UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
FTG Circuits Fredericksburg Inc. (doing business as Colonial Circuits, Inc.)	:	**U.S. EPA Docket No. RCRA-03-2020-0063**
	:	
	:	**Proceeding under Section 3008(a) and (g) of the**
1026 Warrenton Road	:	**Resource Conservation and Recovery Act**
Fredericksburg, VA 22406	:	**(RCRA), as amended,**
	:	**42 U.S.C. § 6928(a) and (g).**
Respondent.	:	
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	:	
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CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("Complainant") and FTG Circuits Fredericksburg Inc. (doing business as "Colonial Circuits, Inc.") ("Respondent") (collectively the "Parties"), pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA, and authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties required by this Consent Agreement. The Administrator has delegated the authority to assess penalties through a consent order to the Regional Administrator who, in turn, has delegated the authority to enter into consent agreements to the Complainant. This Consent Agreement and the attached Final Order resolve Complainant's civil penalty claims against Respondent under Subtitle C of RCRA, as amended, 42 U.S.C. §§ 6901 et seq., the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the authorized Commonwealth of Virginia Hazardous

Waste Management Program, 9 VAC-20-60-12 et seq. for the violations alleged herein.

2. On December 18, 1984, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the Commonwealth of Virginia was granted final authorization to administer a state hazardous waste management program in lieu of the federal hazardous waste program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The provisions of Virginia's hazardous waste management program through this authorization, have become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). Amendments to the Virginia hazardous waste management program were reauthorized by EPA on June 20, 2003, on July 30, 2008 and again on November 4, 2013 (with revisions not relevant here), and the revisions became effective as requirements of RCRA Subtitle C on those dates.

3. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

4. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

5. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4) and RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).

6. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated May 15, 2018, EPA notified the Virginia Department of Environmental Quality ("VADEQ") of EPA's intent to commence this administrative action against Respondent in response to violations of RCRA Subtitle C that are alleged herein.

GENERAL PROVISIONS

7. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.

8. Except as provided in Paragraph 7, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.

9. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.

10. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.

11. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.

12. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

14. For the times relevant to the allegations set forth below, Colonial Circuits, Inc. was a corporation, organized under the laws of the Commonwealth of Virginia. As such, Colonial Circuits, Inc. was a 'person' as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), 40 C.F.R. § 260.10 and 9 VAC 20-60-260.A and was subject to the assessment of civil penalties for the violations alleged herein.

15. Colonial Circuits, Inc. was, for the time period relevant to this Consent Agreement and Final Order, from April 13, 2017, the date of the first Compliance Evaluation Inspection ("CEI"), to November 27, 2018, the date of the second CEI, the "operator" and the "owner," as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 9 VAC 20-60-260.A, of a facility located at 1026 Warrenton Road, Fredericksburg, VA 22406 (hereinafter "the Facility").

16. The Facility referred to in Paragraph 15, above, including its associated equipment and structures, is a manufacturing facility. The Facility manufactures printed circuit boards. It began operating in 1980 and consists of approximately 40,000 square feet of manufacturing space under roof and a small amount of space outside the rear of the building which is used for the accumulation of hazardous waste and other materials.

17. On July 15, 2019, Firan Technology Group Corporation ("FTG") purchased Colonial Circuits, Inc. as an entity, thus making Colonial Circuits, Inc. a wholly-owned subsidiary of FTG. FTG thus assumed liability for any RCRA noncompliance found at the Facility. Therefore, FTG is the Respondent for this Consent Agreement and Final Order.

18. Subsequent to the sale of Colonial Circuits, Inc. to FTG, FTG proceeded to amend Colonial Circuits, Inc.'s articles of incorporation in Virginia. On December 2, 2019, the Commonwealth of Virginia State Corporation Commission amended Colonial Circuits, Inc. to change its name from Colonial Circuits, Inc. to FTG Circuits

Fredericksburg Inc.

19. On December 30, 2019, FTG Circuits Fredericksburg Inc. created for itself the fictitious name of Colonial Circuits, Inc.

