

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the
Development and Implementation
of a Remedial Program for an
Inactive Hazardous Waste Disposal
Site under Article 27, Title 13
of the Environmental Conservation Law
by

Ruhle Companies, Inc.
Respondent.

**ORDER ON CONSENT
and
ADMINISTRATIVE
SETTLEMENT**

Index # W3-1174-13-09

Site #360046

WHEREAS,

1. A. The New York State Department of Environmental Conservation ("Department" or "DEC") is responsible for inactive hazardous waste disposal site remedial programs pursuant to Article 27, Title 13 of the Environmental Conservation Law ("ECL") and Part 375 of Title 6 of the Official Compilation of Codes, Rules and Regulations ("6 NYCRR") and may issue orders consistent with the authority granted to the Commissioner by such statute.

B. The Department is responsible for carrying out the policy of the State of New York to conserve, improve and protect its natural resources and environment and control water, land, and air pollution consistent with the authority granted to the Department and the Commissioner by Article 1, Title 3 of the ECL.

2. Ruhle Companies, Inc. ("Settling Respondent") is the owner and operator of the Farrand Controls site. The Farrand Controls site is located at 99 Wall Street, Hamlet of Valhalla, Town of Mt. Pleasant, Westchester County, New York (hereinafter, the "Site"). Settling Respondent was created by incorporation pursuant to the New York Business Corporation Law in or about 1991 as a consequence of an employee buyout of the Farrand Controls Division of Farrand Industries, Inc. (f/k/a Farrand Controls, Inc.). Farrand Industries, Inc. (f/k/a Farrand Controls, Inc.) is no longer an active business. The Site consists of approximately six (6) acres of a thirteen (13) acre parcel the entirety of which is also owned by the Settling Respondent. Exhibit "A" is a map of the Site showing its general location.

3. The Site is currently listed in the *Registry of Inactive Hazardous Waste Disposal Sites in New York State* as Site Number 360046 with a Classification "2" pursuant to ECL 27-1305, indicating that it poses a significant threat to public health or the environment.

4. On May 20, 2011, the State of New York and the Department's Commissioner filed an action pursuant to CERCLA, and the common law of the State of New York (the "State of New York or "State"), seeking to recover response costs that have been and will be incurred by the State in responding to the release or threatened release of hazardous substances at the Site. During the pendency of the case, the New York State Department of Environmental Conservation through the

New York State Office of the Attorney General ("NYSOAG") and Settling Respondent began settlement discussions on how to reimburse the State of New York for the costs of cleaning up the Site. Settling Respondent informed the Department and the NYSOAG that it was interested in an "ability to pay" settlement based on its financial condition. The Department and NYSOAG investigated Settling Respondent's financial circumstances.

5. The Department considered Settling Respondent's ability to pay for a settlement of the claims. After reviewing the financial information provided by Settling Respondent, the Department determined that an ability to pay settlement was proper considering Settling Respondent's financial circumstances.

6. Based on Settling Respondent's financial circumstances, the Department agreed to settle with Settling Respondent for less than 100% of the costs incurred and to be incurred by the State.

7. Settling Respondent consents to the issuance of this Order without (i) an admission or finding of liability, fault, wrongdoing, or violation of any law, regulation, permit, order, requirement, or standard of care of any kind whatsoever; (ii) an acknowledgment that there has been a release or threatened release of hazardous waste at or from the Site; and/or (iii) an acknowledgment that a release or threatened release of hazardous waste at or from the Site constitutes a significant threat to the public health or environment.

8. Solely with regard to the matters set forth below, Settling Respondent hereby waives any right to a hearing as may be provided by law, consents to the issuance and entry of this Order, and agrees to be bound by its terms. Settling Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agrees not to contest the validity of this Order or its terms or the validity of data submitted to the Department by Settling Respondent pursuant to this Order.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:

I. Site Specific Definitions

Unless otherwise expressly provided herein, terms used in this Order which are defined in ECL Article 27 or in regulations promulgated thereunder shall have the meaning assigned to them under said statute or regulations, or amendments thereto. Whenever terms listed below are used in this Settlement Agreement or in an appendix attached thereto, the following definition shall apply:

a. "Environmental Easement" shall mean, as defined in 6 N.Y.C.R.R. § 375-1.2(q), an interest in real property, created under and subject to the provisions of Environmental Conservation Law ("ECL") Article 71, Title 36, which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls, provided that no such easement shall be acquired or held by the state which is subject to the provisions of article fourteen of the constitution of the State of New York.

b. "Farrand Site Environmental Easement" ("Farrand Site EE") shall mean the Environmental Easement providing access to the Site for development, construction, operation, maintenance and monitoring of the selected remedy for the Site by the State, its employees, and agents and DEC's Contractor and sub-contractors, employees and agents, and restricting the future use of the Site, which is substantially similar to Exhibit "B".

c. "Environmental Easement Package" shall collectively mean: (i) Two original executed Farrand Site EEs, (ii) Completed and duly executed Attorney/Applicant Checklist and Certification, (iii) Copy of current deed, (iv) Title Report with attachments dated within the last 6 months, (v) Any documents needed to resolve the exceptions listed in the Title Report, (vi) List of parties to be provided notice of the Environmental Easement, (vii) Copy of Environmental Easement Notice, (viii) Legal description of Easement area, (ix) Proof of authority to execute an Environmental Easement for the Site (e.g. resolution, certificate of authority), (x) Copy of tax map, (xi) Two full sized surveys signed by a surveyor, and (xii) Form TP-584.2: Real Estate Transfer Tax Return For Public Utility Companies' and Governmental Agencies' Easements and Licenses.

d. "Attorney/Applicant Checklist and Certification" shall mean the Attorney/Applicant Checklist and Certification attached as Exhibit "C".

e. "Title Requirements" shall mean the requirements set forth in Exhibit "D", including but not limited to: (1) an updated Title Report (current within 6 months) along with a Certification Page and Schedules A and B (Schedule B must include a copy of each encumbrance that affects title to the property that is the subject of the Environmental Easement such as a copy of the current deed); (2) a copy of the Tax Map for the Site; and (3) a commitment letter and a proposed final policy from the title company stating that it will issue the proposed title insurance policy insuring the State upon recordation of the Environmental Easement.

f. "Environmental Easement Notice" shall mean the Notice of Environmental Easement form attached as Exhibit "E" which is required to be sent to each entity identified in the Schedule "B" exceptions noted in the title report.

g. "Property" shall mean the entire 13 acre parcel owned by Settling Respondent, located at 99 Wall Street, Valhalla, Westchester County, New York, and described in the deed attached as Exhibit "F".

h. "Survey Requirements" shall mean the requirements set forth in Exhibit "G", including but not limited to, an ALTA/ASCM survey or a survey of the area(s) to be addressed by the Environmental Easement, with corresponding metes and bounds description, that meets DEC's requirements.

i. "Affected Local Government" shall mean every municipality in which land subject to an environmental easement is located.

j. "Notice to Municipality" shall mean the Notice to Municipality attached as Exhibit "H".

k. "Fair Market Value" shall mean the price at which the Property would change hands between a willing buyer and a willing seller under actual market conditions, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

l. "Inactive Hazardous Waste Disposal Site Remedial Program" or "Remedial Program" shall mean, as such term is defined in 6 NYCRR § 375-1.2(z). Further terms in 6 NYCRR § 375-1.2(ap) shall have the meanings assigned to term in 6 NYCRR § 375-1.2.

m. "Transfer" shall mean sale, assignment, transfer or exchange by Settling Respondent (or its successors or heirs) of the Property with prior written approval of DEC, said approval (or disapproval) being transmitted within thirty (30) days of receipt by DEC of the terms of the proposed contract of sale, which approval shall not be unreasonably withheld, where title to the Property is transferred and its fair market value is received in consideration. "Transfer" does not include a transfer pursuant to an inheritance or a bequest.

n. "Covered Matters," as that term is used in this Consent Decree, is defined to include any and all past or future claims that were, or could now or hereafter be, asserted by the State against Settling Respondent arising out of or in connection with the disposal, release, and threat of release of hazardous substances at or from the Site on or before the Effective Date of this Order, excluding those rights specifically reserved in this Order.

