

January 26, 2018

**VIA U.S. MAIL & EMAIL**

Rheem Manufacturing Company  
c/o Mr. Gregory Henry  
1100 Abernathy Road, NE, Suite 1400  
Atlanta, GA 30328

Re: VRP Semi-Annual Progress Report #05 dated June 10, 2016  
VRP Semi-Annual Progress Report #06 dated November 30, 2016  
VRP Semi-Annual Progress Report #07 dated June 7, 2017  
VRP Semi-Annual Progress Report #08 dated November 30, 2017  
Rheem Manufacturing Company Site  
138 Roberson Mill Road, Baldwin County, Milledgeville, Georgia  
Tax Parcel ID#: M52-001

Dear Mr. Henry:

The Georgia Environmental Protection Division (EPD) has reviewed the referenced Voluntary Remediation Program (VRP) Progress Reports, that were submitted by Environmental Planning Specialists, Inc. (EPS), on behalf of Rheem Manufacturing Company (Rheem), pursuant to the Georgia Voluntary Remediation Program Act (the Act) O.C.G.A. 12-8-100, *et. seq.* and Consent Order EPD-VRP-007. Based on the review of the above referenced reports and the discussions during the January 24, 2018 meeting between EPD and site representatives, EPD has the following comments, which should be addressed in accordance with the Act:

1. According to Section 4.4 of the *June 2016 Progress Report*, MW-47 is proposed as a Point of Demonstration (POD) well and MW-36 is proposed as the Point of Exposure (POE). Based on the discussions held during the above referenced meeting, EPD requests that MW-34 be established as the POD well. In addition, EPD recommends that groundwater modeling data and empirical data be used to support future conclusions that the groundwater POE (MW-36) and the groundwater to surface water POE (pond adjacent to MW-36) have not and will not be impacted in the future.
2. According to the most recent data, deep well MW-3B shows that the concentration of TCE in the source area is 1,600 ug/l at approximately 200 feet below ground surface (bgs). In addition, the data presented in the November 2016 report indicates a concentration of 120,000 ug/l TCE in MW-3A, which was installed to a depth of 135 feet bgs. Based on this groundwater data within the source area, vertical delineation in accordance with the Act and the referenced Consent Order is not complete. However, EPD understands that the ongoing remediation activities for groundwater are focused on the residual DNAPL within this source area, and that further groundwater monitoring data may potentially represent a reduction in the overall concentration trends in the source area. Based on the discussions held during the above referenced meeting, EPD has agreed to defer our final determination regarding compliance with the vertical

delineation requirements until the completion of the in-situ bioremediation and further groundwater assessment activities.

3. Based on the discussions held during the above referenced meeting, in-situ bioremediation is in the beginning stages of implementation for groundwater TCE mass reduction in the Release Area Zone and the Plume Zone. Regarding the bioremediation remedy, please address the following:
  - a.) Please establish the remedial action objective for groundwater and provide the target VOC concentrations to be achieved after execution of the remedy. In addition, please provide the estimated timeframe to achieve the remedial target concentrations.
  - b.) Please provide an estimate of the quantity of injections that will be needed to achieve the target groundwater concentrations.
  - c.) TCE concentrations in nearby wells range from 120,000 ug/l in MW-3A at a depth of 135 feet bgs to 1,600 ug/l in MW-3B at a depth of 209 feet bgs. Please provide additional information regarding the design strategy for the bioremediation remedy, including an explanation of why the injections did not encompass the maximum depths that contamination was detected within the Release Area and Plume Zones.
4. Please ensure that the final comprehensive groundwater monitoring event that will be used for the final compliance certification is conducted in accordance with EPA's approved standard sampling techniques.
5. Per Comment #4 of EPD's December 14, 2015 letter to Rheem and Consent Order EPD-VRP-007, note that within 6 months of discovery, impacted parcels should be added to the VRP application as qualifying properties or EPD must be notified of the properties non-qualifying status. As part of the final VRP CSR, please explain the reasoning for not incorporating any downgradient affected properties as qualifying properties.
6. Although the concentrations of chlorinated VOCs in off-property soil gas samples were deemed to be minimal, Section 3.2.2.3 of the *June 2017 Progress Report* indicates low levels of BTEX compounds detected in many of the off-property soil gas samples. The BTEX compounds were attributed to a documented petroleum product release from a nearby gas station. As part of the final VRP CSR, please provide the documentation associated with the release, if available, including the extent of the BTEX plume and its proximity to the Rheem chlorinated solvent plume.
7. EPD requests that the draft Uniform Environmental Covenant (UEC) referenced in Section 6.1.5 of Progress Report #5 be submitted along with the next progress report so that review of the document can be initiated. EPD's new draft UEC template is attached for your reference. At a minimum, the UEC should include the following activity and use limitations:
  - a.) A requirement to implement a monitoring and maintenance plan, which should include the activities necessary to maintain the operation of engineering controls [sub-slab depressurization (SSD) system] related to onsite vapor intrusion mitigation.

