

## **General Comments on Land Use and Risk Perspectives**

Risk posed by the use of land with certain environmental conditions can be broken down into six general categories. There can be variance within each category for a site-specific risk assessment. For further guidance, see EPA's Regional Screening Levels – User Guide<sup>1</sup> and Risk Assessment Guidance.<sup>2</sup>

Unrestricted Residential Use – All constituents of potential concern (COPCs) are below the most current and applicable EPA regional screening level (RSL) for resident soil and vapor intrusion screening level (VISL) for residential use. This category is the most appropriate for single family home development.

Restricted Residential Use – COPCs may be above the most current EPA RSL for resident soil, EPA VISL for residential use, and possibly above commercial values. In this scenario, land use restrictions requiring engineering controls (e.g. O&M for a 2-foot soil cap or vapor mitigation system) are typically required to make the site appropriate for the specified residential use. Apartment complexes, condominiums, and other residential uses may be developed under this use category, if approved by TDEC.

Churches, Daycares, Schools, Senior Living Centers, Prisons, etc. - While these sites may be considered commercial under local zoning laws, the exposure from a risk perspective is typically somewhere between Residential and Commercial/Industrial. Commercial/Industrial land use risk perspectives only consider adult body weights in the chronic exposure scenarios. Children spending time at a school or daycare would not be considered in a default commercial/industrial risk equation. Therefore, before a property is developed with one of these uses, the site-specific exposure should be assessed. TDEC-DOR uses the residential EPA RSLs and residential EPA VISLs as the exposure default for this scenario. Any required land use restrictions would be based on a site-specific evaluation.

Parks and Recreational Areas – These must be evaluated based on the site-specific conditions and intended use. Different risk strategies would be necessary at a neighborhood children's park, a disk golf course, or a lake used for recreation, and any required land use restrictions would be based on the site-specific evaluation.

Unrestricted Industrial/Commercial Use- All COPCs are below the most current and applicable EPA RSL values for commercial/industrial soil and below the most current and applicable EPA VISL values for commercial use. Land use restrictions prohibiting other uses (i.e. residential) are typically required.

Restricted Industrial/Commercial Use – Industrial/Commercial use is allowed so long as certain other land use restrictions, typically engineering controls, are followed.

Restricted Groundwater Use – Groundwater concentrations with COPCs above the General Use Groundwater criteria established in Rule 0400-40-03.08(2) will be restricted from use. If groundwater has not been adequately investigated, groundwater use may also be restricted if soil data indicates the potential to impact groundwater above the General Use Groundwater criteria.

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<sup>1</sup> <https://www.epa.gov/risk/regional-screening-levels-rsls-users-guide#landuse>

<sup>2</sup> <https://www.epa.gov/risk/risk-assessment-guidance-superfund-rags-part>

Notice of Land Use Restrictions for:  
Site # 82-592  
West Industry Drive, Kingsport, Tennessee

This instrument prepared by:  
Office of the City Attorney  
City of Kingsport  
415 Broad Street  
Kingsport, TN 37660

**Grantor: CITY OF KINGSPORT**

**Division of Remediation Site Number: 82-592**

**County Parcel Identification No(s): 46P F 010.50 and 46P F 010.00**

### NOTICE OF LAND USE RESTRICTIONS

Notice is hereby given that pursuant to Tennessee Code Annotated section 68-212-225, the Commissioner of the Tennessee Department of Environment and Conservation (“TDEC”) has determined that this land use restriction is an appropriate remedial action at the below-described Property for the environmental conditions identified. The Register of Deeds shall record this Notice and index it in the grantor index under the name of the below-referenced Grantor. Tenn. Code Ann. § 68-212-225(d). The effective date of this Notice of Land Use Restrictions shall be the date upon which the Notice has been recorded with the Register of Deed’s Office of Sullivan County.

