

ASSIGNMENT OF LEASE AGREEMENT

and

CONSENT TO ASSIGNMENT

between

THE BOARD OF HARBOR COMMISSIONERS,
CITY OF MILWAUKEE

and

NUSTAR TERMINALS OPERATIONS
PARTNERSHIP, L.P.

and

INNOVATION FUELS, INC.

For property located at 1626 S. Harbor Drive

Initial Term: August 17, 1990 – August 16, 1995
with four (4) five-year extensions through
August 16, 2015

**ASSIGNMENT OF LEASE AGREEMENT AND
CONSENT TO ASSIGNMENT**

**THIS ASSIGNMENT OF LEASE AGREEMENT AND CONSENT TO
ASSIGNMENT** (This "Assignment") is made and entered into, and is effective as of this _____ day of _____, 20____, with the CITY OF MILWAUKEE, a Wisconsin municipal corporation, by and through its Board of Harbor Commissioners ("Landlord"), NUSTAR TERMINALS OPERATIONS PARTNERSHIP, L.P., (f/k/a Support Terminals Operating Partnership, L.P.) a Delaware Limited Partnership ("Assignor"), and INNOVATION FUELS, INC., A New York Corporation ("Assignee").

RECITALS

A. Assignor currently leases that certain real property and improvements on the South Harbor Tract of the City of Milwaukee (the "Property") pursuant to the terms and conditions contained in that certain Lease Agreement dated as of October 30, 1990, between Landlord, as Landlord, and Assignor, as Tenant (as amended, supplemented or modified from time to time, the "Lease"). A copy of the Lease is attached hereto and made a part hereof as Exhibit A.

B. Assignor presently operates a bulk liquids storage terminal (the "Terminal") on the Property.

C. Assignor and Assignee are parties to that certain Asset Purchase Agreement dated July 18, 2008, (the "Purchase Agreement") pursuant to which, subject to the terms and conditions set forth herein, Assignee will purchase substantially all of Assignor's assets located at the Terminal, including all of Assignor's right, title and interest in, under and to the Lease, and assume certain of Assignor's liabilities in connection with Assignor's operation of the Terminal;

D. Contemporaneous with the closing of the transactions contemplated by the Purchase Agreement, the Landlord, Assignor, and Assignee mutually desire (i) that Assignor assign all of its right, title, and interest in, under and to the Lease to Assignee, and (ii) that Landlord consent to the assignment contemplated hereby, all on the terms and conditions hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the Recitals set forth above, which by reference are made a part of this Assignment, the mutual covenants and agreements set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord, Assignor and Assignee hereto do hereby agree as follows:

1. **Assignment.** Assignor hereby transfers, assigns and sets over to Assignee all of Assignor's right, title and interest in and to the Lease and in and to the Property, except as otherwise expressly provided in Paragraphs 3 and 4 hereafter, effective as of September 30, 2008 (the "Effective Date"). Assignor hereby represents and warrants to Assignee and to Landlord that Assignor is the owner of all right, title and interest of Tenant under the Lease, and has all right, power and authority to assign its right, title and interest in the Lease to Assignee pursuant to this Assignment.

2. **Acceptance of Assignment.** Assignee hereby accepts the Assignment and transfer of the Lease as contemplated by this Assignment, and assumes all of the obligations of Assignor under the Lease arising from and after the Effective Date, except as otherwise expressly provided and in Paragraphs 3 and 4 hereinafter.

3. **Liabilities Retained by Assignor.** Notwithstanding anything in Assignment to the contrary, Assignor acknowledges that it is not assigning to Assignee, and that Assignee is not assuming, any obligation or liability under the Lease arising or accruing prior to the Effective Date. This Assignment shall not operate to relieve Assignor from any of its obligations to Landlord under said Lease arising or accruing prior to the Effective Date.

4. **Representation and Warranties by Landlord and Assignor.** Landlord and Assignor represent and warrant to Assignee that:

a. The Lease is in full force and effect and has not been modified as of the date hereof.

b. Assignor is not in default under the Lease, Assignor has not received any notice of default under the Lease, and, to its best knowledge, there are no events which have occurred that, with the giving of notice or the passage of time or both, would result in a default by Assignor under the Lease.

5. **Assignee's Use of Property**

a. Assignee will utilize the Property for and in conjunction with those business operations specified in Exhibit B attached hereto and made a part hereof.

b. Assignee will construct those improvements upon the Property specified in Exhibit B.

6. **Insurance.** Assignee shall provide Landlord with insurance coverages and limits as specified in Exhibit C attached hereto and made a part thereof. Additionally, the insurance provisions set forth in Exhibit C shall govern throughout the term of this Assignment and shall supersede Section 15 of the Lease.

Such approval is contingent in part upon said Board receiving confirmation prior to approval that Assignee has sufficient insurance coverage (including environmental insurance) in force to satisfy the requirements specified in Exhibit C.

7. **Environmental Compliance & Obligations.**

a. Assignee shall pay for a "baseline" report of the environmental condition of the Property, to be conducted within thirty (30) days following the Effective Date by an environmental consultant selected by Landlord.

b. Assignee's obligations respecting environmental compliance are set forth in Exhibit D, attached hereto and made a part hereof, and which shall govern throughout the term of this Assignment.

8. **Assignment Fee.** Assignee shall make a lump sum payment of \$10,000 to Landlord upon approval of this Assignment by the Board of Harbor Commissioners of the City of Milwaukee.

Alternatively, Assignee can make twelve (12) equal monthly payments of \$833.33 during the first twelve months as Port tenant after the closing of the property sale.

9. **Security Deposit.** Assignee shall, immediately upon approval of this Assignment by the Board of Harbor Commissioners of the City of Milwaukee, deposit with the Landlord, a security deposit in the amount of One Hundred Thousand and 00/100th Dollars (\$100,000) either in cash or as a letter of credit in a form reasonably acceptable to Landlord. This security deposit shall be placed into an interest-bearing escrow account as security for Assignee's performance of its obligations under this Assignment for a period of two years. This deposit shall be returned to the Assignee upon receipt by Landlord of documentation showing that Assignee has completed at least \$2.2 million of the plan improvements to the Property as described in Exhibit B. If the improvements to the Property as enumerated on Exhibit B are not fully completed within two (2) years of the effective date of this Assignment, this security deposit shall be forfeited by Assignee and shall become the property of Landlord.

