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And after recording, return to:

Doc#: 1208916066 Fee: \$54.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/29/2012 01:06 PM Pg: 1 of 9

Micheal Sanchez
Shannon, Martin, Finkelstein & Alvarado, P.C.
1001 McKinney St.
Suite 1100
Houston, Texas 77002

ASSIGNMENT AND ASSUMPTION OF LEASE

STATE OF ILLINOIS §
COUNTY OF COOK §

This Assignment and Assumption of Lease ("**Assignment**"), dated as of the 23rd day of March, 2012 ("**Effective Date**"), is by and between **Equilon Enterprises LLC**, a Delaware limited liability company d/b/a Shell Oil Products US, ("**Seller**"), with a place of business at 700 Milam Street, Office 2069A, Houston, Texas 77002 and **RDK Ventures LLC**, a Delaware limited liability company, ("**Buyer**") with a place of business at P.O. Box 347, 4080 W. Jonathan Moore Pike, Columbus, Indiana 47201.

RECITALS

WHEREAS, Seller and Buyer are parties to that certain Asset Purchase and Sale Agreement dated as of the 6th day of January, 2010, as amended by (i) Amendment No. 1 to the Asset Purchase and Sale Agreement by and between Seller and Buyer and (ii) Amendment No. 2 to the Asset Purchase and Sale Agreement by and between Seller and Buyer (the "**Purchase Agreement**"), pursuant to which Seller has agreed to transfer to Buyer and Buyer has agreed to accept from Seller, all of Seller's right, title and interest in and to the Assumed Leases set forth on **Schedule 2.1(b)(ii)** of the Purchase Agreement and to fully perform Seller's obligations under the Assumed Leases;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby assign, transfer and set over to Buyer all of Seller's right, title and interest as tenant in and under that certain lease agreement set forth on **Schedule 1** (the "**Lease**") and the leasehold estate created thereby, affecting the real property described in **Schedule 2** (such real property being hereinafter referred to as the "**Premises**") including, without limitation, any security or other deposit thereunder, any options contained in the Lease to purchase fee title to the Premises, to expand the Premises and to renew the Lease and any and all tenant owned improvements at the Premises;

TO HAVE AND TO HOLD the same unto Buyer, its successors and assigns, forever, subject to the terms, covenants, conditions and provisions of the Lease and the following restrictions and covenants:

1. From and after the Effective Date until December 31, 2029 ("**Termination Date**"), if motor fuel is stored, advertised or sold at or from the Premises, the motor fuel stored, advertised or sold shall be sold under the "Shell" trademark ("**Brand Covenant**"), all as more fully set forth in that certain Branding and Product Purchase Commitment Agreement dated as of the Effective Date, by and between Seller and Buyer ("**Branding Agreement**"). The Brand Covenant shall expire automatically on the Termination Date without need for filing a release, or

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other action of either Seller or Buyer. The Premises and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered and conveyed subject to the Brand Covenant. The Brand Covenant shall run with the land, and pass with each and every portion of the Premises, and shall apply to and bind the respective successors, assigns and transferees and subsequent owners in interest thereof. The benefits of the Brand Covenant shall inure to the benefit of Buyer, its successors and assigns, as the operator or supplier (directly or indirectly) of retail operations in the State of Illinois. The Brand Covenant is imposed upon the entire Premises.

Buyer agrees to include the Brand Covenant in any conveyance or assignment of the Premises to a successor grantee and, as a condition of any conveyance of the Premises, to require successor grantees to enter into an agreement assuming all obligations of Buyer under the Branding Agreement.

2. Pursuant to the terms of the Branding Agreement, until the Termination Date, Seller retains a right to re-acquire the Lease and Buyer's interest in and to the Premises ("**Right of First Refusal**"). The Right of First Refusal shall expire automatically on the Termination Date, without need for filing a release, or other action of either Seller or Buyer. The terms of the Right of First Refusal are set forth on "**Exhibit A**".

3. Buyer has granted a right of access to the Premises to Seller pursuant to the terms of an Access Agreement, dated as of the date hereof, and recorded on the same day as this Assignment.

In addition, the Parties agree as follows:

1. Buyer hereby accepts this Assignment and assumes and agrees to perform and comply with all of the covenants, duties and obligations of Seller under the Lease arising on or after the date hereof, including, without limitation, the obligation to pay the rent specified therein.

2. This Assignment is delivered pursuant to the Purchase Agreement and is subject to its provisions, including, without limitation, provisions relating to indemnification by Seller and by Buyer, and the limitations in respect of such indemnification, set forth therein. Buyer acknowledges that Seller has assigned this Lease to Buyer on the Effective Date, in reliance on Buyer's present intention to operate the Premises as an automobile gasoline service facility using the Brand for some period of time after the date hereof.

