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MS/HSD ("B" SITE) RETAIL OUTLET DEALERSHIP AGREEMENT

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...3/-

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...4/-

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INDIAN OIL CORPORATION LIMITED
(MARKETING DIVISION)

PETROL (MS)/HIGH SPEED DIESEL OIL RETAIL OUTLET DEALERSHIP

AGREEMENT FOR DEALER CONTROLLED OUTLETS

MEMORANDUM OF AGREEMENT MADE THIS _____ DAY OF Parties.

_____ One thousand Nine hundred and _____
between Indian Oil Corporation Limited, a Company registered
under the Companies Act, 1956 and having its Registered
Office at Indianoil Bhavan, G-9, Ali Yavar Jung Marg, Bandra
(East), Bombay - 400 051, and a Regional Office at _____
_____ Street/Road

_____ Town and _____
State (hereinafter called "the Corporation") of the One Part

AND _____
_____ of _____
inhabitants carrying on business under the firm, name and
style of _____

(hereinafter called "the Dealer") of the Other Part.

OR

AND _____ a
Company registered under the Companies Act, 1956 and having
its Registered Office at _____

(hereinafter called "the Dealer") of the other Part,

OR

AND _____
_____ of _____
inhabitants as the Karta and Manager of a joint and undivided
Hindu Family consisting of himself and _____

_____ carrying on business under the firm name and style of _____

MS/HSD/ B SITE GENERAL

: 2 :

at _____
_____ (hereinafter called "the
Dealer") of the other part.

OR

AND _____
and _____
_____ of _____ inhabitant
carrying on business under the firm name and style of _____
_____ a
firm registered under the Indian Partnership Act of 1932 at _____

(hereinafter called "the Dealer") of the other part.

OR

AND _____
_____ SOCIETY LTD., a Society
registered under _____
Societies Act, _____ under
Registration No. _____ having its registered
office at _____

(hereinafter called "the Dealer") of the other part.

WHEREAS the Corporation carries on the business of Recitals.
refining and sale of petroleum products and more particularly
of Motor Spirit(MS) and High Speed Diesel Oil (HSD) :

AND WHEREAS the Dealer is the absolute
Owner/Lessee/Tenant/Licensee of a plot of land and is the
Owner/Lessee/Tenant/Licensee of the superstructures thereon
more particularly described in the First Schedule thereon 1st Schedule

: 3 :

(hereinafter collectively referred to as "the premises")

The Premises

AND WHEREAS the Corporation has installed and/or is about to install at the said premises the apparatus and equipment described in the Second Schedule hereto (hereinafter called "the outfit")

Ind Schedule
'The Outfit'

AND WHEREAS at the request of the Dealer, the Corporation has agreed to appoint the dealer as its Dealer for the retail sale or supply at the said premises of certain products on the terms and conditions hereinafter contained.

NOW IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

1. The Corporation hereby appoints the Dealer as its Dealer and the Dealer hereby accepts the appointment as the Corporation's non-exclusive Dealer for the retail sale or supply at the premises described in the First Schedule hereto of Petrol/HSD/Motor Oil/Grease and such other petroleum and/or other products as may hereinafter and/or hereafter to be specified in writing by the Corporation from time to time (all of which are hereinafter collectively referred to as "the products") in accordance with the terms and conditions hereunder appearing.

Appointment
as Dealer.

'The
Products'.

2. This agreement shall remain in force for a period of fifteen years from _____ day of _____ 19____ and continue thereafter for successive periods of one year each until determined by either party by giving

Period.

: 4 :

three months notice in writing to the other of its intention to terminate this agreement and upon the expiration of any such notice, this agreement shall stand cancelled and revoked, provided that nothing contained in this clause shall prejudice the rights of either of the parties hereto to terminate this agreement earlier in exercise of their rights under any of the provisions contained in this agreement and/or the rights of the Corporation to stop and/or suspend and/or restrict the supplies to the Dealer and/or the sales from the premises by the Dealer pursuant to the provisions contained in that behalf in this agreement.

3. The Dealer shall, during the continuance of this agreement, confine himself to selling only Corporation's products at the premises and shall not carry on from the said premises any business other than that of the sale of the products save and except and only to the extent, if any, to which the Dealer may be permitted in writing by the Corporation at its sole discretion to carry on such other business at or from the premises.

Sale of
Corpora-
tion's
products
only at the
premises.

4. The Corporation reserves the right without reference to or consent of the Dealer to appoint one or more additional Dealer/s in the same town/area or location and such additional Dealer/s shall be entitled to make sales of the products without any objection from the Dealer and the Dealer shall not be entitled to make any

Corpora-
tion's right
to appoint
additional
Dealer/s.

: 5 :

claim for remuneration, commission or allowance whatsoever in respect of the sales made by such additional Dealer/s and/or sales made by the Corporation through such additional Dealer/s.

The Dealer hereby expressly further agrees not to dispute, object to or challenge the appointment of other Dealers at the same place or at any other place either by the Corporation or by any other Oil Company or Corporation for the time being operating in India.

5. The Corporation reserves the right at all times during Direct Sales the continuance of this Agreement to make direct or indirect sale/s of the products to any person whomsoever without reference to or consent of the Dealer and on such direct sale/s, the Dealer shall not be entitled to any remuneration, commission or allowance whatsoever.

6. The Dealer shall obtain each and every licence(s) Dealer to take licence(s) necessary for the sale of products at the said premises required under any Central/State Government, Municipal or Local enactment for the time being in force and shall faithfully observe and perform all the terms and conditions for such licence(s) and shall promptly renew the same from time to time.

7(a) The Dealer undertakes that he and his servants and agents will observe and perform the provisions of the Petroleum Act, 1934 and The Explosives Act, 1884 and any statutory re-enactment or modification thereof for

The
Petroleum
Act.

...6/-

: 6 :

the time being in force and all rules and regulations made thereunder and all other Government or Municipal Local or similar Act, Laws, regulations and bye-laws, as may be in force from time to time relating to the Dealer's business in the said products and to the storage, receipt and transportation and other related matters as contemplated under this Agreement and all requisitions and requirements of all authorities appointed under the foregoing enactments, rules or regulations. If there is any violation on the part of the Dealer, his servants and agents of the aforesaid provisions or statutory rules and regulations the Corporation will have the absolute right to discontinue the supplies and take any other action including the termination of this Agreement as the Corporation may at its absolute discretion think fit.

(b) The Dealer shall also be solely responsible for any breach or contravention by himself, his employees or agents of any Acts, rules, regulations or bye-laws of the Central and/or State Government and/or Municipal Local and/or other authorities as may be applicable to the business including without prejudice to the generality of the foregoing, the concerned authorities respectively appointed under the Petroleum Act, Payment of Wages Act, Shops & Establishments Act, Factories Act and the Workmen's Compensation Act, The Explosives Act, 1884 or any other Act or statutory rules, regulations or bye-laws made thereunder and/or applicable from time to time to the business of storage and sale of product and servants, workmen and persons engaged in connection therewith and the Corporation shall not be responsible

...7/-

: 7 :

in any manner for any liabilities arising out of non-compliance by the Dealer with the same.

- 8(a) The Corporation has installed or is about to install at its own expense at the premises the outfit described in the Second Schedule hereto. The Corporation may install at the premises such other apparatus and equipment from time to time as it may deem necessary for the efficient working of the Retail Outlet and all such other apparatus and equipment shall be deemed to be and form part of the outfit; provided that the Corporation shall have the right to remove any particular item or items of apparatus or equipment comprised in the outfit without assigning any reason therefor.

Facilities-
Outfit.

The Corporation will maintain the outfit in proper working condition at its own expense.

- 8(b) The Corporation will obtain in its name a storage licence from the Controller of Explosives for the storage of Petroleum products at the said premises and also other licences and permissions, if any, for storage required under any other Central/State Government, Municipal or Local enactment for the time being in force. The Dealer undertakes to faithfully observe and perform all the terms and conditions of such licence(s).

Storage
Licence

- 8(c) The Dealer will at his own cost arrange to obtain electric and water connections from the appropriate authorities in his own name and shall pay the security deposits, if any, therefor and promptly and regularly pay all bills for electrical energy and water consumed

Electrical
and Water
connections.

