

**UNILATERAL ADMINISTRATIVE ORDER  
U.S. EPA DOCKET NO. CERCLA-01-2012-0045  
APPENDIX 2**

**FORM OF GRANT OF ENVIRONMENTAL RESTRICTION AND EASEMENT  
(Revised September 25, 2007)**

**UAO SOW FOR RD, RA, AND O&M  
ATTACHMENT A  
PROJECT OPERATIONS PLAN REQUIREMENTS**

**NEW BEDFORD HARBOR SUPERFUND SITE  
UPPER AND LOWER HARBOR OPERABLE UNIT  
(OPERABLE UNIT 1)**

**APRIL 2012**

Before any field activities commence on the Site, Respondent shall submit several site-specific plans to establish procedures to be followed by Respondent in performing field, laboratory, and analysis work. These site-specific plans include the:

- A. Site Management Plan (“SMP”),
- B. Sampling and Analysis Plan (“SAP”),
- C. Health and Safety Plan (“HSP”), and
- D. Community Relations Support Plan (“CRSP”).

These plans shall be combined to form the Site’s Project Operations Plan (“POP”). The four components of the POP are described in Sections A through D herein.

The format and scope of each Plan shall be modified as needed to describe the sampling, analyses, and other activities that are clarified as the RD, RA, and O&M progress. EPA may modify the scopes of these activities at any time during the RD, RA, and O&M at the discretion of EPA in response to the evaluation of RD, RA, and O&M results, changes in RD, RA, and O&M requirements, and other developments or circumstances.

**A. Site Management Plan (“SMP”)**

The Site Management Plan (“SMP”) shall describe how Respondent will manage the project to complete the Work required at the Site. The overall objective of the Site Management Plan is to provide EPA and MassDEP with a written understanding and commitment of how various project aspects such as access, security, contingency procedures, management responsibilities, waste disposal, budgeting, and data handling are being managed by Respondent. Specific objectives and provisions of the Site Management Plan shall include, but are not limited to the following:

- 1. Provide a map and a list of properties, the property owners, and addresses of owners to whose property access may be required.
- 2. Clearly indicate the exclusion zone, contamination reduction zone, and clean area for on-site activities.

3. Establish necessary procedures and provide sample letters to land owners to arrange field activities and to ensure EPA and MassDEP are informed of access-related problems and issues.
4. Provide for the security of government and private property on the Site.
5. Prevent unauthorized entry to the Site, which might result in exposure of persons to potentially hazardous conditions.
6. Secure access agreements for the Site.
7. Establish the location of a field office for on-site activities.
8. Provide Respondent's coordination and cooperation activities for the implementation of the Work with all Federal, State, local, and private entities in accordance with Section III(C) of the SOW.
9. Provide contingency and notification plans for activities associated with the RD, RA, and O&M.
10. Monitor airborne contaminants released by Site activities which may affect the local populations.
11. Communicate to EPA, MassDEP, and the public the organization and management of the RD, RA, and O&M, including key personnel and their responsibilities.
12. Provide a list of contractors and subcontractors of Respondent in the RD, RA, and O&M and description of their activities and roles.
13. Provide regular financial reports of the Respondent's expenditures on the RD, RA, and O&M activities.
14. Provide for the proper disposal of materials used and wastes generated during the RD, RA, and O&M (*e.g.*, drill cutting, extracted groundwater, protective clothing, and disposable equipment). These provisions shall be consistent with the off-site disposal aspects of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 *et seq.* ("CERCLA"), Solid Waste Disposal Act, as amended, 42 U.S.C. § 6901 *et seq.* (also known as the Resource Conservation and Recovery Act, "RCRA"), U.S. Department of Transportation ("DOT") regulations, and applicable state laws. Respondent, or its authorized representative, or another party acceptable to

EPA and MassDEP shall be identified as the generator of wastes for the purpose of regulatory or policy compliance.

15. Provide plans and procedures for organizing, manipulating, and presenting the data generated and for verifying its quality before and during the RD, RA, and O&M. These plans shall include a description of the computer database management systems that are compatible with hardware available to EPA Region 1 personnel for handling media-specific sampling results obtained before and during the RD, RA, and O&M. The description shall include data input fields, examples of data base management output from the coding of all RD, RA, and O&M sample data, appropriate quality assurance/quality control to ensure accuracy, and capabilities of data manipulation. To the degree possible, the data base management parameters shall be compatible with the EPA Region 1 data storage and analysis system.

**B. Sampling and Analysis Plan (“SAP”)**

The SAP shall be consistent with Section XVIII of the Unilateral Administrative Order (Quality Assurance, Sampling and Data Analysis). The SAP consists of both (1) a Quality Assurance Project Plan (“QAPP”) that describes the policy, organization, functional activities, and the quality assurance and quality control protocols necessary to achieve the data quality objectives dictated by the intended use of the data; and (2) the Field Sampling Plan (“FSP”) that provides guidance for all fieldwork by defining in detail the sampling and data-gathering methods to be used on a project. Components required by these two plans are described below.

The SAP shall be the framework of all anticipated field activities (*e.g.*, sampling objectives, evaluation of existing data, standard operating procedures) and contain specific information on all field work (*e.g.*, sampling locations and rationale, sample numbers and rationale, analyses of samples). During the RD, RA, and O&M, the SAP shall be revised as necessary to cover each round of field or laboratory activities. The purpose of the SAP is to ensure that sampling data collection activities will be comparable to and compatible with previous data collection activities performed at the Site while providing a mechanism for planning and approving field activities. The overall objectives of the two documents comprising the SAP are as follows:

1. Document specific objectives, procedures, and rationales for fieldwork and sample analytical work;
2. Provide a mechanism for planning and approving Site and laboratory activities;

3. Ensure that sampling and analysis activities are necessary and sufficient; and
4. Provide a common point of reference for Respondent to ensure the comparability and compatibility of all objectives and the sampling and analysis activities.

To achieve this last objective, the SAP shall document all field and sampling and analysis objectives as noted above, as well as all data quality objectives and specific procedures/protocols for field sampling and analysis.

