Instructions: Any ELUR pursuant to the Environmental Use Restriction Regulations (“EUR regulations”) shall be in the following template.

This template shall be used for any ELUR approved by the Commissioner or a LEP pursuant to the EUR regulations. The appropriate information shall be inserted into the *text boxes*.

Instructions which are included in *italicized grey text* and non-applicable options shall be deleted prior to signature.

***SURVEYS SHOULD BE RECORDED PRIOR TO RECORDATION OF THE ELUR DOCUMENTS.***

**After Recording Return to**:

Connecticut Department of Energy and Environmental Protection

Environmental Use Restriction Coordinator

Bureau of Water Protection and Land Reuse

Remediation Division

79 Elm Street

Hartford, Connecticut 06106-5127

Re: REM ID#

DECLARATION OF ENVIRONMENTAL LAND USE RESTRICTION AND GRANT OF EASEMENT

This Declaration of Environmental Land Use Restriction (“ELUR”) and Grant of Easement is made this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_, between *Grantor’s Legal Name* (the “Grantor”) and the Commissioner of the Department of Energy and Environmental Protection of the State of Connecticut (the “Grantee”).

W I T N E S S E T H:

WHEREAS, Grantor is the Owner in fee simple of certain real property (the “Property”) described below:

|  |
| --- |
| Street address: *Street address of Property* |
| City/Town: *City or Town of Property* |
| State: Connecticut |
| Assessor’s Map: *Map designation or N/A*  And/or Assessor’s Account Number: *Assessor’s Account Number or N/A* |
| Volume and Page of Deed: *Volume and Page of Deed* |

A description of the Property is attached hereto as Exhibit A, which is made a part hereof; and

WHEREAS, this Declaration of Environmental Land Use Restriction and Grant of Easement (“ELUR”) and associated exhibits identified herein, collectively represent the ELUR for the subject property, and

WHEREAS, the Grantee has the authority to enter into this ELUR pursuant to sections 22a-5, 22a-6, and 22a-133o et seq. of the Connecticut General Statutes and Section 22a-133q-1 to 22a-133q-9, inclusive, of the Regulations of Connecticut State Agencies (“EUR regulations”); and

*Select the language for Commissioner approval or for LEP approval, if eligible pursuant to section 22a-133y of the Connecticut General Statutes and 22a-133q-2(f) of the Regulations of Connecticut State Agencies, and* ***delete the non-applicable box****.*

|  |
| --- |
| *Language for Commissioner approval:*  WHEREAS, the Grantee has determined that the ELUR set forth below is consistent with regulations adopted pursuant to section 22a-133k of the Connecticut General Statutes; and  WHEREAS, the Grantee has determined that this ELUR will effectively protect human health and the environment from the hazards of pollution on the Property; and  WHEREAS, the Grantee’s written acceptance of this ELUR is evidenced by the signature of the Commissioner or Commissioner’s designee below; and |

|  |
| --- |
| *Language for LEP approval pursuant to section 22a-133y of the Connecticut General Statutes and 22a-133q-2(f) of the Regulations of Connecticut State Agencies:*  WHEREAS, section 22a-133y of the Connecticut General Statutes includes provisions for the approval of an ELUR by a LEP; and  WHEREAS, the LEP whose signature appears below has determined that the ELUR set forth below is consistent with the EUR regulations, section 22a-133q-1 to 22a-133q-9, inclusive, of the Regulations of Connecticut State Agencies, adopted pursuant to section 22a-133k and section 22a-133o of the Connecticut General Statutes; and  WHEREAS, the Grantee’s written approval of this ELUR is evidenced by the signature and seal of the LEP below; and  WHEREAS, the LEP whose signature and seal appears below and in the EUR opinion attached hereto as Exhibit B has determined that this ELUR will effectively protect human health and the environment from the hazards of pollution; and |

WHEREAS, the EUR opinion attached hereto as Exhibit B which is made a part hereof, includes the information required by section 22a-133q-5 of the Regulations of Connecticut State Agencies; and

WHEREAS, the Property or portion thereof that is subject to this ELUR (the “Subject Area”) and identified in the survey attached hereto as Exhibit C which is made a part hereof, contains pollutants; and

WHEREAS, to prevent exposure to, or migration of, such pollutants and to abate hazards to human health and the environment, and in accordance with the EUR opinion, the Grantor desires to impose certain restrictions upon the use, occupancy, and activities of and at the Subject Area, and to grant this ELUR to the Grantee on the terms and conditions set forth below; and

WHEREAS, Grantor intends that such restrictions shall run with the land and be binding upon and enforceable against Grantor and Grantor’s successors and assigns.

