North Carolina Department of Environmental Quality
Brownfields Redevelopment Section

Exhibit A
Brownfields Agreement Template
April 2026

To enhance the Brownfields experience for all stakeholders and with the prime objective to prepare the brownfields documents as quickly as possible, the Brownfields Redevelopment Section (BRS) has modified its template language for the Brownfields Agreement, which forms Exhibit A to the Notice of Brownfields Property, and ultimately is recorded at the county register of deeds. Three documents have been prepared to share with external users to accomplish this goal and are attached: 1) a revised Brownfields Agreement (BFA) Template; 2) a menu of options for land use restrictions (LURs) that was used to develop the draft BFA and contains additional LURs that may apply to various brownfields properties; and 3) a menu of options for land use definitions (LUDs).

Brownfields Agreement Template

To enhance timeline efficiency, the BRS has instituted a number of changes with this template: 1) certain background information that is not required by statute has been removed from the template; 2) the involvement of the prospective developer section has been modified to focus on the eligibility of the prospective developer; 3) the report table is being replaced with the link to the Laserfiche file folder with the BF documents; 4) negotiation of the draft brownfields agreement prepared by BRS will be limited to discussion over the inclusion or not of specific land use restrictions or related to factual information that may be incorrect in the draft; 5) modifying the last paragraph related to public comment to provide more specific information after the public comment period has been completed and it is known whether a public meeting will or will not be held; 6) updates made in Oct/Nov 2025 related to amendments to the Brownfields Property Reuse Act effective July 2025 (Session Law 2025-53, Senate Bill 387); 7) revisions to reflect our new BRS Section Chief; and 8) revisions to address minor grammatical edits and update the names of various guidance documents to be used for brownfields sites.

With the exceptions noted above, most of the language in the attached BFA Template is statutory or has largely been long-vetted by DEQ, DOJ, and legal counsel for developers; therefore, proposed edits to this language will not be accepted on a per project basis. For paragraphs 1 through 9, proposed edits related to site-specific factual information and decisions on which LURs and land use definitions should be included are the only ones that we would consider accepting on a per project basis. Proposed edits not related to these subject areas, including paragraphs 10 through the end of the document, will be accepted by March 1st of each calendar year for consideration by the BRS and its legal counsel.

Land Use Restrictions Menu

The Land Use Restrictions (LURs) Menu provides the language LURs available for use in the BFA Template. LURs with a single version that DEQ is requiring will already be placed in the

BFA Template. For LURs where several options are available, these options have been included in the LUR Menu.

As with the BFA Template, these LURs are long-vetted in the program. Therefore, proposed edits to LUR language will not be considered on a per project basis unless they relate to site-specific factual information or are based on data-driven justification. Proposed edits to specific LUR language will be accepted by March 1st of each calendar year for consideration by the BRS and its legal counsel.

Land Use Definitions Menu

The Land Use Definitions (LUDs) Menu provides the language for land use definitions available for use in the BFA Template. Certain definitions may have a number of options available and these have been included in the LUD Menu.

As with the BFA Template, proposed edits to LUD language will not be considered on a per project basis unless they relate to site-specific factual information. Proposed edits to specific LUD language will be accepted by March 1st of each calendar year for consideration by the BRS and its legal counsel.

Brownfield Agreement Process

The Brownfields Agreement (BFA) process will entail the BF project manager producing the Brownfields Agreement using these three documents and sharing with the Prospective Developer, the draft BFA prepared with the BFA Template and the three supporting documents: 1) the BFA Agreement Template; 2) the LUR Menu; and 3) the Land Use LUD Menu. The PD team would review the chosen land uses, definitions, and LURs, provide comment as to the appropriate chosen land uses, definitions, and LURs, and provide edits related to site-specific factual matters and the inclusion of certain LURs or LUDs.

Based on our experience with a pilot project, we are confident that using this approach will provide PDs with completed agreements faster and with less labor resources for all stakeholders.

EXHIBIT A

NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF: INSERT NAME OF PROSPECTIVE DEVELOPER OR NAMES OF CO-PROSPECTIVE DEVELOPERS

UNDER THE AUTHORITY OF THE	) BROWNFIELDS AGREEMENT
BROWNFIELDS PROPERTY REUSE ACT	) INSERT BF PROJECT NAME
OF 1997, NCGS § 130A-310.30, et seq.	) INSERT ADDRESSES
Brownfields Project No. **INSERT NO.**	) INSERT CITY, COUNTY

I. INTRODUCTION

This Brownfields Agreement (Agreement) is entered into by the North Carolina Department of Environmental Quality ("DEQ") and INSERT PROSPECTIVE DEVELOPER NAMES OR CO-PROSPECTIVE DEVELOPER NAMES (collectively the "Parties") pursuant to the Brownfields Property Reuse Act of 1997, NCGS § 130A-310.30, et seq. (the "Act") for the approximately XX acre property located at INSERT ADDRESSES, CITY, COUNTY, (INSERT PARCEL ID NUMBERS, respectively) that constitutes the "Brownfields Property", a map of which is attached hereto as Exhibit 1.

The Prospective Developer is INSERT NAME OF PROSPECTIVE DEVELOPER AND FORM OF COMPANY, AND ADDRESS OF PRINCIPAL OFFICE. The INSERT TITLE OF PROSPECTIVE DEVELOPER AUTORIZED SIGNATORY is INSERT NAME OF AUTHORIZED SIGNATORY of the same address OR PROVIDE THE SEPARATE ADDRESS OF THE AUTHORIZED SIGNATORY.

The Brownfields Property Application (BPA) submitted for this Agreement and relevant

information about the history, ownership, former and proposed uses of the Brownfields Property, including the project-specific DEQ-prepared Decision Memo, and assessment data used for risk-based decision making relevant to this Agreement may be viewed online at the DEQ public record database, Laserfiche (or its successor in function), by entering the project number **INSERT BF PROJECT NUMBER** into the search bar at the following web address: https://edocs.deq.nc.gov/WasteManagement/, or by contacting DEQ at the notice address listed in paragraph 28.a. of this Agreement.