#### Witnesseth:

WHEREAS, the Grantor, City of Kingsport, is the owner of real property located at 300 East Industry Drive, identified as Tax Parcel No. 046P F 010.00 and being more particularly described in a warranty deed recorded in Deed Book 3508 Page 548 and 100 West Industry Drive, identified as Tax Parcel No. 046P F 010.50 and being more particularly described in a quitclaim deed recorded in Deed Book 3464, Page 1416<sup>3</sup> both of which lie within the corporate limits of the City of Kingsport, Sullivan County, State of Tennessee and said deeds recorded in the Register of Deed’s Office of Sullivan County which are more particularly described in Exhibit A, referred to herein collectively as the “Property,” and,

WHEREAS, the property located at 100 West Industry Drive is shown on a survey drawn by Wilson & Associates, P.C. (Tennessee LS# 1599), dated August 29, 2017, attached hereto as Exhibit B and incorporated herein by reference though no survey exists for the property at 300 East Industry Drive; and

WHEREAS, in accordance the terms of the Brownfield Voluntary Agreement for the Property, TDEC has determined that this Notice of Land Use Restrictions is an appropriate

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<sup>3</sup> While originally Parcel 046P F 010.50 consisted of 38.735 acres, on June 23, 2023 4.613 acres were conveyed to the Industrial Development Board of the City of Kingsport by quitclaim deed recorded in Deed Book 3571, Page 9 and as shown by a plat of record in Plat Book 58, Page 593.

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remedial action for the protection of human health and the environment for the contamination identified herein, so long as these land use restrictions are instituted and observed for the Property; and

WHEREAS, the purpose of these land use restrictions is to ensure protection of human health and the environment by identifying and documenting the Property as having potential environmental concern and as such outline investigations of the Property's condition, document requirements for remediation and monitoring as well as limitations on the development and use of the Property; and,

WHEREAS, the Grantor, for itself and its successors and/or assigns, including without limitation any agents, representatives, contractors, subcontractors, or employees thereof, has agreed to impose certain land use restrictions on the Property as set forth hereinafter and has agreed to comply with, preserve, and maintain these restrictions in perpetuity as described herein. Any person who owns or leases a property subject to land use restrictions under Tennessee Code Annotated section 68-212-225 shall abide by the restrictions.

NOW, THEREFORE, in consideration of the foregoing, the Grantor hereby declares that the Property should be held, sold, and conveyed subject to the following land use restrictions:

### **I. LOCATION OF CONTAMINATION**

The Property consists of two parcels located at 100 West Industry Drive (Parcel 010.50) and 300 East Industry Drive (Parcel 010.00), and generally lies along the northeasterly side of West Industry Drive approximately two tenths of a mile northwest from its intersection with Brickyard Drive Kingsport, Sullivan County, Tennessee, and is also known as the Cement Hill and Recycling Center site. A survey of the Cement Hill site being Parcel 010.50 was conducted by Mr. Danny Carr RLS No. 1599 and is attached as Exhibit B.

The investigation of the Property identified contaminated conditions which may present an unreasonable risk to public health and the environment if certain activities occur on the Property. Volatile organic compounds (VOC's), metals, semi volatile organic compounds (SVOCs), and extractable petroleum hydrocarbons (EPH) were detected in the soil samples collected from test pits and soil borings advanced in the northeast portion on the Property but were not above corresponding RSLs except for EPH identified around the former diesel underground storage tank (UST) dispenser island (988 mg/kg) which is above the applicable special waste threshold of 100 mg/kg. Arsenic was detected above the corresponding RSLs for both residential (0.7 mg/kg) and industrial soils (3.0 mg/kg) at concentrations ranging from 3.07 to 7.14 mg/kg. Uncapped cement kiln dust (CKD) was also observed onsite in an area northeast of the stormwater retention pond but did not indicate concentrations of contaminants above corresponding comparison RSLs. Groundwater samples collected from two onsite wells (installed by others and located in the southeast and southwest corners of the Cement Hill site indicted the presence of EPH and metals

Notice of Land Use Restrictions for:  
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in concentrations that were not above the corresponding Groundwater Protection Standards (GWPS) except for arsenic which was detected in MW-2 at 0.0108 mg/l versus an MCL of 0.01 mg/l.

The only remedial actions implemented to date on the Property consist of a system of pipes, pumps and related equipment to transport and dispose of Lechate on the Cement Hill site described further under *Operations and Maintenance* herein.