: 8 :

on the premises as shown in the bills received by the Dealer in respect thereof from time to time. All electrical connections, save and except the electrical connections from the Dealer's main switch board to the dispensing pumps outfit will be made and maintained by the Dealer according to specifications and safety requirements to the satisfaction of the Corporation. The electrical connection from the Dealer's main switch board to the Dispensing Pumps Outfit will be provided and maintained by the Corporation at its own cost and the Dealer shall not at anytime alter, repair or replace the said connection without prior written consent of the Corporation.

- 8(d) The Corporation doth hereby grant to the Dealer leave and licence and permission for the duration of this agreement to use the outfit at the said premises for the sale and exclusive purpose of storing, selling and handling the products purchased by the Dealer from the Corporation. Save as aforesaid, the Dealer shall have no right, title or interest in the said outfit and shall not be entitled to claim the right of lessee, sub-lessee or any other interest in the outfit. The Dealer doth hereby grant to the Corporation leave and licence and permission to enter on to the premises at all times, without let or hindrance by the Dealer or his servants or agents, for the purpose of giving full effect to the terms of this agreement. It is specifically agreed and declared in particular that the Dealer shall not be deemed to be in exclusive possession of the outfit.

Licence-
outfit

: 9 :

- (e) For the use of the outfit, the Dealer shall pay to the Corporation a licence fee as may be fixed and recovered or deducted in the manner as may be decided by the Corporation from time to time. It is expressly agreed to by the Dealer that the Corporation, at its sole discretion and without any previous notice to the Dealer shall from time to time and at all times be entitled to increase or revise or modify the said licence fee. The Corporation shall however advise the Dealer the basis or formula for the recovery of such licence fee. The licence fee shall be payable free of all deductions.

Licence
Fee.

The current rate of recovery of the said licence fee is Rs. per KL on petrol and Rs..... per KL on HSD.

- (f) The licence and permission granted as aforesaid for the use of the outfit shall terminate immediately on the termination of this Agreement.

Licence to
terminate
with
Agreement.

- (g) The Dealer will install and maintain at his own expenses at the premises, the equipment described in the Third Schedule hereto and such other equipment as may be considered necessary by the Corporation from time to time and intimated in writing to the Dealer. The Dealer shall purchase the said equipment only from the manufacturer or manufacturers approved by the Corporation. The Dealer shall ensure that the structures at site are in accordance with the Corporation's standard specifications therefor.

Dealer's
equipment
and
structure.IIIrd
Schedule.

- (h) The Dealer shall keep the premises and its surroundings in a clean and satisfactory condition. The Dealer will

The upkeep
of
premises.

...10/-

: 10 :

at all times keep and maintain clean, intact and legible on the said premises and outfit, all Trade Marks and other signs and marks of identification of the Corporation placed thereon by the Corporation or forming part thereof.

The premises shall be painted by the Dealers at its own cost only according to the standards and specifications intimated to the Dealer from time to time.

- (i) No repairs to the premises and outfit shall be done by the Dealer unless previously authorised by the Corporation in writing. The dealer shall not interfere with or attempt to adjust the outfit or any part thereof but shall notify the Corporation immediately of the necessity of any repair or adjustment and thereby ensure that the outfit is in proper working order and delivering full and proper measure at all times. The Dealer shall not operate the outfit while it is out of order.

Caretaking
of outfit/
premises
by Dealer.

All repairs to the outfit, other than those which are rendered necessary or caused by the negligence or fault of the Dealer, his agents, servants or customers shall be done by the Corporation at its own cost. Repairs which are rendered necessary or caused by the negligence or fault of the Dealer, his agents, servants or customers, shall be done by the Corporation and the cost thereof shall be reimbursed by the Dealer to the Corporation on demand failing which the Corporation may treat such amount as being an arrears of a bill preferred by the Corporation in terms of clause 18(a) of this Agreement, provided always that the Corporation may

...11/-

call upon the Dealer in writing to carry out any repairs and in such event the Dealer shall be bound to carry out such repairs as directed by the Corporation and the Corporation shall reimburse to the Dealer the cost thereof except when such repairs are necessitated by the negligence or fault of the Dealer, his agents, servants and customers, in which case, they shall be carried out at the cost of the Dealer. A certificate of the General Manager of the Corporation for the time being in office at _____ as to the liability of the Dealer to pay for any repairs to the outfit and as to the actual amount of the expenses incurred by the Corporation in connection with any such repairs as aforesaid shall be final and binding upon the dealer and shall not be questioned by him in any manner whatsoever.

The dealer shall not remove the outfit or any part thereof from its position on the said premises nor deliver possession thereof to any other person, firm or company other than the Corporation nor encumber nor sell the same nor purport to do so, nor do anything whereby the outfit may be seized or taken in execution or attached, destroyed or damaged or whereby the title of the Corporation thereto may in any way be affected, destroyed or prejudiced.

The dealer will take such care of the outfit as also of the receptacles or container in which the Corporation's products may be supplied to him as a business man of ordinary prudence would take, of the outfit, receptacles

and containers belonging to himself. The dealer shall be responsible for all loss or damage to the outfit, receptacles and containers normal wear and tear excepted. All disputes as to the liability hereunder shall be decided by the Corporation's General Manager at

_____ whose decision shall be final and the dealer shall pay to the Corporation within a week of receipt of a notice in writing requiring him to do so the amount determined as being due on account of any such loss or damage.

The outfit shall be and remain the absolute property of the Corporation and the Corporation may at any time freely and without let or hindrance by the dealer, his servants or agents, enter upon the said premises to inspect, test, repair, add to, reduce and or remove the outfit or any part thereof, affix the Corporation's name plates thereto and lock and/or seal the whole or any part thereof against interference by the dealer or third parties.

The dealer shall not add to or alter the premises layout or outfit in any manner whatsoever or place in or attach to any part of the said premises or the outfit any signboard pictures, handbills, advertisement, or things of a similar nature, except with prior written approval of the Corporation. If the dealer commits a breach of this clause, the Corporation shall have the right without prejudice to its other rights to reinstate the premises layout and/or outfit to its/their former condition in all respects and the dealer shall pay the cost of such reinstatement to the Corporation on demand,

: 13 :

failing which the Corporation may treat such amount as being an arrear of a bill preferred by the Corporation in terms of clause 18(a) of this Agreement.

- (j) If the site and/or structures constructed thereon be held by the dealer as a lessee or as a tenant, the dealer shall during the currency of this agreement and for a period of three months after the termination thereof, duly, faithfully and punctually observe and perform all the covenants, terms and conditions of lease/tenancy to be observed and/or performed by the dealer and shall not surrender or allow to be terminated the lease/tenancy of the site and/or structures constructed thereon or alter or agree to the alteration of the terms and conditions of the lease/tenancy without obtaining the written consent of the Corporation to such alteration which consent may be withheld by the Corporation without assigning any reason therefor or which consent may be given on such terms as the Corporation may in its absolute discretion think fit.

Dealer to
safeguard
his right
in the
premises.

If for any reason whatsoever, the forfeiture of site and/or structures constructed thereon shall be imminent or if forfeiture shall be actually incurred, the dealer shall forthwith report the same to the Corporation and the Corporation shall be at liberty, without being bound to do so, to take such steps as the Corporation may deem necessary or proper, including the expenditure of money, to avert or prevent or set aside the forfeiture and all monies so expended by the Corporation shall be recoverable from the dealer as an arrear of a bill

: 14 :

preferred by the Corporation in terms of clause 18(a) of this Agreement. It is agreed by the dealer that if due to any breach by him of the terms and conditions of the lease if any, executed between him and the landlord, the said lease is determined and the Corporation has to remove its outfit from the premises, the dealer shall be liable to pay to the Corporation compensation for the loss and damage suffered by the Corporation along with full expenses incurred by the Corporation for the removal of its outfit.

