NEW CASSEL/HICKSVILLE GROUNDWATER CONTAMINATION SUPERFUND SITE TOLLING AGREEMENT

This Tolling Agreement is entered into on this 18th day of April, 2016 between the United States of America ("United States") on behalf of the United States Environmental Protection Agency ("EPA"), and Next Millennium Realty, LLC and 101 Frost Street Associates, L.P. ("Cooperating Party") (collectively, the "Parties").

WHEREAS EPA conducted response activities and thereby incurred response costs related to the release or threat of release of hazardous substances at the New Cassel/Hicksville Groundwater Contamination Superfund Site ("Site"), a widespread area of groundwater contamination within the Towns of North Hempstead, Hempstead, and Oyster Bay, Nassau County, New York.

WHEREAS, the United States contends that it has a civil cause of action against Cooperating Party pursuant to Sections 106, 107 and 113 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9606, 9607 and 9613, for the recovery of response costs ("Tolled Claims").

WHEREAS, the United States and Cooperating Party enter into this Tolling Agreement to facilitate settlement negotiations between the Parties within the time period provided by this Agreement, without thereby altering the claims or defenses available to any party hereto, except as specifically provided herein.

NOW, THEREFORE, the Parties hereto, in consideration of the covenants set out herein, agree as follows:

1. The period commencing on March 23, 2016 and ending six months after the date EPA approves the 100% Final Remedial Design Report for Operable Unit One that is submitted by the Respondents pursuant to an Administrative Agreement and Order on Consent, or, if no Administrative Agreement and Order on Consent is signed, then by December 31, 2016, inclusive (the "Tolling Period"), shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States on the Tolled Claims.

2. Any defenses of laches, estoppel, or waiver, or other equitable defenses based upon the running or expiration of any time period shall not include the Tolling Period for the Tolled Claims.

3. Cooperating Party shall not assert, in any action brought by the United States regarding the Tolled Claims, any affirmative defense, including, but not limited to, laches, estoppel, waiver or other equitable defense, based on the running of any statute of limitations during the Tolling Period or the passage of time during the Tolling Period.

4. This Tolling Agreement does not constitute an admission or acknowledgment of any fact, conclusion of law, or liability by any party to this Tolling Agreement. Nor does this Tolling Agreement constitute an admission or acknowledgment by any party on the part of the United States to this Tolling Agreement that any statute of limitations, or defense concerning the timeliness of commencing a civil action, is applicable to the Tolled Claims. This Tolling Agreement also does not revive any claim or cause of action as to which Cooperating Party may contend that the applicable statute of limitations has expired as of the commencement of the Tolling Period. The United States reserves the right to assert that no statute of limitations applies to any of the Tolled Claims and that no other defense based upon the timeliness of commencing a civil action is applicable. Cooperating Party reserves all rights and defenses which it may have, except as set forth in this Tolling Agreement, to contest or defend any claim or action the United States may assert or initiate against Cooperating Party. This includes any defense that Cooperating Party may contend is applicable based on the expiration of a statute of limitations or the passage of time prior to the commencement of the Tolling Period.

5. This Tolling Agreement may not be modified except in a writing signed by all the Parties. This Tolling Agreement may be extended for such period of time as the Parties agree to in writing.

6. This Tolling Agreement does not limit in any way the nature or scope of any claims that could be brought by the United States in a complaint against Cooperating Party.

7. This Tolling Agreement is not intended to affect any claims by or against third parties.

8. This Tolling Agreement contains the entire agreement between the Parties, and no statement, promise, or inducement made by any party to this Tolling Agreement that is not set forth in this Tolling Agreement shall be valid or binding, nor shall it be used in construing the terms of this Tolling Agreement as set forth herein.

9. The undersigned representative of each of the parties certifies that he or she is fully authorized to enter into the terms and conditions of this Tolling Agreement and to legally bind such party to all terms and conditions of this document. This Tolling Agreement shall be binding upon the United States, acting on behalf of the United States Environmental Protection Agency, and upon Cooperating Party and its successors.

10. This Tolling Agreement is effective upon execution by Cooperating Party, without the requirement of filing with the Court, and may be signed in counterparts.

For the United States on behalf of
the U.S. Environmental Protection
Agency:

ROBERT L. CAPERS
United States Attorney
Eastern District of New York

_____
SANDRA L. LEVY
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Next Millennium Realty, LLC

By: MANAGER

Alan Eidler, Manager

By: _____

Lise Spiegel Wilks, Manager

By: _____

Pamela Sanders, Manager

101 Frost Street Associates, L.P.

By: 101 Frost Street Corp.

By: PRESIDENT

Alan Eidler, President

For the United States on behalf of the U.S. Environmental Protection Agency:

ROBERT L. CAPERS
United States Attorney
Eastern District of New York

_____
SANDRA L. LEVY
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271 Cadman Plaza East, 7th Floor
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For Next Millennium Realty, LLC:

By: _____
Alan Eidler, Manager

By: Lise Spiegel Wilks
Lise Spiegel Wilks, Manager

By: _____
Pamela Spiegel Sanders, Manager

For 101 Frost Street Associates, L.P.
By: 101 Frost Street Corp.

By: _____
Alan Eidler, President

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