The following critical elements of the SAP shall be described for each sample medium (*e.g.*, ground water, surface water, soil, sediment, air, and biota) and for each sampling event:

1. Sampling objectives (*e.g.*, engineering related, well yields, zone of influence, performance monitoring, demonstration of attainment, five year review, etc.);
2. Data quality objectives, including data uses and the rationale for the selection of analytical levels and detection limits (see Guidance for the Data Quality Objectives Process, EPA QA/G-4 (EPA/600/R-96/055, August 2000); Data Quality Objectives Decision Errors Feasibility Trials (DEFT) Software, QA/G-4D (EPA/240/B-01/007, September 2001); and Final Guidance Data Usability in Risk Assessment (Part A) (publication 9285.7-09A, April 1992, PB92-963356); Guidance for Data Usability in Risk Assessment (Part B) (publication 9285.7-09B, May 1992, PB92-963362)).
3. Site background update, including an evaluation of the validity, sufficiency, and sensitivity of existing data;
4. Sampling locations and rationale;
5. Sampling procedures and rationale and references;
6. Numbers of samples and justification;
7. Numbers of field blanks, trip blanks, and duplicates;
8. Sample media (*e.g.*, ground water, surface water, soil, sediment, air, and buildings, facilities, and structures, including surfaces, structural materials, and residues);

9. Sample equipment, containers, minimum sample quantities, sample preservation techniques, maximum holding times;
10. Instrumentation and procedures for the calibration and use of portable air, soil-, or water-monitoring equipment to be used in the field;
11. Chemical and physical parameters in the analysis of each sample;
12. Chain-of-custody procedures must be clearly stated (see EPA NEIC Policies and Procedures Manual, EPA 330/9-78 001-R, May 1978, revised May 1986);
13. Procedures to eliminate cross-contamination of samples (such as dedicated equipment);
14. Sample types, including collection methods and if field and laboratory analyses will be conducted;
15. Laboratory analytical procedures, equipment, and detection limits;
16. Equipment decontamination procedures;
17. Consistency with the other parts of the Work Plan(s) by having identical objectives, procedures, and justification, or by cross-reference;
18. Analysis from each medium for all Hazardous Substance List (“HSL”) inorganic and organic analytes;
19. Analysis for other potential site-specific contaminants not on the HSL in each media;
20. Analysis of selected background and contaminated ground water samples for substances listed in RCRA Appendix IX, unless the exclusion of certain substances on this list is approved by EPA; and
21. For any limited field investigation (field screening technique), provisions for the collection and laboratory analysis of parallel samples and for the quantitative correlation analysis in which screening results are compared with laboratory results.

Revisions or a statement regarding the need for revisions shall be included in each deliverable describing all new field work.

The SAP shall allow for notifying EPA, at a minimum, fourteen (14) days before field sampling or monitoring activities commence. The SAP shall also allow split, replicate, or duplicate samples to be taken by EPA (or its contractor personnel). At the request of EPA, Respondent shall provide these samples in appropriately pre-cleaned containers to the government representatives. Identical procedures shall be used to collect Respondent and the parallel split samples unless otherwise specified by EPA.

Several references shall be used to develop the SAP, for example:

1. Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA (OSWER Directive 9355.3-01, EPA/540/G-89/004, October 1988);
2. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (EPA Pub. SW-846, Third Edition, or most recent update);
3. EPA Requirements for Quality Assurance Plans, QA/R-5 (EPA/240/B-01/003), March 2001;
4. Region I, EPA-New England Quality Assurance Project Plan Program Guidance, April 2005;
5. Guidance for the Data Quality Objectives Process, QA/G-4 (EPA/600/R-96/055), August 2000;
6. Data Quality Objectives Decision Errors Feasibility Trials (DEFT) Software, QA/G-4D (EPA/240/B-01-007), September 2001);
7. Guidance for the Data Quality Objectives Process for Hazardous Waste, QA/G-4HW (EPA/600/R-00/007), January 2000;
8. Guidance for Preparing Standard Operating Procedures (SOPs), QA/G-6 (EPA/240/B-01/004), March 2001;
9. Region I, EPA-New England Data Validation Functional Guidelines for Evaluating Environmental Analyses, Revised December 1996;
10. Guidance for Data Quality Assessment: Practical Methods for Data Analysis, QA/G-9 (QA00 Version, EPA/600/R-96/084), July 2000;
11. EPA Requirements for Quality Management Plans, QA/R-2 (EPA 240/B-01/002), March 2001; and

12. Guidance for Quality Assurance Project Plans, QA/G-5 (EPA/240/R-02/009), December 2002.

### **B.1. QUALITY ASSURANCE PROJECT PLAN (“QAPP”)**

The Quality Assurance Project Plan (“QAPP”) shall document in writing the site-specific objectives, policies, organizations, functional activities, sampling and analysis activities and specific quality assurance/quality control activities designed to achieve the data quality objectives (“DQOs”) of the RD, RA, and O&M. The QAPP developed for this project shall document quality control and quality assurance policies, procedures, routines, and specifications.

Project activities throughout the RD, RA, and O&M shall comply with the QAPP. QAPP sampling and analysis objectives and procedures shall be consistent with EPA Requirements for Quality Assurance Plans (QA/R-5) and appropriate EPA handbooks, manuals, and guidelines, including Guidance for Quality Assurance Project Plans, QA/G-5 (EPA/240/R-02/009), December 2002, Region I, EPA-New England Quality Assurance Project Plan Program Guidance, April 2005, Guidelines Establishing Test Procedures for the Analysis of Pollutants (40 CFR, Part 136), and Compendium of Methods for the Determination of Toxic Organic Compounds in Ambient Air, (EPA-600/4-84-041, April 1984).

All the QAPP elements identified in EPA QA/R-5 and EPA QA/G-5 must be addressed.

As indicated in EPA QA/R-5 and EPA QA/G-5, a list of essential elements must be considered in the QAPP for the RD, RA, and O&M. If a particular element is not relevant to a project and therefore excluded from the QAPP, specific and detailed reasons for exclusion must be provided.

Information in a plan other than the QAPP may be cross-referenced clearly in the QAPP provided that all objectives, procedures, and rationales in the documents are consistent, and the reference material fulfills requirements of EPA QA/R-5 and EPA QA/G-5. Examples of how this cross reference might be accomplished can be found in the Guidance for the Data Quality Objectives Process, QA/G-4 (EPA/600/R-96/055), and the Data Quality Objectives decision Errors Feasibility Trials (DEFT) Software, QA/G-4D (EPA/240/B-01/007). EPA-approved references, or equivalent, or alternative methods approved by EPA shall be used, and their corresponding EPA-approved guidelines should be applied when they are available and applicable.

#### Laboratory QA/AC Procedures:

The QA/QC procedures and SOPs for any laboratory (both fixed and mobile) used during the RD, RA, and O&M shall be included in the Respondent’s QAPP. When this work is

performed by a contractor to a private party, each laboratory performing chemical analyses shall meet the following requirements:

1. Be approved by the State Laboratory Evaluation Program, if available;
2. Have successful performance in one of EPA's National Proficiency Sample Programs (*i.e.*, Water Supply or Water Pollution Studies or the State's proficiency sampling program);
3. Be familiar with the requirements of 48 C.F.R. Part 1546 contract requirements for quality assurance; and
4. Have a QAPP for the laboratory including all relevant analysis. This plan shall be referenced as part of the contractor's QAPP.

