

Certificate of Property Use - DRAFT

Environmental Protection Act, R.S.O. 1990, c.E.19, s.168.6

Certificate of property use number: 5366-BXEL52

Risk assessment number: 2082-BB3NGF

Owner: Evergreen Leasing Inc.
1053 Clonsilla Avenue
Peterborough, Ontario
K9J 5Y2

(Owner)

Site: 843 Park Street South, Peterborough, Ontario

(Property)

With a Legal Description of:

PT PK LT 20, LT 13, CON 11, North Monaghan, AS in R465163, Peterborough

being all of PIN 28078-0012 (LT)

The conditions of this Certificate of Property Use (CPU) address the Risk Management Measures in the Risk Assessment noted above and described in detail in Part 1 below (Risk Assessment). In the event of a conflict between the CPU and the Risk Assessment, the conditions of the CPU take precedence.

Summary:

Refer to Part 1 of the CPU, Interpretation, for the meaning of all the defined capitalized terms that apply to the CPU.

- i) Risk Management Measures (RMMs) that are required to be implemented are found in Part 4 of the CPU, Director Requirements. Key RMMs specified in Part 4 include, but are not limited to:
- Prohibiting the construction of any Building (s) on the Property unless the new Building (s) is constructed as specified in Section 4.2 (a) of this CPU;
 - Installing, monitoring and maintaining any vapour mitigation systems as specified in Section 4.2 (b) of this CPU;
 - Implementing a groundwater management plan during any intrusive activities undertaken on the Property potentially in contact with COCs in groundwater that have been identified in the RA at concentrations that exceed the applicable site condition standards as per Section 4.2(m) of this CPU.
 - Implementing a health and safety plan during any intrusive activities undertaken on the Property potentially in contact with COCs in groundwater that have been identified in the RA at concentrations that exceed the applicable site condition standards as specified in Section 4.3 of this CPU;
 - Prohibiting the use of groundwater in on or under the Property as per Section 4.4 of this CPU; and,
 - Registering a certificate on the Property title in accordance with Section 197 of the *Environmental Protection Act* and that before dealing with the Property in any way, a copy of the CPU is to be

given to any person who will acquire an interest in the Property as per Section 4.8, 4.9 and 4.10 of this CPU.

- ii) Duration of Risk Management Measures identified in Part 4 of the CPU is summarized as follows:
 - a. The groundwater management plan and the health and safety plan shall be required for the Property during any activities potentially in contact with or exposing site groundwater for as long as the Contaminants of Concern are present on the Property.

All other Risk Management Measures shall continue indefinitely until the Director alters or revokes the CPU.

Part 1: Interpretation

In the CPU the following terms shall have the meanings described below:

“Adverse Effect” has the same meaning as in the Act; namely,

- (a) impairment of the quality of the natural environment for any use that can be made of it,
- (b) injury or damage to property or to plant or animal life,
- (c) harm or material discomfort to any person,
- (d) an adverse effect on the health of any person,
- (e) impairment of the safety of any person,
- (f) rendering any property or plant or animal life unfit for human use,
- (g) loss of enjoyment of normal use of property, and
- (h) interference with the normal conduct of business;

“Act” means the *Environmental Protection Act*, R.S.O. 1990, c. E. 19;

“Clear Stone” means a graded aggregate intended for use in drainage, backfill, bedding, and other applications as specified in Ontario Provincial Standard Specification 1004 (OPSS MUNI. 1004);

“Contaminant” has the same meaning as in the Act; namely any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them, resulting directly or indirectly from human activities that may cause an Adverse Effect;

“Contaminants of Concern” & “COC” has the meaning as set out in section 3.2 of the CPU;

“CPU” means this Certificate of Property Use Number No. 5366-BXEL52 as it may be altered from time to time and bearing document # 5366-BXEL52;

“Director” means the undersigned Director or any other person appointed as a Director for the purpose of issuing a certificate of property use;

“EBR” means the *Environmental Bill of Rights, 1993*, S.O. 1993, c.28;

“Granular A” means a set of requirements for dense graded aggregates intended for use as granular base within the pavement structure, granular shouldering, and backfill, as specified in Ontario Provincial Standard Specification 1010 (OPSS.MUNI 1010);

“Groundwater Monitoring Program” means the groundwater monitoring as specified in section 4.2 m of the CPU;

“Licensed Professional Engineer” means a person who holds a license, limited license or temporary license under the *Professional Engineers Act*, R.R.O. 1990, c.P.28;

“Ministry” means Ontario Ministry of the Environment, Conservation and Parks;

“O. Reg. 153/04” means *Ontario Regulation 153/04 Records of Site Condition – Part XV.1 of the Act* under *Environmental Protection Act*, R.S.O. 1990, c. E.19.

“O. Reg. 347” means *R.R.O. 1990, Reg. 347: General - Waste Management* under *Environmental Protection Act*, R.S.O. 1990, c. E.19.

“Owner” means **Evergreen Leasing Inc.**, the current owner of the Property, and any future Property Owner (s);

“Property” means the property that is the subject of the CPU and described in the “Site” section on page 1 above, and illustrated in Figure 1 of Schedule A which is attached to and forms part of this CPU;

“Property Specific Standards” means the property specific standards established for the Contaminants of Concern set out in the Risk Assessment and in section 3.2 of the CPU and are the same standards specified in the Risk Assessment;

“Provincial Officer” means a person who is designated as a provincial officer for the purposes of the Act;

“Qualified Person” means a person who meets the qualifications prescribed in O. Reg. 153/04, , made under the Act;

“Risk Assessment” (RA) means the Risk Assessment No. **2082-BB3NGF** accepted by the Director on December 16, 2020, and set out in the following documents:

- A Risk Assessment for 843 Park Street South, Peterborough, ON, prepared by Intrinsic Corp., dated March 17, 2020; and
- Revised Risk Assessment for 843 Park Street South, Peterborough, Ontario, prepared by Intrinsic Corp., dated August 24, 2020.