II. Design, Installation, Maintenance and Operation of a SSDS or Department-approved Alternative System at the Site

A. Within 120 days after the effective date of this Order Settling Respondent shall design, install, maintain and operate, a Sub-Slab Depressurization System ("SSDS") approved by the DEC under the existing building structure on the Site, or a DEC-approved alternative system to mitigate all impacts of vapor intrusion under the entire building footprint and within the building structure from contaminants in the soils and groundwater beneath and around the building. The purpose of the SSDS or any alternative system approved by DEC, is to protect the health and safety of all persons that are occupying or working in the building facility. In computing the 120 days, the number of days in which DEC or New York State Department of Health ("NYSDOH") is reviewing submissions shall not be counted. The Department may in its discretion grant such extensions as may be needed if Settling Respondent is proceeding in good faith to develop and install the SSDS or any alternative system approved by DEC.

B. Settling Respondent shall submit a work plan to install and operate the SSDS, or a proposed alternative system, to DEC for its approval within thirty (30) days of the effective date of this Order (the "Work Plan").

C. The Work Plan shall be developed and implemented in accordance with the requirements of all applicable laws, rules and regulation(s) and the *Division of Environmental Remediation (DER)-10: Technical Guidance for Site Investigation and Remediation*, and shall consider applicable DEC and NYSDOH guidance, including, but not limited to, NYSDOH *Final Guidance for Evaluating Soil Vapor Intrusion in the State of New York* dated October 2006, particularly Section 4.0. The DEC-approved Work Plan for the SSDS or alternative system shall be incorporated into and become an enforceable part of this Order.

D. DEC shall review Settling Respondent's proposed Work Plan submitted pursuant to this Order. The Department shall notify Settling Respondent in writing of its approval or disapproval of the proposed Work Plan. If DEC approves the Work Plan, Settling Respondent shall implement its terms within sixty (60) days of receipt of such approval.

E. If the Department disapproves the proposed Work Plan, it shall so notify Settling Respondent in writing and shall specify the reasons for its disapproval. Within thirty (30) days after receiving written notice that the proposed Work Plan has been disapproved, Settling Respondent may elect, in writing, to either: (i) submit a revised proposed Work Plan which addresses and resolves all of DEC's stated reasons for disapproving the first proposed Work Plan, or (ii) invoke dispute resolution pursuant to paragraph XIV below. If Settling Respondent elects to submit a revised proposed Work Plan, Settling Respondent shall, within ten (10) days after such election, submit a revised proposed Work Plan to DEC that addresses all of DEC's stated reasons for disapproving the proposed Work Plan. In the event that Settling Respondent's revised proposed Work Plan is disapproved, Settling Respondent shall be in violation of this Order unless it invokes dispute resolution pursuant to paragraph XIV below, in which case it shall be in violation of this Order only if it fails to comply with the final decision issued in the dispute resolution process. Failure to make an election or failure to comply with the election is a violation of this Order.

F. DEC shall notify Settling Respondent in writing if it determines at any time that any element of the DEC-approved Work Plan needs to be modified in order to achieve the objectives of the Work Plan to protect the health and safety of all persons that are occupying or working in the building facility from contaminants in the soils and groundwater beneath and around the building and the Site. Upon receipt of such notification, Settling Respondent shall modify the DEC-approved Work Plan as requested by the DEC.

G. In accordance with the schedule contained in the Work Plan, Settling Respondent shall submit a final report as provided at 6 NYCRR 375-1.6(b).

III. Progress Reports

A. Settling Respondent shall submit written progress reports regarding the installation and operation of the SSDS, or DEC-approved alternative system, to the persons identified in paragraph XV below by the 10th day of each month commencing with the month

subsequent to the approval of the Work Plan and ending with the date of the termination of this Order, unless a different frequency is set forth in the Work Plan.

B. DEC agrees to have periodic job progress meetings with Settling Respondent's environmental consultant during the design and installation phase of the SSDS or DEC-approved alternative system.

IV. Stipulated Penalties

A. Settling Respondent shall be liable for payment to the DEC of the sums set forth below as stipulated penalties for each day or part thereof that Settling Respondent is in violation of the terms of Paragraph II and Subparagraph XVII(C) of this Order. Such sums shall be due and payable within thirty (30) days after receipt of notification from the Department assessing the penalties. If such payment is not received within thirty (30) days after Settling Respondent receives such notification from DEC, interest shall be payable at the annual rate of nine per centum (9%) on the overdue amount from the day on which it was due through and including the date of payment. Penalties shall be paid by Electronic Funds Transfer. Payment of such penalties shall not in any way alter Settling Respondent's obligation to complete performance under the terms of this Order. Stipulated penalties shall be due and payable pursuant to the following schedule:

<u>Period of Non-Compliance</u>	<u>Penalty per Day</u>
First through 15th day	\$ 500
16th through 30th day	\$ 1,000
31st day and thereafter	\$ 1,500

B. DEC, in its sole unfettered discretion, may elect not to pursue the collection of stipulated penalties. Any such election by DEC shall not constitute a waiver of its right to collect any stipulated penalties.

V. Access to the Site/Due Care and Cooperation

A. Settling Respondent agrees to, upon request, provide to DEC, any duly designated officer or employee of DEC or any State agency having jurisdiction with respect to the Remedial Program at the Site, and any agent, consultant, contractor, or other person so authorized by DEC, an irrevocable right of access at all reasonable times to the Site and to any other property to which access is required for the implementation of response actions at the Site, to the extent access to such other property is controlled by Settling Respondent, for the purposes of performing and overseeing response actions it deems necessary at the Site, including the placement of one or more trailers. DEC shall provide five (5) days notice to Settling Respondent of the commencement of any response actions at the Site. Notwithstanding any provision of this Order, DEC retains all of its authorities and rights, including enforcement authorities related thereto, under CERCLA, Article 27, Title 13 of the ECL or pursuant to any other provision of

State or Federal statutory or common law. Upon request, Settling Respondent shall: (i) provide DEC with suitable office space at the Site, including access to a telephone, to the extent available; and (ii) permit DEC full access to all non-privileged records relating to matters addressed by this Order. Settling Respondent acknowledges that raw data is not privileged.

B. Settling Respondent shall ensure that assignees, successors in interest, lessees, and sublessees of the Site shall provide the same access and cooperation. Settling Respondent shall ensure that a copy of this Order is provided to any current lessee or sublessee on the Site as of the effective date of this Order and shall ensure that any subsequent leases, assignments or transfers of the Site or an interest in the Site are consistent with this paragraph, and Subparagraph XVII(C) of the Order.

C. DEC shall have the right to take its own samples and scientific measurements, and DEC and Settling Respondent shall have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled by either party. DEC shall make the results of all samples and scientific measurements taken under this paragraph available to Settling Respondent. Settling Respondent shall promptly make available to DEC preliminary data and, when available, the validated results of all sampling and/or tests or other data generated by Settling Respondent through the implementation of this Order.

D. DEC covenants that any work it performs at the Site will be done at no additional cost or expense to Settling Respondent unless Settling Respondent fails to comply with any of the terms and conditions of this Order; provided, however, this does not constitute a waiver of any rights DEC may have to recover such cost from any other responsible party, pursuant to relevant provisions of statutory or common law.

E. Any contractor retained by DEC to perform work in connection with response actions at the Site shall have comprehensive general liability insurance for the activities conducted on the Site. DEC will cooperate with Settling Respondent in pursuing with the insurer any claim(s) that may arise.

F. Settling Respondent shall exercise due care at the Site with respect to the existing contamination at the Site and shall comply with all applicable local, State, and federal laws and regulations. Settling Respondent recognizes that the implementation of the Remedial Program at the Site may interfere with Settling Respondent's use of the Site. Settling Respondent agrees to cooperate fully with the DEC in the implementation of the Remedial Program and further agrees not to interfere with the Remedial Program. Settling Respondent shall implement and comply with any land use restrictions and institutional controls on the Site in connection with the Remedial Program. Neither Settling Respondent nor its successors and/or assigns shall interfere with the continued operation of any engineering controls employed at the Site, including any engineering controls in the Record of Decision ("ROD") for the Site and any and all Department-approved amendments to the ROD, and any Department-approved Site Management Plan ("SMP"), including any and all Department-approved amendments to a SMP.

