9-311A021

$15

NEW NUMBER

FIRSTCITY, TEXAS™
FIRST CITY BANCORPORATION OF TEXAS

RECORDATION NO 16599 FILED 1425
NOV 7 1989 -11 55 AM
INTERSTATE COMMERCE COMMISSION

Houston
P O Box 2557
Houston, Texas 77252
(713) 658-6011

November 3, 1989

Secretary, Interstate Commerce Commission
Washington, D.C.

Dear Secretary:

I have enclosed an original and one counterpart of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code. This document is a Security Agreement and Mortgage, a primary document, dated October 31, 1989.

The names and addresses of the parties to the document are as follows:

Debtor: Martin Gas Sales, Inc.
101 East Sabine
Kilgore, Texas 75662

Secured Party: First City, Texas-Houston, N.A.
1001 Main Street
Houston, Texas 77002

A description of the equipment covered by the document follows:

Ten (10) 34,000 gallon railroad tank cars, DOT-105A300W, bearing the numbers MGSX1958, MGSX1959, MGSX1960, MGSX1961, MGSX1962, MGSX1963, MGSX1964, MGSX1965, MGSX1966, MGSX1967.

A fee of $15.00 is enclosed. Please return the original to Brian R. Howard, Legal Assistant, Vinson & Elkins, 2713 First City Tower, Houston, Texas 77002-6760.

Counterpart C. T. Koppler

A short summary of the document to appear in the index follows:

Security Agreement and Mortgage between Martin Gas Sales, Inc., 101 East Sabine, Kilgore, Texas 75662, and First City, Texas-Houston, N.A., 1001 Main Street, Houston, Texas 77002, dated October 31, 1989, and covering ten (10) 34,000 gallon railroad tank cars, DOT105A300W.

Very truly yours,

FIRST CITY, TEXAS-HOUSTON, N.A.

By: Angelika Schweibenz
Angelika M. Schweibenz
Vice President

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

11/7/89

OFFICE OF THE SECRETARY

Brian R. Howard
Legal Assist.
Vinson & Elkins
2713 first City Tower
Houston,Texas 77002

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 11/7/89 at 11:55am, and assigned recordation number(s). 16599

Sincerely yours,

Noreta R. McGee

Noreta R. McGee
Secretary

Enclosure(s)

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RECORDATION NO 16590 FILED 1425

NOV 7 1989 -11 55 AM

INTERSTATE COMMERCE COMMISSION

SECURITY AGREEMENT AND MORTGAGE

(Equipment -- Railroad Tank Cars)

THIS SECURITY AGREEMENT made and entered into as of the 31st day of October, 1989, by MARTIN GAS SALES, INC., a Texas corporation, with its chief place of business and its chief executive office located at 101 East Sabine, Kilgore, Texas 75662 (hereinafter called "Debtor" or "Borrower"), in favor of FIRST CITY, TEXAS-HOUSTON, N.A., a national banking association with banking quarters at 1001 Main Street, Houston, Texas 77002 (hereinafter called "Secured Party");

W I T N E S S E T H:

WHEREAS, on even date herewith, Debtor and Secured Party are executing a Loan Agreement (said Loan Agreement, as the same may from time to time be amended or supplemented, hereinafter called the "Loan Agreement") pursuant to which, upon the terms and conditions stated therein, Secured Party agrees to make certain loans and extend certain credit to Debtor and the "Material Subsidiaries" (as defined in the Loan Agreement) from time to time; and

WHEREAS, Secured Party has conditioned its obligations under the Loan Agreement upon the execution and delivery by Debtor of this Security Agreement, and Debtor has agreed to enter into this Security Agreement;

NOW, THEREFORE, (i) in order to comply with the terms and conditions of the Loan Agreement, (ii) for and in consideration of the premises and the agreements herein contained, and (iii) for other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, Debtor hereby agrees with Secured Party as follows:

ARTICLE I

GENERAL TERMS

Section 1.01 Terms Defined Above. As used in this Security Agreement, the terms "Debtor", "Secured Party", "Borrower" and "Loan Agreement" shall have the meanings indicated above.

Section 1.02 Definitions Contained in the Loan Agreement. Unless otherwise defined herein, all terms beginning with a capital letter which are defined in the Loan Agreement shall have the same meanings herein as therein unless the context hereof otherwise requires.

Section 1.03 Certain Definitions. As used in this Security Agreement, the following terms shall have the following meanings, unless the context otherwise requires:

"Code" shall mean the Uniform Commercial Code as presently in effect in the State of Texas, Tex. Bus. & Comm. Code Ann. §§ 1.101-11.108.

"Collateral" shall mean all Property, including without limitation cash or other proceeds, in which Secured Party shall have a security interest pursuant to Section 2.01 of this Security Agreement.

"Default" shall mean the occurrence of any of the events specified in Section 5.03 hereof, whether or not any requirement for notice or lapse of time or other condition precedent has been satisfied.

