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

In the Matter of:

**GLCC Associates, L.P.
314 Fairview Road
Penn Valley, PA 19072**

Docket No. TSCA-03-2012-0283

Respondent

CONSENT AGREEMENT

**Greater Lewistown Corporate Center
600 Roundhouse Road
Lewistown, PA 17044**

**Proceeding under Section 16 of the
Toxic Substances Control Act,
15 U.S.C. § 2615**

Facility.

CONSENT AGREEMENT

I. Preliminary Statement

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant") and GLCC Associates, L.P. ("Respondent") pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 ("Consolidated Rules of Practice"), with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Consent Agreement and the accompanying Final Order (collectively referred to herein as the "CAFO") resolve violations of TSCA Sections 6(e) and 15, 15 U.S.C. §§ 2605(e) and 2614, and the Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions (hereinafter, the "PCB regulations"), 40 C.F.R. Part 761.

II. General Provisions

2. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this CAFO. Respondent's admission of the jurisdictional allegations in this CAFO shall not constitute an admission as to any matter other than as necessary for establishing EPA's jurisdiction in this matter and is neither intended nor shall be considered as an admission that may be relied upon for any purpose by any person not a party to this proceeding.

3. Except as provided in paragraph 2, above, Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CAFO.
4. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
5. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
6. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
7. Respondent shall bear its own costs and attorney's fees.

III. Findings of Fact and Conclusions of Law

8. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the findings of fact and conclusions of law set forth below.
9. As used herein, the terms "PCB," "PCB Container," "PCB Item," "PCB Transformer," "Disposal," "Commercial Storer of PCB Waste," and "Disposer of PCB Waste" shall have the definition and meaning set forth in 40 C.F.R. § 761.3.
10. TSCA Section 15(1)(C), 15 U.S.C. § 2614(1)(C), provides that it shall be unlawful for any person to fail or refuse to comply with any rule promulgated or order issued under TSCA Sections 5 or 6, 15 U.S.C. §§ 2604 or 2605.
11. TSCA Section 15(1)(B), 15 U.S.C. § 2614(1)(B), provides that it shall be unlawful for any person to fail or refuse to comply with any requirement prescribed by TSCA Sections 5 or 6, 15 U.S.C. §§ 2604 or 2605.
12. Respondent is a limited partnership organized pursuant to the laws of the Commonwealth of Pennsylvania.
13. Respondent is a "person" as defined in 40 C.F.R. § 761.3.
14. Respondent is, and at all times relevant to this Consent Agreement was, the owner and operator of the commercial building(s) located at 600 Roundhouse Road, Lewistown, Pennsylvania ("Facility").
15. On November 18, 2011, a duly authorized representative of EPA Region III conducted a compliance evaluation inspection at the Facility pursuant to the authority of Section 11 of TSCA, 15 U.S.C. § 2610.

16. At the time of the inspection, Respondent was the owner and operator of seven PCB Transformers at the Facility. These seven PCB Transformers were located in seven separate substations, known as A, B, C, D, E, F and H. Substations A and B were contiguous and contained one PCB transformer each, identified as Serial Nos. F95309C and F95309A, respectively. They each contained 190 gallons of Pyranol. These substations were located about fifty feet northeast of Substations C, D and E on the first floor. Substations C, D and E were contiguous and surrounded by a metal fence; they were situated near the center of the Facility on the second floor. Each contained a single PCB Transformer, identified by Serial Nos. F956310B, F956310C, and F956310A, respectively, and each held 225 gallons of Pyranol. Substation F, located in the southwest portion of the Facility on the first floor, contained 190 gallons of Pyranol and was identified by Serial No. F956309B. Finally, the seventh PCB Transformer, identified as Serial No. C852197, was located in substation H in the north end of the Facility on the first floor and contained 205 gallons of Pyranol.
17. "Pyranol" is a trade name for a fire resistant electrical insulating fluid containing PCBs at concentrations significantly greater than 500 parts per million ("ppm").

