UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: SRG Global Trim, LLC 200 Guardian Avenue Morehead, Kentucky 40351 EPA ID No.: KYR000011718 Respondent.	Docket No. RCRA-04-2020-2116(b) Proceeding Under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a) (RCRA or the Act) and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.

2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.

3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Chief of the Chemical Safety and Land Enforcement Branch, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act.

5. Respondent is SRG Global Trim, LLC, a Delaware Limited Liability Company doing business in the Commonwealth of Kentucky. This proceeding pertains to Respondent's facility located at 200 Guardian Avenue, Morehead, Kentucky, 40351 (Facility). Respondent was formerly known as SRG Global Trim, Inc., prior to January 1, 2020, and at the time of the July 12, 2019, RCRA compliance evaluation inspection (CEI) at Respondent's Facility.

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Commonwealth of Kentucky (State) 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 authorized State program are found at Kentucky Revised Statutes (KRS) Title XVIII, Chapter 224.46 et seq. and Title 401 of the Kentucky Administrative Regulations (KAR) Chapter 39.

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 regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.

8. Although the EPA has granted the State 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). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.

9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.

10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CAFO.

11. KRS 224.46-510(1) [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 at 401 KAR 39:080 Section 1(1)-(7)(a)1., (8)(a), and (9)-(11) [40 C.F.R. Part 262].

12. KRS 224.46-520(1) [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 KAR 39:090, Section 1 (permitted) and 401 KAR 39:090, Section 2(1)-(4) (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to 401 KAR 39:060, Section 3(1) [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.

14. Pursuant to 401 KAR 39:060, Section 3(1) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in 401 KAR 39:060, Section 3(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 401 KAR 39:060, Section 3(1) [40 C.F.R. § 261.4(b)].

15. Pursuant to 401 KAR 39:060, Section 3(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in 401 KAR 39:060, Section 3 [40 C.F.R.

§§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.

16. Pursuant to 401 KAR 39:060, Section 3(1) [40 C.F.R. §§ 261.20 and 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 KAR 39:060, Section 3(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to 401 KAR 39:060, Section 3 [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for methyl ethyl ketone is identified with the EPA Hazardous Waste Number D035.

18. Pursuant to 401 KAR 39:060, Section 3(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed "hazardous waste" if it is listed in 401 KAR 39:060, Section 3(1) [40 C.F.R. Part 261, Subpart D].

19. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in 401 KAR 39:060, Section 3(1) [40 C.F.R. § 261.31].

20. Pursuant to 401 KAR 39:060, Section 3(1) [40 C.F.R. §§ 261.30 and 261.31], wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum, are listed hazardous waste and identified with the EPA Hazardous Waste Number F006.

21. Pursuant to 401 KAR 39:005, Section 1(33) [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 KAR 39:060, Section 3(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.

22. Pursuant to 401 KAR 39:005, Section 1(28) [40 C.F.R. § 260.10], a "facility" includes "all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste."

23. Pursuant to 401 KAR 39:005, Section 1(53) [40 C.F.R. § 260.10], a "person" includes a corporation (including a government corporation).

24. Pursuant to 401 KAR 39:005 Section 1(51) [40 C.F.R. § 260.10], an "owner" is "the person who owns a facility or part of a facility."

25. Pursuant to 401 KAR 39:005 Section 1(50) [40 C.F.R. § 260.10], an "operator" is "the person responsible for the overall operation of a facility."

26. Pursuant to 401 KAR 39:005 Section 1(68) [40 C.F.R. § 260.10], "storage" means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

27. Pursuant to 401 KAR 39:005 Section 1 [40 C.F.R. § 260.10], a "container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

28. Pursuant to 401 KAR 39:005 Section 1 [40 C.F.R. § 260.10], "disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

29. Pursuant to 401 KAR 39:005 Section 1 [40 C.F.R. § 260.10], a "large quantity generator" (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2200 lbs) of non-acute hazardous waste in a calendar month.

