

**AMENDMENT TO
DECLARATION
OF
COVENANTS AND RESTRICTIONS**

**Made By: Osmose Realty Corp.
Osmose, Inc.
Buffalo, NY**

Dated: April 22, 1999

AMENDMENT TO
DECLARATION OF COVENANTS AND RESTRICTIONS

This AMENDMENT TO DECLARATION OF RESTRICTIONS, made this 22nd day of April, 1999, by Osmose Realty Corp., a corporation organized and existing under the laws of the State of New York, doing business in the State of New York, and having a place of business at 980 Ellicott Street, in the City of Buffalo, County of Erie, State of New York (hereinafter "Osmose Realty").

WITNESSETH

WHEREAS, Osmose Realty is the owner of certain premises located in the County of Erie, State of New York, with an address of 980 Ellicott Street in the City of Buffalo, described and delineated more particularly on Schedule A attached hereto (hereinafter the "Premises");

WHEREAS, Osmose, Inc. ("Osmose") is the tenant of Osmose Realty at the Premises and is the Respondent under New York State Department of Environmental Conservation ("NYSDEC") Order on Consent Index #B9-0314-90-01, In the Matter of Development and Implementation of a Remedial Program for an Inactive Hazardous Waste Disposal Site, Under Article 27, Title 13 of the Environmental Conservation Law of the State of the New York, effective March 30, 1999 ("Order on Consent") as related to the Premises;

WHEREAS, the Order on Consent provides for the implementation by Osmose of a "Remedial Program" in accordance with a NYSDEC-approved Remedial Design made a part of the Order on Consent;

WHEREAS, on July 21, 1995, Osmose Realty filed with the Erie County Clerk, a "Declaration of Covenants and Restrictions",* to give all parties who may acquire an interest in the Premises with notice of an Order on Consent between Osmose and NYSDEC concerning the implementation by Osmose of an "Interim Remedial Measure and Feasibility Study";

*at Liber 10888, Page 7505.

WHEREAS, the Order on Consent at Paragraph IX.A provides for the filing of an Amendment to the Declaration of Covenants and Restrictions currently on file with the Erie County Clerk, to give all parties who may acquire any interest in the Premises notice of the Order on Consent;

WHEREAS, Osmose Realty seeks to make this Amendment to the Declaration and Osmose seeks to provide said notice in conformance with the Order on Consent.

NOW THEREFORE, Osmose and Osmose Realty declare that the Premises shall be held, transferred, sold, conveyed, and occupied subject to the covenants and restrictions hereinafter set forth.

Osmose and Osmose Realty declare the following conditions, covenants and restrictions are imposed and shall be binding upon the subsequent grantees, their distributees, heirs, administrators, successors and assigns:

- 1. All parties who may acquire any interest in the Premises are hereby put on notice of the existence of the Order on Consent. A complete copy of the Order on Consent, with the Remedial Design and related attachments, can be obtained from the Region 9 Buffalo (currently at 270 Michigan Avenue, Buffalo, New York, 14208-2999), New York offices of the New York State Department of Environmental Conservation;**
- 2. Each person or entity acquiring an interest in the Premises, or any part thereof, covenants and agrees for him, her, or itself, and for his, her or its heirs, successors and assigns, to be bound by the notice contained herein, and that said notice shall be construed as running with the land; and**
- 3. Upon satisfaction of the Order on Consent, the notice provided by this Amendment to the Declaration shall no longer be required. Osmose Realty and/or Osmose or the then owner of the Premises may certify to such**

satisfaction by an affidavit executed by a party with knowledge of such satisfaction and recorded in the Erie County Clerk's Office. Upon such recording, this Amendment to the Declaration shall be deemed terminated.


Any amendment of this Amendment to the Declaration shall not become effective until the instrument evidencing such change has been duly recorded in the office of the Erie County Clerk.

IN WITNESS WHEREOF, Osmose Realty Corp. and Osmose, Inc. have caused this Amendment to the Declaration to be duly executed on this 22nd day of April, 1999.

OSMOSE REALTY CORP.

By 
Michael E. Rider

OSMOSE, INC.