“Risk Management Measures” means the risk management measures specific to the Property described in the Risk Assessment and/or Part 4 of the CPU;

“Risk Management Plan” (RMP) means the risk management plan specific to the Property contained in Appendix K of the Risk Assessment and/or Part 4 of the CPU;

“Tribunal” has the same meaning as in the Act; namely, the Environmental Review Tribunal;

Part 2: Legal Authority

- 2.1 Section 19 of the Act states that a certificate of property use is binding on the executor, administrator, administrator with the will annexed, guardian of property or attorney for property of the person to whom it was directed, and on any other successor or assignee of the person to whom it was directed.
- 2.2 Subsection 132(1.1) of the Act states that the Director may include in a certificate of property use a requirement that the person to whom the certificate is issued provide financial assurance to the Crown in right of Ontario for any one or more of,
 - a. the performance of any action specified in the certificate of property use;
 - b. the provision of alternate water supplies to replace those that the Director has reasonable and probable grounds to believe are or are likely to be contaminated or otherwise interfered with by a contaminant on, in or under the property to which the certificate of property use relates; and
 - c. measures appropriate to prevent adverse effects in respect of the property to which the certificate of property use relates.

- 2.3 Section 168.6 (1) of the Act states that if the Director accepts a risk assessment relating to a property, he or she may, when giving notice under clause 168.5 (1)(a), issue a certificate of property use to the owner of the property, requiring the owner to do any of the following things:
- a. Take any action specified in the certificate that, in the Director's opinion, is necessary to prevent, eliminate or ameliorate any adverse effect on the property, including installing any equipment, monitoring any contaminant or recording or reporting information for that purpose.
 - b. Refrain from using the property for any use specified in the certificate or from constructing any building specified in the certificate on the property.
- 2.4 Subsection 168.6(2) of the Act states that a certificate of property use shall not require an owner of property to take any action that would have the effect of reducing the concentration of a contaminant on, in or under the property to a level below the level that is required to meet the standards specified for the contaminant in the risk assessment.
- 2.5 Subsection 168.6(3) of the Act states that the Director may, on his or her own initiative or on application by the owner of the property in respect of which a certificate has been issued under subsection 168.6(1),
- a. alter any terms and conditions in the certificate or impose new terms and conditions; or
 - b. revoke the certificate.
- 2.6 Subsection 168.6(4) of the Act states that if a certificate of property use contains a provision requiring the owner of the property to refrain from using the property for a specified use or from constructing a specified building on the property,
- a. the owner of the property shall ensure that a copy of the provision is given to every occupant of the property;
 - b. the provision applies, with necessary modifications, to every occupant of the property who receives a copy of the provision; and
 - c. the owner of the property shall ensure that every occupant of the property complies with the provision.
- 2.7 Subsection 196(1) of the Act states that the authority to make an order under the Act includes the authority to require the person or body to whom the order is directed to take such intermediate action or such procedural steps or both as are related to the action required or prohibited by the order and as are specified in the order.
- 2.8 Subsection 197(1) of the Act states that a person who has authority under the Act to make an order or decision affecting real property also has authority to make an order requiring any person with an interest in the property, before dealing with the property in any way, to give a copy of the order or decision affecting the property to every person who will acquire an interest in the property as a result of the dealing.
- 2.9 Subsection 197(2) of the Act states that a certificate setting out a requirement imposed under subsection 197(1) may be registered in the proper land registry office on the title of the real property to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection 197(1) and is accompanied by a registrable description of the property.
- 2.10 Subsection 197(3) of the Act states that a requirement, imposed under subsection 197(1) that is set out in a certificate registered under subsection 197(2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property.
- 2.11 Subsection 197(4) of the Act states that a dealing with real property by a person who is subject to a requirement imposed under subsection 197(1) or 197(3) is voidable at the instance of a person who was not given the copy of the order or decision in accordance with the requirement.

Part 3: Background

- 3.1 The Risk Assessment was undertaken for the Property to assess the human health risks and ecological risks associated with the presence or discharge of Contaminants on, in or under the Property and to identify appropriate Risk Management Measures to be implemented to ensure that the Property is suitable for the intended use: commercial and residential as defined in O. Reg. 153/04.
- 3.2 The Contaminants on, in or under the Property that are present either above **Table 3: Full Depth Generic Site Condition Standards in a Non-Potable Ground Water Condition** of the **Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act, published by the Ministry and dated April 15, 2011** for coarse textured soils and groundwater or for which there are no such standards, are defined as the Contaminants of Concern. The Property Specific Standards for these Contaminants of Concern are set out in **Table 1A of Schedule "A"**, which is attached to and forms part of the CPU.
- 3.3 I am of the opinion, for the reasons set out in the Risk Assessment that the Risk Management Measures described therein and outlined in Part 4 of the CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property.

Part 4: Director Requirements

Pursuant to the authority vested in me under section 168.6(1) of the Act, I hereby require the Owner to do or cause to be done the following:

Risk Management Measures

- 4.1 Implement, and thereafter maintain or cause to be maintained, the Risk Management Measures.
- 4.2 Without restricting the generality of the foregoing in Section 4.1, carry out or cause to be carried out the following key elements of the Risk Management Measures:

New Building(s) with Underground Parking/Storage Garages:

- a. Refrain from constructing any new enclosed buildings on, in or under the Property unless:
- (i) The building is one which has no residential, institutional, parkland or commercial use, as defined by O. Reg. 153/04, below final grade;
 - (ii) All portions of the building in contact with the underlying soil are constructed of concrete;
 - (iii) The building is in compliance with all applicable requirements of the Building Code, including, without limitation, the provisions governing:
 - a) design of a mechanical ventilation system as set out in Division B, Article 6.2.2.3 (Ventilation of Storage and Repair Garages) of the Building Code;
 - b) interconnection of air duct systems as set out in Division B, subsection 6.2.3.9 (2) (Interconnection of Systems); and
 - c) air leakage as set out in Division B, section 5.4 (Air Leakage) of the Building Code;
 - (iv) The mechanical system for the storage garage is designed to provide, during operating hours, a continuous supply of outdoor air at a rate of not less than 3.9 liters per second for each meter of floor area as required by the Building Code and as detailed in Section 7.2.1.1 of the RA and the RMP.