10. **Term of Assignment; Successor Lease.** This Assignment shall remain effective for the remaining duration of the Lease term, which term shall expire on August 16, 2015. Assignee and Landlord agree to negotiate in good faith with respect to attaining agreement on the terms and conditions of a successor lease, to take effect as of August 17, 2015.

11. **Inspection of Property.** Assignor and Assignee mutually agree to waive their right to a joint inspection of the Property with Landlord. This right is waived on the basis that Assignee is purchasing the assets in "as is" condition as stated in Purchase Agreement.

12. **Indemnity.** Assignee hereby agrees to indemnify, defend, and hold harmless Assignor from and against any and all losses, costs, claims, or expenses (including reasonable attorney's fees, court costs and ancillary expenses) arising out of any obligation or liability of Assignee as the Tenant under the Lease arising or accruing on or after the Effective Date.

13. **Notices.** Whenever in this Assignment it shall be required or permitted that notice be given by any party to any other party, such notice shall be delivered in person or sent by U.S. Certified Mail, postage prepaid, return receipt requested, as follows:

To Assignor:

NuStar Terminals Operations Partnership, L.P.
c/o NuStar Energy, L.P.
2330 North Loop 1604 West
San Antonio, TX 78248
attn: Mr. Winson B. Low, Vice President

To Assignee:

Innovation Fuels, Inc.
1500 Broadway, Ste. 2003
New York, NY 10036
Attn: Mr. John Fox

To Landlord:

Board of Harbor Commissioners
2323 S. Lincoln Memorial Drive
Milwaukee, WI 53207
Attention: Municipal Port Director

If notice is delivered personally, such notice shall be deemed received when received by the party to whom it is directed. If notice is sent by mail as provided above, such notice shall be deemed received three days after mailing.

14. Consent by Landlord.

a) Landlord, upon execution of this Assignment, hereby consents to the making of this Assignment and to all of the terms and conditions hereof, and acknowledges that all conditions required for such consent contained in the Lease have been fulfilled or are hereby waived.

b) Effective as of the Effective Date, Landlord hereby agrees to recognize Assignee as the Tenant under the Lease and thereby establish direct privity of contract with Assignee, and further grants to Assignor a novation in respect of all liabilities and obligations under the Lease arising or accruing on or after the Effective Date.

c) This Assignment remains in effect only if the property sale between the Assignor and Assignee closing occurs on or before September 30, 2008.

15. **Binding Effects.** This Assignment shall be binding upon and inure to the benefit of the successors and assigns of Landlord, Assignor and Assignee.

16. **Headings.** The section headings used herein are inserted for convenience only and shall not affect any way the meaning or interpretation of this Assignment.

17. **Governing Law.** This Assignment shall be governed by, and construed and enforced in accordance with, the laws of the State of Wisconsin, without giving effect to its conflict of laws principles.

18. **Counterparts.** This Assignment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Assignment on the date first above written.

ASSIGNOR:
NUSTAR TERMINALS OPERATIONS
PARTNERSHIP, L.P.

ASSIGNEE:
INNOVATION FUELS, INC.

By _____
Winson B. Low, Vice President

By _____
John Fox, President

LANDLORD:
CITY OF MILWAUKEE

By _____
Its Authorized Signatory

In the Presence of:

CITY OF MILWAUKEE

Tom Barrett, Mayor

Ronald D. Leonhardt, City Clerk

COUNTERSIGNED:

W. Martin Morics, City Comptroller

STATE OF WISCONSIN
MILWAUKEE COUNTY

Personally came before me this _____ day of _____, 20____, Tom Barrett, Mayor of the above-named municipal corporation, who by its authority and on its behalf executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, State of Wisconsin
My Commission _____

STATE OF WISCONSIN
MILWAUKEE COUNTY

Personally came before me this _____ day of _____, 20____, _____, the _____ City Clerk of the above-named municipal corporation, who by its authority and on its behalf executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, State of Wisconsin
My Commission _____

**STATE OF WISCONSIN
MILWAUKEE COUNTY**

Personally came before me this _____ day of _____, 20____,
_____, the _____ City Comptroller of the above-named
municipal corporation, who by its authority and on its behalf executed the foregoing and
acknowledged the same.

NOTARY PUBLIC, State of Wisconsin
My Commission _____

In the Presence of:

**BOARD OF HARBOR
COMMISSIONERS**

(witness signature)

Daniel J. Steininger, President

(witness signature)

Donna Luty, Secretary

**STATE OF WISCONSIN
MILWAUKEE COUNTY**

Personally came before me this _____ day of _____, 20____, Daniel J.
Steininger, President, and Donna Luty, Secretary of the Board of Harbor Commissioners,
who by its authority and on its behalf executed the foregoing instrument and acknowledged
the same.

NOTARY PUBLIC, State of Wisconsin
My Commission Expires _____

**STATE OF TEXAS
BEXAR COUNTY**

Personally came before me this _____ day of _____, 20____,
Winson B. Low, Vice President of NUSTAR TERMINALS OPERATIONS
PARTNERSHIP, L.P., who by its authority and on its behalf executed the foregoing
instrument and acknowledged the same.

NOTARY PUBLIC, State of Texas
My Commission Expires _____

STATE OF NEW YORK
_____ **COUNTY**

Personally came before me this _____ day of _____, 20____, John Fox,
President, of INNOVATION FUELS, INC., who by its authority and on its behalf executed
the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, State of New York
My Commission Expires _____

APPROVED as to Form and Execution this
_____ day of _____, 20____.

