

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

## Division of Environmental Remediation

625 Broadway, 12th Floor, Albany, New York 12233-7011

P: (518) 402-9706 | F: (518) 402-9020

[www.dec.ny.gov](http://www.dec.ny.gov)

Putnam Resources, LLC  
Laura Manning  
48 Union Avenue, Suite 1A  
Saratoga Springs, NY 12866

MAY 16 2017

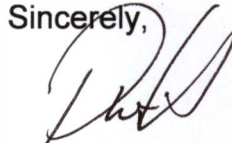
**RE: Site Name: 53 Putnam Street  
Site No.: C546057  
Location of Site: 53 Putnam Street, Saratoga County, Saratoga Springs,  
NY 12866**

Dear Ms. Manning,

To complete your file, attached is a fully executed copy of the Brownfield Cleanup Agreement for the 53 Putnam Street Site.

If you have any further questions relating to this matter, please contact the project attorney for this site, Andrew Guglielmi, Esq., NYS Department of Environmental Conservation, Office of General Counsel, 625 Broadway Albany, NY 12233-1500, or by email at [andrew.guglielmi@dec.ny.gov](mailto:andrew.guglielmi@dec.ny.gov).

Sincerely,



Robert W. Schick, P.E.  
Director  
Division of Environmental Remediation

Enclosure

ec: Samantha Salotto, Project Manager

cc: A. Guglielmi, Esq. /M. Mastroianni



Department of  
Environmental  
Conservation

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
BROWNFIELD CLEANUP PROGRAM  
ECL §27-1401 *et seq.*

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In the Matter of a Remedial Program for

**BROWNFIELD SITE  
CLEANUP AGREEMENT  
Index No. C546057-04-17**

**53 Putnam Street**

DEC Site No.: C546057

Located at: 53 Putnam Street  
Saratoga County  
Saratoga Springs, NY 12866

Hereinafter referred to as "Site"

by:

Putnam Resources, LLC

48 Union Ave., Suite 1A, Saratoga Springs, NY 12866

Hereinafter referred to as "Applicant"

-----  
**WHEREAS**, the Department of Environmental Conservation ("Department") is authorized to administer the Brownfield Cleanup Program ("BCP") set forth in Article 27, Title 14 of the Environmental Conservation Law ("ECL"); and

**WHEREAS**, the Applicant submitted an application received by the Department on January 11, 2017; and

**WHEREAS**, the Department has determined that the Site and Applicant are eligible to participate in the BCP.

**NOW, THEREFORE**, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

I. Applicant Status

The Applicant, Putnam Resources, LLC, is participating in the BCP as a Volunteer as defined in ECL 27-1405(1)(b).

II. Tangible Property Tax Credit Status

The Site is not located in a City having a population of one million or more. It is therefore presumed that the Site is eligible for tangible property tax credits.

### III. Real Property

The Site subject to this Brownfield Cleanup Agreement (the "BCA" or "Agreement") consists of approximately 0.300 acres, a Map of which is attached as Exhibit "A", and is described as follows:

Tax Map/Parcel No.: 165.60-1-58  
Street Number: 53 Putnam Street, Saratoga Springs  
Owner: 53 Putnam Street Inc.

### IV. Communications

A. All written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, by hand delivery, or by electronic mail.

1. Communication from Applicant shall be sent to:

Samantha Salotto  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
1115 State Route 86  
PO Box 296  
Ray Brook, NY 12977-0296  
[samantha.salotto@dec.ny.gov](mailto:samantha.salotto@dec.ny.gov)

Note: one hard copy (unbound) of work plans and reports is required, as well as one electronic copy.

Krista Anders (electronic copy only)  
New York State Department of Health  
Bureau of Environmental Exposure Investigation  
Empire State Plaza  
Corning Tower Room 1787  
Albany, NY 12237  
[krista.anders@health.ny.gov](mailto:krista.anders@health.ny.gov)

Andy Guglielmi, Esq. (correspondence only)  
New York State Department of Environmental Conservation  
Office of General Counsel  
Albany, NY 12233-1500  
[andrew.guglielmi@dec.ny.gov](mailto:andrew.guglielmi@dec.ny.gov)

2. Communication from the Department to Applicant shall be sent to:

Putnam Resources, LLC  
Attn: Laura Manning  
48 Union Ave., Suite 1A  
Saratoga Springs, NY 12866  
[lmanning@firstfairfield.com](mailto:lmanning@firstfairfield.com)

B. The Department and Applicant reserve the right to designate additional or different addressees for communication on written notice to the other. Additionally, the Department reserves the right to request that the Applicant provide more than one paper copy of any work plan or report.

C. Each party shall notify the other within ninety (90) days after any change in the addresses listed in this paragraph or in Paragraph III.

V. Miscellaneous

A. Applicant acknowledges that it has read, understands, and agrees to abide by all the terms set forth in Appendix A - "Standard Clauses for All New York State Brownfield Site Cleanup Agreements" which is attached to and hereby made a part of this Agreement as if set forth fully herein.

B. In the event of a conflict between the terms of this BCA (including any and all attachments thereto and amendments thereof) and the terms of Appendix A, the terms of this BCA shall control.