COUNTS I - II

(Failure to Properly Dispose of PCBs)

18. The allegations of paragraphs 1 through 17 of this Consent Agreement are incorporated herein by reference.
19. Pursuant to 40 C.F.R. § 761.3, "PCB Transformer" means any transformer that contains 500 ppm PCBs or greater.
20. Pursuant to 40 C.F.R. § 761.60(a), PCB liquids at concentrations of 500 ppm or greater must be disposed of in an incinerator that complies with 40 C.F.R. § 761.70.
21. 40 C.F.R. § 761.50(a)(4) provides that spills, leaks and other uncontrolled discharges of PCBs at concentrations of 50 ppm or greater constitute the "disposal" of PCBs as that term is defined in 40 C.F.R. § 761.3.
22. Prior to the inspection, PCB liquids had leaked from the PCB Transformer in Substation F, Serial No. F956309B, causing a small stain underneath the drain valve of the transformer. The stain measured approximately 1.5 by 2.5 inches.
23. Prior to the inspection, PCB liquids had leaked from the PCB Transformer in Substation H, Serial No. C852197, causing a small puddle of fluid located underneath the drain valve of the transformer. The stain measured approximately 3.5 by 3.5 inches.
24. The PCB leaks described in paragraphs 22 and 23, above, were "uncontrolled discharges" of PCBs at concentrations of 50 ppm or greater and constitute disposal of PCBs in a manner not in compliance with 40 C.F.R. § 761.70.

25. By failing to prevent or control the leaks of PCB liquids described in paragraphs 22 and 23, above, Respondent disposed of PCB liquids in violation of TSCA Section 15, 15 U.S.C. § 2614, and 40 C.F.R. § 761.60(a).

COUNT III

(Failure to Remove Combustible Materials within Five Meters of Transformer Enclosure)

26. The allegations of paragraphs 1 through 25 of this Consent Agreement are incorporated herein by reference.
27. 40 C.F.R. § 761.30(a)(1)(viii) provides that combustible materials, including, but not limited to paints, solvents, plastics, papers and sawn wood must not be stored within five meters of a PCB Transformer enclosure.
28. At the time of the inspection, a blue trash can and a white shirt were being stored approximately three feet (0.91 meters) from the enclosure containing the PCB Transformers at Substations C, D and E.
29. By storing the two combustible items, described in paragraph 28, above, within five meters of an enclosure containing PCB Transformers, the Respondents violated TSCA Section 15, 15 U.S.C. § 2614, and 40 C.F.R. §761.30(a)(1)(viii).

IV. Civil Penalty

30. In settlement of EPA's claims for civil monetary penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **\$13,700.00 in principal and \$37.54 in interest**, which Respondent agrees to pay in accordance with the terms set forth below.
31. The aforesaid civil penalty is based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), i.e., the nature, circumstances, extent, and gravity of the violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, degree of culpability, and such other factors as justice may require. These factors were applied to the particular facts and circumstances of this case in the manner described in EPA's *Polychlorinated Biphenyls (PCB) Penalty Policy* (April 9, 1990). To determine the penalty amount set forth in Paragraph 30, above, Complainant has also considered the Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19, and EPA's *Revision to Adjusted Penalty Policy Matrices Package Issued on November 16, 2009* (April 6, 2010).

V. Payment Terms

32. In order to avoid the assessment of additional interest, administrative costs and late payment penalties in connection with the civil penalty described in this CAFO,

Respondent shall pay the civil penalty in accordance with Paragraph 33 and in the time period specified below:

<u>Schedule</u>	<u>Principal Amount</u>		<u>Interest</u>		<u>Payment Amount Due</u>
1 st payment within 30 days of the effective date	\$2,289.59	+	\$0.00	=	\$2,289.59
2 nd payment within 60 days of the effective date	\$2,270.83	+	\$18.76	=	\$2,289.59
3 rd payment within 90 days of the effective date	\$2,282.08	+	\$7.51	=	\$2,289.59
4 th payment within 120 days of the effective date	\$2,283.95	+	\$5.64	=	\$2,289.59
5 th payment within 150 days of the effective date	\$2,285.83	+	\$3.76	=	\$2,289.59
6 th payment within 180 days of the effective date	\$2,287.72	+	\$1.87	=	\$2,289.59
TOTAL:	\$13,700.00	+	\$37.54	=	\$13,737.54

33. Payment of the civil penalty amount set forth in Paragraph 30 and over the time period specified in Paragraph 32, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 34, 35, 36 and 37, below, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, TSCA-03-2012-0283;
- B. All checks shall be made payable to "United States Treasury";
- C. All payments made by check and sent by regular mail shall be addressed to:

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

Customer service contact: 513-487-2105

- D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- E. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- F. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- G. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: 866-234-5681

H. On-Line Payment Option:

WWW.PAY.GOV/paygov/

Enter "sfo 1.1" in the search field. Open and complete the form.

I. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/payment_instructions.htm

J. Payment by Respondent shall reference 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 fund transfer shall be sent simultaneously to:

T. Chris Minshall
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. EPA, Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

34. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess additional interest 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. Accordingly, Respondent's failure to make timely payment by the dates specified in Paragraph 32, above, shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
35. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the 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). Accordingly, interest payments on each outstanding installment of the civil penalty assessed herein are set forth in Paragraph 32.

36. 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.
37. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
38. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

VI. Certification

39. Respondent certifies to Complainant by its signature hereto, to the best of Respondent's knowledge and belief, the Facility is currently in compliance with all relevant provisions of TSCA and 40 C.F.R. Part 761.

VII. Scope of Settlement

40. The settlement set forth in this CAFO shall constitute full and final satisfaction of Complainant's civil claims for penalties for the specific violations alleged herein. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

VIII. Other Applicable Laws

41. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

IX. Reservation of Rights

42. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil monetary penalties for the specific violations of TSCA alleged herein. 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 TSCA, 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 EPA Regional Hearing Clerk.

X. Parties Bound

43. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, Respondent and Respondent's successors and assigns.

XI. Execution

44. The person signing this Consent Agreement on behalf of the Respondent acknowledges and certifies by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

XII. Effective Date

45. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA Region III, or his designee, the Regional Judicial Officer, is filed with the EPA Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

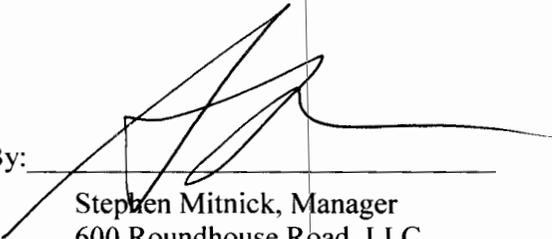
XIII. Entire Agreement

46. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

Date: 9/23/2012

By: _____


Stephen Mitnick, Manager
600 Roundhouse Road, LLC,
General Partner of
GLCC Associates, L.P.

For Complainant:

Date: 9/25/2012

By: T. Chris Minshall
T. Chris Minshall
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9/27/12

By: Abraham Ferdas
Abraham Ferdas, Director
Land and Chemicals Division

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Facility.

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, GLCC Associates, L.P., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement 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 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW THEREFORE, pursuant to Sections 15 and 16 of TSCA, 15 U.S.C. §§ 2614 and 2615, and the Consolidated Rules of Practice, and upon representations in the Consent Agreement that the penalty agreed to therein is based upon a consideration of the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), Respondent GLCC Associates, L.P. is hereby ordered to pay a civil penalty of **\$13,700.00** as set forth in Section IV of the Consent Agreement, and to comply with the terms and conditions of the Consent Agreement.

The effective date of this document is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Administrator or Regional Judicial Officer.

Date:

9/28/12

Renée Sarajian

Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

In the Matter of GLCC Associates, L.P.

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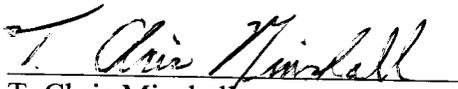
CERTIFICATE OF SERVICE

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

I hereby certify that on this 28th day of September 2012, I sent a copy of the foregoing CONSENT AGREEMENT and FINAL ORDER by UPS, to the following people:

Robert D. Fox
Manko, Gold, Katcher & Fox, LLP
401 City Avenue, Suite 500
Bala Cynwyd, PA 19004

Stephen Mitnick, Manager
600 Roundhouse Road, LLC
General Partner of
GLCC Associates, LP
314 Fairview Road
Penn Valley, PA 19072



T. Chris Minshall
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III