Brownfields Project #: 09034-06-60
Brownfields Property: Pelton Crane, 200 Clanton Road (3325 South Tryon St)
Property Owner (In whole or part): KAL Properties, LLC

LAND USE RESTRICTIONS ("LUR") UPDATE

LUR 1: No use may be made of the Brownfields Property other than for warehouse and, with prior written the Department of Environment and Natural Resources ("DENR") approval, other commercial purposes; provided, however, that remedial activities at the Brownfields Property that are sanctioned by DENR, and the use engaged in by LifeSpan, Inc. that is referenced in Land Use Restriction 11 below, shall not be deemed to violate this LUR. The following definitions apply:

i. "Warehouse" refers to the storage of goods for a business or other enterprise.

ii. "Commercial" refers to an enterprise carried on for profit, or not for profit, by the owner, lessee or licensee, including office space, showrooms (rooms where merchandise or samples are displayed), or retail (sale of goods, products or merchandise directly to the consumer) outlet stores.

In compliance __X__ Out of compliance ____

Remarks: _____

LUR 2: Surface water at the Brownfields Property may not be used for any purpose without the prior written approval of DENR, other than in connection with legally compliant stormwater management and remedial activities sanctioned by DENR.

In compliance __X__ Out of compliance ____

Remarks: _____

LUR 3: As to buildings depicted on the plat component of the Notice of Brownfields Property, none may be used after the 180th day following the date of recordation of the Notice, unless and until mechanical ventilation with outdoor air is

provided in compliance with the most current version of the Mechanical Ventilation section of the Ventilation chapter of the North Carolina State Building Code ("Code") or another standard approved in writing in advance by DENR, unless compliance with this Land Use Restriction is waived in writing by DENR in advance in regard to particular buildings. Within 30 days after provision of mechanical ventilation with outside air to a particular building, or 30 days after the effective date of the Brownfields Agreement ("Agreement"), whichever occurs later, a professional engineer licensed in North Carolina shall provide DENR certification that the ventilation system was installed in accordance with its design specifications and complies with the Code. During the first summer and winter after the engineer's certification is provided in relation to a particular building, the owner of the portion of the Brownfields Property containing the building shall be responsible for conducting indoor air sampling events in conformance with a plan approved in writing by DENR in advance. If DENR determines that the sampling results reflect the presence of indoor air contaminants that exceed the most current U.S. Environmental Protection Agency target indoor air screening levels, adjusted for industrial use exposure, DENR may require the owner to install engineering controls sufficient to eliminate the exceedances.

In compliance _X___ Out of compliance ____

Remarks: _____

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LUR 4: No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the written satisfaction of DENR in any areas proposed for such activities, and submittal of the analytical results to DENR. If such results disclose to DENR contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the prior written approval of DENR on such conditions as DENR imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities. This Land Use Restriction does not apply to remedial activities sanctioned by DENR.

In compliance _X___ Out of compliance ____

Remarks: _____

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LUR 5: Other than in connection with mowing and pruning of above-ground vegetation, soil on the Brownfields Property may not be disturbed unless DENR has been given ten (10) days written notice (electronic mail suffices), during which period DENR may issue a written determination (electronic mail suffices) that prior sampling has been inadequate to allow the soil disturbance to proceed without additional sampling. Within 21 days after any such determination, DENR shall issue written instructions regarding additional sampling. If sampling results disclose contamination that DENR determines renders the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1 above, the soil may only be exposed or disturbed in conformance with plans, approved in writing in advance by DENR, for protection of public health and the environment while the soil is exposed or disturbed, and if as much soil as DENR requires is removed and disposed of in accordance with applicable law, or covered with an impervious or hard pervious surface to DENR's written satisfaction, in which case the cover shall be maintained in good repair to DENR's satisfaction. Information that meets with DENR's written satisfaction regarding the transportation and disposition of any soil removed from the Brownfields Property must be supplied in a letter report to DENR within ninety (90) days following removal. This Land Use Restriction does not apply to remedial activities sanctioned by DENR.

In compliance __X__ Out of compliance ____

Remarks: _____

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LUR 6: No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

In compliance __X__ Out of compliance ____

Remarks: _____

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LUR 7: No basements may be constructed on the Brownfields Property unless they are, as determined in writing by DENR, vented in conformance with applicable building codes.

In compliance __X__ Out of compliance ____

Remarks: _____

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LUR 8: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in Tables A, B,C and D of the Notice, may be used or stored at the Brownfields Property without the prior written approval of DENR, except in *de minimis* amounts for cleaning and other routine housekeeping activities. This Land Use Restriction does not apply to remedial activities sanctioned by DENR.

