

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE AND INSPECTION

In Re: **Amer Javed**
Vikar Vahora, Inc

FILE NO.: OCI-UST-2018-17-00582
AAD No.: 18-008/WME

CONSENT AGREEMENT

A. INTENT & PURPOSE

This Agreement is entered by and between the Rhode Island Department of Environmental Management (“RIDEM”) and Amer Javed and Vikar Vahora, Inc. (“Respondents”). This Agreement is entered in accordance with Section 42-17.1-2 et seq. of the Rhode Island General Laws (“R.I. Gen. Laws”) for the purpose of resolving the alleged violations set forth in a Notice of Violation (“NOV”) issued to Respondents by RIDEM on July 12, 2018.

B. STIPULATED FACTS

- (1) WHEREAS, the property is located at 1178 High Street, Assessor's Plat 16, Lot 319 in the Town of Cumberland, Rhode Island (the “Property”). The Property includes a motor fuel filling station and underground storage tanks (“USTs” or “tanks”) that are utilized for storage of petroleum products and are subject to the DEM’s UST Regulations (the "Facility").
- (2) WHEREAS, HAJVARI, LLC owns the Property.
- (3) WHEREAS, on 22 April 2013, the Rhode Island Secretary of State revoked the Certificate of Registration/Organization for HAJVARI, LLC. Amer Javed (“Javed”) is the last known “authorized person” for the corporation.
- (3) WHEREAS, Vikar Vahora, Inc operates the Facility.
- (4) WHEREAS, the Facility is registered with the DEM and is identified as UST Facility No. 00582.
- (5) WHEREAS, on July 12, 2018, RIDEM issued a NOV to Respondents alleging certain violations of Rhode Island's and DEM’s *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials* (the “UST Regulations”).

- (6) WHEREAS, Respondents requested an administrative hearing with the Administrative Adjudication Division (“AAD”) to contest the NOV.
- (7) WHEREAS, AAD is a division of RIDEM.
- (8) WHEREAS, Respondents complied with the Order section of the NOV.
- (9) WHEREAS, in lieu of proceeding to an administrative adjudicatory hearing on the NOV and to affect a timely and amicable resolution of the NOV, RIDEM and Respondents 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.
- (10) WHEREAS, RIDEM finds that this Agreement is a reasonable and fair settlement of all claims against Respondent/s and adequately protects the public interest in accordance with the UST Regulations.
- (11) WHEREAS, Respondents finds that this Agreement is reasonable and fair and enters into this Agreement with full knowledge and understanding of its terms.

C. AGREEMENT

- (1) JURISDICTION – RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over Respondents.
- (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. Gen. Laws Section 42-35-1 et seq. and R.I. Gen. Laws Section 42-17.7-1 et seq. from which no timely appeal was taken, and which is enforceable in Superior Court in accordance with R.I. Gen. Laws Section 42-17.1-2(21)(vi).
- (3) APPLICATION – The provisions of this Agreement shall apply to and be binding upon RIDEM, Respondents and their agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for Respondents in the performance of work relating to or impacting the requirements of this Agreement.
- (4) CONDITIONS –

Penalty – Respondents shall pay to RIDEM \$10,767 in administrative penalties assessed as follows:

- (i) **Within 30 days of Respondent Vikar Vahora, Inc’s execution of this Agreement**, Respondent Vikar Vahora, Inc. shall pay to RIDEM **\$5,000**.
- (ii) **Within 30 days of Respondent Amer Javed’s execution of this Agreement**, Respondent Amer Javed. shall pay to RIDEM **\$5,767**.

- (iii) Penalties that Respondents agree to pay in this Agreement are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (iv) If Respondents fails to remit to RIDEM a payment on or before its due date, that payment will be considered late and Respondents will be in default. If the payment is not received within 30 days of its due date, interest shall begin to accrue on the entire unpaid balance at the rate of 12 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 payments and interest owed are remitted. Interest shall be calculated using the following generally established accounting principle:

$$\text{Interest due} = (\text{number of days late}/365) \times (0.12) \times (\text{amount of unpaid balance})$$

This provision does not preclude RIDEM from seeking additional penalties according to Section D for failure to comply with the remaining provisions of this Agreement.

- (v) All penalty payments shall be in the form of a certified check, cashier's check, or money order, payable to the ***R.I. General Treasurer – Water and Air Protection Program***. All payments shall be delivered to:

Administrator, 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, regarding RIDEM and Respondents, raised in the NOV.
- (2) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve Respondents 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 statute or regulation, including, but not limited to, the issuance of “Immediate Compliance Orders” as authorized by R.I. Gen. Laws Section 42-17.1-2(21). This Agreement shall not restrict any right to hearing or other right available by statute or regulation that Respondents 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 Respondents from liability arising from future activities, as of the date of execution of this Agreement.
- (5) SCOPE OF THE AGREEMENT – The scope of the Agreement is limited to violations alleged in the NOV.
- (6) NOTICE AND COMMUNICATION – Communications regarding this Agreement shall be directed to:

Tracey D’Amadio Tyrrell
RIDEM Office of Compliance and Inspection
235 Promenade Street
Providence, RI 02908-5767
(401) 222-1360 ext.77407
Tracey.tyrrell@dem.ri.gov

Tricia Quest, Esq.
RIDEM Office of Legal Services
235 Promenade Street
Providence, RI 02908-5767
(401) 222-6607
Tricia.quest@dem.ri.gov

Kevin F. Bowen
LAW OFFICES OF KEVIN F. BOWEN
395 Smith Street
Providence, RI 02908
Tel. (401) 831-1600
Fax (401) 633-7069
kbowen@bbglaw.us

- (a) All communications regarding compliance with this Agreement shall be forwarded to the above-referenced addressees by certified mail.
- (7) 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 15 days prior to the prescribed deadline.
- (8) AMENDMENT – The Agreement may be amended by agreement of the parties in writing.
- (9) 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.

Vikor Vahora, Inc.

By: _____
Print Name: _____ Title: _____

Dated: _____

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

STATE OF RHODE ISLAND
COUNTY OF _____

In _____, in said County and State, on this _____ day of _____, 2021, before me personally appeared _____, the _____ of _____, a Rhode Island corporation, to me known and known by me to be the party executing the foregoing instrument on behalf of _____, and he/she/they acknowledged said instrument by him/her/them executed, to be his/her/their free act and deed in said capacity and the free act and deed of _____.

Notary Public
My Commission Expires: _____

Amer Javed

Dated: _____

STATE OF RHODE ISLAND
COUNTY OF _____

In _____, in said County and State, on this _____ day of _____, 2021, before me personally appeared _____ to me known and known by me to be the party executing the foregoing instrument and he/she/they acknowledged said instrument and the execution thereof, to be his/her/their free act and deed.

Notary Public
My Commission Expires: _____

State of Rhode Island, Department of Environmental
Management

By: _____
David E. Chopy, Administrator
Office of Compliance and Inspection

Dated: _____