

Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT (“Covenant”) is made this _____ day of _____, 20____, by **Steel House Rules LLC** located at 1131 East 25th Street, Indianapolis, Indiana 46205 (together with all successors and assignees, collectively (“Owner”).

WHEREAS: Owner is the fee owner of certain real estate in the County of Marion, Indiana, which is located at 2422 Yandes Street, Indianapolis, Indiana 46205 and more particularly described in the attached Exhibit “A” (“Real Estate”), which is hereby incorporated and made a part hereof. This Real Estate was acquired by deed on November 7, 2019, and recorded on November 7, 2019, as Deed Record A201900110678, in the Office of the Recorder of Marion County, Indiana. The Real Estate consists of approximately 3.7 acres and has also been identified by the county as parcel identification number 49-07-30-107-180.000-101. The Real Estate, to which this Covenant applies, is depicted on a map attached hereto as Exhibit B.

WHEREAS: Former Titan Industries Incorporated located at 2422 Yandes Street, Indianapolis, IN 46205 entered into Indiana’s Voluntary Remediation Program (“VRP”) to address releases of hazardous substances and/or petroleum (“contaminants of concern”) relating to the Real Estate. The Indiana Department of Environmental Management (“IDEM” or the “Department”) assigned the project number 6140503. A remediation work plan was prepared in accordance with IC 13-25-5, which was approved by the Department on January 17, 2018.

WHEREAS: IDEM approved the remediation work plan and two subsequent addendums (IDEM VFC Document Numbers #80014421, #80269111, and #80395311), which allows certain contaminants of concern to remain in the groundwater and soil, provided that certain land use restrictions are implemented to protect human health. The remaining contaminants of concern are listed in Exhibit C and displayed by location in Exhibit B, which is attached hereto and incorporated herein.

WHEREAS: The remediation work plan is hereby incorporated by reference and may be examined at the offices of the Department, which is located in the Indiana Government Center North building at 100 N. Senate Avenue, Indianapolis, Indiana. The documents may also be viewed electronically in the Department’s Virtual File Cabinet by accessing the Department’s Web Site (currently www.in.gov/idem/). The Real Estate is also depicted as a polygon on IDEM’s GIS webviewer (currently <https://on.in.gov/ideminteractivemap>).

NOW THEREFORE, Owner subjects the Real Estate to the following restrictions and provisions, which shall be binding on the current Owner and all future Owners:

I. RESTRICTIONS

1. Restrictions. The Owner:

- (a) Shall not use or allow the use of the Real Estate for residential purposes, including, but not limited to, daily child care facilities or educational facilities for children (e.g., daycare centers or K-12 schools).
- (b) Shall not use or allow the use or extraction of groundwater at the Real Estate for any purpose, including, but not limited to: human or animal consumption, gardening, industrial processes, or agriculture, except that groundwater may be extracted in conjunction with environmental investigation and/or remediation activities.
- (c) Shall not use the Real Estate for any agricultural use.
- (d) Shall restore soil disturbed as a result of excavation, construction, or incidental surface grading activities in such a manner that the remaining contaminant concentrations do not present a threat to human health or the environment. This determination shall be made using the Department's current risk based guidance. Upon the Department's request, the Owner shall provide the Department written evidence (including sampling data) showing the excavated and restored area, and any other area affected by the excavation, does not represent such a threat. Contaminated soils that are excavated must be managed in accordance with all applicable federal and state laws; and disposal of such soils must also be done in accordance with all applicable federal and state laws.
- (e) Shall not construct or allow occupancy of a dwelling or work space on the Real Estate unless a vapor mitigation system or other effective IDEM approved remedy is installed, operated, and maintained within the dwelling or workspace. IDEM may waive this restriction in writing if the Owner has provided data and analysis demonstrating to IDEM's satisfaction that there is no unacceptable risk to human health via the vapor intrusion exposure pathway.
- (f) Shall prohibit any activity at the Real Estate that may interfere with the groundwater monitoring or well network.

II. GENERAL PROVISIONS

- 2. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees and their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control (hereinafter "Related

Parties”) and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in or right to occupancy in all or any part of the Real Estate by any person shall affect the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.

3. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent Owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.
4. Access for Department. The Owner shall grant to the Department and its designated representatives the right to enter upon the Real Estate at reasonable times for the purpose of monitoring compliance with this Covenant and ensuring its protectiveness; this right includes the right to take samples and inspect records.
5. Written Notice of the Presence of Contamination. Owner agrees to include in any instrument conveying any interest in any portion of the Real Estate, including but not limited to deeds, leases and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances), the following notice provision (with blanks to be filled in):

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED _____ 20____, RECORDED IN THE OFFICE OF THE RECORDER OF MARION COUNTY ON _____, 20____, INSTRUMENT NUMBER (or other identifying reference) _____ IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.
6. Notice to Department of the Conveyance of Property. Owner agrees to provide notice to the Department of any conveyance (voluntary or involuntary) of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide the Department with the notice within thirty (30) days of the conveyance and: (a) include a certified copy of the instrument conveying any interest in any portion of the Real Estate; (b) if it has been recorded, its recording reference; and (c) the name and business address of the transferee.
7. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.

III. ENFORCEMENT

8. Enforcement. Pursuant to IC 13-14-2-6 and other applicable law, the Department may proceed in court by appropriate action to enforce this Covenant. Damages alone are insufficient to compensate IDEM if any owner of the Real Estate or its Related Parties breach this Covenant or otherwise default hereunder. As a result, if any owner of the Real Estate, or any owner’s Related Parties, breach this Covenant or otherwise default

hereunder, IDEM shall have the right to request specific performance and/or immediate injunctive relief to enforce this Covenant in addition to any other remedies it may have at law or at equity. Owner agrees that the provisions of this Covenant are enforceable and agrees not to challenge the provisions or the appropriate court's jurisdiction.

IV. TERM, MODIFICATION AND TERMINATION

9. Term. The restrictions shall apply until the Department determines that the contaminants of concern no longer present an unacceptable risk to the public health, safety, or welfare, or to the environment.
10. Modification and Termination. This Covenant shall not be amended, modified, or terminated without the Department's prior written approval. Within thirty (30) days of executing an amendment, modification, or termination of the Covenant, approved by IDEM, Owner shall record such amendment, modification, or termination with the Office of the Recorder of Marion County and within thirty (30) days after recording, provide a true copy of the recorded amendment, modification, or termination to the Department. In accordance with 329 IAC 1-2-7 and IC 13-14-2-9(d), the applicant shall reimburse the department for the administrative and personnel expense incurred by the department in evaluating a proposed modification or termination of a restrictive covenant under this rule.

V. MISCELLANEOUS

11. Waiver. No failure on the part of the Department at any time to require performance by any person of any term of this Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's right to enforce such term, and no waiver on the part of the Department of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof.
12. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner of its obligation to comply with any other applicable laws.
13. Change in Law, Policy or Regulation. The parties intend that this Covenant shall not be rendered unenforceable if Indiana's laws, regulations, guidance, or remediation policies (including those concerning environmental restrictive covenants, or institutional or engineering controls) change as to form or content. If necessary to enforce this Covenant, the parties agree to amend this Covenant to conform to any such change. All statutory references include any successor provisions.
14. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other pursuant to this Covenant shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner:
Steel House Rules LLC
1131 East 25th Street
Indianapolis, IN 46205

To Department:
IDEM, Office of Land Quality
100 N. Senate Avenue
IGCN 1101
Indianapolis, IN 46204-2251
Attn: Institutional Controls Group

An Owner may change its address or the individual to whose attention a notice is to be sent by giving written notice via certified mail.

15. Severability. If any portion of this Covenant or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.
16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

IN WITNESS WHEREOF, **Steel House Rules, LLC**, the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this _____ day of _____, 20__.

Reid Litwack, President

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, the President of the Owner, Steel House Rules, LLC, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this ___ day of _____, 20__.