30. Pursuant to 401 KAR 39:005 Section 1 [40 C.F.R. § 260.10], "tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

31. Pursuant to 401 KAR 39:005 Section 1 [40 C.F.R. § 260.10], a "tank system" is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

32. Pursuant to 401 KAR 39:005 Section 1(71) and KRS 224.1-010(29) [Section 1004(34) of RCRA, 42 U.S.C. § 6903(34)], "treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or process designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

33. Pursuant to 401 KAR 39:080 Section 1 [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near the 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 without having interim status, as required by KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.16(b) or §262.17(a)], except as required in 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.15(a)(7) and (8)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.15(a)] (hereinafter referred to as the "SAA Permit Exemption").

34. Pursuant to 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.15(a)(2)], which is a condition of the SAA Permit Exemption, a generator 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 accumulated, so that the ability of the container to contain the waste is not impaired.

35. Pursuant to 401 KAR 39:080 Section 1 [40 C.F.R. § 262.15(a)(5)(i)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers with the words "Hazardous Waste."

36. Pursuant to 401 KAR 39:080 Section 1 [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers with an indication of the hazards of the contents.

37. Pursuant to 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.17], a LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by KRS 22 4.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.17] (hereinafter referred to as the "LQG Permit Exemption").

38. Pursuant to 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.17(a)(1)(iv)(A)], which is a condition of the LQG Permit Exemption, a generator is required to keep a container holding hazardous waste closed during accumulation, except when it is necessary to add or remove waste.

39. Pursuant to 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.17(a)(2)], which incorporates 401 KAR 39:090, Section 2(1) [40 C.F.R. § 265.192(a)], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must obtain a written tank assessment reviewed and certified by a qualified Professional Engineer, attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste.

40. Pursuant to 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.17(a)(2)], which incorporates 401 KAR 39:090, Section 2(1) [40 C.F.R. § 265.195(b)], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must conduct daily inspections of overfill/spill control equipment to ensure that it is in good working order, above ground portions of the tank system, if any, to detect corrosion or release of waste, and construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system to detect erosion or signs of release of hazardous waste.

41. Pursuant to 401 KAR 39:080 Section 1 [40 C.F.R. § 262.17(a)(5)(i)(B)], which is a condition of the LQG Permit Exemption, a LQG must mark or label its containers with an indication of the hazards of the contents.

42. Pursuant to 401 KAR 39:080 Section 1 [40 C.F.R. § 262.17(a)(5)(i)(C)], which is a condition of the LQG Permit Exemption, a LQG must mark or label its containers with the date upon which each period of accumulation begins clearly visible for inspection on each container.

43. Pursuant to 401 KAR 39:080 Section 1 [40 C.F.R. § 262.17(a)(5)(ii)], which is a condition of the LQG Permit Exemption, a LQG accumulating hazardous waste in tanks must mark or label its tanks with the words "Hazardous Waste."

44. Pursuant to 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.17(a)(6)], which incorporates 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.251], and is a condition of the LQG Permit Exemption, a generator is required to maintain and operate its facility 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.

45. Pursuant to 401 KAR 39:080 Section 3(1) [40 C.F.R. § 273.9], a "Small Quantity Handler of Universal Waste" (SQHUW) is a Universal Waste handler who does not accumulate 5,000 kilograms or more of Universal Waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.

46. Pursuant to 401 KAR 39:080 Section 3(1) [40 C.F.R. § 273.15(c)], a SQHUW who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

IV. FINDINGS OF FACTS

47. Respondent molds, plates and/or paints, assembles, and ships plastic automotive trim parts at 200 Guardian Avenue, Morehead, Kentucky 40351.

48. Respondent submitted a 2018 annual report. The Respondent has determined that in 2018 it generated D001, D002, D004, D005, D007, D008, D035, and F006 hazardous wastes.

