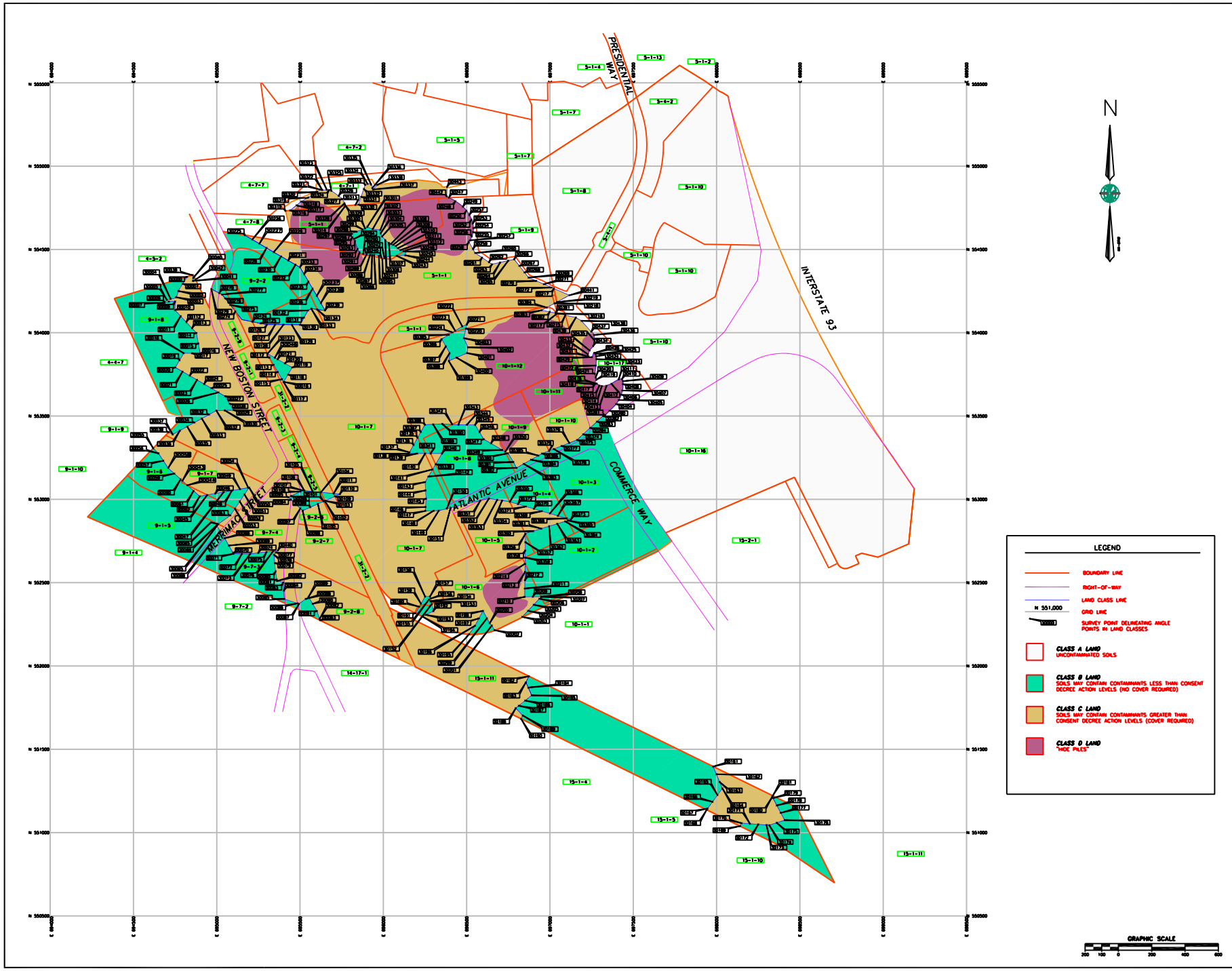

PROJECT RECORD

INSTITUTIONAL CONTROLS
LAND CLASSIFICATIONS

INDUSTRI-PLEX SITE REMEDIAL TRUST
WOBURN, MASSACHUSETTS

SCALE: 1" = 200'

MAY 8, 2001

DESIGNED BY: MSP
DRAFTED BY: MSP
CHECKED BY: JSK
FILE: 2500000MC3
DO NOT SCALE DRAWING

A-3
SHEET NO.
PROJECT: 2500.00
SHEET 1 OF 2

MAVERICK Construction Management Services, Inc.

MERIDIAN Inc.
ENGINEERS • SURVEYORS • ENVIRONMENTAL SCIENTISTS
LAND SURVEYORS • SOILS • GEOLOGISTS

Golder Associates
Geotechnical • Environmental
Manchester, New Hampshire
603-668-0880 / FAX 603-668-1199

NO.	DATE	DRN. REVISIONS	CHK.	DSGN.	PM
3	5/17/01				
2	5/4/01	ISSUE FOR REVIEW			
1	5/3/01	ISSUED FOR REVIEW			

PROFESSIONAL LAND SURVEYOR

PROFESSIONAL ENGINEER

30"x42" North Or.: 0d

GRANT OF ENVIRONMENTAL RESTRICTION AND EASEMENT

(42 U.S.C. §9601, *et seq*. and M.G.L. c. 21E)

[Note: This instrument is established as an institutional control for a federal Superfund site pursuant to a judicial consent decree, as set forth below, and Section 104(j) of CERCLA, 42 U.S.C. § 9604(j), and Section 6 of Chapter 21E, M.G.L. c. 21E, §6, and contains a GRANT OF ENVIRONMENTAL RESTRICTION AND EASEMENT running to the ***UNITED STATES on behalf of its ENVIRONMENTAL PROTECTION AGENCY*** *and to the* ***MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION****.]*

Site Name: Industri-Plex Superfund Site
Site Location: Woburn, MA
EPA Site Identification Number: MAD076580950
DEP Release Tracking Number: 3-1731

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I.	Definitions.
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IV.	Work Protocols.
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VII.	Subordination Agreement Form.

W I T N E S S E T H :

WHEREAS, _____ [name of landowner] of _____ [address of landowner], _____ County, Massachusetts ("Grantor") **[note: modify for corporate grantor, as necessary]** is the owner in fee simple of that [those] certain parcel[s] of [vacant] land located in the City of Woburn, Middlesex County, Massachusetts[, with the buildings and improvements thereon];

WHEREAS, said parcel[s] of land, known and/or numbered as _____ which is [are] more particularly bounded and described in Appendix II ("Legal Description of the Property"), attached hereto and made a part hereof, (the "Property") is [are] subject to the terms and conditions of this instrument. The Property is shown on **[Note: for unregistered land add:]** a plan entitled "_____" prepared by _____, dated _____, recorded and/or registered in the Middlesex South Registry of Deeds in Plan Book ____, Plan ____; **[Note: for registered land add:]** Land Court Plan No. _____, [shown as Lot _____];

[Note: The Grant must include a legal description of the Property that is subject to the Grant and a reference to a surveyed plan of the Property (upon which the legal description is based). If registered land, this plan shall be the existing Land Court Plan of the Property. If unregistered land, unless this plan is already of record, it must be recorded prior to the Grant.]

WHEREAS, those certain portions of the Property subject to restrictions have each been designated a certain "class of land," such classes of land being **[Note: delete any of the following Classes of Land that are not situated within the Property.]** Class A Land, Class B Land, Class C Land and Class D Land (collectively, all of the foregoing restricted areas comprising the "Restricted Areas"), said Restricted Areas being identified on a certain plan consisting of ____ sheets, entitled "Plan of Restricted Areas" prepared by _____, dated _____, and recorded in the Middlesex South Registry of Deeds in Plan Book ____, Plan ____;

WHEREAS, a legal description of the Restricted Areas by metes and bounds is set forth in Appendix III ("Legal Description of the Restricted Areas"), attached here to and made a part hereof;

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

[Note: Although certain provisions of the Grant will affect the entire Property (such as the easements providing access and other rights), some portions of the Property may be subject to

different restrictions or rights under the Grant than other portions (such as the different classes of land, defined below). In the latter situation, (i) the Grant must also include a legal description (by metes and bounds) of each portion of the Property subject to the different restrictions (that is, the different classes of land) and (ii) a surveyed plan must be prepared and Recorded showing the boundaries of each such portion of the Property and, for registered land, referenced in or on the Certificate of Title for the Property. (This plan should also show a perimeter survey of the Property, for purposes of locating the different restricted portions, both within the larger parcel and relative to adjacent properties.) All restricted areas, collectively, are referred to as the "Restricted Areas." This plan will also show the location of the Engineered Cover, the Equivalent Cover and the Clean Corridors, as applicable.]

WHEREAS, the United States Environmental Protection Agency, a duly constituted agency organized under the laws of the United States of America and having a regional office at One Congress Street, Suite 1100, Boston, Massachusetts 02114 ("EPA"), has identified a disposal site, known as the Industri-Plex Superfund Site located in Woburn, MA (the "Site"), and placed the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on September 8, 1983, pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601, *et seq*., as amended ("CERCLA"), 42 U.S.C. §9605, as a result of the release or threatened release of hazardous substances, as those terms are defined in CERCLA;

WHEREAS, the Massachusetts Department of Environmental Protection, a duly constituted agency organized under the laws of the Commonwealth of Massachusetts, having its principal office at One Winter Street, Boston, Massachusetts 02108 ("DEP"), as a result of the release of oil and/or hazardous materials at the Site, as those terms are defined in the Massachusetts Oil and Hazardous Materials Release, Prevention and Response Act, M.G.L. c. 21E, as amended ("Chapter 21E"), has classified the Site as a Tier IA disposal site and has assigned to the Site DEP Release Tracking Number 3-1731, pursuant thereto;

WHEREAS, EPA regulates activities at disposal sites pursuant to CERCLA and the National Contingency Plan, 40 C.F.R. 300.400, *et seq*., as amended (the "NCP"); and DEP regulates activities at disposal sites pursuant to Chapter 21E and the Massachusetts Contingency Plan, 310 C.M.R. 40.0000, as amended (the "MCP");

WHEREAS, EPA, with the concurrence of DEP, has specified certain response actions for the Site in a Record of Decision dated September 30, 1986 (the "ROD"); which response actions include and require institutional controls in the nature of deed restrictions to ensure the long-term effectiveness of the Remedy by preventing certain activities and uses in the Restricted Areas, and by requiring certain operations and maintenance activities; and may select further response actions for the Site;

WHEREAS, EPA, pursuant to Section 104(j) of CERCLA, as amended, is authorized to acquire an interest in real property necessary to conduct a remedial action, provided that the State wherein the interest is located assures EPA that it will accept transfer of the interest following completion of the remedial action;

WHEREAS, EPA has requested DEP to satisfy the CERCLA, Section 104(j)(2) State assurance requirement by accepting the within grant as co-Grantee along with the United States, thereafter to become sole Grantee following completion of the remedial action, and affirms that in so doing DEP is acquiring an interest in real estate under CERCLA, Section 104(j), and therefore benefits along with the United States from the exemption from liability set forth in CERCLA, Section 104(j)(3);

WHEREAS, DEP, pursuant to Sections 3(a) and 6 of Chapter 21E, as amended, respectively, is authorized to take all action appropriate to secure to the Commonwealth the benefits of CERCLA and to acquire an interest in real property if necessary to carry out the purposes of Chapter 21E, and is willing to serve as co-Grantee along with EPA;

WHEREAS, pursuant to that certain Consent Decree entered on April 24, 1989 by the United States District Court for the District of Massachusetts in the matter styled *United States v. Stauffer Chemical Company et al*., Civil Action No. 89-0195-ML and *Commonwealth of Massachusetts v. Stauffer Chemical Company et al.*, Civil Action No. 89-0196-ML, and recorded at the Middlesex South Registry of Deeds in Book 19837, Page 476 (the "Consent Decree"), certain environmental remediation activities have been and are being conducted at the Site; and said institutional controls are required to be designed and implemented at the Site;

WHEREAS, pursuant to Attachment B ("Institutional Controls") of Appendix I ("Remedial Design/Action Plan") of the Consent Decree, the paramount purpose of the institutional controls is the preservation of the continued effectiveness of the remedial actions in order to protect human health and the environment; and to the extent that it is feasible to do so consistent with this paramount purpose, EPA and DEP may permit designs of institutional controls that permit the greatest possible use and enjoyment of the Site or parts of the Site;

WHEREAS, the Property is situated within the Site, which site contains Class A Land, Class B Land, Class C Land, and Class D Land, so-called, as defined herein in Appendix I ("Definitions");

WHEREAS, Grantor is a Settler, a trust established by the Consent Decree known as the Custodial Trust, or successor in title to either, pursuant to the Consent Decree; and

WHEREAS, pursuant to the Consent Decree, all Settlers who are landowners, the Custodial Trust, and their respective successors in title, are required to inaugurate these institutional controls;

NOW, THEREFORE, pursuant to and in consideration of the terms of the Consent Decree **[note: if applicable, add:]** [and EPA and DEP's approval of the transfer of the Property pursuant to an approval letter from _____ to _____ dated _____] **[note: if applicable, add:]** [and a certain Interim Grant recorded at _____], the receipt and sufficiency of which consideration is hereby acknowledged, and in accordance with CERCLA, Section 104(j) and Chapter 21E, Section 6, GRANTOR hereby GIVES, GRANTS AND CONVEYS to the UNITED STATES OF AMERICA and to the MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION ("DEP") (collectively, "Grantees"), with WARRANTY COVENANTS, those certain restrictions and easements as hereinafter set forth, in, on, upon, through, over and under the Property, being more particularly bounded and described as aforesaid.

