

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

THIS INDENTURE made this 19th day of June, 2017, between Owner(s) Town of Salina, having an office at 201 School Road, Liverpool, New York 13088, County of Onondaga, State of New York (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 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, Grantor, is the owner of real property located at the address of 7 North Street in the Town of Salina, County of Onondaga and State of New York, known and designated on the tax map of the County Clerk of Onondaga as tax map parcel numbers: Section 74.00 Block 03 Lot 3.3, being the same as that property conveyed to Grantor by deed dated May 26, 2010 and recorded in the Onondaga County Clerk's Office in Liber and Page 5127/542.

WHEREAS, Grantor, is the owner of real property located at the address of Brewerton Road in the Town of Salina, County of Onondaga and State of New York, known and designated on the tax map of the County Clerk of Onondaga as tax map parcel numbers: Section 73.00 Block 01 Lot 10.2, being the same as that property conveyed to Grantor by deed dated February 27, 1981 and recorded in the Onondaga County Clerk's Office in Liber and Page 2856/188.

WHEREAS, Grantor, is the owner of real property located at the address of Brewerton Road in the Town of Salina, County of Onondaga and State of New York, known and designated

on the tax map of the County Clerk of Onondaga as tax map parcel numbers: Section 73.00 Block 01 Lot 13.0, being the same as that property conveyed to Grantor by deed dated September 22, 2009 and recorded in the Onondaga County Clerk's Office in Liber and Page 5102/506.

WHEREAS, Grantor, is the owner of real property located at the address of Brewerton Road in the Town of Salina, County of Onondaga and State of New York, known and designated on the tax map of the County Clerk of Onondaga as tax map parcel numbers: Section 73.00 Block 01 Lot 10.4, being the same as that property conveyed to Grantor by deed dated April 4, 2014 and recorded in the Onondaga County Clerk's Office in Liber and Page 5277/299.

WHEREAS, the property subject to this Environmental Easement (the "Controlled Property") comprises approximately 45.76 +/- acres, and is hereinafter more fully described in the Land Title Survey dated September, 2015 and last revised October 19, 2016 prepared by John E. Quinn, Jr., P.L.S. of Clough, Harbour & Associates LLP, which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; 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 Order on Consent Index Number: D-7-0002-97-06, 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. 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 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. (1) The Controlled Property may be used for:

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 Site Management Plan (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 necessary water quality treatment as determined by the NYSDOH or the Onondaga County Department of Health 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;

(5) 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 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) 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;

(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 Controlled Property shall not be used for Residential, Restricted Residential or Commercial purposes as defined in 6NYCRR 375-1.8(g)(i), (ii) and (iii), 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 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 Controlled Property a true and complete copy of the SMP that the Department approves for the 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 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.

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 Controlled Property.

G. Grantor covenants and agrees that it shall, at 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 site management 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.

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 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 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 violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

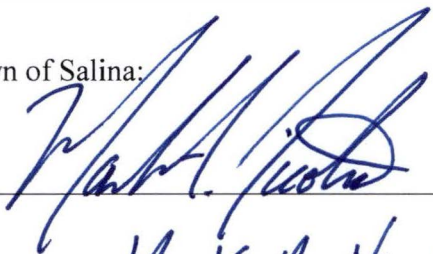
C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the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

6. 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


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

Town of Salina: _____
By: 
Print Name: Mark A. Nicotra
Title: Town Supervisor Date: 6/5/17

Grantor's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF Onondaga

On the 5th day of June, in the year 2017, before me, the undersigned, personally appeared Mark A Nicotra, 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

WENDY L. CONTOS
Notary Public, State of New York
Qual. in Onondaga Co. No. 01C06197098
Commission Expires 11-24-2020

SCHEDULE "A" PROPERTY DESCRIPTION

Legal Description of Easement Area

Area "C" – Lands N/F Town of Salina

BEGINNING AT A POINT ON THE WESTERLY ROAD BOUNDARY OF BREWERTON ROAD, U.S. ROUTE 11, AT ITS INTERSECTION WITH THE PROPERTY DIVISION LINE BETWEEN LANDS NOW OR FORMERLY OF TOWN OF SALINA AS DESCRIBED IN LIBER 5277 OF DEEDS AT PAGE 299 ON THE NORTH AND LANDS NOW OR FORMERLY OF JOHN V. PARATORE AS DESCRIBED IN LIBER 4628 OF DEEDS AT PAGE 313 ON THE SOUTH; THENCE RUNNING ALONG SAID PROPERTY DIVISION LINE THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1) N68° 06' 41"W, A DISTANCE OF 127.29 FEET TO A POINT; 2) S21° 53' 22"W, A DISTANCE OF 138.78 FEET TO A POINT; AND

