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**Attorney for Plaintiff United States**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

NST, INC., and )  
YUAN CHENG INTERNATIONAL )  
GROUP, INC., )

Defendants. )

Civil Action No. \_\_\_\_\_

CONSENT DECREE

Plaintiff United States of America, on behalf of the United States Environmental Protection Agency (EPA), alleges that NST, Inc. (NST) and Yuan Cheng International Group, Inc. (YCIG) violated Sections 203, 207, 208, and 213 of the Clean Air Act ("Act"), 42 U.S.C. §§ 7522, 7541, 7542, and 7547.

The Complaint alleges that NST and YCIG imported and introduced into United States' commerce approximately 17,521 recreational vehicles, highway motorcycles, and nonroad spark ignition engines for model years 2006 through 2011 ("subject vehicles and engines") that were produced in China and did not meet the requirements of Title II of the Act and the regulations promulgated thereunder, in violation of §§ 203, 207, and 213 of the Act and 40 C.F.R. Parts 86, 90, 1051, and 1068. These violations pertain to the subject vehicles and engines' Certificates of Conformity and/or emissions control information labeling.

The Complaint also alleges that YCIG and NST failed to fully and timely respond to information requests sent to them by EPA, in violation of § 208 of the Act.

John Cheng was the sole shareholder and president (among other official positions) of YCIG. YCIG is no longer in business and has formally dissolved. The Complaint also alleges that John Cheng is liable to the extent of the United States' claim against YCIG, or to the extent of the corporate assets distributed to him, whichever is less, pursuant to California Corporate Code § 2011.

Jenny Yu, John Cheng's wife, and John Cheng are each 50% shareholders of NST. Jenny Yu is the president (among other official positions) of NST.

NST has represented to the United States that it has filed for dissolution and is in the process of winding down.

Jenny Yu and John Cheng assert that neither they nor YCIG nor NST is currently importing or selling or causing to be imported or sold, products covered by Title II of the Clean Air Act, and that they have no plans to re-enter this business.

Bound Parties do not admit any liability to the United States arising out of the transactions or occurrences alleged in the Complaint.

The United States reviewed Financial Information and determined that NST and YCIG have a limited ability to pay a civil penalty in this matter.

The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation among the Parties and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

#### I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to Sections 203, 204, 205, 207, 208, and 213 of the Act, 42 U.S.C. §§ 7523, 7524, 7525, 7541, 7542, and 7547, and 28 U.S.C. §§ 1331, 1345, and 1355. Venue lies in this District pursuant to Section 204 and 205 of the Act, 42 U.S.C. §§ 7523 and 7524 because the EPA Administrator has her principal place of business in Washington, D.C. For purposes of this Decree, or any action to enforce this Decree, the Bound Parties consent to the Court's jurisdiction over this Decree and any such action and over each of them, and consent to venue in this judicial district.

2. For purposes of this Consent Decree, Bound Parties agree that the Complaint states claims upon which relief may be granted pursuant to Sections 203, 204, 205, 207, 208, and 213 of the Act, 42 U.S.C. §§ 7523, 7524, 7525, 7541, 7542, and 7547.

## II. APPLICABILITY

3. The obligations of this Consent Decree apply to and are binding upon the United States, and Bound Parties, and any successors, assigns, or other entities or persons otherwise bound by law.

4. To the extent John Cheng and Jenny Yu would not be bound by law to the obligations of this Consent Decree, John Cheng and Jenny Yu each agree to be bound to comply with all obligations that this Consent Decree imposes on Bound Parties, including but not limited to the payment of the civil penalty (Section IV) and any stipulated penalties owed (Section VI), and the compliance requirements (Section V). Accordingly, Bound Parties, including John Cheng and Jenny Yu, are jointly and severally liable for the obligations imposed by this Consent Decree.