(The foregoing grant being referred to herein as the "Grant of Environmental Restriction and Easement," "Grant," "Industri-Plex Site Institutional Controls," or "Institutional Controls.")

The terms and conditions of said Institutional Controls are set forth, below, and in Appendix I ("Definitions"), Appendix II ("Legal Description of the Property"), Appendix III ("Legal Description of the Restricted Areas"), Appendix IV "(Work Protocols"), Appendix V ("Cover Inspection Plan"), Appendix VI ("Amendment Protocol") and Appendix VII ("Subordination Agreement Form") to this instrument, all of which are attached hereto and made a part hereof.

1. Definitions. The terms used in the Institutional Controls, including all appendices, shall have the meanings set forth in Appendix I ("Definitions"), or if not defined therein, then as ascribed to them in the Consent Decree, in Section 101 of CERCLA, in the NCP, in Section 2 of Chapter 21E, and/or in the MCP, as applicable.

2. Restricted Activities and Uses. Except as otherwise provided in Paragraph 3 ("Permitted Activities and Uses") and Paragraph 5 ("Emergency Excavation"), Grantor shall not perform, suffer, allow, or cause any person to perform any of the activities or uses set forth below in, on, upon, through, over or under the following Restricted Areas, or portions thereof, which are situated within the Property.

A. Class D Land. The prohibited activities and uses for Class D Land are:

i. excavating, drilling, or otherwise disturbing the Cover and/or the soil underlying the Cover, unless in strict compliance with the Work Protocols;

ii. extracting, pumping, consuming, exposing, or otherwise using groundwater, unless in strict compliance with the Work Protocols;

iii. planting vegetation which would impair the effectiveness of the Cover, including without limitation deep-rooted trees and other vegetation the roots of which would likely grow to breach or otherwise impair the geotextile or geomembrane portion of the Engineered Cover;

iv. commercial or industrial activity or use;

v. residential activity or use;

vi. agricultural activity or use; or

vii. any activity or use which would interfere with, or would be reasonably likely to interfere with, the implementation, effectiveness, integrity, operation or maintenance of the Remedy;

B. Class C Land. The prohibited activities and uses for Class C Land are:

i. excavating, drilling, or otherwise disturbing the Cover and/or the soil underlying the Cover, unless in strict compliance with the Work Protocols;

ii. extracting, pumping, consuming, exposing or otherwise using groundwater, unless in strict compliance with the Work Protocols;

iii. planting vegetation which would impair the effectiveness of the Cover, including without limitation deep-rooted trees and other vegetation the roots of which would likely grow to breach or otherwise impair the geotextile or geomembrane portion of the Engineered Cover;

iv. residential activity or use;

v. agricultural activity or use; or

vi. any activity or use which would interfere with, or would be reasonably likely to interfere with, the implementation, effectiveness, integrity, operation or maintenance of the Remedy.

C. Class B Land. The prohibited activities and uses for Class B Land are:

i. excavating, drilling, or otherwise disturbing the soil or ground covering features, including building foundations, slabs and/or underlying soils, unless in strict compliance with the Work Protocols;

ii. extracting, pumping, consuming, exposing or otherwise using groundwater, unless in strict compliance with the Work Protocols;

iii. residential activity or use;

iv. agricultural activity or use; or

v. any activity or use which would interfere with, or would be reasonably likely to interfere with, the implementation, effectiveness, integrity, operation or maintenance of the Remedy.

D. Class A Land. The prohibited activities and uses for Class A Land are:

i. extracting, pumping, consuming, exposing or otherwise using groundwater, unless in strict compliance with the Work Protocols; or

ii. any activity or use which would interfere with, or would be reasonably likely to interfere with, the implementation, effectiveness, integrity, operation or maintenance of the Remedy.

3. Permitted Activities and Uses. Grantor expressly reserves the right to perform, suffer, or allow, or to cause any person to perform any activity or use in, on, upon, through, over, or under the Property that is not restricted by the provisions of this Grant. In addition, Grantor may perform, suffer, allow or cause any person to perform the activities and uses set forth below, subject to the conditions set forth below, in, on, upon, through, over or under the following Restricted Areas, or portions thereof, which are situated within the Property.

A. Class C Land and Class D Land. The permitted activities and uses for Class C Land and Class D Land are:

i. excavation or other disturbance of the Engineered Cover for the limited purposes of landscaping and horticulture, using only herbaceous and small woody, shallow-rooted plants which will not penetrate or otherwise adversely affect the geotextile or geomembrane portion of the Engineered Cover; and installing, maintaining and repairing fences, irrigation systems and/or exterior lighting systems; subject to the following conditions:

a. such excavation or other disturbance, if within twelve (12) inches of the geotextile or geomembrane, shall be conducted solely by hand (*i.e.*, without the use of any power equipment or power tools);

b. such excavation or other disturbance shall not penetrate the geotextile or geomembrane portion of the Engineered Cover;

c. such excavation or other disturbance, including any associated temporary on-site storage of excavate, shall be conducted in a timely manner;

d. any disturbed portion of such Engineered Cover shall be restored to its original thickness or greater and to the same type of Cover, both as shown on the As Built Records and/or Cover Certification Report, immediately upon completion of the excavation or other disturbance; and

e. each project involving work conducted under this provision shall not exceed sixty (60) days in duration; and

ii. disturbance of the Cover for the purpose of performing Normal Maintenance, subject to the following conditions:

a. such disturbance is capable of being conducted, and shall be conducted, without exposing or coming into contact with the soil or ground water underlying the Cover; and

b. such disturbance shall not result in a Permanent Cover Modification; and

iii. extraction and use of groundwater for the purposes of sampling monitoring wells, provided such extracted groundwater is disposed of in

accordance with applicable federal, State or local laws, regulations or ordinances.

B. Class B Land. The permitted activities and uses for Class B Land are:

i. excavation and backfilling outside the boundaries of Clean Corridors, including the removal of debris and accumulated soil and sediment from drainage areas and structures (*e.g.*, culverts, channels, basins); subject to the following conditions:

a. the total volume of material excavated anywhere within the Property shall not exceed ten (10) cubic yards;

b. the depth of the excavation shall not exceed three (3) feet;

c. such excavation shall only be permitted provided that no soil is disposed of, or is required to be disposed of, off of the Property; and

d. such excavation, including any associated temporary on-site storage of excavate, shall be conducted in a timely manner; not to exceed sixty (60) days in duration; and

ii. excavation and backfilling within the boundaries of Clean Corridors, subject to the following conditions:

a. such excavation shall only be permitted within the bounds of the geotextile or other material bounding the Clean Corridors, and shall not penetrate such geotextile or other material nor otherwise disturb the soil or other material outside such bounds; and

b. such excavation, if within twelve (12) inches of the geotextile, shall be conducted solely by hand (i.e., without the use of any power equipment or power tools); and

iii. extraction and use of groundwater for the purposes of sampling monitoring wells, provided such extracted groundwater is disposed of in accordance with applicable federal, State or local laws, regulations or ordinances.

C. Class A Land. The permitted activities and uses for Class A Land are:

i. extraction and use of groundwater for the purposes of sampling monitoring wells, provided such extracted groundwater is disposed of in accordance with applicable federal, State or local laws, regulations or ordinances.

D. The provisions of this Paragraph 3 ("Permitted Activities and Uses") shall not release Grantor or any other party from liability for releases of oil or hazardous substances, nor shall this provision excuse Grantor or any other party from complying with CERCLA, Chapter 21E, or any other applicable federal, State or local laws, regulations or ordinances.

4. Obligations and Conditions. Grantor, at its sole cost and expense (except where otherwise noted in the subparagraphs, below), affirmatively agrees to perform and satisfy the following obligations and conditions.

A. Inspection, Inspection Report. Grantor shall engage an Independent Professional or a Professional Engineer (P.E. Civil), who shall: (i) familiarize himself with the Property and that portion of the Remedy situated on the Property and on any abutting properties, including the restrictions on uses and activities established in this Grant and any related construction plans and documentation (including, if the Property contains any Class C Land or Class D Land, the As Built Records and/or the Cover Certification Report); (ii) conduct periodic visual, non-intrusive inspections of the Restricted Areas to ensure that Grantor is in compliance with these restrictions; and, (iii) if the Property contains any Class C Land or Class D Land, also conduct periodic visual, non-intrusive inspections of the Cover in order to monitor its condition and protectiveness to ensure that it is maintained in accordance with the As Built Records and/or the Cover Certification Report, as the case may be.

i. All required inspections shall be conducted at least once every calendar year during the three-month period beginning on March 1st and ending on May 31st, or with such greater frequency as the Independent Professional or Professional Engineer, Grantees, or Grantor may determine is warranted taking into consideration the particular uses and activities at the Property and, if applicable, the condition of the Cover; and, if the Property contains any Class C Land or Class D Land, within seven (7) days of receipt of written notice from Grantees of the occurrence of a twenty-five (25) year, twenty-four (24) hour storm event; or, with the written approval of Grantees, with such lesser frequency as Grantees, in

their sole discretion, may determine is warranted taking into consideration the particular uses and activities at the Property.

ii. No later than fourteen (14) days after conducting each required inspection, Grantor shall submit to Grantees, with a copy to Settlers, a written inspection report, prepared by the Independent Professional or Professional Engineer who performed the inspection, summarizing the results of the inspection and stating whether Grantor is in compliance with the restrictions and, if applicable, whether the Cover is in good condition and repair, and including any supporting information upon which such determinations are based, as applicable. Each such inspection report shall include a written statement, signed by Grantor, stating that (a) Grantor has personally reviewed the inspection report and that (b) the inspection report is true, accurate and complete. If Grantor is a corporate entity, a duly authorized officer of the corporation shall sign the inspection report on behalf of Grantor.

iii. All inspections and reports required for Class C Land and Class D Land pursuant to this subparagraph 4.A. shall be performed and prepared, respectively, in accordance with the Cover Inspection Plan, set forth in Appendix V ("Cover Inspection Plan") to this Grant.

B. Normal Maintenance. The provisions of this subparagraph 4.B. shall only apply if the Property contains Class C Land or Class D Land. Grantor shall perform Normal Maintenance of Class C Land and Class D Land, in a timely fashion as required to maintain the integrity and effectiveness of that portion of the Remedy situated on the Property, and no later than ninety (90) days from the time when Grantor first knows or reasonably should have known of the condition requiring the performance of such Normal Maintenance. In determining whether Normal Maintenance is needed, and in the performance of Normal Maintenance, Grantor shall consider not only information that a landowner would ordinarily possess, but also information contained in the Cover Certification Report and obtained during the inspections performed at the Property pursuant to subparagraph 4A. ("Inspection, Inspection Report").

i. Provided, however, that in the event that Grantor believes that such Normal Maintenance is needed as the result of a Defect in the Remedy, then in lieu of performing such Normal Maintenance within the required time period set forth above, Grantor may instead, within the same time period, submit a written request to EPA for a determination under the Consent Decree of whether such Normal Maintenance is needed as the result of a Defect in the Remedy. Grantor shall provide a copy of such

submittal to both Grantees and Settlers. Grantor's submittal shall include a written statement by an Independent Professional asserting that, in his or her professional opinion, the need for such Normal Maintenance is due to a Defect in the Remedy, and explaining the basis for such opinion. This statement must be signed by the Independent Professional, and must be accompanied by his or her supporting analysis, and other documentation as appropriate. The time period for this submittal may only be extended with the prior, written approval of Grantees. Failure to fully comply with the requirements of this provision shall automatically waive any right that Grantor may otherwise possess to delay or excuse performance of the required Normal Maintenance.

ii. If EPA determines, pursuant to the Consent Decree, that such Normal Maintenance is needed as the result of a Defect in the Remedy, then Grantor's obligations to fund and perform such Normal Maintenance shall be determined (along with those of other parties bound under Section IV.A of the Consent Decree) pursuant to and in accordance with the terms and provisions of the Consent Decree and its appendices, including without limitation Sections VII.A, VII.B, VII.C(8) and X.D of the Consent Decree and Section F.3.e of Appendix I (Remedial Design/Action Plan) of the Consent Decree. Otherwise, Grantor shall fund and perform such Normal Maintenance in accordance with the terms and provisions of this Grant.

iii. Nothing herein is intended to impair or otherwise affect whatever rights Grantor may possess pursuant to the Consent Decree, if any, to pursue and obtain recovery from any other person or entity for costs associated with Normal Maintenance.

C. Operation and Maintenance Plan. The provisions of this subparagraph 4.C. shall only apply if the Property contains Class C Land or Class D Land. Grantor shall fund and implement the activities required by the Operation and Maintenance Plan at the Property, in accordance with the terms and provisions of the Consent Decree, including without limitation its appendices. The provisions of this Grant shall not limit or modify any additional obligations to perform such activities on the Property or elsewhere within the Site, to which Grantor may be subject under the Consent Decree, including without limitation its appendices.