Assistant City Attorney

8/6/08
i:sts-innovlseassign08.doc

EXHIBIT A

LEASE AGREEMENT

BETWEEN

1. SUPPORT TERMINAL SERVICES, INC.
& GARLAND MIDDENDORF, Jointly and Severally,
As Tenants in Common

AND THE

BOARD OF HARBOR COMMISSIONERS

CITY OF MILWAUKEE

For lease of approximately 10
acres of real property exclusive
of improvements and equipment thereon
located on the South Harbor Tract.

(INITIAL TERM)

TERM OF LEASE: August 17, 1990
through
August 16, 1995

FOUR EXTENSIONS THROUGH AUGUST 16, 2010⁵

DATE OF AGREEMENT: October 30, 1990

2. Common Council Resolution 910607 approves
Support Terminal Services, Inc. as sole
tenant, adopted 16 July 1991.

Harbor

1139 BB
JDC
7

OFFICE OF THE CITY CLERK
CITY OF MILWAUKEE, WISCONSIN

CERTIFIED COPY OF RESOLUTION

FILE NUMBER: 910607

Resolution approving conveyance of leasehold interest to
Support Terminal Services, Inc.

Resolved, By the Common Council of the City of
Milwaukee, that said Common Council does ratify and
approve conveyance of 50 percent of leasehold interest from
Garland Middendorf to Support Terminals Services, Inc.,
formerly tenants in common under the Lease Agreement dated
30 October 1990, and approving Support Terminal Services,
Inc. as sole tenant thereunder; and, be it

Further Resolved, That this resolution is to be made a
part of the Lease Agreement dated 30 October 1990, by
attachment to the file.

I, RONALD D. LEONHARDT, CITY CLERK, CERTIFY THAT THE
FOREGOING IS A COPY OF A RESOLUTION PASSED
BY THE COMMON COUNCIL OF THE CITY OF MILWAUKEE ON
JULY 16, 1991.

LEASE AGREEMENT

Lease Agreement made as of the 30th day of October, 1990, by and between SUPPORT TERMINAL SERVICES, INC., a Delaware corporation licensed to do business in the State of Wisconsin and GARLAND MIDDENDORF, jointly and severally as tenants-in-common, (hereinafter collectively referred to as the "Tenant"), and the CITY OF MILWAUKEE, a Wisconsin municipal corporation, by and through its Board of Harbor Commissioners (hereinafter collectively referred to as the "City").

W I T N E S S E T H :

City hereby leases, demises and lets unto Tenant the real property comprised of approximately ten (10) acres of real property exclusive of improvements and equipment thereon (hereinafter referred to as the "Property"), located on the South Harbor Tract of the City of Milwaukee. The Property is more particularly described in Exhibit A, which is affixed hereto and incorporated into this document by this reference.

This Lease is entered into by the parties under the following terms and conditions:

1. Term. The term of this Lease shall commence on August 17, 1990, and terminate at 11:59 p.m. on August 16, 1995 (the "Initial Term"); provided, however, that the term of this Lease may be extended as provided in Paragraph 2 below.

2. Extensions of Lease Term. Tenant shall have the right to extend the term of this Lease for four (4) successive periods of five (5) years each. In order to exercise each option to extend this Lease under this Paragraph, Tenant shall provide City with written notice of its intent to do so no less than six (6) months prior to the expiration of the Initial Term, and at least six (6) months prior to the expiration of any extended term.

The first extension of the term of this Lease ("First Extension") shall begin at 12:01 a.m. on August 17, 1995 and terminate at 11:59 p.m. on August 16, 2000. The second extension of the term of this Lease ("Second Extension") shall begin at 12:01 a.m. on August 17, 2000 and terminate at 11:59 p.m. on August 16, 2005. The third extension of the term of this Lease ("Third Extension") shall begin at 12:01 a.m. on August 17, 2005 and terminate at 11:59 p.m. on August 16, 2010. The fourth extension of the term of this Lease ("Fourth Extension") shall begin at 12:01 a.m. on August 17, 2010 and terminate at 11:59 p.m. on August 16, 2015.

As to the First Extension: Tenant and City shall negotiate an adjusted rent for the First Extension, as outlined in Paragraph 4A below, upon City's receipt of Tenant's written notice to exercise its first option to extend the term of this Lease. If the parties do not agree on a complete schedule of rentals for the First Extension (including approval by the Board of Harbor Commissioners, the Common Council, and the Mayor, in

the case of the City) by no later than August 1, 1995, then this Lease shall terminate at the conclusion of the Initial Term.

As to the Second Extension: Tenant and City shall negotiate an adjusted rent for the Second Extension, as outlined in Paragraph 4B below, upon City's receipt of Tenant's written notice to exercise its second option to extend the term of this Lease. If the parties do not agree on a complete schedule of rentals for the Second Extension (including approval by the Board of Harbor Commissioners, the Common Council, and the Mayor, in the case of the City) by no later than August 1, 2000, then this Lease shall terminate at the conclusion of the First Extension.

As to the Third Extension: Tenant and City shall negotiate an adjusted rent for the Third Extension, as outlined in Paragraph 4C below, upon City's receipt of Tenant's written notice to exercise its third option to extend the term of this Lease. If the parties do not agree on a complete schedule of rentals for the Third Extension (including approval by the Board of Harbor Commissioners, the Common Council, and the Mayor, in the case of the City) by no later than August 1, 2005, then this Lease shall terminate at the conclusion of the Second Extension.

As to the Fourth Extension: Tenant and City shall negotiate an adjusted rent for the Fourth Extension, as outlined in Paragraph 4D below, upon City's receipt of Tenant's written notice to exercise its fourth option to extend the term of this Lease. If the parties do not agree on a complete schedule of rentals for the Fourth Extension (including approval by the Board

of Harbor Commissioners, the Common Council, and the Mayor, in the case of the City) by no later than August 1, 2010, then this Lease shall terminate at the conclusion of the Third Extension.

3. Rent. As and for "Base Rental" of the Property during the Initial Term, Tenant shall pay City the sum of Eighty-Two Thousand Five Hundred Dollars (\$82,500.00) annually at the rate of Six Thousand Eight Hundred Seventy-Five Dollars (\$6,875.00) per month in advance of the first business day of each and every month.