20. Respondent (i.e., FTG Circuits Fredericksburg Inc. d/b/a Colonial Circuits, Inc.) operates under EPA RCRA ID Number VAD981738479.

21. For the time period relevant to this Consent Agreement and Final Order, Respondent was a "generator" of, and has engaged in the accumulation in "containers" at the Facility, of materials described below that are "solid wastes" and "hazardous wastes," as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference by 9 VAC 20-60-260.A.

22. On June 9, 2008, the Respondent applied for a change in its hazardous waste generator status from Large Quantity Generator to Small Quantity Generator. On June 16, 2008, the Virginia Department of Environmental Quality updated its records to reflect Respondent's new status as a Small Quantity Generator.

23. On April 13, 2017, two inspectors, one from EPA and one inspector from VADEQ, conducted a Compliance Evaluation Inspection at the Facility, to examine the Facility's compliance with Subtitle C of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6901 et seq., the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the authorized Commonwealth of Virginia Hazardous Waste Management Program, 9 VAC-20-60-12 et seq.

24. On November 27, 2018, three inspectors – two from EPA and one from VADEQ, conducted a Compliance Evaluation Inspection at the Facility, to examine the Facility's compliance with Subtitle C of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6901 et seq., the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the authorized Commonwealth of Virginia Hazardous Waste Management Program, 9 VAC-20-60-12 et seq.

25. On August 7, 2019, EPA sent an Opportunity to Show Cause and Enter into Consent Agreement letter ("Show Cause letter") to Respondent, advising it of EPA's preliminary findings of violations at the Facility. The Show Cause letter offered the Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondent's compliance with the VHWMR at the Facility.

26. On September 19, 2019 and on October 3, 2019 representatives of EPA and Respondent held teleconferences to discuss the violations alleged in the Show Cause letter.

27. On September 23, 2019, October 15, 2019 and during the time periods after the September 19, 2019, October 3, 2019 and December 11, 2019 teleconferences, through March 2020, EPA and Respondent communicated both in writing and orally concerning specific alleged violations contained in the August 7, 2019 Show Cause letter.

28. On the basis of EPA's findings during the Inspections and Respondent's responses to EPA's Show Cause letter, the two teleconferences and ongoing good faith negotiations between EPA and Respondent, along with subsequent information submitted by the Respondent, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and certain federally-authorized VHWMR requirements promulgated thereunder.

29. When EPA last authorized the Virginia hazardous waste regulations on November 4, 2013, EPA approved Virginia's incorporation by reference of the then current federal regulations which were in effect as of July 1, 2010, including incorporation of 40 C.F.R. 262.34 (Accumulation Time, which lists the requirements for the generator permit exemption). As a result, 40 C.F.R. 262.34 (2010) is the currently federally enforceable version of that RCRA regulation in Virginia. On November 28, 2016, EPA re-codified the generator permit exemption, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. 262.34 are re-codified at 40 C.F.R. 262.15 – 262.17.

Count I
Operating a Treatment, Storage, and Disposal Facility without a Permit or Interim Status

30. The allegations of Paragraphs 1 through 29 of this Consent Agreement are incorporated herein by reference.

31. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b) (pertaining to the Hazardous Waste Permit Program), provide, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.

30. Respondent has never had a permit or interim status, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b), for the treatment or storage of hazardous waste at the Facility.

Generator Permit Exemption Requirement: Generator Accumulation of Hazardous Waste

31. The provisions of 40 C.F.R. § 262.34 (2010), incorporated by reference by 9 VAC 20-20-262, allow for a generator of hazardous waste to operate without a permit or interim status if the generator meets certain accumulation, storage, labeling and inspection permit exemption requirements for hazardous waste.

32. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R.§ 262.34(a) (2010), with exceptions not relevant herein, provides that a generator may accumulate hazardous waste on site for 90 days or less without a permit, provided that the waste is placed in containers and the generator complies with the applicable requirements of subparts I, AA, BB and CC of 40 C.F.R. Part 265.

33. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R.§ 262.34(a) (2010), with exceptions not relevant herein, provides that a generator may accumulate hazardous waste on site for 90 days or less without a permit, provided that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

34. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R.§ 262.34(a) (2010),with exceptions not relevant herein, provides that a generator may accumulate hazardous waste on site for 90 days or less without a permit, provided that, while being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste" . . .

Generator Permit Exemption Requirement: Satellite Accumulation Containers

35. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(c)(1) (2010), with exceptions not relevant herein, provides that:

> [a] generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 40 C.F.R. § 261.31 or § 261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) or (d) of this section provided he:
>
> (i) Complies with §§ 265.171, 265.172, and 265.173(a) of this chapter; and
> (ii) Marks his containers with the words “Hazardous Waste” or with other words that identify the contents of the containers.

36. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(c)(1) (2010), with exceptions not relevant herein, and by further reference the container management requirements of § 265.171, requires that:

> If a container holding hazardous waste is not in good condition, or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements of this part.

37. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(c)(1) (2010),

with exceptions not relevant herein, and by further reference the container compatibility requirements of § 265.172, requires that:

> The owner or operator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.

38. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(c)(1) (2010), with exceptions not relevant herein, and by further reference the container closure requirements of § 265.173, requires that:

> (a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
>
> (b) A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

Generator Permit Exemption Requirement: Weekly Inspections of Hazardous Waste Accumulation Areas

39. The generator permit exemption in 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(a) (2010) and requires the generator to comply with subpart I of 40 C.F.R. part 265, includes compliance with 40 C.F.R. § 265.174, which provides that "[a]t least weekly, the owner or operator must inspect areas where containers are stored."

Failure to Meet Permit Exemption Requirements

40. At the time of the April 13, 2017 CEI, the Respondent had failed to mark the following hazardous waste storage container with the words "Hazardous Waste" as required by 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(c)(1)(ii) (2010), as follows:

    a. In the Coating Room, the Respondent used a 15-gallon container to accumulate hazardous waste paint-contaminated rags, which were managed by the Facility as hazardous waste D001. The 15-gallon container was not labeled.

41. At the time of the April 13, 2017 CEI, the Respondent did not meet the permit exemption requirements for closed containers, as required by 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. §§ 262.34 (2010), with exceptions not relevant herein, and also requires the generator to comply with Section 265.173(a), as follows:

    a. In the Plating Room, the Respondent used an open, 55-gallon container, cut in half, and therefore without a means to close, to hold several hazardous waste

filters from the wastewater treatment unit. The filters were draining hazardous waste liquid that was being put back into the wastewater treatment unit.

42. At the time of the November 27, 2018 CEI, the Respondent had failed to meet the satellite accumulation requirements, as required by 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. §§ 262.34 (2010), with exceptions not relevant herein, and which also requires the generator to comply with Section 265.173(a) by keeping containers closed, as follows:

a. In the Plating Area, the Respondent used an open and unmarked container as a satellite accumulation container for hazardous waste that was not located at or near the point of generation which is under the control of the operator. The container was located against a wall near a doorway and consisted of an open 55-gallon container which had a PVC tube inside of it, running to a pump outside of the open container. The container was approximately 1/3 filled with liquid at the time of the inspection, did not have a label, nor was it marked with a date. The Respondent had indicated that the container was used as a staging area for hazardous waste and other spent liquids from several locations throughout the Facility that were to be run through the wastewater treatment unit, such as sulfuric acid, sodium sulfate, cleaner, rinse water and copper sulfate.

b. In the Plating Room, Respondent utilized a plastic bin (made from a plastic 55-gallon container, cut in half), without a means to close, which held several hazardous waste filter bags from the wastewater treatment unit that were draining hazardous waste liquid (contaminated water), which is put back into the wastewater treatment unit. The filter bags are an F006 listed hazardous waste. Due to their listing as an F006 hazardous waste, they must be treated as hazardous waste regardless of whether any post-use analysis of the filter bag waste did not show a hazardous characteristic. This was a repeat violation of an April 13, 2017 violation cited in Paragraph 41 above.

