

# DRAFT

Permit No. 02

## INDUSTRIAL USER PERMIT

This Permit is issued in accordance with the provisions of Article VIII of the Village of Cayuga Heights Local Laws to

**MACOM – BinOptics**  
**9 Brown Road**  
**Ithaca, NY 14850**  
**SIC No. 3674, Semiconductors and Related Devices,**

herein referred to as the “permittee” or the “user,” which permittee is hereby authorized to discharge industrial wastewater from the above identified facility and through the outfalls identified herein, and through the Village of Lansing sewer system, into the Village of Cayuga Heights (herein referred to as the Village of Cayuga Heights or the “Village”) sewer system in accordance with the conditions set forth in this Permit. Compliance with this Permit does not relieve the permittee of its obligation to comply with any and all applicable pretreatment regulations, standards or requirements under local, State, and Federal laws, including any such regulations, standards, requirements, or laws that may become effective during the term of this Permit.

Noncompliance with any item or condition of this Permit shall constitute a violation of the Village of Cayuga Heights Local Law.

This Permit shall become effective on \_\_\_\_\_, 2016 and shall expire at midnight on \_\_\_\_\_, 2021.

If the permittee wishes to continue to discharge after the expiration date of this Permit, an application must be filed for a renewal permit a minimum of 180 days prior to the expiration date in accordance with the requirements of Article VIII, Section 4.2.5 of the Village of Cayuga Heights Local Laws,.

By: \_\_\_\_\_  
Village of Cayuga Heights Engineer

Issued this [redacted] day of [redacted], 2016

**PART 1 – EFFLUENT LIMITATIONS**

A. During the period of [REDACTED], 2016 to [REDACTED], 2021 the permittee is authorized to discharge processed wastewater to the Village of Cayuga Heights sewer system from outfalls listed below.

Description of outfalls:

Outfall	Description
001	LabDelta Plus Continuous pH Adjustment System Effluent

B. During the period of [REDACTED], 2016 to [REDACTED], 2021 the discharge from outfall 001 shall not exceed the following effluent limitations. Effluent from this outfall consists of pH adjusted processed wastewater from rinse basins in the Wafer Production Clean Room.

EFFLUENT LIMITATIONS

Parameter	Units	Maximum Daily Concentration Limit	Monthly Average Concentration Limit
Flow	GPD	M	N/A
pH (range)	S.U.	5.0-9.5 <sup>1</sup>	N/A
BOD <sub>5</sub>	mg/L	300 <sup>1</sup>	N/A
COD	mg/L	600 <sup>1</sup>	N/A
Total Suspended Solids	mg/L	300 <sup>1</sup>	N/A
Total Phosphorus (as P)	mg/L	15 <sup>1</sup>	N/A
Chlorine Demand	mg/L	25 <sup>1</sup>	N/A
Total Oil and Grease	mg/L	100 <sup>1</sup>	N/A
Oil and Grease, Petroleum Based	mg/L	50 <sup>1</sup>	N/A
Cadmium (total)	mg/L	0.1 <sup>1</sup>	N/A
Chromium (total)	mg/L	1.0 <sup>1</sup>	N/A
Copper (total)	mg/L	0.4 <sup>1</sup>	N/A
Iron (total)	mg/L	0.6 <sup>1</sup>	N/A
Lead (total)	mg/L	0.1 <sup>1</sup>	N/A
Mercury (total)	mg/L	0.001 <sup>1</sup>	N/A
Nickel (total)	mg/L	1.6 <sup>1</sup>	N/A
Zinc (total)	mg/L	1.0 <sup>1</sup>	N/A
Cyanide (total)	mg/L	0.2 <sup>1</sup>	N/A
Phenol	mg/L	0.01 <sup>1</sup>	N/A
TTO	mg/L	Non-Detect <sup>2,3</sup>	N/A

**Notes**

GPD = gallons per day

M = Monitoring requirement only

N/A = Not Applicable

S.U. = Standard Units

TTO = Total Toxic Organics

1. Value listed is a Village of Cayuga Heights Local Limit.
2. No person shall discharge wastewater containing toxic organic pollutants in measureable quantities as determined by laboratory analysis using gas chromatograph/mass spectrometer (GC/MS) methods in accordance with procedures established by USEPA and contained in 40 CFR Part 136 and amendments thereto.
3. Value listed in 40 CFR Part 469 – Electrical and Electronic Components Point Source Category, Subpart A – Semiconductors, for the indirect discharge of process wastewater from a new source is 1.37 mg/L TTO.

