



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUL 10 2011

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Doug Vyverberg  
President  
Curtis-Maruyasu America, Inc.  
665 Metts Drive  
Lebanon, Kentucky 40033

Re: Curtis-Maruyasu America, Inc.  
Consent Agreement and Final Order, Docket Number: RCRA-04-2011-4004(b)  
EPA ID No.: KYR 000 007 807

Dear Mr. Vyverberg:

Please find enclosed a copy of the fully executed Consent Agreement and Final Order (CA/FO) in the above referenced matter. The CAFO was effective upon filing and payment of \$ 101,733 is due within thirty (30) days of the effective date of the CAFO. The work to be performed at the facility pursuant to the CAFO is set forth in Section V.

Please do not hesitate to contact Bonnie Sawyer at (404) 562-9539 with any legal or Daryl Himes at (404) 562-8614 with any technical questions concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Lamberth".

Larry Lamberth, Chief  
South Section  
RCRA and OPA Enforcement and Compliance Branch

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	Docket Number: RCRA-04-2011-4004(b)
	)	
Curtis-Maruyasu America, Inc. 665 Metts Drive Lebanon, Kentucky 40033	)	Proceeding under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)
	)	
EPA I.D. No.: KYR 000 007 087	)	
	)	
Respondent	)	
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**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Chapter 224.46 of the Kentucky Revised Statutes (KY. REV. STAT. ANN.) (Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6921 *et seq.*). This action is seeking injunctive relief and civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of KY. REV. STAT. ANN. Chapter 224.46, and the regulations promulgated pursuant thereto set forth at Title 401 Kentucky Administrative Regulations (KY. ADMIN. REG.) Chapters 30-40 (40 C.F.R. Parts 260 through 270, and 279.
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, provide that where the parties agree to settlement before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
3. Complainant and Respondent have conferred solely for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

## **II. THE PARTIES**

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, the United States Environmental Protection Agency, Region 4 (EPA).
5. Respondent is Curtis-Maruyasu America, Inc., incorporated and operating in the Commonwealth of Kentucky. The facility is located at 665 Metts Drive, Lebanon, Kentucky 40033.

## **III. PRELIMINARY STATEMENTS**

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Commonwealth of Kentucky (Kentucky or Commonwealth) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the Kentucky authorized program are found in KY. REV. STAT. ANN. § 224.46-012, *et seq.*, and 401 KY. ADMIN. REG. 30:005, *et seq.*
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states upon their federal effective date regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Kentucky has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted Kentucky authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). The EPA exercises this authority in the manner set forth in the Memorandum of Agreement between the EPA and Kentucky.
9. As Kentucky's authorized hazardous waste program operates in lieu of the federal RCRA program, citations for the violations alleged herein will be to the authorized Kentucky program, however, for ease of reference, the federal citations will follow in parentheses.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to Kentucky before issuance of this CA/FO.
11. KY. REV. STAT. ANN. § 224.46-510 (Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)) requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found in 401 KY. ADMIN. REG. Chapter 32 (40 C.F.R. Part 262).
12. KY. REV. STAT. ANN. § 224.46-520 (Section 3004 of RCRA, 42 U.S.C. § 6924), requires the promulgation of standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. The implementing regulations for these requirements are found at 401 KY. ADMIN. REG. Chapter 34 (40 C.F.R. Part 264).

