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## USE RESTRICTION AGREEMENT

This Use Restriction Agreement ("Agreement") is entered into by Alcoa Inc., having offices at 201 Isabella Street, Pittsburgh, PA 15212 and the Ohio Environmental Protection Agency ("Ohio EPA"). This Agreement concerns an approximately 62.5 acre tract of real property owned by Alcoa Inc. ("Owner") and located at 1089 Eastern Avenue, Chillicothe, Ross County, Ohio.

### Background

The property owned by Alcoa Inc. located at 1089 Eastern Avenue in Chillicothe, Ohio was formerly the Wearever Aluminum manufacturing facility. From 1948 to 1990, the principal operation at the facility was the production of aluminum-coated cookware and small household appliances. These operations involved stamping, cleaning, coating, painting, and polishing sheet aluminum. As a result of the manufacturing processes, industrial wastes containing, but not limited to, volatile organic compounds (VOCs), metals, and polyaromatic hydrocarbons (PAHs) were released to various areas of the facility. Areas heavily impacted with volatile organic compounds are described as VOC Areas, and areas impacted with metal and PAHs are described as Sludge Disposal Areas.

The Owner entered into Director's Final Findings and Orders with Ohio EPA on May 6, 1993 for the performance of a Remedial Investigation and Feasibility Study. Based on the Feasibility Study, a Decision Document, dated March 9, 1998, was developed which describes the remedy selected for the former Wearever facility. The Owner entered into Director's Final Findings and Orders for remedial design and remedial action in order to implement the final remedy on March 22, 1999. The final remedy includes the following activities for the VOC areas: treatment of soils and ground water with air sparging and soil vapor extraction; groundwater monitoring; and placement of use restrictions on ground water for potable purposes. The final remedy includes the following activities for the Sludge Disposal Areas: consolidation of metals and PAH containing wastes; capping of the consolidated metals containing wastes into the Sludge Consolidation Landfill; and placement of use restrictions on the Sludge Disposal Areas and the Sludge Consolidation Landfill.

For purposes of this Agreement, the Subject Property is the property defined by the "property line" found on the Deed Map dated March 2003, which is attached hereto and incorporated by reference herein. Within the Subject Property, there are three (3) areas with particular use restrictions. Those three areas are: the VOC Area; the Sludge Disposal Area; and the Sludge Consolidation Area. Each of these areas is delineated in Exhibit A.

Former Wearever Facility, Chillicothe, Ross County, OH  
Page 2

**Now therefore,** Owner and Ohio EPA (the "Parties") agree to the following:

1. Intention of the Parties. This Agreement touches and concerns the Subject Property in that it is intended to limit the use of the Subject Property and restrict certain activities from occurring on the Subject Property. It is also the intent of the Parties that the covenants, terms, conditions and restrictions of this Agreement be binding upon, and inure to the benefit of, the Parties and continue as a servitude running in perpetuity with the Subject Property. It is the further intention of the Parties that the land use restrictions described herein be enforceable at law or in equity by Ohio EPA against Owner for as long as Owner shall own the Subject Property, and against any Transferee, as defined herein.
2. Use Restrictions. As part of the remedial action described in the Decision Document and in consideration for the Director of Ohio EPA's forbearance to require unrestricted land use for the Subject Property, Owner agrees to impose and comply with the following restrictions:
  - a. Industrial and Commercial Land Use. The Sludge Disposal Areas within the Subject Property shall only be used for industrial or commercial land use, as that term is defined in Ohio Administrative Code 3745-300-08(B)(2)(c)(ii) and (iii) (effective October 21, 2002);
  - b. Prohibition Against Groundwater Extraction. The groundwater underlying the Subject Property or any portion of the Subject Property shall not be extracted for any purpose, potable or otherwise, except for monitoring or remediation of the groundwater;
  - c. Prohibition Against Well Installation. Wells shall not be installed or removed on the Subject Property without prior written authorization from the Owner and Ohio EPA; and
  - d. Prohibition Against Excavation and Other Activities. Excavation, filling, grading, building, drilling or mining shall not be undertaken within the Sludge Consolidation Landfill enclosure without prior written authorization from Ohio EPA and the Owner.
3. Running with the Land. The covenants, terms, conditions, and restrictions of this Agreement shall be binding upon, and inure to the benefit of, the Owner and the State of Ohio and their successors in interest and assigns and any Transferee, and shall run with the land, subject to termination and modification as described below. The term "Transferee," as used in this Agreement, shall mean any future owner of

Former Wearever Facility, Chillicothe, Ross County, OH  
Page 3

any interest in the Subject Property, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

4. Modification and Termination of the Agreement. The Owner or a Transferee may request modification or termination of this Agreement by submitting a written petition to the Director of Ohio EPA. Modification means any changes to the Agreement, including the use restrictions outlined in Section 2 above, or the elimination of one or more use restrictions when there is at least one use restriction remaining. Termination means the elimination of all use restrictions in Section 2 and all other obligations under this Agreement. The Director of Ohio EPA will evaluate a request for modification or termination of the Agreement based on a demonstration by the Owner or Transferee that the proposed modification or termination of this Agreement will not pose a risk to public health or safety or the environment.