49. Respondent is a generator of 1,000 kilograms or greater of hazardous waste in a calendar month.

50. Respondent treats and stores hazardous waste in containers and tanks.

51. On July 12, 2019, the EPA and KDEP conducted a RCRA CEI at Respondent's facility. The EPA's findings of the CEI were documented in a show cause letter and inspection report that was mailed to Respondent, dated November 15, 2019.

52. At the time of the CEI, the EPA inspector observed a 55-gallon metal SAA container accumulating hazardous waste liquids (D001, D035) with a bung vent valve that was incompatible with the waste in the High Bake Paint Kitchen.

53. At the time of the CEI, the EPA inspector observed a 55-gallon metal SAA container in the Tool Room accumulating rags (D001, D035) that was not labeled with the words "Hazardous Waste."

54. At the time of the CEI, the EPA inspector observed a 55-gallon metal SAA container (D001) in the Molding Area , a 55-gallon metal SAA container in the Tool Room accumulating rags (D001, D035), and a 55-gallon metal SAA container in the Tool Room accumulating aerosol cans (D001) that were not labeled with an indication of hazards of the contents.

55. At the time of the CEI, the EPA inspector observed a 55-gallon metal container that formerly had been attached to the High Gloss Transfer Station 2 Tank System holding hazardous waste (D001, D035) that was open.

56. At the time of the CEI, the EPA inspector identified that two Transfer Station 2 tanks did not have a written tank assessment reviewed and certified by a Professional Engineer, attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The first Transfer Station 2 tank was part of the High Bake Paint Line. The

second Transfer Station 2 tank had formerly been part of the High Gloss Paint Line, which Respondent had recently closed and disassembled in the summer of 2019, just prior to the CEI.

57. At the time of the CEI, the EPA inspector observed that the facility had no easy access to the top of the hazardous waste tank. Facility personnel did not conduct daily inspections of the top of the tank. Facility personnel stated that they had no procedure in place to view the top of this tank or the previously operated tanks in prior years.

58. At the time of the CEI, the EPA inspector observed the wastewater treatment plant (WWTP) Central Accumulation Area (CAA) roll-off container (F006) that was not labeled with an indication of the hazards of the contents.

59. At the time of the CEI, the EPA inspector observed the following containers that were not labeled with the date upon which each period of accumulation began:

    (a) a 55-gallon metal container that formerly had been attached to the High Gloss Transfer Station 2 Tank System holding hazardous waste (D001, D035), and

    (b) two 55-gallon metal containers in the caged central accumulation area (CAA) near the former High Gloss Paint Line holding greater than 55-gallons of waste paint (D001, D035).

60. At the time of the CEI, the EPA inspector identified that two Transfer Station 2 tanks were not labeled with the words "Hazardous Waste." The first Transfer Station 2 tank was part of the High Bake Paint Line. The second Transfer Station 2 tank had formerly been part of the High Gloss Paint Line, which Respondent had recently closed and disassembled in the summer of 2019, just prior to the CEI.

61. At the time of the CEI, the EPA inspector observed a dark discoloration on the tank top and down the sides of the 8,000-gallon hazardous waste tank located outside of the High Bake Paint Kitchen, where it appeared hazardous waste or hazardous waste constituents were released from the main pop off vent and the carbon filter vent.

62. At the time of the CEI, the EPA inspector observed four cardboard box containers of universal waste lamps. One of the cardboard boxes was not dated with an accumulation start date.

V. ALLEGED VIOLATIONS

63. Respondent is a "person" as defined in 401 KAR 39:005 Section 1(53) [40 C.F.R. § 260.10].

64. Respondent is the "owner" and "operator" of a facility located in Morehead, Kentucky as those terms are defined in 401 KAR 39:005 Section 1(51) and (50) [40 C.F.R. § 260.10].

65. Respondent generates D001, D002, D004, D005, D007, D008, D035, and F006 wastes that are solid waste and hazardous waste as defined in 401 KAR 39:060 Section 3(1) [40 C.F.R. §§ 261.2 and 261.3].

