

**GMP #116- Appendix A**

Appendix A contains two versions of the Warranty, Notice of Substitution and Waiver. The first is to be used when VDH has issued a permit for a gravel-type drainfield system and the Owner elects to install a Substituted System. The second is to be used when an AOSE or a PE has specified a Substituted System as part of a design package for a construction permit.

**WARRANTY,  
NOTICE OF SUBSTITUTION  
And  
WAIVER OF LIABILITY**

County/City of \_\_\_\_\_  
Sewage Disposal System Construction Permit ID # \_\_\_\_\_  
Tax Map # \_\_\_\_\_ or property description: \_\_\_\_\_  
Owner: \_\_\_\_\_  
Date: \_\_\_\_\_

**LIMITED FIVE YEAR WARRANTY**

- (a) **[Insert Manufacturer]** (the "Company") warrants that the **[insert product]** manufactured by the Company (collectively, the "Units"), when installed and operated in accordance with the manufacturer's instructions and the current Virginia Department of Health GMP 116, Use of Gravelless Systems at Manufacturer's Specifications, and pursuant to all necessary building permits, are warranted for a period of five (5) years from the date of installation (i) to be free from defective materials and workmanship; and (ii) to perform in accordance with the state performance requirements in effect on the date of installation. This warranty extends only to the property owner. For purposes of this warranty, the **[insert product]** System must be installed in accordance with all site conditions specified in the Local Health Department Construction Permit and sized according to the Company's specifications.
- (b) System failures determined to be due to improper siting, excessive water usage, improper grease disposal, improper installation, improper operation, or improper maintenance are not part of this warranty.

Upon notification of a system failure, the Company may, at its option, perform or have performed certain tests to determine the cause of failure. A registered soil scientist or professional engineer may be used to evaluate the soil conditions and compare those conditions with any original evaluation, which may appear on the permit.

In order to exercise these warranty rights, the property owner must notify the Company in writing at its corporate headquarters within 15 days of discovery of the alleged defect. The notice shall be accompanied by (i) a copy of the warranty which is signed and dated

by the installer and the property owner as set forth below; (ii) a copy of the appropriate permit for the septic system; and (iii) proof to the Company's satisfaction that the septic tank has been maintained in accordance with the Company's operating instructions. In the event of a breach of warranty due to a failure of the trench, the Company will provide and install **[insert product]** units as necessary to extend the size of the trench to provide a fully functional wastewater system. The Company will not be responsible for pumps and any other necessary mechanical devices needed to extend the trench.

- (c) THE WARRANTY IN SUBPARAGRAPH (a) AND THE REMEDIES IN SUBPARAGRAPH (b) ARE EXCLUSIVE. THERE ARE NO OTHER WARRANTIES. ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE SHALL NOT EXTEND BEYOND THE PERIOD IN SUBPARAGRAPH (a). THE WARRANTY DOES NOT EXTEND TO INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR INDIRECT DAMAGES. THE COMPANY SHALL NOT BE LIABLE FOR PENALTIES OR LIQUIDATED DAMAGES, LOSS OF PRODUCTION AND PROFITS, LABOR AND MATERIALS, OVERHEAD COSTS, OR OTHER LOSS OR EXPENSE. SPECIFICALLY EXCLUDED ARE DAMAGE DUE TO ORDINARY WEAR AND TEAR, ALTERATION, ACCIDENT, MISUSE, ABUSE, OR NEGLIGENCE; THE UNITS BEING SUBJECTED TO STRESSES OR VEHICLE TRAFFIC GREATER THAN THOSE PRESCRIBED IN THE INSTALLATION INSTRUCTIONS OR OPERATION INSTRUCTIONS; FAILURE TO MAINTAIN THE MINIMUM GROUND COVERS SET FORTH IN THE OPERATION INSTRUCTIONS; THE PLACEMENT OF IMPROPER MATERIALS INTO THE SYSTEM; OR ANY OTHER EVENT NOT CAUSED BY THE COMPANY. THIS WARRANTY SHALL BE VOID IF THE PROPERTY OWNER FAILS TO COMPLY WITH ALL OF THE TERMS SET FORTH IN SUBPARAGRAPH (b).