"Equipment" shall have the meaning indicated in Subsection 2.01(a) hereof.

"Event of Default" shall mean the occurrence of any of the events specified in Section 5.03 hereof, provided that any requirement for notice or lapse of time or other condition precedent has been satisfied.

"Obligations" shall have the meaning indicated in Section 2.02 hereof.

"Other Liable Party" shall mean any Person, other than Debtor, primarily or secondarily liable for any of the Obligations or one who grants Secured Party a Lien on any Property as security for the Obligations.

"Security Agreement" shall mean this Security Agreement, as the same may from time to time be amended or supplemented.

Section 1.04 Terms Defined in Code. All terms used herein which are defined in the Code shall have the same meaning herein unless the context otherwise requires.

ARTICLE II

SECURITY INTEREST

Section 2.01 Grant of Security Interest. Debtor hereby grants to Secured Party a security interest in, and a general Lien and Mortgage upon, the following described Property:

(a) Ten (10) 34,000 gallon railroad tank cars, DOT-105A300W, bearing the numbers MGSX1958, MGSX1959, MGSX1960, MGSX1961, MGSX1962, MGSX1963, MGSX1964, MGSX1965, MGSX1966, MGSX1967; all parts thereof, substitutions therefor and accessions or additions thereto, whether now owned or hereafter acquired (any and

all such railroad tank cars, parts, substitutions, accessions and additions herein called the "Equipment"); and

(b) any additional Properties from time to time delivered to or deposited with Secured Party as security for the Obligations or otherwise pursuant to the terms of this Security Agreement; and

(c) the proceeds, products, additions to, substitutions for and accessions of any and all Property described in subparagraphs (a) and (b) in this Section 2.01.

Section 2.02 Obligations Secured. The security interest in, and general Lien and Mortgage upon, the Collateral is granted to secure the following (herein called the "Obligations"): (a) all indebtedness, obligations and liabilities of any kind of Debtor and/or any Material Subsidiary to Secured Party and the due fulfillment and performance of all obligations now or hereafter owed by Debtor and/or any Material Subsidiary to Secured Party (and also to others to the extent of participations granted them by Secured Party) arising out of and pursuant to the Loan Agreement, now outstanding or owing or which may hereafter be existing or incurred, directly between Debtor and/or any Material Subsidiary and Secured Party or acquired outright as a participation, conditionally or as collateral security from another by Secured Party, absolute or contingent, joint and/or several, secured or unsecured, do or not do, arising by operation of law or otherwise, or direct or indirect, including indebtedness, obligations and liabilities to Secured Party of Debtor and/or any Material Subsidiary as a member of any partnership, syndicate, association or other group, and whether incurred by Debtor and/or any Material Subsidiary as principal, surety, endorser, guarantor, accommodation party or otherwise, including, without limitation, the Indebtedness, as defined in the Loan Agreement, including without limitation (i) that certain Line of Credit Note dated of even date herewith, in the face amount of $11,000,000.00, executed by Debtor and payable to the order of Secured Party, (ii) that certain Term Note dated of even date herewith, in the original principal amount of $6,000,000.00, executed by Debtor and payable to the order of Secured Party, (iii) that certain Non-Revolving Credit Note dated of even date herewith, in the face amount of $1,000,000.00, executed by Debtor and payable to the order of Secured Party, (iv) any and all renewals, extensions for any period, rearrangements, modifications and/or enlargements of any of the foregoing Notes, (v) any and all indebtedness, obligations and liabilities under any Letters of Credit issued or to be issued by Secured Party for the account of Debtor or any Material Subsidiary and described or referred to in the Loan Agreement, any Letter of Credit Agreement executed in connection therewith, and any and all renewals, extensions for any period, amendments and/or reissues of any such Letters of Credit and/or Letter of Credit Agreements, and (vi) any

and all other instruments or documents executed in connection with or security for the Loan Agreement and/or the Notes, the Letters of Credit and the Letter of Credit Agreements, issued, executed and delivered pursuant to the Loan Agreement; (b) the payment and performance of all indebtedness, obligations and liabilities of the Guarantors under their respective Guaranty Agreement, and of Debtor under this Security Agreement or any of the other Security Instruments to which Debtor is a party.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

In order to induce Secured Party to accept this Security Agreement, Debtor represents and warrants to Secured Party (which representations and warranties will survive the creation of the Indebtedness and any extension of credit thereunder) that:

Section 3.01 Ownership and Liens. Except for the security interest of Secured Party granted in this Security Agreement and except for Liens permitted under Section 5.02 of the Loan Agreement, Debtor owns good and indefeasible title to the Collateral free and clear of any other Liens, adverse claims or options. Debtor has full right, power and authority to grant a security interest in the Collateral to Secured Party in the manner provided herein, free and clear of any other Liens, adverse claims and options. No other Lien, adverse claim or option has been created by Debtor or is known by Debtor to exist with respect to any Collateral, except as otherwise disclosed in writing to Secured Party; and to the best of Debtor's information and belief, no financing statement or other security instrument is on file in any jurisdiction covering such Collateral other than those in favor of Secured Party, except as otherwise disclosed in writing to Secured Party. At the time the security interest in favor of Secured Party attaches, good and indefeasible title to all after-acquired Property included within the Collateral, free and clear of any other Liens, adverse claims or options (other than those permitted by the first sentence of this Section 3.01) will be vested in Debtor, except as otherwise disclosed in writing to Secured Party.