c. In the Plating Area, below the filter press, an open “drippings tank” was observed which contained a dark liquid and sediment. The Respondent stated that the solids are scooped out of this tank manually and placed in the 55-gallon hazardous waste container next to the filter press unit with the hazardous waste filter cake (F006 hazardous waste classification) that is scraped out of the press. The inspectors were told that this takes place “every couple of days.”

d. In the Plating Area, six (6) filter bags were observed draining in an open 55-gallon plastic drum. Sludge from the containers in which the filters are rinsed, and from the sump (cleaned out approximately every 4 to 5 years) is placed in the filter bags to dry out with the filter bags. The sludge, filter bags and rinse water from the filter bags are shipped offsite under manifest as hazardous waste (F006). Neither the container with the draining filter bags, nor the rinse container, were marked with any description of the contents, the words hazardous waste, or an accumulation date.

e. In the Plating Area, next to the Quicksilver SM hot air solder leveler machine, the Inspectors observed a wheeled cart with three (3) open bucket containers of collected hazardous waste hot air level flux from the machine, as well as a rectangular pan of the same waste with a ladle inside it. The waste was collected in these containers by manually ladling out the solder reservoir of the machine, then transferring it across the aisle and placing it in another container. One of the buckets was approximately half full of the hazardous waste at the time of the inspection.

f. In the Plating Area, at the back of the Quicksilver SM hot air solder leveler machine, approximately two (2) feet from a roll up doorway, atop two (2) drip pads, was a 13" L x 9" W x 2" deep (est.) rectangular pan used for capturing the hazardous waste flux that drips out of the machine. At the time of the inspection the pan was approximately half full and was not marked in any way to indicate what it contained or how long the liquid had been in it. The Respondent indicated that the waste is ladled out about twice a day. The machine was not being utilized, nor was an operator present, during the inspectors' time in the area.

43. At the time of the November 27, 2018 CEI, the Respondent had failed to mark the following hazardous waste storage containers with the words "Hazardous Waste" as required by 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(c)(1)(ii) (2010), as follows:

a. In the Plating Area, against a wall near the doorway, the Inspectors observed an open 55-gallon container approximately one-third filled with liquid. The container did not have a label;

b. In the Plating Area, an open "drippings tank" containing a dark liquid and sentiment;

c. In the Plating Area, six (6) filter bags were observed draining into an open 55-gallon plastic drum, which was not labeled as hazardous waste or with any description of its contents;

d. In the Plating Area, next to the Quicksilver SM hot air solder leveler machine, the inspectors observed a wheeled cart with three (3) open bucket containers of collected hazardous waste hot air leveler flux, which was not labeled:

e. In the Plating Area, at the back of the Quicksilver SM hot air solder leveler machine, the Inspectors observed a deep rectangular pan capturing hazardous waste flux that drips out of the machine, but the pan was not marked in any way to indicate its contents;

f. In the Solder Mask Coating Room, the Inspectors observed a yellow container filled with solvent-contaminated wipes. The container did not have a label or any

markings.

44. Therefore, the Respondent did not meet the permit exemption requirements of 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34 (2010), and thus did not qualify for the generator permit exemption. Since the Respondent did not have a permit or interim status, Respondent owned and operated a hazardous waste storage, treatment or disposal facility without a permit, in violation of 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. Part 270.

45. In failing to comply with VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34 (2010), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count II
Failure to Maintain and Operate a Facility to Minimize the Possibility of a Release of Hazardous Waste

46. The allegations of Paragraphs 1 through 45 of this Consent Agreement are incorporated herein by reference.

47. 9 VAC 20-60-264 incorporates by reference the provisions of 40 C.F.R. § 264.31 (2010) which states:

> Facilities [that treat, store or dispose of hazardous wastes] must be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

48. There were multiple instances during both the April 13, 2017 and November 27, 2018 inspections in which the inspectors observed conditions that would allow for the possibility of a fire, explosion or for an unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water and thus fail to meet the requirements of 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.31.