#### Data Validation Procedures:

Respondent is required to certify that a representative portion of the data has been validated by a person independent of the laboratory according to the Region I, EPA-New England Data Validation Functional Guidelines for Evaluating Environmental Analyses, Revised December 1996 (amended as necessary to account for the differences between the approved analytical methods for the project and the current Contract Laboratory Program Statements of Work ("CLP SOW")). A data validation reporting package as described in the guidelines cited above must be delivered at the request of the EPA project manager. Approved validation methods shall be contained in the QAPP.

The independent validator shall not be the laboratory conducting the analysis and should be a person with a working knowledge of or prior experience with EPA data validation procedures. The independent validator shall certify that the data has been validated, discrepancies have been resolved if possible, and the appropriate qualifiers have been provided.

#### Data Package Requirements:

Respondent must require and keep the complete data package and make it available to EPA on request in order for EPA to conduct an independent validation of the data. The complete data package shall consist of all results, the raw data, and all relevant QA/QC information. The forms contained in the data validation functional guidelines must be utilized to report the data when applicable. Raw data includes the associated chromatograms and the instrument printouts with area and height peak results. The peaks in all standards and samples must be labeled. The concentration of all standards analyzed with the amount injected must be included. All laboratory tracking information must also be included in the data package. An example data package deliverable is listed below:

1. A summary of positive results and detection limits of non-detects with all raw data;
2. Tabulated surrogate recoveries and QC limits and all validation and sample raw data;
3. Tabulated matrix spike/matrix spike duplicate recoveries, relative percent differences, spike concentrations, and QC limits from and all validation and sample raw data;
4. Associated blanks (trip, equipment, and method with accompanying raw data for tests);
5. Tabulated initial and continuing calibration results (concentrations, calibration factors or relative response factors and mean relative response factors, % differences and % relative standard deviations) with accompanying raw data;
6. Tabulated retention time windows for each column;
7. A record of the daily analytical scheme (run logbook, instrument logbook) which includes samples and standards order of analysis;
8. The chain of custody for the sample shipment groups, DAS packing slip, DAS analytical specifications;
9. A narrative summary of method and any problems encounter during extraction or analysis;
10. Tabulated sample weights, volumes, and % solids used in each sample calculation;
11. Example calculation for positive values and detection limits; and
12. Validation data for all tests.

The forms contained in Chapter 1 of SW-846 (Second Edition 1982 as amended by Update I, April 1984, and Update II, April 1985) or the current CLP SOW forms must be utilized to report the data when applicable. Raw data includes the associated chromatograms and the instrument printouts with area and height peak results. The peaks in all standards and samples must be labeled. The concentration of all standards analyzed with the amount injected must be included. All internal and external laboratory sample tracking information must be included in the data package.

## **B.2 Field Sampling Plan (“FSP”)**

The objective of the Field Sampling Plan is to provide EPA and all parties involved with the collection and use of field data with a common written understanding of all field work. The FSP should be written so that a field sampling team unfamiliar with the Site would be able to gather the samples and field information required. Guidance for the selection of field methods, sampling procedures, and custody can be acquired from the Compendium of Superfund Field Operations Methods (OSWER Directive 9355.0-14, EPA/540/P-87/001), December 1987, which is a compilation of demonstrated field techniques that have been used during remedial response activities at hazardous waste sites. The FSP shall be site-specific and shall include the following elements:

1. Site Background: If the analysis of the existing Site details is not included in the Work Plan or in the QAPP, it must be included in the FSP. This analysis shall include a description of the Site and surrounding areas and a discussion of known and suspected contaminant sources, probable transport pathways, and other information about the Site. The analysis shall also include descriptions of specific data gaps and ways in which sampling is designed to fill those gaps. Including this discussion in the FSP will help orient the sampling team in the field.
2. Sampling Objectives: Specific objectives of sampling effort that describe the intended uses of data must be clearly and succinctly stated.
3. Sampling Location and Frequency: This section of the FSP identifies each matrix to be collected and the constituents to be analyzed. Tables shall be used to clearly identify the number of samples, the type of sample (water, soil, etc.), and the number of quality control samples (duplicates, trip blanks, equipment blanks, etc.). Figures shall be included to show the locations of existing or proposed sample points.
4. Sample Designation: A sample numbering system shall be established for the project. The sample designation should include the sample or well number, the sample round, the sample matrix (*e.g.*, surface soil, ground water, soil boring), and the name of the Site.
5. Sampling Equipment and Procedures: Sampling procedures must be clearly written. Step-by-step instructions for each type of sampling that are necessary to enable the field team to gather data that will meet the DQOs. A list should include the equipment to be used and the material composition (*e.g.*, Teflon, stainless steel) of equipment along with decontamination procedures.

6. Sampling Handling and Analysis: A table shall be included that identifies sample preservation methods, types of sampling jars, shipping requirements, and holding times. Examples of paperwork such as traffic reports, chain-of-custody forms, packing slips, and sample tags filled out for each sample as well as instructions for filling out the paperwork must be included. Field documentation methods including field notebooks and photographs shall be described.

Each Field Sampling Plan submitted as a part of the POP for the RD, RA, and O&M shall be sufficiently detailed to carry out the study, and shall provide data needed to address the objective of the study and to complete the study. Each study shall be designed to achieve a high performance on the first attempt. Each work plan shall be related (by cross-references) to the other requirements in the Project Operations Plan.

**C. Health and Safety Plan (“HSP”)**

The objective of the site-specific Health and Safety Plan is to establish the procedures, personnel responsibilities and training necessary to protect the health and safety of all on-site personnel during the RD, RA, and O&M. The plan shall provide procedures and plans for routine but hazardous field activities and for unexpected Site emergencies.

The site-specific health and safety requirements and procedures in the HSP shall be updated based on an ongoing assessment of Site conditions, including the most current information on each medium. For each field task during the RD, RA, and O&M, the HSP shall identify:

1. Possible problems and hazards and their solutions;
2. Environmental surveillance measures;
3. Specifications for protective clothing;
4. The appropriate level of respiratory protection;
5. The rationale for selecting that level;
6. Criteria, procedures, and mechanisms for upgrading the level of protection and for suspending activity, if necessary; and
7. Function-specific training requirements for all project personnel.

