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2002-06-11 15:03:19  
Cook County Recorder 33.50

**OPTION TO PURCHASE  
REAL ESTATE  
44 E. Sibley  
Dolton, IL  
PIN #29-09-210-023 thru 032**



**COOK COUNTY  
RECORDER  
EUGENE "GENE" MOORE  
ROLLING MEADOWS**

**EXHIBIT A**

**LEGAL DESCRIPTION**

LOTS 12, 13, 14, 15, 16, 17, 18, 19, 20 AND 21 IN BLOCK 7 IN AVALON ADDITION BEING A SUBDIVISION OF THE NORTH 1/2 OF LOT 1, NORTH 1/2 OF LOT 2, SOUTH 1/2 OF LOT 1 AND LOT 3 (EXCEPT NORTH 20 ACRES) IN VERNHOEVEN SUBDIVISION OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Index Numbers: 29-09-210-023, 29-09-210-024, 29-09-210-025, 29-09-210-026, 29-09-210-027, 29-09-210-028, 29-09-210-029, 29-09-210-030, 29-09-210-031 and 29-09-210-032.

Address: 44 East Sibley Blvd., Dolton, Illinois

AM

SALE OF THE ASSETS OF O.E.A. INC., D/B/A DOLTON CITGO AND  
OPTION TO PURCHASE REAL ESTATE

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This ASSET PURCHASE AGREEMENT ("Agreement") dated as of April 27, 2002, by and among MOSA ELMOSA and NIZAR ADULALIA d/b/a O.E.A. Inc. ("Seller") and TNT GAS COMPANY, an Illinois Corporation, or its Assigns ("Purchaser").

WHEREAS, Seller operates a Gas station, ("Station") located at 44 East Sibley, Dolton, IL 60419;

T.S.  
MEL  
T.P.

WHEREAS, Seller desires to sell to Purchaser and Purchaser desires to purchase from Seller certain Business property and assets of Seller related to the operation of the Station, on the terms and conditions hereinafter set forth;

WHEREAS, Seller desires to Lease to Purchaser and Purchaser desires to Lease from Seller the Real Estate of Seller related to the operation of the Station, on the terms and conditions hereinafter set forth;

WHEREAS, Seller desires to give Purchaser an option to purchase the Real Property and Purchaser desires to Purchase the real property commonly known as, 44 East Sibley, Dolton, Illinois;

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants, and agreements contained herein, the parties hereto agree as follows:

SECTION 1. ASSETS BEING SOLD

At Closing, Seller shall sell, convey, assign, and transfer to Purchaser, and Purchaser shall purchase and acquire from Seller, the following Assets existing as of the Closing Date:

- (a) all Inventory;
- (b) prepaid expenses, except those specifically excepted;
- (c) The following if in existence; all owned, licensed, or leased computer hardware, software, and systems, telephone, and agreements with respect thereto; all orders for Products to be fulfilled subsequent to the Closing Date; copies of all contractual documents relating to the Station, and agreements of Seller relating to the manufacture, sale, and distribution of Products, whether fully executed or wholly or partially executory as of the Closing Date;
- (d) all furniture, fixtures, and equipment located on the Real Estate and used in the operation of Station (SEE SCHEDULE "A", ATTACHED AND MADE A PART OF THIS CONTRACT BY REFERENCE.);
- (e) all lists, information, and records of Seller relating to past, present, and prospective customers and suppliers if any; all titles, names used in connection with the Station and covenant not to compete; and
- (f) Seller's Goodwill and telephone numbers.
- (g) Seller shall grant an option to purchase the property known as 44 East Sibley, Dolton, Illinois

SECTION 2. PURCHASE PRICE

In consideration of the sale, conveyance, assignment, and transfer of the Assets by Seller to Purchaser and in reliance on the representations and warranties made herein by Seller, Purchaser agrees to pay Seller and/or Seller's Principal the sum of the following prices:

- (a) For the Assets set forth in above in Sec. 1 as b, c, d, e, f, TWO HUNDRED THOUSAND (\$200,000.00) dollars;

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(b) For the Asset set forth in Sec. 1(a) above the price will be 65% of shelf price, which will be determined at closing, by an independent third party to be agreed upon by the parties. Cigarettes and gas will be valued at cost.