In addition to the Base Rental, during the first two (2) years of the Initial Term, Tenant shall pay City, monthly, a through-put charge of Twelve Cents (12¢) per gross ton (2,240 pounds) for petroleum products, including petroleum blend stocks/additives, received or delivered by pipeline, tank car or tank truck to Tenant at the Property. During the first two (2) years of the Initial Term, Tenant shall further pay City, monthly, a through-put charge for non-petroleum products received or delivered by Tenant at the Property, which shall be calculated as follows:

0-25,000 gross tons - twelve cents (12¢) per gross ton
25,001-50,000 gross tons - thirty-five cents (35¢) per gross ton
over 50,000 gross tons - fifty cents (50¢) per gross ton

For the final three (3) years of the Initial Term, both the through-put charge for petroleum products and the through-put

charge for non-petroleum products shall be adjusted pursuant to the provisions set forth in Paragraph 4E below.

In addition to Base Rental and the through-put charges set forth above, Tenant shall pay City, monthly, wharfage and dockage. Wharfage and dockage charges apply to all liquid bulk cargo which Tenant receives or ships by water. Wharfage and dockage shall be paid in accordance with the rates set forth in the Municipal Port Tariff in effect at the time the charge is made during the Initial Term of this Lease, and any extended term of this Lease.

4. Adjustments to Rent.

A. If Tenant exercises its first option to extend the terms of this Lease, increases in the Base Rental, together with the through-put charges for both petroleum products and non-petroleum products, shall be negotiated by the parties.

(1) Increases in the Base Rental shall be adjusted up to an amount not to exceed that determined by applying 90% of the percentage increase in the "All Commodities" line of the seasonally adjusted "Producer Price Indexes", published by the United States Bureau of Labor Statistics (or its successor organization) (1982=100) for the five-year period of the Initial Term to the Base Rental in effect immediately prior to the beginning of the First Extension. In no event, however, shall any such adjustment result in Base Rental less than that in effect during the Initial Term.

C. If Tenant exercises its third option to extend the term of this Lease, increases in the Base Rental, together with the through-put charges for both petroleum products and non-petroleum products, shall be negotiated by the parties. Increases in the foregoing shall be adjusted up to an amount not to exceed that determined by applying 90% of the percentage increase in the "All Commodities" line of the seasonally adjusted "Producer Price Indexes", published by the United States Bureau of Labor Statistics (or its successor organization) (1982=100) for the five-year period of the Second Extension to the Base Rental and through-put charges in effect immediately prior to the beginning of the Third Extension. In no event, however, shall any such adjustment result in Base Rental or through-put charges less than that in effect during the Second Extension.

D. If Tenant exercises its fourth option to extend the term of this Lease, increases in the Base Rental, together with the through-put charges for both petroleum products and non-petroleum products, shall be negotiated by the parties. Increases in the foregoing shall be adjusted up to an amount not to exceed that determined by applying 90% of the percentage increase in the "All Commodities" line of the seasonally adjusted "Producer Price Indexes", published by the United States Bureau of Labor Statistics (or its successor organization) (1982=100) for the five-year period of the Third Extension to the Base Rental and through-put charges in effect immediately prior to the beginning of the Fourth Extension. In no event, however, shall

any such adjustment result in Base Rental or through-put charges less than that in effect during the Third Extension.

E. After the first two (2) years of the Initial Term, the through-put charges for both petroleum and non-petroleum products set forth in Paragraph 3 above shall be adjusted for each of the remaining years of the Initial Term as set forth below.

The parties shall negotiate the increases in the through-put charges for the third year of the Initial Term and agree upon adjusted through-put charges no later than sixty (60) days after the conclusion of the second year of the Initial Term. Increases in through-put charges to be in effect during the third year of the Initial Term shall be adjusted up to an amount not to exceed that determined by applying 90% of the percentage increase in the "All Commodities" line of the seasonally adjusted "Producer Price Indexes", published by the United States Bureau of Labor Statistics (or its successor organization) (1982=100) for the second year of the Initial Term to the through-put charges in effect during the second year of the Initial Term. In no event, however, shall any such adjustment result in through-put charges less than are in effect during the second year of the Initial Term.

The parties shall negotiate the increases in the through-put charges for the fourth year of the Initial Term and agree upon adjusted through-put charges no later than sixty (60) days after the conclusion of the third year of the Initial

Term. Increases in through-put charges to be in effect during the fourth year of the Initial Term shall be adjusted up to an amount not to exceed that determined by applying 90% of the percentage increase in the "All Commodities" line of the seasonally adjusted "Producer Price Indexes", published by the United States Bureau of Labor Statistics (or its successor organization) (1982=100) for the third year of the Initial Term to the through-put charges in effect during the third year of the Initial Term. In no event, however, shall any such adjustment result in through-put charges less than are in effect during the third year of the Initial Term.

The parties shall negotiate the increases in the through-put charges for the fifth year of the Initial Term and agree upon adjusted through-put charges no later than sixty (60) days after the conclusion of the fourth year of the Initial Term. Increases in through-put charges to be in effect during the fifth year of the Initial Term shall be adjusted up to an amount not to exceed that determined by applying 90% of the percentage increase in the "All Commodities" line of the seasonally adjusted "Producer Price Indexes", published by the United States Bureau of Labor Statistics (or its successor organization) (1982=100) for the fourth year of the Initial Term to the through-put charges in effect during the fourth year of the Initial Term. In no event, however, shall any such adjustment result in through-put charges less than are in effect during the fourth year of the Initial Term.

5. Records. For the determination of through-put charges, wharfage and dockage, Tenant agrees to keep accurate books and records showing in detail its record of shipments by water carriers, rail, truck and/or pipeline to and from the Property. Tenant agrees to submit reasonably adequate monthly reports to City for its purposes. Tenant's books and records shall be kept in accordance with generally accepted accounting principles. Such books or records shall be open to inspection by accredited representatives of City at any reasonable time during normal working hours for audit or for such other examinations as may be reasonably necessary to carry out the terms of this agreement. Such examination shall be at City's expense.

