

DECLARATION of COVENANTS and RESTRICTIONS

THIS COVENANT is made the 8 day of December 2008, by S.C.W.P., LLC, a domestic limited liability company with offices located at 3877 Luker Road, Cortland, New York 13045 ("SCWP").

WHEREAS, SCWP is the owner in fee simple of a certain parcel of real property located on Lime Hollow Road in the Town of Cortlandville, County of Cortland consisting of approximately 1.550 acres and having a Cortland County Tax Map Parcel No. 95.00-10-02.00, being more particularly depicted as Lot 3-R2 and specifically described in Appendix "A" attached hereto (the "Property");

WHEREAS, The New York State Department of Environmental Conservation ("Department") has requested that certain restrictions be placed on the Property;

NOW, THEREFORE, SCWP, for itself and its successors and/or assigns, covenants that:

First, the Owner of the Property shall prohibit the Property from ever being used for purposes other than for industrial or commercial uses without the express written waiver of such prohibition 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 collectively referred to as the "Relevant Agency."

Second, the Owner of the Property shall prohibit the use of the groundwater underlying the Site without treatment rendering it safe for drinking water, commercial or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Relevant Agency.

Third, the Owner of the Property shall require that any structure built on the Property shall include an active sub-slab depressurization system to be installed by a certified radon system installation contractor in accordance with New York State Department of Health 2006 Soil Vapor Intrusion Guidance. These systems will be considered Engineering Controls which require annual certification in accordance with 6 NYCRR Part 375-1.8(h)(3)(i), (ii).

Fourth, the Owner of the Property shall require that any structures or development activity on the Property shall not interfere with or damage any monitoring wells or any other devices installed on the Property as part of any Department approved remedial program.

Fifth, the Owner of the Property consents to entry upon the Property by any duly designated officer or employee of the Department or any Relevant Agency and by any agent, consultant, contractor, or other person so authorized by the Commissioner and its contractors to assure compliance with the above restrictions and to implement any remedial program deemed necessary by the Department.

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ELIZABETH LARKIN, CO. CLERK

Sixth, the Owner of the Property on behalf of itself and its successors and assigns, hereby consents to the enforcement by the Relevant Agency of these recorded restrictions, and hereby covenants not to contest such enforcement.

Seventh, 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 of the Property and its successors and assigns consent to enforcement by the Relevant Agency of the above prohibitions and restrictions and hereby covenant not to contest the authority of the Relevant Agency to seek their enforcement.

Eighth, the Owner of the Property shall comply with Environmental Conservation Law §27-1405 concerning tenant notification of indoor air contamination.

Ninth, any deed of conveyance of the Property shall recite that said conveyance is subject to this Declaration of Covenants and Restrictions.

Tenth, the Owner of the Property shall annually submit in accordance with 6 NYCRR Part 375-1.8(h)(3)(i), (ii), unless an alternate certification period is approved in writing by the Relevant Agency, a written certification that the above restrictions have been complied with and remain in place by a professional engineer, or such other qualified environmental professional as the Relevant Agency may find acceptable.

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

December 8, 2008

S.C.W.P., LLC

By: 

Karl D. Ochs, Sole Member

STATE OF NEW YORK)
COUNTY OF CORTLAND) ss.:

On the 8 day of December, 2008 before me, the undersigned, a notary public in and for said State, personally appeared Karl D. Ochs, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Sole Member of S.C.W.P., LLC, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

ROBERT M. SHAFER
Notary Public, State of New York
No. 4992979, Reg. in Onondaga County
My Commission Expires March 9, 2010

Appendix "A"

ALL THAT TRACT OR PARCEL OF LAND located in the Town of Cortlandville, County of Cortland and State of New York, being a part of Lot 83 in said Town, being more particularly described as follows: LOT No. 3-R2, being 1.550 acres, Tax Map Parcel No. 95.00-10-02.000, as shown on a subdivision map entitled "Lands of S.C.W.P., LLC, NYS Route 13 South – Town of Cortlandville – Cortland County – New York State, Proposed Subdivision (Lots #3-7), prepared by R. James Stockwin, PLS, dated May, 2001 and revised January 22, 2003, September 18, 2003 and September 29, 2003, and filed in the Cortland County Clerk's Office on November 17, 2003 as Map No. 1018155-001, at Map Cabinet No. 3, Slide 595.

Being a portion of the premises conveyed by Smith Corona Corporation to S.C.W.P., LLC by Warranty Deed dated April 1, 1999 and recorded April 2, 1999 in the Cortland County Clerk's Office as Instrument No. 1999-1673.