- 9(a) The Corporation will supply the products (MS/HSD) at the premises of the Dealer. The dealer shall arrange to take prompt delivery of the products and shall be responsible for and shall pay all detention and/or other charges of whatsoever nature for any loss or damage arising directly or indirectly through the failure, neglect or delay to take such delivery promptly.

Supply of
products.

- (b) The Corporation will from time to time supply to the dealer such quantities of the products as the Corporation may in its absolute discretion consider expedient to meet the current trade demands and the dealer shall maintain such minimum stocks thereof as the Corporation may consider adequate or necessary from time to time so as to meet the customer's requirements. The Corporation shall supply the products to the dealer only in such quantities as will constitute economical deliveries being made from the supply vehicle and the dealer shall not be entitled to demand deliveries of smaller quantities. Notwithstanding anything contained

: 15 :

in this Agreement, no liability shall be attached to the Corporation for failure to supply the products from whatever cause arising.

10. It is specifically agreed and declared that the basic condition of the grant of the dealership rights by the Corporation to the dealer herein is that the dealer hereby agrees, undertakes and covenants to uplift and pay for the following minimum quantities of the products per month as specified hereunder.

<u>PRODUCTS</u>	<u>QUANTITY</u>
MS(Petrol)	KLS
HSD	KLS
Motor Oil/Grease	KL/KG
Other products viz.	

Minimum
quantity/
sale
targets.

The Corporation shall have the absolute right to revise the aforesaid minimum quantities/sale targets from time to time by notice in writing and on every such revision, this clause shall be read and construed as if such revised figures had been mentioned herein instead of those hereinabove setout. It is also specifically agreed that in the event of the dealer not achieving the aforesaid minimum quantities at any time during three out of six consecutive months during the currency of this Agreement, the Corporation shall be entitled, notwithstanding any acquiescence or waiver of this condition in respect of anyone or more months and

: 16 :

notwithstanding any other provision herein contained to terminate this Agreement by giving 30 days notice in writing to the dealer.

11. In all contracts, engagements or transactions entered into by the dealer with the customers for the sale of the products or otherwise, the dealer shall act and shall always be deemed to have acted as a principal and not as an agent or on account of the Corporation except to the extent if any, permitted by the Corporation in writing and the Corporation shall not in any way be liable in any manner in respect of any such contracts, engagements or transactions and/or in respect of any act or omission on the part of the dealer, his servants, agents and workmen in regard to such sale or otherwise.

Dealer
shall not
obligate
Corporation
Dealer to
act as
'Principal'

12. Notwithstanding anything herein contained, the Corporation shall be entitled at any time and from time to time after notice in writing to the dealer but without assigning any reasons to increase or restrict, limit or reduce the quantity of the products to be supplied by the Corporation under this Agreement for such period or periods and under such conditions as the Corporation may in its absolute discretion decide and the dealer hereby agrees not to dispute or challenge any such decision of the Corporation for any reason whatsoever, provided however that if at any time or times the quantity of the products supplied by the Corporation hereunder is less than that specified by the Corporation for the time being under clause 10 hereof,

Restriction
on
supplies.

: 17 :

the dealer's obligation under clause 10 hereunder during such time or times shall be co-extensive with the quantity supplied by the Corporation under this clause.

13. The Corporation shall not be liable for any loss or damage for any delay in transporting or delivering or from failure to transport or deliver the products ordered by the dealer whatever may be the cause of such failure or delay. The Corporation shall further be entitled at its sole discretion to refuse any order or orders placed by the Dealer and at any time to treat any order or orders, even if accepted or acknowledged, as cancelled and the Corporation shall not be responsible for any loss or damage caused to the dealer by such refusal and/or cancellation. Every order by the dealer under this agreement shall constitute a firm order not subject to cancellation or revision by the dealer unless and until the Corporation intimates to the dealer in writing its intention to treat such order as cancelled or revised.

No claim
against
Corporation

14. The dealer shall be responsible for all loss, contamination, damage or shortage of or to the products after supply/delivery whether partial or entire and no claim will be entertained by the Corporation therefor under any circumstances.

No claim
for loss.

15. Notwithstanding anything to the contrary herein contained, the Corporation shall be at liberty upon breach by the dealer of any covenant in this Agreement to stop and/or suspend forthwith all supplies to the dealer and/or sales from his premises by the dealer for

Corpora-
tion's
right to
suspend
supplies.

...18/-

: 18 :

such period or periods as the Corporation may think fit, and such right of stoppage and/or suspension of supplies shall be in addition to and/or without prejudice to any other right or remedy of the Corporation under this Agreement or law. For the purpose of this clause, the General Manager of the Corporation for the time being at _____ shall be the sole Judge as to whether a breach of any covenant of this agreement has been committed by the dealer. The dealer shall not be entitled to claim any compensation or damage from the Corporation on account of any such stoppage and/or suspension of supplies.

16. The quantities of the products stated in the Corporation's invoices to be delivered by the Corporation as measured by the Corporation's measuring devices or means shall be final and binding upon the parties hereto unless at the time of receipt of the products at the dealer's premises, any shortage is detected and recorded and also duly witnessed as per procedure laid down by the Corporation from time to time. The property in the products shall pass from the Corporation to the dealer upon delivery of the products to the dealer or his representative and the Corporation shall not in any way be held responsible for any loss or shortage thereafter. Unless otherwise specifically stated therein, a receipt signed by or on behalf of the dealer at the time of delivery by the Corporation of the products will be conclusive evidence that the products mentioned therein were in fact delivered to the dealer, that such products were in accordance with the Corporation's specification for the time being therefor

Measure-
ment.

...19/-

: 19 :

and that the quantities of such products mentioned in the invoice/receipt are correct, and the dealer shall thereafter be precluded from making any claim against the Corporation for compensation or otherwise on the ground of short delivery or contamination of such products.

17. The Corporation's Petrol (MS) and High Speed Diesel Oil (HSD) supplied to the dealer shall be in accordance with BIS specifications as may be in force at the relevant time and as adopted by the Corporation from time to time subject to deviations and modifications thereof as may be advised and permitted by the Ministry of Petroleum and Natural Gas, Government of India from time to time. All other products supplied by the Corporation to the dealer hereunder shall be in accordance with the specifications for the time being laid down therefor by the Corporation. The dealer shall take every possible precaution against contamination of the products by things injurious to their quality and shall not in any way directly or indirectly adulterate or alter the specifications of the products as delivered. The Corporation shall have the right to exercise at its discretion at any time and from time to time quality control measures for products marketed by the Corporation and lying with the dealer. The opinion of the General Manager of the Corporation for the time being at _____ as to whether any product of the Corporation has been contaminated and/or adulterated shall be final and binding upon the dealer.

Product
specifica-
tion/con-
tamination,
adultera-
tion.

: 20 :

In the event of the said General Manager finding that the contamination and/or adulteration of product has been due to any act or default or negligence of the dealer or of his servants or agents, the Corporation shall have the right, without being bound to do so, to remove the contaminated/adulterated product and to destroy or otherwise deal with the same without making any payment therefor to the dealer and without prejudice to the Corporation's right to terminate this agreement forthwith.

- 18(a) The Corporation will deliver the products to the dealer at the rates therefor ruling on the date of delivery against prior payment by demand draft. The Corporation may, however, at its sole discretion, agree to extend cheque facility or give credit facility as it deems fit to the dealer from time to time and for such period or periods as the Corporation considers appropriate and may cancel or vary the same at any time without assigning any reason therefor. In the event that the Corporation shall agree to extend any such credit facility, the dealer shall settle all bills punctually within the period of credit allowed without any deduction whatsoever and without claiming to set off against the amount of such bills any amount admittedly due or alleged by the dealer to be due from the Corporation. In the event of the amount of any bill or part thereof preferred by the Corporation upon the dealer remaining unpaid beyond 4 days after demand made by the Corporation therefor, Corporation shall be at

Terms of
payment.

: 21 :

liberty to refuse to supply any further product to the dealer and also forthwith treat this agreement as being repudiated by the dealer.

(b) Notwithstanding that credit may be given for the payment of the price of the products, the Corporation shall be entitled, without assigning any reason therefor, to resume and keep possession of the products until payment.

