BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Retriev Technologies Incorporated
265 Quarry Road
Lancaster, OH 43130

Respondent

Director's Final
Findings and Orders

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: __________________________ Date: 2/13/19

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Retriev Technologies Incorporated (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 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. Respondent is a “person” as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent owns and operates a hazardous waste storage facility and is a universal waste destination facility (OAC rule 3745-273-09) located at 265 Quarry Road, Lancaster, Fairfield County, Ohio (Facility), which receives various battery types that include, but may not be limited to lead-acid, nickel cadmium, nickel iron, zinc carbonaire, zinc manganese dioxide (i.e., alkaline), carbon zinc, nickel metal hydride, nickel hydrogen, silver oxide, mercury-containing, magnesium, lithium primary, and lithium-ion. These battery types are stored, recycled, and/or passed through to downstream recyclers. Generator classification of the battery types consists of hazardous waste and universal waste. Hazardous and universal waste may include one or more of the following waste codes: D001 - ignitability, D002 - corrosivity, D003 - reactivity, D004 - arsenic, D005 - barium, D006 - cadmium, D007 - chromium, D008 - lead, D009 - mercury, D010 - selenium, D011 - silver as defined in OAC rules 3745-51-22, 3745-51-22, 3745-51-23 and 3745-51-24. On December 21, 2005, Toxco, Inc. was issued a hazardous waste facility installation and operation permit (Permit) for storage of hazardous waste in Building 265 at the Lancaster Facility. On August 18, 2013, the Director of Ohio EPA issued a Class 3 Modification to the permit which replaced Respondent as permittee. On November 14, 2017, the Director issued a renewal permit and a Class 3 Modification to the permit to Respondent to include Building 295 as a new permitted storage area and a 50% increase in permitted storage capacity at the Facility. The Facility is assigned U.S. EPA identification number OHD071654958.

3. On July 17, 2015, Ohio EPA and Respondent entered into Director’s Final Findings and Orders (2015 Orders) to resolve Respondent’s storage of seven containers of hazardous waste lead plates and forty-two containers of hazardous waste collector oxide for greater than 90 days in unpermitted storage areas, in violation of ORC § 3734.02(E) and (F). The 2015 Orders required payment of a $13,000.00 civil penalty. Respondent paid $12,000.00 on August 21, 2015 and completed a supplemental environmental project valued at $1,000.00 on October 2, 2015.

4. On March 3, 2016, Ohio EPA and Respondent entered into Director’s Final Findings and Orders (2016 Orders) to resolve Respondent’s storage of one container of hazardous waste polycarbonate plastic (D008) for greater than 90 days in an unpermitted storage area, in violation of ORC § 3734.02(E) and (F) for the Lancaster Facility. The 2016 Orders required payment of a $4,000.00 civil penalty. Respondent satisfied the 2016 Orders on April 4, 2016.

5. On March 27, 2017, Ohio EPA and Respondent entered into Director’s Final Findings and Orders (2017 Orders) to resolve Respondent’s storage of hazardous waste lithium-ion batteries (D001) in an unpermitted area, in violation of ORC § 3734.02(E) and (F). The 2017 Orders required payment of a $14,400.00 civil penalty. Respondent satisfied the Orders on April 3, 2017.
6. On September 13, 2017, Ohio EPA conducted a compliance evaluation inspection at the Facility. During the inspection, Ohio EPA documented the presence of two, 55-gallon drums of hazardous lithium-ion batteries received from off-site generators being stored in an unpermitted area in the Big Green Box sorting area located in Building 295 prior to reclamation. At the time of the inspection, they had been stored in that location for 21 days. Upon identification by Ohio EPA during the inspection, Respondent moved the two, 55-gallon drums into permitted storage.

7. As a result of the inspection, Ohio EPA determined that Respondent, inter alia, stored hazardous lithium-ion batteries in an unpermitted storage area in violation of ORC § 3734.02(E) and (F). This unpermitted storage area is now identified as a hazardous waste management unit.

8. By letter dated October 9, 2017, Ohio EPA notified Respondent of the violation referenced in Finding No. 7 of these Orders.

9. Because Respondent removed the hazardous lithium-ion batteries from the unpermitted storage area to a permitted storage area, the two, 55-gallon containers were in good condition and no releases were observed, as well as the fact that this waste management unit is identified in the Facility's Permit as a unit subject to investigation at the time operations cease, the Director has determined that no further action is required of Respondent at this time with regard to the violation referenced in Finding No. 7 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. For a period of 365 days from the effective date of these Orders, Respondent shall institute an inspection schedule (Schedule) of the Big Green Box sorting area, as described in Finding Nos. 6. and 7. of these Orders, to ensure unpermitted storage of hazardous batteries received from off-site does not reoccur. The Schedule shall include an inspection of the Big Green Box sorting area at the end of each work day. The inspections shall be documented and provided to Ohio EPA pursuant to Section X. within fifteen (15) days after the end of each calendar month, for a period of twelve (12) consecutive months from the effective date of these Orders.

2. Respondent shall pay to Ohio EPA the amount of $4,400.00 in settlement of Ohio EPA's claims for civil penalties. Within 30 days after the effective date of these Orders, Respondent shall pay the amount of $4,400.00 which will be deposited
into the environmental protection remediation fund established pursuant to ORC § 3734.281. Payment shall be made by 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 Respondent, the Facility, and the U.S. EPA ID Number referenced in Finding No. 3. of these Orders. A copy of this 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 when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA’s Division of Environmental Response and Revitalization acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: “I certify that the information contained in or accompanying this certification is true, accurate and complete.”

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a [e.g., corporate officer] who is in charge of a principal business function of Respondent.

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:

Ohio Environmental Protection Agency
Central District Office
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Hazardous Waste Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Environmental Response and Revitalization
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Environmental Response and Revitalization
50 West Town Street
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.
XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform closure of the hazardous waste management unit and 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 any final action of the Director regarding such closure or corrective action. Ohio EPA and Respondent each reserve all 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 closure and corrective action at the Facility, which rights 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:

Retriev Technologies Incorporated

[Signature] 3/2/16

[Signature] 3/2/16

[Printed or Typed Name]

[Title]