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

This template shall be used for any NAUL 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 NOTICE OF ACTIVITY AND USE LIMITATION

This Declaration of Notice of Activity and Use Limitation (“NAUL”) is made this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_, by *Owner’s Legal Name* (the “Owner”).

W I T N E S S E T H:

WHEREAS, *Name of Property Owner(s)*, is/are the Owner(s) 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, and which is made a part hereof; and

WHEREAS, the NAUL and associated exhibits identified herein, collectively represent the NAUL for the Property, and

WHEREAS, the LEP has the authority to sign and seal this NAUL pursuant to section 22a-133o of the Connecticut General Statutes and section 22a-133q-3 of the Regulations of Connecticut State Agencies; and the Commissioner of Energy and Environmental Protection (“Commissioner”) has the authority to sign this NAUL pursuant to sections 22a-5, 22a-6, and 22a-133o of the Connecticut General Statutes; and

WHEREAS, remediation of the Property has been conducted in accordance with section 22a-133k of the Connecticut General Statutes; and

*Select the language for Commissioner approval or for LEP, as applicable and delete the non-applicable option.*

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

|  |
| --- |
| *Language for LEP approval*  WHEREAS, the LEP whose signature appears below has determined that the NAUL set forth below is consistent with the EUR regulations, sections 22a-133a-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 written approval of this NAUL 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 NAUL will effectively protect human health and the environment from the hazards of pollution. |

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.

WHEREAS, the Property or portion thereof that is subject to this NAUL (“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 Owner desires to implement a NAUL to provide notice of the presence of pollution at the Subject Areas; and

WHEREAS, as required by section 22a-133o of the Connecticut General Statutes, the Owner and subsequent Owners of interests in the property or those Owners of interests who have signed the NAUL, such Owners’ successors and assigns, and any person who has a license to use such Property or to conduct remediation on any portion of such Property shall adhere to the NAUL; and

NOW, THEREFORE, the Owner desires to implement this NAUL as follows:

1. Purpose. The provisions of this NAUL are set forth in the EUR opinion, attached hereto as Exhibit B.
2. Restrictions and Obligations Applicable to the Subject Area. In furtherance of the purposes of this NAUL, the Owner shall assure that use, occupancy, and activity of and at the Subject Area are conducted in accordance with the requirements of the EUR opinion, attached hereto as Exhibit B. The Owner shall fulfill the obligations and maintain the conditions necessary to meet the objectives of the NAUL 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 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 Owner:
7. Immediately notifies the Department of Energy and Environmental Protection (“DEEP”) 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 a LEP or the Commissioner, on a schedule approved by the LEP or the Commissioner, 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 NAUL.
11. Release of NAUL; Temporary Allowable Disturbance. Except as provided in paragraph 4, the Owner 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 NAUL 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 in accordance with section 22a-133q-7 of the Regulations of Connecticut State Agencies.
14. Commissioner’s Right of Access. The Owner shall grant access to the property to the Commissioner as required by section 22a-133q-9(e) of the Regulations of Connecticut State Agencies.
15. Notice and Time of Entry onto Property. Entry onto the Property by the Commissioner shall be upon reasonable notice and at reasonable times, provided that entry shall not be subject to these limitations if the Commissioner determines that immediate entry is necessary to protect human health or the environment.
16. Incorporation of NAUL in Other Documents. As required by section 22a-133o of the Connecticut General Statutes, upon transfer of any interest in or a right to use property, or a portion of property that is subject to a NAUL, the Owner of such land, any lessee of such land and any person who has the right to subdivide or sublease such property, shall incorporate such notice in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements and any other instrument of transfer provided the failure to incorporate such notice shall not affect the enforceability, validity or applicability of any such NAUL. Within 30 days of transfer of any interest in, or right to use the Property, or portion of property subject to a NAUL, the Owner shall submit notice to the Commissioner on a form prescribed by the Commissioner.
17. At least 30 days prior to transferring an interest in the property, the Owner 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.
18. Persons Entitled to Enforce Restrictions. The restrictions in this NAUL on use, occupancy, and activity of and at the Property shall be enforceable in accordance with section 22a-133p of the Connecticut General Statutes.
19. Severability and Termination. If any court of competent jurisdiction determines that any provision of this NAUL is invalid or unenforceable, the provisions of section 22a-133q-3 of the Regulations of Connecticut State Agencies and section 22a-133r of the Connecticut General Statutes shall apply.
20. Binding Effect. All of the terms, covenants and conditions of this NAUL shall be binding on those who are bound by the operation of section 22a-133o of the Connecticut General Statutes.
21. 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 such sections existed on the date of execution of this NAUL.