The HSP shall also include the delineation of exclusion zones on a map and in the field. The HSP shall describe the on-site person responsible for implementing the HSP for the Respondent’s representatives at the Site, protective equipment personnel decontamination

procedures, and medical surveillance. The following documents and resources shall be consulted:

- OSHA e-HASP Software – Version 1.0, September 2003  
([www.osha.gov/dep/etools/ehasp/index.html](http://www.osha.gov/dep/etools/ehasp/index.html))
- Hazardous Waste Operations and Emergency Response (Department of Labor, Occupational Safety and Health Administration (“OSHA”), 29 C.F.R. § 1910.120); and
- Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities: Appendix B (NIOSH/OSHA/EPA 1986).

OSHA regulations at 29 C.F.R. Part 1910, which describe the routine emergency provisions of a site-specific health and safety plan, and the OSHA e-HASP Software shall be the primary references used by the Respondent in developing and implementing the Health and Safety Plan.

The measures in the HSP shall be developed and implemented to ensure compliance with all applicable state and Federal occupational health and safety regulations. The HSP shall be updated at the request of EPA during the course of the RD, RA, and O&M and as necessary.

**D. Community Relations Support Plan (“CRSP”)**

Respondent shall develop a Community Relations Support Plan, whose objective is to ensure and specify adequate support from Respondent for the community relations efforts of EPA. This support shall be at the request of EPA and may include:

1. Participation in public informational or technical meetings, including the provision of presentations, logistical support, visual aids and equipment;
2. Publication and copying of fact sheets or updates; and
3. Assistance in placing EPA public notices in print.

**GRANT OF ENVIRONMENTAL RESTRICTION AND EASEMENT**

42 U.S.C. § 9601, *et seq.* [, and M.G.L. c. 21E, § 6]  
[reference Chapter 21E only if MassDEP is a Grantee]

[Note: This instrument is established as an institutional control for a federal Superfund site pursuant to \_\_\_\_\_ [add reference to Governing Agreement and any separate agreement with the landowner], as set forth below, and contains a GRANT OF ENVIRONMENTAL RESTRICTION AND EASEMENT running to [the UNITED STATES on behalf of its ENVIRONMENTAL PROTECTION AGENCY] [include the following only if MassDEP is a Grantee:] [and/or] [the MASSACHUSETTS DEPARTMENT of ENVIRONMENTAL PROTECTION]]

Disposal Site Name: \_\_\_\_\_  
Site Location: \_\_\_\_\_ [Town/City], MA  
EPA Site Identification Number: \_\_\_\_\_  
MassDEP Release Tracking No. \_\_\_\_-\_\_\_\_\_

This GRANT OF ENVIRONMENTAL RESTRICTION AND EASEMENT (the "Grant") is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, of \_\_\_\_\_ [insert property owner's address] ("Grantor").

**WITNESSETH:**

WHEREAS, Grantor is the owner in fee simple of that [those] certain parcel(s) of [vacant] land located in \_\_\_\_\_ [insert Town/City], \_\_\_\_\_ County, Massachusetts, [with the buildings and improvements thereon], pursuant to [a deed recorded with the \_\_\_\_\_ Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_]; [or insert source of title other than by deed]; and/or [Certificate of Title No. \_\_\_\_\_ issued by the Land Registration Office of the \_\_\_\_\_ Registry District];

WHEREAS, said parcel(s) of land, known and/or numbered as \_\_\_\_\_, which is [are] more particularly bounded and described in Exhibit A ("Legal Description of the Property"), attached hereto and made a part hereof (the "Property"), is [are] subject to this Grant. The Property is shown on [a plan entitled "\_\_\_\_\_"] prepared by \_\_\_\_\_, dated \_\_\_\_\_, recorded with the \_\_\_\_\_ Registry of Deeds in Plan Book \_\_\_\_\_, Plan \_\_\_\_\_], and/or on [Land Court Plan No. \_\_\_\_\_] [shown as Lot \_\_\_\_\_];

[WHEREAS, that [those] certain portion(s) of the Property subject to restrictions has [have] been designated \_\_\_\_\_ [list names of each type of restricted area, such as "Area A" or "the Cap Area"—this reference, legal descriptions and survey plan

**must use internally consistent terminology**] ([collectively, all of the foregoing restricted areas comprising] the "Restricted Area");]

[WHEREAS, the Restricted Area is bounded and described in Exhibit A-1 ("Legal Description of the Restricted Area"), attached hereto and made a part hereof;]

[WHEREAS, the Restricted Area is shown on a plan **refers to a survey plan showing the restricted area and perimeter of each subdivided lot comprising the portion of the Property where the Restricted Area is located**] consisting of \_\_\_ sheet(s), entitled "Plan of Restricted Area" prepared by \_\_\_\_\_, dated \_\_\_\_\_, and recorded in the \_\_\_\_\_ Registry of Deeds in Plan Book \_\_\_\_\_, Plan \_\_\_\_\_; [and on a sketch plan attached hereto and filed herewith for registration]] **note that a full-size plan must be recorded on the unregistered side, even for registered land**];

WHEREAS, the Property [and the Restricted Area] is [are] subject to covenants, restrictions, easements and other rights and obligations under the terms and conditions of this instrument;

WHEREAS, [a portion of] the Property [is part of] [contains] a federal Superfund Site, known as the \_\_\_\_\_ Superfund Site (the "Site"). The U.S. Environmental Protection Agency, an agency established under the laws of the United States, having its New England regional office at One Congress Street, Boston, Massachusetts 02114 ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9605, placed the Site on the National Priorities List, set forth at 40.C.F.R. Part 300, Appendix B, by publication in the Federal Register on \_\_\_\_\_, \_\_\_ Fed. Reg. \_\_\_\_\_, due to a release of hazardous substances, as that term is defined by Section 104 of CERCLA, 42 U.S.C. § 9604.

WHEREAS, the Massachusetts Department of Environmental Protection, a duly constituted agency organized under the laws of the Commonwealth of Massachusetts, having its principal office at One Winter Street, Boston, Massachusetts 02108 ("MassDEP"), as a result of the release of oil and/or hazardous materials at the Property, as those terms are defined in the Massachusetts Oil and Hazardous Materials Release, Prevention and Response Act, M.G.L. c. 21E, as amended ("Chapter 21E"), has placed [a portion of] the Property on the Massachusetts List of Confirmed Disposal Sites and Locations to be Investigated pursuant to Chapter 21E and the Massachusetts Contingency Plan, 310 CMR 40.0000 (the "MCP"), has classified [such portion of] the Property as a Tier IA disposal site and has assigned to thereto MassDEP Release Tracking Number(s) \_\_\_\_\_;

