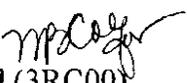


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**SUBJECT:** In the Matter of: *ARO Properties*  
Docket No. TSCA-03-2008-0101  
Consent Agreement, Final Order and  
Settlement Conditions Document

**FROM:** William C. Early   
Regional Counsel (3RC00)

and

 Abraham Ferdas, Director   
Waste & Chemicals Management Division (3WC30)

**TO:** Renée Sarajian  
Regional Judicial Officer (3RC00)

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OFFICE OF REGIONAL COUNSEL  
PHILADELPHIA, PA

This Consent Agreement, Final Order (“CAFO”) and Settlement Conditions Document (“SCD”) has been negotiated in settlement of certain violations by ARO Properties, a Pennsylvania general partnership (“Respondent”) of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4852d *et seq.* (“RLBPHRA”), and the regulations promulgated thereunder, as set forth in 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”), which statutory and regulatory provisions are enforceable pursuant to Section 409 of TSCA, 15 U.S.C. § 2689. Respondent is a property management company and the “agent”, as this term is defined at 40 C.F.R. § 745.103, of the owners and lessors of pre-1978 residential rental property (“Target Housing”), as described in the CAFO, and Respondent leased, on behalf of the owners and lessors, Target Housing during all times relevant to the alleged violations addressed in the CAFO. Please refer to the CAFO for further details concerning the alleged violations.

Under the terms of the CAFO, Respondent will pay a civil penalty in the amount of \$58,492.00, and perform a Multi-Lease Disclosure Rule Compliance Audit in accordance with the terms and conditions of the SCD.

The proposed settlement is based upon consideration of a number of factors, including, but not limited to, the statutory factors set forth in Section 16(a)(2)(B) of TSCA, 42 U.S.C. § 2615(a)(2)(B), requiring EPA to consider the nature, circumstances, extent, and gravity of the violations, the violator’s ability to pay, ability to continue in business, history of prior violations, degree of culpability and other factors as justice may require, and in accordance with EPA’s February 2000 *Section 1018 Disclosure Rule Enforcement Response Policy*.

We recommend that you sign the attached Final Order and return it to the Office of Regional Counsel for further processing.

Attachment

cc: David Ferleger, Esq.  
Counsel for ARO Properties

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

<b>In the Matter of:</b>	:	
	:	
<b>ARO Properties, a Pennsylvania General Partnership 4410 Township Line Road Drexel Hill, PA 19026</b>	:	<b>U.S. EPA Docket No. TSCA-03-2008-0101</b>
	:	
<b>RESPONDENT,</b>	:	<b>Proceeding under Sections 16(a) and 409 of the Toxic Substances Control Act (15 U.S.C. §§ 2615(a) and 2689)</b>
	:	
<b>Tall Trees Village Apartments 4410 Township Line Road Drexel Hill, PA 19026</b>	:	
	:	
<b>TARGET HOUSING.</b>	:	

**CONSENT AGREEMENT**

**Preliminary Statement**

1. Complainant, the Director of the Waste and Chemicals Management Division, U.S. Environmental Protection Agency - Region III ("EPA" or "Agency") and ARO Properties, a Pennsylvania general partnership consisting of individual partners, Helene Tiger, Richard Tiger, Bob Perna, Dolores Perna, Henry Tiger, Linda Lacey, Joseph A. Perna, IV, Robert D. Perna, Miriam Ferleger, Ferleger Trust, and the Estate of Joseph Perna III, and their agents, successors and assigns (the "Respondent"), wishing to settle EPA's claims for civil penalties arising from the violations alleged in this case, have consented to the entry of this Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO"), pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), and in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("*Consolidated Rules*"), 40 C.F.R. Part 22 including, but not limited to, 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3). This Consent Agreement ("CA"), Final Order ("FO"), and the accompanying Settlement Conditions Document ("SCD"), which is incorporated by reference into this CA, address violations by Respondent of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4852d *et seq.* ("RLBPHRA"), and the regulations promulgated thereunder, as set forth in 40 C.F.R. Part 745, Subpart F (the "Disclosure Rule"), which statutory and regulatory provisions are enforceable pursuant to Section 409 of TSCA, 15 U.S.C. § 2689.

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2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CA and the accompanying FO, and Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
3. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 2, above.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this CA and any right to appeal the accompanying FO.
5. Respondent consents to the issuance of this CAFO, including the SCD, and agrees to comply with its terms.
6. For federal income tax purposes, Respondent shall not deduct for civil taxation purposes the civil penalty specified in this CAFO.
7. Respondent shall bear its own costs and attorney's fees, if any.
8. The provisions of this CAFO, including the SCD, shall be binding upon Respondent and its successors and assigns.
9. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed herein.
10. Respondent certifies that it is currently in full compliance with the requirements of Section 1018 of the RLBPHRA, 42 U.S.C. §§ 4852d *et seq.*, and the Disclosure Rule codified at 40 C.F.R. Part 745, Subpart F.
11. Nothing in this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations.

**Notice of Action to the Commonwealth of Pennsylvania**

12. EPA has given the Commonwealth of Pennsylvania prior notice of the issuance of this CAFO.

**Findings of Fact and Conclusions of Law**

13. The EPA and the Office of Administrative Law Judges of the EPA have jurisdiction over the above-captioned matter pursuant to Sections 16 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, Section 1018 of Title X of the RLBPHRA, 42 U.S.C. § 4852d, 40 C.F.R. Part 745, Subpart F, and the Consolidated Rules of Practice, 40 C.F.R. §§ 22.1(a)(5) and 22.4.

14. Pursuant to RLBPHRA Section 1004(27), 42 U.S.C. § 4851b(27), TSCA Section 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, the term “target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.
15. Pursuant to RLBPHRA Section 1004(23), 42 U.S.C. § 4851b(23), TSCA Section 401(14), 15 U.S.C. § 2681(14), and 40 C.F.R. § 745.103, the term “residential dwelling” means either a single family dwelling, including attached structures such as porches and stoops, or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.
16. Pursuant to RLBPHRA Section 1004(24), 42 U.S.C. § 4851b(24), and TSCA Section 401(15), 15 U.S.C. § 2681(15), the term “residential real property” means real property on which there is situated one or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.
17. The property located at 4410 Township Line Road, Drexel Hill, Pennsylvania consist of and, at the time of the violations alleged herein, consisted of residential real property on which there is situated one or more buildings used as the home or residence for one or more persons.
18. The buildings located at 4410 Township Line Road, Drexel Hill, Pennsylvania are structures that contain more than one separate residential dwelling unit, each of which is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.
19. The structures located at 4410 Township Line Road, Drexel Hill, Pennsylvania, and all residential dwelling units therein, were constructed prior to 1978 (“4410 Township Line Road”).
20. The structures located at 4410 Township Line Road, and all residential dwelling units therein, are not and, at the time of the violations alleged herein, were not housing used for the elderly or persons with disabilities, and are not and, at the time of the violations alleged herein, were not “0-bedroom dwellings” as defined by 40 C.F.R. § 745.103.
21. The structures and all residential dwelling units therein, identified above in Paragraphs 17 through 20, are and, at the time of the violations alleged herein, were “residential dwellings” and “target housing” within the meaning of those terms as provided by RLBPHRA Sections 1004(23) and (27), 42 U.S.C. § 4581b(23) and (27), TSCA Sections 401(14) and (17), 15 U.S.C. § 2681(14) and (17), and 40 C.F.R. § 745.103.
22. Pursuant to 40 C.F.R. § 745.103, the term “lessor” means any entity that offers target housing for lease, rent or sublease, including, but not limited to, individuals, partnerships,

corporations, trusts, government agencies, housing agencies, Indian Tribes, and nonprofit organizations.

