

OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

To be recorded with Deed
Records - ORC § 317.08

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by Chemical Solvents, Inc. ("Chemical Solvents" or "Owner"), an Ohio company, and the Ohio Environmental Protection Agency ("Ohio EPA") pursuant to Ohio Revised Code ("ORC") §§ 5301.80 to 5301.92 for the purpose of subjecting the Property (hereinafter defined) to the activity and use limitations set forth herein.

Whereas, Owner is the owner and operator of certain real property located at 808 Denison Avenue, Cleveland, Cuyahoga County, Ohio, and legally described in Exhibit A hereto (collectively referred to herein as the "Property"); and

Whereas, the Administrative Record of the corrective action is maintained as the file titled "Chemical Solvents, Inc." in the Ohio EPA Northeast District Office, 2110 East Aurora Road, Twinsburg, Ohio 44087; and

Whereas, as a result of past waste practices by former owners and operators of the Property, certain contaminants and solid wastes were released on the Property. These wastes include, but are not limited to, polycyclic aromatic hydrocarbons such as benzo(a)pyrene. Potential pathways of exposure from the contaminants on the Property include direct contact with the soils containing the waste; and

Whereas, as a result of the contaminants identified above, Owner was required to implement Resource Conservation and Recovery Act (RCRA) corrective action at the Property to be implemented under the conditions of the RCRA Ohio EPA Permit; and

Whereas, the implementation of appropriate use restrictions that restrict land use on the Property is required to protect human health and the environment and to prevent conditions at the Property from constituting or threatening to cause or contribute to air or water pollution or soil contamination.

Whereas, Chemical Solvents is primarily engaged in the business of recycling dirty or spent halogenated and non-halogenated solvents;

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

By: Dan Lassiter Date: 7-6-10

Whereas, Chemical Solvents, which has an office located at 1010 Denison Avenue, Cleveland, Ohio, has a hazardous waste installation and operating permit. The U.S. EPA ID number is OHD 980 897 656 and the Ohio Permit Number is 02-18-0669;

Whereas, on February 23, 2009, Ohio EPA issued a draft permit modification to Chemical Solvents to implement site-wide corrective action remedies;

Whereas, on June 5, 2009, Ohio EPA issued a final permit modification requiring Chemical Solvents to restrict future land use to industrial use for the property where a fuel storage tank area exists as well as waste management units 12 and 13 of the non-hazardous waste holding area;

Whereas, the Chemical Solvents site is made up of 8.1 acres and divided in three parcels identified as 808 Denison Avenue, 908 Denison Avenue and 1010 Denison Avenue. The parcel that must be restricted by the modified permit is 808 Denison Avenue.

Now therefore, Chemical Solvents and Ohio EPA agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to ORC §§ 5301.80 to 5301.92.

2. Property. This Environmental Covenant concerns real property parcel numbered 008-34-012 owned by Chemical Solvents, located at 808 Denison Avenue, City of Cleveland, in Cuyahoga County, Ohio, and more particularly described in Exhibit A attached hereto and hereby incorporated by reference herein ("Property").

3. Owner. Chemical Solvents, which has its principal office located at 1010 Denison Avenue, Cleveland, Ohio is the owner of the Property.

4. Holder. Owner, whose address is listed above, is the holder of this Environmental Covenant.

5. Activity and Use Limitations. As part of Chemical Solvents' Permit Number 02-18-0669, Owner hereby imposes and agrees to comply with the following activity and use limitations:

A. The Property shall not be used for Residential Activities, but may be used for Industrial Activities. The term "Residential Activities" shall include, but not be limited to, the following:

- i. Single and multi-family dwelling and rental units;
- ii. Day care centers and preschools;
- iii. Hotels and motels;
- iv. Educational (except as a part of industrial activities within the Property) and religious facilities;
- v. Restaurants and other food and beverage services (except as a part of industrial activities within the Property);
- vi. Entertainment and recreational facilities (except as a part of industrial activities within the Property);
- vii. Hospitals and other extended care medical facilities; and
- viii. Transient or other residential facilities.

The term "Industrial Activities" shall include manufacturing, formulating, repackaging or refining operations, processing operations, and office and warehouse use, including but not limited to production, storage, and sales of durable goods and other non-food chain products, and parking/driveway use.

B. In the event that any activity by the holder of an encumbrance, identified in Paragraph 12, below, constitutes a violation of these use and activity restrictions, Owner or Transferee shall notify Ohio EPA within thirty (30) days of becoming aware of the event, and shall remedy the breach of the covenant within sixty (60) days of becoming aware of the event, or such other time frame as may be agreed to by the Owner or Transferee and Ohio EPA.

