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Exhibit A to General Terms and Conditions
Dispute Resolution Board
Three-Party Agreement

**DISPUTE RESOLUTION BOARD
THREE-PARTY AGREEMENT**

THIS AGREEMENT is made this _____ day of _____, 2010, between the Northeast Ohio Regional Sewer District, a regional sewer district organized and existing as a political subdivision of the State of Ohio under Chapter 6119 of the Ohio Revised Code ("Owner"), [CONTRACTOR] _____ ("Contractor"), with its principal place of business located at _____, and [LIST DRB MEMBERS].

The Owner and Contractor agree as set forth below:

I PARTIES

- A. Northeast Ohio Regional Sewer District (NEORSDD), herein after referred to as the OWNER.
- B. _____, herein after referred to as the CONTRACTOR.
- C. Dispute Resolution Board, hereinafter referred to as the DRB, consisting of three members:
 - 1. _____
 - 2. _____
 - 3. _____

II CONTRACT

- A. The CONTRACTOR has entered into an Agreement between OWNER and CONTRACTOR for the construction of the [PROJECT NAME], hereinafter referred to as the PROJECT.
- B. The Agreement between OWNER and CONTRACTOR provides for the establishment and operation of a DRB to assist in resolving disputes.
- C. The DRB is composed of three members, selected in accordance with Article 9 of the General Terms and Conditions to the Agreement between OWNER and CONTRACTOR.

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III PURPOSE OF DRB

To assist in and facilitate avoidance of disputes and the timely and impartial resolution of disputes that are referred to it.

IV DRB SCOPE OF WORK

The DRB members shall perform their duties as follows:

A. General:

1. Stay abreast of PROJECT developments by means of periodic meetings and site visits, review of progress reports, meeting minutes, and other PROJECT Records, and by other means as mutually agreed by OWNER and CONTRACTOR.
2. Examine site conditions or specific construction problems relating to an existing or potential dispute, unless such examination is not practical, or, in the judgment of either the OWNER or the CONTRACTOR, would result in a delay to the Project.
3. One of the selected members shall serve as Chair.
4. Execute this Agreement at the first meeting with representatives of the OWNER and the CONTRACTOR.

B. Establish DRB operating procedures consistent with the requirements and general guidelines set forth in the General Terms and Conditions to the Agreement between OWNER and CONTRACTOR as follows:

1. Establish operating procedures mutually agreeable to all parties, such as administrative duties; conduct of quarterly progress meetings and Site visits to provide the DRB with information on the status of the PROJECT; content and format of information which may be presented at DRB hearings; conduct of hearings; content of DRB written recommendations and invoicing procedures. Such procedures should be established at the first meeting with representatives of the OWNER and the CONTRACTOR.
2. Initiate new procedures or modify existing procedures as mutually agreed to by OWNER and the CONTRACTOR.
3. Provide OWNER and the CONTRACTOR with these operating procedures, including all modified procedures, in written form.

C. Recommend Resolution of Disputes:

1. Meet with the OWNER and CONTRACTOR on a quarterly basis at the PROJECT Site or other mutually agreeable location based on the circumstances to discuss the Work for the PROJECT and related issues identified in the meeting agenda developed by the DRB Chair with input from the OWNER, CONTRACTOR and DRB members. Between each quarterly DRB meeting, OWNER shall provide the DRB members with copies of PROJECT Records that

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provide periodic progress reporting updates or report on the status of any Work or related unresolved issues discussed at any prior DRB meeting.

2. Upon receipt by the DRB of a referral of a dispute from either the OWNER or CONTRACTOR, the DRB Chair shall schedule a hearing at a time and location set by the DRB following consultation with the OWNER and CONTRACTOR and taking into consideration the time the OWNER and CONTRACTOR require for preparation and submittal of position papers and rebuttals and their review by the DRB.
 3. When proper evaluation of the dispute requires expertise that is not within the collective experience of the DRB, engage, with the prior written approval of the OWNER and the CONTRACTOR, the services of one or more outside consultants as may be needed to advise the DRB.
 4. Convene internal meetings as needed to review and discuss the dispute, and to formulate the DRB written recommendations.
 5. Following each hearing and DRB deliberation, issue timely executed DRB written recommendations to the OWNER and the CONTRACTOR, including a concise statement of the dispute and the two opposing positions, the DRB's findings as to the facts of the dispute, the recommendation and the supporting rationale for the DRB recommendations. The dissenting findings and recommendations will be included in the DRB written recommendations, along with the majority findings and recommendations.
 6. When requested and deemed appropriate by the DRB, provide executed written responses to requests for clarification or reconsideration made by either the OWNER or the CONTRACTOR to the DRB written recommendations.
 7. All DRB recommendations and responses to requests for clarification or reconsideration shall be signed by all three DRB members.
- D. Perform services and assume responsibilities, as agreed by all parties, as may be required, including those necessary but not listed herein, to achieve the purpose of this Agreement.