New Building(s) without Underground Parking/Storage Garages:

- b. Refrain from constructing any new enclosed buildings on, in or under the Property unless:
- (i) The building is one which has no residential, institutional, parkland or commercial use, as defined by O. Reg. 153/04, below final grade;
 - (ii) All portions of the building in contact with the underlying soil are constructed of concrete;
 - (iii) The building is in compliance with all applicable requirements of the Building Code, including, without limitation, the provisions governing:
 - a) interconnection of air duct systems as set out in Division B, subsection 6.2.3.9 (2) (Interconnection of Systems); and
 - b) air leakage as set out in Division B, section 5.4 (Air Leakage) of the Building Code;
 - (iv) A passive soil-vapour intrusion mitigation system is incorporated in its design and construction, which consists of a sub-slab venting layer and vapour intrusion barrier as per Section 7.2.1.2 of the RA and the RMP and shall include:
 - a) The installation of the vapour intrusion mitigation system shall be completed under the supervision of a qualified Licensed Professional Engineer and a Qualified Person; and
 - b) A quality assurance/quality control (QA/QC) program shall be undertaken during the installation of the vapour intrusion mitigation system and shall be completed by, and clearly document in a report prepared by, a qualified contractor and overseen by a qualified Licensed Professional Engineer and Qualified Person.
- c. Within 90 calendar days of the installation of the vapour intrusion mitigation system as detailed in Section 4.2(b) of this CPU, the Owner shall submit to the Director as-built drawings and detailed design specifications of the vapour intrusion mitigation system, including any verification and QA/QC reports, prepared by the qualified Licensed Professional Engineer along with a statement from the qualified Licensed Professional Engineer that the vapour intrusion mitigation system has been installed in accordance with the original design specification and that it has been designed to meet the requirements and objectives of Section 7.2.1.2, the RMP and Section 4.2(b) of this CPU.
- d. The vapour intrusion mitigation system detailed in Section 7.2.1.2 of the RA, the RMP and Section 4.2(b) of this CPU shall be operated, monitored and maintained by the Owner for as long as the COCs are present on the Property. The Owner shall ensure that a qualified Licensed Professional Engineer prepares an operation, monitoring and maintenance program, including a contingency plan, that is to be implemented by the Owner, prior to first occupancy, and shall be made available by the Owner to the Ministry upon request. The operation, monitoring and maintenance program, including contingency plan, shall be consistent with Sections 7.2.1.2 and 7.5.1 of the RA and the RMP.
- e. An inspection, monitoring and maintenance program specified in Section 4.2(d) of this CPU shall be implemented to ensure the continued integrity of the building floor slab and vapour mitigation system for as long as the COCs are present on the Property. The inspection program will be conducted semi-annually (spring and fall). The inspection program shall include, at minimum inspections of the integrity of the building floor slab and monitoring of the vapour mitigation system in accordance with the monitoring and maintenance program specified in Section 4.2(d) of this CPU. Any cracks, breaches or loss of integrity observed in the building floor slab or any observed deficiencies or necessary maintenance requirement with the vapour mitigation system shall be repaired forthwith to the original design specification, at minimum. Repairs or maintenance shall be made by an appropriately qualified contractor, under the supervision of a qualified Licensed Professional Engineer as necessary. If repairs to the building floor slab or the vapour mitigation system cannot be completed in a timely manner, the Owner shall ensure that the contingency measures prepared by a qualified Licensed Professional Engineer, as specified in Section 4.2(d) of this CPU are implemented. All repairs are to be inspected by a qualified

Licensed Professional Engineer and signed documentation shall be provided to the Owner that states that the repairs meet the original design specification, at minimum. The Owner shall submit to the Director the written confirmation, prepared and signed by a qualified Licensed Professional Engineer, that the vapour mitigation system has been repaired to the original design specifications, at minimum. The written confirmation shall also include a description of any contingency measure that was put in place and shall be submitted to the Director within 30 calendar days of the completion of any repairs to the vapour mitigation system. The Owner shall keep records of the inspections, monitoring and maintenance program, along with documentation of all repairs that were required to be undertaken and these records shall be made available by the Owner to the Ministry for review upon request.