The Director of Ohio EPA may request modification or termination of this Agreement in the event that the Director determines that risks posed by the Subject Property have substantially changed subsequent to the execution of this Agreement. Nothing in this Agreement shall restrict the Director from exercising any authority under applicable law in order to protect public health or safety or the environment.

This Agreement may only be modified or terminated by a written instrument duly executed by the Director of Ohio EPA and the Owner or the Transferee of the Subject Property or portion of the Subject Property, as applicable. Within thirty (30) days of executing a modification or termination of this Agreement, the Owner or Transferee shall record such modification or termination with the Ross County Recorder's Office, and shall provide a true copy of the recorded modification or termination to Ohio EPA.

5. Enforcement. Compliance with this Agreement may be enforced by a legal or equitable action brought in a court of competent jurisdiction by either Party to this Agreement. The use restrictions contained in Section 2 of this Agreement may be enforced by the Owner, the Director of Ohio EPA or his representative and any other party with legal standing by bringing a legal or equitable action in a court of competent jurisdiction. Failure to timely enforce compliance with this Agreement or the use restrictions 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.
6. Restatement of Use Restriction upon Conveyance. Each instrument hereafter conveying any interest in the Subject Property or any portion of the Subject Property shall contain a restatement of the use restrictions contained in Section 2 of this Agreement, and provide the recorded location of this Agreement. The restatement shall be substantially in the following form:

Former Wearever Facility, Chillicothe, Ross County, OH  
Page 4

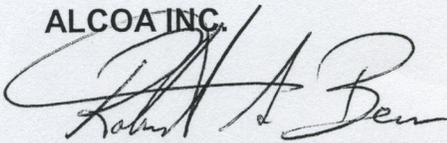
THE INTEREST CONVEYED HEREBY IS SUBJECT TO A USE RESTRICTION AGREEMENT, DATED \_\_\_\_\_, 200\_, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE \_\_\_\_\_ COUNTY RECORDER ON \_\_\_\_\_, 200\_, IN [DOCUMENT \_\_\_\_\_, or BOOK \_\_\_\_\_, PAGE \_\_\_\_\_,] IN FAVOR OF, AND ENFORCEABLE BY, THE STATE OF OHIO. THE AGREEMENT CONTAINS THE FOLLOWING USE RESTRICTIONS: *[Insert the language of the use restrictions exactly as it appears in Section 2 of the Agreement.]*

7. Authority. Owner hereby covenants and warrants to and with the State of Ohio the following: that the Owner is lawfully seized in fee simple of the Subject Property; that the Owner has a good and lawful right and power to sell and convey it or any interest therein; that the Owner has identified and notified all other parties that hold any interest (e.g., encumbrance) in the Subject Property; that the use restrictions contained herein are compatible with such interests held by all other parties; and that the Owner will forever defend the title and quiet possession of the Subject Property.
8. Severability. If any provision of this Agreement 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.
9. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio.
10. Effective Date. The effective date of this Agreement shall be the date upon which both the Owner and Ohio EPA have signed the Agreement.

The undersigned representative of Owner represents and certifies that he/she is authorized to execute this Agreement.

IT IS SO AGREED:

ALCOA INC.



Robert S. Bear  
Director, Remediation Operations

04-15-04

Date

Former Wearever Facility, Chillicothe, Ross County, OH  
Page 5

Commonwealth of Pennsylvania :  
: SS  
County of Allegheny :

Before me, a notary public, in and for said county and commonwealth, personally appeared Robert S. Bear, Director of Remediation Operations and a duly authorized representative of Alcoa Inc., who acknowledged to me that he did execute the foregoing instrument on behalf of Alcoa Inc.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this 15<sup>th</sup> day of April, ~~2003~~, 2004



