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2 Regional Counsel

** FILED **

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U.S.EPA - Region 09

8 UNITED STATES
9 ENVIRONMENTAL PROTECTION AGENCY
10 REGION 9

11 In the Matter of:

Docket No. CAA-09-2019- 0014

12 Yamazuki, Inc.,

13 CONSENT AGREEMENT AND FINAL
14 ORDER PURSUANT TO 40 C.F.R.
15 §§ 22.13 AND 22.18

16 Respondent.

17 **CONSENT AGREEMENT**

18 The United States Environmental Protection Agency ("EPA"), Region 9, and Yamazuki,
19 Inc. ("Respondent") agree to settle this matter and consent to the entry of this Consent
20 Agreement and Final Order ("CAFO"), which simultaneously commences and concludes this
21 matter in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

22 **I. AUTHORITY, JURISDICTION AND PARTIES**

23 1. This is a civil administrative penalty action brought against Respondent pursuant to
24 Section 205(c) of the Clean Air Act ("CAA" or "Act"), 42 U.S.C. § 7524(c), for violation of
25 Sections 203(a)(1) and 213(d) of the CAA, 42 U.S.C. §§ 7522(a)(1) and 7547(d), and the
26 regulations codified at 40 C.F.R. Parts 86, 1051 and 1068.

27 2. EPA may administratively assess a civil penalty if the penalty sought is less than

28 In the Matter of: Yamazuki, Inc.
Consent Agreement and Final Order 1

1 \$369,532. Section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1); and 40 C.F.R. § 19.4.

2 3. Complainant is the Assistant Director, Enforcement Division, EPA, Region 9, who has
3 been duly delegated the authority to bring and settle this action under Section 205(c)(1) of the
4 CAA, 42 U.S. C. § 7524(c)(1).
5

6 4. Respondent, a California corporation located in Ontario, California, is an importer of
7 powersports vehicles.

8 **II. APPLICABLE STATUTORY AND REGULATORY SECTIONS**

9 5. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a manufacturer from
10 selling, offering for sale, introducing, or delivering for introduction into commerce, or any
11 person from importing, any new motor vehicle or new motor vehicle engine manufactured after
12 the applicable effective date of the regulations, unless such vehicle or engine is covered by a
13 certificate of conformity (“COC”) issued by EPA.
14

15 6. The term, “person,” as defined under Section 302(e) of the CAA, includes a corporation.
16 42 U.S.C. § 7602(e).
17

18 7. The term “new motor vehicle,” as defined under Section 216(3) of the CAA, includes any
19 imported motor vehicle that was manufactured after the effective date of a regulation that first set
20 standards for such vehicles. 42 U.S.C. § 7550(3).
21

22 8. The term, “motor vehicle,” as defined under Section 216(2) of the CAA, means any self-
23 propelled vehicle designed for transporting persons or property on a street or highway. 42
24 U.S.C. § 7550(2).

25 9. Section 213(d) of the Act extends the prohibition in Section 203(a)(1) to new nonroad
26 vehicles and nonroad engines. 42 U.S.C. § 7457(d).
27
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1 10. The term "manufacturer," as defined under Section 216(1) of the Act, includes persons
2 who import vehicles or engines for resale. 42 U.S.C. § 7550(1).

3 11. The term "new," as defined under Section 216(3) of the Act, includes any imported motor
4 vehicle that was manufactured after the effective date of a regulation that first set standards for
5 such vehicles. 42 U.S.C. § 7550(3).

