Penobscot Energy Recovery Company
29 Industrial Way
Orrington, Maine 04474
(207) 825 - 4566

ESOCO ORRINGTON, LLC.
Plant Operator

Memorandum

To: Equity Charter Municipalities and PERC Holdings, LLC

From: John Noer

Date: July 31, 2015

Re: Draft of the Sixth Amended and Restated Agreement of the Limited Partnership of Penobscot Energy Recovery Company, Limited Partnership

As you each know, Penobscot Energy Recovery Company, Limited Partnership ("PERC") is initiating a program to renew waste disposal agreements and to extend the life of the PERC partnership past the existing 2018-19 period for termination provided for in the governing documents of PERC. Under USA Energy Group's (PERC's managing general partner) oversight, management and staff have been working diligently over the past 11 years on operating and maintaining our facility to prepare it for another 20 years of exemplary performance to meet your community's solid waste disposal requirements.

In fact, a recent evaluation of the plant by HDR, Inc. engineers found that "As a result of the good historical preventative and routine maintenance programs and practices, the equipment at the PERC Facility appears to be in better condition than other similar equipment at other WtE facilities of similar size and age." With continued maintenance and investment, HDR said "it would be expected that the PERC Facility should be capable of continuing to process waste at historical rates in the waste processing facility and efficiently producing steam and electricity in the generation side until at least the year 2035."

In this mailing (which is the last of three we have now sent), please find attached a draft copy of the "Sixth Amended and Restated Agreement of the Limited Partnership of Penobscot Energy Recovery Company, Limited Partnership" (the "New Partnership Agreement"). Also, attached for your files is a copy of the "Fifth Amended and Restated Agreement of the Limited Partnership of Penobscot Energy Recovery Company, Limited Partnership" (the "Current Partnership Agreement") that was previously signed by the Municipal Review Committee on behalf of each of you. Although we assume that the Municipal Review Committee has already delivered to each Equity Charter Municipality a copy of the Current Partnership Agreement, we wanted to make sure that each of you had a copy. This mailing will fulfill the promises made last summer to have all the project documents revised and the draft form made available to all of the partners of PERC (each Equity Charter Municipality is the actual owner of the limited partnership interests of PERC).

The Partnership was originally formed in 1983 for the purpose of constructing, owning and operating a waste-to-energy facility to be located in the Town of Orrington, Maine. Over the years the partnership

agreement (and the terms contained in the partnership agreement) has gone through many changes over time which has resulted in the Current Partnership Agreement.

As you each know, the terms of the Current Partnership Agreement had been based on many important considerations relating to the business and operations of PERC that are now changing. These changes include the following:

1. The Current Partnership Agreement is based upon the assumption that the PERC facility is subject to debt financing and a banking institution is concerned about the repayment of the debt. Currently, PERC operates with little or no debt and, because of this, we do not have the same banking concerns as compared to when the Current Partnership Agreement was signed.
2. Previously, because of the issues related to PERC's debt financing, each Equity Charter Municipality has signed a waste disposal agreement promising to deliver a minimum amount of solid waste to the PERC facility (the "Guaranteed Annual Tonnage"). As we have promised, after 2018, each Equity Charter Municipality will no long be subject to the Guaranteed Annual Tonnage.
3. Many Equity Charter Municipalities have expressed their interest in continuing their involvement in the ownership of PERC because of the significant benefit PERC has been to the communities as well as the profit they each will receive from their continued ownership of PERC.
4. Because the Current Partnership Agreement was originally drafted many years ago, the Current Partnership Agreement needs to be updated so as to conform with the business practices currently in use and that will regulate the facility post-2018 including, specifically, removing provisions of the Current Partnership Agreement which call for the termination, dissolution and windup of the Current Partnership Agreement on or about February 14, 2018;
5. We would like to extend the term of the Current Partnership Agreement to December 31, 2068,

Additionally, the New Partnership Agreement is more consistent with today's partnership documents and allows for a more concise definition of partner duties, responsibilities and obligations as well as partnership finances.

As referenced above, the schedule is designed to allow each community time to review, comment and discuss these proposed new agreements prior to their annual town meetings or council meetings. Please read all three documents as a package which describes the various aspects of the Partnership, its business and governance on a go-forward basis. Furthermore the agreements are being extended to all current customer communities and partners, as well as any community seeking to utilize PERC's services for the first time. PERC is not capacity limited and will service all prior agreements as well as new ones.

- Draft Waste Disposal Agreement — Mailed May 28, 2015
  - Out for review
  - Comments due on or before October 31, 2015
- Schedule A (Tipping Fee Structure and Pricing): — Mailed June 29, 2015
  - Out for review
  - Comments due on or before October 31, 2015
- Revised and Extended PERC, LP Partnership Agreement: — Mailed July 29, 2015
  - Out for review to all partners
  - Comments due on or before October 31, 2015
- A series of public forums to be held at various locations — 3rd to 4th Qtr'15
- Final Agreements: — December, 2015

PERC, which continues to operate efficiently and effectively based on time-proven technology, has nearly 30 years of operating history and USA Energy Group has over 11 years of experience in properly managing the PERC facility to serve your needs. USA Energy Group was formed in 2003 in order to purchase ownership in PERC and to become its operator. Each member of the management team at USA Energy Group has over 30 years of experience in the power and energy industry. They have held positions ranging from Plant Manager, to project development to project financing. USA Energy Group has been and will continue to be actively involved in the day-to-day operation of the PERC facility.

Together, we can continue this legacy of managing your community's waste disposal needs in an efficient, environmentally-responsible and cost-effective manner. We look forward to the opportunity to discuss any questions you may have about PERC, its continued operation and any and all of the issues and agreements discussed above.

In the event that you would like additional information or have questions at any time during this process, I would ask you to contact any of the following individuals:

NAME	CONTACT NUMBER
John Noer	612-284-3380
Bob Knudsen	612-961-5628 (cell), or 612-284-3383 (direct)
Tamara Haley	612/284-3380
Peter Prata	207-825-4566 ext. 116
Gary Stacey	207-825-4566 ext. 117

Thank you for your ongoing participation in PERC.

SIXTH AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF PENOBSCOT ENERGY RECOVERY COMPANY, LIMITED PARTNERSHIP

THIS SIXTH AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP, dated as of _____, _____ relative to the Maine limited partnership known as PENOBSCOT ENERGY RECOVERY COMPANY, LIMITED PARTNERSHIP (the "Partnership"), is entered into by and among USA ENERGY GROUP, LLC, a Minnesota limited liability company ("USA Energy"), PERC HOLDINGS, LLC, a Minnesota limited liability company ("PERC Holdings"), and such other Persons a may be admitted to the partnership as a Partner pursuant to the terms of this Agreement and as such Partners are listed and identified in Schedule A which is attached hereto and made a part hereof.

RECITALS

WHEREAS, all or a portion of the Partners are parties to that certain Fifth Amended and Restated Agreement of Limited Partnership of Penobscot Energy Recovery Company, Limited Partnership dated effective as of July 18, 2011 (the "Original Partnership Agreement"); and

WHEREAS, the Original Partnership Agreement provides that the Partners who are parties to the Original Partnership Agreement, together, can amend the Original Partnership Agreement; and

WHEREAS, such Partners desire to amend and restate the Original Partnership Agreement as set forth in this Agreement which shall supersede and replace the Original Partnership Agreement and which shall be the entire agreement between the parties hereto related to the subject matter hereof.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged, the above-named parties agree as follows:

ARTICLE 1.

DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

1.1) Adjusted Deficit Capital Account Balance. "Adjusted Deficit Capital Account Balance" shall have the meaning specified in Section 4.1(c).

1.2) Affiliate. "Affiliate" means any of the following:

(a) any Person or other entity controlling, controlled by or under common control with the Person in question, whether directly or indirectly through one or more intermediaries. For purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through the ownership of voting securities, by contract or otherwise. or

(b) any member, partner, shareholder, director, officer, employee or agent of the Person in question.

1.3) Assigning Limited Partner. "Assigning Limited Partner" shall have the meaning specified in Section 8.4.

1.4) Bankruptcy. "Bankruptcy", with respect to the Partnership or a Partner thereof, means (a) an adjudication that such Partner or Partnership is bankrupt or insolvent, or the entry of an order for relief under the Federal Bankruptcy Code, (b) the making by it of an assignment for the benefit of creditors, (c) the filing by it of a petition in bankruptcy or a petition for relief under any section of the Federal Bankruptcy Code or any other applicable bankruptcy or insolvency statute or an answer admitting or failing to deny the allegations of any such petition, (d) the filing against it of any such petition (unless such petition is dismissed within 60 days from the date of filing thereto), or (e) the appointment of a trustee, conservator or receiver for all or a substantial part of its assets (unless such appointment is vacated or stayed Within 60 days from its effective date).

1.5) Capital Account. "Capital Account" shall mean the account of any owner of a Partnership Interest that is maintained in accordance with the provisions of Section 3.2.

1.6) Code. "Code" means the Internal Revenue Code of 1986, as amended, and any successor to that Code. Any reference herein to specific sections of the Code, and to the Treasury Regulations thereunder, shall be deemed to include a reference to any corresponding provisions of future law.

1.7) Estimated Tax Amount. "Estimated Tax Amount" means the product of the following:

(a) forty percent (40%); multiplied by

(b) the estimated amount of profits and losses allocated to the Partners pursuant to Section 4.1 (but not less than zero).

1.8) Fiscal Year. "Fiscal Year" shall have the meaning specified in Section 11.2(a).

1.9) GAAP. "GAAP" means United States generally accepted accounting principles in effect from time to time and as consistently applied from year-to-year.

1.10) General Partner. "General Partner" means USA Energy or its successors or lawful assigns.

1.11) Incentive Bonus. The term "Incentive Bonus" shall have the meaning specified in the Operating and Maintenance Agreement.

1.12) Independent Accountant. "Independent Accountant" means the firm of certified public accountants as the General Partner may elect from time to time.

1.13) Limited Partner. "Limited Partner" means any person who is admitted as a "limited partner" in accordance with the terms of this Agreement and is shown as a "limited partner" on the books and records of the Partnership.

1.14) Limited Partnership Interest. "Limited Partnership Interest" means the Interest of the Limited Partners. Each Interest of the Limited Partners in the Partnership shall be denominated as a unit with each unit representing a prorata percentage interest in the aggregate Interests of the Limited Partners. Each such unit shall be referred to herein as a Limited Partnership Interest and all references in this Agreement to number of Limited Partnership Interests shall be deemed to refer to the specified number of such units of the Interests of the Limited Partners. All Limited Partnership Interests shall be considered to constitute a single class and all Limited Partners shall vote as a single class under the Partnership Act in accordance with the terms of this Agreement.

1.15) Liquidating Trustee. "Liquidating Trustee" shall have the meaning specified in Section 9.2.

1.16) Management Fee. "Management Fee" shall have the meaning specified in the Operating and Maintenance Agreement.

1.17) Offered Partnership Interest. "Offered Partnership Interest" shall have the meaning specified in Section 8.4(c).

1.18) Operating and Maintenance Agreement. "Operating and Maintenance Agreement" means that certain Amended and Restated Operating and Maintenance dated as of _____, 2015, and which shall be effective only as of the date of this Agreement, all as such agreement is amended and restated from time to time.

1.19) Partners. "Partners" means the General Partner and the Limited Partners, collectively; "Partner" refers to anyone of the Partners, or its successors or assigns.

1.20) Partnership. "Partnership" means Penobscot Energy Recovery Company, Limited Partnership, a Maine limited partnership, which is the subject of this Partnership Agreement, as such Partnership may from time to time be constituted.

1.21) Partnership Act. "Partnership Act" is the Maine Uniform Limited Partnership Act of 2007 as contained in Title 31 Maine Revised Statutes, Chapter 19, as such may be amended from time to time and any successors thereto.

1.22) Person. "Person" means any individual, firm, corporation, trust, partnership or other entity, including any municipality or regional waste disposal district.

1.23) Required Records. "Required Records" shall have the meaning specified in Section 11.1.

1.24) Substitute Limited Partner. "Substitute Limited Partner" shall mean a Person who is admitted as a Limited Partner in the Partnership pursuant to Section 8.5 of this Agreement with all of the rights of a Limited Partner and who is shown as a Limited Partners on the books and records of the Partnership.

1.25) Tax Return. "Tax Return" means the annual Federal income tax return of the Partnership, whether on Form 1065 or such other form as may hereafter be required to be filed by the Partnership pursuant to the Code and Treasury Regulations.

1.26) Transfer. "Transfer" means a sale, transfer, assignment, hypothecation, or other disposition of an interest in the Partnership.

1.27) Transferee. "Transferee" means a purchaser, transferee, assignee or pledgee of, or Person who takes an interest by means of hypothecation in, a Partnership interest.

1.28) Transferor. "Transferor" means a seller, assignor or hypothecator of a Partnership interest.

1.29) Treasury Regulations. The term "Treasury Regulations" shall mean the income tax regulations promulgated under the Code.

ARTICLE 2.

THE PARTNERSHIP AND ITS BUSINESS

2.1) Continuation. The Partners hereby agree to continue the Partnership under the laws of the State of Maine. The General Partner shall take or cause to be taken all such further actions as are appropriate for the Partnership's continuance under the Partnership Act, including any required filings with the Office of the Secretary of State of the State of Maine.

2.2) Name of Partnership. The name of the Partnership shall continue to be the "Penobscot Energy Recovery Company, Limited Partnership." The Partnership may use the assumed name "Penobscot Energy Recovery Company, L.P."

2.3) Address of Partnership. The address of the Partnership shall be 100 N. Sixth Street, Suite 300A, Minneapolis, MN 55403, or such other location as determined by the General Partner in its sole discretion.

2.4) Purpose. The sole purpose of the Partnership shall be to own, maintain, enhance and operate the waste-to-energy facility currently located in Orrington Maine and to undertake any and all other acts and things necessary, proper, convenient, or advisable to effectuate and carry out such purpose.

2.5) Term. The term of the Partnership shall continue until December 31, 2068, unless the Partnership is sooner dissolved as herein provided or by operation of law.

2.6) Place of Business. The principal office and place of business of the Partnership shall be at 29 Industrial Way, Orrington, Maine. The Partnership may also maintain such other offices at such other places as the General Partner may deem advisable.

ARTICLE 3.

TAX MATTERS; CAPITAL ACCOUNTS

3.1) Tax Characterization and Returns. The Partners acknowledge that the Partnership will be treated as a "partnership" for federal and state income tax purposes. All provisions of this Agreement and the Partnership's Certificate of Limited Partnership are to be construed so as to preserve that tax status. Furthermore, each Partner acknowledges and agrees as to the following:

(a) The General Partner will cause federal, state and local income tax returns for the Partnership to be prepared and timely filed (subject to the General Partner's discretion to obtain extensions) with the appropriate authorities. The General Partner, in its sole and absolute discretion, shall determine the accounting methods and conventions under the tax laws of the United States, the several states and other relevant jurisdictions as to the treatment of tax items or any other method or procedure relating to the preparation of such tax returns. In addition, the General Partner, in its sole and absolute discretion, may cause the Partnership to make (or refrain from making) any and all tax elections permitted by such tax laws, including the election referred to in Section 754 of the Code, and may charge the costs of complying with such election to the Partner(s) who requested that such election be made.

(b) As soon as reasonably practicable after the end of each Fiscal Year, the General Partner shall cause to be delivered to each Person who was a Partner at any time during such Fiscal Year such tax information and schedules as are necessary to enable such Person to prepare its federal income tax return (it being understood and agreed that the tax returns of the Partnership may be delayed so that it may be necessary for the Limited Partners to obtain extensions for the filing of their own tax returns). Each Limited Partner agrees in respect of any year in which such Limited Partner had an investment in the Partnership that, unless the General Partner expressly agrees otherwise, such Limited Partner shall not: (i) treat, on its individual tax returns, any tax item relating to such investment in a manner inconsistent with the treatment of such tax item by the Partnership, as reflected on the Schedule K-1 or other information statement furnished by the Partnership to such Partner; or (ii) file any claim for refund relating to any such tax item based on, or which would result in, any such inconsistent treatment.

3.2) Capital Accounts. The Partnership shall establish and maintain on the books of the Partnership: (a) a single capital account for the General Partner (including any capital account relating to any Interest as a Limited Partner owned by the General Partner), and (b) a capital account for each Limited Partner (each, a "Capital Account") all according to the following rules:

(a) A Capital Account shall be maintained with respect to each Partner in accordance with Federal income tax accounting principles and Treasury Regulations Section 1.704-1(b). Each Capital Account shall be credited with the amount of the cash contribution to the capital of the Partnership by such Partner, the fair market value of property contributed to the Partnership by such Partner (net of liabilities assumed with respect to such interest and liabilities to which such contributed property is subject), the distributive share of partnership income and gain (or items thereof) as allocated to such Partner pursuant to Section 4.1, and the distributive share of income exempt from tax. Each Capital Account shall be charged for the amount of any loss or deduction (or items thereof) allocated to such Partner pursuant to Section 4.1, the amount of all distributions in cash to such Partner pursuant to this Agreement, the fair market value of property distributed to such Partner (net of liabilities assumed with respect to such interest and liabilities to which such distributed property is subject), and the distributive share of expenditures of the Partnership described in Section 705(a)(2)(B) of the Code (which share shall be determined in accordance with the allocable interests in the Partnership). The following rules shall apply in maintaining Capital Accounts with respect to interests in the Partnership:

(b) For purposes of this Section 3.2, amounts described in Section 709 of the Code (other than amounts with respect to which an election is in effect under Section 709(b) of the Code) shall be treated as described in Section 705(a)(2)(B) of the Code.

(c) If property is distributed by the Partnership, Capital Accounts shall be adjusted as though such property had been sold on the date of such distribution for its then fair market value, and any gain or loss on such sale had been allocated in accordance with Section 4.1.

(d) If property is contributed to the Partnership, Capital Accounts shall be adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(d)(3).

