

RESOLUTION OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION OF THE INDUSTRIAL WASTE DISCHARGE AGREEMENT BIND BETWEEN THE TOWN OF PHILLIPSBURG AND MCWANE DUCTILE

WHEREAS, the Town is the owner of the sewage treatment plan ("Plant") located at 900 South Main Street in the Town of Phillipsburg;

WHEREAS, the Town formed, pursuant to N.J.S.A. 40A:26A-1, et. seq. a municipal sewer utility ("Utility") in order to provide for transportation, treatment and disposal of wastewater;

WHEREAS, McWane Ductile ("Customer") produces industrial wastewater, consisting of treated storm water and treated cooling water;

WHEREAS, the Customer currently has an industrial waste discharge agreement with the Town ("Agreement"), which agreement establishes the rights and obligations of the Town and the Customer for the discharge of the Customer's industrial wastewater and the treatment of same by the Town's Plant;

WHEREAS, the Parties desire to amend the agreement in order to account for the needs of the Customer in a manner satisfactory to the Town;

WHEREAS, the Parties have negotiated an amendment to the agreement which amended agreement is attached hereto and shall replace and supersede the prior agreement;

WHEREAS, the Town Council desires authorizing the execution of same.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council, Town of Phillipsburg, County of Warren, State of New Jersey, that the industrial waste discharge agreement by and between the Town of Phillipsburg and McWane Ductile in the form attached hereto is hereby authorized and accepted.

BE IT FURTHER RESOLVED, by the Town Council, that the Mayor and the Municipal Clerk are hereby authorized and directed to execute the agreement and attest to the same.

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Town Council at their September 04, 2019 meeting.

Victoria L. Kleiner
Municipal Clerk

TOWN OF PHILLIPSBURG
INDUSTRIAL WASTE DISCHARGE AGREEMENT

THIS AGREEMENT made this _____; between the Town of Phillipsburg, with offices at Municipal Building, 675 Corliss Avenue, Phillipsburg, New Jersey, 08865, (Hereinafter referred to as the “Town”), and McWane Ductile – New Jersey, 183 Sitegreaves Street, Phillipsburg, NJ 08865 (hereinafter referred to as “Customer”) (collectively, the “Parties”);

WITNESSETH:

WHEREAS, the Customer has applied to the Town for permission to discharge industrial wastewater, consisting of treated storm water and treated cooling water, into the sewer system owned and operated by the Town; and

WHEREAS, pursuant to N.J.S.A. 40A:26A-1, *et. seq.*, the Town has established a municipal sewer utility (“Utility”) in order to provide for transportation, treatment and disposal of wastewater; and

WHEREAS, the Town is the owner of a Sewage Treatment Plant (“Plant”) located at 900 South Main Street in the Town of Phillipsburg, Warren Count, New Jersey; and

WHEREAS, the Town has agreed to accept said wastewater subject to the provisions of this Agreement;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PREMISES AND COVENANTS CONTAINED HEREIN, it is agreed by the parties hereto as follows:

1. General Terms of Agreement.

- A. This Agreement shall remain in effect for five (5) year period from the date specified above and replaces and supersedes any and all industrial discharge agreements by and between the Parties in their entirety.
- B. The Customer shall not discharge after the date of expiration of the Agreement. If the Customer wishes to continue to discharge after the expiration date, application forms provided by the Town must be completed and returned to the Town a minimum of ninety (90) days prior to the expiration date of this Agreement. In the event that a timely and complete application for renewal has been submitted and the Town is unable, through no fault of the Customer, to reissue the Agreement before the expiration date, the terms and conditions of the Agreement will be automatically continued and will remain fully effective and enforceable pending the grant or denial of the application for Agreement renewal.
- C. This Agreement may be modified, suspended, or revoked in whole or in part during its term for causes including the causes listed below. The Town shall provide thirty (30) days advance notice to the Customer of its intent to modify, suspend, or revoke the Agreement, when practicable. The following are representative of, but not inclusive of

all, events which constitute cause for the modification, suspension, or revocation of the Agreement by the Town.

- (1) A violation of any term or condition of the Agreement.
- (2) Obtaining an Agreement by misrepresentation of failure to disclose fully all relevant facts.
- (3) A significant change in Customer discharge conditions which requires either a temporary or permanent reduction or elimination of the authorized discharge. This would include but not be limited to such changes as wastewater quality and/or quantity, etc.
- (4) Promulgation of a more stringent pretreatment standard by State or Federal agencies having jurisdiction over receiving waters. Agreements modified under this section may include implementation schedules, self-monitoring requirements, revised effluent limitations, and other provisions necessary to assure compliance. Such change in pretreatment standards shall not result in the revocation of the permit pursuant to this paragraph provided that Customer is in compliance with the more stringent pretreatment standard(s).
- (5) A violation of this Agreement or Chapters 485 and 492 of the Code of the Town of Phillipsburg ("Sewer Ordinances"), will constitute cause entitling the Town to discontinue service to the Customer, in addition to the other penalties provided in the Town's Sewer Ordinance. Customer acknowledges this.

