### Attachment 3A: Declaration of Restrictive Covenant, Form A – Any Section of DRC Encumbers the Entire Property

*{{***FORM *A:*** *THIS FORM SHOULD BE USED IF* ***ANY SECTION OF THE DRC ENCUMBERS THE ENTIRE PROPERTY*** *OF GRANTOR.}}*

This instrument prepared by:

*{{name, company & full mailing*

*address of NON-DEP person*

*who prepared covenant – typically the real property*

*owner or attorney}}*

**DECLARATION OF RESTRICTIVE COVENANT**

THIS DECLARATION OF RESTRICTIVE COVENANT (hereinafter “Declaration”) is made by *{{property owner}}* *{{“, a \_\_\_\_\_\_\_\_\_\_\_\_ corporation}}* (hereinafter “GRANTOR”) and the Florida Department of Environmental Protection (hereinafter “DEP”). This Declaration, made pursuant to either Chapter 376 or 403, Florida Statutes (F.S.), is neither extinguished nor affected by the Marketable Record Title Act in accordance with section 712.03, F.S.

RECITALS

A. GRANTOR *{{name of owner on the deed and on the title search report should precisely match GRANTOR’s name}}* is the fee simple owner of that certain real property situated in the County of \_\_\_\_\_\_\_\_\_\_\_, State of Florida, more particularly described in Exhibit “A” attached hereto and made a part hereof (hereinafter the “Property”). *{{Attach legal description of the property as Exhibit A (owner name should precisely match GRANTOR); or, if short enough, restate the legal description here as part of the Recital A paragraph.}}*

B. The DEP Facility or ERIC {{*or EPA # or other #, if applicable}}* Identification Number for the Property is *{{\_\_\_\_\_\_\_\_\_\_\_­­­­­­­ }}*. The facility name at the time of this Declaration is *{{\_\_\_\_\_\_\_\_\_\_\_\_\_\_}}.* This Declaration addresses the discharge that was reported to the DEP on *{{date}}.*

C. *{{Basic information regarding contamination, brief history of discharge/cleanup, etc.—it is rarely necessary to list each and every report prepared}}*. The discharge of *{{drycleaning solvents, petroleum products, etc.; insert the appropriate remaining contaminants}}* on the Property is documented in the following reports that are incorporated by reference *{{ONLY what is applicable to the remaining contamination on the site should be listed*: *Example:*

1. *Site Assessment Report dated \_\_\_\_\_\_\_\_\_\_, submitted by {{Company that prepared report}};*

1. *Site Assessment Report Addendum dated \_\_\_\_\_\_, submitted by {{Company that prepared report}};*
2. *No Further Action with Conditions Proposal or Site Rehabilitation Completion Report dated \_\_\_\_\_\_\_\_\_\_\_, submitted by {{Company that prepared report}}; and*
3. *Consent Orders.}}*

D. The reports noted in Recital C set forth the nature and extent of the contamination that is located on the Property. These reports confirm that contaminated *{{soil and/or groundwater and/or surface water and/or sediment}}* as defined by Chapter 62-780, Florida Administrative Code (F.A.C.), exist*{*s*}* on the Property. *{{Briefly discuss the remaining contamination. For example, a risk management option (RMO) II closure may include for following:* “Also, these reports document that the groundwater contamination does not extend beyond the Property boundary, that the extent of the groundwater contamination does not exceed 1/4 acre, and the groundwater contamination is not migrating*.” Be sure this is accurate to the particular site. If not, briefly summarize what is correct. For a RMO III closure include information particular to the groundwate*r *contamination and whether the contamination extends beyond the Property boundaries*. *If there is no groundwater contamination, state what contamination remains, such as soil or sediment, and where the contamination is located. In the case where a Conditional Site Rehabilitation Completion Order (Order) will not be issued immediately after the recording of the DRC, state which contamination will be addressed by the restriction and which contamination will continue to be remediated (i.e., “*This Declaration imposes restrictions on the area of soil contamination. While groundwater should not be utilized, groundwater remediation is on-going, and it is unknown at this time whether a long-term restriction on the use of the groundwater will be required*.”) Additionally, this document should NOT be used to indicate which parties are or are not liable for the contamination.}}*

E. It is GRANTOR’s and DEP’s intent that the restrictions in this Declaration reduce or eliminate the risk of exposure of users or occupants of the Property and the environment to the contaminants and to reduce or eliminate the threat of migration of the contaminants.

