

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

**RE: Schulz Boat Company, Inc.
Schulz Boat Company, LLC**

**FILE NO.: 2009-73-HW
AAD NO.: 10-010/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"), Schulz Boat Company, Inc. and Schulz Boat Company, LLC (the "Respondents"). 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 the administrative enforcement action set forth in a Notice of Violation ("NOV") issued to the Respondents by RIDEM on July 1, 2010.

B. STIPULATED FACTS

- (1) WHEREAS, the subject property is located at 19 Broad Common Road, Bristol, Rhode Island (the "Property"). The Property includes a facility that manufactures boats (the "Facility").
- (2) WHEREAS, Schulz Boat Company, Inc. is registered with the RIDEM pursuant to RIDEM's Rules and Regulations for Hazardous Waste Management (the "Hazardous Waste Regulations") as a small quantity hazardous waste generator and is assigned Environmental Protection Agency Identification Number RI5 000 000 927.
- (3) WHEREAS, on July 1, 2010, RIDEM issued a NOV to the Respondents alleging certain violations of the Hazardous Waste Regulations.
- (4) WHEREAS, the Respondents timely requested an administrative hearing to contest the NOV.
- (5) WHEREAS, the Respondents have 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

Initial Here: _____, _____, _____
Schultz Boat Co., Inc. Schulz Boat Co., LLC RIDEM

the 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.

- (7) WHEREAS, RIDEM finds that this Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with the Hazardous Waste Regulations.

C. AGREEMENT

- (1) JURISDICTION – RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over the Respondents.
- (2) FORCE and EFFECT – This Agreement shall have the full force and effect of a final compliance order of the Director 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 Respondents and their agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for the Respondents in the performance of work relating to or impacting the requirements of this Agreement.
- (4) PENALTY – Respondents shall pay to RIDEM the total sum of Fifteen Thousand Dollars (\$15,000.00) in administrative penalties as follows:
- (a) Payment schedule- Upon Respondents’ execution of this Consent Agreement, Respondents shall pay to RIDEM One Thousand Dollars (\$1,000.00).
 - (b) The remainder of the penalty, Fourteen Thousand Dollars (\$14,000.00) shall be paid to RIDEM in fourteen equal monthly installments of One Thousand Dollars (\$1,000.00). The remaining payments shall be made starting on April 15, 2011 and shall continue on the 15th of each month for each and every consecutive month until the entire penalty is paid in full.
 - (c) Penalties that the Respondents agree 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 Respondents fail to remit to RIDEM a payment on or before its due date, that payment will be considered late and the Respondents will be in default. If the payment is not received within thirty days of its due date, interest shall begin to accrue on the entire 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 payments 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 (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 raised in the NOV dated July 1, 2010.
- (2) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve the 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 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 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 the Respondents 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) Richard M. Bianculli, Jr., Esq., RIDEM Office of Legal Services, 235 Promenade Street, Providence, RI 02908- 5767. Tel. (401) 222-6607.
 - (c) William G. Ramos, Schulz Boat Company, Inc, 19 Broad Common Road, Bristol, RI 02809. Tel. (401) 253-2441.
- (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.

Initial Here: _____, _____, _____
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- (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 Schulz Boat Company, Inc.

By: _____ (Print Name)

Its: _____ (Title)

Dated: _____

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

**STATE OF RHODE ISLAND
COUNTY OF _____**

In _____, on this _____ day of _____, 2011, before me personally appeared _____, the _____ of Schulz Boat Company, Inc., a Rhode Island corporation, to me known and known by me to be the party executing the foregoing instrument on behalf of Schulz Boat Company, Inc., and he/she acknowledged said instrument by him/her executed, to be his/her/ free act and deed in said capacity and the free act and deed of Schulz Boat Company, Inc.

Notary Public
My Commission Expires: _____

Initial Here: _____, _____, _____
Schultz Boat Co., Inc. Schulz Boat Co., LLC RIDEM

For Schulz Boat Company, LLC

By: _____ (Print Name)

Its: _____ (Title)

Dated: _____

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

**STATE OF RHODE ISLAND
COUNTY OF _____**

In _____, on this _____ day of _____, 2011, before me personally appeared _____, the _____ of Schulz Boat Company, LLC, a Rhode Island corporation, to me known and known by me to be the party executing the foregoing instrument on behalf of Schulz Boat Company, LLC, and he/she acknowledged said instrument by him/her executed, to be his/her/ free act and deed in said capacity and the free act and deed of Schulz Boat Company, LLC.

Notary Public
My Commission Expires: _____

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

David E. Chopy, Chief
Office of Compliance and Inspection

Dated: _____