(c) In addition to any right of lien to which the Corporation may by law or under this Agreement be entitled, the Corporation shall be entitled to have a first charge or lien on all goods of the dealer for the unpaid price of any goods sold and delivered to the Dealer by the Corporation under this Agreement.

19. The Corporation shall be entitled at any time and from time to time and without any previous notice to the Dealer to change all or any of the prices whether Corporation's selling prices to the Dealer or Dealer's selling prices to the customers. The Corporation shall not in the event of any such change be bound to make any allowance or pay any compensation to the Dealer on any of the products supplied to the Dealer prior to the date such change takes effect.

Corporation reserves right to change prices.

20. The Dealer shall display or exhibit at his cost at or near the Dealer's premises, such sign and other publicity materials as the Corporation may provide and/or require to be displayed or exhibited. The Dealer

Signs and publicity.

...22/-

: 22 :

shall not engage in or carry out any publicity work in respect of his dealership business or otherwise without obtaining the prior written approval of the Corporation both as regards the nature of the work and the manner in which it is to be done.

21. It shall be a paramount condition of this Agreement that the Dealer himself (if he be an individual) or both partners of the Dealer firm (if the Dealer is a partnership firm consisting of two partners only) or the majority of the partners of the Dealer firm (if the Dealer is a firm consisting of more than two partners) or the majority of the office bearers/elected members of the Dealer Co-operative Society (if the Dealer is a Co-operative Society) or the Managing/Whole time Directors (if the Dealer is a private limited company) as the case may be shall ordinarily be resident in India and shall take an active part in the management and running of the dealership and shall personally supervise the same and shall not under any circumstances do so through any other person firm or body, either as 'Benami' or through any 'Power of Attorney' or otherwise.

Working Dealer.

22. The Dealer shall at all times and from time to time at his own cost and expense take out adequate and proper insurance during the continuance of this Agreement and for a period of three months from the date of the termination thereof from a well reputed Insurance Company against all risks including third party risk to persons and properties, fire and explosion risk, riot risk, comprehensive motor vehicle policy risk, workmen's compensation and injury policy and/or loss or

To take out adequate insurance.

...23/-

: 23 :

damage to the products due to any cause whatsoever and shall keep all such insurance policies in force at all times. As and when called upon by the Corporation, the Dealer shall produce such insurance policies and the renewals thereof for inspection and verification by the Corporation. The Dealer shall fully and punctually abide by all the terms, conditions and covenants contained and set out in such insurance policies and shall not do or omit to do any act, deed or thing whereby such insurance policies may be invalidated, cancelled or rescinded by the Insurance Company. Such policy shall in no event be for an amount less than the minimum amount as may be suggested in writing from time to time by the Corporation.

23. The Dealer shall be solely responsible for and shall himself bear all expenses of and in connection with the dealership business, including administration of office, insurance premia, wages, salaries, employment benefits payable to all persons employed by him, telephone rents, licence or other fees, ground rent, rates, taxes, electricity and water consumption charges and all other charges and outgoings of every kind connected with the said premises and/or business and shall pay the same promptly and without fail.

Dealer to
bear
expenditure
of business.

24. All expenses incurred in connection with or incidental to the storage, licensing, handling, sale and distribution of the products shall be borne by the Dealer. The Dealer shall be solely responsible for the payment of all local and other taxes in respect of the

Dealer to
bear hand-
ling and
other
expenses.

...24/-

: 24 :

sale of the products. The Corporation will not be liable to bear such expenditure under any circumstances whatsoever.

25. The grant of any credit by the Dealer to customers shall be at the Dealer's risk and shall not in any way affect the Dealer's liability to the Corporation.
- Credit by
Dealer.
- 26(a) The Dealer will provide and maintain the standard of courtesy and service for the public in all respects as required by the Corporation from time to time and at all times to the Corporation's complete satisfaction. The Dealer will provide at his own cost the uniforms for Driveway Salesmen/other staff and will also ensure that the driveways are always kept in good and motorable condition.
- Standard of
service by
Dealer.
- 26(b) The Dealer shall at his own cost maintain adequate and competent staff to attend to the work of filling the products into the customer's vehicles and for providing drinking water and certain other free services to the customers including air and radiator water, first aid kit, filter papers and certified 5 litre measure, at the premises in accordance with the general instructions given or laid down by the Corporation from time to time.
- Dealer to
provide
free
service.
27. The Dealer shall be allowed commission by the Corporation on the sale/supply of the products at such rate as may be fixed by the Corporation from time to time. It is expressly agreed to by the Dealer that the Corporation, at its sole discretion and without any
- Dealer's
Commission.

...25/-

: 25 :

previous notice to the Dealer, shall from time to time and at all times be entitled to increase or reduce or revise or modify the said commission and any such revision or reduction or modification shall be binding upon the Dealer. It is further agreed that the Corporation shall be entitled to recover or deduct or adjust the licence fee dues from the proceeds of the Dealer Commission.

28. Except with the previous written consent of the Corporation (which consent the Corporation may in its sole and absolute discretion withhold)

Dealership operation.

- a) the Dealer shall not enter into any arrangement, contract or understanding whereby the operations of the Dealer hereunder are or may be controlled, carried out and/or financed by any other person, firm or company whether directly or indirectly and whether in whole or in part;
- b) the Dealer himself (if he is an individual) or the partners themselves (if the Dealer is a partnership firm) or the wholetime office bearers/elected members (if the Dealer is a Co-operative Society) shall not take up any other employment or engage in any other business and/or profession apart from the operation of the dealership which is the subject matter of this Agreement.
- c) the Dealer (if it be a firm or a co-operative society) shall not effect any change in its

: 26 :

constitution whether in the identity of its partners or appointment of wholetime office bearers or elected members or in the terms of the deed of partnership or of the bye-laws as the case may be;

- d) the Dealer (if it be a private limited company) shall not cause or permit any transfer/s in its share holding (transmission by death excluded).

29. The Dealer shall not during the currency of this Agreement sell or be in any way be concerned in selling or distributing the products of any other oil company or producer without the previous consent in writing of the Corporation which consent the Corporation may refuse, vary and withdraw in its absolute discretion at any time or from time to time.

Dealer not to sell other's products.

30. The Dealer shall not purchase, obtain or otherwise acquire possession from any person, firm or company other than the Corporation, any product used, stocked or sold by the Dealer or in connection with the Dealer's business in the products hereunder without the previous consent in writing of the Corporation, which consent the Corporation may refuse, vary and withdraw at any time or from time to time in its entire discretion.

Dealer not to purchase from others.

31. The Dealer shall not make supplies of the said products of the Corporation to any person, firm or company whose supplies have been stopped/suspended by the Corporation or by any other company engaged in the marketing of like products in India.

Dealer not to supply to others whose supplies have been stopped/suspended.

: 28 :

any of them may be jeopardised. The Dealer shall not at any time claim or have any right in any of the Trade Marks of the Corporation and shall promptly convey to the Corporation any information obtained or received by him of any infringement of any Trade Marks of the Corporation or of the use by any person, firm or company of any Trade Mark which may be confusingly similar to any of the Trade Mark of the Corporation. The Dealer shall not use any Trade Marks of the Corporation except as may be specifically allowed in writing by the Corporation at its sole discretion.

37. The Dealer shall not under any circumstances pay or advance to any servants or representatives of the Corporation any sum of money or deliver on any account whatsoever any property due or belonging to the Corporation without prior written authority from the Corporation. Should any sum be paid or advanced or any property delivered without such authority, and the same be not received by the Corporation, the dealer shall be entirely responsible to make good to the Corporation the amount or value thereof.

No advance
by Dealer.

38. Subject to the provisions contained in clause no.46 hereafter appearing, if the Dealer is a firm, the persons named above as partners and the partners for the time being of the Dealer firm shall be jointly and severally liable in respect of all matters hereunder and the Dealer shall forthwith advise the Corporation by written notice addressed to the Corporation and delivered to the Corporation at its office at _____ of any change

Partner's
Liability.

