

Subparts A and B. Whenever the terms listed below are used in this Agreement the following definitions apply:

“Respondents” means Winn Managed Properties, LLC, Winn Management Company, LLC, and Lend Lease Apartment Management, LLC.

“Appendix 1” means the list of Winn property management companies attached to this Agreement.

“Appendix 2” means the list of target housing properties managed by Respondents, titled “Appendix 2: Non-Big Buy Property List” attached to this Agreement.

“Appendix 3” means the list of target housing properties managed by Respondents participating in HUD’s “Big Buy” program in which properties are either inspected or receive a risk assessment at HUD’s expense, titled “Appendix 3: Big Buy Property List” attached to this Agreement.

“Clearance Examination” shall mean an activity conducted after Lead-Based Paint Hazard abatement activities, pursuant to Chapter 15 of the HUD Guidelines, have been performed to determine that the Lead-Based Paint hazard abatement activities are complete and that no settled dust-lead hazards exist in the dwelling unit, soil, or worksite. The clearance process includes a visual assessment and collection and analysis of environmental samples. The appropriate clearance standards shall be the more restrictive of those set by the jurisdiction where the property is located or by Section 403 of the Toxic Substances Control Act (“TSCA”) and its implementing regulations, 40 C.F.R. § 745.227(e)(8)-(9).

“Day” shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

“Effective Date” shall mean 30 days from the date the parallel EPA agreement is signed by the EPA regional judicial officer.

“Elevated Blood-Lead Level” shall mean a blood-lead concentration equal to or greater than ten (10) micrograms per deciliter ($\mu\text{g}/\text{dl}$) as measured through a venous blood lead test.

“HUD Guidelines” shall mean the edition of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (HUD-1539-LBP) in effect on the day the work required in Section V of this Agreement is conducted, pursuant to this Agreement.

“Interest” shall mean interest pursuant to 28 U.S.C. § 1961.

“Lead Abatement Supervisor” shall mean any Lead Abatement Supervisor, Licensed Project Planner/Designer or equivalent licensed by EPA or an authorized state to perform lead abatement and mitigation, and supervise lead abatement workers who perform lead abatement and mitigation as defined in 40 C.F.R. § 745.226 or the applicable state law and/or regulations.

“Lead-Based Paint” shall mean paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or 0.5 percent by weight. If housing subject to this Agreement is located in a jurisdiction with a more stringent definition of Lead-Based Paint or safety standard, “Lead-Based Paint,” as used herein, shall mean paint or other surface coatings that meet the more stringent standard.

“Lead-Based Paint Free” shall mean housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter

or 0.5 percent by weight. If housing subject to this Agreement is located in a jurisdiction with a more stringent definition of Lead-Based Paint or safety standard, "Lead-Based Paint Free," as used herein, shall mean housing that meets the more stringent standard.

"Lead-Based Paint Free Certification" shall mean a signed certification provided by the Lead-Based Paint inspector that states:

The results of this inspection, using the inspection protocol in Chapter 7 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (1997 Revision), indicate that no lead in amounts greater than what is defined as lead-based paint by the more protective definition of either the jurisdiction where the property is located or in amounts greater than or equal to 1.0 mg/cm² or 0.5 percent by weight. Therefore, this dwelling qualifies for the exemption in 40 C.F.R. Part 745 and 24 C.F.R. Part 35 for target housing being leased that is Lead-Based Paint Free.

"Lead-Based Paint Hazards" shall be defined by the more stringent definition of either the jurisdiction where the property is located or the standards promulgated by EPA pursuant to Section 403 of TSCA, 15 U.S.C. §2601, et seq., 40 C.F.R. §745.65, 105 CMR §§ 460.105, 460.110. Where the property is located in Massachusetts, the phrase "dangerous levels of lead", defined according to the meaning set forth at 105 CMR § 460.020, shall be used in lieu of "lead-based paint hazards".

"Month" shall mean thirty (30) consecutive days.

"Respondent-Related Properties" shall mean properties in which an entity related to a Respondent has an ownership interest as indicated by an asterisk in Appendix 2 and Appendix 3.

"Paragraph" shall mean a portion of this Agreement identified by an Arabic numeral or an upper or lower case letter.

"Section" shall mean a portion of this Agreement identified by a roman numeral.

“Section 1018” shall mean Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §4852d.