6 12. The term "nonroad engine," as defined under Section 216(10)-(11) of the Act, is as an
7 internal combustion engine that is not used in an on-road motor vehicle, a competition vehicle, or
8 as a stationary source, and a "nonroad vehicle" is defined as a vehicle powered by a nonroad
9 engine. 42 U.S.C. § 7550(10)-(11). *See also* 40 C.F.R. §§ 1051.801 and 1068.30.
10
11

12 New Highway Motorcycles Subject to Part 86

13 13. Pursuant to Section 202(a) of the CAA, 42 U.S.C. § 7521(a), EPA promulgated the
14 "Emission Regulations for 1978 and Later New Motorcycles," 40 C.F.R. Part 86, Subpart E
15 ("Subpart E"), which set emissions standards for new on-road motorcycles and established
16 testing, certification, and labeling requirements. Effective March 15, 2004, Subpart E
17 regulations apply to 2006 and later model year new motorcycles, regardless of fuel. *See* 40
18 C.F.R. Section 86.401-2006; 69 *Fed. Reg.* 2435 (Jan. 15, 2004). Pursuant to 40 C.F.R. Section
19 86.407-78(a), every new motorcycle that is imported into the United States which is subject to
20 Subpart E is required to be covered by a COC issued pursuant to Subpart E. The only variation
21 to this requirement is if the motorcycle is properly exempted or excluded from the certification
22 requirements.
23
24

25 14. The term, "motorcycle," as defined under 40 C.F.R. § 86.402-98, means any motor
26 vehicle with a headlight, taillight, and stoplight, having two or three wheels, and having a curb
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1 mass less than or equal to 1,749 pounds.

2 15. The term, "motor vehicle," as defined under 40 C.F.R. § 86.402-98, has the meaning
3 given in 40 C.F.R. § 85.1703, which provides that a "motor vehicle" is a vehicle which is self-
4 propelled and capable of transporting a person or persons or any material or any permanently or
5 temporarily affixed apparatus, unless any one or more of the criteria set forth in 40 C.F.R.
6 § 85.1703 are met, including the vehicle a) cannot exceed 25 MPH over a level, paved surface,
7 b) lacks certain specified safety features preventing highway operation, or c) exhibits features
8 rendering the vehicle's use on a highway or street unsafe, impractical or highly unlikely, such as
9 inordinate size.
10

11
12 16. Pursuant to 40 C.F.R. § 86.437-78(a)(2)(ii), a COC is issued upon such terms as the
13 Administrator deems necessary to assure that any new motorcycle covered by the COC will meet
14 the requirements of the Act and Part 86, Subpart E.

15 17. Pursuant to 40 C.F.R. § 86.416-80(a)(2)(i), in order to obtain a COC, manufacturers of
16 new motorcycles above a certain projected sales level must submit an Application for
17 Certification ("AFC") for the new motorcycles subject to Subpart E and which contains
18 information required by Subpart E including a description of the emission control system.
19

20 New Recreational Vehicles Motorcycles Subject to Parts 1051 and 1068

21 18. Pursuant to Section 213(a) of the CAA, 42 U.S.C. § 7521(a), EPA promulgated the
22 "Control of Emissions from Recreational Engines and Vehicles," 40 C.F.R. Part 1051 ("Part
23 1051") regulations, which set emissions standards for new recreational vehicles, including all-
24 terrain vehicles ("ATVs") and off-highway motorcycles, and established testing, certification,
25 and labeling requirements. Effective September 12, 2005, Part 1051 regulations apply to 2006
26
27
28

1 and later model year new recreational vehicles. 40 C.F.R. § 1051.1; 70 *Fed. Reg.* 40420 (July
2 13, 2005).

3 19. The regulations at 40 C.F.R. § 1051.15(c) state that the “General Compliance Provisions
4 for Highway, Stationary, and Nonroad Programs,” 40 C.F.R. Part 1068 (“Part 1068”) apply to
5 everyone including anyone who, *inter alia*, imports any of the vehicles subject to Part 1051. *See*
6 *also* 40 C.F.R. § 1068.1(a)(9).

8 20. Pursuant to 40 C.F.R. § 1068.101(a)(1), manufacturers and importers of new engines,
9 equipment containing new engines, and new equipment may not, *inter alia*, import any new
10 engine/equipment after emission standards take effect for the engine/equipment unless it is
11 covered by a valid COC for its model year. *See also* 40 C.F.R. § 1068.301(b). The only
12 variation to these requirements is if the recreational vehicle is properly exempted or excluded
13 from the certification requirements.

