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Doc#: 1007641004 Fee: \$54.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/17/2010 09:30 AM Pg: 1 of 10

After Recording, Return To:

True North Energy, LLC
5565 Airport Highway
Toledo, Ohio 43615

This Instrument Was Prepared By:

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

Tax Parcel No.: 18-12-402-061

Cook

SPECIAL WARRANTY DEED

This Special Warranty Deed, dated to be effective as of the 8th day of March, 2010 ("**Effective Date**"), is by and between Equilon Enterprises LLC d/b/a Shell Oil Products US, a Delaware limited liability company with offices located at Pennzoil North Tower, 700 Milam Street, Office 2069A, Houston, Texas 77002 ("**Grantor**") and True North Energy, LLC, a Delaware limited liability company, with offices located at 5565 Airport Highway, Toledo, Ohio 43615 ("**Grantee**") and is delivered pursuant to and is subject to the provisions and limitations of that certain Asset Purchase and Sale Agreement dated as of the 8th day of March, 2010, by and between Grantor and Grantee (the "**Purchase Agreement**").

WITNESSETH:

For and in consideration of the sum of Ten Dollars (\$10.00) and the mutual covenants and other good and valuable consideration set forth in the Purchase Agreement, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby GRANT, BARGAIN and SELL unto Grantee, its successors and assigns forever, all of Grantor's right, title and interest, if any, in and to the Premises more particularly described in **Exhibit A** attached hereto and made a part hereof (the "**Premises**"), together with any buildings, fixtures and improvements owned by Grantor and located thereon.

Together with all right, title and interest, if any, of Grantor in and to any streets and roads abutting the Premises to the center lines thereof, plus all the estate and rights of Grantor in and to any easements, rights, privileges, appurtenances, strips and gores and all other hereditaments appurtenant to the Premises;

Grantor expressly SAVES, RETAINS, RESERVES and EXCEPTS from this conveyance unto itself and its successors and assigns, all right, title and interest, if any, in and to any oil, gas, and other minerals (including, without limitation, helium, lignite, sulfur, phosphate and other solid, liquid and gaseous substances), regardless of the nature thereof and whether similar or dissimilar but only to the extent any of the foregoing is in its natural state and natural location and not subject to the dominion and control of any person, and, upon thirty (30) days prior written notice to Grantee, the right to explore for, develop and produce same, as well as the right to lease such portion of the Premises hereby reserved for such purposes, and all mineral and royalty rights whatsoever in, on, under and pertaining to the Premises; but Grantor, its successors and assigns, shall have no right to use, or right of ingress to or egress from any part

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of the surface of the Premises for exploration and producing purposes, except with respect to (i) current activities at and any existing contractual or leasehold rights granted to third parties and (ii) any additional activities which have been consented to in writing by Grantee, whose consent shall not be unreasonably withheld. Except as set forth in the preceding sentence, any oil and gas drilling operations, shall be conducted by means of wells, the surface locations of which are on other lands and which may be drilled into and bottomed in or under the Premises. Grantor shall exercise its rights under the foregoing mineral, oil and gas reservation so as not to disturb any improvements, installations, petroleum or other products contained in such improvements or installments or surface activities on the Premises. Grantor is to receive and retain all bonuses, rentals and royalties payable under any such mineral, oil and gas lease or leases. Grantor may assign, transfer, sell or convey such oil, gas and mineral reservation to any person, corporation, partnership or other entity.

This conveyance is made by Grantor and accepted by Grantee SUBJECT TO all reservations, exceptions, restrictions, easements, encumbrances, rights of way, ad valorem taxes, zoning regulations, other matters of record which are currently valid and subsisting, and which affect the herein described Premises and the items set forth on **Exhibit B**, to the extent that the same are currently valid and enforceable against the Premises.

TO HAVE AND TO HOLD the Premises unto Grantee, its successors and assigns in fee simple forever; but:

IN ADDITION TO THE FOREGOING, Grantor grants the Premises to Grantee subject to the following covenants and restrictions:

1. From and after the Effective Date until December 31, 2030 ("**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 Grantor and Grantee ("**Branding Agreement**"), whose terms and provisions are incorporated in this Special Warranty Deed by reference. The Brand Covenant shall expire automatically on the Termination Date without need for filing a release, or other action of either Grantor or Grantee. The Premises and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered and conveyed subject to the Brand Covenant. Grantor and Grantee intend and agree that the Brand Covenant and the remedies for breach thereof, as provided in the Branding Agreement, shall be covenants running with the land. The benefits of the Brand Covenant shall inure to the benefit of Grantor, its successors and assigns. The burdens of the Brand Covenant shall apply to the entire Premises, shall pass with each and every portion of the Premises, and shall apply to and bind Grantee and Grantee's respective successors, assigns, transferees and subsequent owners in interest of the Premises.

