

**Environmental Land Use Control**

PREPARED BY:

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

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

RETURN TO:

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

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

**THE ABOVE SPACE FOR RECORDER’S OFFICE**

**Model Environmental Land Use Control**

THIS ENVIRONMENTAL LAND USE CONTROL (“ELUC”), is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, (“Property Owner”) of the real property located at the common address \_\_\_\_\_ (“Property”).

WHEREAS, 415 ILCS 5/58.17 and 35 Ill. Adm. Code 742 provide for the use of an ELUC as an institutional control in order to impose land use limitations or requirements related to environmental contamination so that persons conducting remediation can obtain a No Further Remediation determination from the Illinois Environmental Protection Agency (“IEPA”). The reason for an ELUC is to ensure protection of human health and the environment. The limitations and requirements contained herein are necessary in order to protect against exposure to contaminated soil, groundwater, or soil gas that may be present on the property as a result of [VARIABLE] activities. Under 35 Ill. Adm. Code 742, the use of risk-based, site-specific remediation objectives may require the use of an ELUC on real property, and the ELUC may apply to certain physical features (e.g., engineered barriers, indoor inhalation building control technologies, monitoring wells, caps, etc.).

WHEREAS, \_\_\_\_\_ [the party performing remediation] intends to request risk-based, site specific soil, groundwater, or soil gas remediation objectives from IEPA under 35 Ill. Adm. Code 742 to obtain risk-based closure of the site, identified by Bureau of Land [10-digit LPC or Identification number] \_\_\_\_\_, utilizing an ELUC.

NOW, THEREFORE, the recitals set forth above are incorporated by reference as if fully set forth herein, and the Property Owner agrees as follows:

Section One. Property Owner does hereby establish an ELUC on the real estate, situated in the County of \_\_\_\_\_, State of Illinois and further described in Exhibit A attached hereto and incorporated herein by reference (the "Property").

Attached as Exhibit B are site maps that show the legal boundary of the Property, any physical features to which the ELUC applies, the horizontal and vertical extent of the contaminants of concern above the applicable remediation objectives for soil, groundwater, or soil gas, and the nature, location of the source, and direction of movement of the contaminants of concern, as required under 35 Ill. Adm. Code 742.

Section Two. Property Owner represents and warrants **he/she** is the current owner of the Property and has the authority to record this ELUC on the chain of title for the Property with the Office of the Recorder or Registrar of Titles in \_\_\_\_\_ County, Illinois.

Section Three. The Property Owner hereby agrees, for **himself/herself**, and **his/her** heirs, grantees, successors, assigns, transferees and any other owner, occupant, lessee, possessor or user of the Property or the holder of any portion thereof or interest therein, that **[INSERT RESTRICTION (e.g. the groundwater under the Property shall not be used as a potable supply of water, and any contaminated groundwater or soil that is removed, excavated, or disturbed from the Property described in Exhibit A herein must be handled in accordance with all applicable laws and regulations)]**.

Section Four. This ELUC is binding on the Property Owner, **his/her** heirs, grantees, successors, assigns, transferees and any other owner, occupant, lessee, possessor or user of the Property or the holder of any portion thereof or interest therein. This ELUC shall apply in perpetuity against the Property and shall not be released until the IEPA determines there is no longer a need for this ELUC as an institutional control; until the IEPA, upon written request, issues to the site that received the no further remediation determination a new no further remediation determination approving modification or removal of the limitation(s) or requirement(s); the new no further remediation determination is filed on the chain of title of the site subject to the no further remediation determination; and until a release or modification of the land use limitation or requirement is filed on the chain of title for the Property.

Section Five. Information regarding the remediation performed on the Property may be obtained from the IEPA through a request under the Freedom of Information Act (5 ILCS 140) and rules promulgated thereunder by providing the IEPA with the [10-digit LPC or identification number] listed above.

Section Six. The effective date of this ELUC shall be the date that it is officially recorded in the chain of title for the Property to which the ELUC applies.

WITNESS the following signatures:

Property Owner(s)

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

STATE OF ILLINOIS        )  
  ) SS:  
COUNTY OF                 )

I, \_\_\_\_\_ the undersigned, a Notary Public for said County and State, DO HEREBY CERTIFY, that \_\_\_\_\_ and \_\_\_\_\_, personally known to me to be the Property Owner(s) of \_\_\_\_\_, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that in said capacities they signed and delivered the said instrument as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public

STATE OF \_\_\_\_\_ )  
 ) S.S.  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a notary public, do hereby certify that before me this day in person appeared \_\_\_\_\_, personally known to me to be the Property Owner(s), of \_\_\_\_\_, each severally acknowledged that they signed and delivered the foregoing instrument as the Property Owner(s) herein set forth, and as their own free and voluntary act, for the uses and purposes herein set forth.

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

Notary Public

**PIN NO. XX-XX-XXX-XXX-XXXX**  
**(Parcel Index Number)**

**Exhibit A**

The subject property is located in the City of \_\_\_\_\_, \_\_\_\_\_ County, State of Illinois, commonly known as \_\_\_\_\_, \_\_\_\_\_, Illinois and more particularly described as:

**LIST THE COMMON ADDRESS;  
LEGAL DESCRIPTION; AND  
REAL ESTATE TAX INDEX OR PARCEL #  
(PURSUANT TO SECTION 742. 1010(d)(2))**

**Exhibit B**

IN ACCORDANCE WITH SECTION 742.1010(d)(8)(A) through (D), PROVIDE ALL THE FOLLOWING ELEMENTS. ATTACH SEPARATE SHEETS, LABELED AS EXHIBIT B, WHERE NECESSARY.

- (A) A scaled map showing the legal boundary of the property to which the ELUC applies.
- (B) Scaled maps showing the horizontal and vertical extent of contaminants of concern above the applicable remediation objectives for soil, groundwater, and soil gas to which the ELUC applies.
- (C) Scaled maps showing the physical features to which an ELUC applies (e.g., engineered barriers, indoor inhalation building control technologies, monitoring wells, caps, etc.).
- (D) Scaled maps showing the nature, location of the source, and direction of movement of the contaminants of concern.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15