15 21. Pursuant to 40 C.F.R. § 1068.101(b)(5), manufacturers and importers of new engines,
16 equipment containing new engines, and new equipment may not import an uncertified engine or
17 piece of equipment if it is defined to be new in the stand-setting part with a model year for which
18 emission standards applied. Anyone violating this paragraph (b)(5) is deemed to be a
19 manufacturer in violation of paragraph (a)(1) of this section.

21 22. Pursuant to 40 C.F.R. § 1068.30, “manufacturer” includes importers that import new
22 engines or new equipment into the United States for resale.

24 23. Pursuant to 40 C.F.R. § 1068.103(a), engines/equipment covered by a COC are limited to
25 those that are produced during the period specified in the certificate and conform to the
26 specifications described in the certificate and the associated application for certification. *See*
27

1 *also* 40 C.F.R. § 1068.101(a)(1)(i).

2 24. Pursuant to 40 C.F.R. §§ 1051.201 and 1051.205, in order to obtain a COC, a
3 manufacturer must submit an AFC for new recreational vehicles subject to Part 1051 and which
4 contains information and specifications required by § 1051.205 including a description of the
5 engine family's emission controls.
6

7 25. Section 205(c) of the CAA, 42 U.S. C. § 7524(c), and the Civil Monetary Penalty
8 Inflation Adjustment Rule at 40 C.F.R. Part 19, which implements the Federal Civil Penalties
9 Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, authorize civil penalties not to
10 exceed \$46,192 per day for each violation of Section 205(c) of the CAA, 42 U.S.C. § 7524(c),
11 that occurred after November 2, 2015, where penalties are assessed on or after January 15, 2018.
12

13 **III. ALLEGATIONS**

14 26. At all times relevant to this CAFO, Respondent was a "person," as that term is defined at
15 Section 302(e), 42 U.S.C. § 7602(e).
16

17 **CLAIMS 1-29**

18 27. Paragraphs 1-26 are realleged and incorporated by reference.

19 28. On or about May 6, 2016, Respondent imported 29 highway motorcycles, manufactured
20 by Zhejiang Xingyue Vehicle Co., Ltd., Model XY260T-4, Model Year 2016, 257 cc
21 displacement ("29 Motorcycles") into the Port of Long Beach, California.
22

23 29. Each of the 29 Motorcycles was a "new motor vehicle," as defined under Section 216(3)
24 of the CAA, as each was manufactured after the effective date of 40 C.F.R. Part 86, Subpart E.
25 42 U.S.C. § 7550(3).
26

27 30. Each of the 29 Motorcycles was a "new motorcycle," as defined under Section 216(3) of
28

1 the CAA, 42 U.S.C. § 7550(3), and 40 C.F.R. § 86.402-98.

2 31. On or about May 6, 2016, Subpart E was applicable to the 29 Motorcycles.

3 32. The Emission Control Information (“ECI”) label on at least one of the 29 Motorcycles
4 indicated that it was certified under engine family GSXPC.257MFI.
5

6 33. A term of the COC for engine family GSXPC.258MFI, Model Year 2016, issued
7 February 17, 2016, states, “This Certificate covers only those vehicles which conform, in all
8 material respects, to the design specifications that applied to those vehicles described in the
9 documentation required by 40 CFR Part 86....”
10

11 34. The AFC for the COC covering engine family GSXPC.258MFI, dated December 17,
12 2015, sets forth, *inter alia*, design specifications for the emission control system.

13 35. On or about May 6, 2016, the catalyst composition in each of the 29 Motorcycles was
14 materially different from the design specifications for the emission control system set forth in the
15 AFC for the COC covering engine family GSXPC.258MFI, dated December 17, 2015.
16

17 36. On or about May 6, 2016, the 29 Motorcycles were not covered by a COC issued under
18 Subpart E.

19 37. On or about May 6, 2016, Respondent’s importation of 29 Motorcycles which were not
20 covered by a COC issued under Subpart E constitutes 29 violations of Section 203(a)(1) of the
21 CAA, 42 U.S.C. § 7522(a)(1), and 40 C.F.R. § 86.407-78(a).
22

23 CLAIMS 30-82

24 38. Paragraphs 1-37 are realleged and incorporated by reference.