The Exhibit 2 to this Agreement presents data tables of the Known Site Contaminants present at the Brownfields Property at concentrations at or above their applicable standards or screening levels for each media sampled.

The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Section IX (Certification), Section X (DEQ's Covenant Not to Sue and Reservation of Rights) and Section XI (Prospective Developer's Covenant Not to Sue), the potential liability of INSERT PROSPECTIVE DEVELOPER OR CO-PROSPECTIVE DEVELOPER NAMES for contaminants at the Brownfields Property.

The Parties agree that INSERT PROSPECTIVE DEVELOPER OR CO-PROSPECTIVE DEVELOPER NAMES's entry into this Agreement, and the actions undertaken by INSERT PROSPECTIVE DEVELOPER OR CO-PROSPECTIVE DEVELOPER NAMES in accordance with the Agreement, do not constitute an admission of any liability by INSERT PROSPECTIVE DEVELOPER OR CO-PROSPECTIVE DEVELOPER NAMES for contaminants at the Brownfields Property.

IF MORE THAN ONE PROSPECTIVE DEVELOPER, ADD THE FOLLOWING

PARAGRAPH:

INSERT CO-PROSPECTIVE DEVELOPER NAMES hereby acknowledge that they will be jointly and severally responsible for any liabilities, requirements, and land use restrictions set forth under this Agreement, and jointly and severally entitled to all benefits and protections afforded to a Prospective Developer as defined in paragraph 2 below, pursuant to this Agreement.

The resolution of this potential liability, in exchange for the benefit INSERT PROSPECTIVE DEVELOPER OR CO-PROSPECTIVE DEVELOPER NAMES shall provide, is a public benefit.

II. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Agreement which are defined in the Act or elsewhere in NCGS § 130A, Article 9 shall have the meaning assigned to them in those statutory provisions, including any amendments thereto.

1. "Brownfields Property" shall mean the property which is the subject of this Agreement, and which is depicted in Exhibit 1 to this Agreement.

2. "Prospective Developer" shall mean INSERT PROSPECTIVE DEVELOPER OR CO-PROSPECTIVE DEVELOPER NAMES.

3. "Known Site Contaminants" shall mean those contaminants listed in Exhibit 2 to this Agreement.

4. "Period of Active Construction" shall mean the period beginning on the construction start date or the Period of Active Construction start date identified in the applicable DEQ-approved Environmental Management Plan (EMP) referenced in subparagraph X.x. below, or

another date approved in advance in writing by DEQ, and ending on the date of final construction set forth in the final Redevelopment Summary Report as referenced in subparagraph X.x. below. If there is more than one phase of construction, there may be more than one Period of Active Construction on the Brownfields Property.

III. PROSPECTIVE DEVELOPER'S ELIGIBILITY

5. By means of the eligibility review process, DEQ represents that Prospective Developer was made eligible for this Agreement for the Brownfields Property and that based on their on-site activities, Prospective Developer has maintained that eligibility throughout the brownfields process. Prospective Developer has provided DEQ with information, or sworn certifications regarding that information on which DEQ relies for purposes of this Agreement, sufficient to demonstrate that:

a. Prospective Developer has a bona fide, demonstrable desire to develop or redevelop the Brownfields Property;

b. Prospective Developer did not cause or contribute to the contamination at the Brownfields Property;

c. Prospective Developer and any parent, subsidiary, or other affiliate has substantially complied with federal and state laws, regulations and rules for protection of the environment, and with the other agreements and requirements cited at NCGS § 130A-310.32(a)(1);

d. As a result of the implementation of this Agreement, the Brownfields Property will be suitable for the uses specified in the Agreement while fully protecting public health and the environment instead of being remediated to unrestricted use standards;

e. Prospective Developer's reuse of the Brownfields Property will produce a

public benefit commensurate with the liability protection provided Prospective Developer hereunder;

f. Prospective Developer has or can obtain the financial, managerial, and technical means to fully implement this Agreement and assure the safe use of the Brownfields Property; and

e. Prospective Developer has complied with all applicable procedural requirements.

IV. FEES

INSERT THE APPROPRIATE FEE PARAGRAPH BASED ON BFA OPTION AND WHETHER BPA WAS RECEIVED PRIOR TO 11/1/2025, OR ON OR AFTER 11/1/2025.

[Option 1: Local Government Standard Fee project]

6. Prospective Developer has paid to DEQ the $2,000 fee to seek a brownfields agreement required by NCGS § 130A-310.39(a)(1), and shall make a payment to DEQ of $6,000 at the time Prospective Developer and DEQ enter into this Agreement, defined for this purpose as occurring no later than the last day of the public comment period related to this Agreement, and the Prospective Developer or, if the Prospective Developer does not own the Brownfields Property (or the portion of the Brownfields Property under active construction), the then-current owner, shall make a construction fee payment of $10,000 paid annually, for each year in which the Brownfields Property is in a Period of Active Construction as defined in Section II above. The Parties agree that such fees will suffice as the $2,000 fee to seek a brownfields agreement required by NCGS § 130A-310.39(a)(1), and, within the meaning of NCGS § 130A-310.39(a)(2), the full cost to DEQ and the North Carolina Department of Justice of all activities related to this Agreement, unless a change is sought to a Brownfields document after it is in

effect, in which case there shall be an additional fee of at least $1,000. Future evaluation of uses, which are not defined in subparagraph X.a. below and that modify the risk profile of the Brownfields Property, shall incur additional fees equal to the full cost to DEQ and the North Carolina Department of Justice within the meaning of NCGS § 130A-310.39(a)(2); provided, however, that such fees shall not exceed the then-current fees to obtain a brownfields agreement.