14. Burden of Proof. With respect to any claim or cause of action asserted by the Commissioner against the Owner under this NAUL, the Owner shall bear the burden of proving that any activities at the Subject Area do not or will not violate the restrictions imposed by this NAUL, that the obligations of the NAUL have been carried out, and that conditions at the Subject Area have been maintained in accordance with the requirements of the EUR opinion. The Owner, or its successors in interest, shall be responsible for demonstrating that use on the Property is in conformity with the NAUL.

1. Inspections. The Owner 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 NAUL, the Owner or his successors and assigns shall take the action required by section 22a-133q-8 of the Regulations of Connecticut State Agencies.

16. Non-Waiver. No failure on the part of the Commissioner at any time to require performance of any term of this NAUL shall be taken or held to be a waiver of such term or in any way affect the Commissioner’s rights to enforce such term.

17. Foreclosure of a Mortgage, Lien, or other Encumbrance. If a NAUL is extinguished by foreclosure of a mortgage, lien or other encumbrance, the requirement of section 22a-133o(c)(8) of the Connecticut General Statutes shall apply.

18. Nothing in this NAUL shall affect the Commissioner’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 NAUL. If at any time the Commissioner determines that the NAUL does not protect human health and the environment from the hazards of pollution, the Commissioner may institute any proceeding, or take any action to require further investigation or further action to prevent or abate pollution. The approval of this NAUL relates only to pollution or contamination identified in the EUR opinion attached hereto as Exhibit B of this NAUL.

19. The Owner shall retain copies of all documents required by section 22a-133q-9 of the Regulations of Connecticut State Agencies.

20. DEEP Contact Information: Any document required to be submitted to DEEP pursuant to this NAUL 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#*

By signing below, the undersigned certifies that:

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

c. The Owner has identified all other parties that hold any interest (e.g., encumbrance) in the Property and notified such parties of the Owner’s intention to enter into this NAUL in accordance with section 22a-133o of the Connecticut General Statutes;

In witness whereof, I/we, *Name of Property Owner(s)*, have hereunto set my/our hands 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 Owner |
|  |  |  |
| Printed/typed name of Witness 1 |  | Printed/typed name of Owner |
| Signature of Witness 2 |  |  |
|  |  |  |
| Printed/typed name of Witness 2 |  |  |

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

|  |  |  |
| --- | --- | --- |
| Witnessed by: |  | *Owner’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 Owner Acknowledgement*** *- select appropriate notarization language from one of the choices below and delete the non-applicable notarization language.*

# *If the Owner is an individual:*

State of

County of

On this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ before me, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the undersigned officer, personally appeared *Name of individual or individuals*, 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 Owner 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 Owner 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:*

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

*This choice is used for NAULs approved by the Commissioner*

|  |
| --- |
| **DEEP:** 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 NAULs approved by a LEP*** *pursuant to section 22a-133o(c)(5)(B) of the Connecticut General Statutes and 22a-133q-3 of the Regulations of Connecticut State Agencies****.***

|  |
| --- |
| **DEEP:** The Commissioner of Energy and Environmental Protection, by the undersigned LEP pursuant to section 22a-133o(c)(5)(B) of the Connecticut General Statutes and 22a-133q-3 of the Regulations of Connecticut State Agencies. LEP, duly authorized, for the Commissioner of Energy and Environmental Protection:  By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed/typed name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  LEP, duly authorized, pursuant to section 22a-133o(c)(5)(B) of the Connecticut General Statutes and 22a-133q-3 of the Regulations of Connecticut State Agencies. |
| DEEP 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: |

# Owner of an Interest:

***Select the following signature block when an Owner of an interest signs a NAUL pursuant to section 22a-133o of the Connecticut General Statutes and section 22a-133q-3 of the Regulations of Connecticut State Agencies and delete the non-applicable signature blocks.***

*Name of Interest Owner* is the Owner of an interest which conflicts with the conditions or purposes of this notice, executed on *Enter date* and recorded at *Volume/Page* of the *Name of Municipality* land records. By signing this NAUL, *Name of Interest Owner* hereby agrees to subject such interest to the conditions or purposes described herein, pursuant to Conn. Gen. Stat. § 22a-133o(6).

By signing below, the undersigned certifies that he or she is fully authorized to sign this NAUL.

# *If for an individual:*

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

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

|  |  |  |
| --- | --- | --- |
| Witnessed by: |  | *Interest Owner’s Name* |
|  |  | By: |
| Signature of Witness 1 |  |  |
|  |  |  |
| Printed 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 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 Interest Owner Acknowledgement - select appropriate notarization language from one of the choices below and delete the non-applicable notarization language.*

# *If the Interest Owner 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 Interest Owner 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 Interest Owner 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 Interest 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:*

**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. NAUL 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. NAUL Survey recorded on the Land Records in the Town of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as Map(s) # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**Exhibit B. Environmental Use Restriction Opinion Overview**

**Exhibit B. EUR Opinions**

**Exhibit C. Survey and Simplified Survey**