_____, Notary Public

Residing in _____ County, _____

My Commission Expires: _____

This instrument prepared by:
Christopher D. Parks, LPG
IWM Consulting Group, LLC
7428 Rockville Road
Indianapolis, IN 46214

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law:
Christopher D. Parks, LPG
IWM Consulting Group, LLC
7428 Rockville Road
Indianapolis, IN 46214

EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE

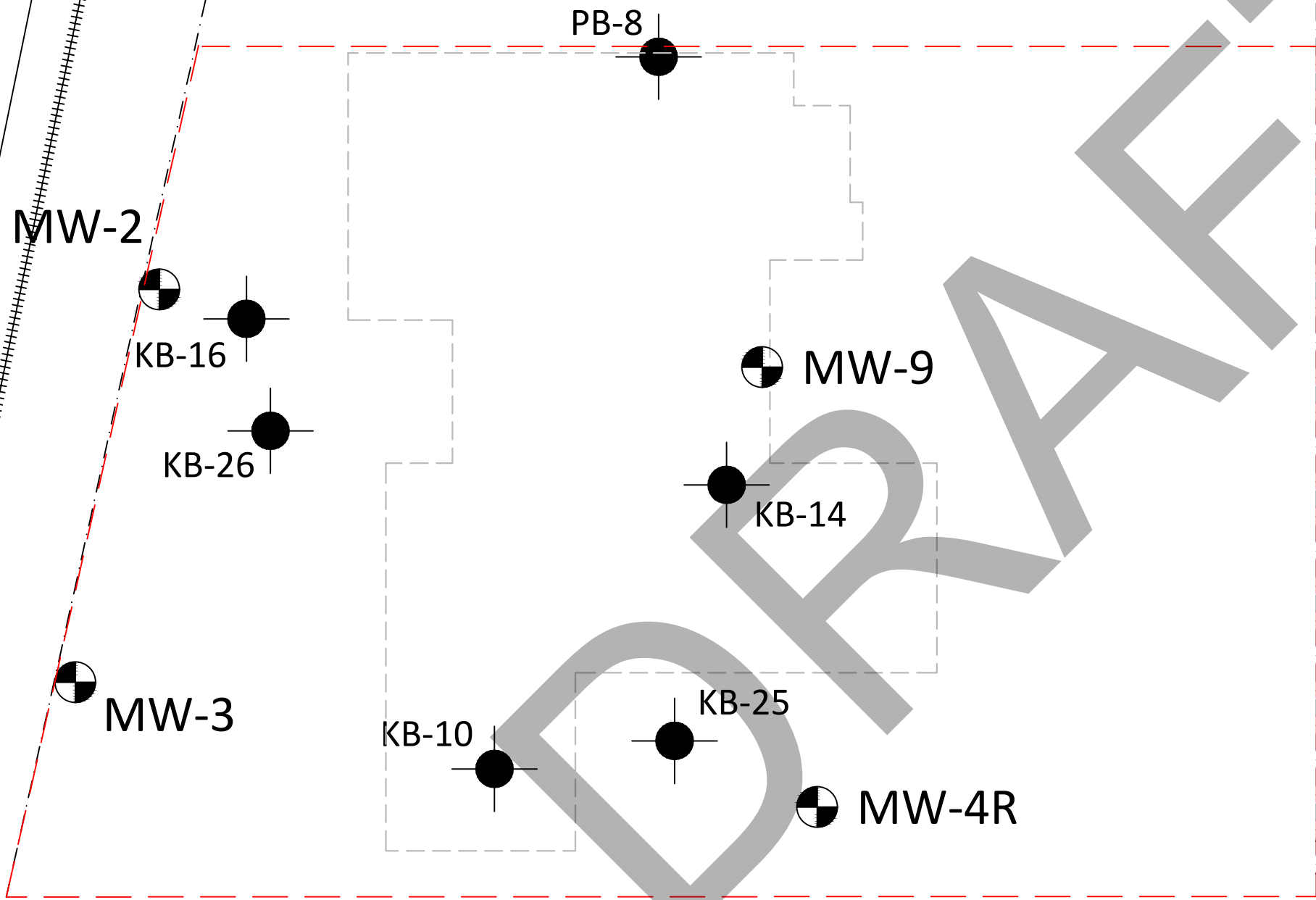
BRUCE BAKER ADD L3 TO L7 BLK 15 ALSO 15 FT N SIDE L2 B15 + 19 FT S SIDE L8
BLK 15 VAC ALLEY W & ADJ 299 FT S SIDE L1 B16 EX 88 FT S END

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EXHIBIT B

SITE MAP WITH SAMPLE EXCEEDANCE LOCATIONS

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YANDES ST.