3. All disputes between Seller and Buyer arising out of, relating to, or in connection with this Assignment, including, without limitation, any Claim or question relating to its negotiation, performance, non-performance, interpretation or termination, or the relationship between Seller and Buyer contemplated or established by this Assignment, shall be referred to and finally resolved pursuant to the dispute resolution provisions of **Schedule B** of the Purchase Agreement. This Section 3 shall survive indefinitely.

4. This Assignment shall be construed in accordance with the internal laws of the State of Illinois, excluding any conflict of law principles that would direct application of the laws of another jurisdiction. This Section 4 shall survive indefinitely.

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5. Unless the context shall otherwise require, terms used and not defined herein shall have the meanings set forth in **Schedule A** of the Purchase Agreement, and all procedures and other provisions set forth in **Schedule B** of the Purchase Agreement shall govern this Assignment, unless otherwise provided herein.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, each of Buyer and Seller has executed this Assignment and Assumption of Lease to be effective as of the Effective Date.

"SELLER"

**EQUILON ENTERPRISES LLC
d/b/a Shell Oil Products US**

By: 

Name: Scott David

Title: Portfolio Manager

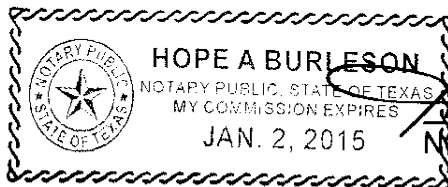
STATE OF TEXAS)

SS.

COUNTY OF HARRIS)

On this 21st day of March, 2012, before me appeared Scott David, to me personally known, who, being by me duly sworn did say that he is the Portfolio Manager of Equilon Enterprises LLC, a Delaware limited liability company d/b/a Shell Oil Products US, and that said instrument was signed on behalf of said limited liability company.

Witness my hand and official seal.




NOTARY PUBLIC

[Notary Seal]

UNOFFICIAL COPY**"BUYER"****RDK VENTURES LLC**

By: Mac's Convenience Stores LLC, its Manager

By: 

Name: Bruce Landini

Title: Vice President Operations, Midwest
Region

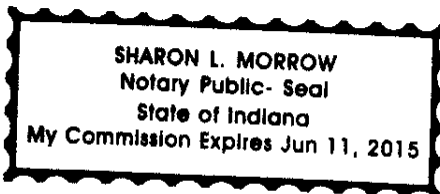
STATE OF INDIANA)

) SS.

COUNTY OF BARTHOLOMEW)

On this 22 day of March, 2012, before me appeared Bruce Landini, to me personally known, who, being by me duly sworn did say that he is the Vice President Operations, Midwest Region of Mac's Convenience Stores LLC, a Delaware limited liability company, manager of RDK Ventures LLC, a Delaware limited liability company, and that said instrument was signed on behalf of said limited liability company.

Witness my hand and official seal.



[Notary Seal]


 NOTARY PUBLIC

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Schedule 1

Cost Center: 137031: 10258 South Kedzie Ave., Evergreen Park, Illinois:

Ground Lease dated January 5, 2000, between Carl Pace Builders, Inc., an Illinois corporation, as Lessor, and Equilon Enterprises LLC, a Delaware limited liability company, as Lessee.

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Schedule 2

CC#137031 / RDK#6755

STREET ADDRESS: 10258 SOUTH KEDZIE AVE

CITY: EVERGREEN PARK

COUNTY: COOK

TAX NUMBER:

LEGAL DESCRIPTION:

LOTS 1 AND 2 IN PACE'S RESUBDIVISION OF LOT 25 (EXCEPT THE SOUTH 17 FEET THEREOF) AND ALL OF LOTS 26, 27, 28, 29, 30, 31, AND 32 IN BLOCK 1 IN HANFORD'S ADDITION TO WASHINGTON HEIGHTS, A SUBDIVISION OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 11, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN,

LOTS 19, 20, 21, 22, 23 AND 24 IN BLOCK 1 IN HANFORD'S ADDITION TO WASHINGTON HEIGHTS, A SUBDIVISION OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 11, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART OF LOT 24 BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT; THENCE WEST ON THE SOUTH LINE THEREOF TO THE SOUTHWEST CORNER OF SAID LOT; THENCE NORTH ON THE WEST LINE THEREOF TO ITS INTERSECTION WITH THE NORTH LINE OF THE SOUTH 17 FEET OF SAID LOT; THENCE EAST ON SAID NORTH LINE TO A POINT 3.2 FEET WEST OF THE EAST LINE OF SAID LOT (AS MEASURED ON SAID NORTH LINE); THENCE NORTHEASTERLY TO THE EAST LINE OF LOT 24 AFORESAID, 19.4 FEET NORTH OF THE PLACE OF BEGINNING; THENCE SOUTH TO THE PLACE OF BEGINNING) IN COOK COUNTY, ILLINOIS.