NOW, THEREFORE, Grantor agrees as follows:

1. Purpose. In accordance with the EUR opinion, the purpose of this ELUR is to assure that the use and activity at the Property and the Subject Area is restricted, obligations are carried out, and conditions maintained in accordance with the requirements of the EUR opinion, attached hereto as Exhibit B.
2. Restrictions and Obligations Applicable to the Subject Area. In furtherance of the purposes of this ELUR, Grantor shall assure that use, occupancy, and activity of and at the Subject Area are conducted in accordance with the EUR opinion attached hereto as Exhibit B. The Grantor shall fulfill the obligations and maintain the conditions necessary to meet the objectives of the ELUR in accordance with the requirements of the EUR opinion attached hereto as Exhibit B. Such restrictions shall remain in effect unless and until a release is obtained under paragraph 5 below.
3. Except as provided in paragraphs 4 and 5 below, no action shall be taken, allowed, suffered, or omitted if such action or omission is reasonably likely to:
4. Create a risk of migration of pollutants or a potential hazard to human health or the environment; or
5. Result in a disturbance of the integrity of any engineered controls or remedies designed or utilized at the Subject Area to contain pollutants or limit human exposure to pollutants.
6. Emergencies. In the event of an unforeseen combination of circumstances or the resulting state that calls for immediate action to prevent a significant risk to human health or the environment, the destruction of property, or the disruption of public utility service, the application of paragraphs 2 and 3 above may be suspended, provided such risk cannot be abated without suspending said paragraphs and the Grantor:
7. Immediately notifies the Grantee of the emergency;
8. Limits both the extent and duration of the suspension to the minimum reasonably necessary to adequately respond to the emergency;
9. Implements all measures necessary to limit actual and potential present and future risk to human health and the environment resulting from such suspension; and
10. After the emergency is abated, implements a plan approved in writing by the Grantee, on a schedule approved by the Grantee, to ensure that the Subject Area is remediated in accordance with sections 22a-133k-1 to 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies and restored to the condition described in the ELUR.
11. Release of ELUR; Temporary Allowable Disturbance. Except as provided in paragraph 4, the Grantor shall not make, or allow or suffer to be made, any alteration of any kind in, to, or about any portion of any Subject Area inconsistent with this ELUR unless and until, either:
12. A Temporary Allowable Disturbance is implemented in accordance with section 22a-133q-6 of the Regulations of Connecticut State Agencies, or
13. A release has been approved by the Grantee in accordance with section 22a-133q-7 of the Regulations of Connecticut State Agencies.
14. Grant of Easement to the Grantee. Grantor hereby grants and conveys to the Grantee, the Grantee’s agents, contractors, and employees, and to any person performing pollution remediation activities under the direction thereof, a non-exclusive easement (the “Easement”) over the Subject Area and over such other parts of the Property as are necessary for access to the Subject Area or for carrying out any actions to abate a threat to human health or the environment associated with the Subject Area. Pursuant to this Easement, the Grantee, the Grantee’s agents, contractors, and employees, and any person performing pollution remediation activities under the direction thereof, may enter upon and inspect the Property and perform such investigations and actions as the Grantee deems necessary for any one or more of the following purposes:
15. Ensuring that use, occupancy, and activities of and at the Property are consistent with this ELUR;
16. Ensuring that any remediation implemented complies with sections 22a-133k-1 to 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies;
17. Performing any additional investigations or remediation necessary to protect human health and the environment;
18. Ensuring that the Grantor is fulfilling the obligations of the ELUR and maintaining the conditions necessary to meet the purposes of the ELUR; and

v. Ensuring the structural integrity of any engineered controls described in Exhibit B and their continuing effectiveness in containing pollutants and limiting human exposure to pollutants.