“Subject Property/ies” shall mean any target housing property/ies listed in Appendix 2 (the “Non-Big Buy Property List”) and Appendix 3 (the “Big Buy Property List”) of this Agreement.

“Submit” shall mean to dispatch via first class United States mail or other delivery service of demonstrated reliability and equivalent or better speed.

II. GENERAL PROVISIONS

1. Respondents admit that Complainant has jurisdiction to initiate and settle this proceeding.
2. Respondents neither admit nor deny the factual or legal allegations set forth in this Agreement.
3. Respondents agree to waive any right to contest any statement of fact or violation or a penalty amount set forth in this Agreement and consent to the issuance of this Agreement without adjudication. Respondents also waive their rights to appeal this Agreement and waive any rights to seek attorneys’ fees under the Equal Access to Justice Act, 5 U.S.C. § 504.
4. This Agreement constitutes a settlement by HUD of all claims for civil money penalties and all of its civil liability claims for violations of: the Lead Act, 42 U.S.C. §§ 4852d and the Disclosure Rule, 24 C.F.R. Part 35, Subpart A that occurred prior to the date Respondents sign this Agreement with respect to the Subject Properties. Nothing in this Agreement is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondents. Nothing in the Agreement shall be construed to limit the authority of HUD to undertake any action against Respondents for future violations of the Lead Act or any other violations within HUD’s jurisdiction.

Complainant reserves any rights and remedies available to it to enforce the provisions of this Agreement, of the Lead Act, and the Disclosure Rule, following the issuance of this Agreement.

5. This Agreement shall apply to and be binding upon Respondents, their heirs, successors and assigns. Respondents shall remain responsible for all work required by this Agreement for all properties listed in Appendix 2 and Appendix 3, except as follows: In the event that the Respondent-Related Properties are to be sold or transferred, Respondents shall give notice in writing to such proposed purchaser or successor-in-interest of the existence of this Agreement and provide a copy of this Agreement. Respondents shall send a copy of such written notification by certified mail, return receipt requested, to HUD before such sale or transfer, if possible, but no later than the closing date of sale or transfer. If the ownership interest in the Respondent-Related Properties is transferred after the date the Respondents sign this Agreement, all hazard abatement work required by this Agreement must be completed prior to transfer. With respect to Respondent-Related Properties, after work is completed as required by Section V, Paragraph 30 (A)-(H), the sale of any property will terminate application of this Agreement with respect to such property. With respect to Subject Properties in which an entity related to Respondents does not now have or subsequently acquire an ownership interest, termination of Respondents' management of the property shall terminate application of this Agreement to that property. This provision does not relieve Respondents from having to comply with any applicable Federal, state or local regulatory requirement regarding notice and transfer of properties. Nothing in this Agreement shall be construed to excuse Respondents from the requirements of the Massachusetts Lead Law and regulations, M.G.L. ch. 111, §§ 189A-199B, 105 CMR §§ 460.000 et seq., including Respondents' continuing duty to eliminate dangerous levels of lead in units occupied or to be occupied by children

under the age of six. 6. Each party shall bear its own costs and attorneys fees in the action resolved by this Agreement.

III. FACTUAL BASIS AND ALLEGED VIOLATIONS

7. Each Respondent is and was, at the time of the violations alleged in this Agreement, a limited liability company, formed under the laws of the State of Delaware, and with a principal place of business located in Boston, Massachusetts.

8. Respondents are "Lessors" and/or "Agents" as defined in 24 C.F.R. § 35.86.

9. Respondents manage more than 235 housing properties of which more than 10,000 dwelling units are subject to Section 1018 (collectively known as "Subject Properties"). These Subject Properties are listed in Appendices 2 and 3 attached to this Agreement.

10. HUD alleges that Respondents violated the Lead Act and the Disclosure Rule as follows:

ALLEGED VIOLATIONS

Count I - Failure to provide lessee with an EPA-approved lead hazard information pamphlet prior to the lessee being obligated under a lease contract for target housing

11. Respondents failed to provide the lessee of at least one lease for target housing, with an EPA-approved lead hazard information pamphlet entitled, "Protect Your Family From Lead in Your Home."

12. Respondents are liable in this count as both a "lessor" and an "agent" pursuant to 24 C.F.R. § 35.86.

13. By failing to provide the lessee with an EPA-approved lead hazard information pamphlet prior to the lessee becoming obligated under the lease contract for target housing, Respondents violated 24 C.F.R § 35.88(a)(1) and 24 C.F.R. § 35.94(a)(2).