(c) The Asset set forth in Sec. 1(g), option to purchase shall be TWO HUNDRED THOUSAND (\$200,000.00) dollars, this sum will be forfeited to Seller if option to purchase is not exercised by the end of the lease or any extensions thereof. MEL T.S.A.P

(d) The amount of \$100,000.00 has been deposited as earnest money with Seller to be held by Seller's Attorney which will be applied to the purchase of the Station. \$ business MEL T.S

(e) For the total purchase price of FOUR HUNDRED THOUSAND Dollars (\$400,000.00) plus inventory due at closing. plus \$10,000 Rent and \$10,000 security deposit. MEL T.S

All provisions are final unless provided otherwise herein.

### SECTION 3. PAYMENT OF PURCHASE PRICE

The purchase price shall be payable as follows:

At the Closing, Purchaser shall pay to Seller, by cashier's or certified check issued by a bank reasonably acceptable to Seller or by wire transfer of funds, the sum of the amount provided for in Sec. 2(e) above.

### SECTION 4. CLOSING DATE

June 1 MEL T.S.T.P

The Closing shall commence at 9:00 A.M. C.S.T. on May 15, 2002, or earlier if notice is given by Purchaser at Seller's attorney office. The sale and purchase of the Assets shall be deemed to have been effective at 12:00 Midnight, C.S.T. on the date of Closing for all purposes. The valuation of the inventory will proceed as quickly as practicable prior to the closing

### SECTION 5. OPTION TO PURCHASE

Seller agrees to give Purchaser an option to purchase the property after 12 months of the lease for a price of \$1,100,000.00, under the usual and customary terms and conditions for the sale of commercial real estate. If Purchaser decides to exercise this option after two years the purchase price is \$1,200,000.00. This contract will be recorded and the Purchaser will subordinate any rights he has under this contract to any lender of Seller.

### SECTION 6. CONDITIONS OF CLOSING

Each of the obligations of the Seller and Purchaser, respectively, to be performed hereunder shall be subject to the satisfaction or waiver by the Purchaser and Seller, respectively, at or prior to the Closing Date as provided herein. Further, the following shall be conditions precedent to the respective parties' obligation to close:

(a) The representations and warranties of the Seller and Purchaser contained in this Agreement shall be true in all material respects on and as of the Closing Date with the same force and effect as though made on and as of such date and further the warranties and indemnifications of Purchaser and Seller contained in this Agreement shall be personal obligations of both parties;

(b) the Seller and Purchaser, respectively, shall have complied in all material respects with the covenants and agreements set forth herein to be performed by such parties on or before the Closing Date; and

(c) the Seller, shall have delivered to Purchaser, a corporate resolution signed by an appropriate officer authorizing the sale of the assets.

(d) the contract is contingent upon approval of transfer of any licenses by state or local agencies or upon issuance of any new licenses required by Purchaser to conduct said business, on or before closing. All cost shall be paid by Purchaser. Purchaser will apply for all said licenses within 15 days after the acceptance of this contract. No transfer of licenses will occur until final closing.

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- Site is available for car wash permit by village MCL T.S. T.P.

(e) This Agreement is contingent upon Purchaser securing an acceptable Lease, within 15 days after acceptance. (lease for 5 years with an option for an additional 5 year term, with the rent being \$10,000.00 per month, with a security deposit of \$10,000.00, with Purchaser receiving \$1,000.00 per month from Tenant in the property, and with Lessee to pay the first \$25,000 of real estate taxes charged to the Premises on the property.) If Purchaser notifies seller as above provided that he is unable to secure such acceptable lease, this Agreement shall be null and void and all earnest money shall be returned to Purchaser, and Seller shall not be liable for any sales commission.

(f) Purchaser will have 15 days from the date of this contract to verify the books and sales of Seller and will be able to verify sales by staying FOURTEEN consecutive days at the store, commencing EIGHT days after the acceptance of the contract. If no written notice of disapproval is given within two days after the inspection period, Purchaser shall be deemed to have waived this contingency.

- store sales shall be a minimum of \$1,400 (fourteen hundred) give or take one hundred dollars.  
MCL T.S. T.P.

(g) Purchaser will be entitled to receive all rebates from CITGO as of date of transfer.

(h) Seller will complete within 30 days of closing all landscaping.

**SECTION 7. LOTTERY MACHINE AND SALES**

MCL not applicable T.S. T.P.

