

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

IN RE: Tedor Pharma, Inc.

File No.: OC&I/2009-12-HW
AAD No.: 10-007/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 Tedor Pharma, Inc. (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 the administrative enforcement action set forth in a Notice of Violation ("NOV") issued to the Respondent by RIDEM on February 26, 2010.

B. STIPULATED FACTS

- (1) WHEREAS, the subject property is located at 400 Highland Corporate Drive in the town of Cumberland, Rhode Island (the "Property"). The Property includes a facility that is used for pharmaceutical manufacturing and product development (the "Facility").
- (2) WHEREAS, the Respondent is registered with the RIDEM as a small quantity hazardous waste generator at the Facility pursuant to the RIDEM Rules and Regulations for Hazardous Waste Management (the "Hazardous Waste Regulations") under the name of "Tedor Pharma Inc" with the Environmental Protection Agency identification number RIR000502583.
- (3) WHEREAS, on February 26, 2010, RIDEM issued a NOV to the Respondent alleging certain violations of the Hazardous Waste Regulations.
- (4) WHEREAS, the Respondent timely 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 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 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. Gen. Laws Section 42-35-1 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)(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 total sum of Twenty-Four Thousand Five Hundred Dollars (\$24,500.00) as follows:
 - (a) Payment schedule- Upon Respondent's execution of this Consent Agreement, Respondent shall pay to RIDEM Six Thousand Five Hundred Dollars (\$6,500.00).
 - (b) The remainder of the settlement amount, Eighteen Thousand Dollars (\$18,000.00), shall be paid to RIDEM in nine equal monthly installments of Two Thousand Dollars (\$2,000.00). The remaining payments shall be made starting on January 15, 2011 and shall continue on or before the 15th of each and every consecutive month until the entire penalty is paid in full. The entire penalty shall be paid on or before September 15, 2011.
 - (c) The payment that the respondent agrees to pay in this Consent Agreement is payable to and for the benefit of the State of Rhode Island and is 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 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 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 raised in the NOV dated February 26, 2010.
- (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) NON-ADMISSION OF LIABILITY – The signing of this Agreement is for settlement purposes only and does not constitute an admission by the Respondent that the law or regulations have been violated as alleged in the NOV.
- (6) 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) Joseph J. LoBianco, Esq., RIDEM Office of Legal Services, 235 Promenade Street, Providence, RI 02908- 5767. Tel. (401) 222-6607.

- (c) Kristen W. Sherman, Esq, Adler, Pollock & Sheehan, One Citizens Plaza, 8th floor, Providence, Rhode Island 02903. Tel. (401) 274-7200.
- (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 fifteen days prior to the prescribed deadline.
- (8) AMENDMENT – The Agreement may be amended by mutual 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.

For Tedor Pharma, Inc.

name and title of signing party

Date: _____

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: _____