23. Pursuant to 40 C.F.R. § 745.103, the term “lessee” means any entity that enters into an agreement to lease, rent, or sublease target housing, including, but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian Tribes, and non-profit organizations.
  24. On November 1, 2006, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #1”) with a “lessee” (“Lessee #1”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit C3A at 4410 Township Line Road for a term of one year commencing on November 1, 2006 and terminating on October 31, 2007.
  25. On February 1, 1999, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #2”) with a “lessee” (“Lessee #2”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit E1B at 4410 Township Line Road for a term of one year commencing on February 1, 1999 and terminating on January 31, 2000. On February 1, 2007, Respondent, on behalf of such “lessor”, renewed the February 1, 1999 written contract (“Lease #2”) with such “lessee” to rent and/or lease a residential unit E1B at 4410 Township Line Road for a term of one year commencing on February 1, 2007 and terminating on January 31, 2008.
  26. On November 1, 2006, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #3”) with a “lessee” (“Lessee #3”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit B2D at 4410 Township Line Road for a term of one year commencing on November 1, 2006 and terminating on October 31, 2007.
  27. On June 1, 2003, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #4”) with a “lessee” (“Lessee #4”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit C1D at the 4410 Township Line Road for a term commencing on June 1, 2003 and terminating on April 30, 2004.
  28. On October 1, 2004, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #5”) with a “lessee” (“Lessee #5”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit F3A at the 4410 Township Line Road for a term of one year commencing on May 1, 2006 and terminating on April 30, 2007.
  29. On May 1, 2004, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #6”) with a “lessee” (“Lessee #6”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit G05 at the 4410 Township Line Road for a term of one year commencing on May 1, 2004 and terminating on April 30, 2005.
  30. On May 1, 2005, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #7”) with a “lessee” (“Lessee #7”), as those terms are defined at 40 C.F.R.
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§ 745.103, to rent and/or lease a residential unit CD2 at the 4410 Township Line Road for a term of one year commencing on May 1, 2005 and terminating on April 30, 2006.

31. On August 1, 2005, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #8") with a "lessee" ("Lessee #8"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit D1D at the 4410 Township Line Road 4410 Township Line Road for a term of one year commencing on August 1, 2005 and terminating on July 31, 2006.
  32. On May 1, 1998, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #9") with a "lessee" ("Lessee #9"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit G2B at 4410 Township Line Road for a term of one year commencing on May 1, 1998 and terminating on April 30, 1999. On May 1, 2003, Respondent, on behalf of such "lessor", renewed the May 1, 1998 written contract ("Lease #9") with such "lessee" to rent and/or lease a residential unit G2B at 4410 Township Line Road for a term of one year commencing on May 1, 2003 and terminating on April 30, 2004.
  33. On June 1, 2003, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #10") with a "lessee" ("Lessee #10"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit D2C at the 4410 Township Line Road for a term of one year commencing on June 1, 2003 and terminating on May 30, 2004.
  34. On May 1, 2005, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #11") with a "lessee" ("Lessee #11"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit B1A at the 4410 Township Line Road for a term of one year commencing on May 1, 2005 and terminating on April 30, 2006.
  35. On December 1, 2005, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #12") with a "lessee" ("Lessee #12"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit G6G at the 4410 Township Line Road for a term of one year commencing on December 1, 2005 and terminating on November 30, 2006.
  36. On August 1, 1998, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #13") with a "lessee" ("Lessee #13"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit E1D at 4410 Township Line Road for a term of one year commencing on August 1, 1998 and terminating on July 31, 1999. On August 1, 2004, Respondent, on behalf of such "lessor", renewed the August 1, 1998 written contract ("Lease #13") with such "lessee" to rent and/or lease a residential unit E1D at 4410 Township Line Road for a term of one year commencing on August 1, 2004 and terminating on July 31, 2005.
  37. On January 1, 2006, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #14") with a "lessee" ("Lessee #14"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit M2D at the 4410 Township Line Road
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for a term of one year commencing on January 1, 2006 and terminating on December 31, 2006.

38. On July 1, 2003, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #15") with a "lessee" ("Lessee #15"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit L1C at the 4410 Township Line Road for a term of one year commencing on July 1, 2003 and terminating on June 30, 2004.
39. On October 1, 1999, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #16") with a "lessee" ("Lessee #16"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit K1D at 4410 Township Line Road for a term of one year commencing on October 1, 1999 and terminating on September 30, 2000. On October 1, 2006, Respondent, on behalf of such "lessor", renewed the October 1, 1999 written contract ("Lease #16") with such "lessee" to rent and/or lease a residential unit K1D at 4410 Township Line Road for a term of one year commencing on October 1, 2006 and terminating on September 30, 2007.
40. On July 1, 2003, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #17") with a "lessee" ("Lessee #17"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit O1A at the 4410 Township Line Road for a term of one year commencing on July 1, 2003 and terminating on June 30, 2004.
41. On March 1, 2006, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #18") with a "lessee" ("Lessee #18"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit R3B at the 4410 Township Line Road for a term of one year commencing on March 1, 2006 and terminating on February 28, 2007.
42. On December 1, 2006, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #19") with a "lessee" ("Lessee #19"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit O2A at the 4410 Township Line Road for a term of one year commencing on December 1, 2006 and terminating on November 30, 2007.
43. On August 1, 2005, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #20") with a "lessee" ("Lessee #20"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit K3C at the 4410 Township Line Road for a term of one year commencing on August 1, 2005 and terminating on July 31, 2006.
44. On August 1, 2002, Respondent, on behalf of a "lessor", entered into a written contract ("Lease #21") with a "lessee" ("Lessee #21"), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit K1A at the 4410 Township Line Road for a term of one year commencing on August 1, 2002 and terminating on July 31, 2003. On August 1, 2005, Respondent, on behalf of such "lessor", renewed the August 1, 2002 written contract ("Lease #21") with such "lessee" to rent and/or lease a residential unit K1A at 4410 Township Line Road for a term of one year commencing on August 1, 2005 and terminating on July 31, 2006.

45. On June 11, 1999, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #22”) with a “lessee” (“Lessee #22”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit R1C at 4410 Township Line Road for a term of one year commencing on July 1, 1999 and terminating on June 30, 2000. On July 1, 2006, Respondent, on behalf of such “lessor”, renewed the June 11, 1999 written contract (“Lease #22”) with such “lessee” to rent and/or lease a residential unit R1C at 4410 Township Line Road for a term of one year commencing on July 1, 2006 and terminating on June 30, 2007.
  46. On April 1, 2005, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #23”) with a “lessee” (“Lessee #23”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit L1A at the 4410 Township Line Road for a term of one year commencing on April 1, 2005 and terminating on March 31, 2006.
  47. On May 1, 2000, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #24”) with a “lessee” (“Lessee #24”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit O3A at 4410 Township Line Road for a term of one year commencing on May 1, 2000 and terminating on April 30, 2001. On May 1, 2003, Respondent, on behalf of such “lessor”, renewed the May 1, 2000 written contract (“Lease #24”) with such “lessee” to rent and/or lease a residential unit O3A at 4410 Township Line Road for a term of one year commencing on May 1, 2003 and terminating on April 30, 2001.
  48. On July 1, 2004, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #25”) with a “lessee” (“Lessee #25”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit E3C at the 4410 Township Line Road for a term of one year commencing on July 1, 2004 and terminating on June 30, 2005.
  49. On September 1, 2003, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #26”) with a “lessee” (“Lessee #26”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit O3D at the 4410 Township Line Road for a term of one year commencing on September 1, 2003 and terminating on August 31, 2004.
  50. On October 1, 2006, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #27”) with a “lessee” (“Lessee #27”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit F3B at the 4410 Township Line Road for a term of one year commencing on October 1, 2006 and terminating on September 30, 2007.
  51. On June 1, 2007, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #28”) with a “lessee” (“Lessee #28”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit C1D at the 4410 Township Line Road for a term of one year commencing on June 1, 2007 and terminating on May 31, 2008.
  52. On May 1, 2007, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #29”) with a “lessee” (“Lessee #29”), as those terms are defined at 40 C.F.R.
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- § 745.103, to rent and/or lease a residential unit R3B at the 4410 Township Line Road for a term of one year commencing on May 1, 2007 and terminating on April 30, 2008.
53. On June 1, 2007, Respondent, on behalf of a “lessor”, entered into a written contract (“Lease #30”) with a “lessee” (“Lessee #30”), as those terms are defined at 40 C.F.R. § 745.103, to rent and/or lease a residential unit O3D at the 4410 Township Line Road for a term of one year commencing on June 1, 2007 and terminating on May 31, 2008.
54. Respondent is and, at all times relevant to this CAFO, has been the “agent”, as this term is defined in 40 C.F.R. § 745.103, of the lessor(s) with respect to the leasing of the Target Housing referred to in Paragraphs 24 through 53, above.
55. 40 C.F.R. § 745.115(a) provides that each agent shall ensure compliance with all the requirements of 40 C.F.R. Part 745. To ensure compliance, the agent shall:
- (1) Inform the seller or lessor of his/her obligations under 40 C.F.R. §§ 745.107, 745.110, and 745.113.
  - (2) Ensure that the seller or lessor has performed all activities required under 40 C.F.R. §§ 745.107, 745.110, 745.113, or personally ensure compliance with the requirements of 40 C.F.R. §§ 745.107, 745.110, and 745.113.
56. 40 C.F.R. § 745.118(e) provides, in pertinent part, that failure or refusal to comply with 40 C.F.R. §§ 745.107, .110, .113 and/or .115 constitutes a violation of RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5), and TSCA Section 409, 15 U.S.C. § 2689.