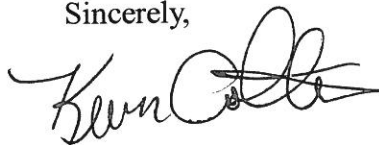
- b.) Should future land use change and/or onsite structures be modified or developed in areas on the property overlying groundwater and/or soil contamination, additional vapor intrusion assessments may be completed at that time to determine the need for any additional engineering controls and/or preconstruction mitigation.
8. Groundwater flow for off-property wells presented in Figure 3 of each of the progress reports appears to be consistent; however, EPD requests that a potentiometric surface map be included in future progress reports to include groundwater elevation data from on-site wells in order to present a more comprehensive illustration of groundwater flow from the source area to the downgradient wells.
9. EPD concurs with the decommissioning of the pump and treat recovery wells and the Accelerated Remediation Technology (ART) wells, which was requested during the above referenced meeting. Please provide justification for decommissioning the wells in the next progress report.
10. It was noted during the above referenced meeting that the SVE system onsite has been shut down and that no further soil remediation is planned. Please collect and analyze soil samples throughout the source area in order to evaluate the performance of the SVE remedy and to determine the final compliance status for onsite soils.
11. Section 3.3.3.2.2 of the *June 2017 Progress Report* discusses the sub-slab soil gas sampling effort in which only 20 of the previously installed sub-slab soil gas probe locations were sampled during the December 2016 event as opposed to the 47 probes sampled during the background sampling event conducted in 2014. EPD is agreeable to the collection of 20 samples, but recommends that the sample locations be located such that the results can be compared to previous results. EPD requests that the follow-up sampling event include all of the baseline locations in order to establish the trend of TCE reductions underneath the footprint of the building.
12. Please ensure that the final VRP CSR includes a comparison of off-site soil gas results to residential use criteria to address all potential off-property land use scenarios.
13. **Risk Assessment Comments:** EPD concurs with the Risk Reduction Standards (RRS) proposed in Section 5 and Appendix F of the *June 2016 Progress Report* and the Off-Property VI Risk Evaluation presented in the *June 2016 Progress Report*, with the following stipulations:
  - a.) 1,2-Dichloropropane – Please note that the toxicity factors for this regulated substance has been updated since the submittal of this document. Please refer to the most current Regional Screening Level (RSL) Table (updated June 2017) for the updated toxicity factors. Please note that this impacts the Risk Assessment Guidance for Superfund (RAGS) equation results and the soil and groundwater RRS for 1,2-Dichloropropane. Please revise accordingly.
  - b.) Table 5 – It is unclear why Table 5 lists the nonresidential surface soil RRS for only a sub-set of all the detected regulated substances at the site. Please provide the full summary of the nonresidential RRS (surface/subsurface) for the substances consistent with Table N in Appendix F. In addition, please provide all of the ProUCL input and output files for trichloroethylene (TCE) for verification of the 95% UCL values.

- c.) Vapor Intrusion – Please note that EPD’s preference is to initially screen the non-cancer endpoint at an HQ of 0.1 to account for potential additive effects. Further refinement of the constituents of interest can then be made using an HQ of 1. In addition, please provide a table comparing the maximum detected concentrations for groundwater and sub-slab soil gas to the media-specific Vapor Intrusion Screening Levels (VISLs) for review.