F. *{{If an Order – CSRCO - will be issued use this paragraph and delete the next, if not delete this paragraph and use the option below.}}*DEP has agreed to issue a Conditional Site Rehabilitation Completion Order (hereinafter “Order”) upon recordation of this Declaration. *{{If other controls must be put in place before the Order can be issued, then list what those controls are, e.g.,* “. . . and upon establishment of institutional controls on the adjacent parcel(s) [*Insert address(es) and/or parcel IDs]* that together compose the contaminated site.” or “upon establishment of the Florida Department of Transportation Memorandum of Understanding (FDOT MOU) institutional control on the adjacent parcel within the contaminated site.”*}}*  DEP can unilaterally revoke the Order if the conditions of this Declaration or the Order are not met. Additionally, if concentrations of *{{generally, list the contamination that remains, e.g., “petroleum products’ chemicals of concern”}}* increase above the levels in the Order, or if a subsequent discharge occurs at the Property, DEP may require site rehabilitation to reduce concentrations of contamination to the levels allowed by the applicable DEP rules. The Order can be obtained by contacting the appropriate DEP district office or Tallahassee program area.; *OR*

*{{If no Order will be issued after the establishment of the DRC, then delete the previous paragraph regarding the Order and use language similar to the following: “*DEP will not issue a Conditional Site Rehabilitation Completion Order upon recordation of this Declaration because [*add as appropriate*, “site rehabilitation of the remaining contaminated {{groundwater or soil}} is ongoing.” *OR* “Non-source property that is part of the contaminated site has not been remediated.” *OR state a different reason for not issuing the Order.]* If cleanup criteria are later met, then DEP may issue a Conditional Site Rehabilitation Completion Order, or amend, or repeal this Declaration, as appropriate.”*}}*

G. GRANTOR deems it desirable and in the best interest of all present and future owners of the Property that an Order be obtained and that *{{if an Order will not be issued upon recordation of this Declaration and the establishment of any other required controls on the contaminated site, then delete “an Order be obtained and that”}}* the Property be held subject to certain restrictions {{“and engineering controls” *if appropriate}}*, all of which are more particularly hereinafter set forth*.*

NOW, THEREFORE, to induce DEP to issue the Order and for other *{{if no Order will be issued upon recordation of this DRC, then delete* “to induce DEP to issue the Order and for other” *and insert* “in compliance with the consent order in OGC Case # and for other”*; OR, if no consent order, then insert* “for”*}}* good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the undersigned parties, GRANTOR agrees as follows *{{while standard in many other real property transactions, DEP does not require payment for the opportunity to use the conditional closure option; therefore, any discussion of payment in this document is typically inappropriate*}}:

1. The foregoing recitals are true and correct and are incorporated herein by reference.

2. GRANTOR hereby imposes the following restrictions and requirements:

***{{GROUNDWATER USE RESTRICTIONS.}}***

1. Groundwater Use. There are restrictions on use of the groundwater under the Property.Any monitoring wells installed on the Property shall be pre-approved in writing by DEP’s Division of Waste Management (DWM) in addition to any authorizations required by the Division of Water Resource Management (DWRM) and the Water Management District (WMD).

For any other groundwater wells to be installed on the Property, a plan signed and sealed by a Florida-registered professional engineer or Florida-registered professional geologist to address and ensure there will be no exposure to contaminated groundwater must be submitted to the DEP’s DWM. The plan must include the well location, drilling method, casing depth, total depth, proposed maximum daily flow rate and volume, and a technical evaluation (including calculations, fate and transport modeling, as applicable) to demonstrate that the proposed groundwater extraction will not cause the spread or migration of contaminated groundwater and that receptors will not be exposed as a result of contaminant migration. The plan shall also outline the procedures for proper characterization, handling and disposal of any contaminated media encountered during installation. DEP’s DWM will keep the plan in the site file as documentation of site conditions and will rely on this professional certification for demonstrating compliance with this restriction. A revised exhibit must be amended to the Declaration and recorded when any groundwater well is altered, modified, expanded, or constructed. The GRANTOR is advised that other federal, state, or local laws and regulations may apply to this activity. A copy of all permits obtained for the installation of groundwater wells at the Property must be provided along with the plan submitted toDEP’s DWM. *{{The remainder of this paragraph is intended to conform with language in other documents and should not be changed when drafting the DRC for a particular property.}}* DEP will rely on this Declaration and certified plan to construct new or modify existing groundwater wells to ensure that there is no exposure to contaminated groundwater entering into new or expanded groundwater wells resulting in risk to human health, public safety or the environment due to the contaminated site. Construction of groundwater wells on the Property could destabilize the groundwater plume or increase potential for exposure to contaminants resulting in risk to human health, public safety, or the environment. For this reason, if GRANTOR seeks to construct groundwater wells on the Property, GRANTOR shall submit the certified plan to DEP DWM in addition to obtaining any authorizations that may be required by DEP DWRM, the WMD, or other federal, state, or local laws and regulations that may apply to this activity.Unless it is demonstrated that the cleanup criteria under subsection 62-780.680(1), F.A.C., have been achieved, DEP, in addition to other remedies available under law, may institute proceedings to revoke this Declaration and the Order *{{delete “and the Order” if no Order is to be issued}}* and require the proper abandonment of the wells and the resumption of site rehabilitation activities if any such groundwater wells are constructed or commenced without submittal of a certified plan.

