

April 10, 2018

VIA U.S. MAIL & EMAIL

United Technologies Corporation
c/o Ms. Beth Lang, Remediation Manager
5469 Jacobs Drive
Holly, Michigan 48442

Re: VRP Semi-Annual Progress Report #05/Annual Groundwater Monitoring Report dated
December 28, 2017
Former United Technologies Automotive Site - HSI Site #10543
1884 Warrenton Highway, McDuffie County, Thomson, Georgia
Tax Parcel ID#: 00200056

Dear Ms. Lang:

The Georgia Environmental Protection Division (EPD) has reviewed the referenced Voluntary Remediation Program (VRP) Progress Report (PR), that was submitted by AECOM, on behalf of United Technologies, Corporation (UTC), pursuant to the Georgia Voluntary Remediation Program Act (the Act) O.C.G.A. 12-8-100, *et. seq.* EPD has the following comments, which should be addressed in accordance with the Act:

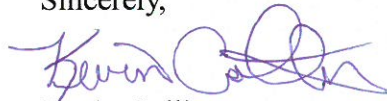
1. EPD understands that AECOM is in the process of evaluating in-situ remedial injections to address exceedances of volatile organic compounds (VOCs). As requested in AECOM's Progress Report #5 transmittal letter, EPD is agreeable to meeting with AECOM and UTC on-site prior to implementation of the remedy to discuss the remedial approach and the path forward for the site. Please propose potential dates and times to convene.
2. In consideration of AECOM's evaluation of in-situ remediation injection options to address exceedances of volatile organic compounds (VOCs) at the west side of the building, EPD concurs with AECOM's request to further defer soil gas-sampling. Upon completion of the remedial action effort, EPD will assess the results using the Vapor Intrusion Screening Level (VISL) Calculator (EPA, June 2017) and discuss an approach for soil gas sampling, if warranted.
3. EPD has reviewed the analytical results from monitoring well M-22 which was recently installed downgradient of the source area. Considering that no COCs were detected in groundwater collected from this well and its closer proximity to the source area, EPD concurs with the request to designate M-22 as one of the POD wells (in lieu of M-13), along with M-3, M-3A, and M-4.
4. EPD has reviewed the analytical results from monitoring well M-23 which was recently installed adjacent to co-located source area wells M-14D/M-17 to assess the vertical extent of TCE contamination. It is noted that no COCs were detected in this well; however, EPD requests that this well be included in future groundwater monitoring events to confirm the vertical delineation, considering intermediate well M-17 continues to demonstrate an increasing TCE trend.

5. It is noted that TCE continues to be reported in monitoring well M-7, which is situated sidegradient of the plume at the property boundary, at concentrations above its RRS. At the conclusion of the in-situ remediation, please ensure that sufficient documentation is provided to support that the groundwater impacts have been delineated to default RRS to the extent technically practicable, in accordance with the VRP Act.
6. EPD requests that the draft Uniform Environmental Covenant (UEC) submitted June 13, 2017, be revised to utilize the new EPD UEC template. A copy of the template is attached along with EPD UEC guidance. These documents can also be accessed via <https://epd.georgia.gov/uniform-environmental-covenants>. In addition, EPD comments on the draft UEC are annotated on the attached document. Note that in addition to the land use restrictions and groundwater use prohibitions included in the draft UEC, activity and land use limitations associated with the vapor intrusion pathway may be necessary, pending the results of the in-situ remedy and any future soil gas investigations.
7. EPD understands that M-1R is currently inaccessible and could not be properly abandoned, and that pending well repairs identified in prior progress reports, will be addressed upon reaching an agreement with the current site owner.

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 UTC. However, failure of EPD to respond to a submittal within any timeframe does not relieve UTC from complying with the provisions, purposes, standards, and policies of the Act.

EPD anticipates receipt of the next Semi-Annual Progress Report by June 30, 2018. Should you have any question or concerns regarding this submittal, please contact David Hayes of the Response and Remediation Program at (404) 657-8672, as he will be the Unit Coordinator managing this site moving forward.

