

Rensselaer County  
Frank J Merola  
County Clerk  
Troy, New York 12180

60 2017 00509221

Volm-8082 Pg-86

Instrument Number: 2017- 00509221

As  
Agreement

Recorded On: January 31, 2017

Parties: EASTMAN KODAK CO

To

STERLING DRUG SITE 3

Billable Pages: 7

Recorded By: SNEERINGER PROVOST & REDGRAVE

Num Of Pages: 8

Comment: DELCLARATION

**\*\* Examined and Charged as Follows: \*\***

Deed Agreement	75.00	Coversheet	5.00
Recording Charge:	80.00		

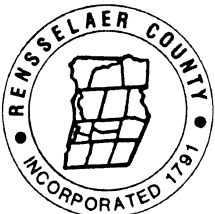
**\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\***

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Rensselaer County, NY

**File Information:**

**Record and Return To:**

Document Number:	2017- 00509221	SMPR
Receipt Number:	1057690	
Recorded Date/Time:	January 31, 2017 03:30:11P	NY
Book-Vol/Pg:	Bk-R VI-8082 Pg-86	
Cashier / Station:	R H / Cashier Station 3	



Frank J. Merola  
Rensselaer County Clerk

## DECLARATION of COVENANTS and RESTRICTIONS

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**THIS COVENANT** is made the 2nd day of November, 2016, by Eastman Kodak Company, a corporation organized and existing under the laws of the State of New Jersey and having an office for the transaction of business at 343 State Street, Rochester, New York 14650-1265.

WHEREAS, Sterling Drug Site 3 (Site #442011) (the "Site"), including Operable Unit 2 addressing off-Site contamination, is the subject of an Order on Consent and Administrative Settlement, Index #A4-0624-08-09 ("Order"), executed by NPEC Inc. as part of the New York State Department of Environmental Conservation's (the "Department's") Inactive Hazardous Waste Disposal Site Remedial Program.

WHEREAS, an off-Site parcel of real property located at the address of Riverside Avenue Extension (Tax Map #165.-1-25.1) in the Town of East Greenbush, County of Rensselaer, State of New York, is the same as (or part of) that property conveyed to Eastman Kodak Company by NPEC Inc. by deed dated April 9, 2014 and recorded on April 29, 2014 in the Rensselaer County Clerk's Office in Liber 7136 of Deeds, Page 210, and being more particularly described in Schedule "A", attached to this declaration and made a part hereof, and hereinafter referred to as "the Property."

WHEREAS, the Department approved a remedy to eliminate or mitigate all significant threats to the environment presented by the contamination disposed at the Site (the "Remedy") and such Remedy requires that the Property be subject to restrictive covenants.

WHEREAS, the Order committed NPEC Inc. to long-term obligations associated with the Property, and Eastman Kodak Company has assumed NPEC's obligations pursuant to the Order.

NOW, THEREFORE, Eastman Kodak Company, for itself and its successors and/or assigns, covenants that:

First, the Property subject to this Declaration of Covenants and Restrictions is as shown and identified as Tax Map Parcel # 165.-1-25.1 on a map attached to this declaration as Schedule "B" and made a part hereof.

Second, unless prior written approval by the Department or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as "the Relevant Agency," is first obtained, where contamination remains at the Property subject to the provisions of the Site Management Plan ("SMP"), there shall be no construction, use, or occupancy of the Property that results in the disturbance or excavation of the Property which results in unacceptable human exposure to contaminated groundwater. The SMP may be obtained from the New York State

*RRR*  
*Debra Williams*  
*14650 Bausch & Lomb Plac*  
*Rochester, NY 14604*

Department of Environmental Conservation, Division of Environmental Remediation,  
Site Control Section, 625 Broadway, Albany, NY 12233.

Third, the owner of the Property shall not disturb, remove, or otherwise interfere with the installation, use, operation, and maintenance of any monitoring locations required for the Remedy, which are described in the SMP, unless in each instance the owner first obtains a written waiver of such prohibition from Eastman Kodak Company, if it continues to exist, and the Department or Relevant Agency.

Fourth, the use of groundwater underlying the Property is prohibited without necessary water quality treatment as determined by the New York State Department of Health or the Rensselaer County Department of Health to render it safe for use as drinking water, process water, including irrigation, or other purposes, and the user must first notify and obtain written approval to do so from the Department or Relevant Agency.

Fifth, prior to the construction of any enclosed structure at the Property, the owner of the Property shall either (i) conduct a vapor intrusion evaluation to determine whether mitigation measures are necessary to eliminate potential exposure to vapors in the structure, or (ii) install a vapor intrusion mitigation system, including a vapor barrier and passive sub-slab depressurization system that is capable of being converted to an active system, as an element of the structure's foundation. Prior to undertaking the above activities, notification must be made and a work plan provided for approval to the NYSDOH and the Department or Relevant Agency, which approval shall not be unreasonably withheld.