C. The effective date of this Agreement is the date it is signed by the Commissioner or the Commissioner's designee.

DATED: *MAY 16, 2017*

THIS BROWNFIELD CLEANUP AGREEMENT IS  
HEREBY APPROVED, Acting by and Through the  
Department of Environmental Conservation as Designee  
of the Commissioner,

By:



Robert W. Schick, P.E., Director  
Division of Environmental Remediation



CONSENT BY APPLICANT

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

Putnam Resources, LLC

By: Richard S. Voog as managing member

Title: Managing Member

Date: 5/5/17

ARIZONA ~~AR~~  
STATE OF ~~NEW YORK~~ )  
MARICOPA ) ss:  
COUNTY OF ~~AR~~

On the 5 day of May in the year 2017, before me, the undersigned, personally appeared Richard S. Voog, 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.

Andrea E Russell, Notary  
Signature and Office of individual  
taking acknowledgment

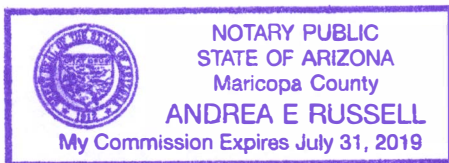
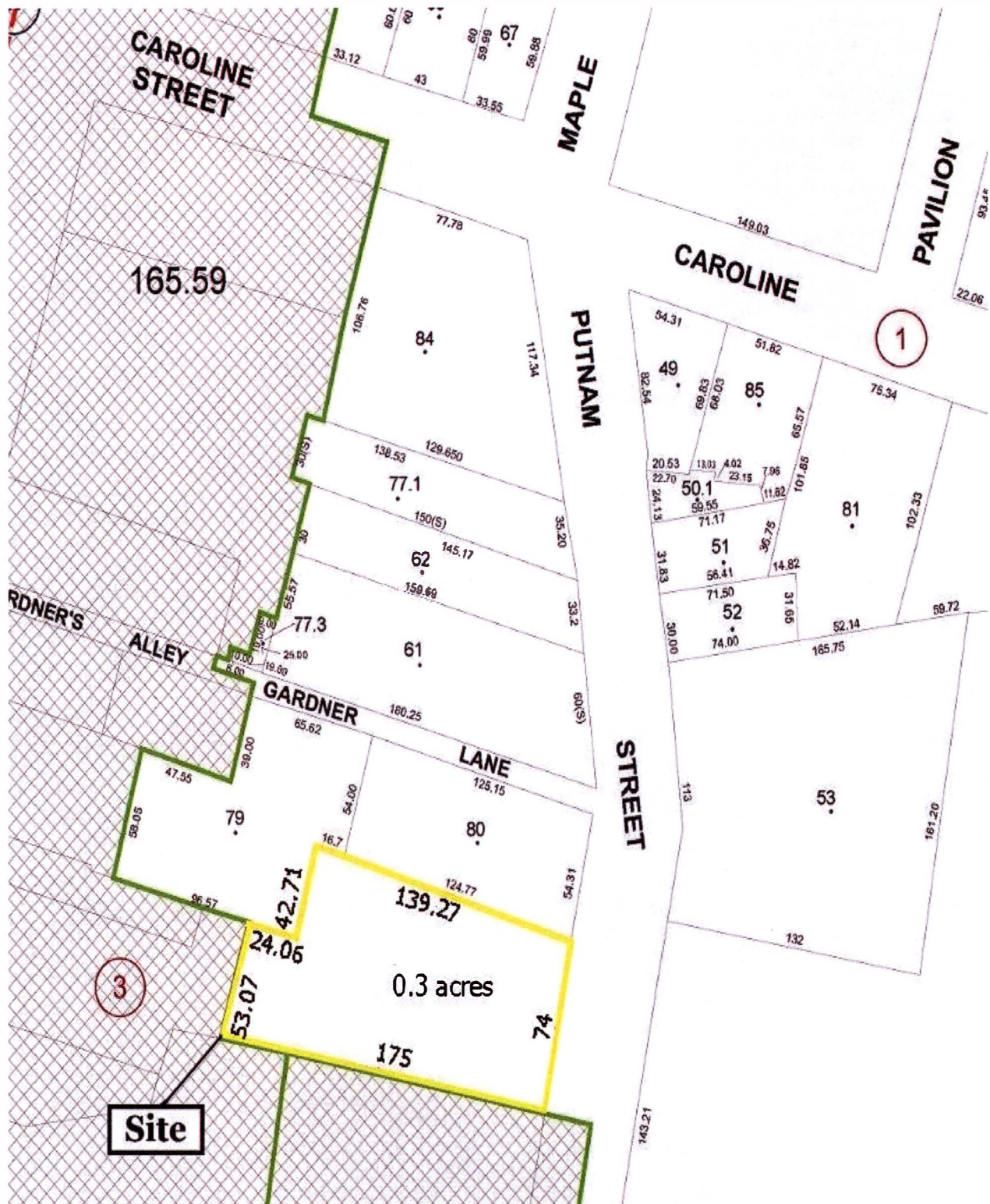




EXHIBIT A

SITE MAP



## APPENDIX A

### STANDARD CLAUSES FOR ALL NEW YORK STATE BROWNFIELD SITE CLEANUP AGREEMENTS

The parties to the Brownfield Site Cleanup Agreement (hereinafter "BCA" or "Agreement") agree to be bound by the following clauses which are hereby made a part of the BCA. The word "Applicant" herein refers to any party to the Agreement, other than the New York State Department of Environmental Conservation (herein after "Department").

#### I. Citizen Participation Plan

Within twenty (20) days after the effective date of this Agreement, Applicant shall submit for review and approval a written citizen participation plan prepared in accordance with the requirements of Environmental Conservation Law (ECL) § 27-1417 and 6 NYCRR §§ 375-1.10 and 375-3.10. Upon approval, the Citizen Participation Plan shall be deemed to be incorporated into and made a part of this Agreement.