Sincerely,



Kevin Collins
Response Development Unit Manager
Response and Remediation Program

Attachments: UEC Comments
UEC Template and Guidance

cc: Matthew Panciera – AECOM (via email)

File: 210-0019 (HSI#10543 – VRP)

After Recording Return to:
H.P. Pelzer Automotive Systems, Inc.
1175 Crooks Road
Troy, MI 48084
Attn: Lyn Schnepf and Matt Buschbacher

CROSS-REFERENCE:
Deed Book: _____
Page: _____

Comment [REM1]: See current EPD template – Jan 2018.
Style Definition: DocID

Environmental Covenant

This instrument is an Environmental Covenant executed pursuant to the Georgia Uniform Environmental Covenants Act (hereinafter “Act”), O.C.G.A. § 44-16-1, *et seq.* This Environmental Covenant is entered into by H.P. Pelzer Automotive Systems, Inc. and the State of Georgia, Department of Natural Resources, Environmental Protection Division (hereinafter “EPD”) and subjects the property identified below to the activity and/or use limitations and other requirements, and grants such other rights in favor of EPD, United Technologies Corporation, and H.P. Pelzer Automotive Systems, Inc., as set forth herein.

Fee Simple Owner/Grantor: H.P. Pelzer Automotive Systems, Inc.
1175 Crooks Road
Troy, MI 48084

Grantee/Holder with the power to enforce: United Technologies Corporation
10 Farm Springs Road
Farmington, CT 06032

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

Persons with Interests other than Fee Simple:

None

Crestbridge Corporate Trustees Limited

Comment [REM2]: Include address for Crestbridge Corp Trustees Ltd.

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Property Subject

The property subject to this Environmental Covenant is the former United Technologies Automotive site, located on 1884 Warrenton Highway in Thomson, McDuffie County, Georgia (hereinafter "Property"). This tract of land was conveyed on July 3, 1997 from United Technologies Automotive Systems, Inc. to H.P. Pelzer (Automotive Systems), Inc. recorded in Deed Book 212, Pages 237-238, McDuffie County Records. The Property is located in Land Lot _____ of the 134th and 152nd Districts of McDuffie County, Georgia. The property is 36.57 acres in size less and except 0.144 acres conveyed to McDuffie County, Georgia on January 6, 1999. A complete legal description of the Property is attached as Exhibit A and a map of the Property is attached as Exhibit B.

Comment [REM3]: See current template for language changes.

Tax Parcel ID Number: 00200056 of McDuffie County, Georgia

Environmental Covenant Runs with the Land and is Perpetual

Pursuant to O.C. G.A. §§ 44-16-5(a) and 44-16-9(a), 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 in the Act. Thus, this Environmental Covenant shall be binding upon H.P. Pelzer Automotive Systems, Inc., and all successors, assigns and transferees of any interest in the Property or any portion thereof.

Comment [REM4]: See current template for language changes.

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 United Technologies site, Hazardous Site Inventory No. 10543. Records pertaining to this corrective action are available at the following location(s):

Georgia Environmental Protection Division
Response and Remediation Program
2 MLK Jr. Drive, SE, Suite 1054 East Tower
Atlanta, GA 30334
M-F 8:00 AM to 4:30 PM excluding state holidays

[United Technologies Corporation](#)

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9 Farm Springs Road
Farmington, CT 06032
Attn.: Director Remediation Programs

H.P. Pelzer Automotive Systems, Inc.
1175 Crooks Road
Troy, MI 48084
Attn.: Lyn Schnepf and Matt Buschbacher

The property has been listed on the state's hazardous site inventory 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~~ United Technologies Corporation 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.

This Environmental Covenant is required because a release of benzene, ethylbenzene, isopropylbenzene, n-propylbenzene, toluene, vinyl chloride, 1,1-dichloroethane, 1,1-dichloroethene, cis-1,2-dichloroethene, naphthalene, 1,1,1-trichloroethane and trichloroethene ~~to groundwater and 1,1 dichloroethene~~ to soil and/or groundwater occurred on the Property. The aforementioned constituents are listed as “regulated substances” as defined under the Georgia Hazardous Site Response Act, O.C.G.A. § 12-8-90 *et seq.*, and the rules promulgated thereunder (hereinafter “HSRA” and “Rules”, respectively). Type 1 Risk Reduction Standards for regulated substances released into soil at the Property have been met. All regulated substances released to groundwater at the Property are compliant with Type 4 Risk Reduction Standards with the exception of 1,1-dichloroethene, cis-1,2-dichloroethene, trichloroethene, and vinyl chloride. The Corrective Action consisted of groundwater monitoring, and establishment of institutional controls prohibiting the use or extraction of groundwater at the Property to protect human health and the environment.

