

Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Central Regional Office • 8 New Bond Street, Worcester MA 01606 • 508-792-7650

Charles D. Baker  
Governor

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Secretary

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Commissioner

### INDIVIDUAL GROUNDWATER DISCHARGE PERMIT

Name and Address of Applicant: Nagog Treatment Facility, LLC  
c/o Nagog Woods Community Corp.  
Village of Nagog Woods  
100 Nonset Path  
Acton, MA 01718

Date of Application: October 31, 2016

Application/Permit No. 18-4

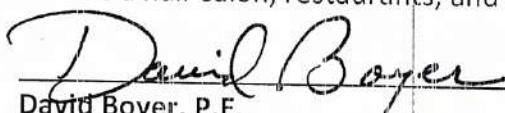
Date of Issuance: October 6, 2017

Date of Expiration: October 6, 2022

Effective Date: October 6, 2017

### AUTHORITY FOR ISSUANCE

Pursuant to authority granted by Chapter 21, Sections 26-53 of the Massachusetts General Laws, as amended, 314 CMR 2.00, and 314 CMR 5.00, the Massachusetts Department of Environmental Protection (the Department or MassDEP) hereby issues the following permit to: Nagog Treatment Facility, LLC (hereinafter called "the permittee") authorizing discharges to the ground from the onsite wastewater treatment facility located near Durkee Lane in Acton Massachusetts, such authorization being expressly conditional on compliance by the permittee with all terms and conditions of the permit hereinafter set forth. The wastewater treatment facility treats wastewater from the Nagog Wood Condominium Complex, smaller residential complexes and approximately 850,000 square feet of office and commercial space which include a hair salon, restaurants, and a fitness center.

  
David Boyer, P.E.  
Bureau of Water Resources

10/6/17  
Date

## I. SPECIAL CONDITIONS

### A. **Effluent Limits**

- 1) The permittee is authorized to discharge into the ground from the wastewater treatment facilities for which this permit is issued a treated effluent whose characteristics shall not exceed the following values:

| <u>Effluent Characteristics</u>                          | <u>Discharge Limitations</u> |
|--|------------------------------|
| Flow   | 200,000 gpd                  |
| Biochemical Oxygen Demand (BOD <sub>5</sub> )            | 30 mg/l                      |
| Total Suspended Solids (TSS)                             | 30 mg/l                      |
| Nitrate Nitrogen   | 10 mg/l                      |
| Total Nitrogen (NO <sub>2</sub> + NO <sub>3</sub> + TKN) | 10 mg/l                      |
| Oil and Grease   | 15 mg/L                      |
| Total Phosphorus   | 1.0 mg/L                     |
| Fecal Coliform Bacteria                                  | 200/100ml                    |

- a) The pH of the effluent shall not be less than 6.5 nor greater than 8.5 at any time or not more than 0.2 standard units outside the naturally occurring range.
- b) The discharge of the effluent shall not result in any demonstrable adverse effect on the groundwater or violate any water quality standards that have been promulgated.
- c) The monthly average concentration of BOD and TSS in the discharge shall not exceed 15 percent of the monthly average concentrations of BOD and TSS in the influent into the permittee's wastewater treatment facility.
- d) When the average annual flow exceeds 80 percent of the permitted flow limitations, the permittee shall submit a report to the Department describing what steps the permittee will take in order to remain in compliance with the permit limitations and conditions, inclusive of the flow limitations established in this permit.

**B. Monitoring and Reporting**

- 1) The permittee shall monitor and record the quality of the **influent** and the quality and quantity of the **effluent** prior to discharge to the leaching facilities according to the following schedule and other provisions:

**INFLUENT:**

| <u>Parameter</u> | <u>Minimum Frequency<br/>of Analysis</u> | <u>Sample Type</u> |
|------------------|--|--------------------|
| BOD <sub>5</sub> | Monthly                                  | 24 Hr. Composite   |
| TSS              | Monthly                                  | 24 Hr. Composite   |
| Total Solids     | Monthly                                  | 24 Hr. Composite   |
| Ammonia Nitrogen | Monthly                                  | 24 Hr. Composite   |

**EFFLUENT:**

| <u>Parameter</u>           | <u>Minimum Frequency<br/>of Analysis</u> | <u>Sample Type</u> |
|----------------------------|--|--------------------|
| Flow                       | Daily                                    | Max-Min-Avg        |
| pH                         | Daily                                    | Grab               |
| Chlorine Residual          | Daily                                    | Grab               |
| BOD <sub>5</sub>           | 2x per Month                             | 24 Hr. Composite   |
| TSS                        | 2x per Month                             | 24 Hr. Composite   |
| Nitrate Nitrogen           | 2x per Month                             | 24 Hr. Composite   |
| Total Nitrogen             | 2x per Month                             | 24 Hr. Composite   |
| Fecal Coliform             | 2x per Month                             | Grab               |
| Oil & Grease               | Monthly                                  | Grab               |
| Total Phosphorus           | Monthly                                  | Grab               |
| Orthophosphate             | Monthly                                  | Grab               |
| Volatile Organic Compounds | Semi-Annually                            | Grab               |

(US EPA Method #624)

- a) In total daily flow reporting, the permittee may deduct a maximum of 6,000 gpd from the flow meter readings to account for recycled filter backwash.
- 2) The permittee shall monitor, record and report the quality of water in the existing upgradient monitoring well **MW-1** and downgradient monitoring wells **MW-2**, **MW-3**, and **MW-4** as shown on the approved plan entitled "Overall As-Built Plan", prepared by Mount Hope Engineering Inc. and dated May 2017 and revised June 2017, according to the following schedule and other provisions:



| <u>Parameter</u>                                   | <u>Minimum Frequency<br/>of Analysis</u> |
|--|--|
| pH   | Monthly                                  |
| Static Water Level                                 | Monthly                                  |
| Specific Conductance                               | Monthly                                  |
| Nitrate Nitrogen                                   | Quarterly                                |
| Total Nitrogen                                     | Quarterly                                |
| Total Phosphorus                                   | Quarterly                                |
| Orthophosphate                                     | Quarterly                                |
| Volatile Organic Compounds<br>(US EPA method #624) | Annually                                 |

