ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by Columbiana County Port Authority with an address at 1250 St. George Street, East Liverpool, Ohio ("Owner" and "Holder"), and the Ohio Environmental Protection Agency ("Ohio EPA") pursuant to Ohio Revised Code ("ORC") §§5301.80 to §§5301.92, for the purpose of subjecting the Property (as defined herein) to the activity and use limitations and to the rights of access set forth herein.

WHEREAS, Owner is the owner of certain real property located at 921 South Ellsworth Avenue, Salem, Columbiana County, Ohio 44460 and legally described in Exhibit "A" hereto ("Property"); and

WHEREAS, the Property was formerly a manufacturing facility owned and operated by Eljer Plumbingware, Inc. (f/k/a Eljer Manufacturing, Inc.) ("Eljer"). Eljer managed hazardous waste at the facility and operated a hazardous waste pile consisting primarily of foundry sand. Eljer completed and certified an in-place closure that was verified by Ohio EPA in February 2000.

WHEREAS, the required post-closure activities include semi-annual groundwater monitoring within the hazardous waste pile unit and cap maintenance in accordance with the post-closure plan. Post-closure groundwater monitoring data indicated the presence of arsenic in excess of the current standard, but it is inconclusive whether the arsenic level is attributable to the closed waste pile or is naturally occurring. The hazardous waste pile is located upgradient to the rest of the site.

WHEREAS, after the hazardous waste pile was certified closed, site-wide Corrective Action was pursued to address the remaining Waste Management Units (WMUs) on the Property as well as the potential migration of contaminants found in the hazardous waste pile (WMU#21) to the rest of the Property.

WHEREAS, pursuant to the Corrective Action requirements, Eljer submitted a Summary of Findings Sampling Report dated October 3, 2007 to Ohio EPA. Soil sample results indicated elevated levels of RCRA metals in surface soils (0-2 feet). Soil contamination of arsenic and lead were above residential standards but below industrial use scenario standards.
WHEREAS, pursuant to the January 9, 2009 Declaration and final Decision Document (Docket No. 8297523), this environmental covenant restricting Property use to industrial use and restricting groundwater use constitutes the selected remedy for the entire property; and

WHEREAS, the Columbiana County Port Authority acquired the Property from Eljer on December 18, 2006. Eljer retained financial responsibility for Corrective Action on the Property; and

WHEREAS, the administrative record for the Property is maintained as the file titled "Eljer Plastics, Inc." in the Northeast District Office located at 2110 East Aurora Road, Warren, OH 44087; and

WHEREAS, in order to implement the selected remedy, it is necessary to impose certain activity and use limitations on the Property as stated herein for the purpose of protecting human health and the environment.

NOW THEREFORE, Owner and Ohio EPA agree to the following:

1. **Environmental Covenant.** This instrument is an environmental covenant developed and executed pursuant to ORC §§5301.80 to 5301.92.

2. **Property.** This Environmental Covenant concerns approximately 67 acres of real property in Salem, Columbiana County, Ohio and more particularly described in Exhibit "A" attached hereto and hereby incorporated by reference herein ("Property").

3. **Owner.** Columbiana County Port Authority, an Ohio body corporate and politic pursuant to Chapter 4582 of the Ohio Revised Code, whose address is listed above ("Owner"), is the owner of the Property.

4. **Holder.** Owner, whose address is listed above, is the Holder of this Environmental Covenant. In the event of a future transfer of the Property such that the Owner would no longer own the Property, Owner shall remain a Holder.

5. **Activity and Use Limitations.** As part of Corrective Action, Owner hereby imposes and agrees to comply with the following activity and use limitations:

   A. *Groundwater restriction.* Groundwater located within the boundaries of the Property shall not be used except for investigation, monitoring or remediation purposes.

