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Doc#: 1007641020 Fee: \$46.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/17/2010 10:00 AM Pg: 1 of 6

This Instrument Was Prepared By
And after recording, return to:

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

Tax Parcel ID No. 12-32-326-046; 12-32-326-047; 12-32-326-048

ACCESS AGREEMENT

This **Access Agreement** ("**Agreement**"), dated as of the 8th day of March, 2010, is by and between Equilon Enterprises LLC d/b/a Shell Oil Products US, a Delaware limited liability company ("**Seller**"), with offices located at Pennzoil North Tower, 700 Milam Street, Office 2069A, Houston, Texas 77002 and True North Energy, LLC, a Delaware limited liability company, with offices located at 5565 Airport Highway, Toledo, Ohio 43615 ("**Buyer**").

RECITALS

WHEREAS, Seller and Buyer are parties to that certain Asset Purchase and Sale Agreement dated as of the 8th day of March, 2010 (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 Assets, including without limitation the Purchased Premises described on **Exhibit A** hereto (the "**Premises**"); and

WHEREAS, in accordance with the Purchase Agreement, Seller may require access to the Premises in connection with certain post-closing activities contemplated or required by the terms of the Purchase Agreement;

NOW, THEREFORE, in exchange for the mutual promises and considerations stated herein and in the Purchase Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

ARTICLE 1. DEFINITIONS AND PROCEDURES

1.1 **Definitions and Procedures.** Unless defined in this Agreement or the context shall otherwise require, terms used and not defined herein shall have the meanings set forth in **Schedule A** to the Purchase Agreement, and unless otherwise provided in this Agreement, all rules as to usage and procedural conventions set forth in **Schedule B** to the Purchase Agreement shall govern this Agreement.

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ARTICLE 2. GRANT OF LICENSE

2.1 Grant of License. (a) Buyer, as owner or tenant of the Premises, hereby grants a nonexclusive irrevocable license from the date of this Agreement to Seller, its employees, authorized agents and contractors, to enter the Premises to perform any and all post Closing activities contemplated by Section 4.6 (*UST System Matters*), Section 9.6 (*Future Conveyances/ Leases*), Section 9.8 (*Post Closing Arrangements Relating to Purchased Premises*), Article 12 (*Environmental Indemnification*) and Article 13 (*Cooperation and Performance of Environmental Remediation and Indemnification*) of the Purchase Agreement, which activities include, but are not limited to, tank removal or closure activities, remediation activities, and engineering or environmental studies, tests, survey, appraisals or inspections.

(b) This Agreement is intended and shall be construed only as a temporary license and is not intended to be a grant of an easement or any other interest in the Premises.

ARTICLE 3. COVENANTS

3.1 Assignment, Successor and Assigns. In the event Buyer's interest in the Premises is conveyed, transferred or in any way assigned in whole or in part to any other person or entity, whether by contract, operation of law or otherwise, Buyer shall (a) provide prior written notice to Seller of such conveyance or transfer; and (b) comply with the provisions of Section 9.6 of the Purchase Agreement (*Future Conveyances/Leases*).

ARTICLE 4. TERMINATION

4.1 Termination. This Agreement shall automatically terminate, without any further action of either Seller or Buyer, upon the later to occur of (a) termination of Seller's rights and obligations under Section 4.6 of the Purchase Agreement (*UST System Matters*) or (b) termination of Seller's obligation, if any, to indemnify Buyer or perform Remediation pursuant to Article 12 (*Environmental Indemnification*) and/or Article 13 (*Cooperation and Performance of Environmental Remediation and Indemnification*) of the Purchase Agreement.

ARTICLE 5. INDEMNIFICATION; LIMITATIONS

5.1 Indemnification. This Agreement is delivered pursuant to the Purchase Agreement and is subject to the provisions, including, without limitation, provisions relating to indemnification by Seller and by Buyer, and the limitations in respect of such indemnification set forth therein.