Section 3.02 Location. Debtor's chief executive office and chief place of business is located at the address set forth in the opening paragraph of this Security Agreement. With respect to that portion of the Equipment which comprises mobile goods, such Equipment is of a type normally used in more than one jurisdiction, and none of the Equipment is covered by a certificate of title.

Section 3.03 Secured Party's Security Interest. This Security Agreement creates a valid and binding security interest in the Collateral securing the Obligations. All filings (which filings are described in Section 4.09 of this Security Agreement) and other actions necessary or desirable to perfect or protect such security interest have been duly taken. No further or subsequent

filing, recording, registration or other public notice of such security interest is necessary in any office or jurisdiction in order to perfect such security interest or to continue, preserve or protect such security interest except for continuation statements or for filings upon the occurrence of any of the events stated in Section 4.09 of this Security Agreement. Such perfected security interest in the Collateral constitutes a first-priority security interest under the Code.

Section 3.04 Collateral not covered by Documents. None of the Collateral is, and at the time the security interest in favor of Secured Party attaches none of the Collateral hereafter acquired will be, covered by any document as defined in the Code or in the Uniform Commercial Code of any state other than Texas where the Collateral is (or will be) located, or by any document filed with the Office of the Interstate Commerce Commission except as disclosed to Secured Party in writing on or prior to the date hereof.

Section 3.05 Benefit of Debtor. Debtor's grant of a security interest in favor of Secured Party in accordance with this Security Agreement reasonably may be expected to benefit, directly or indirectly, Debtor.

ARTICLE IV

COVENANTS AND AGREEMENTS

A deviation from the provisions of this Article IV shall not constitute a Default under this Security Agreement if such deviation is consented to in writing (in the manner provided in Section 8.02 of the Loan Agreement) by Secured Party. Without the prior written consent of Secured Party, Debtor will at all times comply with the covenants contained in this Article IV, from the date hereof and for so long as any part of the Indebtedness or the Commitment is outstanding.

Section 4.01 Title; Prohibited Liens and Filings. Debtor agrees to protect the title to the Collateral. Debtor will not pledge, mortgage, otherwise encumber, create or suffer a Lien to exist on any of the Collateral (other than in favor of Secured Party or as permitted by Section 5.02 of the Loan Agreement) or sell, assign or otherwise transfer any of the Collateral to or in favor of any Person other than Secured Party. Debtor will not file or permit to be filed or recorded any financing statement or other security instrument with respect to the Collateral other than in favor of Secured Party or as permitted by Section 5.02 of the Loan Agreement.

Section 4.02 Taxes, Etc. Debtor agrees to pay prior to delinquency all taxes, charges, Liens and assessments against the Collateral and, upon the failure of Debtor to do so, Secured Party at its option may pay any of them and shall be the sole judge of

the legality or validity thereof and of the amount necessary to discharge the same.

Section 4.03 Possession of Collateral. Secured Party shall be deemed to have possession of any of the Collateral in transit to it or set apart for it. Otherwise the Collateral shall remain in Debtor's possession or control at all times at Debtor's risk of loss.

Section 4.04 Inspection of Collateral. Secured Party may from to time, upon reasonable request, inspect the Equipment in the place in which it is then located, any other Collateral and Debtor's records concerning the same.

Section 4.05 Further Assurances. Debtor will from time to time sign, execute, deliver and file, alone or with Secured Party, any financing statements, security agreements or other documents; procure any instruments or documents as may be requested by Secured Party; and take all further action that may be necessary or desirable, or that Secured Party may request, to confirm, perfect, preserve and protect the security interests intended to be granted hereby, and in addition, Debtor hereby authorizes Secured Party to execute and deliver on behalf of Debtor and to file such financing statements, security agreements and other documents without the signature of Debtor either in Secured Party's name or in the name of Debtor and as agent and attorney-in-fact for Debtor. Debtor shall do all such additional and further acts or things, give such assurances and execute such documents or instruments as Secured Party requires to vest more completely in and assure to Secured Party its rights under this Security Agreement, including, without limiting the generality of the foregoing marking conspicuously each piece of Equipment included in the Collateral with a legend as prescribed in Section 4.14 hereof and, at the request of Secured Party, each of its records pertaining to the Collateral with a legend, in form and substance satisfactory to Secured Party, indicating that such Collateral is subject to the security interest granted by this Security Agreement.