Count II- Failure to include as an attachment, or within the contract to lease target housing, the lead warning statement.

14. Respondents failed to include as an attachment, or within the lease contract for at least one lease for target housing, a lead warning statement.

15. Respondents are liable in this count as both a "lessor" and an "agent" pursuant to 24 C.F.R. § 35.86.

16. By failing to include the lead warning statement within or attached to a lease contract for target housing provided to the lessee, Respondents violated 24 C.F.R. § 35.92(b)(1) and 24 C.F.R. § 35.94(a)(2).

Count III- Failure to include as an attachment to or within the lease contract, 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 in target housing.

17. Respondents failed to include as an attachment, or within the lease contract for at least one lease for target housing, a statement disclosing the presence of 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 in the target housing.

18. Respondents are liable in this count as both a "lessor" and an "agent" pursuant to 24 C.F.R. § 35.86.

19. By failing to include a statement within or as an attachment to the lease contract, 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 to the lessee prior to lessee becoming obligated under the lease contract for target housing, Respondents violated 24 C.F.R. § 35.92(b)(2) and 24 C.F.R. § 35.94(a)(2)

Count IV- Failure to include as an attachment or within the lease contract, a list of records or reports available to the lessor pertaining to Lead-Based Paint and/or Lead-Based Paint Hazards in the target housing provided to the lessee, or failure to indicate that such list exists.

20. Respondents failed to include as an attachment or within the lease contract for at least one lease for target housing, a list of records or reports available to the lessor pertaining to Lead-Based Paint and/or Lead-Based Paint Hazards in the target housing being leased or an indication that no such records exist.

21. Respondents are liable in this count as both a "lessor" and an "agent" pursuant to 24 C.F.R. § 35.86.

22. By failing to include as an attachment or within the lease contract, a list of records or reports available to the lessor pertaining to Lead-Based Paint and/or Lead-Based Paint Hazards in target housing being leased or an indication that no such records exist, Respondents violated 24 C.F.R. § 35.92(b)(3) and 24 C.F.R. § 35.94(a)(2).

IV. TERMS OF SETTLEMENT

23. For all Subject Properties that have not been certified as Lead-Based Paint Free, Respondents shall comply with all requirements of Section 1018 and its implementing regulations. For all Subject Properties located in Massachusetts, Respondents shall also comply with the Massachusetts Lead Law, M.G.L. c. 111, §§ 189A – 199B and implementing regulations at 105 CMR §§ 460.000 et seq.

24. To the extent not previously accomplished, no later than one (1) Month after the Effective Date of this Agreement, Respondents shall provide to each tenant in the Subject Properties

a lead hazard information pamphlet approved by EPA, as well as a "lead paint disclosure form" which shall include at a minimum the following:

A. Any known information concerning Lead-Based Paint or an indication of a lack of knowledge of Lead-Based Paint in the unit and common areas;

B. A list of any available records or reports, or summaries thereof or an indication of a lack of records or reports or summaries thereof; and

C. A lead warning statement containing the specific language set forth in 24 C.F.R. § 35.92(b)(1).

D. For those Subject Properties located in Massachusetts, to the extent not previously accomplished, Respondents shall provide to each tenant, no later than two months (2) after the Effective Date of this Agreement, a MA Tenant Certification Form and, as required on the Certification Form, all available inspection reports and compliance letters for the tenant's unit and shall obtain from the tenant his or her acknowledgment of receipt, as required on the Certification Form.

25. Within ninety (90) days of the Effective Date of this Agreement, Respondents shall provide written notice to HUD that it has complied with the requirements of Paragraph 24 of this Agreement.

26. Based upon the nature of the alleged violations, Respondents' agreement to perform hazard abatement work, and other relevant factors, HUD determined that an appropriate civil penalty to settle this action is in the amount of one hundred and five thousand dollars (\$105,000.00), to be split evenly between HUD and EPA.

27. Respondents consent to the issuance of this Agreement, and consent for the purposes of settlement to the payment of the civil penalty cited in the foregoing Paragraph 26 and to the performance of the hazard abatement work set forth in Paragraph 30 below.