## **II. RESTRICTIONS**

The purpose of these land use restrictions is to ensure the protection of human health and the environment by preventing certain uses or activities that could result in exposure to contamination present at the Property through direct contact, ingestion, or inhalation. This Notice of Land Use Restriction is being filed for the purpose of outline investigations of the Property's condition and to document requirements for remediation and monitoring as well as limitations on the development and use of the Property. As contamination remains at the Property subject to the provisions of the Brownfield Voluntary Agreement and Soil Management Plan, there shall be no construction, use, or occupancy of the Property that results in the disturbance or excavation at the Property which may threaten the integrity of the engineering controls herein or which results in an unacceptable human exposure to contamination remaining in any media unless TDEC approval is given in accordance with the restrictions below. The Grantor, its successors, or assigns shall operate and maintain these land use restrictions to protect the functional integrity of the remedy in accordance with the *Soil and Groundwater Management Plan – Cement Hill and Recycling Center; DoR Site ID 82-892, Kingsport, Tennessee S&ME Project No. 216089*. (hereinafter SMP) Unless otherwise specified, the following restrictions apply to the entire Property. These restrictions shall run with the land and bind the Grantor, successors, and assigns, including without limitation any agents, representatives, contractors, subcontractors, or employees thereof. The Grantor agrees that the use of Property will be restricted as follows:

### **Land Use Controls**

For purposes of this land use restriction, the following definition applies:

“Residential land use” means land on which a person resides. Types of dwellings associated with residential land use can include but are not limited to: single family homes; duplexes; multifamily homes such as apartments or condominiums; manufactured homes; mobile homes; group homes; jails or prisons; retirement homes; boarding houses; or dormitories. Schools, day-use senior or child-care centers, and churches are also considered residential land use even though people do not typically live there.

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Uses of the Property are restricted as follows:

**Non Residential Use:**

The Property shall not be used for residential purposes as the term is defined above. Use of that portion of the Property consisting of Parcel 010.50 shall be restricted to recreational and greenspace uses. Whereas use of that portion of the Property consisting of Parcel 010.00 shall be for a recycling convenience center. This center will serve as a collection point, utilizing roll-off or other similar receptacles of a type and nature customarily utilized for the collection of refuse. Items to be collected will primarily consist of but not necessarily be limited to cardboard, tin, aluminum, mixed paper, plastic, household construction and demolition materials, yard waste, and limited seasonal collection of household garbage. This restriction does not prohibit the construction of recreational infrastructure such as bathrooms, walking paths, pavilions, associated recreational amenities, parking facilities and the installation or location of roll-off or other similar receptacles for recycling and/or other refuse collection.

**Activity Controls**

Activities on the Property are prohibited as follows:

***Options (consult with your assigned DOR project manager):***

- Contaminated media remains at the Property as reflected in the SMP attached hereto as Exhibit C and incorporated herein by reference. The Grantor, its successors, or assigns shall maintain the integrity of the existing soils or future pavement, which serves as an engineered barrier to prevent direct contact with the underlying contaminated soils and must not be excavated, removed, disturbed, demolished, or allowed to fall into disrepair as delineated in the SMP without prior written approval of TDEC's Division of Remediation. TDEC may require written evidence demonstrating to the satisfaction of TDEC that (1) any such proposed demolition, removal, or burial of wastes or soil will not pose a danger to public health, safety, or the environment, and (2) that any such removed soil or wastes will be managed in accordance with applicable regulations to protect public health, safety, and the environment. Any approval granted by TDEC for such demolition, removal, or burial shall be in writing and must contain a reference to this instrument. A copy of this approval should be retained by the Property owner and TDEC, and the Property owner should give any Property purchaser a copy of any written approvals.
- The Grantor, its successors, or assigns shall not dig, drill, excavate, grade, or conduct any other land disturbing activity that may impact (as predetermined or reasonably suspected) soil or buried waste material underlying the Property without prior written approval of TDEC's Division of Remediation. The Grantor, its successors, or assigns shall notify TDEC in advance and demonstrate to the satisfaction of TDEC that (1) any such proposed

activity will not pose a danger to public health, safety, or the environment, (2) ) that the remaining contaminant concentrations will not present a threat to human health or the environment, and (3) that any such removed soil or wastes will be managed in accordance with applicable local, state, or federal regulations. Any approval granted by TDEC shall be in writing and must contain a reference to this instrument. A copy of this approval should be retained by the Property owner and TDEC, and the Property owner should give any Property purchaser a copy of any written approvals. The Grantor, its successors, or assigns shall restore soil disturbed as a result of excavation and construction activities in such a manner that the remaining contaminant concentrations do not present a threat to human health or the environment.

