

ENVIRONMENTAL EASEMENT

THIS INDENTURE made this 4th day of April, 2007, between Tarrytown Waterfront LLC, a Delaware limited liability company, Ferry Landings LLC, a Delaware limited liability company, Ferry Investments LLC, a Connecticut limited liability company, and Westchester Industries, Inc., all of the foregoing having an office at 485 West Putnam Avenue, Greenwich, Connecticut 06830 (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 ("brownfield 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 of ensuring the potential 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 brownfield site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located in the Village of Tarrytown, Town of Greenburgh, Westchester County, New York, known and designated on the tax map of the Town of Greenburgh, Village of Tarrytown as Tax Lots P15, P20, P21, P22, P23, P24, P24A (Section 1, Sheet 1 on the Town of Greenburgh Tax Map), being the same as that property conveyed to Grantor by deeds and recorded in the Land Records of the Westchester County Clerk as listed in Schedule A attached hereto and made part hereof, comprised of approximately 20.6 acres, and hereinafter more fully described in Schedule B, containing a master metes and bounds description and survey, dated February 19, 2007, captioned, "#129 Main Street, ALTA/ACSM Land Title Survey Prepared For New York State Department Of Environmental Conservation, and seven individual metes and bounds descriptions and surveys, dated October 21, 2005, captioned, "Ferry Landings, Survey Map Showing Development Zones, Clean Soil Areas and Engineering Controls, Parcels P-15, P-20, P21,

P22, P23, P24, P-24A, by Chazen Engineering and Land Surveying CO., P.C., attached hereto and made a part hereof (the "Controlled Property"); and

WHEREAS, the Commissioner does hereby acknowledge that the Department accepts this Environmental Easement in order to ensure the protection of human health and the environment and to achieve the requirements for remediation established at this 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 covenants and mutual promises contained herein and the terms and conditions of Brownfield Cleanup Index Number W3-1007-04-06, Grantor grants, conveys and releases to Grantee a permanent Environmental Easement pursuant to Article 71, Title 36 of the ECL 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 potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The following controls 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. The Controlled Property may be used for "restricted residential use" as defined in the May 5, 2005 Site Management Plan. As updated January 19, 2007, shown in Schedule C attached hereto and made a part hereof, and by any subsequent site management plan approved by the Department (the "Approved Site Management Plan"), as long as the following long-term institutional and engineering controls remain in place and are employed as set forth in the Approved Site Management Plan.

Engineering Controls

(i) In areas not proposed for future building construction or impervious covering, residually contaminated soils on the Controlled Property that meet backfill criteria as stipulated in Section 2.2.5 of the Approved Site Management Plan, must be covered by a demarcation layer consisting of an orange, non-woven 4 oz/sy geotextile or its equivalent and must be overlain by at least 2 feet of clean fill cover material. This barrier must be maintained as per the Approved Site Management Plan; and

(ii) As a minimum, a passive Soil Vapor Management System (SVMS) must be installed in every new building erected within the Controlled Property. Newly constructed buildings within the Controlled Property shall also be subjected to a Soil Vapor Intrusion (SVI)

Investigation, conducted in accordance with the applicable guidance in effect at the time of the investigation. If the results of this SVI investigation demonstrate ineffectiveness of the passive SVMS, an appropriate active Soil Vapor Management System shall be designed, constructed and maintained.

(iii) Operate and maintain the Northern DNAPL Recovery System as depicted on Figure 2 and as set forth in Section 2 of the Operation, Maintenance, and Monitoring Plan (which is Appendix A to the Approved Site Management Plan).

(iv) Operate and Maintain LNAPL Recovery System as depicted on Figure 2 and as set forth in Section 3 of the Operation, Maintenance, and Monitoring Plan (which is Appendix A to the Approved Site Management Plan).

(v) Operate and Maintain Western DNAPL Recovery System as depicted on Figure 2 and as set forth in Section 2 of the Operation, Maintenance, and Monitoring Plan (which is Appendix A to the Approved Site Management Plan).

(vi) Maintain the Underwater Cap System in the Sediment Excavation Area as depicted on Figure 2 and as set forth in Section 4 of the Operation, Maintenance, and Monitoring Plan (which is Appendix A to the Approved Site Management Plan).

(vii) Monitor and maintain the Groundwater Monitoring Wells as depicted on Figure 2 and as set forth in the Groundwater Monitoring Plan (which is Appendix C to the Operations Maintenance, and Monitoring Plan). The Operation, Maintenance and Monitoring Plan is Appendix A to the Approved Site Management Plan.

Institutional Controls

(viii) Any proposed soil excavation on the Controlled Property below the 2 foot cover or below the demarcation layer requires prior notification to the NYSDEC in accordance with the Approved Site Management Plan. Excavated soil must be managed, characterized, and properly disposed in accordance with the Approved Site Management Plan and applicable regulations and/or guidance.

(ix) The integrity of the impervious surfaces on the Controlled Property must be maintained at all times. Any portion of the impervious surface damaged and/or removed from the Controlled Property must be immediately replaced in kind or must be substituted with a demarcation layer and clean soil cover in accordance with paragraph 2.2.5 of the Approved Site Management Plan.

(x) The use of untreated groundwater for any purpose is not permitted.

B. The Controlled Property may not be used for a higher level of use such as unrestricted residential uses and the above-stated controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. Grantor covenants and agrees that until such time as the Environmental Easement

is extinguished in accordance with the requirements of 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.