28. *Payment of the penalty:* No later than 30 days after the Effective Date of this Agreement, Respondents shall pay the civil money penalty in the amount listed above in Paragraph 26. The civil money penalty shall be paid by certified or cashier's check payable to "Department of Housing and Urban Development." The certified or cashier's check shall be accompanied by a cover letter identifying this Agreement and stating that payment is being made pursuant to this Agreement. The cover letter and check shall be sent to the following address no later than one (1) Month from the Effective Date of this Agreement:

Bank of America
P.O. Box 198603
Atlanta, Georgia 30384

"Lead-Based Paint Disclosure Enforcement" should be clearly typed on the check. Your adherence to this request will ensure proper credit is given when penalties are received. Electronic payments of civil money penalties may also be made directly to the U.S. Treasury to HUD's account as follows:

ABA routing number: 02103004
Receiver name: TREAS NYC
Account number: 86010300
Purpose: Lead-Based Paint Disclosure Enforcement

Respondents shall also send simultaneous notice of such payment, including a copy of the certified, cashier's check or electronic payment, to:

Director, Compliance Assistance and Enforcement Division
Office of Healthy Homes and Lead Hazard Control
U.S. Department of Housing and Urban Development
451 Seventh Street, S.W.
Room P-3206
Washington, D.C. 20410

29. Interest will begin to accrue on a civil or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. § 901.9(d).

V. WORK TO BE PERFORMED

30. The following hazard abatement work shall be performed for units, common areas and exteriors for each Subject Property.

A. Except as provided in Subparagraph 30 G below, Respondents shall, within six (6) Months of the Effective Date of this Agreement, perform Lead-Based Paint risk assessments of all Subject Properties not located in Massachusetts in accordance with Chapter 5 of the HUD Guidelines. For each Subject Property, Respondents shall provide a copy of each risk assessment report to HUD on a quarterly basis, as specified in Paragraph 31. As part of the risk assessment, the Respondents may assume that windows and soil contain Lead-Based Paint Hazards, and perform no further testing. If Respondents choose to perform a Lead-Based Paint inspection in accordance with Chapter 7, Respondents shall provide a copy of each inspection report to HUD on a quarterly basis, as specified in Paragraph 31. If Respondents have Lead-Based Paint Inspection reports or a Lead-Based Paint Free Certificate indicating that a Subject Property is

Lead-based Paint Free, they shall not be subject to the requirements of Section V. To the extent Respondents have performed risk assessments in accordance with this Paragraph 30(A) since March 2003 (or in the case of Washington Columbia II since January 2002), Respondents may satisfy this agreement as to such properties by submitting the necessary documents required by this Paragraph 30(A). If the previously completed risk assessments do not meet the requirements of this Paragraph 30(A), Respondents are required to take all necessary measures to ensure compliance with this Paragraph 30(A).

B. For properties located in Massachusetts, Respondents shall perform a lead inspection and/or provide a lead inspection compliance document for each unit of the Subject Properties completed by a licensed Massachusetts lead inspector in accordance with Massachusetts' regulations, including 105 CMR §§ 460.730, 460.735, 460.740 and 460.750. Subparagraphs 30 (C) – (F) (and the Risk Assessment requirement in 30(A)) do not apply to any unit in Massachusetts where Respondents have complied with the previous sentence. Such compliance shall be demonstrated by either an active and effective (1) Letter of Lead Abatement Compliance, Letter of Maintained Compliance or Letter of Restored Compliance dated between the initiation of the compliance review by HUD and EPA on November 1, 2001 and one year following the Effective Date of this Agreement; or (2) Letter of Initial Compliance accompanied by an initial inspection report indicating the unit does not contain dangerous levels of lead or lead violations. If the previously completed lead inspection and/or lead inspection compliance documents do not meet the requirements of this Paragraph 30(B), Respondents are required to take all necessary measures to ensure compliance with this Paragraph 30(B). Alternatively, because some of the Massachusetts Subject Properties already have performed a risk assessment

pursuant to this Paragraph 30(B) since March 2003, Respondents may satisfy this agreement as to such properties by submitting the necessary documents required by this Paragraph 30(B), but only to the extent that such documents are acceptable to HUD. If the previously completed risk assessments do not meet the requirements of this Paragraph 30(B), Respondents are required to take all necessary measures to ensure compliance with this Paragraph 30(B).