(e) In accordance with Section 704(c) of the Code and the Treasury Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Partnership shall, solely for tax purposes, be allocated among the Partners in accordance with the number of Partnership Interests owned by the Partners so as to take into account any variation between the adjusted basis of such property to the Partnership for federal income tax purposes and its fair market value as of the date of contribution. In the event any Partnership asset is adjusted as a result of a revaluation pursuant to Treasury Regulations § 1.704-1(b)(2)(iv)(f), subsequent allocations of income, gain, loss and deduction with respect to such asset shall take into account any variation between the adjusted basis of such asset for federal income tax purposes and its fair market value as of the date of such revaluation in the same manner as under Section 704(c) of the Code and the Treasury Regulations thereunder. Any election or other decision relating to such allocations shall be made by the President in any manner that reasonably reflects the purpose and intention of this Agreement.

(f) if, in any taxable year, the Partnership has in effect an election under Section 754 of the Code, Capital Accounts shall be adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(m).

(g) No interest shall be paid by the Partnership on capital contributions or any Capital Account balance.

3.3) Accounting Decisions. The General Partner shall make all decisions relating to accounting matters and may cause the Partnership to make whatever elections the Partnership may make under the Code, including the election referred to in Section 754 of the Code to adjust the basis of Partnership assets.

3.4) Tax Matters Partner. The General Partner shall act on behalf of the Partnership as the "tax matters partner" within the meaning of Section 6231(a)(7) of the Code.

3.5) Additional Capital Contributions. Except as provided in this Article 3, the Partners shall have no right to make any Additional Capital Contributions or loans to the Partnership and the Partnership shall have no right to make any Partner make a capital contribution or loan to the Partnership.

3.6) Capital Withdrawals and Returns. Partners shall not have the right to withdraw or reduce their contributions to the capital of the Partnership except in accordance with this Agreement. Except as otherwise provided herein, Partners shall not have the right to demand or receive property, other than cash, in return for their capital contributions or have priority over another Partner, either as to the return of contribution of capital or as to profits, losses, or distributions, or as to compensation by way of income.

3.7) Waiver of Partition Right. The Partners hereby waive and forfeit all rights arising out of statute or operation of law to seek, bring or maintain in any court an action for partition pertaining to any asset of the Partnership.

3.6) Optional Loans from General Partner and Affiliates. The Partnership may borrow funds from the General Partner or their Affiliates, provided that no General Partner or Affiliate shall be obligated to make such loans. Any such loans shall be on terms no less favorable to the Partnership than would be reasonably available to the Partnership from non-affiliated commercial lenders.

ARTICLE 4.

ALLOCATIONS AND DISTRIBUTIONS

4.1) Allocation of Profits and Losses. All Partnership items of income, gain, loss, deduction, or credit (including without limitation investment tax credits and accelerated cost recovery deductions), as determined for Federal income tax purposes, shall be allocated as follows:

(a) All Partnership items of income, gain, loss, deduction, or credit (including without limitation investment tax credits and accelerated cost recovery deductions), as

determined for Federal income tax purposes, shall be allocated ten percent (10%) to the General Partner and ninety percent (90%) among the Limited Partners prorata according to the number of Limited Partnership Interests issued and outstanding at such time.

(b) If the Capital Account of a Partner has a deficit balance at any time and the deficit or increase in deficit was caused by the allocation of nonrecourse deductions as defined in Treasury Regulations § 1.704-2(b), then beginning in the first taxable year of the Partnership in which there are nonrecourse deductions or in which the Partnership makes a distribution of proceeds of a nonrecourse liability that are allocable to an increase in minimum gain as defined in Treasury Regulations § 1.704-2(d) and thereafter throughout the full term of the Partnership, the following rules shall apply:

(1) Nonrecourse deductions shall be allocated to the Partners in a manner that is reasonably consistent with the allocations that have substantial economic effect as defined in Treasury Regulations § 1.704-1 or some other significant item attributable to the property securing the nonrecourse liabilities; and

(2) If there is a net decrease in minimum gain for a taxable year, each Partner will be allocated items of Partnership income and gain for that year equal to such Partners share of the net decrease in minimum gain as defined in Treasury Regulations § 1.704-2(g)(2).

(c) Notwithstanding the foregoing, except as provided in Section 4.1(b) above, in the event any Limited Partner unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), then items of Partnership income and gain shall be specially allocated to such Limited Partner in an amount and manner sufficient to eliminate as quickly as possible the Adjusted Deficit Capital Account Balance in such Limited Partner's Capital Account created by such adjustments, allocations, or distributions. Any special allocations of items of income or gain pursuant to this subsection shall be taken into account in computing subsequent allocations of other net profits, net losses and all other items allocated to the Limited Partner pursuant to Article 4 shall, to the extent possible, be equal to the net amount that would have been allocated to the Limited Partner pursuant to the provisions of this Article 4 had such unexpected adjustments, allocations or distributions not occurred. "Adjusted Deficit Capital Account Balance" shall mean the deficit Capital Account balance of a Limited Partner, if any, as of the end of the relevant fiscal year of the Partnership, after giving effect to the following: (1) credit to such Capital Account any amounts the Limited Partner is obligated to restore pursuant to the penultimate sentence of Treasury Regulations Section 1.704-1(b)(4)(iv)(f); and (2) debit to such Capital Account the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6). It is intended that this Section 4.1 will meet the requirements of a "qualified income offset" as defined in Treasury Regulations § 1.704-1(b)(2)(ii)(d) and is to be interpreted and applied consistent with that intention.

(d) Except as provided in Section 4.1(b) above, in the event a Limited Partner has an Adjusted Deficit Balance Capital Account at the end of any Partnership fiscal year which

is in excess of the sum of (1) the amount such Limited Partner is obligated to restore pursuant to any provision of this Agreement; and (2) the amount such Limited Partner is deemed to be obligated to restore pursuant to the penultimate sentence of Treasury Regulations Section 1.704-1(b)(4)(iv)(f), such Limited Partner shall be specially allocated items of Partnership income and gain in the amount of such excess as quickly as possible.

4.2) Allocations to Transferred Partnership Interests. Profits, losses, gains, deductions and credits allocated to a Partnership Interest assigned or reissued during a Fiscal Year shall be allocated to each Person who was the holder of the Partnership interest during such Fiscal Year, in proportion to the number of days that each such holder was recognized as the owner of such Partnership Interest during such Fiscal Year or during an interim period in respect of which the books of the Partnership shall be closed, as the case may be, or in any other manner required or permitted by the Code and selected by the General Partner in accordance with this Agreement, without regard to the results of Partnership operations or the date, amount or recipient of any distributions which may have been made with respect to such Partnership interest. The effective date of the assignment shall be (a) in the case of a voluntary assignment, the actual date the assignment as recorded on the books of the Partnership, or (b) in the case of involuntary assignment, the date of the operative event.

4.3) Operating Distributions. Except as provided in Sections 4.4 and 4.5, the Partnership shall make such distributions of cash as the General Partner may from time to time determine, in the General Partner's sole and absolute discretion. Except as expressly provided in this Agreement, no Partnership shall have any right to cause or receive any distribution prior to the termination of the Partnership. Any distributions authorized by the Partnership, other than tax distributions pursuant to Section 4.4 and liquidating distributions pursuant to Section 4.5, shall be allocated as provided in Section 4.1(a).

4.4) Tax Distributions. Notwithstanding anything in this Agreement to the contrary, within one hundred twenty (120) days after the end of each Fiscal Year, and prior to making any distributions described in Sections 4.3 or 4.5, the Partnership shall distribute an amount of cash equal to the Estimated Tax Amount to each Person who was an owner of Partnership Interest during the Fiscal Year but only to the extent funds are available and such distribution: (i) will not render the Partnership unable to pay its debts in the ordinary course of business after making such distribution; and (ii) is not otherwise prohibited by any loan agreement, mortgage, promissory note or other financing agreement or document to which the Partnership is a party.

4.5) Liquidating Distributions. If the Partnership is terminated pursuant to Section 10.1 and its business is being liquidated in accordance with the Partnership Act, the Partnership shall cease to carry on its business, except to the extent necessary for the winding up of the business of the Partnership. The Partnership shall thereafter be wound up and terminated as provided by the Partnership Act. All tangible or intangible property of the Partnership, including money, remaining after the winding up of the business and affairs of the Partnership including, without limitation, the discharge of the debts, obligations, and liabilities of the Partnership shall be distributed as follows:

(a) First, to the Partners in proportion to, and to the extent of the positive balances in their Capital Accounts; and

(b) Second, to the Partners as provided in Section 4.1(a).

ARTICLE 5.

POWERS, RIGHTS AND DUTIES OF THE GENERAL PARTNER

5.1) Rights, Powers and Authority of the General Partner. Subject to the provisions of this Agreement and the requirements of applicable law, the General Partner shall possess and may exercise full and exclusive right, power and authority to manage and conduct the business and affairs of the Partnership and to take such actions for and on behalf of the Partnership as the General Partner may reasonably determine to be necessary, appropriate, advisable or convenient to carry on its business and realize its objectives, including causing the Partnership to enter into agreements or otherwise transact business with such banks (or other financial institutions), legal counsel, accountants, auditors, appraisers, Partners, consultants, other service-providers and counterparties as the General Partner may select from time to time, on such terms and subject to such conditions as the General Partner may determine, and regardless of whether such service providers or parties are General Partner Associates.

5.2) Liability of the General Partner.

(a) The General Partner shall have unlimited liability for the repayment, satisfaction and discharge of all debts, liabilities and obligations of the Partnership to the full extent (but only to the extent) of the General Partner's assets. The General Partner, however, shall not be required to maintain any minimum net worth, and shall not be required to discharge any of its duties under this Agreement that require the payment of funds to third parties unless adequate Partnership funds are not readily available for that purpose.

(b) The General Partner shall not be deemed to be a guarantor of the value of any Capital Account, or have any personal liability for the repayment of any Capital Contribution, to any Limited Partner.

5.3) Compensation and Reimbursement of Expenses.

(a) The Partnership shall pay the General Partner the Management Fee and Inventive Bonus in effect from time to time.

(b) The Partnership shall pay such costs and expenses as the General Partner shall reasonably determine to be necessary, appropriate, advisable or convenient to carry on its business and realize its objectives (and shall reimburse the General Partner Associates for any such costs and expenses incurred by them on behalf of the Partnership), including: (i) the Management Fee; (ii) the Incentive Bonus; (iii) costs and expenses incurred by the General Partner in connection with investigating investment opportunities for the Partnership and reviewing the continuing suitability of the Partnership's investments in light of the Partnership's investment objectives; (iv) costs and expenses incurred in connection with the investment and reinvestment of the Partnership's assets, including

brokerage commissions, dealer mark-ups, mark-downs and spreads, and related clearing and settlement charges; (v) borrowing charges and other costs and expenses associated with short sales; (vi) interest expense and loan commitment fees relating to the Partnership's borrowings (including margin debt); (vii) administrative, legal, accounting, auditing, record-keeping, tax form preparation, compliance and consulting costs and expenses; fees, costs and expenses of third-party service providers that provide such services; costs and expenses associated with preparing investor communications; and printing and mailing costs; (viii) governmental licensing, filing and exemption fees; (ix) the Partnership's indemnification obligations under this Agreement and other agreements to which the Partnership may be a party; and (x) extraordinary costs and expenses, if any.

5.4) Reliance by Third Parties.

(a) Notwithstanding any other provision of this Agreement, any Person dealing with the Partnership shall be entitled to assume that the General Partner has full right, power and authority to sell, pledge, mortgage, hypothecate, encumber or otherwise use or dispose of, in any manner, any and all assets of the Partnership and to enter into any agreements on behalf of the Partnership, and such Person shall be entitled to deal with the General Partner as if it were the Partnership's sole party in interest, both legally and beneficially. In no event shall any Person dealing with the General Partner (or any of its representatives) be obligated to ascertain that the provisions of this Agreement have been complied with or to inquire into the necessity or expedience of any action of the General Partner or any of its representatives.

(b) Each and every certificate, instrument or other document executed on behalf of the Partnership by the General Partner shall be conclusive evidence in favor of each and every Person relying thereon or claiming thereunder that: (i) at the time of the execution and delivery of such certificate, instrument or document, this Agreement was in full force and effect; (ii) the Person executing and delivering such certificate, instrument or document was duly authorized and empowered to do so for and on behalf of the Partnership; and (iii) such certificate, instrument or other document was duly executed and delivered in accordance with this Agreement and is binding upon the Partnership.

5.5) Devotion of Time; Affiliates. The General Partner shall devote such time to the Partnership business as the General Partner determines is necessary to supervise the Partnership's business and affairs in an efficient manner; but nothing contained in this Agreement shall preclude the employment, at the expense of the Partnership, of any agent or other third party to operate and manage all or any portion of the property, business or operations of the Partnership, subject to the control of the General Partner. Subject to Section 5.7 of this Agreement, Affiliates of the General Partner may be employed by the Partnership to perform any other services for the Partnership as the General Partner determines is necessary in the General Partner's sole and absolute discretion.

5.6) Other Activities. The General Partner shall not be required to manage the Partnership as its sole and exclusive function, and it may have other business interests and may engage in other activities in addition to those relating to the Partnership. Neither the Partnership nor any Partner shall have any right by virtue of this Agreement or the Partnership relationship

created hereby in or to such other ventures or activities or to the income or proceeds derived therefrom, and the pursuit of such ventures shall not be deemed wrongful or improper. Partners and their Affiliates shall not be obligated to present any particular investment opportunity to the Partnership even if such opportunity is of a character which, if presented to the Partnership, could be taken by the Partnership, and, each of them shall have the right to take for its own account (individually or otherwise) or to recommend to others any such particular investment opportunity.

5.7) Business with Affiliates. The General Partner shall have the absolute right to cause the Partnership to transact any business with the General Partner, or an Affiliate of the General Partner, for goods or services in connection with the conduct of the Partnership's business, provided that that such transaction must be on terms no less favorable to the Partnership than would be available in a bona fide arm's length transaction with an unaffiliated Person as determined by the General Partner in its sole and absolute discretion.

ARTICLE 6.

LIMITED PARTNERS

6.1) Limited Partners Have Limited Personal Liability. No Limited Partner shall be personally liable for the debts, liabilities or obligations of the Partnership, whether arising in tort, contract or otherwise, unless such Limited Partner expressly agrees otherwise or such Limited Partner, in addition to exercising its rights, powers and authority as a Limited Partner, is admitted to the Partnership as a general partner. Notwithstanding the foregoing, any Limited Partner who receives any amount distributed by the Partnership (a) in violation of the Partnership Act shall be liable to the Partnership for the return of such amount regardless of whether such Partner had no knowledge of such violation at the time of its receipt of such amount; or (b) is in excess of the amount to which such Limited Partner was entitled under this Agreement because the amounts attributable to such Limited Partner's Capital Account were miscalculated, shall be liable to the Partnership for the return of such amount, regardless of whether the event or circumstance giving rise to such miscalculation was known or unknown to the General Partner or such Limited Partner at the time of such distribution.

6.2) Authority of Limited Partners Is Limited.

(a) No Limited Partner, in its capacity as such, shall take part in the management or conduct of the business or affairs of the Partnership or transact any business in the name of or otherwise for or on behalf of the Partnership. Without limiting the scope of the foregoing, no Limited Partner shall have the right, power or authority to sign documents for, incur any indebtedness or expenditures on behalf of, or otherwise bind the Partnership.

(b) No Limited Partner, in its capacity as such, shall have the right, power or authority to authorize, approve, agree or consent to, or vote on, any matter affecting the Partnership except to the extent any such right, power or authority is expressly granted to such Limited Partner by this Agreement or by provisions of the Partnership Act that may

not lawfully be modified or nullified by agreement among the partners of a limited partnership formed under the Partnership Act.

6.3) Limited Partners May Not Partition Partnership Property. No Limited Partner or Limited Partners, individually or collectively, shall have any right, title or interest in or to specific Partnership Property. Each Limited Partner irrevocably waives any right that it may have to maintain an action for partition with respect to its Interest or any Partnership Property.

6.4) Limited Partners May Not Remove or Expel General Partner. No Limited Partner or Limited Partners, individually or collectively, shall have any right, power or authority to remove or expel the General Partner, cause the General Partner to withdraw from the Partnership, or appoint a successor general partner.

ARTICLE 7.

EXCULPTATION AND INDEMNIFICATION

7.1) Exculpation. Notwithstanding any other provision of this Agreement, to the extent that, at law or in equity, the General Partner has duties (including fiduciary duties) and liabilities relating thereto to the Partnership or any Limited Partner, the General Partner shall not be liable for monetary or other damages to the Partnership or such Limited Partner for the General Partner's good faith reliance on the provisions of this Agreement or for: (a) losses sustained or liabilities incurred by the Partnership or such Limited Partner as a result of errors in judgment on the part of the General Partner, or any act or omission of the General Partner, if such losses or liabilities were not the result of the General Partner's willful misfeasance, bad faith or gross negligence in the performance of, or reckless disregard of, its duties under this Agreement; (b) errors in judgment on the part of any Person, or any act or omission of any Person, selected by the General Partner to perform services for or otherwise transact business with the Partnership, provided that, in selecting such Person, the General Partner acted without willful misfeasance, bad faith or gross negligence; or (c) circumstances beyond the General Partner's control, including the Bankruptcy or suspension of normal business activities of any Person with whom the Partnership does business;

7.2) Indemnity for Acts and Omissions.

(a) The General Partner shall be indemnified and held harmless by the Partnership from and against any and all reasonable attorneys' fees, claims, demands, liabilities, costs, damages and causes of action arising out of or incidental to its management or administration of the affairs of the Partnership; provided, however, that the same were the result of action or inaction of the General Partner which it, in good faith, determined was in the best interests of the Partnership and which course of conduct did not constitute gross negligence or willful misconduct on the part of the General Partner or breach of any representation, warranty or covenant of the General Partner under this Article 7; provided further, however, that all claims for indemnification made by the General Partner under this Section 7.2(a) shall be made only against and shall be limited to the assets of the Partnership, and the General Partner shall have no recourse against the other Partners with respect to such claims.

