, soil and groundwater investigation/remediation were conducted. On September 10, 2007, the release at the Location was granted a relief of liability (ROL) from PADEP Act 2 program for all previous impacts to the Location soil and groundwater. A PRCP was implemented and the PRCP remedial goals were satisfied in 2012. EPA database indicates status of Location as being "Cleanup Completed" as of September 10, 2007. |
| 223 | 6680 Frankstown Road, Pittsburgh, PA | PA UST Site ID # 515059 and Other ID # - 02-06891 | Leak # PA LUST Facility ID # 515621 - A release of gasoline-related constituents was discovered during a 1989 subsurface investigation conducted by Exxon as part of a Level 1 Site Assessment, prior to station building demolition and rebuild. The release was remediated to the satisfaction of the PADEP in 2007. A relief of liability letter was granted February 9, 2007 through PADEP's Act 2 program. EPA database indicates status of Location as being "Cleanup Completed" as of February 9, 2007. |
| 224 | 4010 Penn Avenue Pittsburgh, PA | PA UST Site ID # 515052 and Other ID # 02-06784 | On November 13, 2018 four dispensers were removed from this Location. A closure report was submitted to PADEP. On November 13, 2018 the PADEP determined no further action was required. (Note: A second leak is part of Known Contamination at this Location. Leak / Incident #18155 - Leak occurred in 1989. The Location status is classified as "Interim or Remedial Actions Initiated") |
| 301 | 2627 Vance Avenue, Wheeling, WV | WV AST ID # A100406142, and # 504 | None. |
| 302 | 98 South Main Street New Martinsville, WV | WV AST Site ID # 515102, 04-06840 | None. |

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| 809 | 3775 Main Street, Weirton, WV | WV UST Site ID # 0500386 and 0500387 and EPA ID # U003439036 | None. |
| 810 | 3700 Pennsylvania Ave, Weirton, WV | WV UST Site #1501382 | No Leak No, but there is record of 1997 WVDEP Correspondence – letter from Ms. Patty Hickman, Environmental Inspector for the UST Section dated January 3, 1997 granting BP a No Further Action. At This Time determination. This letter also states that based on the Waste Oil Tank Closure report and the Phase I Site Assessment "there is no evidence of contamination at the site at the time BP sold it to Interstate Petroleum". No leak number was ever issued for this site. |
| 811 | 2110 Warwood Avenue, Wheeling, WV | WV UST Site # 3504914 and WV RGA ID #S115458497 and WV LUST # U003071983 | Leak #93-024-During 1992 and 1994 subsurface investigations conducted by BP Oil impacts to soil groundwater were discovered. According to the WVDEP Review of Confirmed Release Report dated February 9, 1995 reviewed by Enviro-Trac, a no further action determination was granted to the property with respect to the 1992 release. No other conditions were imposed on the NFA determination. |
| 812 | 725 Commerce Street Weillsburg, WV | WV UST Facility ID # 0500387 | Leak # 93-023-The Location previously had an open release of gasoline constituents in groundwater dating back to 1993 that has received a No Further Action designation on July 3, 2017. (Note: A second leak is part of Known Contamination at this Location. Leak No. 17-019-a spike in the benzene levels found in samples collected from MW-9 in the central portion of this Location resulted in a Confirmed Release Notice to Comply dated March 31, 2017.) |