#### II. Development, Performance, and Reporting of Work Plans

##### A. Work Plan Requirements

The work plans ("Work Plan" or "Work Plans") under this Agreement shall be prepared and implemented in accordance with the requirements of ECL Article 27, Title 14, 6 NYCRR §§ 375-1.6(a) and 375-3.6, and all applicable laws, rules, regulations, and guidance documents. The Work Plans shall be captioned as follows:

1. "Remedial Investigation Work Plan" if the Work Plan provides for the investigation of the nature and extent of contamination within the boundaries of the Site and, if the Applicant is a "Participant", the extent of contamination emanating from such Site. If the Applicant is a "Volunteer" it shall perform a qualitative exposure assessment of the contamination emanating from the site in accordance with ECL § 27-1415(2)(b) and Department guidance;

2. "Remedial Work Plan" if the Work Plan provides for the development and implementation of a Remedial Program for contamination within the boundaries of the Site and, if the Applicant is a "Participant", the contamination that has emanated from such Site;

3. "IRM Work Plan" if the Work Plan provides for an interim remedial measure; or

4. "Site Management Plan" if the Work Plan provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy.

5. "Supplemental" if additional work plans other than those set forth in II.A.1-4 are required to be prepared and implemented.

##### B. Submission/Implementation of Work Plans

1. The first proposed Work Plan to be submitted under this Agreement shall be submitted no later than thirty (30) days after the effective date of this Agreement. Thereafter, the Applicant shall submit such other and additional work plans as determined in a schedule to be approved by the Department.

2. Any proposed Work Plan shall be submitted for the Department's review and approval and shall include, at a minimum, a chronological description of the anticipated activities to be conducted in accordance with current guidance, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan. The Department shall use best efforts in accordance with 6 NYCRR § 375-3.6(b) to approve, modify, or reject a proposed Work Plan within forty-five (45) days from its receipt or within fifteen (15) days from the close of the comment period, if applicable, whichever is later.

i. Upon the Department's written approval of a Work Plan, such Department-approved Work Plan shall be deemed to be incorporated into and made a part of this Agreement and shall be implemented in accordance with the schedule contained therein.

ii. If the Department requires modification of a Work Plan, the reason for such modification shall be provided in writing and the provisions of 6 NYCRR § 375-1.6(d)(3) shall apply.

iii. If the Department disapproves a Work Plan, the reason for such disapproval shall be provided in writing and the provisions of 6 NYCRR § 375-1.6(d)(4) shall apply.

3. A Site Management Plan, if necessary, shall be submitted in accordance with the schedule set forth in the IRM Work Plan or Remedial Work Plan.



### C. Submission of Final Reports

1. In accordance with the schedule contained in an approved Work Plan, Applicant shall submit a Final Report for an Investigation Work Plan prepared in accordance with ECL § 27-1411(1) and 6 NYCRR § 375-1.6. If such Final Report concludes that no remediation is necessary, and the Site does not meet the requirements for Track 1, Applicant shall submit an Alternatives Analysis prepared in accordance with ECL § 27-1413 and 6 NYCRR § 375-3.8(f) that supports such determination.

2. In accordance with the schedule contained in an approved Work Plan, Applicant shall submit a Final Engineering Report certifying that remediation of the Site has been performed in accordance with the requirements of ECL §§ 27-1419(1) and (2) and 6 NYCRR § 375-1.6. The Department shall review such Report, the submittals made pursuant to this Agreement, and any other relevant information regarding the Site and make a determination as to whether the goals of the remedial program have been or will be achieved in accordance with established timeframes; if so, a written Certificate of Completion will be issued in accordance with ECL § 27-1419, 6 NYCRR §§ 375-1.9 and 375-3.9.

3. Within sixty (60) days of the Department's approval of a Final Report, Applicant shall submit such additional Work Plans as it proposes to implement. In addition, Applicant shall include with every report submitted to the Department a schedule for the submission of any subsequent work plan required to meet the requirements of ECL Article 27 Title 14. Failure to submit any additional Work Plans within such period shall, unless other Work Plans are under review by the Department or being implemented by Applicant, result in the termination of this Agreement pursuant to Paragraph XII.

### D. Review of Submittals other than Work Plans

1. The Department shall timely notify Applicant in writing of its approval or disapproval of each submittal other than a Work Plan in accordance with 6 NYCRR § 375-1.6. All Department-approved submittals shall be incorporated into and become an enforceable part of this Agreement.

2. If the Department disapproves a submittal covered by this Subparagraph, it shall specify the reason for its disapproval and may request Applicant to modify or expand the submittal. Within fifteen (15) days after receiving written notice that Applicant's submittal has been disapproved, Applicant shall elect in writing to either (i) modify or expand it within thirty (30) days of receipt of the written notice of disapproval; (ii) complete any other Department-approved Work Plan(s); (iii) invoke dispute resolution pursuant to Paragraph XIII; or (iv) terminate this Agreement pursuant to Paragraph XII. If Applicant submits a revised submittal and it is disapproved, the Department and Applicant may pursue whatever remedies may be available under this Agreement or under law.

### E. Department's Determination of Need for Remediation

The Department shall determine upon its approval of each Final Report dealing with the investigation of the Site whether remediation, or additional remediation as the case may be, is needed for protection of public health and the environment.

1. If the Department makes a preliminary determination that remediation, or additional remediation, is not needed for protection of public health and the environment, the Department shall notify the public of such determination and seek public comment in accordance with ECL § 27-1417(3)(f). The Department shall provide timely notification to the Applicant of its final determination following the close of the public comment period.