2. Until the Termination Date, Grantor retains a right of first refusal to purchase the Premises, pursuant to the terms of the Branding Agreement ("**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 Grantor or Grantee. The terms of the Right of First Refusal are set forth on **Exhibit C**. Notwithstanding anything contained herein to the contrary, the Right of First Refusal shall not apply to a transfer of the Premises (or any portion thereof) (i) at a foreclosure sale or similar liquidation sale or (ii) by deed, transfer, assignment or other conveyance in-lieu of foreclosure (each a "**Foreclosure Event**") and a Foreclosure Event shall terminate the Right of First Refusal. Such grantee in a Foreclosure Event, whether the

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transferee is a mortgagee, a party claiming through a mortgagee, or a third party shall hereinafter be referred to as a "**Foreclosure Grantee**". For clarification purposes, a Foreclosure Event shall not terminate the Brand Covenant and such Brand Covenant shall continue to apply to a Foreclosure Grantee.

3. Grantee has granted a right of access to Grantor pursuant to the terms of an Access Agreement dated as of the Effective Date, which is being recorded on the same day as this instrument.

4. Grantee covenants and agrees that it shall not install and, it shall prevent any subsequent purchaser or permitted assignee of the Premises from installing, any well or other tank, pump or related equipment for the use or storage of potable water at the Premises. Grantee further covenants and agrees that it shall not improve or use, and shall prohibit any subsequent purchaser or assignee of the Premises from using or improving, the Premises for residential purposes (including multi-family residential uses), or for any hospital, school, elder care or day care center or for a park or playground. Grantee further covenants and agrees that it shall not materially change the use of the Premises in such a way as to increase the level of clean-up required by any governmental entity for any environmental condition which had affected the Premises as of the Effective Date.

5. Grantor and Grantee intend and agree that each of the Covenants Nos. 1, 2, 3 and 4, above, shall be covenants running with the land. The benefits of the covenants shall inure to the benefit of Grantor, its successors and assigns. The burdens of the covenants shall apply to the entire Premises, shall pass with each and every portion of the Premises, and shall apply to and bind Grantee and Grantee's respective successors, assigns, transferees and subsequent owners in interest of the Premises. Grantee agrees to include the foregoing restrictions, covenants and conditions, including but not limited to 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 Grantee under Article 2 (Brand Covenant) of the Branding Agreement.

6. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, GRANTEE ACKNOWLEDGES, UNDERSTANDS AND AGREES THAT GRANTEE HAS BEEN GIVEN THE OPPORTUNITY TO MAKE FULL AND COMPLETE INSPECTIONS OF THE PREMISES TO GRANTEE'S SATISFACTION PRIOR TO THE DATE HEREOF AND THAT, AS OF THE DATE HEREOF, GRANTEE IS RELYING SOLELY ON GRANTEE'S OWN INVESTIGATIONS OF THE PREMISES AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY GRANTOR, OR ANY AGENT, REPRESENTATIVE OR OTHER PARTY ACTING, OR PURPORTING TO ACT, ON BEHALF OF GRANTOR. IT IS THE UNDERSTANDING AND INTENTION OF THE PARTIES THAT THE SALE OF THE PREMISES FROM GRANTOR TO GRANTEE IS MADE ON A STRICT "AS IS, WHERE IS" BASIS AND WITH ALL FAULTS. GRANTEE ACKNOWLEDGES THAT GRANTOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, ORAL OR WRITTEN, RELATING TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR PRESENT OR FUTURE CONDITION OF THE ASSETS, INCLUDING WITHOUT LIMITATION THE PREMISES, (B) THE COMPLIANCE OF, OR BY, THE PREMISES WITH ANY LAWS OF ANY APPLICABLE GOVERNMENTAL ENTITY, (C) THE LIABILITY, MERCHANTABILITY, MARKETABILITY, OR PROFITABILITY, SUITABILITY OR FITNESS