13. KY. REV. STAT. ANN. § 224.46-520 (Section 3005 of RCRA, 42 U.S.C. § 6925) sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at 401 KY. ADMIN. REG. Chapters 34, 35, and 36 (40 C.F.R. Parts 264, 265, and 270).
14. Pursuant to 401 KY. ADMIN. REG. 31:010 Section 2 (40 C.F.R. § 261.2), a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
15. Pursuant to 401 KY. ADMIN. REG. 31:010 Section 3 (40 C.F.R. § 261.3), a solid waste is a “hazardous waste” if it is not excluded from regulation as a hazardous waste under 401 KY. ADMIN. REG. 31:010 Section 4 (40 C.F.R. § 261.4(b)), and it meets any of the criteria specified in 401 KY. ADMIN. REG. 31:010 Section 3 (40 C.F.R. § 261.3(a)(2)).
16. Pursuant to 401 KY. ADMIN. REG. 31:030 Section 2 (40 C.F.R. § 261.21), a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
17. Pursuant to 401 KY. ADMIN. REG. 31:030 Section 3 (40 C.F.R. § 261.22), a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
18. Pursuant to 401 KY. ADMIN. REG. 31:030 Section 5 (40 C.F.R. § 261.24), a solid waste that exhibits the characteristic of toxicity for chromium is a hazardous waste and is identified with the EPA Hazardous Waste Number D007.
19. Pursuant to 401 KY. ADMIN. REG. 31:040 Section 2 (40 C.F.R. § 261.31), wastewater treatment sludges from nonspecified electroplating operations are listed hazardous wastes and are identified with the EPA Hazardous Waste Number F006.
20. Pursuant to 401 KY. ADMIN. REG. 31:005 Section 1 (40 C.F.R. § 260.10), a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in 401 KY. ADMIN. REG. 31:010 Section 3 (40 C.F.R. Part 261), or whose act first causes a hazardous waste to become subject to regulation.
21. Pursuant to 401 KY. ADMIN. REG. 30:005 Section 1 (40 C.F.R. § 260.10), a “facility” is all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing or disposing of hazardous waste.
22. Pursuant to 401 KY. ADMIN. REG. 30:005 Section 1 (40 C.F.R. § 260.10), a “person” includes a corporation.
23. Pursuant to 401 KY. ADMIN. REG. 30:005 Section 1 (40 C.F.R. § 260.10), an “owner” is the person who owns a facility or part of a facility and an “operator” is the person responsible for the overall operation of a facility.

24. Pursuant to 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)), a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that the generator complies with the management requirements listed in 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(1)-(4)) (hereinafter referred to as the "LQG permit exemption").
25. Pursuant to 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(1)(i)), a condition of the LQG permit exemption requires a generator to comply with 401 KY. ADMIN. REG. 35:190 Section 4 (40 C.F.R. § 265.173(a)), which requires that containers of hazardous waste remain closed, except when it is necessary to add or remove waste.
26. Pursuant to 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(1)(ii)), a condition of the LQG permit exemption requires a generator to comply with 401 KY. ADMIN. REG. 35:190 Section 4 (40 C.F.R. § 265.193(a)(1)), which requires a generator to provide secondary containment for any new or existing tank system which will manage hazardous waste before the tank is put into service.
27. Pursuant to 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(1)(ii)), a condition of the LQG permit exemption requires a generator to comply with 401 KY. ADMIN. REG. 35:190 Section 6 (40 C.F.R. § 265.195), which requires a generator to inspect, at least once each operating day, for tanks accumulating hazardous waste, the following: data gathered from monitoring and leak detection equipment, overfill/spill control equipment, above ground portions of the tank system, and construction material and the area immediately surrounding the externally accessible portions of the tank system.
28. Pursuant to 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(2)), a condition of the LQG permit exemption requires a generator to mark each container of hazardous waste with the date upon which accumulation begins.
29. Pursuant to 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(3)), a condition of the LQG permit exemption requires a generator to comply with 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(3)), which requires a generator to label or mark clearly each container and tank accumulating hazardous waste with the words "Hazardous Waste."
30. Pursuant to 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(4)), a condition of the LQG permit exemption requires a generator to comply with 401 KY. ADMIN. REG. 35:030 Section 2 (40 C.F.R. § 265.31), which requires a facility to be 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.
31. Pursuant to 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(4)), a condition of the LQG permit exemption requires a generator to comply with 401 KY. ADMIN. REG. 35:020 Section 7 (40 C.F.R. § 265.16(c) and (d)), which requires a generator to ensure that its employees involved in the management of hazardous waste comply with personnel training requirements including an annual review of their initial training and

maintaining records that document the training. Also, the facility must maintain a list of job titles for each position at the facility related to hazardous waste management, and the name of the employee filling those positions.

32. Pursuant to 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(4)), a condition of the LQG permit exemption requires a generator to comply with 401 KY. ADMIN. REG. 35:040 Section 3 (40 C.F.R. § 265.52(d)), which requires a generator to comply with contingency plan requirements including designating an emergency coordinator in its contingency plan.
33. Pursuant to 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(c)(1)(i)), a generator may accumulate as much as 55 gallons of hazardous waste 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, provided he meets the requirements of 401 KY. ADMIN. REG. 35:180 Section 4 (40 C.F.R. § 265.173(a)) and keeps all containers managing hazardous waste closed, except when hazardous waste is being added or removed from the containers.
34. Pursuant to 401 KY. ADMIN. REG. 44:020 Section 3(1) (40 C.F.R. § 279.22(c)(1)), a generator of used oil must label the containers managing such oil with the words "Used Oil."

