

RECEIVED

MAR 09 2015

GILMORE & ASSOCIATES, INC.
TRAPPE, PA

**CUSTOMER SERVICE AGREEMENT
BY AND BETWEEN
TOWAMENCIN TOWNSHIP
AND
UPPER GWYNEDD TOWNSHIP**

THIS CUSTOMER SERVICE AGREEMENT made and concluded this 2nd day of March, 2015, by and between **TOWAMENCIN TOWNSHIP**, Montgomery County, Pennsylvania ("Towamencin"), and **UPPER GWYNEDD TOWNSHIP**, Montgomery County, Pennsylvania ("Upper Gwynedd").

WHEREAS, the parties will finalize a "Withdrawal Agreement" agreement which will result in the withdrawal of Upper Gwynedd Township from the Upper Gwynedd Towamencin Municipal Authority ("UGTMA") and provide for the continued operation of the Treatment Plant and an associated interceptor known as the Kriebel Road Interceptor by and through Towamencin and/or its assigns. Also, by such Agreement, Upper Gwynedd will commit to a redirection of at least eighty-five (85) percent of the existing sewage flow from the UGTMA service area located in Upper Gwynedd Township to a sewage treatment plant owned and operated by Upper Gwynedd ("the Project"); and

WHEREAS, Towamencin and Upper Gwynedd have agreed that Upper Gwynedd shall become a bulk customer of Towamencin for sanitary sewer treatment until such time that aforementioned redirection of sewage flow to a sewage treatment plant other than the Towamencin wastewater collection and treatment facilities; and

WHEREAS, a portion of Upper Gwynedd flows may remain tributary to Towamencin after the redirection of sewage flow, and for such remaining flows Upper Gwynedd shall continue to be a bulk customer of Towamencin for sanitary sewer treatment; and

WHEREAS, the UGTMA and/or its assigns owns and operates a sanitary sewer system that provides sanitary sewer service to the public in Towamencin Township and a portion of Upper Gwynedd Township, Montgomery County, Pennsylvania; and

NOW, THEREFORE, in consideration of the mutual promise herein contained and intending to be legally bound hereby, the parties hereby agree as follows:

1. **Defined Terms.** The terms defined in this Section, whenever used or referred to in this Agreement, shall have the respective meanings indicated unless a different meaning clearly appears from the context.

(a) Annual Average Daily Flow (AADF) shall mean the total flow received at the Wastewater Treatment Plant or discharged from a development or Municipality during any one (1) calendar year, divided by the number of days in the respective calendar year.

(b) Authority shall mean the Upper Gwynedd Towamencin Municipal Authority (UGTMA).

(c) Capacity shall mean the quantity of Sewage Flow measured in the manner described herein or, as calculated in the manner approved by governmental bodies having jurisdiction, measured in GPD or MGD.

(d) Common Transportation Facilities shall mean any underground pipeline or pipelines, operated and maintained by the UGTMA and used, inter alia, for the transportation of Sewage, regardless of its concomitant use by Towamencin Township to collect Sewage within the Towamencin Township Sewage Collection System, now or hereafter used in common by the UGTMA and Towamencin Township for the transportation of Sewage.

(e) Commonwealth shall mean the Commonwealth of Pennsylvania.

(f) Corrective Action Plan (CAP) shall mean a Plan required to address the planning, design, financing, construction and operation of the Sewage Facilities that may be necessary to provide Capacity that will meet anticipated demands for a reasonable time in the future and resulting in a project that is consistent with this Agreement and applicable official Plans approved under the Pennsylvania Sewage Facilities Act (Act 537). A CAP shall include, but not be limited to setting forth steps to be taken by the contributing Municipality to prevent the Capacity from being exceeded, and a Schedule showing the dates each step toward the compliance with the Agreement shall be completed. If necessary, to address exceedance of the Capacity, it will include limitations on, and a program for control of, new connections to the Sewage Facilities. A CAP may include a projection of the anticipated flow reduction. Where flow reduction projections

are applicable, they shall be determined by Agreement of the Towamencin Township Engineer and the Upper Gwynedd Township Engineer. The Municipality will be required to provide data, as requested, to the Towamencin Township Engineer to assist in the determination of the flow reduction. Upon completion of elements of a CAP, a Municipality shall receive the flow reduction credit associated with the improvements, as listed in the CAP, and the Capacity shall be modified for planning purposes.