Section 4.06 Filing Reproductions. At the option of Secured Party, a carbon, photographic or other reproduction of this Security Agreement or of a financing statement covering the Collateral shall be sufficient as a financing statement and may be filed as a financing statement.

Section 4.07 Delivery of Information. Debtor will transmit to Secured Party promptly all information that Debtor may have or receive with respect to the Collateral or which might in any way affect the value of the Collateral or Secured Party's rights or remedies with respect thereto.

Section 4.08 Expenses. To the extent not paid by Borrower, Debtor agrees to pay to Secured Party at Secured Party's banking quarters, all advances, charges, costs and expenses (including

reasonable attorneys' fees and legal expenses) incurred by Secured Party in connection with the transaction which gives rise to this Security Agreement, in connection with confirming, perfecting and preserving the security interest created under this Security Agreement, in connection with protecting Secured Party against the claims or interests of any Person against the Collateral, and in exercising any right, power or remedy conferred by this Security Agreement or by law or in equity (including, but not limited to, attorneys' fees and legal expenses incurred by Secured Party in the collection of instruments deposited with or purchased by Secured Party and amounts incurred in connection with the operation, maintenance or foreclosure of any or all of the Collateral). The amount of all such advances, charges, costs and expenses shall be due and payable by Debtor to Secured Party within ten (10) days following its receipt of written demand together with interest thereon as provided in Section 4.08 of the Loan Agreement.

Section 4.09 Financing Statement Filings; ICC Filings; Notifications. Debtor recognizes that (i) financing statements pertaining to the Collateral will be filed with the Office of the Secretary of State for the State of Texas, (ii) an original of this Security Agreement will be filed with the Office of the Interstate Commerce Commission, and (iii) financing statements or originals of this Security Agreement will be filed with such other filing offices as Secured Party, in its sole discretion, deems necessary or appropriate for purposes of perfecting Secured Party's Lien on the Collateral. Debtor will immediately notify Secured Party of any condition or event that may change the proper location for the filing of any financing statements or other public notice or recordings for the purpose of perfecting a security interest in the Collateral. Without limiting the generality of the foregoing, Debtor will (a) immediately notify Secured Party of any change to a jurisdiction other than as represented in Section 3.02 hereof (i) in the location of Debtor's chief executive office or chief place of business; or (ii) in the "location" of Debtor within the meaning of Section 9-103(c) of the Code; and (b) immediately notify Secured Party of any change in Debtor's name, identity or corporate structure. In any notice furnished pursuant to this paragraph, Debtor will expressly state that the notice is required by this Security Agreement and contains facts that will or may require additional filings of financing statements or other notices for the purpose of continuing perfection of the Secured Party's security interest in the Collateral.

Section 4.10 Maintenance of Collateral Generally. Debtor will maintain all the Collateral in good condition, repair, and working order, and in accordance with usual industry standards ordinary wear and tear excepted. Debtor will not misuse, abuse, waste, destroy, endanger or allow the Collateral to deteriorate, except, with respect to the Equipment only, for ordinary wear and tear from its intended use. Debtor will forthwith, or in the case of any loss or damage to any Equipment included in the Collateral as soon as practicable, make or cause to be made all repairs,

replacements or other improvements to the Collateral as are necessary or desirable to accomplish the foregoing. Debtor will not use any Collateral in material violation of any law, statute, ordinance or regulation or suffer it to be so used.

Section 4.11 Proceeds. As required by the Loan Agreement, upon request of Secured Party, Debtor will deliver to Secured Party promptly upon receipt, all proceeds received by Debtor from the sale or disposition of the Collateral in the exact form in which they are received. To evidence Secured Party's rights in this regard, Debtor will assign or endorse proceeds to Secured Party as Secured Party requests. Secured Party may, from time to time, in its discretion, hold non-cash proceeds as part of the Collateral or apply cash proceeds received by Secured Party in the manner set forth in Section 5.02 of this Security Agreement.

Section 4.12 Insurance. Debtor shall have and maintain, with financially sound and reputable insurers, insurance covering the Equipment against risk of fire, theft and such other risks as may be required by the Loan Agreement. Debtor shall have and maintain public liability insurance in amounts and against such risks as may be required by the Loan Agreement. Policies evidencing any such property insurance shall contain a standard mortgagee's endorsement providing for payment of any loss to Secured Party and shall provide for a minimum of thirty (30) days' prior written notice to Secured Party of any cancellation; provided, that Secured Party shall forthwith remit to Debtor upon demand and without any right of setoff hereunder or otherwise any insurance proceeds received by the Secured Party in respect of Property in which the Secured Party does not have a Lien. Debtor shall furnish Secured Party with certificates or other evidence of compliance with the foregoing insurance provisions. Secured Party may act as attorney for Debtor and Debtor hereby irrevocably appoints Secured Party as Debtor's true and lawful attorney-in-fact and agent, with full power of substitution, in Secured Party's name or Debtor's name or otherwise, but at Debtor's cost and expense and without notice to Debtor, to obtain, adjust, sell and cancel such insurance and endorse any draft drawn by insurers of the goods included in the Collateral. If any insurance policy covering the goods included in the Collateral expires or is cancelled before the Indebtedness is paid in full or before the termination of the Commitment, at Secured Party's option, Secured Party may obtain replacement insurance which may, but need not, be single interest insurance in favor of Secured Party and Secured Party may pay the premiums thereunder.