Should Tenant elect to submit and furnish without cost to City an audit by a licensed and qualified certified public accountant acceptable to City certifying monthly shipment records as herein provided, City agrees to waive its right to audit and inspect the books of Tenant. Tenant need not keep such shipment records for longer than three (3) years for the purposes of City. Any and all information which City or its representatives as herein set forth may obtain from examination of Tenant's books and records, or other sources of information examined, inspected or furnished by Tenant, shall be regarded as strictly confidential and shall not be divulged to other parties, except as may be necessary for the enforcement of City's rights under this Lease, or unless required by law.

6. Use of the Property. Tenant shall use the Property for the purpose of operating and maintaining storage tanks, heating and pumping equipment and other facilities in connection with the receipt, preparation, processing, handling, storage and/or shipping of liquid cargo and for no other purpose or purposes without the prior written consent of the City. Tenant shall not use the Property, or permit any use of the Property, for any purposes in violation of any federal, state or municipal statute or ordinance, or of any regulation, order or directive of a governmental agency concerning the use and safety of the Property, including those involving environmental provisions. The parties acknowledge that the Property has been used for and is being leased as a petroleum products storage and handling facility. City makes no representations as to the condition of the Property.

7. Dock Connection. The parties hereby acknowledge that Tenant is required to reconnect the Property, to the satisfaction of City, to a dock facility, which shall be designated in the sole discretion of City, by no later than December 31, 1991. This requirement is an essential provision of this Lease, and the parties agree that Tenant's failure to comply with it shall be considered an event of default under Paragraph 10 of this Lease.

8. Occupancy Subject to Existing Easements and Restrictions. Tenant's occupancy of the Property is subject to any recorded easements and restrictions of record.

B. Tenant shall file or admit the jurisdiction of the court and the material allegations contained in any petition in bankruptcy or any petition pursuant or purporting to be pursuant to the Federal Bankruptcy Laws as now or hereafter amended, or Tenant shall institute any proceedings or shall give its consent to the institution of any proceedings for any relief of Tenant under any bankruptcy or insolvency laws or any laws relating to the relief of debtors, readjustment of indebtedness, or reorganization; or

C. Tenant shall make an assignment for the benefit of creditors or shall apply for or consent to the appointment of a receiver for Tenant; or

D. Tenant shall abandon the Property for a period of thirty (30) days or be delinquent in any payments due under this Lease required to be made by Tenant hereunder and such delinquency shall continue for ten (10) days after notice thereof in writing to Tenant; or

E. Tenant shall default in any of the other covenants or agreements herein contained to be kept, observed and performed by Tenant, and such default shall continue for thirty (30) days after notice thereof in writing to Tenant; or

F. Tenant shall make any assignment, transfer, conveyance or other disposition of its interest in the Property without the express written consent of City.

Upon occurrence of any one or more of such events of default, it shall be lawful for City, at its election in the manner and terms herein provided, to declare this Lease ended,

and to recover possession of the Property, either with or without process of law, to enter and to expel, and remove Tenant and all agents, employees and representatives of Tenant engaged in operating the Property or occupying the Property, using such force as may be necessary in so doing. If default shall be made in any covenants, agreements, conditions or undertakings herein contained, to be observed and performed by Tenant, which cannot with due diligence be cured within a period of thirty (30) days, and if notice thereof in writing shall have been given to Tenant, and if Tenant prior to the expiration of said thirty (30) days from and after the giving of such notice, commences to eliminate the cause of such default and proceeds diligently and with reasonable dispatch to take all steps and do all work required to cure such default and thereafter does so cure such default, then City shall not have the right to declare the term of this Lease as ended; provided, however, that the curing of any default in such manner shall not be construed to limit or restrict the right of City to declare this Lease ended and terminated for any other default not so cured and to enforce all of City's rights and remedies hereunder.

11. Maintenance and Housekeeping. Routine maintenance, housekeeping and cleanliness shall be the responsibility of Tenant. City retains the right to have any of its officers, agents or employees inspect the Property at all reasonable times and Tenant shall be required to grant full access to the Property at such times.

12. Utilities. Tenant shall be solely responsible for the installation and purchase of all utility services required by Tenant during the term of this Lease.

13. Assignment and subleasing. Tenant shall not, except with the prior written consent of City, assign any interest in this Lease, nor sublet any portion of the Property.

14. Indemnification. Tenant hereby agrees to indemnify and save harmless City from and against all liabilities, claims, demands, judgments, losses and all suits at law or in equity, costs and expenses, including reasonable attorney's fees, for injury to and/or death of any person or persons and/or loss and/or damage to the property of any person, firm or corporation whomsoever, including both parties hereto and their employees, arising from the construction, maintenance or operation of Tenant's improvements and equipment, or in the carrying on of its business as hereinbefore set forth, except when such liability, claim, demand, judgment or loss arises from a negligent act of the City, its agents, contractors or employees; provided, however, notwithstanding anything to the contrary provided in this Lease, Tenant shall not be liable for any condition or contamination, including any environmental condition or contamination, which existed before the date of this Lease, as described in the Summary Assessment Report dated June, 1990, prepared by Engineering - Science, Inc. and the Site Environmental Assessment dated August 9, 1990, prepared by Clement Mesavage, Jr., Think Tank Resources, Inc. and marked

respectively as Exhibits B and C, which are affixed hereto and incorporated into this document by this reference.