   B. *Industrial land use limitation.* The Property shall not be used for residential or agricultural activities but may be used for industrial activities. The term "residential activities" shall include but not be limited to the following:

      i. Single and multi-family dwelling and rental units;
      ii. Day care centers and preschools;
      iii. Hotels and motels;
      v. Educational (except as a part of industrial activities within the Property) and religious facilities;
vi. Outdoor Parks and Playgrounds;

vii. Correctional Facilities;

viii. Hospitals and other extended care medical facilities (except as a part of industrial activities within the Property);

ix. Transient or other residential facilities; and

x. Production of food-chain products by agricultural means for animal or human consumption.

The term "industrial activities" shall include but is not limited to, facilities which supply goods or services to the public and facilities engaged in manufacturing, processing operations and office and warehouse use, including but not limited to production, storage and parking/driveway use.

C. In the event that any action by or on behalf of a person who owns an interest in or holds an encumbrance on the Property constitutes a violation of these activity and use limitations, Owner or Transferee, as defined herein, shall notify Ohio EPA within thirty (30) days of becoming aware of the event or action, and, to the extent one of them has the reasonable ability to do so, shall remedy the violation of the activity and use limitations within sixty (60) days of becoming aware of the event or action, or such other time frame as may be agreed to by Owner or Transferee and Ohio EPA.

6. Running with the Land. This Environmental Covenant shall be binding upon the Owner and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to ORC §5301.85, subject to amendment or termination as set forth herein. The term "Transferee," as used in this Environmental Covenant, shall mean any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

7. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to ORC §5301.91 or other applicable law. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce compliance. Nothing in this Environmental Covenant shall restrict the Director of Ohio EPA and the Administrator of U.S. EPA from exercising any authority under applicable law.

8. Rights of Access. Owner hereby grants to Ohio EPA, its agents, contractors, and employees, and to Holder(s), the right of access to the Property for implementation or enforcement of this Environmental Covenant.

9. Compliance Monitoring. Owner and any Transferee shall submit to the Ohio EPA and Holders(s) on an annual basis a written certification which complies with the requirements of Ohio Administrative Code 3745-50-42(B)(C)(D) that the activity and use limitations remain in place and are being complied with.

10. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a notice of the activity and use limitations
set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED , 201_, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE COLUMBIANA COUNTY RECORDER ON , 201_, IN [DOCUMENT —, or BOOK __, PAGE ].

THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

Ground water located within the boundaries of the Property shall not be used except for investigation, monitoring or remediation purposes.

The Property shall not be used for residential activities but may be used for industrial activities. The term "residential activities" shall include, but not be limited to, the following:

(a) Single and multi-family dwelling and rental units;
(b) Day care centers and preschools;
(c) Hotels and motels;
(d) Educational (except as part of industrial activities within the Property) and religious facilities;
(e) Outdoor Parks and Playgrounds;
(f) Correctional Facilities;
(g) Hospitals and other extended care medical facilities (except as a part of industrial activities within the Property);
(h) Transient or other residential facilities; and
(i) Production of food-chain products by agricultural means for animal or human consumption.

The term "industrial activities" shall include but is not limited to, facilities which supply goods or services to the public and facilities engaged in manufacturing, processing operations and office and warehouse use, including but not limited to production, storage and sales of durable goods and other non-food chain products and parking/driveway use.

Owner or any Transferee shall notify Ohio EPA within ten (10) days after each conveyance of an interest in any portion of the Property. Notice by the Owner or Transferee shall include the name, address, and telephone number of the Transferee of such Property interest, a copy of the deed or other documentation evidencing the conveyance, a legal description of the Property interest being transferred, a survey map of the Property interest being transferred, and the closing date of the transfer of ownership of the Property interest.

11. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

A. that the Owner is the sole owner of the Property;
B. that the Owner holds fee simple title, to the Property which is subject to the interests or encumbrances listed and described in Exhibit B attached hereto, which is fully incorporated herein.
C. that the Owner has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;

D. that the Owner has identified all other persons, identified in Exhibit B, described above, that hold an interest (e.g., encumbrance) on the Property and notified such persons of the Owner’s intention to enter into this Environmental Covenant; and

E. that this Environmental Covenant does not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Owner is a party or by which Owner may be bound or affected.

