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SANTA CLARA COUNTY RECORDER

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REC FEE	9
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OFFICIAL RECORDS  
SANTA CLARA COUNTY  
LAURIE KANE  
RECORDER

Steven R. Ritchie  
Executive Officer  
California Regional Water Quality Control Board  
2101 Webster Street, Suite 500  
Oakland, California 94612

**DECLARATION AND COVENANT  
TO RESTRICT USE OF PROPERTY**

THIS COVENANT AND AGREEMENT ("Covenant") is made this 25<sup>th</sup> day of February 1992, by Arthur D. Nearon ("Covenantor"), who is the record owner of certain real property situated in the City of Mountain View, County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference ("the Property") and by the California Regional Water Quality Control Board ("the RWQCB"), with reference to the following facts:

A. The upper aquifer shallow groundwater underneath portions of the Property contains substances which would be hazardous to human health if such groundwater were ingested, absorbed through the skin or inhaled. The potential sources of that contamination investigated were as follows: the wet floor within the building at 1911/1921/1931 Plymouth Street, the wastewater sump located immediately behind the building at 1911/1921/1931 Plymouth Street, the industrial sewer line connecting the wastewater sump to the City of Mountain View sanitary sewer, the drummed chemical staging area located immediately behind the 1911/1921/1931 Plymouth Street building, the warehouse located in the eastern half of the 1905 Plymouth Street building and the flammable materials storage area located behind the 1905 Plymouth Street building. It was determined that the two source areas are the wet floor and the sump area. The Site Clean Up Requirements for the Property are set out in Final Order Number 91-081 issued by the California Regional Water Quality Control, San Francisco Bay Region.

B. Remedial action has been undertaken to extract and treat the contaminated groundwater until drinking water quality is achieved and to ensure that ingestion, absorption through the skin, and inhalation of such groundwater is prevented. Seven extraction wells have been installed and are operational. The extracted groundwater is discharged to the sanitary sewer. The Final Cleanup Plan contained in RWQCB Final Order Number 91-081 provides for the continued groundwater extraction from these seven extraction wells until drinking water quality is achieved. The Final Cleanup Plan also requires that a deed restriction be recorded, prohibiting use of on-site groundwater for drinking until final cleanup standards are achieved.

C. Covenantor desires and intends that in order to protect the present and future public health and safety, the Property shall be used in such a manner as to avoid potential harm

to persons which may result from the ingestion, absorption through the skin, or inhalation of contaminated groundwater.

## ARTICLE I

### GENERAL PROVISIONS

1.01 Provisions to Run With the Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions, (collectively referred to as "the Restrictions"), upon and subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Property, and shall apply to and bind the respective successors in interest thereof. Each and all of the Restrictions are imposed upon the entire Property unless expressly stated as applicable to a specific portion of the Property. Each and all of the Restrictions are enforceable by the RWQCB.

1.02 Concurrence of Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of future Owners and Occupants and that their interest in the Property shall be subject to the Restrictions contained herein.

1.03 Incorporation Into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated by reference in each and every deed and lease of any portion of the Property.

## ARTICLE II

### DEFINITIONS

2.01 RWQCB. "RWQCB" shall mean the California Regional Water Quality Control Board and shall include its successor agencies, if any.

2.02 Improvements. "Improvements" shall mean all buildings, roads, driveways, regradings, and paved parking areas, constructed or placed upon any portion of the Property.

2.03 Occupants. "Occupants" shall mean those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to occupy any portion of the Property.

2.04 Owner. "Owner" shall mean the Covenantor or its successors in interest, including heirs, and assigns, who hold title to all or any portion of the Property.

### ARTICLE III

#### DEVELOPMENT, USE, AND CONVEYANCE OF THE PROPERTY

3.01 Restrictions on Use. Covenantor promises to prohibit the use of upper aquifer shallow groundwater underneath the Property for drinking water purposes.

3.02 Conveyance of Property. The Owner or Owners shall provide thirty (30) days advance notice to the RWQCB of any sale or other conveyance of the Property, or any interest therein, to a third person, provided, however, that such notice shall not be required in connection with the lease of all or any portion of the Property. The RWQCB shall not, by reason of the Covenant, have authority to approve, disapprove, or otherwise affect any sale, lease, or other conveyance of the Property except as otherwise provided by law, by administrative order or in this Covenant.

3.03 Enforcement. Failure of the Owner to comply with any of the requirements, as set forth in paragraph 3.01 shall be grounds for the RWQCB, by reason of the Covenant, to require that the Owner modify or remove any Improvements constructed in violation of that paragraph, if any. Violation of the Covenant shall be grounds for the RWQCB to file civil and criminal actions against the Owner as provided by law.