66. Respondent stored hazardous waste in a container with an incompatible bung vent valve in the High Bake Paint Kitchen. The EPA therefore alleges Respondent violated KRS 224.46-520(1)

[Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to store its hazardous waste in compatible containers in accordance with 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.15(a)(2)], which is a condition of the SAA Permit Exemption.

67. Respondent failed to label a 55-gallon metal SAA container in the Tool Room accumulating rags (D001, D035) hazardous waste with the words "Hazardous Waste." The EPA therefore alleges Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the marking or labeling requirements of 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.15(a)(5)(i)], which is a condition of the SAA Permit Exemption.

68. Respondent failed to label three (3) containers holding hazardous waste in SAAs with an indication of the hazards of their contents. One such container was in the Molding Area and the other two containers were located in the Tool Room. The EPA therefore alleges Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the marking and labeling requirements of 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption.

69. Respondent failed to close a container that formerly had been attached to the High Gloss Transfer Station 2 Tank System. The EPA therefore alleges Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with container closure requirements of 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.17(a)(1)(iv)(A)], which is a condition of the LQG Permit Exemption.

70. Respondent failed to obtain a written tank assessment reviewed and certified by a qualified Professional Engineer, attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. Respondent failed to obtain the written tank assessment for two (2) Transfer Station 2 tanks, which respectively were part of Respondent's High Gloss Paint Line and High Bake Paint Line. The EPA therefore alleges that Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the tank assessment requirement in 401 KAR 39:080 Section 1 [40 C.F.R. § 262.17(a)(2)] which incorporates 401 KAR 39:090, Section 2(1) [40 C.F.R. § 265.192(a)], which is a condition of the LQG Permit Exemption.

71. Respondent failed to conduct daily inspections of all above ground portions of the hazardous waste tank system and had no procedure in place to view the top of the hazardous waste tank. The EPA therefore alleges that Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the tank inspection requirement in 401 KAR 39:080 Section 1 [40 C.F.R. § 262.17(a)(2)] which incorporates 401 KAR 39:090, Section 2(1) [40 C.F.R. § 265.195(b)], which is a condition of the LQG Permit Exemption.

72. Respondent failed to label the roll-off container in the WWTP CAA with the indication of hazard of the contents. The EPA therefore alleges Respondent violated KRS 224.46-520(1) [Section

3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to label containers with the indication of hazard of the contents in accordance with 401 KAR 39:080 Section 1 [40 C.F.R. § 262.17(a)(5)(i)(B)], which is a condition of the LQG Permit Exemption.

73. Respondent failed to label the container that formerly had been attached to the High Gloss Transfer Station 2 Tank System, and two containers in the caged CAA with the date upon which each period of accumulation began. The EPA therefore alleges Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to label containers with the date upon which each period of accumulation began in accordance with 401 KAR 39:080 Section 1 [40 C.F.R. § 262.17(a)(5)(i)(C)], which is a condition of the LQG Permit Exemption.

74. Respondent failed to label or mark two (2) Transfer Station 2 tanks with the words "Hazardous Waste." The two tanks were respectively part of Respondent's High Gloss Paint Line and High Bake Paint Line. The EPA therefore alleges that Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the marking and labeling requirement in 401 KAR 39:080 Section 1 [40 C.F.R. § 262.17(a)(5)(ii)(A)], which is a condition of the LQG Permit Exemption.

75. Respondent failed to minimize the possibility of 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 by failing to remediate a spill of waste on the outside of the hazardous waste tank located outside of the High Bake Paint Kitchen. The EPA therefore alleges that Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the emergency procedures in 401 KAR 39:080 Section 1 [40 C.F.R. § 262.17(a)(6)] which incorporates 401 KAR 39:080, Section 2(1) [40 C.F.R. § 262.251], which is a condition of the LQG Permit Exemption.

76. Respondent failed to date one 4-foot cardboard box container of universal waste lamps with an accumulation start date. The EPA therefore alleges Respondent violated 401 KAR 39:080 Section 3 [40 C.F.R. § 273.15(c)], by failing to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste.