WHEREAS, in a document entitled, "Record of Decision, \_\_\_\_\_ Superfund Site," dated \_\_\_\_\_ [ **include in this definition any ROD Amendments or Explanations of Significant Differences**] (the "ROD"), said ROD being on file at the United States Environmental Protection Agency, Region I ("EPA") Record Center located at One Congress Street, Boston, Massachusetts, EPA, with the concurrence of MassDEP on \_\_\_\_\_ **fill in date of State concurrence letter**], has selected one or more response actions (collectively, the "Selected Remedy") for the Site in accordance with CERCLA, 42 U.S.C. §§ 9601, *et seq.*, and the National Contingency Plan, 40 CFR §§ 300.1, *et seq.* (the "NCP");

WHEREAS, the Selected Remedy is based, in part, upon the restriction of human access to and contact with hazardous substances in soil and groundwater; and the restriction of certain uses and activities occurring in, on, through, over or under the Property;

*[Using one of the two sample paragraphs below as a model, identify the **Performing Party** (the person including a federal agency who developed the GERE and is applying to MassDEP to accept it) and the **Governing Agreement** (the agreement, in addition to the ROD, pursuant to which the Performing Party developed the GERE, such as a consent decree, administrative order on consent, or other agreement; for a fund-lead site, the ROD typically would serve as the Governing Agreement)]*

[WHEREAS, \_\_\_\_\_, a \_\_\_\_\_ corporation having a mailing address of \_\_\_\_\_ (the "Performing Party") is performing a portion of the Selected Remedy pursuant to a consent decree (the "Consent Decree" also referred to herein as the "Governing Agreement") entered into with the United States and the Commonwealth of Massachusetts in the [consolidated] actions captioned *U.S. v. \_\_\_\_\_* and *Commonwealth of Massachusetts v. \_\_\_\_\_*, Docket Numbers \_\_\_\_\_ and \_\_\_\_\_ (D. Mass.), respectively;]

[WHEREAS, the United States of America, acting through EPA (the "Performing Party"), having entered into a Superfund State contract for \_\_\_\_\_ *[reference Site and Operable Unit]* with the Commonwealth of Massachusetts, acting through MassDEP, entitled, " \_\_\_\_\_ " and dated \_\_\_\_\_ " on file at each agency, and pursuant to the ROD (also referred to herein as the "Governing Agreement"), is performing the Selected Remedy;

*[Include the following paragraph only if MassDEP is a Grantee:]*

[WHEREAS, MassDEP, pursuant to Sections 3(a) and 6 of Chapter 21E, is authorized to take all action appropriate to secure to the Commonwealth the benefits of CERCLA and to acquire an interest in real property if necessary to carry out the purposes of Chapter 21E, and is willing to accept this Grant as joint Grantee with the United States or as sole Grantee, as the case may be;]

*[in the following paragraph, include a reference to the plan for inspecting and reporting on compliance with the GERE, such plan having been developed as part of the Selected Remedy, pursuant to the Governing Agreement (e.g., a consent decree and associated scope of work)]*

WHEREAS, EPA has approved a plan entitled " \_\_\_\_\_," prepared on behalf of \_\_\_\_\_, by \_\_\_\_\_, and dated \_\_\_\_\_ (the "Compliance Inspection and Reporting Plan"), a copy of which is attached hereto as Exhibit B, and which is on file at the EPA Record Center located at One Congress Street, Boston, Massachusetts;

*[The following paragraph should only be included if Grantor is responsible in Section 5 ("Obligations and Conditions") for performing operations and maintenance described in the*

*operation and maintenance plan for the Selected Remedy. Also, this paragraph and the preceding paragraph may be combined, if the ROD and/or SOW contemplate that the operation and maintenance plan will incorporate the compliance inspection and reporting plan as a component of it. In such cases, the compliance inspection and reporting plan should at a minimum be separately noted in the combined paragraph.]*

[WHEREAS, EPA has approved a plan entitled “ \_\_\_\_\_,” prepared on behalf of \_\_\_\_\_, by \_\_\_\_\_, and dated \_\_\_\_\_ (the “Operation and Maintenance Plan”), a copy of which is attached hereto as ExhibitB-1, and which is on file at the EPA Record Center located at One Congress Street, Boston, Massachusetts;] [and]

*[If EPA entered into a separate agreement with the landowner, add the following paragraph.]*

[WHEREAS, Grantor and the United States of America, acting through EPA, entered into an agreement styled “ \_\_\_\_\_,” effective \_\_\_\_\_, EPA Docket Number CERCLA \_\_\_\_\_ (the “Agreement”), a copy of which is on file at the EPA Record Center located at One Congress Street, Boston, Massachusetts, in which Grantor agreed to perform certain response actions at the Site, including without limitation to implement environmental restrictions and an access easement such as the within Grant, pursuant to Paragraph \_\_\_\_ (“Access and Institutional Controls”) of the Agreement;]

NOW, THEREFORE, pursuant to the terms and provisions of the Governing Agreement [and \_\_\_\_\_] [*reference any separate agreement with the landowner*] identified above, [the receipt and sufficiency of which consideration is hereby acknowledged,] \_\_\_\_\_ (“Grantor”), hereby GIVES, GRANTS and CONVEYS to the [UNITED STATES ON BEHALF OF ITS ENVIRONMENTAL PROTECTION AGENCY] [and the] [MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION] [*MassDEP should be included only if MassDEP agrees to be a Grantee*] ([collectively,] “Grantee”), as a gift, with QUITCLAIM COVENANTS, an ENVIRONMENTAL RESTRICTION (“Restriction”) in, on, through, over and under the Property. Said Restriction is subject to the following terms and conditions:

1. Purpose. It is the purpose of this Grant to establish covenants and restrictions and to convey to Grantee real property rights involving access and enforcement, all of which shall run with the land, to facilitate the remediation of environmental contamination, and to protect human health and the environment by reducing the risk of exposure to contaminants.

2. Applicability. The restrictions set forth in Paragraph 3 (“Restricted Uses and Activities”) shall not apply to:

A. any response action undertaken by EPA or MassDEP, or their respective agents, representatives, contractors, subcontractors or employees, pursuant to CERCLA or Chapter 21E, and their respective implementing regulations [; or]

[B. any response action undertaken by the Performing Party, or its agents, representatives, contractors, subcontractors or employees, in accordance with and pursuant to the Governing Agreement, and any approval by EPA and/or MassDEP required thereunder]; *[if the Performing Party has no obligation to perform response actions or operation and maintenance after this Grant has been recorded, or in the atypical circumstance where there is no Governing Agreement in a non-fund-lead response action, delete this paragraph]*

provided, however, that if any such response action results in a change in the areal extent or grade of any portion of the Property required to be restricted under this instrument to ensure that the Selected Remedy is protective of human health and the environment, or if Grantee otherwise determines that it is necessary or appropriate to amend or partially release this instrument as a result of such response actions, then the person performing such response action shall, in accordance with the requirements of Paragraph 14 (“Amendment and Release”), (i) obtain Grantor’s agreement to amend this instrument, including the Plan of Restricted Areas, and/or to partially release this instrument, as applicable, (ii) with Grantor’s agreement submit an application to Grantee therefor, and (iii) ensure that all actions necessary to effectuate such an amendment and/or partial release are taken. Further provided, and that for response actions described in Paragraph 2.B., above, all costs of performing the foregoing obligations shall be at the Performing Party’s sole cost and expense, notwithstanding the provisions of Paragraph 14 (“Amendment and Release”).

