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TEL 58.00 TEL 58-41920  
FRP C/O  
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~~RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:~~

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
3/8/2013 09:59:59.26



2013022717

return JN Medical Corporation dba JN-International Medical Corporation  
2720 North 84<sup>th</sup> Street  
Omaha NE 68134

Space Above for Record's Use Only

**ENVIRONMENTAL COVENANT**

This Environmental Covenant ("Covenant") is executed this 27<sup>th</sup> day of JANUARY, 2013, by JN Medical Corporation dba JN-International Medical Corporation, a Nebraska Corporation with its principal place of business at 2720 North 84<sup>th</sup> Street, Omaha, Nebraska 68134 ("JN Medical Corporation"), Grantor and JN Medical Corporation, Holder/Grantee, pursuant to the Nebraska Uniform Environmental Covenants Act, Neb. Rev. Stat. §§76-2601 to 76-2613.

**RECITALS:**

A. Grantor is the owner of real property located at 2720 North 84<sup>th</sup> Street in Omaha, Douglas County, Nebraska. The entire property is 2.68 acres in size and zoned as commercial property. The real property is comprised of four parcels located in the City of Omaha, Douglas County Nebraska. Although four parcels have been and continue to be operated and managed as a contiguous unit, this Covenant concerns only the two affected parcels described below. The following legal description information of the affected parcels was obtained from the Douglas County Assessor's web site located at: <http://www.dcassessor.org>.

2704 North 84th Street is 0.61 acres in size and legally described as West Benson Lot 25, Block 4 1/2 Vac Alley Adj & Lots 22 thru 25.

2720 North 84th Street is 0.94 acres in size and legally described as West Benson Lot 31, Block 4 1/2 Vac Alley Adj on N & on W & all Lots 26 thru 31.

- B. Holder/Grantee is JN Medical Corporation.
- C. The Property has been used for animal drug manufacturing and was the site of release(s) of certain hazardous substances, pollutants or contaminants.
- D. The Property is the subject of an environmental response project or action pursuant to the Nebraska voluntary cleanup program authorized by the Remedial Action Plan Monitoring Act.
- E. The Agency, as defined in Neb. Rev. Stat. §76-2602, is the Nebraska Department of Environmental Quality (NDEQ) .
- F. The selected environmental response project or action is documented in a Facility Remedial Action Plan for NDEQ IIS Facility #10472; NDEQ Program ID#36-336-4927 that was approved by the Nebraska Department of Environmental Quality, 1200 N St., Suite 400, Lincoln, NE on September 27, 2010. The administrative record for this project or action is available to the public and located at the Nebraska Department of Environmental Quality, 1200 N St., Suite 400, Lincoln, NE.

**NOW, THEREFORE,**

Grantor hereby declares that the Property will hereinafter be bound by, held, sold and conveyed subject to the following terms, conditions, obligations, and restrictions set forth herein, which will run with the land, in perpetuity, unless amended or terminated pursuant to Paragraph 11 below.

1. Representations and Warranties. The Grantor warrants to the other signatories to this Covenant that:

- a. The Grantor is the sole fee title owner of the Property;
- b. The Grantor holds sufficient fee title to the Property to grant the rights and interests described in this Environmental Covenant free of any conflicting legal and equitable claims; and
- c. The Grantor has identified all other persons holding legal or equitable interests, including but not limited to contract buyers, mortgage holders, other consensual lien holders, and lessees and secured their consent.

2. Purpose. The purpose of this Environmental Covenant is to ensure protection of human health and the environment by minimizing the potential for exposure to contamination that remains on the Property and to ensure that the Property is not developed, used, or operated in a manner incompatible with the approved remediation.

3. Running with the Land. The Environmental Covenant is perpetual and conveys to the Holder/Grantee real property rights that will run with the land, and gives to the Agency the right to enforce the activity and use limitations described in Paragraph 4. The terms, conditions, obligations, and limitations in this Environmental Covenant are binding on the Grantor, its successors, heirs, executors, assigns and transferees,

and all persons, corporations or other entities obtaining or succeeding to any right, title or interest in the Property after the effective date of this Environmental Covenant. All real estate, lots, or parcels located within the Property are subject to the terms, conditions, obligations and limitations in this Environmental Covenant. Acceptance of any conveyance, transfer, lease or sublease of the Property, or part thereof, will bind each transferee, its heirs, executors, successors, transferees and assigns to the terms, conditions, obligations, and limitations during their respective period of ownership or occupancy, as applicable. Notice of any transfer of any interest in the Property must be promptly provided to the Agency by the transferor. The Grantor is bound by the terms, conditions, obligations and limitations in this Environmental Covenant only during its period of ownership or occupancy after the effective date. This Environmental Covenant in no way amends, modifies, limits or releases the Grantor from its duties and obligations under the approved environmental response project or action.