D. Remedy Failure: Preliminary Action, Notification and Repair. The provisions of this subparagraph 4.D shall only apply if the Property contains Class C Land or Class D Land.

i. In the event of any Remedy Failure, Grantor shall immediately implement such preliminary action as is reasonably necessary to prevent potential human exposure to, and/or releases of, soil and/or groundwater due to the Remedy Failure.

ii. Unless the work necessary to repair the Remedy Failure falls within the definition of Normal Maintenance, Grantor shall notify Grantees and other Settlers of such Remedy Failure, orally no more than twenty-four (24) hours from the time Grantor first knows or reasonably should have known of such Remedy Failure, and in writing no more than five (5) business days from the time that Grantor first knows or reasonably should have known of such Remedy Failure.

iii. Grantor shall, within twenty-one (21) days of such written notification, prepare and submit to Grantees, with a copy to Settlers, a work plan for the repair of the Remedy Failure, in accordance with the Work Protocols. After submittal of such work plan and any review and approval required pursuant to the Work Protocols, Grantor shall promptly conduct the repair in accordance with such work plan and otherwise comply with all applicable requirements of the Work Protocols.

iv. Provided, however, that in the event that Grantor believes that such Remedy Failure is the result of a Defect in the Remedy, then in lieu of submitting such work plan within twenty-one (21) days of the date when such written notification is due, Grantor may instead, within the same time period, submit a written request to EPA for a determination under the Consent Decree of whether such Remedy Failure is the result of a Defect in the Remedy. Grantor shall provide a copy of such submittal to both Grantees and Settlers. Grantor's submittal shall include a written statement by an Independent Professional asserting that, in his or her professional opinion, the Remedy Failure is the result of a Defect in the Remedy, and explaining the basis for such opinion. This statement must be signed by the Independent Professional, and must be accompanied by his or her supporting analysis, and other documentation as appropriate. The time period for this submittal may only be extended with the prior, written approval of Grantees. Failure to fully comply with the requirements of this provision shall automatically waive any right that Grantor may otherwise possess to delay or excuse submittal of the work plan for the repair of the Remedy Failure and to conduct such repair.

v. If EPA determines, pursuant to the Consent Decree, that such Remedy Failure is the result of a Defect in the Remedy, then Grantor's

obligations to fund and perform response actions to cure the Remedy Failure, beyond those response actions taken pursuant to subparagraph 4.D.i., above, shall be determined (along with those of other parties bound under Section IV.A of the Consent Decree) pursuant to and in accordance with the terms and provisions of the Consent Decree and its appendices, including without limitation Sections VII.A, VII.B, VII.C(8) and X.D of the Consent Decree and Section F.3.e of Appendix I ("Remedial Design/Action Plan") to the Consent Decree. Otherwise, Grantor shall fund and perform response actions to cure such Remedy Failure in accordance with the terms of this Grant.

vi. Nothing herein shall impair or otherwise affect whatever rights Grantor may possess pursuant to the Consent Decree, if any, to pursue and obtain recovery from any other person or entity for costs incurred to cure a Remedy Failure.

E. Notification of Other Violations. Grantor shall timely notify Grantees of any violation of this Grant of which Grantor becomes aware, except to the extent otherwise required or waived in subparagraph 4.D, above.

F. Permit and Approval Related Notifications.

i. Grantor, at the time that it submits any application to obtain a permit or approval from any governmental or other authority for any use or activity within the Restricted Areas, shall provide that authority with a copy of this Grant and with written notification of the nature and extent of the restrictions on uses and activities established herein.

ii. Grantor, at the time that it submits any building permit application for construction within the Restricted Areas to the City of Woburn, shall submit to Grantees a copy of its building permit application, and, upon receipt, a copy of any certificate of use and occupancy or other final permit or approval issued in connection with its building permit application.

5. Emergency Excavation. In the event that it becomes necessary to excavate a portion of the Restricted Areas as part of a response to an emergency (*e.g.*, emergency repair of utility lines, pipes, wires, conduits or related structures, or responding to a fire or flood), then the activity and use restriction provisions of Paragraph 2 ("Restricted Activities and Uses"), which would otherwise restrict such excavation, shall be temporarily suspended with respect to such excavation for the duration of the response, provided that Grantor satisfies the following requirements:

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

i. EPA Office of Emergency Planning and Response; and

ii. DEP Northeast Regional Office of Emergency Response Section;

or such other persons as Grantees, respectively, may each identify in writing, from time to time, to Grantor for such emergency response notifications;

B. notifies Grantees in writing of such emergency no later than five (5) days after having learned of such emergency, with a copy to Settlers;

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

D. implements all measures necessary to limit actual or potential risk to human health, safety, public welfare or the environment;

E. manages and disposes of any soils, sediments, and/or groundwater removed in connection with such excavation in accordance with Paragraph 14 ("Materials Management and Sampling Protocol") of the Work Protocols;

F. reinstates the Cover, if applicable, in accordance with Paragraph 15 ("Cover and Clean Corridors Protocol") of the Work Protocols;

G. engages an Independent Professional to oversee the implementation of the activities required in subparagraphs 5.C. through 5.F.; and

H. no later than thirty (30) days following the date of the emergency, submits to Grantees a written emergency excavation report prepared by an Independent Professional documenting that the excavation activity conducted as part of the emergency response was conducted in compliance with this Paragraph 6 ("Emergency Excavation"). This report shall contain, at a minimum, the following:

i. the name and address of Grantor, the Independent Professional and, if different, the person that conducted the emergency response;

ii. a detailed description of the nature of the emergency, the emergency response and the time frame within which it occurred;

iii. the address where the emergency response took place, and a map illustrating the location of the emergency response;

iv. all monitoring data, sampling analytical results, disposal location(s), and soil and groundwater volume estimates, if applicable, obtained, used and/or developed in connection with the emergency response. If the emergency response involved the disposal of Contaminated Soil or Contaminated Groundwater off of the Site, then a copy of the documentation evidencing the disposal facility's acceptance of the media and all other transport manifest documentation;

v. the written opinion of an Independent Professional stating that all of the requirements of subparagraphs 5.D., 5.E. and 5.F., above, if applicable, have been satisfied.

6. Grant of Easement.

A. In establishing this Grant, Grantor hereby grants to Grantees, and to their respective agents, contractors, subcontractors and employees, a perpetual easement to pass and repass in, on, upon, through and, across, over and under the Property; for the following purposes:

i. inspecting the Property and the Remedy to ensure compliance with and fulfillment of, including enforcement of, the terms of this Environmental Restriction and Easement;

ii. conducting surface and subsurface investigations;

iii. installing and sampling groundwater monitoring wells;

iv. conducting other intrusive and non-intrusive investigations and activities consistent with CERCLA, the NCP, Chapter 21E and the MCP;

v. performing operations and maintenance activities for the Remedy and/or as set forth in any operations and maintenance plan developed pursuant to the Consent Decree;

vi. performing response actions in connection with the Remedy; and

vii. conducting any other activity required by the Consent Decree or future remedial actions.

B. The foregoing grant of easement is made subject to and conditioned upon the following:

i. Grantor acknowledges that Grantees' exercise of their respective rights granted hereunder may interfere with Grantor's use and enjoyment of the Property, and/or may require temporary closure of a portion of the Property;

ii. Grantor shall cooperate fully with Grantees in the exercise of the foregoing easement rights, and shall not interfere with the actions taken in furtherance of the exercise of the easement;

iii. Grantees, consistent with their responsibilities under applicable law, shall use reasonable efforts to minimize interference with the Grantor's operations on and/or use of the Property;

iv. Grantees shall make reasonable efforts to provide advance notice to Grantor of any physically intrusive investigations and remediation activities either intends to conduct at the Property pursuant to their respective easements, unless such activities are conducted as part of an emergency and/or enforcement activities, as Grantees, in their respective sole discretions, may determine; and

v. Grantor shall have the right, upon timely request and at its own cost and expense, to obtain a split sample of any sample obtained by Grantees pursuant to the easement, unless such sample is obtained as part of an emergency and/or enforcement activities, as Grantees, in their respective sole discretions, may determine.

7. Construction and Severability.

A. This instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policies and purposes of CERCLA and/or Chapter 21E. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

B. In the event that any court or other tribunal determines that any provision of this instrument 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 or tribunal. In the event that the provision invalidated is of such a 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.

8. Enforcement.

A. Grantees, their respective successors and assigns, shall have the right to enforce the terms and conditions of this instrument, including without limitation the right to enforce Grantor's obligation to perform its duties and obligations hereunder. If Grantees, in their sole discretion, elect to perform response actions they deem necessary to cure any violation of this Grant, all costs and expenses for such response actions shall be assessed against Grantor, as follows. Grantees shall submit an itemized bill for work performed to Grantor, who shall remit payment therefor within thirty (30) days of receipt, unless another time or schedule is agreed upon by both parties. Such costs may include the costs and expenses to collect any repayment, together with Interest thereon, and all costs and expenses of any related proceedings at law or in equity, including court costs and attorney's fees plus Interest.

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

i. the assessment of penalties, including without limitation stipulated penalties pursuant to Paragraph 9 ("Stipulated Penalties"), and other action by Grantees to enforce the terms of this Grant and the Agreement, pursuant to CERCLA and/or M.G.L. c. 21E and their implementing regulations, and other law and regulations, as applicable; and/or

ii. upon a determination by a court of competent jurisdiction, the issuance of criminal and civil penalties, and/or equitable remedies which could include the issuance of an order to modify or remove any improvements constructed in violation of the terms of this Grant at Grantor's sole cost and expense, and/or to reimburse Grantees for any costs incurred in modifying or removing any improvement constructed in violation of the terms of this Grant.

C. All reasonable costs and expenses of Grantees, including but not limited to, attorney's fees, incurred in any such enforcement action shall be borne by Grantor, to the extent not inconsistent with CERCLA, Chapter 21E and/or any other applicable law.

D. Notwithstanding any other provision of this instrument, all rights and remedies (including without limitation sanctions and penalties) available hereunder shall be in addition to, but not in lieu of, any and all rights and remedies (including without limitation sanctions and penalties) at law or in equity, including CERCLA or Chapter 21E, and/or pursuant to the Consent Decree, which rights and remedies Grantees fully reserve. Enforcement of the terms of this instrument, including without limitation Paragraph 9 ("Stipulated Penalties"), shall be at the discretion of Grantees, and any forbearance, delay or omission to exercise their respective rights under this instrument shall not be deemed to be a waiver by Grantees of such term or any subsequent breach of the same or any other term, or of any of the rights of Grantees under this instrument.

9. Stipulated Penalties.

A. In the event that Grantor violates a provision of the Grant, Grantor shall pay to Grantees stipulated penalties in the following amounts for each day of each and every such violation:

Period of Noncompliance	Penalty Per Violation Per Day
1st through 7th day	$ 750.00
8th through 14th day	$1,500.00
15th through 28th day	$2,500.00
29th through 60th day	$4,000.00
Beyond 60 days	$8,000.00

One-half of the above amounts shall be payable to each Grantee, unless otherwise instructed in writing by Grantees. In the event that either of the Grantees terminates its interest in this instrument, then all of the above amounts shall be payable as instructed in writing by the remaining Grantee.

B. Stipulated penalties shall begin to accrue on the day that performance is due or noncompliance occurs, and shall continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Grant.

C. All penalties due to Grantees under this Paragraph shall be paid within forty-five (45) days of receipt by Grantor of notification of noncompliance from either Grantee. Interest shall begin to accrue on the unpaid balance at the end of the 45-day period.

D. Stipulated penalties due to EPA shall be paid by certified check payable to "EPA Hazardous Substances Superfund" and shall be submitted by reliable overnight delivery service, delivered in hand or mailed by postage-paid registered or certified mail, return receipt requested to:

EPA Superfund
P. O. Box 371003M,
Pittsburgh, PA 15251.

E. Stipulated penalties due to DEP shall be paid by certified check payable to the Commonwealth of Massachusetts and shall be submitted by reliable overnight delivery service, delivered in hand or mailed by postage-paid registered or certified mail, return receipt requested to:

Office of the Attorney General
Chief, Environmental Protection Division
One Ashburton Place
Boston, MA 02108.

F. Each check in payment of stipulated penalties shall be marked with:

i. a reference to the Industri-Plex Site;

ii. Civil Action Number 89-0195-MC, if to the EPA; or Civil Action Number 89-0196-MC, if to DEP; and

iii. shall state that it is for stipulated penalties pursuant to this Grant.

G. EPA may, in its sole discretion, waive or suspend the accrual of any stipulated penalties due to it under this Paragraph 9 ("Stipulated Penalties"). DEP may, in its sole discretion, waive or suspend the accrual of any stipulated penalties due to it under this Paragraph 9 ("Stipulated Penalties").

10. Compliance Status Requests. Grantor may submit a written request to Grantees for a written statement of the status of Grantor's compliance with this Grant based on information then in Grantees' possession, such as the inspection reports

submitted pursuant to subparagraph 4.A. Grantees shall make best efforts to respond to up to two such requests per annum, within thirty (30) days of receipt.

11. Self-Executing. This instrument is intended, and is hereby declared to be self-executing, and shall not be deemed or construed to be personal or executory (within the meaning of any provision of the Federal Bankruptcy Code or similar law of any jurisdiction whether now existing or hereafter arising).

12. Provisions to Run with the Land. The land use restrictions, obligations, access rights and related rights, provided in this Grant, establish certain rights, liabilities, agreements and obligations upon and subject to which the Property or any portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered or conveyed. The rights, liabilities, agreements and obligations herein set forth shall run with the Property for the term of this instrument, as applicable thereto, and any portion thereof, and shall inure to the benefit of Grantees, their respective successors and assigns, and be binding upon Grantor and all parties claiming by, through or under Grantor. Grantor hereby covenants for himself and his heirs, successors and assigns, to stand seized and hold title to the Property, or any portion thereof, subject to these land use restrictions and access rights, and related rights; provided, however, that a violation of these land use restrictions and access rights, and related rights, shall not result in a forfeiture or reversion of Grantor's title to the Property.