Seller shall allow purchaser to operate the lottery equipment currently on the premises after closing until Purchaser is either approved or denied for a lottery license by the State of Illinois. Once the State of Illinois has made a decision on Purchaser's license request, Seller may advise the Illinois Lottery Commission to remove the equipment from the premises. Purchaser shall operate the lottery equipment and conduct lottery sales in accordance with the rules of the State of Illinois. Purchaser and his agents and employees shall conduct all lottery sales in a professional, honest and businesslike manner at all times, protecting Seller's interest in said license, and in any other present or future lottery licenses which Seller holds, or may seek to hold from the State of Illinois. In the event that a lottery winning results in a commission or payoff to the vendor which exceeds \$200.00, Purchaser and Seller shall equally divide the proceeds. Purchaser shall receive all of the regular sales commission. Purchaser agrees to indemnify and hold Seller harmless for any and all liability, loss, cost, damage, or expense, including reasonable attorney's fees and court costs which Seller shall sustain as a result of any act by Purchaser or Purchaser's agents or employees with respect to this section. If at any time, Purchaser refuses or fails to properly account to Seller, or fails to deposit sufficient funds into the lottery account of Seller, or conduct himself in accordance with the provisions contained in this section, Seller may advise the Illinois Lottery Commission to remove the equipment from the premises.

**SECTION 8. BULK SALES LAW**

Seller agrees to comply with any and all bulk sales laws and notice requirements in connection therewith that may be applicable to the transactions contemplated by this Agreement. Seller agrees to indemnify Purchaser against any claims resulting from Seller's failure to comply with any such bulk sales laws. Including providing Purchaser a Bulk Sale Stop Order from the Illinois Department of Revenue. Any amount demanded in said order will be retained in escrow by Seller's Attorney until a release order is issued. Seller shall also request a letter from the Department of Employment Security pursuant Section 2600 (820 ILCS 405/2600) of the Illinois Unemployment Insurance Act stating no unemployment tax is due the state.

**SECTION 9. TAXES**

There are no tax liens on the Seller or the Assets; there are no obligations relating to, or claims asserted for, taxes or assessments against the Seller or Assets other than current taxes. The Assets are not subject to any obligation or liability for any taxes whatsoever that may be payable by Seller other than current taxes.

**SECTION 10. TITLE TO AND QUALITY OF ASSETS**



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(a) Seller has and shall transfer to Purchaser good, valid, and marketable title to all of the Assets, and none of the Assets is subject to any lien, pledge, encumbrance, or charge of any kind, including, but not limited to, claims for unpaid taxes that shall not be paid off at Closing. The Assets include all of the tangible and intangible property that Seller owns and has used to sell the Products and operate its business in the same manner as Seller prior to the Closing Date. All of the tangible Assets are in a condition appropriate for their use by Seller prior to the Closing;

(b) Seller warrants that Seller, its beneficiaries, or agents of Seller or of its beneficiaries have received no notices from any city, village, or other governmental authority of zoning, building, fire, or health code violations in respect to the real estate that have not been heretofore corrected;

(c) Seller shall provide State and County UCC searches and judgment and lien searches and also a Tract Search showing ownership of the property, ~~at Seller's expense~~ for the name of the Seller and Business name for the location of the store. In the event any of the searches shall show liens against any assets, the liens shall be satisfied at closing and released conveying clear title.

(d) Seller represents that there are no long term service contracts with any employees and there is no regular pay or vacation pay due to any employee or former employee and there are no other contracts or leases at the location that have not been disclosed in writing to Purchaser.

(e) Seller represents and warrants that to the best of his knowledge there are no known environmental violations or cleanup required regarding the contract.

### SECTION 11. COVENANT NOT TO COMPETE X

Seller agrees not to compete or use a similar name in a similar business within a radius of 10 miles of the site of the present business and for a period of 10 years, either as an owner, operator, director, officer, manager, salesman or otherwise.

### SECTION 12. SURVIVAL OF REPRESENTATIONS AND WARRANTIES

All representations, warranties, covenants, and agreements made by either party to this Agreement shall survive the Closing for one year and any investigation at any time made by or on behalf of the other party, but only if a claim initiated by any of the parties hereto with respect thereto is made during the Claims Period.