(b) Each of the Limited Partners shall be indemnified and held harmless by the Partnership from and against any and all reasonable attorneys' fees, claims, demands, liabilities and costs, damages and causes of action arising out of or incidental to the affairs of the Partnership, provided, however, that the same were the result of action or inaction of such Limited Partner which it, in good faith, determined was in the best interests of the Partnership and which course of conduct did not constitute gross negligence or willful misconduct on the part of such Limited Partner. Notwithstanding the foregoing, all claims for indemnification made by the Limited Partners under this Section 7.2(b) shall be made only against and shall be limited to the assets of the Partnership and the Limited Partners shall have no recourse against the General Partner with respect to such claims.

(c) Indemnifications authorized under this Section 7.2 shall include payment of reasonable attorneys' fees or other expenses incurred in connection with settlement or in any legal proceeding, claims or demands and the removal of any liens affecting any property of the indemnitee. Such indemnification rights shall be cumulative of, and in addition to, any and all rights, remedies and recourses to which a Partner or the Partnership shall be entitled, whether or not pursuant to the provisions of this Agreement, at law or in equity. Payment obligations of the Partnership under this Section 7.2 shall be junior in right of payment to the prior payment in full of any debt obligations of the Partnership.

ARTICLE 8.

ISSUANCE AND TRANSFER OF LIMITED PARTNERSHIP INTERESTS

8.1) Additional Issuance of Limited Partnership Interests. For any reasonable Partnership purpose as determined in good faith by the General Partner to be in the best interests of the Partnership (including, without limitation, for the purpose of raising additional capital, acquiring assets, redeeming Partnership interests or retiring Partnership debt), the General Partner is authorized to cause the Partnership to issue Limited Partnership Interests to Partners or other Persons. All of the Partners acknowledge and agree that the issuance of such Limited Partnership Interests, and the admittance of such Persons as additional Limited Partners of the Partnership shall not require the approval of the Limited Partners provided that any such Person must agree to be bound by the terms of this Agreement. Each of the Partners acknowledge and agree that no Partner has any preemptive, preferential or other similar right with respect to the issuance or sale of any new or unissued Limited Partnership Interests.

8.2) Prohibited Transfers. The Limited Partners may not Transfer or otherwise encumber their interest in the Partnership or any part thereof in any way whatsoever except as permitted in this Article 8, and any such Transfer or encumbrance in violation of this Article 8 shall be null and void as against the Partnership, except as otherwise provided by law.

8.3) Permitted Transfers by Limited Partners. Subject to any requirements of this Agreement, a Limited Partner may transfer all or any part of its interest in the Partnership (but only if the Transferor shall not then be in material default under this Agreement), provided that:

(a) Any Transferee shall take such interest subject to the terms, provisions and conditions of this Agreement and shall acknowledge its acceptance of this Agreement by executing and delivering to the remaining Partners an instrument in form satisfactory to said Partners whereby such Transferee assumes and agrees to be bound by all the terms, provisions and conditions hereof and to become, in the place of the transferring Limited Partner, a Partner for all purposes herein (although in connection with such transferee's assumption of obligations hereunder, such Transferee shall be entitled to the benefit of any limitation upon the liability of the Transferor hereunder).

(b) Such Transfer must be for cash consideration, and all costs to the Partnership of such Transfer shall be paid by the Transferee or Transferor.

(c) The General Partner shall have consented to the Transfer, which consent may be granted or withheld in its sole discretion.

8.4) Right of First Refusal. Prior to the Transfer of a Limited Partnership Interest by a Limited Partner (the "Assigning Limited Partner") to any other Person, the remaining Limited Partners shall have the option to purchase all (but not less than all) of the Limited Partnership Interests of the Assigning Limited Partner to be transferred to such Person as set forth in this Section 8.4. Prior to a Transfer of a Limited Partnership Interest, the Assigning Limited Partner shall deliver to the Partnership and the remaining Limited Partners a written notice setting forth the following:

(a) An offer to the remaining Limited Partners to sell the Limited Partnership Interests of the Assigning Limited Partner. Such offer shall be subject to the terms and conditions set forth in the written notice and shall include a statement of the address to which notice of acceptance may be sent.

(b) Any notice provided pursuant to this Section 8.4 shall include a statement identifying the Person to whom the Limited Partnership Interest is proposed to be transferred and shall contain all of the material terms and conditions of the proposed Transfer of the Limited Partnership Interest by the Assigning Limited Partner including, without limitation, the amount of the purchase price, the date and manner of the payment thereof, the terms of any security, pledge, lien or other encumbrance, and copies of any documentation related thereto.

(c) The purchase price for the Limited Partnership Interest of the Assigning Limited Partner that are to be subject to the proposed sale (the "Offered Partnership Interest") shall be equal to the price at which the Offering Limited Partner proposes to Transfer the Offered Partnership Interest to the third Person as described in the written notice.

(d) The remaining Limited Partners shall have the right to purchase all (but not less than all) of the Offered Partnership Interest within one hundred eighty (180) days after delivery of the written notice to the Partnership and the remaining Limited Partners. If more than one (1) of the remaining Limited Partners desires to purchase the Offered Partnership Interest, the Offered Partnership Interest shall be allocated among the remaining Limited Partners in any manner the remaining Limited Partners agree. If the

remaining Limited Partners cannot agree on such allocation within ten (10) days after receiving written notice from the Assigning Limited Partner, then the Offered Partnership Interest shall be allocated between the remaining Limited Partners in proportion to the remaining Limited Partners Limited Partnership Interest. If the remaining Limited Partners do not elect to purchase all of the Offered Partnership Interest, or if the closing does not occur within the one hundred eighty (180) day period through no fault of the Assigning Limited Partner, the Assigning Limited Partner may then sell the Offered Partnership Interest to the third Person referred to in the written notice within thirty (30) days after the expiration of such one hundred eighty (180) day period, subject to the same terms and conditions set forth in the written notice, unless the Offered Partnership Interest is first reoffered to the remaining Limited Partners this Section 8.4.

8.5) Substitute Limited Partner. If a Transferee of a Limited Partnership interest does not become a Substitute Limited Partner pursuant to this Section 8.5, the Partnership shall not recognize the Transfer and the Transferee shall hot have any rights to require any information on account of the Partnership's business, inspect the Partnership's books, receive distributions, or vote on Partnership matters. A Transferee of the whole or any part of a Limited Partnership Interest shall have the right to become a Substitute Limited Partner in place of its Transferor only if all of the following conditions are satisfied:

(a) a fully executed and acknowledged written instrument of assignment has been filed with the Partnership setting forth a statement of the intention of the Transferor that the Transferee become a Substitute Limited Partner in its place;

(b) the Transferee executes, adopts and acknowledges this Agreement and agrees to assume all the obligations of its Transferor, and

(c) any reasonable costs to the Partnership of the Transfer shall have been paid to the Partnership.

8.6) Involuntary Withdrawal by the Limited Partner.

(a) Upon the Bankruptcy, dissolution or other cessation of existence of a Limited Partner which is not a natural person, the authorized representative of such entity shall have all the rights of a Partner for the purpose of effecting the orderly winding up and disposition of the business of such entity and such power as such entity possessed to designate a successor as a Transferee of its Limited Partnership Interest and to join with such Transferee in making application to substitute such Transferee as a Substitute Limited Partner.

(b) The death, Bankruptcy, disability or legal incapacity of a Limited Partner shall not dissolve or terminate the Partnership.

ARTICLE 9.

WITHDRAWAL OF A GENERAL PARTNER

9.1) Assignment or Withdrawal by a General Partner. A General Partner may not Transfer its interest as a General Partner, in whole or in part, or withdraw from the Partnership, except as permitted by this Article 9.

9.2) Voluntary Assignment or Withdrawal of the General Partner. The General Partner may at any time sell, assign or transfer any or all of its interest as a General Partner to any entity under common control with the General Partner at any time. In addition, upon giving one hundred and twenty (120) days prior written notice to the Limited Partners, the General Partner may sell, transfer or assign its interest to a Person who is not under common control with the General Partner if:

(a) the Person agrees to serve as successor General Partner;

(b) the Person has satisfied the terms and conditions set forth in Section 9.3; and

(c) the substitution of such Person will not cause the Partnership to lose its status as a limited partnership for Federal income tax purposes.

9.3) Successor General Partner. A Person shall be admitted a successor General Partner only if the following terms and conditions are satisfied:

(a) the Person shall have accepted and agreed to be bound by all the terms and provisions of this Agreement by executing a counterpart thereof and such other documents or instruments as may be required or appropriate in order to effect the admission of such Person as a General Partner;

(b) a certificate evidencing the admission of such Person as a General Partner shall have been filed for recordation in accordance with the Partnership Act;

(c) if the successor General Partner is a corporation or a limited liability company, it shall have provided counsel for the Partnership with a certified copy of a resolution of its Board of Directors, managers or members, as appropriate, authorizing it to become a General Partner; and

(d) none of the actions taken in connection with such transfer or admission will have a material adverse tax effect upon the Partnership.

9.4) Pledge of Interest. Nothing contained in this Agreement shall prohibit any Partner from assigning or pledging as collateral its economic interest as a Limited or General Partner in the Partnership provided, however, that such Partnership Interest shall continue to be subject to the terms, conditions, restrictions and limitations of this Agreement and such Partnership Interests shall be subject to compliance with this Agreement.

ARTICLE 10.

DISSOLUTION AND WINDING UP AFFAIRS

10.1) Events Causing Dissolution. The Partnership shall be dissolved upon the first to occur of the following events, and, except as otherwise required by the Partnership Act or other applicable law, no other event shall cause the dissolution of the Partnership:

(a) the General Partner declares in writing that the Partnership shall be dissolved and gives written notice of such declaration to the Limited Partners;

(b) the sale of substantially all of the Partnership's property;

(c) the expiration of the term of the Partnership pursuant to Section 2.5;

(d) the Bankruptcy of the General Partner or the General Partner ceasing all business operations; or

(e) the entry of a decree of judicial dissolution of the Partnership under the Partnership Act.

10.2) Winding Up. If the Partnership is dissolved pursuant to Section 10.1, its business and affairs shall be wound up as soon as reasonably practicable thereafter in the manner set forth below.

(a) The winding up of the business and affairs of the Partnership shall be carried out by a liquidating trustee (the "Liquidating Trustee"). Unless otherwise required by law, the Liquidating Trustee shall be the General Partner or a Person selected by the General Partner.

(b) The Liquidating Trustee shall possess full and exclusive right, power and authority, in the name of and for and on behalf of the Partnership, to take such actions as are permitted to be taken by a liquidating trustee under the Partnership Act, to the extent the Liquidating Trustee reasonably determines such actions are necessary, appropriate, advisable or convenient to effect the orderly winding up of the Partnership's business and affairs.

10.3) Compensation of Liquidating Trustee. The Liquidating Trustee shall be entitled to receive reasonable compensation from the Partnership, but only from the Partnership's assets, for its services as liquidating trustee.

10.4) Distribution of Property and Proceeds of Sale Thereof.

(a) Upon completion of all desired sales, retirements and other dispositions of Partnership Property on behalf of the Partnership, the Liquidating Trustee shall, in accordance with the provisions of the Partnership Act, distribute the net proceeds of such sales, retirements and dispositions, and any Partnership Property that is to be distributed in kind, in the following order of priority:

(1) to pay or make reasonable provision for the payment of the debts, liabilities and obligations of the Partnership to creditors of the Partnership, including, to the extent permitted by applicable law, Partners and former Partners who are creditors of the Partnership (other than liabilities for distributions to Partners and former Partners under the Partnership Act); to satisfy liabilities of the Partnership to Partners and former Partners for distributions under the Partnership Act; and

(2) to the Partners, in proportion to the positive balances in their respective Capital Accounts after allocating all items for all periods prior to and including the date of distribution, including items relating to sales and distributions pursuant to this Article X.

(b) All distributions required under Section 10.4(a) shall be made no later than ninety (90) calendar days of the close of the Fiscal Year in which the completion of the winding up of the Partnership's business and affairs occurs.

(c) Pursuant to the provisions of the Partnership Act, if there are sufficient assets to satisfy the claims of all priority groups specified above, such claims shall be paid in full and any such provision for payment shall be made in full. If there are sufficient assets to satisfy the claims of one or more but not all priority groups specified above, the claims of the highest priority groups that may be paid or provided for in full shall be paid or provided for in full, before paying or providing for any claims of a lower priority group. If there are insufficient assets to pay or provide for the claims of a particular priority group specified above, such claims shall be paid or provided for ratably to the claimants in such group to the extent of the assets available to pay such claims.

(d) Amounts in reserves established by the Liquidating Trustee pursuant to the Partnership Act shall be paid to creditors of the Partnership as set forth in Section 10.4(a).

10.5) Final Audit. Within a reasonable time following the completion of the winding up of the business and affairs of the Partnership (excluding, for purposes of this Section 10.5, the disposition of reserves described in Section 10.4(d)), the Liquidating Trustee shall furnish to each Partner a statement setting forth the assets and the liabilities of the Partnership as of the date of such completion and each Partner's share of distributions pursuant to Section 10.4.

10.6) Deficit Capital Accounts. Notwithstanding any other provision of this Agreement, to the extent that, upon completion of the winding up of the business and affairs of the Partnership, there is a deficit in any Partner's Capital Account, such deficit shall not be an asset of the Partnership and such Partner shall not be obligated to contribute such amount to the Partnership to bring the balance of such Capital Account to zero.

ARTICLE 11.

RECORDS, ACCOUNTING, AND REPORTS

11.1) Partnership Books and Records; Inspection Rights. The General Partner shall cause the Partnership to maintain such books and records relating to the business and affairs of

the Partnership as are required to be maintained under the Partnership Act (the "Required Records") and such other books and records as the General Partner may determine to be appropriate. Each Partner (or its duly authorized representative), upon reasonable demand to the General Partner (which demand shall be in writing and shall state the purpose thereof), shall have the right, subject to such reasonable standards as may be established from time to time by the General Partner (including standards governing what information and documents are to be furnished at what time and location and at whose expense), to inspect the Required Records at the principal office of the Partnership (during usual business hours), or to obtain copies of the Required Records from the General Partner, for any purpose reasonably related to such Partner's interest as a Partner.

11.2) Fiscal Year; Accounting Period; Accounting Methods.

(a) The "fiscal year" of the Partnership shall end on December 31 of each year (except that the last Fiscal Year of the Partnership shall end upon the date of the cancellation of the Certificate) (each a "Fiscal Year").

(b) The Partnership shall keep its financial books under the accrual method of accounting, and, as to matters not specifically covered in this Agreement, in accordance with GAAP consistently applied.

(c) The General Partner may establish such "reserves" for the Partnership for contingent, unknown or unfixed debts, liabilities or obligations of the Partnership as the General Partner may reasonably determine to be advisable, whether or not in accordance with GAAP. Any such "reserve," if and when reversed, shall be allocated among the Capital Accounts of the Partners who are Partners at the time of such reversal unless the General Partner determines that it would be more equitable to allocate such reversal among the Capital Accounts of those Persons who were Partners at the time such Reserve was established.

11.3) Reports and Annual Meeting. As soon as reasonably practicable after the end of each Fiscal Year, the General Partner will cause to be delivered to each Person who was a Partner at any time during such Fiscal Year a report on the Partnership's operations during such year. Such report shall include an audited balance sheet of the Partnership as of the end of such Fiscal Year and audited statements of income and cash flows of the Partnership for such Fiscal Year. Each year, within a reasonable period of time after the delivery of the report described above, the Partnership shall hold a meeting of the Partners which meeting shall be held at the principal office of the Partnership as described in Section 2.6 or at such other place and location as the General Partner may designate in its sole discretion.

ARTICLE 12.

GENERAL PROVISIONS

12.1) Amendments. No other change, modification or amendment of this Agreement shall be valid or binding unless such change, modification or amendment shall be in writing and signed by all of the Partners at the time such change, modification or amendment is to take effect.

12.2) Title to Partnership Property. All property owned by the Partnership, whether real or personal, tangible or intangible, shall be deemed to be owned by the Partnership as an entity, and no Partner, individually, shall have any ownership of such property. The Partnership may hold any of its assets in its own name or in the name of its nominee for the benefit of the Partnership, which nominee may be one or more individuals, corporations, partnerships, trusts or other entities.

12.3) Notices and Addresses. All notices and other communications required or permitted by this Agreement or by law to be served upon or given to a party hereto by any other party hereto shall be in writing and shall be deemed duly served and given when received after being delivered by hand or sent by registered or certified mail, return receipt requested, postage prepaid addressed as follows: For purposes of this Agreement, the addresses of each Partner shall be the address as listed on the books and records of the Partnership from time-to-time and as may be changed by each Partner with thirty (30) days prior written notice to the Partnership. The initial address to be listed on the books and records of the Partnership for each Limited Partners shall be the address as stated in that certain Joinder Agreement signed by each Limited Partner.

12.4) Governing Law. This Agreement shall be governed by the laws of the State of Maine, without reference to the conflicts of laws or principles thereof.

12.5) Headings. The headings of the articles and sections of this Agreement are inserted for convenience only and are not to be deemed to constitute a part of this Agreement.

12.6) Further and Additional Documents and Reports. Each of the parties hereto agrees to execute, acknowledge and verify, if required to do so, all further or additional documents as may be reasonably necessary to effectuate fully the terms of this Agreement.

12.7) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. Any writing, including that certain Joinder Agreement, that has been duly executed by a Person in which such Person has agreed to be bound hereby as a Limited Partner shall be considered a counterpart for purposes of the foregoing.

12.8) Binding on Successors and Assigns. Except as otherwise specifically provided herein, this Agreement shall be binding upon and inure to the benefit of the executors, administrators, successors, and assigns of the respective Partners.

12.9) Waiver. The terms, conditions, covenants, representations, and warranties hereof may be waived only by a written instrument executed by the Partner waiving compliance. The failure of a Partner at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. The waiver of any breach of any term, covenant, or condition of this Agreement by any of the parties hereto shall not constitute a continuing waiver or waiver of any subsequent breach, either of the same or of any other additional or different term, covenant, or condition of this Agreement.

12.10) Severability. Whenever possible, each provision of this Agreement and all related documents shall be interpreted in such a manner as to be valid under applicable law, but if any such provision is invalid or prohibited under said applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of the affected documents.