(g) DEP shall mean the Department of Environmental Protection of the Commonwealth of Pennsylvania.

(h) Fiscal Year shall mean the fiscal year of the applicable Municipality as provided by the laws of the Commonwealth which, unless otherwise stated, shall be a calendar year.

(i) GPD shall mean gallons of Sewage per day.

(j) Maximum Month Flow (MMF) shall mean the highest monthly flow during a calendar year.

(k) MGD shall mean millions of gallons of Sewage per day.

(l) Person or Persons means an individual, a partnership, an association, a corporation, a joint stock company, a trust, an unincorporated association, a governmental body, a political subdivision, a municipality, a municipality authority, or any other group or entity.

(m) Projected Flow shall mean:

(i) Projected Flow will be the calculated flow from developments with approved planning modules, either during or prior to construction. The Projected Flow is the sum of residential and non-residential flows for the development.

(ii) Residential flow projections will be based on flow per Equivalent Dwelling Unit ("EDU"). Typically, the residential per EDU AADF at the property will be 200 gallons per day (GPD) and 280 GPD wastewater flows with I/I at the WWTP. If deemed necessary by the Towamencin Township Engineer, the Municipality will determine specific AADF GPD/EDU rates for the proposed development. These rates will be backed up by water meter data and/or metered sewage flows (3 year history) from developments of a similar age and type of property usage or, if requested, by an

alternative method deemed suitable by Towamencin Township. The Residential per EDU AADF at the WWTP is 280 GPD.

(iii) Non-residential flow projections will be based on water consumption data (3 year history) from an existing similar facility. This data will be used to predict AADF for the proposed development at 200 GPD per EDU.

(n) Service Agreement shall mean this document and any amendments and/or supplements hereto.

(o) Sewage shall mean domestic sanitary sewage and/or industrial wastes as such phrases usually and customarily are used by sanitary engineers.

(p) Sewage Collection System shall mean the Sewage collection and transportation system facilities existing or hereafter to be acquired and/or constructed by each respective township, for use and operation by it, together with all appurtenant facilities and properties which have been acquired or hereafter shall be acquired in connection therewith, excluding the UGTMA Sewage Collection System and the Common Transportation Facilities.

2. **Mutual Cooperation.** Towamencin and Upper Gwynedd agree to cooperate with each other in the obtaining of any and all permits, approvals and authorizations from DEP and any other regulatory, municipal or governmental agency which now has or may have jurisdiction over any aspect of the Project, in the obtaining of any necessary Act 537 Plan amendments, and in the obtaining of any available grants or other funding advantageous to the Project.

3. **Permitting Costs.** Upper Gwynedd shall bear all costs associated with obtaining all permits, approvals and authorizations from DEP and any other regulatory, municipal or governmental agency which now has or may have jurisdiction over any aspect of this Agreement pertaining to the Project, except that Towamencin shall bear all costs associated with preparation of any Act 537 Plan required of it and approval thereof by DEP.

4. **Acceptance of Sewage Flow.** Towamencin shall accept all sanitary sewer flow from Upper Gwynedd's service area that is located in the previous UGTMA service area located within Upper Gwynedd Township until completion of the Project. As of the

execution of this Agreement, Upper Gwynedd represents that it provides service to 4,000 Equivalent Dwelling Units (EDUs). The parties agree that this number is based in part upon Merck usage of 48,335 GPDs and Lehigh Valley Diaries' usage of 141,659 GPDs (for the purpose of audit). Any new residential purchase capacity would automatically (without the use of the audit) be added to the agreed 4,000 number upon connection. After completion of the Project, Towamencin shall continue to accept all sanitary sewer flow from those portions of Upper Gwynedd's service area from which service flows will not be redirected pursuant to the Project. Upper Gwynedd will be permitted to serve additional physical connections or more intense uses subject to the payment of additional per EDU tapping fees, the payment of the applicable annual sewer rental per EDU, and allocation of additional flow credits from DEP per any CAP and Connection Management Plan. Each residential unit will represent one EDU. Non-residential units will represent the number of EDUs derived by dividing the anticipated annual average daily water use by 200 gallons per day. These numbers may be amended in the future. Increases in sanitary sewer flow are limited to 2% per year with a maximum future additional capacity limited to 300 EDUs.