- f. The Owner shall ensure that all individuals/contractors intending to undertake work which could potentially come into contact with or interfere with the vapour mitigation system specified in Section 7.2.1.2 of the RA, the RMP and Section 4.2(b) of this CPU are made aware of the presence of the vapour mitigation system and the need to take appropriate precautions to ensure the integrity of the vapour mitigation system at all times. If the vapour mitigation system is damaged at any time, the Owner shall ensure that it is repaired forthwith to the original design specification, at minimum. Repairs or maintenance shall be made by an appropriately qualified contractor, under the supervision of a qualified Licensed Professional Engineer as necessary. If repairs to the building floor slab or the vapour mitigation system cannot be completed in a timely manner, the Owner shall ensure that the contingency measures prepared by a qualified Licensed Professional Engineer, as specified in Section 4.2(d) of this CPU are implemented. All repairs are to be inspected by a qualified Licensed Professional Engineer and signed documentation shall be provided to the Owner that states that the repairs meet the original design specification, at minimum. The Owner shall submit to the Director the written confirmation, prepared and signed by a qualified Licensed Professional Engineer, that the vapour mitigation system has been repaired to the original design specifications, at minimum. The written confirmation shall also include a description of any contingency measure that were put in place and shall be submitted to the Director within 30 calendar days of the completion of any repairs to the vapour mitigation system. The Owner shall keep records of the inspections, monitoring and maintenance program, along with documentation of all repairs that were required to be undertaken and these records shall be made available by the Owner to the Ministry for review upon request.
- g. Once the final design of the vapour mitigation system is completed as specified in Section 7.2.1.2 of the RA, the RMP and Section 4.2(d) of this CPU, the Owner shall submit to the Director, for review and approval, a sub-slab vapour monitoring program. The sub-slab vapour monitoring program shall be prepared by a qualified Licensed Professional Engineer in consultation with an appropriately Qualified Person in accordance with Section 7.5.1 of the RA and the RMP. Specifically, the sub-slab vapour monitoring program shall include the following key components:
- (i) Be overseen by a qualified Licensed Professional Engineer;
 - (ii) Sampling will be conducted quarterly;
 - (iii) Sub-slab vapour samples shall be sent to an accredited laboratory and analyzed for the target Analytes listed in **Table 1B** of Schedule 'A' (**Table 1B**), which are attached to and form part of this CPU;
 - (iv) An annual report documenting the sub-slab vapour monitoring program shall be prepared by a qualified Licensed Professional Engineer and submitted to the Director on or before March 31st following each year of monitoring until written approval to discontinue the program is received by the Owner from the Director. The annual report shall include, but not be limited to:
 - a) Laboratory results and laboratory certificates of analysis;
 - b) Field logs, leak testing (if necessary) and documentation of QA/QC;
 - c) Discussion and interpretation of the results in comparison to the respective Target Indoor Air Concentration as listed in Table 1B;
 - d) Conclusions and recommendations with respect to the need for additional and/or continued monitoring as may be warranted.

- h. Upon completion of the installation of the vapour mitigation system as specified in Section 4.2(d) of this CPU, and prior to first occupancy, the Owner shall implement the sub-slab vapour monitoring program, that has been approved in writing by the Director, as required by Section 4.2 (g) of this CPU for a minimum of two (2) years and shall continue until the Owner receives written approval from the Director to discontinue the program. Any changes to the sub-slab vapour monitoring program as required by Section 4.2(g) of this CPU (i.e., sampling frequency, location, methodology, etc.) must be prepared by a qualified Licensed Professional Engineer and must be submitted to the Director in writing. Any changes shall only be implemented upon the Owner receiving written approval from the Director.
- i. In the event that the sub-slab vapour monitoring program detailed in Section 4.2(g) of this CPU identifies one or more of the Target Analytes at concentrations above the Target Sub-Slab Vapour Trigger Value in **Table 1B**, respectively, and where the concentrations of the observed Target Analytes are determined by the qualified Licensed Professional Engineer to be a result of soil vapour intrusion, the Owner shall implement the contingency measures detailed in Section 7.5.1 of the RA and the RMP and as follows:
 - (i) Written notice shall be submitted to the Director by the Owner within three (3) business days of the Owner's receipt of the laboratory analysis. This written notice shall include the sub-slab sampling results, the laboratory certificates of analysis and the anticipated timeline for the implementation of the confirmatory sampling program along with any additional work as may be deemed necessary by a qualified Licensed Professional Engineer. Confirmatory sampling shall occur within 10 calendar days from the date of the Owner's receipt of the laboratory analysis and be completed by a qualified Licensed Professional Engineer.
 - (ii) In the event that the confirmatory sampling verifies the exceedances of one or more of the Target Analytes concentrations above the Sub-Slab Vapour Trigger Value **Table 1B**, the Owner shall:
 - a) Undertake indoor air sampling in accordance with Section 7.5.1 of the RA and the RMP;
 - b) Collect indoor air samples on a semi-annual basis, winter (December –February) and summer (June – August), for a minimum of two (2) years;
 - c) If any sample collected fails to meet any of the Residential Indoor Air Trigger values in **Table 1B**, written notice shall be submitted to the Director within three (3) business days and another sample collected within ten (10) days of the Owner's receipt of the laboratory analysis. This written notice shall include the sampling results, the laboratory certificates of analysis and the details of, and the anticipated timeline of resampling.
 - d) If two (2) consecutive samples exceed the Residential Indoor Air Trigger values in **Table 1B**, written notice shall be submitted to the Director by the owner within 14 days of the Owner's receipt of the laboratory analysis. This written notice shall include the sampling results, the laboratory certificates of analysis and the details of a remedial action plan.
 - e) Submit a remedial action plan to the Director for his review and approval within 45 days of the Owner's receipt of the last laboratory analysis. The remedial action plan shall include the confirmatory sampling results, the laboratory certificates of analysis and the details of, and the anticipated timeline to implement contingency measures consistent with Section 7.5.1 of the RA and the RMP along with the implementation of further evaluation/assessment of the vapour mitigation system as may be deemed necessary by a qualified Licensed Professional Engineer.
 - f) Upon receipt of written approval from the Director of the remedial action plan, implement the contingency measures, along with the implementation of a confirmatory indoor air sampling program in accordance with the approved remedial action plan;

- g) Within 30 calendar days of the implementation of the contingency measures identified in the approved remedial action plan, submit to the Director an update report prepared by a qualified Licensed Professional Engineer documenting the implementation of contingency measures, results of the implementation of the confirmatory indoor air-sampling program along with the details and timelines for the implementation of a performance indoor air monitoring program. The update report shall include, but not be limited to:
 - a. Laboratory results and laboratory certificates of analysis;
 - b. Field logs, leak testing (as necessary) and documentation of QA/QC;
 - c. Discussion and interpretation of the results in comparison to the respective Target Indoor Air Concentrations as listed in **Table 1B**; and,
 - d. Conclusions and recommendations with respect to the performance of the vapour mitigation system along with the need for additional work and/or continued monitoring as may be deemed warranted.
- j. Prior to occupancy and within 90 days of completion of any enclosed building described in Section 4.2(b) of the CPU, the Owner shall submit to the Director written confirmation signed by a Licensed Professional Engineer that the building(s) have been designed and constructed in accordance with the requirements of Section 4.2(b) of the CPU, and in accordance with the final design specifications.