ARTICLE 6. MISCELLANEOUS

6.1 Dispute Resolution. All disputes between Seller and Buyer arising out of, relating to, or in connection with this Agreement, including, without limitation, any Claim or question relating to this Agreement's negotiation, performance, non-performance, interpretation or termination or the relationship between Seller and Buyer contemplated or established by this

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Agreement, shall be referred to and finally resolved pursuant to the dispute resolution provisions of **Schedule B** of the purchase agreement. This Section 6.1 shall survive indefinitely.

6.2 Notice. Any notice, consent, request, report, demand, or other document required to be given to one Party by the other shall be in writing and be delivered to or mailed to the receiving Party at its address and in the manner set forth in the Purchase Agreement.

6.3 Environmental Investigation and Remediation. **Buyer agrees that Seller is under no obligation to Buyer to remedy or respond to any Environmental Condition at the Premises for which Seller is not responsible under the Purchase Agreement. Seller and Buyer agree that no provision of this Agreement shall expand Seller's obligations to respond to Environmental Conditions not specifically identified in the Purchase Agreement and shall not be construed to be an admission of liability, wrongdoing or violation of any Law by Seller or Buyer or their predecessors, successors or permitted assigns.**

6.4 Governing Law. This Agreement shall be construed in accordance with the internal laws of the State of Delaware, excluding any conflict of law principles that would direct application of the laws of another jurisdiction.

6.5 Waiver. No waiver by any party of any breach of the covenants and/or agreements set forth herein, or any rights or remedies provided hereunder and no course of dealing shall be deemed a continuing waiver of the same or any other breach, right or remedy, unless such waiver is in writing and is signed by the party sought to be bound. The failure of a party to exercise any right or remedy shall not be deemed a waiver of such right or remedy in the future.

6.6 Collective Transaction. Seller and Buyer acknowledge that this Agreement has been entered into and Seller and Buyer have agreed to perform post-Closing obligations under the Purchase Agreement in connection with, and in reliance on, the other party's execution of and agreement to perform under each of this Agreement, the Purchase Agreement and the Branding Agreement, which, in the case of this Agreement and the Branding Agreement, run with and burden the Purchased Premises.

[Signatures appear on the following page.]

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IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the dates set forth above.

"SELLER":

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

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

STATE OF TEXAS)
) SS.
COUNTY OF HARRIS)

On this ____ 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.

Notary Public in and for the
State of Texas

My commission expires:

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Exhibit A

Legal Description

Final

137134

**CHICAGO TITLE INSURANCE COMPANY**

ORDER NUMBER: 1401 008426195 D1

STREET ADDRESS: 70 E. NORTH AVE.

CITY: NORTHLAKE

COUNTY: COOK

TAX NUMBER: 12-32-326-046-0000, 12-32-326-047-0000, 12-32-326-048-0000

LEGAL DESCRIPTION:

THE ESTATE OR INTEREST IN THE LAND DESCRIBED BELOW AND COVERED HEREIN IS: THE LEASEHOLD ESTATE (SAID LEASEHOLD ESTATE BEING DEFINED IN PARAGRAPH 1.c. OF THE ALTA LEASEHOLD ENDORSEMENT(S) ATTACHED HERETO), CREATED BY THE INSTRUMENT HEREIN REFERRED TO AS THE GROUND LEASE DATED DECEMBER 15, 2000 BETWEEN LASALLE BANK NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO AMERICAN NATIONAL BANK & TRUST, SUCCESSOR TRUSTEE TO GARY WHEATON BANK, AS TRUSTEE OF TRUST NO. 3548, UNDER TRUST AGREEMENT DATED SEPTEMBER 3, 1976, AS LESSOR, AND EQUILON ENTERPRISES LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS LESSEE.

ASSIGNED TO TRUE NORTH ENERGY, LLC BY INSTRUMENT RECORDED ~ AS DOCUMENT ~

LOTS 17, 18 AND 19 IN BLOCK 1 IN MIDLANDS DEVELOPMENT CO.'S NORTHLAKE VILLAGE UNIT NO. 3, BEING A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.