- a) Static Water Level shall be expressed as an elevation and shall be referenced to the surveyed datum established for the site. It shall be calculated by subtracting the depth to the water table from the surveyed elevation of the top of the monitoring well's PVC well casing/riser.
- 3) The permittee shall monitor, record, and report the quality of the emergent groundwater from **Manhole M-2**, the **Breakout sampling location**, and the **Upstream and Downstream sampling locations** of the stream downgradient of the leach field as shown on the approved plan entitled "Overall As-Built Plan", prepared by Mount Hope Engineering Inc. and dated May 2017 and revised June 2017, according to the following schedule and other provisions:

|                          |         |
|--------------------------|---------|
| Total Phosphorus         | Monthly |
| Total Nitrate - Nitrogen | Monthly |
| Fecal Coliform           | Monthly |
| BOD <sub>5</sub>         | Monthly |

- 4) Any grab sample or composite sample required to be taken less frequently than daily shall be taken during the period of Monday through Friday inclusive. All composite samples shall be taken over the operating day.
- 5) The permittee shall submit all monitoring reports within 30 days of the last day of the reporting month. Reports shall be on an acceptable form, properly filled and signed and shall be sent to:
- I. Department of Environmental Protection Central Regional Office (CERO):  
Deputy Regional Director, Bureau of Water Resources (BWR), Department of  
Environmental Protection, Central Regional Office, 8 New Bond Street,  
Worcester, MA 01606

- II. Department of Environmental Protection Headquarters: Bureau of Water Resources (BWR), Wastewater Management Program, One Winter Street/5th Floor, Boston, MA 02108,
- III. Board of Health: Acton Board of Health, 472 Main Street, Acton, MA 01720

- a) Submission of monitoring reports in electronic format is available through eDEP and serves as data submission to both the Regional and Boston offices. Effective December 2, 2017, all discharge monitoring reports must be submitted through eDEP. To register for electronic submission go to:  
<http://www.mass.gov/eea/agencies/massdep/service/online/edep-online-filing.html>

### C. Financial Assurance Mechanisms

- 1) The permittee shall establish and maintain a financial assurance mechanism that provides for the continued availability of an immediate repair and replacement account. The immediate repair and replacement account shall contain adequate funds to correct any unanticipated problem immediately so that any disruption of operation is minimized, and a violation of the terms and conditions contained in the permit does not occur. To create an immediate repair and replacement account, the permittee shall deposit at least 25% of the estimated construction cost of the PWTF into an interest bearing escrow account in accordance with the financial assurance mechanism and 314 CMR 5.15.
  - a) For purpose of the financial assurance mechanism requirement, the estimated construction cost of the wastewater treatment facility shall include the cost of constructing the wastewater treatment plant, collection system, associated mechanical equipment, but not including the land, ground and disposal area.
- 2) The permittee shall meet the obligation to establish the required financial assurance mechanism by using Department-approved form documents and shall submit said Department-approved form documents to the Department for its review and approval as follows:
  - a) A permittee that constructs the wastewater treatment facility after the issuance of the Individual permit may submit the financial assurance mechanism(s) to the Department for its review and approval no later than ninety (90) days prior to the start-up (clear water test) of the facility. Such a permittee shall not operate the facility unless and until the Department has approved the required financial assurance mechanism, the financial assurance mechanism is in full force and effect, and the permittee has made all contributions required thirty (30) days prior to the start-up (clear water test) of the facility; or,
  - b) A permittee with a wastewater treatment facility in existence prior to the submission of the individual permit renewal application may submit the financial



assurance mechanism to the Department for its review and approval no later than ninety (90) days from the date of submission of the individual permit renewal application. Said permittee shall be in compliance with the provision of the approved financial assurance mechanism requiring contributions to the immediate repair and replacement account no later than thirty (30) days prior to the date on which the renewal is issued.

- 3) The permittee shall maintain the current form documents evidencing the required financial assurance mechanism approved by the Department. The permittee shall perform all its obligations under the required financial assurance mechanism as approved by the Department.
- 4) Once established and funded, the permittee shall keep an amount equal to at least 25% of the estimated construction cost of the PWTF in the immediate repair and replacement account and shall replenish the account within 90 days of any disbursement.
- 5) On or before January 31<sup>st</sup> of each year, the permittee shall submit an annual financial report identifying the initial and current balance in the immediate repair and replacement account and confirming the continuing availability of the funds in said account for the purposes specified in the permit and 314 CMR 5.15. Said report shall be prepared in accordance with generally accepted accounting principles. Reports pertaining to the required financial assurance mechanism(s) shall be sent to the Wastewater Management Section Chief at the appropriate Regional Office.