Groundwater Monitoring

- k. Within 90 calendar days of the issuance of this CPU, the Groundwater Monitoring Program specified in Section 7.5.2 of the RA and the RMP shall be implemented by the Owner. The Groundwater Monitoring Program shall:
 - (i) Be overseen by a Qualified Person;
 - (ii) Consist of the measurement of groundwater levels and sampling from the monitoring wells along the eastern (BH101–18S/D) and southern (UCM7-1/2) property lines;
 - (iii) The measurement of groundwater levels and the collection of groundwater samples shall occur semi-annually (i.e., spring and fall) and shall continue until such time as this CPU is altered or revoked;
 - (iv) Groundwater samples shall be sent to an accredited laboratory and analyzed for all groundwater contaminants of concern as specified in **Table 1A** of Schedule 'A';
 - (v) An annual report documenting the Groundwater Monitoring Program shall be prepared by a qualified Licensed Professional Engineer and submitted to the Director on or before March 31st following each year of monitoring. The annual report shall detail the sample results, sample locations, borehole logs/monitoring well construction details along with an evaluation of the temporal trends in groundwater quality and an assessment of the potential for off-property migration of impacted groundwater.
 - (vi) Any changes to the Groundwater Monitoring Program must be submitted to the Director in writing by the Owner and be prepared by a Qualified Person. Changes shall only be implemented by the Owner upon receiving approval from the Director;
 - (vii) In the event that an upward trend in concentration is identified, the Owner shall implement the re-sample protocol detailed in Section 7.5.2 of the RA and the RMP. An upward trend will be defined as a concentration that is higher than the average of the two previous sampling events plus twenty percent (+20%).
 - a) Within 10 calendar days of the Owner receiving the laboratory analysis, the confirmatory groundwater sampling program, following the same procedure as described above, shall be implemented by a Qualified Person.
 - b) In the event that the groundwater concentrations indicate and an upward trend is

confirmed, the Owner shall notify the Director in writing within 10 calendar days of the Owner receiving the confirmatory laboratory analysis. Written notification shall be prepared by a Qualified Person and submitted to the Ministry.

Outdoor Air Monitoring

- I. Within 90 calendar days of the issuance of this CPU, the Outdoor Air Monitoring Program specified in Section 7.5.3 of the RA and the RMP shall be implemented by the Owner. The Outdoor Air Monitoring Program shall:
 - (i) Be overseen by a Qualified Person;
 - (ii) Undertake outdoor air sampling in accordance with Section 7.5.3 of the RA and the RMP;
 - (iii) Outdoor air samples shall be collected over a 24-hour duration using summa canisters or sorbent tubes;
 - (iv) Collection of outdoor air samples shall occur semi-annually (i.e., spring and summer) for a minimum of two (2) years, after which a Qualified Person on behalf of the Owner can submit a request to the Director to alter or revoke the requirement for outdoor air monitoring;
 - (v) Outdoor air samples shall be sent to an accredited laboratory and analyzed for all indoor air trigger values as specified in **Table 1B** of Schedule 'A';
 - (vi) If any sample collected fails to meet any of the Residential Indoor Air Trigger values in **Table 1B** of Schedule 'A', written notice shall be submitted to the Director within three (3) business days and another sample collected within ten (10) days of the Owner's receipt of the laboratory analysis. This written notice shall include the sampling results, the laboratory certificates of analysis and the details of, and the anticipated timeline of resampling.
 - (vii) If two (2) consecutive samples exceed the Residential Indoor Air Trigger values in **Table 1B**, written notice shall be submitted to the Director by the owner within 14 days of the Owner's receipt of the laboratory analysis. This written notice shall include the sampling results, the laboratory certificates of analysis and the details of a remedial action plan.
 - (viii) Submit a remedial action plan to the Director for his review and approval within 45 days of the Owner's receipt of the last laboratory analysis. The remedial action plan shall include the confirmatory sampling results, the laboratory certificates of analysis and the details of, and the anticipated timeline to implement contingency measures consistent with Section 7.5.3 of the RA and the RMP along with the implementation of further evaluation/assessment of the vapour mitigation system as may be deemed necessary by a qualified Licensed Professional Engineer.
 - (ix) Upon receipt of written approval from the Director of the remedial action plan, implement the contingency measures, along with the implementation of a confirmatory outdoor air sampling program in accordance with the approved remedial action plan;
 - (x) Within 30 calendar days of the implementation of the contingency measures identified in the approved remedial action plan, submit to the Director an update report prepared by a qualified Licensed Professional Engineer documenting the implementation of contingency measures, results of the implementation of the confirmatory outdoor air sampling program along with the details and timelines for the implementation of a performance indoor air monitoring program. The update report shall include, but not be limited to:
 - a. Laboratory results and laboratory certificates of analysis;
 - b. Field logs, leak testing (as necessary) and documentation of QA/QC;
 - c. Discussion and interpretation of the results in comparison to the respective Target Indoor Air Concentrations as listed in **Table 1B**; and,
 - d. Conclusions and recommendations with respect to the performance of the vapour mitigation system along with the need for additional work

and/or continued monitoring as may be deemed warranted.