1. Dewatering. For any dewatering activities on the Property,a plan signed and sealed by a Florida-registered professional engineer or Florida-registered professional geologist to address and ensure the appropriate handling, treatment and disposal of any extracted groundwater that may be contaminated must be submitted to DEP’s DWM. The plan must include the location(s) of the dewatering activity and the effluent disposal area(s) relative to known areas of groundwater contamination, proposed flow rates, duration, volume, estimated drawdown, (based upon design calculations), a technical evaluation demonstrating that the dewatering will not cause the migration of contamination and procedures for proper characterization, treatment and handling of any contaminated groundwater that may be encountered during dewatering. DEP’s DWM will keep the plan in the site file as documentation of site conditions and will rely on this professional certification for demonstrating compliance with this restriction.The GRANTOR is advised that other federal, state, or local laws and regulations may apply to this activity. A copy of all permits obtained for the implementation of dewatering must be provided along with the plan submitted toDEP’s DWM. *{{The remainder of this paragraph is intended to conform with language in other documents and should not be changed when drafting the DRC for a particular property.}}* DEP will rely on this Declaration, Rule 62-621.300, F.A.C., and the guidance incorporated therein, and the signed and sealed dewatering plan as the institutional controls to ensure that no exposure to contaminated groundwater resulting in risk to human health, public safety or the environment will occur due to dewatering activities on the contaminated site. Rule 62-621.300, F.A.C., requires a permit when conducting dewatering in the area of a contaminated site. For this reason, if GRANTOR seeks to conduct dewatering on the Property, GRANTOR shall submit the signed and sealed plan to DEP DWM in addition to obtaining any authorizations that may be required by DEP DWRM, the WMD, or other federal, state, or local laws and regulations that may apply to this activity. The dewatering plan must ensure the appropriate handling, treatment, and disposal of any extracted groundwater that may be contaminated to avoid adversely impacting or increasing the potential for exposure to contaminants resulting in risk to human health, public safety or the environment. Unless it is demonstrated that the cleanup criteria under subsection 62-780.680(1), F.A.C., have been achieved, DEP, in addition to other remedies available under law, may institute proceedings to revoke this Declaration and the Order *{{delete “and the Order” if no Order will be issued}}* and require the resumption of site rehabilitation activities if any dewatering activities are commenced without submittal of a signed and sealed plan.
2. Stormwater Features.

*{{Stormwater features are considered anything that has the potential to spread leaching or create hydraulic head, or spread contamination, such as unlined ponds or lagoons, conveyance structures, etc.}}*