13. Concurrence Presumed. It is agreed that:

A. Grantor and all parties claiming by, through or under Grantor shall be deemed to be in accord with the provisions herein set forth; and

B. Grantor and all such parties agree for and among themselves and any party claiming by, through or under them, and their respective agents, contractors, sub-contractors and employees, that the land use restrictions, obligations, and access rights, and related rights, herein established, shall be adhered to and not violated and that their respective interests in the Property shall be subject to the provisions herein set forth.

14. Incorporation into Deeds, Mortgages, Leases & Instruments of Transfer. Grantor hereby agrees to incorporate this instrument, in full or by reference, into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer by which an interest in and/or a right to use the Property, or any portion thereof, is conveyed; provided, however, that any failure of Grantor to do so shall not affect the validity or applicability of the provisions of Paragraph 12 (“Provisions to Run With the Land”).

15. Amendment and Release.

A. Grantor may amend this instrument, including without limitation any of its appendices or the Plan of Restricted Areas, only with the prior, written approval of Grantees. Grantor further agrees to execute any amendment to this instrument which Grantees reasonably deem necessary to maintain the continued effectiveness of the Remedy in order to protect human health and the environment. All amendments shall include Grantees' signed approval and shall become effective upon Recordation and/or Registration.

B. Grantor may propose to Grantees, with a copy to Settlers, an amendment of an activity or use restriction set forth in Paragraph 2 ("Restricted Activities and Uses"), including a change in Class of Land of all or a portion of the Property, or of a permitted activity or use set forth in Paragraph 3 ("Permitted Activities and Uses"), based upon changed circumstances including without limitation new analytic and engineering data. In the event that Grantor requests such an amendment, Grantor shall comply with the provisions of the Amendment Protocol, set forth in Appendix VI ("Amendment Protocol") to this Grant.

C. Release. Each of Grantees may release its respective interest in the Grant, in whole or in part, in its respective sole discretion, and in accordance with CERCLA, the NCP, and Chapter 21E, as applicable. This Grant shall not be deemed released unless and until Grantees have both released their respective interests hereunder. Any such releases shall become effective upon their Recordation and/or Registration.

D. Recordation and/or Registration. Grantor hereby agrees to Record and/or Register any amendment to and/or release of this instrument, or other document created pursuant to this instrument for which Recording and/or Registration is required, within thirty (30) days of the date of having received from Grantees any such amendment, release or other such document executed by Grantees and/or evidencing Grantees' approval, as appropriate, in recordable form. No more than thirty (30) days from the date of Recording and/or Registering of said amendment, release and/or other such document, Grantor shall provide a certified Registry copy of the amendment, release and/or other such document to Grantees and the Document Repository, with a copy to Settlers. At that time, or as soon thereafter as it becomes available, Grantor shall provide Grantees with the final recording information for the amendment, release, and/or other such document, certified by said Registry. Grantor shall pay any and all recording fees, land transfer taxes and other such transactional costs associated with any such amendment or release.

E. Notice to Local Officials. In accordance with the requirements set forth in 310 C.M.R. §40.1403(7), as amended, and within thirty (30) days after Recording and/or Registering any such amendment, release, or other such document, Grantor shall: (i) provide the City of Woburn's Chief Municipal Officer, Board of Health, Zoning Official and Building Code Enforcement Official with copies of such Recorded and/or Registered amendment, release or other such document; (ii) publish a legal notice indicating the Recording and/or Registering of such amendment, release or other such document, and including the information described in 310 C.M.R. §40.1403(7)(b)(1), in a newspaper which circulates in the City of Woburn; and (iii) provide copies of said legal notice to Grantees within seven (7) days of its publication.

16. No Dedication Intended. Nothing in this instrument shall be construed to be a gift or dedication of the Property to Grantees, their respective assigns or to the general public for any purpose whatsoever.

17. Term. This Grant shall run with the land in perpetuity and is intended to conform to the exception for "other restrictions held by any governmental body" set forth in clause (c) of the first paragraph of M.G.L. c. 184, § 26, as amended.

18. Rights Reserved.

A. It is expressly agreed that acceptance of this instrument by Grantees or its assignment shall not operate to bar, diminish, or in any way affect any legal or equitable right of Grantees, their respective successors or assigns, to issue any future order or take any future response action with respect to the Property or in any way affect any other claim, action, suit, cause of action, or demand which Grantees, their respective successors or assigns, may otherwise possess with respect thereto.

B. Nothing in this document shall limit or otherwise affect the rights of EPA or DEP to obtain access to, or restrict the use of, the Property pursuant to CERCLA, Chapter 21E, or any other applicable statute or regulation.

19. No Waiver. Except as otherwise provided herein, no delay by any party to this instrument in exercising any right or remedy provided herein shall constitute a waiver thereof, and no waiver by a party to this instrument of any specific provision hereof shall be construed as a waiver of any preceding or succeeding violation of the same or any other provision hereof.

20. Assignment. This Grant, including without limitation all easements, rights, covenants, obligations and restrictions inuring to the benefit of Grantees, herein contained, shall be freely assignable by Grantees, in whole or in part, at any time.

21. Authority. Grantor represents and warrants that he, she or it has been duly authorized by all necessary action to execute this instrument. Grantor represents and warrants that it has good, clear, record and title to the Property, free and clear of all matters of record which could extinguish, through foreclosure or otherwise, this Grant, except for bona fide, third-party encumbrances of record duly Recorded and/or Registered prior to the Effective Date of this instrument which have been, or will be, expressly subordinated to this instrument pursuant to a subordination agreement.

22. Interpretation of Words. Any word or defined term contained in this instrument shall be read as singular, plural, masculine, feminine or neuter as the context so requires.

23. Notices; Changes of Address.

A. General. Any notice, delivery or other communication permitted or required under this instrument, including those notices made pursuant to subparagraphs 23.B. through 23.E., inclusive, unless otherwise provided in this instrument, shall be in writing and sent by reliable overnight delivery service, delivered in hand or mailed by postage-paid registered or certified mail, return receipt requested. Notices or other communications shall be deemed given, if by overnight delivery service, on the first business day following deposit with such delivery service; if by hand, on the date of the receipt evidencing the hand delivery thereof; or, if by registered or certified mail, three (3) days after deposit in the United States mails; provided that notice of change of address shall be deemed effective only upon receipt.

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

As to EPA:

EPA Remedial Project Manager
Industri-Plex Superfund Site, Woburn, Massachusetts
United States Environmental Protection Agency, Region I
One Congress Street, Suite 1100

Boston, MA 02203

and to:

EPA Enforcement Counsel
Industri-Plex Superfund Site
United States Environmental Protection Agency, Region I
One Congress Street, Suite 1100
Boston, MA 02203

As to DEP:

Bureau of Waste Site Cleanup
Department of Environmental Protection
One Winter Street, 7th Floor
Boston, MA 02108
Attention: Industri-Plex Superfund Site Project Manager

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

Solutia, Inc.
P.O. Box 66760
575 Maryville Center Drive
St. Louis, MO 63166-6760
Attention: Coordinator for Industri-Plex Superfund Site

D. Grantor. Whenever, under the terms of this instrument, written notice is required to be given or a document is required to be sent to Grantor, it shall be directed to the individual at the address specified below:

[Note: fill in name and address of owner of the Property:]
_____
_____
_____
_____

E. Changes of Address. Grantor shall notify Grantees and Settlers of any change of the mailing address specified above. Any party giving such notice shall

do so in writing, within thirty (30) days of such change in address. Such notice shall be effective upon receipt, unless such notice provides for a later effective date (*e.g.*, in the case of advance notice).

24. Changes in Ownership. In the event of a change in record ownership of all or a portion of the Property, the transferor and the transferee of such interest shall notify Grantees of such transfer in writing. The transferor's obligation to notify of such change in ownership shall survive such transfer.

A. Such notification shall include, at a minimum:

i. the name and address of the transferor and the transferee of such interest;

ii. the address of the subject Property and a statement as to whether all or a portion of the Property has been transferred;

iii. a copy of the instrument of transfer, evidencing the official, final Recording and/or Registration information thereon;

iv. if only a portion of the property has been transferred, a copy of the survey plan of record with the Registry of Deeds and/or Land Registration Office, evidencing the official, final Recording and/or Registration information thereon, stamped and signed by a Massachusetts registered land surveyor, identifying such portion; and

v. identification of the Industri-Plex Superfund Site, EPA Site Identification Number MAD076580950 and DEP Release Tracking No. 3-1731.

B. Such notification shall be submitted no later than thirty (30) days after the date of transfer of such interest. In the event that either the instrument of transfer or the survey plan, if required, is not available with the official, final Recording and/or Registration information thereon within said thirty (30) days, Grantor shall instead submit a certified Registry copy of such instrument or survey plan within the required thirty (30) day time period, and shall submit a copy with the official, final Recording and/or Registration information as soon thereafter as it becomes available.

25. Governing Law; Captions. This instrument shall be governed by and interpreted in accordance with the laws of the United States and of the Commonwealth of Massachusetts, as applicable. All captions and headings contained in this instrument are

for convenience of reference only, and shall not be used to govern or interpret the meaning or intent of any provision of this document.

26. Effective Date. This instrument shall become effective upon its Recordation and/or Registration.

No more than thirty (30) days from the date of Recording and/or Registration, Grantor shall provide Grantees with a certified Registry and/or Land Registration Office copy of this instrument. At that time, or as soon as practicable thereafter, Grantor shall provide Grantees with a copy of this instrument, as recorded, certified by said Registry and/or Land Registration Office.

As the United States of America and the Commonwealth of Massachusetts are parties to this instrument, no Massachusetts deed excise tax stamps are affixed hereto, none being required by law (M.G.L. Chapter 64D, Section 1, as amended).

WITNESS the execution hereof under seal this _____ day of _____, 2005.

GRANTOR:

_____

_____
(print name)

COMMONWEALTH OF MASSACHUSETTS

_____, ss

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

_____
Notary Public
My commission expires:

[Seal]

[Note: or, use corporate form signature block and acknowledgement, etc., as appropriate:]

WITNESS the execution hereof under seal this _____ day of _____, 2005.

GRANTOR:

_____
[name of corporate entity]

By: _____

_____
(print name)

Its: _____
(print title)

COMMONWEALTH OF MASSACHUSETTS

_____, ss

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose, as _____**[Note: insert above title]** for _____**[Note: insert above corporate name]**, a corporation.

_____
Notary Public
My commission expires:

[Seal]

In accordance with CERCLA, 42 U.S.C. §9601 *et seq*., as amended, the [**insert authorized federal officer**] of the [**insert authorized federal agency or department**] hereby approves the Grant.

_____

_____
[**insert name and title**]

Date: _____

In accordance with M.G.L. c. 21E, §6, as amended, the Commissioner of the Department of Environmental Protection hereby approves the Grant.

_____
Robert W. Golledge, Jr.
Commissioner
Dept. of Environmental Protection

Date: _____

Upon recording, return to:

[**insert EPA responsible party**]

APPENDIX I – Definitions

1. Definitions. The following terms shall have the meanings set forth, below:

A. "As Built Records" shall mean the engineering drawings and other records, as amended, which depict the location and details of Clean Corridors and/or that portion of the Remedy situated within the Property as constructed, or otherwise designated, a copy of which is on file at the Document Repository.

B. "Business Day" shall mean a calendar day, exclusive of those calendar days which fall on a Saturday, Sunday or federal holiday.

C. "Class A Land" shall mean that portion of the Property, if any, identified as Class A Land on the Plan of Restricted Areas; a legal description thereof by metes and bounds being set forth in Appendix III ("Legal Description of the Restricted Areas"). Class A Land may contain Contaminated Groundwater.

D. "Class B Land" shall mean that portion of the Property, if any, identified as Class B Land on the Plan of Restricted Areas; a legal description thereof by metes and bounds being set forth in Appendix III ("Legal Description of the Restricted Areas"). Class B Land may contain Contaminated Soil and Contaminated Groundwater.

E. "Class C Land" shall mean that portion of the Property, if any, identified as Class C Land on the Plan of Restricted Areas; a legal description thereof by metes and bounds being set forth in Appendix III ("Legal Description of the Restricted Areas"). Class C Land contains Contaminated Soil and Cover, and may contain Contaminated Groundwater.

F. "Class D Land" shall mean that portion of the Property, if any, identified as Class D Land on the Plan of Restricted Areas; a legal description thereof by metes and bounds being set forth in Appendix III ("Legal Description of the Restricted Areas"). Class D Land contains Contaminated Soil and Cover, and may contain Contaminated Groundwater. Class D Land also comprises the East, West, East-Central and South Hide Piles, as shown on the As Built Records; and the location of which are generally depicted on the Plan of Restricted Areas.

G. "Clean Corridors" shall mean all soil or other material, bounded below and to the sides by geotextile or other material as shown on the As Built Records, and bounded above by those portions of the Property, if any, referred to as Clean Corridors on the Plan of Restricted Areas. Clean Corridors are situated within Class B Land and are constructed so as to clearly delineate their boundaries. Generally, Clean Corridors

provide an area which does not contain Contaminated Soil, where work may be performed, usually related to utilities or other infrastructure that require frequent access for maintenance.

H. "Contaminated Groundwater" shall mean any groundwater within the Site contaminated with arsenic, chromium, lead, benzene, toluene or other hazardous materials and/or substances exceeding applicable local, State and/or Federal standards.

I. "Contaminated Soil" shall mean soil, sediment, fill or other earthen material within the Site containing arsenic at or above a concentration of three hundred (300) parts per million; lead at or above a concentration of six hundred (600) parts per million; chromium at or above a concentration of one thousand (1000) parts per million; and/or animal hides, or their constituents, from which emanate odors.

