

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

THIS INDENTURE made this 3rd day of November, 2010, between Owner(s) 25 MPR, LLC having an office at 445 Broad Hollow Road, Suite 430, Melville, New York 11747, (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

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

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of environmental easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and 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 site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located at 25 Melville Park Road, in the Town of Huntington, County of Suffolk, State of New York, known and designated on the tax map of the County Clerk of Suffolk as tax map parcels: District 04.00 Section 268.00 Block 01.00 Lot 004.000 being the same as that property conveyed to Grantor by deed on October 7, 2002 and recorded October 21, 2002 in the Land Records of the Suffolk County Clerk in Liber 12215 at page 926, comprised of approximately 6 acres ±, and hereinafter more fully described in Schedule "A" property description and Land Title Survey Map prepared by Nelson & Pope Engineers, Designers, Surveyors dated September 5, 2002, most recently revised on October 15, 2010, 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 the Voluntary Cleanup Agreement Index Number: W1-0778-96-11 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 commercial or industrial use identified future uses in accordance with 6 NYCRR Part 375 - 1.8 (g)(2) (iii) & (iv), as long as the following long-term engineering controls are employed:

The Controlled Property has three primary Engineering Controls (ECs). These ECs consist of the following:

- (i) Downgradient and source area in-situ reactive zones (IRZs) that involve the delivery of organic carbon (i.e., dilute molasses solution) to the subsurface through a network of injection wells.
- (ii) Non-Aqueous Phase Liquid (NAPL) recovery that involves the manual removal of NAPL from the monitoring well network by hand bailing.
- (iii) A Vapor Control System (VCS) consisting of extraction points VCS-1 and VCS-2 and induced vacuum monitoring points MP-1 through MP-6.

Institutional Controls (ICs) for the Controlled Property consist of the following:

- (i) All ECs must be operated and maintained as specified in the SMP;
- (ii) All ECs on the Controlled Property (the Site) must be inspected and certified at a frequency and in a manner defined in the SMP;
- (iii) Groundwater, NAPL, sub-slab soil vapor, and indoor air monitoring must be

- performed as defined in the SMP.
- (iv) Modifications to or discontinuation of the injection program may be requested at any time based on the results of the source area IRZ performance monitoring and NAPL gauging efforts and will require NYSDEC approval.
 - (v) Modifications to or discontinuation of the NAPL gauging program may be requested at any time based on the ongoing monitoring data and will require NYSDEC approval
 - (vi) Modifications to or discontinuation of the IAQ and sub-slab soil vapor monitoring program may be requested at any time based on the ongoing annual monitoring data and will require NYSDEC and NYSDOH approval.
 - (vii) Data and information pertinent to Site Management for the Controlled Property must be reported at the frequency and in a manner defined in the SMP.
 - (viii) On-Site environmental monitoring devices, including but not limited to, injection wells, groundwater monitoring wells, VCS extraction and monitoring points, and soil vapor probes, must be protected and replaced, as necessary, or properly abandoned, as directed by the NYSDEC, to ensure continued functioning in the manner specified in the SMP.
 - (ix) The use of groundwater beneath the Site as a source of potable or process water is restricted, without necessary water quality treatment as determined by the Suffolk County Department of Health Services.
 - (x) The property owner must complete and submit to the NYSDEC an annual certification to ensure that the ICs are still in place.

B. The Grantor hereby acknowledges receipt of a copy of the NYSDEC-approved Soil Management Plan, dated August, 2008 ("SMP"). 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 on the Controlled Property, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. Upon notice of not less than thirty (30) days the Department in exercise of its discretion and consistent with applicable law may revise the SMP. The notice shall be a final agency determination. 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:

Regional Remediation Engineer: or
Region 1
NYSDEC
SUNY @ Stoney Brook
50 Circle Road
Stoney Brook, New York 11790 - 3409

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

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

D. 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 of Title 36 to
Article 71 of the Environmental Conservation Law.**

E. 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.

F. 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 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 intentionally violates this Environmental Easement, the Grantee may revoke the Certificate of Completion or Release provided under ECL Article 27, Title 14 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 the following information: County, NYSDEC Site Number, NYSDEC 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:

If for Grantee:

Site No. 1-52-169
Department of Environmental Enforcement
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

Grantor's Acknowledgment

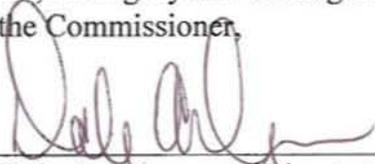
STATE OF NEW YORK)
) ss:
COUNTY OF)

On the 13th day of October , in the year 20 10 , before me, the undersigned, personally appeared Lawrence A. Levine , 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.

 Joanne P. LaSalle
Notary Public - State of New York

JOANNE P. LASALLE
Notary Public, State of New York
No. 01LA6034176
Commission Exp. Dec. 06, 20 13

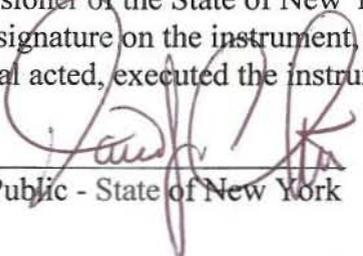
THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

by: 
Dale A. Desnoyers, Director
Department of Environmental Remediation

Grantee's Acknowledgment

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

On the 3rd day of November, in the year 2010, before me, the undersigned, personally appeared Dale Desnoyers, 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

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County
Commission Expires August 22, 2014

SCHEDULE "A"
ENVIRONMENTAL EASEMENT PROPERTY DESCRIPTION

Address: 25 Melville Park Road, Town of Huntington, NY
Tax Id No: District 0400 Section 268 - Block 01.00 - Lot 04.000

BEGINNING at a point on the northerly side of Melville Park Road, distant 571.19 feet easterly from the easterly end of a curve connecting the easterly side of Broad Hollow Road (NYS Route 110) and the northerly side of Melville Park Road;
RUNNING THENCE N 06° 29' 00" W, 555.00 feet;
THENCE N 83° 31' 00" E, 265.79 feet;
THENCE S 47° 41' 18" E, 77.14 feet;
THENCE N 76° 40' 26" E, 172.98 feet;
THENCE S 06° 29' 00" E, 517.57 feet to the northerly side of Melville Park Road;
THENCE along said road line S 83° 31' 00" W, 488.35 feet to the POINT or PLACE of BEGINNING.

Containing within said bounds 6.00 acres.