### Counts 1-30

57. The allegations contained in Paragraphs 1 through 56 of this CA are incorporated by reference herein as though fully set forth at length.
58. Pursuant to 40 C.F.R. § 745.113(b)(1), the lessor is required to include, either as an attachment to or within each contract to lease target housing, a Lead Warning Statement containing the language provided therein.
59. Respondent failed to ensure that the lessor(s) performed, in connection with Lease #1 through Lease #30 of the Target Housing identified above in Paragraphs 24 through 53 of this CA, the activities required of a lessor under 40 C.F.R. § 745.113(b)(1).
60. Respondent failed to personally ensure compliance by the lessor(s) with the requirements of 40 C.F.R. § 745.113(b)(1) in connection with Lease #1 through Lease #30 of the Target Housing identified above in Paragraphs 24 through 53 of this CA.
61. Respondent violated 40 C.F.R. § 745.115(a)(2) by failing to ensure that the lessor(s) performed the activities required of a lessor under 40 C.F.R. § 745.113(b)(1) or to personally ensure compliance with 40 C.F.R. § 745.113(b)(1) in connection with Lease #1 through Lease #30 of the Target Housing identified above in Paragraphs 24 through 53 of this CA.
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62. Pursuant to 40 C.F.R. § 745.118(e), Respondent's failure to comply with 40 C.F.R. § 745.115(a)(2) (which incorporates by reference 40 C.F.R. § 745.113(b)(1)) constitutes 30 violations of 40 C.F.R. § 745.115(a)(2), Section 1018(b)(5) of the RLBPBRA, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

#### **Counts 31-60**

63. The allegations contained in Paragraphs 1 through 62 of this CA are incorporated by reference herein as though fully set forth at length.
64. Pursuant to 40 C.F.R. § 745.113(b)(2), a lessor is required to include, either as an attachment to or within each contract to lease target housing, a statement disclosing the presence of any known lead-based paint and/or lead-based paint hazards in the Target Housing or the lessor's lack of knowledge of such presence.
65. Respondent failed to ensure that the lessor(s) performed, in connection with Lease #1 through Lease #30 of the Target Housing identified above in Paragraphs 24 through 53 of this CA, the activities required of a lessor under 40 C.F.R. § 745.113(b)(2).
66. Respondent failed to personally ensure compliance by the lessor(s) with the requirements of 40 C.F.R. § 745.113(b)(2) in connection with Lease #1 through Lease #30 of the Target Housing identified above in Paragraphs 24 through 53 of this CA.
67. Respondent violated 40 C.F.R. § 745.115(a)(2) by failing to ensure that the lessor(s) performed the activities required of a lessor under 40 C.F.R. § 745.113(b)(2) or to personally ensure compliance with 40 C.F.R. § 745.113(b)(2) in connection with Lease #1 through Lease #30 of the Target Housing identified above in Paragraphs 24 through 53 of this CA.
68. Pursuant to 40 C.F.R. § 745.118(e), Respondent's failure to comply with 40 C.F.R. § 745.115(a)(2) (which incorporates by reference 40 C.F.R. § 745.113(b)(2)) constitutes 30 violations of 40 C.F.R. § 745.115(a)(2), Section 1018(b)(5) of the RLBPBRA, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

#### **Counts 61-87**

69. The allegations contained in Paragraphs 1 through 68 of this CA are incorporated by reference herein as though fully set forth at length.
70. Pursuant to 40 C.F.R. § 745.113(b)(4), each contract to lease target housing shall include, as an attachment or within the contract, a statement by the lessee affirming receipt of the information set forth in 40 C.F.R. § 745.113(b)(2) and (b)(3) and the lead hazard information pamphlet required under 15 U.S.C. § 2686.
71. Respondent failed to ensure that the lessor(s) performed, in connection with Lease #1 through Lease #27 of the Target Housing identified above in Paragraphs 24 through 50 of this CA, the activities required of a lessor under 40 C.F.R. § 745.113(b)(4).
-

72. Respondent failed to personally ensure compliance by the lessor(s) with the requirements of 40 C.F.R. § 745.113(b)(4) in connection with Lease #1 through Lease #27 of the Target Housing identified above in Paragraphs 24 through 50 of this CA.
73. Respondent violated 40 C.F.R. § 745.115(a)(2) by failing to ensure that the lessor(s) performed the activities required of a lessor under 40 C.F.R. § 745.113(b)(4) or to personally ensure compliance with 40 C.F.R. § 745.113(b)(4) in connection with Lease #1 through Lease #27 of the Target Housing identified above in Paragraphs 24 through 50 of this CA.
74. Pursuant to 40 C.F.R. § 745.118(e), Respondent's failure to comply with 40 C.F.R. § 745.115(a)(2) (which incorporates by reference 40 C.F.R. § 745.113(b)(4)) constitutes 27 violations of 40 C.F.R. § 745.115(a)(2) and Section 1018(b)(5) of the RLBPHRA, 42 U.S.C. § 4852d(b)(5), and Section 409 of TSCA, 15 U.S.C. § 2689.

### Civil Penalty

75. Respondent agrees to pay the amount of Fifty Eight Thousand Four Hundred Ninety-Three Dollars (\$58,493.00) and perform the Disclosure Rule Multi-Lease Compliance Audit described in the attached SCD in satisfaction of all civil claims for penalties which EPA may have under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for the specific violations alleged in this CA. The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. If Respondent pays the entire civil penalty of Fifty Eight Thousand Four Hundred Ninety-Three Dollars (\$58,493.00) within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against Respondent pursuant to 40 C.F.R. § 13.11(a)(1) with respect to such amount.
  76. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.
  77. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order is mailed or hand-delivered to the Respondents. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
  78. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
-

79. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
80. The aforesaid settlement amount is based upon Complainant's consideration of the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), which include the nature, circumstances, extent, and gravity of the violations and the violator's ability to pay, ability to continue in business, history of prior violations, and degree of culpability, and other matters as justice may require.
81. Respondent shall pay the amount described in Paragraph 75, above, by sending a certified or cashier's check payable to the "United States Treasury," as follows:

By Regular US Postal Service Mail:

U.S. EPA, Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

By Private Commercial Overnight Delivery:

U.S. EPA, Fines and Penalties  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
Contact: Natalie Pearson  
(314) 418-4087

Payment of the penalty as required by this CAFO may also be made by electronic transfer to:

Wire Transfers

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT Address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

(Field Tag 4200 of the wire transfer message should read:  
"D 68010727 Environmental Protection Agency")

Automated Clearing House (ACH) Transfers

---

PNC Bank  
ABA = 051036706  
Environmental Protection Agency  
Account 310006  
CTX Format  
Transaction Code 22 - checking  
808 17<sup>th</sup> Street, NW  
Washington, DC 20074

Payment by the Respondent shall reference the Respondent's name and address, and the EPA Docket Number of this CAFO. A copy of Respondent's check or a copy of Respondent's electronic wire transfer shall be sent simultaneously to:

Regional Hearing Clerk (3RC00)  
EPA Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029, and

Louis F. Ramalho, Esq. (3RC30)  
Sr. Assistant Regional Counsel  
U.S. Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

### **Certification**

82. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this CA which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this CA shall be certified by Respondent. Such certification shall be in the following form:

I certify under penalty of law that I have personally examined and am familiar with the information submitted to EPA under this certification. I believe that the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information to EPA including the possibility of fine and/or imprisonment for knowing violations.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

### **Distribution of Reports**

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83. All documents, reports, notices and correspondence to be submitted or sent pursuant to or concerning this CAFO shall be sent via overnight mail, regular first class mail, or by hand delivery as follows:

If to EPA:

Annie Skidmore (3WC33)  
United States Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029, and

Louis F. Ramalho, Sr. Assistant Regional Counsel (3RC30)  
United States Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

If to Respondent:

David Ferleger, Esquire  
Suite 115  
10 Presidential Boulevard  
Bala Cynwyd, PA 19004

#### **Other Applicable Laws**

84. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state or local laws and/or regulations.