- The Grantor, its successors, or assigns shall not conduct any invasive activity on the Property, including soil borings or groundwater wells, without prior written approval of TDEC's Division of Remediation and demonstrating to the satisfaction of TDEC, through sampling and analysis approved by TDEC, that any invasive activity will not pose a danger to public health, safety, or the environment. Any approval granted by TDEC shall be in writing and must contain a reference to this instrument. A copy of this approval should be retained by the Property owner and TDEC, and the Property owner should give any Property purchaser a copy of any written approvals.
- The groundwater beneath the Property shall not be used, accessed, extracted, or otherwise disturbed unless required by a Government agency of competent jurisdiction or otherwise approved by TDEC. This Land Use Restriction prohibits (1) the installation of groundwater wells for any purpose other than environmental monitoring and (2) the installation of groundwater wells intended for use as a potable water source.
- Gardening of produce for human consumption in on-site soil is prohibited. This restriction does not prohibit gardening in raised beds with clean soil imported from off-site as long as the root systems for any such produce have no contact with on-site soil.

### **Operation and Maintenance Controls**

A remedial activity is ongoing at the Property, more particularly on the Cement Hill site which consists of a system of pipes, pumps and related equipment to transport and dispose of leachate as further reflected in a Deed of Easement between Domtar Paper Company, LLC and the City of Kingsport recorded in Deed Book 3464, Page 1695 – 1702 in the Sullivan County Register of Deed's Office. As a result, actions which may result in an undesirable human or natural resource exposure or in the release of a contaminant that was contained or mitigated as part of the remedial action related to this Notice of Land Use Restrictions are prohibited as follows:

The Grantor, its successors, or assigns shall not conduct any invasive, construction, or development activities on the Property unless it is in accordance with an approved Site/Soil Management Plan, including any reporting requirement contained therein. The Grantor shall notify

TDEC prior to initiating construction and development activities. This restriction does not include standard maintenance activities that do not fully penetrate the clean cover of those areas identified in the SMP, such as parking lot, lawn, or drain maintenance, or temporary alterations to maintain or repair any engineered barriers installed on the Property or utility work beneath such engineered barriers (provided that the engineered barriers are promptly replaced or restored). Engineered barriers must be maintained as long as contamination remains at the covered location(s).

***Options:***

**Invasive Activity Notice**

- Soil or other media at the Property that is impacted or reasonably suspected to be impacted as noted in areas shown on Figure No. 2 of the SMP shall not be excavated or otherwise disturbed in any manner:
  - 1) without the prior written approval of TDEC. Based on the potential hazards associated with the soil disturbance activities, TDEC may deny the request to disturb the soils or may require specific protective or remedial actions before allowing such soil disturbance activities to occur; or,
  - 2) except in accordance with the TDEC-approved Soil Management Plan attached hereto as Exhibit D, which is hereby incorporated by reference.

Any and all excavated soil or other media shall be managed, transported, and disposed of in compliance with all applicable federal, state, and local laws, regulations, and ordinances including without limitation those pertaining to environmental protection and occupational safety. Any approval required or requested that is granted by TDEC shall be in writing and must contain a reference to this instrument.

The Grantor, its successors, or assigns seeking such approval shall not conduct these activities without accepting responsibility for costs incurred by TDEC in the review and oversight of work or associated with the review of any work plan or other associated documents.