[Option 2A: Private Standard Fee project w/BPA prior to 11/1/2025]

6. Prospective Developer has paid to DEQ the $2,000 fee to seek a brownfields agreement required by NCGS § 130A-310.39(a)(1), and shall make a payment to DEQ of $6,000 at the time Prospective Developer and DEQ enter into this Agreement, defined for this purpose as occurring no later than the last day of the public comment period related to this Agreement, and the Prospective Developer or, if the Prospective Developer does not own the Brownfields Property (or the portion of the Brownfields Property under active construction), the then-current owner, shall make a construction fee payment(s) of $10,000 paid annually, for each year in which the Brownfields Property is in a Period of Active Construction as defined in Section II above. The Parties agree that such fees will suffice as the $2,000 fee to seek a brownfields agreement required by NCGS § 130A-310.39(a)(1), and, within the meaning of NCGS § 130A-310.39(a)(2), the full cost to DEQ and the North Carolina Department of Justice of all activities related to this Agreement, unless a change is sought to a Brownfields document after it is in effect, in which case there shall be an additional fee of at least $1,000. Future evaluation of uses, which are not defined in subparagraph X.a. below and that modify the risk profile of the Brownfields Property, shall incur additional fees equal to the full cost to DEQ and the North Carolina Department of Justice within the meaning of NCGS § 130A-310.39(a)(2); provided,

however, that such fees shall not exceed the then-current fees to obtain a brownfields agreement.

[Option 2B: Private Standard Fee project w/BPA on or after 11/1/2025]

6. Prospective Developer has paid to DEQ the $2,000 fee to seek a brownfields agreement required by NCGS § 130A-310.39(a)(1), and shall make a payment to DEQ of $10,000 at the time Prospective Developer and DEQ enter into this Agreement, defined for this purpose as occurring no later than the last day of the public comment period related to this Agreement, and the Prospective Developer or, if the Prospective Developer does not own the Brownfields Property (or the portion of the Brownfields Property under active construction), the then-current owner shall make a construction fee payment(s) of $10,000 paid annually, for each year in which the Brownfields Property is in a Period of Active Construction as defined in Section II above. The Parties agree that such fees will suffice as the $2,000 fee to seek a brownfields agreement required by NCGS § 130A-310.39(a)(1), and, within the meaning of NCGS § 130A-310.39(a)(2), the full cost to DEQ and the North Carolina Department of Justice of all activities related to this Agreement, unless a change is sought to a Brownfields document after it is in effect, in which case there shall be an additional fee of at least $1,000. Future evaluation of uses, which are not defined in subparagraph X.a. below and that modify the risk profile of the Brownfields Property, shall incur additional fees equal to the full cost to DEQ and the North Carolina Department of Justice within the meaning of NCGS § 130A-310.39(a)(2); provided, however, that such fees shall not exceed the then-current fees to obtain a brownfields agreement.

[Option 3A: Redevelopment Now Fee project w/BPA prior to 11/1/2025]

6. The Parties agree that a $30,000 "Redevelopment Now" fee Prospective Developer

has paid at the time of application to the Brownfields Program, and the construction fee payment(s) of $10,000 paid annually by the Prospective Developer or, if the Prospective Developer does not own the Brownfields Property (or the portion of the Brownfields Property under active construction), the then-current owner for each year in which the Brownfields Property is in a Period of Active Construction as defined in Section II above, suffices as the $2,000 fee to seek a brownfields agreement required by NCGS § 130A-310.39(a)(1), and, within the meaning of NCGS § 130A-310.39(a)(2), and the full cost to DEQ and the North Carolina Department of Justice of all activities related to this Agreement, unless a change is sought to a Brownfields document after it is in effect, in which case there shall be an additional fee of at least $1,000. Future evaluation of uses, which are not defined in subparagraph X.a. below and that modify the risk profile of the Brownfields Property, shall incur additional fees equal to the full cost to DEQ and the North Carolina Department of Justice within the meaning of NCGS § 130A-310.39(a)(2); provided, however, that such fees shall not exceed the then-current fees to obtain a brownfields agreement.

[Option 3B: Redevelopment Now Fee project w/BPAs on or after 11/1/2025]

6. The Parties agree that a $45,000 "Redevelopment Now" fee Prospective Developer has paid at the time of application to the Brownfields Program, and the construction fee payment(s) of $10,000 paid annually by the Prospective Developer or, if the Prospective Developer does not own the Brownfields Property (or the portion of the Brownfields Property under active construction), the then-current owner for each year in which the Brownfields Property is in a Period of Active Construction as defined in Section II above, suffices as the $2,000 fee to seek a brownfields agreement required by NCGS § 130A-310.39(a)(1), and, within the meaning of

NCGS § 130A-310.39(a)(2), and the full cost to DEQ and the North Carolina Department of Justice of all activities related to this Agreement, unless a change is sought to a Brownfields document after it is in effect, in which case there shall be an additional fee of at least $1,000. Future evaluation of uses, which are not defined in subparagraph X.a. below and that modify the risk profile of the Brownfields Property, shall incur additional fees equal to the full cost to DEQ and the North Carolina Department of Justice within the meaning of NCGS § 130A-310.39(a)(2); provided, however, that such fees shall not exceed the then-current fees to obtain a brownfields agreement.

[Option 4A: for "Ready for Reuse" Fee project through BPAs prior to 11/1/2025]

6. The proxy for the Prospective Developer ("Proxy Prospective Developer") has paid to DEQ the $7,500 fee to seek a brownfields agreement required by NCGS § 130A-310.39(a)(1) on behalf of the Prospective Developer, and shall make a payment to DEQ of $7,500 on behalf of the Prospective Developer no later than the last day of the public comment period related to this Agreement. The Proxy Prospective Developer on behalf of the Prospective Developer, Prospective Developer, or if the Prospective Developer does not own the Brownfields Property (or the portion of the Brownfields Property under active construction), the then-current owner, shall make a construction fee payment(s) of $10,000 paid annually for each year in which the Brownfields Property is in a Period of Active Construction as defined in Section II above. The Parties agree that such fees will suffice as the $2,000 fee to seek a brownfields agreement required by NCGS § 130A-310.39(a)(1), and, within the meaning of NCGS § 130A-310.39(a)(2), the full cost to DEQ and the North Carolina Department of Justice of all activities related to this Agreement, unless a change is sought to a Brownfields document after agreed to by the Proxy Prospective Developer, in which case there shall be an additional fee of at least

$1,000. Future evaluation of uses, which are not defined in subparagraph X.a. below and that modify the risk profile of the Brownfields Property, shall incur additional fees equal to the full cost to DEQ and the North Carolina Department of Justice within the meaning of NCGS § 130A-310.39(a)(2); provided, however, that such fees shall not exceed the then-current fees to obtain a brownfields agreement.

