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Doc#: 0927834095 Fee: \$54.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 10/05/2009 03:21 PM Pg: 1 of 10

This instrument was prepared by:

Name: Eileen L. Furey

Address: United States Environmental Protection Agency
77 W. Jackson Blvd. C-14J
Chicago, IL 60604

And by:

Name: Rex A. Palmer

Address: Mayer Brown LLP
71 S. Wacker Drive # 3200
Chicago, IL 60606-4637

Please return this instrument to:

Name: Rex A. Palmer

Address: Mayer Brown LLP
71 S. Wacker Drive # 3200
Chicago, IL 60606-4637

ENVIRONMENTAL COVENANT

1. This Environmental Covenant is made as of this 1st day of September, 2009, by and among Adjustable Clamp Company (Grantor) and the Holders/Grantees further identified in paragraph 3 below pursuant to the Uniform Environmental Covenants Act, 765 ILCS Ch. 122 (UECA) for the purpose of subjecting the Property to the activity and use limitations described herein.

2. Property and Grantor.

A. **Property:** The real property subject to this Environmental Covenant (the "Property") is located in the City of Chicago, Cook County, Illinois, and is legally described in Appendix A. The property identification numbers for this Property are:

17-08-130-019

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17-08-130-020
 17-08-130-021
 17-08-130-022
 17-08-130-023
 17-08-130-024
 17-08-130-025
 17-08-130-026

B. Grantor: Adjustable Clamp Company is the current fee owner of the Property and is the "Grantor" of this Environmental Covenant. The mailing address of the Grantor is 404 N. Armour Street, Chicago, Illinois 60642-6397.

3. Holders (and Grantees for purposes of indexing).

A. Adjustable Clamp Company is a Holder (and Grantee for purposes of indexing) of this Environmental Covenant pursuant to UECA. The mailing address of Adjustable Clamp Company is 404 N. Armour Street, Chicago, Illinois 60642-6397. Regardless of any future transfer of the Property, Adjustable Clamp Company shall remain a Holder of this Environmental Covenant.

B. 1522 W. Hubbard LLC is a Holder (and Grantee for purposes of indexing) of this Environmental Covenant pursuant to UECA. The mailing address of 1522 W. Hubbard LLC is c/o Adjustable Clamp Company, 404 N. Armour Street, Chicago, Illinois 60642-6397.

4. **Agencies.** U.S. EPA is an "Agency" within the meaning of Section 2(2) of UECA. U.S. EPA approved the environmental response project described in paragraph 5 below and may enforce this Environmental Covenant pursuant to Section 11 of UECA.

5. Environmental Response Project and Administrative Record.

A. This Environmental Covenant arises under an environmental response project as defined in Section 2(5) of UECA.

B. The Property was formerly identified by the United States Environmental Protection Agency ("U.S. EPA") as the "Auto Deposition Superfund Site," which between June, 1995 and January, 1996 underwent environmental response actions pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 *et seq.* ("CERCLA"). U.S. EPA took additional response actions at the Property after a fire occurred in October, 1996. Subsequent to the response actions, Greenfield Partners, Ltd. ("Greenfield Partners") sought to purchase the Property, perform additional response actions, and develop the Property for subsequent use by Adjustable Clamp Company. To resolve its potential liability under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), Greenfield Partners entered into an Agreement and Covenant not to Sue with U.S. EPA (the "Prospective Purchaser's Agreement" or "PPA"). A copy of the Prospective Purchaser's Agreement, which became effective July 17, 1997, is on file with the Cook County, Illinois

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Recorder of Deeds as Document No. 98202114. Pursuant to paragraph 14 of the PPA, Greenfield Partners agreed to:

cause a deed restriction to be placed on the Site Property limiting the use of the Site Property to commercial, industrial, office, and retail purposes; subject to the possible future removal of such deed restrictions as set forth in Paragraph 37 of this Agreement.

This Environmental Covenant is the deed restriction required by paragraph 14 of the PPA.

C. Grantor wishes to cooperate fully with U.S. EPA in the maintenance of all response actions at the Property.

D. The Administrative Record for the environmental response project at the Auto Deposition Site can be obtained at or through the U.S. EPA Superfund Record Center, 7th Floor, 77 West Jackson Blvd, Chicago, Illinois 60604.