15. Insurance. Tenant will furnish a Certificate of Insurance showing insurance written by a company licensed in the State of Wisconsin approved by City and covering any and all liability or obligations which may result from the operations by Tenant's employees, agents, contractors or subcontractors as aforesaid in this Lease; such Certificate of Insurance will name both the Board of Harbor Commissioners and the City of Milwaukee as additional insureds. The Certificate shall provide that the company will furnish City with a thirty (30) day written notice of cancellation, nonrenewal or material change. Said insurance shall be written in comprehensive form and shall protect Tenant and City against all claims arising from injuries to members of the public or damage to property of others arising out of any act or omission of Tenant's employees, agents, contractors or subcontractors as follows:

<u>Coverage</u>	<u>Amount</u>
- Comprehensive General Liability (including applicable contractual liability specifically relating to this Agreement)	\$1,000,000.00 per occurrence \$5,000,000.00 aggregate
- Worker's Compensation	In accordance with Ch. 102, Wisconsin Statutes, and Federal law.

The limits and adequacy of said insurance shall be determined by City and the form and proof of insurance shall also be approved by City. Failure of Tenant to maintain adequate

coverage shall not relieve it of any contractual responsibility or obligation under this Lease. City shall have the right to review policies providing the required coverage.

The attorney in fact or agent of any insurance company furnishing any policy of insurance shall sign and furnish an affidavit setting forth that no City official or employee has any interest, direct or indirect, or is receiving any premium, commission, fee or other thing of value on account of furnishing said policy of insurance.

16. Taxes. Tenant shall pay and discharge when due all taxes, if any, assessments, levies and other charges, general and special, that are or may be during the term hereof levied, assessed, imposed or charged on the Property or the improvements on the Property or hereafter placed thereon.

17. Status of Improvements. Tenant shall make no substantial improvements upon the Property without the prior written consent of City.

Upon termination of this Lease, Tenant shall, upon notice from City, be required and obligated to remove from the Property at any time within sixty (60) days after the termination of this Lease, or any renewal or extension thereof, however effected, any or all buildings or other improvements, and any or all appurtenances thereto, located upon the Property at the direction of City. In the event such removals are not completed within said sixty (60) days, City shall have the right to collect damages from Tenant; provided, however, that City

may in lieu of removal require Tenant to convey title to any or all buildings or improvements located upon the Property to City, free and clear of all liens and encumbrances. In the event City elects to require such conveyance, City shall pay Tenant the fair market value of the buildings or improvements placed upon the Property by Tenant and the improvements made by Tenant to the buildings and improvements on the Property at the date this Lease is executed, which are conveyed to City by Tenant. In the event City and Tenant do not agree on such fair market value within thirty (30) days after the notice from City to Tenant requiring conveyance; then the parties shall, within ten (10) days, select a recognized, independent local appraisal firm to establish the fair market value. In the event City and Tenant cannot agree on such an appraisal firm, within the required ten (10) days, then the fair market value shall be determined by the American Appraisal Associates (or its successor organization). City and Tenant further agree that each party shall pay 50% of the fees for such independent determination of fair market value.

Any election by City under this Paragraph 17 shall be made in writing and communicated to Tenant. No such option with respect to election of either to remove or not to remove shall rest with Tenant and Tenant shall have the obligation and responsibility to perform that which City shall direct.

18. Compliance with Laws and Orders. Tenant agrees to observe fully and to comply with any lawful rule, regulation or directive which shall emanate from any state, federal or local departments or agencies having jurisdiction.

19. Time of the Essence. It is expressly understood and agreed to by the parties hereto that time is of the essence for each term and provision of this Lease.

20. Waiver. One or more waivers by any party of any covenant or condition of this Lease shall not be construed as a waiver of a subsequent breach of the same or of any other covenant or condition. The consent or approval given by any party with respect to any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary further consent or approval of any subsequent similar act by such party.

21. Sole Agreement and Amendment. This Lease and the attached exhibits to which reference is made herein contain all of the agreements and covenants made between the parties hereto, shall be binding upon the parties hereto and their respective successors and assigns, and may not be modified orally or in any other manner other than by agreement, in writing, signed by each of the parties to this Lease.

22. Notice. Any notice provided for herein or given pursuant to this Lease, shall be deemed in compliance herewith if in writing and sent by United States certified or registered mail, postage prepaid, return receipt requested, or by receipted personal delivery to the parties as follows:

To the City:

BOARD OF HARBOR COMMISSIONERS
500 North Harbor Drive
Milwaukee, WI 53202
Attention: Municipal Port Director

To the Tenant:

SUPPORT TERMINAL SERVICES, INC.
17000 Dallas Parkway, Suite 223
Dallas, TX 75248

23. Governing Law. This Lease shall be governed by the internal laws of the State of Wisconsin. If any term or provision of this Lease or any exhibits hereto, or the application thereof to any person or circumstance, shall to any extent be declared invalid or unenforceable, then the remainder of this Lease and exhibits, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by applicable law.

24. Nondiscrimination. Tenant hereby agrees that in its use of the Property and in its activities undertaken pursuant hereto it shall not discriminate, permit discrimination or restriction on the basis of race, sexual orientation, creed, ethnic origin or identity, color, gender, religion, marital status, age, handicap or national origin.

25. Authority of City. Any matters not herein expressly provided for shall be handled and disposed of in the discretion of the City. Any discretion herein granted to the City may be exercised through the Municipal Port Director and his designees.

26. Counterparts. This Lease may be executed in any number of counterparts, each of which shall constitute an original and all of which shall constitute one and the same Lease. The terms "Board of Harbor Commissioners" and "City" whenever used herein shall mean and include the Board of Harbor Commissioners of the City of Milwaukee and/or its successors and assigns in authority, as the context may require.

27. Approval. IT IS FURTHER AGREED AND UNDERSTOOD that this Lease must be submitted to the Common Council of the City of Milwaukee and that the same must be approved by the Common Council and its execution authorized.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized officers executed this Lease Agreement under seal as of the day and year first above written.

In the Presence of:

CITY OF MILWAUKEE

Ruth E. Wyttenbach

John O. Norquist, Mayor

Debra K. Fowler

Ronald D. Leonard, City Clerk

COUNTERSIGNED:

W. H. DeBorja

William H. DeBorja, City Comptroller

In the Presence of:

Donna Luty

Betty Pakowski

In the Presence of:

Linda L. Cook
Asst Sec

Linda L. Cook
Asst Sec

In the Presence of:

^{Kansas}
STATE OF WISCONSIN
MILWAUKEE COUNTY
Johnson

Personally came before me this 26th day of October, 1990, John G. Norquist, Mayor of the ~~above-named municipal corporation~~, who ~~by its authority and on its behalf~~ executed the foregoing instrument and acknowledged the same.