...29/-

: 27 :

32. The Dealer shall not make supplies of the said products of the Corporation to any Dealer/Agent/Distributor appointed by the Corporation or by any other company engaged in the marketing of the said products in India.
33. The Dealer shall not sell the said products at rates or prices higher than those which the Corporation or any authority under Law shall from time to time prescribe.
34. The Dealer shall not make short deliveries to his customers. The Dealer shall scrupulously observe all rules and regulations under the Weights & Measures Act and ensure correct delivery of product by using only duly certified measures or measuring devices and shall check delivery rate of such devices at least once on a daily basis, before commencement of sales.
35. The Dealer shall not sell, assign, sublet, mortgage, charge or part with or otherwise transfer the premises or any part thereof or his interest in the dealership or any right or interest or benefit conferred by this Agreement or grant any licence in connection with the said premises and/or outfit or any part thereof to any person, firm or company nor allow any other person, firm or company to use the premises or the outfit or any part thereof except to the extent necessary under the terms of this Agreement and/or specifically permitted in writing by the Corporation.
36. The Dealer shall not do any act or omit to do any act whereby the Corporation's rights in its Trade Marks or

Dealer not
to supply
to other
Dealers or
Agents.

Dealer not
to sell at
higher
rates.

Dealer not
to make
short
deliveries.

Dealer not
to assign.

Trade
Marks.

...28/-

: 29 :

that may take place in the partnership and in the absence of such notice, no partner shall be relieved from liability by public notice of...retirement...or dissolution in accordance with the Indian Partnership Act, 1932 and all the persons who have been partners shall in such event nevertheless remain fully liable to the Corporation as if they had all continued to be partners.

39(a) The Dealer shall keep and maintain such records of stocks, sales etc. as may be prescribed by the Corporation from time to time and submit the same for inspection on demand by any officer of the Corporation and shall submit to the Corporation such records at such intervals as the Corporation may from time to time specify in writing.

Maintenance
of records
by the
Dealer.

(b) All correspondence, accounts, returns of stocks and sales, and such other documents as may be required by the Corporation shall be made written neatly and correctly in English or Hindi language and all accounts shall be produced for inspection of the Corporation's representatives at any time when called upon by them to do so.

Accounts
and
correspon-
dence to be
in English
or Hindi.

40. Notwithstanding anything inconsistent contained in any permit or licence obtained by the dealer for dealing in the products at the premises, the provisions of this Agreement alone shall have effect to govern or determine the mutual relationship of the Dealer and the Corporation interse.

Effect of
permits and
licences on
mutual
relationship

: 30 :

41(a) The Dealer shall, whenever called upon by the Corporation to do so, lodge with the Corporation deposits of such sums of money as may be stipulated by the Corporation from time to time as security for the due fulfillment of his obligation and undertakings hereunder and for securing security payment of all sums due from him to the Corporation. Such deposits shall be in cash or securities approved in writing by the Corporation and endorsed in favour of the Corporation. The Corporation will not allow interest to the Dealer on cash deposits but in the case of securities yielding interest, the Corporation may without being bound to do so, collect the interest thereon and pay the amount thereof to the Dealer. The deposit shall be held by the Corporation subject to such further terms and conditions as may be stipulated by the Corporation from time to time. The Dealer agrees that the Corporation shall be under no obligation to the Dealer with regard to nor shall the Dealer be entitled to any benefit arising out of and the manner of use or disposal of the funds received as deposits from the Dealer.

Security
Deposit.

(b) Any such deposit shall be regarded by the Dealer as security deposit only and the Dealer shall have no right to claim that the security deposit be utilised in payment of any of his dues to the Corporation. The Corporation may however, at any time at its discretion sell the approved securities and apply the sale proceeds of the securities or any part thereof in payment pro-tanto of any amount due to it by the Dealer and the Dealer hereby authorises the Corporation to do

so. Should the Corporation at any time do so and advise the Dealer of the same, the Dealer shall forthwith lodge with the Corporation such further sums in cash as may be necessary to restore the Dealer's security deposit to the required extent. The Dealer shall not be entitled to raise any dispute with regard to the time or the price at which or the manner in which the approved securities or any of them may be sold by the Corporation.

- (c) The amount representing the said deposit or the approved securities shall be returnable to the Dealer only on the termination of this Agreement and after receipt by the Corporation of its Deposit Receipt duly discharged and after all accounts whatsoever in connection with this Agreement and/or in connection with the Dealer's dealings, if any, in any other products or goods of the Corporation, whether under a written agreement or otherwise, have been finally settled and the obligations hereunder and in particular under clause 51 have been fully discharged. In the event of the death of the Dealer, if he be a sole individual, the Corporation will return the amount of the security deposit, after making all necessary deductions, against presentation of the deposit receipt only to such person or persons who establish his/her/their title to recover the same from the Corporation by means of probate, Letters of Administration or a Succession Certificate granted by a court of competent jurisdiction in India, and the Corporation will not recognise any other person(s) as having any title to the security deposit.

- (d) In the event of the death of a partner in the Dealer firm, the Corporation will return the amount of the security deposit, after making all necessary deductions against presentation of the deposit receipt duly signed by the surviving partners and such person or persons who establish his/her/their title to the estate of the deceased partner by means of probate, Letters of Administration or a Succession Certificate granted by a court of competent jurisdiction, it being agreed that the Corporation will not recognise any other person(s) as having any title to the security deposits.
- (e) In the event that after the death of a partner in the Dealer firm, the Corporation exercises its option under clause no.46 hereof to continue the dealership with the surviving partner(s), the surviving partner(s) shall forthwith lodge with the Corporation as security deposit such sum of money as may be stipulated herein above.
- (f) The deposit receipt issued by the Corporation shall alone be proof of the deposit with the Corporation and of the value thereof.
42. The Dealer shall at all times faithfully, promptly and diligently observe and perform and carry out at all times all directions, instructions, guidelines and orders given or as may be given from time to time by the Corporation or its representative(s) on safe practices and marketing discipline and/or for the proper carrying on of the dealership of the Corporation. The Dealer shall also scrupulously

Dealer to
comply
with Cor-
poration's
directives.

: 33 :

observe and comply with all laws, rules, regulations and requisitions of the Central/State Government and of all authorities appointed by them or either of them including in particular the Chief Controller of Explosives, Government of India and/or any other local authority with regard to the safe practices.

43. The Corporation by its officers, representatives or servants will be entitled at all times to enter upon the premises and inspect the management of the retail outlet by the Dealer in all respects and the Dealer shall be bound to render all assistance and give all information to the Corporation and its duly authorised representatives in that behalf and produce to the Corporation and/or its duly authorised representatives in that behalf whenever required to do so, invoices/cash memos for all purchases and receipts for all payments which it is the Dealer's duty to make whether under the terms of this Agreement or otherwise.

Corporation's
right to
inspect
management
of
dealership.

- 44(a) The Dealer shall indemnify and save harmless the Corporation from all losses, damages, claims, suits, legal proceedings or actions which may arise out of or result from any loss or injury to any person or property or from violation of any statutory enactments, rules or regulations or other written orders or other laws or caused by or resulting from non-observance by the Dealer of the provisions of this Agreement or otherwise howsoever.

Dealer to
indemnify

: 34 :

- (b) The Dealer shall at all times indemnify and keep indemnified the Corporation, its officers, employees, and agents against all losses, damages, liabilities, suits, actions, legal proceedings, claims, demands or otherwise howsoever arising out of any claims made by the Central and/or State Government and/or Municipal local and/or other authorities and/or by any customer of the products and/or by any other third party as a result of or in consequence of any act or omission of whatsoever nature of dealer, his servants or agents including without prejudice to the generality of the foregoing any accident or loss or damage/injury to life and/or property arising out of the storage, handling and/or sale of the products or attributable to the use of the said premises and/or outfit for the aforesaid purposes whether or not such act or omission or accident or loss or damage was due to any negligence, want of care or skill or any misconduct of the Dealer, his servants or agents.
- (c) The Dealer shall also keep the Corporation indemnified against any loss of the site and/or the outfit and/or the structures and fixed assets or any part thereof and all costs and damages incurred by the Corporation by reason of the breach of any of the provisions of this Agreement.
- (d) In the event of the death of any partner/members of a firm/co-operative society which has been appointed as a dealer hereunder, the surviving partners/members hereby

: 35 :

agree to indemnify and keep indemnified the Corporation against any claims or demands which may be made by the heirs of the deceased partner/member.