#### **No Releases**

85. Nothing in this CAFO shall constitute or be construed as a release of Respondent from any claim, cause of action, or demand in law or equity by any person, firm, partnership, or corporation not bound by this CAFO for any liability relating in any way to the presence of lead-based paint and/or lead-based paint hazard at the Target Housing.

#### **Liability of Complainant**

86. Complainant shall not be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondent or its employees, agents, servants, receivers, successors, or assigns, or of any persons including, but not limited to, firms, corporations, subsidiaries, contractors, or consultants in carrying out the Disclosure Rule Multi-Lease Compliance Audit Agreement described in the attached SCD, nor shall the Complainant be held out as a party to any contract entered into by Respondent in carrying out the terms of this CAFO.

#### **Indemnification and Hold Harmless**

87. Respondent agrees to indemnify and hold harmless Complainant, its agents, employees, and authorized representatives from any and all causes of action arising from any acts or
-

omissions of Respondent or its contractors in carrying out the terms of this CAFO, including the SCD.

### **Parties Bound**

88. This CAFO shall be binding upon Respondent and Respondent's individual partners, Helene Tiger, Richard Tiger, Bob Perna, Dolores Perna, Henry Tiger, Linda Lacey, Joseph A. Perna, IV, Robert D. Perna, Miriam Ferleger, and the Estate of Joseph Perna III, and their agents, successors and assigns. Each representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent and its individual partners hereto.

### **Reservation of Rights**

89. Full payment of the civil penalty set forth in Paragraph 75 of this Consent Agreement, above, shall resolve only Respondent's liability for federal civil penalties for the specific violations alleged in this CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

### **Full and Final Satisfaction**

90. This CAFO constitutes a settlement by EPA of its claims for civil penalties against Respondent pursuant to 9006(a) of RCRA, 42 U.S.C. § 6991e(a), for the violations alleged in this Consent Agreement.

### **Effective Date**

91. The effective date of this Consent Agreement and the attached Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA - Region III or his designee, is filed with the Regional Hearing Clerk.

### **Entire Agreement**

92. This Consent Agreement and the attached Final Order constitute the entire agreement and understanding of the Parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and the attached Final Order. This Consent Agreement may be signed by Respondent's general partners individually in a separate signature page to this Consent Agreement.

For Respondent:

ARO Properties, a Pennsylvania general  
Partnership

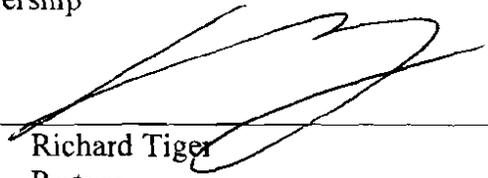
Date: 3/25/08

By:  (Jid)  
Helene Tiger  
Partner

For Respondent:

ARO Properties, a Pennsylvania general Partnership

Date: 3/25/08

By:   
Richard Tiger  
Partner

For Respondent:

ARO Properties, a Pennsylvania general Partnership

Date: 3/25/08

By:   
Bob Perna  
Partner

For Respondent:

ARO Properties, a Pennsylvania general  
Partnership

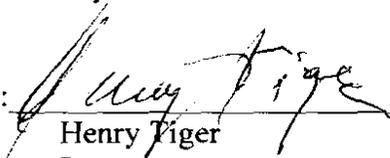
Date: 3/20/08

By:   
Dolores Perna  
Partner

For Respondent:

ARO Properties, a Pennsylvania general Partnership

Date: 3/25/08

By:   
Henry Tiger  
Partner

For Respondent:

ARO Properties, a Pennsylvania general Partnership

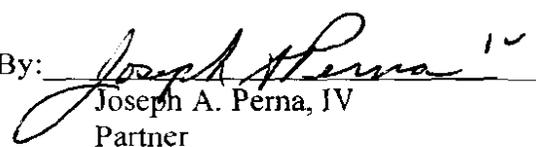
Date: 3/20/08

By:   
Linda Lacey  
Partner

For Respondent:

ARO Properties, a Pennsylvania general Partnership

Date: 3/25/07

By:   
Joseph A. Perna, IV  
Partner

For Respondent:

ARO Properties, a Pennsylvania general Partnership

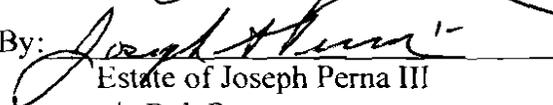
Date: 3/25/07

By:   
Robert D. Perna  
Partner

For Respondent:

ARO Properties, a Pennsylvania general Partnership

Date: 3/25/07

By:   
  
Estate of Joseph Perna III  
c/o Bob Perna  
Partner

For Respondent:

ARO Properties, a Pennsylvania general Partnership

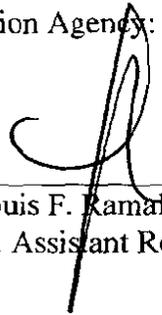
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Date: 3/25/08

By:   
Miriam Ferleger  
Ferleger Trust, Partner  
c/o Trustees Doris Ferleger, David Ferleger,  
Miriam Ferleger

For the United States Environmental Protection Agency:

Date: 3/27/08

By:   
Louis F. Kamath  
Sr. Assistant Regional Counsel

I recommend that the Regional Administrator, or his designee, issue the Final Order attached hereto.

Date: 3/31/08

By:   
Abraham Ferdas, Director  
Waste and Chemicals Management Division

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

<b>In the Matter of:</b>	:	
	:	
<b>ARO Properties</b>	:	<b>U.S. EPA Docket No.</b>
<b>4410 Township Line Road</b>	:	<b>TSCA-03-2008-0101</b>
<b>Drexel Hill, PA 19026</b>	:	
	:	
<b>RESPONDENT,</b>	:	<b>Proceeding under Sections 16(a)</b>
	:	<b>and 409 of the Toxic Substances</b>
<b>Tall Trees Village Apartments</b>	:	<b>Control Act (15 U.S.C. §§ 2615(a)</b>
<b>4410 Township Line Road</b>	:	<b>and 2689)</b>
<b>Drexel Hill, PA 19026</b>	:	
	:	
<b>TARGET HOUSING.</b>	:	
	:	

**FINAL ORDER**

Complainant, the Director of the Waste and Chemicals Management Division, U.S. Environmental Protection Agency - Region III, and ARO Properties, a Pennsylvania general partnership consisting of individual partners, Helene Tiger, Richard Tiger, Bob Perna, Dolores Perna, Henry Tiger, Linda Lacey, Joseph A. Perna, IV, Robert D. Perna, Miriam Ferleger, and the Estate of Joseph Perna III, and their agents, successors and assigns (the "Respondent"), have executed a document entitled "Consent Agreement", including a Settlement Conditions Documents ("SCD") which is incorporated by reference therein, which I hereby ratify as a Consent Agreement in accordance with *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), published at 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if set forth fully herein.

