



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

Four Penn Center  
1600 John F. Kennedy Boulevard  
Philadelphia, Pennsylvania 19103-2852

<b>In the Matter of:</b>	:
	:
<b>TD88 LLC t/a Baymart</b>	: <b>U.S. EPA Docket No. RCRA-03-2023-0065</b>
<b>Baymart Liquors</b>	:
<b>68 Old Mill Bottom Road North</b>	: <b>Proceeding under Section 9006 of the Resource</b>
<b>Annapolis, MD 21409</b>	: <b>Conservation and Recovery Act, as amended,</b>
	: <b>42 U.S.C Section 6991e</b>
<b>Respondent.</b>	:
	:

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director for the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and TD88 LLC t/a Baymart, (“Respondent” or “Baymart”) (collectively the “Parties”), pursuant to Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C § 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Section 9006 of RCRA authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under Section 9006 of RCRA (or the “Act”) for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

**JURISDICTION**

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. EPA has given the Maryland Department of the Environment (“MDE”) notice of the issuance of this Consent Agreement and Final Order in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

### **GENERAL PROVISIONS**

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in **this Consent Agreement and Final Order** and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. The State of Maryland operates an underground storage tank program as set forth in the Code of Maryland Regulations (“COMAR”), at COMAR 26.10.02 *et seq.*, under “TANK MANAGEMENT,” that EPA federally approved *in lieu* of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m, effective July 30, 1992, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A. The provisions of the Maryland underground storage tank management program, through this federal approval, have become requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. Although the State of Maryland recently promulgated new regulations for their underground storage tank program in June 2022,

the federally enforceable regulations are still the July 1992 regulation. The citations used herein are to the 1992 COMAR.”

14. At all times relevant to this Consent Agreement and Final Order, Respondent has been a Maryland corporation doing business in the State of Maryland.
15. Respondent is a “person” as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and COMAR § 26.10.02.04B(40).
16. Respondent has been the “owner” and/or “operator,” as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and COMAR § 26.10.02.04B(37) and (39), of the three “underground storage tanks” (“USTs”) and “UST systems” as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and COMAR § 26.10.02.04B(64) and (66), located at a facility known as Baymart Liquors, located at 68 Old Mill Bottom Road North in Annapolis, Maryland (the “Facility”).
17. At all times relevant to the applicable violations alleged herein, there were three USTs at the Facility, each of which contained a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48) as follows:

<i>Tank #</i>	<i>Capacity (gallons)</i>	<i>Substance Stored</i>	<i>Material of Tank</i>	<i>Material of Piping</i>	<i>Piping System</i>	<i>Date of Installation</i>
1	8,000	Gasohol (E-10)	Composite	Fiberglass-reinforced plastic	Pressure	6/93
2	8,000	Gasohol (E-10)	Composite	Fiberglass-reinforced plastic	Safe Suction	6/93
3	8,000	Gasohol (E-10)	Composite	Fiberglass-reinforced plastic	Pressure	6/93

18. At all times relevant to the applicable violations alleged herein, Tanks 1, 2 and 3, along with the respective underground piping associated with each, were each a “petroleum UST system” and “existing tank system” as these terms are defined in COMAR § 26.10.02.04B(19) and (43).
19. Based on the information available to EPA, at all times relevant to the applicable violations alleged herein, Tank 1 and Tank 3 have utilized pressurized piping systems, subjecting them to the requirements at COMAR § 26.10.05.02(C)(2)(a), requiring them to be equipped with an automatic line leak detectors (“LLD”), and that LLD must be tested for functionality annually as required by COMAR § 26.10.05.05(B).