In compliance __X__ Out of compliance ____

Remarks: _____
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LUR 9: The Brownfields Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the prior written approval of DENR.

In compliance __X__ Out of compliance ____

Remarks: _____
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LUR 10: The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

In compliance __X__ Out of compliance ____

Remarks: _____
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LUR 11: The Brownfields Property may not be used as a playground, or for child care centers or schools, with the *proviso* that, if LifeSpan, Inc. is providing education, employment and enrichment opportunities to persons with developmental disabilities at the Brownfields Property as of the date of recordation of the Notice, it may continue to do so.

In compliance __X__ Out of compliance ____

Remarks: _____

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LUR 12: The Brownfields Property may not be used for kennels, private animal pens or horse-riding.

In compliance _X___ Out of compliance ____

Remarks: _____

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LUR 13: No party conducting environmental assessment or remediation at the Brownfields Property at the direction of, or pursuant to a permit or order issued by, DENR may be denied access to the Brownfields Property for purposes of conducting such assessment or remediation, provided that such party shall use reasonable efforts to minimize interference with legal operations on the Brownfields Property.

In compliance __X__ Out of compliance ____

Remarks: _____

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LUR 14: If DENR's Brownfields Program determines that Siemens Medical Solutions, USA, Inc. will not complete implementation of the Remedial Action Plan approved by DENR's Registered Environmental Consultant Program for a site that includes the Brownfields Property, DENR's Brownfields Program may require the then current owner of all or any portion of the Brownfields Property to conduct whatever assessment and/or remedial activities DENR's Brownfields Program determines are

necessary to make the Brownfields Property suitable for the uses specified in Land Use Restriction 1 above while fully protecting public health and the environment.

In compliance _X___ Out of compliance ____

Remarks: _____

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LUR 15: No building may be constructed on the Property until DENR has been consulted regarding the proximity of the planned building to the Property's volatile contaminant plume. If DENR determines that the footprint of a building proposed to be constructed on the Property would fall within 100 feet of said plume, it may not be constructed without a vapor barrier system and/or mechanical or passive vapor mitigation system approved in writing by DENR in advance. Within thirty 30 days following installation of the vapor barrier system and/or mechanical or passive vapor mitigation system, DENR shall be provided certification of proper installation under seal of a professional engineer licensed in North Carolina, as well as photographs illustrating the installation and a brief narrative describing it. With DENR's prior written approval, additional investigation activities including, without limitation, soil gas samples, performed to DENR's written satisfaction, may be conducted, and installation of a barrier or mitigation system possibly excused, so long as the proponent makes an advance written commitment to install a barrier or mitigation system if DENR so requires based on review of a report DENR deems adequate of the investigation activities.

In compliance _X___ Out of compliance ____

Remarks: _____

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LUR 16: During January of each year after the year in which the Notice is recorded, the then current owner of any part of the Brownfields Property shall submit a notarized Land Use Restrictions Update to DENR certifying that the Notice remains recorded at the Mecklenburg County Register of Deeds office, and that the Land Use Restrictions are being complied with.

In compliance __X__ Out of compliance ____

Remarks: _____

Notarized signing and submittal of this Land Use Restrictions Update constitutes certification that the Notice remains recorded at the Mecklenburg County Register of Deeds office and that the Land Use Restrictions are being complied with.

This Land Use Restrictions Update is certified by KAL Properties, LLC (Keith Luedeman), owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: Keith Luedeman for KAL Properties, LLC

In the case of owners that are entities:

Signature of individual signing: _____
Name typed or printed: Keith Luedeman
Title: Managing Member

In the case of all owners:

Date: 1/3/2012

[use for LLCs]

KAL Properties, LLC

By: _____

Name typed or printed: Keith Luedeman
Member/Manager

NORTH CAROLINA
Mecklenburg COUNTY

I, Stephen Swanick, a Notary Public of the county and state aforesaid, certify that **Keith Luedeman** personally came before me this day and acknowledged that he/she is a Member of KAL Properties, LLC, a **North Carolina** limited liability company, and its Manager, and that by authority duly given and as the act of the company, the foregoing Land Use Restriction Update was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this 3 day of January, 2013

_____

Name typed or printed: Stephen J. Swanick
Notary Public

My Commission expires: 7/27/2013

[Stamp/Seal]

STEPHEN J SWANICK
NOTARY
My Comm. Exp.
7/27/2013
PUBLIC
MECKLENBURG COUNTY, N. C.