25 39. On or about July 24, 2016, Respondent imported 53 highway motorcycles, manufactured
26 by Taizhou City Kaitong Motorcycle Manufacturer Co., Ltd., Models YB150T-10 and MD150T-
27

1 7, Model Year 2016, 150 cc displacement (“53 Motorcycles”) into the Port of Long Beach,
2 California.

3 40. Each of the 53 Motorcycles was a “new motor vehicle,” as defined under Section 216(3)
4 of the CAA, as each was manufactured after the effective date of 40 C.F.R. Part 86, Subpart E.
5 42 U.S.C. § 7550(3).
6

7 41. Each of the 53 Motorcycles was a “new motorcycle,” as defined under Section 216(3) of
8 the CAA, 42 U.S.C. § 7550(3), and 40 C.F.R. § 86.402-98.

9 42. On or about July 24, 2016, Subpart E was applicable to the 53 Motorcycles.

10 43. The ECI label on at least one of the 53 Motorcycles indicated that it was certified under
11 engine family GKTGC.150QMJ.
12

13 44. A term of the COC for engine family GKTGC.150QMJ, Model Year 2016, issued
14 February 17, 2016, states, “This Certificate covers only those vehicles which conform, in all
15 material respects, to the design specifications that applied to those vehicles described in the
16 documentation required by 40 CFR Part 86....”
17

18 45. The AFC for the COC covering engine family GKTGC.150QMJ, undated, sets forth,
19 *inter alia*, design specifications for the emission control system.

20 46. On or about July 24, 2016, the catalyst composition and loading in each of the 53
21 Motorcycles were materially different from the design specifications for the emission control
22 system set forth in the AFC for the COC covering engine family GKTGC.150QMJ, undated.
23

24 47. On or about July 24, 2016, the 53 Motorcycles were not covered by a COC issued under
25 Subpart E.

26 48. On or about July 24, 2016, Respondent’s importation of 53 Motorcycles which were not
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1 covered by a COC issued under Subpart E constitutes 53 violations of Section 203(a)(1) of the
2 CAA, 42 U.S.C. § 7522(a)(1), and 40 C.F.R. § 86.407-78(a).

3 CLAIMS 83-117

4 49. Paragraphs 1-48 are realleged and incorporated by reference.

5 50. On or about January 26, 2016, Respondent imported 35 ATVs, manufactured by
6 Chongqing Astronautic Bashan Motorcycle Manufacturing Co., Ltd., Model CK250S, Model
7 Year 2015, 229 cc displacement (“35 ATVs”) into the Port of Long Beach, California.

8 51. At all times relevant to this CAFO, Respondent was a “manufacturer,” as defined under
9 Section 216(1) of the CAA. 42 U.S.C. § 7550(1), and 40 C.F.R. § 1068.30.

10 52. Each of the 35 ATVs was a “nonroad vehicle” as defined under Section 216(11) of the
11 CAA. 42 U.S.C. § 7550(11).

12 53. Each of the 35 ATVs was a “new recreational vehicle” and an “all-terrain vehicle,” as
13 defined under 40 C.F.R. § 1051.801.

14 54. Each of the 35 ATVs was “new equipment” and “new engine/equipment” as defined
15 under 40 C.F.R. § 1068.30.

16 55. On or about January 26, 2016, Parts 1051 and 1068 were applicable to the 35 ATVs.

17 56. Respondent imported the 35 ATVs after the emission standards of Part 1051 took effect
18 for the 35 ATVs.

19 57. The ECI label on at least one of the 35 ATVs indicated that it was certified under engine
20 family FBSHX.229AAA.

21 58. A term of the COC for engine family FBSHX.229AAA, Model Year 2015, issued
22 January 26, 2015, states, “This Certificate covers only those vehicles which conform, in all
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1 material respects, to the design specifications that applied to those vehicles described in the
2 documentation required by 40 CFR Parts 1051, 1065, and 1068....”

3 59. The AFC for the COC covering engine family FBSHX.229AAA, dated January 21, 2015,
4 sets forth, *inter alia*, design specifications for the emission control system.