FURTHERMORE, IN NO EVENT SHALL THE COMPANY BE RESPONSIBLE FOR ANY LOSS OR DAMAGE TO THE PROPERTY OWNER, THE UNITS, OR ANY THIRD PARTY RESULTING FROM THE INSTALLATION OR SHIPMENT OF THE UNITS, OR FROM ANY PRODUCT LIABILITY CLAIMS OF THE ORIGINAL PROPERTY OWNER OR ANY THIRD PARTY. THE COMPANY SHALL NOT BE RESPONSIBLE FOR ENSURING THAT INSTALLATION OF THE SYSTEM IS COMPLETED IN ACCORDANCE WITH ALL APPLICABLE LAWS, CODES, RULES, AND REGULATIONS.

- (d) No representative of the Company has the authority to change this warranty in any manner whatsoever, or to extend this warranty. No warranty applies to any party other than to the property owner.

## NOTICE OF SUBSTITUTION

This is to notify the Virginia Department of Health (“VDH”) that a       (insert manufacturer’s name and model # or description)       (“Substituted System”) will be substituted for the gravel-type drainfield system specified on the above-referenced sewage disposal system construction permit.

I understand that the Substituted System is not the system designed by the \_\_\_\_\_ County/City Health Department. The Substituted System, however, is authorized for use in the Commonwealth of Virginia pursuant to VDH’s Guidance Memoranda and Policy (GMP) #116. I further understand that the Substituted System is covered by a manufacturer’s warranty and that such a warranty is not available for the system prescribed by the County/City Health Department in the above-referenced permit.

I understand that, regardless of whether the Substituted System or the gravel-type drainfield system is installed, the Commonwealth of Virginia requires that the owner maintain and preserve the entire approved absorption area (including reserve area where applicable) that was required by the permit. This condition is intended to assure that any absorption area that is not used will be available in the future should it become necessary to repair or replace the System. I hereby agree that I will maintain and preserve the entire absorption area as required.

## WAIVER

As OWNER of the property described above and subject to the exception described below, I hereby release and agree to hold harmless the Virginia Department of Health and the Commonwealth of Virginia, including, without limitation, any and all of its agencies, boards, and commissions, their insurer(s), officers, directors, employees, representatives, and agents [hereafter referred to as the “COMMONWEALTH OF VIRGINIA”], from any and all claims, complaints, demands, actions, causes of action, liabilities and obligations, of whatever source or nature, whether administrative, legal or equitable, whether known or unknown, which the OWNER now has or has in the future relating to or arising out of the installation of the Substituted System including, without limitation, any and all claims due to the failure of any person to comply with federal, state, or local laws or regulations, claims under the Virginia Tort Claims Act, the Virginia Constitution, the United States Constitution and amendments thereto, or under common law.

I understand that the COMMONWEALTH OF VIRGINIA does not warrant in any way the performance of any System and that the manufacturer’s warranty is the sole remedy available to me with respect to any performance deficiency associated with a Substituted System. Furthermore, I agree to first seek and exhaust any and all remedies under the manufacturer’s warranty before applying for indemnification under the Onsite Sewage Indemnification Fund.

**EXCEPTION- Onsite Sewage Indemnification Fund:** I do not release the COMMONWEALTH OF VIRGINIA from any liabilities, claims, or causes of action

provided under § 32.1-164.1:01 of the Code of Virginia (Onsite Sewage Indemnification Fund). I acknowledge and affirm that the Onsite Sewage Indemnification Fund shall be the sole remedy for failure of the Substituted System where such failure results from negligence on the part of VDH. I also acknowledge and affirm that the Virginia Department of Health's authorization of the Substituted System pursuant to GMP #116 shall not constitute an act of negligence pursuant to § 32.1-164.1:01 of the Code of Virginia.

**This agreement shall be binding upon all subsequent owners of this property including any and all HEIRS, SUCCESSORS, and ASSIGNS.**

**ACKNOWLEDGEMENT**

I acknowledge that I have read this **WARRANTY, NOTICE OF SUBSTITUTION, and WAIVER** and that I understand their terms. I also understand that there is no warranty if I do not comply with all of the above steps or if the system is not installed or maintained properly. I acknowledge to the Company that this warranty is part of my original agreement to purchase the septic system and that the warranty and its limitations were provided to me at the time of purchase.

\_\_\_\_\_  
Address of Installation  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Name (print) and Address of Property Owner  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature Date

I acknowledge to the Company and the homeowner that the septic system and the **[insert product]** units have been installed in accordance with GMP 116, the installation instructions of the Company and in accordance with all state trench requirements and other applicable laws.