G. The DEC agrees, consistent with its responsibilities under applicable law, to use reasonable efforts to minimize any interference with Settling Respondent's operations by such entry and response. In the event Settling Respondent becomes aware of any action or occurrence which causes or threatens a release of hazardous waste, pollutants or contaminants at or from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Respondent shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements, or any other law, immediately notify the DEC of such release or threatened release.

VI. Payment of State Costs

A. Settling Respondent shall pay the aggregate principal amount of \$2,160,000 to the Department, payable in the amount of \$72,000 before the first anniversary of the effective date of this Order, subject to the provisions in Subparagraph VI.G below, and on or before every successive anniversary thereafter until that amount is paid in full. Each payment shall be remitted by electronic funds transfer to:

Financial Institution:	M&T Bank, Buffalo, New York
Routing No.:	022000046
Account Name:	State of NY DEC Revenue Account
Account No.:	6050090742
Site Identifier:	Farrand Controls Site
Contact at M&T Bank:	Michael Whalen at 518- 426-6373
Contact at DEC:	Robert Schwank at 518- 402-9365

At the time such payment is remitted, Settling Respondent shall provide written notice of the remittance to the Department in accordance with Subparagraph XV below.

B. The obligation to pay the State under the terms of this Order shall survive the sale or transfer of all or any part of Settling Respondent's business and/or the Property. Nothing in this Order shall prohibit Settling Respondent from selling or otherwise transferring its business and/or real property subject to advance approval by DEC, which shall not be unreasonably withheld, provided that the terms of any such sale or transfer are sufficient to ensure that the Department continues to receive from any purchaser or transferee the payments of \$72,000 per annum until the \$2,160,000 has been paid in full. In any event, Settling Respondent shall also remain fully liable for those payments until the \$2,160,000 has been paid in full.

C. The cost of design and the installation of the SSDS or DEC-approved alternative system by Settling Respondent shall be credited towards Settling Respondent's first year installment payment of \$72,000, in an amount not to exceed sixty thousand dollars (\$60,000). The balance of such credit must be paid in accordance with the provisions of Subparagraph VI.A above.

D. To assure that Settling Respondent timely remits the payments due under Subparagraph VI.A above, Settling Respondent will execute a Confession of Judgment in favor of the Department in the sum of \$2,160,000.00 (a form of which attached hereto as Exhibit "I"), which \$2,160,000.00 to be paid in accordance with the provisions of Subparagraphs VI.A to the extent modified in VI.C above.

E. The Department may only file the Confession of Judgment or a transcript thereof with the clerk for Westchester County or any other county or place where Settling Respondent owns real or personal property, upon either:

a) Settling Respondent's failure to remit any one or more payments in the timeframe set forth in Subparagraph VI.A above within ten (days) after receiving written notification from the Department of Settling Respondent's failure to timely remit such payment; or

b) Failure to make accelerated payments in the timeframe set forth in Subparagraph VI.G below.

F. Settling Respondent in general will do or cause to be done everything necessary so that the priority of the Department's Confession of Judgment shall be preserved as if the Confession of Judgment had been filed as of the effective date of this Order with the clerk for Westchester County or any other county or place where Settling Respondent owns real or personal property.

G. The remaining unpaid balance of the aggregate principal amount of \$2,160,000, provided for in Subparagraph VI.A, above, shall be accelerated and shall be due and payable upon any one of the following events:

a) if Settling Respondent shall be in default under any other mortgage or security agreement covering any part of the Property whether it be superior or subordinate to the Final Judgment in favor of the Department, as provided for in Subparagraph VI.F, above; or

b) if the Property becomes subject to any mechanics, materialman's or other lien, other than a lien for local real estate taxes and assessments not then due and payable, and such lien shall remain undischarged as of record (by payment, bonding or otherwise) for a period of thirty (30) days.

H. DEC covenants that it will consider, and not unreasonably withhold approval of, any request now or in the future by Settling Respondent to permit a division of the Property into two lots, one comprised of the Site, and the other comprised of the remaining, upland portion of the Property, as will facilitate a sale of the upland portion of the Property, so long as Settling Respondent complies with Subparagraph VI.B above with respect to that sale.

VII. Filing of Environmental Easement

Settling Respondent shall: (1) submit to DEC, within sixty (60) days of the effective date of this Order, a complete Environmental Easement Package and two original copies of the executed Farrand Environmental Easement (EE); and (2) timely correct any deficiencies that the DEC notes in the submitted Environmental Easement Package. In computing the 60 days, the time in which DEC or NYSDOH is reviewing the submission shall not be counted. Settling Respondent shall thereafter (3) record the Farrand Site EE within thirty (30) days of DEC's approval of the Environmental Easement Package; (4) provide DEC proof of recording of the Farrand Site EE complete with book and page number or instrument number; (5) provide the final title insurance policy insuring the State (The People of the State of New York acting through their Commissioner of the Department of Environmental Conservation); (6) mail the Notice of Environmental Easement to each entity identified on Schedule B and provide proof of same to the DEC; and (7) mail Notice to Municipality with copy of the recorded Farrand Site EE to each Affected Local Government and provide a copy of each letter to the DEC. DEC may in its discretion grant such extensions as may be needed if Settling Respondent is proceeding in good faith to complete these tasks.

VIII. Release, Discharge and Covenant Not to Sue by the State

In consideration of Settling Respondent's compliance with this Order, including without limitation, remitting the payments in the timeframe set forth in Subparagraphs VI.A and VI.G above, as applicable, and its agreement to design, install, and operate the SSDS or DEC-approved alternative system, as set forth in paragraphs II above, and subject to paragraph XIII below, the Department releases, discharges, and covenants not to sue or take any civil-judicial, or administrative action under any federal, state, local or common law, including, without limitation, CERCLA, the ECL, and the regulations related thereto, against Settling Respondent, its agents, successors, representatives and assigns, with respect to the Covered Matters.

IX. Contribution Protection

This Order is issued pursuant to the Department's authority under, inter alia, ECL Article 27, Title 13 and ECL 3-0301, and resolves Settling Respondent's liability to the State as provided at 6 NYCRR 375-1.5(b)(5). Settling Respondent shall be entitled to receive contribution protection and/or to seek contribution to the extent authorized by ECL 27-1421(6) and 6 NYCRR 375-1.5(b)(5) or any other provision of federal or state law as may be applicable.

X. Covenants by Settling Respondent

In consideration of the release and discharge, and covenant not to sue by the Department, Settling Respondent covenants not to sue or assert any claims or causes of action whatsoever against the State, its agencies, officers, or representatives, relating to the disposal of hazardous wastes at the Site.

XI. Dismissal of the State's Claims

In anticipation of the execution of this Order, and in the interest of judicial economy, on November 29, 2013, counsel for the State of New York withdrew the complaint filed on March 11, 2011 in the matter of *State of New York v. Ruhle Companies, Inc. et al.* without prejudice.

XII. Effect on Liability of Other Parties

Nothing in this Order is intended as a release of, or covenant not to sue with respect to, any person or entity other than Settling Respondent, its agents, successors, representatives, heirs, and assigns, and the Department expressly reserves its rights to assert in a judicial or administrative forum any claim or cause of action, past or future, in law or in equity, that the Department may have against any other person, firm, corporation, or other entity. Settling Respondent reserves such rights as it may have to seek and obtain contribution, indemnification, and/or any other form of recovery from its insurers and from other potentially responsible parties or their insurers for past or future response and/or cleanup costs or such other costs or damages arising from the contamination at the Site as may be provided by law, including but not limited to rights of contribution under section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

XIII. Reopener

A. Notwithstanding any other provision of this Order and any release, discharge or covenant not to sue that Settling Respondent may receive from the Department, the Department reserves, and this Order is without prejudice to, the right of the Department to institute proceedings seeking to compel Settling Respondent: (a) to perform further response actions relating to the Site, or (b) to reimburse the Department for future additional costs of response, in either case only if:

(i) conditions at the Site, previously unknown to the Department, are discovered after the Effective Date of this Order, or

(ii) conditions or information, previously unknown to the Department is received after the effective date of this Order and these previously unknown conditions or information together with any other relevant information, indicate that the response actions selected for the Site are not protective of human health or the environment. For purposes of this Reopener, previously known conditions at the Site and previously known information include all conditions

and information known to the Department as of the Effective Date of this Order including, but not limited to, all conditions identified and information contained or submitted for inclusion in the Administrative Record, attached as Exhibit A to the ROD for the Site, or in the files and records of the DEC.