C. No later than nine (9) Months after the Effective Date of this Agreement, Respondents shall provide copies to HUD of a plan for Lead-Based Paint Hazard Abatement ("Hazard Abatement Plan") for all Subject Properties not found to be Lead-Based Paint Free. The Hazard Abatement Plan shall be prepared by a certified Lead Abatement Supervisor and shall include a list of property addresses to be abated, information about the components to be abated, the method of abatement chosen, and the names of certified abatement contractors. The Hazard Abatement Plan shall be prepared to ensure that Lead-Based Paint Hazard Abatement activities and window replacement required by Section V of this Agreement are conducted in accordance with Chapters 12 and/or 13 of the HUD Guidelines. The Hazard Abatement Plan shall include specifications as provided in the HUD Guidelines, Appendix 7.3, Lead-Based Paint Abatement Specification, or the equivalent. The Hazard Abatement Plan shall also include specifications for how the Respondents will cover bare soil in accordance with Chapter 11 of the HUD Guidelines. After review of the Hazard Abatement Plan, HUD shall, in writing: (a) approve, in whole or in part, the submission; (b) approve the submission with modifications; or (c) disapprove, in whole or in part, the submission, directing the Respondents to resubmit the document after modification to address HUD's comments. HUD shall respond to Respondents' Hazard Abatement Plan within one (1) Month of submission of such plan.

If HUD disapproves of or requires revisions to the Hazard Abatement Plan, in whole or in part, Respondents shall amend and submit to HUD a revised Hazard Abatement Plan which is responsive to the directions in HUD's comments, within fifteen (15) days of receiving such comments. The Hazard Abatement Plan must be approved by HUD before any work is performed at the Subject Properties, pursuant to this Agreement, unless abatement work is in progress and/or bids have been sought, in which case such work results shall be submitted to HUD for its review as part of the quarterly report described below.

D. No later than one (1) Month after approval of the Hazard Abatement Plan, Respondents shall submit to HUD a plan for ongoing operations and maintenance ("O&M Plan"), including ongoing monitoring for all Subject Properties that are not Lead-Based Paint Free. After review of the O&M Plan, HUD shall, in writing: (a) approve, in whole or in part, the submission; (b) approve the submission with modifications; or (c) disapprove, in whole or in part, the submission, directing the Respondents to resubmit the document after modification to address HUD's comments. HUD shall respond to Respondents' O&M Plan within one (1) Month of submission of such plan. If HUD disapproves of or requires revisions to the O&M Plan, in whole or in part, Respondents shall amend and resubmit to HUD a revised O&M Plan which is responsive to the directions in HUD's comments, within fifteen (15) days of receiving such comments. The O&M Plan shall be prepared in accordance with Chapters 6 and 17 of the HUD Guidelines.

E. For each Subject Property not identified as Lead-Based Paint Free, the following hazard abatement work shall be performed:

(i). Replacement or abatement of windows not identified as Lead-Based Paint Free in all units and common areas in Subject Properties in accordance with Chapter 12 of the HUD Guidelines.

(ii). Except as provided in Paragraph 30.E.(i)&(iii), abatement of Lead-Based Paint Hazards identified in the risk assessment reports in accordance with Chapters 12 and/or 13 of the HUD Guidelines.

(iii). Covering bare soil identified on the grounds of each Subject Property with a vegetative ground covering, mulch, or other appropriate covering in accordance with Chapter 11 of the HUD Guidelines.

(iv). Worksite preparation and occupant protection in accordance with Chapter 8 of the HUD Guidelines.

(v). Daily and final cleanups in accordance with Chapter 14 of the HUD Guidelines;

(vi). Clearance Examination must be completed by a certified Lead-Based Paint risk assessor in each building upon completion of final cleanup in accordance with Chapter 15 of the HUD Guidelines. Respondents shall submit the Clearance Report to HUD in accordance with Paragraph 31. The Clearance Report shall contain all results of dust samples analyzed at an EPA-accredited laboratory. If the results indicate that clearance is not achieved, Respondents shall repeat the cleaning procedures identified above under Paragraph 30(E)(v) and repeat dust clearance sampling within five (5) days of the failed Clearance Examination, and repeat this procedure until clearance has been attained.

F. Lead-Based Paint Hazard Abatement of the units and exteriors of each property listed on Appendix 2 shall be completed within three (3) years after approval of the Hazard Abatement Plan.