20. On March 1, 2021, EPA sent an Information Request Letter (“IRL”) to the Facility requesting information pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d, regarding 3 USTs located at the Baymart Liquors facility by March 29, 2021. The IRL asked for information including, but not limited to “Piping Release Detection documentation for Tanks 1 and 3 and Line Tightness Testing [(“LTT”)] (if applicable) from January 2017 to present.”
21. The Facility did not respond by March 29, 2021. On March 31, 2021, EPA granted the Facility an extension until April 14, 2021 for it to provide a response to the IRL.
22. On April 12, 2021, the Facility provided an incomplete response to the First IRL. It did not include the requested Piping Release Detection documentation for Tanks 1 and 3 from January 2017 to April 2021.
23. EPA sent a “Last Chance Letter,” dated April 28, 2021, to the Facility, reiterating the information EPA was seeking, and advising that, “The failure to timely respond to the information request may result in the commencement of an enforcement action by EPA . . . .”
24. On September 7, 2021, EPA sent the Facility a Notice of Intent to Prohibit Deliveries (“NIPD”) pursuant to Section 9012 of RCRA, 42 U.S.C. § 6991k. The NIPD provided the Facility 30 calendar days to resolve the identified violations and provide the required certification and documentation to avoid having the Facility’s 3 USTs determined to be ineligible to receive deliveries of regulated substances and “red tagged.” Part of the documentation EPA requested in the NIPD included documentation of fully functioning LLDs for USTs with pressurized piping (Tank 1 and Tank 3) as per COMAR § 26.10.05.05(B), and documentation of passing LTT OR monthly monitoring of the pressurized piping (Tank 1 and Tank 3) as per COMAR § 26.10.05.02(C)(2)(b) and COMAR § 26.10.05.05(C) or (D). The NIPD sought documentation from the past year only to demonstrate current compliance.
25. On October 12, 2021, the Facility sent EPA an incomplete response that included LLD functionality testing and LTT, both conducted on September 15, 2020 for Tanks 1 and 3. This meant the Facility appeared to be in compliance for LLD and LTT testing from September 15, 2020 to September 15, 2021. Still outstanding was:
  - a. LLD testing from January 2017 to September 14, 2020;
  - b. LLD testing due on September 16, 2021;
  - c. Either annual LTT or monthly line monitoring between January 2017 and September 14, 2020; and
  - d. Either annual LTT or monthly line monitoring that was due on September 16, 2021.
26. Between October 15, 2021 and November 4, 2021, EPA and the Facility had discussions about the missing testing and documentation.

27. On November 24, 2021, EPA sent a second information request letter (“Second IRL”) to the Facility. The Second IRL asked for information including, but not limited to:
  - a. Documentation of functionality testing of LLDs from September 2017 to August 2020, and September 2021 to present;
  - b. If LTT has been conducted annually, to provide documentation from September 2017 to August 2020 and September 2021 to present for Tanks 1 and 3; and
  - c. If monthly monitoring was being used on the pressurized piping, to provide copies of monthly monitoring for each pressurized pipe from September 2017 to August 2020 and September 2021 to present.
28. The Facility did not respond to EPA’s Second IRL.
29. When the Facility failed to respond to the Second IRL, EPA sent the Facility an Amended NIPD pursuant to Section 9012 of RCRA, 42 U.S.C. § 6991k, on March 1, 2022. The NIPD provided the Facility 30 calendar days to resolve violations and provide the required certification and documentation to avoid having the Facility’s 3 USTs determined to be ineligible to receive deliveries of regulated substances and “red tagged.” The NIPD identified action items to resolve the violations, including but not limited to:
  - a. Providing documentation of fully functioning LLDs for USTs with pressurized piping (Tank 1 and Tank 3) as per COMAR § 26.10.05.05(B) for the time period of February 2021 to March 2022; and
  - b. Providing documentation of passing LTT or monthly monitoring of the pressurized piping (Tank 1 and Tank 3) as per COMAR § 26.10.05.02(C)(2)(b) and COMAR § 26.10.05.05(C) or (D) for the time period of February 2021 to March 2022.
30. EPA did not receive a response to the Amended NIPD by March 31, 2022.
31. Because EPA received no response from the Facility, EPA representatives “red tagged” the 3 USTs at the Facility on April 12, 2022 to designate that delivery was prohibited for those USTs.
32. On April 12, 2022, the same day the USTs were “red tagged,” the Facility sent EPA the documentation requested in the Amended NIPD. The Facility stated that it would provide answers to the outstanding questions asked in the Second IRL by April 26, 2022. The documentation demonstrated that:
  - a. The Facility conducted LLD testing for Tanks 1 and 3 on October 27, 2021, and that the line leak detectors for those tanks passed, and appeared to be in compliance until October 26, 2022; and
  - b. The Facility conducted LTT testing for Tanks 1 and 3 on October 27, 2021, and Tank 1 passed and appeared to be in compliance until October 26, 2022. Tank 3 failed, was re-tested on November 5, 2021, and passed. Therefore, Tank 3 appeared to be in compliance for LTT testing until November 4, 2022.
33. Because the Facility provided documentation of current tank and piping release detection testing and monitoring demonstrating that the Facility was in compliance for that moment