By 
Robert M. Leach

261463.01
DDDwd

SCHEDULE A

TO
DECLARATION OF COVENANTS AND RESTRICTONS

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 31, Township 11, Range 8 of the Holland Land Company's survey, bounded and described as follows:

Beginning at the point of intersection of the west line of Ellicott Street (66' wide) and the north line of Best Street (as dedicated by Resolution June 15, 1976); thence N-13°-40'-13"-E along the west line of Ellicott Street (66' wide), 90.21 feet; thence N-75°-09'-01"-W and partially along the south wall of a brick and concrete block building 53.17 feet; thence N-13°-30'-58"-E 44.72 feet; thence N-89°-03'-07"-W 145.97 feet; thence N-13°-40'-13"-E 50.00 feet; thence N-89°-03'-07"-W 28.67 feet; thence N-13°-33'-39"-E and partially along a west wall of a brick and concrete building 110.21 feet; thence along the exterior wall of such brick and concrete building the following 13 courses and distances:

- (1) N-88°-44'-36"-W 52.90 feet;
- (2) N-13°-41'-06"-E 77.65 feet;
- (3) S-88°-40'-34"-E 15.21 feet;
- (4) N-13°-42'-43"-E 40.53 feet;
- (5) S-89°-01'-46"-E 36.94 feet;
- (6) N-13°-52'-04"-E 21.24 feet;
- (7) S-88°-49'-03"-E 13.80 feet;
- (8) S-50°-45'-56"-E 10.40 feet;
- (9) S-89°-07'-15"-E 33.87 feet;
- (10) S-01°-11'-17"-W 11.35 feet;
- (11) S-89°-04'-37"-E 79.35 feet;
- (12) N-00°-55'-11"-W 9.65 feet; and
- (13) S-88°-55'-18"-E 93.49 feet to the west line of Ellicott

Street; thence S-13°-40'-13"-W along the west line of Ellicott Street 349.11 feet to the point or place of beginning.

FILED

ADD 28 1000

ERIE COUNTY
CLERK & OFFICE

AFFIDAVIT WITH ATTACHED AMENDMENT TO
DECLARATION OF COVENANTS AND RESTRICTIONS

STATE OF NEW YORK
COUNTY OF ERIE } s/c

I, MORGAN G. GRAHAM, being duly sworn, depose and say

as follows:

1. I am an attorney duly licensed to practice law and am a partner in a law firm of Phillips, Lytle, Hitchcock, Blaine & Huber LLP, with offices at 3400 HSBC Center, Buffalo, New York 14203.

2. Attached to this Affidavit is an Amendment to Declaration of Covenants and Restrictions with respect to Osmose Realty Corp., a corporation organized and existing under the laws of the State of New York, doing business in the State of New York, and having a place of business at 980 Ellicott Street, in the City of Buffalo, County of Erie, State of New York, with respect to the real property in the City of Buffalo, County of Erie, which is more particularly identified in Schedule A of the attached Amendment.


3. On July 21, 1995, Osmose Realty Corp. filed with the Erie County Clerk, a Declaration of Covenants and Restrictions, at Deed Liber 10888, Page 7507, with the Osmose Realty Corp. and Osmose Wood Preserving, Inc. as signatories thereto.

4. The Amendment to Declaration and Covenants and Restrictions attached hereto shall be indexed by the Erie County Clerk against the name of Osmose Realty Corp.

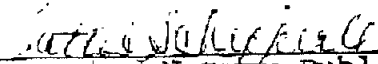
5. The Amendment to Declaration and Covenants and Restrictions, as recited therein, is to be recorded in accordance with and pursuant to an Order on Consent between Osmose, Inc. and the New York State Department of Environmental Conservation, and

Post-it® Fax Note	7671	Date	8/22/00	# of pages	7
To	Tony Schweitzer		From	Joseph W. [Signature]	
Co./Dept.		Co.			

is intended to give notice of the Order on Consent to all parties who may acquire any interest in the subject property owned by Osmose Realty Corp.


MORGAN G. GRAHAM

Subscribed and sworn to before me this 28th day of April, 1999.


Notary Public

604561.1

PATTI J. SCHIFFERLE
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Oct 15, 2000