5. Bound Parties shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Decree, as well as to any contractor retained to perform work required under this Consent Decree. Bound Parties shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

6. In any action to enforce this Consent Decree, Bound Parties shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

### III. DEFINITIONS

7. Terms used in this Consent decree that are defined in the Act or in regulations promulgated pursuant to the Act shall have the meanings assigned to them in the Act or such regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

- a. "Bound Parties" shall mean NST, Inc. YCIG, Inc., Jenny Yu, and John Cheng.
- b. "Complaint" shall mean the complaint filed by the United States in this action;
- c. "Consent Decree" or "Decree" shall mean this Decree;
- d. "Day" shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day;
- e. "Defendants" shall mean NST, Inc. and YCIG, Inc.
- f. "EPA" shall mean the United States Environmental Protection Agency and any of its successor departments or agencies;
- g. "Effective Date" shall have the definition provided in Section XIV.
- h. "Financial Information" means tax returns, balance sheets, financial statements, and bank records submitted by NST, YCIG, Jenny Yu and John Cheng to EPA and the Department of Justice prior to the Effective Date of this Consent Decree.
- i. "Jenny Yu" shall mean Jenny Yu, Hui Zhen Yu, and any other names employed by this person.
- j. "John Cheng" shall mean John Cheng, Yuan Cheng, and any other names employed by this person.

- k. "Paragraph" shall mean a portion of this Decree identified by an arabic numeral;
- l. "Parties" shall mean the United States and Bound Parties;
- m. "Section" shall mean a portion of this Decree identified by a roman numeral;
- n. "United States" shall mean the United States of America, acting on behalf of EPA.

#### IV. CIVIL PENALTY

8. Bound Parties shall pay the sum of \$50,000.00 as a civil penalty, together with interest accruing at the annual rate of .19% from the Effective Date of the Consent Decree until the penalty has been paid in full as follows: Beginning with the first full month after the Effective Date, Bound Parties shall make 24 monthly payments by the last day of each month in the amount of \$2,087.30 (which amount has been calculated to include the required interest provided that the monthly payments are timely made). Bound Parties may make additional payments toward the outstanding obligation or may prepay the remaining outstanding obligation in total at any time, but Bound Parties shall contact the Financial Litigation Unit of the United States Attorney's Office for the District of Columbia (FLU) at 202-514-7211 in advance for a determination regarding the amount of interest to be included with the payment.

9. Bound Parties shall pay the civil penalty due at <https://www.pay.gov> to the U.S. Department of Justice account, in accordance with written instructions to be provided to Bound Parties, after the Effective Date, by the FLU. The payment instructions provided by the FLU shall include a Consolidated Debt Collection System (CDCS) number, which shall be used to identify all payments required to be made in accordance with this Consent Decree. The FLU shall provide the payment instructions to:

John Cheng, 23605 Ridge Line Road, Diamond Bar, California 91765

[john@topsolartech.com](mailto:john@topsolartech.com)

on behalf of Bound Parties. Bound Parties may change the individual to receive payment instructions on its behalf by providing written notice of such change in accordance with Section XIII (Notices).

10. At the time of payment, Bound Parties shall send notice that the payment has been made, which shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in U.S. v. NST, Inc., et al., and shall reference the civil action number, CDCS number, and DOJ case number 90-5-2-1-10317. Such notice shall be sent by email to [EESCaseManagement.ENRD@usdoj.gov](mailto:EESCaseManagement.ENRD@usdoj.gov), [acctsreceivable.CINWD@epa.gov](mailto:acctsreceivable.CINWD@epa.gov), and [kaul.meetu@epa.gov](mailto:kaul.meetu@epa.gov); or by mail to:

EES Case Management Unit  
Environment and Natural Resources Division  
U.S. Department of Justice  
Box 7611 Ben Franklin Station  
Washington, D.C. 20044-7611  
Re: DOJ No. 90-5-2-1-10317;

EPA Cincinnati Finance Office  
26 Martin Luther King Drive  
Cincinnati, Ohio 45268; and

Meetu Kaul, Attorney-Advisor  
United States Environmental Protection Agency  
Office of Civil Enforcement - Air Enforcement Division  
Ariel Rios Building South, Room 1147A  
1200 Pennsylvania Ave., N.W. (MC 2242A)  
Washington, DC 20460.

11. Bound Parties shall not deduct any penalties paid under this Decree pursuant to this Section or Section VI (Stipulated Penalties) in calculating their federal income taxes.