- in time, EPA sent a letter authorizing the Facility to remove the red tags at the Facility on April 13, 2022.
34. The Facility did not provide the missing documentation for the Second IRL by April 26, 2022.
  35. On October 19, 2022, EPA sent a letter to the Facility identifying remaining potential violations, including, but not limited to:
    - a. Failure to conduct LLD Testing at the Facility for Tanks 1 and 3 from May 1, 2018 to September 14, 2020; and September 16, 2021 to October 26, 2021; and
    - b. Failure to conduct annual LTT or monthly monitoring of pressurized piping at the Facility for Tank 1 from May 1, 2018 to September 14, 2020; and September 16, 2021 to October 26, 2021; and for Tank 3 from May 1, 2018 to September 14, 2020; and September 16, 2021 to November 4, 2021.
  36. On January 4, 2023, EPA requested the following information that was still outstanding from the Facility, including, but not limited to:
    - a. Evidence to show piping/line release detection was conducted between May 1, 2017 to September 14, 2020; and
    - b. A copy of piping/line leak detection results that were allegedly conducted at the end of 2022.
  37. On March 16, 2023, EPA again requested a copy of piping/line leak detection results that were allegedly conducted at the end of 2022.
  38. On March 20, 2023, the Facility provided documentation that piping/line leak detection results were conducted on December 2, 2022.
  39. On June 12, 2023, the Facility provided documentation that piping/line leak detection results were conducted on May 7, 2018.
  40. To date, the Facility has not sent to EPA:
    - a. Documentation of annual LLD test on Tanks 1 and 3 from May 8, 2019 to September 14, 2020, and September 16, 2021 to October 26, 2021, for a total of 536 days; and
    - b. Documentation of either an annual LTT or monthly monitoring for Tank 1 from May 8, 2019 to September 14, 2020, and September 16, 2021 to October 26, 2021, and for Tank 3 from May 8, 2019 to September 14, 2020 and September 16, 2021 to November 4, 2021.
  41. Based on the information Respondent has provided to EPA to date, EPA alleges that the Respondent failed to comply with specific requirements of Subtitle I of RCRA, 42 U.S.C. § 6991 et seq., its implementing regulations at 40 C.F.R. Part 280, and the federally-approved Maryland UST management program regulations set forth in COMAR, Title 26, Subtitle 10.

**Count I**  
**Failure to Conduct Line Leak Detector Testing for Tanks 1 and 3**

- 42. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
- 43. Pursuant to COMAR § 26.10.05.02(C)(2)(a), all tank systems utilizing pressurized piping must be equipped with an automatic LLD, and that LLD must be tested for functionality annually as required by COMAR § 26.10.05.05(B).
- 44. Based on the information available to EPA, two of the three UST systems at the Facility utilize pressurized piping systems: Tanks 1 and 3.
- 45. COMAR § 26.10.05.05(B) (Automatic Line Leak Detectors), provides that for Automatic Line Leak Detectors,

Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. An annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements.

- 46. Based on information available to EPA, Respondent failed to perform an annual LLD test on Tanks 1 and 3 from May 8, 2019 to September 14, 2020, September 16, 2021 to October 26, 2021 and October 27, 2022 to December 1, 2022.
- 47. Respondent violated COMAR § 26.10.05.05(B) by failing to perform an annual LLD test on Tanks 1 and 3 from May 8, 2019 to September 14, 2020, September 16, 2021 to October 26, 2021, and October 27, 2022 to December 1, 2022.
- 48. In failing to comply with COMAR § 26.10.05.05(B), Respondent is subject to the assessment of penalties under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d).

**Count II**  
**Failure to Perform Annual Line Tightness Testing or  
Monthly Monitoring of Pressurized Piping**

- 49. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
- 50. Pursuant to COMAR § 26.10.05.02(C)(2),

Underground piping that conveys regulated substances under pressure shall:  
(a) Be equipped with an automatic line leak detector . . . and

(b) Have an annual line tightness test conducted in accordance with Regulation .05 C or have monthly monitoring conducted in accordance with Regulation .05 D.

