

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

THIS INDENTURE made this 28th day of September, 2016, between the Glen Cove Industrial Development Agency, having an office at **Glen Cove City Hall, 9-13 Glen Street, Glen Cove, New York 11542**, County of Nassau, State of New York (the "IDA") and the City of Glen Cove, having an office at **Glen Cove City Hall, 9-13 Glen Street, Glen Cove, New York 11542**, County of Nassau, State of New York (the "City") (the IDA and the City are collectively, 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 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, IDA is the owner of real property located at **63 Herb Hill Road** in the City of **Glen Cove**, County of **Nassau** and State of New York, known and designated on the tax map of the County Clerk of **Nassau County** as tax map parcel numbers: Section **21**, Block **A**, Lots **142, 431, 543** and **544**, Section **21**, Block **A**, Lots **14, 15, 459, 541** and **648-650** and Section **31**, Block **G**, Lot **31**, being a portion of the same as that property conveyed to the IDA by deed dated **October 21, 1999** and recorded in the **Nassau County Clerk's Office** at **Liber 11131, Page 100**. The property subject to this Environmental Easement (the "Restricted Residential Controlled Property") comprises approximately **23.52** acres, and is hereinafter more fully described as "'Upper C" Portion of Parcel 1 Remaining Area", "Parcel 2 Remaining Area" and "Parcel 3 Remaining Area in the Land Title Survey dated September 17, 2014 prepared by Jaroslava

Vonder, which will be attached to the Site Management Plan. The Restricted Residential Controlled Property description is set forth in and attached hereto as Schedule A.

WHEREAS, City is the owner of real property located at **63 Herb Hill Road** in the City of **Glen Cove**, County of **Nassau** and State of New York, known and designated on the tax map of the County Clerk of **Nassau County** as tax map parcel numbers: Section 21, Block A, Lots 142, 431, 543 and 544, Section 21, Block A, Lots 14, 15, 459, 541 and 648-650 and Section 31, Block G, Lot 311, being a portion of the same as that property conveyed to the City by deed dated as of **August 13, 2015** and recorded in the **Nassau County Clerk's Office at Liber 13416, Page 706** and by deed dated as of **August 13, 2015** and recorded in the **Nassau County Clerk's Office at Liber 13416, Page 714** and by deed dated as of **August 13, 2015** and recorded in the **Nassau County Clerk's Office at Liber 13416, Page 721**. The property subject to this Environmental Easement (the "Residential Roadway Controlled Property") comprises approximately .86 acres, and is hereinafter more fully described as "R.O.W. Taking #2", "R.O.W. Taking #4" and "R.O.W. Taking #5" in the Land Title Survey dated September 17, 2014 prepared by **Jaroslava Vonder**, which will be attached to the Site Management Plan. The Residential Roadway Controlled Property description is set forth in and attached hereto as Schedule B. The Restricted Residential Controlled Property and the Residential Roadway Controlled Property are collectively, the "Residential Controlled Property".

WHEREAS, IDA is the owner of real property located at **63 Herb Hill Road** in the City of **Glen Cove**, County of **Nassau** and State of New York, known and designated on the tax map of the County Clerk of **Nassau County** as tax map parcel numbers: Section 21, Block A, Lots 542 and 545, being a portion of the same as that property conveyed to the IDA by deed dated **October 21, 1999** and recorded in the **Nassau County Clerk's Office at Liber 11131, Page 100**. The property subject to this Environmental Easement (the "C Prime Controlled Property") comprises approximately 4.407 acres, and is hereinafter more fully described as "C Prime" in the Land Title Survey dated September 17, 2014 prepared by **Jaroslava Vonder**, which will be attached to the Site Management Plan. The C Prime Controlled Property description is set forth in and attached hereto as Schedule C.