6. Running with the Land. This Environmental Covenant shall be binding upon Owner and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to ORC § 5301.85, subject to amendment or termination as set forth herein. The term "Transferee," as used in this Environmental Covenant, shall mean any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

7. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to ORC § 5301.91 or other applicable law. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any non-

compliance. Nothing in this Environmental Covenant shall restrict the Director of Ohio EPA from exercising any authority under applicable law.

8. Rights of Access. Owner hereby grants to Ohio EPA, its agents, contractors, and employees the right of access to the Property for implementation or enforcement of this Environmental Covenant.

9. Compliance Reporting. Owner and any Transferee shall submit to Ohio EPA and Holder(s) on an annual basis written certification which complies with the requirements of Ohio Administrative Rule 3745-50-42(B), (C), and (D) that the activity and use limitations remain in place and are being complied with.

10. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED _____, 200__, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE ____ COUNTY RECORDER ON _____, 200__, IN [DOCUMENT _____, or BOOK ____, PAGE ____]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

A. The Property shall not be used for Residential Activities, but may be used for Industrial Activities. The term "Residential Activities" shall include, but not be limited to, the following:

- i. Single and multi-family dwelling and rental units;
- ii. Day care centers and preschools;
- ix. Hotels and motels;
- x. Educational (except as a part of industrial activities within the Property) and religious facilities;
- xi. Restaurants and other food and beverage services (except as a part of industrial activities within the Property);
- xii. Entertainment and recreational facilities (except as a part of industrial activities within the Property);
- xiii. Hospitals and other extended care medical facilities; and
- xiv. Transient or other residential facilities.

The term "Industrial Activities" shall include manufacturing, formulating, repackaging or refining operations, processing operations, and office and warehouse use, including but not limited to production, storage, and sales of durable goods and other non-food chain products, and parking/driveway use.

Owner shall notify Ohio EPA within ten (10) days after each conveyance of an interest in any portion of the Property. Owner's notice shall include the name, address, and telephone number of the Transferee, a copy of the deed or other documentation evidencing the conveyance, and a survey map that shows the boundaries of the Property being transferred, and the closing date of the transfer of ownership of the Property.

11. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- A. that Owner is the sole owner of the Property;
- B. that Owner holds fee simple title to the Property which is subject to the interests or encumbrances listed and described in Exhibit B attached hereto, which is fully incorporated by reference herein;
- C. that Owner has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- D. that Owner has identified all other persons, that own any interest in or hold an encumbrance on the Property and notified such persons of the Owner's intention to enter into the Environmental Covenant;
- E. to the extent that any other interests in or encumbrances on the Property conflict with the activity and use limitations set forth in this Environmental Covenant, the persons who own such interests or hold such encumbrances have agreed to subordinate such interests or encumbrances to the Environmental Covenant, pursuant to ORC § 5301.36, and the Waiver of Priority of Mortgage attached hereto as Exhibit C and incorporated by reference herein; and

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

12. Amendment or Termination. This Environmental Covenant may be amended or terminated by consent of all of the following: the Owner or a Transferee; and the Ohio EPA, pursuant to ORC § 5301.90 and other applicable law. The term, "Amendment," as used in this Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining. The term, "Termination," as used in this Environmental Covenant, shall mean the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant.

This Environmental Covenant may be amended or terminated only by a written instrument duly executed by the Director of Ohio EPA and the Owner or Transferee of the Property or portion thereof, as applicable. Within thirty (30) days of signature by all requisite parties on any amendment or termination of this Environmental Covenant, the Owner or Transferee shall file such instrument for recording with the Cuyahoga County Recorder's Office, and shall provide a file- and date-stamped copy of the recorded instrument to Ohio EPA.

13. Severability. If any provision of this Environmental Covenant 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.

14. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.

15. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, pursuant to ORC § 5301.88 with the Cuyahoga County Recorder's Office. Owner shall certify to Ohio EPA that the Environmental Covenant has been filed for recording, and include with the certification a file and date-stamped copy of the Environmental Covenant.

16. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the Cuyahoga County Recorder.

17. Distribution of Environmental Covenant. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: Ohio EPA and the City of Cleveland.

18. Notice. Unless otherwise notified in writing by or on behalf of the current owner of Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:

As to Ohio EPA:

Ohio Environmental Protection Agency
Division of Hazardous Waste Management
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

Ohio Environmental Protection Agency
Division of Hazardous Waste Management
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087

As to Chemical Solvents:

Chemical Solvents, Inc.
3751 Jennings Road
Cleveland, Ohio 44114

The undersigned officer of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

IT IS SO AGREED:

CHEMICAL SOLVENTS, INC.

By: 

Date: June 4, 2010

Ed Parlish, President
Print Name and Title

Before me, a notary public, in and for said County and State, personally appeared Chris Korleski, the Director of Ohio EPA, who acknowledged to me that he did execute the foregoing instrument on behalf of Ohio EPA.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 1st day of July, 2010.