12.11) Attorneys' Fees. The parties hereto agree that in the event any party to this Agreement shall be required to initiate legal or arbitration proceedings to enforce performance of any term or condition of this Agreement including, but not limited to, the payment of monies or the enjoining of any action prohibited hereunder, the prevailing party shall be entitled to recover from the Partnership such sums, in addition to any other damages or compensation received, as will reimburse such prevailing party for attorneys' fees and court and arbitration costs incurred on account thereof, regardless of whether such action proceeds to final judgment or determination.

12.12) Remedies. Except as may be provided explicitly in this Agreement, the rights and remedies of any of the parties hereunder shall not be mutually exclusive, and the exercise of one or more of the provisions hereof shall not preclude the exercise of any other provision hereof. Each of the Partners confirms that monetary damages may be an inadequate remedy for breach or threat of breach of any provision hereof. The respective rights and obligations hereunder shall be enforceable by specific performance, injunction, or other equitable remedy, but nothing herein contained is intended to limit or affect any rights at law or by statute or otherwise of any party aggrieved as against the other for a breach or threat of breach of any provision hereof, it being the intention by this Section 12.12 to make clear the agreement of the parties hereunder that this Agreement shall be enforce

12.13) Schedules and Exhibits. Each of the Schedules and Exhibits attached hereto is hereby incorporated herein and made a part hereof for all purposes, and references thereto contained herein shall be deemed to include this reference and incorporation.

12.14) Number and Gender. Where appropriate, each definition and pronoun in this Agreement includes the singular and the plural, and reference to the neuter gender includes the masculine and feminine, and *vice versa*. As used in this Agreement, the word "including" shall mean "including without limitation," and the word "or" is not exclusive.

IN WITNESS WHEREOF, the parties hereto have signed and sworn to this Fourth Amended and Restated Agreement of Limited Partnership the day and year stated above.

THE GENERAL PARTNER:
USA ENERGY GROUP, LLC

By:_____
John Noer
Its: President

LIMITED PARTNERS: The signatures of all Limited Partners shall be by and through a Joinder Agreement in form contained as Schedule A which is attached hereto and incorporated herein.

FIFTH AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF PENOBSCOT ENERGY RECOVERY COMPANY, LIMITED PARTNERSHIP

THIS FIFTH AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF PENOBSCOT ENERGY RECOVERY COMPANY, LIMITED PARTNERSHIP, a Maine limited partnership (the "Partnership") is made and entered into effective as of the 18th day of July, 2011, by and among USA ENERGY GROUP, LLC, a Minnesota limited liability company ("USA Energy"), PERC HOLDINGS, LLC, a Minnesota limited liability company ("PERC Holdings"), and MUNICIPAL REVIEW COMMITTEE, INC., a Maine nonprofit corporation (the "MRC").

WITNESSETH:

WHEREAS, USA Energy is the owner of 100% of the general partner interests and 47.48068% of the limited partner interests of the Partnership; and

WHEREAS, PERC Holdings is the owner of 26.99792% of the limited partner interests of the Partnership; and

WHEREAS, the MRC acts as agent for the Equity Charter Municipalities (as such term is hereinafter defined) which collectively own 25.52140% of the limited partner interests of the Partnership; and

WHEREAS, USA Energy as general partner owns 10% of the interests in the Partnership, and;

USA Energy, PERC Holdings and the MRC, as limited partners, collectively own 90% of the interests in the Partnership; and

WHEREAS, the purpose of this Fifth Amended and Restated Agreement of Limited Partnership (the "Partnership Agreement") is to (i) amend and restate in its entirety the Fourth Amended and Restated Agreement of Limited Partnership of the Partnership dated April 15th, 2004, as amended, for the purpose of accommodating a contemplated refinancing of the FAME Bonds with the proceeds of the TD Bank Loan (both as defined below), and (ii) confirm the Partners' election to continue the Partnership's business in accordance with the Partnership Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1.

DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

1.1) Affiliate. "Affiliate" means an "affiliate," as defined in Rule 405 under the Securities Act.

1.2) Additional Capital Contributions. "Additional Capital Contributions" means additional capital contributions to the Partnership by the Equity Charter Municipalities pursuant to Section 3.1.

1.3) Aggregate Prepayment Amount. "Aggregate Prepayment Amount" means, as computed from time to time, the principal amount of the Long Term Debt that is prepaid, on any Prepayment Date, by the application of Performance Credits in accordance with the rights of the Equity Charter Municipalities under their Waste Disposal Agreements and as specifically designated in the MRC Allocation Certification.

1.4) Amending Charter Municipality. "Amending Charter Municipality" means any Charter Municipality that has entered into a Waste Disposal Agreement on or before September 30, 1998, or otherwise qualifies as an Amending Charter Municipality under a Waste Disposal Agreement.

1.5) Associate. "Associate" means an "associate", as defined in Rule 405 under the Securities Act.

1.6) Bankruptcy. "Bankruptcy", with respect to the Partnership or a Partner thereof, means (a) an adjudication that such Partner or Partnership is bankrupt or insolvent, or the entry of an order for relief under the Federal Bankruptcy Code, (b) the making by it of an assignment for the benefit of creditors, (c) the filing by it of a petition in bankruptcy or a petition for relief under any section of the Federal Bankruptcy Code or any other applicable bankruptcy or insolvency statute or an answer admitting or failing to deny the allegations of any such petition, (d) the filing against it of any such petition (unless such petition is dismissed within 60 days from the date of filing thereto), or (e) the appointment of a trustee, conservator or receiver for all or a substantial part of its assets (unless such appointment is vacated or stayed Within 60 days from its effective date).

1.7) Bond Indenture. "Bond Indenture" means the Trust Indenture between the Finance Authority of Maine and The Chase Manhattan Bank dated as of June 1, 1998.

1.8) Capital Transaction. "Capital Transaction" means any Partnership transaction the proceeds of which are Net Sale or Refinancing Proceeds.

1.9) Charter Municipality. "Charter Municipality" means each of the municipalities, counties, refuse disposal districts, public waste disposal corporations or other quasi municipal corporations which remains a party to a First Amended and Restated Waste Disposal Agreement with the Partnership as of the date of this Partnership Agreement.

1.10) Capitalized Management Fee. "Capitalized Management Fee" means the unpaid management fees due the General Partner accrued on the books of the Partnership through the date hereof.

1.11) Code. "Code" means the United States Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

1.12) Consent. "Consent" means the written consent of a Person, except that in the case of Equity Charter Municipalities it means the written consent of the MRC which shall be binding on all Equity Charter Municipalities.

1.13) CPI-U. "CPI-U" means the Consumer Price Index All Urban Consumers (U.S. Cities average, all items) as published bi-monthly by the United States Bureau of Labor Statistics in a report currently entitled "CPI Detailed Report," or if this index ceases to be published, a comparable index designated by the General Partner.

1.14) Custodian. "Custodian" means Bangor Savings Bank or other financial institution designated by the MRC as its agent to receive and disburse Performance Credits for the benefit of Equity Charter Municipalities and to act as Custodian for the limited partnership interests in the Partnership acquired by the Equity Charter Municipalities.

1.15) Disposition. "Disposition" means any sale or exchange (either in one transaction or a series of transactions) to one or more buyers pursuant to a plan of disposition formulated by the General Partner or other disposition including, but not limited to, an involuntary disposition giving rise to insurance or other proceeds (except to the extent such proceeds are included in Net Cash Flow) of a material amount of the Partnership's property outside of the ordinary course of business.

1.16) Dissolution Event. "Dissolution Event" means any of the events set forth in Section 12.1.

1.17) Distributable Cash. "Distributable Cash" means the amount calculated in accordance with Schedule E to the Waste Disposal Agreements.

1.18) Equity Charter Municipality. "Equity Charter Municipality" means any Amending Charter Municipality that has timely exercised its option to participate in the purchase of limited partnership interests in the Partnership in accordance with Article XIX Paragraph C of a Waste Disposal Agreement. Upon any such timely exercise, the name and address of each qualifying Equity Charter Municipality shall be listed on Schedule A attached to this Agreement.

1.19) Equity Participation Options. "Equity Participation Options" means the right given to Amending Charter Municipalities under their respective Waste Disposal Agreements to become Limited Partners in the Partnership.

1.20) Facility. "Facility" means the 25.3 megawatt refuse derived fuel waste-to-energy facility owned and operated by the Partnership in Orrington, Maine.

1.21) FAME Bonds. "FAME Bonds" means the $44,995,000 Electric Rate Stabilization Revenue Refunding Bonds Series 1998A and Series 1998B (Penobscot Energy Recovery Company, L.P.) issued by the Finance Authority of Maine.

1.22) Fiscal Year. "Fiscal Year" means the tax year of the Partnership, which shall be the calendar year.

1.23) GAAP. "GAAP" means generally accepted accounting principles in the United States in effect from time to time.

1.24) General Partner. "General Partner" means USA Energy or its successors or lawful assigns.

1.25) Independent Accountant. "Independent Accountant" means the firm of certified public accountants as the General Partner may elect from time to time.

1.26) Limited Partner. "Limited Partner" means USA Energy, PERC Holdings and each of the Equity Charter Municipalities or their permitted successors or lawful assigns.

1.27) Liquidator. "Liquidator" means the Person who shall be responsible for taking all action necessary or appropriate upon the liquidation of the Partnership to wind up its affairs and distribute its assets pursuant to Article 12 of this Agreement.

1.28) L.P. Sharing Ratios. "LP Sharing Ratios" means, with respect to each Limited Partner, the following percentages (which in the aggregate represent a 90% share of the Partnership; the remaining 10% being the General Partner share):

USA Energy:	The USA Energy Share;
PERC Holdings:	The PERC Holdings Share; and
Equity Charter Municipalities:	The Municipal Share (to be allocated by the Partnership among the Equity Charter Municipalities consistent with the most recent MRC Allocation Certification);

provided, however, that any adjustments to the LP Sharing Ratios shall be in accordance with the provisions of Section 3.1(a).

1.29) Long Term Debt. "Long Term Debt" means the FAME Bonds, the TD Bank Loan, or such other long term indebtedness as may from time to time be incurred by the Partnership and be outstanding.

1.30) Management Fee. "Management Fee" means a fee equal to $518,994 per year (adjusted annually on each January 1, commencing January 1, 1992, by the percentage change from the immediately preceding January 1 in the CPI-U) that the Partnership shall pay to the General Partner pursuant to Section 6.4.

1.31) Managing General Partner. "Managing General Partner" means USA Energy, its successors and assigns.

1.32) Minimum Gain. "Minimum Gain" means the excess of the outstanding balance of all nonrecourse indebtedness which is secured by the property of the Partnership over the adjusted basis of such property for Federal income tax purposes.

1.33) Moody's. "Moody's" means Moody's Investor Services, Inc.

1.34) MRC. The "MRC" means the non profit corporation known as the Municipal Review Committee, Inc. formed by the Charter Municipalities to assist them in their dealings with the Partnership and which serves for certain purposes as agent for all Equity Charter Municipalities.

1.35) MRC Allocation Certification. "MRC Allocation Certification" means the certification received by the Partnership from the MRC on the first Prepayment Date and continuing on each subsequent Prepayment Date, stating the proportionate interests in the Partnership held by each of the Equity Charter Municipalities as of the date of the Certification, which Certification the Partnership may rely upon for all purposes.

1.36) Municipal Share. "Municipal Share" means twenty-five and 5214/10,000 percent (25.5214%), which shall be increased by the following as of each Prepayment Date:

(a) 5/9; multiplied times the quotient of the following

(b) the Prepayment Amount; divided by

(c) the Purchase Price ($31,000,000); divided by

(d) Seventy-five percent (75%);

then

(e) expressed as a percent and rounded to four decimal places.

For example, if Performance Credits totaling $930,000 are used to prepay Long Term Debt, the Municipal Share is 2.2222% which is computed as follows: 5/9 x ($930,000 ÷ 31,000,000 ÷ 75%).

1.37) Net Cash Flow. "Net Cash Flow" means, for any period, the amount, computed on a cash basis, in accordance with generally accepted accounting principles, of:

(a) the sum of the following:

(1) cash gross receipts, all cash investment income of the Partnership, and all cash received from any refinancing, sale or other event, plus

(2) any amounts released from reserves maintained by the Partnership, including those maintained pursuant to the FAME Bonds or the TD Bank Loan.

reduced by:

(b) the sum of the following

(1) cash disbursements of the Partnership for operating expenses (including payment of all Partnership administration, accounting, professional and similar expenses as determined by the General Partner, and the Management Fee), for principal payments on debt permitted hereby, interest, other expenses, including any debt repayments required or elected to be made in connection with any refinancing, sale or other event, capital expenditures, payments required under any agreement to which the Partnership is a party, including, without limitation, payments to Charter Municipalities or Amending Charter Municipalities pursuant to an applicable long term waste disposal agreement or Waste Disposal Agreement, and payments to Bangor Hydro Electric Company, the MRC and others pursuant to the Surplus Cash Agreement, plus

(2) any increase in reserves required by any lender and any increase in working capital reserves as determined in the discretion of the General Partner; provided that any cash received, expenses incurred and disbursements made with respect to liquidation of the Partnership or Net Sale or Refinancing Proceeds shall not be taken into account in computing Net Cash Flow.

1.38) Net Sale or Refinancing Proceeds. "Net Sale or Refinancing Proceeds" means the net proceeds remaining from any sale or Disposition or taking of all or substantially all of the Partnership's property (including, without limitation, eminent domain or condemnation proceeds or proceeds from a Transfer under a threat of condemnation or eminent domain proceedings, title insurance proceeds and casualty insurance proceeds) or any refinancing of Long Term Debt, in either

case, after the payment of all costs and expenses related thereto, the payment for any capital expenditures or expenses for which such proceeds are to be used, and the setting aside of any reserves as reasonably determined by the General Partner.

1.39) Net Tax Losses. "Net Tax Losses" means the net losses and other allowable deductions of the Partnership, as determined for Federal income tax purposes.

1.40) Notice. "Notice"' means written notice delivered in accordance with Section 14.3.

1.41) Operation and Maintenance Agreement. "Operation and Maintenance Agreement" means the Operation and Maintenance Agreement dated as of June 30, 1989, and amended as of January 1, 1992 between the Partnership and ESOCO Orrington, LLC, as the same may be further amended, modified or supplemented in accordance with its terms.

1.42) Partners. "Partners" means the General Partner and the Limited Partners, collectively; "Partner" refers to anyone of the Partners, or its successors or assigns.

1.43) Partnership. "Partnership" means Penobscot Energy Recovery Company, Limited Partnership, a Maine limited partnership, which is the subject of this Partnership Agreement, as such Partnership may from time to time be constituted.

1.44) Partnership Act. "Partnership Act" is the Maine Uniform Limited Partnership Act, as it may be amended from time to time.

1.45) PERC Holdings Share. "PERC Holdings Share" means twenty-six and 99,792/100,000 percent (26.99792%) minus the product of the following:

(a) Any increase in the Municipal Share as provided herein; multiplied times

(b) The quotient of the following:

(1) The PERC Holdings Share; divided by

(2) The sum of the following:

a. The USA Energy Share; plus

b. The PERC Holdings Share.

1.46) Performance Credits. "Performance Credits" means, for purposes of this Agreement, that portion of Distributable Cash payable to the Amending Charter Municipalities under the Waste Disposal Agreements (constituting 1/3 of all Distributable Cash after deducting from the Amending Charter Municipalities' share the amount of Performance Credits payable to Charter Municipalities who are not Amending Charter Municipalities), including without limitation, that portion of the MRC Prepayment Account and the MRC Retention Subaccount released for the benefit of Equity Charter

Municipalities as provided in the Bond Indenture, expressed as a percent and rounded to four decimal places.

1.47) Person. "Person" means any individual, firm, corporation, trust, partnership or other entity.

1.48) Prepayment Date. "Prepayment Date" means any date on which Long Term Debt is prepaid, in full or in part.

1.49) Power Purchase Agreement. "Power Purchase Agreement" means the Power Purchase Agreement dated as of June 21, 1984, between Bangor Hydro-Electric Company and the Partnership, as amended by Amendments No. 1 and No. 2 and as such agreement may be further amended from time to time.

1.50) Purchase Price. "Purchase Price" means $31 million ($31,000,000).

1.51) Purchasing Municipality. "Purchasing Municipality" means any Amending Charter Municipality which exercises its option under Section 9.3 to acquire, together with other Purchasing Municipalities, all of the Partnership interests in the Partnership, other than those held by the Equity Charter Municipalities.

1.52) Qualified Investments. "Qualified Investments" means:

(a) any evidence of indebtedness, maturing not more than two years after the date of purchase, issued by the United States of America, or any instrumentality or agency thereof and guaranteed fully as to principal, interest and premium, if any, by the United States of America;

(b) any certificate of deposit issued by a commercial banking institution which is a member of the Federal Reserve System and which has a combined capital and surplus and undivided profits of not less than $500,000,000;

(c) commercial paper issued by a corporation (other than the General Partner or any of their respective Affiliates) organized and existing under the laws of any state within the United States of America with a rating, at the time as of which any determination thereof is to be made, of "P-1" (or higher) according to Moody's or "A-1" (or higher) according to S&P;

(d) any repurchase agreement which by its terms matures not later than five days from its date of execution with any bank or trust company organized under the laws of any state of the United States of America or any national banking association (provided such bank, trust company or national banking association has a combined capital, surplus and undivided earnings of not less than $500,000,000) any government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by anyone or more of the securities described in clause (a) above, so long as such securities shall at all times have a market

value (exclusive of accrued interest) not less than one hundred three percent (103 %) of the full amount of the repurchase agreement, dates of maturity not in excess of seven years and shall be delivered to another state of the United States of America or any national banking association, as custodian;

(e) direct and general obligations of any state of the United States of America, or any political subdivision thereof the payment of the principal of and interest on which the full faith and credit of such state or political subdivision is pledged, provided that at the times of their purchase such obligations are rated, without giving effect to the addition of a "plus" to any rating, in either of the two highest rating categories by S&P or Moody's and mature not more than five years after the date of purchase;

(f) variable rate obligations required to be redeemed or purchased by the obligor or its agent or designee upon demand of the holder thereof secured as to such redemption or purchase requirement by a liquidity agreement with a corporation and as to the payment of interest and principal either upon maturity or redemption (other than upon demand by the holder thereof) thereof by an unconditional credit facility of a corporation, provided that the variable rate obligations themselves are rated, without giving effect to the addition of a "plus" to any rating, in the highest rating categories in respect to its long term rating, if any, and in either of the two highest categories in respect to its short term rating by either S&P or Moody's and that the corporations providing the liquidity agreement and credit facility have, at the date of acquisition of the variable rate obligation by the company, an outstanding issued of unsecured, uninsured and unguaranteed debt obligations rated, without giving effect to the addition of a "plus" to any rating, in either of the two highest rating categories by either S&P or Moody's; and

(g) any Eurodollar certificate of deposit which by its terms matures not later than 30 days from its date of issuance and which is issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (provided such bank, trust company, or national banking association has capital and unimpaired surplus of not less than $500,000,000); and

(h) shall exclude any of the foregoing which may be issued by any of the Charter Municipalities.