[Option 4B: for "Ready for Reuse" Fee project BPAs received after 11/1/2025]

6. The Parties agree that a $45,000 "Ready for Reuse" fee the Proxy Prospective Developer has paid on behalf of the Prospective Developer at the time of application to the Brownfields Program and the construction fee payment(s) of $10,000 paid annually by the Proxy Prospective Developer or, if the Proxy Prospective Developer does not own the Brownfields Property (or the portion of the Brownfields Property under active construction), the then-current owner for each year in which the Brownfields Property is in a Period of Active Construction as defined in Section II above, suffices as the $2,000 fee to seek a brownfields agreement required by NCGS § 130A-310.39(a)(1), and, within the meaning of NCGS § 130A-310.39(a)(2), and the full cost to DEQ and the North Carolina Department of Justice of all activities related to this Agreement, unless a change is sought to a Brownfields document after it is in effect, in which case there shall be an additional fee of at least $1,000. Future evaluation of uses, which are not defined in subparagraph X.a. below and that modify the risk profile of the Brownfields Property, shall incur additional fees equal to the full cost to DEQ and the North Carolina Department of Justice within the meaning of NCGS § 130A-310.39(a)(2); provided, however, that such fees shall not exceed the then-current fees to obtain a brownfields agreement.

V. WORK TO BE PERFORMED

7. The guidelines within which the desired results under this Agreement are to be

accomplished, including parameters, principles, and policies as to: field procedures, laboratory testing, Brownfields Redevelopment Section requirements, and remedial or mitigation measures are (each as embodied in its most current version):

a. the Guidelines of the Inactive Hazardous Sites Branch of DEQ's Superfund Section;

b. the Division of Waste Management Vapor Intrusion Guidance;

c. the Brownfields Redevelopment Section Minimum Site Assessment and Reporting Checklist;

d. the Brownfields Redevelopment Section Vapor Intrusion Assessment Work Plan & Report Checklist;

e. the Brownfields Redevelopment Section Vapor Intrusion Mitigation Design Submittal Requirements;

f. the Division of Waste Management Minimum Mitigation and Sampling Requirements for Reuse;

g. the Brownfields Survey Plat Checklist;

h. the Brownfields Redevelopment Section Vapor Intrusion Mitigation System Operations and Maintenance Plan Checklist;

i. the Brownfields Redevelopment Section Townhome Minimum Requirements (if applicable); and

j. the Brownfields Redevelopment Section Vapor Intrusion Mitigation System Operations and Maintenance Plan for Townhomes Checklist (if applicable).

8. Based on the information in the aforementioned public repository for this Brownfields Property, other available information, and subject to imposition of and compliance with the land

use restrictions set forth below, and subject to Section X of this Agreement (DEQ's Covenant Not to Sue and Reservation of Rights), DEQ is not requiring Prospective Developer to perform any active remediation at the Brownfields Property other than remediation that may be required pursuant to:

a. a DEQ-approved Environmental Management Plan (EMP) as specified in subparagraph X.x. below; and/or

b. vapor intrusion mitigation requirements as specified in subparagraph X.x. below;

IF PROSPECTIVE DEVELOPER OR CO-PROSPECTIVE DEVELOPERS ARE IN COMPLIANCE WITH SOME OR ALL OF THE VI PROVISIONS, OR MORE CLARITY ON REDEVELOPMENT WITH RESPECT TO VI IS NEEDED, ADD THAT LANGUAGE AS A CONTINUATION OF SUBPARAGRAPH 7.b.

VI. LAND USE RESTRICTIONS

9. By way of the Notice of Brownfields Property referenced below in paragraph XX, Prospective Developer shall impose the following land use restrictions under the Act, running with the land, to make the Brownfields Property suitable for the uses specified in this Agreement while fully protecting public health and the environment instead of remediation to unrestricted use standards. All references to DEQ shall be understood to include any successor in function.

Land Uses

a. No use may be made of the Brownfields Property other than for INSERT APPROVED LAND USES AND IF APPROPRIATE THE FOLLOWING CLAUSE and subject to DEQ's prior written approval, other commercial uses. These land uses and their definitions below apply solely for purposes of this Agreement, and do not waive any local zoning, rule, regulation, or permit requirements:

i. INSERT APPROVED LAND USE DEFINITIONS WITH THE LAST ONE BEING COMMERCIAL IF THE CLAUSE IN 8.a. IS APPROPRIATE.

ii.

Specific Prohibitions

_. INSERT ANY SPECIFIC PROHIBITIONS FROM THE LUR OPTIONS

Environmental Management Plan

_. Physical redevelopment of the Brownfields Property may not occur other than in accordance, as determined by DEQ, with an Environmental Management Plan ("EMP") approved in writing by DEQ in advance (and revised to DEQ's written satisfaction prior to each subsequent redevelopment phase) that is consistent with all the other land use restrictions and describes redevelopment activities at the Brownfields Property, the timing of redevelopment phases, and addresses health, safety and environmental issues that may arise from use of the Brownfields Property during construction or redevelopment in any other form, including without limitation:

i. demolition of existing buildings, if applicable;

ii. issues related to known or potential sources of contamination, including without limitation those resulting from the contaminants referenced in Exhibit 2 to this Agreement;

iii. contingency plans for addressing, including without limitation the testing of soil and groundwater, newly discovered potential sources of environmental contamination (e.g., USTs, drums, septic drain fields, oil-water separators, soil contamination); and

iv. plans for the proper characterization and DEQ approval of both fill soil before import to the Brownfields Property and the disposition of all soil excavated from the Brownfields Property during redevelopment.