3) S12° 56' 51"E, A DISTANCE OF 33.13 FEET TO A POINT AT ITS INTERSECTION WITH THE PROPERTY DIVISION LINE BETWEEN SAID LANDS OF TOWN OF SALINA ON THE NORTH AND LANDS NOW OR FORMERLY OF PLAZA EAST, LLC AS DESCRIBED IN LIBER 4347 OF DEEDS AT PAGE 74 ON THE SOUTH; THENCE RUNNING ALONG SAID PROPERTY DIVISION LINE THE FOLLOWING TWO (2) COURSES AND DISTANCES;;

1) S82° 32' 12"W, A DISTANCE OF 400.07 FEET TO A POINT; AND

2) S52° 57' 12"W, A DISTANCE OF 216.10 FEET TO A POINT AT ITS INTERSECTION WITH THE PROPERTY DIVISION LINE BETWEEN SAID LANDS OF TOWN OF SALINA ON THE NORTH AND LANDS NOW OR FORMERLY OF NIAGARA MOHAWK POWER CORPORATION AS DESCRIBED IN LIBER 607 OF DEEDS AT PAGE 47 ON THE SOUTH; THENCE S82° 32' 12"W, ALONG SAID PROPERTY DIVISION LINE, A DISTANCE OF 1444.91 FEET TO A POINT AT ITS INTERSECTION WITH THE PROPERTY DIVISION LINE BETWEEN SAID LANDS OF TOWN OF SALINA ON THE EAST AND LANDS NOW OR FORMERLY OF ONONDAGA COUNTY AS DESCRIBED IN LIBER 1361 OF DEEDS AT PAGE 652X ON THE WEST; THENCE RUNNING ALONG SAID PROPERTY DIVISION LINE THE FOLLOWING FIVE (5) COURSES AND DISTANCES:

1) N14° 58' 48"W, A DISTANCE OF 95.19 FEET TO A POINT;

2) N00° 52' 49"W, A DISTANCE OF 285.61 FEET TO A POINT; 3) N11° 37' 49"W, A DISTANCE OF 366.35 FEET TO A POINT; 4) N65° 51' 10"W, A DISTANCE OF 241.71 FEET TO A POINT; AND

5) N06° 36' 59"E, A DISTANCE OF 173.10 FEET TO A POINT ON THE SOUTHERLY HIGHWAY BOUNDARY OF THE NEW YORK STATE THRUWAY; THENCE RUNNING EASTERLY ALONG SAID HIGHWAY BOUNDARY THE FOLLOWING FOUR (4) COURSES AND DISTANCES:

1) ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 5865.09 FEET, A DELTA OF 10° 21' 05" AND AN ARC LENGTH OF 1059.62 FEET TO A POINT;

2) S71° 06' 07"E, A DISTANCE OF 109.22 FEET TO A POINT;

3) N54° 25' 48"E, A DISTANCE OF 75.72 FEET TO A POINT; AND

4) N86° 14' 43"E, A DISTANCE OF 863.67 FEET TO A POINT AT ITS INTERSECTION WITH THE PROPERTY DIVISION LINE BETWEEN SAID LANDS OF TOWN OF SALINA ON THE WEST AND SAID LANDS OF JOHN V. PARATORE ON THE EAST; THENCE RUNNING ALONG SAID PROPERTY DIVISION LINE THE FOLLOWING FOUR (4) COURSES AND DISTANCES:

1) S25° 35' 33"W, A DISTANCE OF 14.26 FEET TO A POINT;

2) S04° 45' 28"W, A DISTANCE OF 307.97 FEET TO A POINT;

3) S39° 52' 54"E, A DISTANCE OF 81.42 FEET TO A POINT; AND

4) N87° 09' 01"E, A DISTANCE OF 326.87 FEET TO A POINT ON THE SAID WESTERLY ROAD BOUNDARY OF BREWERTON ROAD; THENCE RUNNING ALONG THE SAID WESTERLY ROAD BOUNDARY THE FOLLOWING THREE (3) COURSES AND DISTANCES:

- 1) S30° 40' 58"W, A DISTANCE OF 119.96 FEET TO A POINT; 2) S01° 13' 16"E, A DISTANCE OF 56.93 FEET TO A POINT; AND
 - 3) S20° 32' 42"W, A DISTANCE OF 8.66 FEET TO THE POINT OR PLACE OF BEGINNING.
- CONTAINING 1,651,297± SQUARE FEET OR 37.91± ACRES OF LAND, MORE OR LESS.