*{Option 1: No Stormwater Features:}* Currently there are no stormwater swales, stormwater detention or retention facilities, or ditches on the Property. If stormwater features must be constructed, modified, altered or expanded, a plan signed and sealed by a Florida-registered professional engineer, or a Florida-registered professional geologist must be submitted to DEP’s DWM in addition to any authorizations required by the DWRM and the WMD. The plan must include the feature location, construction and design specifications relative to known areas of soil and groundwater contamination, and a technical evaluation (including calculations, fate and transport modeling, as applicable) to demonstrate that the new stormwater facilities will not cause the migration of contamination. The plan shall also outline the procedures for proper characterization, handling and disposal of any contaminated media that may be encountered during construction. DEP’s DWM will keep the plan in the site file as documentation of site conditions and will rely on this professional certification for demonstrating compliance with this restriction. The GRANTOR is advised that other federal, state, or local laws and regulations may apply to this activity. A copy of all permits obtained for the implementation of dewatering must be provided along with the plan submitted to DEP’s DWM. A revised exhibit must be amended to the Declaration and recorded when any stormwater feature is altered, modified, expanded, or constructed. *{{The remainder of this paragraph is intended to conform with language in other documents and should not be changed when drafting the DRC for a particular property.}}* DEP will rely on this Declaration and certified plan to construct new or modify existing stormwater features to ensure that there is no exposure to contaminated groundwater entering into new or expanded stormwater features resulting in risk to human health, public safety or the environment due to the contaminated site. Construction of stormwater swales, stormwater detention or retention features, or ditches on the Property could destabilize the groundwater plume or increase potential for exposure to contaminants resulting in risk to human health, public safety, or the environment. For this reason, if GRANTOR seeks to construct stormwater features on the Property, GRANTOR shall submit the certified plan to DEP DWM in addition to obtaining any authorizations that may be required by DEP DWRM, the WMD, or other federal, state, or local laws and regulations that may apply to this activity. Unless it is demonstrated that the cleanup criteria under subsection 62-780.680(1), F.A.C., have been achieved, DEP, in addition to other remedies available under law, may institute proceedings to revoke this Declaration and the Conditional Site Rehabilitation Completion Order *{{delete “and the Order” if no Order is to be issued}}* and require the resumption of site rehabilitation activities if any such stormwater features are constructed or commenced without submittal of a certified plan.

 *OR*

*{Option 2:* Currently, there are existing stormwater features, the existence of which has been determined to not adversely affect the remaining contamination

Attached as Exhibit \_\_, and incorporated by reference herein, is a Survey *{{a Specific Purpose Survey, Boundary Survey or Sketches Accompanying Legal Descriptions prepared in accordance with the Minimum Technical Standards (MTS) that depicts an area and includes geographical coordinates referenced to the State Plane Coordinates System or other geographical coordinates. Such a legal description and Survey should be a clearly labeled, legible attachment to the Declaration and the area to be noted should also be clearly labeled on the drawing (e.g., “stormwater swale,” “stormwater detention or retention facility,” “ditch.”}}* identifying the size and location of existing stormwater swales, stormwater detention or retention facilities, and ditches on the Property. Such existing stormwater features shall not be altered, modified or expanded, and there shall be no construction of new stormwater swales, stormwater detention or retention facilities or ditches on the Property.

If stormwater features must be constructed, modified, altered or expanded, a plan signed and sealed by a Florida-registered professional engineer, or a Florida-registered professional geologist must be submitted to DEP’s DWM in addition to any authorizations required by the DWRM and the WMD. The plan must include the feature location, construction and design specifications relative to known areas of soil and groundwater contamination, and a technical evaluation (including calculations, fate and transport modeling, as applicable) to demonstrate that the new stormwater features will not cause the migration of contamination. The plan shall also outline the procedures for proper characterization, handling and disposal of any contaminated media that may be encountered during construction. DEP’s DWM will keep the plan in the site file as documentation of site conditions and will rely on this professional certification for demonstrating compliance with this restriction. The GRANTOR is advised that other federal, state, or local laws and regulations may apply to this activity. A copy of all permits obtained for the implementation of dewatering must be provided along with the plan submitted to DEP’s DWM. A revised exhibit must be amended to the Declaration and recorded when any stormwater feature is altered, modified, expanded, or constructed. *{{The remainder of this paragraph is intended to conform with language in other documents and should not be changed when drafting the DRC for a particular property.}}* DEP will rely on this Declaration and certified plan to construct new or modify existing stormwater features to ensure that there is no exposure to contaminated groundwater entering into new or expanded stormwater features resulting in risk to human health, public safety or the environment due to the contaminated site. Construction of stormwater swales, stormwater detention or retention features, or ditches on the Property could destabilize the groundwater plume or increase potential for exposure to contaminants resulting in risk to human health, public safety, or the environment. For this reason, if GRANTOR seeks to construct stormwater features on the Property, GRANTOR shall submit the certified plan to DEP DWM in addition to obtaining any authorizations that may be required by DEP DWRM, the WMD, or other federal, state, or local laws and regulations that may apply to this activity. Unless it is demonstrated that the cleanup criteria under subsection 62-780.680(1), F.A.C., have been achieved, DEP, in addition to other remedies available under law, may institute proceedings to revoke this Declaration and the Conditional Site Rehabilitation Completion Order *{{delete “and the Order” if no Order is to be issued}}* and require the resumption of site rehabilitation activities if any such stormwater features are constructed or commenced without submittal of a certified plan.