C. All discharges shall comply with all other applicable laws, regulations, standards and requirements contained in Article VIII of the Village of Cayuga Heights Local Laws and any applicable State and Federal pretreatment laws, regulations, standards and requirements including any such laws, regulations, standards, or requirements that may become effective during the term of this Permit.

## PART 2 – MONITORING REQUIREMENTS

A. From the period beginning on the effective date of this Permit until           ,   , 2021, the permittee shall monitor outfall 001 for the following parameters, at the indicated frequency:

Parameter	Measurement Location	Frequency	Sample Type
Flow	001	Quarterly <sup>1,2</sup>	N/A
pH (range)	001	Continuous	Grab <sup>4</sup>
BOD <sub>5</sub>	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
COD	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
Total Suspended Solids	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
Total Phosphorus (as P)	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
Chlorine Demand	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
Total Oil and Grease	001	Quarterly <sup>2</sup>	Grab <sup>4</sup>
Oil and Grease, Petroleum Based	001	Quarterly <sup>2</sup>	Grab <sup>4</sup>
Cadmium (total)	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
Chromium (total)	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
Copper (total)	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
Iron (total)	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
Lead (total)	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
Mercury (total)	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
Nickel (total)	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
Zinc (total)	001	Quarterly <sup>2</sup>	Composite <sup>3</sup>
Cyanide (total)	001	Quarterly <sup>2</sup>	Grab <sup>4</sup>

Parameter	Measurement Location	Frequency	Sample Type
Phenol	001	Quarterly <sup>2</sup>	Grab <sup>4</sup>
TTO	001	Quarterly <sup>2</sup>	Grab <sup>4</sup>

**Notes**

N/A = Not Applicable

1. The flow (in gallons) shall be measured during each sampling period. If flow measurement is not practicable, water use records may be substituted in place of flow measurement.
2. For those parameters requiring quarterly sampling, samples shall consist of four consecutive days of sampling, and shall be collected during times of normal facility operations.
3. Composite samples shall consist of individual grab samples collected every 10 minutes over the duration of facility operation, which in no case shall be greater than 24 hours.
4. Grab samples shall be collected at a time representative of normal facility operation.

B. All handling and preservation of collected samples and laboratory analyses of samples shall be performed in accordance with 40 CFR Part 136 and amendments thereto unless specified otherwise in the monitoring conditions of this Permit.

C. All samples collected for compliance monitoring of this Permit must be collected from the specified sample location.

**PART 3 – Reporting Requirements**

**A. Monitoring Reports**

The permittee shall monitor wastewater discharge in accordance with the table provided in Part 2, Item A above. The permittee shall deliver the quarterly Self-Monitoring Reports to the Village during the months of March, June, September and December. The permittee shall utilize Self-Monitoring Report forms to summarize and report sampling results. The permittee shall submit copies of the laboratory analysis reports to the Village of Cayuga Heights with the Self-Monitoring Reports.

Self-Monitoring Reports shall include copies of all waste manifests from the permitted facility that are generated during the reporting period covered by that report.

If the permittee monitors any pollutant at the locations designated herein more frequently than required by this Permit, using approved analytical methods as specified herein, the results of such monitoring, including the increased frequency, shall be included in the calculation and required reporting of the values in the facility's Self-Monitoring Reports.

**B. Automatic Resampling**

If the results of the permittee’s wastewater analysis indicate that a violation of this Permit has occurred, the permittee must:

1. Inform the Village of Cayuga Heights and the Village of Lansing of the violation within 24 hours; and

2. Repeat the sampling and pollutant analysis and submit, in writing, the results of this second analysis within 30 days of the first violation.

### C. Accidental Discharge Report

In case of an accidental discharge, the user shall immediately telephone and notify in writing the Village Engineer of the incident. The notification shall include the location of the discharge, the type of waste, including concentration and volume, and the corrective actions taken or planned.