\_\_\_\_\_  
Business Name of Installer

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Signature Date

Notice of Substitution to be used when an AOSE or PE has specified a Substituted System as part of a permit application.

**WARRANTY,  
NOTICE OF SUBSTITUTION  
And  
WAIVER OF LIABILITY**

County/City of \_\_\_\_\_  
Sewage Disposal System Construction Permit ID # \_\_\_\_\_  
Tax Map # \_\_\_\_\_ or property description: \_\_\_\_\_  
Owner: \_\_\_\_\_  
Date: \_\_\_\_\_

**LIMITED FIVE YEAR WARRANTY**

- (a) **[Insert Manufacturer]** (the "Company") warrants that the **[insert product]** manufactured by the Company (collectively, the "Units"), when installed and operated in accordance with the manufacturer's instructions and the current Virginia Department of Health GMP 116, Use of Gravelless Systems at Manufacturer's Specifications, and pursuant to all necessary building permits, are warranted for a period of five (5) years from the date of installation (i) to be free from defective materials and workmanship; and (ii) to perform in accordance with the state performance requirements in effect on the date of installation. This warranty extends only to the property owner. For purposes of this warranty, the **[insert product]** System must be installed in accordance with all site conditions specified in the Local Health Department Construction Permit and sized according to the Company's specifications.
- (b) System failures determined to be due to improper siting, excessive water usage, improper grease disposal, improper installation, improper operation, or improper maintenance are not part of this warranty.

Upon notification of a system failure, the Company may, at its option, perform or have performed certain tests to determine the cause of failure. A registered soil scientist or professional engineer may be used to evaluate the soil conditions and compare those conditions with any original evaluation, which may appear on the permit.

In order to exercise these warranty rights, the property owner must notify the Company in writing at its corporate headquarters within 15 days of discovery of the alleged defect. The notice shall be accompanied by (i) a copy of the warranty which is signed and dated by the installer and the property owner as set forth below; (ii) a copy of the appropriate permit for the septic system; and (iii) proof to the Company's satisfaction that the septic tank has been maintained in accordance with the Company's operating instructions. In the event of a breach of warranty due to a failure of the trench, the Company will provide and

install **[insert product]** units as necessary to extend the size of the trench to provide a fully functional wastewater system. The Company will not be responsible for pumps and any other necessary mechanical devices needed to extend the trench.

- (c) THE WARRANTY IN SUBPARAGRAPH (a) AND THE REMEDIES IN SUBPARAGRAPH (b) ARE EXCLUSIVE. THERE ARE NO OTHER WARRANTIES. ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE SHALL NOT EXTEND BEYOND THE PERIOD IN SUBPARAGRAPH (a). THE WARRANTY DOES NOT EXTEND TO INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR INDIRECT DAMAGES. THE COMPANY SHALL NOT BE LIABLE FOR PENALTIES OR LIQUIDATED DAMAGES, LOSS OF PRODUCTION AND PROFITS, LABOR AND MATERIALS, OVERHEAD COSTS, OR OTHER LOSS OR EXPENSE. SPECIFICALLY EXCLUDED ARE DAMAGE DUE TO ORDINARY WEAR AND TEAR, ALTERATION, ACCIDENT, MISUSE, ABUSE, OR NEGLIGENCE; THE UNITS BEING SUBJECTED TO STRESSES OR VEHICLE TRAFFIC GREATER THAN THOSE PRESCRIBED IN THE INSTALLATION INSTRUCTIONS OR OPERATION INSTRUCTIONS; FAILURE TO MAINTAIN THE MINIMUM GROUND COVERS SET FORTH IN THE OPERATION INSTRUCTIONS; THE PLACEMENT OF IMPROPER MATERIALS INTO THE SYSTEM; OR ANY OTHER EVENT NOT CAUSED BY THE COMPANY. THIS WARRANTY SHALL BE VOID IF THE PROPERTY OWNER FAILS TO COMPLY WITH ALL OF THE TERMS SET FORTH IN SUBPARAGRAPH (b).