XIV. Dispute Resolution

A. This paragraph sets forth the procedures for resolution of disputes solely in connection with the installation, maintenance and operation of the SSDS or DEC-approved alternative system at the Site as set forth in Paragraph II above. Nothing in this Order shall be construed to allow the consideration or resolution of any dispute regarding the ROD or any of its provisions or of any other provision in this Order which is not expressly provided for in the preceding sentence.

B. In the event of disputes in connection with the installation, maintenance and operation of the SSDS or DEC-approved alternative system at the Site as set forth in Paragraph II above, Settling Respondent may, within fifteen (15) Days after Settling Respondent knew or should have known of the facts which are the basis of the dispute, initiate dispute resolution in accordance with the provisions of 6 NYCRR 375-1.5(b)(2). Nothing contained in this Order shall be construed to authorize Settling Respondent to invoke dispute resolution with respect to the remedy selected by the Department in the ROD or any element of such remedy, nor to impair any right of Settling Respondent to, as provided by law, judicially challenge the Department's ROD.

XV. Notifications/Communications

All written communications required by this Order shall be transmitted by United States Postal Service, by private courier service, or hand delivered as follows:

As to Settling Respondent

James J. Periconi, Esq.
Periconi, LLC
260 Madison Avenue, 17th Floor
New York, New York 10016
jpericoni@periconi.com

and

Mr. Frank S. Ruhle, President
Ruhle Companies
Farrand Controls Division
Valhalla, New York 10595

As to the Department

Alali Tamuno, Esq.
Office of the General Counsel
New York State Department of Environmental
Conservation
100 Hillside Ave, Suite 1W
White Plains, New York 10603
amtamuno@gw.dec.state.ny.us

and

David A. Crosby
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7014
dacrosby@gw.dec.state.ny.us

Progress reports shall be sent to:

David A. Crosby
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7014
dacrosby@gw.dec.state.ny.us
and

Salvatore Priore
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7014
dacrosby@gw.dec.state.ny.us

Notification solely of the payments made pursuant to Subparagraph VI.A above also shall be sent via electronic mail by Settling Respondent to:

Laura M. Zeppetelli
Director
Bureau of Program Management
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway, 12th Floor
Albany, New York 12233-7012
lmzeppet@gw.dec.state.ny.us

XVI. Complete Agreement

A. The terms of this Order shall constitute the complete and entire agreement between the Department and Settling Respondent concerning the implementation of the activities required by this Order. No term, condition, understanding, or agreement purporting to modify or vary any term of this Order shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department shall be construed as relieving Settling Respondent of Settling Respondent's obligation to obtain such formal approvals as may be required by this Order. In the event of a conflict between the terms of this Order and any Work Plan submitted pursuant to this Order, the terms of this Order shall control over the terms of the Work Plan(s). Settling Respondent consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this Order.

B. Except as set forth herein, if Respondent desires that any provision of this Order be changed, Respondent shall make timely written application to the Commissioner with copies to the parties listed in Subparagraph XV.

XVII. Miscellaneous Provisions

A. Nothing in this Order shall inure to the benefit of any other person or entity not a party to this Order.

B. This Order may not be modified except by express written agreement of all the Parties.

C. Settling Respondent and Settling Respondent's agents, successors, representatives and assigns shall be bound by this Order. Each signatory represents that he or she is fully and legally authorized to enter into the terms and conditions of this Order and to bind the party on whose behalf he or she signs. Any change in ownership or corporate status of Settling Respondent including, but not limited to, any transfer of assets or real or personal property shall in no way alter Settling Respondent's responsibilities under this Order, and nothing herein shall be construed to reduce or increase the obligations of Settling Respondent in the event it enters into a merger or other corporate reorganization.

XVIII. Effective Date

The effective date of this Order is the 10th Day after it is signed by the Commissioner or the Commissioner's designee.

DATED:

JAN 07 2014

JOSEPH MARTENS
COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:



Robert W. Schick, Director
Division of Environmental Remediation

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives Respondent's right to a hearing herein as provided by law, and agrees to be bound by this Order.

Ruhle Companies, Inc.

By: Frank S. Ruhle

Title: PRESIDENT

Date: DEC. 16, 2013

STATE OF NEW YORK)
) ss:
COUNTY OF WESTCHESTER)

On the 16th day of DECEMBER, in the year 2013, before me, the undersigned, personally appeared FRANK S. RUHLE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Victoria V. Rowe
Signature and Office of individual
taking acknowledgment

VICTORIA V. ROWE
NOTARY PUBLIC, State of New York
No. 01RO4998047
Qualified in Rockland County
Commission Expires June 22, 2014

EXHIBIT "A"

Map of Site

EXHIBIT “B”

Farrand Site Environmental Easement

**ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36
OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW**

THIS INDENTURE made this _____ day of _____, 20__, between Owner(s) Enter property owner(s) name, having an office at Enter property owner's address, County of Enter owner's county, State of Enter owner's state (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located at the address of Enter street address of property in the Choose municipality type of Enter property municipality, County of Enter property county and State of New York, known and designated on the tax map of the County Clerk of Enter clerk county as tax map parcel numbers: Section Enter Tax ID Section #, Block Enter Tax ID Block # Lot Enter Tax ID Lot #, being the same as that property conveyed to Grantor by deed dated Enter Deed Date and recorded in the Enter county name or leave blank for NY City deeds Select Recording Office in Choose an instrument type Enter Instrument # or Liber and Page #s. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately Enter Acreage +/- acres, and is hereinafter more fully described in the Land Title Survey dated Enter original survey date and, if applicable, "and revised on" and revised survey date prepared by Enter revised surveyor's name or original surveyor's name if not revised, which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation

established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Choose an Oversight Document TypeNumber: Enter SAC# or BCA/Consent Order Index # and "as amended by Amendment(s) #(s)" as applicable, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement")

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

Choose the allowable land use if current land use is selected. enter current use.

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Automatic County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining

contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Choose the correct list of inapplicable uses., and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

F. Grantor covenants and agrees that this Environmental Easement shall be
[10/12]

incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:

(i) are in-place;

(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a

defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to: Site Number: Enter DEC Site #
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to: Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner [10/12]

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

Title: _____ Date: _____

STATE OF NEW YORK)
) ss:
COUNTY OF)

Environmental Easement Page 6

SCHEDULE "A" PROPERTY DESCRIPTION

Enter Property Description:

D

R

A

F

T

EXHIBIT “C”

Attorney/Applicant Checklist and Certification

**ENVIRONMENTAL EASEMENT
CHECKLIST/CERTIFICATION**
SITE No. _____

The following requirements and attachments must be included as part of the submission to the Department for an Environmental Easement. Upon completion of the review, an attorney must sign the certification certifying that they have fully completed the checklist. The Department will not accept submissions which have not been signed and certified as complete by both the Owner and Owner's Attorney.

1) Verification of ownership of the property

- ☐ Authorized "Person" is signatory on the Easement.
- ☐ Current Deed has been reviewed and correct name of owner has been verified.
- ☐ Ownership of the property has been matched with Title Report.
- ☐ Verification reviewed and included for authority to sign Easement.
- ☐ Updated copies of legal organizational documents have been reviewed and are included. Examples of the appropriate documentation will include, for:
 - corporations: articles of incorporation, organizational agreements, minutes of annual meetings, resolutions, authorities for signature;
 - partnerships: a copy of the partnership agreement; verification that necessary parties are participating in the Easement;
 - trusts: trust agreement, affidavit of no change in the trust; and
 - estates: estate letters, powers of attorney.

