



Doc ID: 002407520005 Type: CRP  
 Recorded: 12/14/2015 at 02:11:52 PM  
 Fee Amt: \$51.00 Page 1 of 5  
 Scotland County, NC  
 L Page Pratt III Register of Deeds  
 File# 2015-00003086

BK **1489** PG **307-311**

*Dunklee and Dunham, PC  
 511 Keisler Drive Suite 102  
 Cary NC 27518*

**DECLARATION OF PERPETUAL LAND USE RESTRICTIONS**

**For Property Owned By: UMICORE USA INC.**

**The real property which is the subject of this Declaration of Perpetual Land Use Restrictions ("Declaration") is contaminated with hazardous substances, and is part of an INACTIVE HAZARDOUS SUBSTANCE OR WASTE DISPOSAL SITE ("the Site") as defined by North Carolina's Inactive Hazardous Sites Response Act of 1987, which consists of Section 130A-310 through Section 130A-310.19 of the North Carolina General Statutes ("N.C.G.S"). This Declaration is part of a Remedial Action Plan for the Site that has been approved by the Secretary of the North Carolina Department of Environmental Quality, Division of Waste Management, Superfund Section (or its successor in function), or his/her delegate, as authorized by N.C.G.S. Section 130A-310.3(f). The North Carolina Department of Environmental Quality shall hereinafter be referred to as "DEQ." Hereafter, the Division of Waste Management, Superfund Section shall be referred to as "Superfund Section".**

UMICORE USA INC., 3600 Glenwood Ave., Suite 250, Raleigh, NC 27612 is the owner in fee simple of the Property ("the Property"), which is located at 17182 Airport Road in the County of Scotland, City of Maxton, State of North Carolina, and is the real property consisting of 10.93 acres as shown on that survey titled "10.93 Acre Survey for Umicore USA, Inc" recorded in Map Book 11, Page 470 in the Office of the Register of Deeds of Scotland County, North Carolina.. The Property is also shown on a Notice of Inactive Hazardous Substance or Waste Disposal Site, in the form of a survey plat ("Survey Plat"), which has been recorded prior to the recordation of this Declaration in Map Book 11 Page 491 in the Office of the Register of Deeds for Scotland County. A copy of the Survey Plat is included as Exhibit A to this Declaration.

For the purpose of protecting public health and the environment, UMICORE USA INC. hereby declares that all of the Property shall be held, sold and conveyed subject to the following perpetual land use restrictions, which shall run with the land; shall be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns; and shall, as provided in N.C.G.S. Section 130A-310.3(f), be enforceable without regard to lack of privity of estate or contract, lack of benefit to particular land, or lack of any property interest in particular land. These restrictions shall continue in perpetuity and cannot be amended or canceled unless and until the Scotland County Register of Deeds receives and records the written concurrence

of the Secretary of DEQ (or its successor in function), or his/her delegate. If any provision of this Declaration is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

### **PERPETUAL LAND USE RESTRICTIONS**

The following restrictions shall apply to the Property:

1. The Property shall be used exclusively for commercial or industrial purposes but shall not be used for or contain child care facilities, schools, parks, recreational areas, or athletic fields.
2. Surface water or underground water (groundwater) shall not be used for any purpose.
3. The installation of groundwater wells or other devices for access to groundwater for any purpose other than monitoring groundwater quality is prohibited without prior written approval by the Superfund Section or its successor in function.
4. No surface or subsurface native or fill earthen materials may be removed from the Property without prior written approval by the Superfund Section or its successor in function.
5. Each person who owns any portion of the Property shall submit a letter report, containing the notarized signature of the owner, in January of each year on or before January 31<sup>st</sup>, to the Superfund Section, or its successor in function, confirming that this Declaration is still recorded in the Office of the Scotland County Register of Deeds, that activities and conditions at the Property remain in compliance with the land use restrictions herein, and that the Property has not been subdivided since the last letter report submitted to the Superfund Section.
6. No person conducting environmental assessment or remediation at the Site, or involved in determining compliance with applicable land use restrictions at the Property, at the direction of, or pursuant to a permit or order issued by the Superfund Section or its successor in function may be denied access to the Property for the purpose of conducting such activities.
7. Each person who owns any portion of the Property shall cause the instrument of any sale, lease, grant, or other transfer of any interest in the Property to include a provision expressly requiring the lessee, grantee, or transferee to comply with this Declaration. The failure to include such provision shall not affect the validity or applicability of any land use restriction in this Declaration.