J. "Cover" shall mean Engineered Cover and Equivalent Cover, collectively.

K. "Cover Certification Report" shall mean a report prepared for the Property containing such information as is necessary to document the completion of the Cover situated on the Property, as amended, including the As Built Records, as applicable, and/or other construction and survey plans, and quality assurance and control documentation, a copy of which is on file at the Document Repository.

L. "Cover Inspection Plan" shall mean the plan set forth in Appendix VI ("Cover Inspection Plan"), attached hereto and made a part hereof.

M. "Day" or "Days" shall mean a calendar day or days, except where expressly otherwise provided.

N. "Defect in the Remedy" shall mean any lack, insufficiency or imperfection in the design or construction of the Remedy, excluding Equivalent Cover, under conditions and use for which the Remedy was designed (but for such lack, insufficiency or imperfection), which results in or may result in a Remedy Failure.

O. "Document Repository" shall mean the records center located at the Woburn Public Library, at 45 Pleasant Street in Woburn, MA, and the EPA Records Center, located at US EPA Region 1 - New England at One Congress Street in Boston, MA, established for the Site pursuant to the ROD and/or Consent Decree. The Document Repository contains documents, drawings, reports, data, specifications and other pertinent detailed information pertaining to the Remedy, the Consent Decree and related documents.

P. "Effective Date" shall mean the date of Recordation and/or Registration of this

Environmental Restriction and Easement, as the case may be.

Q. "Emergency Excavation Report" shall mean a written report prepared in accordance with the requirements of Paragraph 5 ("Emergency Excavation") of the Grant.

R. "Engineered Cover" shall mean all physical barriers situated in, on, or under those portions of the Property, if any, referred to as Engineered Cover on the Plan of Restricted Areas. Engineered Cover was designed and constructed by the Industri-Plex Site Remedial Trust as part of the response activities at the Site to prevent exposure to Contaminated Soil on Class C Land and Class D Land, as shown on the original As Built Records, or as shown on approved permanent modifications to those As Built Records. Engineered Cover may be comprised of one or more of the following materials: geotextile, geomembrane, soil, gravel, bituminous concrete and/or asphalt.

S. "Equivalent Cover" shall mean all physical barriers preventing exposure to underlying soil, sediment, fill or other earthen material within the Site, situated in, on, or under those portions of the Property, if any, referred to as Equivalent Cover on the Plan of Restricted Areas. Equivalent Cover, although not designed as part of the Engineered Cover, functions to prevent exposure to Contaminated Soil on Class C Land and Class D Land, as shown on the original As Built Records, or as shown on approved permanent modifications to those As Built Records. Equivalent Cover may be comprised of one or more of the following ground covering structures or features, or portions of such structures or features: buildings; foundations; slabs; paved driveways, walkways, parking lots and/or roads; or other such ground covering structures or features.

T. "Gas Treatment System" shall mean that part of the Remedy which consists of physical structures constructed on or beneath the Site, including ancillary structures and improvements, which are situated on the Property, if any, for the purposes of collecting, treating and controlling odors which might otherwise emanate from the East Hide Pile, as shown on the As Built Records; and the location of which is generally depicted on the Plan of Restricted Areas.

U. "Hazardous Substances" shall mean any substance defined as a "hazardous substance," "pollutant" or "contaminant" under CERCLA; a "hazardous waste" under Section 1004(5) of the Solid Waste Disposal Act, as amended, 42 U.S.C. §6903; a "hazardous material" under Section 2 of Chapter 21E; and/or animal hides, or their constituents, from which emanate odors.

V. "Independent Professional" shall mean a person who is a licensed Hazardous Waste Site Cleanup Professional, pursuant to M. G. L. c. 21A and 309 C. M. R. §§ 1.0 to 8.0 (a "Licensed Site Professional" or "LSP"), and either (i) is also a Professional

Engineer (P.E., Civil), licensed by the Massachusetts Board of Registration of Professional Engineers and Professional Land Surveyors, pursuant to M. G. L. c.112 §§ 81D to 81T and implementing regulations; or (ii) is acting, as necessary, in reliance on such a Professional Engineer (P.E., Civil) and other professionals, as needed. In addition, an Independent Professional shall be familiar with the requirements of this Grant of Environmental Restriction and Easement, including its appendices.

W. "Interest" shall mean:

i. with respect to EPA and Grantor; the rate established by the Department of the Treasury under 31 U.S.C. subsection 3717; and

ii. with respect to DEP, twelve (12) percent per annum, as set forth in Section 13 of Chapter 21E.

X. "Interim Groundwater Remedy" shall mean that portion of the Remedy which consists of any and all physical structures, including any ancillary structures and improvements, now or hereafter constructed on or beneath the surface of the Site, which are situated on the Property, for the interim groundwater remedy required by the Consent Decree, as more particularly set forth in Paragraph D ("Groundwater Remedy") of Appendix I ("Remedial Design/Action Plan") to the Consent Decree, as now or hereafter are or may be shown on the As Built Records; and the location of which is or may be generally depicted on the Plan of Restricted Areas. The Interim Groundwater Remedy may include, without limitation, facilities for capturing and treating contaminated groundwater; discharging the treated groundwater; and/or monitoring.

Y. "Normal Maintenance" shall mean any and all activities a landowner would routinely need to perform in order to keep his or her property in good condition and repair, exclusive of repair of damage to the geotextile or geomembrane portion of the Engineered Cover. For purposes of this instrument, Normal Maintenance may include, without limitation, activities such as lawn cutting, watering and reseeding; repair of erosion and filling in ruts; bituminous or concrete pavement and asphalt seal coating, bituminous or concrete pavement and asphalt stripe painting, overlaying bituminous or concrete pavement and asphalt, sealing cracks and filling potholes; maintaining and repairing interior building sumps, sump pumps and drainage systems; maintaining and repairing building foundations; removal of unwanted vegetation; removal of debris and accumulated soil and sediment from drainage areas and structures (*e.g.*, culverts, channels, basins).

Z. "Operation and Maintenance Plan" shall mean Chapter 19, including tables and appendices, of the document entitled "100% Remedial Design, Part I, Volume 1," prepared by Golder Associates, dated April 22, 1992, and approved by EPA and DEP in

two letters from Joseph DeCola, EPA Project Manager and Jay Naparstek, DEP Project Manager, to Dave L. Baumgartner, ISRT Project Manager, dated March 11, 1993 and May 19, 1993, copies of which are on file at the Document Repository. Chapter 19 includes, without limitation, an Inspection Plan, a Maintenance Plan and a Monitoring Plan.

AA. "Permanent Cover Modification" shall mean a permanent change to the Cover, such that the Cover has been altered from that depicted in the As Built Records, the Cover Certification Report and/or on the Plan of Restricted Areas.

BB. "Plan of Restricted Areas" shall mean the plan consisting of ____ sheets, entitled "Plan of Restricted Areas" prepared by _____, dated _____, recorded in the Middlesex South Registry of Deeds in Plan Book ____, Plan ____. The Plan of Restricted Areas depicts the surveyed locations of the Restricted Areas and certain other features of the Remedy, including without limitation any Engineered Cover or Equivalent Cover, situated on the Property.

CC. "Qualified Professional" shall mean a professional with no less than five (5) years of experience in the field of hazardous waste site assessment and remediation, including experience in hazardous waste management, construction methods and terminology, and preparation and interpretation of remediation and construction plans and documents. In addition, such professional shall be familiar with the requirements of this Grant of Environmental Restriction and Easement, including its appendices. A Qualified Professional may be, but is not necessarily required to be, an Independent Professional.

DD. "Recorded and/or Registered" and its various conjugations shall mean, as to unregistered land, recorded with the appropriate registry of deeds; and as to registered land, filed with the appropriate land registration office; each conjugated as appropriate;

EE. "Remedy" shall mean the Cover; the Gas Treatment System; the Interim Groundwater Remedy; remediated, restored and/or created wetlands; all as depicted (i) in the Cover Certification Report and/or on the Plan of Restricted Areas to the extent that each such element of the Remedy is situated on the Property and (ii) in any such similar cover certification reports and/or on any such similar plans of restricted areas prepared or recorded, respectively, with respect to any and all other properties at the Site, pursuant to the Consent Decree; and/or any other activity, including any resultant structures, required by the Consent Decree; as originally performed or subsequently modified in accordance with the Consent Decree and, as applicable, this instrument.

FF. "Remedy Failure" shall mean any condition at the Property which (i) prevents the Cover from fulfilling its ground-covering function and exposes potentially

Contaminated Soil, including without limitation (a) potholes and other structural damage to pavement, concrete, hardtop, cement, foundations or other such types of Cover; and (b) washouts and other significant Cover deterioration or damage; and/or (ii) prevents any portion of the Remedy from fulfilling its intended function.

GG. "Restricted Areas" shall mean, collectively, those portions of the Property bounded and described in Appendix III ("Legal Description of the Restricted Areas"), attached hereto and made a part hereof. The Restricted Areas encompass all portions of the Property subject to this Grant, and are shown on the Plan of Restricted Areas.

HH. "Settlers" shall mean Settlers as defined in Section III, Paragraph Z of the Consent Decree, at page 11, and their successors and assigns; provided, however, that for purposes of this definition, Settlers shall exclude the Mark-Phillip Trust.

II. "Site" shall mean Site as defined in Section III, Paragraph AA of the Consent Decree, at pages 11-12.

JJ. "Work Protocols" or "Protocols" shall mean the procedures, practices and standards set forth in Appendix V ("Work Protocols"), attached hereto and made a part hereof.

APPENDIX II – Legal Description of Property

[add legal description of Grantor's Property, by metes and bounds]

[NOTE: for registered land, must include reference to ownership as evidenced in Certificate of Title No. ____, [shown as Lot _____].]

APPENDIX III – Legal Description of Restricted Areas

[add legal description of Restricted Areas situated within the Grantor's property, by metes and bounds]

APPENDIX IV – Work Protocols

SECTION I. GENERAL

1. Title. This appendix, which shall be referred to as the "Work Protocols," is an attachment to an instrument entitled "Industri-Plex Site Institutional Controls" (also referred to as the "Institutional Controls," "Grant of Environmental Restriction and Easement" or "Grant"), dated _____ **[insert date of Institutional Controls]**, and recorded and/or registered herewith, in the Middlesex South Registry of Deeds/Land Registration Office.

2. Definitions. Unless otherwise defined herein, the terms used in the Work Protocols shall have the meanings set forth in Paragraph 1 ("Definitions") of the Grant.

3. Applicability. Whenever the Institutional Controls prohibit or restrict an activity or use unless conducted in compliance with the Work Protocols, or otherwise require compliance with the Work Protocols, Grantor shall comply with the terms and provisions of this appendix.

4. Submissions. All submissions made pursuant to the Work Protocols shall be made in accordance with the requirements of Paragraph 23 ("Notices; Changes of Address") of the Grant.

5. General Requirement. The Work Protocols require Grantor to prepare and submit a work plan in connection with the proposed, but otherwise prohibited activity or use, and in order to comply with certain obligations to cure a Remedy Failure; to obtain certain approvals where specified; and to prepare and submit a completion report when the work described in the work plan is finished. If the activity or use will result in a permanent change to the Institutional Controls, Grantor will also need to modify the Institutional Controls by preparing and submitting revised As Built Records and/or an amendment to the Grant, and related documentation, for review and approval. Grantor is required to engage an Independent Professional or, where permitted, a Qualified Professional to perform certain of these requirements. In some instances, Grantor may also need to retain other professionals, such as a registered land surveyor, to prepare certain submittals. More particularly:

A. Grantor shall prepare and submit in writing to Grantees, with a copy to Settlers:

i. a work plan, prior to conducting the otherwise prohibited activity or use at the Property, or when required as part of an obligation to repair a Remedy Failure;

ii. a revised work plan, if certain contingencies arise; and

iii. a completion report after completing the work; and

iv. under certain circumstances, if specified, proposed revised As Built Records and/or a proposed amendment to the Institutional Controls, in accordance with Appendix VI ("Amendment Protocol") of the Grant.

B. Grantor shall prepare all submittals, obtain any necessary approvals, provide any necessary notifications, and record and/or register any approved amendment, all in accordance with the requirements set forth in Section II, below, according to the class of land where the work is to be performed, and Appendix VI ("Amendment Protocol"), if a Grant amendment is required. Grantor shall engage an Independent Professional or, where permitted, a Qualified Professional to perform certain requirements, as specified in Section II, below. In the event that the otherwise prohibited activity or use will be performed on multiple classes of land, then the requirements for the most restrictive class of land shall apply, except for those technical requirements which are specific to each separate class of land. For purposes of the preceding requirement, Class D Land is the most restrictive and Class A Land is the least restrictive.

C. Grantor shall perform all work in accordance with the work plan and/or revised work plan, as submitted or, if applicable, as approved. Once Grantor has begun work pursuant to an approved work plan, the terms and conditions of the work plan, as approved, and all related requirements of the Work Protocols shall be enforceable by Grantees, as an obligation of the Grant, pursuant to Paragraph 8 ("Enforcement") and Paragraph 9 ("Stipulated Penalties") of the Grant.

D. Grantor shall satisfy all other applicable requirements of the Work Protocols.

6. Financial Assurance Requirement. If the estimated total cost of performing a proposed work plan, as approved, exceeds twenty-five thousand dollars ($25,000), then Grantor shall provide written financial assurance of Grantor's ability to perform such work plan, in a form approved by Grantees, such as a surety bond guaranteeing payment, a surety bond guaranteeing performance, an irrevocable standby letter of credit, or such other financial mechanism as may be accepted by Grantees. The financial assurance shall provide that, upon Grantees' determination that Grantor has failed in whole or in part to comply with the terms of the work plan or the Grant, Grantees shall have the right to promptly obtain, without the consent of Grantor, exclusive direction and control over the transfer, use and disbursement of the secured funds or performance benefits to complete the actions, in whole or in part, required by the work plan or the Grant.