V RESPONSIBILITIES OF THE PARTIES

A. DRB Responsibilities:

1. Maintain impartiality and avoid conflicts of interest by continuing to meet the specified requirements for nominees for DRB members set forth in Article 9 of the General Terms and Conditions to the Agreement between OWNER and CONTRACTOR. Promptly advise all parties upon becoming aware of any development that could be perceived as a conflict of interest.
2. Do not discuss, individually or collectively, issues with the OWNER or the CONTRACTOR that could possibly be construed as compromising the DRB's

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ability to impartially resolve future disputes, such as the conduct of the Work and the resolution of disputes and construction problems.

3. Do not express an individual or collective opinion of merit, in whole or in part, for any potential or other dispute at any time prior to the issue of DRB written recommendations, except, if applicable, in the case of an advisory opinion.
4. Except as required when performing the duties of the Chair or conducting a hearing which the OWNER or CONTRACTOR refuses to attend, do not meet or communicate with either the OWNER or CONTRACTOR in the absence of the other.
5. Consider the facts and conditions forming the basis for a referred dispute impartially and independently and evaluate the merits based on careful consideration of all contract requirements, applicable law and regulations, and the facts and circumstances of the dispute. Do not:
 - a. Ignore or undermine the clear intent of the Contract Documents, or disregard or alter any requirements of the Contract Documents or allocation of risk specified therein.
 - b. Supplant or otherwise interfere with the respective rights, authority, duties, and obligations of either the OWNER or CONTRACTOR as set forth in the Contract Documents.
6. Make every effort to reach unanimous recommendations. If this cannot be accomplished, include written minority recommendations and supporting rationale with the DRB written recommendations.

B. OWNER Responsibilities:

1. Except for participation in the DRB's activities as provided in the Contract Documents and this Agreement, do not solicit advice or consultation from the DRB or its members on matters dealing with the conduct of the Work or resolution of problems which might compromise the DRB's ability to impartially resolve future disputes.
2. Furnish to each DRB member one copy of the conformed Contract Documents, Contractor CPM Schedule and updates, Project CPM Construction Schedule, if applicable, weekly progress reports, minutes of progress meetings with the CONTRACTOR, Construction Change Directives, Field Orders, Work Orders, Change Orders, and other documents pertinent to the performance of the Contract and necessary for the DRB to conduct its operations and perform its services.
3. Coordinate DRB operations in cooperation with the CONTRACTOR.
4. Arrange for or provide conference facilities at or near the Site, and provide copying services.

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5. Cooperate with the Contractor and the DRB to facilitate prevention of disputes and the timely and impartial resolution of disputes.
- C. CONTRACTOR Responsibilities:
1. Except for participation in the DRB's activities as provided in the Contract Documents and this Agreement, do not solicit advice or consultation from the DRB or its members on matters dealing with the conduct of the Work or resolution of problems which might compromise the DRB's ability to impartially resolve future disputes.
 2. Furnish to each DRB member and to the OWNER, one copy of pertinent documents other than those furnished by the OWNER as may be requested.
 3. Cooperate with the OWNER and the DRB to facilitate prevention of disputes and the timely and impartial resolution of disputes that are referred to it.

VI TIME FOR BEGINNING AND COMPLETION OF DRB ACTIVITIES

- A. Unless the DRB Chair has been previously identified by the parties, the DRB shall begin its activities by selecting the Chair. After selection of the Chair, DRB activities shall proceed with preparation for the first meeting, including preparation of the DRB operating procedures.
- B. This Agreement shall survive the termination, resignation or death of any member.
- C. The DRB's jurisdiction under this Agreement shall end on the date of final payment under the CONTRACT, unless terminated earlier or extended later by mutual agreement of the OWNER and CONTRACTOR.

