April 15, 2002

TO: Environmental Health Managers
District Health Directors
OEHS Staff
VPI/SU Soil Consultants

GMP #116

FROM: Robert B. Stroube, M.D., M.P.H.
Acting State Health Commissioner

SUBJECT: Waiver for the Use of Proprietary, Non-Gravel Systems at Manufacturer's Specifications for Trench Drainfields

Background

The Virginia Department of Health (VDH) has reviewed information concerning installation and use of certain types of gravelless systems according to specifications recommended by the system manufacturer. This includes experience from other jurisdictions and available technical literature. VDH has concluded that, when properly sited, designed, installed, used, and maintained, gravelless systems sized according to specifications other than those contained in the *Sewage Handling and Disposal Regulations* (12 VAC 5-610-10 et seq., the "*Regulations*") may be capable of treating and dispersing septic tank effluent in a manner sufficient to protect public health and water quality.

VDH recognizes that installation of gravelless systems at manufacturer's recommended specifications may provide benefits to consumers, provided the absorption area is adequate to assure the long-term treatment and dispersal of septic tank effluent or other treated effluents. Sizing a drainfield smaller than specified in the *Regulations* may not result in adverse effects to public health or groundwater because this does not change the fundamental processes by which septic effluent trenches function. Such sizing may, however, reduce the operational life of the soil absorption system (i.e. shorten the time to failure). As long as the overall absorption area is maintained "in reserve," replacing the clogged trenches becomes a matter of long-term operation and management and not one of public health or environmental protection.

Scope/Applicability

This policy authorizes an owner to install a gravelless septic-effluent drainfield system at manufacturer's recommended sizing ("Substituted System"), subject to compliance with all of the conditions listed herein. The requirements of this policy do not apply to gravelless systems sized in accordance with the *Regulations* as provided in **GMP # 102**.

Before an owner may authorize a contractor to install a Substitute System he must obtain a permit for a gravel-type system issued by VDH.[1] A Virginia-licensed Professional Engineer (PE) or Authorized Onsite Soil Evaluator (AOSE) may design a gravelless septic drainfield using the manufacturer's specifications within an area that meets the requirements of the *Regulations*. All sites where a manufacturer's recommended sizing is to be employed must meet all the other requirements of the *Regulations* for a drainfield with gravel trenches (includes conventional gravity, enhanced flow, or low pressure).

For systems installed pursuant to this GMP, only a contractor licensed in Virginia and trained and certified by the manufacturer is authorized to install the Substituted System. The total area ("footprint") required for the conventional drainfield, including reserve area if applicable, must be preserved during construction of the Substituted System and after construction by the owner.

Waiver

Any manufacturer meeting the requirements of this policy for a specific Substituted System shall be deemed to have met the requirements for a provisionally approved system. See §§ 442- 444 and 446- 447 of the *Regulations* (provisional system approval and evaluation). A Substituted System authorized pursuant to this policy shall be considered a system with general approval pursuant to § 448 of the *Regulations*.

Conditions

1. General Requirements.

   A. Limitations.

      (1) All Substituted Systems must be of a type authorized by **GMP #102** or successor policy.

      (2) Substituted Systems are limited to systems serving detached single-family dwellings or duplex dwellings, not exceeding six (6) bedrooms total.

[1] If plans for the system were drawn by a PE or by an AOSE (non-VDH), the owner must obtain written approval from the PE or AOSE prior to installing a Substitute System.

(3) Substituted Systems may not be installed pursuant to a Soil Drainage Management Contract (*Regulations*, Article 5, §§ 600-650).

B. Design.

(1) Modification of Valid Construction Permits. At the election of the owner, and subject to all of the conditions herein, a Substituted System may be installed at a site for which a construction permit has been issued by the Commissioner in accordance with the *Regulations*. The following shall apply:

a. Except for resizing the drainfield in accordance with manufacturer's specifications and substituting the appropriate proprietary materials or devices, the drainfield shall be installed exactly as permitted. No changes in drainfield trench location, depth, or contour orientation are authorized. The lateral separation of the trenches shall not be less than the center-to-center distances specified in § 950.F of the *Regulations* (based upon trench width of the Substituted System).

b. After installation, the owner shall preserve and maintain the total area ("footprint") required for the conventional drainfield, including reserve area if applicable. The owner shall ensure that no structures are built over the absorption area and that the area is not disturbed in any manner that will render it unusable for future installation of drainfield trenches.

c. Unless specifically authorized in advance by VDH, the location of the distribution box shall remain unchanged.

d. Lateral trench runs must be as long as practical within the limits of the approved site. Trench width and/or the number of trenches may be modified provided at least 90% of the longest permitted trench length of a single trench is maintained.