*Ann M. Rucker*

Notary Public

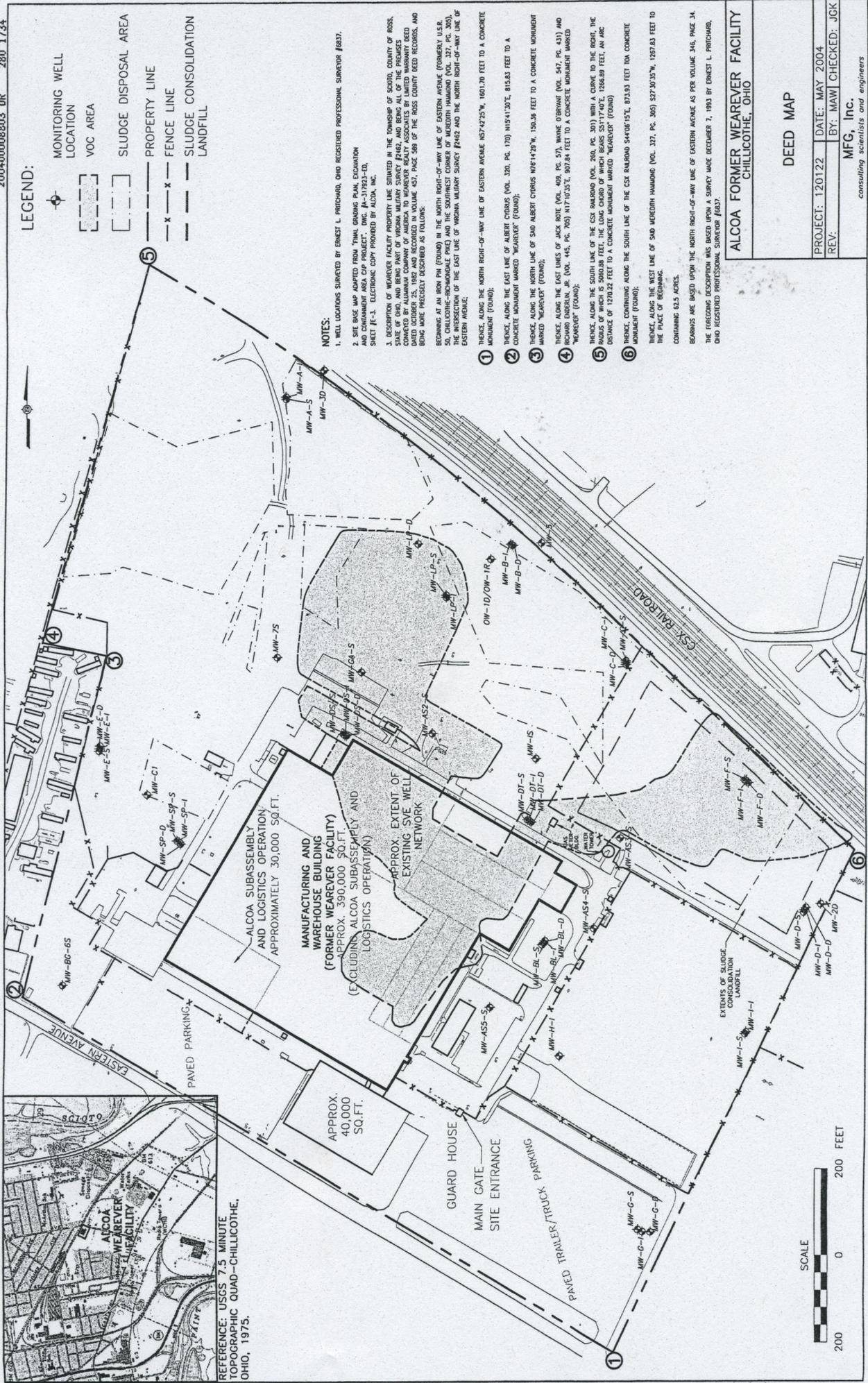
Notarial Seal  
Ann M. Rucker, Notary Public  
City of Pittsburgh, Allegheny County  
My Commission Expires Aug. 1, 2005  
Member, Pennsylvania Association of Notaries