3. Restricted Uses and Activities. Except as provided in Paragraph 2 (“Applicability”), Paragraph 4 (“Permitted Uses and Activities”) and Paragraph 6 (“Emergency Excavation”), Grantor shall not perform, suffer, allow or cause any person to perform any of the following activities in, on, upon, through, over or under [the Property] [the Restricted Area] [each Restricted Area identified below] or any portion thereof, or any of the following uses to be made of [the Property] [the Restricted Area] [each Restricted Area identified below] or any portion thereof:

*[if there are multiple restricted areas, identify each such area and list applicable restrictions for each]*

*[sample restrictions in brackets—site specific restrictions must satisfy the requirements of the Selected Remedy:]*

A. [excavation, removal or disposal of any loam, peat, gravel, sand, rock or other mineral or natural resource;]

B. [extraction, consumption or utilization of groundwater underlying the Property for any purpose, including without limitation extraction for potable, industrial, irrigation or agricultural use;]

C. [agricultural use or activity];

D. [residential use or activity];

E. [day care or, for children under eighteen (18) years of age, educational use or activity;]

F. [recreational use or activity;]

G. [hotel or motel use or activity;]

H. [commercial use or activity;]

I. [industrial use or activity;]

J. \_\_\_\_\_ [*list any other restricted uses and/or activities;*] and

K. any use or activity which would interfere with, or would be reasonably likely to interfere with, the implementation, effectiveness, integrity, operation, or maintenance of the Selected Remedy, including but not limited to cap(s), cover(s) or other ground covering features of response actions conducted to implement the Selected Remedy; [systems to collect, contain, treat, and discharge groundwater]; [systems or containment areas to excavate, store, treat, and dispose of soils and sediments]; and [systems and studies to monitor implementation of the Selected Remedy, to provide long-term environmental monitoring of on-site groundwater, soils, and sediments, and to ensure that the remedial action is effective in the long-term and protective of human health and the environment]. Reference is made to the Plan of Restricted Areas [and to the As-Built Records, on file on file at the EPA Record Center located at One Congress Street, Boston, Massachusetts], which provide(s) information about the location within the Property and engineering details, respectively, of certain of the foregoing components of the Selected Remedy. [*include references to important site-specific components of the Selected Remedy, including where detailed information about them may be found*]

4. Permitted Uses and Activities. Grantor expressly reserves the right to perform, suffer, or allow, or to cause any person to perform (i) any use or activity in, on, upon, through, over, or under the Property that is not listed in Paragraph 3 (“Restricted Uses and Activities”) of this Grant; and (ii) any of the following activities in, on, upon, through, over or under the [the Property] [the Restricted Area] [each Restricted Area identified below], or any portion thereof, or any of the following uses to be made of the [the Property] [the Restricted Area] [each Restricted Area identified below], or any portion thereof:

[*if there are multiple restricted areas, each with its own set of permitted uses and activities, then identify each such area and list its permitted uses and activities* ]

[*sample permitted uses and activities:*]

[A. Notwithstanding the restriction on excavation set forth in Paragraph 3.A, above, excavation, unless such excavation would permanently modify the areal extent or grade of the [Property] [Restricted Area], is permitted, subject to the following:

*[identify any requirements including any applicable health and safety, soil management or ground water/surface water management protocols (attach protocols as appendices and incorporate by reference)]*

(i) \_\_\_\_\_;

(ii) \_\_\_\_\_; and

(iii) \_\_\_\_\_;]

[B. Notwithstanding the restriction on \_\_\_\_\_ set forth in Paragraph 3\_\_, above, such activities and uses as may be required to perform the requirements of the Operation and Maintenance Plan set forth in Paragraph 5.A;]

[C. Notwithstanding the restriction on \_\_\_\_\_ set forth in Paragraph 3\_\_, above, such activities and uses as may be required to perform the requirements of the Restriction Compliance Inspection Plan set forth in Paragraph 5.B;] and

[D. *list any other permitted uses and/or activities;*]

E. The provisions of this Paragraph 4 (“Permitted Uses and Activities”) shall not release Grantor or any other party from liability for releases of oil or hazardous substances, nor shall this provision excuse Grantor or any other party from complying with CERCLA, Chapter 21E, or any other applicable federal, State or local laws, regulations or ordinances.

5. Obligations and Conditions. Grantor affirmatively agrees to perform the following activities [and][or] to maintain the following conditions at the Restricted Area in order to maintain the [Selected Remedy]:

A. [The following requirements of the Operations and Maintenance Plan:

(i) \_\_\_\_\_;

(ii) \_\_\_\_\_; and

(iii) \_\_\_\_\_;]

B. [The following requirements of the Restriction Compliance Inspection Plan:

(i) \_\_\_\_\_;

(ii) \_\_\_\_\_; and

(iii) \_\_\_\_\_;] and

C. *[insert other specific activities and conditions set forth in the Governing Agreement or other applicable document, if any]*

6. Emergency Excavation. If it becomes necessary to excavate within the Restricted Area as part of a response to an emergency (*e.g.*, repairing utility lines or responding to a fire or flood), and such excavation could result in a significant risk of harm from exposure to the hazardous substances located within the Restricted Area, the requirements of Paragraph 3.A of this Grant shall be suspended with respect to such excavation for the duration of such response, provided that Grantor:

A. orally notifies the following persons of such emergency as soon as possible but no later than two (2) hours after having learned of such emergency:

i. EPA Office of Site Remediation and Restoration, Emergency Planning and Response Branch; and

ii. MassDEP \_\_\_\_\_ Regional Office of Emergency Response Section;

or such other persons as [either] Grantee, [respectively], may identify in writing, from time to time, to Grantor for such emergency response notifications;

B. notifies [each] Grantee in writing of such emergency no later than five (5) days after having learned of such emergency [, with a copy to the Performing Party];

C. limits the actual disturbance involved in such excavation to the minimum reasonably necessary to adequately respond to the emergency;