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| 814 | 2 Chapel Road, Wheeling, WV | WV UST Facility # 3504315 | <p>Leak number: 87-017 -- A release was identified on April 29, 1987, and cleanup was immediately initiated according to the listing. The cleanup was completed on December 16, 1996. This leak number was assigned a no further action on December 23, 1996. Leak number: 02-076 -- In July 2002, groundwater was determined to be impacted, and Leak No. 02-076 was assigned to this location. After further investigation of soil and groundwater, the cleanup was completed on March 8, 2007. This Location was granted a no further action status for Leak No. 02-076 on March 12, 2007. Leak number: 18-018 -- A release was identified on August 27, 2018, and cleanup was immediately initiated according to the listing. The cleanup was completed on August 1, 2019. No further action was issued for Leak # 18-018 as of August 1, 2019.</p> |
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| 815 | 1243 National Road, Wheeling, WV | WV UST Facility ID # 3504313, EPA ID # U001033235 | <p>Leak # 92-301-L35-On August 23 and 24, 1992, two soil borings and three groundwater monitor wells were installed as part of a site assessment. A release was confirmed on December 18, 1992. A Review of Confirmed Release Report dated February 8, 1996, indicates that the cleanup was completed for the groundwater impacts identified during the August 1992 site assessment. A No Further Action report was issued by the WVDEP on January 30, 1996. On July 29, 1999, a 1,000-gallon waste oil UST was removed from this Location. Soil laboratory analytical data reported constituent concentrations as non-detect or below respective WVDEP Cleanup levels. Consequently, a WVDEP letter dated January 23, 2005, stated that no further action (NFA) was required relating to the 1999 UST closure. Leak # 17-002-A Confirmed Release Notice to Comply letter issued by WVDEP dated January 6, 2017, indicated that a release from a regulated storage tank had occurred at this Location (Leak # 17-002). In December 2017, the USTs were removed and replaced, the required confirmatory soil samples were collected, and based on the results of the confirmatory soil samples, a closure request was made to WVDEP on March 5, 2018. An NFA determination was made by WVDEP for Leak No. 17-002 and issued by WVDEP on March 8, 2018.</p> |
| 816 | 200 Jefferson Street Moundsville, WV | WV UST facility ID # 2-603343 | <p>Leak # 92-204-L26-The Subject Property previously had an open release of gasoline constituents in groundwater dating back to 1992, Leak No. 92-204-L26, that has received a No Further Action designation on April 1, 2019 with no conditions. (Note: A second leak is part of Known Contamination at this Location. Leak No 15-009 remains an active LUST case.)</p> |

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| 818 | 201 S. Main Street, Woodsfield OH | OH UST Site ID # 56000071 and the OH Archive UST ID # 56000071, and OH LUST Site ID # 56000071-N00001, and RGA LUST Facility #02-006437 | BUSTR Incident #56000071-N00001-A release of gasoline-related constituents to soil and groundwater was discovered on December, 1994. Over the course of the next 12 years, soil and groundwater investigation/remediation activities were conducted. A no further action letter was received from BUSTR on July 13, 2016. In 2012 a waste oil tank was closed. A no further action letter was issued by BUSTR on July 16, 2012 regarding the tank closure. |
| 820 | 150/160 North Lafayette Street, Moundsville WV | WV Facility # 2608688 | None. |
| 821 | 2180 East Wheeling Avenue, Cambridge, OH | OH UST Facility # 30009167 | None. |
| 822 | 1101 Gilman Street, Marietta, OH | OH UST Facility #84009880 | None. |

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| <p>Dealer Site #</p> | <p>64516 and 64510 Wintergreen Road, Old Washington, OH</p> | <p>UST Facility ID # 3000049</p> | <p>Release 30005115-N00001 and 30005115-N00002 at 2343 E. Wheeling Ave for which an NFA was issued September 6, 2017. Two former release numbers were identified with Parcel ID 480000261000 (Kaplot's Marathon). Release No. 30000049-N00001 was associated with the closure a 1,000-gallon Used Oil Underground Storage Tank in August 1996. All soil and groundwater closure sampling analytical results were below applicable action levels during the time of closure and the tank owner (The Hartley Company) received a No Further Action (NFA) letter on August 13, 1996. Release No. 30000049-N00002 is associated with the removal of three gasoline USTs at the former Old Washington Shell in August 2001. Three steel USTs were removed, consisting of two 3,000-gallon gasoline USTs and one 4,000-gallon gasoline UST. The owner/operator of the USTs at the time of closure was The Hartley Company. At the time of UST closure activities, 486 yds of contaminated soil were excavated from the UST pit. Subsequent investigations were conducted including BUSTR Tier 1 and Tier 2 investigations to evaluate soil and groundwater. In May 2014, an NFA letter was issued by BUSTR for Release No 30000049-N00002. As part of the NFA, an Environmental Covenant (Appendix A) was placed on the deed for the property for activity and use restrictions, therefore allowing impacted soil and groundwater to remain on-site above certain BUSTR Action Levels. The following activity and land use restrictions were included in the Environmental Covenant.</p> <p>Property is restricted to Non-Residential Use only.</p> <p>No basement or other permanent subsurface or underground structure designed for routine human occupancy is allowed.</p> <p>No person shall extract the groundwater located at or under the property for any purpose, potable or otherwise, except for groundwater investigation or remediation. (Note: A second leak is part of Known Contamination at this Location. Release No. 30000275-N0002.)</p> |
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