The above comments must be addressed to EPD’s satisfaction in order to demonstrate compliance with the provisions, purposes, standards, and policies of the Act. EPD may, at its sole discretion, review and comment on documents submitted by Rheem. However, failure of EPD to respond to a submittal within any timeframe does not relieve Rheem complying with the provisions, purposes, standards, and policies of the Act.

EPD anticipates receipt of the next Semi-Annual Progress Report by May 31, 2018. Should you have any question or concerns regarding this submittal, please contact Mr. Robert Marbury, P.G. of the Response and Remediation Program at (404) 463-7507.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Collins", with a stylized flourish at the end.

Kevin Collins  
Response Development Unit Manager  
Response and Remediation Program

Attachment: Uniform Environmental Covenant Template & Guidance

cc: Andrea Rimer – Troutman Sanders (via email)  
Justin Vickery – EPS, Inc. (via email)  
File: 213-0019 (#189-VRP)

After Recording Return to:  
<Grantor Contact Information>  
<Name of Natural Person>  
<Address>

CROSS-REFERENCE:  
County: \_\_\_\_\_  
Deed Book: \_\_\_\_\_  
Page(s): \_\_\_\_\_

## **Environmental Covenant**

This instrument is an Environmental Covenant executed pursuant to the Georgia Uniform Environmental Covenants Act, O.C.G.A. § 44-16-1 *et seq.*, as may be amended from time to time (hereinafter "Act"). This Environmental Covenant is entered into by the entities <and individuals> executing this Environmental Covenant and subjects the property identified below to the activity and/or use limitations and other requirements. This Environmental Covenant further grants such other rights in favor of EPD and <name of Grantee(s)/Holder(s)> as set forth herein.

**Fee Simple Owner(s)/Grantor(s):** <Company or Individual's Name>  
<Mailing address>

**Grantee/Holder with the power to enforce:** <Company or Individual's Name>  
<Mailing address>

**Grantee/Entity with express power to enforce:** State of Georgia  
Department of Natural Resources  
Environmental Protection Division  
<Address of Director's Office:  
2 Martin Luther King Jr. Drive, SE  
Suite 1456 East Tower  
Atlanta, GA 30334>

**<if necessary Persons with Interests other than Fee Simple:>** <Company or Individual's Name>  
<Mailing address>

### **Property Subject**

The property subject to this Environmental Covenant is a tract of approximately \_\_\_\_\_ acres of real property located at <street address>, <city>, <county name> County, Georgia, which is further identified by the tax parcel ID number(s) below (hereinafter "Property"). The Property was conveyed on <date(s)> to <name(s)> of



Fee Simple Owner(s)/Grantor(s)>; such conveyance is recorded in Deed Book \_\_\_, Page \_\_\_, of the <county name> County deed records. The Property is located in Land Lot \_\_\_\_\_ of the \_\_\_th District of <county name> County, Georgia.

The tax parcel(s) of the Property <is/are> <tax parcel ID number> of <county name> County, Georgia.

A legal description of the Property is attached as Exhibit A and a map of the Property is attached as Exhibit B.

*<if the entirety of the Property will not be subject to activity/use limitations, subject to EPD approval, The Restricted Use Zone ("RUZ") at the Property that will be subject to the activity and use limitations described herein is an approximately \_\_\_ acres lying entirely within the Property. A survey performed by a licensed surveyor showing the Property and the RUZ is attached as Exhibit B1.>*

### **Environmental Covenant Runs with the Land and is Perpetual**

Pursuant to the Act, this Environmental Covenant shall run with the land and shall be perpetual unless terminated or amended pursuant to terms herein or in accordance with provisions of the Act. This Environmental Covenant shall be binding upon <name(s) of Fee Simple Owner(s)/Grantor(s)>, <name(s) of Grantee(s)/Holder(s)>, <name(s) of party/ties with interests other than fee simple signing this Environmental Covenant>, and all successors, assigns and transferees of any interest in the Property or any portion thereof.