1.53) Qualifying Facility. "Qualifying Facility" means a small power production or cogeneration facility that is a qualifying facility under the Public Utility Regulatory Policies Act of 1978 and regulations promulgated thereunder and is a "small power producer" as such term is used in the Maine Small Power Production Facilities Act.

1.54) Securities Act. "Securities Act" means the Securities Act of 1933, as amended, and the regulations promulgated thereunder.

1.55) Service. "Service" means the United States Internal Revenue Service.

1.56) S&P. "S&P" means Standard and Poor's Rating Services, a division of McGraw Hill.

1.57) Substitute Limited Partner. "Substitute Limited Partner" means a Person who has become a Substitute Limited Partner pursuant to Section 10.4 of this Agreement.

1.58) Surplus Cash Agreement. "Surplus Cash Agreement" means the Amended and Surplus Cash Agreement among the Partnership, Bangor Hydro-Electric Company and the MRC of even date herewith, as the same may be amended from time to time, which Agreement describes, among other things, the understandings of the parties relative to the application of cash to be released from the Bond Indenture by the Trustee.

1.59) Tax Return. "Tax Return" means the annual Federal income tax return of the Partnership, whether on Form 1065 or such other form as may hereafter be prescribed by the Service.

1.60) TD Bank Loan. "TD Bank Loan" means the loan in the amount of Ten Million One Hundred and Sixty-Five Thousand Dollars ($10,165,000) made by TD Bank to the Partnership as of the date of this Agreement for the purpose of refinancing the FAME Bonds.

1.61) Transfer. "Transfer" means a sale, transfer, assignment, hypothecation, or other disposition of an interest in the Partnership.

1.62) Transferee. "Transferee" means a purchaser, transferee, assignee or pledgee of, or Person who takes an interest by means of hypothecation in, a Partnership interest.

1.63) Transferor. "Transferor" means a seller, assignor or hypothecator of a Partnership interest.

1.64) USA Energy Share. "USA Energy Share" means forty-seven and 48,068/100,000 percent (47.48068%) minus the product of the following:

(a) Any increase in the Municipal Share as provided herein; multiplied times

(b) The quotient of the following:

(1) The USA Energy Share; divided by

(2) The sum of the following:

a. The USA Energy Share; plus

b. The PERC Holdings Share.

1.65) Waste Disposal Agreement. "Waste Disposal Agreement" means each Second Amended, Restated and Extended Waste Disposal Agreement between the Partnership and an Amending Charter Municipality as the same may be entered into and amended from time to time.

ARTICLE 2.

THE PARTNERSHIP AND ITS BUSINESS

2.1) Continuation. The Partners hereby agree to continue the Partnership under the laws of the State of Maine. The General Partner shall take or cause to be taken all such further actions as are appropriate for the Partnership's continuance under the Partnership Act, including any required filings with the Office of the Secretary of State of the State of Maine.

2.2) Name of Partnership. The name of the Partnership shall continue to the "Penobscot Energy Recovery Company, Limited Partnership." The Partnership may use the assumed name "Penobscot Energy Recovery Company, L.P."

2.3) Address of Partnership. The address of the Partnership shall be 100 N. Sixth Street, Suite 300A, Minneapolis, MN 55403, or such other location as determined by the General Partner.

2.4) Purpose. The sole purpose of the Partnership shall be to own, maintain, enhance and operate the Facility, and to undertake any and all other acts and things necessary, proper, convenient, or advisable to effectuate and carry out such purpose.

2.5) Term. The term of the Partnership shall continue until December 31, 2018, unless the Partnership is sooner dissolved as herein provided or by operation of law.

2.6) Place of Business. The principal office and place of business of the Partnership shall be at 29 Industrial Way, Orrington, Maine. The Partnership may also maintain such other offices at such other places as the General Partner may deem advisable.

2.7) Addresses of the Partners.

USA Energy Group, LLC
100 N. Sixth Street
Suite 300A
Minneapolis, MN 55403

PERC Holdings, LLC
6321 Bury Drive
Suite 13
Eden Prairie, MN 55346

Equity Charter Municipalities
c/o Municipal Review Committee, Inc.
40 Harlow Street
Bangor, ME 04401-5102

ARTICLE 3.

INVESTMENT OBLIGATIONS

3.1) Additional Capital Contributions by Equity Charter Municipalities.

(a) Additional Capital Contribution. The Equity Charter Municipalities have the right, in the sole discretion of the MRC, to make Additional Capital Contributions to the Partnership by application of Performance Credits pursuant to their purchase rights set forth in their Waste Disposal Agreements provided that the aggregate amount purchased shall constitute not more than a 5/9th of all limited partnership interests in the partnership constituting an aggregate 50% interest in the total capital and profits of the Partnership. The Municipal Share shall be recalculated and become effective upon each Prepayment Date in accordance with the MRC Allocation Certification. The Partnership is obligated to use the proceeds of all such Performance Credits as directed by the MRC and in accordance with the Surplus Cash Agreement to prepay Long Term Debt. Limited partnership interests acquired from time to time after April 15, 2004 by the Equity Charter Municipalities pursuant to this Section 3.1 shall be allocated between USA Energy and PERC Holdings in accordance with their respective L.P. Sharing Ratios and such allocation shall at all times be reflected in the records of the Partnership.

(b) Manner of Exercise of Purchase Rights Under Waste Disposal Agreements. Equity Charter Municipalities, acting through the MRC, may exercise their purchase rights pursuant to the Waste Disposal Agreements, no more frequently than once per calendar quarter by delivering notice of exercise to the Managing General Partner.

3.2) Additional Capital Contributions. Except as provided in this Article 3, the Partners shall have no right to make any Additional Capital Contributions or loans to the Partnership and the Partnership shall have no right to make any Partner make a capital contribution or loan to the Partnership.

3.3) No Interest on Capital. No interest shall be paid to any Partner on all or a portion of a Capital Contribution or on a balance in its Capital Account.

3.4) Capital Withdrawals and Returns. Partners shall not have the right to withdraw or reduce their contributions to the capital of the Partnership except in accordance with this Agreement. Except as otherwise provided herein, Partners shall not have the right to demand or receive property, other than cash, in return for their capital contributions or have priority over another Partner, either as

to the return of contribution of capital or as to profits, losses, or distributions, or as to compensation by way of income.

3.5) Waiver of Partition Right. The Partners hereby waive and forfeit all rights arising out of statute or operation of law to seek, bring or maintain in any court an action for partition pertaining to any asset of the Partnership.

3.6) Capital Accounts. A Capital Account shall be maintained with respect to each Partner in accordance with Federal income tax accounting principles and Treasury Regulations Section 1.704-1(b). Each Capital Account shall be credited with the amount of the cash contribution to the capital of the Partnership by such Partner, the fair market value of property contributed to the Partnership by such Partner (net of liabilities assumed with respect to such interest and liabilities to which such contributed property is subject), the distributive share of partnership income and gain (or items thereof) as allocated to such Partner pursuant to Section 4.1, and the distributive share of income exempt from tax. Each Capital Account shall be charged for the amount of any loss or deduction (or items thereof) allocated to such Partner pursuant to Section 4.1, the amount of all distributions in cash to such Partner pursuant to this Agreement, the fair market value of property distributed to such Partner (net of liabilities assumed with respect to such interest and liabilities to which such distributed property is subject), and the distributive share of expenditures of the Partnership described in Section 705(a)(2)(B) of the Code (which share shall be determined in accordance with the allocable interests in the Partnership). The following rules shall apply in maintaining Capital Accounts with respect to interests in the Partnership:

(a) A Partner which has more than one interest in the Partnership shall have a single Capital Account that reflects all such interests, regardless of the class of interests owned by such Partner (e.g., general or limited) and regardless of the time or manner in which such interests were acquired.

(b) For purposes of this Section 3.6, amounts described in Section 709 of the Code (other than amounts with respect to which an election is in effect under Section 709(b) of the Code) shall be treated as described in Section 705(a)(2)(B) of the Code.

(c) If property is distributed by the Partnership, Capital Accounts shall be adjusted as though such property had been sold on the date of such distribution for its then fair market value, and any gain or loss on such sale had been allocated in accordance' with Section 4.1.

(d) If property is contributed to the Partnership, Capital Accounts shall be adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(d)(3).

(e) Capital Accounts shall be adjusted, in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(j), to reflect any adjustments to the basis of Partnership property under Section 48(q) of the Code.

(f) if, in any taxable year, the Partnership has in effect an election under Section 754 of the Code, Capital Accounts shall be adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(m).

3.7) Optional Loans from General Partner and Affiliates. The Partnership may borrow funds from the General Partner or their Affiliates, provided that no General Partner or Affiliate shall be obligated to make such loans. Any such loans ("General Partner Loans') shall be on terms no less favorable to the Partnership than would be reasonably available to the Partnership from non affiliated commercial lenders. To the extent General Partner Loans have not been repaid prior to the determination of Distributable Cash, General Partner Loans shall be repaid as a priority in accordance with Section 5.1.

ARTICLE 4.

PROFITS AND LOSSES

4.1) Allocation of Profits and Losses.

(a) General Rule.

(1) All Partnership items of income, gain, loss, deduction, or credit (including without limitation investment tax credits and accelerated cost recovery deductions), other than those profits and losses arising from Capital Transactions, as determined for Federal income tax purposes, shall be allocated in the same proportion as the Partners share in Net Cash Flow for the period under Section 5.1(c).

(2) Notwithstanding the foregoing, in no event shall a loss for any year be allocated to a Limited Partner to the extent it would cause the aggregate negative Capital Accounts of the Limited Partners having negative Capital Accounts (such aggregate to be stated as a positive number) to exceed the sum of Minimum Gain on the last day of such year. For purposes of this subparagraph (2), the Capital Accounts of USA Energy shall be deemed to include only those adjustments made with respect to USA Energy in its capacity as a Limited Partner.

(3) Notwithstanding the foregoing, except as provided in subparagraph (ii) above, in the event any Equity Charter Municipality, as a Limited Partner, unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Sections 1.704-l(b)(2)(ii)(d)(4), (5) or (6), then items of Partnership income and gain shall be specially allocated to such Limited Partner in an amount and manner sufficient to eliminate as quickly as possible the Adjusted Deficit Capital Account Balance in such Limited Partner's

Capital Account created by such adjustments, allocations, or distributions. Any special allocations of items of income or gain pursuant to this subsection shall be taken into account in computing subsequent allocations of other net profits, net losses and all other items allocated to the Limited Partner pursuant to Article 4.1 shall, to the extent possible, be equal to the net amount that would have been allocated to the Limited Partner pursuant to the provisions of this Article 4.1 had such unexpected adjustments, allocations or distributions not occurred. "Adjusted Deficit Capital Account Balance" shall mean the deficit Capital Account balance of a Limited Partner, if any, as of the end of the relevant fiscal year of the Partnership, after giving effect to the following: (A) credit to such Capital Account any amounts the Limited Partner is obligated to restore pursuant to the penultimate sentence of Treasury Regulations Section 1.704-1(b)(4)(iv)(f), and (B) debit to such Capital Account the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

(4) Except as provided in subparagraph (ii) above, in the event an Equity Charter Municipality, as a Limited Partner, has an Adjusted Deficit Balance Capital Account at the end of any Partnership fiscal year which is in excess of the sum of (A) the amount such Limited Partner is obligated to restore pursuant to any provision of this Agreement and (B) the amount such Limited Partner is deemed to be obligated to restore pursuant to the penultimate sentence of Treasury Regulations Section 1.704-1(b)(4)(iv)(f), such Limited Partner shall be specially allocated items of Partnership income and gain in the amount of such excess as quickly as possible.

(b) Capital Transactions.

(1) Any net gain realized by the Partnership arising from a Capital Transaction shall be allocated among the Partners and credited to their Capital Accounts (after crediting or charging thereto the appropriate portion of all net profits or net losses of the Partnership for the current year in accordance with Section 4.1(a) and after distributing all amounts to be distributed to the Partners pursuant to Article 5 hereof (including the Net Proceeds of Sale or Refinancing arising out of the Capital Transaction giving rise to the allocation hereunder) in the following order of priority (in each case, reflecting in the balance of the Capital Accounts any profit or loss credited or charged, as the case may be, pursuant to the preceding paragraph):

a. First, if the Capital Account of any Limited Partner has a negative balance, gain shall first be credited to the Capital

Accounts of the Limited Partners which have such negative balances, in proportion to such negative balances, until such time as the Capital Accounts of all such Limited Partners equal zero;

b. Second, if the Capital Account of any General Partner has a negative balance, gain shall next be credited to the Capital Accounts of the General Partner which have such negative balances, in proportion to such negative balances, until such time as the Capital Accounts of all such General Partner equal zero; and

c. Third, any remaining gain shall be allocated to the Partners in the proportion in which they share distributions of Net Cash Flow for the applicable period under Section 5.1(c).

(2) Net losses included by the Partnership arising from Capital Transactions shall be charged to the Capital Accounts of the Partners (after crediting or charging thereto the appropriate portion of all net profits or net losses of the Partnership for the current year in accordance with Section 4. 1(a) and after distributing all amounts to be distributed for such year pursuant to Article 5) in the following order of priority:

a. First, loss shall be charged to the Capital Accounts of the Partners in proportion to and to the extent of the positive Capital Accounts of the Partners; and

b. Second, the balance of any loss shall be charged in the proportion in which profits and losses are allocated for the applicable period under subparagraph (i) paragraph (a) above without regard to subparagraph (ii) thereof.

4.2) Restoration of Negative Capital Accounts. Except as may be required by Section 12.3, or in respect of any negative balance resulting from a distribution in contravention of this Agreement, at no time during the term of the Partnership shall a Partner with a negative balance in its Capital Account have any obligation to the Partnership or to another Partner to restore such negative balance.

4.3) Partnership Adjustments. In the event of the Transfer of all or any part of the Partnership interest of a Partner or upon the death of a Partner (if such Partner is a natural person), the Partnership may elect to adjust the basis of Partnership property. Any increase or decrease in the amount of any item of income, gain, loss, deduction or credit attributable to an adjustment to the

basis of Partnership assets made pursuant to a valid election under Sections 734, 743 and 754 of the Code, and pursuant to corresponding provisions of applicable state and local income tax laws, shall be charged or credited, as the case may be, to those Partners entitled thereto under such laws.

4.4) Allocations to Transferred Partnership Interests. Profits, losses, gains, deductions and credits allocated to a Partnership interest assigned or reissued during a Fiscal Year shall be allocated to each Person who was the holder of the Partnership interest during such Fiscal Year, in proportion to the number of days that each such holder was recognized as the owner of such Partnership interest during such Fiscal Year or during an interim period in respect of which the books of the Partnership shall be closed, as the case may be, or in any other manner required or permitted by the Code and selected by the General Partner in accordance with this Agreement, without regard to the results of Partnership operations or the date, amount or recipient of any distributions which may have been made with respect to such Partnership interest. The effective date of the assignment shall be (a) in the case of a voluntary assignment, the actual date the assignment as recorded on the books of the Partnership, or (b) in the case of involuntary assignment, the date of the operative event.

ARTICLE 5.

DISTRIBUTIONS

5.1) Net Cash Flow. Subject to compliance with each applicable Waste Disposal Agreement and the Surplus Cash Agreement, the Partnership shall distribute its Net Cash Flow quarterly as follows:

(a) First, to repay General Partner Loans in accordance with their terms; and

(b) Second, the balance ten percent (10%) to the General Partner and ninety percent (90%) to the Limited Partners in accordance with the LP Sharing Ratios. Upon delivery of the Partnership's annual audit, the allocation of Net Cash Flow for the year covered by the audit shall be adjusted to accord with the audit, and consistent with the audit, allocations among Partners shall be prorated for such year on a daily basis. Any credits or debits due to or from any Partner with respect to such annual period shall be applied or credited to the next distribution of Net Cash Flow, until an equalization for the audited year has been fully implemented. Allocations to the Equity Charter Municipalities shall be in accordance with the MRC Allocation Certification in effect as of each Prepayment Date.

5.2) Net Sale or Refinancing Proceeds. The Partnership shall distribute Net Sale or Refinancing Proceeds within 120 days of the event giving rise to such proceeds in the following manner:

(a) First, to those Partners having positive Capital Accounts in proportion to such accounts until such accounts have been reduced to zero; and

(b) Second, to all Partners in the same manner as it distributes Net Cash Flow of the applicable period under Section 5.1.

5.3) Distributions in Kind. Partners shall not be entitled to receive as distributions from the Partnership any Partnership asset other than money. The General Partner shall not be permitted to distribute assets to the Limited Partners in kind.

5.4) Distribution Restrictions. The Partners acknowledge and consent to the provisions of Long Term Debt which restrict distributions to Partners and agree to abide by such restrictions.

ARTICLE 6.

POWERS, RIGHTS AND DUTIES OF THE GENERAL PARTNER

6.1) Management Authority.

(a) Managing General Partner. Subject to the powers of the Committee under clause (f) of this Section 6.1, the General Partner, acting as Managing General Partner, shall have the full authority and discretion with respect to the management of the Partnership's business, and shall have all the rights and powers of a General Partner as provided in the Maine Revised Uniform Limited Partnership Act, 31 M.R.S.A. § 401 et seq., and as otherwise provided by law, and any action taken by the General Partner shall constitute the act of and serve to bind the Partnership. In dealing with the Managing General Partner acting on behalf of the Partnership, no Person shall be required to inquire into its authority to bind the Partnership. Persons dealing with the Partnership are entitled to rely conclusively upon the power and authority of the Managing General Partner as set forth in this Agreement.