Groundwater Management Plan

- m. A property specific Groundwater Management Plan (Plan) shall be prepared and implemented for the Property prior to any intrusive activities potentially in contact with or exposing COCs identified in on-site groundwater on the Property as detailed in Section 7.6 of the RA and the RMP. A copy of the Plan shall be maintained on the Property for the duration of all planned intrusive activities. The Plan shall include, but not be limited to, the following key components as deemed necessary by a Qualified Person:
- (i) oversight by a Qualified Person;
 - (ii) de-watering trenches. Any trenches that may be constructed on the Property shall be dewatered prior to entry;
 - (iii) characterization and management of groundwater as a result of dewatering activities. Where dewatering is required, dewatering activities will be conducted by a qualified dewatering contractor, in a manner that will not involve discharges to the natural environment (directly or indirectly via a storm sewer). Excess water obtained as a result of dewatering, shall be temporarily stored on the Property prior to off Property disposal at an approved waste water treatment facility as per Ontario Regulation 347, made under the Act, or treated and discharged to the sanitary sewer through a sanitary sewer use agreement. Prior to disposal through a City's sanitary sewer, a permit must be obtained and the collected groundwater must be sampled and analysed to ensure sewer use by-laws are met. Alternatively, excess groundwater may be removed directly by an appropriately licensed waste management system (i.e. via pump truck);
 - (iv) include record keeping. Record keeping is to include, but not to be limited to:
 - a) dates and duration of work;
 - b) weather and site conditions;
 - c) location and depth of dewatering activities;
 - d) all groundwater characterization results obtained as part of the groundwater management plan;
 - e) names of the Qualified Persons, contractors, haulers, and receiving sites for any groundwater (as a result of dewatering activities) removed from the property;
 - f) any complaints received relating to site activities; and,
 - g) copy of the plan and any amendments and the records kept thereunder shall be made available for review by the Ministry upon request.

Health and Safety Plan

- n. The Owner shall ensure that a health and safety plan which takes into account the presence of the COCs is prepared and implemented prior to any excavation work being done on the Property in order to protect workers from exposure to the COCs. The health and safety plan shall be prepared in accordance with applicable Ministry of Labour health and safety regulations and shall consider all potential risks identified in the Risk Assessment and include, but not necessarily be limited to, occupational hygiene requirements, personal protective equipment, contingency plans and contact information. Prior to initiation of any project (as defined in the Occupational Health and Safety Act, R.S.O. 1990, c. O. 1) on the Property, the local Ministry of Labour office shall be notified of the proposed activities and that the Property contains contaminated soils. The health and safety plan shall be overseen by an appropriately qualified person to review the provisions of the plan with respect to the proposed site work and conduct daily inspections.
- 4.3 Refrain from using the groundwater beneath the Property as a potable water supply. The installation of groundwater wells on the Property is prohibited.
- 4.4 Further to Section 4.3 of this CPU, the installation of groundwater monitoring wells for environmental testing purposes is permitted.

- 4.5 Growing of deep-rooted vegetation is not permitted on the site soils, in or under the Property. The planting of deep-rooted vegetation is prohibited, unless in above ground containers such that they are isolated from the subsurface conditions of the Property.

Site Changes

- 4.6 In the event of a change in the physical site conditions or receptor characteristics at the Property that may affect the Risk Management Measures and/or any underlying basis for the Risk Management Measures, forthwith notify the Director of such changes and the steps taken, to implement, maintain and operate any further Risk Management Measures as are necessary to prevent, eliminate or ameliorate any Adverse Effect that will result from the presence on, in or under the Property or the discharge of any Contaminant of Concern into the natural environment from the Property. An amendment to the CPU will be issued to address the changes set out in the notice received and any further changes that the Director considers necessary in the circumstances.

Reports

- 4.7 Retain a copy of any reports required under the CPU, the Risk Assessment and any reports referred to in the Risk Assessment (until otherwise notified by the Director) and within ten (10) days of the Director or a Provincial Officer making a request for a report, provide a copy to the Director or Provincial Officer.

Property Requirement

- 4.8 For the reasons set out in the CPU and pursuant to the authority vested in me under subsection 197(1) of the Act, I hereby order you and any other person with an interest in the Property, before dealing with the Property in any way, to give a copy of the CPU, including any amendments thereto, to every person who will acquire an interest in the Property, as a result of the dealing.

Certificate of Requirement

- 4.9 Within fifteen (15) days from the date of receipt of a certificate of requirement, issued under subsection 197(2) of the Act and as set out in Schedule 'B', register the certificate of requirement on title to the Property in the appropriate land registry office.
- 4.10 Within five (5) days after registering the certificate of requirement, provide to the Director a copy of the registered certificate and of the parcel register for the Property confirming that registration has been completed.

Owner / Occupant Change

- 4.11 While the CPU is in effect, forthwith report in writing to the Director any changes of ownership, of the Property, except that while the Property is registered under the *Condominium Act, 1998*, S.O. 1998, c.19, no notice shall be given of changes in the ownership of individual condominium units or any related common elements on the Property.