4. Activity and Use Limitations. The Property is subject to the following activity and use limitations:
  - a. The entire Property, as depicted on the attached Figure, can be used only for industrial/commercial purposes, excluding child care.
  - b. Groundwater beneath the entire Property shall not be used as a source of potable water.
  - c. Any ground intrusive work (including, but not limited to excavation, digging and drilling) conducted in the Area of Residual Contamination (defined as that portion of the Property described as West Benson Lot 25, Block 4 ½ Vac Alley Adj & Lots 22 thru 25) as depicted on the attached Figure, must be conducted in accordance with a health and safety plan that complies with Occupational Safety and Health Act Requirements.
  - d. Any groundwater pumped or otherwise removed from the Area of Residual Contamination must be tested, properly characterized and disposed of in an appropriate manner. Water pumped under NPDES dewatering authorization NEG671035/10472 is specifically excluded from this requirement.
  - e. Any soil excavated or otherwise removed from the Area of Residual Contamination, must be tested, properly characterized and disposed of in an appropriate manner.
  - f. Prior to any building construction/ground intrusive activity within the Area of Residual Contamination, a minimum 30 days prior notice must be provided to NDEQ (see Paragraph 18 for contact information).
  - g. Maintain and ensure the continued operation and effectiveness of the subslab depressurization system installed on site.
  - h. Any permanent structures, including but not limited to, buildings and storage facilities constructed or installed within the portion of the Property containing residual contamination in the southern portion of the Property, will need to be constructed with an engineered vapor mitigation system (e.g., sub-slab depressurization system or vapor barrier). The engineered vapor mitigation system (active or passive, as appropriate) must be compatible with the

chlorinated solvents present at concentrations as presented in the 2010 Annual Report, Former Pfizer Omaha Site (Golder, April 2011).

5. Reserved Rights of Grantor. The Grantor hereby reserves unto itself and its successors all rights and privileges in and to the use of the Property which are not incompatible with the limitations granted herein.
6. Compliance Reporting. One year from the effective date of this Environmental Covenant, and on an annual basis thereafter until such time as this Environmental Covenant is terminated, the then-current fee simple owner of the Property shall submit to the Agency written documentation verifying that the activity and use limitations remain in place and are being complied with. Any signatory to this Environmental Covenant shall notify the Agency as soon as possible of conditions that would constitute a breach of the activity and use limitations.
7. Enforcement. The terms of this Environmental Covenant may be enforced in a civil action for injunctive or other equitable relief by the signatories and those persons authorized by and in accordance with Neb. Rev. Stat. §76-2611. Failure to exercise such rights of enforcement will in no event bar subsequent enforcement by any signatory and shall not be deemed a waiver of the signatory's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict or limit the Agency from exercising any authority under applicable law. The prevailing party in any action to enforce any provision of this Environmental Covenant is entitled to recover all costs of such action, including reasonable attorney fees. Any Holder/Grantee and the Agency shall be entitled to recover damages for violations of this Environmental Covenant or for any injury to the remedial action required by the Agency, to the public or to the environment protected by this Environmental Covenant.
8. Rights of Access. The Grantor and any then-current owner hereby grants to the Agency, its agents, contractors, and employees, the right of access to the Property to monitor compliance with the terms, conditions, obligations, and limitations of this Environmental Covenant. Nothing in this Environmental Covenant shall limit or otherwise affect the Agency's right of entry and access or the Agency's authority to take response actions under applicable law.
9. Notice Upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property, including but not limited to, deeds, leases and mortgages, shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be in substantially the form set forth below. Within thirty (30) days of the date any such instrument of conveyance is executed, the Grantor or then-owner must provide the Agency with a certified copy of said instrument and its recording reference in the    Douglas County Register of Deeds.