Section 4.13 Collateral not to be Fixture or Accession. Debtor will not permit any Collateral to become installed in or affixed to other goods so as to become an accession to such other goods unless such other goods are included in the Collateral; in the event that any Collateral is to become so installed or affixed

to other goods, prior thereto Debtor will (i) notify Secured Party of such fact, and (ii) furnish written consents to Secured Party's security interest and disclaimers of any interest in such Collateral signed by any Person having an interest in such other goods.

Section 4.14 Marking of Equipment. The Debtor agrees that there shall be plainly, distinctly, permanently and conspicuously stenciled upon each side of each unit of the Equipment the following words, in letters not less than one inch in height:

> TITLE TO THIS CAR IS SUBJECT TO DOCUMENTS RECORDED WITH THE INTERSTATE COMMERCE COMMISSION.

Such marks shall be readily visible and indicate plainly Secured Party's lien on each such unit of the Equipment. In case any of such plates or marks shall at any time be removed, defaced or destroyed, the Debtor shall forthwith cause the same to be restored or replace.

The Debtor shall not change or permit to be changed the numbers of any of the Equipment at any time covered hereby except in accordance with statement of new numbers to be substituted therefor which previously have been filed with the Secured Party by the Debtor which shall be filed and recorded in like manner as this Security Agreement.

Any unit or Equipment required to be marked pursuant to this Section 4.14 may be lettered with the name or initials or other insignia customarily used by the Debtor on railroad equipment owned by the same or a similar type or in any other appropriate manner, for convenience of identification of the rights of the Debtor to use the units of Equipment as may be permitted under this Security Agreement. Except as provided in this Section 4.14, the Debtor, from and after the date hereof, will not allow the name of any person, firm, association, corporation or entity to be placed on or to remain on any unit of Equipment.

Section 4.15 Indemnity. Debtor covenants and agrees to indemnify the Secured Party against any and all claims arising out of or connected with Debtor on any of the Equipment, and particularly against any and all claims arising out of the use of any patented invention in and about the Equipment, and to comply in all respects with the laws of the United States of America and of all the states and other jurisdictions in which the Equipment or any thereof may be operated and with all lawful acts, rules, regulations and orders of any commissions, boards or other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Equipment, including without limitation lawful acts, rules,

regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; provided, however, that the Debtor may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Secured Party materially endanger the rights or interests of the Secured Party or subject the Secured Party to any risk of criminal liability. The Debtor shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

ARTICLE V

RIGHTS, REMEDIES AND DEFAULT

Section 5.01 With Respect to Collateral. Secured Party is hereby fully authorized and empowered (without the necessity of any further consent or authorization from Debtor) and the right is expressly granted to Secured Party, and Debtor hereby constitutes, appoints and makes Secured Party as Debtor's true and lawful attorney-in-fact and agent for Debtor and in Debtor's name, place and stead with full power of substitution, in Secured Party's name or Debtor's name or otherwise, for Secured Party's sole use and benefit, but at Debtor's cost and expense, to exercise, without notice, all or any of the following powers at any time with respect to all or any of the Collateral (regardless of whether any Default has occurred or not):

(a) to demand, sue for, collect, receive and give acquittance for any and all monies due or to become due by virtue thereof and otherwise deal with proceeds;

(b) to receive, take, endorse, assign and deliver any and all checks, notes, drafts, documents and other negotiable and non-negotiable instruments and chattel paper taken or received by Secured Party in connection therewith;

(c) to settle, compromise, compound, prosecute or defend any action or proceeding with respect thereto;

(d) to sell, transfer, assign or otherwise deal in or with the same or the proceeds or avails thereof or the relative goods, as fully and effectively as if Secured Party were the absolute owner thereof; and

(e) to extend the time of payment of any or all thereof and to grant waivers and make any allowance or other adjustment with reference thereto;

provided, however, Secured Party shall be under no obligation or duty to exercise any of the powers hereby conferred upon it and shall be without liability for any act or failure to act in connection with the collection of, or the preservation of any rights under, any Collateral.