#### **D. Supplemental Conditions**

- 1) The permittee shall notify the Department at least thirty (30) days in advance of the proposed transfer of ownership of the facility for which this permit is written. Said notification shall include a written agreement between the existing and new permittees containing a specific date for transfer of permit, responsibility, coverage and liability between them.
- 2) A staffing plan for the facility shall be submitted to the Department once every two years and whenever there are staffing changes. The staffing plan shall include the following components:
  - a) The operator(s)'s name(s), operator grade(s) and operator license number(s);
  - b) The number of operational days per week;
  - c) The number of operational shifts per week;
  - d) The number of shifts per day;
  - e) The required personnel per shift;
  - f) Saturday, Sunday and holiday staff coverage;
  - g) Emergency operating personnel

- 3) The permittee is responsible for the operation and maintenance of all sewers, pump stations, and treatment units for the permitted facility, which shall be operated and maintained under the direction of a properly certified wastewater operator.
- 4) Operation and maintenance of the proposed facility must be in accordance with 314 CMR 12.00, "Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges", and, 257 CMR 2.00, "Rules and Regulations for Certification of Operators of Wastewater Treatment Facilities".
  - a) The facility has been rated (in accordance with 257 CMR 2.00), to be a Grade 4 facility. Therefore, the permittee shall provide for oversight by a Massachusetts Certified Wastewater Treatment plant operator (Chief Operator) Grade 4 or higher. The permittee will also provide for a backup operator who shall possess at least a valid Grade 3 license.
  - b) The date and time of the operator's inspection along with the operator's name and certification shall be recorded in the log book on location at the treatment facility. All daily inspection logs consistent with the O&M Manual requirements shall be kept at the facility for a period of three (3) years.
  - c) Records of operation of wastewater treatment facilities or disposal systems required by the Department shall be submitted on forms supplied by the Department or on other forms approved by the Department for such use. Monthly reports shall be certified by the wastewater treatment plant operator in charge and shall be included in the discharge monitoring reports submitted each month.
- 5) If the operation and maintenance of the facility is contracted to a private concern, the permittee shall submit a copy of the contract, consistent with what is required by the approved Operation & Maintenance manual and signed only by the contractor, to the appropriate MassDEP Regional Office within thirty (30) days of permit issuance. Along with the contract, a detailed listing of all contract operation obligations of the proposed contractor at other facilities shall also be submitted.
- 6) Any additional connections to the sewer system, beyond the existing units within the Nagog Wood Condominium Complex, smaller residential complexes and the office and commercial space shall be approved in writing by MassDEP and the local Board of Health prior to the connection. The permittee shall remove a minimum of one (1) gallon of extraneous flow (Infiltration/Inflow) or illegal connections (unauthorized discharge of storm water, surface water, groundwater, subsurface drainage, uncontaminated cooling water or unpolluted industrial process water) for every one (1) gallon of new wastewater flow permitted to the sewer.



- 7) All tests or analytical determinations to determine compliance with permit standards and requirements shall be done using tests and procedures found in the most recent version of *Standard Methods for the Examination of Water and Wastewater* and shall be performed by a Massachusetts Certified laboratory.
- 8) The permittee shall notify the appropriate MassDEP Regional Office, in writing, within thirty (30) days of the following events:
  - a) Any interruption of the treatment system operation, other than routine maintenance.
  - b) Final shutdown of the treatment system.
- 9) The permittee shall contract to have any and all solids and sludges generated by the treatment system for which this permit is issued removed off site by a properly licensed waste hauler for disposal at an EPA/MassDEP approved facility. The name and license number of the hauler along with the quantity of wastes removed and the date(s) of removal shall be reported by the permittee in writing to the appropriate MassDEP Regional Office.
- 10) Simultaneously with the permit renewal application at year fifteen (2022) following the initiation of plant operations, the permittee shall submit two reports to the Department for its review and approval:
  - a) An engineering report, prepared by a registered professional engineer, that outlines in sufficient detail what modifications (if any) to the facility or other changes are required to insure that the facility can remain in compliance with its GWDP and other applicable requirements through the next 5 year permit term (year 20) and beyond; and
  - b) A financial plan that contains the cost estimates for implementing the facility modifications or other changes identified in the engineering report, and describes and demonstrates, how and when the permittee will finance the needed facility modifications or other changes.
- 11) In the event that effluent limits are not met, or the discharge is determined to impair groundwater quality in accordance with 314 CMR 5.16(1), the permittee may be obligated to modify, supplement or replace the permitted treatment process so as to ensure that the discharge does not impair the ability of the groundwater to act as an actual or potential source of potable water.
- 12) Pursuant to M.G.L. Chapter 21A, section 18(a), and 310 CMR 4.03, holders of this Permit may be subject to annual compliance assurance fees as assessed each year on July 1st and invoiced by MassDEP. Failure of the Permit holder to pay applicable annual compliance assurance fees shall result in the automatic suspension of the permit by operation of law under the statute. If fee non-payment continues for sixty days or



more, MassDEP has the statutory option of revoking the Permit, denying any other pending permit applications filed by the Permit holder or taking other enforcement action. Permit holders are required to notify MassDEP in writing if they wish to relinquish or transfer a permit. Failure to do so will result in the continued assessment of fees.

#### **E. Appeal Rights**

During the thirty (30) day period following issuance of this permit, a Notice of Claim for an Adjudicatory Appeal may be sent by any person aggrieved (the "Petitioner") by the issuance to:

Case Administrator  
Office of Appeals and Dispute Resolution  
Department of Environmental Protection  
One Winter Street/2<sup>nd</sup> Floor  
Boston, MA 02108

310 CMR 1.01(6)(b) requires the Notice of Claim to: include sufficient facts to demonstrate aggrieved person status; state the facts which are grounds for the appeal specifically, clearly and concisely; and, state relief sought. The permit shall become or remain effective at the end of the 30 day appeal period unless the person filing the Notice of Claim requests, and is granted, a stay of its terms and conditions. If a permit is modified under 314 CMR 2.10, only the modified terms and conditions may be subject to an Adjudicatory Appeal. All other aspects of the existing permit shall remain in effect during any such Adjudicatory Appeal.