Within five (5) days following an accidental discharge, the user shall submit to the Village Engineer a detailed written report describing the cause of the discharge, the actions taken by the user following the discharge, and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the Publicly Owned Treatment Works (“POTW”), fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Permit or applicable local, State or Federal law.

The user shall permanently post on the user’s bulletin board or other prominent place a notice advising employees of the name(s), telephone number(s) and email address(es) that they should contact in the event of an accidental discharge. The user shall insure that all employees who may cause, or be present in the event of, an accidental discharge are advised of the emergency notification procedures.

### D. Signatory Requirements

All reports or information submitted to the Village of Cayuga Heights must contain the following certification statement and must be signed by a duly authorized representative of the user:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

### E. Addition of New Substances to Sanitary Sewer

In the event of any process change or addition of a new process, the user shall notify the Village of Cayuga Heights prior to discharge of effluent from such process into the Village's sewer system as to the new substances that will be present in any effluent. This notification shall be in the form of presenting to the Village of Cayuga Heights the Material Safety Data Sheets (MSDS), associated with the substances, for their review, before the new process or process change is implemented. Additional information may be required if the MSDS does not clearly specify the ingredients in the substance.

#### F. Non-compliance with Effluent Limitations

If for any reason the permittee does not comply with or will be unable to comply with any effluent limitations specified in this Permit, resulting from slug discharges, accidental spill occurrences or equipment malfunction, etc., the permittee shall immediately notify the Village of Cayuga Heights Engineer by telephone at 607-257-5536 and provide the following information in writing within five days of such notification:

1. A description of the non-complying discharge including its potential impact upon the collection system or wastewater treatment facilities;
2. Cause of noncompliance;
3. Anticipated time the condition of noncompliance is expected to continue or if such condition has been corrected, the duration of the period of noncompliance;
4. Steps taken by the permittee to reduce and eliminate the noncomplying discharge;
5. Steps to be taken by the permittee to prevent recurrence of the condition of noncompliance;
6. A description of the accelerated or additional monitoring by the permittee to determine the nature and impact of the noncomplying discharge.

The permittee also shall repeat the sampling and analysis of any compliance event and submit the results to the Village of Cayuga Heights within ten (10) business days after becoming aware of the violation.

G. The permittee shall submit all reports to the Village of Cayuga Heights as follows:

**Village of Cayuga Heights  
Marcham Hall  
836 Hanshaw Road  
Ithaca, NY 14850  
Attn.: Village Engineer**

## **PART 4 – SPECIAL CONDITIONS**

### **SECTION A – COMPLIANCE SCHEDULE**

1. The permittee shall accomplish the following tasks in the designated time period:

Event	No Later Than
Self-Monitoring Report Submission	March, June, September and December for each respective quarterly report
Accidental Discharge Reporting	5 days after the accidental discharge.
Non-compliance Resample Reporting	10 business days after occurrence of non-compliance.

**SECTION B – PAYMENT REQUIREMENTS**

1. The permittee shall pay to the Village of Cayuga Heights, within thirty (30) days of the date of each invoice therefor, a onetime Permit/connection fee in the amount that covers all of the Village’s costs associated with reviewing the discharge application and Permitting the connection that is the subject of this Permit, including, but not limited to, the Village’s costs of engineering review and consultation by independent engineers and legal review. In addition, the permittee shall pay to the Village of Cayuga Heights, on a quarterly basis, within thirty (30) days of the date of each invoice therefor, an amount that covers all of the Village’s costs associated with administering this Permit and the permittee’s ongoing operations under this Permit, including, but not limited to, the costs of independent engineers, consultants, laboratories and testing services, including, but not limited to, the costs of obtaining samples and verification of sample test results.

**PART 5 – STANDARD CONDITIONS**

**SECTION A. GENERAL CONDITIONS AND DEFINITIONS**

1. User’s Submission of Plans and Procedures

The user, at the user’s own cost and expense, shall provide and maintain facilities and operating procedures for protection from accidental discharge of prohibited materials or other substances regulated by the local, State or Federal law, such as chemical spill containment facilities. The user shall submit detailed plans showing the user’s facilities and operating procedures necessary for prevention of accidental discharges for review and approval by the Village Engineer prior to commencing discharge of wastewater to the Village POTW. Review and approval of such plans and operating procedures by the Village Engineer shall not relieve the user of the responsibility to modify the user’s facility and/or operating procedures as necessary to meet the requirements of the local, State and Federal law, and such review and approval shall not imply or result in the Village of Cayuga Heights having responsibility for said plans and/or operating procedures, which shall be solely the user’s responsibility.

