[REFER TO INSTRUCTIONS PRIOR TO COMPLETING]

**LAND USE COVENANT**

This is an environmental covenant executed pursuant to the Underground Storage Tank Act, W. Va. Code § 22-17, and the Uniform Environmental Covenants Act, W. Va. Code § 22-22B (“the Act”), to restrict the activities on, and uses of, the following described property:

Street Address: Street Address

City: City

County: County

Tax District (as applicable): Tax District

Tax Map: Tax Map

Tax Parcel(s): Tax Parcel(s)

Deed Book(s): Deed Book(s)

Page No(s).: Page No(s).

Acres: Acres

A map is attached as Exhibit A indicating the area/areas to which specific activity and use limitations and/or engineering controls apply.

[If the area subject to restriction is a subset of a larger parcel, provide a survey description (metes and bounds) of the restricted area here, or if more than one page, attach as Exhibit B or C.]

An environmental response project, as defined by the Act, has been completed at the subject property to remediate a release from an underground storage tank system. Contaminants of concern that exceed de minimis or other applicable standards by media are as follows:

[Complete the following table of contaminants that exceed de minimis or other applicable standards by media. If the number of COCs exceeds six (6) for any single media, state, “Contaminants of concern that exceed de minimis or other applicable standards by media are provided as Exhibit B, C, or D.” and provide as an exhibit.]

|  |  |  |
| --- | --- | --- |
| SURFACE SOIL | SUBSURFACE SOIL | GROUNDWATER |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

|  |  |  |
| --- | --- | --- |
| VAPOR | SEDIMENT | SURFACE WATER |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

The following activities on and uses of the above described property may result in excessive human exposure or in the release of a contaminant that was contained as part of the remedial action related to this covenant. Therefore, the following activities on and uses of the real property are prohibited: [USE/DELETE FOLLOWING AULs AS APPROPRIATE]

1. Residential land use, as defined by the Voluntary Remediation and Redevelopment Rule (60CSR3), Section 2.40, including, but not limited to, schools, day care centers, nursing homes, or other residential-style facilities or recreational areas.

[FOR RECREATIONAL USE SITES, USE THE FOLLOWING PARAGRAPH IN LIEU OF PARAGRAPH 1]

1. Residential land use, as defined by the Voluntary Remediation and Redevelopment Rule (60CSR3), Section 2.40, including, but not limited to, schools, day care centers, nursing homes, or other residential-style facilities. Recreational areas are specifically permitted, as determined by a site-specific risk assessment conducted for the property.
2. Use or extraction of groundwater for any purpose, except for groundwater monitoring and/or remediation.
3. Excavation, drilling, or penetration [SELECT AS APPROPRIATE: of the ground surface, or XX feet below the ground surface], unless the following requirements are met:
   1. The activity is conducted by persons qualified and knowledgeable about releases and exposures to contaminants known to exist at the site.
   2. The work is performed in accordance with applicable health and safety laws and regulations and a Soil Management Plan developed by a West Virginia Licensed Remediation Specialist or similarly qualified individual.
   3. The disturbed area is restored in a manner which assures that an equivalent amount of exposure control is achieved at the conclusion of the work.
   4. The owner of the real property provides written notice to the West Virginia Department of Environmental Protection (WVDEP) of the intent to conduct such work no less than five (5) days prior to beginning unless a waiver is granted by the WVDEP.
   5. At the request of the WVDEP, the owner of the real property provides written evidence (including laboratory analytical data) showing the affected area continues to meet the remediation standard following completion of the work.
4. Any activity that may interfere with the groundwater monitoring well network.
5. Construction of a building without a sub-slab vapor barrier and/or ventilation system adequate to prevent exposure to vapors in soil and groundwater, as determined by a West Virginia Licensed Remediation Specialist or similarly qualified individual. Alternately, the restriction area may be further evaluated by a West Virginia Licensed Remediation Specialist or similarly qualified individual to determine if vapor control is necessary to meet the remediation standard.