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FOR A PARTICULAR USE OR PURPOSE OF THE PREMISES, INCLUDING WITHOUT LIMITATION THE ASSETS THEREON, OR (D) ANY OTHER MATTER WITH RESPECT TO THE ASSETS. GRANTEE REPRESENTS TO GRANTOR THAT GRANTEE IS RELYING, HAS RELIED AND SHALL IN THE FUTURE RELY SOLELY UPON ITS OWN INVESTIGATIONS, INSPECTIONS AND STUDIES OF THE PREMISES, AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY GRANTOR, GRANTOR'S AGENTS OR CONTRACTORS OR OTHERWISE GENERATED FROM THIRD PARTY SOURCES. GRANTOR SHALL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENT, REPRESENTATION OR INFORMATION PERTAINING TO THE PREMISES OR THE OPERATION THEREOF FURNISHED BY ANY PARTY PURPORTING TO ACT ON BEHALF OF GRANTOR, INCLUDING, WITHOUT LIMITATION, ANY AGENT, BROKER OR SALESPERSON. GRANTEE ACKNOWLEDGES THAT THE PURCHASE PRICE HAS BEEN SPECIFICALLY NEGOTIATED AND ADJUSTED TO TAKE INTO ACCOUNT THE AS-IS NATURE OF THIS SALE AND THE DISCLAIMERS AND WAIVER OF REPRESENTATIONS AND WARRANTIES AS STATED HEREIN.

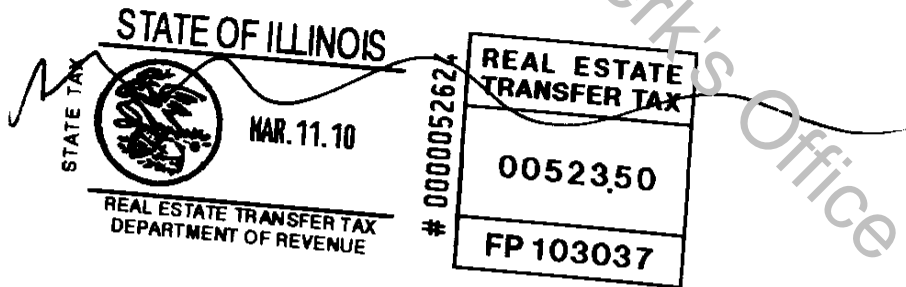
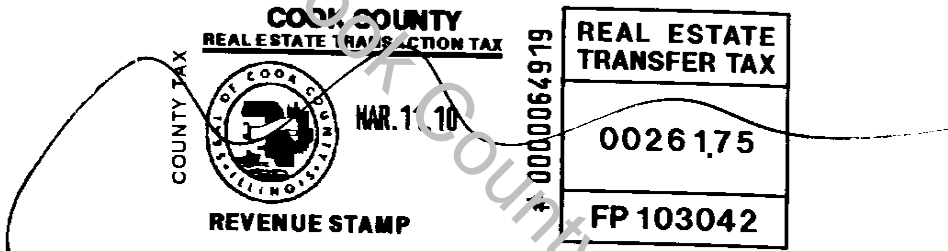
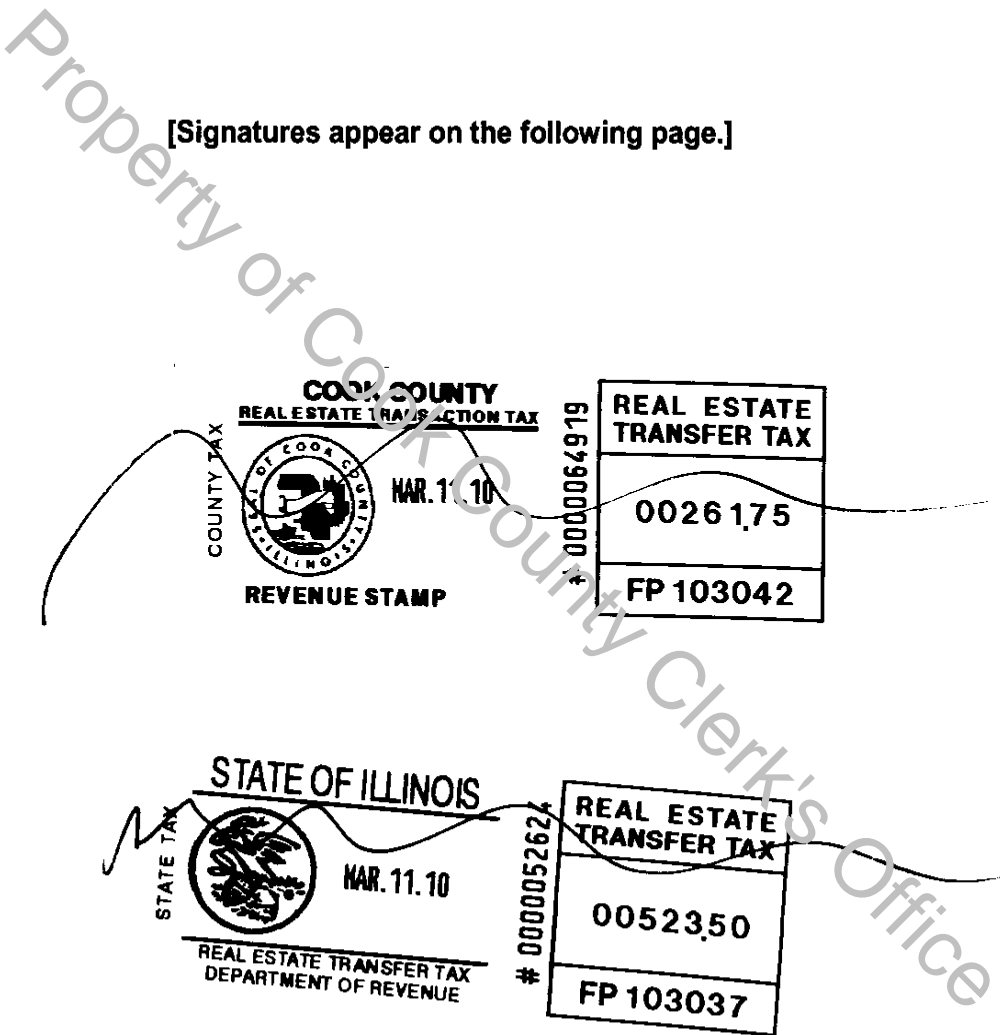
Grantee hereby acknowledges that the terms, conditions and duration of the foregoing restrictions, covenants, and conditions are fair and reasonable. Grantee hereby agrees that, in the event the foregoing restrictions, covenants or conditions are violated, Grantor, and/or any successor-in-interest to Grantor, (i) may elect to enforce the foregoing restrictions, covenants and conditions by an action in equity to obtain an injunction against any violation of the foregoing restrictions, covenants, and conditions; and (ii) may pursue any other remedy available at law or in equity for any breach of the foregoing restrictions, covenants, or conditions.