D. The Customer shall allow any duly authorized representative of the Town on its premises upon disclosure of the proper credentials for the following:

- (1) Access to and copy any records required to be kept by the Customer under the terms and conditions of this Agreement and other documents required by law.
- (2) Inspection of the entire facility and any monitoring equipment or monitoring method which may be required.
- (3) Sampling at any location for the purpose of assuring permit compliance with any substances or parameters.

E. This Agreement is not transferable.

F. Unless otherwise stipulated in this agreement, notifications may be made by electronic or faxed or hard copy means of information transmittal. The Customer must notify the Town in writing at least thirty (30) days prior to any significant changes in the operation and process including process flow, characteristics of the process flow and production rates, unless such change is due to an emergency event in which case telephone notice shall be provided to the Town within 24 hours of the event causing the change.

Notification must be made via certified mail/return receipt or electronic mail/delivery receipt:

ATTN: Chester Makowski (email: cmakowski@naturalsystemsutilities.com)
Daniel Baransky, (email: dbaransky@naturalsystemsutilities.com)

Phillipsburg Sewer Utility, 900 South Main Street, Phillipsburg, NJ 08865.

- G. The Town may, upon providing thirty (30) days notification, terminate this Agreement for the purpose of subsequently issuing a wastewater discharge permit with similar terms and conditions. This Agreement shall continue in full force and effect until the modified Agreement is finalized and signed by both parties.
 - H. Customer shall provide the Phillipsburg Sewer Utility with Standard Operating Procedures ("SOP"), which may be amended from time to time, for the management of storm water and discharge of the treated wastewater into the Town's system.
2. Sewer Use Ordinance. The Customer represents that it has reviewed the Town's Sewer Use Ordinance and agrees to comply with all terms and conditions of the Sewer Use Ordinance.
3. Waste Characteristics.
- A. If and when directed, Customer agrees to install an industrial waste flow meter(s) and sampler(s) in accordance with the Town requirements. This equipment will be properly maintained including regular calibration. The wastewater discharged by the Customer into the Town's system shall comply in all respects with the wastewater quality limits of the Phillipsburg Sewer Use Ordinance, and State and Federal Regulations and limits, whichever is more stringent.
 - B. Process wastewater shall be limited to the following:
 - (1) Treated cooling water
 - (2) Treated storm water
 - C. The process discharges from the Customer must meet the narrative and numeric quality requirements of the Sewer Use Ordinance at all times.
 - D. The volume of discharge from the Customer shall not exceed an average daily flow rate of 50,000 gallons per day and a maximum of 200 gallons per minute; 55,000 gallons per day and 12.0 Million Gallons per year. At these discharge rates the Phillipsburg Sewer Utility has determined that the Customer has no reasonable potential for adversely affecting the POTW's operation or for violating any standards or requirements. The Customer petitioned the NJDEP for a waiver of the SIU requirements as to the average daily flow rate of 25,000 gallons per day and obtained approval from NJDEP, Division of Water Quality, Bureau of Pretreatment and Residuals, by letter postmarked August 18, 2017, for a discharge not to exceed an average daily flow rate of 50,000 gallons per day. Modifications, additions and/or expansions that increase or decrease the average monthly flow quantity of wastewater discharged must be reported to the Town in writing in accordance with Section 1F prior to any such modifications and this Agreement may then be modified or reissued to reflect such changes.
 - E. All discharges must be conducted between 7 a.m. and 4 p.m. Monday through Friday; unless alternate approval is received from the Phillipsburg Sewer Utility; and not to exceed a maximum of 200 gallons per minute and shall not exceed 55,000 gallons per day.

F. The Customer is authorized to discharge as outlined in Section 3E. Any proposed changes to the discharge schedule (i.e., weekends, holidays, or discharge hours) must be faxed/mailed to the Phillipsburg Sewer Utility a minimum of two (2) working days (Monday through Friday, not including Holidays) prior to any discharge to the sewer system. Pursuant to Section 1G, the Town reserves the right to reasonably deny the proposed discharge based on plant operational, wastewater quality and/or rain events. Approvals regarding changes to the discharge schedule will be faxed/mailed by the Plant to the Customer and must be received prior to any discharge. In cases where the Customer is not planning to discharge on any given day, no notification is required.

G. The Plant/Town may grant the Customer a variance to the daily flow limitation and notice requirements in the event of the need of an emergency discharge to the POTW. Variances will be provided in writing at the discretion of the Plant/Town. In no instance shall the Customer exceed its daily max flow requirements, unless a variance is granted, or the discharge quality limitations outlined in this Agreement and the Phillipsburg Sewer Use Ordinance.

4. Fees and Charges.

A. Connection Fee. Customer agrees to the Town's Ordinance governing non-residential connection fee applies.

B. Service Charges. Customer agrees to pay service charges to the Town in accordance with the Town's Sewer Use Ordinance and Rates, as the same may be amended from time to time. Customer acknowledges that they are aware that there are surcharges which may be imposed for exceeding any of the standards set forth in the Town's Sewer Ordinance wastewater quality limits. The Customer agrees to bear any cost incurred by the Town for testing procedures to determine that the sewer flow is within the parameter limits established by the Town.

