

DECLARATION OF RESTRICTIONS

THIS DECLARATION is made as of April 8, 2004, by 500 Associates, Inc. (Declarant).

WHEREAS, Declarant is the present owner of real property located at 500 East Main Street, Jefferson County, Kentucky (the Property), more particularly described in Deed Book 5706, Page 859, of the Jefferson County Clerk's Office. (See Legal Description attached as Exhibit A.)

WHEREAS, the Property was formerly owned by Vermont American Corporation and was the location of a saw blade and cutting tool manufacturing facility. During this period of usage, incidental releases of hazardous substances (including total chromium, hexavalent chromium, lead, nickel soluble salts, trichloroethene (TCE) and tetrachloroethene) occurred at the Property and have impacted surficial soil. The release occurred on and impacted the area of the Property (the Impacted Area) more particularly described herein.

WHEREAS, Declarant has characterized the extent of the release and has taken all actions necessary to correct the effects of the release on the environment pursuant to KRS 224.01-400.

WHEREAS, Declarant has proposed a plan (the Plan) to correct the effects of the release, which includes controlling exposure to the hazardous substances by restricting access and use of the property.

WHEREAS, the Kentucky Natural Resources and Environmental Protection Cabinet (the Cabinet) has approved the Plan, dated February 7, 2003, and subsequent modifications to the plan identified in correspondence to the Cabinet dated March 28, 2003 and August 11, 2003 and the Declarant has taken actions required by the approved

Plan. At the time of the assessment activities, concentrations of 880 milligrams per kilogram (parts per million) of lead and 0.855 milligrams per kilogram of TCE were identified in the Impacted Area. These amounts are above *de minimus* risk levels for all exposure scenarios. Engineering controls have been installed over the Impacted Area that consist of a vapor barrier/concrete cap, approx. 6" in thickness and approx. 1150 sq. ft. in area in the basement level of the existing building; this barrier and cap is in the southernmost portion of the property, where prior sampling identified lead and TCE concentrations above *de minimus* levels of risk to human health and the environment. The location is outlined in Exhibit B, and construction details are described more fully in the Jackson Street Building Management Plan Implementation Report for the Former Vermont American Facility, dated October 17, 2003. Implementation of the plan, in addition to the restrictions contained within this Declaration of Restrictions, will reduce the risk to *de minimus* levels.

WHEREAS, further information concerning the release and the activities performed to correct the effects of the release may be obtained by contacting the Custodian of Records of the Division of Waste Management at 14 Reilly Road, Frankfort, Kentucky 40601. Records concerning this property may be found under Notification and Complaints System (NOTCOM) Number 34565.

NOW THEREFORE, pursuant to KRS 224.01-400 and the Plan, Declarant imposes the following restrictions:

- 1.) Definitions
 - A. "Residential use" means any use of the property related to a (i) residence or dwelling, including but not limited to a house, apartment, or condominium, or (ii) school, hospital, day care center, playground or outdoor recreational area.
 - B. "Owner" means the Declarant or any successor owner or owners.

- 2.) Restrictions Applicable to the Property. Declarant shall assure that the use, occupancy, and activity of and at the Property are restricted as follows:
- A. Use. No residential use of the Impacted Area shall be permitted.
 - B. Groundwater. Groundwater at the Property shall not be used for drinking or other domestic purposes.
 - C. Prohibited Actions. Except as necessary to protect human health, safety or the environment, no action shall be taken, allowed, suffered, or omitted on the Property if such action or omission is reasonable likely to:
 - i. Create a risk of migration of hazardous substances, pollutants or contaminants or a potential hazard to human health or the environment: or,
 - ii. Result in a disturbance of the structural integrity of any engineering or institutional controls designed or utilized at the Property to contain hazardous substances, pollutants or contaminants or limit human exposure to hazardous substances, pollutants or contaminants.
 - D. Prior to any construction activity or disturbance of any approved engineering or institutional controls on the Property, the Owner shall submit to the Cabinet a written rationale for the disturbance and detailed plans of the proposed construction for their review and written approval. No such construction activity or disturbance is permitted without this prior written approval from the Cabinet.
 - E. The Declarant shall enter into a legally binding easement which runs with the land with a subsequent purchaser of the property. The easement shall permit 500 Associates and its agents, employees, heirs, successors and assignees access to the Impacted Portion of the property to perform any obligations under the Plan and KRS 224.01-400, and the easement will be recorded in the Jefferson County Clerk's office.