In the event that Upper Gwynedd Township exceeds the flow limits set forth herein, Upper Gwynedd Township agrees to immediately prohibit any further connections as directed by PADEP to the system until such time as Upper Gwynedd Township, Towamencin Township, and the Pennsylvania Department of Environmental Protection agree and implement a Corrective Action Process and/or Connection Management Plan.

5. **Sewer Charges and Surcharges.**

(a) Prior to completion of the Project Upper Gwynedd shall pay to Towamencin, in consideration of the acceptance by Towamencin of sewage flow as provided in paragraph 4 hereinabove an annual sewer rental of \$1,125,000.00, calculated as follows: 4,000 EDUs x \$375.00 per EDU x a treatment factor of 0.75. The Treatment Factor of 0.75 adjusts the Towamencin rate to eliminate the portion of Towamencin's rate associated with the cost of wastewater collection services, which are not provided by Towamencin to Upper Gwynedd. This rental shall be increased on an EDU basis as additional EDUs of sewage flow are either assigned to a property by Upper Gwynedd in its sole discretion or are purchased by Upper Gwynedd.

This annual sewer rental shall be paid in quarterly installments in advance on January 15, April 15, July 15, and October 15. Upper Gwynedd will be entitled to a 2 percent discount, however, should Upper Gwynedd pay the total annual rental prior to April 30th of each year. The per-EDU rate used to calculate this annual sewer rental shall not be changed by Towamencin, without the prior written consent of the Upper Gwynedd until January 1, 2018.

Beginning on the date six (6) months from the date of this Agreement and continuing once annually thereafter, an audit of the number of EDU's in use in Upper Gwynedd will be performed with the resulting number to be applied to determine the correct rental charge. For the purposes of this audit, each independent living unit shall be one EDU and each 200 GPD of metered water consumption for a non-residential customer shall be considered one EDU for billing purposes.

(b) From and after completion of the Project, the aforesaid annual sewer rental shall be calculated by using the lowest per-EDU rate then charged by Towamencin to any of its residential customers, multiplied by the Treatment Factor of 0.75. Said annual sewer rental shall continue to be paid in quarterly installments in advance on January 15, April 15, July 15, and October 15. Upper Gwynedd will be entitled to a 2 percent discount, however, should Upper Gwynedd pay the total annual rental prior to April 30th of each year.

(c) Prior to completion of the Project, Upper Gwynedd will pay no surcharges for excessive flows. Following completion of the Project or upon abandonment of the Project by Upper Gwynedd, Upper Gwynedd will pay a surcharge if the average daily flow for a month exceeds 400 gallons per day per EDU times the number of EDUs that remain within the UGTMA Collection System. The surcharge on such excess will be two times the per thousand gallon rate then charged by Towamencin to its non-residential customers multiplied by the treatment factor of 0.75 for volume overage in a month. Said surcharge shall be paid by the 15th day of the month following the month for which a surcharge is due. For example, for a surcharge occurring in September, Towamencin would expect to provide a bill to Upper Gwynedd for this calculated amount in October with payment expected within thirty (30) days of the invoice.

(d) In the event that Upper Gwynedd chooses not to complete the Project, Upper Gwynedd agrees to pay a Capital Contribution for use by Towamencin Township for the completion of the expansion of the Kriebel Road Interceptor Facilities and an installation of up to three (3) MG of equalization at the Treatment Plant. Such expansion and equalization projects are to be designed and constructed to accommodate flows from Upper Gwynedd Township and Towamencin Township as anticipated by this Agreement. Such contribution shall be equal to fifty percent of the cost for such improvements with such sum not to exceed the amount of \$6,791,000 (as adjusted over the life of the Agreement by an inflation factor using ENR Construction Costs Index). The date that this payment must be made will be based upon the schedule contained in the Authority's Corrective Action Plan as approved by DEP.