C. Miscellaneous. In consideration of the increased annual flow to the Plant, the Customer agrees to pay a one-time fee of Twenty-Five Thousand Dollars (\$25,000.00) to the Town.

5. Sampling and Monitoring

A. The Customer shall be required to sample their discharge(s) at a minimum of one (1) time per month and submit to the Town the results of the analysis from a State Certified Laboratory in accordance with the requirements outlined in the attached Discharge Monitoring Report, unless otherwise directed and authorized by the Town. All sampling costs related to the discharge quality and quantity of the wastewater are the responsibility of the Customer.

B. The Customer shall be required to sample their discharge(s) at a location approved by the Town and submit to the Town the results of the analysis from a New Jersey State Certified Laboratory for the parameters identified in their Discharge Monitoring Report (attached), and any other additional parameters deemed necessary by the Town.

C. Samples taken shall be representative of the volume and nature of the monitored discharge and must be taken at a minimum of one time per month. Sampling events

may be increased as required to monitor and maintain the quality of the discharge at the discretion of the Phillipsburg Sewer Utility.

- D. Sampling preservation, handling and analytical methods shall be performed in accordance with the techniques described in applicable State and Federal guidelines.
 - E. Monitoring for discharge flow and discharge quality parameters shall be completed at a frequency outlined in their Discharge Monitoring Report (attached).
 - F. Permitted flow and discharge quality monitoring reports shall be forwarded to the Phillipsburg Sewer Utility, 900 South Main Street, Phillipsburg, NJ on or before the 21st day of each month following a month in which a discharge occurred. Monitoring reports must include the following:
 - (1) Date, exact location, time and methods of sampling and preservation
 - (2) Who performed the sampling.
 - (3) Who performed the analysis.
 - (4) Analytical techniques or methods used.
 - (5) Results of analysis.
 - G. The Customer shall report any instances of non-compliance to the Town no later than five (5) days after any non-compliance becomes known.
 - H. Upon Customer's notification of any violation of the limits outlined in their Discharge Monitoring report or the Phillipsburg Sewer Use Ordinance, Customer will initiate a review of the storm water and recycled water treatment system and resample the treated recycled water for the parameter(s) of concern prior to the next discharge event as well as provided a detailed description of the investigation and actions taken to rectify the exceedance(s). Results will be reported to the Phillipsburg Sewer Utility within ten (10) days of receipt of data from the laboratory.
6. Special Conditions. The following constitutes the special conditions which shall be applicable to the Customer's discharge into the Town's system.
- A. Bypass of pretreatment facilities is prohibited.
 - B. Any sludge or other solids removed from the liquid waste by any pretreatment or other process shall not be allowed to enter the sewer system.
 - C. Enforcement. Nothing in this Agreement shall be construed to relieve the Customer from civil and/or criminal penalties for non-compliance. Non-compliance with this Agreement and/or terms and conditions of the Sewer Use Ordinance will subject the Customer to all applicable civil and criminal penalties as allowed by local, State and Federal laws.
 - D. Notification. McWane Ductile must notify the Phillipsburg Sewer Utility a minimum of twenty-four (24) hours in advance of any known maintenance or operational activities which are not representative of the normal discharge of the Customer's

facility and may impact the facility's discharge quality and/or quantity (i.e., Boiler maintenance, system flush, etc.).

- E. Emergency Suspensions. The Town may immediately suspend the Customer's discharge, after informal notice to the Customer, whenever such suspension is necessary to stop an actual or suspected threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons, operation of the wastewater treatment plant or potential endangerment to the environment. Immediately shall mean any time with the approved discharge time period. Informal Notice will be made by the Town of Phillipsburg either by Phone, Email or Personal Visit.
- (1) Upon Emergency Suspension notification the Customer shall immediately stop or eliminate its contribution. In the event of a Customer's failure to immediately comply voluntarily with the suspension order, the Town may take such steps as deemed necessary, including immediate severance of the connection to the sewage system, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Town may allow the Customer to recommence its discharge when the Customer has demonstrated to the satisfaction of the Town that the period of endangerment has passed unless termination proceedings outlined in Section 1C of this Agreement have been initiated.
- (2) A Customer that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement; describing the causes of the harmful contribution and the measures taken to prevent any future occurrences, to the Town within five (5) days of the Suspension Notification but prior to the approval to recommencing discharge.
- F. Classification of User. Based upon the findings in Section 3.D, the Customer is currently classified as a Nonsignificant Industrial User. This classification is subject to change based upon the Customer's quality and quantity of discharge. The Town will provide a 30 day notice to the Customer prior to the change in classification.

IN WITNESS THEREOF, the parties have hereunto set their hands and affixed their seals the day and year first above written.

ATTEST:

TOWN OF PHILLIPSBURG
By:

Secretary

Honorable Stephen R. Ellis, Mayor

ATTEST:

McWane Ductile – New Jersey
By:

Keith Mallett, VP, General Manager