### **Administrative Records**

This Environmental Covenant imposes activity and/or use limitations and other requirements on the Property that arise under corrective action performed and/or being performed at the <name> facility/site. Records pertaining to this corrective action are available at the following EPD location(s):

Georgia Environmental Protection Division

<branch/program name and address>

Monday-Friday 8:00 AM to 4:30 PM, excluding state holidays

*<for HSI sites Notice: This Property <or A portion of this Property or This Property is a portion of a tract that> has been listed on the State's Hazardous Site*

Inventory at HSI # \_\_\_\_\_ and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Contact the Property owner or the Georgia Environmental Protection Division for further information concerning this Property. This notice is provided in compliance with the Georgia Hazardous Site Response Act.

**Activity and Use Limitations.** The Property <or RUZ or specify below which apply to the Property and which to the RUZ> is subject to the following activity and/or use limitations:

- A. Real Property.
- B. Groundwater.
- C. Interference with Remedy.
- D. <Other>.

**Other Requirements.** The Property is subject to the following additional requirements.

- A. Notice of Limitations and Requirements in Future Conveyances. Each instrument hereafter conveying any interest in the Property or any portion thereof that may affect the activity and use limitations described herein shall include a statement that the Property is subject to this Environmental Covenant (and any amendments thereto), the location (County, Deed Book and Page) in the deed records where this Environmental Covenant (and any amendments thereto) is recorded and a copy of this Environmental Covenant (and any amendments thereto).
- B. Notice to EPD of Future Conveyances. Within thirty (30) days after each conveyance of a fee simple interest in the Property or any portion thereof, a notice shall be sent to EPD and <name(s) of Grantee(s)/Holder(s)>. The notice shall include the new owner's name, address, telephone number and other pertinent contact information, the date of the conveyance and the location (County, Deed Book and Page) where the conveyance is recorded, and, if the conveyance is a portion of the Property, a survey map showing the boundaries of the real property conveyed.
- C. Notice of Change of Use. If such activity will materially affect any required monitoring or maintenance of any institutional or engineering controls described herein, the owner of the Property must provide to EPD thirty (30) days' advance written notice of the owner's intent to

change the use of the Property, to apply for a building permit for construction at the Property, or to perform any site work.

D. <Other>.

### **Environmental Covenant Does Not Authorize Use Otherwise Prohibited**

Pursuant to the Act, this Environmental Covenant shall not be construed to authorize a use of the Property that is otherwise prohibited by zoning, ordinance, local law or general law or by a recorded instrument that has priority over this Environmental Covenant.

### **Rights of Access and Enforcement**

Authorized representatives of EPD and <name(s) of Grantee(s)/Holder(s)> shall have the right to enter the Property at reasonable times in connection with implementation, compliance, or enforcement of this Environmental Covenant, including but not limited to the right to conduct inspections, examine related records, or to take samples.

This Environmental Covenant shall be enforceable by EPD, <name(s) of Grantee(s)/Holder(s)> and other parties as provided in the Act. Such rights of access and enforcement herein shall not limit EPD's authority under other applicable law.

### **No Interest in Real Property in EPD**

EPD's rights under this Environmental Covenant and the Act shall not be considered an interest in real property.

### **Recording of Environmental Covenant and Service on Other Persons**

Within thirty (30) days after execution of this Environmental Covenant by the Director of EPD, <name(s) of Grantor(s)> shall record the Environmental Covenant in every county in which any portion of the Property is located in accordance with the law governing the recording and priority of interests in real property. Upon recording of the Environmental Covenant, <name(s) of Grantor(s)> shall provide in a manner deemed acceptable by EPD a copy of the executed, recorded Environmental Covenant to each of the persons or entities identified in O.C.G.A. § 44-16-7.



**Representations and Warranties by Grantor(s).** <Name(s) of Grantor(s)> represents and warrants that all of the following are true and correct<if necessary except as disclosed on the Disclosures to this Environmental Covenant attached hereto at Exhibit C>:

- A. <Name(s) of Grantor(s)> holds fee simple title to the Property.
- B. <Name(s) of Grantor(s)> has the authority to enter into this Environmental Covenant, has the authority to grant any rights granted by it within, has the ability to carry out the obligations described within and, based upon information and belief after reasonable inquiry, does not know of any anticipated material change in the practices, ownership, or authority of <Name(s) of Grantor(s)> that will alter this representation and warranty.
- C. The execution and delivery of this Environmental Covenant and carrying out the obligations described within will not conflict with any of the provisions of the organizational documents, operating agreement of <Name(s) of Grantor(s)> nor will it violate, contravene and/or constitute a breach or default under any agreement, contract, order or instrument to which <Name(s) of Grantor(s)> is a party or by which <Name(s) of Grantor(s)> may be bound.
- D. [CHOOSE ONE:  
There are no persons with existing interests other than fee simple in the Property;  
OR  
<Name(s) of Grantor(s)> has identified all persons with existing interests other than fee simple in the Property and has determined the type and status of their interests; for those interests where the type and/or status make it necessary, the person's agreement to and signature on this Environmental Covenant or subordination of the interest has been obtained; and the aforementioned information regarding all interests other than fee simple in the Property has been provided to EPD;]
- E. This Environmental Covenant does not authorize a use of the Property that is otherwise prohibited by zoning, ordinance, local law or general law or by a recorded instrument that has priority over this Environmental Covenant.
- F. At least thirty (30) days prior to presenting this Environmental Covenant to EPD for execution, <Name(s) of Grantor(s)> served a copy of the proposed final text of this Environmental Covenant on all persons or entities required to be noticed in accordance with O.C.G.A. § 44-16-7.

## **Submission of Required Documents and Communications**

Documents and communications required by this Environmental Covenant shall be submitted to:

Georgia Environmental Protection Division  
Branch Chief  
Land Protection Branch  
2 Martin Luther King Jr. Drive SE  
Suite 1054 East Tower  
Atlanta, GA 30334

With a copy to:

<name(s) and mailing address(es) of Grantee(s)/Holder(s)>

## **EPD's Environmental Covenants Registry**

This Environmental Covenant and any amendment thereto or termination thereof may be included in EPD's registry for environmental covenants.

## **Severability**

Should any provision of this Environmental Covenant be found by a court of competent jurisdiction to be invalid and/or unenforceable in any respect, the remaining provisions shall continue in full force and effect.

## **Effective Date**

This Environmental Covenant shall be effective on the date the fully executed Environmental Covenant is recorded in accordance with O.C.G.A. § 44-16-8(a).

Grantor

[use signature block executed, witnessed, and notarized in accordance with all requirements specified in the Act and any and all other applicable federal, state, or local laws]

Sample signature block, to be amended or updated in accordance with all applicable requirements:

[Name of Grantor]

\_\_\_\_\_  
(Signature)

Signed in the presence of:

[Name of Authorized  
Representative]

[Title of Authorized Representative]

\_\_\_\_\_  
Unofficial Witness (signature)

Unofficial Witness (print name)

State of [Name]  
County of [Name]

This instrument was acknowledged  
before me this \_\_\_\_ day of \_\_\_\_\_ ,  
20\_\_, by [Name].

☐ Personally Known  
☐ Produced Identification

\_\_\_\_\_  
Notary Public (Signature)

My Commission Expires:

(NOTARY SEAL) \_\_\_\_\_

Grantee

[use signature block executed, witnesses, and notarized in accordance with all requirements specified in the Act and any and all other applicable federal, state, or local laws]

Sample signature block, to be amended or updated in accordance with all applicable requirements:

[Name of Grantee]

\_\_\_\_\_  
(Signature)

Signed in the presence of:

[Name of Authorized Representative]

[Title of Authorized Representative]

\_\_\_\_\_  
Unofficial Witness (signature)

Unofficial Witness (print name)

State of [Name]  
County of [Name]

This instrument was acknowledged  
before me this \_\_\_\_ day of \_\_\_\_\_ ,  
20\_\_, by [Name].

☐ Personally Known  
☐ Produced Identification

\_\_\_\_\_  
Notary Public (Signature)

My Commission Expires:

(NOTARY SEAL) \_\_\_\_\_

[if necessary Persons with Interests other than Fee Simple]

[use signature block executed, witnesses, and notarized in accordance with all requirements specified in the Act and any and all other applicable federal, state, or local laws]

Sample signature block, to be amended or updated in accordance with all applicable requirements:

[Name of Entity]

\_\_\_\_\_  
(Signature)

Signed in the presence of:

[Name of Authorized  
Representative]

[Title of Authorized Representative]

\_\_\_\_\_  
Unofficial Witness (signature)

Unofficial Witness (print name)

State of [Name]  
County of [Name]

This instrument was acknowledged  
before me this \_\_\_\_ day of \_\_\_\_\_ ,  
20\_\_, by [Name].