## V. COMPLIANCE REQUIREMENTS

### No Imports Certification and Potential Future Imports Requirements.

12. By their signatures to this Consent Decree, Jenny Yu and John Cheng each certify individually, and by its authorized representative, Jenny Yu and John Cheng, respectively, NST and YCIG each certify, that from the date of his/her/its signature until the termination of this Consent Decree pursuant to Section XVII, he/she/it will not import, distribute, sell, offer for sale, (or cause such acts as to), products covered by Title II of the Clean Air Act, except in compliance with a compliance plan to be negotiated with and approved by the United States and made enforceable through an amendment to this Consent Decree.

13. At least 6 months prior to importing, distributing, offering for sale, or selling (or causing such acts as to) products covered by Title II of the Clean Air Act, Bound Parties shall contact the United States for the purpose of negotiating a compliance plan and any associated amendments to this Consent Decree (including, inter alia, provisions to make the compliance plan enforceable under this Consent Decree, stipulated penalties for any violations of the compliance plan, and an extension to the termination date of the Consent Decree as necessary for the compliance plan to remain in effect for two years). Upon approval of the plan and associated amendments to this Consent Decree by the Parties, the Parties will jointly move the Court to approve the amendments.

14. In accordance with Section XIII ("Notices") of this Decree, Bound Parties must provide EPA at least ten days notice before forming any U.S. business entity for the purposes of facilitating the importation, distribution, offering for sale, or sale of any products covered by Title II of the Clean Air Act, or before individually engaging in such activities. This notice must be in writing and must include the name and full contact information of the prospective business entity



or individual planning on engaging in such activities, and the name and full contact information of any prospective clients.

VI. STIPULATED PENALTIES

15. Bound Parties shall be liable for stipulated penalties to the United States for violations of this Consent Decree as specified below, unless excused under Section VII (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

16. Late Payment of Civil Penalty. If Bound Parties fail to pay the civil penalty required to be paid under Section IV of this Decree (Civil Penalty) when due, Bound Parties shall pay a stipulated penalty of \$5,000 per Day for each Day that such payment is late.

17. Unauthorized Import or Sale of Products. If any Bound Party offers for sale, sells, or distributes (or causes such acts as to) any products covered by Title II of the Clean Air Act during the life of this Consent Decree (except in compliance with a compliance plan approved by EPA, and made enforceable by an amendment to this Consent Decree, including stipulated penalties for violations of such plan), the Bound Parties shall pay \$25,000 per vehicle or engine imported, sold, or distributed.

18. Failure to Comply with Paragraphs 13 or 14: The following stipulated penalties shall accrue per violation per Day for each failure to contact the United States or failure to provide notice to EPA in accordance with the requirements of Paragraphs 13 or 14:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1st through 14th Day
\$3,000	15th through 30th Day

\$5,000

31st Day and beyond

19. For any violation of this Consent Decree not specified above, Bound Parties shall pay \$1,000 per violation.

20. Stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.

21. Bound Parties shall pay any stipulated penalty within 30 Days of receiving the United States' written demand. The United States may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

22. Stipulated penalties shall continue to accrue as provided in Paragraph 20, during any Dispute Resolution, but need not be paid until the following:

- a. If the dispute is resolved by agreement of the Parties or by a decision of EPA that is not appealed to the Court, Bound Parties shall pay accrued penalties determined to be owing, together with interest, to the United States within 30 Days of the effective date of the agreement or the receipt of EPA's decision or order.
- b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Bound Parties shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 Days of receiving the Court's decision or order, except as provided in subparagraph c, below.
- c. If any Party appeals the District Court's decision, Bound Parties shall pay all accrued penalties determined to be owing, together with interest, within 15 Days of receiving the final appellate court decision.

23. Bound Parties shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraphs 9-10, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.

24. If Bound Parties fail to pay stipulated penalties according to the terms of this Consent Decree, Bound Parties shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States from seeking any remedy otherwise provided by law for Bound Parties' failure to pay any stipulated penalties.

25. Subject to the provisions of Section XI of this Consent Decree (Effect of Settlement/Reservation of Rights), the stipulated penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States for Bound Parties' violation of this Consent Decree or applicable law. Where a violation of this Consent Decree is also a violation of the Clean Air Act or its implementing regulations, Bound Parties shall be allowed a credit, for any stipulated penalties paid, against any statutory penalties imposed for such violation.

