

DRAFT
Land Use Covenant Implementation and Enforcement Plan

Tyco Electronics Corporation
300 Constitution Drive
Menlo Park, California 94025
EPA ID # CAD 009 125 527

1.0 Land Use Restrictions

The Department of Toxic Substances Control (DTSC) and Tyco Electronics Corporation will enter into a Covenant to Restrict Use of Property (Land Use Covenant or LUC) to impose restrictions on the use of the property known as the Tyco Electronics Corporation at 300 Constitution Drive, Menlo Park, California 94025 (hereafter, the "Site"). RCRA Facility Investigations (RFIs) and Interim Remedial Measures (IRMs) have been completed during the past years at the Site. Based on the findings of the RFIs and results of the IRMs conducted at the Site, human health risk assessment studies were conducted for evaluation of the potential human health risks attributable to residual chemicals of potential concern present in the soil and groundwater beneath the Site. Based on the results of the risk assessments, the Site presents acceptable health risks to the human receptor in its present condition and as it is further developed for other commercial/industrial uses. These land use restrictions are the institutional controls required to limit exposure to current and future landowners(s) and/or user(s) and/or occupants, and to maintain the effectiveness of the corrective action.

The final remedy adopted for the Site consists of the following elements:

- The entire Site will have a Land Use Covenant to restrict the uses to "Industrial/Commercial Land Use".
- The Engineered Multi-media Cap, which is approximately 0.1 acre (situated within a restricted area of 0.26 acres) in size at a depth of approximately 6 feet below ground surface, installed over Solid Waste Management Unit No. 16 (SWMU 16) in the Expanded Area 6 portion of the Site, will be subject to construction and development restrictions.. No excavations (other than those for shallow utility lines at 3 feet or less below ground surface for electrical lighting or landscape irrigation purposes, and which must be approved by DTSC) are permitted and no structures will be placed over the Engineered Multi-media Cap and the uses would be restricted to activities such as paved parking or landscaping as approved by the engineer and DTSC. Annual inspection of the Engineered Multi-media Cap area will be performed to ensure its restricted land use.

DTSC will conduct annual inspections to ensure that the following land use restrictions are being complied with:

- **Prohibited Uses:**
 - A residence, including any mobile home or factory-built housing, constructed or installed for use as residential human habitation.
 - A hospital or hospice for humans.
 - Park and recreational use.
 - A public or private school for persons under 21 years of age.
 - A day care center for children.

- **Prohibited Activities:**
 - Raising of cattle, food crops, or agricultural products.
 - Drilling for water, oil, or gas.
 - Extraction of groundwater for purposes other than site remediation, groundwater monitoring, or construction dewatering.
 - Any activity that may interfere with the operation and maintenance of the groundwater monitoring wells that are required as part of DTSC's approved remedy for the property without the written approval of DTSC and the United States Environmental Protection Agency.

- **Soil Management:**
 - No activities that will disturb the subsurface soil, e.g., excavation, grading, removal, trenching, filling, earth movement, or mining shall be permitted on the Site without a Soil Management Plan (SMP) and a Health and Safety Plan (H&SP) approved by DTSC.
 - Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed in accordance with all applicable provisions of state and federal law and regulations.

- **Non-Interference with the Engineered Multi-media Cap:**
 - No activities that will disturb the Engineered Multi-media Cap (e.g., excavation, grading, removal, trenching, filling, earth movement, or mining) are permitted in the 0.26 acre restricted Engineered Multi-media Cap area without prior review and approval by DTSC.
 - Any proposed alteration of the Engineered Multi-media Cap requires written approval by DTSC.
 - Owner or Occupant shall notify DTSC of each of the following: (i) the type, cause, location, and date of any disturbance to the Engineered Multi-media Cap that would likely affect the ability of the Engineered Multi-media Cap to contain subsurface hazardous wastes or hazardous materials, and (ii) the type and date of repair of such disturbance. Notification to DTSC shall be made as provided below within 10 working days of both the discovery of any such disturbance and the completion of any repairs. Timely and accurate notification by any Owner or

Occupant shall satisfy this requirement on behalf of all other Owners and Occupants.

2.0 Access, Transference, and Notice Provisions

- **Access to DTSC.** DTSC shall have reasonable right of entry and access to the Site for inspection and other activities consistent with the purposes of implementing and enforcing the LUC as deemed necessary by DTSC in order to protect public health and the environment.
- **Access for Implementing Operation and Maintenance.** The entity or person responsible for implementing the operation and maintenance of the corrective action remedy shall have reasonable right of entry and access to the property at 300 Constitution Drive, Menlo Park, California, for the purpose of implementing the operation and maintenance requirements for the remedy until such time as DTSC determines that no further operation and maintenance activities are required.
- All owners or occupants of any portion of the property at 300 Constitution Drive, Menlo Park, California, by their purchase, lease, or possession of such property, are bound by the LUC and agree that the restrictions in the LUC 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 in the LUC.
- The Owner of the property at 300 Constitution Drive, Menlo Park, California, shall provide notice to DTSC no later than thirty (30) days after the conveyance of any ownership interest in the property at 300 Constitution Drive, Menlo Park, California (except for building space leases, mortgages, liens, and other non-possessory encumbrances).

3.0 Compliance with Land Use Restrictions

Tyco Electronics Corporation or the future owner(s) shall submit an annual certification, prepared pursuant to California Code of Regulations, Title 22, Section 66270.11(d), to DTSC by July 31st of each year to certify that the land use and any activities at the Site are in full compliance with the LUC requirements and restrictions. In addition, DTSC will have access to inspect the property at 300 Constitution Drive, Menlo Park, California, annually to assess compliance with the LUC. Tyco Electronics Corporation or the future owner(s) of the property at 300 Constitution Drive, Menlo Park, California, shall reimburse DTSC for DTSC's costs incurred in implementing and enforcing the LUC. Any violations of the LUC shall be grounds for DTSC to take enforcement action in accordance with applicable law.