Part 5: General

- 5.1 The requirements of the CPU are severable. If any requirement of the CPU or the application of any requirement to any circumstance is held invalid, such finding does not invalidate or render unenforceable the requirement in other circumstances nor does it invalidate or render unenforceable the other requirements of the CPU.
- 5.2 An application under sub section 168.6(3) of the Act to,
- a. alter any terms and conditions in the CPU or impose new terms and conditions; or
 - b. revoke the CPU;
- shall be made in writing to the Director, with reasons for the request.
- 5.3 The Director may amend the CPU under subsections 132(2) or (3) of the Act to change a requirement as to financial assurance, including that the financial assurance may be increased or provided, reduced or released in stages. The total financial assurance required may be reduced from time to time or released by an order issued by the Director under section 134 of the Act upon request and submission of such supporting documentation as required by the Director.
- 5.4 Subsection 186(3) of the Act provides that failure to comply with the requirements of the CPU constitutes an offence.
- 5.5 The requirements of the CPU are minimum requirements only and do not relieve you from,
- a. complying with any other applicable order, statute, regulation, municipal, provincial or federal law; or
 - b. obtaining any approvals or consents not specified in the CPU.
- 5.6 Notwithstanding the issuance of the CPU, further requirements may be imposed in accordance with legislation as circumstances require.
- 5.7 In the event that, any person is, in the opinion of the Director, rendered unable to comply with any requirements in the CPU because of,
- a. natural phenomena of an inevitable or irresistible nature, or insurrections,
 - b. strikes, lockouts or other labour disturbances,
 - c. inability to obtain materials or equipment for reasons beyond your control, or
 - d. any other cause whether similar to or different from the foregoing beyond your control,
- the requirements shall be adjusted in a manner defined by the Director. To obtain such an adjustment, the Director must be notified immediately of any of the above occurrences, providing details that demonstrate that no practical alternatives are feasible in order to meet the requirements in question.
- 5.8 Failure to comply with a requirement of the CPU by the date specified does not absolve you from compliance with the requirement. The obligation to complete the requirement shall continue each day thereafter.
- 5.9 In the event that the Owner complies with provisions of Sections 4.9 and 4.10 of the CPU regarding the registration of the certificate of requirement on title to the Property, and then creates a condominium corporation by the registration of a declaration and description with respect to the Property pursuant to the *Condominium Act*, 1998, S.O. 1998, c.19, , and then transfers ownership of the Property to various condominium unit owners, the ongoing obligations of the Owner under this CPU may be carried out and satisfied by the condominium corporation by and on behalf of the new Owners of the Property.

Part 6: Hearing before the Environmental Review Tribunal

- 6.1 Pursuant to section 139 of the Act, you may require a hearing before the Environmental Review Tribunal (the "Tribunal"), if within fifteen (15) days after service on you of a copy of the CPU, you serve written notice upon the Director and the Tribunal.
- 6.2 Pursuant to section 142 of the Act, the notice requiring the hearing must include a statement of the portions of the CPU and the grounds on which you intend to rely at the hearing. Except by leave of the Tribunal, you are not entitled to appeal a portion of the CPU or to rely on a ground that is not stated in the notice requiring the hearing.
- 6.3 Service of a notice requiring a hearing must be carried out in a manner set out in section 182 of the Act and Ontario Regulation 227/07: Service of Documents, made under the Act as they may be amended from time to time. The address, email address and fax numbers of the Director and the Tribunal are:

The Secretary
Environmental Review Tribunal
655 Bay Street, Suite 1500
Toronto, ON, M5G 1E5

Fax: (416) 326-5370
Fax Toll Free: 1(844) 213-3474
Email: ERTTribunalSecretary@ontario.ca

and

David Bradley, Director
Ministry of the Environment and Climate Change
300 Water Street, 2nd Floor South Tower
Peterborough, ON
K9J 3C7

Email: david.bradley@ontario.ca

- 6.4 Unless stayed by the Tribunal under section 143 of the Act, the CPU is effective from the date of issue.
- 6.5 If you commence an appeal before the Tribunal, under section 47 of the Environmental Bill of Rights, 1993 (the "EBR"), you must give notice to the public in the Environmental Registry of Ontario. The notice must include a brief description of the CPU (sufficient to identify it) and a brief description of the grounds of appeal.

The notice must be delivered to the Minister of the Ministry of the Environment, Conservation and Parks who will place it in the Environmental Registry of Ontario. The notice must be delivered to the Minister of the Ministry of the Environment, Conservation and Parks, College Park, 5th Fl., 777 Bay Street Toronto, ON. M7A 2J3 by the earlier of:

- 6.5.1 two (2) days after the day on which the appeal before the Tribunal was commenced; and
- 6.5.2 fifteen (15) days after service on you of a copy of the CPU.
- 6.6 Pursuant to subsection 47(7) of the EBR, the Tribunal may permit any person to participate in the appeal, as a party or otherwise, in order to provide fair and adequate representation of the private and public interests, including governmental interests, involved in the appeal.
- 6.7 For your information, under section 38 of the EBR, any person resident in Ontario with an interest in the CPU may seek leave to appeal the CPU. Under section 40 of the EBR, the application for leave to appeal must be made to the Tribunal by the earlier of:

- 6.7.1 fifteen (15) days after the day on which notice of the issuance of the CPU is given in the Environmental Registry of Ontario; and
- 6.7.2 if you appeal, fifteen (15) days after the day on which your notice of appeal is given in the Environmental Registry of Ontario.

Further information on the Environmental Review Tribunal requirements for an appeal can be obtained directly from the Tribunal at:

Tel: (416) 212- 6349

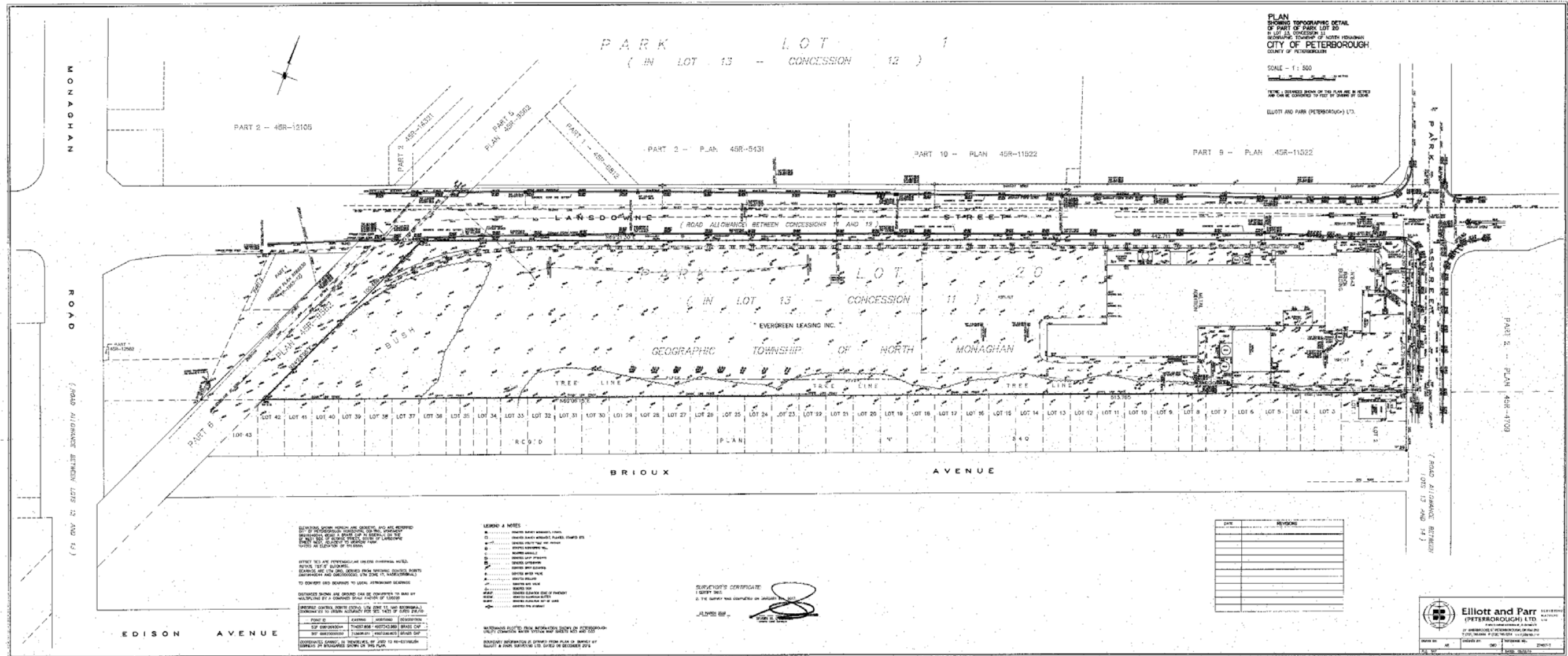
Fax: (416) 326-5370

olt.gov.on.ca

Issued at Peterborough this ____ day of _____ 2021.

David Bradley,
Director, section 168.6 of the Act

Schedule 'A': Figure 1
(not to scale)



Schedule "A" – Table 1A: Property Specific Standards – Groundwater

Final Property-Specific Groundwater Standards (µg/L)						
COC	Maximum GW Concentration	Table 3 Site Condition Standard	Final Property-Specific Standard	Basis of Property-Specific Standard	Risk Management Requirement	Potential for Off-Site Exceedance of Site Condition Standard
Benzene	9.1	44	11	Max + 20%	Yes ^a	No
Dichloroethane, 1,2-	0.9	1.6	1.1	Max + 20%	Yes ^a	No
Dichloroethylene, 1,1-	2.0	1.6	2.4	Max + 20%	Yes ^a	Yes
Dichloroethylene, 1,2- <i>cis</i>	403	1.6	480	Max + 20%	Yes ^a	Yes
Dichloroethylene, 1,2- <i>trans</i>	3.3	1.6	4.0	Max + 20%	Yes ^a	Yes
Tetrachloroethylene	7.8	1.6	9.4	Max + 20%	Yes ^a	Yes
Trichloroethylene	6,970	1.6	8,400	Max + 20%	Yes ^a	Yes
Vinyl chloride	4.1	0.5	740 ^b	Theoretical future vinyl chloride concentration	Yes ^a	Yes

^a Risk management measures are required to prevent the occurrence of unacceptable risks to human health.

^b PSS represents the theoretical future vinyl chloride concentration associated with the degradation of parent compounds.

Schedule "A" – Table 1B: Indoor Air and Sub-Slab Vapour Trigger Values

Indoor Air and Sub-Slab Vapour Trigger Values (µg/m³)		
COC	Residential Indoor Air Trigger Values (µg/m³)	Sub-Slab Vapour Trigger Values (µg/m³)
Benzene	0.506	25
Dichloroethane, 1,2-	0.0428	2.1
Dichloroethylene, 1,1-	14.6	730
Dichloroethylene, 1,2- <i>cis</i>	31.3	1570
Dichloroethylene, 1,2- <i>trans</i>	12.5	625
Tetrachloroethylene	4.28	210
Trichloroethylene	0.271	13.6
Vinyl chloride	0.126	6.3

Schedule 'B'

CERTIFICATE OF REQUIREMENT

s.197(2)

Environmental Protection Act

This is to certify that pursuant to Item 4.9 of Certificate of Property Use number 5366-BXELS2 issued by David Bradley, Director of the Ministry of the Environment, Conservation and Parks, under sections 168.6 and 197 of the Environmental Protection Act, on XXX, 2021, being a Certificate of Property Use and order under subsection 197(1) of the *Environmental Protection Act* relating to the property municipally known as 843 Park St. Peterborough, Ontario, being all of PIN 28078-0012 (LT), (the "Property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property

EVERGREEN LEASING INC.

and any other persons having an interest in the Property, are required before dealing with the Property in any way, to give a copy of the Certificate of Property Use, including any amendments thereto, to every person who will acquire an interest in the Property.

Under subsection 197(3) of the *Environmental Protection Act*, the requirement applies to each person who, subsequent to the registration of this certificate, acquires an interest in the Property.