Activity and Use Limitations and Other Requirements Arising under Corrective Action

The Property is subject to the following activity and/or use limitations and other requirements arising under the corrective action:

Use Limitations

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Comment [REM5]: COCs that historically exceeded Type 4 are listed, but it is noted that PR#5 indicates TCE is the only COC that currently exceeds Type 4 RRS.

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Real Property

The Property shall be used only for non-residential uses, as defined in Section 391-3-19-.02 of the Rules as of the date of this Environmental Covenant. Any residential use on the Property shall be prohibited. Any activity on the Property that may result in the release or exposure to the regulated substances that were contained as part of the Corrective Action, or create a new exposure pathway, is prohibited.

Groundwater

The use or extraction of groundwater beneath the Property for drinking water or for any other non-remedial purposes shall be prohibited.

~~Other Vapor Intrusion Mitigation.~~ Should future land use change and structures are developed in areas on the property overlying groundwater contamination, additional assessment of the vapor intrusion exposure pathway shall be conducted and the need for engineering controls and/or preconstruction mitigation to address potential vapor intrusion risk shall be evaluated.

Comment [REM6]: Only include if groundwater contamination remains upon completion of groundwater remediation activities.
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N/A

Other Requirements

Periodic Reporting

Annually, by no later than July 30 following the effective date of this Environmental Covenant, the Owner shall submit to EPD an Annual Report in the format attached hereto as Exhibit C, stating whether or not the activity and use limitations in this Environmental Covenant are being abided by.

Comment [REM7]: Exhibit C template attached for reference.

Notice of Limitations and Requirements in Future Conveyances

Each instrument hereafter conveying any interest in the Property (or any portion thereof) shall include a statement that the Property is subject to this Environmental Covenant, a copy of the Environmental Covenant and the location in the Deed Records where this Environmental Covenant is recorded.

Comment [REM8]: Under 'Other Requirements' of the new template.
See current template for new language.
See current template for 'Notice to EPD of Future Conveyances' and 'Notice of Change of Use' language

Pursuant to O.C.G.A. § 44-16-6, 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.

Comment [REM9]: See current template for minor language change.

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Rights of Access and Enforcement

Authorized representatives of EPD, United Technologies Corporation and/or H.P. Pelzer Automotive Systems, Inc. shall have the right to enter the Property at reasonable times in connection with implementation, compliance and/or enforcement of this Environmental Covenant. This Environmental Covenant shall be enforceable by EPD, United Technologies Corporation, H.P. Pelzer Automotive Systems, Inc. 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.

Comment [REM10]: See current template for language change.

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, H.P. Pelzer Automotive Systems, Inc. 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. Within thirty (30) days after recording of the Environmental Covenant, H.P. Pelzer Automotive Systems, Inc. shall send a stamped copy of the recorded Environmental Covenant to EPD and to each of the following: (1) ~~H.P. Pelzer Automotive Systems, Inc.~~ United Technologies Corporation (2) each person holding a recorded interest in the Property; (3) each person in possession of the Property; (4) each municipality, county, consolidated government, or other unit of local government in which the Property is located; and (5) each owner in fee simple whose property abuts the Property.

Comment [REM11]: See current template for language change.