5 60. On or about January 26, 2016, the catalyst composition and loading in each of the 35
6 ATVs was materially different from the design specifications for the emission control system set
7 forth in the AFC for the COC covering engine family FBSHX.229AAA, dated January 21, 2015.

8 61. On or about January 26, 2016, the 35 Motorcycles were not covered by a COC issued
9 under Part 1051.

10 62. On or about January 26, 2016, Respondent’s importation of 35 ATVs which were not
11 covered by a COC issued under Part 1051 constitutes 35 violations of Sections 203(a)(1) and
12 213(d) of the CAA, 42 U.S.C. §§ 7522(a)(1) and 7547(d), and 40 C.F.R. § 1068.101(a)(1) and
13 1068.101(b)(5).

14 CLAIMS 118-213

15 63. Paragraphs 1-62 are realleged and incorporated by reference.

16 64. On or about February 28, 2017, Respondent imported 96 off-highway motorcycles,
17 manufactured by Zhejiang Apollo Motorcycle Manufacturer Co., Ltd., Model AGB-36C, Model
18 Year 2016, 223 cc displacement (“96 Off-highway Motorcycles”) into the Port of Long Beach,
19 California.

20 65. At all times relevant to this CAFO, Respondent was a “manufacturer,” as defined under
21 Section 216(1) of the CAA. 42 U.S.C. § 7550(1), and 40 C.F.R. § 1068.30.

22 66. Each of the 96 Off-highway Motorcycles was a “nonroad vehicle” as defined under
23

1 Section 216(11) of the CAA. 42 U.S.C. § 7550(11).

2 67. Each of the 96 Off-highway Motorcycles was a “new recreational vehicle” and an “off-
3 highway motorcycle,” as defined under 40 C.F.R. § 1051.801.

4 68. Each of the 96 Off-highway Motorcycles was “new equipment” and “new
5 engine/equipment” as defined under 40 C.F.R. § 1068.30.

6 69. On or about February 28, 2017, Parts 1051 and 1068 were applicable to the 96 Off-
7 highway Motorcycles.
8

9 70. Respondent imported the 96 Off-highway Motorcycles after the emission standards of
10 Part 1051 took effect for the 96 Off-highway Motorcycles.
11

12 71. The ECI label on at least one of the 96 Off-highway Motorcycles indicated that it was
13 certified under engine family GAPSX.223.BLA-002.

14 72. A term of the COC for engine family GAPSX.223.BLA-002, Model Year 2016, issued
15 January 12, 2016, states, “This Certificate covers only those vehicles which conform, in all
16 material respects, to the design specifications that applied to those vehicles described in the
17 documentation required by 40 CFR Parts 1051, 1065, and 1068....”
18

19 73. The AFC for the COC covering engine family GAPSX.223.BLA-002, dated December
20 2014, sets forth, *inter alia*, design specifications for the emission control system.

21 74. On or about February 28, 2017, the catalyst loading ratio in each of the 96 Off-highway
22 Motorcycles was materially different from the design specifications for the emission control
23 system set forth in the AFC for the COC covering engine family GAPSX.223.BLA-002, dated
24 December 2014.
25

26 75. On or about February 28, 2017, the 96 Off-highway Motorcycles were not covered by
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1 a COC issued under Part 1051.

2 76. On or about February 28, 2017, Respondent's importation of 96 Off-highway
3 Motorcycles which were not covered by a COC issued under Part 1051 constitutes 96 violations
4 of Sections 203(a)(1) and 213(d) of the CAA, 42 U.S.C. §§ 7522(a)(1) and 7547(d), and 40
5 C.F.R. § 1068.101(a)(1) and 1068.101(b)(5).
6

7 **IV. RESPONDENT'S ADMISSIONS**

8 77. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,
9 Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over
10 Respondent; (ii) neither admits nor denies the specific factual allegations contained in Section III
11 of this CAFO; (iii) consents to the terms of this CAFO, including the assessment of the civil
12 administrative penalty under Section V of this CAFO; (iv) waives any right to contest the
13 allegations contained in Section III of this CAFO; and (v) waives the right to appeal the proposed
14 Final Order contained in this CAFO.
15

16 **V. CIVIL ADMINISTRATIVE PENALTY**

17
18 78. Respondent agrees to the assessment of a penalty in the amount of FIFTY THOUSAND
19 DOLLARS (\$50,000) as final settlement of the civil claims against Respondent arising under the
20 CAA as alleged in Section III of this CAFO.

