PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Yenkin-Majestic Paint Corporation (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 paint and resin manufacturing facility located at 1920 Leonard Avenue, Columbus, Franklin County, Ohio 43219 (Facility).

3. 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 is subject to the requirements of OAC rule 3745-52-34(A) as it generates hazardous waste in quantities exceeding 1,000 kg per month, commonly referred to as a large quantity generator of hazardous waste. Respondent notified Ohio EPA of its hazardous waste activities and was assigned U.S. EPA identification number OHD004282976.

4. The hazardous wastes generated by Respondent at the Facility include paint filter waste (D001, D007, D035); resin filter waste (D001); caustic water (D002) generated as a by-product of the resin cooking process; paint plant waste solvent (D001, D007, D035, F003, F005); flash water (D001, F003, F005) generated as a by-product of the resin process; resin plant waste solvent (D001, D007, D035, F003, F005); spent fluorescent bulbs (D009); gelled resin (D001); and waste paint (D001, D007) as described in OAC rules 3745-51-21 (ignitability), 3745-52-22 (corrosivity), 3745-51-24 (toxicity, chromium, lead, and methyl ethyl ketone), and 3745-51-31 (ignitability and toxicity).

5. On June 18, 2015, Ohio EPA conducted a compliance evaluation inspection at the Facility. During the inspection, Ohio EPA observed unidentified and unlabeled containers, containers identified as hazardous waste with dates greater than 90 days from the inspection date, a tank system used to store hazardous waste flash water (D001, F003, F005) that does not meet the tank standards (tank 116), and an open container of hazardous waste. Ohio EPA also conducted a review of records at the Facility.


7. By letter dated July 8, 2015, Respondent provided Ohio EPA information identifying the unevaluated and unlabeled containers noted during the inspection referenced in Finding No. 5. of these Orders. The submittal included laboratory analyses, manifests and notice of hazardous waste training for Facility employees.
8. As a result of the inspection referenced in Finding No. 5. of these Orders, as well as a review of the documentation submitted by Respondent referenced in Findings Nos. 6. and 7. of these Orders, Ohio EPA determined that Respondent, inter alia:

a. Stored hazardous waste at the Facility for greater than the 90 days allowed without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F). Specifically Respondent stored three, 275-gallon totes of hazardous waste solvent dated December 14, 2013, March 1, 2014, and February 11, 2015, outside the secondary containment of hazardous waste tank 115;

b. Failed to evaluate containers of waste at the Facility, in violation of OAC rule 3745-52-11;

c. Failed to appropriately label containers holding hazardous waste with the accumulation start date, in violation of OAC rule 3745-52-34(A)(2);

d. Failed to keep containers of hazardous waste closed except when adding or removing waste, in violation of OAC rule 3745-66-73(A);

e. Failed to conduct and document weekly inspections of the hazardous waste accumulation areas, in violation of OAC rule 3745-66-74;

f. Failed to appropriately label tanks holding hazardous waste, in violation of OAC rule 3745-52-34(A)(3), specifically Respondent failed to properly label tank 116;

g. Failed to conduct and document daily inspections of the hazardous waste tanks 116 and 126, in violation of OAC rule 3745-66-95;

h. Failed to have a written assessment for the hazardous waste tank 116, in violation of OAC rule 3745-66-92; and

i. Failed to have secondary containment for tank 116 meeting the requirements of OAC rule 3745-66-93.

9. By letter dated August 5, 2015, Respondent was notified of the violations referenced in Finding No. 8. of these Orders. This letter also notified Respondent that the violation referenced in Finding No. 8.d. was previously corrected.
10. By letter dated September 4, 2015, Respondent responded to Ohio EPA’s letter referenced in Finding No. 9. of these Orders. Respondent provided information pertaining to the contents of containers identified during the inspection, photographs, shipping papers, inspection logs, and a plan for removing a hazardous waste tank that does not meet the standards, and installation of a replacement tank which meets the requirements for a hazardous waste tank.

11. By letter dated October 1, 2015, Ohio EPA requested additional information from Respondent regarding the identification of the contents of containers identified during the inspection. Specifically, Ohio EPA requested clarification for items that were determined to be useable products. This letter also notified Respondent that the violations referenced in Findings Nos. 8.c., 8.e., 8.f., and 8.g. of these Orders were corrected.

12. By letter dated October 29, 2015, Respondent provided Ohio EPA with supplemental information supporting their evaluation of the contents of containers identified during the inspection referenced in Findings Nos. 5. and 8.b. of these Orders.

13. The Director has determined that the information provided by Respondent as referenced in Finding No. 12. of these Orders corrects the violation of OAC rule 3745-52-11 referenced in Finding No. 8.b. of these Orders.

14. Because no releases of hazardous waste were observed, the Director has determined that no additional action is required of Respondent at this time regarding the ORC § 3734.02(E) and (F) violation referenced in Finding No. 8.a. of these Orders.

15. By letter dated December 18, 2015, Respondent submitted additional information regarding shipments of hazardous waste to an authorized hazardous waste treatment, storage and disposal facility, and a description of Respondent’s plan for decommissioning tank 116.

16. By electronic mail dated January 28, 2016, Respondent submitted a draft plan to remove tank 116 from service (Plan) and collect soil samples in that area to ensure no releases occurred. Ohio EPA provided comments on the Plan by telephone on February 1, 2016, and Respondent submitted a revised Plan by electronic mail on February 5, 2016.

17. By electronic mail dated April 1, 2016, Respondent submitted an update on the implementation of the Plan referenced in Finding No. 16. of these Orders. The
information submitted included notification that the replacement for tank 116 was operational, that tank 116 was emptied, cleaned and moved to another location at the Facility pending alternate use, analytical results of the soil sampling showing hydrocarbon contamination in one of the samples, photos showing excavated soils down to a concrete pad in the area where the contaminated soil sample was collected, intent to manage removed soils as hazardous waste, and notification of a second round of soil sampling taking place.

18. By letter dated May 2, 2016, Respondent submitted analytical results of the second round of soil sampling as referenced in Finding No. 17. of these Orders, and notification of additional soil removal in the area of the former tank 116, which will be managed as hazardous waste.

19. The Director has determined that the decontamination activities for tank 116, and subsequent soil sampling and soil removal conducted by Respondent as referenced in Findings Nos. 15., 16., 17. and 18. of these Orders meet the closure performance standard requirements of OAC rules 3745-55-11(A) and (B) and 3745-55-97 for tank 116 and the area underneath it. Therefore the violations referenced in Findings Nos. 8.h. and 8.i. of these Orders are corrected.

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 $7,800.00 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 hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for $7,800.00. 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[s] 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:

Ohio Environmental Protection Agency
Central District Office
Division of Environmental Response and Revitalization
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Hazardous Waste Program Manager
Director's Final Findings and Orders
Yenkin-Majestic Paint Corporation
Page 7 of 9

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.

XII. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform closure of the hazardous waste accumulation areas described in Finding No. 8.a. of these Orders as well as 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 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the rights to seek closure of the hazardous waste accumulation
areas described in Finding No. 8.a. of these Orders 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

Craig W. Butler
Director
IT IS SO AGREED:

Yenkin-Majestic Paint Corporation

Signature

Andrew O. Smith
Printed or Typed Name

Chief Operating Officer
Title

October 20, 2016
Date