EXCEPTING FROM THE ABOVE DESCRIBED AREA "C":

COMMENCING AT A POINT ON THE WESTERLY ROAD BOUNDARY OF BREWERTON ROAD, U.S. ROUTE 11, AT ITS INTERSECTION WITH THE PROPERTY DIVISION LINE BETWEEN LANDS NOW OR FORMERLY OF TOWN OF SALINA AS DESCRIBED IN LIBER 5277 OF DEEDS AT PAGE 299 ON THE NORTH AND LANDS NOW OR FORMERLY OF JOHN V. PARATORE AS DESCRIBED IN LIBER 4628 OF DEEDS AT PAGE 313 ON THE SOUTH; THENCE N68° 06' 41"W, ALONG SAID PROPERTY DIVISION LINE, A DISTANCE OF 127.29 FEET TO A POINT; THENCE N68°06'41"W, A DISTANCE OF 27.68 FEET TO THE POINT OF BEGINNING; THENCE RUNNING ALONG SAID PROPERTY DIVISION LINE THE FOLLOWING THREE (3) COURSES AND DISTANCES:

- 1) S23° 50' 00"W, A DISTANCE OF 117.49 FEET TO A POINT; 2) N29° 31' 20"W, A DISTANCE OF 117.48 FEET TO A POINT; AND
 - 3) N87° 09' 01"E, A DISTANCE OF 105.50 FEET TO THE POINT OR PLACE OF BEGINNING.
- CONTAINING 5,537± SQUARE FEET OR 0.13± ACRES OF LAND, MORE OR LESS.

Area "C1" – Lands N/F Town of Salina

BEGINNING AT A POINT AT ITS INTERSECTION WITH THE PROPERTY LINE BETWEEN LANDS NOW OR FORMERLY OF NIAGARA MOHAWK POWER CORPORATION AS DESCRIBED IN LIBER 607 OF DEEDS AT PAGE 47 ON THE NORTH AND LANDS NOW OR FORMERLY OF TOWN OF SALINA AS DESCRIBED IN LIBER 5277 OF DEEDS AT PAGE 299 ON THE SOUTH; THENCE S52° 57' 12"W, A DISTANCE OF 571.90 FEET TO A POINT; THENCE RUNNING THROUGH SAID LANDS OF THE TOWN OF SALINA THE FOLLOWING THREE (3) COURSES AND DISTANCES;

- 1) S65° 27' 42"W, A DISTANCE OF 122.07 FEET TO A POINT;
- 2) S82° 28' 01"W, A DISTANCE OF 176.66 FEET TO A POINT; AND
- 3) S87° 31' 18"W, A DISTANCE OF 695.96 FEET TO A POINT AT ITS INTERSECTION WITH THE PROPERTY DIVISION LINE BETWEEN SAID LANDS OF TOWN OF SALINA ON THE EAST AND LANDS NOW OR FORMERLY OF ONONDAGA COUNTY AS DESCRIBED IN LIBER 1361 OF DEEDS AT PAGE 652X ON THE WEST; THENCE N14° 58' 41"E, ALONG SAID PROPERTY DIVISION LINE, A DISTANCE OF 279.05 FEET TO A POINT AT ITS INTERSECTION WITH THE PROPERTY DIVISION LINE BETWEEN SAID LANDS NIAGARA MOHAWK POWER CORPORATION ON THE NORTH AND SAID LANDS OF TOWN OF SALINA ON THE SOUTH; THENCE N82° 32' 12"E, ALONG SAID PROPERTY DIVISION LINE, A DISTANCE OF 1377.49 FEET TO THE POINT OR PLACE OF BEGINNING. CONTAINING 347,526 SQUARE FEET OR 7.98 ACRES OF LAND, MORE OR LESS.