**NOW, THEREFORE, PURSUANT TO** Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("Lead Paint Disclosure Act"), 42 U.S.C. §§ 4851, *et seq.*

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EPA REGION III  
PHILADELPHIA

and 40 C.F.R. Part 745, Subpart F, which authorize the assessment of a civil penalty under Section 16 of TSCA, 15 U.S.C. § 2615, for violations of the Lead Paint Disclosure Act, and having determined, based on the representations of the parties to the attached Consent Agreement, that the agreed civil penalty of Fifty Eight Thousand Four Hundred Ninety-Three Dollars (\$58,493.00) is based upon the consideration of the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), **IT IS HEREBY ORDERED** that Respondents pay a civil penalty of Fifty Eight Thousand Four Hundred Ninety-Three Dollars (\$58,493.00) in accordance with the payment provisions set forth in the attached Consent Agreement, and comply with each of the additional terms and conditions thereof in settlement of the claims contained therein.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 3/31/08

By: Renee Sarajian  
Renee Sarajian  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region III

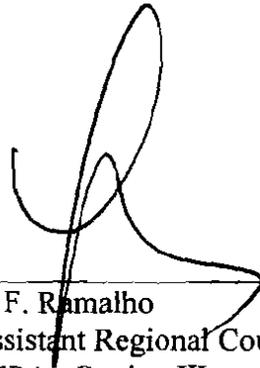
**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Consent Agreement and Final Order, Docket No. RCRA-03-2008-0101, was filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and that a true and correct copy was sent to the following parties:

Overnight mail:

David Ferleger, Esq.  
Pagoda 10, Suite 115  
10 Presidential Blvd.  
Bala Cynwyd, PA 19004

3/31/08  
Date



Louis F. Ramalho  
Sr. Assistant Regional Counsel  
U.S. EPA - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

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The purpose of this SCD is to set forth the tasks Respondent will undertake in implementing a Disclosure Rule Multi-Lease Compliance Audit (“DRMLCA”) for the following residential rental properties (“DRMLCA Target Housing”), which Respondent has agreed to perform as part of the settlement of the above-captioned matter:

**Oak Terrace Apartments  
281 Davis Avenue**

**Oak Terrace Aprtments  
18 North Oak Avenue**

**Holly House Apartments  
48 West Eagle Road**

**Wyndmoor Apartments  
117 South Eagle Road**

**Eagle Towers Apartments  
2323 East Darby Road**

**Stone Ridge Apartments  
501 Lawrence Road**

**Drexel Woods Apartments  
824 Providence Road**

**West Chester Pike Apartments  
West Chester Pike**

The effective date of this SCD is the date on which the accompanying Final Order, signed by the Regional Administrator of the United States Environmental Protection Agency, Region III, or the Regional Administrator’s designee, is filed with the Regional Hearing Clerk of U.S. EPA, Region III.

## II. SETTLEMENT CONDITIONS for the DISCLOSURE RULE MULTI-LEASE COMPLIANCE AUDIT

1. This DRMLCA is intended and designed, *inter alia*, to ensure compliance with the Disclosure Rule requirements set forth in 40 C.F.R. Part 745, Subpart F, concerning the disclosure of any lead-based paint and/or lead-based paint hazards in target housing, including, but not limited to, the attachment of specific disclosures to leasing contracts for such target housing prior to any obligation of the lessee under the leasing contract to lease such target housing.

2. Nothing in this SCD, including performance of the DRMLCA described herein, shall be construed as prohibiting, altering or in any way limiting either EPA's authority to enforce any applicable law, regulation or requirement at any and all target housing owned and/or managed by Respondent, or Respondent's duty to comply with such law, regulation or requirement, except as may be expressly provided herein.

3. Respondent agrees to perform this DRMLCA in accordance with the following conditions:

a. Respondent shall audit a random, representative sample of the leases listed in Attachment "A" to this SCD for residential dwelling units located in the DRMLCA Target Housing to determine Respondent's compliance with the Disclosure Rule requirements set forth in 40 C.F.R. Part 745, Subpart F, for such leases, as follows:

- (i). 40 C.F.R. § 745.107(a)(1): Requirement to provide Lessee with an EPA-approved Lead Hazard Pamphlet;
- (ii). 40 C.F.R. § 745.107(a)(2): Requirement to disclose to Lessee the

presence of known lead-based paint and/or lead-based paint hazards in the target housing, and to disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards;

- (iii). 40 C.F.R. § 745.107(a)(4): Requirement to provide Lessee with any available records or reports available to Lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing;
- (iv). 40 C.F.R. § 745.113(b)(1): Requirement to include, as an attachment to or within the contract to lease target housing, the Lead Warning Statement;
- (v). 40 C.F.R. § 745.113(b)(2): Requirement to include, as an attachment to or within the contract to lease target housing, a statement by the Lessor either disclosing the presence of known lead-based paint and/or lead-based paint hazards, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards, and to disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards;
- (vi). 40 C.F.R. § 745.113(b)(3): Requirement to include, as an attachment to or within the contract to lease target housing, a list of any records or reports available to the Lessor that pertain to lead

hazard information, or to indicate that no such records or reports are available;

- (vii). 40 C.F.R. § 745.113(b)(4): Requirement to include, as an attachment to or withing the contract to lease target housing, a statement by the Lessee affirming receipt of the information required to be provided to the Lessee under 40 C.F.R. 745.113(b)(2)-(3) and of the Lead Hazard Pamphlet required to be provided to the Lessee under 15 U.S.C. § 2686;
- (viii). 40 C.F.R. § 745.113(b)(5): Requirement to include, as an attachment to or within the contract to lease target housing, a statement by any Agent involved in the transaction to lease target housing that such Agent has informed the Lessor of the Lessor's obligations and that such Agent is aware of the Agent's duty to ensure compliance;
- (ix). 40 C.F.R. § 745.113(b)(6): Requirement to include, as an attachment to or within the contract to lease target housing, the signatures of the Lessor, Agent and Lessee certifying the accuracy of their statements, as well as the dates of signature; and
- (x). 40 C.F.R. § 745.113(c)(1) - Requirement to retain a copy of the completed disclosure records for no less than three (3) years from the commencement date of the lease.

b. The selection of the random, representative sample of the leases listed in Attachment "A" for the residential dwellings units in the DRMLCA Target Housing to determine compliance with the Disclosure Rule requirements set forth in **Section II.3.a.(i) through (x)**, above, shall be performed in accordance with the methodology and procedures set forth in the *Guidelines for Evaluation and Control of Lead-Based Paint Hazards in Housing, Chapter 7: Lead-Based Paint Inspection, Section V. Inspections in Multifamily Housing*, U.S. Department of Housing and Urban Development (1997 Revision).

### **III. DESCRIPTION of the DISCLOSURE RULE MULTI-LEASE COMPLIANCE AUDIT**

Respondent agrees to undertake the following with regard to performance of the DRMLCA:

1. Respondent shall retain the services of an independent third party auditor ("Auditor") to conduct the DRMLCA. Within ninety (90) days of the effective date of this SCD, Respondent shall submit to EPA the following:

- a. The name and address of the Auditor whom Respondent proposes to perform the DRMLCA;
- b. A full and complete copy of any contract or agreement entered into by Respondent with its proposed Auditor for purposes of conducting the DRMLCA;
- c. Documentation demonstrating that the Auditor selected by Respondent has a trained and experienced staff competent to conduct the DRMLCA, including prior experience auditing or reviewing lease agreements to

determine compliance with all applicable provisions of the Disclosure Rule as listed in **Section II.3.a.(i)-(x)** of this SCD; and

- d. A certification that the proposed Auditor has no past or present relationship or affiliation with the Respondent and doesn't anticipate any prospective relationship or affiliation with the Respondent as a result of performing the DRMLCA.

2. Within thirty (30) days of EPA's acceptance of Respondent's proposed Auditor, Respondent shall propose the following to EPA for its approval:

- a. A DRMLCA schedule ("DRMLCA Schedule") detailing the timetables for conducting the DRMLCA, which at a minimum satisfy the requirements of **Section III.3** of this SCD, below; and
- b. A DRMLCA plan ("DRMLCA Plan") detailing the procedures for conducting the DRMLCA, which at a minimum satisfy the requirements of **Section III.4** of this SCD, below.

3. The DRMLCA Schedule shall provide a timetable for conducting and completing the DRMLCA, not to exceed twelve (12) months from Respondent's receipt of EPA's written approval of the DRMLCA Schedule and DRMLCA Plan. The DRMLCA Schedule shall also provide timetables for the submission of interim DRMLCA reports ("DRMLCA Reports") in accordance with the requirements set forth in **Section IV.1** of this SCD, below. The DRMLCA Schedule shall also provide for the submission of a final DRMLCA report ("DRMLCA Final Report") at the conclusion of the DRMLCA in accordance with the requirements set forth in **Section IV.2** of this SCD, below.