e. The owner is responsible for providing an "as-built" sketch of the Substituted System to be included with the paperwork submitted to the local health department at the time of inspection (may be provided by the contractor). The sketch (may be hand-drawn) must be legible and shall indicate the "as-built" length and location of each trench in relation to the distribution box. The sketch shall indicate any modifications made to comply with manufacturer's specifications (e.g., depth of distribution box when necessary to accommodate varying inlet elevations). The sketch shall include a comment identifying the name of the manufacturer, the type or model number of the Substituted System, and the number of units, linear feet of product,

etc. used in the installation. VDH will not issue an operation permit for any Substituted System until the sketch is received.

(2) New construction permits. An AOSE, a PE licensed in Virginia, or other person qualified and authorized to design onsite sewage systems in Virginia may specify a gravelless system in accordance with this policy and a manufacturer's specifications when designing or certifying the design of a septic-effluent system. VDH will not design Substituted Systems according to this policy. The following shall apply:

a. The absorption area surrounding and including the Substituted System ("footprint") shall be of sufficient size and configuration to accommodate a gravel-type drainfield that complies with the sizing requirements of the *Regulations*, including reserve area if applicable. The absorption area must comply with all other applicable requirements of the *Regulations* including, but not limited to, vertical and horizontal separation distances, trench location, trench depth, and contour orientation. The entire absorption area shall be shown on the construction drawings.

b. Except for sizing the drainfield in accordance with manufacturer's specifications and substituting the appropriate proprietary materials or devices, the drainfield shall be designed exactly as provided in the *Regulations*, including, but not limited to the lateral separation of trenches based on trench width.

c. Lateral trench runs must be as long as practical within the limits of the approved site so as to minimize the linear loading rate.

2. Physical Requirements.

A. The storage capacity of a Substituted System must be substantially equivalent to that available in a gravel system.

B. The total trench bottom area of the Substituted System (measured as the area bounded by the outer-most limits of the system's contact with the trench bottom) must be at least fifty percent (50 %) of that required for a conventional gravel system but not less than 300 square feet.

3. Owner's Consent.

Before installation of any Substituted System, the owner must consent to the substitution. Written notice of the decision to install a Substitute System ("Notice of Substitution") shall be signed by the owner and provided to the district or local health department. When an existing permit is being modified, the Notice of Substitution shall be provided not later than at the time of inspection. Otherwise, the Notice of Substitution must be submitted with the

owner's AOSE/PE application package. Submittal of the completed form in Appendix 1 of this GMP shall satisfy this requirement. The Notice of Substitution may be submitted to the district or local health department at the time of submission of the completion statement from the sewage disposal system contractor required by 12 VAC 5-610-330. For the purposes of this requirement, the term "owner" shall mean the record owner of the lot on which the Substituted System is to be installed, at the time of installation. VDH will not issue an operation permit for any Substituted System until the owner endorses and submits to the Health Department the original and satisfactory Notice of Substitution.

4. Installation

A. All installers of Substituted Systems shall be trained by the manufacturer in the proper installation of its systems and shall be certified by the manufacturer as having passed the manufacturer's training qualifications prior to installing any Substituted System in pursuant to this policy. The manufacturer shall maintain a current list of qualified installers and shall make the list available to VDH through its website or by other appropriate means. The manufacturer shall provide training to district and local health department staff (free of charge) at times and places that are mutually agreeable.

B. The manufacturer shall ensure that only certified and trained contractors install their proprietary systems according to this procedure. The manufacturer's warranty, see paragraph 5 below, shall apply to any system properly installed by a contractor licensed in Virginia, regardless of whether the installer was certified and trained by the manufacturer. VDH may approve a properly installed system if the only defect is that the contractor who installed it was not certified by the manufacturer. If a manufacturer fails to adequately enforce this provision, such failure may be grounds to terminate the manufacturer's authorization pursuant to this policy.

C. The manufacturer shall prepare an installation manual specifically detailing procedures for installation of its system at recommended specifications, shall train installers in accordance with the manual, and shall require adherence to the manual as a condition of installer certification. The manual shall be revised and updated as necessary to ensure proper installation and to prevent installation-related operational problems. A copy of the most current manual and any revisions thereto shall be provided to the Department.

D. In accordance with the *Regulations* and current VDH policies, VDH will perform final construction inspections on Substituted Systems. However, VDH will not be responsible for verifying that the installer, PE, AOSE, or other qualified designer has complied with the manufacturer's specifications for the Substituted System. Such responsibility shall lie with the person who designed the Substituted System or with the contractor who installed the system (in cases where a VDH permit is modified).