*{{****SOIL RESTRICTIONS.*** *The DRC language used to address soil contamination depends in part on whether the concern is direct exposure, leachability, or both (see cleanup criteria in Chapter 62-780, F.A.C., and tables of cleanup target levels (CTLs) in Chapter 62-777, F.A.C., for further guidance). Additionally, the choice of which DRC language to include for soils may depend on the intended future land use.*

*In general, ECs (e.g., caps, parking lots, building foundation) should be identified on a survey that is incorporated by reference as an exhibit to the DRC. The survey should consist of a* *Specific Purpose Survey, Boundary Survey or Sketches with Accompanying Legal Descriptions* *prepared in accordance with the Minimum Technical Standards (MTS) that depicts the restricted area and includes points along the boundary of the area noted referenced to the State Plane Coordinates System, or other geographical coordinates (collectively, “Survey”). Such a Survey should be a clearly labeled, legible exhibit to the DRC and the area to be restricted should also be clearly labeled on the Survey (e.g., “area of EC,” “capped area,” “location of slurry wall,” “restricted area”). The terms used to label locations on the Survey should match the terms used in the text of the document discussing that location.}}*

*If, however, the EC is to apply to the entire property, then only a legal description of the Property is necessary.}}*

1. Soil Engineering Controls. *{{Use this language when leachability CTLs are exceeded:}*} The “Area of Soil Contamination” as located on the Property and shown on Exhibit \_\_\_\_ shall be permanently covered and maintained with an impermeable material that prevents human exposure and prevents water infiltration (hereinafter referred to as “the Engineering Control”). *{{OR use the following language when the problem is direct exposure of the soil and leachability is not a concern:* “The “Area of Soil Contamination” as located on the Property and shown on Exhibit \_\_\_\_ shall be permanently covered and maintained with a minimum of two (2) feet of clean and uncontaminated soil that prevents human exposure (hereinafter referred to as the “Engineering Control”). *[Note: this is the minimal cap required to address direct exposure, but GRANTOR may use an impermeable cap (e.g., parking lot).]}}* An Engineering Control Maintenance Plan (ECMP) has been approved by DEP. The ECMP specifies the frequency of inspections and monitoring for the Engineering Control and the criteria for determining when the Engineering Control has failed. The Engineering Control shall be maintained in accordance with the ECMP. The ECMP may be amended upon the prior written consent of DEP. The ECMP, as amended, relating to DEP Facility No. *{{9 digit #; or other appropriate tracking number, as applicable}}*, can be obtained by contacting the appropriate DEP district office or Tallahassee program area.
2. Excavation and Construction. Excavation and construction below the Engineering Controlis not prohibited on the Property provided any contaminated soils that are excavated are either: 1) placed back into the excavation and the Engineering Controls are reconstructed or 2) are removed and properly disposed of pursuant to Chapter 62-780, F.A.C., and any other applicable local, state, and federal requirements. Nothing herein shall limit any other legal requirements regarding construction methods and precautions that must be taken to minimize risk of exposure while conducting work in contaminated areas.
3. Subdivision of Property*. {{If the criteria for direct exposure were met using average soil contaminant concentrations calculated based on a 95% Upper Confidence Limit (UCL) approach and subdivision of the exposure units (EUs) needs to be prohibited, the following paragraph should be added:}}* The criteria for direct exposure of contamination in the soil was based upon an average soil contaminant concentration calculated using a 95% Upper Confidence Limit (UCL) approach with an exposure unit (EU) of *{{size of unit}}* pursuant to Rule 62-780.680, F.A.C*.* Therefore, the Property may not be subdivided into parcels smaller than *{{size}}* without prior written approval from DEP’s DWM {{or “Division of Waste Management” if not previously defined}}. A subsequent amendment to this Declaration shall be recorded on the Property in accordance with Paragraph 7.