VI. STIPULATIONS

77. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

78. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

    a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;

    b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;

    c. consents to the assessment of a civil penalty as stated below;

d. consents to the conditions specified in this CAFO;

e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and

f. waives its rights to appeal the Final Order accompanying this CAFO.

79. For the purpose of this proceeding, Respondent:

a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;

b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;

c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;

d. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;

e. 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 EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and

f. agrees to comply with the terms of this CAFO.

80. By executing this CAFO, Respondent certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.

81. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

82. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **Sixty Thousand Five Hundred Dollars** (**$60,500.00)**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.

83. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (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.

a. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

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

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station: SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1819

c. If paying by EFT, 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"

d. If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: Craig Steffen, (513) 487-2091
REX (Remittance Express): 1-866-234-5681

84. Respondent shall send proof of **payment**, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
R4_Regional_Hearing_Clerk@epa.gov

and

Alan Newman
RCRA Enforcement Section
Chemical Safety and Land Environment Branch
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
newman.alan@epa.gov

85. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the Facility name and "Docket No. RCRA-04-2020-2116(b)."

86. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, the EPA is entitled 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. Accordingly, the EPA may require the Respondent to pay the following amounts on any amount overdue:

    a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, Interest is waived. However, if the civil penalty is not paid in full within 30 days, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).

    b. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31C.F.R. § 901.9(d) . This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).

    c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)(c), and 40 C.F.R. § 13.11(b).

Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.

87. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:

    a. refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13 and 13.14;

    b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;

    c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17; and/or

    d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

88. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

VIII. EFFECT OF CAFO

89. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

90. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c),

91. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C § 6928(c).

92. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.

93. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.

94. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.

95. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

96. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.

97. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

98. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.

99. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.

100. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

101. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

102. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

103. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO 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 CAFO shall remain in force and shall not be affected thereby.

IX. EFFECTIVE DATE

104. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

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Complainant and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement In the Matter of **SRG Global Trim, LLC**, Docket No. **RCRA-04-2020-2116(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Keith Taylor — 3/11/21

Signature — Date

Printed Name: Keith Taylor

Title: Plant Manager

Address: 200 Guardian Ave Morehead Ky 40351

The foregoing Consent Agreement In the Matter of **SRG Global Trim, LLC**, Docket No. **RCRA-04-2020-2116(b),** is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

KIMBERLY BINGHAM

Digitally signed by KIMBERLY BINGHAM
Date: 2021.04.27 11:14:58 -04'00'

Kimberly L. Bingham
Chief
Chemical Safety and Land Enforcement Branch

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: SRG Global Trim, LLC 200 Guardian Avenue Morehead, Kentucky 40351 EPA ID No.: KYR000011718 Respondent.	Docket No. RCRA-04-2020-2116(b) Proceeding Under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, 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 Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

TANYA FLOYD

Digitally signed by TANYA FLOYD
Date: 2021.04.28 18:20:02 -04'00'

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing "Consent Agreement" and "Final Order," in the Matter of **SRG Global Trim, LLC**, Docket No. **RCRA-04-2020-2116(b)**, were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent:

Michael Myers
Environmental, Health, and Safety Manager
SRG Global Trim, LLC
200 Guardian Avenue,
Morehead, Kentucky 40351
mmyers@srgglobal.com
(606) 783-6202

Rochelle Jozwiak
Senior Counsel, EH&S
Koch Companies Public Sector, LLC
rochelle.jozwiak@kochps.com
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To EPA:

Alan Newman, Environmental Engineer
newman.alan@epa.gov
(404) 562-8589

F. Marshall Binford, Associate Regional Counsel
binford.marshall@epa.gov
(404) 562-9543

U.S. Environmental Protection Agency, Region 4
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SHANNON RICHARDSON

Digitally signed by SHANNON RICHARDSON
Date: 2021.04.29 10:23:02 -04'00'

Shannon L. Richardson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
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