☐ Personally Known  
☐ Produced Identification

\_\_\_\_\_  
Notary Public (Signature)

My Commission Expires:

(NOTARY SEAL) \_\_\_\_\_



For the Environmental Protection Division, Department of Natural Resources,  
State of Georgia, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_:

\_\_\_\_\_  
(Signature)

Signed in the presence of:

[Name]  
Director, Environmental Protection  
Division

\_\_\_\_\_  
Unofficial Witness (signature)

Unofficial Witness (print name)

State of Georgia  
County of Fulton

This instrument was acknowledged  
before me this \_\_\_\_ day of \_\_\_\_\_ ,  
20\_\_, by [Name].

☐ Personally Known  
☐ Produced Identification

\_\_\_\_\_  
Notary Public (Signature)

My Commission Expires:

(NOTARY SEAL) \_\_\_\_\_

Exhibit A  
Legal Description of Property

Exhibit B  
Map of Property

<if necessary Exhibit B1  
Survey of RUZ>

<if necessary Exhibit C  
Disclosures>



## UNIFORM ENVIRONMENTAL COVENANT GUIDANCE

This guidance describes the Sections of the Environmental Covenant (EC), requirements for each section, and the process for negotiating, executing, and recording the document. If you have questions after reviewing this guidance, please contact the regulatory compliance officer for the site.

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*STEP 1: Identify the appropriate EC template (developed in accordance with the Georgia Uniform Environmental Covenants Act (UECA), O.C.G.A. § 44-16-1 et seq.) on EPD's website and create a draft in accordance with the guidance herein. The draft must include all exhibits and associated supporting documentation, including the Annual Certification Form or Monitoring & Maintenance Plan if applicable.*

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- Changes may not be made to any portion of the EC template without EPD approval. All proposed changes must be sent to EPD in an unsigned draft showing the requested change(s) in redline/blackline or Track Changes format clearly delineating any additions or deletions.

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*STEP 2: Identify all parties with an interest in the property and all parties that will be signing the EC. Note that a title search may be necessary.*

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- The Act dictates which parties are required to sign the Environmental Covenant. These parties are also identified on the first page of the Covenant.
  - Note that the Act requires that people or entities with certain types of interests (e.g., lessee in possession of the Property) or status (e.g., priority over Environmental Covenant) agree to and sign the Environmental Covenant or subordinate their interests. Such persons or entities must be listed in the Environmental Covenant as "Persons with Interests other than Fee Simple."
    - The Grantor(s) must (1) identify all persons with interests other than fee simple in the Property; (2) determine the type and status of those interests; (3) determine whether the type and/or status of a person's interest requires signature or the person's subordination of the interest; and (4) provide that information to EPD before the Environmental Covenant is signed.
  - EPD requires that an entity other than EPD with power and authority to enforce the Covenant be named as Grantee and execute the Covenant. Examples of potential Grantees include parent or subsidiary companies of the fee owner or a local governmental authority.

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*STEP 3: Identify the property(ies)/parcel(s) subject to the EC and determine if separate ECs will be necessary, and/or determine if a "Restricted Use Zone" will need to be established.*

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- **Property Subject**

- If there is more than one Fee Simple Owner/Grantor of the Property, information regarding conveyance of the Property to each Fee Simple Owner/Grantor must be included.
- If only a portion of the Property was subject to corrective action and/or will be subject to all or some of the activity and use restrictions described in the Environmental Covenant, that portion must be identified as the "Restricted Use Zone" ("RUZ").
  - A survey performed by a licensed surveyor, prepared in accordance with the standards specified by the American Land Title Association, must be prepared that shows the RUZ as located within the Property. The survey must be attached to the Environmental Covenant. EPD may also require a legal description of the RUZ.
  - Groundwater use restrictions should apply to the entire Property, and not be placed only on the RUZ unless EPD has given its express approval to do so.
  - EPD reserves the right to review and approve the use of and description of the Restricted Use Zone.