*{{****LAND USE RESTRICTIONS (LUR)****: If the above options describing ECs such as soil caps or concrete pads are not utilized to control exposure, then the following LUR language should be used to address soil contamination. Typically, a soil cap EC and a LUR should not both be used on the same property for the same contamination, however, there are occasions when both are required. A restriction on the use of the land should be clearly and exhaustively described for the Property.*

*Reliance only on local zoning or land use classifications is insufficient to adequately restrict the use of the land or adequately describe the restriction in perpetuity. Additionally, there is often confusion because the cleanup rule categories for land use are lumped into “residential” and “commercial/industrial.” This is for ease in using the look-up tables for cleanup target levels**. But, simply using the term “residential,” will create inconsistent application and interpretation of what this limitation means across the state because every local government creates its own definition for each land use category, including “residential.” The categories selected from the classification codes available to meet the RMO II/III requirements for closure are conservative based upon an assumption that the LUR is the only restriction being used.*

*The categories listed below provide the detail necessary to adequately protect human health based on calculations using the various land use scenarios’ exposure duration and frequency. The categories are consistent with the Chapter 62-777, F.A.C., cleanup target levels and governing statutes regarding acceptable risk levels under Florida’s risk-based corrective action principles. These codes come from the North American Industry Classification System, United States, 2017 because it is one of the only comprehensive and standardized systems for categorizing human activity and use of the land. All listed sub-sectors and codes are intended to include the subcategories within each.*

*In order to utilize the LUR option for an RMO II closure, contaminant levels in soils should not exceed the “commercial/industrial” cleanup target levels. If using the LUR option for an RMO III closure, then a site-specific alternative cleanup target level may be established using appropriate risk assessment methodologies. Lastly, if the GRANTOR wants a LUR but does not want to use the default land use restrictions listed below, then the RMO III closure option should be conducted. It is recommended that you speak with the DEP site or project manager before pursuing this option.}}*

1. Land Use Restrictions. The following uses of the Property are prohibited: agricultural use of the land including forestry, fishing and mining; hotels or lodging; recreational uses including amusement parks, parks, camps, museums, zoos, or gardens; residential uses, and educational uses such as elementary or secondary schools, or day care services. These prohibited uses are specifically defined by using the North American Industry Classification System, United States, 2017 (NAICS), Executive Office of the President, Office of Management and Budget. The prohibited uses by code are: Sector 11 Agriculture, Forestry, Fishing and Hunting; Subsector 212 Mining (except Oil and Gas); U.S. Industry 512132 Drive-In Motion Picture Theaters; U.S. Industry 519120 Libraries and Archives; U.S. Industry 531110 Lessors of Residential Buildings and Dwellings; Industry Group 6111 Elementary and Secondary Schools; Subsector 623 Nursing and Residential Care Facilities; Subsector 624 Social Assistance; Subsector 711 Performing Arts, Spectator Sports and Related Industries; Subsector 712 Museums, Historical Sites, and Similar Institutions; Subsector 713 Amusement, Gambling, and Recreation Industries; Subsector 721 Accommodation (hotels, motels, RV parks, etc.); Subsector 813 Religious, Grantmaking, Civic, Professional, and Similar Organizations; and Subsector 814 Private Households.

3. All references to “GRANTOR” and “DEP” shall also mean and refer to their respective legal representatives, successors and assigns.

4. For the purpose of monitoring the restrictions contained herein, DEP is hereby granted a right of entry upon, over and through and access to the Property at reasonable times and with reasonable notice to GRANTOR. Access to the Property is available via an immediately adjacent public right-of-way. *{{If the Property does not abut a public right-of-way, then an access easement will be necessary, and the access easement must be clearly shown and labeled on the survey included as an exhibit to this DRC. Please see Attachment 3B of the ICPG for further instruction on what to include in this DRC for such access easement.}*}

*{{The remaining paragraphs 5 – 9 are based on principles of real property law and include necessary language in order to create an enforceable and durable DRC. Generally, these paragraphs should not be modified.}}*

5. It is the intention of GRANTOR that this Declaration shall touch and concern the Property, run with the land and with the title to the Property, and shall apply to and be binding upon and inure to the benefit of GRANTOR and DEP, and to any and all parties hereafter having any right, title or interest in the Property or any part thereof. DEP may enforce the terms and conditions of this Declaration by injunctive relief and other appropriate available legal remedies. Any forbearance on behalf of DEP to exercise its right in the event of the failure of GRANTOR to comply with the provisions of this Declaration shall not be deemed or construed to be a waiver of DEP’s rights hereunder. This Declaration shall continue in perpetuity, unless otherwise modified in writing by GRANTOR and DEP as provided in paragraph 7 below. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation, or governmental agency that is substantially benefited by this Declaration. If GRANTOR does not or will not be able to comply with any or all of the provisions of this Declaration, GRANTOR shall notify DEP in writing within three (3) calendar days.