2) Verification of Property Subject to Easement

- ☐ Description of the property in the Easement and DEC Agreement/Order/SAC matches description of property in the deed, Schedule A of the Title Report and the Survey. All documents are included in submittal (Separate submittal must be included to explain to the satisfaction of the Department why there is any discrepancy).
- ☐ The Tax Map identifier (SBL) matches on all documents.

3) Survey Review

- ☐ Survey includes metes and bounds description.
- ☐ Survey includes a graphic scale.
- ☐ Survey includes Tax Map # (SBL).
- ☐ Survey includes physical Address and is consistent with Title Report and the DEC Agreement/Order/SAC.
- ☐ Survey locates any Easements already on record.
- ☐ Survey is certified to the People of the State of New York acting through their Commissioner of the Department of Environmental Conservation and to the Title Company.

4) Review of Title Commitment

- ☐ Title Commitment is no more than 6 months old.
- ☐ Title Commitment expressly identifies the correct owner of the property (see Section 1).
- ☐ Title commitment is reviewed to determine all others with an interest in the property (See Schedules A and B of the Title Commitment).
- ☐ Certification Page verifies who is in Title and it is precisely the same person/entity that will execute the Easement.
- ☐ Schedule A has been reviewed and the correct legal description has been reviewed and compared with the deed and survey to resolve any discrepancies.
- ☐ Schedule B has been reviewed:
 - for exceptions, which must be satisfied;
 - to assure that copies of all encumbrances are attached to the title report, or identified so notices can be sent;
 - to assure that any judgments, tax warrants, have been satisfied or disposed of, and documentation that they have been satisfied or disposed of is provided;
 - to assure that all proof requirements (i.e. death certificate, certificate of incorporations, estate papers, powers of attorney, etc.) have been satisfied and documentation is provided; and
 - for mortgages on the property, to assure that all have been identified.
- ☐ Proposed title insurance policy is underwritten by a NYS licensed title insurance company.
- ☐ Title Insurance is in the amount of at least \$35,000 with the State (The People of the State of New York acting through their Commissioner of the Department of Environmental Conservation) listed as the insured.
- ☐ **Title insurance insures the specific property covered by the Easement, not necessarily all the property subject of the NYSDEC agreement, therefore the description of the surveyor is crucial and must be on the face of the survey.**
- ☐ Title Company and attorney certify that the signatures of the identified grantors on the Easement satisfy the legal requirements to provide the State with an Environmental Easement.
- ☐ Title Company letter is included that it will issue the policy upon either the time that Easement is delivered, or recorded, depending on the County requirements.

5) Review of Easement

- ☐ Attorney certifies Easement is in the form provided by the Department and that entries have been made only in those sections where authorized.
- ☐ Draft notice and list of parties required to be mailed to match those appearing under Schedule "B" exceptions. The information to be included both in the draft notice sent for review and to the actual notice sent out to parties are (a) the exception number and (b) the recorded information such as liber and page or instrument number, etc. List of parties is complete and consistent with Title report.
- ☐ Verification that proper party has signed the Easement.
- ☐ Acknowledgement is in the proper form, notary stamp is clear and has a current expiration date.

- ☐ Name, property address, SBL, engineering controls/institutional controls, SMP references and any information that was inserted into the Easement form has been verified as correct and accurate.
- ☐ Two original Easements have been signed by the proper party.
- ☐ Once recorded, the attorney certifies that the appropriate information will be put on the notices and the notices will be served on all parties identified in the title report within 60 days and the proof of service and notices will be provided to NYSDEC within 90 days. In addition a copy of the notice and certification of service on the parties will be filed in the County Clerk's office.

6) Submissions

- ☐ The Environmental Easement Package being submitted to the Department includes the applicable documents set forth in Attachment A.

PLEASE READ THE FOLLOWING CAREFULLY

The Owner and the Owner's attorney understand and acknowledge that the New York State Department of Environmental Conservation will rely on each and every answer in this statement: (1) to determine whether the Easement Package can be reviewed in a timely fashion; and (2) to determine whether the Easement Package should be approved. The Owner and the Owner's attorney understand and acknowledge that any false statement or misrepresentation herein will constitute cause for the revocation of the Certificate of Compliance issued in reliance on this checklist and accompanying documentation.

Statement of Certification and Signatures

1) By Owner:

I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief.

Date: _____ Signature: _____

Print Name: _____

2) By Owner's Attorney:

I hereby affirm that I am the attorney for _____ (entity); that I am authorized by that entity to make this certification; that this certification was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief.

Date: _____ Signature: _____

Print Name: _____

Attachment

Attachment A

Documents required for a complete Environmental Easement package:

- 1) Copy(ies) of current deed(s).
- 2) Copy of Tax map.
- 3) Complete title report (commitment), current within the last six months.
- 4) Title Company letter that it will issue policy/Pro forma Policy.
- 5) All documentation needed to resolve any remaining title exceptions.
- 6) Complete list of all parties that will be sent notice in lieu of subordinations, including a copy of the draft notice.
- 7) Two original easements and an electronic version submitted to both the project manager and project attorney.
- 8) Proof of authority to obligate owner of property as set forth in "Verification of ownership of property" on the Easement checklist.
- 9) Legal description of the easement area in a Department approved electronic form (i.e., Word).
- 10) Signed Survey, two full size copies; one to be attached to the SMP and one for OGC; and an electronic survey for review to both the project manager and project attorney.
- 11) Attorney Checklist with certification signed by attorney and owner.

EXHIBIT “D”

Title Requirements



Title Requirements

Title Report or Title Abstract Requirements

Title Report or an Abstract of Title identifies who has title to the property and all others with an interest in the property. Every title report or title abstract shall provide a Certification Page, Schedule A, and Schedule B.

- a. The Certification Page shall indicate who has the right to convey or mortgage the property that is subject to the Environmental Easement ("EE").
- b. Schedule A shall provide the legal description of the property.
- c. Schedule B shall list the exceptions to the title or issues which require clearance or amplification before the title company is willing to issue its policy. The Easement Attorney must ensure that the title report includes a copy of every encumbrance that affects title (i.e. mortgages, judgments, easements, leases, subleases, assigned leases).
- d. A copy of the Tax map must be included in the report.

A proposed title insurance policy to be underwritten by a New York State licensed title insurance company must be included in the Environmental Easement Package. The policy should be in the amount of \$35,000 with the State (The People of the State of New York acting through their Commissioner of the Department of Environmental Conservation) listed as the insured.

The title company is being asked to insure title to the property covered by the EE, only. The title company should certify that sufficient title and lien research has been conducted to identify all necessary legal and equitable interests and that they have given preliminary consent. This would include at a minimum all fee title owners by deed, contract sellers, buyers and assignees, mortgagees, lessees and other consensual lien-holders.

The title company should certify that the signatures of the identified grantors on the EE satisfy legal requirements necessary to provide the State with an interest in the property superior to all other interests or to provide notice to those other parties. The title company should insure the boundaries of the encumbered property as it appears on the final survey.

Proof of notices served on the required parties must be returned to DEC after the EE has been filed and the notices have been served. Without clearance of title issues and the willingness of the title company to insure the title under an owner's policy, DEC will not accept an EE on behalf of the State (please note: the EE will need to be recorded before the title insurance policy will be executed).

The title company will need to provide a commitment letter to the effect that it will issue the proposed title insurance policy upon recordation of the EE.

Please note: This list is not exhaustive and is subject to change. Additional information may be required on a case by case basis.

EXHIBIT "E"

Environmental Easement Notice

NOTICE OF ENVIRONMENTAL EASEMENT

The New York State Department of Environmental Conservation (the "Grantee"), has been granted an Environmental Easement pursuant to Article 71, Section 36 affecting real property located at the following address:

Property Owner/Grantor: _____

The Tax Map Identification No.: _____

NYS Department of Environmental Conservation Site No.: _____

The Environmental Easement for the above referenced property has been filed in the _____ County Clerk's Office on _____ month _____ day _____ year at Liber _____, Page _____ of Deeds.

The Environmental Easement contains institutional and/or engineering controls that run with the land. The Environmental Easement may restrict the use of the above referenced property to restricted _____ (residential, commercial or industrial).