21 79. Respondent shall pay the assessed penalty no later than thirty (30) days after the effective
22 date of the CAFO. The assessed penalty shall be paid by certified or cashier's check, payable to
23 "Treasurer, United States of America," or paid by one of the other methods listed below and sent
24 as follows:
25

26 Regular Mail:
27 U.S. Environmental Protection Agency
28

1 Fines and Penalties
2 Cincinnati Finance Center
3 PO Box 979077
4 St. Louis, MO 63197-9000

4 Wire Transfers:

5 Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the
6 following information:

6 Federal Reserve Bank of New York
7 ABA = 021030004
8 Account = 68010727
9 SWIFT address = FRNYUS33
10 33 Liberty Street
11 New York, NY 10045
12 Field Tag 4200 of the Fedwire message should read "D 68010727
13 Environmental Protection Agency"

11 Overnight Mail:

12 U.S. Bank
13 1005 Convention Plaza
14 Mail Station SL-MO-C2GL
15 ATTN Box 979077
16 St. Louis, MO 63101

15 ACH (also known as REX or remittance express):

16 US Treasury REX/Cashlink ACH Receiver ABA = 051036706
17 Account Number: 310006, Environmental Protection Agency
18 CTX Format Transaction Code 22 - checking
19 Physical location of US Treasury Facility
20 5700 Rivertech Court
21 Riverdale, MD 20737
22 Remittance Express (REX) 1-866-234-5681

21 On Line Payment:

22 This payment option can be accessed from the information below:

23 www.pay.gov

24 Enter "sf01.1" in the search field

25 Open form and complete required fields

26 If clarification regarding a particular method of payment remittance is needed, contact the EPA
27 Cincinnati Finance Center at 513-487-2091.

28 Concurrently, a copy of the check or notification that the payment has been made by one of the
other methods listed above, including proof of the date payment was made, shall be sent with

1 a transmittal letter indicating Respondent's name, the case title, and the docket number to the
2 following addressees:

3 Regional Hearing Clerk
4 Office of Regional Counsel (ORC-1)
5 U.S. Environmental Protection Agency, Region 9
6 75 Hawthorne Street
7 San Francisco, California 94105

8 Janice Chan
9 Air & TRI Section (ENF-2-1)
10 Enforcement Division
11 U.S. Environmental Protection Agency, Region 9
12 75 Hawthorne Street
13 San Francisco, CA 94105

14 80. Payment of the above civil administrative penalty shall not be used by Respondent or any
15 other person as a tax deduction from Respondent's federal, state, or local taxes.

16 81. If Respondent fails to pay the assessed civil administrative penalty specified in Paragraph
17 78 by the deadline specified in Paragraph 79, then Respondent shall pay to EPA a stipulated
18 penalty of \$500 per day in addition to the assessed penalty. Stipulated penalties shall accrue
19 until such time as the assessed penalty and all accrued stipulated penalties are paid and shall
20 become due and payable upon written request by EPA. In addition, failure to pay the civil
21 administrative penalty by the deadline specified in Paragraph 79 may lead to any or all of the
22 following actions:

23 a. The debt being referred to a credit reporting agency, a collection agency, or to the
24 Department of Justice for filing of a collection action in the appropriate United States District
25 Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount,
26 and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.

27 b. The debt being collected by administrative offset (i.e., the withholding of money payable
28

1 by the United States to, or held by the United States for, a person to satisfy the debt the person
2 owes the Government), which includes, but is not limited to, referral to the Internal Revenue
3 Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

4
5 c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend
6 or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors
7 or funds. 40 C.F.R. § 13.17.