[USE/DELETE FOLLOWING PARAGRAPH AS APPROPRIATE] The following engineering control(s) (depicted on Exhibit [select exhibit letter]) have been installed at the property as a part of the remedy and is/are necessary to attain the designated remediation standard and shall be operated and maintained as necessary to protect the functional integrity:

Engineering Control 1:

Engineering Control 2:

Current owner(s) of record of the property, and associated contact information:

Property Owner 1

Attn.: Contact Person 1

Mailing Address

City, State Zip

Property Owner 2

Attn.: Contact Person 2

Mailing Address

City, State Zip

Property Owner 3

Attn.: Contact Person 3

Mailing Address

City, State Zip

Any person, including a person that owns an interest in the real property, the state or federal agency determining or approving the environmental response project pursuant to which an environmental covenant is created, or a municipality or other unit of local government may be a holder of an environmental covenant. The following are all holders of this covenant:

Covenant Holder 1

Relationship to Property

Mailing Address

City, State Zip

Covenant Holder 2

Relationship to Property

Mailing Address

City, State Zip

Covenant Holder 3

Relationship to Property

Mailing Address

City, State Zip

The owner(s) of the property shall provide written notice to the WVDEP within ten (10) days following transfer of a specified interest in the property subject to this covenant, changes in use of the property, or applications for building permits or proposals for any site work affecting the contamination on the property. Any notice regarding transfer of a specified interest in the property subject to this covenant shall include the name, address, and contact information for the new owner.

The owner(s) shall conduct annual inspections of the property no more than sixty (60) days before or after the anniversary date of this document in accordance with the Land Use Covenant Inspection Form provided as Exhibit [select exhibit letter] to monitor compliance with this Land Use Covenant and shall submit the signed form to the WVDEP headquarters within thirty (30) days of the inspection.

This covenant shall not be amended, modified, or terminated except by written instrument executed in accordance with W. Va. Code § 22-22B-10, by and between the owner at the time of the proposed amendment, modification, or termination; the WVDEP; and the holders of this covenant. Within five (5) days of executing an amendment, modification, or termination of this Land Use Covenant, the owner shall record such amendment, modification, or termination with the Clerk of the County Commission, and within five (5) days thereafter, the owner shall provide a true copy of the recorded amendment, modification, or termination to the WVDEP.

The administrative record for the environmental response project reflected in this covenant is maintained at the WVDEP headquarters, and is entitled:

UECA-LUST Project Name

WV ID No. WV ID No., LUST Leak No. LUST Leak No., UECA No. UECA No.

The WVDEP is granted full right of access to the property for the purpose of implementation or enforcement of this covenant.

All restrictions and other requirements described in this covenant shall run with the land and shall be binding upon all holders and their grantees, lessees, authorized agents, employees, or persons acting under their direction or control.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the following holders have executed this covenant on the dates indicated.

*[Insert Name of Holder]*

|  |  |
| --- | --- |
| Printed Name: | [Insert Name] |
| Title: | [Insert Title] |

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Signature |  | Date |

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a Notary Public in and for the County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby certify that the holder(s) whose name is/names are signed above, this day executed this document in my presence or this day acknowledged same to be true act and deed of said holder(s).

Given under my hand this the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

My commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

|  |
| --- |
|  |
| Notary Public |

*[Insert Name of Holder]*

|  |  |
| --- | --- |
| Printed Name: | [Insert Name] |
| Title: | [Insert Title] |

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Signature |  | Date |

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a Notary Public in and for the County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby certify that the holder(s) whose name is/names are signed above, this day executed this document in my presence or this day acknowledged same to be true act and deed of said holder(s).

Given under my hand this the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

My commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

|  |
| --- |
|  |
| Notary Public |

*[Insert Name of Holder]*

|  |  |
| --- | --- |
| Printed Name: | [Insert Name] |
| Title: | [Insert Title] |

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Signature |  | Date |

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a Notary Public in and for the County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby certify that the holder(s) whose name is/names are signed above, this day executed this document in my presence or this day acknowledged same to be true act and deed of said holder(s).

Given under my hand this the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

My commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

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| --- |
|  |
| Notary Public |

**West Virginia Department of Environmental Protection**

|  |  |
| --- | --- |
| Printed Name: | Robert Rice |
| Title: | Director, Division of Land Restoration |

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Signature |  | Date |

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a Notary Public in and for the County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby certify that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, whose name is signed above as the representative of the agency, this day executed this document in my presence or this day acknowledged same to be true act and deed of said holder(s).

Given under my hand this the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

My commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

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|  |
| Notary Public |

The Clerk will return the recorded document to:

Office of Environmental Remediation

West Virginia Department of Environmental Protection

601 57th Street SE

Charleston, WV 25304