Per 310 CMR 4.06, the hearing request to the Commonwealth will be dismissed if the filing fee is not paid. Unless the Petitioner is exempt or granted a waiver, a valid check payable to the Commonwealth to Massachusetts in the amount of \$100.00 must be mailed to:

Commonwealth of Massachusetts  
Department of Environmental Protection  
P.O. Box 4062  
Boston, MA 02211

The filing fee is not required if the Petitioner is a city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority effective January 14, 1994, or any municipal housing authority; or, per MGL 161A s. 24, the Massachusetts Bay Transportation Authority. The Department may waive the adjudicatory hearing filing fee for a Petitioner who shows that paying the fee will create an undue financial hardship. A Petitioner seeking a waiver must file, along with the hearing request, an affidavit setting forth the facts believed to support the claim of undue financial hardship.

## II. GENERAL PERMIT CONDITIONS

The following conditions from 314 CMR 5.16 apply to all individual and general permits:

- (1) No discharge authorized in the permit shall cause or contribute to a violation of the Massachusetts Surface Water Quality Standards (314 CMR 4.00) or any amendments thereto. Upon promulgation of any amended standard, this permit may be revised or amended in accordance with such standard and 314 CMR 2.10 and 3.13 or 5.12. Except as otherwise provided in 314 CMR 5.10 (3)(c), 310 CMR 5.10(4)(a)2 and 314 CMR 5.10(9), no discharge authorized in the permit shall impair the ability of the ground water to act as an actual or potential source of potable water. Evidence that a discharge impairs the ability of the ground water to act as an actual or potential source of potable water includes, without limitation, analysis of samples taken in a downgradient well that shows one or more exceedances of the applicable water quality based effluent limitations set forth in 314 CMR 5.10. In those cases where it is shown that a measured parameter exceeds the applicable water quality based effluent limitations set forth in 314 CMR 5.10 at the upgradient monitoring well, evidence that a discharge impairs the ability of the ground water to act as an actual or potential source of potable water is deemed to exist if a measured parameter in any downgradient well exceeds the level of that same measured parameter in the upgradient well for the same sampling period. . A statistical procedure approved by the Department shall be used in determining when a measured parameter exceeds the allowable level.
- (2) Duty to comply. The permittee shall comply at all times with the terms and conditions of the permit, 314 CMR 5.00, M.G.L. c. 21, §§ 26 through 53 and all applicable state and federal statutes and regulations.
- (3) Standards and prohibitions for toxic pollutants. The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Federal Act, 33 U.S.C § 1317(a), for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (4) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and equipment installed or used to achieve compliance with the terms and conditions of the permit, and the regulations promulgated at 314 CMR 12.00 entitled "Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges, and 257 CMR 2.00, Rules and Regulations for Certification of Operators of Wastewater Treatment Facilities".
- (5) Duty to halt or reduce activity. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or discharges or both until the facility is restored or an alternative method of treatment is provided. 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 the permit.

(6) Power Failure. In order to maintain compliance with the effluent limitations and prohibitions of this permit, the permittee shall either:

- (a) provide an alternative power source sufficient to operate the wastewater control facilities; or
- (b) halt, reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

(7) Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any adverse impact on human health or the environment resulting from non-compliance with the permit.

(8) Duty to provide information. The permittee shall furnish to the Department within a reasonable time as specified by the Department any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine whether the permittee is complying with the terms and conditions of the permit.

(9) Inspection and entry. The permittee shall allow the Department or its authorized representatives to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records required by the permit are kept;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
- (c) Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit; and
- (d) Sample or monitor at reasonable times for the purpose of determining compliance with the terms and conditions of the permit.

(9A) The permittee shall physically secure the treatment works and monitoring wells and limit access to the treatment works and monitoring wells to those personnel required to operate, inspect and maintain the treatment works and to collect samples.

(9B) The permittee shall identify each monitoring well by permanently affixing to the steel protective casing of the well a tag with the identification number listed in the permit.

(10) Monitoring. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless other test procedures are specified in the permit.

(11) Recordkeeping. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and all records of all data used to complete the application for the permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time. Records of monitoring information shall include:

- (a) The date, exact place, and time of sampling or measurements;
- (b) The individual(s) who performed the sampling or measurement;
- (c) The date(s) analyses were performed;
- (d) The individual(s) who performed the analyses;
- (e) The analytical techniques or methods used; and
- (f) The results of such analyses.

(12) Prohibition of bypassing. Except as provided in 314 CMR 5.16(13), bypassing is prohibited, and the Department may take enforcement action against a permittee for bypassing unless:

- (a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (c) The permittee submitted notice of the bypass to the Department:
  - 1. In the event of an anticipated bypass, at least ten days in advance, if possible; or
  - 2. In the event of an unanticipated bypass, as soon as the permittee has knowledge of the bypass and no later than 24 hours after its first occurrence.

(13) Bypass not exceeding limitations. The permittee may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if necessary for the performance of essential maintenance or to assure efficient operation of treatment facilities.

(14) Permit actions. The permit may be modified, suspended, or revoked for cause. The filing of a request by the permittee for a permit modification, reissuance, or termination, or a notification of planned changes or anticipated non-compliance does not stay any permit condition.

(15) Duty to reapply. If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee must apply for and obtain a new permit. The permittee shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Department in writing.



(16) Property rights. The permit does not convey any property rights of any sort or any exclusive privilege.

(17) Other laws. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the permittee of its obligation to comply with any other applicable Federal, State, and local laws and regulations.

(18) Oil and hazardous substance liability. Nothing in the permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Federal Act, 33 U.S.C. § 1321, and M.G.L. c. 21E.

(19) Removed substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed in a manner consistent with applicable Federal and State laws and regulations including, but not limited to, the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53 and the Federal Act, 33 U.S.C. § 1251 *et seq*, the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, and the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq*, 310 CMR 19.000 and 30.000, and other applicable regulations.