D. 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.

E. Grantor covenants and agrees that it shall annually, or such time as NYSDEC may allow, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury that the controls employed at the Controlled Property are unchanged from the previous certification or that any changes to the controls employed at the Controlled Property were approved by the NYSDEC, and that nothing has occurred that would impair the ability of such control to protect the public health and environment or constitute a violation or failure to comply with any Site Management Plan for such controls and giving access to such Controlled Property to evaluate continued maintenance of such controls.

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 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 the underlying fee interest to the Controlled Property by operation of law, by deed, or by indenture, 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 Controlled Property, any lessees, and any person using the Controlled Property. 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 intentionally violates this environmental easement, the Grantee may revoke the Certificate of Completion provided under ECL Article 27, Title 14, or the Satisfactory Completion of Project provided under ECL Article 56, Title 5 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. Grantor shall then have a reasonable amount of time from receipt of such notice to cure. At the expiration of said second period, Grantee may commence any proceedings and take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement in accordance with applicable law to require compliance with the terms of this Environmental Easement.

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 its enforcement rights in the event of a subsequent breach of or noncompliance with any of the terms of this Environmental easement.

6. Notice. Whenever notice to the State (other than the annual certification) or approval from the State is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing its County tax map number or the Liber and Page or computerized system tracking/ identification number and address correspondence to:

Division of Environmental Enforcement
Office of General Counsel
New York State Department of Environmental Conservation
625 Broadway
Albany New York 12233-5500

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

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. This environmental easement may be amended only by an amendment executed by the Commissioner of the New York State Department of Environmental

Conservation and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This environmental easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

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

[SIGNATURES ON FOLLOWING PAGE]

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

Tarrytown Waterfront LLC

By: TW Waterfront Holdings LLC

By: 

Joseph Cotter, President

Date: March 30, 2007

Ferry Landings LLC

By: 

Joseph Cotter, President

Date: March 30, 2007

Westchester Industries, Inc.

By: 

Joseph Cotter, President

Date: March 30, 2007

Ferry Investments LLC

By: 

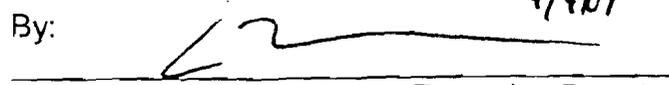
Joseph Cotter, President

Date: March 30, 2007

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

By:

4/4/07

A handwritten signature in black ink, appearing to be 'Carl Johnson', written over a horizontal line.

Carl Johnson, Acting Executive Deputy
Commissioner

[Acknowledgements on Following Page]

GRANTORS' ACKNOWLEDGMENT

Tarrytown Waterfront LLC

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

On the 30th day of March, in the year 2007, before me, the undersigned, personally appeared Joseph Cotter, 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.

[Signature]
Notary Public - State of New York

DAVID A. SINGER
Notary Public State of New York
No. 02Si6057925
Qualified in Westchester County
Commission Expires April 30, 2007

Ferry Landings LLC

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

On the 30th day of March, in the year 2007, before me, the undersigned, personally appeared Joseph Cotter, 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.

[Signature]
Notary Public - State of New York

DAVID A. SINGER
Notary Public State of New York
No. 02Si6057925
Qualified in Westchester County
Commission Expires April 30, 2007

Westchester Industries, Inc.

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

On the 30th day of March, in the year 2007, before me, the undersigned, personally appeared Joseph Cotter, 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

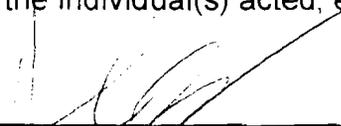
acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public - State of New York DAVID A. SINGER
Notary Public State of New York
No. 02SI6057925
Qualified in Westchester County
Commission Expires April 30, 2007

Ferry Investments LLC

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

On the 30th day of March, in the year 2007, before me, the undersigned, personally appeared Joseph Cotter, 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.


Notary Public - State of New York DAVID A. SINGER
Notary Public State of New York
No. 02SI6057925
Qualified in Westchester County
Commission Expires April 30, 2007

GRANTEE'S ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss:
COUNTY OF ALBANY

On the 5TH day of April, in the year 2007, before me, the undersigned, personally appeared CARL JOHNSON, 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 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
MICHAEL J. DEREVLANT
Notary Public, State of New York
No. 02DE5077784
Qualified in Westchester County
Commission Expires May 12, 2007

SCHEDULE A

A. Title vested in Tarrytown Waterfront LLC in accordance with the following:

(i) Deed made by Westchester Industries, Inc., dated February 8, 2007 Control Number pending in the Westchester County Clerk's office;

(ii) Deed made by Ferry Investments LLC dated February 8, 2007 Control Number pending in the Westchester County Clerk's office;

(iii) Deed made by Ferry Landings LLC dated February 8, 2007 Control Number pending in the Westchester County Clerk's office.

B. Title vested in Westchester Industries, Inc. in accordance with the following:

(i) Deed made by Tarrytown Rail & Water Terminal, Inc., dated March 1, 1973 recorded March 27, 1973 in Liber 7115 page 663

C. Title vested in Ferry Landings LLC in accordance with the following:

(i) Deed made by Cooney Realty Co., dated November 1, 2002 recorded March 27, 2003 under Control Number 430240001.

D. Title Vested in Ferry Investments LLC (f/k/a Pembroke Acquisitions LLC) in accordance with the following:

(i) Deed made by Penske Logistics Support Services, Inc. and successor by merger to Anchor Motor Freight, Inc., dated December 27, 2000 recorded February 22, 2001 under Control Number 410460110.