Linda M. Hodges
NOTARY PUBLIC, State of Wisconsin
My Commission Expires: 5-16-93

BOARD OF HARBOR COMMISSIONERS

Daniel J. Steininger, President

Rita A. Camps, Secretary

SUPPORT TERMINAL SERVICES, INC.

By: R. Steyer

Title: S. V.P.

By: L. M. Hodges

Title: President

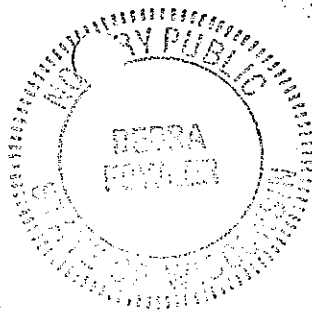
Garland Middendorf
GARLAND MIDDENDORF

LINDA M. HODGES

NOTARY PUBLIC

STATE OF KANSAS

My App't. Exp. 5-16-93



STATE OF WISCONSIN
MILWAUKEE COUNTY

Personally came before me this 30th day of October, 1990, Ronald O. Lemharat, the (Deputy) City Clerk of the above-named municipal corporation, who by its authority and on its behalf executed the foregoing instrument and acknowledged the same.

Debra Fowler
NOTARY PUBLIC, State of Wisconsin
My Commission Expires: 12/1/91

STATE OF WISCONSIN
MILWAUKEE COUNTY

Personally came before me this 30th day of October, 1990, W. MARTIN MORIS, the (Deputy) Comptroller of the above-named municipal corporation, who by its authority and on its behalf executed the foregoing and acknowledged the same.

W. K. Weber
NOTARY PUBLIC, State of Wisconsin
My Commission Expires: 11-3-91

STATE OF WISCONSIN
MILWAUKEE COUNTY

Personally came before me this 31st day of October, 1990, Daniel J. Steininger, President, and Rita A. Camps, Secretary, of the Board of Harbor Commissioners, who by its authority and on its behalf executed the foregoing instrument and acknowledged the same.

Aug. N. Zuckert
Notary Public, State of Wisconsin
My Commission Expires: 12/20/92

STATE OF ~~WISCONSIN~~ *Texas*
~~MILWAUKEE COUNTY~~

Dallas

Personally came before me this 23rd day of October, 1990, Ron D. Scoggins,
the Senior Vice President and Fred T. Johnson,
the President of Support Terminal Services, Inc.
who by its authority and on its behalf executed the foregoing
instrument and acknowledged the same.

Lia Ann Honnold
NOTARY PUBLIC, State of ~~Wisconsin~~ *Texas*
My Commission Expires: 8-21-91

~~STATE OF WISCONSIN~~
~~MILWAUKEE COUNTY~~

~~Personally came before me this _____ day of _____, 1990, Garland Middendorf, who executed the foregoing instrument and acknowledged the same.~~

~~NOTARY PUBLIC, State of Wisconsin~~
~~My Commission Expires: _____~~

This Agreement Drafted by the
Office of the City Attorney

APPROVED as to Form and Execution this
31st day of October, 1990.

Thomas J. Beumish
Assistant City Attorney

AGR:SUPPORT

STATE OF WISCONSIN
MILWAUKEE COUNTY

Personally came before me this 30th day of October, 1990, John O. Norquist,
Mayor of the above-named municipal corporation, who by its authority and on its
behalf executed the foregoing instrument and acknowledged the same.

Ruth E. Wyttenbach
NOTARY PUBLIC, State of Wisconsin
My Commission expires: 3-7-93

Office of the City Clerk
CITY OF MILWAUKEE, WISCONSIN

CERTIFIED COPY OF RESOLUTION

FILE NUMBER: 900678

Substitute resolution approving a Lease Agreement between Support Terminal Services, Inc. and Garland Middendorf, jointly and severally as tenants in common, and the Port of Milwaukee.

Whereas, The Board of Harbor Commissioners has approved a Lease Agreement between the City of Milwaukee and Tanco Terminals, Inc. for ten acres of property on the South Harbor Tract; and

Whereas, The President of Tanco Terminals, Inc. has entered into an agreement with Support Terminal Services, Inc., jointly and severally as tenants in common, for the purpose of this lease; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that said Common Council does ratify and approve a Lease Agreement between the City of Milwaukee, by and through its Board of Harbor Commissioners, and Support Terminal Services, Inc. and Garland Middendorf, jointly and severally as tenants in common, and the Port of Milwaukee, as previously authorized by the City's Board of Harbor Commissioners; and, be it

Further Resolved, That the designated officers of City Government and of said Board, are hereby authorized and directed to execute a Lease Agreement to carry, out this purpose, as prepared by the City Attorney's office.

I, Ronald D. Leonhardt, CITY CLERK, CERTIFY THAT
THE FOREGOING IS A COPY OF A RESOLUTION PASSED
BY THE COMMON COUNCIL OF THE CITY OF MILWAUKEE
ON October 16, 1990.