45. Notwithstanding anything to the contrary herein contained, the Corporation shall be at liberty at its entire discretion to terminate this Agreement forthwith upon or at any time after the happening of any of the following events namely:-

Forthwith
Termina-
tion.

a) If the Dealer shall commit a breach or default of any of the terms, conditions, covenants and stipulations contained in this Agreement,

b) upon

(i) the adjudication as insolvent of the Dealer, if he be an individual,

(ii) the dissolution of the partnership of the Dealer's firm or the death or adjudication as insolvent of any partner of the firm, if the Dealer be a firm :

(iii) the liquidation, whether voluntary or otherwise or the passing of an effective resolution for winding up if the Dealer be a Company or a Co-operative Society:

c) If any attachment is levied and continues to be levied for a period of seven days upon the effects of the Dealer or any individual partner for the time being of the Dealer's firm or any member of the Dealer's Co-operative Society.

: 36 :

d) If the dealer or any partner in the Dealer's firm or any member of the Co-operative Society appointed as Dealer hereunder shall be convicted of a criminal offence;

e) If a Receiver shall be appointed of any property or assets of the Dealer or of any partner in the Dealer's firm or of any member of the Dealer's Co-operative Society and shall not be discharged within seven days of the date of such appointment;

f) If the licence issued by the relevant authorities for the storage of petroleum product supplied by the Corporation is cancelled or modified or suspended or revoked or is not renewed before the date of expiry by such authority;

g) If any licence or permit issued to the Dealer by any authority for the carrying on of the business by the Dealer as contemplated under this Agreement is cancelled or revoked or suspended or modified by any such authority or is not renewed before the date of expiry by such authority;

h) If the Dealer shall for any reason make default in payment to the Corporation in full of his outstandings as appearing in the Corporation's books of accounts beyond 4 days of demand by the Corporation;

: 37 :

- i) If any information given by the Dealer in his application for appointment as a Dealer or in any document supplied therewith or filed in support thereof shall be found to be untrue or incorrect;
- j) If the Dealer has concealed any information which if disclosed would in the opinion of the General Manager of the Corporation for the time being at _____ whose decision shall be final have disentitled him to be appointed as a Dealer;
- k) If the lease/tenancy of the Dealer (if the Dealer holds the site as lessee or tenant) shall be terminated or purported to be terminated or comes to an end for any reason whatsoever;
- l) If the Dealer does not adhere to the instructions/guidelines issued from time to time by the Corporation in connection with Marketing Discipline and/or safe practices to be followed by him in the sale or supply and storage of the Corporation's products or otherwise;
- m) If the Dealer shall contaminate/adulterate or tamper with the quality of any of the products supplied by the Corporation;
- n) If the Dealer sells any of the products supplied by the Corporation at prices higher than those fixed by the Corporation/statutory authority;

: 38 :

- o) If the Dealer allows the dealership/outlet to be operated as 'Benami' or causes the same to be operated through any Power of Attorney or otherwise by any outside third party;
- p) If the Dealer shall either by himself or by his servants or agents commit or suffer to be committed any act which in the opinion of the General Manager of the Corporation for the time being at _____ whose decision in that behalf shall be final, is prejudicial to the interest or good name of the Corporation or its products, the General Manager shall not be bound to give reason for such decision.

The Corporation's right to terminate this Agreement under the terms of this clause shall be without prejudice to and without affecting any of its other rights and remedies against the Dealer.

- 46. Notwithstanding anything to the contrary herein contained, in the event of the Dealer being a partnership firm, this Agreement shall automatically come to an end and stand terminated upon any change in the constitution of the firm, whether by retirement or death of any partner(s) introduction of new partner(s) or otherwise howsoever unless after receipt of a written notice from the original surviving partner(s) of the Dealer firm of such death or retirement or induction, the Corporation shall have expressly agreed in writing to continue the Dealership with the surviving partner(s) or with the re-constituted firm.

Change in
partner-
ship -
effect
thereof.

: 39 :

Any supplies of the products made by the Corporation, subsequent to the death or retirement of a partner or the induction of new partner(s), with or without the knowledge of the death or retirement or induction, or any other action on the part of the Corporation under or in pursuance of this Agreement subsequent to such death or retirement or induction in favour of or in relation to the surviving partner(s) and/or the reconstituted firm shall not and shall not be deemed to confer any dealership or other rights in favour of the surviving partner(s) and/or the reconstituted firm unless and until the Corporation conveys in writing its specific approval or assents to confer any dealership or other rights upon the surviving partner(s) and/or the reconstituted firm as the case may be and the Corporation shall always be at liberty without any previous notice to discontinue, withhold or stop any such supplies or perform any such act as it deems fit at its discretion.

47. Notwithstanding anything to the contrary herein contained, this Agreement shall automatically come to an end and stand terminated upon the death of the Dealer if he be an individual. Any supplies of the products made by the Corporation subsequent to the death of the Dealer in his firm name or otherwise to all or any of his legal heir/s successor/s or legal representatives or to any other person either with or without the knowledge of the death or any other action on the part of the Corporation under or in pursuance of this Agreement subsequent to such death in favour of or

Termination on the death of sole proprietor.

: 40 :

in relation to the dealer's firm or all or any of his legal heirs, successors, legal representatives or any other person shall not and shall not be deemed to confer any dealership or other rights in favour of any such legal heir/heirs successor/successors, legal representative/representatives or other person unless and until the Corporation conveys in writing its specific approval or assent to confer any such dealership or other rights and the Corporation shall always be at liberty without any previous notice to discontinue, withhold or stop any such supplies or perform any such act as it may deem fit at its discretion.

48. The termination of this Agreement shall be without prejudice to the rights of either party against the other in respect of any matter or thing antecedent to such termination.

Termination not to affect antecedent rights.

49. In the event of termination of this Agreement, the Dealer shall not be entitled to any compensation or claim any loss or damages from the Corporation in respect of goodwill or otherwise.

No compensation/damages on termination.

50. The supply/sale of the products by the Corporation to the Dealer pending expiry of any notice of termination or after any act, contravention or omission by the Dealer entitling the Corporation to terminate this Agreement shall have become known to the Corporation, shall not in any way prejudice or affect the right of the Corporation to enforce the termination of this Agreement.

Supply during notice period.

: 41 :

51. On the termination of this Agreement, should there be any money due to the Corporation, the Dealer undertakes to pay the same forthwith to the Corporation. A certificate of the amount payable by the Dealer and signed by the Corporation's official not below the rank of Manager(Finance) for the time being at _____ shall be final and binding upon the Dealer.

If the Corporation shall appropriate the cash or the cash proceeds of the approved securities deposited by the Dealer as security under clause 41 hereof to the extent of the amount due to it and if the amount thus appropriated shall be insufficient to cover the Dealer's indebtedness to the Corporation, the Dealer agrees to pay to the Corporation any such balance immediately on demand therefor being made by the Corporation.

52. Upon the termination of this Agreement, the Dealer shall cease to have any right whatsoever to use the outfit in any manner and he shall immediately on demand, deliver to the Corporation all goods, property and effects belonging to it and the Corporation shall be entitled to enter upon the premises without any hindrance or objection from the Dealer for the purpose of removing the outfit and such goods, property and effects as aforesaid and the Dealer shall give to the Corporation such assistance as may be required by it in connection with such removal until the outfit and the Corporation's other goods, property and effects are

Settlement
of
account
on ter-
mination.

Removal
of goods
and
properties
belonging
to the
Corpora-
tion,
upon ter-
mina-
tion.

: 42 :

delivered and/or removed as aforesaid, the same shall remain on the premises at the Dealer's risk and he shall be bound to take all necessary and proper steps for the protection thereof and safe custody and shall be responsible for all loss or damage thereto.