FURTHERMORE, IN NO EVENT SHALL THE COMPANY BE RESPONSIBLE FOR ANY LOSS OR DAMAGE TO THE PROPERTY OWNER, THE UNITS, OR ANY THIRD PARTY RESULTING FROM THE INSTALLATION OR SHIPMENT OF THE UNITS, OR FROM ANY PRODUCT LIABILITY CLAIMS OF THE ORIGINAL PROPERTY OWNER OR ANY THIRD PARTY. THE COMPANY SHALL NOT BE RESPONSIBLE FOR ENSURING THAT INSTALLATION OF THE SYSTEM IS COMPLETED IN ACCORDANCE WITH ALL APPLICABLE LAWS, CODES, RULES, AND REGULATIONS.

- (d) No representative of the Company has the authority to change this warranty in any manner whatsoever, or to extend this warranty. No warranty applies to any party other than to the property owner.

## NOTICE OF SUBSTITUTION

This is to notify the Virginia Department of Health (“VDH”) that a \_\_\_\_\_ (insert manufacturer’s name and model # or description) \_\_\_\_\_ (“Substituted System”) will be substituted for a gravel-type drainfield system.

I understand that the Substituted System is not the type of system that would be designed by the \_\_\_\_\_ County/City Health Department. The Substituted System, however, is authorized for use in the Commonwealth of Virginia pursuant to VDH’s Guidance Memoranda and Policy (GMP) #116. I further understand that the Substituted System is covered by a manufacturer’s warranty and that such a warranty is not available for the system that would be prescribed by VDH.

I understand that, regardless of whether the Substituted System or the gravel-type drainfield system is installed, the Commonwealth of Virginia requires that the owner maintain and preserve the entire approved absorption area (including reserve area where applicable) that was required by the permit. This condition is intended to assure that any absorption area that is not used will be available in the future should it become necessary to repair or replace the System. I hereby agree that I will maintain and preserve the entire absorption area as required.

## WAIVER

As OWNER of the property described above and subject to the exception described below, I hereby release and agree to hold harmless the Virginia Department of Health and the Commonwealth of Virginia, including, without limitation, any and all of its agencies, boards, and commissions, their insurer(s), officers, directors, employees, representatives, and agents [hereafter referred to as the “COMMONWEALTH OF VIRGINIA”], from any and all claims, complaints, demands, actions, causes of action, liabilities and obligations, of whatever source or nature, whether administrative, legal or equitable, whether known or unknown, which the OWNER now has or has in the future relating to or arising out of the installation of the Substituted System including, without limitation, any and all claims due to the failure of any person to comply with federal, state, or local laws or regulations, claims under the Virginia Tort Claims Act, the Virginia Constitution, the United States Constitution and amendments thereto, or under common law.

I understand that the COMMONWEALTH OF VIRGINIA does not warrant in any way the performance of any System and that the manufacturer’s warranty is the sole remedy available to me with respect to any performance deficiency associated with a Substituted System. Furthermore, I agree to first seek and exhaust any and all remedies under the manufacturer’s warranty before applying for indemnification under the Onsite Sewage Indemnification Fund.

**EXCEPTION- Onsite Sewage Indemnification Fund:** I do not release the COMMONWEALTH OF VIRGINIA from any liabilities, claims, or causes of action provided under § 32.1-164.1:01 of the Code of Virginia (Onsite Sewage Indemnification

Fund). I acknowledge and affirm that the Onsite Sewage Indemnification Fund shall be the sole remedy for failure of the Substituted System where such failure results from negligence on the part of VDH. I also acknowledge and affirm that the Virginia Department of Health's authorization of the Substituted System pursuant to GMP #116 shall not constitute an act of negligence pursuant to § 32.1-164.1:01 of the Code of Virginia.

**This agreement shall be binding upon all subsequent owners of this property including any and all HEIRS, SUCCESSORS, and ASSIGNS.**

**ACKNOWLEDGEMENT**

I acknowledge that I have read this **WARRANTY, NOTICE OF SUBSTITUTION, and WAIVER** and that I understand their terms. I also understand that there is no warranty if I do not comply with all of the above steps or if the system is not installed or maintained properly. I acknowledge to the Company that this warranty is part of my original agreement to purchase the septic system and that the warranty and its limitations were provided to me at the time of purchase.

\_\_\_\_\_  
Address of Installation

\_\_\_\_\_  
Name and Address of Property Owner

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

I acknowledge to the Company and the homeowner that the septic system and the **[insert product]** units have been installed in accordance with GMP 116, the installation instructions of the Company and in accordance with all state trench requirements and other applicable laws.

\_\_\_\_\_  
Business Name of Installer

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date