NOTICE IS HEREBY GIVEN that any activity on the land which might or will prevent or interfere with the ongoing or completed remedial program, including the controls as set forth in the Environmental Easement and the Site Management Plan, must be done in accordance with the Site Management Plan which is incorporated by reference into the Environmental Easement. A copy of the Site Management Plan can be obtained by contacting the Department at derweb@gw.dec.state.ny.us. Be further advised of the notice provisions of NYCRR 375-1.11(d) relative to contemplated significant changes in use.

Failure to Comply with the terms and conditions of the Environmental Easement may subject violators to penalties of up to \$37,500 per day for violation of 6 NYCRR 375-1.11(b).

An electronic version of this environmental easement has been accepted by the New York State Department of Environmental Conservation and is available to the public at: <http://www.dec.ny.gov/chemical/36045.html>.

EXHIBIT "F"

Property Deed

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT -- THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 9 day of July, nineteen hundred and ninety-one
BETWEEN

FARRAND REALTY CORPORATION, a New York corporation with offices
at 99 Wall Street, Valhalla, NY 10595

party of the first part, and

38.12. RUHLE COMPANIES, INC., a New York corporation with offices at
99 Wall Street, Valhalla, N.Y. 10595

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

TEN (\$10.) DOLLARS----- dollars,

lawful money of the United States,

paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors
and assigns of the party of the second part forever.

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and

being in the SEE SCHEDULE A, PAGES 1-4, ATTACHED HERETO AND MADE
A PART HEREOF

FARRAND REALTY CORPORATION
TO
RUHLE COMPANIES, INC.

SCHEDULE A - DESCRIPTION

ALL that certain lot, piece or parcel of land situate, lying and being in the Town of MT. PLEASANT, County of WESTCHESTER and State of NEW YORK, being shown as PARCEL 2 on a certain Map entitled "Subdivision Map Prepare for Farrand Realty Corporation, Valhalla, N.Y." made by CHARLES H. SELLS, Surveyors dated June 8, 1988 and filed in the Office of the Clerk of the County of Westchester, Division of Land Records on December 17, 1990 as MAP NO. 24303, said PARCEL 2 being more particularly bounded and described as follows:

BEGINNING at a point on the westerly terminus of the curve connecting the westerly boundary line of GRAND BOULEVARD with the northerly boundary line of WALL STREET;

thence westerly and northerly along the northerly and easterly boundary line of WALL STREET, the following courses and distances:

South $87^{\circ} 30' 00''$ West 42.83 feet to a point of curvature;

thence on said curve to the right having a radius of 150.00 feet, a central angle of $59^{\circ} 24' 32''$ for a distance of 155.53 feet to a point of tangency;

thence,

North $33^{\circ} 05' 28''$ West 572.79 feet to a point of curvature;

thence on said curve to the left having a radius of 375 feet, a central angle of $47^{\circ} 36' 32''$ for a distance of 311.60 feet to a point;

thence through property now or formerly belonging to FARRAND REALTY CORP., the following courses and distances:

SCHEDULE A - DESCRIPTION

North 09° 18' 00" East 241.00 feet to a point of curvature at which point the radial bears,

South 09° 18' 00" West 241'

thence on said curve to the right, having a radius of 616.00 feet, a central angle of 29° 10' 49" for a distance of 313.72 feet

thence,

North 38° 28' 49" East 414.80 feet to a point on the southerly boundary line of property now or formerly belonging to the CITY OF NEW YORK (CATSKILL AQUEDUCT);

thence easterly along said southerly boundary line of land of the CITY OF NEW YORK,

South 80° 42' 00" East 326.08 feet to a point;

thence southerly along the westerly boundary lines of LOT 7, LOT 6, LOT 5, LOT 4, LOT 3, LOT 2 and LOT 1 as shown on Subdivision Map HOLLY RIDGE filed in the Westchester County Clerk's Office, Division of Land Records on June 20, 1972 as MAP NO. 17748, the following courses and distances:

South 29° 48' 45" West 37.71 feet,

South 37° 41' 45" West 45.36 feet,

South 31° 26' 02" West 30.01 feet,

South 42° 34' 45" West 20.46 feet,

South 30° 28' 45" West 33.00 feet,

SCHEDULE A - DESCRIPTION

South 19° 44' 35" West 51.74 feet,
 South 10° 51' 20" West 84.23 feet,
 South 11° 48' 15" West 36.90 feet,
 South 18° 21' 15" East 26.38 feet,
 South 37° 20' 25" East 31.96 feet,
 South 49° 39' 05" East 8.68 feet,
 South 71° 42' 45" East 34.11 feet,
 South 80° 57' 35" East 29.08 feet,
 North 86° 47' 05" East 48.14 feet,
 South 08° 02' 05" West 62.50 feet,
 South 01° 28' 15" East 28.10 feet,
 South 10° 29' 21" East 25.07 feet,
 South 18° 08' 25" East 36.77 feet, and
 South 20° 38' 55" East 52.37 feet to a point being the northwest
 corner of property now or formerly belonging to GRACE E. BRENNAN;

thence southerly along the westerly property line of property now or
 formerly belonging to GRACE E. BRENNAN,

South 21° 49' 40" East 138.38 feet and

South 41° 03' 20" East 9.63 feet to a point on the westerly boundary
 line of GRAND BOULEVARD; said point being on a curve at which point the
 radial bears,

J.B.R. South 28° 42' 13" East;

SCHEDULE A - DESCRIPTION

thence on said curve to the left having a radius of 389.62 feet, a central angle of $23^{\circ} 03' 44''$ for a distance of 156.83 feet to a point of compound curvature;

thence on a curve to the left having a radius of 549.71 feet, a central angle of $30^{\circ} 22' 59''$ for a distance of 291.50 feet to a point of reverse curvature;

thence on said curve to the right having a radius of 25 feet, a central angle of $79^{\circ} 38' 56''$ for a distance of 34.75 feet to the point or place of beginning.

TOGETHER with an Easement of ingress and egress over PARCEL 1 as shown on the Subdivision Map, which Easement is governed by the terms of a certain Easement Agreement between MESSENGER REALTY and FARRAND REALTY CORPORATION dated December 14, 1990 and recorded in Liber 9948 cp 69 on December 18, 1990, in the Westchester County Clerk's Office, Division of Land Records, as amended by agreement dated July 11, 1991 between Farrand Realty Corporation and Messenger Realty to be recorded simultaneously herewith.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof.

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises, TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

This conveyance is subject to the following:

(1) Mortgage made by Farrand Realty Corporation to the Connecticut National Bank dated 4/6/88, recorded 4/18/88 in liber 12182 mp 116 in the amount of \$3,000,000.00.

Collateral Assignment of leases and rentals from Farrand Realty Corporation to the Connecticut National Bank dated 4/6/88, recorded 4/6/88 in liber 9164 mp 233. Affects mortgage in liber 12182 mp 116.

Agreement to amend mortgage and security agreement between Farrand Realty Corporation and the Connecticut National Bank dated 8/16/90, recorded 11/21/90 in liber 14276 mp 287. Modifies mortgage in liber 12182 mp 116.

(2) Mortgage made by Farrand Realty Corporation to the Connecticut National Bank dated 8/16/90, recorded 11/21/90 in liber 14276 mp 71 in the amount of \$408,333.37.

(3) Mortgage made by Farrand Realty Corporation to the Connecticut National Bank dated 8/16/90, recorded 11/21/90 in liber 14276 mp 102 in the amount of \$63,129.06.

(4) Utility easement agreement dated July 11, 1991 to be recorded simultaneously herewith between Farrand Realty Corporation and Messenger Realty.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Rykle Companies Inc
By Frank S. Rykle, President
Frank S. Rykle Pres

FARRAND REALTY CORPORATION

By Robert W. Farrand
Robert W. Farrand President

STATE OF NEW YORK, COUNTY OF

On the 9 day of July 1991, before me
personally came

to me known to be the individual described in and who
executed the foregoing instrument, and acknowledged that
executed the same.

STATE OF NEW YORK, COUNTY OF

On the 11 day of July 1991, before me
personally came

to me known to be the individual described in and who
executed the foregoing instrument, and acknowledged that
executed the same.