Sixth, the owner of the Property shall provide information to Eastman Kodak Company to assist it in carrying out its obligation to provide periodic certifications that are prepared and submitted by a professional engineer or environmental professional acceptable to the Department or Relevant Agency and will certify that the institutional and engineering controls put in place are unchanged from the previous certification, comply with the SMP, and have not been impaired.

Seventh, the owner of the Property shall provide access, with reasonable prior notice, to agents, employees, or other representatives of the State of New York to assure compliance with these covenants and restrictions and to Eastman Kodak Company to assist it in carrying out its obligation to provide periodic certifications to the Department or Relevant Agency.

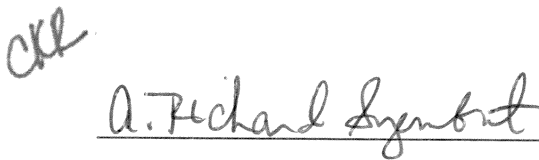
Eighth, the owner of the Property shall provide Eastman Kodak Company and the Department or Relevant Agency sixty days prior notice of any proposed: transfer of an interest in the Property; erection of a structure on or paving of the Property; creation of a park or recreational facility; or any activity that is likely to disrupt or expose contamination or increase direct human or environmental exposure or will or may tend to prevent or significantly interfere with the Remedy.

Ninth, the owner of the Property shall continue in full force and effect any institutional controls required for the Remedy and maintain such controls, unless the owner first obtains permission to discontinue such controls from Eastman Kodak Company, if it continues to exist, and the Department or Relevant Agency, in compliance with the approved SMP, which is incorporated and made enforceable hereto, subject to modifications as approved by Eastman Kodak Company, if it continues to exist, and the Department or Relevant Agency.

Tenth, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property, and shall provide that the owner and its successors and assigns consent to enforcement by the Department or Relevant Agency of the prohibitions and restrictions that the Order requires to be recorded, and hereby covenant not to contest the authority of the Department or Relevant Agency to seek enforcement.

Eleventh, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Department or Relevant Agency has consented to the termination of such covenants and restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

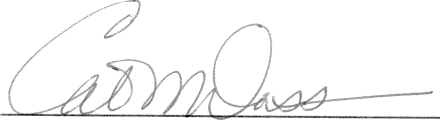
IN WITNESS WHEREOF, the undersigned has executed this instrument the day written below.

By:   
Print Name: A. Richard Szembrot  
Title: Director Health, Safety and Environment  
Date: November 2, 2016

Grantor's Acknowledgement

STATE OF NEW YORK )  
COUNTY OF MONROE )

On the 2nd day of November, in the year 2016, before me, the undersigned personally appeared A. Richard Szembrot, personally known to me or proved to me on the basis of satisfactory evidence to the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public, State of New York

CATHERINE M. DASSON  
NOTARY PUBLIC in the State of New York  
MONROE COUNTY  
My Commission Expires 10/31/17

## SCHEDULE "A"

### Tax Map #165.-1-25.1

**ALL THAT PARCEL OF LAND** situate in the Town of East Greenbush, County of Rensselaer, State of New York, being all of Parcel C as the same is shown on a map entitled "MINOR THREE LOT SUBDIVISION PROPERTY OF PENN CENTRAL TRANSPORTATION COMPANY" dated December 30, 1987, made by Edward W. Boutelle and Son, Civil Engineers and surveyors and filed in the Office of the Rensselaer County Clerk March 3, 1988 as Map 41 in Drawer 1988; said parcel of land being more particularly bounded and described according to a plan of survey entitled "MAP OF PROPERTY TO BE CONVEYED TO STERLING DRUG, INC." made by Lindsay N. Boutelle, Licensed Land Surveyor No. 23987, dated July 10, 1989 as follows:

BEGINNING at a point in the easterly line of Riverside Avenue Extension at the northwesterly corner of Parcel B shown on the aforesaid December 30, 1987 map and conveyed to Sterling Drug, Inc. by deed dated February 8, 1988 and recorded in the Office of the Rensselaer County Clerk in Book 1487, Page 173; thence running from said point of beginning North 12° 56' 13" West along the easterly line of said Riverside Avenue Extension (985.99) feet to a southwesterly corner of lands now or formerly owned by Louis and Bevier Hasbrouck; thence North 89° 02' 47" East along lands of said Hasbrouck (547.16) feet to lands of the State of New York now or formerly occupied by the Papscanee Creek; thence along lands of said State of New York south 06° 53' 23" East (932.28) feet and South 24° 53' 23" East (45.85) feet to the northeasterly Corner of the aforesaid lands conveyed to Sterling Drug, Inc.; thence along lands of said Sterling Drug, Inc. North 89° 54' 23" West (434.60) feet and South 80° 57' 37" West (23.16) feet to the point of beginning.

**SCHEDULE "B"**

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*[Handwritten signature]*