1. Notice and Time of Entry onto Property. Entry onto the Property by the Grantee pursuant to this Easement shall be upon reasonable notice and at reasonable times, provided that entry shall not be subject to these limitations if the Grantee determines that immediate entry is necessary to protect human health or the environment.
2. Notice to Lessees and Other Holders of Interests in the Property. Grantor, or any future holder of any interest in the property, shall cause any lease, grant, or other transfer of any interest in the Property to include a provision expressly requiring the lessee, grantee, or transferee to comply with this ELUR. The failure to include such provision shall not affect the enforceability, validity or applicability to the Property of this ELUR.
3. At least 30 days prior to transferring an interest in the property, the Grantor shall submit to the potential purchaser a complete copy of the EUR and copies of all documents required to be retained by the Owner pursuant to section 22a-133q-9 of the Regulations of Connecticut State Agencies.
4. Persons Entitled to Enforce Restrictions. The restrictions in this ELUR on use, occupancy, and activity of and at the Property shall be enforceable in accordance with section 22a-133p of the Connecticut General Statutes.
5. Severability and Termination. If any court of competent jurisdiction determines that any provision of this ELUR is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court. In the event that the provision invalidated is of such nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect. Further, in either case, the Grantor shall submit a copy of this restriction and of the Judgment of the Court to the Grantee.
6. Binding Effect. All of the terms, covenants and conditions of this ELUR shall run with the land and shall be binding on the Grantor, the Grantor’s successors and assigns, and any other party entitled to possession or use of the Property during such period of ownership or possession.
7. Terms Used Herein. The definitions of terms used herein shall be the same as the definitions contained in sections 22a-133k-1 and 22a-133q-1 of the Regulations of Connecticut State Agencies as said sections existed on the date of execution of this ELUR.
8. Burden of Proof. With respect to any claim or cause of action asserted by the Grantee against the Grantor under this ELUR, the Grantor shall bear the burden of proving that any activities at the subject area do not or will not violate the restrictions imposed by this ELUR, that the obligations of the ELUR have been carried out, and that conditions at the Subject Area have been maintained in accordance with the requirements of the EUR opinion. The Grantor, or its successors in interest, shall be responsible for demonstrating that use on the property is in conformity with the ELUR.
9. Inspections. The Grantor or its successors and assigns shall perform or cause to be performed the inspections required by section 22a-133q-8 of the Regulations of Connecticut State Agencies. If the required inspection indicates non-compliance with the ELUR, the Grantor or its successors and assigns shall take the action required by section 22a-133q-8 of the Regulations of Connecticut State Agencies.
10. Non-Waiver. No failure on the part of the Grantee at any time to require performance of any term of this ELUR shall be taken or held to be a waiver of such term or in any way affect the Grantee’s rights to enforce such term.
11. Nothing in this ELUR shall affect the Grantee’s authority to institute any proceeding, or take any action to prevent or abate pollution, to recover costs and natural resource damages, and to impose penalties for violations of law or violations of this ELUR. If at any time the Grantee determines that the ELUR does not protect human health and the environment from the hazards of pollution, the Grantee may institute any proceeding, or take any action to require further investigation or further action to prevent or abate pollution. The approval of this ELUR relates only to pollution or contamination identified in the EUR opinion attached hereto as Exhibit B of this ELUR.
12. The Grantor shall retain copies of all documents related to this ELUR as required by section 22a-133q-9 of the Regulations of Connecticut State Agencies.
13. DEEP Contact Information. Any document required to be submitted to DEEP pursuant to this ELUR shall, unless otherwise specified in writing by DEEP, be directed to:

Connecticut Department of Energy and Environmental Protection

Environmental Use Restriction Coordinator

Bureau of Water Protection and Land Reuse

Remediation Division

79 Elm Street

Hartford, Connecticut 06106-5127

Re: *REM ID#*

Signature Page Follows

By signing below the undersigned certifies that:

1. He or she is fully authorized to sign this ELUR.
2. The Grantor has the power and authority to enter into this ELUR, to grant the restrictions, fulfill the obligations, and maintain the conditions necessary to meet the objectives of the ELUR in accordance with the requirements of the EUR opinion attached hereto and made a part hereof as Exhibit B.

In witness whereof, the undersigned has/have executed this ELUR this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

*Select Applicable Signature Block, and delete the non-applicable signature blocks*

# *If for an individual:*

|  |  |  |
| --- | --- | --- |
| Witnessed by: |  |  |
|  |  |  |
| Signature of Witness 1 |  | Signature of Grantor |
|  |  |  |
| Printed/typed name of Witness 1 |  | Printed/typed name of Grantor |
| Signature of Witness 2 |  |  |
|  |  |  |
| Printed/typed name of Witness 2 |  |  |

***If for an entity****:*

|  |  |  |
| --- | --- | --- |
| Witnessed by: |  | *Grantor’s Legal Name* |
|  |  | By: |
| Signature of Witness 1 |  |  |
|  |  |  |
| Printed/typed name of Witness 1 |  | Printed/typed name of authorized signatory for the entity  It’s duly authorized *Title of Signatory* |
| Signature of Witness 2 |  |  |
|  |  |  |
| Printed/typed name of Witness 2 |  |  |