51. Based on the information available to EPA, the Facility failed to perform either an annual LTT or monthly monitoring for Tank 1 from May 8, 2019 to September 14, 2020, September 16, 2021 to October 26, 2021, and October 27, 2022 to December 1, 2022, and for Tank 3 from May 8, 2019 to September 14, 2020, September 16, 2021 to November 4, 2021, and November 5, 2022 to December 1, 2022.
52. Respondent violated COMAR § 26.10.05.02(C)(2)(b) by failing to conduct annual LTT or utilize a monthly method of piping release detection on Tank #1 from May 8, 2019 to September 14, 2020, September 16, 2021 to October 26, 2021, and October 27, 2022 to December 1, 2022, and for Tank 3 from May 8, 2019 to September 14, 2020, September 16, 2021 to November 4, 2021, and November 5, 2022 to December 1, 2022.
53. In failing to comply with COMAR § 26.10.05.02(C)(2)(b), Respondent is subject to the assessment of penalties under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d).

#### CIVIL PENALTY

54. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **Forty-Six Thousand and Three Hundred and Twenty-Two dollars (\$46,322)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
55. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in RCRA, Section 9006(c) and (e), 42 U.S.C. § 6991e(c) and (e), which includes the seriousness of the violation, any good faith efforts to comply with the applicable requirements, and any other factors considered appropriate. In developing a proposed penalty for the violations alleged in this Consent Agreement, EPA takes into account the particular facts and circumstances of this case with specific reference to EPA's November 1990 U.S. E.P.A. Penalty Guidance for Violations of UST Regulations, and EPA's Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and Revised Field Citation Program and ESA Policy, dated October 5, 2018 (collectively "UST Penalty Guidance") which reflects the statutory penalty criteria and factors set forth Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), and the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
56. The civil penalty is also based upon an analysis of Respondent's ability to pay a civil penalty. This analysis was based upon information submitted to EPA by Respondent, including a signed, certified statement of Respondent's current financial condition articulating a basis for its contention that it cannot pay the full penalty within thirty (30) days of the effective date of this Consent Agreement and Final Order without



experiencing an undue financial hardship.

57. Based upon this analysis EPA has determined that the Respondent is unable to pay a civil penalty in excess of the dollar amount set forth in Paragraph 54, above, in settlement of the above-captioned action. Complainant has relied upon the financial information provided by Respondent and identified in the preceding Paragraph and, based upon that information, it is Complainant’s conclusion that the Respondent has established that it is unable to pay the full amount of the civil penalty identified and set forth in the paragraph immediately preceding this one, above, within thirty (30) days of the effective date of this Consent Agreement and Final Order and that a payment plan of the nature and duration set forth below is necessary and appropriate.
58. Pursuant to the provisions of this Consent Agreement, Respondent will remit a total civil penalty (principal) of Forty-Six Thousand and Three Hundred and Twenty-Two dollars (\$46,322) and interest (calculated at the rate of 3% per annum on the outstanding principal balance) in the amount of One Hundred and Seventy-Five Dollars and Seventy-Two Cents (\$175.72), for a total payment of Forty-Six Thousand and Four Hundred Ninety-Seven Dollars and Seventy Two Cents (\$46,497.72), in accordance with the installment payment schedule set forth in the chart, immediately below:

<b>Payment No.</b>	<b>Principal Amount</b>	<b>Interest</b>	<b>Date Payment Due (From Effective Date of Consent Agreement)</b>	<b>Payment Amount Due</b>
1	\$23,162.00	\$ -	<i>Within 30 Days</i>	\$23,162.00
2	\$23,160.00	\$175.72	<i>Within 90 Days</i>	\$23,335.72
<b>Total</b>	<b>\$46,322.00</b>	<b>\$175.72</b>		<b>\$46,497.72</b>

59. If Respondent fails to make timely payment of any one of the required installment payments in accordance with the installment payment schedule set forth in Paragraph 58, immediately above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for, and shall pay, applicable interest, administrative handling charges, and late payment penalty charges as described in Paragraphs 64 through 66, below, in the event of any such failure or default.
60. Respondent may, at any time after commencement of payments under the installment payment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.

61. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, **EPA Docket Number RCRA-03-2023-0065**;
- b. All checks shall be made payable to the "United States Treasury";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979078  
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:

Aviva H. Reinfeld  
Assistant Regional Counsel  
[Reinfeld.aviva@epa.gov](mailto:Reinfeld.aviva@epa.gov)

and

U.S. EPA Region III Regional Hearing Clerk  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov).

62. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

63. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully

executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

64. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date Respondent is notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
65. ADMINISTRATIVE COSTS: The costs of the EPA’s administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
66. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
67. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
68. The parties consent to service of the Final Order by e-mail at the following valid email addresses: [reinfeld.aviva@epa.gov](mailto:reinfeld.aviva@epa.gov) (for Complainant), and [baymartliquors@gmail.com](mailto:baymartliquors@gmail.com) and [bdl@hbdlaw.com](mailto:bdl@hbdlaw.com) for Respondent).

### **GENERAL SETTLEMENT CONDITIONS**

69. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent’s knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
70. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or

completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, **including information about respondent's ability to pay a penalty**, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

### **CERTIFICATION OF COMPLIANCE**

71. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

### **OTHER APPLICABLE LAWS**

72. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of RCRA, Subtitle I, or any regulations promulgated thereunder.

### **RESERVATION OF RIGHTS**

73. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, Subtitle I, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

### **EXECUTION /PARTIES BOUND**

74. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized

by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.


**EFFECTIVE DATE**

75. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**ENTIRE AGREEMENT**

76. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: Ms. Dana Wang

By:  July 25, 2023  
\_\_\_\_\_  
[Digital Signature and Date]  
Ms. Dana Wang  
Owner, TD 88 LLC t/a Baymart

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: \_\_\_\_\_  
[*Digital Signature and Date*]  
Karen Melvin, Director  
Enforcement & Compliance Assurance Division  
U.S. EPA – Region III  
Complainant

Attorney for Complainant:

By: \_\_\_\_\_  
[*Digital Signature and Date*]  
Aviva H. Reinfeld  
Assistant Regional Counsel  
U.S. EPA – Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103**

<b>In the Matter of:</b>	:
	:
<b>TD88 LLC t/a Baymart</b>	: <b>U.S. EPA Docket No. RCRA-03-2023-0065</b>
<b>Baymart Liquors</b>	:
<b>68 Old Mill Bottom Road North</b>	: <b>Proceeding under Section 9006 of the</b>
<b>Annapolis, MD 21409</b>	: <b>Resource Conservation and Recovery Act, as</b>
	: <b>amended, 42 U.S.C Section 6991e</b>
<b>Respondent.</b>	:
	:

**FINAL ORDER**

Complainant, the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, TD88 LLC t/a Baymart have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to [Sections 22.13(b) and 22.18(b)(2) and (3) (*for Super Consent Agreement/Final Orders*) or Sections 22.18(b)(2) and (3) (*for Consent Agreement/Final Orders*)]. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s November 1990 U.S. E.P.A. Penalty Guidance for Violations of UST Regulations, and EPA’s Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and Revised Field Citation Program and ESA Policy, dated October 5, 2018 (collectively “UST Penalty Guidance”), and the statutory factors set forth in RCRA, Section 9006(c) and (e), 42 U.S.C. § 6991e(c) and (e), which includes the seriousness of the violation, any good faith efforts to comply with the applicable requirements, and any other factors considered appropriate.

**NOW, THEREFORE, PURSUANT TO** Section 9006(d) of RCRA, 42 U.S.C. Section 6991e(d) and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of ***FORTY-SIX THOUSAND AND THREE HUNDRED TWENTY-TWO DOLLARS (\$46,322)***, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate



injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

By: \_\_\_\_\_  
[*Digital Signature and Date*]  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103-2029

In the Matter of:	:	
	:	
TD88 LLC t/a Baymart	:	
Baymart Liquors	:	U.S. EPA Docket No. RCRA-03-0065
68 Old Mill Bottom Road North	:	
Annapolis, MD 21409	:	
	:	Proceeding under Section 9006 of the
Respondent.	:	Resource Conservation and Recovery Act, as
	:	amended, 42 U.S.C. Section 6991e
	:	

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**CERTIFICATE OF SERVICE**

I certify that the foregoing *Consent Agreement and Final Order* was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Consent Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Ms. Dana Wang, Owner  
Mr. David Chang, Store Manager  
TD 88 LLC t/a Baymart  
Baymart Liquors  
68 Old Mill Bottom Road North  
Annapolis, MD 21409  
[baymartliquors@gmail.com](mailto:baymartliquors@gmail.com)

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[Digital Signature and Date]  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III