Redevelopment Summary Report

_. No later than January 31 of each calendar year after each one-year anniversary of the effective date of this Agreement for as long as physical redevelopment of the Brownfields Property continues (except that the final deadline shall fall 90 days after the conclusion of physical redevelopment), the then-owner of the Brownfields Property shall provide DEQ a report on environment-related activities since the last report, with a summary and drawings, that describes:

i. actions taken on the Brownfields Property in accordance with Section V: Work to be Performed above and this Section VI Land Use Restrictions;

ii. soil grading and cut and fill actions;

iii. methodology(ies) employed for field screening, sampling and laboratory analysis of environmental media;

iv. stockpiling, containerizing, decontaminating, treating, handling, laboratory analysis and ultimate disposition of any soil, groundwater, or other materials suspected or confirmed to be contaminated with regulated substances; and

v. removal of any contaminated soil, water, or other contaminated materials (for example, concrete, demolition debris) from the Brownfields Property (copies of all legally required manifests shall be included).

INSERT FOLLOWING DEMOLITION LUR IF APPROPRIATE; IF NOT, DELETE

Demolition

_. Unless compliance with this Land Use Restriction is waived in writing in advance by DEQ in relation to particular buildings, demolition and/or renovation of any or all buildings on the Brownfields Property depicted on the plat component of the Notice referenced in paragraph XX below shall be in accordance with applicable legal requirements, including without limitation those related to lead and asbestos abatement that are administered by the Health Hazards Control Unit within the Division of Public Health of the North Carolina Department of Health and Human Services.

Groundwater

_. Groundwater at the Brownfields Property may not be used for any purpose without the prior written approval of DEQ along with any measures DEQ deems necessary to ensure that the Brownfields Property will be suitable for the uses specified in subparagraph X.a. above while fully protecting public health and the environment. Should groundwater be encountered or exposed during any activity on the Brownfields Property, it shall be managed in accordance with the DEQ-approved EMP outlined in subparagraph XX.x., or a plan approved in writing in advance by DEQ.

Soil

_. No activity that disturbs soil on the Brownfields Property may occur unless and until DEQ states in writing, in advance of the proposed activity, that said activity may occur if carried out along with any measures DEQ deems necessary to ensure the Brownfields Property will be suitable for the uses specified in subparagraph X.a. above while fully protecting public health and the environment, except:

i. in connection with landscape planting to depths not exceeding XX

inches;

ii. mowing and pruning of above-ground vegetation;

iii. for repair of underground infrastructure, provided that DEQ shall be given written notice at least seven days in advance of a scheduled repair (if only by email) of any such repair, or in emergency circumstances no later than the next business day, and that any related assessment and remedial measures required by DEQ shall be taken; and

iv. in connection with work conducted in accordance with a DEQ-approved Environmental Management Plan (EMP) as outlined in subparagraph X.x.

_. Soil may not be removed from, or brought onto, the Brownfields Property without prior sampling and analysis to DEQ's satisfaction and the written approval of DEQ, unless conducted in accordance with an approved EMP as outlined in subparagraph X.x.

_. INSERT FINAL GRADE SAMPLING LUR FROM OPTIONS

Vapor Intrusion OR Vapor Intrusion and Methane

_. INSERT APPROPRIATE VAPOR INTRUSION OR VAPOR INTRUSION AND METHANE LUR FROM OPTIONS

_. INSERT APPROPRIATE VAPOR INTRUSION SAMPLING AND OPERATIONS AND MAINTENANCE LUR FROM OPTIONS IF A VIMS IS PLANNED TO BE INSTALLED

_. INSERT APPROPRIATE SURFACE WATER LUR FROM OPTIONS (IF APPLICABLE)

Property Access

_. Neither DEQ, nor any party conducting environmental assessment or remediation at the Brownfields Property at the direction of, or pursuant to a permit, order or agreement issued or entered into by DEQ, may be denied access to the Brownfields Property for purposes of conducting such assessment or remediation, which is to be conducted using reasonable efforts to minimize interference with authorized uses of the Brownfields Property.

_. INSERT SLAB DISTURBANCE LUR (If Applicable)

Abandonment of Wells (Insert if applicable)

__. Within 60 days after the effective date of this Agreement or prior to land disturbance activities, whichever occurs first, Prospective Developer shall abandon all monitoring wells, injection wells, recovery wells, piezometers and other man-made points of groundwater access at the Brownfields Property, except those wells required by **INSERT PROGRAM** and as identified in **[either list document here or paragraph below or on plat map]**, in accordance with Subchapter 2C of Title 15A of the North Carolina Administrative Code, unless an alternate schedule is approved by DEQ. Within 30 days after doing so, the Prospective Developer shall provide DEQ a report, setting forth the procedures and results.

Damage to Monitoring Points

_. [If using paragraph above, add initial clause:] Except for the work related to subparagraph _._ above, The owner of any portion of the Brownfields Property where any existing, or subsequently installed, DEQ-approved monitoring well or other monitoring point is damaged by the owner, its contractors, or its tenants, shall be responsible for repair of any such well or sampling point to DEQ's written satisfaction and within a time period acceptable to DEQ, unless compliance with this land use restriction is waived in writing by DEQ in advance.

Notifications upon Transfer

_. Any deed or other instrument conveying an interest in the Brownfields Property shall contain the following notice: "This property is subject to the Brownfields Agreement attached as Exhibit A to the Notice of Brownfields Property recorded in the INSERT NAME OF COUNTY County land records, Book _____, Page _____." A copy of any such instrument shall be sent to the persons listed in Section XVI (Notices and Submissions), though financial figures and other confidential information related to the conveyance may be redacted to the extent said redactions comply with the confidentiality and trade secret provisions of the North Carolina Public Records Law. The owner conveying a leasehold interest may use the following mechanisms to comply with the obligations of this subparagraph: (i) If every lease or rider is identical in form, the owner conveying an interest may provide DEQ with a copy of a form lease or rider evidencing compliance with this subparagraph, in lieu of sending copies of actual, executed leases, to the persons listed in Section XVI (Notices and Submissions); or (ii) The owner conveying an interest may provide abstracts of leases, rather than full copies of said leases, to the persons listed in Section XVI. The then-current owner of any portion of the Brownfields Property with any current lessee or sublessee as of the effective date of this Agreement shall provide a copy of this Agreement to any such lessee or sublessee within seven days of the effective date of this Agreement.