All purchasers, lessees, and possessors of all or any portion of the Premises shall be deemed by their purchase, leasing, or possession of the Premises to have agreed to the foregoing restrictions, covenants, and conditions. Grantee's acceptance of the deed to the Premises evidences Grantee's acceptance of, and agreement to, the foregoing restrictions, covenants, and conditions, and Grantee acknowledges that Grantee has received adequate and sufficient consideration for Grantee's acceptance of and agreement to the foregoing restrictions, covenants, and conditions. Any failure to enforce any breach of the foregoing restrictions, covenants, and conditions shall not constitute a waiver of the foregoing restrictions, covenants, and conditions, or of any subsequent breach thereof, or any remedy that may be exercised for breach thereof. Any waiver of any breach of the foregoing restrictions, covenants, and conditions shall not constitute a waiver of any subsequent breach thereof, or of any remedy that may be exercised for breach thereof. The exercise of any remedy for any breach of the foregoing restrictions, covenants, and conditions shall not preclude the exercise of any other remedy for any breach of the foregoing restrictions, covenants, and conditions.

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SUBJECT to the foregoing, Grantor covenants with Grantee that Grantor shall warrant specially the Premises herein conveyed and shall defend title to the Premises against the lawful claims of all persons claiming by, through, or under Grantor, but not otherwise, provided, that this conveyance and the special warranty made by Grantor contained herein are subject to the matters contained herein and to any and all matters of record. The preceding sentence is for the benefit of Grantee and the parties now or hereafter constituting Grantee and may not be relied on, or enforced by, any other entity, including, without limitation, any direct or remote successor in title to Grantee, or any title insurer of Grantee, or its direct or remote successors in title, by way of subrogation or otherwise.

[Signatures appear on the following page.]



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IN WITNESS WHEREOF, Grantor has caused this Special Warranty Deed to be duly executed on the day and year first above written.