49. The instances that could allow for such releases of hazardous waste or hazardous waste constituents occurred in the following areas and are also described in pages 7 through 12 of the April 3, 2019 Inspection Report, for conditions observed during the November 27, 2018 CEI:

    1. Plating Area:

        a. The Inspectors observed three (3) filter cannister filter bags that had been rinsed into an open, unmarked container and were drying on the metal

grate over the sump. These bags also contained hazardous waste sludge that had been scooped out of the rinse containers and placed in the bags to dry.

b. At the back of the Quicksilver SM hot air solder leveler machine, approximately two (2) feet from a roll up doorway, atop two (2) drip pads, was a 13" L x 9" W x 2" deep (est.) rectangular pan used for capturing the hazardous waste flux that drips out of the machine. At the time of the inspection the pan was approximately half-full and was not marked in any way to indicate what it contained or how long the liquid was present in the container. The Respondent indicated that the waste is ladled out about twice a day. The machine was not being utilized, nor was an operator present, during the Inspectors' time in the area.

2. Maintenance Area: The Inspectors observed a bundle of spent 8-foot fluorescent lamps leaning against the far wall. There were nine (9) lamps in total that were bundled together with some tape. One of the bundled lamps was broken at the end. The lamps were not in a container, nor were they labeled or dated. The Respondent stated that it did not know how long the lamps had been there and informed the Inspectors that it obtains containers from McMaster-Carr for shipping the lamps offsite but have not done so in about 2 years.

3. Oxide Process Area: "Spent Cobra Bond Bath" waste liquid is pumped out of a 55-gallon container and into one of the four (4) plastic 5-gallon containers that are staged across the aisle, then poured into the 55-gallon bulk treatment container at the wastewater treatment unit. The manual pump attached to the Spent Cobra Bond Bath container had a plastic tube leading from the pump to the spill containment pallet upon which the container rested. The tube was not capped and standing liquid was observed in the containment pallet.

4. Oxide Process Area: The inspectors noticed some residue and damp concrete on the floor around the bottom of four 5-gallon translucent containers that were closed, labeled with the words "For Spent Cobra Bond Oxide Bath Only", and had Hazardous Material Information System II (HMIS II) labels affixed to them, indicating the contents had a health hazard level of 3 and reactivity level of 2.

50. Therefore, based on the possibility of releases in the above-cited areas, the Respondent has failed to meet the requirements of 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.31, for failure to maintain and operate a facility to minimize the possibility of a release of hazardous waste.

51. In failing to comply with 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. Part 264 (2010), including, 40 C.F.R. § 264.31, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count III
Failure to Keep Hazardous Waste Container Closed Except When Necessary to Add or Remove Waste

52. The allegations of Paragraphs 1 through 51 of this Consent Agreement are incorporated herein by reference.

53. The Respondent is required by 9 VAC 20-60-264, which incorporates 40 C.F.R. § 264.173(a) by reference, to keep containers of hazardous waste closed except for instances in which hazardous waste will be removed or added to the container(s).

54. During the November 27, 2018 inspection, there were multiple instances in which the inspectors observed containers of hazardous waste, in various areas, which were not kept closed except for the purpose of adding or removing hazardous waste. The containers were kept open in:

    a. In the Plating Room – a plastic bin (made from a plastic 55-gallon container, cut in half), without a means to close, held several hazardous waste filters from the wastewater treatment unit that were draining hazardous waste liquid (contaminated water), which is put back into the wastewater treatment unit.

    b. In the Plating Area - Against the wall, near the doorway, the Inspectors observed an open 55-gallon container that had one end of a coil-reinforced PVC tube inside it. The other end of the tube was connected to a pump. The container was approximately 1/3 filled with liquid at the time of the inspection, did not have a label, nor was it marked with a date. The Respondent had indicated that the container was used as a staging area for hazardous waste and other spent liquids from several locations throughout the Facility that were to be run through the wastewater treatment unit, such as sulfuric acid, sodium sulfate, cleaner, rinse water and copper sulfate.

    c. In the Plating Area - below the filter press, an open "drippings tank" was observed which contained a dark liquid and sediment. The Respondent stated that the solids are scooped out of this tank manually and placed in the 55-gallon hazardous waste container next to the filter press unit with the hazardous waste filter cake (F006 hazardous waste classification) that is scraped out of the press. The inspectors were told that this takes place "every couple of days."