(20) Reporting requirements.

(a) Monitoring reports. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) at the intervals specified elsewhere in the permit. If the permittee monitors any pollutant more frequently than required by the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

(b) Compliance schedules. Reports of compliance or non-compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date.

(c) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility or activity which could significantly change the nature or increase the quantity of pollutants discharged. Unless and until the permit is modified, any new or increased discharge in excess of permit limits or not specifically authorized by the permit constitutes a violation.

(d) Anticipated non-compliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in non-compliance with permit requirements.

(e) 24 hour reporting. The permittee shall report any non-compliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the

non-compliance, including exact dates and times, and if the non-compliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the non-compliance. The following shall be included as information which must be reported within 24 hours:

1. Any unanticipated bypass which exceeds any effluent limitation in the permit.
2. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(f) Other non-compliance. The permittee shall report all instances of non-compliance not reported under 314 CMR 5.16(20)(a), (b), or (e) at the time monitoring reports are submitted. The reports shall contain the information listed in 314 CMR 5.16(20)(e).

(g) Toxics. All manufacturing, commercial, mining, or silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

1. That any activity has occurred or will occur which would result in the discharge of any toxic pollutant listed in 314 CMR 3.17 which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:
  - a. 100 micrograms per liter (100 ug/l);
  - b. 200 micrograms per liter (200 ug/l) for acrolein and acrylonitrile; 500 micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
  - c. Five times the maximum concentration value reported for that pollutant in the permit application; or
2. That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application.

(h) Indirect dischargers. All Publicly Owned Treatment Works shall provide adequate notice to the Department of the following:

1. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to § 301 or 306 of the Federal Act, 33 U.S.C. § 1311 or 1316, if it were directly discharging those pollutants; and
2. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.

(i) Information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

(21) Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified in accordance with 314 CMR 3.15 and 5.14.

(22) Severability. The provisions of the permit are severable, and if any provision of the permit, or the application of any provision of the permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of the permit, shall not be affected thereby.



(23) Reopener clause. The Department reserves the right to make appropriate revisions to the permit in order to establish any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53 or the Federal Act, 33 U.S.C. §1251 *et seq* in order to bring all discharges into compliance with said statutes.

(24) Approval of treatment works. All discharges and associated treatment works authorized herein shall be consistent with the terms and conditions of this permit. Any modification to the approved treatment works shall require written approval of the Department prior to the construction of the modification.

(25) Transfer of Permits.

(a) RCRA facilities. Any permit which authorizes the operation of a RCRA facility which is subject to the requirements of 314 CMR 8.07 shall be valid only for the person to whom it is issued and may not be transferred.

(b) Transfers by modification. Except as provided in 314 CMR 5.16(25)(a) and (c), a permit may be transferred by the permittee to a new owner or operator provided that the permit has been modified or revoked and reissued or a minor modification is made to identify the new permittee in accordance with 314 CMR 5.12(3) and (4).

(c) Automatic transfers. For facilities other than Privately Owned Wastewater Treatment Facilities (PWTFs) that treat at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, and/or assisted living facilities, PWTFs that have been required to establish financial assurance mechanism(s) pursuant to 314 CMR 5.15(6), and RCRA facilities subject to the requirements of 314 CMR 8.07, a permit may be automatically transferred in accordance with 314 CMR 5.12(5).

(26) Permit Compliance Fees and Inspection Information. Except as otherwise provided, any permittee required to obtain a surface water or ground water discharge permit pursuant to M.G.L. c. 21, § 43 and 314 CMR 3.00 and 5.00, shall be required to submit the annual compliance assurance fee established in accordance with M.G.L. c. 21A, § 18 and 310 CMR 4.00 as provided in 314 CMR 2.12. The requirement to submit the annual compliance fee does not apply to any local government unit other than an authority. Any permittee required to obtain a surface water or ground water discharge permit pursuant to M.G.L. c. 21, §43 and 314 CMR 3.00 and 5.00 may be required to submit inspection information annually as a condition of the permit as provided in 314 CMR 2.12.



Massachusetts Department of Environmental Protection  
One Winter Street, Boston MA 02108 • Phone: 617-292-5751

## Communication For Non-English Speaking Parties - 310 CMR 1.03(5)(a)



### 1 English:

This document is important and should be translated immediately. If you need this document translated, please contact MassDEP's Diversity Director at the telephone numbers listed below.



### 2 Español (Spanish):

Este documento es importante y debe ser traducido inmediatamente. Si necesita este documento traducido, por favor póngase en contacto con el Director de Diversidad MassDEP a los números de teléfono que aparecen más abajo.



### 3 Português (Portuguese):

Este documento é importante e deve ser traduzida imediatamente. Se você precisa deste documento traduzido, por favor, entre em contato com Diretor de Diversidade da MassDEP para os números de telefone listados abaixo.



### 4(a) 中國 (傳統) (Chinese (Traditional)):

本文件非常重要，應立即翻譯。如果您需要翻譯這份文件，請用下面列出的電話號碼與MassDEP的多樣性總監聯繫。



### 4(b) 中国 (简体中文) (Chinese (Simplified)):

本文件非常重要，应立即翻译。如果您需要翻译这份文件，请用下面列出的电话号码与MassDEP的多样性总监联系。



### 5 Ayisyen (franse kreyòl) (Haitian) (French Creole):

Dokiman sa-a se yon bagay enpòtan epi yo ta dwe tradui imedyatman. Si ou bezwen dokiman sa a tradui, tanpri kontakte Divèsite Direktè MassDEP a nan nimewo telefòn ki nan lis pi ba a.