D. implements all measures necessary to limit actual or potential risk to the public health and environment [, including the following:

i. \_\_\_\_\_;

ii. \_\_\_\_\_; and

iii. \_\_\_\_\_;]

E. engages a qualified environmental professional satisfactory to EPA, unless MassDEP is a Grantee, in which case Grantor must instead engage a hazardous waste site cleanup professional, who is a "Licensed Site Professional" ("LSP") as defined in the MCP at 310 CMR 40.0006(12), to oversee the implementation of this Paragraph, and to prepare and oversee the implementation of a written plan which will restore the [Property] [Restricted Area] to a condition which meets or exceeds the performance standards established under the ROD for the Selected Remedy and which is consistent with this Restriction, and to review and evaluate response actions contained in said plan to ensure minimal disturbance of the contaminated soils; Grantor to implement said plan as soon as reasonably possible following such emergency; and a copy of said plan to be submitted to MassDEP and EPA, within ten (10) days of its performance, with a statement from the LSP confirming that the [Property] [Restricted Area] has been restored to the standard described above.

7. Easements. In establishing this Restriction, Grantor hereby grants the following easements for the term of this Grant to [each] Grantee, its [their] agents, contractors, subcontractors, and employees:

A. to pass and repass over the Property for purposes of inspecting the [Property] [Restricted Area] to insure compliance with the terms of this Restriction and for purposes of conducting the activities described in Paragraph 7.B, below; and

B. in, on, through, over and under the [Property] [Restricted Area] for purposes of conducting subsurface investigations, installing groundwater monitoring wells, and conduct other investigations of the [Property] [Restricted Area] and/or response actions consistent with (i) CERCLA and the NCP and/or (ii) Chapter 21E and the MCP, related to the Selected Remedy and/or to the Governing Agreement.

8. Construction. This instrument shall be liberally construed to effect its purpose and the policies and purposes of CERCLA and/or Chapter 21E. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid. Any word or defined term contained in this instrument shall be read as singular, plural, masculine, feminine or neuter as the context so requires.

9. Severability. Grantor hereby agrees, in the event that a court or other tribunal determines that any provision of this instrument is invalid or unenforceable:

A. that any such provision shall be deemed automatically modified to conform to the requirements for validity and enforceability as determined by such court or tribunal; or

B. that any such provision that, by its nature, cannot be so modified, shall be deemed deleted from this instrument as though it had never been included.

In either case, the remaining provisions of this instrument shall remain in full force and effect.

10. Enforcement.

A. Grantor expressly acknowledges that a violation of the terms of this instrument could result in the following:

i. the assessment of penalties and other action by [each] Grantee, and its [their] respective successors and assigns, to enforce the terms of this instrument, pursuant to CERCLA and/or M.G.L. c. 21E, and their respective implementing regulations, and other law and regulations, as applicable; and

ii. upon a determination by a court of competent jurisdiction, the issuance of criminal and civil penalties, and/or equitable remedies which could include the issuance of an order to modify or remove any improvements constructed in violation of the terms of this instrument at Grantor's sole cost and

expense, and/or to reimburse [each] Grantee for any costs incurred in modifying or removing any improvement constructed in violation of the terms of this instrument.

B. Notwithstanding any other provision of this instrument, all rights and remedies (including without limitation sanctions and penalties) available hereunder shall be in addition to, but not in lieu of, any and all rights and remedies (including without limitation sanctions and penalties) at law or in equity, including under CERCLA or Chapter 21E, [and/or pursuant to the Governing Agreement,] which rights and remedies [each] Grantee fully reserves. Enforcement of the terms of this instrument shall be at the discretion of [each] Grantee, and any forbearance, delay or omission to exercise its [their respective] rights under this instrument shall not be deemed to be a waiver by [either] Grantee of such term or any subsequent breach of the same or any other term, or of any of the rights of [either] Grantee under this instrument.

11. Provisions to Run With the Land. This Restriction establishes certain rights, liabilities, agreements and obligations for the Property, or any portion thereof, that shall run with the Property, or any portion thereof, for the term of this Restriction. Grantor hereby covenants for himself/herself/itself and his/her/its executors, administrators, heirs, successors and assigns to stand seized and hold title to the Property, or any portion thereof, subject to this Restriction.

The rights granted to [each] Grantee, its [their] successors and assigns, do not provide, however, that a violation of this Restriction shall result in a forfeiture or reversion of Grantor's title to the Property.

12. Concurrence Presumed. It is agreed that:

A. Grantor and all parties claiming by, through or under Grantor shall be deemed to be in accord with the provisions of this document; and

B. all such parties and any party claiming by, through, or under them, and their respective agents, contractors, sub-contractors and employees, also agree that the Restriction herein established shall not be violated and that their respective interests in the [Property] [Restricted Area] shall be subject to the provisions herein set forth.

13. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. Grantor hereby agrees to incorporate this Restriction, in full or by reference, into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property, or any portion thereof, is conveyed.

14. Amendment and Release.

A. Amendment. This instrument, including without limitation any of its Exhibits, or the Plan of Restricted Area, may be amended only with the prior, written approval of Grantee. Grantor may propose to Grantee, with a copy to the Performing Party, an amendment of a use or activity restriction set forth in Paragraph 3 ("Restricted

Uses and Activities”), or of a permitted use or activity set forth in Paragraph 4 (“Permitted Uses and Activities”), based upon changed circumstances including without limitation new analytic and engineering data. In the event that Grantor requests such an amendment, Grantor shall comply with such requirements as Grantee may identify for that purpose. Grantor agrees to cooperate with Grantee if it becomes necessary to modify this instrument in order to maintain the continued effectiveness of the Selected Remedy. All amendments shall include [each] Grantee’s signed approval and shall become effective upon recording and/or registration with the appropriate registry of deeds and/or land registration office. MassDEP will provide notice to EPA prior to approving an amendment to the Grant. Such notice shall not be a condition of or a requirement for any such amendment to be effective.

B. Release. [Each] Grantee may release its [respective] interest in the Grant, in whole or in part, in its [respective] sole discretion. MassDEP will provide notice to EPA prior to releasing its interest in the Grant. Such notice shall not be a condition of or requirement for any such release to be effective. This Grant shall not be deemed released unless and until [each] Grantee has released its [respective] interest hereunder. Any such release(s) shall become effective upon recording and/or registration with the appropriate registry of deeds and/or land registration office.