12. Amendment or Termination. This Environmental Covenant may be amended or terminated only by written consent of all of the following: the Owner or a Transferee, the Holder, and the Ohio EPA, pursuant to ORC §5301.90 and other applicable law. Amendment means any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining. Termination means the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant.

This Environmental Covenant may be amended or terminated only by a written instrument duly executed by the Director of Ohio EPA, the Holder and the Owner or Transferee of the Property or portion thereof, as applicable. Within thirty (30) days of signature by all requisite parties on any amendment or termination of this Environmental Covenant, the Owner or Transferee shall file such instrument for recording with the Columbiana County Recorder’s Office and shall provide a file and date-stamped copy of the recorded Instrument to Ohio EPA.

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

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

15. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording in the Office of the Columbiana County Recorder in the same manner as a deed to the Property, pursuant to ORC §5301.88. Within ten (10) days of the recording of this Environmental Covenant, Owner shall certify to Ohio EPA that the Environmental Covenant has been filed for recording, and shall include with the certification a filed and date-stamped copy of the recorded Environmental Covenant.

16. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the Columbiana County Recorder’s Office,
17. **Distribution of Environmental Covenant.** The Owner shall distribute copies of the recorded Environmental Covenant to: Ohio EPA, the Holder, any lessee, each person holding a recorded interest in the Property, and any other person designated by Ohio EPA.

18. **Notice.** Unless otherwise notified in writing by or on behalf of any party hereto, any document or communication required by this Environmental Covenant shall be submitted to:

- Ohio EPA
  Division of Environmental Response and Revitalization
  50 West Town Street, Suite 700
  Columbus, Ohio 43215
  Ohio EPA

- Northeast District Office
  Division of Environmental Response and Revitalization
  2110 East Aurora Road
  Twinsburg, Ohio 44087

- Columbiana County Port Authority (Owner)
  Attn: Chief Executive Officer
  1250 St. George Street East Liverpool, Ohio 43920
The undersigned representatives of Owner and Holder represent and certify that he/she are authorized to execute this Environmental Covenant.

IT IS SO AGREED:

Columbiana County Port Authority

Tracy V. Drake, CEO  Date: August 17, 2015

State of Ohio  )  ss:
County of Columbiana  )  ss:

Before me, a notary public, in and for said county and state, personally appeared, a duly authorized representative of the Columbiana County Port Authority who acknowledged to me that [he/she] did execute the foregoing instrument on behalf of the Columbiana County Port Authority.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 17th day of August, 2015.

Glenda D. Schaffer
Notary Public
Ohio Environmental Protection Agency

Craig W. Butler, Director
Printed Name and Title

State of Ohio  
County of Franklin  

Before me, a notary public, in and for said county and state, personally appeared, Craig W. Butler, Director of Ohio EPA who acknowledged to me that he did execute the foregoing instrument on behalf of the Ohio EPA.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 8th day of September, 2015.

This instrument prepared by:

Todd Anderson  
Attorney  
Ohio Environmental Protection Agency  
50 West Town Street  
Columbus, Ohio 43215
EXHIBIT "A"

Legal Descriptions

Situated in the State of Ohio, County of Columbiana, City of Salem being more particularly described as follows:

TRACT I:

Situated in the Township of Perry, City of Salem, County of Columbiana and State of Ohio:

Being a part of the middle 1/3 of Section No. 1, Perry Township, No. 16 and Range No. 4 and tying within the Corporation Limits of the City of Salem, Ohio, and known as Lot No. 996, Appraisers Addition as same was numbered for record (recorded in Plat Book 5, Page 8, Columbiana County Plat Records) and being further bounded and described as follows:

Beginning at a point on the East line of said Section, said point being 85.8 feet south from a point formed by the intersection of the east line of said section with the former southerly right-of-way line of the Pittsburgh, Ft. Wayne and Chicago Railway Co.;

Thence West along the line of the National Sanitary Company's property and the north line of the tract hereby to be conveyed 363.00 feet to a stone;

Thence South and parallel to the east of said section 445.5 feet to a corner stone on the north line of the south middle 1/3 of said section;

Thence East along the north line of south middle 1/3 of said section 363.00 feet to a corner on the east line of said section;

Thence North along the east line of said section 445.5 feet to the Place of Beginning. Containing 3.71 acres, be the same more or less, but subject to all legal highways.

The above description refers to the Point of Beginning as being 85.8 feet south from a point formed by the intersection of the east line of said section with the former southerly right-of-way line of the Pittsburgh, Ft. Wayne and Chicago Railway Co. Said Point of Beginning is also located 218.44 feet south from a point formed by the intersection of the east line of said section with the new southerly right-of-way line of the Pittsburgh, Ft. Wayne and Chicago Railway Co. as indicated by the survey of October, 1974, by Jack H. Howells,

Registered Surveyor no. 5928.

The property intended to be conveyed herein is the same property conveyed to Theodore Ursu, Jr., George Ursu and John Ursu from the Estate of Eva Bilea Ursr aka Eva Ursu as Tract No. 3 set forth in Certificate of Transfer recorded at Volume 1096, Page 359, of the Columbiana County Recorder's Office.

Parcel Number 51-05291.000
TRACT II:
Parcel No. 1:

Situated in the City of Salem, County of Columbiana and State of Ohio:

And being a part of the middle 1/3 of Section No. 1 Perry Township No. 16 Range 4 and more definitely described as follows:

Beginning at a corner on the south line of the middle 1/3 of said section No. 1, said corner being 363.00 feet west of the southeast corner of said middle 1/3;

Thence from said Place of Beginning North parallel to the east line of said section No. 1 a distance of 445.5 feet to a corner;

Thence East a distance of 363.00 feet to a corner on the east line of said section No. 1;

Thence North along the east line of said section No. 1 a distance of 218.14 feet but to a point being 70.00 feet southwesterly at right angles from the original centerline of the Pittsburgh, Ft. Wayne and Chicago Railway Co.;

Thence Northwesterly along a line being parallel to and 70.00 feet southwesterly at right angles from the said centerline of said railway a distance of 779.88 feet to a corner;

Thence Southwesterly at right angles from the said centerline of said railroad a distance of 330.80 feet but to the most southerly corner of the lands now or formerly owned by The Citizens Ice Co.;

Thence North along the west line of said Citizen Ice Co.'s lands a distance of 626.50 feet but to a corner on the north line of Mill Street being 705.50 feet west from the east line of said section No. 1;

Thence West along the north line of Mill Street a distance of 2.5 feet but to the westerly line of the lands of the Pittsburgh, Ft. Wayne and Chicago Railway Co.;

Thence Northwesterly with the westerly line of the lands of said railway a distance of 177.25 feet to a corner;

Thence South 12° 26' East a distance of 49.00 feet;

Thence South 70° 33' East. a distance of 50.00 feet;

Thence South 02° 42' East a distance of 50.00 feet to a point in the north line of Mill Street;

Thence West along the north line of Mill Street a distance of 415.5 feet to the northwest corner of grantor's land, said corner being 1201.83 feet west from the east line of said section No. 1;
Thence South a distance of 871.50 feet to a corner;
Thence West a distance of 259.70 feet to a corner;
Thence South a distance of 420.00 feet to a corner;
Thence East a distance of 726.00 feet to a corner;
Thence South a distance of 448.00 feet to a corner on the south line of the middle 1/3 of said section No. 1;
Thence East a distance of 367.00 feet but to the Place of Beginning, containing 30.75 acres of land be the same more or less but subject to the right-of-way of all legal streets and highways.