- **Environmental Covenant Runs with the Land and is Perpetual**

- An Environmental Covenant that complies with the provisions of the Georgia Uniform Environmental Covenants Act runs with the land, and is perpetual, unless terminated pursuant to terms in the Covenant or terminated in accordance with provisions of the Act.
- If EPD approves or requires, the Covenant may include an additional termination or amendment provision. Examples of such provisions include:
  - Termination or Amendment. Upon EPD's determination that the Property is in compliance with the Type 1, 2, 3, or 4 Risk Reduction Standards, as defined in Georgia Rules for Hazardous Site Response (Rules), Chapter 391-3-19, a proposal may be made to terminate or amend this Environmental Covenant.
  - (For sites under RCRA) Termination or Amendment. Upon EPD's determination that the Property meets the residential clean-up standards derived in accordance with the Georgia Environmental Protection Division Guidance for Selecting Media Remediation Levels at Solid Waste Management Units, November 1996 (or such applicable updated version of the same), a proposal may be made to terminate or amend this Environmental Covenant.

- **Administrative Records.** The Environmental Covenant must identify the name and location of any administrative record for the environmental response project reflected in the environmental covenant.
- **Notice.** Pursuant to Code Section 12-8-97(b) and Rule 391-3-19-.08(1)(a), the following statement must be included for HSI sites:
  - This Property <or A portion of this Property or this Property is a portion of a tract that> has been listed on the State's Hazardous Site Inventory at HSI # \_\_\_\_\_ and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Contact the Property owner or the Georgia Environmental Protection Division for further information concerning this Property. This notice is provided in compliance with the Georgia Hazardous Site Response Act.
  - A similar description is not currently required by state law for sites undergoing corrective action under other programs and therefore is not necessary. If the Grantor and/or EPD wishes to include a description of contamination and the corrective action conducted for such sites, the parties will agree to that language before the Environmental Covenant is executed.

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*STEP 4: Identify all applicable Activity and Use Limitations.*

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- **Activity and Use Limitations.** The Environmental Covenant must describe the activity and use limitations. Examples of activity and use limitations include, but are not limited to:
  - Real Property (e.g., "The Property shall be used only as non-residential property as defined in Rule 391-3-19-.02(2)(r). Use of the Property as residential property, as defined in Rule 391-3-19-.02(2)(r), is prohibited.").
  - Groundwater (e.g., "The use or extraction of groundwater beneath the Property for drinking water or any other non-remedial purpose is prohibited.").
  - Interference with Remedy (e.g., "Activities on the Property that may interfere with the remedy required by corrective action are prohibited, except for activities for inspection and maintenance, repair and/or replacement of required engineering controls and other proposed activities that have been approved in advance by EPD; approval of such other proposed activities must be requested from EPD in writing at least thirty (30) days prior to the start of such activity. Activities prohibited include, but are not limited to, drilling, digging, bulldozing, earthwork and/or placement of objects and/or equipment on or near the capped area(s) that deforms, stresses, breaks and/or pierces the capped area(s)").

- Monitoring and Maintenance plans (e.g., either attach as an exhibit to the Environmental Covenant a copy of the relevant Monitoring and Maintenance Plan or identify, specifically, where such Plans will be located for the duration of the Environmental Covenant)
- Other (e.g., measures required by corrective action).
- **Other Requirements.** The Environmental Covenant may also contain other agreed upon requirements in addition to the three included in the template. Examples of other requirements include, but are not limited to:
  - Annual certification of compliance. (e.g., “Annually, but not later than January 30 beginning the first January following the effective date of this Environmental Covenant, the owner of the Property must submit a certification stating that the activity and use limitations in this Environmental Covenant are being abided by, accompanied by the site inspection checklist(s) and Annual Property Evaluation Form in the form of those attached to this Environmental Covenant at Exhibits \_\_\_ and \_\_.”)
  - Notification of noncompliance (e.g., requiring written notice to EPD within ten (10) days of discovery of noncompliance with the activity and/or use limitations and/or other requirements herein, including the steps taken or to be taken to correct ).
  - Semi-annual or annual reporting. (e.g., “Semi-annually, but not later than the fifteenth (15<sup>th</sup>) of April, and October, the owner shall submit to EPD a Semi-annual Report <if appropriate – as specified in the EPD approved [NAME OF] Plan> that includes the following information for the previous calendar half: <groundwater detection-monitoring report results, maintenance and inspection activities>”)
  - Permanent markers (e.g., “A sign and a permanent marker shall be installed and maintained at the primary points of entry to the Property specifying the restricted area and its boundaries. Disturbance or removal of such markers is prohibited during the effective term of this Environmental Covenant.”)

