

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

THIS INDENTURE made this 18th day of December, 2017, between Owner(s) SI Group, Inc., having an office at 2750 Balltown Road, Schenectady, New York 12309, County of Schenectady, State of New York (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 1460 Tenth Avenue in the City of Schenectady, County of Schenectady and State of New York, known and designated on the tax map of the County Clerk of Schenectady as tax map parcel numbers: Section 49.70 Block 1 Lot 2.1, being the same as that property conveyed to Grantor by:

- 1) Deed dated July 12, 1923 and recorded in the Schenectady County Clerk's Office in Liber and Page 310/176.
- 2) Deed dated September 8, 1938 and recorded in the Schenectady County Clerk's Office in Liber and Page 429/267.
- 3) Deed dated July 12, 1945 and recorded in the Schenectady County Clerk's Office in Liber and Page 521/275.
- 4) Deed dated July 18, 1945 and recorded in the Schenectady County Clerk's Office in Liber and Page 521/379.
- 5) Deed dated September 25, 1945 and recorded in the Schenectady County Clerk's

- Office in Liber and Page 524/551.
- 6) Deed dated October 2, 1945 and recorded in the Schenectady County Clerk's Office in Liber and Page 525/199.
 - 7) Deed dated October 30, 1959 and recorded in the Schenectady County Clerk's Office in Liber and Page 790/603.
 - 8) Deed dated November 5, 1959 and recorded in the Schenectady County Clerk's Office in Liber and Page 791/80.
 - 9) Deed dated November 20, 1959 and recorded in the Schenectady County Clerk's Office in Liber and Page 791/443.
 - 10) Deed dated January 7, 1960 and recorded in the Schenectady County Clerk's Office in Liber and Page 793/204.
 - 11) Deed dated January 5, 1960 and recorded in the Schenectady County Clerk's Office in Liber and Page 793/206.
 - 12) Deed dated January 6, 1960 and recorded in the Schenectady County Clerk's Office in Liber and Page 793/209.
 - 13) Deed dated January 11, 1960 and recorded in the Schenectady County Clerk's Office in Liber and Page 793/327.
 - 14) Deed dated January 11, 1960 and recorded in the Schenectady County Clerk's Office in Liber and Page 793/329.
 - 15) Deed dated October 13, 1972 and recorded in the Schenectady County Clerk's Office in Liber and Page 962/36.
 - 16) Deed dated July 13, 1989 and recorded in the Schenectady County Clerk's Office in Liber and Page 1236/49.

WHEREAS, the property subject to this Environmental Easement (the "Controlled Property") comprises approximately 5.03 +/- acres, and is hereinafter more fully described in the Land Title Survey dated May 26, 2017 prepared by John E. Quinn, Jr., L.L.S. of CHA, 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 Order on Consent Index Number: R-0888-90-12, 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:

Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)

(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 Schenectady 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 Unrestricted purposes as defined in 6NYCRR 375-1.8(g)(1)(i), and Residential or Restricted Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), 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 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

obligations imposed by this instrument upon them shall be joint and several.

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SCHEDULE "A" PROPERTY DESCRIPTION

ALL THAT CERTAIN PIECE OR PARCEL OF LAND SITUATE ON THE SOUTHERLY SIDE OF 10TH AVENUE, WESTERLY OF CONGRESS STREET AND EASTERLY OF OAK STREET IN THE CITY OF SCHENECTADY, COUNTY OF SCHENECTADY AND STATE OF NEW YORK BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY STREET BOUNDARY OF 10TH AVENUE AT ITS INTERSECTION WITH THE EASTERLY ROAD BOUNDARY OF OAK STREET, SAID POINT BEING THE NORTHWESTERLY CORNER OF LANDS NOW OR FORMERLY OF SCHENECTADY CHEMICALS, INC., CITY OF SCHENECTADY TAX PARCEL 49.70-1-2.1; THENCE SOUTH 63°-59'-28" EAST, ALONG SAID SOUTHERLY STREET BOUNDARY OF 10TH AVENUE, A DISTANCE OF 549.00 FEET TO A POINT ON THE SAID SOUTHERLY STREET BOUNDARY OF 10TH AVENUE AT ITS INTERSECTION WITH THE WESTERLY STREET BOUNDARY OF CONGRESS STREET; THENCE RUNNING ALONG SAID STREET BOUNDARY OF CONGRESS STREET THE FOLLOWING TWO (2) COURSES AND DISTANCES:

- 1) SOUTH 22°-21'-48" EAST, A DISTANCE OF 233.63 FEET TO A POINT; AND
- 2) SOUTH 13°-45'-32" WEST, A DISTANCE OF 114.90 FEET TO A POINT ON THE NORTHERLY PROPERTY LINE OF SAID LANDS OF SCHENECTADY CHEMICALS, INC. AS DESCRIBED IN LIBER 1236 OF DEEDS AT PAGE 49; THENCE RUNNING ALONG SAID NORTHERLY PROPERTY LINE OF SAID LANDS OF SCHENECTADY CHEMICALS, INC. THE FOLLOWING THREE (3) COURSES AND DISTANCES:

- 1) NORTH 26°-10'-02" EAST, A DISTANCE OF 17.57 FEET TO A POINT;
- 2) SOUTH 63°-49'-58" EAST, A DISTANCE OF 42.09 FEET TO A POINT; AND
- 3) NORTH 26°-10'-02" EAST, A DISTANCE OF 8.00 FEET TO A POINT AT ITS INTERSECTION WITH THE PROPERTY DIVISION LINE BETWEEN SAID LANDS OF SCHENECTADY CHEMICALS, INC. ON THE SOUTH AND LANDS NOW OR FORMERLY OF DENNIS CARRINGI, CITY OF SCHENECTADY TAX PARCEL 49.71-1-31, ON THE NORTH; THENCE RUNNING ALONG SAID PROPERTY DIVISION LINE THE FOLLOWING TWO (2) COURSES AND DISTANCES:

- 1) SOUTH 63°-49'-58" EAST, A DISTANCE OF 53.30 FEET TO A POINT; AND
- 2) SOUTH 26°-10'-02" WEST, A DISTANCE OF 55.00 FEET TO A POINT AT ITS

INTERSECTION WITH THE PROPERTY DIVISION LINE BETWEEN SAID LANDS OF SCHENECTADY CHEMICALS, INC. ON THE NORTH AND LANDS NOW OR FORMERLY OF CSX CORPORATION, CITY OF SCHENECTADY TAX PARCEL 39.79-1-1.4 ON THE SOUTH; THENCE RUNNING ALONG SAID PROPERTY DIVISION LINE THE FOLLOWING THREE (3) COURSES AND DISTANCES:

- 1) NORTH 63°-43'-48" WEST, A DISTANCE OF 821.69 FEET TO A POINT;
- 2) NORTH 27°-30'-52" EAST, A DISTANCE OF 45.00 FEET TO A POINT; AND
- 3) NORTH 62°-28'-33" WEST, A DISTANCE OF 144.85 FEET TO A POINT ON THE SAID EASTERLY STREET BOUNDARY OF OAK STREET; THENCE RUNNING ALONG SAID EASTERLY STREET BOUNDARY THE FOLLOWING FIVE (5) COURSES AND DISTANCES:

- 1) NORTH 52°-29'-02" EAST, A DISTANCE OF 128.04 FEET TO A POINT;
- 2) SOUTH 63°-59'-28" EAST, A DISTANCE OF 31.56 FEET TO A POINT;
- 3) NORTH 26°-00'-32" EAST, A DISTANCE OF 40.94 FEET TO A POINT;
- 4) NORTH 52°-29'-02" EAST, A DISTANCE OF 74.76 FEET TO A POINT; AND
- 5) NORTH 26°-00'-32" EAST, A DISTANCE OF 22.14 FEET TO THE POINT OR PLACE OF BEGINNING. CONTAINING 219,267± SQUARE FEET OR 5.03± ACRES OF LAND, MORE OR LESS.