(b) Powers of Managing General Partner. In furtherance of the purpose of the Partnership as set forth in Section 2.4 of this Agreement, but subject to the powers of the Committee under clause (f) of this Section 6.1, the Managing General Partner is hereby granted the right, power and authority to do on behalf of the Partnership all things which, in the judgment of the Managing General Partner, are necessary, proper or desirable to carry out its duties and responsibilities hereunder, including, but not limited to the following: from time to time to incur all reasonable expenditures; to employ and dismiss from employment any and all employees, agents, contractors, brokers, attorneys and accountants; to create, by grant or otherwise, easements and servitudes; to borrow money on an unsecured basis; to borrow money in any amount from any Person including the General Partner and its Affiliates, on a recourse or nonrecourse basis, and as security therefor to mortgage all or any part of the Partnership's property; to renovate, alter, improve the Partnership's property, repair, raze, replace or rebuild any building or other improvement on all or any portion of any Partnership property which is real estate; to purchase or acquire interests in real or personal property; to obtain refinancings or replacements of any mortgages or other security instruments related in any way to any Partnership property, and to prepay in whole or in part, refinance, recast, modify, consolidate or

extend any of the terms of any indebtedness owed by the Partnership or affecting all or any portion of any Partnership property; to do any and all of the foregoing at such price or amount for cash, securities or other property and upon such terms as the General Partner deems proper; and to execute, acknowledge and deliver any and all contracts, agreements or other instruments to effectuate any and all of the foregoing. A written consent authorizing any of the foregoing actions and signed by the General Partner shall be conclusive evidence of the exercise of the authority set forth in this paragraph (b).

(c) Establishment of the Oversight Committee. The Partners shall establish an Oversight Committee (the "Committee"), which shall have the power and authority with respect to the Partnership and the Partnership's business, as provided in paragraph (f) below or as delegated to the Managing General Partner pursuant to written policies and directives adopted by the Committee. Until the establishment of the Committee, the General Partner shall have full authority and discretion with respect to management of the Partnership's business and thereafter shall have the authority set forth herein.

(d) Composition of the Oversight Committee; Meetings. The Committee shall consist of three members, one member appointed by the General Partner (the "GP Member"), one member appointed by PERC Holdings (the "PERC Holdings Member") and one member appointed by MRC (the "MRC Member"). Such members shall not be entitled to receive any fee, wage or salary from the Partnership for such services, except that the Partnership may reimburse such members for reasonable expenses incurred in connection with performing Committee duties including, without limitation, reasonable and verifiable out of-pocket expenses of the Committee members such as travel, food and lodging. Furthermore, the Partnership shall, upon receipt of an invoice from the MRC, reimburse the MRC for (i) the reasonable and verifiable out-of-pocket expenses of the MRC Member's performing its Committee duties, including travel, food and lodging, local transportation and similar incidental costs, and (ii) the reasonable and verifiable fees and out-of-pocket expenses of the MRC's technical advisors incurred by the MRC in connection with preparation and support for Committee meetings. The request for reimbursement of such technical advisors' fees shall be accompanied by a detailed invoice from such advisors with appropriate documentation and containing such detail as the Partnership may reasonably request. The Committee shall meet from time to time upon five days notice from any member to the other members but not less frequently than quarterly. A prior agenda shall be submitted by the Managing General Partner for each meeting to the extent reasonably possible, and minutes of each meeting shall be kept and such minutes shall be signed by each member of the Committee. A quorum at any meeting of the Committee shall consist of the GP Member and either of the other members. A quorum shall be required for any meeting of the Committee to be held.

If the meeting is held by telephone, minutes will be prepared and circulated for signature. If the meeting is held in person, it shall be held at the offices of the Facility, unless all members agree on a different location. The General Partner shall make members of management of the Facility available

to the members of the Committee at the time of, or in connection with, the meeting, to discuss current operations of the Facility and to answer questions. At or in connection with a meeting, or at any other time during regular business hours of the Facility and upon reasonable advance notice to the General Partner, any member of the Committee may inspect the Facility and the Partnership records.

The GP Member shall be deemed to hold 50% of the voting power of the Committee, and each other member shall be deemed to hold 25% of the voting power of the Committee. Any decision of the Committee shall be binding upon the Partners. Any proposal or matter considered by the Committee which is not approved by more than 50% of the voting power of the Committee shall be deemed to have been defeated.

(e) Specific Powers of General Partner. Without limiting the general powers of the Managing General Partner under paragraph (a) above, the General Partner is hereby specifically directed to (subject to approval of the Committee under clause (f) of this Section 6.1):

(1) develop a program and scope of work for each phase of the Facility's maintenance and operation;

(2) approve the Partnership's capital requirements for each phase of the Facility's maintenance and operation, including any capital and operating budgets and approve and execute instruments of debt, contracts and leases, and maintain bank accounts;

(3) obtain adequate insurance governing the interests of the parties and the Partnership and protecting and indemnifying the General Partner and the members of the Committee and officials and employees of the Partnership for liability incurred in performing their duties;

(4) approve any tax policy matters regarding the Partnership;

(5) form an audit committee and appoint auditors;

(6) approve general accounting methods; and

(7) execute and deliver such documents and instruments as may be necessary to effectuate the terms of this Agreement, including, but not limited to, all documents and instruments relating to the financing for and operation of the Facility.

(f) Actions Reserved to Committee. Any action taken in compliance with the directives of the Committee shall be binding on the Partners. The following items of Partnership business shall be presented to the Committee for approval or rejection; provided that items (i) through (iv) shall require the approval of the MRC Member in each case:

(1) any material change in the nature of the business of the Partnership, or any material expansion or contraction of the Partnership or its business, or any merger, consolidation or conversion of the Partnership, or any transaction resulting in a change of control of the Partnership;

(2) the addition of new Partners (except as provided herein, Charter Municipalities) or the removal of the General Partner;

(3) any transaction or other matter in which, in the reasonable judgment of a member of the Committee, USA Energy or PERC Holdings has an actual or potential conflict of interest, it being understood that such a conflict or potential conflict will be deemed to exist in the event that either USA Energy or PERC Holdings enters into any transaction relating to assets (including intellectual property assets) or services in which any of the Partners, or their members or managers (or the members, managers, partners, shareholders, officers or directors of its members or managers) have a material interest, direct or indirect, which is separate and apart from the interest of USA Energy or PERC Holdings, as the case may be, as a Partner;

(4) any operations and maintenance agreement with respect to the Facility or any material amendment thereof;

(5) the terms and conditions of any capital or major maintenance project or contract or agreement pursuant to which the Partnership would expend or receive $750,000 or more in any Fiscal Year;

(6) the sale, disposition, exchange, lease, mortgage, assignment, pledge or other transfer of or granting a security interest in, any material asset or assets of the Partnership other than in the ordinary course of business;

(7) incurrence, renewal, refinancing or payment or other discharge of indebtedness of the Partnership in excess of $500,000 (except with respect to the TD Bank Loan as contemplated by this Agreement);

(8) any indemnification by the Partnership of any other person or entity (other than as provided for in this Agreement), or any guaranty by the Partnership of any obligation of another person or entity, other than in the ordinary course of business of the Partnership;

(9) the reduction of, or proposed addition to, Partnership capital;

(10) the creation, renegotiation or renewal of major leases relating to significant property utilized in connection with the operations of the Partnership;

(11) all capital and operating budgets; and

(12) the adoption of rules and amendments or supplements to such rules concerning the conduct of the affairs of the Committee;

Provided, however, the prior review, consent or approval of the Committee (or the MRC Member with respect to items (i) through (iv) above) shall not be required with respect to any revenue or expenditure expressly contemplated by a budget theretofore submitted and approved pursuant to clause (xi) of this Section 6.1(f).

(g) Removal and Replacement of Committee Members. A Partner, in its sole discretion, may remove the member of the Committee previously appointed by such Partner, at any time and from time to time. Each party shall have the right to fill vacancies occurring in the position occupied by appointees of such party and may appoint an alternate to serve in the absence of the regular member appointed by that party.

(h) Indemnification. The Partnership shall indemnify and save harmless the members of the Committee against all actions, claims, demands, costs and liabilities arising out of the acts, or failure to act, of any such members within the scope of the Partnership's business; provided, however, that the same were the result of action or inaction of such person which such person, in good faith, determined was in the best interests of the Partnership and which course of conduct did not constitute willful misconduct on the part of such Committee member.

(i) Devotion of Time; Affiliates. The General Partner shall devote such time to the Partnership business as the General Partner determines is necessary to supervise the Partnership's business and affairs in an efficient manner; but nothing contained in this Agreement shall preclude the employment, at the expense of the Partnership, of any agent or other third party to operate and manage all or any portion of the property, business or operations of the Partnership, subject to the control of the General Partner and the powers reserved by the Committee. Subject to Section 6.3 of this Agreement, Affiliates of the General Partner may be employed by the Partnership to perform any other services for the Partnership as the General Partner determines is necessary.

(j) Other Activities. The General Partner shall not be required to manage the Partnership as its sole and exclusive function, and it may have other business interests and may engage in other activities in addition to those relating to the Partnership. Neither the Partnership nor any Partner shall have any right by virtue of this Agreement or the Partnership relationship created hereby in or to such other ventures or activities or to the income or proceeds derived therefrom, and the pursuit of such ventures shall not be deemed wrongful or improper. Partners and their Affiliates shall not be obligated to present any particular investment opportunity to the Partnership even if such opportunity is of a character which, if presented to the Partnership, could be taken by the Partnership, and, each of them shall have the right to take for its own account (individually or otherwise) or to recommend to others any such particular investment opportunity.

(k) Compliance with TD Bank Loan. Notwithstanding anything in this Agreement to the contrary, the General Partner shall not be obligated to take any action that is inconsistent with the terms and conditions of the TD Bank Loan.

(l) Disposition of Partnership Assets. Except as required by law or pursuant to a dissolution and winding up in accordance with this Agreement, in no event shall the General Partner have any power to sell, exchange, lease or otherwise transfer all or substantially all of the assets of the Partnership; provided, however, that this paragraph (1) shall not limit the ability of the General Partner or the Partnership to enter into or perform all agreements entered into in connection with the TD Bank Loan, or any authorized replacement financing for the TD Bank Loan.

(m) Privileged Communications. All of the Partners shall have the right to participate in the selection and retention of counsel for the Partnership and in discussions and other communications with such counsel. All communications among counsel for the Partnership, the Partners and the Committee shall be subject to the attorney-client privilege.

6.2) Fiduciary Duties. The General Partner shall have the fiduciary duty to conduct the affairs of the Partnership for the exclusive benefit of the Partnership and in accordance with the provisions of applicable law and to use all Partnership funds and assets in the best interests of the Partnership. Except as otherwise required by the TD Bank Loan or other Partnership borrowings, all funds of the Partnership shall be invested only in Qualified Investments or deposited in the name of the Partnership in separate interest-bearing accounts in a federally insured bank or savings and loan association. The Managing General Partner shall have full authority on behalf of the Partnership to adopt such resolutions as may be required by any such bank or savings and loan association for the operation of such account, to make deposits and withdrawals from such account, to make and execute the checks, drafts, notes and other instruments representing funds of the Partnership in such account, and to take any and all such other action as may be necessary or appropriate in connection with the operation of such account.

6.3) Business with Affiliates, Associates. The General Partner shall not cause the Partnership to transact any business with the General Partner, collectively or individually, or an Affiliate or Associate thereof, for goods or services in connection with the conduct of the Partnership's business, except that such transaction may be effected if the transaction is on terms no less favorable to the Partnership than would be available in a bona fide arm's length transaction with an unaffiliated Person.

6.4) Compensation. In consideration of the management services to be performed by the General Partner, the Partnership shall pay to the General Partner the Management Fee. Payments of the Management Fee shall be made quarterly during the remaining term of the Partnership. The Partners acknowledge that the Management Fee is a guaranteed payment within the meaning of Section 707(c) of the Code and furthermore is not to be treated as a distribution under Article 5 for any purpose.

6.5) Reimbursement. The Partnership shall reimburse the General Partner for the cost of goods, materials and services used for or by the Partnership. The General Partner shall not be reimbursed by the Partnership for any indirect expenses incurred in performing services for the Partnership, such as officers' salaries, rent, utilities and other overhead items. The Partnership shall, however, reimburse the General Partner for (a) out of pocket expenses and overhead in connection with operating the Facility and (b) services which could be performed directly for the Partnership by independent parties, such as legal, accounting, duplicating and other similar services. Such amounts charged to the Partnership shall not exceed the lesser of (a) the actual cost of such services to the party providing them or (b) the amount which the Partnership would be required to pay to independent parties for comparable services. Each such payment and reimbursement of expenses pursuant to this Section 6.5 shall be made prior to any distributions under Article 5.

6.6) Establishment of Reserves.

(a) The Managing General Partner shall establish such reserve funds as may be required by the TD Bank Loan, or upon any authorized refinancing of the TD Bank Loan, and shall cause to be deposited therein such amounts as may be so required.

(b) Pursuant to the terms of this Agreement, the Managing General Partner may from time to time establish such reserves for the Partnership as it deems reasonable and necessary.

6.7) Restriction on Increasing the Stream of Benefits. Notwithstanding anything in this Agreement to the contrary, without the approval of USA Energy, neither the General Partner nor the Committee shall have the authority to enter into any contract or to take any action with respect to the approval or disapproval of any budget or extraordinary expenditure which causes any of the benefits of the Partnership to be transferred, or paid to or for the benefit of any electric utility company that is directly or indirectly an owner of any of the interests in the Partnership.

ARTICLE 7.

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTNERS

7.1) Representations, Warranties and Covenants of USA ENERGY. USA Energy hereby represents and warrants to and covenants with the Partnership and the Partners as follows:

(a) Organization. USA Energy is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Minnesota and it is or will be duly qualified to operate as a foreign corporation and to own its assets and properties and to carry on its business in the other jurisdictions where it owns or leases or will own or lease such assets or properties or carries on or will carry on such business, except where the failure to so qualify would not have a material adverse effect on the results of operations or financial condition of Partnership.

(b) Authorization: No Conflicts. The execution, delivery and performance by USA Energy of this Agreement (i) has been duly authorized by all necessary limited liability company action, (ii) does not contravene any material provision of any indenture, agreement or other instrument to which USA Energy is a party, or by which USA Energy or any of its properties are bound and (iii) is not and will not conflict with, result in a breach of or constitute (with notice or lapse of time or both) a default under any such indenture, agreement or other instrument.

(c) Validity. This Agreement has been duly authorized, executed and delivered by USA Energy and constitutes the legal, valid and binding obligation of USA Energy, enforceable against USA Energy in accordance with its terms, except insofar as enforcement may be limited by bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights generally and by moratorium laws from time to time in effect and general equitable principles.

(d) No Violation of Law. The execution, delivery and performance by USA Energy of this Agreement does not violate any provision of any law, rule, regulation, order, writ, judgment, decree, determination or award presently in effect having applicability to the Partnership or USA Energy, except those the violation of which would not have a material adverse effect on the Partnership or USA Energy.

(e) Pending or Threatened Litigation. There are no actions, suits or proceedings pending or, to its knowledge, threatened against USA Energy in any court or by or before any governmental department, agency or instrumentality or any arbitrator, in which there is a reasonable possibility of an adverse decision which could materially and adversely affect the business, operations, properties, assets or condition (financial or otherwise) of USA Energy, or the ability of USA Energy to perform its obligations under this Agreement.

(f) Utility. USA Energy is not an electric utility nor is it an Affiliate of an electric utility within the meaning of the Federal Power Act and is not subject to regulation as such.

(g) Taxes. All United States Federal income tax returns and all other tax returns or reports (Federal, state, local or foreign) which are required to be filed with respect to or by USA Energy have been filed as required, or the time for filing appropriately extended, and all taxes shown to be due on such returns or reports or pursuant to any assessment received by USA Energy in respect thereof have been paid, other than assessments, the applicability, validity or amount of which is being diligently contested in good faith by appropriate proceedings and as to which adequate reserves have been set aside on the books of USA Energy in accordance with GAAP with respect to such assessment. The charges, accruals and reserves on the books of USA Energy in respect of taxes or other governmental charges are adequate and have been made in accordance with GAAP.

(h) Disclosure. To the best knowledge of USA Energy, after due inquiry, all factual information (taken as a whole) heretofore or contemporaneously furnished by or on behalf of the Partnership or USA Energy in writing to the Equity Charter Municipalities for purposes of or in

connection with the Facility was true and accurate in all material respects on the date as of which such information was dated or certified and was not incomplete by omitting to state any material fact necessary to make such information not misleading at such time.

(i) Net Worth. USA Energy has as of the date hereof a net worth of not less than $1,750,000.

(j) Notice of Default. USA Energy shall forward to the Partners a copy of any notice received by USA Energy of any default under any agreement or instrument to which the Partnership is a party or by which it is bound.

(k) Partnership Status. USA Energy will not knowingly take any action that would cause the Partnership to be treated for Federal income tax purposes other than as a partnership taxable under Subchapter K of the Code as in effect on the date hereof.

(l) Qualifying Facility Status. USA Energy covenants that during the term of this Agreement it will not, voluntarily or involuntarily, accomplish or undergo any change in ownership or structure which would cause it to become a public utility or an Affiliate of a public utility.

7.2 Representations, Warranties and Covenants of PERC Holdings. PERC Holdings hereby represents and warrants to and covenants with the Partnership and the Partners as follows:

(a) Organization. PERC Holdings is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Minnesota and it is or will be duly qualified to operate as a foreign corporation and to own its assets and properties and to carry on its business in the other jurisdictions where it owns or leases or will own or lease such assets or properties or carries on or will carry on such business, except where the failure to so qualify would not have a material adverse effect on the results of operations or financial condition of Partnership.