- The Grantor, its successors, or assigns shall not conduct any demolition or modification of the concrete slab floor, including any TDEC-required vapor barrier that would expose the underlying soils, without notifying TDEC in advance and receiving written approval. To receive written approval, the Grantor, its successors, or assigns must demonstrate to the satisfaction of TDEC through sampling and analysis or other methods approved by TDEC that the exposed media will not pose a danger to public health, safety, or the environment. The requirements of this paragraph do not apply if it can be demonstrated to the satisfaction of TDEC that removal of structures present at the site does not damage or otherwise materially compromise the integrity of the foundations and footers underlying the existing

structures that are providing an effective cover or cap. Any approval granted by TDEC shall be in writing and must contain a reference to this instrument.

### **Vapor Mitigation System**

- A vapor mitigation system may be required in building(s) on the Property due to detected concentrations of VOCs that indicate a potential VI threat. In the event of construction of a building which requires a vapor mitigation system, no one shall disturb, modify, damage, or remove any vapor mitigation system installed at or within any structure at the Property unless pursuant to a work plan approved in advance by TDEC. Any future replacement of such structures shall be equipped with an equivalent vapor mitigation system or, if approved in writing by TDEC, another vapor mitigation system. Any approval required or requested and that is granted by TDEC shall be in writing and must contain a reference to this instrument.
- All occupied buildings constructed on the Property shall have a vapor mitigation system approved by TDEC. No additional building shall be constructed at the Property without a TDEC-approved vapor mitigation system. The approved vapor mitigation systems shall be maintained going forward. Any approval required or requested and that is granted by TDEC shall be in writing and must contain a reference to this instrument.

Any vapor mitigation system operation and maintenance activities required by this Notice of Land Use Restriction as a condition of occupancy, including any post-vapor mitigation system installation monitoring, shall be conducted in accordance with the TDEC-approved operation and maintenance plan, or an updated, TDEC-approved operation and maintenance plan.

- The Grantor, its successors, or assigns shall not begin construction of any new building(s) or expand the footprint of any existing buildings at the Property without evaluating whether environmental conditions pose a threat of vapor intrusion into the new building(s) or expansion, sharing its findings with TDEC, and receiving TDEC's written approval. If a vapor mitigation system is determined by TDEC to be warranted based upon the data evaluation in order to safely allow occupancy of such impacted buildings or expansions, construction or expansion of any impacted building(s) is prohibited until such structures are equipped with an appropriate passive or active mitigation system as proposed by the Property owner and approved by TDEC. Such system, either passive or active, shall have associated with it an appropriate period of verification sampling and Operation and Maintenance performance and reporting, with specific requirements determined by TDEC. No one shall disturb, modify, damage, or remove any vapor mitigation features at any structure at the Property unless approved in advance by TDEC and pursuant to a TDEC-approved work plan. Any approval granted by TDEC shall be in writing and must contain a reference to this instrument.



### **Engineered Control(s)**

All identified contaminated soils are currently under a cap, or are required to be capped by the TDEC approved SMP. This area(s) shall remain under cover as any cover currently exists or will be covered by a minimum of 18 inches of clean soil with an additional six (6) inch layer of vegetation or by an impervious surface (concrete, asphalt, or pavement). The planting of trees and other invasive activities on this area(s) is prohibited. These protections shall be maintained in accordance with a TDEC-approved Operations and Maintenance Plan (O&M) until such time as TDEC determines they are no longer needed. Any approval granted by TDEC for the restricted uses shall be in writing and must contain a reference to this instrument.

### **Emergency Contingencies**

The Grantor, its successors, and/or assigns may only undertake invasive activities or some other disturbance of media that is or may be contaminated to complete emergency repairs to utility lines or other infrastructure on the Property or to respond to other types of emergencies (e.g., utility line break, fires, floods) if Grantor, its successors, and/or assigns take the following actions:

- i. notify TDEC within two (2) business days of obtaining knowledge of such emergency conditions to provide TDEC with the opportunity to oversee this work, though Grantor may undertake such actions as may be reasonably necessary to make such emergency repairs as may be required to prevent further casualty or loss to its infrastructure or to mitigate significant harm to the general public or property owners in the immediate vicinity of the Property;
- ii. assure that the persons carrying out the excavation limit the disturbance of the soil or other media to the minimum reasonably necessary to adequately respond to the emergency;
- iii. assure that the persons carrying out the excavation prepare and implement such measures necessary to prevent actual, potential, present, or future risk to human health or the environment with TDEC's concurrence, including to undertake precautions to minimize exposure to workers responding to the emergency (e.g., provide appropriate types of protective clothing for workers conducting the excavation or other invasive activities and establish procedures for minimizing the dispersal of dust); and
- iv. assure that any excavated contaminated soil is managed or disposed of in compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances including, without limitation, those pertaining to environmental protection and occupational safety.