3.04 Notice in Agreement. All Owners and Occupants shall execute a written instrument which shall accompany all purchase, lease, sublease, or rental agreements relating to the Property. The instrument shall contain the following statement:

"The upper aquifer shallow groundwater underneath portions of the Property contains substances which would be hazardous to human health if such groundwater were ingested, absorbed through the skin or inhaled. Such condition renders the land and the owner, lessee, or other possessor of the land subject to requirements, restrictions, provisions, and liabilities contained in Section 13304 of the Water Code and in that certain Declaration and Covenant to Restrict Use of Property recorded against the Property. This statement is not a declaration that a hazard exists."

### ARTICLE IV

#### VARIANCE AND TERMINATION

4.01 Variance. Any Owner or, with the Owner's consent, any Occupant of the Property or any portion thereof may apply to the RWQCB for a written variance from the provisions of this Covenant. Such application shall be made in accordance with Section 25233 of the Health and Safety Code.

4.02 Termination. Any Owner or, with the Owner's consent, any Occupant of the Property or a portion thereof may apply to the RWQCB for a termination of the Restrictions as

they apply to all or any portion of the Property. Such application shall be made in accordance with Section 25234 of the Health and Safety Code.

4.03 Term. This Covenant shall continue in effect until such time as it is terminated in accordance with paragraph 4.02 above.

## ARTICLE V

### MISCELLANEOUS

5.01 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property or any portion thereof to the general public or for any purposes whatsoever.

5.02 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (i) when delivered, if personally delivered to the person being served or to any officer of a corporate party being served or official of a government agency being served, or (ii) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested to the following parties:

To: Covenantor  
Arthur D. Nearon/  
ADN Corporation  
450 San Antonio Road  
Palo Alto, California 94306

To: Jeannine M. Davis  
Vice President, General Counsel  
and Secretary  
CTS Corporation  
905 West Boulevard North  
Elkhart, IN 46514

To: RWQCB  
Steven R. Ritchie  
Executive Officer  
California Regional Water Quality Control Board  
2101 Webster Street, Suite 500  
Oakland, California 94612

5.03 Partial Invalidity. If any portion of the Restrictions set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.04 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of this Covenant.

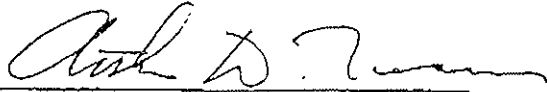
5.05 Recordation. This instrument shall be executed by the Covenantor and by the

Executive Officer of the California Regional Water Quality Control Board. This instrument shall be recorded by the Covenantor in the Official Records of the County of Santa Clara within ten (10) days of the date of execution.

5.06 References. All references to Code provisions include successor provisions.

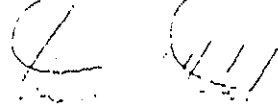
IN WITNESS WHEREOF, the parties executed this Covenant as of the date set forth above.

Covenantor



Arthur D. Nearon

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

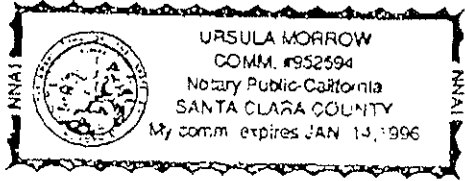
By: 

Steven R. Ritchie  
Its Executive Officer

STATE OF CALIFORNIA )  
 )ss.  
COUNTY OF )

On this 7<sup>th</sup> day of March 1992, before me, the undersigned notary public, personally appeared Arthur D. Nearon, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signatures on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

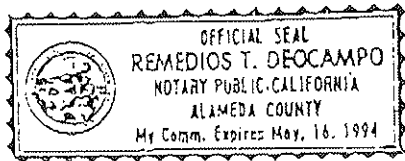


Ursula Morrow  
Notary Public

STATE OF CALIFORNIA )  
 )ss.  
COUNTY OF ALAMEDA )

On this 25<sup>th</sup> day of FEBRUARY 1992, before me, the undersigned notary public, personally appeared Steven R. Ritchie, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signatures on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Remedios T. Deocampo  
Notary Public

**EXHIBIT "A"****Legal Description**

All that certain real property situate in the City of Mountain View, County of Santa Clara, State of California, described as follows:

Lot 64, Map of Sierra Vista Addition No. 3, as shown on a Map recorded In Book W, page 40 of Maps, Records of Santa Clara County, California.

EXCEPTING THEREFROM that portion thereof lying within the bounds of Parcel A as shown on that certain amended Parcel Map recorded August 26, 1970 in Book 272, page 35 of Maps, Records of Santa Clara County, California, and being more particularly described as follows:

Beginning at the corner common to lots 63, 64, 67 and 68, as shown on the map of said tract; thence from said point of beginning, along the dividing line between said lots 63 and 64, North 6° 37' 00" West 233.61 feet to the southerly line of Plymouth Street as widened and shown on said Parcel Map; thence along the last said southerly line of Plymouth Street North 85° 44' 00" West 0.21 feet to a point which lies North 6° 40' 00" West 233.65 feet from the point of beginning; thence leaving said southerly line of Plymouth Street South 6° 40' 00" East 233.65 feet to the point of beginning.