53. Upon the termination of this Agreement for any cause whatsoever, the property in the products supplied by the Corporation and at the date of the termination in the possession of the Dealer shall automatically revert to and become vested in the Corporation and the Dealer shall immediately deliver the same to the Corporation which shall be at liberty to deal with such products in any manner it deems fit but shall reimburse to the Dealer the cost of the products so taken over at the same rates at which it was supplied to the dealer.

Property
in the
products
to vest
in the
Corpora-
tion upon
termination

54. After the termination of this Agreement, neither the Dealer (if he shall be an individual) nor any partner of Dealer (if the Dealer be a firm) nor the company (if Dealer be a company registered under the Indian Companies Act, 1956) nor any member of the Co-operative Society constituting the Dealer (if the Dealer be a Co-operative Society) shall for a period of one year carry on business in petroleum products as the agent, Dealer or Distributor (either by himself or as partner in any firm or as a member of any Co-operative Society) of any other petroleum company at or in the said premises at or in any other place within a radius of five kilometres from the said premises hereinabove mentioned without obtaining the Corporation's prior

Dealer
not to
engage
in like
business
upon ter-
mina-
tion.

: 43 :

written permission therefor which permission the Corporation may in its absolute discretion refuse.

55. The Dealer shall not at any time whether during the period of this Agreement or after its termination, divulge or make known to any person any confidential information concerning the accounts, secret processes or any other particulars in any way relating to the business of the Corporation.

Secrecy

56. The Dealer shall not at any time during the continuance of this Agreement pledge the credit of the Corporation.

Pledge of credit.

57. Any acquiescence or waiver by the Corporation of any delay, breach or default committed by the Dealer shall not be deemed to be or considered as estoppel against the Corporation nor prevent the Corporation from exercising any of its rights under any of the provisions of this Agreement.

Acquiescence or waiver.

58. Without prejudice to the provisions of clauses 9(b), 12, 13 and 15 hereof and so as not to limit in any way those provisions for their application, it is in particular agreed that no failure, delay or omission to carry out or observe any of the stipulations or conditions of this Agreement shall give rise to any claim against the Corporation or be deemed a breach of this Agreement if the same shall arise directly or indirectly from any circumstances whatsoever which are not within the control of the Corporation, including without limiting the generality of the foregoing from any of the following causes viz. the imposition of restrictions or onerous regulations on the marine transport or landing of products in bulk or in

Force Majeure

: 44 :

packages, or to other acts of God, insurrection, action of pirates, war declared or undeclared, strikes, lock outs, transport breakdown and/or combination of workmen, shortage of railway wagons, accidents to plant or machinery or storage facilities, any order or decree of any Government or Governmental Authority, requisition or rationing or allocation, whether imposed by law, decree, regulation or by voluntary co-operation of industry at the insistence or request of any Governmental Authority or person purporting to act therefor, compliance with any order or request of any national, provincial, port or other public authority or of any person purporting to act for such authority, diminution in the quantities of products received locally by the Corporation from its usual source of supply, non-delivery of supplies either on account of stoppage or reduction of production at Refineries, whether affecting Corporation's obligations under this or other Agreements to supply similar products, bottlenecks in transport facilities, shortage in supply of products or equipment etc.

In the event of any of the foregoing circumstances arising, the Corporation shall be at liberty to withhold, reduce or suspend deliveries hereunder to such extent as the Corporation in its discretion think fit.

59(a) The Corporation shall have the right at any time during the currency of this Agreement or any extended period thereof or within three months after the termination

Corporation's right to acquire.

thereof, for any reason whatsoever by notice in writing, to require the Dealer to sell or to assign (according as the site held by the Dealer may be of freehold or leasehold tenure) to the Corporation or its nominee, the premises together with all fixed assets thereon and thereupon the Dealer shall sell or assign the premises to the Corporation or its nominee within three months next after receipt of such notice at or for a price which shall be computed as follows, that is to say, which shall comprise FIRST a sum equivalent to such capital monies as the Dealer may have paid by way of premium or price as consideration for the acquisition of the site and/or the premises and SECOND a sum equivalent to such sum as the Dealer may himself have expended in the erection and installation on the site of the said buildings, structures and fixed assets. The aforesaid element of the price shall be reduced by depreciation at such rates as may have been applicable under the taxation statutes in force on the date on which such notice as aforesaid shall have been given by the Corporation. The costs of the sale or assignment excluding only professional legal costs incurred by the Dealer shall be borne by the Corporation. In the event of the Dealer's title to the immovable assets being in any way defective in the opinion of the Corporation or its lawyers, the Dealer shall take all such steps as the Corporation may reasonably require him to take (but at the Corporation's expense) to cure such defects. If such defects cannot, however, be cured, the Corporation shall have the right to rescind the contract for sale or assignment without liability to pay costs or

damages. The Corporation shall also have the right exercisable in the time and in manner aforesaid to require the Dealer to sell to the Corporation or its nominee the stock in trade and assets thereof at a price which shall be determined jointly by two valuers, one to be appointed by each party and in default of agreement between the valuers by a Referee to be appointed by such valuers before commencing the work of valuation. The costs of the valuation including the fees of the valuers and the Referee shall be borne by the Dealer and the Corporation in equal shares. The amount to be computed under this clause by reference to monies paid or expended by the Dealer shall be computed upon the basis only of such expenditure as the Dealer can reasonably prove to have been incurred by him by means of documentary evidence. The options and rights granted by this clause to the Corporation for purchase, assignment or sub-lease of immovable assets may be specifically enforced by the Corporation. Upon the exercise by the Corporation of any of the rights conferred upon it by this clause, the Dealer shall also assign and transfer to the Corporation and/or its nominee all licences held by or standing in the name of the Dealer with regard to said business of the storage and sale of petroleum products at the said premises as also all other licences required to be obtained and/or held by the Dealer for the purpose of carrying on the business contemplated by this Agreement. The Dealer shall execute and/or cause to be done and/or executed all such further and other acts, deeds, things, matters and assurances for the effectuation of the transactions

: 47 :

contemplated in this clause and where such effectuation requires the concurrence or assent of any other party, the Dealer shall use his best endeavours in such manner as the Corporation may require for the obtaining of such concurrence or assent.

- (b) On any such sale or assignment as aforesaid, the Dealer shall not be entitled to receive from the Corporation any amount on account of goodwill in respect of the Dealership business carried on by the Dealer and/or the said premises.

Goodwill

60. All notices required to be given and approvals required to be obtained hereunder shall be given and obtained in writing. All notices required to be served by either party hereto upon the other shall be deemed properly served if delivered, in the case of the Corporation, at its Regional Office at _____ herein above mentioned or sent by registered post to its said office, and in the case of the Dealer, if sent by post or delivered by hand at his place of business hereinabove mentioned or pasted or affixed thereat.

Notices

61. This Agreement has been made in _____ and all payments thereunder shall be due and made in the aforesaid city/town only unless otherwise directed by the Corporation.

Place of payment.

- 62(a) Any dispute or difference of any nature whatsoever, any claim, cross-claim, counter-claim or set-off or regarding any right, liability, act, omission or account of any of the parties hereto arising out of or

Arbitration

...48/-

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in relation to this agreement shall be referred to the sole arbitration of the Director(Marketing) of the Corporation who may either himself act as the Arbitrator or nominate some other officer of the Corporation to act as the Arbitrator. The Dealer will not be entitled to raise any objection to any such Arbitrator on the ground that the Arbitrator is an officer of the Corporation.

- (b) In the event of the Arbitrator to whom the matter is originally referred being transferred, he shall be entitled to continue the arbitration proceedings notwithstanding his transfer unless the Director(Marketing) at the time of such transfer or at any time thereafter, designates another person to act as Arbitrator in his place in accordance with the terms of this agreement.

- (c) In the event of the arbitrator, to whom the matter is originally referred vacating his office or being unable or refusing to act for any reason, the Director(Marketing) at the time of vacation of office or inability or refusal to act, shall designate another person to act as Arbitrator in accordance with the terms of this agreement.

- (d) The Arbitrator newly nominated by the Director(Marketing) under clause (b) or under clause (c) above, shall be entitled to proceed with the reference from the point at which it was left by his predecessor.