#### VII. FORCE MAJEURE

26. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Bound Parties, of any entity controlled by Bound Parties, or of Bound Parties' contractors, which delays or prevents the performance of any obligation under this Consent Decree, despite Bound Parties' best efforts to fulfill the obligation. The requirement that Bound Parties exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any such

event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. "Force majeure" does not include Bound Parties' financial inability to perform any obligation under this Consent Decree.

27. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, Bound Parties shall provide notice orally or by electronic or facsimile transmission to the United States within 72 hours of when any Bound Party first knew that the event might cause a delay. Within seven business days thereafter, Bound Parties shall provide in writing to EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Bound Parties' rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Bound Parties, such event may cause or contribute to an endangerment to public health, welfare or the environment. Bound Parties shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Bound Parties from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Bound Parties shall be deemed to know of any circumstance of which either Defendant, any entity controlled by either Defendant, or either Bound Parties' contractors knew or should have known.

28. If EPA agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA for such time as is necessary to complete those

obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify Bound Parties in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

29. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify Bound Parties in writing of its decision.

30. If Bound Parties elect to invoke the dispute resolution procedures set forth in Section VIII (Dispute Resolution), they shall do so no later than 15 Days after receipt of EPA's notice. In any such proceeding, Bound Parties shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Bound Parties complied with the requirements of Paragraphs 26 and 27 above. If Bound Parties carry this burden, the delay at issue shall be deemed not to be a violation by Bound Parties of the affected obligation of this Consent Decree identified to EPA and the Court.

#### VIII. DISPUTE RESOLUTION

31. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. Bound Parties' failure to seek resolution of a dispute under this Section shall preclude Bound Parties from raising any such issue as a defense to an action by the United States to enforce any obligation of Bound Parties arising under this Decree.

32. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be

considered to have arisen when Bound Parties send the United States a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 20 Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within 10 Days after the conclusion of the informal negotiation period, Bound Parties invoke formal dispute resolution procedures as set forth below.

33. Formal Dispute Resolution. Bound Parties shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Bound Parties' position and any supporting documentation relied upon by Bound Parties.

34. The United States shall serve its Statement of Position within 60 Days of receipt of Bound Parties' Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Bound Parties, unless Bound Parties file a motion for judicial review of the dispute in accordance with the following Paragraph.

35. Bound Parties may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XIII of this Consent Decree (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within 10 Days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Bound Parties' position on the matter in dispute,

including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

36. The United States shall respond to Bound Parties' motion within the time period allowed by the Local Rules of this Court. Bound Parties may file a reply memorandum, to the extent permitted by the Local Rules.

37. Standard of Review

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Decree, in any dispute brought under Paragraph 35 pertaining to the adequacy or appropriateness of plans, procedures to implement plans, schedules or any other items requiring approval by EPA under this Consent Decree; the adequacy of the performance of work undertaken pursuant to this Consent Decree; and all other disputes that are accorded review on the administrative record under applicable principles of administrative law, Bound Parties shall have the burden of demonstrating, based on the administrative record, that the position of the United States is arbitrary and capricious or otherwise not in accordance with law.

b. Other Disputes. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 35, Bound Parties shall bear the burden of demonstrating that their position complies with this Consent Decree and better further the objectives of the Consent Decree.

38. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Bound Parties under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with

respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 22. If Bound Parties do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section VI (Stipulated Penalties).

#### IX. INFORMATION COLLECTION AND RETENTION

39. The United States and its representatives, including attorneys, contractors, and consultants, shall have the right of entry into any facility owned, controlled, or used by Bound Parties or their contractors to implement the requirements of this Consent Decree, at all reasonable times, upon presentation of credentials, to:

- a. monitor the progress of activities required under this Consent Decree;
- b. verify any data or information submitted to the United States in accordance with the terms of this Consent Decree;
- c. Inspect on-road or off-road vehicles (including, without limitation, motorcycles, recreational vehicles, all-terrain vehicles and off-highway motorcycles), and small spark-ignition engines (whether or not contained in equipment), imported or purchased by or on behalf of any Bound Party;
- d. Require catalyst testing, emissions testing, and/or inspect emissions testing facilities;
- e. obtain documentary and analytical evidence, including photographs and similar documents and data; and
- f. assess Bound Parties' compliance with this Consent Decree.