STATE OF NEW YORK, COUNTY OF Westchester

On the 9 day of July 1991, before me
personally came Robert W. Farrand
to me known, who, being by me duly sworn, did depose and say
that he resides at No. 16281 Fairway Woods Drive
Ft. Myers, FL 33908
that he is the President
of Farrand Realty Corporation

the corporation described
in and which executed the foregoing instrument; that he knows
the seal of said corporation; that the seal affixed to said instrument
is such corporate seal; that it was so affixed by order of the board
of directors of said corporation, and that he signed his name
thereto by like order.

[Signature]
Notary Public

DAVID J. FREEMAN
Notary Public, State of New York
No. 4881

Resided in Westchester County, New York
Commission Expires June 2, 1992

Bargain and Sale Deed

WITH COVENANT AGAINST GRANTOR'S ACTS

Title No. T 6171-90-781

FARRAND REALTY CORPORATION

TO

RUHLE COMPANIES, INC.

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS

Prescribed by



COMMONWEALTH LAND
TITLE INSURANCE COMPANY
A Reliance Group Holdings Company

STATE OF CONNECTICUT, COUNTY OF FAIRFIELD

[Signature] Notary Public

On the 11 day of July 1991, before me
personally came Frank S. Rupp
to me known, who, being by me duly sworn, did depose and say
that he resides at No. 10 Mapleleaf Dr. Rte. 1
that he is the owner
of Ruhle Companies, Inc.

the corporation described
in and which executed the foregoing instrument; that he knows
the seal of said corporation; that the seal affixed to said instrument
is such corporate seal; that it was so affixed by order of the board
of directors of said corporation, and that he signed his name
thereto by like order.

[Signature]
Margaret A. Miles
Notary Public

My Commission Expires:
October 31, 1996

ROBERT W. SHAW
Notary Public, State of New York
No. 4881
Qualified in Westchester County
Commission Expires February 28, 1992

SECTION 12

BLOCK 17

LOT 5

COUNTY OR TOWN of Mt. Pleasant

Recorded at Request of

RETURN BY MAIL TO:

Kolleeny Kitay & Hort,
1180 Avenue of the Americas
New York, NY 10036

Zip No.

LIBER 10074 PAGE 294



WESTCHESTER COUNTY RECORDING AND ENDORSEMENT PAGE
(THIS PAGE FORMS PART OF THE INSTRUMENT)

ADDITIONAL COMMENTS

RECORD AND RETURN

TITLE COMPANY NUMBER

THE FOREGOING INSTRUMENT WAS ENDORSED FOR THE RECORD AS FOLLOWS:

TYPE OF INSTRUMENT

DED

(SEE CODES FOR DEFINITIONS)

THE PROPERTY IS SITUATED IN
WESTCHESTER COUNTY, N.Y. IN
THE

- 02 TOWN OF BEDFORD
- 06 TOWN OF CORTLANDT
- 09 TOWN OF EASTCHESTER
- 11 TOWN OF GREENBURGH
- 12 TOWN OF HARRISON
- 16 TOWN OF LEWISBORO
- 17 TOWN OF MAMARONECK
- 19 TOWN OF MT. KISCO
- 20 TOWN OF MT. PLEASANT
- 21 CITY OF MT. VERNON
- 22 TOWN OF NEW CASTLE
- 23 CITY OF NEW ROCHELLE
- 24 TOWN OF NORTH CASTLE
- 26 TOWN OF NORTH SALEM
- 28 TOWN OF OSSINING
- 30 CITY OF PEEKSKILL
- 31 TOWN OF PELHAM
- 35 TOWN OF POUND RIDGE
- 36 CITY OF RYE
- 37 TOWN OF RYE
- 38 TOWN OF SCARSDALE
- 39 TOWN OF SOMERS
- 42 CITY OF WHITE PLAINS
- 43 CITY OF YONKERS
- 44 TOWN OF YORKTOWN

LIBER

10074

PAGE

287

STAT'Y CHARGE

57

REC'ING CHARGE

21

REC. MGT. FUND

47

CROSS REFERENCE

CERT/RECEIPT

25

TOTAL

56

\$ 1,431,000

CONSIDERATION

RECEIVED

\$ 5724

JUL 16 1991

12696

REAL ESTATE
TRANSFER TAX
WESTCHESTER COUNTY

MORTG. DATE

MORTG. AMOUNT

EXEMPT YES

NO

REC'D TAX ON ABOVE MTGE:

BASIC

\$

ADDTL

\$

SUBTOTAL

\$

SPECIAL

\$

TOTAL

\$

SERIAL No.

DWELLING: ☐ 1-6 ☐ OVER☐

DUAL TOWN

☐

DUAL COUNTY/STATE

☐

HELD

☐

NOT HELD

ANDREW J. SPANO

WESTCHESTER COUNTY CLERK

TERMINAL No.

DATE RETURNED

EXAMINED BY

WITNESS MY HAND AND OFFICIAL SEAL

ANDREW J. SPANO

WESTCHESTER COUNTY CLERK

000069B000 07/16/91CPA/DE
14:06

56.00

THE RECORDING DATE OF THIS INSTRUMENT AS INDICATED BELOW IS THE OFFICIAL DATE ON WHICH
THE WESTCHESTER COUNTY CLERK RECEIVED THIS INSTRUMENT.
QUESTIONS REGARDING DELAYS PRIOR TO THIS DATE SHOULD BE ADDRESSED TO YOUR
REPRESENTATIVE OR ATTORNEY.

RECEIVED

91 JUL 15 PM 1:59

ANDREW J. SPANO
WESTCHESTER COUNTY CLERK

EXHIBIT "G"
Survey Requirements



NEW YORK STATE
DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

Survey Requirements for Environmental Easements

A survey map is required as part of an Environmental Easement package. An ALTA/ACSM (American Land Title Association/American Congress on Surveying and Mapping) Land and Title Survey will satisfy the survey requirements; however, the Department will accept non-ALTA surveys provided the following minimum requirements are shown on a non-ALTA form survey:

- The survey must bear the name, address, telephone number, signature and certification of the professional land surveyor who performed the survey, his or her official seal and registration number, the date the survey was completed, the dates of all of the surveyor's revisions.
- The survey must be certified to New York State - Department of Environmental Conservation.
- The survey boundaries must be drawn to a convenient scale, with that scale clearly indicated. A graphic scale, shown in feet and meters, must be included.
- The symbols and abbreviations that are used on the survey must be identified by the use of a legend. Diagrams must be accurately presented.
- The point of beginning of the legal description must be shown.
- The legal description must be correct.
- The legal description must state the acreage.
- If the deed(s) description differ from the measured bearings/angles/distances, both must be indicated on the survey.
- The survey must show the identifying titles of all recorded/filed maps and deeds with their appropriate recording data, filing dates and map numbers.
- The survey must show the section, block and lot/ tax map/ section numbers/letters of the surveyed premises.
- The survey must show the location of all buildings/monuments/overlaps/encroachments upon the surveyed property with their locations defined by measurement perpendicular to the nearest perimeter boundaries.
- The survey must show all observable evidence of easements and or servitudes and underground easements and or servitudes with their recording information (such as those created by roads, right-of-way, water courses, drains, telephone, telegraph, or electric lines, water sewer, gas cable lines or oil or gas pipelines, on or across the surveyed property and on adjoining properties if they appear to affect the surveyed property) or any easements of record which may, based upon their location or use, impair or otherwise limit proposed development.
- The survey must note any "blanket floating" or otherwise undefined or unlocated easements.
- The survey must depict the location of visible improvements within five feet of each side of boundary lines.
- The survey must provide a path of legal access for ingress and egress to and from the site for the Grantee, its agents, employees or other representative of the State to use to access the Site.
- The survey must show ponds, lakes, springs, rivers or a natural water boundary bordering on or running through the surveyed property; the survey must measure the location of the natural water boundary and note on the survey the date of the measurement.