Separating Old from New Contamination

_. None of the contaminants known to be present in the environmental media at the Brownfields Property, as described in Exhibit 2 of this Agreement, and as modified by DEQ in writing if additional contaminants in excess of applicable standards are discovered at the Brownfields Property, may be used or stored at the Brownfields Property without the prior

written approval of DEQ, except:

i. INSERT APPROPRIATE EXCEPTIONS FROM THE LUR OPTIONS

ii. etc.

. INSERT OTHER PROHIBITED USE LURS FROM MENU (If Applicable)

Land Use Restriction Update

_. During January of each year after the year in which the Notice referenced below in paragraph XX is recorded, the owner of any part of the Brownfields Property as of January 1st of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DEQ, and to the chief public health and environmental officials of INSERT NAME OF COUNTY County, certifying that, as of said January 1st, the Notice of Brownfields Property containing these land use restrictions remains recorded at the INSERT NAME OF COUNTY County Register of Deeds office and that the land use restrictions are being complied with. If ownership of any portion of the Brownfields Property is transferred, the grantor shall submit a LURU (as outlined above) which covers the period of time they owned such portion of the Brownfields Property during the calendar year of the transfer. The submitted LURU shall state the following:

i. the Brownfields Property address, and the name, mailing address, telephone number, and contact person's e-mail address of the owner, or board, association or approved entity, submitting the LURU if said owner, or each of the owners on whose behalf a joint LURU is submitted, acquired any part of the Brownfields Property during the previous calendar year;

ii. the transferee's name, mailing address, telephone number, and contact person's e-mail address, if said owner, or each of the owners on whose behalf a joint LURU is

submitted, transferred any part of the Brownfields Property during the previous calendar year;

iii. whether any vapor barrier and/or mitigation systems installed pursuant to subparagraph X.x. above are performing as designed, and whether the uses of the ground floors, including any tenant renovations that disturb the ground floor slab, of any buildings containing such vapor barrier and/or mitigation systems have changed, and, if so, how, and under which precautions so as not to interfere with the operation of said system; and

INSERT ONE OR BOTH (If Applicable):

iv. the data acquired from periodic monitoring INSERT TYPE OF MONITORING SUCH AS GW, IF APPLICABLE, OR VAPOR INTRUSION MONITORING as referenced in subparagraph X.x. above.

___. a summary record of all vapor intrusion monitoring data taken during the preceding year as a result of implementation of any vapor intrusion assessment or design performed under the requirements of subparagraph ___.

_. INSERT VIMS O&M PLAN for LUR (If Applicable)

._ INSERT ANY LURU ITEMS RELATED TO CAPPING AT THE SITE (if applicable)

_. INSERT ANY LURU ITEMS RELATED TO SLAB DISTURBANCE LUR ABOVE

_. A joint LURU may be submitted for multiple owners by a duly constituted board or association and shall include the Brownfields Property address, and the name, mailing address, telephone number, and contact person's e-mail address of the entity submitting the joint LURU as well as for each of the owners on whose behalf the joint LURU is submitted.

_. A LURU submitted for rental units shall include enough of each lease entered

into during the previous calendar year (or form lease, form lease rider, or lease abstract) to demonstrate compliance with lessee notification requirements in subparagraph X.x. of this Agreement.

10. The desired result of the above-referenced land use restrictions is to make the Brownfields Property suitable for the uses specified in this Agreement while fully protecting public health and the environment.

11. The consequence of achieving the desired results will be that the Brownfields Property will be suitable for the uses specified in the Agreement while fully protecting public health and the environment. The consequence of not achieving the desired results will be that modifications to land use restrictions and/or remediation in some form may be necessary to fully protect public health and/or the environment.

VII. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

12. In addition to providing access to the Brownfields Property pursuant to subparagraph X.x. above, while the Prospective Developer owns the Brownfields Property, Prospective Developer shall provide DEQ, its authorized officers, employees, representatives, and all other persons performing response actions under DEQ oversight, access at all reasonable times to other property controlled by Prospective Developer in connection with the performance or oversight of any response actions at the Brownfields Property under applicable law. Such access is to occur after prior notice and using reasonable efforts to minimize interference with authorized uses of such other property except in response to emergencies and/or imminent threats to public health and the environment. While Prospective Developer owns the Brownfields Property, DEQ shall provide reasonable notice to Prospective Developer of the timing of any response actions to be

undertaken by or under the oversight of DEQ at the Brownfields Property. Except as may be set forth in the Agreement, DEQ retains all of its authorities and rights, including enforcement authorities related thereto, under the Act and any other applicable statute or regulation, including any amendments thereto.

13. DEQ has approved, pursuant to NCGS § 130A-310.35, a Notice of Brownfields Property ("Notice") for the Brownfields Property containing, inter alia, the land use restrictions set forth in Section VI (Land Use Restrictions) of this Agreement and a survey plat of the Brownfields Property. Pursuant to NCGS § 130A-310.35(b), within 15 days of the effective date of this Agreement, Prospective Developer shall file the Notice in the INSERT NAME OF COUNTY County, North Carolina, Register of Deeds' Office. Within three (3) days thereafter, Prospective Developer shall furnish DEQ a copy of the documentary component of the Notice containing a certification by the register of deeds as to the Book and Page numbers where both the documentary and plat components of the Notice are recorded, and a copy of the plat with notations indicating its recordation.

14. This Agreement shall be attached as Exhibit A to the Notice. Subsequent to recordation of said Notice, any deed or other instrument conveying an interest in the Brownfields Property shall contain the following notice: "This property is subject to the Brownfields Agreement attached as Exhibit A to the Notice of Brownfields Property recorded in the INSERT NAME OF COUNTY County land records, Book _____, Page _____." A copy of any such instrument shall be sent to the persons listed in Section XVI (Notices and Submissions), though financial figures and other confidential information related to the conveyance may be redacted to the extent said redactions comply with the confidentiality and trade secret provisions of the North Carolina Public Records Law. Prospective Developer may

use the following mechanisms to comply with the obligations of this paragraph as to leasehold interests: (i) If every lease or rider is identical in form, Prospective Developer may provide DEQ with copies of a form lease or rider evidencing compliance with this paragraph, in lieu of sending copies of actual, executed leases, to the persons listed in Section XVI (Notices and Submissions); or (ii) Prospective Developer may provide abstracts of leases, rather than full copies of said leases, to the persons listed in Section XVI.

