

UNOFFICIAL COPY

ASSIGNMENT OF LEASE

(Illinois)

This Assignment of Lease ("Agreement") is made this 16th day of July, 1999 between Clark Refining & Marketing, Inc., a Delaware corporation ("Assignor"), and OTG, Inc., a Delaware corporation ("Assignee").

RECITALS

A. Assignor is a party to that Lease described on Schedule 1 (the "Lease") with respect to that real property described on Schedule 2.

B. Assignee, OTG (Holdings), Inc., a Delaware corporation formerly known as OTG, Inc. ("Retail Sub"), Clark USA, Inc., a Delaware corporation, and CM Acquisition, Inc., a Delaware corporation ("Buyer"), are parties to that Asset Contribution and Recapitalization Agreement dated as of May 8, 1999 (the "Recapitalization Agreement"; capitalized terms used but not defined herein have the meanings ascribed to them in the Recapitalization Agreement).

C. Pursuant to the terms of the Recapitalization Agreement, Assignor is to assign the Lease to Retail Sub, and Retail Sub is to assume Assignor's obligations under the Lease, all on the terms set forth herein.

D. Buyer wishes to have Assignor assign the Lease to Assignee and not Retail Sub, and Assignee (and not Retail Sub) to assume Assignor's obligations under the Lease, all on the terms set forth herein, and Assignor, by its execution hereof, consents to such assignment and assumption to and by Assignee instead of Retail Sub.

AGREEMENT

In consideration of the foregoing, the mutual covenants herein contained and other good and valuable consideration (the receipt, adequacy and sufficiency of which are hereby acknowledged by the parties by their execution hereof), the parties agree as follows:

- Assignment of Lease.** Subject to the terms and conditions hereof and of the Recapitalization Agreement, Assignor hereby assigns, transfers, grants, bargains, delivers and conveys to Assignee all of Assignor's right, title and interest in and to the Lease and the leasehold created thereunder.
- Assumption of Liability.** Assignee hereby accepts the assignment of the Lease and assumes each and every obligation of Assignor with respect thereto (other than Retained Liabilities). Assignee agrees to perform each and every obligation of Assignor with respect to the Lease (other than Retained Liabilities).
- Amendment and Modification.** No amendment, modification, supplement, termination, consent or waiver of any provision of this Agreement, nor consent to any departure here from, will in any event be effective unless the same is in writing and is signed by the party against whom enforcement of the same is sought. Any waiver of any provision of this Agreement and any consent to any departure from the terms

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Only

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of any provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given.

4. **Captions.** Captions contained in this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

5. **Governing Law.** This Agreement shall be governed by, and construed in accordance with the laws of the State of New York applicable to contracts executed and to be performed entirely in that State.

6. **Schedules.** All of the Schedules attached to this Agreement are deemed incorporated herein by reference.

7. **Successors and Assigns.** All provisions of this Agreement are binding upon, inure to the benefit of and are enforceable by or against the parties and their respective heirs, executors, administrators or other legal representatives and permitted successors and assigns.

8. **Third-Party Beneficiaries.** This Agreement is solely for the benefit of the parties and their respective successors and permitted assigns, and no other person has any right, benefit, priority or interest under or because of the existence of this Agreement.

Permanent Real Estate Index Number(s): 29-10-300-041

Address(es) of real estate: 15 E. Sibley
South Holland Illinois

CLARK REFINING & MARKETING, INC.

By: *Don P. Eichholz*
Its: Controller

OTG, INC.

By: *Robert A. B...*
Its: Senior Vice President

This instrument was prepared by Lewis, Rice & Fingersh, L.C.
500 North Broadway, Suite 2000
St. Louis, Missouri 63102
(314) 444-7600

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this 6th day of July, 1999, before me personally appeared Dennis R. Richholz personally known, who, being by me duly sworn, did say that he is the Controller of Clark Refining & Marketing, Inc., a Delaware corporation, and that the foregoing instrument was signed in behalf of such corporation by authority of its Board of Directors; and such Controller acknowledged the foregoing instrument to be the free act and deed of such corporation, and that such corporation has no corporate seal.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Joan C. Bennett
Notary Public
JOAN C. BENNETT
Notary Public - Notary Seal
STATE OF MISSOURI
St. Charles County
My Commission Expires May 25, 2003

My Commission Expires:

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this 6th day of July, 1999, before me personally appeared Brad A. Burmaster personally known, who, being by me duly sworn, did say that he is the Senior Vice President of OTG, Inc., a Delaware corporation, and that the foregoing instrument was signed in behalf of such corporation by authority of its Board of Directors; and such Brad A. Burmaster acknowledged the foregoing instrument to be the free act and deed of such corporation, and that such corporation has no seal.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

JOANNE JAMES FLORETTA
Notary Public - Notary Seal
STATE OF MISSOURI
ST. LOUIS COUNTY
MY COMMISSION EXP. DEC. 15, 2001

Joanne James Floretta
Notary Public

My Commission Expires:

Return this document to:

Lewis, Rice & Fingersh, L.C.
500 North Broadway, Suite 2000
St. Louis, MO 63102
(314) 444-7600
Attn: Kathleen Daly Winschel

**SCHEDULE 1
TO
ASSIGNMENT OF LEASE**

DESCRIPTION OF LEASE

That certain lease entered into November 7, 1961 by and between La Salle National Bank, Trustee under Trust Agreement dated June 2, 1961 as Lessor and Clark Oil & Refining Corporation as Lessee pertaining to the service station premises located at 15 East Sibley Avenue, South Holland, Illinois.

An amendment and supplement to lease was executed on November 7, 1961 identifying the trust as Trust #28029. Second amendment to said lease was executed on September 3, 1991 between La Salle National Trust, N. A., as successor trustee to La Salle National Bank, as Trustee under Trust Agreement dated June 2, 1961 - identified as Trust #28029 as Lessor and Clark Oil & Refining Corporation as Lessee.

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SCHEDULE 2
TO
ASSIGNMENT OF LEASE

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DESCRIPTION OF REAL PROPERTY

Lots three (3) to seven (7) in Block One (1) in Calumet State Sibley Addition, being a subdivision of part of the Southeast one quarter (1/4) of Section Nine (9) Township Thirty-Six (36) North, Range Fourteen (14) East of the Third Principal Meridian and part of the Southwest one quarter (1/4) of Section Ten (10) Township Thirty-Six (36) North, Range Fourteen (14) East of the Third Principal Meridian lying North of the Little Calumet River, in Cook County, Illinois.

When recorded mail to:
LandAmerica Financial Group, Inc.
attn: MARY GARCIA
3636 N. Central Avenue, Suite 350
Phoenix, AZ 85018
Escrow No. 99-17432