...49/-

- (e) It is an express term of this contract that no person other than the Director(Marketing) or a person nominated by such Director(Marketing) of the Corporation as aforesaid shall act as Arbitrator hereunder. If for any reason, Director(Marketing) is unable or unwilling or refuses or fails to act as Arbitrator or nominate an Arbitrator then the matter shall not be referred to arbitration at all.
- (f) The award of the Arbitrator so appointed shall be final conclusive and binding on all parties to the agreement subject to the provisions of the Arbitration Act, 1940 or any statutory modification or re-enactment thereof and the rules made thereunder for the time being in force shall apply to the arbitration proceedings under this clause.
- (g) The award shall be made in writing and published by the Arbitrator within two years after entering upon the reference or within such extended time not exceeding one further year as the parties shall by writing agree. The parties hereto shall be deemed to have irrevocably given their consent to the Arbitrator to make and publish the award within the period referred to hereinabove and shall not be entitled to raise any objection or protest thereto under any circumstances whatsoever.
- (h) The Arbitrator shall have power to order and direct either of the parties to abide by, observe and perform all such directions as the arbitrator may think fit having regard to the matters in difference i.e. dispute

- before him. The arbitrator shall have all summary powers and may take such evidence oral and/or documentary as the arbitrator in his absolute discretion think fit, and shall be entitled to exercise all powers under the Indian Arbitration Act, 1940, including admission of any affidavit as evidence concerning the matter in difference i.e. dispute before him.
- (i) It is hereby expressly agreed that the powers of the Arbitrator nominated in the matter hereinbefore mentioned shall include the power to make interim order/orders, as the circumstances of the case may justify, to appoint a receiver, commissioner or custodian by whatever name called to take possession of the property in dispute during the pendency of the proceedings and subject to such final order as may be passed by the Arbitrator and shall also have the power to issue such further orders from time to time as he may deem fit, on an application being made to him by any of the parties to the dispute where it is apprehended that the property to which it relates is in danger of being wasted, damaged, deteriorated or parted with or rights of other third parties are likely to be created thereon.
- (j) The parties against whom the arbitration proceedings have been initiated, that is to say, the Respondents in the proceedings shall be entitled to prefer a cross-claim, counter-claim or set off before the Arbitrator in respect of any matter in issue arising out of or in

relation to the agreement without seeking a formal reference of arbitration to the Director(Marketing) for such counter-claim, cross-claim or set off and the arbitrator shall be entitled to consider and deal with the same as if the matters arising therefrom have been referred to him originally and deemed to form part of the reference made by the Director(Marketing).

- (k) The Arbitrator shall be at liberty to appoint, if necessary, any Accountant or Engineer or other technical person to assist him and to act on the opinion taken from such person.
- (l) The Arbitrator shall have power to make one or more award whether interim or otherwise in respect of the dispute and difference and in particular, will be entitled to make separate awards in respect of claims or cross-claims of the parties.
- (m) The Arbitrator shall be entitled to direct anyone of the parties to pay the costs of the other party in such manner and to such extent as the Arbitrator may in his discretion determine and shall also be entitled to require one or both the parties to deposit funds in such proportion to meet the Arbitrator's fees and expenses as and when called upon to do so.

63. The parties hereby agree that the courts in the city of Jurisdiction alone shall have jurisdiction to entertain any application or other proceedings in respect of anything arising under this Agreement and

any award or awards made by the Arbitrator hereunder shall be filed in the concerned courts in the aforesaid city only.

64. For the purpose of these presents, (a) the expression "the Corporation" shall unless repugnant to the context or meaning thereof be deemed to include its successors and assigns;
- (b) the expression "General Manager" shall refer to the incumbent from time to time of that office and shall include any officer of the Corporation officiating as such General Manager and any officer of the Corporation who may head or be in-charge of the Regional Office in question whatever be his changed or modified designation, if any.
- (c) the expression "the Dealer" shall unless repugnant to the context or meaning thereof be deemed to include:
1. Where the Dealer is a single individual, his/her heirs, executors, administrators and permitted assigns;
 2. Where the Dealer is a firm, the specified partners thereof at the date of these presents, their respective heirs, executors, administrators and permitted assigns of the partner/s for the time being of such firm, the survivors or survivor of such partner/s and the heir, executors, administrators and permitted assigns of the last surviving partner;
 3. Where the Dealer is a company or other incorporated body, its successors and permitted assigns and;
 4. Where the Dealer is a Co-operative Society, its successors and permitted assigns and;

Word
Reference

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5. Where the Dealer is a Joint and Undivided Hindu Family, its successors, heirs, administrators and permitted assigns.

65. Notwithstanding the translation of various clauses, covenants and provisions herein provided in the Hindi language, it is specifically agreed between the parties hereto that in the event of any difference or dispute or inconsistency in the wording, meaning and/or interpretation of any clause, covenants or provisions of this agreement, the text provided in the English language shall be deemed to be the correct version as to the meaning and intent of the parties and shall prevail over the translation provided in the Hindi language.

Inconsistency in English & Hindi versions.

66. The Marginal Notes hereto shall not affect the construction of this Agreement.

Marginal Notes.

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In witness whereof, the parties hereto have set their hands at _____ the date, month and year first above written.

THE FIRST SCHEDULE ABOVE REFERRED TO

THE SECOND SCHEDULE ABOVE REFERRED TO

THE THIRD SCHEDULE ABOVE REFERRED TO

SIGNED BY (CORPORATION) _____

By its Constituted Attorney in the presence of

SIGNED BY _____

(Dealer)

In the presence of :

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FIRST SCHEDULE

(BEING THE DESCRIPTION OF THE PREMISES)

All that piece or parcel of land situate in the
 State of _____ District of _____
 Taluka of _____ Village of _____ in
 the Registration Sub-District of _____
 being Survey No. _____/Municipal No. _____
 and admeasuring _____ square meters or
 thereabout and bounded on :

North by: _____

East by : _____

South by: _____

West by: _____

Which said piece of land is now under the
 occupation of the Dealer together with all the
 buildings, structures and other immovable and movable
 assets thereon except the assets of the Corporation
 provided and more fully described under the second
 schedule hitherto.

For the Corporation

For the Dealer

(Signature)_____
(Signature)

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SECOND SCHEDULE

(Strike out whichever is not applicable)

(BEING APPARATUS AND EQUIPMENTS PROVIDED BY THE
CORPORATION IN THE SAID PREMISES)

The following items are installed and/or about to be
 installed at Dealer-controlled outlet at _____

1. 20/15 KL Tank.
2. HSD/MS Dispensing Pump.
3. Dip Rod
4. Filter 2".
5. Necessary electric and pipeline connection.
6. Pump Make and Model
7. Hand Operated Belt.
8. Motor Belt.
9. Handle
10. Pump Keys
11. Pad Locks with Keys
12. Opening Meter Reading
13. Emblem Sign
14. Hoarding.

For the Corporation

For the Dealer

(Signature)_____
(Signature)

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THIRD SCHEDULE

(Strike out whichever is not applicable)

Equipment to be installed and maintained by the Dealer
at Dealer-controlled outlet at _____

1. Spark plug Cleaner/Tester.
2. Head light adjustment units.
3. Wheel alignment equipment
4. Battery charger (quick and regular)
5. Water cooler
6. Oil Dispenser
7. Air compressor
8. Air gauge
9. Auto hoist/hoist as required
10. Car washing equipment
11. Lubrication equipments such as
 - a) Overhead reels
 - b) Power/Hand operated guns for oil/greases
 - c) Chassis lubricators (mobile units)
 - d) Oil drain containers (Mobile units)
12. Flood lights for yard lighting etc.

For the Corporation

For the Dealer

(Signature)_____
(Signature)

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ANNEXURE

In accordance with clause of the PETROL/HSD Pump Dealer
Agreement executed between the Dealer and the Corporation,
I/We hereby lodge with the Corporation a sum of Rs. _____
by Demand Draft as per the details furnished below:

The said amount shall be at the disposal of the
Corporation as Security Deposit as provided under the terms
of the said Dealership Agreement.

Signature of Dealer.