15. The Prospective Developer shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on the Brownfields Property within seven days of the effective date of this Agreement.

VIII. DUE CARE/COOPERATION

16. The Prospective Developer shall exercise due care at the Brownfields Property with respect to the manner in which regulated substances are handled at the Brownfields Property and shall comply with all applicable local, State, and federal laws and regulations. The Prospective Developer agrees to cooperate fully with any assessment or remediation of the Brownfields Property by DEQ and further agrees not to interfere with any such assessment or remediation. In the event the Prospective Developer becomes aware of any action or occurrence which causes or threatens a release of contaminants at or from the Brownfields Property while Prospective Developer owns the Brownfields Property, the Prospective Developer shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, shall comply with any applicable notification requirements under NCGS § 130A-310.1 and 143-215.85, Section 103 of CERCLA, 42 USC § 9603, and/or any other law, and shall immediately notify the DEQ Official referenced in subparagraph 28.a. below of any such required notification.

IX. CERTIFICATION

17. By entering into this Agreement, the Prospective Developer certifies that, without DEQ approval, it will make no use of the Brownfields Property other than that committed to in subparagraph 9.a. of this Agreement. Prospective Developer also certifies that to the best of its knowledge and belief it has fully and accurately disclosed to DEQ all information known to Prospective Developer and all information in the possession or control of its officers, directors, employees, contractors and agents which relates in any way to any past use of regulated substances or known contaminants at the Brownfields Property and to its qualification for this Agreement, including the requirement that it not have caused or contributed to the contamination at the Brownfields Property.

X. DEQ'S COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

18. Unless any of the following apply, Prospective Developer shall not be liable to DEQ, and DEQ covenants not to sue Prospective Developer, for remediation of the Brownfields Property except as specified in this Agreement:

a. The Prospective Developer fails to comply with this Agreement.

b. The activities conducted on the Brownfields Property by or under the control or direction of the Prospective Developer increase the risk of harm to public health or the environment, in which case Prospective Developer shall be liable for remediation of the areas of the Brownfields Property, remediation of which is required by this Agreement, to the extent necessary to eliminate such risk of harm to public health or the environment.

c. A land use restriction set out in the Notice of Brownfields Property required under NCGS § 130A-310.35 is violated while the Prospective Developer owns the Brownfields Property, in which case the Prospective Developer shall be responsible for remediation of the

Brownfields Property to unrestricted use standards.

d. The Prospective Developer knowingly or recklessly provided false information that formed a basis for this Agreement or knowingly or recklessly offers false information to demonstrate compliance with this Agreement or fails to disclose relevant information about contamination at the Brownfields Property.

e. New information indicates the existence of previously unreported contaminants or an area of previously unreported contamination on or associated with the Brownfields Property that has not been remediated to unrestricted use standards, unless this Agreement is amended to include any previously unreported contaminants and any additional areas of contamination. If this Agreement sets maximum concentrations for contaminants, and new information indicates the existence of previously unreported areas of these contaminants, further remediation shall be required only if the areas of previously unreported contaminants raise the risk of the contamination to public health or the environment to a level less protective of public health and the environment than that required by this Agreement.

f. The level of risk to public health or the environment from contaminants is unacceptable at or in the vicinity of the Brownfields Property due to changes in exposure conditions, including (i) a change in land use that increases the probability of exposure to contaminants at or in the vicinity of the Brownfields Property or (ii) the failure of remediation to mitigate risks to the extent required to make the Brownfields Property fully protective of public health and the environment as planned in this Agreement.

g. DEQ obtains new information about a contaminant associated with the Brownfields Property or exposures at or around the Brownfields Property that raises the risk to public health or the environment associated with the Brownfields Property beyond an acceptable

range and in a manner or to a degree not anticipated in this Agreement.

h. The Prospective Developer fails to file a timely and proper Notice of Brownfields Property under NCGS § 130A-310.35.

19. Except as may be provided herein, DEQ reserves its rights against Prospective Developer as to liabilities beyond the scope of the Act.

20. This Agreement does not waive any applicable requirement to obtain a permit, license or certification, or to comply with any and all other applicable law, including the North Carolina Environmental Policy Act, NCGS § 113A-1, et seq.

21. So long as these persons are not otherwise potentially responsible parties or parents, subsidiaries, or affiliates of potentially responsible parties, the liability protections provided in NCGS § 130A-310.33, the fee language provided in NCGS § 130A-310.39, and any statutory limitations in paragraphs 18 through 20 above apply to all of the persons listed in NCGS § 130A-310.33, including future owners of the Brownfields Property, to the same extent as Prospective Developer.

XI. PROSPECTIVE DEVELOPER'S COVENANT NOT TO SUE

22. In consideration of DEQ's Covenant Not To Sue in Section X of this Agreement and in recognition of the absolute State immunity provided in NCGS § 130A-310.37(b), and except for any challenges to a civil penalty or cost recovery for enforcement by DEQ in connection with this Agreement, the Prospective Developer hereby covenants not to sue and not to assert any claims or causes of action against DEQ, its authorized officers, employees, or representatives with respect to any action implementing the Act, including negotiating, entering, monitoring or enforcing this Agreement or the above-referenced Notice of Brownfields Property.

XII. PARTIES BOUND

23. This Agreement shall apply to and be binding upon DEQ, and on the Prospective Developer, its officers, directors, employees, and agents. Each Party represents that it is fully authorized to enter into the terms and conditions of this Agreement and that its signatory hereto is authorized to legally bind the Party for whom she or he signs.

XIII. DISCLAIMER

24. Prospective Developer and DEQ agree that this Agreement meets the requirements of the Act, including but not limited to the requirements set forth in NCGS § 130A-310.32(a)(2). However, this Agreement in no way constitutes a finding by DEQ as to the risks to public health and the environment which may be posed by regulated substances at the Brownfields Property, a representation by DEQ that the Brownfields Property is fit for any particular purpose, nor a waiver of Prospective Developer's duty to seek applicable permits or of the provisions of NCGS § 130A-310.37.