4. The DRMLCA Plan shall set forth the procedures by which the Auditor will evaluate compliance with each of the Disclosure Rule requirements set forth in **Section II.3.a.(i)-(x)** of this SCD, above, with respect to each lease subject to the DRMLCA. At a minimum, the procedures set forth in the DRMLCA Plan shall provide for, but will not be limited to:

- a. A schedule indicating when the random, representative sample of leases for each DRMLCA Target Housing will be audited;
- b. Identification of the leases at each DRMLCA Target Housing to be audited as part of the random, representative sample for that Target Housing pursuant to **Section II.3.b.**, above;
- c. The compilation, analysis and submission of an DRMLCA Report pursuant to **Section IV.1** of this SCD, below, and completion of a DRMLCA inspection checklist attached hereto as “Attachment “B” (“DRMLCA Inspection Checklist”) for each lease audited;
- d. The compilation, analysis and submission of a DRMLCA Final Report pursuant to **Section IV.2** of this SCD, below.

5. Upon completion of a review by EPA of the materials described in **Section III.1. through 4.**, above, submitted by Respondent to EPA, EPA shall, in its sole discretion, either: 1) notify Respondent in writing of EPA’s acceptance of the Auditor, the DRMLCA Schedule and DRMLCA Plan as proposed by Respondent; or 2) notify Respondent in writing of EPA’s rejection in whole or in part of any of the aforementioned items as proposed by Respondent. If EPA rejects any of these items in whole or in part, the Agency shall provide Respondent with

notice and a written statement of the reasons for such rejection, and a reasonable time in which to make a new submittal. If Respondent fails to submit all or a portion of the required revision by the deadline provided by EPA, EPA shall have the right to terminate this SCD through written notice to Respondent, resume a full investigation of any and all of the leases listed in Attachment "A" to this SCD to determine compliance with the requirements of the Disclosure Rule, and seek and collect the maximum penalty allowed by law for any violations of the Disclosure Rule.

6. Performance of the DRMLCA shall commence only upon Respondent's receipt of EPA written approval of the DRMLCA Schedule and DRMLCA Plan.

7. Respondent shall fully cooperate with requests made by the Auditor concerning performance of the DRMLCA, and the preparation of the DRMLCA Inspection Checklist for each lease subject to the DRMLCA, including, but not limited to, the preparation of the DRMLCA Reports and the DRMLCA Final Report.

8. Upon completion of a review by EPA of each report submitted by Respondent in accordance with **Section IV.1-2** of this SCD, below, EPA shall, in its sole discretion, either: 1) notify Respondent in writing of EPA's approval of the submitted report; or 2) notify Respondent in writing of EPA's rejection in whole or in part of the submitted report. If EPA rejects a report in whole or in part, the Agency shall provide Respondent with a written statement of reasons for the rejection and shall provide to Respondent a reasonable time in which to submit a revised report to the Agency. If Respondent fails, within the timeframe provided, to submit a report or to submit a revised report following Agency rejection, EPA shall have the right to terminate this SCD and resume a full investigation of any and all of the leases listed in Attachment "A" to this

SCD for violations of the Disclosure Rule, and seek and collect the maximum penalty allowed by law for those violations.

9. Respondent shall immediately undertake any and all actions necessary to correct any violation of the Disclosure Rule discovered during the course of performance of the DRMLCA, and institute effective institutional measures to ensure such violation does not recur in the future. Nothing in this paragraph shall relieve Respondent of any obligation imposed by any applicable federal, state or local laws and requirements concerning compliance with residential lead-based paint and lead-based paint hazards.

10. Respondent shall be subject to civil penalties in accordance with the payment schedule set forth in **Section VIII** of this SCD, below, for each violation of the regulations listed in **Section II.3.a.(i)-(x)** of this SCD, above, which is discovered, disclosed and corrected pursuant to the DRMLCA. Whatever claims for civil penalties EPA may have for each such violation shall be resolved and settled by Respondent's payment of the prescribed penalty for such violation, in accordance with the penalty schedule set forth in **Section VIII** of this SCD.

#### **IV. REPORTS, DOCUMENTS AND NOTIFICATION**

##### **1. DRMLCA Reports**

a. At the conclusion of the DRMLCA for each Target Housing and in accordance with the DRMLCA Schedule and DRMLCA Plan approved under **Section III.5.** of this SCD, Respondent shall submit for each DRMLCA Target Housing a DRMLCA Report to EPA which compiles and summarizes the Auditor's findings and DRMLCA results of the random, representative sample of the leases listed in Attachment "A" for the residential

dwelling units in such DRMLCA Target Housing. Each DRMLCA Report shall, at a minimum, contain the following information:

- (i). The name and address of the DRMLCA Target Housing;
- (ii). A spreadsheet or other listing of the leases audited;
- (iii). A demonstration that the leases audited constitute a valid representative sample for that DRMLCA Target Housing in accordance with Section II.3.b., of this SCD;
- (iv). A detailed description of each lease audited for such DRMLCA Target Housing;
- (v). A detailed description of the information reviewed by the Auditor to perform the DRMLCA of each lease audited to satisfy the requirements of **Section II.3.a.(i)-(x)** of this SCD;
- (vi). A statement indicating whether any violations were discovered during the review of the random, representative sample of the leases listed in Attachment "A" for the residential dwelling units in the DRMLCA Target Housing;
- (vii). A detailed description of each violation found in each lease audited for such DRMLCA Target Housing;
- (viii). A statement indicating any problems or difficulties encountered in conducting the DRMLCA of each lease audited to satisfy the requirements of **Section II.3.a.(i)-(x)** of this SCD and a statement

explaining the measures taken to address such problems or difficulties;

- (ix). A statement as to whether or not each violation has been corrected by Respondent and a description of measures, if any, the Respondent has undertaken to ensure such violation does not recur in the future; and
- (x). A completed DRMLCA Inspection Checklist for each lease audited certified by the Respondent in the following manner:

I certify that the lease identified in the attached DRMLCA Inspection Checklist for the residential dwelling unit located in **[name of DRMLCA Target Housing]** is currently in full compliance with respect to the requirements of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4852d *et seq.* (“RLBPHRA”), and the regulations promulgated thereunder, as set forth in 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”). I make this certification with the knowledge that any lead disclosure violation which is subsequently discovered at this property by EPA, independent of the Disclosure Rule Multi-Lease Compliance Audit Agreement between EPA and ARO, may be subject to an enforcement action by EPA and the imposition of civil penalties.

Furthermore, I certify that the information contained in or accompanying the DRMLCA Inspection Checklist is true, accurate, and complete. As to the identified portion[s] of the DRMLCA Inspection Checklist for which I cannot personally verify accuracy, I certify under penalty of law that the DRMLCA Inspection Checklist and all attachments, including any and all supporting information, were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. To the best of my knowledge and belief, and based upon my inquiry of the person or persons who manage that system, or those persons directly responsible for gathering the information, the information submitted is true, accurate and complete. I am aware that there are significant

penalties for submitting false information, including the possibility of fines and imprisonment for knowing submission of such information.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

2. DRMLCA Final Report

- a. At the conclusion of the DRMLCA, and in accordance with the DRMLCA Schedule established under **Section III.3.** of this SCD, Respondent shall submit a DRMLCA Final Report to EPA which compiles and summarizes the DRMLCA results. The DRMLCA Final Report shall, at a minimum, contain the following information:
- (i). A description of the DRMLCA as implemented, including a discussion of how the DRMLCA has fulfilled all of the requirements of this SCD;
  - (ii). A declaration by the Auditor that, to the best of the Auditor's knowledge, the DRMLCA has been fully implemented in accordance with this SCD;
  - (iii). A description of any operating problems encountered during the DRMLCA, and any solutions reached by Respondent in resolving such problems; and,
  - (iv). A description of the environmental and public health benefits resulting from the implementation of the DRMLCA.

3. Records Retention

Respondent shall maintain for inspection original copies of any and all leases, records and reports provided to the Auditor that formed the basis of the Auditor's findings and determinations for any DRMLCA Inspection Checklist, DRMLCA Report, or the DRMLCA Final Report, for a period of three (3) years from the date of submission of the DRMLCA Final Report. Respondent shall provide the documentation of any and all such leases, records and reports to EPA within ten (10) days of receipt of a written request for such information by EPA.