(e) Billing Disputes. If Upper Gwynedd disputes a bill in good faith, Upper Gwynedd must, on or before the bill due date, (a) pay the undisputed portion of the bill, and (b) notify Towamencin in writing of the basis for the dispute. If the dispute is regarding meter accuracy, a meter test will be performed by the R. G. Malden Company or any other qualified firm acceptable to both parties. If the meter test proves that the meter is within 4% (four percent) accuracy, Upper Gwynedd shall, within two business days of such meter test, pay to Towamencin the disputed portion of the bill, together with accrued interest from the invoice date, and the cost of the meter test. If the meter test proves that the meter is not within 4% (four percent) accuracy, a billing adjustment will be made to reflect the volume that would have been transmitted had the meter been reading at 100% (one-hundred percent) accuracy for the billing period in question, Towamencin will pay for the cost of the meter test and the meter will be replaced or recalibrated at Towamencin's option.

(f) In instances where volume of discharge, or portions thereof, by Upper Gwynedd cannot be accurately measured by a particular flow meter by reason of malfunction of the meter, the volume of Sewage discharge shall be measured by estimates using one (1) of the following methods: (a) according to the number of "Equivalent Dwelling Units," as that term shall be defined, from time to time, constituting improved properties served by the particular Sewage Collection System, or portion thereof,

discharging Sewage through such flow meter or point of discharge; (b) measured or estimated water consumption by the applicable customers of Upper Gwynedd; (c) based upon a monthly average of Sewage flow measured at such location during a preceding twelve (12) month period; or (d) use of Graphical Correlation of flows based on the prior four (4) quarters of recorded date. The use of Graphical Correlation of flows shall be the preferred method of estimating flows whenever sufficient suitable historic data is available with which to develop the graph. Subject to the requirement for estimates described above, the readings set forth at said flow meters shall constitute conclusive evidence of the amount or volume of Sewage flow discharged by Upper Gwynedd into Towamencin.

6. **Meters**

(a) Meters shall continue to be *Palmer Bowlus Flume* with Bubbler Level measuring instrumentation and located at the following locations where Upper Gwynedd sanitary sewer flows cross in to Towamencin:

- i. MH 24A near Bancroft Road
- ii. MH 21.2 near Hillside Road
- iii. MH 336 on Anders Road
- iv. MH 236 on Valley Forge Road near PA Turnpike

(b) Meters shall be tested semi-annually at intervals of approximately six months by Towamencin according to industry standards for the type of meter in service. Towamencin shall provide Upper Gwynedd with copies of certified reports of test(s) on the accuracy of meter(s) commencing on the Effective Date of the Agreement, and once each year thereafter until termination of this Agreement, or any renewal terms hereof. If requested in writing by Upper Gwynedd, Upper Gwynedd shall have the right to be present when meter testing is performed. Upper Gwynedd may obtain access to inspect metering facilities upon written request made to Towamencin. Meter tests requested by Upper Gwynedd, in excess of the two semi-annual tests provided herein and not in connection with bill disputes pursuant to paragraph 6(d) hereof, shall be performed at the sole expense of Upper Gwynedd. Upper Gwynedd reserves the right to electronically monitor through its SCADA system or other similar means and to perform its own readings and tests on the accuracy of meter(s) at any time at Upper Gwynedd's expense.

7. **Records.** Upper Gwynedd represents that it maintains accurate records of connections to Upper Gwynedd's sewer system, estimated gallons of sewage contributed to said system by commercial and/or industrial customers based on the Upper Gwynedd's water meter records and any other records necessary for the accurate calculation of the sewer rates due and payable by Upper Gwynedd to Towamencin as described in paragraph 5 herein. As of March 1 of each year, Upper Gwynedd shall submit a report to Towamencin setting forth the number of connections made up through December 31st of the previous calendar year and, if different, the number of EDU's contributory to its service area at the beginning and at the end of such year. Upper Gwynedd shall include in its report the number of gallons assigned to each connection. It is understood by and agreed to by Towamencin, that notwithstanding the number of gallons assigned to each connection or EDU, that Towamencin shall be entitled to additional tapping fees for new connections only. There shall be no tapping fees paid for additional flow where surcharges are paid per paragraph 5.