## REPRESENTATIONS AND WARRANTIES

The owner of the Property hereby represents and warrants to the other signatories hereto:

that the Property Owner is the sole owner of the Property; **or** that the Property Owner has provided to DENR the names of all other persons that own an interest in or hold an encumbrance on the Property and have notified such persons of the Property Owner's intention to enter into this Notice;

that the Property Owner has the power and authority to enter into this Notice, to grant the rights and interests herein provided and to carry out all obligations hereunder; and

that this Notice will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which the Property Owner is a party or by which the Property Owner may be bound or affected.

## ENFORCEMENT

The above land use restrictions are an integral part of the remedy for the contamination at the Site. Adherence to the restrictions is necessary to protect public health and the environment. These land use restrictions shall be enforced by any owner, operator, or other party responsible for any part of the Site. The above land use restrictions may also be enforced by the Superfund Section through the remedies provided in N.C.G.S. Chapter 130A, Article 1, Part 2 or by means of a civil action, and may also be enforced by any unit of local government having jurisdiction over any part of the Site. Any attempt to cancel this Declaration without the approval of the Superfund Section or its successor in function shall constitute noncompliance with the Remedial Action Plan approved by the Superfund Section for the Site, and shall be subject to enforcement by the Superfund Section to the full extent of the law. Failure by any party required or authorized to enforce any of the above restrictions shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.



**FUTURE SALES, LEASES, CONVEYANCES AND TRANSFERS**

When any portion of the Property is sold, leased, conveyed or transferred, pursuant to N.C.G.S. Section 130A-310.8(e) the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the real property being sold, leased, conveyed, or transferred has been used as a hazardous substance or waste disposal site and a reference by book and page to the recordation of the Notice of Inactive Hazardous Substance or Waste Disposal Site referenced in this Declaration.

**OWNER SIGNATURE**

IN WITNESS WHEREOF, I, exercising power of attorney for UMICORE USA INC. execute these presents on this 14<sup>th</sup> day of December, 2015.

Signatory's name typed or printed: Ravila Gupta

Signatory's title typed or printed: President

Owner name typed or printed: UMICORE USA INC.

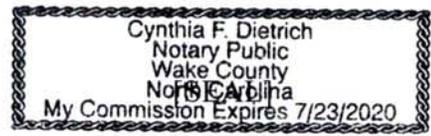
Signature: *R Gupta*

STATE OF NORTH CAROLINA  
COUNTY OF Wake

I, Cynthia F. Dietrich, a Notary Public, do hereby certify that Ravila Gupta personally appeared before me this day, produced proper identification in the form of NC Driver License, and Ravila Gupta declared that she is the President of UMICORE USA INC. and that by authority duly given, and as the act of UMICORE USA INC. she has signed this Declaration.

WITNESS my hand and official seal this 14<sup>th</sup> day of December, 2015.  
*Cynthia F. Dietrich*  
Notary Public

My Commission expires: 7/23/2020



**APPROVAL AND CERTIFICATION OF THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY**

The foregoing Declaration of Perpetual Land Use Restrictions is hereby approved and certified.

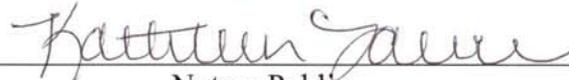
By: 

Jim Bateson, Chief  
Superfund Section  
Division of Waste Management  
North Carolina Department of Environmental Quality

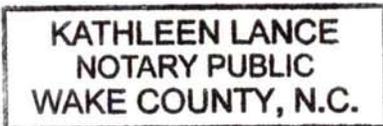
STATE OF NORTH CAROLINA  
COUNTY OF Wake

I, Kathleen Lance, a Notary Public, do hereby certify that Jim Bateson personally appeared before me this day, produced proper identification in the form of drivers license, and signed this Declaration.

WITNESS my hand and official seal this 9 day of December 2015.

  
Notary Public

My Commission expires: January 26, 2019



[SEAL]

**REGISTER OF DEEDS CERTIFICATION**

The foregoing Declaration of Perpetual Land Use Restrictions is certified to be duly recorded at the date and time, and the Book and Page, shown on the first page hereof.

Register of Deeds for Scotland County

By:   
Signature  
L. PAGE PRATT III, REGISTER  
Type or print name and title