In the Matter of:

Quality Welding & Fabrication, LLC
4330 East Road
Elida, Ohio 45807

Respondent

Director’s Final Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director’s Final Findings and Orders (Orders) are issued to Quality Welding & Fabrication, LLC (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02(G), 3734.13 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility shall in any way alter Respondent’s obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:
1. Pursuant to ORC § 3734.02(G) and rule 3745-50-31 of the Ohio Administrative Code (OAC), the Director may, by order, exempt any person generating, storing, treating, or disposing of hazardous waste in such quantities or under such circumstances that, in the determination of the Director, it is unlikely that the public health or safety or the environment will be adversely affected thereby, from any requirement to obtain a permit or comply with other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. § 6921 et seq., as amended.

2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

3. Respondent operates a metal fabrication facility located at 4330 East Road, Elida, Allen County, Ohio 45807 (Facility).

4. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent routinely generates hazardous waste in quantities classifying it as a conditionally exempt small quantity generator of hazardous waste (less than 100 kilograms per month) and has been assigned EPA ID number OHR000200808. The hazardous wastes generated by Respondent at the Facility include spent paint/solvent waste (D001 — ignitability, F003 — ignitability) as described in OAC rules 3745-51-21 (ignitability) and 3745-51-31 (hazardous waste from non-specific sources), respectively.

5. On March 7, 2016, Ohio EPA conducted a complaint investigation and compliance evaluation inspection at the Facility. Ohio EPA documented two, 55-gallon drums of spent paint/solvent waste inside the painting building and five, 55-gallon drums of spent paint/solvent waste in the outside storage area. Respondent had no waste evaluation information or disposal records for this waste stream or of spent solvent-contaminated rags Respondent was generating in the painting building.

6. As a result of this inspection, Ohio EPA determined that Respondent had, inter alia, failed to evaluate wastes generated at the facility to determine if they are hazardous, in violation of OAC rule 3745-52-11.

7. By letter dated April 5, 2016, Respondent was notified of the violation referenced in Finding No. 6. of these Orders.

8. On April 26, 2016, Ohio EPA conducted waste sampling oversight for Respondent
at the Facility and collected safety data sheets for products used at the Facility showing the spent paint/solvent waste would be listed hazardous waste as defined in OAC rule 3745-51-31 (F003 - hazardous waste from non-specific sources).

9. By electronic mail dated May 16, 2016, Respondent submitted the analytical results of the samples collected as referenced in Finding No. 8. of these Orders, demonstrating the spent paint/solvent waste is also characteristically hazardous for ignitability (D001) in addition to being listed as described in Finding No. 8. of these Orders.

10. By electronic mail dated May 20, 2016, Respondent submitted the weight of each container sampled during the April 26, 2016 sampling event.


12. By letter dated June 2, 2016, Ohio EPA notified Respondent that based upon the information provided as referenced in Findings Nos. 8., 9., 10., 11., and 12. of these Orders, Respondent accumulated greater than 1,000 kilograms of hazardous waste spent paint/solvent at the Facility. This makes Respondent subject to the requirements in OAC rules 3745-52-34(D), (E), and (F) for a small quantity generator, which limits the storage time of hazardous waste onsite to less than 180 days and includes other small quantity generator requirements for emergency preparedness and container management. As such, Respondent was cited for violations of OAC rules 3745-52-34, 3745-65-37 and 3745-66-74. Moreover, because Respondent generates approximately ten gallons per month of the spent paint/solvent waste, and had no records demonstrating transportation of hazardous waste offsite since operations began in 2008, the containers of hazardous waste spent paint/solvent had been stored at the Facility greater than 180 days in violation of ORC § 3734.02(E) and (F) for establishing and operating an unpermitted hazardous waste storage facility without a hazardous waste permit. Specifically, Respondent unlawfully stored five containers of hazardous waste in an outside storage area at the Facility, thereby establishing this area as a hazardous waste management unit.

13. On June 3, 2016, Respondent submitted a hazardous waste manifest to Ohio EPA showing it had lawfully managed all containers of hazardous waste spent paint/solvent offsite to an authorized facility.

14. By electronic mail dated June 16, 2016, Respondent provided photos of a labeled satellite accumulation area drum and a disposal log sheet along with a description of how Respondent plans to remain subject only to the rules that apply to
conditionally exempt small quantity generators of hazardous waste.

15. By electronic mail dated July 8, 2016, Respondent notified Ohio EPA that painting operations would no longer occur at the Facility effective immediately.

16. Based on information received as referenced in Findings Nos. 14. and 15., Ohio EPA has determined no further action is required to resolve the violations of OAC rules 3745-52-34, 3745-65-37, and 3745-66-74 as referenced in the June 2, 2016 letter and Finding No. 12. of these Orders.

17. On August 26, 2016, Ohio EPA observed soil sampling of the outside storage area at the Facility. At this time, Respondent also indicated that since painting operations had ceased, they plan to dispose of the small number of spent solvent-contaminated rags already generated as a hazardous waste in the same container as the remaining spent paint/solvent waste. Therefore, no further action is required of Respondent with regard to the violation of OAC rule 3745-52-11 referenced in Finding No. 6. of these Orders.

18. On September 2, 2016, Ohio EPA received the analytical results from the soil sampling referenced in Finding No. 17. of these Orders indicating no releases of hazardous waste occurred in this hazardous waste management unit.

19. By letter dated November 21, 2016, Ohio EPA notified Respondent that the violation referenced in Finding No. 6. and the violations of OAC rules 3745-52-34, 3745-65-37, and 3745-66-74 referenced in Finding No. 12. of these Orders were resolved.

20. Based upon the soil sampling referenced in Finding No. 17. of these Orders, and the analytical results of those samples referenced in Finding No. 18. of these Orders, the Director has determined that Respondent has met the closure performance standard required by OAC rule 3745-55-11(A) and (B) and no further action is required to resolve the violation of ORC § 3734.02(E) and (F) referenced in Finding No. 12. of these Orders.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of $4,400.00 in settlement of Ohio EPA’s claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be
deposited into the environmental protection remediation fund established pursuant to ORC § 3734.281. Payment shall be made by an official check made payable to “Treasurer, State of Ohio” for $4,400.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying the Respondent. A copy of the check shall be sent to the Financial Program Manager, Ohio EPA, Division of Environmental Response and Revitalization, P.O. Box 1049, Columbus, Ohio 43216-1049.

VI. TERMINATION

Respondent’s obligations under these Orders shall terminate upon Ohio EPA’s receipt of the official check required by Section V. of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent’s Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:
XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform corrective action at the Facility, at some time in the future, pursuant to ORC Chapter 3734, or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to performing such corrective action. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.
XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondent, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent’s liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director’s journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

[Signature]
Craig W. Butler
Director
IT IS SO AGREED:

Quality Welding & Fabrication, LLC

[Signature]

[Printed or Typed Name]

[Title]

[Date] 1-12-17