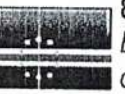
### 6 Việt (Vietnamese):

Tài liệu này là rất quan trọng và cần được dịch ngay lập tức. Nếu bạn cần dịch tài liệu này, xin vui lòng liên hệ với Giám đốc MassDEP đa dạng tại các số điện thoại được liệt kê dưới đây.



### 7 ប្រទេសកម្ពុជា (Kmer (Cambodian)):

ឯកសារនេះគឺមានសារៈសំខាន់និងគួរត្រូវបានបកប្រែភ្លាមៗ ប្រសិនបើអ្នកត្រូវបានបកប្រែឯកសារនេះសូមទំនាក់ទំនងជាមួយក្រុមការងារ MassDEP នៅលេខទូរស័ព្ទដែលបានរាយនាមខាងក្រោម។



### 8 Kriolu Kabuverdianu (Cape Verdean):

Es documento é importante e deve ser traduzido imidiatamente. Se bo precisa des documento traduzido, por favor contacta Director de Diversidade na MassDEP's pa es numero indicode li d'boche.



### 9 Русский язык (Russian):

Этот документ должен быть немедленно. Если вам нужна помощь при переводе, свяжитесь пожалуйста с директором по этике и разнообразию в MassDEP по телефону указанному ниже.



**ESCROW AGREEMENT  
FOR THE IMMEDIATE REPAIR AND/OR REPLACEMENT ACCOUNT  
GROUNDWATER DISCHARGE PERMIT NO. 18(3) AND ALL RENEWALS**

This Escrow Agreement is entered into by and between: the Massachusetts Department of Environmental Protection, a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, § 7 ("Department") having a principal office located at One Winter Street, Boston, Massachusetts 02108, and a

Central Regional Office

Regional Office

located at

8 New Bond Street, Worcester, MA 01606;

City/Town, State, Zip Code

RECEIVED

JUL 21 2017

MADEP-GERO

Nagog Treatment Facility, LLC,

Permittee Name (hereinafter "Permittee")

having a principal place of business located at:

100 Nonset Path

Street Address

Acton

01720;

Zip Code

and

Enterprise Bank  
and Trust

having a principal place of business located at:

222 Merrimack Street

Street Address

Lowell, MA 01852

The Department, the Permittee, and the Escrow Agent are hereinafter collectively referred to as the "Parties."

Recitals

WHEREAS, on June 26, 2017 (date) the Department issued to the Permittee an individual Ground Water Discharge Permit or granted the Permittee coverage under a General Permit ("Permit");

WHEREAS, the Permit authorizes the Permittee to operate the Privately Owned Wastewater Treatment Facility ("PWTF") located at  
44 Durkee Lane, Acton, MA 01720

and to discharge effluent from the PWTF to the ground water in accordance with the terms and conditions set forth therein;

WHEREAS, the Permit requires the Permittee to use a Department approved form to establish and maintain a financial assurance mechanism that provides for an immediate repair and replacement account to assure that funds will be available when needed for the immediate repair and/or replacement of the PWTF;

WHEREAS, this Escrow Agreement is the Department approved form to establish and maintain a financial assurance mechanism that provides for the immediate repair and replacement account required by the Permit. This Escrow Agreement defines the terms and conditions under which the immediate repair and replacement account will be held and disbursed;

WHEREAS, the Permit and the Ground Water Discharge Regulations established at 314 CMR 5.10(8) (I) and 314 CMR 5.15(5)(a) require that funds equal to 25% of the estimated construction cost of the PWTF be deposited in an interest bearing repair and replacement escrow account;

WHEREAS, the Parties agree that the estimated construction cost of the PWTF, including the treatment plant, the collection system, and associated mechanical equipment, is \$1,000,000;

WHEREAS, the amount required to be placed in the immediate repair and replacement escrow account is \$250,000 ("Required Escrow Amount"); and

WHEREAS, the Escrow Agent agrees to accept, hold, and disburse the escrow account funds and the earnings thereon in accordance with the terms of this Escrow Agreement.

NOW, THEREFORE, in consideration of the recitals above, the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

#### Escrow Account

1. Permittee shall deliver to the Escrow Agent, a third-party acting in a fiduciary capacity, the Required Escrow Amount of \$250,000 at least thirty (30) calendar days prior to  
July 31, 2017.

date PWTF is expected to commence operation for new facilities or date of renewal or modification of an existing permit for existing facilities

An applicant or permittee may obtain additional time to establish the account, if a request is submitted to the Department providing sufficient justification for the extension and if the Department approves the request in writing.

2. Within two (2) business days of receipt of the Required Escrow Amount or additional funds pursuant to Paragraph 3 below, the Escrow Agent shall place the Required Escrow Amount in an interest bearing account ("Escrow Account") at  
EIA/Enterprise Bank and Trust Company

Name of Institution/Bank

located at 222 Merrimack Street, Lowell, Massachusetts 01852 ("Depository Bank").

All funds delivered by the Permittee to the Escrow Agent shall be deposited and held by the Escrow Agent in the Escrow Account #10489064.

3. Within ninety (90) calendar days of any disbursement from the Escrow Account, the Permittee shall deliver additional funds to the Escrow Agent so that the amount available in the Escrow Account shall be no less than the Required Escrow Amount, provided that at no time may the Escrow Account incur a negative balance. An applicant or permittee may obtain additional time to replenish the account, if a request is submitted to the Department providing sufficient justification for the extension and if the Department approves the request in writing.

4. The Depository Bank shall be entitled to charge the Escrow Account for services related to maintenance of the Escrow Account at a rate not exceeding the Depository Bank's standard charges to other customers for similar services.