2. If the Department determines that additional remediation is not needed and such determination is based upon use restrictions, Applicant shall cause to be recorded an Environmental Easement in accordance with 6 NYCRR § 375-1.8(h).

3. If the Department determines that remediation, or additional remediation, is needed, Applicant may elect to submit for review and approval a proposed Remedial Work Plan (or modify an existing Work Plan for the Site) for a remedy selected upon due consideration of the factors set forth in ECL § 27-1415(3) and 6 NYCRR § 375-1.8(f). A proposed Remedial Work Plan addressing the Site's remediation will be noticed for public comment in accordance with



ECL § 27-1417(3)(f) and the Citizen Participation Plan developed pursuant to this Agreement. If the Department determines following the close of the public comment period that modifications to the proposed Remedial Work Plan are needed, Applicant agrees to negotiate appropriate modifications to such Work Plan. If Applicant elects not to develop a Work Plan under this Subparagraph then this Agreement shall terminate in accordance with Paragraph XII. If the Applicant elects to develop a Work Plan, then it will be reviewed in accordance with Paragraph II.D above.

F. Institutional/EngineeringControl Certification

In the event that the remedy for the Site, if any, or any Work Plan for the Site, requires institutional or engineering controls, Applicant shall submit a written certification in accordance with 6 NYCRR §§ 375-1.8(h)(3) and 375-3.8(h)(2).

III. Enforcement

Except as provided in Paragraph V, this Agreement shall be enforceable as a contractual agreement under the laws of the State of New York. Applicant shall not suffer any penalty except as provided in Paragraph V, or be subject to any proceeding or action if it cannot comply with any requirement of this Agreement as a result of a Force Majeure Event as described at 6 NYCRR § 375-1.5(b)(4) provided Applicant complies with the requirements set forth therein.

IV. Entry upon Site

A. Applicant hereby agrees to provide access to the Site and to all relevant information regarding activities at the Site in accordance with the provisions of ECL § 27-1431. Applicant agrees to provide the Department upon request with proof of access if it is not the owner of the site.

B. The Department shall have the right to periodically inspect the Site to ensure that the use of the property complies with the terms and conditions of this Agreement. The Department will generally conduct such inspections during business hours, but retains the right to inspect at any time.

C. Failure to provide access as provided for under this Paragraph may result in termination of this Agreement pursuant to Paragraph XII.

V. Payment of State Costs (Applicable only to Applicants with Participant Status)

A. Within forty-five (45) days after receipt of an itemized invoice from the Department, Applicant shall pay to the Department a sum of money which shall represent reimbursement for State Costs as provided by 6 NYCRR § 375-1.5(b)(3)(i).

B. Costs shall be documented as provided by 6 NYCRR § 375-1.5(b)(3)(ii). The Department shall not be required to provide any other documentation of costs, provided however, that the Department's records shall be available consistent with, and in accordance with, Article 6 of the Public Officers Law.

C. Each such payment shall be made payable to the "Commissioner of NYSDEC" and shall be sent to:

Director, Bureau of Program Management  
Division of Environmental Remediation  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-7012

D. Each party shall provide written notification to the other within ninety (90) days of any change in the foregoing addresses.

E. If Applicant objects to any invoiced costs under this Agreement, the provisions of 6 NYCRR §§ 375-1.5 (b)(3)(v) and (vi) shall apply. Objections shall be sent to the Department as provided under subparagraph V.C above.

F. In the event of non-payment of any invoice within the 45 days provided herein, the Department may seek enforcement of this provision pursuant to Paragraph III or the Department may commence an enforcement action for non-compliance with ECL § 27-1409(2) and ECL § 71-4003.

VI. Liability Limitation

Subsequent to the issuance of a Certificate of Completion pursuant to this Agreement, Applicant shall be entitled to the Liability

Limitation set forth at ECL § 27-1421, subject to the terms and conditions stated therein and to the provisions of 6 NYCRR §§ 375-1.9 and 375-3.9.

#### VII. Reservation of Rights

A. Except as provided in Subparagraph VII.B, Applicant reserves all rights and defenses under applicable law to contest, defend against, dispute, or disprove any action, proceeding, allegation, assertion, determination, or order of the Department, including any assertion of remedial liability by the Department against Applicant, and further reserves all rights including the rights to notice, to be heard, to appeal, and to any other due process respecting any action or proceeding by the Department, including the enforcement of this Agreement. The existence of this Agreement or Applicant's compliance with it shall not be construed as an admission of any liability, fault, wrongdoing, or violation of law by Applicant, and shall not give rise to any presumption of law or finding of fact which shall inure to the benefit of any third party.

B. Notwithstanding the foregoing, Applicant hereby waives any right it may have to make a claim pursuant to Article 12 of the Navigation Law with respect to the Site and releases the State and the New York Environmental Protection and Spill Compensation Fund from any and all legal or equitable claims, suits, causes of action, or demands whatsoever with respect to the Site that Applicant may have as a result of Applicant's entering into or fulfilling the terms of this Agreement.

#### VIII. Indemnification

Applicant shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless from any claim, suit, action, and cost of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Agreement by Applicant prior to the Termination Date except for those claims, suits, actions, and costs arising from the State's gross negligence or willful or intentional misconduct by the Department, the State of New York, and/or their representatives and employees during the course of any activities conducted pursuant to this Agreement. In the event that the Applicant is a Participant, this provision shall also include the Trustee of the State's Natural Resources. The Department shall provide Applicant with written

notice no less than thirty (30) days prior to commencing a lawsuit seeking indemnification pursuant to this Paragraph.