Section 5.02 Application of Cash Sums. Prior to the happening of any Event of Default specified in Section 5.03 hereof, all cash sums paid to and received by Secured Party on account of the Collateral (i) shall be promptly, within five (5) Business Days, applied by Secured Party on the Indebtedness whether or not such Indebtedness shall have by its terms matured, such application to be made to principal or interest as Secured Party may elect; provided, however, Secured Party need not apply or give credit for any item included in such sums until Secured Party has received final payment thereof at its banking quarters or solvent credits accepted as such by Secured Party; provided, further, however, Secured Party's failure to so apply any such sums shall not be a waiver of Secured Party's right to so apply such sums or any other sums at any time, (ii) or, at the option of Secured Party shall be released to Debtor for use in Debtor's business.

Section 5.03 Default, Events. Any of the following events shall be considered an "Event of Default" under this Security Agreement:

(a) Payment of Indebtedness - default is made in the payment when due of any of the Indebtedness, subject to applicable grace periods; or

(b) Representations and Warranties - any representation or warranty made by Debtor in this Security Agreement or made by Debtor in any certificate or statement furnished under this Security Agreement proves to have been incorrect in any material respect as of the date thereof; or

(c) Covenants - default is made by Debtor in the due observance or performance of any of the covenants or agreements contained in this Security Agreement, subject to applicable grace periods in the Loan Agreement; or

(d) Collateral Transfer - selling, assigning or otherwise transferring any of the Collateral to or in favor of any Person other than Secured Party without the prior written consent of the Secured Party; or

(e) Liens on Collateral - granting a Lien on any of the Collateral to or in favor of any Person other than Secured Party; or

(f) Loan Agreement Default - an event of default occurs under Section 6.01 of the Loan Agreement.

Section 5.04 Default Remedies. Upon the happening and during the continuance of any Event of Default specified in Section 5.03 hereof, Secured Party may then, or at any time thereafter and from time to time, apply, set-off, collect, sell in one or more sales, lease, or otherwise dispose of, any or all of the Collateral, in its then condition or following any commercially reasonable preparation or processing, in such order as Secured Party may elect, and any such sale may be made either at public or private sale at its place of business or elsewhere, or at any brokers' board or securities exchange, either for cash or upon credit or for future delivery, at such price as Secured Party may deem fair, and Secured Party may be the purchaser of any or all Collateral so sold and may hold the same thereafter in its own right free from any claim of Debtor or right of redemption. No such purchase or holding by Secured Party shall be deemed a retention by Secured Party in satisfaction of the Obligations. All demands, notices and advertisements, and the presentment of property at sale are hereby waived. If, notwithstanding the foregoing provisions, any applicable provision of the Code or other law requires Secured Party to give reasonable notice of any such sale or disposition or other action, Debtor hereby agrees five days' prior written notice shall constitute reasonable notice. Secured Party may require Debtor to assemble the Collateral and make it available to Secured Party at a place designated by Secured Party which is reasonably convenient to Secured Party and Debtor or, at Secured Party's option, to keep the Equipment on any lines of railroad or premises approved by Secured Party until such Equipment is disposed of as provided in this Section 5.04. Any sale hereunder may be conducted by an auctioneer or any officer or agent of Secured Party.

Section 5.05 Proceeds. After the happening of any Event of Default specified in Section 5.03 hereof, the proceeds of any sale or other disposition of the Collateral and all sums received or collected by Secured Party from or on account of the Collateral shall be applied by Secured Party in the manner set forth in §9.504 of the Code.

Section 5.06 Deficiency. Debtor shall remain liable to Secured Party for any unpaid Indebtedness, advances, costs, charges and expenses, together with interest thereon and shall pay the same immediately to Secured Party at Secured Party's banking quarters offices.

Section 5.07 Secured Party's Duties. The powers conferred upon Secured Party by this Security Agreement are solely to protect its interest in the Collateral and shall not impose any duty upon Secured Party to exercise any such powers. Secured Party shall be under no duty whatsoever to make or give any presentment, demand for performance, notice of nonperformance, protest, notice of protest, notice of dishonor, or other notice or demand in connection with any Collateral or the Obligations, or to take any steps necessary to preserve any rights against prior parties. Secured Party shall not be liable for failure to collect or realize upon any or all of the Obligations or Collateral, or for any delay in so doing, nor shall Secured Party be under any duty to take any action whatsoever with regard thereto. Secured Party shall use reasonable care in the custody and preservation of any Collateral in its possession but need not take any steps to keep the Collateral identifiable. Secured Party shall have no duty to comply with any recording, filing, or other legal requirements necessary to establish or maintain the validity, priority or enforceability of, or Secured Party's rights in or to, any of the Collateral.