5. The Escrow Account shall be opened with the signature of the Escrow Agent indicating that checks drawn against the Escrow Account shall be signed by the Escrow Agent and by no other person. Disbursements shall be made from the Escrow Account only in accordance with the terms of this Agreement.

6. The Escrow Agent shall maintain a record of all deposits, income, disbursements, and other transactions concerning the Escrow Account. On or before January 15th of each year, the Escrow Agent shall provide to each of the Parties a written accounting of the initial and current balance as well as of all transactions that occurred during the prior calendar year. Upon request, the Parties shall have the right to inspect, at reasonable times, all books and records of the Escrow Agent relating to the Escrow Account, including, without limitation, all accounting and bank statements, checks, receipts, and disbursements. The Escrow Agent shall send a copy of such books and records to a Party within thirty (30) calendar days of a request.

7. The Escrow Agent shall keep in its possession all book(s) and records relating to the Escrow Account until such time as they are delivered to a successor Escrow Agent pursuant to Paragraph 16 below or to the Permittee and the Department pursuant to Paragraph 29 below.

#### Disbursements

8. The Escrow Agent shall make disbursements of the Escrow Account funds including any accrued interest only as follows:

(a) Seven (7) business days following receipt of written direction from the Permittee stating that funds held in the Escrow Account are required to pay for the immediate repair and/or replacement of the PWTF or any of its components, the Escrow Agent shall disburse such funds to the Permittee in accordance with the Permittee's written direction, unless the Department objects in writing to such disbursement prior to the seventh (7th) business day. The Permittee's written direction shall include invoice(s) evidencing the expenditure made or to be made. The Permittee shall simultaneously send a copy of the written direction including invoice(s) to the attention of the Department as set forth in Paragraph 15 below.



(b) The Escrow Agent shall disburse all funds in the Escrow Account to the Permittee within five (5) business days of receipt of a joint written direction from the Department and the Permittee that the Escrow Account funds are no longer required to fund the immediate repair and/or replacement of the PWTf or any of its components.

(c) Notwithstanding Paragraphs 8(a) and (b) above, the Escrow Agent shall disburse the Escrow Account funds to the Permittee or the Department in accordance with any final order, judgment, or decree of a court of competent jurisdiction from which the Parties do not appeal or from which no further right of appeal exists.

(d) The Escrow Agent shall disburse funds to itself for services rendered in accordance with Paragraph 12 below.

#### Duties and Liabilities of Escrow Agent

9. The Escrow Agent shall have no liability or obligation with respect to the Escrow Account funds except for the Escrow Agent's willful misconduct, bad faith or gross negligence. The Escrow Agent shall be under no duty to: (a) pass upon the adequacy of any documents; (b) determine whether any of the Parties are complying with the terms and provisions of this Escrow Agreement; or (c) determine the identity or authority of any person purporting to be a signatory authorized by the Permittee or the Department.

10. The Escrow Agent may conclusively rely upon, and shall be protected in acting on, a statement, certificate, notice, requisition, order, approval, or other document believed by the Escrow Agent to be genuine and to have been given, signed and presented by a duly authorized agent of the Permittee or Department. The Escrow Agent shall have no duty or liability to verify any statement, certificate, notice, requisition, order, approval or other document and its sole responsibility shall be to act only as expressly set forth in this Escrow Agreement. The Escrow Agent shall not incur liability for following the instructions contemplated by this Escrow Agreement or expressly provided for in this Escrow Agreement. The Escrow Agent shall be under no obligation to institute or defend any action, suit, or proceeding in connection with this Escrow Agreement, unless first indemnified to its satisfaction. The Escrow Agent may consult with counsel of its choice including shareholders, directors and employees of the Escrow Agent, with respect to any question arising under or in connection with this Escrow Agreement.

11. The Escrow Agent may refrain from taking any action, other than keeping all property held by it in escrow if the Escrow Agent: (a) is uncertain about its duties or rights under this Escrow Agreement; or (b) receives instructions that, in its opinion, are in conflict with any of the terms and provisions of this Escrow Agreement, until it has resolved the conflict to its satisfaction, received a final judgment by a court of competent jurisdiction (if it seems such action necessary or advisable), or received instructions executed by both the Department and the Permittee.

#### Escrow Agent's Fee

12. The Escrow Agent shall be entitled to compensation from the Permittee for its services under this Escrow Agreement in accordance with the fee schedule attached to this Escrow Agreement as Exhibit A. The attached fee schedule constitutes full compensation to the Escrow Agent for services contemplated by this Escrow Agreement. The Escrow Agent is authorized to compensate itself from Escrow Account funds in accordance with the attached schedule following thirty (30) calendar days prior written notice to Permittee. The Escrow Account shall be replenished by the Permittee as required by Paragraph 3 above.

#### Investment Risk

13. In no event shall the Escrow Agent have any liability as a result of any loss occasioned by the financial difficulty or failure of any institution, including Depository Bank, or for failure of any banking institution, including Depository Bank, to follow the instructions of the Escrow Agent. Without limiting the generality of the foregoing, in no event shall the Escrow Agent incur any liability as the result of any claim or allegation that the Escrow Agent should have invested the escrow funds in United States Treasury Bills rather than hold same on deposit at the Depository Bank, or visa versa.

#### Notices

14. All notices, certifications, authorizations, requests, or other communications permitted or required under this Escrow Agreement shall be in writing and shall be deemed duly provided when deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested to the other Parties at the addresses set forth in Paragraph 15 below. In addition, the Parties may provide notice utilizing the alternate methods of hand delivery, Federal Express, or other recognized overnight courier. Notices provided by hand delivery, Federal Express or other recognized overnight courier shall be deemed duly provided when received at the addresses set forth in Paragraph 15 below.