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT DATED \_\_\_\_\_, RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS OF \_\_\_\_\_ COUNTY, NEBRASKA ON \_\_\_\_\_, IN [DOCUMENT \_\_\_\_\_, BOOK \_\_\_\_\_, PAGE \_\_\_\_]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

- a. The entire Property, as depicted on the attached Figure, can be used only for industrial/commercial purposes, excluding child care.
- b. Groundwater beneath the entire Property shall not be used as a source of potable water.
- c. Any ground intrusive work (including, but not limited to excavation, digging and drilling) conducted in the Area of Residual Contamination as depicted on the attached Figure, must be conducted in accordance with a health and safety plan that complies with Occupational Safety and Health Act Requirements.
- d. Any groundwater pumped or otherwise removed from the Area of Residual Contamination must be tested, properly characterized and disposed of in an appropriate manner. Water pumped under NPDES dewatering authorization NEG671035/10472 is specifically excluded from this requirement.
- e. Any soil excavated or otherwise removed from Area of Residual Contamination, must be tested, properly characterized and disposed of in an appropriate manner.
- f. Prior to any building construction/ground intrusive activity within the Area of Residual Contamination, a minimum 30 days prior notice must be provided to NDEQ (see Paragraph 18 for contact information).
- g. Maintain and ensure the continued operation and effectiveness of the subslab depressurization system installed on site.
- h. Any permanent structures, including but not limited to, buildings and storage facilities constructed or installed within the portion of the Property containing residual contamination in the southern portion of the Property, will need to be constructed with an engineered vapor mitigation system (e.g., sub-slab depressurization system or vapor barrier). The engineered vapor mitigation system (active or passive, as appropriate) must be compatible with the chlorinated solvents present at concentrations as presented in the 2010 Annual Report, Former Pfizer Omaha Site (Golder, April 2011).

10. Waiver of Certain Defenses. The persons and entities bound by this Environmental Covenant hereby waive any defense to the enforcement of this Environmental Covenant based on laches, estoppel, statute of limitations, or prescription.

11. Amendment and Termination. Amendment or termination of this Environmental Covenant shall comply with Neb. Rev. Stat. §76-2610. The terms of this Environmental Covenant may be modified or terminated by written consent of the Director of the Agency, the then current fee simple title owner, and all original signatories unless exempted by Neb. Rev. Stat. §76-2610. The amendment or termination is not effective until the document evidencing consent of all necessary

persons is properly recorded. If not by consent, any amendment or termination of this Environmental covenant shall be as provided by Neb. Rev. Stat. §76-2609 and such additional terms as specified in this Environmental Covenant. As provided in Neb. Rev. Stat. §76-2610(c), except for an assignment undertaken pursuant to a governmental reorganization, assignment of an environmental covenant to a new holder is an amendment.

12. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

13. Captions. The captions in this Environmental Covenant are for convenience and reference only and are not a part of this instrument and shall have no effect upon construction or interpretation.

14. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Nebraska.

15. Recordation. Within thirty (30) days after the date of the Agency's approval of this Environmental Covenant, the Grantor shall record the Environmental Covenant, in the same manner as a deed to the property, with the Douglas County Register of Deeds.

16. Effective Date. The effective date of this Environmental Covenant is the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the Douglas County Register of Deeds.

17. Distribution of Environmental Covenant. Within 60 days of the effective date, the Grantor shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to each person identified in Neb. Rev. Stat. §76-2607(a) and §76-2608(c).

18. Notice. Unless otherwise notified in writing by the Agency, any document or communication required by this Environmental Covenant shall be submitted to:

Remediation Section  
Waste Management Division  
Nebraska Department of Environmental Quality  
P.O. Box 98922  
Lincoln, NE 68509-8922  
402-471-4210

Other parties requiring notice under this Environmental Covenant:

#### ACKNOWLEDGEMENTS

**GRANTOR:**

IN WITNESS WHEREOF, Grantor, as the owner of the Property and the Holder of this Environmental Covenant, has caused this Environmental Covenant to be executed on this 29<sup>th</sup> day of JANUARY, 2013.

By: *Dr. Jeeri R. Reddy*  
Dr. Jeeri R. Reddy  
DR. JEERI R. REDDY  
CEO

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF DOUGLAS     )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> of January, 2013 by Dr. Jeeri R. Reddy who acknowledged said Environmental Covenant on behalf of Grantor.