8 d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest,
9 penalties charges, and administrative costs will be assessed against the outstanding amount that
10 Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty by the
11 deadline specified in Paragraph 79. Interest will be assessed at an annual rate that is equal to the
12 rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan
13 account rate) as prescribed and published by the Secretary of the Treasury in the Federal
14 Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1).
15 Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c).
16 Administrative costs for handling and collecting Respondent's overdue debt will be based on
17 either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R.
18 § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the
19 Department of Justice, the Internal Revenue Service), that department or agency may
20 assess its own administrative costs, in addition to EPA's administrative costs, for handling and
21 collecting Respondent's overdue debt.
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25 VI. COMPLIANCE CERTIFICATION

26 82. In executing this CAFO, Respondent certifies that it is now fully in compliance with the
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1 federal regulations promulgated at Parts 86, 1051 and 1068.

2 **VII. RETENTION OF RIGHTS**

3 83. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability
4 for federal civil penalties for the violations and facts specifically alleged in Section III of this
5 CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability
6 for violations of any provision of any federal, state, or local law, statute, regulation, rule,
7 ordinance, or permit not specifically alleged in Section III of this CAFO; or (ii) any criminal
8 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it
9 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address
10 any violation of this CAFO or any violation not specifically alleged in Section III of this CAFO.
11

12 84. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to
13 comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and
14 permits.
15

16 **VIII. ATTORNEYS' FEES AND COSTS**

17 85. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this
18 proceeding.
19

20 **IX. EFFECTIVE DATE**

21 86. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective
22 on the date that the final order contained in this CAFO, having been approved and issued by
23 either the Regional Judicial Officer or Regional Administrator, is filed.
24

25 **X. BINDING EFFECT**

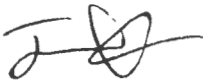
26 87. The undersigned representative of Complainant and the undersigned representative of
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1 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions
2 of this CAFO and to bind the party he or she represents to this CAFO.

3 88. The provisions of this CAFO shall apply to and be binding upon Respondent and its
4 officers, directors, employees, agents, trustees, servants, authorized representatives, successors.
5 and assigns.
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8 FOR RESPONDENT, YAMAZUKI, INC.

9 Dec 15 2018
10 DATE



Name
Title COO
Yamazuki, Inc.

11
12 FOR COMPLAINANT:

13 Dec. 20, 2018
14 DATE



Joel Jones, Assistant Director
Enforcement Division EPA Region 9

1 **FINAL ORDER**

2 Complainant and Respondent, having entered into the foregoing Consent Agreement,

3 IT IS HEREBY ORDERED that this CAFO (Docket No. CAA-09-2019-⁰⁰¹⁴) be entered,

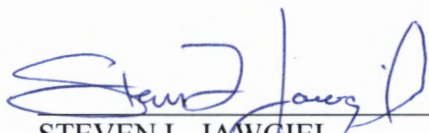
4 and that Respondent shall pay a civil administrative penalty in the amount of FIFTY

5 THOUSAND DOLLARS (\$50,000) and comply with the terms and conditions set forth in the

6 Consent Agreement. This Consent Agreement and Final Order shall become effective upon

7 filing.

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9
10 12/21/18
11 DATE

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13 STEVEN L. JAWGIEL
14 Regional Judicial Officer
15 U.S. Environmental Protection Agency,
16 Region 9

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of Yamazuki, Inc. (Docket No. **CAA-09-2019-0014**) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

A copy was mailed via CERTIFIED MAIL to:

Jun Xu
Chief Operating Officer
Yamazuki, Inc.
2041 S. Turner Avenue
Ontario, CA 91761

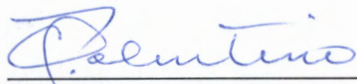
CERTIFIED MAIL NUMBER: 7015 0640 0001 1121 9905

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Brian Riedel
Assistant Regional Counsel (ORC-2)
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

CORAZON TOLENTINO

for: Regional Hearing Clerk (Printed)
U.S. EPA, Region IX



for: Regional Hearing Clerk Signature

12/26/18

Date