15. All notices, certifications, authorizations, requests, or other communications permitted or required shall be delivered as follows:

To the Department:

David Boyer, Section Chief

MassDEP, Central Regional Office

8 New Bond Street, Worcester, MA 01606

To the Permittee:

Nagog Treatment Facility, LLC

100 Nonset Path

Acton, MA 01720

To the Escrow Agent:

Enterprise Bank and Trust Company, attn: Lauren Mersereau

8 High Street

Andover, MA 01810

or to such other place or to the attention of such other individual as a Party from time to time may designate by written notice to all other Parties.

Resignation, Removal and Successor Escrow Agent

16. If, for any reason, the Escrow Agent is unable or unwilling to continue to act as Escrow Agent, then it shall give written notice to the other Parties of its intent to resign as Escrow Agent. Within ten (10) business days following receipt of such notice, the Parties shall agree upon a successor escrow agent, formally appoint the successor escrow agent and provide written notification to the Escrow Agent of the subsequent appointment. Upon appointment, such successor escrow agent shall execute and deliver to its predecessor and to the Parties an instrument in writing accepting such appointment. Thereupon, without further action, such successor escrow agent shall be fully vested with all the rights, immunities, and powers, and shall be subject to all the duties and obligations of its predecessor. The predecessor Escrow Agent shall, within three (3) business days following receipt of the written acceptance of subsequent appointment, deliver to the Escrow Agent's successor all books and records, funds, and other property held by the Escrow Agent under the Escrow Agreement. Upon such delivery, all obligations of the Escrow Agent under this Escrow Agreement shall automatically terminate. If no successor Escrow Agent is designated within the prescribed ten (10) business day period, or if written acceptance of subsequent appointment is not received within such period, then the Escrow Agent's obligations under this Escrow Agreement shall continue unless otherwise agreed to by the Parties.

17. The Escrow Agent may be removed at any time by a written instrument or concurrent written instruments signed by the Department and the Permittee and delivered to the Escrow Agent.

18. If at any time the Escrow Agent shall resign, be removed, be dissolved, or otherwise become incapable of acting, or the position of the Escrow Agent shall become vacant for any reason, the Parties shall promptly appoint a successor Escrow Agent.

Interest

19. All interest income accrued on funds in the Escrow Account shall become part of the Escrow Account and shall remain in the Escrow Account. The Permittee shall be solely responsible for the payment of all federal and state taxes on accrued Escrow Account interest.



Miscellaneous

20. This Escrow Agreement constitutes the entire agreement between the Parties relating to the holding, investment, and disbursement of the Escrow Account funds, but not relating to the extension of the establishment of funds covered by Paragraph 1 and the extension of the replenishment of funds covered by paragraph 3 above.
21. This Escrow Agreement shall be binding upon, and shall inure to the benefit of the Parties hereto and their successors and assigns.
22. This Escrow Agreement shall be governed by and be construed and interpreted in accordance with the laws of the Commonwealth of Massachusetts without giving effect to the conflict of laws principles thereof.
23. This Escrow Agreement shall be interpreted as an instrument under seal.
24. This Escrow Agreement may be executed in any number of counterparts each of which shall constitute an original and all counterparts shall constitute one Agreement.
25. This Escrow Agreement may not be assigned, amended, altered, or modified except by written instrument duly executed by all the Parties.
26. The Permittee shall not transfer Groundwater Discharge Permit #18-3, and the Department shall not approve said transfer, unless and until the proposed new permittee establishes a new financial assurance mechanism that meets the requirements of said permit and 314 CMR 5.00, and/or the Permittee, the proposed new permittee, the Department and the Escrow Agent agree to modify this agreement to substitute the proposed new permittee for the Permittee.
27. In the event that any party to this Escrow Agreement commences a lawsuit or other proceeding relating to or arising from this Escrow Agreement, the Parties agree that the courts of the Commonwealth of Massachusetts, excluding any federal court sitting therein, shall have the sole and exclusive jurisdiction over any such proceeding. The Parties agree to: (a) waive any objection to such venue; (b) submit to the jurisdiction of the courts so specified; and (c) accept service of process to vest personal jurisdiction over them in these courts.
28. To the extent any provision of this Escrow Agreement is prohibited by or held invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Escrow Agreement.
29. This Escrow Agreement shall terminate, and the Escrow Agent shall be relieved of all liability, after: (a) all funds in the Escrow Account have been properly disbursed in accordance with the terms and conditions of this Agreement; (b) the Escrow Agent has provided a final accounting of all transactions hereunder to the Parties; and (c) a copy of all books and records relating to the Escrow Account has been delivered to the Permittee, and, if requested, to the Department.

Effective Date

30. This Agreement shall take effect on the latest date of execution by the Department, Permittee or Escrow Agent.


IN WITNESS WHEREOF, the Parties have caused this Escrow Agreement to be duly executed as set forth below.

FOR THE MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION

By Marielle Stone  
Signature  
Marielle Stone  
Printed Name  
Deputy Regional Director  
Title

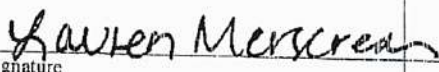
August 7, 2017  
Date

FOR THE PERMITTEE

By   
Signature  
Stephen R. Noone  
Printed Name  
Treasurer  
Title

6/26/2017  
Date

FOR THE ESCROW AGENT

By   
Signature  
Lauren Mersereau  
Printed Name  
Vice-President/Senior Relationship Manager  
Title

7/15/17  
Date



**EXHIBIT A**  
Escrow Agent's Fee Schedule

|                |      |          |
|----------------|------|----------|
| \$1,500/annual | Fees | \$ /hour |
|                | Fees | \$ /hour |

To be adjusted every two (2) years.