### **III. GENERAL PROVISIONS**

#### 1. Access by the Department

The Property meets the definition of a hazardous substance site or brownfield project as they are defined in Tennessee Code Annotated section 68-212-202(a). In addition to any rights already possessed by the Department for access, this Notice of Land Use Restriction grants TDEC a right of reasonable access of the Property in connection with implementation or enforcement of this Notice of Land Use Restriction.

#### 2. Compliance Enforcement

Any owner of the Property or any unit of local government having jurisdiction over any part of the Property may enforce this Notice of Land Use Restrictions by means of a civil action. The Commissioner of TDEC may enforce this Notice of Land Use Restrictions through the issuance of an Administrative Order or by means of a civil action, including one to obtain an injunction against present or threatened violations of the restriction. Any person who fails, neglects, or refuses to comply with a land use restriction commits a Class B misdemeanor and is subject to the assessment of a civil penalty of up to ten thousand dollars (\$10,000) per day. Tenn. Code Ann. § 68-212-213. Nothing in this Notice of Land Use Restrictions shall restrict the Commissioner of TDEC from exercising any authority under applicable law.

Any easily curable default of a relatively minor nature may be cured by Grantor and shall not constitute an Event of Default, if Grantor, after receiving written notice from TDEC demanding cure of such default: (a) cures the default within thirty (30) days; or (b) if the cure requires more than thirty (30) days, immediately initiates steps which TDEC deems in TDEC's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

#### 3. Notice of Limitations in Future Conveyances

Each instrument hereafter conveying any interest in the Property subject to this Notice of Land Use Restriction shall contain a notice of the activity and use limitations set forth herein and shall provide the recorded location of this Notice of Land Use Restriction in the records of the Register of Deed's Office specified above. Any future master plan of subdivision shall reference this Notice of Land Use Restrictions.

4. Notice to Lessees

The Grantor, its successors, or assigns agrees to incorporate either in full or by reference the restrictions of this Notice of Land Use Restrictions in any leases, licenses, or other instruments granting a right to use the Property.

This notice shall not be required for individual conveyances if there is a management company or homeowners association (HOA) that is responsible for complying with this Notice of Land Use Restriction.

5. Written Notice of the Presence of Contamination

The Grantor, its successors, or assigns agrees to include in any instrument conveying any interest in the Property or any portion thereof, including but not limited to deeds, leases, and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances), the following notice provision (with blanks to be filled in):

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A NOTICE OF LAND USE RESTRICTIONS RECORDED IN THE REGISTERS OFFICE OF \_\_\_\_\_ COUNTY ON \_\_\_\_\_, 20\_\_, INSTRUMENT NUMBER \_\_\_\_\_.

This notice shall not be required for individual conveyances if there is a management company or homeowners association (HOA) that is responsible for complying with this Notice of Land Use Restrictions.

6. Subdivision

The Grantor, its successors, or assigns shall ensure that the restrictions established by this Notice of Land Use Restrictions remain on any subdivided property.

The notice provision in Section III.5. above shall be noted on the master deed of any planned development for the Property and noted, or referenced thereafter, on each individual deed of property subdivided from the Property and subject to the Notice.

7. Written Notice of Conveyance of Property

The Grantor, its successor, or assigns agrees to provide notice to TDEC of any conveyance (voluntary or involuntary) of any ownership interest or any conveyance of any leasehold interest in the Property (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). The Grantor, its successor, or assigns must provide TDEC with the notice within 30 days of the conveyance and include the name and business address of the transferee. The term "Transferee", as used in this Notice of Land Use

Restrictions, shall mean any future owner of any possessory interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, easement holders, or lessees. This notice shall not be required for individual conveyances if there is a management company or homeowners association (HOA) that is responsible for complying with this Notice of Land Use Restrictions.