7. Establishment of Standard Work Plans.

A. Grantor may submit to Grantees, with a copy to Settlers, a written request to approve a standard work plan for a routine, recurring activity or use, each occurrence of which would not require an amendment to the Grant, in lieu of submitting a work plan for each occurrence of such activity or use.

B. Each proposed standard work plan shall be submitted in writing, shall be prepared or reviewed by an Independent Professional, and shall include his or her opinion that the particular standard work plan complies with the applicable requirements of Paragraph 13 ("Health and Safety Plan"), Paragraph 14 ("Materials Management and Sampling Protocol") and Paragraph 15 ("Cover and Clean Corridors Protocol") of this appendix, and any applicable requirements of the Grant.

C. Any approval of a standard work plan by Grantees shall only be valid if in writing, and may be made upon such terms and conditions as Grantees deem appropriate. Any such terms and conditions shall be deemed a part of that particular approved standard work plan. Grantees' approval of a particular standard work plan shall remain in effect until the approval either expires by its terms or is withdrawn by Grantees in writing.

D. An activity or use conducted pursuant to an approved standard work plan shall not otherwise be subject to the Work Protocols, provided that Grantor satisfies all of the following requirements.

i. Advance Written Notice. Grantor shall provide Grantees, with a copy to Settlers, fourteen (14) days' advance written notice of the start date of the work to be performed pursuant to a standard work plan. The notice shall identify:

a. the location of the activity or use to be performed,

b. the applicable approved standard work plan,

c. the entity which will perform the activity or use, and

d. if required by the approved standard work plan, the name and license number of the Independent Professional or, where permitted, the Qualified Professional whom Grantor has engaged to oversee the activity;

ii. Terms and Conditions. Grantor shall comply with the terms and conditions of the applicable approved standard work plan; and

iii. Completion Report. Grantor shall prepare and submit a completion report in accordance with the requirements of Section III ("Completion Report Requirements"), below.

SECTION II. WORK PLAN REQUIREMENTS

8. Work Plan Requirements for Class C Land and Class D Land. For any activity or use which is prohibited, unless conducted in strict compliance with the Work Protocols, and/or when required to repair a Remedy Failure, to be performed in whole or in part within Class C Land and/or Class D Land, the following requirements shall apply. If approval for a work plan is not expressly required, then a work plan would be presumptively approved after the requisite time period has expired, barring notice from the Grantees.

A. Activity or Use above Contaminated Media. If the activity or use will disturb the Cover, but not fully penetrate through to the Contaminated Soil or Contaminated Groundwater below, then:

i. a Qualified Professional shall prepare or review the work plan, unless the activity or use will result in a Permanent Cover Modification, in which case an Independent Professional shall prepare and/or review the work plan;

ii. the work plan shall be submitted no less than thirty (30) days prior to the initiation of the activity or use;

iii. the work plan shall include the following items :

a. a description of the proposed activity or use as it pertains to the Remedy, including without limitation any disturbance of the Cover;

b. a schedule for the performance of the activity or use, including without limitation a schedule of times and duration for any open excavation;

c. a map and, if necessary, a surveyed plan showing the location of the proposed activity or use, which Grantees may also require at their sole discretion;

d. the names, addresses and telephone numbers of Grantor's primary contacts for the proposed activity or use,

including without limitation Grantor, its lessees or other parties responsible for submitting the work plan, its or their contractors and consultants, and the Qualified Professional or, if applicable, the Independent Professional, engaged to prepare or review the work plan;

iv. the work plan shall satisfy the applicable requirements of Paragraph 15 ("Cover and Clean Corridors Protocol") of this appendix; and

v. the Qualified Professional or the Independent Professional, as the case may be, shall provide a written opinion that the work plan complies with the applicable requirements of Paragraph 15 ("Cover and Clean Corridors Protocol") of this appendix, and any applicable requirements of the Grant.

B. Accidental Exposure of Contaminated Media. In the event that Grantor or any other party performing an activity or use pursuant to subparagraph 8.A. of this appendix, above, fully penetrates the Cover through to the Contaminated Soil or Contaminated Groundwater below, then Grantor or such other party shall:

i. immediately cease work in the area where the Cover penetration occurred until a revised work plan is approved, as set forth below, and secure the area in order to prevent the release of, or exposure to, such material, or any run-on or run-off, and otherwise comply with the requirements of section ii. ("Temporary On-Site Storage") of subparagraph 14.A. ("Management of Soils and Sediments") and section ii. ("Temporary On-Site Storage") of subparagraph 14.B. ("Management of Groundwater and Water from Dewatering");

ii. immediately orally notify Grantees of such event, and no later than seven (7) days after the date of such event submit written notification thereof to Grantees, with a copy to Settlers;

iii. submit a revised work plan in accordance with the requirements of subparagraph 8.C. ("Activity or Use within Contaminated Media"), except that it shall be submitted no later than thirty (30) days after the date of such event rather than sixty (60) days prior to initiation of the activity or use; and

iv. promptly perform the approved work plan.

C. Activity or Use within Contaminated Media. If the activity or use will fully penetrate the Cover through to the Contaminated Soil or Contaminated Groundwater below, or otherwise disturb Contaminated Soil or Contaminated Groundwater, then:

i. an Independent Professional shall prepare or review the work plan;

ii. Grantor shall obtain Grantees' written approval of the work plan before commencing the proposed activity or use;

iii. the work plan shall be submitted no less than sixty (60) days prior to initiation of the activity or use;

iv. the work plan shall include the following items:

a. a description of the proposed activity or use as it pertains to the Remedy, including without limitation any disturbance of the Cover;

b. a schedule for the performance of the activity or use, including without limitation a schedule of times and duration for any open excavation;

c. a map and, if necessary, a surveyed plan showing the location of the proposed activity or use, which Grantees may also require at their sole discretion;

d. the names, addresses and telephone numbers of Grantor's primary contacts for the proposed activity or use, including without limitation Grantor, its lessees or other parties responsible for submitting the work plan, its or their contractors and consultants, and the Independent Professional engaged to prepare or review the work plan;

e. a Health and Safety Plan, prepared in accordance with the requirements of Paragraph 13 ("Health and Safety Plan") of this appendix;

f. estimates of the volume of soils, sediments, surface water, and/or groundwater that will be excavated, stored, contained and/or disposed of;

g. an estimate of the total cost of performing the proposed work plan, including all construction (*e.g.*, labor and materials) and related transactional costs (including, but not limited to, planning, engineering design, inspection, and documentation costs); and

h. a financial assurance, if required by Paragraph 6 ("Financial Assurance Requirement") of this appendix, as provided therein;

v. the work plan shall satisfy the following requirements:

a. the requirements of Paragraph 14 ("Materials Management and Sampling Protocol") of this appendix; and

b. the requirements of Paragraph 15 ("Cover and Clean Corridors Protocol") of this appendix; and

vi. the Independent Professional shall provide a written opinion that the work plan complies with the requirements of Paragraph 13 ("Health and Safety Plan"), Paragraph 14 ("Materials Management and Sampling Protocol") and Paragraph 15 ("Cover and Clean Corridors Protocol") of this appendix, and any applicable requirements of the Grant.

9. <u>Work Plan Requirements for Class A Land and Class B Land</u>. For any activity or use which is prohibited, unless conducted in strict compliance with the Work Protocols, to be performed in whole or in part within Class A Land and/or Class B Land:

A. an Independent Professional shall prepare or review the work plan;

B. the work plan shall be submitted no less than thirty (30) days prior to initiation of the activity or use;

C. the work plan shall include the following items:

i. a description of the proposed activity or use;

ii. a schedule for the performance of the activity or use;

iii. a map and/or, upon the request of Grantees, a surveyed plan showing the location of the proposed activity or use;

iv. the names, addresses and telephone numbers of Grantor's primary contacts for the proposed activity or use, including without

limitation Grantor, its lessees or other parties responsible for submitting the work plan, its or their contractors and consultants, and the Independent Professional engaged to prepare or review the work plan; and

v. a Health and Safety Plan, prepared in accordance with the requirements of Paragraph 13 ("Health and Safety Plan") of this appendix, unless the activity or use is to be performed wholly within Class A Land, in which case if it can be demonstrated to the satisfaction of the Grantees that Contaminated Groundwater is not present in or near the area of all proposed intrusive work, then such a health and safety plan shall not be required;

D. the work plan shall satisfy the following requirements:

i. the applicable requirements of Paragraph 14 ("Materials Management and Sampling Protocol") of this appendix; and

ii. a financial assurance, if required by Paragraph 6 ("Financial Assurance Requirement") of this appendix, as provided therein;

E. the Independent Professional shall provide a written opinion that the work plan complies with the requirements of Paragraph 13 ("Health and Safety Plan"), the applicable requirements of Paragraph 14 ("Materials Management and Sampling Protocol") and any applicable requirements of the Grant; and

F. in the event that Grantor or any other party performing an activity or use pursuant to subparagraphs 9.A. through 9.E. of this appendix, above, discovers Contaminated Soil during the performance of such activity or use, then Grantor or such other party shall:

i. if the work plan was prepared for activity or use solely within Class A Land, immediately cease work in the area where the Contaminated Soil was discovered, until a revised work plan is approved, as set forth below, and secure the area in order to prevent the release of, or exposure to, such material, or any run-on or run-off, and otherwise comply with the requirements of section ii. ("Temporary On-Site Storage") of subparagraph 14.A. ("Management of Soils and Sediments");

ii. immediately orally notify Grantees of such discovery, and no later than seven (7) days after the date of such event submit written notification thereof to Grantees, with a copy to Settlers;

iii. submit a revised work plan in accordance with the requirements of subparagraph 8.C ("Activity or Use within Contaminated

Media"), as applicable, no later than thirty (30) days after the date of such discovery, containing a proposal either:

a. to reclassify the land to Class C Land or Class D Land, requiring a new Cover over the Contaminated Soil, in which case the revised work plan shall demonstrate that the applicable requirements of Paragraph 15 ("Cover and Clean Corridors Protocol") of this appendix are satisfied; or

b. to excavate and dispose of the Contaminated Soil, in which case the revised work plan shall demonstrate that the applicable requirements of Paragraph 14 ("Materials Management and Sampling Protocol") of this appendix are satisfied;

iv. promptly submit, along with the revised work plan, the written opinion of an Independent Professional that the revised work plan complies with the requirements of subparagraph 9.F.iii., above, and any applicable requirements of the Grant;

v. obtain Grantees' written approval of the revised work plan prior to the commencement of the activity or use set forth in the revised work plan; and

vi. promptly perform the approved revised work plan.

SECTION III. COMPLETION REPORT REQUIREMENTS.

10. Completion Report Requirements for Class C Land and Class D Land. After completion of any activity or use conducted in whole or in part within Class C Land or Class D Land requiring submission of a work plan, including without limitation any activity or use conducted pursuant to Paragraph 7 ("Establishment of Standard Work Plans") of this appendix, or subparagraph 4.D ("Remedy Failure: Preliminary Action, Notification and Repair") or Paragraph 5 ("Emergency Excavation") of the Grant:

A. If the activity or use disturbed the Cover without fully penetrating through to the Contaminated Soil or Contaminated Groundwater below, then:

i. the completion report shall be submitted in writing, no more than thirty (30) days following completion of all work pursuant to the work plan;

ii. the completion report shall be prepared or reviewed by a Qualified Professional, and shall include his or her opinion that the

activity or use has been performed in compliance with the work plan, as approved, including sufficient supporting information; and

iii. if, as a result of the activity or use, a Permanent Cover Modification is implemented, then Grantor shall also:

a. obtain Grantees' written approval of the revised As Built Records, including fully and adequately addressing any comments or concerns that Grantees may identify in connection with their review prior to issuing such approval, and no later than thirty (30) days after Grantees issue such approval, Grantor shall submit two (2) copies of the revised As Built Records, as approved, to EPA for retention in the Document Repository; and

b. if such Permanent Cover Modification results in or requires, as Grantees, in their sole discretion, may determine, a change in the areal extent of the boundaries of any of the Restricted Areas, the Engineered Cover and/or the Equivalent Cover as shown on the Plan of Restricted Areas, then Grantor shall also comply with the requirements of Appendix VI ("Amendment Protocol") of the Grant;

B. If the activity or use fully penetrated the Cover through to the Contaminated Soil or Contaminated Groundwater below, or resulted in a Permanent Cover Modification and/or new or replacement Cover, then:

i. the completion report shall be submitted in writing, no more than sixty (60) days following completion of all work pursuant to the work plan;

ii. the completion report shall demonstrate compliance with the work plan and Section IV ("Technical Requirements") of this appendix, and shall include without limitation sufficient supporting information such as sampling results, disposal information, if applicable, and any Independent Professional opinion(s) required by Section IV ("Technical Requirements") of this appendix;

iii. the completion report shall be prepared or reviewed by an Independent Professional, and shall include his or her opinion that the activity or use has been performed in compliance with the work plan, as approved; and

iv. if, as a result of the activity or use, a Permanent Cover Modification and/or new Cover is implemented, then the completion

report shall also include an Independent Professional's opinion in accordance with subparagraph 15.C.vi. of this appendix, and Grantor shall also:

a. obtain Grantees' written approval of the revised As Built Records, including fully and adequately addressing any comments or concerns that Grantees may identify in connection with their review prior to issuing such approval, and no later than thirty (30) days after Grantees issue such approval, Grantor shall submit two (2) copies of the revised As Built Records, as approved, to EPA for retention in the Document Repository; and

b. if such Permanent Cover Modification results in or requires, as Grantees, in their sole discretion, may determine, a change in the areal extent of the boundaries of any of the Restricted Areas, the Engineered Cover and/or the Equivalent Cover as shown on the Plan of Restricted Areas, then Grantor shall also comply with the requirements of Appendix VI ("Amendment Protocol") to the Grant.