5. Warranty.

The manufacturer shall provide to each owner a full written warranty on each Substituted System installed pursuant to this policy. Such warranty shall be for a minimum of five years from the date of installation covering manufacturer's design and installation specifications, labor and material costs to remedy failure to meet performance expectations as specified in 12 VAC 5-610-350 for systems used and installed in accordance with manufacturer's specifications. The warranty shall automatically transfer to each subsequent owner of the property during the warranty period. See Appendix A.

6. Financial Assurance

A. Prior to allowing the installation of any Substituted System the manufacturer shall deliver to VDH evidence of financial assurance in the form of a letter of credit, insurance policy, cash escrow, or other assurance acceptable to VDH in the initial amount of at least $100,000.00, which shall be available for payment of unsatisfied warranty claims should the Commissioner determine that the manufacturer refuses to pay a legitimate warranty claim or claims or is financially unable to honor the warranty required in Paragraph 5 above.

B. The amount of financial assurance will be increased annually (if necessary) based on the following formula:

$$FA = N \times F \times C$$

Where: FA = the financial assurance amount in dollars;
N = the number of systems installed in Virginia over the previous five years;

F = the percent failure rate (may be modified after two years of data are collected;

C = the average cost of repair (may be modified after five years of data are collected).

The manufacturer shall deliver evidence of the annually revised financial assurance amount on or before December 31st of the year preceding the year for which the financial assurance is required. A failure rate of 3 % (F) and a repair cost of $5,000 (C) will be assumed until data are available from systems installed in Virginia that indicate a different failure rate or repair cost should be used for a particular Substituted System. The manufacturer shall be responsible for collecting and reporting the data used to calculate (N) each year. Regardless of the formula, the minimum amount of financial assurance required shall be $100,000.00.

7. Authorization.

A. Owners will be responsible for ensuring that the manufacturer has obtained written authorization from VDH to install their proprietary non-gravel systems prior to installing or allowing the installation of any Substituted System pursuant to this policy. VDH will maintain a list of authorized manufacturers. Prior to receiving authorization from VDH to install systems at manufacturer's specifications in Virginia, the manufacturer shall provide to VDH the following documentation:

(1) The manufacturer's product and design specifications for installing its system (i.e., the design and installation manual);
(2) Evidence of financial assurance acceptable to VDH in the amount of at least $100,000.00;
(3) The warranty language acceptable to VDH (see Appendix A) that will be provided to owners; and
(4) The list of certified installers (Note: this list is to be provided to the extent that the manufacturer has trained and certified installers at time of application for authorization. Authorization of a Substituted System pursuant to this policy is not contingent upon this list, however it shall be the Manufacturer's responsibility to ensure that all installers are properly trained and certified and that the list of certified installers is provided to VDH prior to the installation of any Substituted System(s)).

B. VDH shall issue the manufacturer's authorization under this policy within thirty (30) calendar days of receipt of the above documentation if it complies with the conditions of this policy. If VDH determines that the information submitted does not comply with the conditions of this policy, it shall notify the manufacturer, within thirty (30) calendar days, of the deficiencies.

C. VDH's recognition of an alternative method of designing a system pursuant to this policy shall not be construed, reported, or advertised as an approval or endorsement by the Virginia Department of Health.

9. Termination.

VDH may terminate a manufacturer's authorization under this policy for failure to comply with any condition or conditions of this policy. VDH may terminate the manufacturer's authorization under this policy if the failure rate exceeds (F) in Paragraph 6.B above. VDH may revoke any permit issued pursuant to this policy if it determines that a manufacturer, owner or contractor has not complied with any provision of this policy or applicable provisions of the *Regulations*.

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 SUBSTIUTION
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 NEGLECT; 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 SUBSTIUTION
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 NEGLECT; 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

Revised: 03/11/03

Manufacturer	Listed Products	Approval Granted	Latest Revision	Approval Rescinded
Infiltrator Systems, Inc.	High Capacity SideWinder	5/20/02		
	Standard SideWinder	5/20/02	10/25/02	
	Standard	5/20/02	10/25/02	
	Equalizer 36	5/20/02		
	Equalizer 24	5/20/02	10/25/02	
Advanced Drainage Systems, Inc.	BioDiffuser - Standard	8/9/02	1/14/03	
	BioDiffuser - High Capacity	8/9/02		
	BioDiffuser - Bio 2	8/9/02	1/14/03	
	BioDiffuser - Bio 3	8/9/02		
Ring Industrial Group, EZ*flow*	EZ1203T	2/10/03		
	EZ1203H	2/10/03		
	EZ1402H	2/10/03		