- The survey must correctly depict the area(s) of wetlands; restricted use zones.
- The survey must correctly depict the environmental easement area with corresponding metes & bounds description and acreage.
- The survey should clearly state "Environmental Easement Description" with the Department Site Number next to it.
If the survey consists of more than one sheet, sheets must be numbered and the total number of sheets must be indicated on each sheet.
- The survey must depict the area affected by engineering controls with corresponding metes and bounds with acreage, measurements with description of the engineering control for example OU 1, OU 2 or Soil Management Plan Area, Sub-Slab Methane/VOC system, site cap, clean fill, concrete, demarcation layer, area not under environmental control, asphalt or building structures, footprint of future buildings (where known), etc.
- If the site will be subject to engineering and/or institutional controls, the survey must include the following sentence: *"The engineering and institutional controls for this Easement are set forth in the Site Management Plan (SMP). A copy of the SMP must be obtained by any party with an interest in the property. The SMP can be obtained from NYS Department of Environmental Conservation, Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, NY 12233 or at derweb@gw.dec.state.ny.us".* This reference must be located in a prominent place on the face of the survey and be in at least 15-point type.
- The record title description of the surveyed tract and any new description prepared by the surveyor must appear on the face of the survey.
Applicants should check with the County Clerk of the county in which the easement will be filed for county-specific formatting requirements for the survey. The original approved, signed and stamped survey will be filed with the environmental easement.
- In addition to county-specific requirements, submittal of the approved survey to the Department must include the following:
 - A "D" sized copy (24" x 36") of the final signed, stamped map
 - A 600 DPI scan of the final signed, stamped map
 - An Autocad .dwg or exported .dxf file of the polyline (at a minimum) of the final survey.

Please note: This list is not exhaustive and is subject to change. Additional information may be required on a case by case basis.

09/14/2012

EXHIBIT "H"

Notice to Municipality

Notice to Municipality

Date

Name of Official
Name of Municipality
Address
Address

Re: Environmental Easement and Access Easement to Environmental Easement

Dear Sir or Madam:

Attached please find a copy of an Environmental Easement and Access Easement to Environmental Easement granted to the New York State Department of Environmental Conservation ("Department")

on _____,
by _____,
for property at _____,
Tax Map No. _____,
NYSDEC Site No: 1-52-113.

This Environmental Easement restricts future use of the above-referenced property to restricted (residential, commercial or industrial) _____ uses. It also assures that **(this is an example)** in areas not proposed for future building construction or impervious covering, residually contaminated soils must be covered by a demarcation layer and must be overlain by at least two feet of clean fill cover material. This barrier must be maintained and a passive Soil Vapor Management System (SVMS) must be installed in every new building erected within the Controlled Property. Newly constructed buildings shall also be subjected to a Soil Vapor Intrusion (SVI) Investigation. If the results of this SVI investigation demonstrate ineffectiveness of the passive SVMS, an appropriate active Soil Vapor Management System shall be designed, constructed and maintained. The approved activity must be done in accordance with the Site Management Plan which is incorporated into the Environmental Easement. The remedial party must monitor and maintain groundwater monitoring wells. Department approval is also required prior to any groundwater use.) The Access Easement to Environmental Easement provides a path of legal access for ingress and egress to and from the property that is subject to the Environmental Easement.

Article 71, Section 71-3607 of the New York State Environmental Conservation Law requires that:

1. Whenever the Department is granted an Environmental Easement, it shall provide each affected local government with a copy of such easement and shall also provide a copy of any documents modifying or terminating such environmental easement.

2. Whenever an affected local government receives an application for a building permit or any other application affecting land use or development of land that is subject to an Environmental Easement and that may relate to or impact such easement, the affected local government shall notify the Department and refer such application to the Department. The Department shall evaluate whether the application is consistent with the Environmental Easement and shall notify the affected local government of its determination in a timely fashion, considering the time frame for the local government's review of the application. The affected local government shall not approve the application until it receives approval from the Department.

An electronic version of every environmental easement that has been accepted by this Department is available to the public at: <http://www.dec.ny.gov/chemical/36045.html>

If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Very truly yours,

EXHIBIT "I"

Confession of Judgment

EXHIBIT COPY ONLY – NOT TO BE FILED WITH COUNTY CLERK

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the matter of the	:	
Development and Implementation	:	AFFIDAVIT OF
of a Remedial Program for an	:	CONFESSION
Inactive Hazardous Waste Disposal	:	<u>OF JUDGMENT</u>
Site under Article 27, Title 13	:	
of the Environmental Conservation Law	:	
by Ruhle Companies, Inc.	:	Index # W3-1174-13-09
Respondent	:	
	:	Site # 360046

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

Frank S. Ruhle, being duly sworn, deposes and says:

1. I am the President of Ruhle Companies, Inc. ("Ruhle") and possess the authority to make this affidavit on behalf of Ruhle Companies, Inc. I am fully familiar with the facts and circumstances underlying this Affidavit of Confession of Judgment.

2. On behalf of Ruhle, the Settling Respondent in the above captioned matter, I hereby confess judgment in favor of the New York State Department of Environmental Conservation (the "NYSDEC") and authorize entry of such judgment against Ruhle in the amount, as of November, 2013, of \$2,160,000, which \$2,160,000 is to be paid over thirty (30) years and upon payment reduced as follows:

a. Settling Respondent shall pay, in annual increments of \$72,000, the aggregate initial principal amount of \$2,160,000 to the NYSDEC. The first annual installment of this principal amount is payable in the amount of \$72,000, subject to ¶2(b) herein, before the first anniversary of the effective date of the Consent Order entered by and between Settling respondent and NYSDEC, which is annexed hereto and sets forth all relevant facts that give rise to this Confession of Judgment (the "Consent Order"), subject to the provisions in Subparagraph VI.G of the Consent Order, and on or before every successive anniversary thereafter until that amount is paid in full. Each payment shall be remitted by electronic funds.

b. The cost of design and the installation of a Sub-Slab Depressurization System approved by NYSDEC under the existing building structure on the Farrand Controls site located at 99 Wall Street, Hamlet of Valhalla, Town of Mt. Pleasant, Westchester County, New York (the "Site"), or a NYSDEC-approved alternative to mitigate all impacts of vapor intrusion under the entire building footprint and within the building structure from contaminants in the soils and groundwater beneath and around the building, shall be credited towards Settling Respondent's first year installment payment of \$72,000, in an amount not to exceed sixty thousand dollars

EXHIBIT COPY ONLY – NOT TO BE FILED WITH COUNTY CLERK

(\$60,000). The balance of the first year's installment payment must be paid in accordance with the provisions of Subparagraph VI.A of the Consent Order.

3. This confession of judgment is for a debt justly due to the NYSDEC arising from the following facts:

a. The NYSDEC is responsible for inactive hazardous waste disposal site remedial programs pursuant to Article 27, Title 13 of the Environmental Conservation Law ("ECL") and Part 375 of Title 6 of the Official Compilation of Codes, Rules and Regulations ("6 NYCRR") and may issue orders consistent with the authority granted to the Commissioner by such statute.

b. The NYSDEC is responsible for carrying out the policy of the State of New York to conserve, improve and protect its natural resources and environment and control water, land, and air pollution consistent with the authority granted to the NYSDEC and the Commissioner by Article 3, Title 3 of the ECL.

c. Ruhle is a corporation organized and existing under the laws of the State of New York with a principal place of business at 99 Wall Street, Hamlet of Valhalla, Town of Mt. Pleasant, Westchester County, New York.

d. Ruhle is the owner and operator of the Site.

e. The Site is currently listed in the *Registry of Inactive Hazardous Waste Disposal Sites* as Site Number 360046 with a Classification "2" pursuant to ECL § 27-1305.

f. The parties entered into the Consent Order issued pursuant to the NYSDEC's authority under, *inter alia*, ECL Article 27, Title 13 and ECL § 3-0301 that requires Settling Respondent to pay to the NYSDEC the sum of Two Million, One Hundred and Sixty Thousand (\$2,160,000) in full satisfaction of the NYSDEC's claim for the reimbursement of past and future State Costs associated with the Site, and resolves Ruhle's liability to the State as provided at 6 NYCRR § 375-1.5(b)(5).

4. This affidavit of confession of judgment is not for the purpose of securing the NYDEC against a contingent liability.

Ruhle Companies, Inc.

By: **SIGNATURE ON ORIGINAL**
President

Sworn to before me this
_____ day of December, 2013

Notary Public