Section 5.08 Secured Party's Actions. Debtor waives any right to ~~require~~ Secured Party to proceed against any Person, exhaust any Collateral, or have any Other Liable Party joined with Debtor in any suit arising out of the Obligations or this Security Agreement or pursue any other remedy in Secured Party's power; waives any and all notice of acceptance of this Security Agreement or of creation, modification, rearrangement, renewal or extension for any period of any of the Obligations from time to time; and waives any defense arising by reason of any disability or other defense of any Other Liable Party, or by reason of the cessation from any cause whatsoever of the liability of any Other Liable Party. All dealings between Debtor and Secured Party, whether or not resulting in the creation of the Obligations, shall conclusively be presumed to have been had or consummated in reliance upon this Security Agreement. Until all the Indebtedness shall have been paid in full, Debtor shall have no right to subrogation, and Debtor waives any right to enforce any remedy which Secured Party now has or may hereafter have against Other Liable Party and waives any benefit of and any right to participate in any Collateral or security whatsoever now or hereafter held by Secured Party. Debtor authorizes Secured Party, without notice or demand and without any reservation of rights against Debtor and without affecting Debtor's liability hereunder or on the Obligations, from time to time to (a) take and hold any other Property as collateral, other than the Collateral, as security for any or all of the Obligations, and exchange, enforce, waive and release any or all of the Collateral or such other Property; (b) apply the Collateral or such other Property and direct the order or manner of sale thereof as Secured Party in its discretion may determine; (c) renew, extend for any period, accelerate,

modify, compromise, settle or release the obligation of any Other Liable Party with respect to any or all of the Obligations or Collateral; (d) waive, enforce, modify, amend or supplement any of the provisions of any of the Security Instruments, including the Loan Agreement or of any Note evidencing any of the Indebtedness; and (e) release or substitute any Other Liable Party.

Section 5.09 Transfer of Indebtedness and Collateral. Secured Party may transfer any or all of the Indebtedness, and upon any such transfer Secured Party may transfer any or all of the Collateral and shall be fully discharged thereafter from all liability with respect to the Collateral so transferred, and the transferee shall be vested with all rights, powers and remedies of Secured Party hereunder with respect to Collateral so transferred; but with respect to any Collateral not so transferred Secured Party shall retain all rights, powers and remedies hereby given. Secured Party may at any time deliver any or all of the Collateral to Debtor whose receipt shall be a complete and full acquittance for the Collateral so delivered, and Secured Party shall thereafter be discharged from any liability therefor.

Section 5.10 Cumulative Security. The execution and delivery of this Security Agreement in no manner shall impair or affect any other security (by endorsement or otherwise) for the Obligations. No security taken hereafter as security for the Obligations shall impair in any manner or affect this Security Agreement. All such present and future additional security is to be considered as cumulative security.

Section 5.11 Continuing Agreement. This is a continuing Security Agreement and the grant of a security interest hereunder shall remain in full force and effect and all the rights, powers and remedies of Secured Party hereunder shall continue to exist until the Indebtedness is paid in full as the same becomes due and payable; until Secured Party has no further obligation to advance monies or extend credit under the Loan Agreement or otherwise and until Secured Party, upon request of Debtor, has executed a written termination statement, reassigned to Debtor, without recourse, the Collateral and all rights conveyed hereby and returned possession of the Collateral to Debtor. Furthermore, it is contemplated by the parties hereto that there may be times when no Indebtedness is owing; but notwithstanding such occurrences, this Security Agreement shall remain valid and shall be in full force and effect as to subsequent Indebtedness provided Secured Party has not executed a written termination statement and returned possession of the Collateral to Debtor. Otherwise this Security Agreement shall continue irrespective of the fact that the liability of any Other Liable Party may have ceased, or irrespective of the validity or enforceability of the Notes or the Security Instruments, including the Loan Agreement, to which any Other Liable Party may be a party, and notwithstanding the reorganization, death,

incapacity or bankruptcy of any Other Liable Party, and notwithstanding the reorganization or bankruptcy of Debtor, or any other event or proceeding affecting Debtor or any Other Liable Party.

Section 5.12 Cumulative Rights. The rights, powers and remedies of Secured Party hereunder shall be in addition to all rights, powers and remedies given by statute or rule of law and are cumulative. The exercise of any one or more of the rights, powers and remedies provided herein shall not be construed as a waiver of any other rights, powers and remedies of Secured Party. Furthermore, regardless of whether or not the Uniform Commercial Code is in effect in the jurisdiction where such rights, powers and remedies are asserted, Secured Party shall have the rights, powers and remedies of a secured party under the Code. Secured Party may exercise its bankers' lien or right of set-off with respect to the Obligations in the same manner as if the Obligations were unsecured.

Section 5.13 Exercise of Rights, Etc. Time shall be of the essence for the performance of any act under this Security Agreement or the Obligations by Debtor or Other Liable Party, but neither Secured Party's acceptance of partial or delinquent payments nor any forbearance, failure or delay by Secured Party in exercising any right, power or remedy shall be deemed a waiver of any obligation of Debtor or of Other Liable Party or of any right, power or remedy of Secured Party or preclude any other or further exercise thereof; and no single or partial exercise of any right, power or remedy shall preclude any other or further exercise thereof, or the exercise of any other right, power or remedy.

