

**TERMS RELATED TO
DECLARATION OF ENVIRONMENTAL USE RESTRICTION
(DECLARATION)**

For the Property located at the following address: _____

[insert the same address as used in the Declaration]

1. Relation to Local Zoning Jurisdiction. The Arizona Department of Environmental Quality (Department) shall provide a copy of the Declaration to the local jurisdiction with zoning and development plan approval for the property. The receipt of this copy does not create any new obligation or confer additional powers on the local jurisdiction. The Declaration does not authorize a use of property that is otherwise prohibited by zoning ordinances or other ordinances or laws. The Declaration may include activity limitations and use restrictions that would otherwise be permitted by zoning ordinances or other ordinances or laws.

2. When Person Conducting Remediation is Not the Owner. A person who is conducting a remedial action, remediation, corrective action or response action that requires an institutional or engineering control and who is not the owner of the property shall obtain written consent from the owner before implementing the institutional control or constructing the engineering control.

3. Public Entity Right-of-Way. If the institutional control or engineering control will affect a right-of-way that is owned, maintained or controlled by a public entity for public benefit, the person conducting a remedial action, remediation, corrective action or response action shall obtain the public entity's written consent before implementing the institutional control or constructing the engineering control.

4. Declaration Not Extinguished. If notice of a Declaration that includes a description of the area of the property that is subject to the Declaration is contained in the repository maintained by the Department pursuant to A.R.S. § 49-152(E), the Declaration may not be extinguished, limited or impaired through any of the following:

- a. Issuance of a tax deed.
- b. Foreclosure of a tax lien.
- c. Foreclosure of any mortgage, deed of trust or other encumbrance or lien on the property.
- d. Adverse possession.
- e. Exercise of eminent domain.
- f. Application of the doctrine of abandonment, the doctrine of waiver or any other common law doctrine.

5. Change of Boundaries and Resulting Changes in Contaminant Concentration. If the bounds of the area covered by the Declaration are altered, the concentration of the contaminant described in Exhibit 5 of the Declaration may also be altered and would

therefore be subject to review and approval by the Department as a modification of the Declaration.

6. Notices. Notices required to be given under the Declaration by the Department to the owner shall be effective when given, if by telephone, to the owner at _____ *[state telephone number]* and, if in writing, to the owner at _____ *[state mailing address]*. If the owner changes the foregoing telephone number or address for purposes of notice under the Declaration, written notice of the change shall be promptly delivered to the Department.

Notices in writing may be given by regular first class mail postage prepaid or facsimile transmission. Notices given by mail are effective three days after mailing. Notices given by facsimile transmission are effective twenty-four hours after the transmission is confirmed, provided that a copy of the notice is also mailed to the owner. Notices given by telephone are effective at the time the call is received. Wherever used in the Declaration, the word “days” means calendar days.