EXHIBIT B

Projected Terminal Improvements General Facilities

Construct dock pipelines and liquid pier facilities	\$ 890,000
Repair two 33,000 bbl tanks	290,000
API test all terminal tanks and pipelines	150,000
Improve terminal laboratory facilities	50,000
Improve terminal truck load out facilities	90,000
Paint tanks and terminal pipelines	380,000
Budget for contingencies and finance cost	<u>350,000</u>
Estimated Budget	\$2,200,000.00

EXHIBIT C

Insurance. Tenant shall maintain in full force and effect throughout the currency of this Lease, the following insurance covering any and all liability or obligations which may result from operations by Tenant, Tenant's employees, agents, contractors or subcontractors as aforesaid in this Lease:

- A) Property insurance coverage protecting against physical damage (including, but not limited to fire, lightning, extended coverage perils, vandalism, sprinkler leakage, water damage, collapse and other special extended perils) to the extent of the replacement cost of Tenant's personal property and improvements as well as goods or property in Tenant's care, custody and/or control.
- B) Comprehensive General Liability Insurance (including but not limited to Products and Completed Operations and Contractual Liability, as applicable to Tenant's obligations under this Lease) with limits not less than:

Each Occurrence Limit	\$2,000,000
Products/Completed Operations Aggregate:	\$2,000,000
General Policy Aggregate:	\$2,000,000

- C) Automotive Liability Insurance with Limits not less than:

Bodily Injury and Property Damage Combined Single Limit:	\$1,000,000 per occurrence
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- D) Worker's Compensation Insurance in accordance with Chapter 102, Wisconsin Statutes and any applicable Federal law.

- E) Umbrella Coverage \$10,000,000 in aggregate

- F) Environmental Impairment Liability Coverage with 4-year "tail."

Each Occurrence Limit	\$2,000,000
Aggregate Coverage	\$4,000,000

All such policies shall be of a form and content satisfactory to City. In addition, the Board of Harbor Commissioners of the City of Milwaukee and the City of Milwaukee will be designated on the General Liability, Property Insurance, Automobile Umbrella and Environmental Impairment Liability policies as Additional Named Insureds. All policies shall be with companies licensed to do business in the State of Wisconsin and rated A or better in the most current issue of Best's Key Rating Guide. Tenant shall furnish City with certificates of insurance for all policies showing that insurance has been written as required. Such evidence shall be provided by Tenant at least thirty (30) days prior to occupancy; and further, such policies shall provide that no less than thirty (30) days written notice be given to

City before any such policies are cancelled or substantially changed to reduce the insurance provided thereby. Said certificates of insurance shall remain in effect for the duration of this Lease. Tenant shall not act in any manner that may make void or voidable any insurance required herein. Upon written request, Tenant shall provide City full, complete and accurate copies of the insurance policies required by this Lease. Once in every three (3)-year period during the term of this Lease, City shall review the extent and limits of the insurance coverage required herein. After said review, should City determine an increase in the extent and/or limits of insurance coverage is required, Tenant shall be so notified in writing and Tenant shall cause such increases to be placed in effect within thirty (30) days of receiving such notice. In no event shall the extent and limits of insurance coverage be reduced from the amounts shown herein.

The attorney in fact or agent of any insurance company furnishing any policy of insurance shall sign and furnish an affidavit setting forth that no City official or employee has any interest, direct or indirect, or has received any premium, commission, fee or other thing of value on account of furnishing said policy of insurance.

The limits and adequacy of said insurance shall be determined by City and the form and proof of insurance shall also be approved by City. Failure of Tenant to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation under this Lease. City shall have the right to review policies providing the required coverage.

The attorney-in-fact or agent of any insurance company furnishing any policy of insurance shall sign and furnish an affidavit setting forth that no City official or employee has any interest, direct or indirect, or is receiving any premium, commission, fee, or other thing of value on account of furnishing said policy of insurance.

EXHIBIT D

Environmental Compliance and Obligations.

A) Compliance with Environmental Regulations. Tenant shall fully comply with all statutes, regulations, or other applicable requirements imposed by any federal, state, or municipal agency with respect to the environmental condition of the Property and/or with respect to any activities or operations that Tenant may conduct upon the Property (hereinafter referred to as "Environmental Requirements"). Tenant shall not cause, permit or suffer the existence or commission by Tenant, its agents, employees, contractors or invitees, or by any other person of any violation of any Environmental Requirements upon, about or beneath the Property or any portion thereof.

B) Hazardous Material; Environmental Liens. Except to the extent commonly used in the day-to-day operation of the Property, and in strict compliance with all Environmental Requirements (including those relating to storage, use and disposal), Tenant shall not cause, permit or suffer any "hazardous material" or "hazardous substance" (as defined by applicable Federal or State statutes or regulations) to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined, or used upon, about, or beneath the Property or any portion thereof by Tenant, its agents, employees, contractors, tenants or invitees, or any other person without the prior written consent of the City. Any request by Tenant for such consent by the City shall be in writing and shall demonstrate to the reasonable satisfaction of the City that such "hazardous material" or "hazardous substances" is necessary to the conduct of the business of Tenant and will be stored, used, and disposed of in a manner that complies with all applicable Environmental Requirements. Tenant shall not create or suffer to exist with respect to the Property any lien, security interest, or other charge or encumbrance of any kind relating to the environmental condition of the Property, including (without limitation) any lien imposed pursuant to Sec. 107(f) of the Superfund Amendments and Reauthorization Act 1986 (42 U.S.C. § 9607(L)) or any similar State Statute.

C) Obligation to Investigate and/or Remediate. Tenant shall, upon demand of the City, and at its sole cost and expense, promptly take all actions to investigate and/or remediate the environmental condition of the Property which may be required by any federal, state or local governmental agency or political subdivision which remediation is necessitated from, or attributable to, the presence upon, about, or beneath the Property of any "hazardous material" or "hazardous substances" or any violation of Environmental Requirements caused by the Presence of and/or activities or operations conducted by the Tenant upon the Property. Any such investigation and/or remediation shall be performed by and under the direction of a qualified environmental consulting or engineering firm approved by City in advance of the commencement of the work. Tenant agrees to allow entry upon the Property by the City, or agents, contractors or employees of the City for purposes of conducting environmental audits and/or other tests for the purpose of determining the impact of Tenant's presence and/or activities or operations upon or with respect to the Property upon the environmental condition thereof. In the event that Tenant performs any such environmental audit and/or test on its own behalf, it shall promptly provide to the City full and complete copies of any results and/or reports that are generated in connection with the above activities.

D) Survival of Obligations. Tenant's obligations with respect to the environmental condition of the Property (as more fully set forth in Subsections (A) through (C) above) shall survive the expiration or termination of this Agreement.