

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF COMPLIANCE AND INSPECTION**

IN RE: John Lussier d/b/a Johns Salvage Company  
Lanmar Corporation

FILE No.: OC&I/06-067 HW  
AAD No.: 08-005/WME

**CONSENT AGREEMENT**

**A. INTENT & PURPOSE**

This Agreement is entered by and between the Rhode Island Department of Environmental Management's Office of Compliance & Inspection ("RIDEM") and Lanmar Corporation (the "Respondent"). This Agreement is entered in accordance with Section 42-17.1-2 *et seq.* of the Rhode Island General Laws ("R.I.G.L.") for the purpose of resolving, **with regard only to RIDEM and the Respondent**, the administrative enforcement action set forth in a Notice of Violation ("NOV") issued to the Respondent and John Lussier d/b/a John's Salvage Company by RIDEM on May 1, 2008. This Agreement does not affect any rights or causes of action that RIDEM may possess against John Lussier d/b/a John's Salvage Company, arising from or related to the NOV.

**B. STIPULATED FACTS**

- (1) WHEREAS, the subject property is located at 333 Cottage Street in the city of Pawtucket, Rhode Island, Assessor's Plat 8, Lot 409 (the "Property").
- (2) WHEREAS, the Respondent owns the Property.
- (3) WHEREAS, on May 1, 2008, RIDEM issued a NOV to the Respondent and John Lussier d/b/a John's Salvage Company alleging certain violations of the RIDEM Rules and Regulations for Hazardous Waste Management (the "Hazardous Waste Regulations"), the Rhode Island Oil Pollution Control Act, the RIDEM Oil Pollution Control Regulations (the "Oil Pollution Regulations"), the RIDEM Rules and Regulations for Groundwater Quality Regulations (the "Groundwater Regulations"), and the RIDEM Underground Injection Control Program Rules and Regulations (the "UIC Regulations").
- (4) WHEREAS, the Respondent requested an administrative hearing to contest the NOV.
- (5) WHEREAS, the Respondent has complied with the Order portion of the NOV.
- (6) WHEREAS, in lieu of proceeding to an administrative adjudicatory hearing on the NOV and in order to effect a timely and amicable resolution of the NOV, RIDEM

and the Respondent hereby agree that it is in the best interest of the parties and in the public interest to resolve the issues raised in the NOV.

- (7) WHEREAS, RIDEM finds that this Agreement is a reasonable and fair settlement of all claims against the Respondent and adequately protects the public interest in accordance with the Rhode Island Oil Pollution Control Act, the Hazardous Waste Regulations, the Oil Pollution Regulations, the Groundwater Regulations, and the UIC Regulations.
- (8) WHEREAS, the signing of this Agreement is for settlement purposes only and does not constitute an admission or a denial by the Respondent it violated the law or regulations as alleged in the NOV.
- (9) WHEREAS, this Consent Agreement does not release or dismiss the NOV as it pertains to John Lussier d/b/a John's Salvage Company.

### **C. AGREEMENT**

- (1) JURISDICTION – RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over the Respondent.
- (2) FORCE and EFFECT – This Agreement shall have the full force and effect of a final compliance order issued after a full hearing on the merits pursuant to the Administrative Procedures Act, R.I.G.L. § 42-35-1 et seq. from which no timely appeal was taken, and which is enforceable in Superior Court in accordance with R.I.G.L. § 42-17.1-2(21)(v).
- (3) APPLICATION – The provisions of this Agreement shall apply to and be binding upon RIDEM, the Respondent and its agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for the Respondent in the performance of work relating to or impacting the requirements of this Agreement.
- (4) PENALTY – Respondent shall pay to RIDEM the sum of Nine Thousand and Ninety Dollars (\$9,090.00) in administrative penalties as follows:
  - (a) Payment schedule- Upon Respondents execution of this Consent Agreement, Respondent shall pay to RIDEM Five Hundred and Ninety Dollars (\$590.00).
  - (b) The remainder of the penalty, Eight Thousand Five Hundred Dollars (\$8,500.00) shall be paid to RIDEM in eighteen equal monthly installments of Five Hundred Dollars (\$500.00). The remaining payments shall be made starting on January 15, 2011 and shall continue on the 15<sup>th</sup> of each month for each and every consecutive month until the entire penalty is paid in full.
  - (c) Penalties that the respondent agrees to pay in this Consent Agreement are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.