#### IX. Change of Use

Applicant shall notify the Department at least sixty (60) days in advance of any change of use, as defined in ECL § 27-1425, which is proposed for the Site, in accordance with the provisions of 6 NYCRR § 375-1.11(d). In the event the Department determines that the proposed change of use is prohibited, the Department shall notify Applicant of such determination within forty-five (45) days of receipt of such notice.

#### X. Environmental Easement

A. Within thirty (30) days after the Department's approval of a Remedial Work Plan which relies upon one or more institutional and/or engineering controls, or within sixty (60) days after the Department's determination pursuant to Subparagraph II.E.2 that additional remediation is not needed based upon use restrictions, Applicant shall submit to the Department for approval an Environmental Easement to run with the land in favor of the State which complies with the requirements of ECL Article 71, Title 36 and 6 NYCRR § 375-1.8(h)(2). Applicant shall cause such instrument to be recorded with the recording officer for the county in which the Site is located within thirty (30) days after the Department's approval of such instrument. Applicant shall provide the Department with a copy of such instrument certified by the recording officer to be a true and faithful copy within thirty (30) days of such recording (or such longer period of time as may be required to obtain a certified copy provided Applicant advises the Department of the status of its efforts to obtain same within such thirty (30) day period), which shall be deemed to be incorporated into this Agreement.

B. Applicant or the owner of the Site may petition the Department to modify or extinguish the Environmental Easement filed pursuant to this Agreement at such time as it can certify that the Site is protective of public health and the environment without reliance upon the restrictions set forth in such instrument. Such certification shall be made by a Professional Engineer or Qualified Environmental Professional as defined at 6 NYCRR § 375-1.2(ak) approved by the Department. The Department will not unreasonably withhold its consent.

## XI. Progress Reports

Applicant shall submit a written progress report of its actions under this Agreement to the parties identified in Subparagraph III.A.1 of the Agreement by the 10th day of each month commencing with the month subsequent to the approval of the first Work Plan and ending with the Termination Date, unless a different frequency is set forth in a Work Plan. Such reports shall, at a minimum, include: all actions relative to the Site during the previous reporting period and those anticipated for the next reporting period; all approved activity modifications (changes of work scope and/or schedule); all results of sampling and tests and all other data received or generated by or on behalf of Applicant in connection with this Site, whether under this Agreement or otherwise, in the previous reporting period, including quality assurance/quality control information; information regarding percentage of completion; unresolved delays encountered or anticipated that may affect the future schedule and efforts made to mitigate such delays; and information regarding activities undertaken in support of the Citizen Participation Plan during the previous reporting period and those anticipated for the next reporting period.

## XII. Termination of Agreement

Applicant or the Department may terminate this Agreement consistent with the provisions of 6 NYCRR §§ 375-3.5(b), (c), and (d) by providing written notification to the parties listed in Paragraph IV of the Agreement.

## XIII. Dispute Resolution

A. In the event disputes arise under this Agreement, Applicant may, within fifteen (15) days after Applicant 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).

B. All cost incurred by the Department associated with dispute resolution are State costs subject to reimbursement pursuant to Paragraph V of Appendix A of this Agreement, if applicable.

C. Notwithstanding any other rights otherwise authorized in law or equity, any disputes pursuant to this Agreement shall be limited to Departmental decisions on remedial

activities. In no event shall such dispute authorize a challenge to the applicable statute or regulation.

## XIV. Miscellaneous

A. If the information provided and any certifications made by Applicant are not materially accurate and complete, this Agreement, except with respect to Applicant's obligations pursuant to Paragraphs V, if applicable, and VII.B, and VIII, shall be null and void ab initio fifteen (15) days after the Department's notification of such inaccuracy or incompleteness or fifteen (15) days after issuance of a final decision resolving a dispute pursuant to Paragraph XIII, whichever is later, unless Applicant submits information within that fifteen (15) day time period indicating that the information provided and the certifications made were materially accurate and complete. In the event this Agreement is rendered null and void, any Certificate of Completion and/or Liability Limitation that may have been issued or may have arisen under this Agreement shall also be null and void ab initio, and the Department shall reserve all rights that it may have under law.

B. By entering into this Agreement, Applicant agrees to comply with and be bound by the provisions of 6 NYCRR §§ 375-1, 375-3 and 375-6; the provisions of such subparts that are referenced herein are referenced for clarity and convenience only and the failure of this Agreement to specifically reference any particular regulatory provision is not intended to imply that such provision is not applicable to activities performed under this Agreement.

C. The Department may exempt Applicant from the requirement to obtain any state or local permit or other authorization for any activity conducted pursuant to this Agreement in accordance with 6 NYCRR §§ 375-1.12(b), (c), and (d).

D. 1. Applicant shall use "best efforts" to obtain all Site access, permits, easements, approvals, institutional controls, and/or authorizations necessary to perform Applicant's obligations under this Agreement, including all Department-approved Work Plans and the schedules contained therein. If, despite Applicant's best efforts, any access, permits, easements, approvals, institutional controls, or authorizations cannot be obtained, Applicant shall promptly notify the Department and include a summary of the steps taken. The Department



may, as it deems appropriate and within its authority, assist Applicant in obtaining same.

2. If an interest in property is needed to implement an institutional control required by a Work Plan and such interest cannot be obtained, the Department may require Applicant to modify the Work Plan pursuant to 6 NYCRR § 375-1.6(d)(3) to reflect changes necessitated by Applicant's inability to obtain such interest.