6. **Grant of Covenant. Covenant Runs With The Land.** Grantor creates this Environmental Covenant pursuant to UECA so that the Activity and Use Limitations and associated terms and conditions set forth herein shall "run with the land" in accordance with Section 5(a) of UECA, and shall be binding on Grantor, its heirs, successors and assigns, and on all present and subsequent owners, occupants, lessees or other person acquiring an interest in the Property.

7. **Activity and Use Limitations.** The following Activity and Use Limitations apply to the use of the Property:

All uses of the Property are prohibited except those compatible with commercial, industrial, office and retail purposes.

8. **Reserved Rights of Grantor:** Grantor hereby reserves unto itself, its successors, and assigns, including heirs, lessees and occupants, all rights and privileges in and to the use of the Property which are not incompatible with the activity and use limitations identified herein.

9. **Future Conveyances, Notice and Reservation:**

A. Grantor agrees to include in any future instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice and reservation which is in substantially the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AND GRANTOR SPECIFICALLY RESERVES THE ENVIRONMENTAL COVENANT EXECUTED UNDER THE UNIFORM ENVIRONMENTAL COVENANTS ACT (UECA) AT 765 ILCS CH. 122 RECORDED IN THE OFFICIAL PROPERTY RECORDS OF COOK COUNTY, ILLINOIS ON _____ AS DOCUMENT NO. _____, IN FAVOR OF

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AND ENFORCEABLE BY GRANTOR AS A UECA HOLDER, BY 1522 W. HUBBARD LLC AS A UECA HOLDER, AND BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY AS A UECA AGENCY.

B. Grantor agrees to provide written notice to U.S. EPA within 30 days after any conveyance of fee title to the Property or any portion of the Property. The notice shall identify the name and contact information of the new Owner, and the portion of the Property conveyed to that Owner.

10. Enforcement and Compliance.

A. Civil Action for Injunctive or Equitable Relief. This Environmental Covenant may be enforced through a civil action for injunctive or other equitable relief for any violation of any term or condition of this Environmental Covenant, including violation of the Activity and Use Limitations under paragraph 7. Such an action may be brought individually or jointly by the Holders of the Environmental Covenant and by U.S. EPA.

B. Other Authorities Not Affected. No Waiver of Enforcement. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. Nothing in this Environmental Covenant affects U.S. EPA's authority to take or require performance of response actions to address releases or threatened releases of hazardous substances or pollutants or contaminants at or from the Property, or to enforce a consent order, consent decree or other settlement agreement entered into by U.S. EPA. Enforcement of the terms of this instrument shall be at the discretion of the Holders and U.S. EPA, and any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Holders, U.S. EPA or Illinois EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Holders or U.S. EPA.

C. Former Owners And Interest Holders Subject to Enforcement. An Owner, or other person that holds any right, title or interest in or to the Property remains subject to enforcement with respect to any violation of this Environmental Covenant by the Owner or other person which occurred during the time when the Owner or other person was bound by this Environmental Covenant regardless of whether the Owner or other person has subsequently conveyed the fee title, or other right, title or interest, to another person.

11. Waiver of Certain Defenses: This Environmental Covenant may not be extinguished, limited, or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, or acquiescence, or similar doctrine as set forth in Section 9 of UECA.

12. Representations and Warranties: Grantor hereby represents to the U.S. EPA and any other signatories to this Environmental Covenant that, at the time of execution of this Environmental Covenant, the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except those noted on Appendix B attached hereto.

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13. Amendment or Termination. This Environmental Covenant may be amended or terminated by written consent of the current owner of the fee simple of the Property and U.S. EPA (or such successor governmental agency or agencies that may from time to time succeed to U.S. EPA's jurisdiction with respect to cleanup at the Property), and only under the conditions provided in paragraphs 14 and 37 of the Prospective Purchaser's Agreement (*see* Cook County, Illinois Recorder of Deeds Document No. 98202114). If Grantor no longer owns the Property at the time of proposed amendment or termination, Grantor waives the right to consent to an amendment or termination of the Environmental Covenant.