Abatement of the Subject Properties shall be in accordance with the Hazard Abatement Plan and Chapters 12 and/or 13 of the HUD Guidelines. Additionally, the following Lead-Based Paint hazard abatement work required under Section V shall be completed no later than one (1) year after the approval of the Hazard Abatement Plan.

(i). Replacement or abatement of windows in units and common areas not identified as Lead-Based Paint Free, as provided in Paragraph 30(A) above.

(ii). Abatement of Lead-Based Paint Hazards in common areas.

(iii). Covering of any bare soil identified on the grounds of each Subject Property, as provided in Paragraph 30(E)(iii) above.

G. The timelines in this Section V shall not apply to those properties listed on Appendix 3. For Appendix 3 properties, work required under Section V must be completed within five (5) years of the Effective Date of this Agreement or on such timetable as required by the HUD program commonly known as the "Big Buy." Abatement of the Subject Properties shall be in accordance with the Hazard Abatement Plan and Chapters 12 and/or 13 of the HUD Guidelines. In addition, the following properties, Ashford Place, Boot Mills, Broadway East Townhomes and Centerville Court, currently are undergoing rehabilitation that will include lead-based paint abatement and the timelines of Section V shall not apply to these properties. The rehabilitation work will be coordinated with lead abatement work, testing and verification consistent with Paragraph 30, but may include alternative timelines for work completion, not to exceed 3 years from the Effective Date.

H. The timelines in this Section V shall not apply where Respondents have been notified by a governmental entity or becomes aware of a unit where a child with an Elevated Blood-Lead Level resides or is a regular visitor. For those units not located in Massachusetts, Respondents shall

comply with such notice(s) including the timelines set forth in the notice(s). Additionally, Respondents shall perform all work under Section V within five (5) Months of notification in a unit. If exteriors and common areas are required to be treated by any governmental entity, Respondents shall also treat those areas within five (5) Months of notification. Where Respondents receive an Order to Correct from a code enforcement agency with respect to any unit in a Subject Property located in Massachusetts or where a child under the age of six occupies or will occupy a unit in a Subject Property, the deadlines for abatement compliance set forth in the Massachusetts regulations, 105 CMR 460.000 *et seq.* shall apply in lieu of any deadlines set forth in this Agreement.

I. Ongoing operations and maintenance ("O&M") in all Subject Properties that are not certified Lead-Based Paint Free shall be implemented at the completion of any abatement activity, and shall be in accordance with Chapters 6 and 17 of the HUD Guidelines and the O&M Plan. During reevaluations, Respondents shall ensure that all abated areas are still intact and the abatement methods have not failed. If any Lead-Based Paint Hazard Abatement has failed, Respondents shall repair the area in accordance with Chapters 12 and/or 13 of the HUD Guidelines and perform a Clearance Examination within one (1) Month of discovery of the failure. If dust hazards are discovered as part of ongoing reevaluations, Respondents shall address them according to Chapter 11 of the HUD Guidelines.

VI. REPORTING REQUIREMENTS

31. On or before January 31, 2005, and within 30 days following the close of each calendar quarter thereafter, until completion of all work performed under Section V, Respondents shall submit all Lead-Based Paint inspection reports, Lead-Based Paint risk assessment reports, Lead-based Paint Free Certifications, any state, city, and/or county notices relating to Lead-Based Paint

violations at the Subject Properties, and Clearance Examination reports completed, received, or acquired during that quarter to HUD at the relevant address listed in paragraph 28 above.

32. On or before October 31, 2005 and annually thereafter until completion of all work performed under Section V, Respondents shall submit to HUD a written annual report ("Annual Report") covering the previous 12 month period ending September 30th. The Annual Report shall include, at a minimum: (1) a list of the property addresses where properties have completed Lead-Based Paint risk assessments and/or Lead-Based Paint inspections; (2) the status of work performed under Section V, including the type of abatement and components abated, and a list of the property addresses and units where work has been completed during that reporting period; (3) a list of Subject Properties found to be Lead-Based Paint Free; (4) the status of ongoing operations and maintenance activities in accordance with Section V, Paragraph 30(G); and (5) any and all information concerning the cost of work performed under Section V;

33. Respondents shall ensure contractor compliance with any state, city, and/or county requirements for reporting Lead-Based Paint inspections, Lead-Based Paint risk assessments, and hazard abatement work in accordance with the laws of the jurisdiction where the property is located.