E. The paragraph headings set forth in this Agreement are included for convenience of reference only and shall be disregarded in the construction and interpretation of any provisions of this Agreement.

F. 1. The terms of this Agreement shall constitute the complete and entire agreement between the Department and Applicant concerning the implementation of the activities required by this Agreement. No term, condition, understanding, or agreement purporting to modify or vary any term of this Agreement 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 Applicant of its obligation to obtain such formal approvals as may be required by this Agreement. In the event of a conflict between the terms of this Agreement and any Work Plan submitted pursuant to this Agreement, the terms of this Agreement shall control over the terms of the Work Plan(s). Applicant consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this Agreement.

2. i. Except as set forth herein, if Applicant desires that any provision of this Agreement be changed, Applicant shall make timely written application to the Commissioner with copies to the parties in Subparagraph IV.A.1 of the Agreement.

ii. If Applicant seeks to modify an approved Work Plan, a written request shall be made to the Department's project manager, with copies to the parties listed in Subparagraph IV.A.1 of the Agreement.

iii. Requests for a change to a time frame set forth in this Agreement shall be made in writing to the Department's project attorney and project manager; such requests shall not be

unreasonably denied and a written response to such requests shall be sent to Applicant promptly.

G. 1. If there are multiple parties signing this Agreement, the term "Applicant" shall be read in the plural, the obligations of each such party under this Agreement are joint and several, and the insolvency of or failure by any Applicant to implement any obligations under this Agreement shall not affect the obligations of the remaining Applicant(s) under this Agreement.

2. If Applicant is a partnership, the obligations of all general partners (including limited partners who act as general partners) under this Agreement are joint and several and the insolvency or failure of any general partner to implement any obligations under this Agreement shall not affect the obligations of the remaining partner(s) under this Agreement.

3. Notwithstanding the foregoing Subparagraphs XIV.G.1 and 2, if multiple parties sign this Agreement as Applicants but not all of the signing parties elect to implement a Work Plan, all Applicants are jointly and severally liable for each and every obligation under this Agreement through the completion of activities in such Work Plan that all such parties consented to; thereafter, only those Applicants electing to perform additional work shall be jointly and severally liable under this Agreement for the obligations and activities under such additional Work Plan(s). The parties electing not to implement the additional Work Plan(s) shall have no obligations under this Agreement relative to the activities set forth in such Work Plan(s). Further, only those Applicants electing to implement such additional Work Plan(s) shall be eligible to receive the Liability Limitation referenced in Paragraph VI.

4. Any change to parties pursuant to this Agreement, including successors and assigns through acquisition of title, is subject to approval by the Department, after submittal of an application acceptable to the Department.

H. Applicant 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).

I. Applicant shall not be considered an operator of the Site solely by virtue of having executed and/or implemented this Agreement.



J. Applicant and Applicant's agents, grantees, lessees, sublessees, successors, and assigns shall be bound by this Agreement. Any change in ownership of Applicant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Applicant's responsibilities under this Agreement.

K. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in ECL Article 27 or in regulations promulgated thereunder shall have the meaning assigned to them under said statute or regulations.

L. Applicant's obligations under this Agreement shall not be deemed to constitute any type of fine or penalty.

M. In accordance with 6 NYCRR § 375-1.6(a)(4), the Department shall be notified at least 7 days in advance of, and be allowed to attend,

any field activities to be conducted under a Department approved work plan, as well as any pre-bid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting; provided, however that the Department may be excluded from portions of meetings where privileged matters are discussed.

N. In accordance with 6 NYCRR § 375-1.11(a), all work plans; reports, including all attachments and appendices, and certifications, submitted by a remedial party shall be submitted in print, as well as in an electronic format acceptable to the Department.

O. This Agreement may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.

**LIMITED LIABILITY COMPANY OPERATING AGREEMENT  
OF PUTNAM RESOURCES, LLC (A NEW YORK LIMITED LIABILITY COMPANY)**

DATED AS OF JANUARY 1, 2017

THIS LIMITED LIABILITY COMPANY AGREEMENT (the "Agreement"), has been executed by the member (the "Member") set forth on Exhibit A annexed hereto, for the purposes of setting forth the rights and obligations of the Member in and to PUTNAM RESOURCES, LLC (the "Company") formed pursuant to the provisions of the New York Limited Liability Company Law (the "Act").

**1. ARTICLE 1: THE COMPANY AND ITS BUSINESS**

**1.1. Formation of Company.** The Company was formed pursuant to the provisions of the Act. The rights and liabilities of the Member, the management of the affairs of the Company and the conduct of its business shall be as provided in the Act, except as otherwise expressly provided herein.

**1.2. Name.** The name of the Company shall be PUTNAM RESOURCES, LLC, however, the Member, subject to the terms of this Agreement, may change the name of the Company at any time and from time to time.

**1.3. Term of Company.** The term of the Company commenced upon the filing of the appropriate formation documents with the Department of State of the State of New York in accordance with the Act and shall continue until terminated in accordance with this Agreement or as provided by law.

**1.4. Purposes of Company.** The purpose of the Company is to: (i) engage in any lawful act or activity for which limited liability companies may be organized under the Act; and (ii)

do all things necessary, suitable or proper for the accomplishment of, or in the furtherance of the Company's business.

**1.5. Offices.** The Company shall maintain its primary office and principal place of business at 48 Union Street, Suite 1A, Saratoga Springs, New York 12866, or at such other places of business as the Member deems advisable for the conduct of the Company's business and may from time to time may change the Company's primary office.