"GRANTOR":

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

By: Scott C. David
 Name: Scott C. David
 Title: JV Formation Manager

STATE OF TEXAS)
) SS
 COUNTY OF HARRIS)

On this 5th day of March, 2010, before me appeared Scott C. David, to me personally known, who, being by me duly sworn did say that he is the JV Formation Manager of Equilon Enterprises LLC d/b/a Shell Oil Products US, a Delaware limited liability company, and that said instrument was signed on behalf of said limited liability company.

Sheila A. Sawyer
 Notary Public in and for the
 State of Texas

My commission expires:



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"GRANTEE":

TRUE NORTH ENERGY, LLC

By: The Lyden Company, its member

By: *W.G. Lyden III*
Name: W. G. Lyden III
Title: Chief Executive Officer

STATE OF OHIO)
) SS.
COUNTY OF LUCAS)

On this 4th day of March, 2010, before me appeared W.G. Lyden III, to me personally known, who, being by me duly sworn did say that he is the Chief Executive Officer, of The Lyden Company, member of TRUE NORTH ENERGY, LLC a Delaware limited liability company, and that said instrument was signed on behalf of said limited liability company.

Ann M. Bella
Notary Public in and for the
State of OHIO

My commission expires:
7-15-2011



ANN M. BELLA
Notary Public, State of Ohio
Commission Expires 7-15-2011

UNOFFICIAL COPYExhibit A
Legal Description

137186

**CHICAGO TITLE INSURANCE COMPANY**

ORDER NUMBER: 1401 008426221 D1
STREET ADDRESS: 5344 S. HARLEM
CITY: SUMMIT **COUNTY:** COOK
TAX NUMBER: 18-12-406-061-0000

LEGAL DESCRIPTION:

LOTS 14, 15, 16, 17, 18, 19, 20 AND 21 (EXCEPT THAT PART TAKEN FOR ROAD PURPOSES BY THE STATE HIGHWAY DEPARTMENT; STATE OF ILLINOIS) IN BLOCK 1 IN CHICAGO TITLE AND TRUST COMPANY'S THIRD ADDITION TO SUMMIT, BEING A SUBDIVISION IN THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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Exhibit B Permitted Encumbrances

CC# 137186
5344 S HARLEM
SUMMIT, IL

1. The lien for real property taxes for the year 2010, and any liens for special assessments which as of the date hereof, are not due and payable. Ad Valorem Taxes for calendar year 2009, due and payable in 2010, have been paid.
2. Reservation and conditions, contained in Limited Warranty Deed made by and between Shell Oil Company, a Delaware corporation and Equilon Enterprises LLC, a Delaware limited liability company recorded among the land records of Cook County, Illinois, on July 7, 1998, as Document No. 98579310, Grantor reserves and excepts from conveyance all right, title and interest, if any, in and to any oil, gas, and other minerals, including, without limitations, helium, lignite, sulfur, phosphate and other solid, liquid and gaseous substances, regardless of the nature thereof and whether similar or dissimilar but only to the extent any of the foregoing is in its natural state and natural location, and not subject to the dominion and control of any person, etc.

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Refusal, otherwise the Premises shall again be subject to the Right of First Refusal provisions described herein. Any proposed sale of any Premises under different terms than those described in such notice of the Offer is subject to the Right of First Refusal provisions described herein.

The Right of First Refusal is not limited by any other rights Grantor has under the Branding Agreement or elsewhere, if any, to acquire the Premises. The Right of First Refusal runs with the land or leasehold interest, inures to the benefit of, and binds the respective successors in interest and assigns thereof.

The Right of First Refusal shall not apply to any lease or sublease by Grantee to any Person other than Grantor or Grantee and their respective affiliates ("**Third-Party**") or other Person operating a retail motor fuel facility at the Premises using the "Shell" brand and any other trademark or distinctive name identifying branded fuel offered for resale at retail outlets approved by Grantor (the "**Brand**") pursuant to a written agreement with Grantee or any affiliate of Grantee, provided, Grantee retains ownership and control of, and full contractual and regulatory responsibility for, the underground storage tanks, piping, leak detection devices and any related equipment, including "inground" hoists, direct and remote vapor and fill lines/buckets used for the storage and dispensing of petroleum products, used oil and/or heating oil, and other equipment related to the operation of a motor fuel service station which are, were or may be present on the Premises, not including any concrete or other slab or platform upon which such equipment may be stationed ("**UST System**") throughout the term of the lease or sublease with such Third-Party or Person and Grantee complies with the provisions of Section 9.6 (*Future Conveyances*) of the Purchase Agreement.