WHEREAS, City is the owner of real property located at **63 Herb Hill Road** in the City of **Glen Cove**, County of **Nassau** and State of New York, known and designated on the tax map of the County Clerk of **Nassau County** as tax map parcel numbers: Section 21, Block A, Lot 545, being a portion of the same as that property conveyed to the City by deed dated as of **August 13, 2015** and recorded in the **Nassau County Clerk's Office at Liber 13416, Page 706**. The property subject to this Environmental Easement (the "C Prime Roadway Controlled Property") comprises approximately .009 acres, and is hereinafter more fully described as "R.O.W. Taking #1" in the Land Title Survey dated September 17, 2014 prepared by **Jaroslava Vonder**, which will be attached to the Site Management Plan. The C Prime Roadway Controlled Property description is set forth in and attached hereto as Schedule D. The C Prime Controlled Property and the C Prime Roadway Controlled Property are collectively, the "Prime Controlled Property".

WHEREAS, the IDA, is the owner of real property located at **63 Herb Hill Road** in the City of **Glen Cove**, County of **Nassau** and State of New York, known and designated on the tax map of the County Clerk of **Nassau County** as tax map parcel number: Section 21, Block A, Lot 142, being a portion of the same as that property conveyed to the IDA by deed dated **October 21, 1999** and recorded in the **Nassau County Clerk's Office at Liber 11131, Page 100**. The property subject to this Environmental Easement (the "Lower C Controlled Property") comprises approximately 1.494 acres, and is hereinafter more fully described as "Lower C" in the Land Title

Survey dated September 17, 2014 prepared by **Jaroslava Vonder**, which will be attached to the Site Management Plan. The Lower C Controlled Property description is set forth in and attached hereto as Schedule E.

WHEREAS, the City, is the owner of real property located at **63 Herb Hill Road** in the City of **Glen Cove**, County of **Nassau** and State of New York, known and designated on the tax map of the County Clerk of **Nassau County** as tax map parcel number: Section **21**, Block **A**, Lot **142**, being a portion of the same as that property conveyed to the City by deed date as of **August 13, 2015** and recorded in the **Nassau County Clerk's Office** at **Liber 13416, Page 706**. The property subject to this Environmental Easement (the "Lower C Roadway Controlled Property") comprises approximately **.177** acres, and is hereinafter more fully described as "R.O.W. Taking #3" in the Land Title Survey dated September 17, 2014 prepared by **Jaroslava Vonder**, which will be attached to the Site Management Plan. The Lower C Controlled Property description is set forth in and attached hereto as Schedule F. The Lower C Controlled Property and the Lower C Roadway Controlled Property are collectively, the "Commercial Controlled Property".

WHEREAS, the Residential Controlled Property, the Prime Controlled Property and the Commercial Controlled Property (collectively, the "Controlled Property") are part of the Li Tungsten Corporation Superfund Site ("Site"), the location of a former Li Tungsten facility which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9605, placed on the National Priorities List, as set forth in Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300, by publication in the Federal Register on July 29, 1991; 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 Superfund State Contract # C004095, 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. **The Residential Controlled Property 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 Residential 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 Residential Controlled Property, any lessees and any person using the Residential Controlled Property.

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

Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii), 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 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 treatment 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 and the Nassau County Department of Health;

(5) If and to the extent required by the SMP, 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 Residential 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) If and to the extent required by the SMP, 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; and

(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 Residential Controlled Property shall not be used for Residential Purposes as defined in 6 NYCRR 375-1.8(g)(2)(i), 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 Residential 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 Residential Controlled Property a true and complete copy of the SMP that the Department approves for the Residential 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 Residential Controlled Property shall state the following 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 Residential Controlled Property.

G. Grantor covenants and agrees that it shall annually, or 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 SMP 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.

H. The parties acknowledge and agree that Grantor may, as allowed by permit, replace or reconstruct any existing bulkhead and extend the newly replaced or reconstructed bulkhead up to eighteen (18) inches seaward of the existing bulkhead without the need to replace or amend this Environmental Easement. Any additional lands created as part of a bulkhead replacement or reconstruction shall be subject to the requirements and controls of this Environmental Easement and the corresponding SMP.

3. Prime Controlled Property Institutional and Engineering Controls. The controls and requirements listed in the Department approved 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 Prime 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 Prime Controlled Property, any lessees and any person using the Prime Controlled Property.