Charma Diane Casteel
Notary Public

CHARMA DIANE CASTEEL
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES

May 10, 2014

This instrument prepared by:

Robert B. Casarona, Esq.
Roetzel & Andress LPA
1375 East 9th Street
One Cleveland Center, 9th Floor
Cleveland, Ohio 44114

EXHIBIT A

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, described as follows:

AND KNOWN AS BEING PART OF ORIGINAL BROOKLYN TOWNSHIP LOT NO. 83 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING IN THE CENTER LINE OF DENISON AVENUE S.W. (40 FEET WIDE) AT ITS EASTERLY EXTREMITY BEING THE SOUTHEASTERLY CORNER OF LAND CONVEYED TO THE CUYAHOGA RENDERING & SOAP COMPANY BY DEED DATED JANUARY 16, 1913 AND RECORDED IN VOLUME 1432, PAGE 470 OF CUYAHOGA COUNTY RECORDS;

THENCE NORTH 54° 33' 00" WEST ALONG SAID CENTER LINE OF DENISON AVENUE S.W. 462.26 FEET TO THE SOUTHWESTERLY CORNER OF LAND SO CONVEYED TO THE CUYAHOGA RENDERING & SOAP COMPANY;

THENCE NORTH 59° 26' 00" EAST ALONG THE NORTHWESTERLY LINE OF LAND SO CONVEYED TO THE CUYAHOGA RENDERING AND SOAP COMPANY 287.93 FEET TO A POINT IN THE SOUTHERLY BANK OF CUYAHOGA RIVER PRIOR TO AVULSION;

THENCE NORTH 81° 00' 10" EAST 52.74 FEET TO A POINT OF INTERSECTION WITH A LINE DRAWN PARALLEL TO AND DISTANT 300 FEET NORTHEASTERLY BY RECTANGULAR MEASUREMENT FROM SAID CENTER LINE OF DENISON AVENUE S.W.;

THENCE SOUTH 54° 33' 00" EAST ALONG SAID PARALLEL LINE 262.08 FEET TO A POINT;

THENCE SOUTH 29° 27' 00" WEST 190.01 FEET TO THE MOST NORTHERLY CORNER OF LAND CONVEYED TO THE CUYAHOGA SOAP COMPANY BY DEED DATED JANUARY 28, 1937 AND RECORDED IN VOLUME 4698, PAGE 544 OF CUYAHOGA COUNTY RECORDS;

THENCE SOUTH 20° 04' 57" WEST 94.40 FEET TO A POINT IN THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID DENISON AVENUE S.W.;

THENCE NORTH 54° 33' 00" WEST 4 FEET TO THE SOUTHEASTERLY LINE OF LAND SO CONVEYED TO THE CUYAHOGA RENDERING & SOAP COMPANY AS FIRST AFORESAID;

THENCE SOUTH 22° 27' 00" WEST ALONG SAID SOUTHEASTERLY LINE OF LAND SO CONVEYED TO THE CUYAHOGA RENDERING AND SOAP COMPANY 20.53 FEET TO THE PLACE OF BEGINNING, BE THE SAME MORE OR LESS.

TOGETHER WITH THAT PORTION OF DENISON AVENUE, 40 FEET WIDE, WITHIN THE ABOVE DESCRIBED PREMISES, AS VACATED BY CITY OF CLEVELAND ORDINANCE NO. 1478-94.

PPN: 008-34-012

EXHIBIT B

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching subsequent to the Effective Date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or by making inquiry of the persons in possession of the Land.
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title, including discrepancies, conflicts in boundary lines, shortage in area, or any other facts that would be disclosed by an accurate and complete land survey of the Land, and that are not shown in the Public Records.
4. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown in the Public Records.
5. Rights of parties in possession of all or any part of the premises, including, but not limited to, easements, claims of easements or encumbrances that are not shown in the public records.
6. Taxes or assessments approved, levied or enacted by the State, County, Municipality, Township or similar taxing authority, but not yet certified to the tax duplicate of the County in which the land is situated, including but not limited to any retroactive increases in taxes or assessments resulting from any retroactive increase in the valuation of the land by the State, County, Municipality, Township, or other taxing authority.
7. Agreement and Grant of Easement Filed for record in Volume 4698, Page 546 on February 4, 1937 of Cuyahoga County Records.
8. Easement granted to The Cuyahoga Soap Company disclosed by instrument recorded in Volume 4704, Page 560 on March 15, 1937.
9. Subject to the items as contained in a Warranty Deed filed for record in Volume 98-12818, Page 43 on October 1, 1998 of Cuyahoga County Records.
10. Subject to a Personal Property Tax Lien in the amount of \$248.40 as TP # 0551864000 of Cuyahoga County Records.

EXHIBIT C

Not applicable.