OHIO ENVIRONMENTAL PROTECTION AGENCY

*Joseph P. Kowcelik*  
\_\_\_\_\_  
Christopher Jones, Director

10/21/04  
Date

Joseph Kowcelik



**NOTES:**

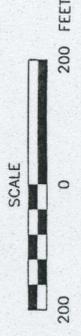
1. WELL LOCATIONS SURVEYED BY ERNEST L. PRITCHARD, OHIO REGISTERED PROFESSIONAL SURVEYOR #6837.
2. SITE BASE MAP ADAPTED FROM "FINAL GRADING PLAN, EXCAVATION AND CONTAINMENT AREA CAP PROJECT", DMC, PA-317933-ED, SHEET #1-3. ELECTRONIC COPY PROVIDED BY ALCOA, INC.
3. DESCRIPTION OF WEAVEVER FACILITY PROPERTY LINE SITUATED IN THE TOWNSHIP OF SCOTO, COUNTY OF ROSS, STATE OF OHIO, AND BEING PART OF VIRGINIA MILITARY SURVEY #2462, AND BEING ALL OF THE PREMISES CONVEYED BY ALUMINUM COMPANY OF AMERICA TO WEAVEVER REALTY ASSOCIATES BY LIMITED WARRANTY DEED BEING RECORDED IN VOLUME 401, PAGE 308 OF THE ROSS COUNTY DEED RECORDS, AND BEING MORE PRECISELY DESCRIBED AS FOLLOWS:  
 BEGINNING AT AN IRON PIN (FOUND) IN THE NORTH RIGHT-OF-WAY LINE OF EASTERN AVENUE (FORMERLY U.S. HIGHWAY 40) (VOL. 320, PG. 305) CONTAINING 63.5 ACRES, AND BEING THE NORTH RIGHT-OF-WAY LINE OF EASTERN AVENUE; THENCE ALONG THE EAST LINE OF VIRGINIA MILITARY SURVEY #2462 AND THE NORTH RIGHT-OF-WAY LINE OF EASTERN AVENUE;  
 ① THENCE, ALONG THE NORTH RIGHT-OF-WAY LINE OF EASTERN AVENUE 165°42'25"W, 1001.70 FEET TO A CONCRETE MONUMENT (FOUND);  
 ② THENCE, ALONG THE EAST LINE OF ALBERT CROBUS (VOL. 320, PG. 170) 105°41'30"E, 815.83 FEET TO A CONCRETE MONUMENT MARKED "WEAVEVER" (FOUND);  
 ③ THENCE, ALONG THE NORTH LINE OF SAO ALBERT CROBUS 0°14'29"W, 150.26 FEET TO A CONCRETE MONUMENT MARKED "WEAVEVER" (FOUND);  
 ④ THENCE, ALONG THE EAST LINES OF JACK WOTE (VOL. 409, PG. 57), WALTER CROSBY (VOL. 643, PG. 431) AND BRADDOCK BARBER, JR. (VOL. 445, PG. 705) 117°10'35"E, 807.84 FEET TO A CONCRETE MONUMENT MARKED "WEAVEVER" (FOUND);  
 ⑤ THENCE, ALONG THE SOUTH LINE OF THE CSX RAILROAD (VOL. 320, PG. 303) WITH A CURVE TO THE RIGHT, THE RADIUS OF WHICH IS 128.89 FEET, AN ARC DISTANCE OF 127.22 FEET TO A CONCRETE MONUMENT MARKED "WEAVEVER" (FOUND);  
 ⑥ THENCE, CONTINUING ALONG THE SOUTH LINE OF THE CSX RAILROAD S44°06'15"E, 873.93 FEET TO A CONCRETE MONUMENT (FOUND);  
 THENCE, ALONG THE WEST LINE OF SAO MEREDITH HAMMOND (VOL. 327, PG. 305) S27°30'35"W, 1267.83 FEET TO THE PLACE OF BEGINNING.  
 CONTAINING 63.5 ACRES.

BEARINGS ARE BASED UPON THE NORTH RIGHT-OF-WAY LINE OF EASTERN AVENUE AS PER VOLUME 346, PAGE 34. THE FOREGOING DESCRIPTION WAS BASED UPON A SURVEY MADE DECEMBER 7, 1993 BY ERNEST L. PRITCHARD, OHIO REGISTERED PROFESSIONAL SURVEYOR #6837.

**ALCOA FORMER WEAVEVER FACILITY  
CHILLICOTHE, OHIO**

**DEED MAP**

PROJECT: 120122	DATE: MAY 2004
REV:	BY: MAW CHECKED: JCK
MFG, Inc. consulting scientists and engineers	



REFERENCE: USGS 7.5 MINUTE TOPOGRAPHIC QUAD-CHILLICOTHE, OHIO, 1975.





State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center  
122 S. Front Street  
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184

MAILING ADDRESS:

P.O. Box 1049  
Columbus, OH 43216-1049

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200400008803 OR      280 1735

May 24, 2004

Pete Swallow  
Alcoa Inc.  
201 Isabella Street  
Pittsburgh, PA 15212-5858

**Re: Use Restriction Agreement for Wearever Site, Chillicothe, Ross County, OH**

Dear Pete:

Enclosed is the original Use Restriction Agreement executed by Joseph Koncelik, the Assistant Director of the Ohio Environmental Protection Agency (Ohio EPA). The Director of Ohio EPA has a conflict of interest, and therefore, did not sign it. Please provide us with a copy of the Agreement once you have had it recorded with the Ross County Recorder so we can include that in our official records for the site.

Thank you for your cooperation in completing this part of the remedy. Call me at (614) 644-3037 if you have any questions.

Sincerely,

Catherine A. Stroup  
Senior Staff Attorney

Enclosure

cc: Kris Vanecko (w/o enc.)

200400008803  
HANK PAPPERT  
MFG INC  
800 VINIAL STREET, BLDG A  
PITTSBURG, PA 15212-1528

Bob Taft, Governor  
Jennette Bradley, Lieutenant Governor  
Christopher Jones, Director