*Howard L. Neuhaus*  
Notary Public



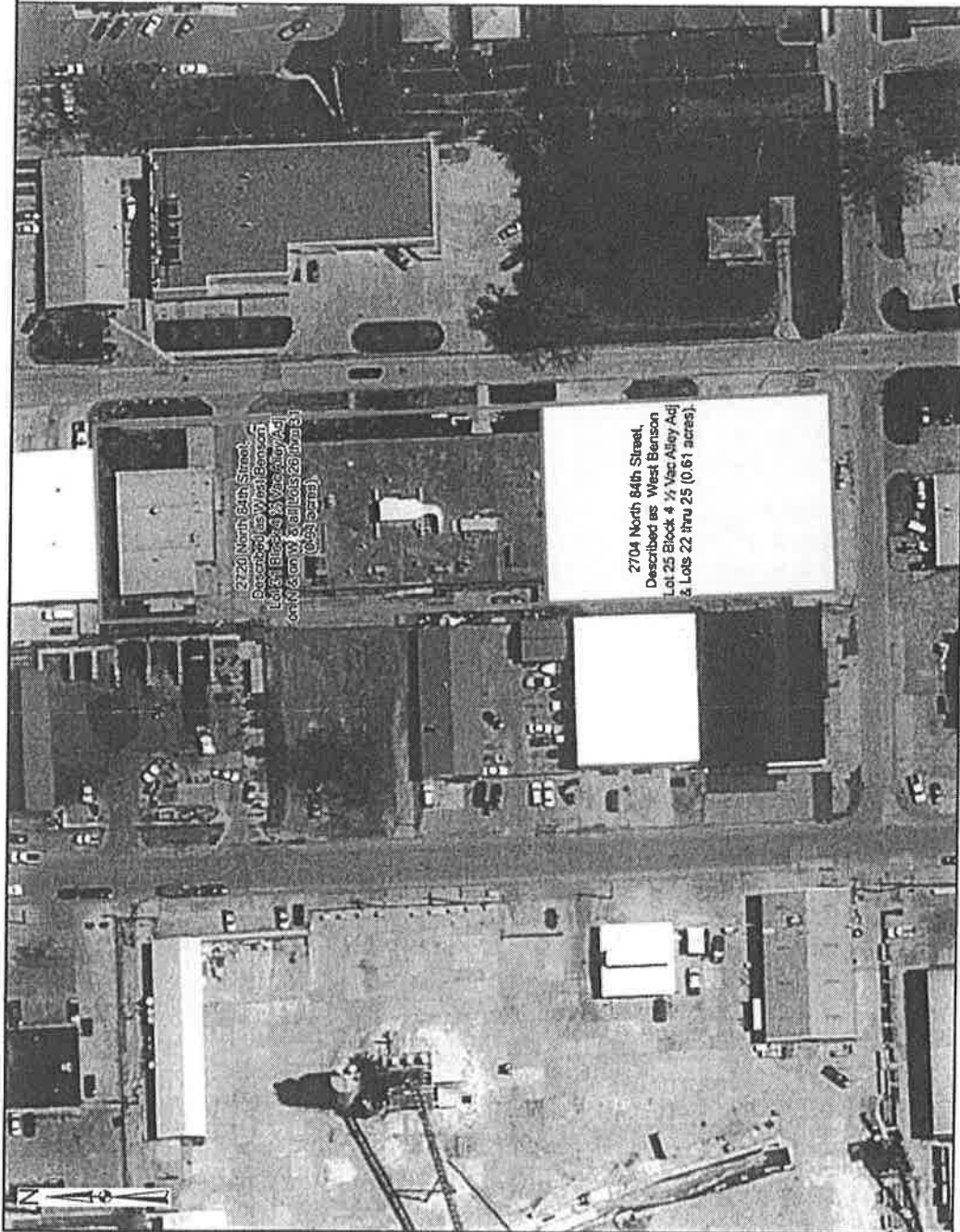
**AGENCY:**

IN WITNESS WHEREOF, NDEQ, as an Agency defined in Neb. Rev. Stat. § 76-2602(2), is not a party to this Environmental Covenant and does not acquire or assume any liability, obligation, or responsibility under state or federal law by virtue of signing this Environmental Covenant, nor is NDEQ a Holder under Neb. Rev. Stat. §§ 76-2602(6) and 76-2603(a).

**NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY**







**LEGEND**

-  PARCELS
-  AREA OF RESIDUAL CONTAMINATION

**REFERENCE**

1) AERIAL PHOTOGRAPH AND PARCEL BOUNDARIES FROM AXCIS ONLINE.



		SCALE AS SHOWN
FILE #	PROJECT #	DATE
103501878004	103-86-187	05/03/12
REV 0		REGION TS
		APP AMI
		ORDER
		ACCOMP

**RESTRICTIVE COVENANT FIGURE**

FORMER PFIZER SITE - OMAHA PAGE 1