Tax Parcel ID#

24-11-416-058-0000 and

24-11-416-059-0000

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Exhibit A

Right of First Refusal

Until December 31, 2029, if at any time Buyer (i) receives an acceptable bona fide offer to purchase or lease from a ready, willing, and able purchaser or lessee which Buyer desires to accept, or (ii) makes a bona fide offer to sell, lease or otherwise transfer to such a purchaser or lessee, all of Buyer's right, title and interest in and to the Premises ("**Offer**"), Buyer shall provide written notice to Seller, specifying the name and address of the proposed grantee or lessee and the price and complete terms of the Offer, accompanied by Buyer's affidavit that the proposed sale or lease transaction described in the Offer is in good faith. Seller will then have the prior option to purchase or lease the Premises at the price and on the terms of the Offer, but subject to the terms provided below ("**Right of First Refusal**").

If the Offer received by Buyer or Buyer's own bona fide Offer relates to more than one Premises, Seller must elect to purchase or lease (as applicable) all of the Premises that are the subject of the Offer. For the avoidance of doubt, the Right of First Refusal extends only to the Premises even if the Offer giving rise to the Right of First Refusal involves a combination of the Premises and other real property owned or leased by Buyer which is not the Premises.

Seller shall provide written notice to Buyer of Seller's election to exercise its Right of First Refusal within 30 days after Seller receives Buyer's written notice of the Offer. If Seller does not timely exercise its Right of First Refusal with respect to the Premises, Buyer shall be free to sell, lease or otherwise transfer the Premises in accordance with the transaction described in Buyer's notice. If such transaction is not consummated as described in the Buyer's notice, this Right of First Refusal shall thereafter apply to the Premises.

Within 20 days after the date of the notice provided to Buyer of Seller's election to exercise its Right of First Refusal, Seller shall designate a title company and provide written notice to Buyer of the same. Buyer shall deposit with the title company a recordable assignment of lease comparable to the Assignment and Assumption of Lease to which this Exhibit relates or a lease containing terms consistent with the Offer described in Buyer's notice and acceptable to Seller. Seller shall deposit with the title company any earnest money required by the Offer. Promptly thereafter, Buyer shall (or Seller may), at Seller's expense, order from the title company a report on title to (or leasehold interest in) the Premises and a commitment for an owner's or lessee's (as applicable) policy of title insurance. Upon written notice from Seller to Buyer and the title company that title is acceptable, the title company shall deliver to Seller the deed or lease executed by Buyer, together with the owner's or lessee's (as applicable) policy of title insurance, against payment by Seller of the purchase price (which shall include payment of any costs, fees, expenses, documentary, transfer and like taxes required to be paid by Seller), as such allocation of costs, fees and expenses may be set forth in the Offer, less any earnest money. Thereafter, the title company shall deliver to Buyer the purchase price required by the Offer less the amount of any liens accepted by Seller and less the amount of any and all costs, fees, expenses, documentary, transfer and like taxes required to be paid by Buyer as set forth in the Offer. Taxes and rent will be prorated as of the date of delivery of the assignment (or the assignment of lease, as applicable) from the title company to the Seller. Upon receipt from Seller of written notice that the title is not acceptable, Buyer shall use commercially reasonable efforts to cure such title objections by the closing, including, without limitation, insuring against or providing a bond or suitable escrow for, any lien or other encumbrance that represents a liquidated amount or sum of money. No objection shall be made to any encumbrance that was set forth as a permitted encumbrance for such Premises in

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the deed from Seller to Buyer. In no case shall Buyer be required to convey any interest in the Premises greater than the interest it is vested in. If Buyer is unable to cure the title to Seller's satisfaction, Seller may elect not to purchase the Premises, in which case the title company shall return the deed (or assignment of lease) to Buyer, and the earnest money to Seller. If Seller elects to not exercise its Right of First Refusal for any reason, Buyer may sell the Premises under the terms described in the notice of the Offer provided to Seller. Any proposed sale of the Premises under different terms than those described in such notice of the Offer is subject to the Right of First Refusal provisions described herein.

This Right of First Refusal shall not apply to (i) Buyer's sale (in a sale-leaseback transaction) of a Premises to an affiliate of Buyer or to a Third-Party, provided, as part of such transaction Buyer concurrently leases back and operates such Premises from the affiliate or Third-Party or (ii) any sale or lease of a Premises to an Affiliate of Buyer.

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