25. Except for the land use restrictions set forth in paragraph 9 above, NCGS § 130A-310.33(a)(1)-(5)'s provision of the Act's liability protection to certain persons to the same extent as to a prospective developer, and NCGS § 130A-310.39.'s provisions regarding fees affecting the prospective developer and any owner of property subject to a recorded Notice of Brownfields Property, no rights, benefits or obligations conferred or imposed upon Prospective Developer under this Agreement are conferred or imposed upon any other person.

XIV. DOCUMENT RETENTION

26. The Prospective Developer agrees to retain and make available to DEQ all business and operating records, contracts, site studies and investigations, remediation reports, and

documents generated by and/or in the control of the Prospective Developer, its affiliates or subsidiaries relating to storage, generation, use, disposal and management of regulated substances at the Brownfields Property, including without limitation all Material Safety Data Sheets or Safety Data Sheets, for six (6) years following the effective date of this Agreement, unless otherwise agreed to in writing by the Parties. Said records may be retained electronically such that they can be retrieved and submitted to DEQ upon request. At the end of six (6) years, the Prospective Developer shall notify DEQ of the location of such documents and shall provide DEQ with an opportunity to copy any documents at the expense of DEQ. By entering into this Agreement, Prospective Developer waives no rights of confidentiality or privilege provided by the North Carolina Public Records Act or otherwise and, at the time DEQ requests to copy or inspect said documents, Prospective Developer shall provide DEQ with a log of documents withheld from DEQ, including a specific description of the document(s) and the alleged legal basis upon which they are being withheld. To the extent DEQ retains any copies of such documents, Prospective Developer retains all rights it then may have to seek protection from disclosure of such documents as confidential business information.

XV. PAYMENT OF ENFORCEMENT COSTS

27. If the Prospective Developer fails to comply with the terms of this Agreement, including, but not limited to, the provisions of Section V (Work to be Performed) and Section VI (Land Use Restrictions), it shall be liable for all litigation and other enforcement costs incurred by DEQ to enforce this Agreement or otherwise obtain compliance.

XVI. NOTICES AND SUBMISSIONS

28. Unless otherwise required by DEQ or a Party notifies the other Party in writing of a change in contact information or delivery method, all notices and submissions pursuant to this

Agreement shall be sent by prepaid first-class U.S. Mail or courier service, or via a DEQ-designated virtual portal as follows:

a. for DEQ:

Brownfields Property Management Branch (or successor in function)
N.C. Division of Waste Management
Brownfields Redevelopment Section
Mail Service Center 1646
Raleigh, NC 27699-1646

b. for Prospective Developer:
INSERT NAME AND TITLE (or successor in function)
INSERT COMPANY NAME
INSERT ADDRESS

Notices and submissions sent by prepaid first-class U.S. Mail shall be effective on the third day following postmarking. Notices and submissions sent by hand, via a DEQ-designated virtual portal, or by other means affording written evidence of date of receipt shall be effective on such date.

XVII. EFFECTIVE DATE

29. This Agreement shall become effective on the date the Prospective Developer signs it, after receiving the signed, conditionally approved Agreement from DEQ. DEQ's approval of this Agreement is conditioned upon the complete and timely execution and filing of this Agreement in the manner set forth herein. Prospective Developer shall expeditiously sign the Agreement in order to effect the recordation of the full Notice of Brownfields Property within the statutory deadline set forth in NCGS § 130A-310.35(b). If the Agreement is not signed by Prospective Developer within 45 days after such receipt, DEQ has the right to revoke its approval and certification of this Agreement, and to invalidate its signature on this Agreement.

XVIII. TERMINATION OF CERTAIN PROVISIONS

30. If any Party believes that any or all of the obligations under Section VII (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the Party requesting such termination receives written agreement from the other Party to terminate such provision(s).

XIX CONTRIBUTION PROTECTION

31. With regard to claims for contribution against Prospective Developer in relation to the subject matter of this Agreement, Prospective Developer is entitled to protection from such claims to the extent provided by NCGS § 130A-310.37(a)(5)-(6). The subject matter of this Agreement is all remediation taken or to be taken and response costs incurred or to be incurred by DEQ or any other person in relation to the Brownfields Property.

32. The Prospective Developer agrees that, with respect to any suit or claim for contribution brought by it in relation to the subject matter of this Agreement, it will notify DEQ in writing no later than 60 days prior to the initiation of such suit or claim.

33. The Prospective Developer also agrees that, with respect to any suit or claim for contribution brought against it in relation to the subject matter of this Agreement, it will notify DEQ in writing within 10 days of receiving said suit or claim.

XX. PUBLIC COMMENT

34. This Agreement has been subject to a public comment period of at least 30 days from the latest date of the following public notice tasks: publication of the approved summary of the Notice of Intent to Redevelop a Brownfields Property required by NCGS § 130A-310.34 in the

INSERT NAME OF NEWSPAPER; conspicuous posting of a copy of said summary at the Brownfields Property; and mailing or delivery of a copy of the summary to each owner of property contiguous to the Brownfields Property, and mailing or delivery of the full Notice of Intent to local governments having jurisdiction over the Brownfields Property. The public comment period for this Agreement commenced on [INSERT DATE OF PUBLIC COMMENT START] and concluded on [INSERT DATE] OF THE 30TH DAY OF PUBLIC COMMENT]. A public meeting pursuant to NCGS § 130A-310.34(c) was not held for this Agreement. OR A public meeting pursuant to NCGS § 130A-310.34(c) was held on [INSERT DATE OF PUBLIC MEETING]. As a result of the public comment period, and if it was held, the public meeting for this Agreement, and consistent with NCGS § 130A-310.34(d), DEQ has taken into account the comment(s) received, which did not disclose facts or considerations that indicate this Agreement is inappropriate, improper or inadequate.

IT IS SO AGREED:
NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY
By:

_____

Tracy Wahl Date
Chief, Brownfields Redevelopment Section

IT IS SO AGREED:
INSERT PD ENTITY NAME
By:

_____

INSERT PROSPECTIVE DEVELOPER CONTACT NAME Date
INSERT PROSPECTIVE DEVELOPER TITLE