(b) Authorization; No Conflicts. The execution, delivery and performance by PERC Holdings of this Agreement (i) has been duly authorized by all necessary corporate action, (ii) does not contravene any material provision of any indenture, agreement or other instrument to which PERC Holdings is a party, or by which PERC Holdings or any of its properties are bound and (iii) is not and will not conflict with, result in a breach of or constitute (with notice or lapse of time or both) a default under any such indenture, agreement or other instrument.

(c) Validity. This Agreement has been duly authorized, executed and delivered by PERC Holdings and constitutes the legal, valid and binding obligation of PERC Holdings, enforceable against PERC Holdings in accordance with its terms, except insofar as enforcement may be limited by bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights generally and by moratorium laws from time to time in effect and general equitable principles.

(d) No Violation of Law. The execution, delivery and performance by PERC Holdings of this Agreement does not violate any provision of any law, rule, regulation, order, writ, judgment, decree, determination or award presently in effect having applicability to the Partnership or PERC Holdings, except those the violation of which would not have a material adverse effect on the Partnership or PERC Holdings.

(e) Pending or Threatened Litigation. There are no actions, suits or proceedings pending or, to its knowledge, threatened against PERC Holdings in any court or by or before any governmental department, agency or instrumentality or any arbitrator, in which there is a reasonable possibility of an adverse decision which could materially and adversely affect the business, operations, properties, assets or condition (financial or otherwise) of PERC Holdings, or the ability of PERC Holdings to perform its obligations under this Agreement.

(f) Utility. PERC Holdings is not an electric utility nor is it an Affiliate of an electric utility within the meaning of the Federal Power Act and is not subject to regulation as such.

(g) Taxes. All United States Federal income tax returns and all other tax returns or reports (Federal, state, local or foreign) which are required to be filed with respect to or by PERC Holdings have been filed as required, or the time for filing appropriately extended, and all taxes shown to be due on such returns or reports or pursuant to any assessment received by PERC Holdings in respect thereof have been paid, other than assessments, the applicability, validity or amount of which is being diligently contested in good faith by appropriate proceedings and as to which adequate reserves have been set aside on the books of PERC Holdings in accordance with GAAP with respect to such assessment. The charges, accruals and reserves on the books of PERC Holdings in respect of taxes or other governmental charges are adequate and have been made in accordance with GAAP.

(h) Disclosure. To the best knowledge of PERC Holdings, after due inquiry, all factual information (taken as a whole) heretofore or contemporaneously furnished by or on behalf of the Partnership or PERC Holdings in writing to the Equity Charter Municipalities for purposes of or in connection with the Facility was true and accurate in all material respects on the date as of which such information was dated or certified and was not incomplete by omitting to state any material fact necessary to make such information not misleading at such time.

(i) Notice of Default. PERC Holdings shall forward to the Partners a copy of any notice received by PERC Holdings of any default under any agreement or instrument to which the Partnership is a party or by which it is bound.

(j) Partnership Status. PERC Holdings' will not knowingly take any action that would cause the Partnership to be treated for Federal income tax purposes other than as a partnership taxable under Subchapter K of the Code as in effect on the date hereof.

(k) Qualifying Facility Status. PERC Holdings covenants that during the term of this Agreement it will not, voluntarily or involuntarily, accomplish or undergo any change in ownership or structure which would cause it to become a public utility or an Affiliate of a public utility.

7.3) Representations, Warranties and Covenants of Equity Charter Municipalities. The MRC, on behalf of the Equity Charter Municipalities, hereby represents, warrants and covenants with the Partnership and the Partners as follows:

(a) Authorization. The execution, delivery and performance by MRC on behalf of the Equity Charter Municipalities of this Agreement (i) has been duly authorized by all necessary public or private action of such Equity Charter Municipality (ii) does not contravene any material provision of any agreement or other instrument to which such Equity Charter Municipality is a party or by which such Equity Charter Municipality or any of its properties are bound and (iii) does not and will not conflict with, result in a breach of, or constitute (with lapse or notice of time or both) a default under any agreement or other instrument binding on such Equity Charter Municipality.

(b) Validity. This Agreement has been duly authorized by each Equity Charter Municipality and duly executed and delivered by MRC on behalf of each of the Equity Charter Municipalities and constitutes the legal, valid and binding obligation of each Equity Charter Municipality, enforceable against each Equity Charter Municipality in accordance with its terms, except insofar as enforcement may be limited by bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights generally and by moratorium laws from time to time in effect and general equity principles.

(c) No Violation of Law. The execution, delivery and performance by MRC on behalf of each of the Equity Charter Municipalities of this Agreement does not violate any provision of any law, rule, regulation, order, writ, judgment, decree, determination or award presently in effect having applicability to the Partnership or Equity Charter Municipality, except those the violation of which would not have a material adverse effect on the Partnership or such Equity Charter Municipality.

(d) Qualifying Facility Status. MRC is not an electric utility nor is it an Affiliate of an electric utility within the mean of the Federal Power Act and is not subject to regulation as such.

ARTICLES 8.

INDEMNIFICATION

8.1) Indemnity for Acts and Omissions.

(a) The General Partner shall be indemnified and held harmless by the Partnership from and against any and all reasonable attorneys' fees, claims, demands, liabilities, costs, damages and causes of action arising out of or incidental to its management or administration of the affairs of the Partnership; provided, however, that the same were the result of action or inaction of the General

Partner which it, in good faith, determined was in the best interests of the Partnership and which course of conduct did not constitute gross negligence or willful misconduct on the part of the General Partner or breach of any representation, warranty or covenant of the General Partner under Article 7; provided further, however, that all claims for indemnification made by the General Partner under this paragraph (a) shall be made only against and shall be limited to the assets of the Partnership, and the General Partner shall have no recourse against the other Partners with respect to such claims.

(b) Each of the Limited Partners shall be indemnified and held harmless by the Partnership from and against any and all reasonable attorneys' fees, claims, demands, liabilities and costs, damages and causes of action arising out of or incidental to the affairs of the Partnership, provided, however, that the same were the result of action or inaction of such Limited Partner which it, in good faith, determined was in the best interests of the Partnership and which course of conduct did not constitute gross negligence or willful misconduct on the part of such Limited Partner a breach of any of its representations, warranties or covenants or those made on its behalf under Article 7; provided further, however, that all claims for indemnification made by the Limited Partners under this paragraph (b) shall be made only against and shall be limited to the assets of the Partnership and the Limited Partners shall have no recourse against the General Partner with respect to such claims.

(c) Indemnifications authorized under this Section 8.1 shall include payment of reasonable attorneys' fees or other expenses incurred in connection with settlement or in any legal proceeding, claims or demands and the removal of any liens affecting any property of the indemnitee. Such indemnification rights shall be cumulative of, and in addition to, any and all rights, remedies and recourses to which a Partner or the Partnership shall be entitled, whether or not pursuant to the provisions of this Agreement, at law or inequity. Payment obligations of the Partnership under this Section 8.1 shall be junior in right of payment to the prior payment in full of all obligations under the FAME Bonds.

ARTICLE 9.

RIGHTS AND OBLIGATIONS OF THE LIMITED PARTNERS AND 2018 PURCHASE OPTION

9.1) No Control by the Limited Partners. The Limited Partners, in their capacity as Limited Partners, shall not take part in the control of and shall not take part in the management of the Partnership's business and shall have no right or authority to act for or to bind the Partnership.

9.2) Limitation on Liability. Except as required by Article 3 or by Section 12.3, a Limited Partner shall not have any liability to contribute money to the Partnership, shall not be personally liable for any obligations of the Partnership, and shall not be obligated to make loans to the Partnership. Nothing else set forth in this Agreement, in any other document and nothing arising from any transaction contemplated by any of the foregoing agreements, shall in any way remove, diminish or affect this limitation of liability.

9.3) 2018 Purchase Option. Commencing on March 31, 2018 and terminating on December 31, 2018, the Amending Charter Municipalities, or anyone or more of Amending Charter Municipalities (provided they continue as parties to Waste Disposal Agreements with the Partnership as of that date) have the right to elect to purchase all of the interests in the Partnership other than those already owed by the Equity Charter Municipalities for a purchase price equal to the then fair market value of such interests. Upon exercise of this option, (which shall be by written notice to the Partnership) the Purchasing Municipalities shall, within 60 days after such notice, deliver to the Partnership the full amount of the purchase price and the Partnership shall, in turn, use the entire purchase price to redeem all of the Partnership interests (both general and limited partnership interests) of the then existing Partners, excluding Equity Charter Municipalities. Upon the effective date of such redemption, (i) notwithstanding any restrictions under Article 11 of the Partnership Agreement, the existing General Partner shall withdraw from the Partnership, (ii) MRC, or another person designated by MRC, shall be admitted to the Partnership as the Partnership's new sole General Partner on such terms and conditions as the MRC deems appropriate in its sole discretion, (iii) the Equity Charter Municipalities shall remain Limited Partners of the Partnership, and (iv) the Purchasing Municipalities shall be admitted as Limited Partners of the Partnership, with such proportionate interests as the MRC shall determine is fair and equitable.

For purposes of the foregoing, fair market value shall be determined of as follows: On or before February 1, 2018, the Amending Charter Municipalities (as a group) and the General Partner (as a group) shall each select an investment bank or otherwise qualified appraiser to appraise the Partnership interests held by all Partners other than the Equity Charter Municipalities. Each appraiser selected shall submit its written appraisal within thirty days of its selection. If the two appraisals are within ten percent of each other, the fair market value for the interest shall be the average of the two values. If the two values differ by more than ten percent, the two appraisers selected shall jointly appoint a third appraiser, such appointment to be made no later than March 15, 2018. The third appraiser shall determine which of the first appraisals more accurately reflects the fair market value of the interests to be redeemed and that appraisal shall be the fair market value of the interests and shall be binding on the General Partner and the Amending Charter Municipalities for all purposes under this section.

If the purchase option is not exercised by the Amending Charter Municipalities within the period specified, the option shall terminate and be of no further force and effect. Each of the Partners agrees to execute and deliver any and all documents reasonably deemed necessary or appropriate to give effect to any exercise of this purchase option. The distribution by the Partnership to the then existing Partners in redemption of their Partnership interests shall be made to the terminating Partners in accordance with Section 5.2 of the Partnership Agreement as if the distributions were proceeds from a sale or refinancing.

ARTICLE 10.

TRANSFER OF LIMITED PARTNERSHIP INTERESTS

10.1) Prohibited Transfers. The Limited Partners may not Transfer or otherwise encumber their interest in the Partnership or any part thereof in any way whatsoever except as permitted in this Article 10, and any such Transfer or encumbrance in violation of this Article 10 shall be null and void as against the Partnership, except as otherwise provided by law.

10.2) Permitted Transfers by Limited Partners. Subject to compliance with the TD Bank Loan and to any requirements of this Agreement, USA Energy and PERC Holdings may transfer their interests as a Limited Partner at any time. An Equity Charter Municipality may transfer all or any part of its interest in the Partnership (but only if the Transferor shall not then be in material default under this Agreement), provided that:

(a) Any Transferee shall take such interest subject to the terms, provisions and conditions of this Agreement and shall acknowledge its acceptance of this Agreement by executing and delivering to the remaining Partners an instrument in form satisfactory to said Partners whereby such Transferee assumes and agrees to be bound by all the terms, provisions and conditions hereof and to become, in the place of the transferring Equity Charter Municipality, a Partner for all purposes herein (although in connection with such transferee's assumption of obligations hereunder, such Transferee shall be entitled to the benefit of any limitation upon the liability of the Transferor hereunder).

(b) Such Transfer must be for cash consideration, and all costs to the Partnership of such Transfer shall be paid by the Transferee or Transferor.

(c) The General Partner shall have Consented to the Transfer, which Consent may be granted or withheld in its sole discretion. The Partners acknowledge that it is the General Partner's intent that it will not Consent to the transfer of any Limited Partnership interest held by an Equity Charter Municipality unless the transfer is to another Equity Charter Municipality.

10.3) Right of First Refusal. Prior to the Transfer of a limited partnership interest by a Limited Partner (the "Assigning Limited Partner") to any other Person, the remaining Limited Partners shall have the option to purchase all (but not less than all) of the limited partnership interests of the Assigning Limited Partner to be transferred to such Person as set forth in this Section 10.3. Prior to a Transfer of a limited partnership interest, the Assigning Limited Partner shall deliver to the Partnership and the remaining Limited Partners a written notice setting forth the following:

(a) An offer to the remaining Limited Partners to sell the limited partnership interests of the Assigning Limited Partner. Such offer shall be subject to the terms and conditions set forth in the written notice and shall include a statement of the address to which notice of acceptance may be sent.

(b) Any notice provided pursuant to this Section 10.3 shall include a statement identifying the Person to whom the limited partnership interest is proposed to be transferred and shall contain all of the material terms and conditions of the proposed Transfer of the limited partnership interest by the Assigning Limited Partner including, without limitation, the amount of the purchase price, the date and manner of the payment thereof, the terms of any security, pledge, lien or other encumbrance, and copies of any documentation related thereto.

(c) The purchase price for the limited partnership interests of the Assigning Limited Partner that are to be subject to the proposed sale (the "Offered Partnership Interest") shall be equal to the price at which the Offering Limited Partner proposes to Transfer the Offered Partnership Interest to the third Person as described in the written notice.

(d) The remaining Limited Partners shall have the right to purchase all (but not less than all) of the Offered Partnership Interest within one hundred eighty (180) days after delivery of the written notice to the Partnership and the remaining Limited Partners. If more than one (1) of the remaining Limited Partners desire to purchase the Offered Partnership Interest, the Offered Partnership Interest shall be allocated among the remaining Limited Partners in any manner the remaining Limited Partners agree. If the remaining Limited Partners cannot agree on such allocation within ten (10) days after receiving written notice from the Assigning Limited Partner, then the Offered Partnership Interest shall be allocated between the remaining Limited Partners in proportion to the remaining Limited Partner's limited partnership interests. If the remaining Limited Partners do not elect to purchase all of the Offered Partnership Interest, or if the closing does not occur within the one hundred eighty (180) day period through no fault of the Assigning Limited Partner, the Assigning Limited Partner may then sell the Offered Partnership Interest to the third Person referred to in the written notice within thirty (30) days after the expiration of such one hundred eighty (180) day period, subject to the same terms and conditions set forth in the written notice, unless the Offered Partnership Interest is first reoffered to the remaining Limited Partners this Section 10.3.

10.4) Substitute Limited Partner. If a Transferee of a Limited Partnership interest does not become a Substitute Limited Partner pursuant to this Section 10.4, the Partnership shall not recognize the Transfer and the Transferee shall hot have any rights to require any information on account of the Partnership's business, inspect the Partnership's books, receive distributions, or vote on Partnership matters. A Transferee of the whole or any part of a Limited Partnership interest shall have the right to become a Substitute Limited Partner in place of its Transferor only if all of the following conditions are satisfied:

(a) a fully executed and acknowledged written instrument of assignment has been filed with the Partnership setting forth a statement of the intention of the Transferor that the Transferee become a Substitute Limited Partner in its place;

(b) the Transferee executes, adopts and acknowledges this Agreement and agrees to assume all the obligations of its Transferor, and

(c) any reasonable costs to the Partnership of the Transfer shall have been paid to the Partnership.

10.5) Involuntary Withdrawal by the Limited Partner.

(a) Upon the Bankruptcy, dissolution or other cessation of existence of a Limited Partner which is not a natural person, the authorized representative of such entity shall have all the rights of a Partner for the purpose of effecting the orderly winding up and disposition of the business of such entity and such power as such entity possessed to designate a successor as a Transferee of its Partnership interest and to join with such Transferee in making application to substitute such Transferee as a Substitute Limited Partner.

(b) Notwithstanding the foregoing, in the event that an Equity Charter Municipality undergoes dissolution, the MRC shall have the right to re-assign the limited partnership interests of such Equity Charter Municipality to another Equity Charter Municipality or other successor public sector entity responsible for providing public services in the geographic area formerly constituting the municipality. Any such transfer shall not be subject to the right of first refusal described in this Article X provided that, as a condition of such assignment, the assignee shall execute, adopt and acknowledge this Agreement and agree to assume all the obligations hereunder of its transferor.

(c) The death, Bankruptcy, disability or legal incapacity of a Limited Partner shall not dissolve or terminate the Partnership.

ARTICLE 11.

WITHDRAWAL OF A GENERAL PARTNER

11.1) Assignment or Withdrawal by a General Partner. A General Partner may not Transfer its interest as a General Partner, in whole or in part, or withdraw from the Partnership, except as permitted by this Article 11.

11.2) Voluntary Assignment or Withdrawal of the General Partner. Subject to compliance with the TD Bank Loan, the General Partner may at any time sell, assign or transfer any or all of its interest as a General Partner to any entity under common control with the General Partner. In addition, upon giving 120 days' notice to the MRC and PERC Holdings, and to the right of first refusal set forth in Section 5 below, the General Partner may sell, transfer or assign its interest to a noncontrolled third Person if:

(a) the Person agreed to serve as successor General Partner;

(b) the Person has satisfied the terms and conditions set forth in Section 11.4; and

(c) the substitution of such Person will not cause the Partnership to lose its status as a limited partnership for Federal income tax purposes.

11.3) Removal of the General Partner.

(a) In the event that the General Partner has materially breached this Agreement, it will have the right to cure such breach within thirty (30) days after receiving a written notice of the breach. If such breach cannot reasonably be cured in such period, it shall have time to commence efforts to cure and diligently pursue such cure. If it fails to do so, the MRC and PERC Holdings may either (i) remove the General Partner and name another Person as General Partner in accordance with Section 11.4 or (ii) dissolve, wind up and liquidate the Partnership as provided in Article 12 below.

(b) In the event that the Partnership is continued, the General Partner's Partnership interest shall be converted to that of a Limited Partner, it shall receive allocations under Article 4 and distributions under Article 5 as if it had remained a General Partner, and it shall continue to have all the benefits of a Limited Partner.

(c) Any dispute that may arise regarding an alleged breach or failure to cure described in subsection (a) above shall be submitted to arbitration pursuant to Section 14.14 or, if it is not subject to arbitration, shall be submitted for determination to a court of competent jurisdiction. In either such event, the General Partner may be removed only upon issuance of a final and nonappealable order of the arbitrators or the court, as the case may be.