#### **IV. THE EPA ALLEGATIONS AND DETERMINATIONS**

35. Respondent is a "person" as defined in 401 KY. ADMIN. REG. 30:005 Section 1 (40 C.F.R. § 260.10).
36. Respondent is the "owner" and "operator" of a "facility" located at 665 Metts Drive, Lebanon, Kentucky, as those terms are defined in 401 KY. ADMIN. REG. 30:005 Section 1 (40 C.F.R. § 260.10).
37. Respondent manufactures tubular parts for the automotive industry. These parts include break, gas, and transmission lines. Electroplating and painting operations are performed at the facility during the Respondent's manufacturing operations.
38. Respondent, as a result of its electroplating and painting operations at its facility, is a generator of D001, D002, D007, and F006 hazardous wastes.
39. Respondent, as a result of facility operations, is a small quantity handler of universal waste.
40. On April 21, 2010, a representative of the EPA performed a RCRA compliance evaluation inspection (CEI) of the Respondent's facility.
41. At the time of the CEI, Respondent was managing hazardous waste in a new or existing tank system located in the Power Train building without secondary containment (hereinafter, this tank system will be referred to as the "PT tank system").

42. The EPA therefore alleges that Respondent violated KY. REV. STAT. ANN. § 224.46-520 (Section 3005 of RCRA, 42 U.S.C. § 6925) by storing hazardous waste without a permit or interim status, because Respondent failed to meet the 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(1)(ii)) condition of the LQG permit exemption by not complying with 401 KY. ADMIN. REG. 35:190 Section 4 (40 C.F.R. § 265.193).
43. At the time of the CEI, Respondent was managing hazardous waste in the PT tank system without performing daily inspections of data gathered from monitoring and leak detection equipment, overfill/spill control equipment, above ground portions of the tank system, and construction material and the area immediately surrounding the externally accessible portions.
44. The EPA therefore alleges that Respondent violated KY. REV. STAT. ANN. § 224.46-520 (Section 3005 of RCRA, 42 U.S.C. § 6925) by storing hazardous waste without a permit or interim status, because Respondent failed to meet the 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(1)(ii)) condition of the LQG permit exemption by not complying with 401 KY. ADMIN. REG. 35:190 Section 6 (40 C.F.R. § 265.195).
45. At the time of the CEI, Respondent was managing hazardous waste in the PT tank system, which was not labeled or clearly marked with the words "Hazardous Waste."
46. The EPA therefore alleges that Respondent violated KY. REV. STAT. ANN. § 224.46-520 (Section 3005 of RCRA, 42 U.S.C. § 6925) by storing hazardous waste without a permit or interim status, because Respondent failed to meet the 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(3)) condition of the LQG permit exemption.
47. At the time of the CEI, the EPA inspector observed a small amount of F006 hazardous waste on the floor beneath tanks and pipes in the area of wastewater treatment tanks in the Power Train building.
48. The EPA therefore alleges that Respondent violated KY. REV. STAT. ANN. § 224.46-520 (Section 3005 of RCRA, 42 U.S.C. § 6925) by storing hazardous waste without a permit or interim status, because Respondent failed to meet the 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(4)) condition of the LQG permit exemption by not complying with 401 KY. ADMIN. REG. 35:030 Section 2 (40 C.F.R. § 265.31).
49. At the time of the CEI, Respondent did not have records to demonstrate that two employees involved in the management of hazardous waste had taken part in an annual review of their initial classroom or on-the-job hazardous waste training.
50. At the time of the CEI, Respondent was not maintaining a list of employee titles for its employees involved in the management of hazardous waste which includes their hazardous waste responsibilities and personnel filling those positions.
51. The EPA therefore alleges that Respondent violated KY. REV. STAT. ANN. § 224.46-520 (Section 3005 of RCRA, 42 U.S.C. § 6925) by storing hazardous waste without a permit or interim status, because Respondent failed to meet the 401 KY. ADMIN. REG. 32:030

Section 5(1) (40 C.F.R. § 262.34(a)(4)) condition of the LQG permit exemption by not complying with 401 KY. ADMIN. REG. 35:020 Section 7 (40 C.F.R. § 265.16(c) and (d)).