11. <u>Completion Report Requirements for Class A Land and Class B Land</u>.

A. Except as provided in subparagraph 11.B., of this appendix, after completion of any restricted activity or use conducted in whole or in part within Class A Land or Class B Land, including without limitation any activity or use conducted pursuant to Paragraph 7 ("Establishment of Standard Work Plans") of this appendix or Paragraph 5 ("Emergency Excavation") of the Grant:

i. the completion report shall be submitted in writing no more than thirty (30) days following completion of all work pursuant to the work plan;

ii. the completion report shall demonstrate compliance with the work plan and Section IV ("Technical Requirements") of this appendix, and shall include without limitation sufficient supporting information such as sampling results, disposal information, if applicable, and any other Independent Professional opinion(s) required by Section IV ("Technical Requirements") of this appendix;

iii. the completion report shall be prepared or reviewed by an Independent Professional, and shall include his or her opinion that the activity or use has been performed in compliance with the work plan, as approved; and

iv. if, as a result of the activity or use, an existing Clean Corridor is permanently modified or a new Clean Corridor is established, then Grantor shall also:

a. obtain Grantees' written approval of the revised As Built Records, including fully and adequately addressing any comments or concerns that Grantees may identify in connection with their review prior to issuing such approval, and no later than thirty (30) days after Grantees issue such approval, Grantor shall submit two (2) copies of the revised As Built Records, as approved, to EPA for retention in the Document Repository; and

b. if such permanent modification to an existing Clean Corridor results in or requires, as Grantees, in their sole discretion, may determine, a change in the areal extent of the boundaries of the Clean Corridor as shown on the Plan of Restricted Areas, and/or if Grantor establishes any new Clean Corridors, then Grantor shall also comply with the requirements of Appendix VI ("Amendment Protocol") to the Grant.

B. If, during the performance of any restricted activity or use pursuant to Paragraph 9 of this appendix, Grantor elects to reclassify a portion of land to Class C Land or Class D Land and constructs new Cover over the Contaminated Soil pursuant to subparagraph 9.F. of this appendix, then for any activity or use conducted in that area of the Property, in lieu of complying with the requirements of subparagraph 11.A. of this appendix, Grantor shall comply with the completion report requirements for Class C Land and Class D Land applicable to new Cover, set forth in subparagraph 10.B. of this appendix.

SECTION IV. TECHNICAL REQUIREMENTS

12. Reference Information. Technical documents at the Document Repository and other documents or information pertaining to the Site may be reviewed as reference material for satisfying the requirements of this Section IV ("Technical Requirements"). For Class C Land and Class D Land, original As Built Records and/or other plans are contained in the Cover Certification Report.

13. Health and Safety Plan. The Health and Safety Plan (the "HSP") shall be prepared in accordance with the requirements in 29 CFR §1910.120, as amended, and/or any and all similar and relevant laws, rules, or regulations then existing. The HSP shall be approved by a Certified Industrial Hygienist ("CIH"). The plan shall include, but not be limited to, the following items:

A. Contaminant Information. Information on the nature, extent and concentrations of Contaminated Soil, Contaminated Groundwater and other Hazardous Substances, if any, which are anticipated to be present in the media that will be impacted by the activity or use proposed in the work plan;

B. Description of Tasks. A description of tasks which may involve exposure to Contaminated Soil, Contaminated Groundwater and other Hazardous Substances;

C. Safety Precautions. A description of anticipated actions to protect the health, safety, and welfare of workers and the general public during the performance of the activity or use proposed in the work plan. Actions may include, but would not necessarily be limited to, air monitoring, dust control, odor control, and erosion and sedimentation control measures. Such measures should be employed when the Independent Professional and/or the Safety Officer designated in the HSP determines through site-specific research, visual or olfactory observations and/or monitoring that they are necessary. Intrusive activities into groundwater in any class of land may cause exposure to volatile organic compounds and/or elevated metal levels (particularly arsenic). Monitoring of volatile organic compounds and appropriate direct contact protection measures should be conducted for such activities. For intrusive activities performed in Class B Land, Class C Land, and Class D Land, whether into groundwater or only soils, an action level for total particulates should be established to trigger immediate dust suppression measures and the upgrade of the level of protection as necessary. In addition, such activities may cause the release of hydrogen sulfide and other odorous gases from Contaminated Soils. An action level should also be established for such odorous gases. A supply of odor control materials (e.g., clean fill and/or odor suppressant foam) should be readily available for use in the area where the intrusive activities are conducted;

D. Physical and Biological Hazards. Discussion of all relevant potential physical and biological hazards;

E. Informing Workers. A requirement that all persons engaged in the work read and acknowledge the provisions of the HSP, and document compliance with said provisions; and

F. Worker Training. A requirement that all persons engaged in the work have received appropriate and current training in matters of Health and Safety in accordance with 29 CFR §1910.120, as amended, and/or any and all similar and relevant laws, rules, or regulations then existing.

14. Materials Management and Sampling Protocol.

A. Management of Soils and Sediments. For Class B Land, Class C Land and Class D Land, the following management requirements shall apply to soils and sediments, associated materials and personal protective equipment:

i. General. Excavated soils and sediments generated while performing work at the Property shall be stored, sampled and analyzed by an Independent Professional prior to disposal. All soil, sediments and associated materials and personal protective equipment, shall be managed and disposed of in accordance with the opinion of an Independent Professional and in compliance with all applicable federal, state and local laws, regulations and ordinances;

ii. Temporary On-Site Storage. Excavated soils and sediments stored on the Property shall be covered with and stored on impermeable material to contain the excavate and prevent precipitation infiltration. The excavation and the excavate shall be bermed around its perimeter to collect precipitation run-off and prevent run-on. Saturated soils requiring dewatering shall be dewatered and water from such dewatering shall be collected and managed in accordance with subparagraph 14.B. The excavation and the excavate shall be designed and marked appropriately to prevent unauthorized access. Soils and sediments excavated, collected, used, and subsequently placed and/or stored on Site shall be sampled and properly disposed of within ninety (90) days from the date such on-site storage is commenced;

iii. Soil brought onto, or moved from within, the Property. Soil brought on to, or moved from within, the Property to be used as Cover or within Clean Corridors shall first be sampled and analyzed to show that it is below the applicable MCP Reportable Concentration standards;

iv. Due Care. Care shall be taken to avoid mixing Contaminated Soil with clean fill; and

v. Disposal Alternatives. Subject to the requirements of subparagraph 14.A.i,disposal alternatives for soils and sediments include, but are not limited to, the following options:

a. Sampled Soils and Sediments which are Contaminated Soils. Any soils and sediments which are determined to contain Contaminated Soils after sampling and analysis:

(i) may be disposed of at a permitted off-site facility following fifteen (15) days' advance, written notice to Grantees; or

(ii) may be placed below the Cover anywhere within the Site with the permission of the owner of the property where such placement will occur and subject to and in accordance with the requirements of the grant of environmental restriction and easement applicable to that property, provided that the Independent Professional's opinion includes a determination that such placement will not degrade the receiving area by introducing new contaminants;

b. Unsampled Soils and Sediments. Unsampled, excavated soils and sediments may be placed back into the excavation from which they were originally removed, below the Cover, if any, and within the same Class of Land. Alternatively, unsampled, excavated soils may be placed below the Cover, if any, within the same Class of Land, elsewhere on the Property, subject to the Work Protocols applicable to Class B Land, Class C Land and/or Class D Land, as the case may be.

B. Management of Groundwater and Water from Dewatering. For all Restricted Areas, the following management requirements shall apply to groundwater, water from dewatering activities, associated materials, and personal protective equipment:

i. General. Groundwater and water from dewatering activities generated while performing work at the Property shall be contained, sampled and analyzed by an Independent Professional prior to disposal. Such water, associated materials and personal protective equipment shall be managed, treated as necessary, and disposed of in accordance with the opinion of an Independent Professional and in compliance with all applicable federal, state and local laws, regulations and ordinances;

ii. Temporary On-Site Storage. Groundwater, water from dewatering activities, and other contaminated materials (*e.g.*, personal protective equipment) extracted, pumped, excavated, collected, and subsequently placed and/or stored on the Property shall be properly disposed of within ninety (90) days from the date such on-site storage is commenced.

C. Sampling. For all Restricted Areas, the following sampling requirements shall apply:

i. General. Sampling of all relevant media (*e.g.*, soil, sediment, groundwater, surface water and other materials) shall be sufficient to assure adequate characterization for the end use of the materials (including any discharge or disposal) in accordance with State and federal law and this Section IV ("Technical Requirements"), and as required by an Independent Professional;

ii. Confirmatory Sampling. The work plan shall specify sampling details and identify sampling locations. For purposes of reclassification or after removal of Contaminated Soil, sampling shall include, at a minimum, the bottom and all four sides of an excavation and/or sufficient coverage of the subject area, as required by the Independent Professional.

15. Cover and Clean Corridors Protocol.

A. Excavation. In the excavation of Cover and Clean Corridors, the following protocol shall apply:

i. Soil, Geotextile and/or Geomembrane Cover.

a. Unless the approved work plan provides otherwise, digging within twelve (12) inches of the geotextile fabric or geomembrane material of the Cover shall be done with care by hand to locate and avoid damage or penetration of the geotextile/geomembrane material, and to prevent mixing soil from above the geotextile/geomembrane material with Contaminated Soil from below; and

b. Unless the approved work plan provides otherwise, soil from above the geotextile fabric or geomembrane material shall be removed and segregated prior to cutting the geotextile/geomembrane material so that mixing of such soil and Contaminated Soil from below does not occur;

ii. Asphalt or Concrete Cover. Broken asphalt or concrete Cover may be reused below the Cover in accordance with all applicable federal, State, and local regulations, policies and guidelines. No asphalt or concrete Equivalent Cover shall be disposed of off the Property, unless the work plan includes a plan for the prior decontamination of the asphalt or concrete, or other alternative procedures;

iii. Inspections. Grantor shall fully cooperate with Grantees and their respective representatives seeking to inspect the work; and

iv. Supervision of Work. Grantor shall retain an Independent Professional to supervise the excavation, if an Independent Professional developed or reviewed the work plan. Grantor shall retain a Qualified Professional to supervise the excavation, if a Qualified Professional developed or reviewed the work plan.

B. Design.

i. Replacement Cover and Clean Corridors. For the replacement of Cover and/or Clean Corridors, engineering plans and specifications of the work, stamped by a Professional Engineer (P.E., Civil), shall be submitted with the work plan. Such plans shall illustrate that, after the work, the structure and type of original Cover or Clean Corridor will be reproduced in accordance with the Cover Certification Report, as amended.

ii. Permanent Cover Modification and New Cover. For the design of a Permanent Cover Modification and/or new Cover, the following protocols shall apply:

a. Design Drawings. New or revised design drawings, stamped by a Professional Engineer (P.E., Civil), shall be submitted with the work plan;

b. Equivalent Protection. The new or revised design of the Cover shall provide protection of human health and the environment, equivalent to or greater than that provided by similar types of Cover included as a part of the original 100% Remedial Design for the Site prepared by Golder and distributed for bidding in April 1992, a copy of which is on file in the Document Repository; and

c. Design Criteria. The new or revised Cover design shall address the following design criteria:

(i) containment and isolation of Contaminated Soil to prevent contact by human receptors;

(ii) prevention of erosion by water, wind or use of the Property;

(iii) adequate resistance to frost action/heaving;

(iv) prevention of settlement or subsidence;

(v) management of surface water during and after construction, including provisions to withstand the effects of 25-year return period storms;

(vi) ability to withstand customary and expected activities and uses;

(vii) long-term protectiveness; and

(viii) location-specific requirements of all applicable federal, state and local laws, regulations and ordinances.

iii. Permanent Modifications to Existing Clean Corridors and New Clean Corridors. For the design of permanent modifications to existing Clean Corridors and new Clean Corridors, design drawings, stamped by a Professional Engineer (P.E., Civil), shall be submitted with the work plan.