Mailing Address:

Street Address: *Street address*

City/Town: *City/Town*

State and Zip Code: *State and Zip Code*

***Notarization Language for Grantor Acknowledgement*** *- select appropriate notarization language from one of the choices below and delete the non-applicable notarization language.*

# *If the Grantor is an individual:*

State of

County of

On this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ before me, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the undersigned officer, personally appeared *Name of individual or individual(s)*, known to me (or satisfactorily proven) to be the person(s) whose name(s) *Choose an item* subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

|  |
| --- |
|  |

*Choose an item*

Date Commission Expires:

OR

# *If the Grantor is a Corporation:*

State of

County of

On this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ before me, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the undersigned officer, personally appeared *Name of officer*, who acknowledged himself /herself to be the *Title of officer* of *Name of corporation*, a corporation, and that he/she, as such *Title of officer*, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as *Title of officer*.

In witness whereof I hereunto set my hand.

|  |
| --- |
|  |

*Choose an item*

Date Commission Expires:

OR

# *If the Grantor is a Limited Liability Company:*

State of

County of

On this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ before me, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the undersigned officer, personally appeared *Name of officer*, who acknowledged himself/herself to be the *Title of officer* of *Name of limited liability company*, a (member managed or manager managed) limited liability company, and that he/she, as such *Title of officer*, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself/herself as *Title of officer*.

In witness whereof I hereunto set my hand.

|  |
| --- |
|  |

*Choose an item*

Date Commission Expires:

OR

# *If the Owner is any other type of entity*, *insert appropriate certification language for an Acknowledgement as specified in Section 1- 34 of the Connecticut General Statutes for the Grantor Entity below:*

***Grantee Signature Block*** *- select one of the two choices below, as applicable and delete the non- applicable option.*

*This choice is used for all ELURs except those approved pursuant to section 22a-133y of the Connecticut General Statutes.*

|  |
| --- |
| **Grantee:** The Grantee, the Commissioner of Energy and Environmental Protection or by the Commissioner’s designee, *Choose an item*.  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed/typed name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Its Duly Authorized: *Choose an item*  Mailing Address:  Connecticut Department of Energy and Environmental Protection  Environmental Use Restriction Coordinator  Bureau of Water Protection and Land Reuse  Remediation Division  79 Elm Street  Hartford, Connecticut 06106-5127  Re: *REM ID#.* |

*This choice is used solely for ELUR approved pursuant to section 22a-133y of the Connecticut General Statutes.*

|  |
| --- |
| **Grantee:** The Grantee, the Commissioner of Energy and Environmental Protection, by the undersigned LEP as authorized pursuant to section 22a-133y of the Connecticut General Statutes. LEP, duly authorized, for Grantee, the Commissioner of Energy and Environmental Protection:  By:\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed/typed name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  LEP, duly authorized, pursuant to section 22a-133y of the Connecticut General Statutes. |
| Grantee Mailing Address:  Connecticut Department of Energy and Environmental Protection  Environmental Use Restriction Coordinator  Bureau of Water Protection and Land Reuse  Remediation Division  79 Elm Street  Hartford, Connecticut 06106-5127  Re: *REM ID#*  Information for LEP, duly authorized:  Name: *LEP Name*  License Number: *License Number*  Title, if applicable: *Title*  Company, if applicable: *Company Name*  Mailing Address:  Street Address: *Street address*  City/Town: *City/Town*, *State*, Zip Code: *Zip Code*  Witnesses:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed/typed name  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed/typed name |

|  |  |
| --- | --- |
| **Instructions Notarization Language for LEP, duly authorized:**  State of  County of  On this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ before me, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ the undersigned officer, personally appeared *Name of individual or individual(s*), known to me (or satisfactorily proven) to be the person(s) whose name(s) *Choose an item* subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.  In witness whereof I hereunto set my hand.   |  | | --- | |  |   *Choose an item*  Date Commission Expires: |

**Exhibit A. Parcel Description (Metes and Bounds)**

*Enter Legal Grantor Name*

*Enter Street Address*

*Enter City/Town*, CT

The Parcel Description (Metes and Bounds as derived from Exhibit C. ELUR Survey. “Legal Description” from the Deed may also be included) is as follows:

*Enter Text or Copy/Paste from a Word Document*

BEING THE SAME property described in Exhibit C. ELUR Survey recorded on the Land Records in the Town of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as Map(s) # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.