VII PAYMENT

- A. Payments made to the DRB members shall constitute full compensation for work performed, travel time and services rendered, and for all materials, supplies and incidentals necessary to serve on the DRB.
- B. Payment for services rendered by DRB members shall be at the rate and conditions agreed to between the OWNER and the CONTRACTOR and each DRB member.
- C. DRB members shall be reimbursed for actual direct, non-salary expenses including automobile mileage, parking, travel expenses from the point of departure to the initial point of arrival, automobile rental, taxi fares, food and lodging, printing, long distance telephone, postage and courier delivery, subject to limitations imposed by the Contract Documents.
- D. Payment made to DRB members in the form of bonus, commission, or consideration of any nature other than that specified hereinabove for performance and service provided under this Agreement, before, during or after the period that this Agreement is in effect, is prohibited.
- E. DRB members shall individually submit invoices for work completed to the CONTRACTOR:

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1. Not more often than once per month.
 2. Based on the agreed billing rate and conditions and on the number of hours expended, together with direct, non-salary expenses including an itemized listing supported by copies of original bills, invoices, and expense accounts.
 3. Accompanied by a description of activities performed daily during that period and billed in no less than one-half hour increments for each activity description.
- F. The CONTRACTOR shall pay acceptable invoices, approved by the OWNER, within 30 days of their receipt.
- G. The CONTRACTOR shall be reimbursed for the OWNER'S and CONTRACTOR'S portion of the DRB costs in accordance with Article 5 of the General Terms and Conditions to the Agreement between Owner and Contractor.

VIII CONFIDENTIALITY AND RECORDKEEPING

- A. No DRB member shall divulge information identified as confidential that has been acquired during DRB activities without obtaining prior written approval from the OWNER and the CONTRACTOR.
- B. DRB members shall maintain cost records pertaining to this Agreement for inspection by the OWNER or the CONTRACTOR for a period of three years following the end or termination of this Agreement.

IX ASSIGNMENT

No party to this Agreement shall assign any duty established under this Agreement.

X TERMINATION

- A. This Agreement may be terminated by mutual written agreement of the OWNER and CONTRACTOR at any time upon not less than four weeks written notice to the other DRB members.
- B. Individual DRB members may be terminated only by agreement of both the OWNER and the CONTRACTOR.
- C. If a DRB member resigns, is unable to serve, or is terminated, he or she shall be replaced within four weeks in the same manner as he or she was originally selected. This Agreement shall be amended to indicate the member replacement.

XI LEGAL RELATIONS

- A. The parties to this Agreement expressly acknowledge that each DRB member, in the performance of his or her duties on the DRB, is acting in the capacity of an independent agent and not as an employee of the OWNER or the CONTRACTOR.
- B. The OWNER and the CONTRACTOR acknowledge that each DRB member is acting in a capacity intended to facilitate the resolution of disputes. Accordingly, it is agreed and acknowledged that, to the fullest extent permitted by law, each DRB member shall be

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accorded quasi-judicial immunity for any actions or decisions associated with DRB activities.

XII DISPUTES REGARDING THIS THREE-PARTY AGREEMENT

- A. Disputes among the parties arising out of this Agreement that cannot be resolved by negotiation and mutual concurrence and actions to enforce any right or obligation under this Agreement shall be resolved in accordance with Article 9 of the General Terms and Conditions to the Agreement between OWNER and CONTRACTOR. .
- B. All questions shall be resolved by application of Ohio law.
- C. The DRB members hereby consent to the personal jurisdiction of the Court of Common Pleas of Cuyahoga County, Ohio.

XIII FUNDING AGENCY REVIEW

The Ohio Environmental Protection Agency (OEPA) has the right to review DRB recommendations and to attend DRB hearings, but not to attend private DRB deliberations.

XIV CONFLICTS OF TERMS

In the event of any conflict between the terms of the General Terms and Conditions to the Agreement between OWNER and CONTRACTOR and this Agreement, the terms of the General Terms and Conditions to the Agreement between OWNER and CONTRACTOR shall control.

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The parties hereto have executed this Agreement as of the day and year first above written.

DRB MEMBERS:

By: _____
(Signature)

(Printed Name)

By: _____
(Signature)

(Printed Name)

By: _____
(Signature)

(Printed Name)

CONTRACTOR:

By: _____
(Signature)

By: _____
(Printed Name)

Title: _____

OWNER:

By: _____
Julius Ciaccia, Jr.
Executive Director

By: _____
Darnell Brown, President
Board of Trustees

The Legal Form and Correctness
of this Instrument are hereby
Approved:

MARLENE SUNDHEIMER
Director of Law

By: _____
Assistant Director of Law

Date: _____