14. Notices: Any notice, demand, request, consent, approval, or communication that any party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:
Adjustable Clamp Company
404 N. Armour Street
Chicago, IL 60642-6397

To Holder:
1522 W. Hubbard LLC
c/o Adjustable Clamp Company
404 N. Armour Street
Chicago, IL 60642-6397
Attn: Manager

To U.S. EPA:
U.S. Environmental Protection Agency
Superfund Division Director
77 West Jackson Boulevard
Chicago, IL 60604

15. Recording and Notice of Environmental Covenant, Amendments and Termination.

A. The Original Environmental Covenant. An Environmental Covenant must be recorded in the Office of the Recorder or Registrar of Titles of the county in which the property that is the subject of the Environmental Covenant is located. Within 30 days after U.S. EPA signs and delivers to Grantor this Environmental Covenant, the Grantor shall record this Environmental Covenant in the office of the County Recorder or Registrar of Titles for the County in which the Property is located.

B. Recording of Termination or Amendments. Within 30 days after U.S. EPA signs and delivers to Owner any termination or amendment of this Environmental Covenant as provided in paragraph 13, above, the Owner shall record the amendment or notice of termination of this Environmental Covenant in the office of the County Recorder or Registrar of Titles in which the Property is located.

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C. Providing Notice of Covenant, Termination, or Amendment. Within 60 days after recording this Environmental Covenant, the Grantor shall transmit a copy of the Environmental Covenant in recorded form to:

- i. the U.S. EPA;
- ii. each person in possession of the Property.

Within 60 days after recording a termination or amendment of this Environmental Covenant, the Owner shall transmit a copy of the document in recorded form to the persons listed in items i to ii above.

16. General Provisions:

A. Controlling law: This Environmental Covenant shall be construed according to and governed by the laws of the State of Illinois and the United States of America.

B. Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of the environmental response project and its authorizing legislation. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

D. Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

17. Effective Date. This Environmental Covenant is effective as of the date first above written.

18. List of Appendices:

Appendix A – Legal Description of the Property

Appendix B – List of Recorded Encumbrances

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THE UNDERSIGNED REPRESENTATIVE OF THE GRANTOR REPRESENTS AND CERTIFIES THAT HE/SHE IS AUTHORIZED TO EXECUTE THIS ENVIRONMENTAL COVENANT.

IN WITNESS WHEREOF, THIS INSTRUMENT HAS BEEN EXECUTED ON THE DATES INDICATED BELOW:

FOR THE GRANTOR:

ADJUSTABLE CLAMP COMPANY

By *Douglas M. Holman* (signature)

DOUGLAS M. HOLMAN (print)

[Title] PRESIDENT (print)

State of Illinois)
) SS.

County of COOK)

On September 18, 2009, this instrument was acknowledged before me by, Douglas M. Holman as President of Adjustable Clamp Company, on behalf of Adjustable Clamp Company, an Illinois corporation.

Alice Orme (signature)
Notary Public
My Commissioner Expires 11/24/11



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FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

On behalf of the Administrator of the
United States Environmental Protection Agency

By: Richard C Karl
Richard C. Karl, Director
Superfund Division
U.S. Environmental Protection Agency, Region 5

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The foregoing instrument was acknowledged before me this 28th day of SEPTEMBER, 2009 by Richard C. Karl, Director, Superfund Division, Region 5 of the United States Environmental Protection Agency.

John V Fagiolo (signature)
Notary Public
My Commission Expires 3/13/10



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Appendix A – Legal Description of the Property

Lots 22 to 32 inclusive in Waller's Subdivision of Block 16 in Bickerdike's addition to Chicago in the west $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of Section 8, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Property of Cook County Clerk's Office

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Appendix B – List of Recorded Encumbrances

1. Terms and conditions of Quitclaim Deed from the City of Chicago to Adjustable Clamp Company dated March 11, 1998 and recorded March 11, 1998 as Document 98201979.
2. Agreement and Covenant Not to Sue between Greenfield Partners, Ltd., or its assignees or successor in interest, and the United States Environmental Protection Agency. A certified copy of this Agreement is on file with the Cook County Recorder's Office, State of Illinois recorded March 13, 1998 as Document 98202114.

Assignment of Agreement and Covenant Not to Sue from Greenfield Partners, Ltd. to Adjustable Clamp Company dated July 17, 1997 and recorded March 13, 1998 as Document 98202115.