By taking title to an interest in or occupancy of the Property, any subsequent owner, lessee, or other party is required to comply with all the restrictions set forth in this Notice of Land Use Restrictions, Tenn. Code Ann. § 68-212-225(f), unless otherwise exempted by applicable law.

#### 8. Term

This Notice of Land Use Restrictions shall run with and bind the Property and shall be binding upon all parties having right, title, or interest in the Property or any part thereof, their heirs, successors, assigns, grantees, and lessees unless this Notice of Land Use Restrictions is made less stringent or canceled as set forth under the paragraph entitled "Amendment and Termination."

#### 9. Compliance Reporting

After written request by TDEC the then current owner of the Property shall submit to TDEC written documentation stating whether or not the activity and use limitations in this Notice of Land Use Restriction are being abided by. In addition, within 1 month after any of the following events, the then-current owner of the Property shall submit, to the TDEC and the original Grantor, written documentation: (1) noncompliance with the activity and use limitations in this Notice of Land Use Restriction; transfer of the Property; (2) changes in use of the Property; or (3) filing of applications for building permits for the Property and any proposals for any site work, if the building or proposed site work will affect the contamination on the Property subject to this Notice of Land Use Restriction.

#### 10. Amendment and Termination

After public notice and an opportunity for public input as provided in Tennessee Code Annotated section 68-212-225(e), this Notice of Land Use Restrictions may be made less stringent or canceled by the Commissioner of TDEC where the risk has been eliminated or reduced so that less restrictive land use controls are protective of human health and the environment.

The Grantor, its successors, or assigns may request that TDEC approve a modification or termination of the Notice of Land Use Restrictions. The request shall contain information demonstrating the proposed modification or termination shall, if implemented, protect human health and the environment. TDEC shall review any submitted information and may

request additional information. Information to support a request for modification or termination may include one or more of the following:

- a) a proposal to perform additional remedial work;
- b) new information regarding the risks posed by the residual contamination;
- c) information demonstrating that contamination identified in the Notice of Land Use Restrictions has diminished;
- d) information demonstrating that an engineered feature or structure is no longer necessary;
- e) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; or
- f) other appropriate supporting information.

The Grantor, its successors, or assigns seeking approval of other land uses or to cancel or make a Land Use Restriction less stringent shall be responsible for any costs incurred by TDEC in the review and oversight of work associated with the restriction modification.

#### 11. Severability

Invalidation of any of these covenants or restrictions by judgement or court order shall in no way affect any other provisions, which shall remain in full force and effect.

The administrative record for the Property referenced in this Notice of Land Use Restrictions is maintained by the Tennessee Department of Environment and Conservation, Division of Remediation. For further information concerning the Property refer to site number 82-592.

*[TDEC approval and Grantor signature pages follow]*

Notice of Land Use Restrictions for:  
Site # 82-592  
West Industry Drive, Kingsport, Tennessee

Real property described in Deeds of record with the Sullivan County Register of Deeds as  
\_\_\_\_\_.

This Notice of Land Use Restrictions has been reviewed and approved by the Tennessee  
Department of Environment and Conservation, Division of Remediation

\_\_\_\_\_  
Name: James S. Sanders  
Title: Director

STATE OF TENNESSEE)  
COUNTY OF DAVIDSON)

Personally appeared before me, the undersigned, Notary Public having authority  
within the aforesaid State, James S. Sanders, with whom I am personally acquainted, and  
who acknowledged that he executed the within instrument for the purposes therein  
contained, and who further acknowledged that he is the Director of the Division of  
Remediation and is authorized to execute this instrument on behalf of the Department.

WITNESS my hand, at office, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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

My Commission Expires: \_\_\_\_\_  
Name: \_\_\_\_\_

Approved as to form and legality:  
TDEC Office of General Counsel Attorney

\_\_\_\_\_  
(Attorney's Name)

Notice of Land Use Restrictions for:  
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IN WITNESS WHEREOF, the undersigned has executed this instrument this \_\_\_\_\_ day  
of \_\_\_\_\_ 2024.