4. Notification and Reporting

a. Except as otherwise specified herein, whenever this SCD requires notice, or the submission of reports, information or documentation to EPA, such notice or submission shall be provided to the following persons via certified mail return receipt requested, first-class mail, overnight mail (Express or Priority), direct hand-delivery, or any reliable commercial delivery service offering proof of delivery:

(i). For EPA:

Louis F. Ramalho, Esq.,  
Senior Assistant Regional Counsel  
Office of Regional Counsel (3RC30)  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029; and

Annie Skidmore  
Lead Compliance Officer  
Toxic Programs and Enforcement Branch (3WC33)  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029; and

(ii). For Respondent:

David Ferleger, Esquire  
Suite 115  
10 Presidential Boulevard  
Bala Cynwyd, PA 19004

b. Either party may change the address to which such notices or submissions will be sent, or substitute another person to receive notices or submissions on its behalf. In so doing, written notification to the other party of the change or substitution shall be provided.

**V. DELAY IN PERFORMANCE OR FAILURE TO COMPLETE THE AUDIT REPORTS OR FINAL REPORT IN A SATISFACTORY MANNER**

1. In exercising its discretion or making a determination under this SCD, EPA shall be reasonable in considering all of the relevant circumstances. However, all determinations required to be made by EPA under this SCD, including the determination of whether the DRMLCA Inspection Checklist, DRMLCA Reports and the DRMLCA Final Report have been completed in a satisfactory manner, shall be in the sole discretion of EPA. EPA shall be under no obligation to review or approve a DRMLCA Report or the DRMLCA Final Report if not submitted, or revised and re-submitted, by Respondent within the timeframe established in this SCD, or a deadline provided by EPA under **Section III.8.** of this SCD. Any violation of the regulations listed in **Section II.3.a.(i)-(x)** of this SCD not discovered, disclosed and corrected pursuant to the DRMLCA shall not qualify for the prescribed civil penalties set forth in **Section VIII** of this SCD and EPA will retain the right to seek and collect the maximum civil penalty allowed by law for such violation.

2. Notwithstanding any other provision of this SCD, no action or decision by EPA pursuant to this SCD shall constitute final agency action giving rise to any right to judicial review prior to EPA's initiation of judicial action to compel compliance with this SCD.

## **VI. FORCE MAJEURE**

1. If any event occurs which causes or may cause delays in the completion of the tasks required under this SCD, Respondent shall notify EPA in writing within twenty (20) days of such event or within twenty (20) days of Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and a timetable by which those measures will be implemented. Respondent shall implement all reasonable and feasible measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this Section shall render this Section null and void as to the particular incident involved, and shall constitute a waiver of Respondent's right to request an extension of time for its obligation under this SCD based on that incident.

2. If the parties agree that the delay or anticipated delay in complying with the terms of this SCD has been or will be caused by a circumstance entirely beyond Respondent's control, and which could not or cannot be overcome by due diligence (i.e., a "force majeure"), the time for performance may be extended for a period no longer than the delay resulting from such circumstance. In that event, the parties shall stipulate in writing to an extension of time.

3. If EPA does not agree that a delay or anticipated delay in complying with the terms of this SCD has been or will be caused by a force majeure, EPA in its sole discretion will

notify Respondent in writing of its decision. Such delays shall not be the basis for any extension of time for the performance of Respondent's obligations under this SCD.

4. The burden of proving that a delay or anticipated delay in complying with the terms of this SCD has been or will be caused by a force majeure, shall rest with Respondent. Increased costs or expenses associated with the implementation of actions required by this SCD shall not, in any event, be a basis for changes in this SCD, or extensions of time under this Section.

## **VII. INSPECTION**

EPA, or an authorized representative of EPA, may at reasonable times during business hours, and after providing Respondent notice, request access to Respondent's principal place of business to monitor compliance with this SCD. This right of entry includes the inspection of relevant documents, and is in addition to, and in no way impedes or limits, any other rights available to EPA by law or regulation.

## **VIII. CIVIL PENALTIES FOR DISCOVERED, DISCLOSED AND CORRECTED VIOLATIONS under the DISCLOSURE RULE MULTI-LEASE COMPLIANCE AUDIT**

1. For each DRMLCA Report submitted by Respondent to EPA in accordance with the requirements set forth in this SCD, EPA shall furnish to Respondent a proposed Consent Agreement ("CA") to resolve any claims for civil penalties EPA may have against Respondent for any violation of the regulations listed in **Section II.3.a.(i)-(x)** of this SCD which were discovered by Respondent pursuant to the DRMLCA and disclosed in such DRMLCA Report. The CA shall be prepared in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of

Permits (“Consolidated Rules of Practice”) (40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3)), and shall be substantially in the form of the model CA attached to this SCD as Attachment “C”. The CA shall require Respondent to pay, for each such violation, the prescribed civil penalty specified for such violation as determined under **Section VIII.6.** of this SCD, plus an amount equal to the economic benefit, if any, realized by Respondent as a result of such violation.<sup>1</sup> Respondent shall have thirty (30) days from receipt of such proposed CA within which to sign such CA and return it to EPA for signature unless such time period is extended by written mutual consent by the parties. After signature by EPA, the fully-executed CA and the accompanying Final Order (collectively “CAFO”) shall be filed with the Regional Hearing Clerk for Region III in accordance with the Consolidated Rules of Practice. Nothing herein shall bar EPA from bringing an action in any appropriate forum seeking relief for any violation of the Disclosure Rule not discovered, disclosed and corrected by Respondent pursuant to the terms of this SCD.

2. In the event that Respondent fails or refuses to enter into such proposed CA within thirty (30) days of receipt of such CA, EPA shall have the right to seek and collect the maximum civil penalty allowable by law for the violations contained therein, without regard to the prescribed civil penalties established under this Section.

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<sup>1</sup> Economic benefit is typically calculated as follows:

- (1) Delayed costs, or the time-value of money, are assumed to be 3% per year:  
(Number of days expenditure delayed, divided by 365 calendar days)  
multiplied by 3% or 0.03 or
- (2) The value of the avoided costs.

3. No criminal violation shall qualify for the imposition of prescribed penalties and satisfaction under this SCD, and EPA reserves the right to seek and obtain injunctive relief and the imposition of maximum criminal sanction(s) allowed by law for any such violation.

4. Subject to the provisions and terms of this SCD, the period commencing April 1, 2004 and ending March 31, 2007 (the "Tolling Period"), inclusive, will not be included in computing the running of any statute of limitations applicable to any action brought by EPA or on behalf of EPA for civil penalties or other remedies provided by law in relation to any violation of the regulations listed in **Section II.3.a.(i)-(x)** of this SCD for any residential dwelling unit located at each DRMLCA Target Housing subject to the DRMLCA. Respondent shall not assert, plead or raise against the EPA or the U.S. Department of Justice on behalf of EPA, in any fashion (whether by answer, motion or otherwise), any defense or avoidance based on the running of any statute of limitations during the Tolling Period, and any statute of limitations shall be tolled for the duration of the Tolling Period.

5. RLBPHRA, TSCA and the Disclosure Rule authorize the EPA Administrator to assess a civil penalty of up to \$10,000.00 for each violation of TSCA Section 409 (15 U.S.C. § 2689). Pursuant to the Adjustment of Civil Monetary Penalties for Inflation Rule (40 C.F.R. Part 19), this amount has been adjusted up to a maximum penalty of \$11,000.00 for each violation occurring after July 28, 1997. (*See also* 40 C.F.R. Section 745.118(f)).