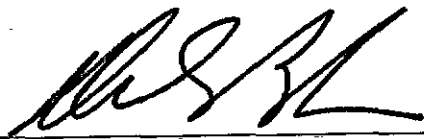
- 3.) Restrictions Run with Land
- A. Unless canceled, altered or amended under the provisions of paragraph 4 of this Declaration, these restrictions are to run with the land and shall be binding on Declarant, his successors, heirs and assigns, unless an instrument signed by the Owner and the Cabinet has been recorded, agreeing to change these restrictions in whole or in part.
- B. The Owner shall provide written notice to the Cabinet at least thirty (30) days prior to the transfer of all or any portion of the Impacted Area. The written notice shall be sent to: Manager, Superfund Branch, Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601.
- C. Except as provided in paragraph 4 of this Declaration, the Declarant hereby declares that the Property shall hereafter be held, transferred, sold, leased, conveyed and occupied subject to the restrictions set forth herein, each and all of which is and are for, and shall inure to the benefit of and pass with each and every part of the Property and shall apply to and bind the heirs, assigns and successors in the interest of the Declarant.
- 4.) Release of Restriction. These restrictions may not be canceled, altered or amended without the affirmative action of the Owner and the Cabinet, in an instrument executed by both parties agreeing to change these restrictions in whole or in part. The Cabinet shall not approve any change in use or restrictions on the Property that would fail to protect human health, safety, and the environment in accordance with KRS 224.01-400.
- 5.) No Waiver. Failure of any owner or the Cabinet to demand or insist upon observance of any of these restrictions, or to proceed for restraint of

violations, shall not be deemed a waiver of the violation, or the right to seek enforcement of these restrictions.

6.) Enforcement. Enforcement of these restrictions shall be by proceeding of law or in equity, brought by any Owner of the Property or by the Cabinet, against any party violating or attempting to violate any covenant or restriction, either to restrain violation, to direct restoration or to recover damages.

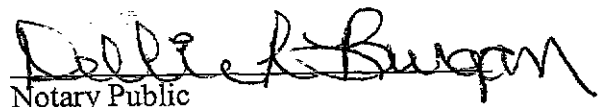
7.) Effect of Invalidation. Invalidation of any one of these restrictions, conditions or covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has executed this Declaration of Restrictions as of the date set forth above.



COMMONWEALTH OF KENTUCKY
COUNTY OF JEFFERSON

Subscribed to before me by _____, this the 9th day
of April, 2004.


Notary Public

My Commission Expires:

Notary Public, State at Large, KY
My commission expires May 9, 2004

This document prepared by:

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STATE OF KENTUCKY

COUNTY OF JEFFERSON

I, _____, Clerk of the Jefferson County Court,
do certify that the foregoing notice was lodged in my office for record, and that I have
recorded it, and the certificate thereon, this _____ day of _____, 2004.

Jefferson County Clerk

LEGAL DESCRIPTION

Being a tract of land lying on the south side of Main Street, on the east side of Jackson Street in downtown City of Louisville, Jefferson County, Kentucky, and being more particularly described as follows:

Beginning at the intersection of the south line of Main Street with the east line of Jackson Street; thence with said south line South 76 degrees 50 minutes East 52.32 feet to its intersection with the west line of the tract conveyed to American Elevator and Machine Company by deed of record in Deed Book 2872, Page 11 in the office of the Clerk of Jefferson County, Kentucky; thence with said west line and a line parallel with the east line of Jackson Street aforesaid South 13 degrees 10 minutes West 57.82 feet to a point in same; thence continuing with a line common to said tract and with a line parallel with the south line of Main Street aforesaid South 76 degrees 50 minutes East 47.19 feet and with a line parallel with the east line of Jackson Street aforesaid, South 13 degrees 10 minutes West 146.18 feet to its intersection with the north line of an alley; thence with said north line North 76 degrees 50 minutes West 99.51 feet to its intersection with the east line of Jackson Street aforesaid; thence with said east line North 13 degrees 10 minutes East 204.00 feet to the point of beginning, containing 0.40 acre, more or less.

EXHIBIT A

Document No.: DN2004060121
Lodged By: GREENBAUM
Recorded On: 04/12/2004 02:56:12
Total Fees: 22.00
Transfer Tax: .00
County Clerk: BOBBIE HOLSCLAW-JEFF CO KY
Deputy Clerk: EVENAY

EAST MAIN ST.

JACKSON ST.
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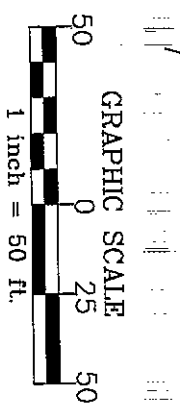
JACKSON ST.
BUILDING

AREA OF CONCRETE CAP

ALLEY



I-65



500 ASSOCIATES
500 EAST MAIN STREET
LOUISVILLE, KENTUCKY



Tetra Tech EM Inc.
1815 Brownsboro Road, Suite 200
Louisville, Kentucky 40206

AREA OF CONCRETE CAP
AND VAPOR BARRIER INSTALLATION

DEED RESTRICTION FIG. 1