## **2. ARTICLE 2: CAPITALIZATION**

**2.1. Capital Contributions.** The Member shall make such capital contributions, consisting of cash or real or personal property, to the Company as it deems appropriate from time to time. The Member's initial capital contribution shall be provided on Exhibit A annexed hereto. Any subsequent capital contributions shall be used and applied only for the Company purposes set forth in Section 1.4 hereof.

**2.2. Liability of Member and Affiliates.** Except as otherwise provided by applicable law, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company. Neither the Member, any person affiliated with the Member nor any officer of the Company shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being the Member, an affiliate of the Member or an officer of the Company.

**2.3 Return of Capital Contributions; No Interest.** Except as otherwise expressly provided in this Agreement, the Member shall not: (a) be entitled to any interest or other fixed return with respect to its Capital Contribution, (b) be obligated to make any Capital Contribution to the Company, (c) have any right to demand a return of its Capital Contribution, or (d) have a priority over any other Member as to the return of a Capital Contribution upon a dissolution of the Company.

### **3. ARTICLE 3: PROFITS AND LOSSES; DISTRIBUTIONS**

**3.1. Profit and Losses.** All profits and losses of the Company will be allocated to the Member.

**3.2. Distributions.** All distributions of cash, property, profits or otherwise and the timing thereof will be made at the discretion of the Member.

### **4. ARTICLE 4: MANAGEMENT**

**4.1. Management of the Company.** Unless otherwise specified herein, the business and affairs of the Company shall be managed by the Manager designated in Exhibit B. The Manager does not need to be a member of the Company. The Manager shall have full power and authority to take any action and execute any documents on behalf of the Company. The Manager is the agents of the Company for the purpose of the Company's business, and for the purpose of the execution in the name of the Company of any instrument for carrying on in the usual way the business of the Company. The Manager's acts bind the Company, unless such act is in contravention of the Act or this Agreement.

**4.1.1 Action by the Manager.** The Manager may take action by a written action, signed by the Manager.

**4.2. Expenses.** The Company shall pay all of its own operating, overhead and administrative expenses of every kind. The Member, Manager, and the officers of the Company shall be reimbursed for all reasonable costs and expenses they may have incurred or may hereafter incur on behalf of the Company.

**4.3. Officers.** The Manager shall have the right to delegate any portion of their duties as the Manager may determine to officers or to other persons; provided, however, that no such delegation of authority shall relieve the Manager of his obligations hereunder. The Manager

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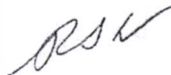


may, from time to time, designate or appoint one or more officers of the Company, including, without limitation, one or more chairmen, a vice chairman, a chairman emeritus, a chief executive officer, a president, one or more vice presidents, a secretary, an assistant secretary, and/or a treasurer. Such officers may, but need not be, employees of the Company, or an affiliate of the Company. Each appointed officer shall hold office until: (i) his/her successor is appointed by the Manager (ii) such officer submits his/her resignation; or (iii) such officer is removed, with or without cause, by the Manager. All officers shall have the authority to perform duties to conduct the day to day operations of the Company consistent with and in the ordinary course of its business, subject to the terms and provisions of this Agreement and to the direction and authorization of the Manager. Each officer shall perform his/her duties as an officer in good faith and with such degree of care, which an ordinarily prudent person in a like position would use under similar circumstances.

#### **4.4. Indemnity**

**4.4.1. Limitation of Liability.** Neither the Member, Manager nor any officer of the Company shall be liable to the Company for any loss or damages resulting from errors in judgment or for any acts or omissions that do not constitute willful misconduct or gross negligence. In all transactions for or with the Company, the Member, Manager and the officers of the Company shall act in good faith and in a manner believed to be in the best interests of the Company.

**4.4.2. Settlement of Claims.** The Company, its receiver or its trustee, as the case may be (but not the Member personally), shall indemnify and defend the Member, Manager and the officers of the Company against and hold them harmless from any and all losses, judgments, costs, damages, liabilities, fines, claims and expenses (including, but not limited to, reasonable attorneys fees and court costs, which shall be paid by the Company as



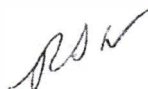
incurred) that may be made or imposed upon such persons and any amounts paid in settlement of any claims sustained by the Company by reason of any act or inaction which is determined by the Member or the officers of the Company, as the case may be, in good faith to have been in the best interests of the Company so long as such conduct shall not constitute willful misconduct or gross negligence.

**4.4.3. Indemnified Matters.** In the event of settlement of any action, suit or proceeding brought or threatened, such indemnification shall apply to all matters covered by the settlement except for matters as to which the Company is advised by counsel retained by the Company that the person seeking indemnification, in the opinion of counsel, did not act in good faith. The foregoing right of indemnification shall be in addition to any rights to which the Member, Manager or the officers of the Company may otherwise be entitled and shall inure to the benefit of the executors, administrators, personal representatives, successors or assigns of each such person.

**4.4.4. Indemnification Limited to Company Assets.** Any right of indemnity granted under this Section 4.4. may be satisfied only out of the assets of the Company, and neither the Member, Manager nor any officer of the Company shall be personally liable with respect to any such claim for indemnification.

**4.4.5. Liability Insurance.** The Manager shall have the power to purchase and maintain insurance in reasonable amounts on behalf of the Member, the Manager and the officers, employees and agents of the Company against any liability incurred by them in their capacities as such, whether or not the Company has the power to indemnify them against such liability.

## **5. ARTICLE 5: BOOKS AND RECORDS**



**5.1. Books of Account.** Complete books of account shall be kept by the Manager at the principal office of the Company, or at such other office as the Manager may designate.