52. At the time of the CEI, Respondent had not designated an emergency coordinator in its hazardous waste contingency plan, however, Respondent had identified a person as "Incident Commander."
53. The EPA therefore alleges that Respondent violated KY. REV. STAT. ANN. § 224.46-520 (Section 3005 of RCRA, 42 U.S.C. § 6925) by storing hazardous waste without a permit or interim status, because Respondent failed to meet the 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(4)) condition of the LQG permit exemption by not complying with 401 KY. ADMIN. REG. 35:040 Section 3 (40 C.F.R. § 265.52(d)).
54. At the time of the CEI, Respondent did not have one of four observed satellite containers closed.
55. The EPA therefore alleges that Respondent violated KY. REV. STAT. ANN. § 224.46-520 (Section 3005 of RCRA, 42 U.S.C. § 6925) by storing hazardous waste without a permit or interim status because Respondent failed to meet the 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(c)(1)(i)) condition for a permit exemption by not complying with 401 KY. ADMIN. REG. 35:180 Section 4 (40 C.F.R. § 265.173(a)).
56. At the time of the CEI, Respondent failed to contain three of its waste lamps in closed containers, to clearly mark five boxes with the appropriate words to identify the contents as waste, and to mark its waste lamps containers with an accumulation start date. The storage location of the waste lamps was in a chained area.
57. The EPA therefore alleges that Respondent violated KY. REV. STAT. ANN. § 224.46-520 (Section 3005 of RCRA, 42 U.S.C. § 6925) by storing hazardous waste without a permit or interim status, because Respondent failed to meet the 401 KY. ADMIN. REG. 32:030 Section 5(1) (40 C.F.R. § 262.34(a)(1)(i) (incorporating 40 C.F.R. § 265.173(a)), (a)(2), and (a)(3)) conditions of the LQG permit exemption.
58. At the time of the CEI, Respondent failed to label one of four of its containers managing used oil with the words "Used Oil," However, all containers were labeled as Non-Hazardous Waste.
59. The EPA therefore alleges that Respondent violated 401 KY. ADMIN. REG. 44:020 Section 3 (40 C.F.R. § 279.22(c)(1)).

#### **V. WORK TO BE PERFORMED**

60. Within 30 days of the effective date of this CA/FO, Respondent shall have a qualified Professional Engineer (PE) assess the integrity of the PT tank system. The assessment of the PT tank system shall include a visual and structural inspection or other mechanical examination which is capable of determining if any pathways (i.e. deficient surface



coatings or cracks) exist or existed during the operation of the tank system as a hazardous waste tank system that may have allowed hazardous waste to enter into the environment.

61. Within 45 days of the effective date of this CA/FO, Respondent must submit a written report describing the PE assessment of the PT tank system performed under paragraph 60 above and any cleaning of tank system that has been performed, including the date of the cleaning and the method used.
62. The written report of the PT tank system shall be submitted to:

Larry Lamberth, Chief,  
South Enforcement and Compliance Section  
RCRA and OPA Enforcement & Compliance Branch  
RCRA Division  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960
63. If the report required under paragraph 61 above concludes that there are no cracks or corrosion to the PT tank system, and that any coatings are in good condition, Respondent may submit, concurrently with the written report, a PE certification in accordance with 40 C.F.R. § 270.11(d) that the tank system was capable of handling hazardous wastes, including D002 and D007, and that no releases of hazardous waste or hazardous waste constituents occurred.
64. If Respondent is unable to submit the PE certification listed in paragraph 63 above, Respondent must submit to the address specified in paragraph 62, a closure plan for the PT tank system in accordance with 40 C.F.R. § 265.197 within 45 days of the effective date of this CA/FO.

## **VI. TERMS OF AGREEMENT**

Based on the foregoing, the parties agree to the following:

65. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
66. The Respondent neither admits nor denies the factual allegations or alleged violations set out in this CA/FO.
67. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
68. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act.

69. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to the EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this CA/FO.
70. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
71. The parties agree that compliance with the terms of this CA/FO shall resolve the violations of RCRA alleged in this CA/FO.
72. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized Kentucky hazardous waste program.
73. Each party will pay its own costs and attorney's fees.