6. Respondent shall pay the following prescribed civil penalties, plus an amount equal to the economic benefit realized by Respondent, if any, for any Disclosure Rule violation discovered and corrected pursuant to the DRMLCA and disclosed in an approved DRMLCA Report as set forth in the DRMLCA gravity based penalty matrix below:

<b>“CIRCUMSTANCE LEVEL” Matrix</b>	
<b>Circumstance Level</b>	<b>Disclosure Rule Violation</b>
<b>1</b>  <b>Components of Full Disclosure</b>	<p>40 C.F.R. § 745.107(a)(1) - Failure to provide Lessee with EPA-approved Lead Hazard Pamphlet.</p> <p>40 C.F.R. § 745.107(a)(2) - Failure to disclose to Lessee the presence of known lead-based paint and/or lead-based paint hazards in the target housing.</p> <p>40 C.F.R. § 745.107(a)(4) - Failure to provide Lessee any records or reports available to Lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing.</p>
<b>2</b>  <b>Warning Statements</b>	<p>40 C.F.R. § 745.113(b)(1) - Failure to include, as an attachment to or within a contract to lease target housing, the Lead Warning Statement.</p> <p>40 C.F.R. § 745.113(b)(2) - Failure to include, as an attachment to or within a contract to lease target housing, a statement by the Lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.</p>
<b>4</b>  <b>Certification &amp; Acknowledgment</b>	<p>40 C.F.R. § 745.113(b)(4) - Failure to include, as an attachment to or within a contract to lease target housing, a statement by the Lessee affirming receipt of the information required under 40 C.F.R. 745.113(b)(2)-(3) and the lead hazard pamphlet required under 15 U.S.C. § 2686.</p>
<b>5</b>  <b>Certification &amp; Acknowledgment</b>	<p>40 C.F.R. § 745.113(b)(3) - Failure to include, as an attachment to or within a contract to lease target housing, a list of any records or reports available to the Lessor that pertain to the presence of any known lead based paint and/or lead-based paint hazards in the target housing or to indicate that no such records are available.</p> <p>40 C.F.R. § 745.113(b)(5) - Failure to include, as an attachment to or within the contract to lease target housing, a statement by one or more Agents involved in the transaction to lease target housing that the Agent(s) has informed the Lessor of the Lessor’s obligations and that the Agent(s) is aware of his/her duty to ensure compliance with the Disclosure Rule.</p>
<b>6</b>  <b>Failure to Retain Records, Signatures and Dates</b>	<p>40 C.F.R. § 745.113(b)(6) - Failure to include, as an attachment to or within a contract to lease target housing, the signatures of the Lessor(s), Agent(s) and Lessee(s) certifying the accuracy of their statements, as well as the dates of signatures.</p> <p>40 C.F.R. § 745.113(c)(1) - Failure to retain a copy of the completed disclosure records for no less than three (3) years from the commencement date of the lease.</p>

<b>“EXTENT” Category Matrix</b>			
Occupant of the target housing is:	Pregnant woman, or child under 6 years of age.	Child 6 years of age or older but less than 18 years of age, or age of occupant not provided.	Occupant(s) 18 years of age or older.
<b>EXTENT</b>	Major	Significant	Minor

<b>DRMLCA GRAVITY-BASED PENALTY (GBP) Matrix<sup>2</sup></b> <b>Violations occurring on or before March 15, 2004</b>				
<b>Circumstance</b>		Major Extent	Significant Extent	Minor Extent
HIGH	Level 1	\$11,000 / <b>\$6,500</b>	\$6,600 / <b>3,300</b>	\$2,200 / <b>\$1,100</b>
	Level 2	<b>\$8,800 / \$4,400</b>	<b>\$5,500 / \$2,750</b>	<b>\$1,320 / \$660</b>
MEDIUM	Level 3	\$6,600 / <b>\$3,300</b>	\$4,400 / <b>\$2,200</b>	\$660 / <b>\$330</b>
	Level 4	<b>\$4,400 / \$2,200</b>	<b>\$2,750 / \$1,375</b>	<b>\$440 / \$220</b>

<sup>2</sup> RLBPHRA Section 1018, 42 U.S.C. § 4852d, and 40 C.F.R. § 745.118(f) authorize the assessment of a civil penalty under Section 16 of TSCA, 15 U.S.C. § 2615, in the maximum amount of \$10,000 for each violation of Section 409 of TSCA, 15 U.S.C. § 2689. This amount has been adjusted to \$11,000 per violation under the *Civil Monetary Penalty Inflation Adjustment Rule*, 40 C.F.R. Part 19, which increases the civil penalties which can be assessed for violations occurring on or after July 28, 1997 by 10%. This *Inflation Adjustment Rule* also provides for a 17.23% penalty increase for all violations occurring after March 15, 2004, but the maximum penalties cannot exceed \$11,000 per violation at this time. These matrices are provided in EPA’s *Section 1018 Disclosure Rule Enforcement Policy* (December 2007) (“Disclosure Rule Penalty Policy”), and these GBP Matrices in particular take into account the *Inflation Adjustment Rule* for violations occurring on or before March 15, 2004, and for violations occurring after March 15, 2004. The number on the left of each cell indicates the penalty prescribed for each violation of the Disclosure Rule pursuant to the Disclosure Rule Penalty Policy. The number on the right of each cell (in bold) indicates the reduced penalty Respondent will pay under the DRMLCA.

LOW	Level 5	\$2,200 / \$1,100	\$1,430 / \$715	\$220 / \$110
	Level 6	\$1,100 / \$550	\$550 / \$275	\$110 / \$55

<b>DRMLCA GRAVITY-BASED PENALTY (GBP) Matrix</b>				
<b>Violations occurring after March 15, 2004</b>				
<b>Circumstance</b>		<b>Major Extent</b>	<b>Significant Extent</b>	<b>Minor Extent</b>
HIGH	Level 1	\$11,000 / \$5,500	\$7,740 / \$3,870	\$2,580 / \$1,290
	Level 2	\$10,320 / \$5,160	\$6,450 / \$3,225	\$1,550 / \$775
MEDIUM	Level 3	\$7,740 / \$3,870	\$5,160 / \$2,580	\$770 / \$385
	Level 4	\$5,160 / \$2,580	\$3,220 / \$1,610	\$520 / \$260
LOW	Level 5	\$2,580 / \$1,290	\$1,680 / \$840	\$260 / \$130
	Level 6	\$1,290 / \$323	\$640 / \$320	\$130 / \$65

**XI. CLAIM OF CONFIDENTIALITY**

1. Pursuant to the regulations set forth at 40 C.F.R. Part 2, Subpart B, if any portion of the information submitted in any DRMLCA Report or the DRMLCA Final Report contains “confidential business information” as defined at 40 C.F.R. § 2.201, Respondent shall be entitled to assert a business confidentiality claim covering any part of such “confidential business information.” Any such claim is subject to EPA’s evaluation of the confidential status of that information pursuant to the procedures set forth at 40 C.F.R. Part 2, Subpart B. If a “confidential business information” claim is made, EPA may then require Respondent to substantiate any such

claim, in writing. Any such request for substantiation will seek information, in accordance with 40 C.F.R. § 2.204(e)(4), to determine whether the information claimed as CBI actually qualifies as CBI .

2. If Respondent claims any portion of the information submitted in any DRMLCA Report or the DRMLCA Final Report contains “confidential business information”, Respondent must submit two copies of any such “confidential business information” in accordance with the following procedures:

a. The first copy of any page containing such “confidential business information” must be complete and contain all information. Additionally, each such page must be marked conspicuously to indicate that it is claimed as confidential. Furthermore, the compilation of information subject to your “confidential business information” claim should be mailed to EPA, Region III in accordance with the following procedures:

- (i). all such documents must be placed in an envelope addressed to Mr. Kyle Chelius, Document Control Officer, Toxics Programs and Enforcement Branch (3WC33), U.S. Environmental Protection Agency - Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029. This envelope should be marked "Confidential - To be Opened By Addressee Only"; and
- (ii). the envelope containing the information claimed as business confidential should then be placed in a second, "outer" envelope, also addressed to Mr. Kyle Chelius, TSCA-CBI Document Control Officer, at the address indicated above. The outer envelope should not be marked with any indication that it contains confidential information.

b. The second copy of any document which is subject to a “confidential business information” claim must only contain information which is not claimed as confidential. This second copy of any document from which alleged “confidential business information” has been made unreadable, or otherwise removed, must be mailed directly to Ms. Annie Skidmore, Compliance Officer, Toxics Programs and Enforcement Branch (3WC33), U.S. Environmental Protection Agency - Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, along with any documents which are not subject to any “confidential business information” claim.

3. Respondent shall not assert a claim of confidentiality with respect to any documents pertaining to lead sampling or monitoring including, but not limited to, lead testing, records and reports.