### SECTION 13. INDEMNIFICATION BY SELLER

Seller indemnifies and agrees to hold Purchaser harmless from, against, and in respect of the following:

(a) any and all debts, liabilities, or obligations of Seller, direct or indirect, fixed, contingent, or otherwise existing before the Closing Date, including, but not limited to, any liabilities arising out of any act, transaction, circumstance, state of facts, or violation of law that occurred or existed before the Closing Date, whether or not then known, due, or payable and irrespective of whether the existence thereof is disclosed to Purchaser in this Agreement or any schedule hereto, except with regard to the Assumed Liabilities;

(b) any and all loss, liability, deficiency, or damage suffered or incurred by Purchaser as a result of any default by Seller existing on the Closing Date or any event of default occurring prior to the Closing Date that with the passage of time would constitute a default, under any Material Contract or other agreement assumed by Purchaser under this Agreement;

(c) any and all loss, liability, deficiency, or damage suffered or incurred by Purchaser by reason of any untrue representation, breach of warranty, or nonfulfillment of any covenant or agreement by Seller contained in this Agreement or in any certificate, document, or instrument delivered to Purchaser hereunder or in connection herewith;

(d) any claim for a finder's fee or brokerage or other commission by any person or entity for services alleged to have been rendered at the instance of Seller with respect to this Agreement or any of the transactions contemplated hereby;

(e) any and all actions, suits, proceedings, claims, demands, assessments, judgments, costs, and expenses, including, without limitation, legal fees and expenses, incident to any of the foregoing or incurred in enforcing this indemnity.

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#### SECTION 14. INDEMNIFICATION BY PURCHASER

Purchaser hereby agrees to indemnify and hold Seller harmless from, against, and in respect of the following:

(a) any and all debts, liabilities, or obligations of Purchaser, direct or indirect, fixed, contingent, or otherwise accruing after the Closing Date;

(b) any and all loss, liability, deficiency, or damage suffered or incurred by Seller resulting from any untrue representation, breach of warranty, or nonfulfillment of any covenant or agreement by Purchaser contained in this Agreement or in any certificate, document, or instrument delivered to Seller pursuant hereto or in connection herewith; and

(c) any and all actions, suits, proceedings, claims, demands, assessments, judgments, costs, and expenses, including, without limitation, legal fees and expenses, incident to any of the foregoing or incurred in enforcing this indemnity.

(d) any and all loss, liability, deficiency, or damage suffered or incurred by Seller as a result of any default by Purchaser existing on the Closing Date or any event of default occurring after to the Closing Date or that with the passage of time would constitute a default, under any Material Contract or other agreement;

(e) any claim for a finder's fee or brokerage or other commission by any person or entity for services alleged to have been rendered at the instance of Purchaser with respect to this Agreement or any of the transactions contemplated hereby;

#### SECTION 15. ENTIRE AGREEMENT; AMENDMENTS

This Agreement and the agreements, instruments, schedules, and other writings referred to in this Agreement contain the entire understanding of the parties with respect to the subject matter of this Agreement. There are no restrictions, agreements, promises, warranties, covenants, or undertakings other than those expressly set forth herein or therein. This Agreement supersedes all prior agreements and understandings between the parties with respect to its subject matter. This Agreement may be amended only by a written instrument duly executed by all of the parties or their successors or assigns.

#### SECTION 16. NO WAIVER

No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or a similar nature.

#### SECTION 17. HEADINGS

The section and paragraph headings contained herein are for the convenience of the parties only and are not intended to define or limit the contents of their sections and paragraphs.

#### SECTION 18. APPLICABLE LAW

This Agreement and all amendments thereof shall be governed by and construed in accordance with the laws of the State of Illinois applicable to contracts made and to be performed therein.

#### SECTION 19. NOTICES

All notices, claims, certificates, requests, demands, and other communications under this Agreement will be in writing and notices will be deemed to have been duly given if delivered or mailed registered or certified mail, postage prepaid, return receipt requested, or for overnight delivery, by a nationally recognized overnight mail service, as follows:

If to Purchaser, to:

With a copy to:

If to Seller, to:

With a copy to:

or to such other address as the party to whom notice is to be given previously may have furnished to the other party in writing in the manner set forth in this section.

**SECTION 20. SEVERABILITY**

If any term, condition, or provision of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement, other than such term, condition, or provision, shall not be affected thereby and shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

**SECTION 21. OTHER**

Purchaser shall cooperate with Seller's Principal with regard to a tax deferred exchange under section 1031 of the Internal Revenue Code, if requested.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

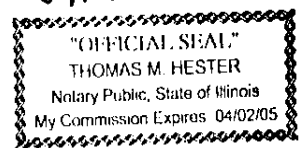
*Mona Elusca*

*Thomas Hester*

*Thomas M. Hester, Esq.*  
*Mona Elusca*

*Thomas M. Hester*

*Thomas M. Hester*



THOMAS M. HESTER, ESQ.  
6774 Northwest Hwy. Suite 2-D  
Chicago, Illinois 60631



*delivered and sworn  
before me May 25, 2002*