C. Construction. In the construction of replacement and new Cover and Clean Corridors, and Permanent Cover Modifications and permanent modifications to existing Clean Corridors, unless the approved work plan provides otherwise, the following protocol shall apply:

i. Patching Geotextile or Geomembrane. A patch of replacement or added geotextile or geomembrane layer of the Cover or Clean Corridor shall be done in accordance with the original Site, or most recent applicable, design specifications, and in accordance with the following requirements:

a. a patch of replacement or added geotextile shall be sewn to the existing geotextile with a continuous seam if installed on a slope or, if it is not installed on a slope, the patch may be sewn as described above or placed with each edge overlapping the original Cover or Clean Corridor geotextile by a minimum of three (3) feet; and

b. a patch of replacement or added geomembrane shall be bonded to existing geomembrane in a manner that will provide equivalent strength and durability to that of the original design;

ii. Transitions and Tie-Ins. Transitions within the Cover (i.e., where one type of Cover abuts a different type of Cover, or land without a Cover) and tie-ins for the Clean Corridors shall be constructed in

accordance with the original Site or most recent applicable design specifications;

iii. Inspections. Grantor shall fully cooperate with Grantees and their respective representatives seeking to inspect the work;

iv. Supervision. If the work will fully penetrate through the Cover or Clean Corridor to the Contaminated Soil or Contaminated Groundwater below, then Grantor shall retain an Independent Professional to supervise the construction and ensure compliance with the engineering plans and specifications.Otherwise, Grantor may retain a Qualified Professional to supervise the construction and ensure compliance with the engineering plans and specifications;

v. Surveying During Construction. As necessary, Grantor shall retain a Massachusetts registered land surveyor to horizontally and vertically locate all aspects of the new Cover, replacement Cover and new Clean Corridors as they are being constructed, including but not limited to, the location of geotextile, geomembrane, clean fill, final ground elevation and all structures associated with the Cover or Clean Corridor design; and

vi. As Built Records. For the completion report, Grantor shall produce new or revised As Built Records for new Cover, new Clean Corridors, Permanent Cover Modifications, and permanent modifications to Clean Corridors, as applicable. The As Built Records shall be stamped by a Professional Engineer (P.E., Civil). For new Cover and Permanent Cover Modifications, the Independent Professional shall also provide a written opinion that the As Built Records continue to support his or her original opinion on the protection of human health and the environment. The As Built Records shall be of the same or equivalent quality and detail as the original As Built Records for the Property, if any, and shall include without limitation the survey by the Massachusetts registered land surveyor, locating the horizontal and vertical extent of the Cover or Clean Corridor, required in subparagraph 15.C.v, above.

APPENDIX V -- Cover Inspection Plan

1. Title. This appendix, which shall be referred to as the "Cover Inspection Plan," is an attachment to an instrument entitled "Industri-Plex Site Institutional Controls" (also referred to as the "Institutional Controls," "Grant of Environmental Restriction and Easement" or "Grant"), dated _____ **[insert date of Institutional Controls]**, and recorded and/or registered in the Middlesex South Registry of Deeds/Land Registration Office.

2. Definitions. Unless otherwise defined herein, the terms used in the Cover Inspection Plan shall have the meanings set forth in Paragraph 1 ("Definitions") of the Grant.

3. Applicability. In accordance with subparagraph 4.A.iii of the Grant, Grantor shall comply with the provisions of this appendix when performing an inspection of the Cover or preparing a Cover inspection report.

4. Purpose. In order to ensure that Grantor adequately fulfills its obligations to perform periodic Cover inspections and submit Cover inspection reports, this appendix sets forth minimum Cover inspection and Cover inspection report requirements.

5. Consideration of Potential Disturbance to the Cover. Grantor should consider potential disturbances to the Cover which may reasonably be anticipated to occur, including, without limitation:

A. insufficient vegetation resulting in erosion of the Cover by storm water runoff and/or wind; woody growth whose roots could penetrate the Cover;

B. animal burrows;

C. cracks or fissures of the Cover resulting from excessive differential settlement; potholes and other structural damage to the Cover; and

D. disturbances or damage to the Cover by personnel and/or equipment; and damage to the permanent surveyed monuments, or any security fences.

6. Minimum Cover Inspection Requirements. Each Cover inspection shall at a minimum include a Site walkover and the establishment of a visual record of the inspection by means of video and/or photographs. Special attention should be given to each of the following:

A. Cover Integrity. The integrity of the Cover and documentation of wash-outs, erosion gullies, damage or deterioration and other breaks (such as

cracks, potholes and ruts) in the Cover affecting its ability to prevent direct contact with underlying Contaminated Soils;

B. Subsidence. Any subsidence which may occur as a result of differential settlement shall be recorded, especially as may affect the integrity of the geotextile fabric;

C. Vegetation. Vegetation shall be monitored for (i) bare areas and/or areas without sufficient growth to prevent wind and/or water erosion, which shall be noted for replacement; (ii) any woody growth, which shall be noted for removal before the roots can penetrate the geotextile fabric; and (iii) any undesirable wetland vegetation (*e.g*., phragmites, purple loosestrife, etc.), which shall be noted for removal;

D. Drainage Structures. The Cover associated with drainage areas and structures shall be inspected for any damage which interferes with the original design and performance of the structure, or the structure's ability to serve as a Cover. The inspection shall note any blockages which could impede or change the course of flow and cause erosion. Culverts shall be noted for cleaning out as appropriate to prevent flooding of upstream areas. The stormwater storage areas shall be checked for erosion, clogging, and accumulation of sediment; and

E. Survey Monuments. The permanent surveyed monuments delineating the boundaries of the Restricted Areas and the Property, and the security fences, shall be inspected for possible damage; any such damage shall be noted for repair or replacement.

7. Inspection Conditions. Inspections of the Cover shall be performed when snow and ice are not covering the ground and no more than three (3) days after mowing of the Cover vegetation, if inspected during the summer months.

8. Documentation and Reporting.

A. The written inspection report shall include a visual record of the inspection by means of videos and/or photographs with date stamp(s). Any required repair and/or maintenance work shall be assessed and noted in the inspection report for performance in accordance with the Normal Maintenance provisions and Remedy Failure provisions (including the Work Protocols) of the Institutional Controls, as appropriate. Written records of any interviews held with parties involved at the Property, particularly with its operation and maintenance, shall be included in the inspection report.

B. Grantor shall maintain copies of the inspection reports it submits at the Property.

APPENDIX VI – Amendment Protocol

SECTION I. GENERAL

1. Title. This appendix, which shall be referred to as the "Amendment Protocol," is an attachment to an instrument entitled "Industri-Plex Site Institutional Controls" (also referred to as the "Institutional Controls," "Grant of Environmental Restriction and Easement" or "Grant"), dated _____ **[insert date of Institutional Controls]**, and recorded and/or registered herewith, in the Middlesex South Registry of Deeds/Land Registration Office.

2. Definitions. Unless otherwise defined herein, the terms used in this Amendment Protocol shall have the meanings set forth in Paragraph 1 ("Definitions") of the Institutional Controls.

3. Applicability. Whenever the Institutional Controls, including without limitation the Work Protocols (attached as Appendix IV ("Work Protocols") to the Institutional Controls), require compliance with the Amendment Protocol, Grantor shall comply with the terms and provisions of this appendix.

4. Submissions. All submissions made pursuant to this Amendment Protocol shall be made in accordance with the requirements of Paragraph 23 ("Notices; Changes of Address") of the Institutional Controls.

SECTION II. REQUIREMENTS

5. Proposed Amendment. Grantor shall prepare, sign and submit a written request for Grantees to review and approve the proposed amendment to the Institutional Controls, with a copy to other Settlers, which shall include the following information and documentation:

A. Grantor's name, address and telephone number, the address of the affected property, and a brief description of the proposed amendment and the reason for the proposal;

B. the proposed amendment, in recordable form satisfactory to Grantees, which shall amend the Grant, as appropriate, so as to incorporate any proposed modification, including without limitation:

i. a change in the classes of land included in the Restricted Areas;

ii. a revision to the Plan of Restricted Areas resulting from a change to the areal extent of the boundaries of existing Cover or existing Clean Corridors, the establishment of new Cover or new Clean Corridors, and any change to the boundaries of the Restricted Areas; and

iii. any other permanent change to the Institutional Controls which may be proposed by Grantor pursuant to subparagraph 15.B. of the Institutional Controls;

C. proposed revised appendices to the Institutional Controls and related plans and documentation, which shall at a minimum provide for:

i. appropriate revisions to the legal description of the Restricted Areas attached as Appendix III ("Legal Description of the Restricted Areas") of the Institutional Controls, if applicable;

ii. appropriate revisions to the Plan of Restricted Areas;

iii. proper and customary evidence of Grantor's authority to execute the proposed amendment and related documentation;

iv. a proposed, updated title insurance policy or title opinion which, as the case may be, shall update the policy or opinion previously provided to Grantees in connection with the establishment of the Institutional Controls, and shall be prepared in accordance with the title requirements set forth in the plan for Inauguration of the Institutional Controls (a copy of which may be found in the Document Repository), or any otherwise relevant title requirements;

v. subordination agreements in recordable form satisfactory to Grantees, using the form contained in Appendix VII ("Subordination Agreement Form") of the Institutional Controls, obtained from any and all holders of interests in the Property recorded and/or registered prior to the date of recording or registering of the proposed amendment, unless waived by Grantees, in their sole discretion, for those interests which Grantor establishes, to Grantees' satisfaction, do not affect the interests to be created under or modified by the proposed amendment; and

vi. any other customary or appropriate documentation necessary for Grantees to approve the proposed amendment, as Grantees, in their sole discretion, may determine.

D. Grantees, upon request or their own initiative, and in Grantees' sole discretion, may waive in writing any of the documentation requirements that they may determine are not relevant to a particular proposed amendment, but any such

waiver shall apply only to the particular proposed amendment, and all of the above documentation requirements shall apply to all other proposed amendments, unless expressly waived for such other proposed amendments, as well, on a case-by-case basis.

SECTION III. APPROVAL AND RECORDING

6. Approval. Following notification by Grantees that the proposed amendment, all attachments and all related documents are satisfactory, Grantor shall submit a fully executed amendment, along with all such attachments and any revised plans or other related documents in final form, for Grantees' written approval, including any necessary signature by Grantees on the amendment; and fully executed subordination agreements in accordance with subparagraph 5.C.vi., above, of this appendix.

7. Recording.

A. Following Grantees' return of the submission to Grantor with Grantees' written approval, Grantor shall update the title through the time of recording in order to determine whether there have been any new matters recorded and/or registered against the property since the date and time of the previous title rundown submitted to Grantees (as part of the Grantor's previous updated title insurance policy or title opinion submittal). If not, Grantor shall record and/or register the amendment, including all attachments, any subordination agreements, and any revised plans or other related documents, all in accordance with subparagraph 15.D. ("Recordation and/or Registration") of the Grant, and, if applicable, shall incorporate the revisions to the As Built Records into the Cover Certification Report, as an amendment.

B. If there have been any new matters recorded and/or registered against the property since the date and time of the previous title rundown submitted to Grantees (as part of the Grantor's previous updated title insurance policy or title opinion submittal), then Grantor shall not record or register the amendment, attachments, subordination agreements, revised plans or other related documents but, instead, shall:

i. notify Grantees within seven (7) days of performing the title update that Grantor has identified new matters of record,

ii. within thirty (30) days of performing the title update shall submit a new written request to Grantees for approval to record the amendment, including all attachments, any subordination agreements, and any revised plans or other related documents. This request shall include:

a. a copy of the title update, identifying the new matters recorded and/or registered against the Property since the date of the previous title rundown;

b. any necessary fully executed subordination agreements as to any of those matters that may otherwise impair the rights held by the Grantees under the Grant, once it is amended; and

c. an updated title insurance policy or title opinion, taking into account any such new matters of record that have not been subordinated; and

iii. once Grantees approve Grantor's new request in writing, Grantor shall record and/or register record the amendment, including all attachments, any subordination agreements, and any revised plans or other related documents, in accordance with the provisions of this Paragraph 7.

8. Title Policy/Title Opinion. Within thirty (30) days of the date of recording and/or registration, Grantor shall submit to Grantees a final title insurance policy or title opinion, as the case may be, updated through the time of recording.

9. Notice. Following recording and/or registration, Grantor shall provide copies of the amendment, including all attachments, any subordination agreements, and any revised plans or other related documentation to local officials in accordance with subparagraph 15.E. ("Notice to Local Officials") of the Grant.

10. Costs. Grantor shall be responsible for paying all recording fees and other costs associated with the proposed amendment.

APPENDIX VII – Subordination Agreement Form
(for amendments to the Grant of Environmental Restriction and Easement)

SUBORDINATION AGREEMENT

Site Name: Industri-Plex Superfund Site
Site Location: Woburn, MA
EPA Site Identification Number: MAD076580950
DEP Release Tracking Number: 3-1731

_____, of _____(Town/City), _____ County,_____(State), is the holder of a _____ granted by _____ to _____, dated _____, recorded with the Middlesex South Registry of Deeds in Book ____, Page ___ and/or registered with the Land Registration Office of the Middlesex South Registry District as Document No. _____.

_____ hereby assents to the [First] Amendment to the Grant of Environmental Restriction and Easement granted by _____ to the United States of America and to the Massachusetts Department of Environmental Protection dated _____ and recorded with the Middlesex South Registry of Deeds in Book _____, Page _____, and/or registered with the Land Registration Office of the Middlesex South Registry District as Document No._____, and agrees that the _____ shall be subject to said [First] Amendment and to the rights created by and under said [First] Amendment insofar as the interests created under the _____ affect the Property identified in the [First] Amendment and as if for all purposes said [First] Amendment had been executed, delivered and recorded prior to the execution, delivery and recordation and/or registration of the _____.

WITNESS the execution hereof under seal this _____ day of _____, 20____.

_____
Holder

COMMONWEALTH OF MASSACHUSETTS

_____, ss

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

Notary Public:
My Commission Expires:

[seal]

[Note: or, use corporate form signature block and acknowledgement, etc., as appropriate]

[The execution of this Subordination Agreement by a secured lender and/or a fiduciary (as defined in M.G.L. c. 21E, § 2) for the purpose of subordinating its lien to said [First] Amendment shall not render such secured lender or fiduciary an "owner" or "operator", provided such secured lender and/or fiduciary shall not otherwise be an "owner" or "operator" within the meaning of § 2.]

Upon recording, return to:

Bureau of Waste Site Cleanup
Department of Environmental Protection
One Winter Street, 7th Floor
Boston, MA 02108

Attention: Industri-Plex Superfund Site Project Manager