8. **Maintenance and Repair.** Upper Gwynedd represents that it maintains and will continue to maintain all connections by its customer to its collection system, its collection lines and interceptors up to the point where the sewer system of Upper Gwynedd crosses the Towamencin Township boundary. All decisions regarding the repair, maintenance or replacement of any physical asset comprising Upper Gwynedd's collection system will remain the exclusive right of Upper Gwynedd.

9. **Wastewater Quality**

(a) Upper Gwynedd agrees to implement and operate a pretreatment program with respect to its commercial and industrial contributors consistent with that implemented and operated from time to time by Towamencin to the extent required by Towamencin, the Pennsylvania Department of Environmental Protection or the United States Environmental Protection Agency.

(b) **Uniform Standards.** Towamencin has uniform Sewage effluent quality standards which comply with the requirements of regulatory authorities. Upper Gwynedd will not discharge or permit the discharge of Sewage from its Sewage Collection System into the Common Transportation Facilities or the Treatment Plant that would violate any of

such standards. Towamencin will make no changes in said standards except upon ninety (90) days prior notice to Upper Gwynedd, and all such changes will apply equally to Towamencin and Upper Gwynedd.

(c) Compelling Compliance with Standards. Upper Gwynedd shall enact or cause to be enacted an ordinance, in a form acceptable to Towamencin, and will keep such ordinance in full force and effect at all times, prohibiting, and providing adequate penalties for, the discharge into its Sewage Collection System of anything violating the above-mentioned effluent quality restrictions of Towamencin and hereby covenants to enforce, and request the enforcement of, as applicable, the provisions thereof when brought to its attention. Such ordinance shall also prohibit and/or regulate the discharge into its Sewage Collection System by any Person of industrial waste, as defined in the applicable regulations of Towamencin. Upper Gwynedd will not permit any discharge into its Sewage Collection System except in the manner and in accordance with the provisions of said ordinance, as applicable.

(d) Treatment of Harmful Wastes. If any Sewage discharged by Upper Gwynedd into the Treatment Plant is in violation of Towamencin's standards as determined by this Article and requires special treatment or would be harmful to the Treatment Plant, then Upper Gwynedd will pay the entire cost of any special treatment as a separate charge, and, Upper Gwynedd, on written notice of violation from Towamencin, shall immediately act to enforce or obtain the enforcement of those quality standard Ordinances by connection ban or by providing or requiring pretreatment of such waste in such manner as is provided by said Ordinances or compel disconnection from the Sewage Collection System of the property from which harmful waste is being discharged. Failure by Upper Gwynedd to compel disconnection or pretreatment upon thirty (30) days written notice to same, shall entitle Towamencin to recover the Costs of any upgrading, enhancements or other remedial action deemed necessary by Towamencin as a result of such discharge and collect the same.

(e) Reimbursement For Damages From Improper Discharge. Upper Gwynedd will pay the cost of any damage to the Treatment plant or the Common Transportation Facilities resulting from discharge of improper waste from its Sewage Collection System in

violation of the above-mentioned quality standards and restrictions, within sixty (60) days after notice by Towamencin, and shall indemnify and hold harmless Towamencin with respect thereto.

10. **Infiltration and Inflow**. Upper Gwynedd represents that it will continue an inflow and infiltration abatement program during the life of this Agreement. Upper Gwynedd agrees to provide Towamencin, by March 1 of each calendar year, an annual report summarizing its efforts to monitor and reduce the quantities of inflow and infiltration from its sewerage system that flows in to Towamencin's system. If and to the extent that the sanitary sewage flow contributed by Upper Gwynedd to Towamencin's sewage system prior to completion of the Project exceeds any of the peak hourly flow rates in Appendix "A", or if required by the Pennsylvania Department of Environmental Protection, Upper Gwynedd agrees to revise and implement its infiltration and inflow program in an effort to reduce infiltration and inflow such that the peak hourly flow rate does not exceed said amount, said action to be accomplished within a time specified by required by the Pennsylvania Department of Environmental Protection, if applicable, or within a reasonable time. From and after completion of the Project, the threshold requiring said implementation shall be a peak hourly flow rate equal to 4.0 times the then number of EDU's contributory to the Towamencin sanitary sewer system times 280 gallons per EDU.