11.4) Successor General Partner. A Person shall be admitted a successor General Partner only if the following terms and conditions are satisfied:

(a) the admission of such Person shall have been consented to by the MRC and PERC Holdings which consent shall not be unreasonably withheld;

(b) the Person shall have accepted and agreed to be bound by all the terms and provisions of this Agreement by executing a counterpart thereof and such other documents or instruments as may be required or appropriate in order to effect the admission of such Person as a General Partner;

(c) a certificate evidencing the admission of such Person as a General Partner shall have been filed for recordation in accordance with the Partnership Act;

(d) if the successor General Partner is a corporation or a limited liability company, it shall have provided counsel for the Partnership with a certified copy of a resolution of its Board of Directors, managers or members, as appropriate, authorizing it to become a General Partner; and

(e) none of the actions taken in connection with such transfer or admission will have a material adverse tax effect upon the Partnership.

11.5) Right of First Refusal. Prior to the Transfer of a general partnership interest by the General Partner to a noncontrolled Person, as defined in Section 11.2 above, the General Partner shall offer to the MRC on behalf of the Equity Charter Municipalities the option to purchase all (but

not less than all) of the general partnership interest to be assigned to such Person. Prior to a Transfer of a general partnership interest, the General Partner shall deliver to the MRC a written notice setting forth the following:

(a) An offer to the Equity Charter Municipalities to purchase the general partnership interest of the General Partner. Such offer shall be subject to the terms and conditions set forth in the written notice and shall include a statement of the address to which notice of acceptance may be sent.

(b) Any notice provided pursuant to this Section 11.5 shall include a statement identifying the Person to whom the general partnership interest is proposed to be transferred and shall contain all of the material terms and conditions of the proposed Transfer including, without limitation, the amount of the purchase price, the date and manner of the payment thereof, the terms of any security, pledge, lien or other encumbrance, and copies of any documentation related thereto.

(c) The purchase price for the general partnership interest that is to be subject to the proposed transfer sale (the "Offered General Partnership Interest") shall be equal to the price at which the General Partner proposes to Transfer the Offered General Partnership Interest to the third Person as described in the written notice.

(d) The Equity Charter Municipalities shall have the right to purchase all (but not less than all) of the Offered General Partnership Interest within one hundred eighty (180) days after delivery of the written notice to the MRC in such relative proportions as the MRC may direct.

11.6) Pledge of Interest. Nothing contained in this Agreement shall prohibit any Partner from assigning or pledging as collateral its economic interest as a Limited or General Partner in the Partnership provided, however, that such partnership interest shall continue to be subject to the terms, conditions, restrictions and limitations of this Agreement and such partnership interests shall be subject to compliance with this Agreement.

ARTICLE 12.

DISSOLUTION AND WINDING UP AFFAIRS

12.1) Dissolution. No Partner shall cause a voluntary dissolution of the Partnership. No act, thing, occurrence, event or circumstance shall cause or result in the dissolution of the Partnership. except that the Partnership shall dissolve and terminate upon the happening of any one of the following Dissolution Events, unless within 30 days of any such Dissolution Event, USA Energy, PERC Holdings and the MRC on behalf of the Equity Charter Municipalities shall decide by written agreement to continue the business of the Partnership:

(a) The determination by USA Energy, PERC Holdings and the MRC (or their successors) that the Partnership should be dissolved, in accordance with, state law;

(b) The determination by USA Energy, PERC Holdings and the MRC (or their successors) that the Partnership should be dissolved, in accordance with state law;

(c) The sale of all of the Partnership's property; or

(d) The expiration of the term of the Partnership pursuant to Section 2.5 of this Agreement.

12.2) Winding Up. In the event of the dissolution of the Partnership for any reason, the Liquidator shall be the General Partner. However, if the Dissolution Event shall be the Bankruptcy of all of the General Partner or the cessation of all of the General Partner to exist as legal entities, with its consent, the MRC shall serve as the Liquidator. The Liquidator however selected, shall commence to wind up the affairs of the Partnership and to liquidate its investments. The proceeds of such liquidation shall be applied and distributed as set forth in Section 12.3. The Partners shall continue to share profits and losses, gain or loss on sale or disposition of Partnership property, Net Cash Flow, and Net Sale or Refinancing Proceeds during the period of winding up in the same manner and proportion as before the dissolution. The Partner or Partners obligated to wind up the affairs of the Partnership shall have full right and unlimited discretion to manage the business of the Partnership during the winding up period and to determine in good faith the time, manner and terms of any sale or sales of Partnership property pursuant to such liquidation.

12.3) Distributions Upon Dissolution and Termination. After all liabilities and obligations of the Partnership, including all expenses of liquidation, shall have been paid or provided for (whether by such reserve as the Liquidator shall deem appropriate or otherwise), and all items of gain, loss, deduction and credit shall have been allocated in accordance with Article 4, and after any distributions of Net Cash Flow and Net Sale or Refinancing Proceeds pursuant to Sections 5.1 and 5.2, any proceeds from the liquidation of the Partnership shall be distributed to the Partners with positive Capital Account balances in proportion to such Capital Account balances within the period as may be required pursuant to Treasury Regulation Section 1.704-1(b)(2)(ii)(l)(l). Any Partner, other than an Equity Charter Municipality and PERC Holdings, with a deficit in its Capital Account following the complete distribution of the liquidation proceeds win be required to restore the amount of such deficit to the Partnership within the period as may be required pursuant to Treasury Regulation Section 1.704-1(b)(2)(ii)(1)(1), which amount will be paid rust to creditors and the remaining balance, if any, will be distributed to the Partners in proportion to the Partners' Capital Account balances.

ARTICLE 13.

ACCOUNTING AND REPORTS

13.1) Books and Records. The General Partner shall maintain or cause to be maintained at the office of the Partnership this Agreement and all amendments thereto and full and accurate books

of the Partnership showing all receipts and expenditures, assets and liabilities, profits and losses, and all other books, records and information required by the Partnership Act as necessary for recording the Partnership's business and affairs. The Partnership's books and records shall be maintained on an accrual basis in accordance with GAAP. Such documents, books and records shall be maintained at such office until five years after the termination and liquidation of the Partnership. All Partners and their duly authorized representatives shall have the right to inspect and copy at their expense during reasonable business hours at the Facility all of the Partnership's books and records, including books and records necessary to enable a Partner to defend any tax audit or related proceeding.

13.2) Reports to Partners.

(a) Within 45 days after the end of each fiscal quarter, the General Partner shall send to the Limited Partners an unaudited closing balance sheet as of the end of such fiscal quarter and a statement of operations for such fiscal quarter.

(b) Within 45 days after the end of the second and fourth fiscal quarter of each year, the General Partner shall send to the Limited Partners a written discussion of recent operations of the Partnership and any recent developments in the business of the Partnership or other matters of management interest.

(c) By each April 1, the General Partner shall provide to the Limited Partners audited financial statements examined by the Independent Accountant, including the balance sheet of the Partnership as of the end of the preceding Fiscal Year and related statements of income, Partners' capital and changes in financial position for the Fiscal Year (prepared on a basis disclosing cash flow), accompanied by a report of the Independent Accountant stating that such financial statements have been prepared in accordance with GAAP applied on a consistent basis.

(d) As soon as practicable after the end of each Fiscal Year, the General Partner shall furnish to the Partners reports containing at least the following information:

(1) by each April 1, Service Form K-1, or any similar form as may be required by the Code or the Service; and

(2) a reconciliation between the aforementioned audited financial reports prepared by the General Partner and the basis the Partnership uses for preparation of its Federal income tax returns.

13.3) Annual Tax Returns.

(a) USA Energy is hereby designated the "Tax Matters Partner" for Federal income tax purposes pursuant to section 6231 of the Code with respect to all taxable years of the Partnership and is authorized to do whatever is necessary to qualify as such. USA Energy shall prepare or cause to be prepared all tax and information returns required of the Partnership (including, but not limited to

Federal, state and local income tax and information returns), which returns shall be reviewed in advance of filing by the independent Accountant. Each Partner shall file its individual or corporate return in a manner consistent with the Partnership tax and information returns.

(b) USA Energy shall do all acts, make all elections, and take whatever reasonable steps are required to maximize, in the aggregate, the Federal, state and local income tax advantages available to the Partnership and shall defend all tax audits and litigation with respect thereto. USA Energy shall maintain the books, records and tax returns of the Partnership in a manner consistent with the acts, elections and steps taken by the Partnership.

13.4) Action in Event of Audit. If an IRS audit of any of the Partnership's tax returns shall occur, the General Partner shall, at the expense of the Partnership, participate in the audit and may contest, settle or otherwise compromise assertions of the auditing agent which may be adverse to the Partnership. The General Partner may, if they determine that the retention of accountants and/or other professionals would be in the best interests of the Partnership, retain such accountants and/or other professionals, to assist in such audits (if any). The Partnership shall indemnify and reimburse the General Partner for all expenses, including legal and accounting fees, claims, liabilities, losses and damages to the extent borne by the General Partner, incurred in connection with any administrative or judicial proceeding with respect to any audit of the Partnership's tax returns. The payment of all such expenses to which this indemnification applies shall be made before any distributions pursuant to Section 5.1 or 5.2 of this Agreement. Neither the General Partner or their Affiliates, nor any other Person shall have any obligation to provide funds for such purpose. The taking of any action and the incurrence of any expense by the General Partner in connection with any such proceeding, except to the extent required by law, is a matter in the sole discretion of the General Partner; provided however, that the decision to take any action or not to take any action shall be made in accordance with the General Partner' fiduciary duty as set forth in Section 6.2 of this Agreement. The indemnification set forth in Article 8 of this Agreement shall be fully applicable to USA Energy in its capacity as Tax Matters Partner.

ARTICLE 14.

GENERAL PROVISIONS

14.1) Amendments. This Agreement (and the certificate of limited partnership) may be amended only upon the written consent of USA Energy, PERC Holdings and the MRC on behalf of the Equity Charter Municipalities.

14.2) Title to Partnership Property. All property owned by the Partnership, whether real or personal, tangible or intangible, shall be deemed to be owned by the Partnership as an entity, and no Partner, individually, shall have any ownership of such property. The Partnership may hold any of its assets in its own name or in the name of its nominee for the benefit of the Partnership, which nominee may be one or more individuals, corporations, partnerships, trusts or other entities.

14.3) Notices.

(a) All notices and other communications required or permitted by this Agreement or by law to be served upon or given to a party hereto by any other party hereto shall be in writing and shall be deemed duly served and given when received after being delivered by hand or sent by registered or certified mail, return receipt requested, postage prepaid addressed as follows:

If to USA Energy:

USA Energy Group, LLC
100 N. Sixth Street
Suite 300A
Minneapolis, MN 55403

If to PERC Holdings:

PERC Holdings, LLC
6321 Bury Drive, Suite 13
Eden Prairie, MN 55346

If to the Equity Charter Municipalities
with a single notice for the benefit of all:

Equity Charter Municipalities
Municipal Review Committee
Eastern Maine Development Corporation
40 Harlow Street
Bangor, ME 04401-5102
ATTN: Greg Lounder

With a copy to:

Eaton Peabody
80 Exchange Street
P.O. Box 1210
Bangor. ME 04402-1210
ATTN: Daniel G. McKay, Esq.

With such copy not to constitute notice.

Each Partner may change its address for the purpose of this Section 14.3 by giving written notice of such change to the other Partners in the manner provided in this Section 14.3.

(b) Notices and Reports to Equity Charter Municipalities. For all purposes under this Agreement the General Partner should deliver a single copy of all reports due to Equity Charter Municipalities to the MRC for further distribution by the MRC to the Equity Charter Municipalities.

14.4) Governing Law. This Agreement shall be governed by the laws of the State of Maine, without reference to the conflicts of laws or principles thereof.

14.5) Headings. The headings of the articles and sections of this Agreement are inserted for convenience only and are not to be deemed to constitute a part of this Agreement.

14.6) Further and Additional Documents and Reports. Each of the parties hereto agrees to execute, acknowledge and verify, if required to do so, all further or additional documents as may be reasonably necessary to effectuate fully the terms of this Agreement.

14.7) Counterparts. This Agreement may be executed in counterparts, each one of which shall be considered an original, and all of which, when taken together, shall constitute one and the same instrument.

14.8) Binding on Successors and Assigns. Except as otherwise specifically provided herein, this Agreement shall be binding upon and inure to the benefit of the executors, administrators, successors, and assigns of the respective Partners.

14.9) Waiver. The terms, conditions, covenants, representations, and warranties hereof may be waived only by a written instrument executed by the Partner waiving compliance. The failure of a Partner at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. The waiver of any breach of any term, covenant, or condition of this Agreement by any of the parties hereto shall not constitute a continuing waiver or waiver of any subsequent breach, either of the same or of any other additional or different term, covenant, or condition of this Agreement.

14.10) Severability. Whenever possible, each provision of this Agreement and all related documents shall be interpreted in such a manner as to be valid under applicable law, but if any such provision is invalid or prohibited under said applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of the affected documents.

14.11) Attorneys' Fees. The parties hereto agree that in the event any party to this Agreement shall be required to initiate legal or arbitration proceedings to enforce performance of any term or condition of this Agreement including, but not limited to, the payment of monies or the enjoining of any action prohibited hereunder, the prevailing party shall be entitled to recover from the Partnership such sums, in addition to any other damages or compensation received, as will reimburse such prevailing party for attorneys' fees and court and/or arbitration costs incurred on account thereof, regardless of whether such action proceeds to final judgment or determination.

14.12) Remedies. Except as may be provided explicitly in this Agreement, the rights and remedies of any of the parties hereunder shall not be mutually exclusive, and the exercise of one or more of the provisions hereof shall not preclude the exercise of any other provision hereof. Each of

the Partners confirms that monetary damages may be an inadequate remedy for breach or threat of breach of any provision hereof. The respective rights and obligations hereunder shall be enforceable by specific performance, injunction, or other equitable remedy, but nothing herein contained is intended to limit or affect any rights at law or by statute or otherwise of any party aggrieved as against the other for a breach or threat of breach of any provision hereof, it being the intention by this Section 14.13 to make clear the agreement of the parties hereunder that this Agreement shall be enforceable in equity as well as at law or otherwise.

14.13) Arbitration. Any party hereto may require the arbitration of any matter or matters arising under or in connection with this Agreement. Arbitration is initiated and required by giving notice specifying the matter to be arbitrated. If legal action is already pending on any matter concerning which the notice is given, the notice is ineffective unless given before the expiration of 20 days after service of process on the person giving the notice. The arbitration shall be held in Portland, Maine, and shall be in conformity with and subject to the then applicable rules and procedures of the American Arbitration Association (or any successor thereto). If the American Arbitration Association is not then in existence and there is no successor, or if for any reason the American Arbitration Association fails or refuses to act, the arbitration shall be in conformity with and subject to the provisions of applicable statutes (if any) relating to arbitration at the time of the notice. The arbitrators shall be bound by this Agreement and all related agreements. Pleadings in any action pending on the same matter shall, if arbitration is required, be deemed amended to limit the issues to those contemplated by the rules prescribed above. The costs of arbitration, including arbitrator's fees, shall be paid by the nonprevailing party. The number and selection of arbitrators shall be in accordance with the rules prescribed above, except that each arbitrator selected shall be familiar with the subject matter of the issues to be arbitrated, such as, by way of example, partnership accounting, or management of waste-to-energy facilities, or such other subject matter as may be at issue.

14.14) Schedules and Exhibits. Each of the Schedules and Exhibits attached hereto is hereby incorporated herein and made a part hereof for all purposes, and references thereto contained herein shall be deemed to include this reference and incorporation.

14.15) Number and Gender. Unless the context clearly indicates otherwise, where appropriate in this Agreement, the singular shall include the plural and the masculine shall include the feminine and the neuter, and vice versa.

14.16) Power of Attorney; Authority. Each Equity Charter Municipality hereby grants to the MRC its irrevocable Power of Attorney to take all action, execute, swear to and deliver any and all documents required or appropriate in connection with its acquisition of an interest in the Partnership, and the Partnerships affairs, including amendments to the Partnership Agreement. Each Equity Charter Municipality hereby authorizes and consents to the General Partner executing and delivering on behalf of the Partnership any and all documents reasonably deemed appropriate in connection

with and consistent with the terms of Long Term Debt, the Power Purchase Agreement or the Waste Disposal Agreements.

14.17) Terms Not Defined. The terms used herein, unless otherwise specifically defined in this Partnership Agreement, shall have the meanings provided in the Waste Disposal Agreements.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have signed and sworn to this Fourth Amended and Restated Agreement of Limited Partnership the day and year stated above.

THE GENERAL PARTNER:

USA ENERGY GROUP, LLC

By: John Noer
Its President

THE LIMITED PARTNERS:

USA ENERGY GROUP, LLC

By: John Noer
Its President

PERC HOLDINGS, LLC

By: Kevin Nordby
Its President

MUNICIPAL REVIEW COMMITTEE, INC.

By: Robert Farrar
Its Treasurer

IN WITNESS WHEREOF, the parties hereto have signed and sworn to this Fourth Amended and Restated Agreement of Limited Partnership the day and year stated above.

THE GENERAL PARTNER:

USA ENERGY GROUP, LLC

_____

By: John Noer
Its President

THE LIMITED PARTNERS:

USA ENERGY GROUP, LLC

_____

By: John Noer
Its President

PERC HOLDINGS, LLC

_____

By: Kevin Nordby
Its President

MUNICIPAL REVIEW COMMITTEE, INC.

_____

By: Robert Farrar
Its Treasurer

IN WITNESS WHEREOF, the parties hereto have signed and sworn to this Fourth Amended and Restated Agreement of Limited Partnership the day and year stated above.

THE GENERAL PARTNER:

USA ENERGY GROUP, LLC

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By: John Noer
Its President

THE LIMITED PARTNERS:

USA ENERGY GROUP, LLC

_____

By: John Noer
Its President

PERC HOLDINGS, LLC

_____

By: Kevin Nordby
Its President

MUNICIPAL REVIEW COMMITTEE, INC.

_____

By: Robert Farrar
Its Treasurer

SCHEDULE A

[Name and address of each qualifying Equity Charter Municipality]