Section 5.14 Remedy and Waiver. Secured Party may remedy any Default and may waive any Default without waiving the Default remedied or waiving any prior or subsequent Default.

Section 5.15 Non-Judicial Remedies. Secured Party may enforce its rights hereunder without prior judicial process or judicial hearing, and Debtor expressly waives, renounces and knowingly relinquishes any and all legal rights which might otherwise require Secured Party to enforce its rights by judicial process. In so providing for non-judicial remedies, Debtor recognizes and concedes that such remedies are consistent with the usage of the trade, are responsive to commercial necessity, and are the result of bargain at arm's length. Nothing herein is intended to prevent Secured Party or Debtor from resorting to judicial process at either party's option.

ARTICLE VI

MISCELLANEOUS

Section 6.01 Preservation of Liability. Neither this Security Agreement nor the exercise by Secured Party of (or the failure to so exercise) any right, power or remedy conferred herein or by law shall be construed as relieving any Person liable on the Indebtedness from liability on the Indebtedness and for any deficiency thereon.

Section 6.02 Notices. Any notice or demand under this Security Agreement or in connection with this Security Agreement if to Secured Party may be given as provided in Section 8.01 of the Loan Agreement and if to Debtor may be given, and shall be deemed to be given and received upon the deposit thereof, in writing in the U.S. Mail by first class mail, postage prepaid to Debtor's address shown at the beginning of this Security Agreement, or to such other address or to such individual's or department's attention as Debtor may have furnished Secured Party in writing, but actual notice, however given or received, shall always be effective.

Section 6.03 Construction. This Security Agreement has been made in and the security interest granted hereby is granted in and each shall be governed by the laws of the State of Texas (except to the extent that the laws of any other jurisdiction govern the perfection and priority of the security interest granted hereby) and of the United States of America, as applicable, in all respects, including matters of construction, validity, enforcement and performance.

Section 6.04 Amendment and Waiver. This Security Agreement may not be amended (nor may any of its terms be waived) except in the manner provided in Section 8.02 of the Loan Agreement.

Section 6.05 Invalidity. If any provision of this Security Agreement is rendered or declared invalid, illegal or unenforceable by reason of any existing or subsequently enacted legislation or by a judicial decision which shall have become final, Debtor and Secured Party shall promptly meet and negotiate mutually agreeable, reasonable substitute provisions for those rendered invalid, illegal or unenforceable, but all of the remaining provisions shall remain in full force and effect.

Section 6.06 Survival of Agreements. All representations and warranties of Debtor herein, and all covenants and agreements herein not fully performed before the effective date of this Security Agreement, shall survive such date.

Section 6.07 Successors and Assigns. The covenants, and agreements herein contained by or on behalf of Debtor shall bind Debtor, and Debtor's legal representatives, successors and assigns and shall inure to the benefit of Secured Party, its successors and assigns.

Section 6.08 Titles of Articles, Sections and Subsections. All titles or headings to articles, sections, subsections or other divisions of this Security Agreement are only for the convenience of the parties and shall not be construed to have any effect or meaning with respect to the other content of such articles, sections, subsections or other divisions, such other content being controlling as to the agreement between the parties hereto.

Section 6.09 Counterparts. This Security Agreement may be executed in two or more counterparts, and it shall not be necessary that the signatures of all parties hereto be contained on any one counterpart hereof; each counterpart shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 6.10 NOTICE. THIS WRITTEN SECURITY AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS HEREOF, Debtor and Secured Party have caused this instrument to be duly executed as of the date first above written.

DEBTOR:

MARTIN GAS SALES, INC.

By: _____
Name: Ruben S. Martin, III
Title: President

SECURED PARTY:

FIRST CITY, TEXAS-HOUSTON, N.A.

By: _____
Name: James N. Falk
Title: Vice President

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

On this 30th day of October, 1989, before me personally appeared Ruben S. Martin, III, President, to me personally known, who being by me duly sworn, says that he is the President of MARTIN GAS SALES, INC., a Texas corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Angela M Garcia
Notary Public in and for
The State of Texas

ANGELA M. GARCIA
Notary's name printed

My commission expires: 1-5-93

ANGELA M. GARCIA
Notary Public, State of Texas
My Commission Expires 1-5-93.

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

On this 30th day of October, 1989, before me personally appeared James N. Falk, Vice President, to me personally known, who being by me duly sworn, says that he is the Vice President of FIRST CITY, TEXAS - HOUSTON, N.A., a national banking association, that the seal affixed to the foregoing instrument is the corporate seal of said banking association, that said instrument was signed and sealed on behalf of said banking association, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said banking association.

Angela M Garcia
Notary Public in and for
The State of Texas

ANGELA M. GARCIA
Notary's name printed

My commission expires: 1-5-93

ANGELA M. GARCIA
Notary Public, State of Texas
My Commission Expires 1-5-93.

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