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

**Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii),
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 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 treatment 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 and the Nassau County Department of Health;

(5) If and to the extent required by the SMP, 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 Prime 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) If and to the extent required by the SMP, 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; and

(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 Prime Controlled Property shall not be used for Residential Purposes as defined in 6 NYCRR 375-1.8(g)(2)(i), 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 Prime 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 Prime Controlled Property a true and complete copy of the SMP that the Department approves for the Prime 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 C Prime Controlled Property shall state the following 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 Prime Controlled Property.

G. Grantor covenants and agrees that it shall annually, or 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 SMP 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.

4. Commercial Controlled Property Institutional and Engineering Controls. The controls and requirements listed in the Department approved 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 Commercial 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 Lower C Controlled Property, any lessees and any person using the Commercial Controlled Property.

A. (1) The Commercial 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 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 treatment 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 and the Nassau County Department of Health;

(5) If and to the extent required by the SMP, 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 Commercial 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) If and to the extent required by the SMP, 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; and

(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 Commercial Controlled Property shall not be used for Residential Purposes as defined in 6 NYCRR 375-1.8(g)(2)(i) and Restricted Residential as defined in 6 NYCRR Part 375-1.8(g)(2)(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 Commercial 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 Commercial Controlled Property a true and complete copy of the SMP that the Department approves for the Commercial 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 Commercial Controlled Property shall state the following 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 Commercial Controlled Property.

G. Grantor covenants and agrees that it shall annually, or 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 SMP 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.

5. Right to Enter and Inspect. Grantee and/or the EPA, its respective agents, employees, or other representatives of the State or United States may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions. Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's authority to take response actions under CERCLA, the NCP, or other federal law.

6. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Controlled Property, all rights as fee owner of the Controlled 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 to this Environmental Easement;

7. 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 Controlled 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.

8. 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: 130046
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

A copy of each such communication shall also be sent to EPA in the same manner as to Grantor or Grantee, and addressed to the following two addressees:

U.S. Environmental Protection Agency
Emergency & Remedial Response Division
Western New York Remediation Branch
Attention: _____ Site Remedial Project Manager
290 Broadway, 20th Floor
New York, New York 10007-1866

U.S. Environmental Protection Agency
Office of Regional Counsel
Attention: _____ Site Attorney
290 Broadway, 17th Floor
New York, New York 10007-1866

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.

9. **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 Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. **Amendment.** Any amendment to this Environmental Easement may only be executed by (i) an authorized representative of the EPA, and (ii) 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 Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law.

11. **Extinguishment.** This Environmental Easement may be extinguished only by a release 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 Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law.

12. **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.

13. **Third-Party Beneficiary.** Grantor and Grantee hereby agree that the United States, through EPA, shall be, on behalf of the public, a third-party beneficiary of the benefits, rights and obligations conveyed to Grantee in this instrument; provided that nothing in this instrument shall be construed to create any obligations on the part of EPA.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

Glen Cove Industrial Development Agency:

By: *Myralee Machol*

Print Name: Myralee Machol

Title: Administrative Director

Date: May 2, 2016

IDA's Acknowledgment

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


On the 2nd day of May, in the year 2016, before me, the undersigned, personally appeared Myralee Machol, 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.

Camille Byrne
Notary Public, State of New York

CAMILLE BYRNE
Notary Public, State of New York
No. 01BY4729113
Qualified in Nassau County
Commission Expires January 31, 2017

THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By:

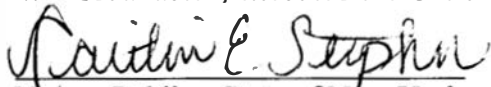


Robert Schick, Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 28^m day of Sept., in the year 2010 before me, the undersigned, personally appeared Robert Schick, 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/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public - State of New York

Caitlin E. Stephen
Notary Public, State of New York
No. 02ST6338529
Qualified in Albany County
Commission Expires Mar. 14, 2020

SCHEDULE "A" PROPERTY DESCRIPTION