The within premises is also known as being parts of Lot Numbers 993, 994 and 995 in the Appraisers Addition, Plat Book 5, Page 8, and part of Lot Number 512 in the Assessors Addition, Plat Book 3, Page 32, both in the Columbiana County Plat Records.

Parcel Numbers: 51-03667.000, 51-03668.000 and 51-03675.000 through 51-03679.000, inclusive.

Parcel No. 2:
Situated partly in the City of Salem and partly in the Township of Perry, County of Columbiana and State of Ohio and more particularly described as follows:

Five (5) lots numbered A, B, C, D and F; thirteen (13) lots numbered 38 to 50 inclusive; Seventy-six (76) lots numbered 199 to 274 inclusive; One Hundred and Thirty-six (136) lots numbered 475 to 610 inclusive; Seventy-seven (77) lots numbered 690 to 766 inclusive; Five (5) lots numbered 770 to 774 inclusive and Five (5) lots numbered 785 to 789 inclusive; representing in all Three Hundred and Seventeen (317) lots, situated in Ohio Land Company's Addition to the City of Salem, Township of Perry, Columbiana County, Ohio, a plat of which addition is of record in the Recorder's Office of Columbiana County, State of Ohio, in Nat Book Volume 7, Page 58, and subject to all legal highways and easements of record, reference being hereby made to said plat for a more complete description.

Parcel Numbers: 50-02715.000 through 50-02720.000, inclusive; 51-03664.000 through 51-03666.000, inclusive; and 51-03669.000 through 51-03673.000, inclusive.

TRACT III:
Situated in the City of Salem, County of Columbiana and State of Ohio:

And known as being a part of the middle 1/3 of Section No. 1, Township 16, Range 4 and further known as part of Lot 995 in Appraiser's Addition to the City of Salem, Ohio (Recorded in Plat Book 5, Page 8 of the Columbiana County Plat Records).
Beginning at the intersection of the southerly line of Mill Street with one of the easterly lines of lands now or formerly owned by American Steel and Wire Co;

Thence Southerly along said easterly line of lands of American Steel and Wire Co. a distance of 585.00 feet to an iron post;

Thence North 57° a distance of 253.00 feet to an iron post on the southwesterly right-of-way line of the Pittsburgh, Ft. Wayne and Chicago Railway Co.;

Thence North 33° West a distance of 321.00 feet to a point;

Thence in a northerly direction along the westerly right-of-way line of said Pittsburgh, Ft. Wayne and Chicago Railway Co., a distance of 178.00 feet to the intersection thereof with the southerly line of Mill Street;

Thence in a westerly direction along said southerly line of Mill Street a distance of 30.00 feet to the Place of Beginning and containing 1.20 acres of land be the same more or less, but subject to all legal highways.

Parcel Number 51-03674.000.
EXHIBIT “B”

Permitted Exceptions

Title to that portion of the insured premises within the bounds of any legal highways, and the rights of abutting property owners to use the vacated portions of Toledo Avenue, Canton Avenue, Columbus Avenue, James Street, Clay Street, Tolerton Street, Hickory Street and Cedar Street for purposes of ingress or egress and the rights, if any, of public utility companies, municipal corporations and others to operate and maintain power lines, sewer lines, water lines, etc. within the bounds of vacated portions of such avenues and streets.

Easement for roadway purposes, filed for record October 29, 1975, in Volume 1407, Page 167 of the Columbiana County Records.

Easement to Ohio Edison Company, filed for record April 14, 1987, in ORV 135, Page 663, of the Columbiana County Records.

Easement to Ohio Edison Company, filed for record December 18, 1987, in ORV 163, Page 660, of the Columbiana County Records.

Rights reserved in Deed filed for record June 11, 1956 in Volume 960, Page 466 of Columbiana County Records.