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2. Conflict with Applicable Law

In the event that any term or provision of this Permit is in conflict with any applicable Federal, State or local law or part thereof, then such conflicting term or provision of this Permit shall be deemed to be invalid and unenforceable to the extent of such conflict.

3. Duty to Comply

The permittee must comply with all conditions of this Permit. Failure to comply with the requirements of this Permit may be grounds for administrative action, or enforcement proceedings including civil or criminal penalties, injunctive relief, and summary abatements.

Whenever the Village finds that the user has violated or is violating this Permit, the Village of Cayuga Heights Local Law, or any prohibition, limitation, or requirements contained therein, or any Federal or State law, the Village may serve upon such person a written notice stating the nature of violation. Within 30 days of the date of the notice, a plan for the satisfactory correction of the violation shall be submitted to the Village by the user. The Village shall give the user a reasonable time for correction thereof. If the user shall continue any violation beyond the time limit hereinabove provided, the user shall be guilty of a violation as defined in the Penal Law of the State of New York. Each day during which any such violation shall continue shall be deemed a separate offense.

4. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or correct any adverse impact to the POTW or to the environment resulting from noncompliance with this Permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

5. Permit Modification

The terms and conditions of this Permit may be modified by the Village during the term of this Permit as limitations or requirements as identified in Section 2 are modified or other just cause exists. The user shall be informed of any proposed changes in this Permit at least 30 days prior to the effective date of change. Any changes or new conditions in this Permit shall include a reasonable time schedule for compliance.

In addition, within nine (9) months of the promulgation of any future changes in a National Categorical Pretreatment Standard that would affect this Permit or would be applicable to the user, the user's facility or any discharge from the user's facility, this Permit shall be revised to achieve compliance with such standard within the time frame prescribed by such standard.

6. Change in Discharge

The user shall report to the Village of Cayuga Heights any anticipated facility expansions, production increases, or process modifications which will result in new, different, or increased discharge of pollutants by submission of a new application or, if such changes will not violate the effluent limitations specified in this Permit, by notice to the Village of Cayuga Heights. Following receipt of such application or such notice, the Village of Cayuga Heights shall modify this Permit as necessary or appropriate to specify and limit any pollutants not previously limited.

7. Suspension of Service and/or Permit

The Village may suspend the wastewater treatment service to the user and/or suspend this Permit when such suspension is necessary, in the opinion of the Village, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, property or the environment (including soil, water, and atmosphere), or causes or threatens to cause interference with or damage to the POTW or causes or threatens to cause a violation of any condition of its SPDES permit.

In the event that the user is notified of a suspension of the wastewater treatment service and/or of this Permit, the user shall immediately stop or eliminate the wastewater discharge. In the event of failure of the user to comply voluntarily with the suspension order, the Village shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW or endangerment to any persons or property or to the environment. The Village shall reinstate this Permit and/or the wastewater treatment service upon its receipt of proof of the elimination of the non-complying discharge. Within 15 days of the date of occurrence, the user shall deliver to the Village a detailed written statement describing the causes of the harmful contribution, the nature and extent of any damage caused by it, the measures taken to remediate any damage done by it and the measures taken to prevent any future occurrence of such or similar non-complying discharge .

8. Revocation of Permit

In the event that the user violates the following conditions of the Village of Cayuga Heights Local Law or applicable State or Federal law or regulations, Permitthe Village may revoke this Permit in accordance with the procedures of Article VIII Section 5 of the Village of Cayuga Heights Local Laws.

- a. The user's failure to factually report the wastewater constituents and characteristics of the user's discharge;
- b. The user's failure to report significant changes in operations or wastewater constituents and characteristics;
- c. The user's refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

- d. The user's violation of conditions of this Permit.