- (d) In the event that the Respondent fails to remit to RIDEM a payment on or before its due date, that payment will be considered late and the Respondent will be in default. If the payment is not received within thirty days of its due date, interest shall begin to accrue on the unpaid balance at the rate of twelve percent per annum. Interest will accrue at this rate beginning with the day after the due date specified in this Agreement until such date all past due installment payment(s) and interest owed are remitted. Interest shall be calculated using the following generally established accounting principle:

Interest due= (number of days late/365) x (0.12) x (entire amount of unpaid balance)

- (e) All penalty payments shall be in the form of a certified check, payable to the ***R.I. General Treasurer –Environmental Response Fund Account***. All payments shall be delivered to:

Chief, RIDEM Office of Compliance and Inspection  
235 Promenade Street, Providence, RI 02908-5767

#### ***D. COMPLIANCE***

- (1) EFFECT OF COMPLIANCE – Compliance with and fulfillment of this Agreement shall be deemed to resolve all issues, with regard to RIDEM and the Respondent, raised in the NOV dated May 1, 2008. Upon the Respondent’s successful completion of the requirements set forth in this Agreement, RIDEM shall issue a Release and Discharge of the NOV to the Respondent for recording in the land evidence records of the city of Pawtucket. The recording shall be at the sole expense of the Respondent.
- (2) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve the Respondent of any obligation to comply with any other applicable laws or regulations administered by, through or for RIDEM or any other governmental entity.
- (3) ADDITIONAL ENFORCEMENT ACTIONS – Upon a determination by the Director that there is a threat to the public health or the environment, or upon discovery of any new information, RIDEM reserves the right to take additional enforcement actions as provided by law or regulation, including, but not limited to, the issuance of “Immediate Compliance Orders” as authorized by R.I.G.L. § 42-17.1-2(21). This Agreement shall not restrict any right to hearing or other right available by statute or regulation that the Respondent may have regarding any new enforcement action commenced by RIDEM after the execution of this Agreement.
- (4) FUTURE ACTIVITIES AND UNKNOWN CONDITIONS – This Agreement shall not operate to shield the Respondent from liability arising from future activities, as of the date of execution of this Agreement.

- (5) NOTICE AND COMMUNICATION - Communications regarding this Agreement shall be directed to:
- (a) Tracey Tyrrell, Supervising Environmental Scientist, RIDEM Office of Compliance and Inspection, 235 Promenade Street, Providence, RI 02908-5767. Tel. (401) 222-1360, ext. 7407.
  - (b) Marisa Desautel, Esq., RIDEM Office of Legal Services, 235 Promenade Street, Providence, RI 02908- 5767. Tel. (401) 222-6607.
  - (c) Bret W. Jedele, Esq., Chase Rутtenberg & Freedman, LLP, One Park Row, Suite 300, Providence, RI 02903. Tel. (401) 453-6400.
- (6) DEFERRAL – The Director may, for good cause shown, defer any of the compliance dates prescribed herein. Good cause for deferral of any compliance date shall be forwarded to RIDEM in writing at least fifteen days prior to the prescribed deadline.
- (7) AMENDMENT – The Agreement may be amended by mutual agreement of the parties in writing.
- (8) EFFECTIVE DATE – This Agreement shall be deemed entered as of the date of execution by all parties.

**IN WITNESS WHEREOF, the undersigned consent to this Agreement in substance and in form.**

*For Lanmar Corporation*

By: \_\_\_\_\_ (Print Name)

Its: \_\_\_\_\_ (Title)

Date: \_\_\_\_\_

In my capacity as \_\_\_\_\_ of \_\_\_\_\_, I hereby aver that I am authorized to enter into this Agreement and thereby bind \_\_\_\_\_ to satisfy any obligation imposed upon it pursuant to said Agreement.

In \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me personally appeared \_\_\_\_\_ to me known and known by me to be the party executing the foregoing Consent Agreement on behalf of Respondent and s/he acknowledged said instrument executed by him/her to be his/her free act and deed.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

*For the State of Rhode Island Department of  
Environmental Management*

\_\_\_\_\_  
David E. Chopy, Chief

Office of Compliance and Inspection

Date: \_\_\_\_\_