2422 YANDES STREET
49-07-30-107-180.000-101

LEGEND	
	PROPERTY BOUNDARY
	FENCE LINE
	RAILROAD TRACKS
	MW-12 MONITORING WELL
	PB-8 PATRIOT SOIL BORING (2012) (APPROX.)
	KB-26 KERAMIDA SOIL BORING (2006) (APPROX.)

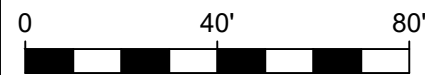


EXHIBIT B
SITE MAP

DRAWN BY: C. NEWELL
DATE: 12/12/12
REVISED: 12/08/2023
IN12018
DWG #REVISED SITE MAP

FORMER TITAN INDUSTRIES, INC.
2422/2430 YANDES STREET
INDIANAPOLIS, INDIANA



EXHIBIT C

**REMAINING CONTAMINANTS OF CONCERN
IN EXCESS OF R2 PUBLISHED LEVELS**

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Exhibit C - Table 1
Soil Analytical Results - R2 Published Level Exceedances
Former Titan Industries
2422 Yandes Street
Indianapolis, IN

Sample Identification (Sample Interval in ft. BLS)	Date	Benzo(a) pyrene	Dibenz(a,h) anthracene
Surface Soil Samples (0 to 0.5')			
KB-10 (0-0.5)	10/4/2006	<u>4.1</u>	1.4
KB-14 (0-0.5)	10/4/2006	<u>5.3</u>	1.9
KB-16 (0-0.5)	10/3/2006	<u>12</u>	<3.5
KB-25 (0-0.5)	10/2/2006	<18*	<18*
KB-26 (0-0.5)	10/4/2006	<u>19</u>	<u>7.6</u>
MW-2 (0-0.5)	9/21/2006	<u>3.2</u>	0.61
MW-3 (0-0.5)	9/20/2006	<u>4.3</u>	0.98
Shallow Subsurface Samples (0.5 to 10.0')			
PB-8 (3-4)	6/6/2012	<u>9.55</u>	<u>3.46</u>
R2 Residential Soil Published Levels		<u>2</u>	<u>2</u>
R2 Commercial Soil Published Levels		20	20
R2 Excavation Soil Published Levels		500	1,000

All results in mg/kg (dry weight basis).

Unlisted compounds below laboratory detection limits for all samples.

VOCs analyzed using SW846 Method 8260

PAHs analyzed using SW846 Method 8270

Underlined concentrations exceed Risk-Based Closure Guide (R2) Residential Soil Published Levels.

All published levels were obtained from Table 1 in Appendix A of the R2, dated July 8, 2022, updated March 1, 2024.

BLS: Below Land Surface

* Laboratory Reporting Limit exceeds R2 Residential Soil Published Level, unknown if exceedance exists.

Exhibit C - Table 2
Groundwater Analytical Results - R2 Published Level Exceedances (Monitoring Wells)
VOC Analytical Summary
Former Titan Industries, Inc.
2422 Yandes Street
Indianapolis, IN

Sample Identification	Date	cis-1,2-Dichloroethene	Trichloroethene (TCE)
MW-2	09/03/2020	<u>162</u>	<u>47.5</u>
MW-4R	09/03/2020	<5	<u>7.7</u>
MW-9	03/04/2024	<5	<u>11.7</u>
R2 Residential Groundwater Published Level		<u>70</u>	<u>5</u>

All samples were collected by IWM personnel and analyzed at Pace Analytical Services, Inc. located in Indianapolis, Indiana. Underlined concentrations are above Indiana Department of Environmental Management (IDEM) Risk-Based Closure Guide (R2) Groundwater Published Levels (GWPL) for Residential Long-Term Human Health Levels. All published levels were obtained from Table 1 in Appendix A of the R2, dated July 8, 2022, updated March 1, 2024. All results are in µg/L. Sample date corresponds to the most recent sampling event conducted for these wells.

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