9. Permit Transfer

This Permit is issued to the user for the user's operation described in this Permit. The user shall not assign, transfer or sell this Permit, whether to a new owner, new user, different premises, or a new or changed operation or otherwise without the prior written approval of the Village. In the event that the Village approves any assignment, transfer or sale of this Permit, any succeeding holder of this Permit, owner or user shall comply with all terms and conditions of this Permit.

10. Dilution

The user shall not increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or with any other pollutant-specific limitation developed by the Village, State, or EPA.

11. Definitions

All terms used in this Permit shall have the meanings given to such terms in accordance with the applicable laws and regulations enforced by the United States Environmental Protection Agency, the New York State Department of Environmental Conservation, and the Village of Cayuga Heights.

12. General Discharge Prohibitions

The user shall not contribute or cause to be contributed, directly or indirectly, any pollutant and/or wastewater which will interfere with the operation or performance of the Village of Cayuga Heights POTW. These prohibitions apply to the user whether or not the user is subject to National Categorical Pretreatment Standards or any other National, State, or local pretreatment standards or requirements. In addition, the user is prohibited from discharge of any of the following substances:

- a. Any storm water, surface water, groundwater, roof runoff, subsurface drainage, non-contaminated cooling water, or unpolluted industrial process water. Draining of any catch basin, lake, swamp, pond, or swimming pool is prohibited, except with the permission of the Village Engineer as evidenced by a properly issued permit.
- b. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter.

Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the Village, the State or EPA has notified the user is a fire hazard or a hazard to the system.

- c. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW. Prohibited substances include, but are not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
- d. Any wastewater having a pH less than 5.0 or greater than 9.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- e. Any wastewater containing toxic pollutants in sufficient quantity which can either singly or by interaction with other pollutants cause interference with or damage to the Village POTW, constitute a hazard to living things, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307 (a) of the Act.
- f. Any noxious liquids, gases, or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- g. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
- h. Any substance discharged at a flow rate and/or concentration which, alone or in combination with other discharges, will cause the POTW to violate its NPDES and/or SPDES permit or the receiving water quality standards.

- i. Any wastewater with objectionable color, as determined by the Village Engineer, not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- j. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference with the operation of the POTW, but in no case wastewater having a temperature at the introduction into the POTW which exceeds 40° C (104° F).
- k. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.
- l. Any wastewater containing radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Village Engineer in compliance with applicable State or Federal regulations.
- m. Any wastewater which cause a hazard to living things and/or creates a public nuisance.

13. Federal Categorical Pretreatment Standards

In the event that National Categorical Pretreatment Standards for user's particular industrial subcategory are more stringent than limitations imposed under applicable Village Local Law for sources in that subcategory, then the National Categorical Pretreatment Standards shall immediately supersede the limitations imposed under the Local Law.

14. Village's Right to Revision

The Village reserves the right to establish by local law more stringent limitations or requirements on wastewater discharge necessary to comply with the objectives presented in the Village's current Local Law.

15. Permit Renewal

The user shall apply for Permit re-issuance a minimum of 180 days prior to the expiration of the user's existing Permit. The terms and conditions of the Permit may be subject to modification by the Village during the term of the Permit as limitations or requirements as identified in Article VIII Section 2 of the Village's Local Law are modified or other just cause exists. The user shall be informed of any proposed changes in the user's Permit at least 30 days prior to the effective date of change. Any changes or new conditions in the Permit shall include a reasonable time schedule for compliance.

## 16. Continuation of Expired Permits

An expired Permit will continue to be effective and enforceable until the Permit is reissued if the failure to reissue the Permit, prior to the expiration of the previous Permit, is not due to any act or failure to act on the part of the permittee.

## SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

### 1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this Permit.

### 2. Duty to Halt or Reduce Activity

Upon reduction of efficiency of operation, or loss or failure of all or part of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with this Permit, control its production or discharges (or both) until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit.

## SECTION C. MONITORING AND RECORDS

### 1. Monitoring Facilities

The user shall provide and operate monitoring facilities at the user's own expense, to allow inspection, sampling, and flow measurement of the user's pre-treatment facilities, building sewer and/or internal drainage systems. The monitoring facility shall be situated inside of the building at the user's premises. The user shall insure at all times that the monitoring facility will be accessible to Village personnel and will not be obstructed.