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*STEP 5: Once the Draft EC is accepted by EPD, the document will be sent back with tracked changes to the responsible party(s) for signature. Submit the original executed EC to EPD with documentation regarding Representation & Warranties (if requested) and signatories confirming that a copy of the EC has been provided to all parties listed in 44-16-7(a) of the UECA (i.e. certified mail receipt, federal express tracking number, etc.). These parties include: each person that signed the covenant; each person in possession of the real property subject to the covenant; each municipality, county, consolidated government, or other unit of local government in which the property subject to the covenant is located; each owner whose property abuts the property subject to the covenant; and any other person the agency requires. **The Director must wait 30-days from the date that the EC was provided to these parties prior to signing such covenant.***

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- **Rights of Access and Enforcement.** Parties that have a right to enforce the Environmental Covenant are listed in O.C.G.A. § 44-16-11(a).
- **Recording of Environmental Covenant and Service on Other Persons.** This section describes when and how the Environmental Covenant must be recorded and sent to specified individuals or entities.
- **Representations and Warranties of Grantor.**
  - EPD may require that the Grantor provide documentation establishing to EPD's satisfaction that the Grantor's representations and warranties are true and correct.
    - Such documentation could take the form of, for example, a letter from an attorney opining as to the Grantor's representations and warranties, stating the basis for such opinion, and including, as appropriate, citation(s) to law, documentation, etc.
  - In the event that there are specific exclusions to the representations and warranties, they must be enumerated on a schedule of disclosures attached to and incorporated into the Environmental Covenant, subject to EPD's review and approval.
- **EPD's Environmental Covenants Registry.** The Environmental Covenant and any related amendment or termination may be contained in EPD's registry for environmental covenants. *See* O.C.G.A. § 44-16-12.
- **Signature Requirements.** An Environmental Covenant is an interest in real property, and therefore execution must comply with the Act as well as any laws governing conveyance of an interest in real property.
  - Any entity or individual executing the Environmental Covenant must provide documentation establishing to EPD's satisfaction that they possess the authority to do so. For example, a corporation may require a board resolution authorizing execution.
    - Such documentation could take the form of, for example, a letter from an attorney opining as to the same, stating the basis for such opinion, and including, as appropriate, citation(s) to law, documentation, etc.
  - Any individual executing the Environmental Covenant on behalf of a corporation, a partnership, other entity, or another individual must provide documentation establishing to EPD's satisfaction that they possess the authority to do so.
    - Such documentation could take the form of, for example, a letter from an attorney (1) opining that the individuals signing the Environmental Covenant on behalf of a corporation, etc., have the authority to do so; (2) including signature block language for those individuals that the attorney opines



establishes their authority and (3) stating the basis for such opinions, including, as appropriate, citation(s) to law, documentation, etc.

- **Execution Requirements.** The name and address of the natural person to whom the Environmental Covenant is to be returned must be legibly printed, typewritten or stamped upon the top of the first page of the Environmental Covenant. *See* O.C.G.A. § 44-2-14(b). The Environmental Covenant must be an original, in writing, signed by the maker, attested by an officer authorized to attest registerable instruments and attested by one other witness.

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*STEP 6: Within thirty (30) days after the date of the EPD Director's signature, the Owner shall:*

- File the EC with the Recorder of Deeds for the County in which the Property is located.*
- Send a file-stamped copy of the EC to EPD, including a statement confirming that the following step (6c) was completed.*
- Send a file-stamped copy to each of the parties identified in accordance with 44-16-7 of the UECA. Note, the owner may choose to address this requirement by including the following verbiage in the cover letter of the Draft EC that is provided to these identified parties:*

*"Once the covenant is executed and filed, a final copy will be posted on the GA EPD website (<https://epd.georgia.gov/uniform-environmental-covenants>), or can be made available to you upon request from the undersigned."*

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