Representations and Warranties by Grantor

Grantor represents and warrants that:

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- 1) H.P. Pelzer Automotive Systems, Inc. has the authority and power to enter into this Environmental Covenant, to carry out all obligations hereunder and to grant the rights provided herein;
- 2) H.P. Pelzer Automotive Systems, Inc. is the sole owner of the Property and holds fee simple title;
- 3) All persons with existing interests other than fee simple in the Property have been identified; the type and status of their interests have been determined; for those interests where the type and/or status make it necessary, the person's agreement to 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;
- 4) 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;
- 5) This Environmental Covenant does not violate, contravene and/or constitute a breach or default under any agreement, contract, order or instrument to which ~~Grantor H.P. Pelzer Automotive Systems, Inc.~~ is a party or by which ~~Grantor H.P. Pelzer Automotive Systems, Inc.~~ may be bound; and
- 6) At least thirty (30) days prior to presenting this Environmental Covenant to EPD for execution, a copy of the proposed final text of this Environmental Covenant has been served on ~~H.P. Pelzer Automotive Systems, Inc. United Technologies Corporation~~; each person holding a recorded interest in the Property; each person in possession of the Property; each municipality, county, consolidated government, or other unit of local government in which the Property is located; and each owner in fee simple whose property abuts the Property.

Comment [REM12]: See current template for language change. (see template pg 5 para B)

Comment [REM13]: See current template for language change. A

Comment [REM14]: See current template for language change. D

Comment [REM15]: No change. E

Comment [REM16]: See current template for language change. C

Comment [REM17]: See current template for language change. F

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:

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United Technologies Corporation
9 Farm Springs Road
Farmington, CT 06032
Attn.: Director Remediation Programs

and

H.P. Pelzer Automotive Systems, Inc.
1175 Crooks Road
Troy, MI 48084
Attn: Lyn Schnepf and Matt Buschbacher

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 competence 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).

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Grantor has caused this Environmental Covenant to be executed pursuant to the Georgia Uniform Environmental Covenants Act on the ____ day of _____, 20__.

Comment [REM18]: See changes in signature blocks.

Signed, sealed, and delivered in the presence of:

For the Grantor:

Unofficial Witness (*Signature*)

Name of Grantor (*Print*)

Unofficial Witness Name (*Print*)

Grantor's Authorized Representative (*Signature*) (Seal)

Unofficial Witness Address (*Print*)

Authorized Representative Name (*Print*)

Unofficial Witness Address (*Print*)

Title of Authorized Representative (*Print*)

Notary Public (*Signature*)

Dated: _____
(NOTARY SEAL)

My Commission Expires: _____

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Grantee has caused this Environmental Covenant to be executed pursuant to the Georgia Uniform Environmental Covenants Act on the ____ day of _____, 20__.

| Signed, sealed, and delivered in the presence of:

For the Grantee Holder:

Unofficial Witness (*Signature*)

Name of Grantee (*Print*)

Unofficial Witness Name (*Print*)

Grantee's Authorized Representative (*Signature*) (Seal)

Unofficial Witness Address (*Print*)

Authorized Representative Name (*Print*)

Notary Public (*Signature*)

Title of Authorized Representative (*Print*)

My Commission Expires: _____

Dated: _____
(NOTARY SEAL)

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Signed, sealed, and delivered in the presence of:

**For the State of Georgia
Environmental Protection
Division:**

(Seal)

Unofficial Witness (*Signature*)

(*Signature*)
Richard Dunn

Unofficial Witness Name (*Print*)

Director

Dated: _____

Unofficial Witness Address (*Print*)

(NOTARY SEAL)

Notary Public (*Signature*)

My Commission
Expires:

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Exhibit A
Legal Description

All that tract or parcel of land, with improvements thereon, situate, lying and being in the 134th and 152nd Districts G.M. of McDuffie County, Georgia, containing 36.57 acres and being more fully described as follows: Beginning at a concrete monument located at the intersection of the northern edge of the right-of-way of U.S. Highway 278 with the western edge of the right-of-way of Wire Road and from said point proceeding South 46 degrees 28 minutes 20 seconds West along the northern edge of the right-of-way of U.S. Highway 278 for a distance of 962.66 feet to a concrete monument; thence proceeding South 84 degrees 5 minutes 47 seconds West for a distance of 45.84 feet to a point; thence proceeding North 43 degrees 31 minutes 11 seconds West for a distance of 563.25 feet to a one inch pipe; thence proceeding North 38 degrees 58 minutes 1 seconds West for a distance of 360.80 feet to a point; thence proceeding north 10 degrees 21 minutes 11 seconds West for a distance of 98.40 feet to a point; thence proceeding North 43 degrees 22 minutes 51 seconds West for a distance of 1162.87 feet to a point; around a curve to the left through a central angle of 52 degrees 5 minutes 33 seconds an arc distance of 434.11 feet a chord bearing of North 71 degrees 02 minutes 06 seconds West a distance of 419.31 feet to a concrete monument; thence proceeding North 70 degrees 32 minutes 9 seconds East for a distance of 46.00 feet to a point; thence proceeding North 19 degrees 27 minutes 51 seconds West for a distance of 20.00 feet to a point at the Georgia Railroad right-of-way; thence proceeding North 70 degrees 32 minutes 9 seconds East along the right-of-way line of Georgia Railroad 404.20 feet to a point; thence proceeding South 46 degrees 53 minutes 11 seconds East for a distance of 996.16 feet to a point; thence proceeding North 71 degrees 2 minutes 59 seconds East for a distance of 375.98 feet to a point; thence proceeding North 70 degrees 26 minutes 41 seconds East for a distance of 148.57 feet to a point; thence proceeding North 70 degrees 26 minutes 39 seconds East for a distance of 181.65 feet to a point located at the western edge of the right-of-way of Wire Road; thence proceeding South 46 degrees 23 minutes 31 seconds East along the western edge of the right-of-way of Wire Road for a 679.11 feet to a point; thence proceeding South 43 degrees 44 minutes 8 seconds West along the right-of-way of Wire Road for a distance of 20 feet to a point; thence proceeding South 45 degrees 54 minutes 29 seconds East along the western edge of the right-of-way of Wire Road for a distance of 337.85 feet to a point; thence proceeding South 20 degrees 50 minutes 45 seconds East along the western edge of the right-of-way of Wire Road for a distance of 109.42 feet to the point of beginning. Said property is bounded: On the West by property of Shaw; on the North by Georgia Railroad; on the East by property of Mrs. Minnie Owens and Wire Road; and on the South by U.S. Highway 278, all as shown according to Plat of Survey thereof prepared by John A. McGill, R.L.S. No. 1753 dated July 2, 1997, copy of which is recorded in Plat Record S, Page 373M in the office of the Clerk of Superior Court of McDuffie County, Georgia.

Less and Except 0.144 acres conveyed to McDuffie County, Georgia at Rural Post Roads Right of Way Deed from H.P. Pelzer (Automotive Systems), Inc. dated January 6, 1999, filed January 8, 1999 and recorded in Deed Book 233, Page 473, McDuffie County, Georgia records.

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Exhibit B
Map

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Exhibit C
Annual Property Evaluation Form

United Technologies, HSI Site No. 10543

TYPE	No.	CRITERIA RESPONSE	YES	NO
Land Use	1	Does this former HSRA site meet the definition of non-residential property as defined in HSRA Rule 391-3-19.02(2)? “Non-residential property means any property or portion of a property not currently being used for human habitation or for other purposes with a similar potential for human exposure, at which activities have been or are being conducted that can be categorized in one of the 1987 Standard Industrial Classification major group...”		
	1a	If no to 1, provide a written explanation (attached) to the EPD within 30 days.		
Exposure	2	Have the conditions of the site property and/or surrounding properties been modified such that they would change the exposure determinations pursuant to the Voluntary Remediation Program Compliance Status Report?		
	2a	If yes to 2 provide a written explanation (attached) to EPD within 30 days.		
Exposure	3	Is there any use or extraction of groundwater from beneath the Property for drinking water or for any other non-remedial purpose?		
	3a	If yes to 3, provide a written explanation (attached) to EPD within 30 days.		
Property Instruments	4	Do all leases or other property instruments for the site have the applicable deed notice language inserted into them?		
	4a	If no to 4, provide a written explanation (attached) to the EPD within 30 days.		
Inspection	5	Date of inspection:		
	5a	Name of inspector:		
	5b	Photographs showing current land use (attached)		

Certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NAME (Please type or print)

TITLE

SIGNATURE

DATE

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 # [REDACTED] 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.

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.

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.

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.

- **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 # [redacted] 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.

STEP 4: Identify all applicable Activity and Use Limitations.

- **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 [redacted] and [redacted].”)
 - 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 (15th) 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.”)

*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.***

- **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.

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.”