The user shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples for analysis. The user shall, at the user's expense, maintain the facility, sampling, and measuring equipment at all times in a safe and proper operating condition.

The user shall construct the sampling and monitoring facilities in accordance with the requirements of this Permit and all applicable local construction standards, regulations and specifications. Construction shall be completed within ninety (90) days following written notification by the Village.

2. Inspection and Sampling

The Village shall inspect the facilities of user to ascertain whether the user is satisfying the purpose of the Local Law and complying with all requirements of the Local Law and of this Permit. The user and any other occupants of user's premises shall allow the Village or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and the performance of any of their duties. The Village, State and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements so that upon presentation of suitable identification, personnel from the Village, State and EPA will be permitted to enter, without delay, for the purposes of performing the foregoing tasks.

3. Records Retention

All records and information resulting from the monitoring activities required by this Permit, including all records of analyses performed, calibration and maintenance of instrumentation and original recordings from continuous monitoring instrumentation shall be retained for a minimum of three (3) years.

4. Data Recording Requirements

For each measurement or sample taken pursuant to the requirements of this Permit, the permittee shall record the following information:

- a. The exact place, date, time, and methods of sampling or measurements;
- b. The persons who performed the sampling or measurements;
- c. The date the analyses were performed;
- d. The persons who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of all required analyses.

5. Falsifying information

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to the Village of Cayuga Heights Local Law, or this Wastewater Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under the Local Law, shall be guilty of a violation as defined in the Penal Law of the State of New York

## SECTION D. ADDITIONAL REPORTING REQUIREMENTS

### 1. Annual Publication/Reporting Requirements

The Village annually shall publish in the largest local newspaper a list of the Significant Industrial Users determined to be in noncompliance with any Pretreatment Requirements or Standards at least once during the twelve previous months, in accordance with current Environmental Protection Agency regulations. The notification shall also summarize any enforcement actions by the Village against the user during the same twelve months.

The Village of Cayuga Heights shall submit to the Environmental Protection Agency such reports as are required in accordance with current Environmental Protection Agency regulations with respect to the user's operations under this Permit.

The Village shall make all records relating to the user's compliance with Pretreatment Standards available to the EPA and the State as required in accordance with applicable law and regulation, and to the Village of Lansing upon request.

### 2. Penalties for Offenses

Any person violating any of the provisions of this Permit or Village of Cayuga Heights Local Law shall become liable to the Village for a civil penalty pursuant to Article VIII Section 6.1 of the Village of Cayuga Heights Local Laws for any expense, loss, or damage occasioned the Village by reason of such violation.

### 3. Confidential Information

Information and data on the user obtained from reports, questionnaires, permit applications, Permits, monitoring programs and inspections shall be available to the public and any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Village that the release of such information would divulge information, processes or methods entitled to protection as trade secrets of the user.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to the Local Law, the SPDES permit and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Information regarding wastewater constituents (including pollutants) and characteristics will not be recognized as confidential information.

## SECTION E. MISCELLANEOUS TERMS/ENFORCEMENT



### 1. Attorneys' Fees

In the event of any legal action taken to enforce the terms of this Permit or to resolve any controversy, claim or dispute regarding the terms of this Permit, or arising out of or relating to this Permit or the breach hereof, or the interpretation hereof, the user shall pay to the Village of Cayuga Heights and/or the Village of Lansing, as the case may be, reasonable expenses, attorneys' fees and costs incurred therein or for the enforcement or collection of any judgment or award rendered therein.

### 2. Governing Law/Venue/Jurisdiction

This Permit shall be governed by, interpreted, construed and enforced in accordance with the laws of the State of New York. Any legal action taken to enforce the terms of this Permit shall be brought in the appropriate court in Tompkins County, New York,. User agrees to submit to the jurisdiction of such courts and waives any claims related to personal jurisdiction and venue.