11. **Fines and Penalties**

(a) Sanitary Sewer Overflows ("SSOs"). In the event of the occurrence of any SSO in a line carrying flows from Upper Gwynedd, Upper Gwynedd agrees to pay 22.537 percent of any fines, penalties and assessment assessed by DEP and any other regulatory municipal or governmental agency having jurisdiction related to such SSO from February 19, 2015, until the completion of the Project. This contribution will be for SSOs in the KRI and not at the WWTP. Following completion of the Project, Upper Gwynedd will bear no responsibility for contribution to these costs.

(b) Upper Gwynedd shall not be responsible for any fines, penalties or assessments, or any percentage thereof, assessed by DEP and any other regulatory,

municipal or governmental agency which now has or may have jurisdiction over any aspect of the Project, for sanitary sewer overflows within Towamencin's sewer system.

12. **Hold Harmless.** Towamencin shall indemnify, defend and hold Upper Gwynedd harmless from and against any and all claims, suits, actions liabilities, losses, damages and expenses (including, without limitation, reasonable outside attorney's fees and court costs), whether relating to injury to property or to person (including death), arising solely from or in connection with the actions of Towamencin related to this Agreement.

Upper Gwynedd shall indemnify, defend and hold Towamencin harmless from and against any and all claims, suits, actions liabilities, losses, damages and expenses (including, without limitation, reasonable outside attorney's fees and court costs), whether relating to injury to property or to person (including death), arising solely from or in connection with the actions of Upper Gwynedd related to this Agreement.

13. **Miscellaneous.**

(a) The parties agree to defend the validity of this Agreement and to take no action to defeat or frustrate the intent and purposes of this Agreement.

(b) Towamencin and Upper Gwynedd may proceed to protect and enforce their respective rights hereunder under the laws of the Commonwealth of PA by such suits, actions or special proceedings in equity or at law, in the Court of Common Pleas of Montgomery County, Pennsylvania, whose jurisdiction shall be deemed exclusive, either for the specific performance of any covenant or agreement contained herein or in aid of execution of any power herein granted or for the enforcement of any proper legal or equitable remedy.

(c) All notices required or contemplated by this Agreement shall be personally served, sent by overnight delivery service or mailed, postage prepaid, with return receipt requested, or faxed to the parties addressed as follows:

To Towamencin:

If forwarded by U.S.P.S. mail to:

Towamencin Township
Attention: Township Manager
P.O. Box 303
Kulpsville, PA 19443

OR DELIVERED TO:

Towamencin Township
Attention: Township Manager
1090 Troxel Road
Lansdale, PA 19446

To Upper Gwynedd:

Upper Gwynedd Township
Parkside Place
P. O. Box 1
West Point, PA 19486
Attention: Township Manager
Fax Number: 215-699-8846

Notice given by personal delivery, overnight delivery service or mail shall be effective upon actual receipt. Any party may change any address to which notice is to be given to it by giving notice as provided above of such change of address.

(d) The authority of the officials of Towamencin and Upper Gwynedd to execute this Agreement shall be evidenced by a resolution properly passed by the Towamencin Township Board of Supervisors and the Upper Gwynedd Township Board of Commissioners prior to the execution hereof.

(e) A waiver of any breach of any provision of this Agreement shall not either constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or any other provision.

(f) Towamencin and Upper Gwynedd agree that the laws of the

Commonwealth of Pennsylvania shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

(g) No amendment to this Agreement shall be effective unless it is in writing, signed by the authorized representatives of both parties and certified as to the availability of an appropriation.

(h) The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of this Agreement can be determined and effectuated.