40. Until five years after the termination of this Consent Decree, Bound Parties shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all



documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Bound Parties' performance of their obligations under this Consent Decree. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States, Bound Parties shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

41. At the conclusion of the information-retention period provided in the preceding Paragraph, Bound Parties shall notify the United States at least 90 Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States, Bound Parties shall deliver any such documents, records, or other information to EPA.

42. Bound Parties may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Bound Parties assert such a privilege, they shall provide the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of each author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Bound Parties. However, no documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.

43. Bound Parties may also assert that information required to be provided under this Section is protected as Confidential Business Information (CBI) under 40 C.F.R. Part 2. As to any information that Bound Parties seek to protect as CBI, Bound Parties shall follow the procedures set forth in 40 C.F.R. Part 2.

44. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States pursuant to applicable federal laws, regulations, or permits, nor does it limit or affect any duty or obligation of Bound Parties to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

#### X. FINANCIAL CERTIFICATION

45. Bound Parties hereby certify, to the best of their knowledge and belief, after thorough inquiry, (a) that they have submitted to the United States Financial Information that fairly, accurately, and materially sets forth their financial circumstances; (b) that those circumstances have not materially changed between the time the Financial Information was submitted to the United States and the time Bound Parties execute this Consent Decree; and (c) that they have fully disclosed the existence of any insurance policies that may cover any payment of a civil penalty relating to this matter.

#### XI. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

46. This Consent Decree resolves the civil claims of the United States for the violations alleged in the Complaint, through the date of lodging, as to the vehicles and engines listed in Tables 1 and 2 of the Complaint. In addition, this Consent Decree resolves the civil claims of the United States alleged in the Complaint for the violations of Section 208 of the Clean Air Act

concerning NST and YCIG's response to requests for information pursuant to Section 208 of the Act issued by EPA to YCIG on August 1, 2008, and to YCIG and NST on February 11, 2011.

47. The United States reserves all legal and equitable remedies available to enforce the provisions of this Consent Decree. This Consent Decree shall not be construed to limit the rights of the United States to obtain penalties or injunctive relief under the Act or implementing regulations, or under other federal laws, regulations, or permit conditions, except as expressly specified in Paragraph 46.

48. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to reinstitute or reopen this action, or to commence a new action seeking relief other than as provided in this Consent Decree, if the Financial Information provided, or the financial certification made in Paragraph 45, is false, or in a material respect, inaccurate.

49. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, civil penalties, other appropriate relief relating to Bound Parties' violations, the Bound Parties shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 46 of this Section.

50. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The Bound Parties are responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations,

and permits; and Bound Parties' compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Bound Parties' compliance with any aspect of this Consent Decree will result in compliance with provisions of the Act, or with any other provisions of federal, State, or local laws, regulations, or permits.

51. This Consent Decree does not limit or affect the rights of Bound Parties or of the United States against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Bound Parties, except as otherwise provided by law.

52. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

#### XII. COSTS

53. Parties shall bear their own costs of this action, including attorneys' fees, except that the United States shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Bound Parties.

#### XIII. NOTICES

54. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

To the United States:

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
Box 7611 Ben Franklin Station  
Washington, D.C. 20044-7611  
Re: DOJ No. 90-5-2-1-10317

And to EPA as set forth below.

To EPA:

Air Enforcement Division Director  
U.S. Environmental Protection Agency  
Air Enforcement Division (2242A)  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

with a copy to Meetu Kaul, Esq. at [kaul.meetu@epa.gov](mailto:kaul.meetu@epa.gov).

To Bound Parties:

NST, Inc., a dissolved California corporation  
Yuan Cheng International Group, Inc., a dissolved California corporation  
c/o John Cheng and Jenny Yu  
23605 Ridge Line Road  
Diamond Bar, CA 91765  
[John@topsolarotech.com](mailto:John@topsolarotech.com)

55. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

56. Bound Parties must, by written notice, notify the other Parties of any changes that occur to the contact information listed for the Bound Parties under Paragraph 54, or to phone contact information previously provided to the United States.

57. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

#### XIV. EFFECTIVE DATE

58. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket.

#### XV. RETENTION OF JURISDICTION

59. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections VIII and XVI, or effectuating or enforcing compliance with the terms of this Decree.

#### XVI. MODIFICATION

60. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Decree, it shall be effective only upon approval by the Court.

61. Any disputes concerning modification of this Decree shall be resolved pursuant to Section VIII of this Decree (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 37, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

#### XVII. TERMINATION

62. This Consent Decree may be terminated at any time after ten years from the Effective Date if the United States determines that Bound Parties have made the payments required by Section IV (including all accrued interest), paid in full any stipulated penalties

imposed by this Consent Decree, and satisfactorily completed all other applicable requirements of this Consent Decree. At any time after ten years from the Effective Date, Bound Parties may send a certification to the United States stating that these requirements have been fulfilled, and requesting termination; or the United States may on its own initiative request such a certification from Bound Parties. After having made this determination, the United States shall file a motion (which need not be responded to by the Bound Parties), reciting that the requirements of the Consent Decree have been met and requesting termination of the Decree.

63. If the United States does not agree that the Decree may be terminated, it shall so notify the Bound Parties, and the Bound Parties may invoke Dispute Resolution under Section VIII of this Decree.

#### XVIII. PUBLIC PARTICIPATION

64. This Consent Decree shall be lodged with the Court for a period of not less than 30 Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. The Bound Parties consent to entry of this Consent Decree without further notice and agree not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of the Decree, unless the United States has notified the Bound Parties in writing that it no longer supports entry of the Decree.

#### XIX. SIGNATORIES/SERVICE

65. Each undersigned representative of Defendants, John Cheng, Jenny Yu, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and

conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

66. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. Bound Parties agree to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XX. INTEGRATION

67. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

XXI. FINAL JUDGMENT

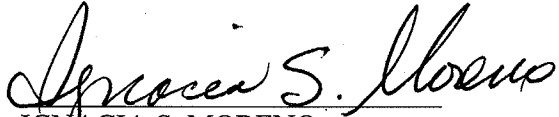
68. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States and Bound Parties. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

Dated and entered this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE  
District of the District of Columbia

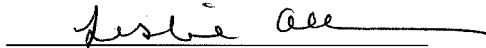


**FOR PLAINTIFF UNITED STATES OF AMERICA:**



IGNACIA S. MORENO  
Assistant Attorney General  
Environment and Natural Resources Division  
United States Department of Justice  
P.O. Box 7415  
Washington, DC 20044-7415

10/25/12  
Date

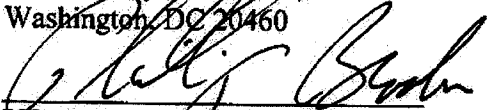


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*Signature Page to Consent Decree in:  
United States v. NST, Inc., et al.*



SUSAN SHINKMAN  
Director, Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460



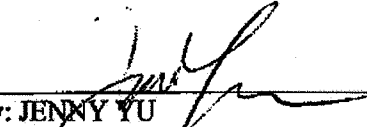
PHILLIP A. BROOKS  
Director, Air Enforcement Division  
Office of Civil Enforcement  
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MEETU KAUL  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460


Signature Page to Consent Decree in:  
United States v. NST, Inc., et al.

**FOR DEFENDANT NST, INC. , a dissolved California corporation**

  
By: JENNY YU  
Its Authorized Representative

10/3/2012  
Date

**FOR DEFENDANT  
YUAN CHENG INTERNATIONAL GROUP, INC., a dissolved California corporation**

  
By: JOHN CHENG  
Its Authorized Representative

10/03/2012  
Date

**FOR BOUND PARTY JENNY YU,  
In Her Individual Capacity**

  
By: JENNY YU

10/3/2012  
Date

**FOR BOUND PARTY JOHN CHENG  
In His Individual Capacity**

  
By: JOHN CHENG

10/03/2012  
Date