    d. In the Plating Area – six (6) filter bags were observed draining in an open 55-gallon plastic drum. Sludge from the containers in which the filters are rinsed, and from the sump (cleaned out approximately every 4 to 5 years) is placed in the filter bags to dry out with the filter bags. The sludge, filter bags and rinse water from the filter bags is shipped offsite under manifest as hazardous waste

(F006).

e. In the Plating Area, next to the Quicksilver SM hot air solder leveler machine, the Inspectors observed a wheeled cart with three (3) open bucket containers of collected hazardous waste hot air level flux from the machine, as well as a rectangular pan of the same waste with a ladle inside it. The waste was collected in these containers by manually ladling out the solder reservoir of the machine, then transferring it across the aisle and placing it in another container One of the buckets was approximately half full of the hazardous waste at the time of the inspection.

f. In the Plating Area - At the back of the Quicksilver SM hot air solder leveler machine, approximately two (2) feet from a roll up doorway, atop two (2) drip pads, was a 13" L x 9" W x 2" deep (est.) rectangular pan used for capturing the hazardous waste flux that drips out of the machine. At the time of the inspection the pan was approximately half full and was not marked in any way to indicate what it contained or how long the liquid had been in it. The Respondent indicated that the waste is ladled out about twice a day. The machine was not being utilized, nor was an operator present, during the inspectors' time in the area.

55. Therefore, there were numerous instances in which the Respondent did not keep hazardous waste containers closed, in the above locations and areas of the Facility, which failed to meet the requirements of 9 VAC 20-60-264, which incorporates 40 C.F.R. Part 264 (2010), including 40 C.F.R. § 264.173(a), by reference.

56. In failing to comply with 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.173(a) (2010), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count IV
Failure to Conduct Weekly Inspections of Hazardous Waste Accumulation Areas

57. The allegations of Paragraphs 1 through 56 of this Consent Agreement are incorporated herein by reference.

58. According to the provisions of 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. Part 264 (2010), including 40 C.F.R. § 264.174, the Respondent, at least weekly, must inspect areas where containers are stored.

59. On December 14, 2005, VADEQ sent the Respondent a Letter of Warning citing violations of the Virginia Hazardous Waste Management Regulations observed during a July 22, 2005 hazardous waste inspection. Among other things, the VADEQ 2005 letter cited the Respondent's alleged failure to conduct weekly inspections of hazardous waste accumulation area containers. On April 10, 2006, the Respondent submitted a letter to VADEQ in response to VADEQ's 2005 Letter of Warning. The

Respondent's 2006 response to VADEQ stated that "A weekly documented inspection of containers as well as a general sweep of the facility is now being conducted." Based upon the information provided in the response, VADEQ issued a letter to the Respondent on April 13, 2006, acknowledging that Respondent appeared to have had satisfactorily addressed and resolved the alleged violations.

60. As part of the November 27, 2018 CEI inspection, the Respondent provided some logs for weekly inspections but was unable to provide documents for 14 weeks of inspections as follows:

- 12/22/15 – 01/12/16 (2 weeks)
- 03/30/16 – 04/15/16 (1 week)
- 07/20/16 – 08/02/16 (1 week)
- 09/28/16 – 10/12/16 (1 week)
- 10/20/16 – 11/02/16 (1 week)
- 11/23/16 – 12/07/16 (1 week)
- 01/27/17 – 02/15/17 (2 weeks)
- 02/22/17 – 03/15/17 (2 weeks)
- 06/20/18 – 07/12/18 (2 weeks)
- 07/17/18 – 08/01/18 (1 week)

61. Therefore, the Respondent failed to perform weekly inspections as required by 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 262.34 (2010) and 40 C.F.R. § 264.174.

62. In failing to comply with 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. Part 264 (2010), including 40 C.F.R. § 264.174, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

CIVIL PENALTY

63. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of FORTY-FOUR THOUSAND FOUR-HUNDRED AND EIGHTY dollars ($44,480.00), which Respondent shall be liable to pay in accordance with the terms set forth below.

63. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in the RCRA, Section 3008, including, the following: the seriousness of the violation(s) and any good faith effort(s) by the Respondent to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October 1990 RCRA Civil Penalty Policy, as revised in June 2003 ("RCRA Penalty Policy"), which reflects the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

64. Payment of the civil penalty amount, and any associated interest, administrative fees,

and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, EPA Docket No. RCRA-03-2020-0063;

b. All checks shall be made payable to the "United States Treasury";

c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

https://www.epa.gov/financial/makepayment

e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

Daniel T. Gallo
Assistant Regional Counsel
U.S. EPA, Region III (3RC40)
1650 Arch Street
Philadelphia, PA 19103-2029
gallo.dan@epa.gov

65. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

66. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a

debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

67. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).

68. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a $15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional $15.00 for each subsequent thirty (30) days the penalty remains unpaid.

69. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

70. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

71. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

72. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event.

Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

73. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

74. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the Resource Conservation and Recovery Act ("RCRA"), or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

75. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.

EXECUTION/PARTIES BOUND

76. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

77. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

78. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

In Re: FTG Circuits Fredericksburg Inc.
EPA Docket No. RCRA-03-2020-0063

For Respondent: FTG Circuits Fredericksburg Inc.

Date: 3/20/2020

By: _____
Paul Godbout, Assistant Secretary
FTG Circuits Fredericksburg Inc.

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 03/30/2020 By: Karen Melvin

Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: 04/02/2020 By: Daniel T. Gallo

Daniel T. Gallo
Assistant Regional Counsel
U.S. EPA – Region III

BEFORE THE UNITED STATES

ENVIRONMENTAL PROTECTION AGENCY

REGION III

In the Matter of: **FTG Circuits Fredericksburg Inc., doing business as Colonial Circuits, Inc.** **1026 Warrenton Road** **Fredericksburg, VA 22406**	**EPA Docket No. RCRA-03-2020-0063**
Respondent.	**FINAL ORDER** **Proceeding under Section 3008(a) and (g) of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. § 6928(a) and (g)**

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, FTG Circuits Fredericksburg Inc., doing business as Colonial Circuits, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's October 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), which reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation,*

pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

NOW, THEREFORE, PURSUANT TO Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a) and (g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of ***FORTY-FOUR THOUSAND FOUR-HUNDRED EIGHTY DOLLARS ($44,480.00),*** in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA Subtitle C and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

April 2, 2020
Date

JOSEPH LISA Digitally signed by JOSEPH LISA Date: 2020.04.02 14:29:52 -04'00'

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:	:	
	:	
FTG Circuits Fredericksburg Inc. (doing business as Colonial Circuits, Inc.)	:	**U.S. EPA Docket RCRA-03-2020-0063**
	:	
1026 Warrenton Road	:	**Proceeding under Section 3008(a) and (g) of the**
Fredericksburg, VA 22406,	:	**Resource Conservation and Recovery Act**
	:	**(RCRA), as amended,**
Respondent.	:	**42 U.S.C. § 6928(a) and (g).**
	:	
	:	
	:	
	:	

CERTIFICATE OF SERVICE

I certify that on April 2, 2020, the original and one (1) copy of the foregoing ***Consent Agreement and Final Order***, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served **via Electronic Transmittal** to:

Paul Godbout, Assistant Secretary
FTG Circuits Fredericksburg Inc. (doing business as Colonial Circuits, Inc.)
1026 Warrenton Road
Fredericksburg, VA 22406
paul.godbout@colonialcircuits.com

Bradley C. Bourne, President and CEO
Firan Technology Group Corporation
250 Finchdene Square
Toronto, ON, Canada, M1X 1A5
BradBourne@ftgcorp.com

Daniel T. Gallo
Assistant Regional Counsel
ORC – 3RC40
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103
gallo.dan@epa.gov

Eric Greenwood
Enforcement Officer
ECAD – 3ED22
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103
greenwood.eric@epa.gov

Dated: April 2, 2020

BEVIN ESPOSITO Digitally signed by BEVIN ESPOSITO Date: 2020.04.02 13:43:11 -04'00'

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III