**5.2. Bank Accounts.** The Manager may maintain one or more bank accounts for such funds of the Company as he shall choose to deposit therein, and withdrawals therefrom shall be made upon such signature or signatures as the Manager shall determine.

**5.3. Fiscal Year.** The fiscal year of the Company shall end on December 31, except as otherwise required.

**5.4. Tax Election.** The Member shall have the authority to cause the Company to make any election required or permitted to be made for income tax purposes if the Member determines, in its sole judgment, that such election is in the best interests of the Company.

**5.5. Tax Matters.** The Member shall be the tax matter partner of the Company, and it or its authorized agent, shall be the only person authorized to prepare, execute and file tax returns and tax reports on behalf of the Company and to represent the Company before the Internal Revenue Service and any state or local taxing authority.

**5.6. Title to Assets.** Title to, and all right and interest in and to, the Company's assets, shall be acquired in the name of and held by the Company, or if acquired in any other name, held for the benefit of the Company.

**5.7. Bankruptcy of the Member.** The bankruptcy of the Member will not cause the Member to cease to be a Member of the Company, and upon the occurrence of such event, the Company shall continue without dissolution.

## **6. ARTICLE 6: DISSOLUTION AND TERMINATION**

**6.1. Dissolution.** The Company shall be dissolved and terminated upon the earliest to occur of the following:

**6.1.1.** the entry of a decree of judicial dissolution of the Company; or

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6.1.2. when the provisions of Section 6.3 below have been met; or

6.1.3. the retirement, resignation or dissolution of the Member or the occurrence of any other event that terminates the continued membership of the Member unless the business of the Company is continued in a manner permitted under the Act; or

6.1.4. when otherwise determined by the Member.

**6.2. Distribution of Assets.** In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, as set forth under the Act.

**6.3. Termination.** The Company shall terminate when all property owned by the Company shall have been disposed of and the assets, after payment of, or due provision has been taken for, liabilities to Company creditors, shall have been distributed. Upon such termination, the Member or the Company's officers shall execute and cause to be filed all documents necessary in connection with the termination of the Company.

## **7. ARTICLE 7: MISCELLANEOUS**

**7.1. Assignments.** The Member may assign in whole or in part its interest in the Company on such terms and conditions as the Member determines, in its sole discretion.

**7.2. Admission of Additional Member.** One or more additional member may be admitted to the Company with the prior written consent of the Member.

**7.3. Severability.** If any of the provisions of this Agreement is held invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this Agreement are intended to be and shall be deemed severable.





**7.4. Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of New York without regard to the conflicts of law rules of said state.

**7.5. Amendments.** This Agreement may be amended or modified from time to time only upon the written consent of the Member (which consent may be evidenced by the execution of an amendment and restatement of this Agreement).

**7.6. No Third Party Beneficiaries.** None of the provisions of this Agreement shall be for the benefit of or enforceable by any of the creditors of the Company or any other person not a party to this Agreement.

IN WITNESS WHEREOF, the undersigned Member caused this counterpart signature page to this Limited Liability Company Agreement to be duly executed on the date set forth below, to be effective as of the date first above written.

MEMBER

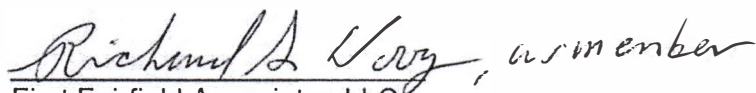
  
First Fairfield Associates LLC  
By: Richard S. Voog  
Its: Member

EXHIBIT A

Member Capital Contribution

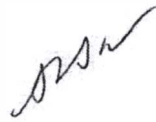
Member Name	Capital Contribution
First Fairfield Associates LLC	\$10

*MSH*

EXHIBIT B

Manager

Richard S. Voog  
16 Spinnaker Dr.  
Niantic, CT 06357

A handwritten signature in black ink, appearing to read 'RSV', is written diagonally across the page.

**CONSENT OF THE MANAGER OF  
PUTNAM RESOURCES, LLC  
TO COMPANY ACTION**

The undersigned Manager of **PUTNAM RESOURCES, LLC**, a New York corporation having its place of business in Saratoga Springs, New York ("Company"), is duly authorized to act herein as contemplated by Section 4.1 of the Operating Agreement of the Company dated January 1, 2017, and hereby consents to the following action by said Company:

1. THAT the Company is not in dissolution, but a valid and active limited liability company in the State of New York;
2. THAT the Company consents to and authorizes the entering into of an "Brownfield Cleanup Program Agreement pursuant to Article 27, Title 14 of The New York State Environmental Conservation Law" (the "BCA") in connection with the Company's real property located at 53 Putnam St., Saratoga Springs, NY 12866, New York, said agreement to be between the Company and (iii) the Department of Environmental Conservation;
3. THAT the undersigned Manager, acting for and in the name of the Company, without further action by the Member of the Company, is hereby authorized to sign all documents necessary to effectuate the transaction contemplated herein, including the BCA, and any other documentation required to be executed in connection with the BCA, and to perform and take such other actions as may be desirable, necessary, proper or convenient to accomplish the intent and purposes expressed herein; and
4. THAT the execution and delivery of any document authorized by this resolution by the Manager of the Company, shall be conclusive evidence of the Company's approval of the terms and provisions of such document and shall be binding on the Company.

PUTNAM RESOURCES, LLC

By: Richard S. Voog, as manager

Name: Richard S. Voog

Title: Manager

Dated: 4/27/17