VII. QUALIFICATIONS TO CONDUCT LEAD-BASED PAINT WORK

* 34. All Lead-Based Paint inspections, risk assessments, and hazard abatement work performed under Section V shall be consistent with the HUD Guidelines and conducted by individuals authorized to perform the work in accordance with the laws of the jurisdiction where the property is located.

35. Respondents shall ensure that Clearance Examinations are not conducted by the same individual and/or same business entity conducting the work, performed under Section V, which is being evaluated by the Clearance Examination.

36. Respondents shall ensure that Lead-Based Paint inspections and/or risk assessments are not done by the same individual and/or same business entity performing Lead-Based Paint hazard abatement work on the Subject Properties.

37. HUD and its representatives, contractors, consultants, and attorneys shall have the right of entry into and upon all Subject Properties owned or controlled by Respondents, at all reasonable times, upon proper presentation of credentials, for the purposes of:

- A. Monitoring the progress of activities required by this Agreement;
 - B. Verifying any data or information required to be submitted pursuant to this Agreement;
 - C. Obtaining samples and, upon request, splits of any samples taken by Respondents or their consultants (upon request, Respondents will be provided with splits of all samples taken by HUD);
- and

D. Otherwise assessing Respondents' compliance with this Agreement.

38. This Agreement in no way limits or affects any right of entry and inspection held by the United States, HUD, EPA, any State in which the property is located, or any city in which the property is located pursuant to applicable Federal, state or local laws, regulations, or permits.

39. Respondents shall maintain legible copies of documentation of the underlying research and data for any and all documents or reports submitted to HUD pursuant to this Agreement and shall provide the documentation of any such underlying research and data to HUD not more than seven days after a request for such information. In all documents or reports, including, without limitation, any reports, submitted to HUD pursuant to this Agreement, Respondents shall, by their officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

VIII. STIPULATED PENALTIES

40. In the event that Respondents fail to pay the penalty in a timely manner in accordance with Paragraph 28 above, or fail to comply with any of the terms or provisions of this Agreement relating to the performance of the work described in Paragraph 30 above, Respondents shall be liable for stipulated penalties according to the provisions set forth below:

A. If Respondents fail to pay the penalty in accordance with Paragraph 28 above, Respondents shall pay stipulated penalties of \$500 per day (\$250 to HUD and \$250 to EPA) from

the date the payment was due until such time as the original penalty and all accrued stipulated penalties are paid.

B. If Respondents fail to complete any hazard abatement work described in Section V and in accordance with the deadlines set forth in this Agreement, Respondents shall pay stipulated penalties of \$400 per day (\$200 to HUD and \$200 to EPA) per violation per each unit until the work and/or O&M is completed.

C. If Respondents fail to submit any information or reports to HUD, as identified in Section VI, and in accordance with the deadlines set forth in this Agreement, Respondents shall be required to pay as stipulated penalties of \$200 per day (\$100 to HUD and \$100 to EPA) for each day each submission is late.

41. EPA and HUD will coordinate the collection of stipulated penalties. Respondents shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA and HUD for such penalties. Method of payment shall be in accordance with the provisions of Paragraph 28 above. Interest and late charges shall be paid as stated in Paragraph 29 herein.

42. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of HUD to seek any other remedies or sanctions available by virtue of Respondents' violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondents' violation of any applicable provision of law.

43. Any public statement, oral or written, in print, film, or other media, made by a representative of Respondents acting in his or her official capacity, on his, her or Respondents' initiative, making reference to the work performed shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S.

Department of Housing and Urban Development and the Environmental Protection Agency for violations of the Lead Act, TSCA, and the Lead Disclosure Rule.”

44. This Agreement shall not relieve Respondents of their obligation to comply with all applicable provisions of Federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any Federal, state or local permit.

45. If any event occurs which causes or may cause delays in the completion of the hazard abatement work detailed above in Section V, Respondents shall notify Complainant in writing not more than seven days after the delay or Respondents’ knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondents to prevent or minimize the delay, and the timetable by which those measures will be implemented. The Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondents to comply with the notice requirements of this Paragraph shall render this Paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondents’ right to request an extension of its obligation under this Agreement based on such incident.