C. Recordation and/or Registration. Grantor hereby agrees to record and/or register with the appropriate registry of deeds and/or land registration office any amendment to and/or release of this instrument, or other document created pursuant to this instrument for which such recording and/or registration is required, within thirty (30) days of the date of having received from Grantee(s) any such amendment, release or other such document executed by [each] Grantee and/or evidencing [each] Grantee’s approval, as appropriate, in recordable form. No more than thirty (30) days from the date of such recording and/or registering of said amendment, release and/or other such document, Grantor shall provide a certified registry copy of the amendment, release and/or other such document to [each] Grantee, with a copy to the Performing Party. At that time, or as soon thereafter as it becomes available, Grantor shall provide [each] Grantee with the final recording and/or registration information for the amendment, release, and/or other such document, certified by said registry. Grantor shall pay any and all recording fees, land transfer taxes and other such transactional costs associated with any such amendment or release.

D. Notice to Local Officials. In accordance with the requirements set forth in 310 C.M.R. §40.1403(7), as amended, and within thirty (30) days after recording and/or Registering any such amendment, release, or other such document, Grantor shall: (i) provide the [City] [Town] of \_\_\_\_\_ Chief Municipal Officer, Board of Health, Zoning Official and Building Code Enforcement Official with copies of such recorded and/or registered amendment, release or other such document; (ii) publish a legal notice indicating the recording and/or registering of such amendment, release or other such document, and including the information described in 310 C.M.R. §40.1403(7)(b)(1), in a newspaper which circulates in the [City] [Town] of \_\_\_\_\_; and (iii) provide copies of said legal notice to [each] Grantee

within seven (7) days of its publication.

15. Payment of Future Costs. Grantor shall pay all costs incurred by Grantee not inconsistent with CERCLA or Chapter 21E, as applicable, including attorneys fees and interest, in connection with any request by Grantor for an approval, review or other action by Grantee pursuant to the terms of this instrument, including without limitation (i) an approval, including any presumptive approval, pursuant to Paragraph 4 ("Permitted Uses and Activities") of this instrument and (ii) for an approval, pursuant to Paragraph 14 ("Amendment and Release") of this instrument. Such costs shall be due and payable within thirty (30) calendar days of receipt of demand. Grantee reserves the right to issue any determination that may be appropriate in response to any such request from Grantor only upon receipt of payment in full of such costs.

16. No Dedication Intended. Nothing herein shall be construed to be a gift or dedication of the Property to [either] Grantee or to the general public for any purpose whatsoever.

17. Term. This Restriction shall run [in perpetuity] [for a period of \_\_\_\_ years] and is intended to conform to MG.L. c. 184, § 26, as amended.

18. Notices.

A. General. Any notice, delivery or other communication permitted or required under this instrument, unless otherwise provided in this instrument, shall be in writing and sent by reliable overnight delivery service, delivered in hand or mailed by postage-paid registered or certified mail, return receipt requested. Notices or other communications shall be deemed given, if by overnight delivery service, on the first business day following deposit with such delivery service; if by hand, on the date of the receipt evidencing the hand delivery thereof; or, if by registered or certified mail, three (3) days after deposit in the United States mails; provided that notice of change of address shall be deemed effective only upon receipt.

B. EPA and MassDEP. Whenever, under the terms of this instrument, written notice is required to be given or a document is required to be sent to Grantee, EPA and/or MassDEP, as the case may be, it shall be directed to both EPA and MassDEP, to the individuals at the addresses specified below, or as otherwise directed in writing by EPA and/or MassDEP, respectively.

As to EPA:

EPA Remedial Project Manager  
\_\_\_\_\_  
Superfund Site  
United States Environmental Protection Agency, Region I  
One Congress Street, Suite 1100, Mailcode HBO  
Boston, MA 02114

and to:

EPA Enforcement Counsel  
\_\_\_\_\_  
Superfund Site

United States Environmental Protection Agency, Region I  
One Congress Street, Suite 1100, Mailcode SES  
Boston, MA 02114

As to MassDEP:

Bureau of Waste Site Cleanup  
Department of Environmental Protection  
One Winter Street, \_\_\_<sup>th</sup> Floor  
Boston, MA 02108  
Attention: \_\_\_\_\_ Superfund Site Project Manager

[C. Performing Party. Whenever, under the terms of this instrument, written notice is required to be given or a document is required to be sent to the Performing Party, it shall be directed to the individual at the address specified below, or as otherwise directed in writing by the Performing Party:

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

Attention: Coordinator for \_\_\_\_\_ Superfund Site]

19. Assignment. This Grant, including without limitation all easements, rights, covenants, obligations and restrictions inuring to the benefit of [either] Grantee, herein contained, shall be freely assignable by [either] Grantee, in whole or in part, at any time. MassDEP will provide notice to EPA prior to assigning its interest in the Grant. Such notice shall not be a condition of or requirement for any such assignment to be effective.

20. Rights Reserved. Acceptance of this Restriction shall not operate to bar, diminish, nor in any way affect any legal or equitable right of [either] Grantee to issue any future order with respect to the Site or in any way affect any other claim, action, suit, cause of action, or demand which [either] Grantee may have with respect to the Site.

21. Governing Law; Captions. This instrument shall be governed by and interpreted in accordance with the laws of the United States and of the Commonwealth of Massachusetts, as applicable. All captions and headings contained in this instrument are for convenience of reference only, and shall not be used to govern or interpret the meaning or intent of any provision of this document.

22. Effective Date. This Restriction shall become effective upon its recordation with the appropriate registry of deeds and/or land registration office.

No more than thirty (30) days from the date of recording and/or registration, Grantor shall provide [each] Grantee with a certified registry and/or land registration office copy of this instrument. At that time, or as soon as practicable thereafter, Grantor shall provide [each] Grantee with a copy of this instrument, as recorded, certified by said registry and/or land

registration office.

As this Restriction is a gift, no Massachusetts deed excise stamps are affixed hereto, none being required by law.

WITNESS the execution hereof under seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

\_\_\_\_\_  
[Name of Grantor]

GRANTOR

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public:

My Commission Expires:

*[Include the following paragraph only if MassDEP is a Grantee:]*

In accordance with M.G.L. c. 21E, § 6, as amended, the Commissioner of the Department of Environmental Protection hereby approves this Grant of Environmental Restriction and Easement (as to form only).

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

\_\_\_\_\_  
Commissioner  
Department of Environmental Protection

*[Include the following paragraph only if MassDEP is a Grantee:]*

Upon recording, return to:

Bureau of Waste Site Cleanup  
Department of Environmental Protection  
One Winter Street, 8th Floor  
Boston, MA 02108

Attention: \_\_\_\_\_ Site Project Manager

List of Exhibits

Exhibit A	Legal Description of the Property
[Exhibit A-1	Legal Description of the Restricted Area]
Exhibit B	Compliance Inspection and Reporting Plan
[Exhibit B-1	Operation and Maintenance Plan]