CITY OF KINGSPORT, TENNESSEE  
GRANTOR

\_\_\_\_\_  
Patrick W. Shull, Mayor

Attest:

\_\_\_\_\_  
Angela Marshall, Deputy City Recorder

Approved as to form:

\_\_\_\_\_  
Rodney B. Rowlett, III, City Attorney

STATE OF TENNESSEE:  
COUNTY OF SULLIVAN:

Personally appeared before me, the undersigned Notary Public having authority within the aforesaid State, PATRICK W. SHULL, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be the MAYOR of the CITY OF KINGSPORT the within named Grantor, a municipal corporation, and that such person executed this instrument for the purposes herein contained, by signing the name of the municipality by such person as mayor.

WITNESS, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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

\_\_\_\_\_  
Commission Expiration

Notice of Land Use Restrictions for:  
Site # 82-592  
West Industry Drive, Kingsport, Tennessee

EXHIBIT A  
LEGAL DESCRIPTION

**36°32'34.98"N / 82°33'51.57"W**

**Tax Map 046P F 010.50 and Tax Map 046P F 010.00**

**Parcel 010.50** being generally described as: Beginning at an iron pin on the northeasterly right-of-way line of Industry Drive, thence, with a new line the following five calls; N 36 53' E, 412.36 feet to an iron pin, N 67 05' E, 179.53 feet to an iron pin, N 52 18' E, 300.02 feet to an iron pin, N 30 43' W, 168.00 feet to an iron pin, and N 31 01' E, 109.26 feet to an iron pin at the corner of Dixie Cement Company, Inc. property, thence, with Dixie Cement Company, Inc. property the following four calls; N 31 01' E, 74.71 feet to an iron pin, S 55 36' E, 436.82 feet to an iron pin, N 50 59' E, 51.93 feet to an iron pin, S 68 47' E, 276.84 feet to an iron pin on the southwesterly right-of-way line of C.C. & O. Railroad property, thence with said right-of-way, S 55 45" E, 637.44 feet to a concrete monument, thence, leaving said right-of-way and with the Industrial Development Board of the City of Kingsport boundary line, the following three calls; S 34 15' W, 527.44 feet to an iron pin, S 49 15' W, 700.00 feet to an iron pin, and S 45 35' W, 323.55 feet to a concrete monument on the northeasterly right-of-way line of Industry Drive, thence, with said right-of-way, N 40 57' W, 1200.54 feet to the Point of Beginning as reflected in a quitclaim deed of record recorded on September 2, 2021 in Deed Book 3464 at Page 1416 from Domtar Paper Company, LLC to the City of Kingsport. **LESS, HOWEVER,** approximately 4.613 acres conveyed by the City of Kingsport to the Industrial Development Board of the City of Kingsport via quitclaim deed recorded in the Sullivan County Register of Deeds on August 28, 2023 in Deed Book 3752 at Page 9 and as shown by the plat of record recorded in the Sullivan County Register of Deeds in Plat Book 58 at Page 593.

**Parcel 010.00** being generally described as: Beginning at an iron pin in the easterly right of way line of Industry Drive, said iron pin marking a corner common to the lands herein conveyed and lands of General Shale Products; thence, leaving said point of Beginning, and running N. 36 46' 42" W., 200.38 feet to an iron pin in the southerly line of a gravel road; thence, with said line N. 49 22' 30" E., 226.90 feet to a point on concrete monument marking a corner common to the lands herein conveyed and lands of General Shale Products; thence, S. 40 38' 00" E., 199.56 feet to a metal post in concrete monument; thence, S. 49 17' 15" W., 240.37 feet to the point of Beginning, containing 1.0701 acres as described in a Warranty Deed from Andy Kerney to the City of Kingsport recorded on May 16, 2022 in the Sullivan County Register of Deed's office at Deed Book 3508, Page 552.



Notice of Land Use Restrictions for:  
Site # 82-592  
West Industry Drive, Kingsport, Tennessee

**EXHIBIT B  
SURVEY**