46. If the parties agree that the delay or anticipated delay in compliance with this Agreement has been or will be caused by circumstances entirely beyond the control of Respondents, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

47. In the event that HUD does not agree that a delay in achieving compliance with the requirements of this Agreement has been or will be caused by circumstances beyond the control of


the Respondents, HUD will notify Respondents in writing of its decision and any delays in the completion of the hazard abatement work shall not be excused.

48. The burden of proving that any delay is caused by circumstances entirely beyond the control of the Respondents shall rest with the Respondents. Increased costs or expenses associated with the implementation of actions called for by this Agreement shall not, in any event, be a basis for changes in this Agreement or extensions of time. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

49. Each undersigned representative of the parties to this Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Agreement and to execute and legally bind that party to it.

50. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Agreement.

For COMPLAINANT:



Joseph Smith


Deputy Director, Office of Healthy Homes and Lead Hazard Control
U.S. Department of Housing and Urban Development

Date: 10/12/09

HUD SEPTEMBER 30, 2004 CONSENT AGREEMENT

For RESPONDENTS:

WINN MANAGED PROPERTIES, LLC




By Samuel Ross, its manager

WINN MANAGEMENT COMPANY, LLC



By Samuel Ross, its manager

LEND LEASE APARTMENT MANAGEMENT, LLC



By Samuel Ross, its manager

Date: 9/30/2004

APPENDIX 1: WINN MANAGEMENT COMPANIES

Winn Managed Properties, LLC
Six Faneuil Hall Marketplace
Boston, MA 02109-1620

Winn Management Company, LLC
Six Faneuil Hall Marketplace
Boston, MA 02109-1620

Lend Lease Apartment Management, LLC
Six Faneuil Hall Marketplace
Boston, MA 02109-1620

APPENDIX 2: NON-BIG BUY PROPERTY LIST

Property Name	Property Address	Number of Units
808 Memorial Drive	MA	300
Ashford Place*	MA	155
Atlantic Gardens*	DC	108
Atlantic Terrace*	DC	198
Benning Heights*	DC	148
Boott Mills*	MA	157
Breslyn House*	PA	60
Broadway East Townhomes*	NY	122
Castle Square*	MA	500
CCHDI	MA	25
CCHI	MA	7
CCPLP	MA	9
Centerville Court*	NY	154
Charles Newtown	MA	262
Chicopee Village*	MA	290
Church Hill/Fairmount*	VA	298
Cobbett Hill	MA	117
Cobbs Creek*	PA	85
Cochituate Homes	MA	160
Codman Square	MA	80
Coes Pond Village*	MA	250
E.B. McNitt Apartments*	PA	101
Edgewood Apartments*	MA	84
Enterprise/Abbott*	CT	187
Fabens Building	MA	37
Hartley Terrace*	MA	54
Kings Village	CA	300
LBB Housing	MA	103
Matheson	MA	70
Mystic Place*	MA	465
Nazing Court*	MA	151
North Village*	MA	134
Olde English Village*	MA	200
Olney	RI	150
Parkside Village*	MA	99
Prospect Estates*	MA	25
Quincy Geneva I	MA	101
Redwood Terrace*	MA	151
Samuel Kelsey*	DC	150

Property Name	Property Address	Number of Units
Schoolhouse Apartments*	CT	213
Southern Hills*	DC	255
Spring Villa	RI	100
Stony Brook Village*	MA	98
Summerfield	CA	268
The Village At Brookline*	MA	307
Village Park Apartments	MA	200
Walden Square*	MA	240
Walnut Apartments	MA	12
Washington Columbia II	MA	175
Washington Heights	MA	404
Washington Park	MA	6
Waterview	RI	100
Wellington Community*	MA	180
West Stoughton Village*	MA	112
Woods at Warcham	MA	100
TOTAL UNITS		8817

* Properties owned by an entity related to Respondents.

APPENDIX 3: BIG-BUY PROPERTY LIST

Property List	Property Address	Number of Units
Allegheny Commons*	PA	136
Allen Park I	MA	170
Allen Park II	MA	94
Eastbrook Apartments*	MA	160
East Hills Apartments*	PA	91
Granite Lena Park	MA	143
Mass Pike Towers	MA	200
New Orchard Hill Estates	MA	215
Quincy Geneva II	MA	94
Washington Columbia I	MA	151
Wingate*	NH	100
TOTAL UNITS		1554

* Properties owned by an entity related to Respondents.