

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

THIS INDENTURE made this 12<sup>th</sup> day of AUGUST, 2015, between Owner(s), **Pall Corporation**, having an office at ) 25 Harbor Park Drive, Port Washington, New York 11050 (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 the address of 30 Sea Cliff Avenue in the City of Glen Cove, Nassau County, New York known and designated on the tax map of the City of Glen Cove as tax map parcel number section 21 block H lots 37, 273, 314 and 320, being the same as that property conveyed to Grantor by deed on February 1, 1985, and recorded in the Land Records of the Nassau County Clerk at page 882, liber 9617 of Deeds, comprised of approximately 3.69 acres, and hereinafter more fully described in the Land Title Survey dated December 30, 2009 and revised on March 5, 2010 prepared by Nussbaumer & Clarke, Inc., which will be attached to the Site Management Plan. The property description (the "Controlled Property") is set forth in and attached hereto and made a part hereof as Schedule A; 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.

**NOW THEREFORE**, in consideration of the covenants and mutual promises contained herein and the terms and conditions of the Partial Consent Decree and the Second Partial Consent Decree, Case No. 2:09-cv-04126-LDW-ETB, entered by the Clerk of the United States District Court for the Eastern District of New York (collectively, the "Consent Decree"), 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 as long as the following long-term engineering controls are employed:

- (i) the use of the groundwater underlying the Controlled Property for any purpose, including but not limited to, potable, process or irrigation water, is prohibited without the implementation of necessary water quality treatment as determined by the Nassau County Department of Health; and
- (ii) annual inspections and annual certifications of the Controlled Property, that certify that any Institutional and Engineering controls set forth in this Environmental Easement and in the Site Management Plan approved by the Department are working properly and are unchanged from the previous certification and that nothing has occurred that impairs the ability of the control to protect public health or the environment and that usage of Controlled Property has not changed; and
- (iii) an active sub-slab depressurization system (or other exposure barrier or mechanism acceptable to the NYSDEC) must be installed in any buildings developed or constructed on the Controlled Property for so long as the mitigation of soil vapor intrusion from a building's sub-slab is necessary; and
- (iv) soil characterization and disposal/reuse of any excavated soils in accordance with NYSDEC regulations.

Additionally, the Grantor hereby acknowledges that the NYSDEC will develop (after the final engineering report is completed) the Site Management Plan ("SMP"), which may include additional institutional controls and engineering controls. The SMP will distinguish the Department's SMP obligations at the Controlled Property from the Grantor's SMP obligations at the Controlled Property. The Grantor, as obligated by the Consent Decree, assumes on behalf of Grantor, its successors and assigns the Grantor's obligations described in the SMP, except that Grantor, its successors and assigns shall have no obligations under the SMP with respect to implementation of any remedial actions relative to "Covered Matters," as this term is defined in the Consent Decree, for which Grantor received a release, discharge and covenant not to sue under the Consent Decree ("Grantor's Limited SMP Obligations"). Notwithstanding the above referenced limitations, with respect to any institutional controls or engineering controls developed in accordance with the Records of Decision for OU No. 1 and OU No. 2, Grantor and its successors and assigns must comply with 6 NYCRR 375-1.11(b). The Grantor's assumption of the Grantor's Limited SMP Obligations, with respect to items (i) through (iv) above, 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 Grantor's Limited SMP Obligations and obtaining an up-to-date version of the SMP from:

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

B. Grantor or its successor and assigns that retain or acquire an ownership interest in the Controlled Property, must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department has developed for the Controlled Property and all Department-approved amendments to that SMP.

C. The Controlled Property may not be used for a higher level of use such as **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 to Title 36 of 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.

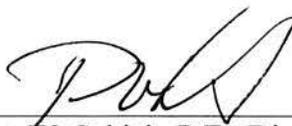
B. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the 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





**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 W. Schick, P.E., Director  
Division of Remediation

**Grantee's Acknowledgment**

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

On the 12<sup>th</sup> day of August, in the year 2015, 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 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

PATRICK EUGENE FOSTER  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN KINGS COUNTY  
NO. 02FO6278032  
COMMISSION EXPIRES 03/18/2017

## SCHEDULE "A"

(Surveyor's Description from the Land Title Survey)

ALL that certain plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being in the City of Glen Cove, Town of Oyster Bay, County of Nassau State of New York, more particularly bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of Sea Cliff Avenue and the southwesterly side of Glen Cove Arterial Highway;

RUNNING THENCE South 84 degrees 57 minutes West along the northerly side of Sea Cliff Avenue, 399.29 feet;

RUNNING THENCE North 37 degrees 31 minutes East 23.73 feet;

RUNNING THENCE North 30 degrees 33 minutes West 140.28 feet;

RUNNING THENCE North 32 degrees 45 minutes West 189.12 feet;

RUNNING THENCE North 84 degrees 54 minutes East 101.36 feet;

RUNNING THENCE North 5 degrees 06 minutes West 367.16 feet to land now or formerly of New York Water Company;

RUNNING THENCE North 86 degrees 32 minutes East 80.48 feet to the southwesterly side of Glen Cove Arterial Highway;

RUNNING THENCE southeasterly along the southwesterly side of Glen Cove Arterial Highway along the arc of a curve having a radius of 1675 feet and subtended by chord 576.92 feet in length and bearing South 29 degrees 57 minutes 07 seconds East for a distance of 579.80 feet;

RUNNING THENCE South 13 degrees 28 minutes East 6.56 feet;

RUNNING THENCE North 84 degrees 57 minutes East 4.05 feet to the southwesterly side of Glen Cove Arterial Highway;

RUNNING THENCE South 39 degrees 52 minutes 38 seconds East along the southwesterly side of Glen Cove Arterial Highway 178.82 feet to the northerly side of Sea Cliff Avenue, to the point of beginning, containing 3.69 acres more or less.

TOGETHER with all right, title and interest of the party of the first part, in and to the land lying in the street in front of and adjoining said premises.

Note: This description is intended to describe the same property as conveyed in Liber 9617 Page 882. A distance in this description differs from the Schedule 'A' description shown hereon based upon boundary evidence and calculations in order to create a mathematical closure.