6. In order to ensure the perpetual nature of this Declaration, GRANTOR shall record this Declaration, and reference these restrictions in any subsequent lease or deed of conveyance, including the recording book and page of record of this Declaration. Furthermore, prior to the entry into a landlord-tenant relationship with respect to the Property, GRANTOR agrees to notify in writing all proposed tenants of the Property of the existence and contents of this Declaration.

7. This Declaration is binding until a release is executed by the DEP Secretary (or designee) and is recorded in the public records of the county in which the land is located. To receive prior approval from DEP to remove or amend any requirement herein, cleanup target levels established pursuant to Florida Statutes and DEP rules must be achieved. This Declaration may be modified in writing only. Any subsequent amendment, including new or revised exhibits, must be executed by both GRANTOR and DEP and be recorded by GRANTOR as an amendment hereto.

8. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of that provision shall not affect the validity of any other provisions of the Declaration. All such other provisions shall continue unimpaired in full force and effect.

9. GRANTOR covenants and represents that on the date of execution of this Declaration that GRANTOR is seized of the Property in fee simple and has good right to create, establish, and impose this Declaration on the use of the Property. *{{Do not use the next sentence if an Owner’s Notice to Encumbrance Holder has been utilized.}}* GRANTOR also covenants and warrants that the Property is free and clear of any and all liens, mortgages, or encumbrances that could impair GRANTOR’S rights to impose the restrictions described in this Declaration. *{{Use the next statement only if any joinders and consents or subordinations are executed.}} A* joinder and consent, or subordination of liens, mortgages, or encumbrances, as applicable, is attached hereto.

***---The remainder of this page is intentionally left blank.---***

*{{Place a hard page break here to ensure that none of GRANTOR’S signature page is on the pages of text.}}*

 IN WITNESS WHEREOF, {{Name of *GRANTOR*}} has executed this instrument, this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

GRANTOR

*{{Company Name, if applicable}}*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*{{Printed name of signatory}}*

*{{And, provide document proving signatory’s authorization to sign on GRANTOR’s behalf}}*

*{{Title of Signatory}}*

*­­­­­­­­­­­­­­{{Mailing Address}}*

Signed, sealed and delivered in the presence of:

Witness: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mailing Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Witness: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mailing Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

The foregoing instrument was acknowledged before me by means of [ ]  physical presence or [ ]  online notarization, this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20 \_\_\_\_, by {{either \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [if individual capacity] [OR]by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [If representative capacity]}}.

Personally Known \_\_\_\_\_\_\_ OR Produced Identification \_\_\_\_\_\_\_\_\_.

Type of Identification Produced \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Notary Public

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name of Notary Public

Commission No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_

*{{Place a hard page break here to ensure that none of GRANTOR’s signature page is on DEP’s signature page.}}*

Approved as to form by the Florida Department of Environmental Protection, Office of General Counsel \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

 IN WITNESS WHEREOF, the Florida Department of Environmental Protection has executed this instrument, this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

FLORIDA DEPARTMENT OF

ENVIRONMENTAL PROTECTION

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*{{Printed name of signatory}}*

*{{Title of signatory}}*

*{{either “Petroleum Restoration Program,” OR* “*Waste Cleanup Program,” OR “\_\_\_\_\_\_\_\_\_ District Office,” whichever is applicable}}*

*{{Mailing Address*}}

*{{DEP site/project manager should provide the above information to GRANTOR.}}*

Signed, sealed and delivered in the presence of:

Witness: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mailing Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_­­\_

Witness: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mailing Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_­­\_

*{{Department Staff should provide their District or Division Office address as their mailing address}}*

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

 The foregoing instrument was acknowledged before me by means of [ ]  physical presence or [ ]  online notarization, this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20 \_\_\_\_\_, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as representative for the Florida Department of Environmental Protection.

Personally Known \_\_\_\_\_\_\_ OR Produced Identification \_\_\_\_\_\_\_\_\_\_\_\_.

 Type of Identification Produced \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Notary Public

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name of Notary Public

Commission No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_