(i) If any provision of this Agreement is held to be illegal, invalid or unenforceable, that provision shall be enforced to the maximum extent permissible so as to affect the intent of the parties, and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. If necessary to effect the intent of the parties, the parties shall negotiate in good faith to amend this Agreement to replace the illegal, invalid or unenforceable language with legal, valid and enforceable language that as closely as possible reflects such intent. In any event, this Agreement shall be enforced to the fullest extent permitted by law.

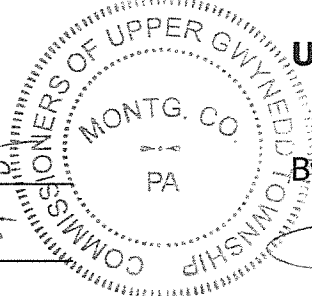
(j) This Agreement shall be binding upon the parties hereto, their successors and permitted assigns.

(k) This is the entire agreement of the parties concerning the subject matter of this Agreement and supersedes all prior agreements between the parties, oral or written, to the extent they relate to the subject matter hereof.

(l) Any delays or failure of performance by Towamencin or Upper Gwynedd shall not constitute a default hereunder or give rise to any claims for damages if and to the extent that such delay or failure is caused by one or more occurrences which are beyond the reasonable control of the delaying or failing party including, but not limited to, terrorism strikes or other labor difficulties, war, riots, act of governmental authorities, abnormal weather (including blizzards, hurricanes or other severe storms that may adversely impact safe collection or facility operation) fire, flood, unavoidable casualties or delays in transportation.

(m) Arbitration. If any claims, controversies or disputes shall arise out of or be related to this Agreement or the breach thereof, the Parties agree to submit the said claim, controversy or dispute to binding arbitration in accordance with the prevailing rules of the American Arbitration Association. Said arbitration shall be held in the County of Montgomery, each Party to bear its own costs and the costs of the arbitrators to be borne equally by both Parties. As to any arbitration, each Party shall select one arbitrator, within ten (10) days of the event requiring said arbitration, and the two arbitrators so selected shall promptly select the third. If said arbitrators are unable to select a third arbitrator, one shall be assigned by the American Arbitration Association. If the claim, controversy or dispute concerns a termination of the Agreement based upon an event of default or otherwise, the termination shall be automatically stayed pending completion of the arbitration proceedings, including any appeal of the decision and award rendered by the arbitration panel.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be properly executed the day and year above written.

 **UPPER GWYNEDD TOWNSHIP**
Date: 3/2/2015 By: *Kenneth E. Kobayashi*
Date: 3-2-2015 *[Signature]* President
[Signature]
Witness

TOWAMENCIN TOWNSHIP
Date: 3/2/2015 By: *[Signature]*
Date: 3/2/2015 *[Signature]* Chair
[Signature]
Witness

March 2, 2015 Draft

APPENDIX "A"

24-Feb-15

FLOW RATE LIMITS

MH #	Location	# EDU	Flow /EDU	AADF	MMADF	Peak Hourly Rate
		#	GPD	MGD	MGD	MGD
24A	Bancroft Ct	3286	280	0.920	1.314	3.680
21.2	Hillside Rd	220	280	0.062	0.088	0.246
336	Anders Rd	60	280	0.017	0.024	0.067
236(35)	Valley Forge Rd (PA Turnpike)	434	280	0.122	0.174	0.486
Totals		4000	280	1.120	1.600	4.480

Criteria:

AADF = # EDU * 280 GPD/EDU

5 Yr Avg MM/ADF UGTMA ratio= 1.323

Peak Hourly Rate= 4.0* AADF

MMADF = #edu * 400/GPD/EDU 400 GPD/EDU

Note:

- 1 AADF is Annual Average Daily Flow
- 2 MMADF is Maximum Month Average Daily Flow
- 3 # EDU as agreed to by UGT and TT based on negotiations and available data from 12/31/13.
- 4 The 3286 EDU at MH 24A includes a Merck flow of 48,335 GPD and a Lehigh Valley Dairy flow of 141,659 GPD.
- 5 All non-residential EDU assumed to be tributary to MH 24A.