### 3. Waiver of Trial by Jury

USER HEREBY KNOWINGLY, VOLUNTARILY, AND IRREVOCABLY WAIVES ANY AND ALL RIGHTS USER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO, AND ANY AND ALL RIGHTS USER MAY HAVE TO ASSERT ANY CLAIM FOR, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INDIRECT DAMAGES IN, ANY ACTION OR OTHER LEGAL PROCEEDING OF ANY NAME OR NATURE ARISING OUT OF THIS PERMIT.

### 4. Enforcement

User acknowledges and agrees that the Village of Cayuga Heights has issued this Permit as the owner and operator of the POTW and that the Village of Cayuga Heights has all rights set forth in this Permit and under applicable law to enforce the terms of this Permit, notwithstanding that the user's facility is located in the Village of Lansing and not in the Village of Cayuga Heights. The Village of Lansing consents to the issuance of this Permit as the municipality in which the user's facilities are located and as the owner of the sewer lines that will transport wastewater from the user's facilities to the Village of Cayuga Heights sewer lines, and ultimately to the POTW. The Village of Lansing acknowledges the rights of the Village of Cayuga Heights to enforce the terms of this Permit. In any event that the Village of Lansing becomes aware of a violation of this Permit, the Village of Lansing promptly shall deliver notice of such violation to the Village of Cayuga Heights. The Village of Cayuga Heights shall deliver to the Village of Lansing a copy of any notice sent to the user concerning this Permit including any notice regarding a violation hereof. The Villages of Cayuga Heights and Lansing acknowledge and agree that the terms of this Permit shall govern the relationship among the Villages of Cayuga Heights and Lansing and the user, and in any case or to any extent that the terms of this Permit differ or vary from the terms of the Contract between the Villages of Cayuga Heights and Lansing dated as of August

19, 1976 concerning use of the POTW to serve properties in the Village of Lansing, the terms of this Permit shall control.

#### 5. Insurance

During the term of this Permit, the permittee shall, at the permittee's expense, maintain the following insurance coverages: (A) liability insurance in an amount not less than One Million and No/100 (\$1,000,000.00) Dollars per occurrence, and (B) umbrella form excess liability coverage in an amount not less than One Million and No/100 (\$1,000,000.00) Dollars per occurrence and Two Million and No/100 (\$2,000,000.00) Dollars aggregate. The permittee's policies shall name the Village of Cayuga Heights and the Village of Lansing as additional insureds. The permittee shall deliver evidence of such coverage to the Villages of Cayuga Heights and Lansing prior to the effective date of this Permit.

#### 6. Indemnification

The permittee shall defend, indemnify and hold harmless both the Village of Cayuga Heights and the Village of Lansing, as well as each of their respective elected and appointed officers, employees and agents, from and against any claims, demands, suits, liabilities, losses and expenses incurred by any of said indemnified parties as a result of, arising from or in connection with the permittee's exercise of its rights under this Permit, breach of the terms hereof or default hereunder. This indemnification provision shall survive the term of this Permit.

#### 7. Notices

All notices to be delivered by the permittee to the Village of Cayuga Heights shall be in writing and delivered in person or by certified mail, return receipt requested, postage prepaid.

#### 8. Miscellaneous

This Permit supersedes all prior permits, understandings, agreements and arrangements related to the subject matter hereof. This Permit may not be modified except by a writing executed on behalf of the Village of Cayuga Heights. The waiver by the Village of Cayuga Heights of a breach, default or violation of any term or provision of this Permit shall not operate or be construed as a waiver of any subsequent breach, default or violation. The permittee agrees to execute and deliver such other documents and to perform such other acts as may, from time to time, be reasonably required to give full force and effect to the intent and purpose of this Permit. The permittee represents and warrants that it has full power and authority to enter into and perform its obligations under this Permit.

#### 9. Severability

If any term, provision, covenant or restriction of this Permit is held by a court of competent jurisdiction to be invalid, void or unenforceable, then said term, provision,

covenant or restriction shall be interpreted as closely as possible to the original term, provision, covenant or restriction so as to be valid and enforceable and consistent with the intent and purpose of said term, provision, covenant or restriction, and the remaining terms, provisions, covenants and restrictions of this Permit shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

MACOM-BinOptics

Village of Cayuga Heights

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Linda Woodard, Mayor

Title:

Village of Lansing

By: \_\_\_\_\_

Don Hartill, Mayor