#### **VII. PAYMENT OF CIVIL PENALTY**

74. Respondent consents to the payment of a civil penalty in the amount of One Hundred One Thousand, Seven Hundred Thirty-Three Dollars (\$101,733), payable within thirty (30) calendar days of the effective date of this CA/FO.
75. Payment shall be made by check with good and sufficient funds, by electronic funds transfer (EFT), or by Automated Clearhouse (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the facility name and docket number for this matter shall be referenced on the face of the check. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

If the Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank  
Government Lockbox 979077  
**US EPA Fines & Penalties**  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
314-418-1028

If paying by EFT, the Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read: "D 68010727  
Environmental Protection Agency"

If paying by ACH, the Respondent shall remit payment to:

PNC Bank  
ABA: 051036706  
Account Number: 310006  
CTX Format Transaction Code 22 – checking  
Environmental Protection Agency  
808 17<sup>th</sup> Street NW  
Washington, DC 20074  
Contact: Jesse White, 301-887-6548

Respondent shall submit a copy of the payment to the following addressees:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

and to:

Doug McCurry, Chief  
North RCRA and OPA Enforcement & Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

76. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- (a) Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
  - (b) Monthly Handling Charge. Respondent must pay a late payment handling charge of \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent 30 calendar day period over which an unpaid balance remains.
  - (c) Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).
77. Penalties paid pursuant to this CA/FO are not deductible for federal tax purposes under 26 U.S.C. § 162(f).

#### **VIII. PARTIES BOUND**

78. This CA/FO shall be binding upon Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents and all persons, including independent contractors, contractors and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
79. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
80. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

#### **IX. RESERVATION OF RIGHTS**

81. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health or the environment.

82. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
83. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.
84. This CA/FO may be amended or modified only by written agreement executed by both the EPA and Respondent.

#### **X. OTHER APPLICABLE LAWS**

85. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

#### **XI. SERVICE OF DOCUMENTS**

86. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in the proceeding:

Bonnie Sawyer  
Associate Regional Counsel  
U.S. EPA – Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960  
(404) 562-9539

87. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents the Respondent in this matter and who is authorized to receive service for the Respondent in this proceeding:

Doug Vyverberg  
President  
Curtis-Maruyasu America, Inc.  
665 Metts Drive  
Lebanon, Kentucky 40033

**XII. SEVERABILITY**

88. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

**XIII. EFFECTIVE DATE**

89. The effective date of this CA/FO is the date it is filed with the Regional Hearing Clerk.

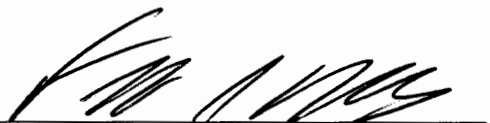
*In the matter of Curtis-Maruyasu America, Inc., Docket No. RCRA-04-2011-4004(b)*

**AGREED AND CONSENTED TO:**

**Curtis-Maruyasu America, Inc.**

By:  Dated: 8/3/2011  
Doug Vyverberg  
President

**U.S. Environmental Protection Agency**

By:  Dated: 8/5/11  
Frank Ney, Acting Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	Docket Number: RCRA-04-2011-4004(b)
	)	
Curtis-Maruyasu America, Inc.	)	Proceeding under Section 3008(a)
655 Metts Drive	)	of the Resource Conservation and
Lebanon, Kentucky 40033	)	Recovery Act, 42 U.S.C. § 6928(a)
	)	
EPA I.D. No.: KYR 000 007 087	)	
	)	
Respondent	)	
_____	)	

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED** this 9<sup>th</sup> day of August, 2011.

BY: Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Curtis-Maruyasu America, Inc. , Docket Number: RCRA-04-2011-4004(b), on August 10 2011, and on August 10, 2011, served copies on the parties listed below in the manner indicated:


Bonnie Sawyer  
Associate Regional Counsel  
Office of RCRA, OPA and UST Legal Support  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(Via the EPA's internal mail)

Doug Vyverberg  
President  
Curtis-Maruyasu America, Inc.  
665 Metts Drive  
Lebanon, Kentucky 40033

(Via Certified Mail- Return Receipt Requested)

1 AUG 10 2011  
Date: \_\_\_\_\_

  
Belinda Johnson  
Acting Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511