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**AMENDED AND RESTATED  
LIMITED PARTNERSHIP AGREEMENT**

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between

**5022649 MANITOBA LTD.,**

- and -

**TASKINIGAHP POWER CORPORATION,**

- and -

**THE MANITOBA HYDRO-ELECTRIC BOARD.**

**DATED June 28, 2006.**

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I GENERAL INTERPRETATION .....	2
1.01    Definitions .....	2
1.02    Interpretation .....	8
ARTICLE II THE PARTNERSHIP .....	8
2.01    Continuation of Partnership.....	8
2.02    Name of the Partnership .....	9
2.03    Maintaining Status of Partnership .....	9
2.04    Fiscal Year.....	10
2.05    Business of the Partnership.....	10
2.06    Registered Office and Mailing Address .....	10
2.07    Term.....	10
2.08    Representations and Warranties of the General Partner.....	10
2.09    Representations and Warranties of each Limited Partner .....	11
2.10    Covenant on Representations and Warranties .....	12
2.11    Compliance with Laws .....	12
2.12    Limitation on the Authority of Limited Partners.....	12
2.13    Authority of Hydro .....	13
ARTICLE III MANAGEMENT OF PARTNERSHIP .....	13
3.01    Authority of General Partner .....	13
3.02    Powers of General Partner.....	14
3.03    Covenants of General Partner.....	17
3.04    Conflict of Interest.....	17
3.05    Other Activities of General Partner, Shareholder or Affiliates .....	18
3.06    Title to Partnership Assets.....	18
3.07    Expenses of the General Partner.....	19
3.08    Limitation of Liability .....	19
3.09    Indemnity.....	19
3.10    Limited Liability of Limited Partners.....	20
3.11    Power of Attorney .....	20
ARTICLE IV WITHDRAWAL OR REMOVAL OF GENERAL PARTNER.....	22
4.01    Withdrawal of General Partner.....	22
4.02    Deemed Resignation of General Partner .....	22
4.03    No Removal of General Partner .....	23
4.04    Effect of Withdrawal, Deemed Resignation or Removal of General Partner .....	23
4.05    Successor General Partner .....	23
4.06    General Partner's Interest .....	24

4.07	Continuity of Partnership.....	24
ARTICLE V THE UNITS.....		24
5.01	Number of Units .....	24
5.02	Nature of Unit.....	24
5.03	Unit Certificates.....	25
5.04	Unit Subscription.....	25
5.05	Receipt by Limited Partner.....	25
5.06	Registrar and Transfer Agent .....	25
5.07	Inspection of Records .....	25
5.08	Transfer of Units.....	26
5.09	Restriction on Pledge of Unit(s).....	26
5.10	Parties Not Bound To See To Trust or Equity.....	26
5.11	Insolvency or Bankruptcy.....	26
5.12	Lost Unit Certificates.....	27
ARTICLE VI CONTRIBUTIONS, ALLOCATIONS AND DISTRIBUTIONS.....		27
6.01	Capital Contribution .....	27
6.02	Separate Capital Accounts.....	27
6.03	Additional Capital Contributions.....	27
6.04	No Interest Payable.....	28
6.05	Debt Ratio.....	28
6.06	Reserves.....	28
6.07	Determination of Net Income and Net Loss.....	29
6.08	Allocation of Net Income and Net Loss .....	29
6.09	Allocation of Taxable Income and Tax Loss.....	29
6.10	Distributions .....	30
6.11	Adjustments.....	30
6.12	Return of Capital .....	31
ARTICLE VII BOOKS, RECORDS AND FINANCIAL INFORMATION.....		31
7.01	Books and Records .....	31
7.02	Inspection by Limited Partners.....	31
7.03	Financial Information .....	32
7.04	Tax Matters.....	33
ARTICLE VIII AMENDMENTS .....		33
8.01	Amendments to be Adopted Solely by the General Partner .....	33
8.02	Amendment Procedures.....	34
ARTICLE IX MEETINGS .....		35

9.01	Meetings Called by General Partner.....	35
9.02	Meetings Called by Limited Partners .....	35
9.03	Place of Meeting .....	35
9.04	Notice of Meetings .....	36
9.05	Corporations and Proxies.....	36
9.06	Attendance of Others .....	36
9.07	Chairperson.....	36
9.08	Quorum.....	37
9.09	Voting .....	37
9.10	Resolutions Binding .....	38
9.11	Powers Requiring Special Resolution .....	38
9.12	Powers Exercisable by Ordinary Resolution.....	39
9.13	Minutes .....	39
9.14	Additional Rules and Procedures .....	39
9.15	Authorized Attendance .....	39
9.16	Consent Without Meeting.....	39
ARTICLE X DISSOLUTION AND LIQUIDATION.....		40
10.01	Events of Dissolution.....	40
10.02	Appointment of Receiver.....	40
10.03	Sale of Partnership Assets .....	41
10.04	Distribution Upon Dissolution.....	41
10.05	Events Not Causing Dissolution.....	41
10.06	Deferring Liquidation .....	41
10.07	Reasonable Time for Winding Up.....	42
ARTICLE XI MISCELLANEOUS.....		42
11.01	Notices .....	42
11.02	Further Acts .....	42
11.03	Binding Effect.....	42
11.04	Severability .....	43
11.05	Counterparts.....	43
11.06	Time.....	43
11.07	Governing Law .....	43
11.08	Dispute Resolution .....	43
SCHEDULE A WUSKWATIM POWER LIMITED PARTNERSHIP SUBSCRIPTION FORM AND POWER OF ATTORNEY .....		46

**AMENDED AND RESTATED  
LIMITED PARTNERSHIP AGREEMENT**

This Agreement made on the 28<sup>th</sup> day of June, 2006.

**BETWEEN:**

**5022649 MANITOBA LTD.,**

(hereinafter called the “**General Partner**”),

OF THE FIRST PART,

- and -

**TASKINIGAHP POWER CORPORATION,**

(hereinafter called “**Taskinigahp Power Corporation**”),

OF THE SECOND PART

- and -

**THE MANITOBA HYDRO-ELECTRIC BOARD,**

(hereinafter called “**Hydro**”),

OF THE THIRD PART.

**WHEREAS** the **General Partner** was incorporated under the laws of the Province of Manitoba on November 30, 2004;

**AND WHEREAS** a partnership agreement (the “**Initial Agreement**”) was entered into on the 9<sup>th</sup> day of December, 2004, between the **General Partner** and the **Initial Limited Partner**;

**AND WHEREAS** under the **Initial Agreement**, the **General Partner** and the **Initial Limited Partner** formed a partnership known as the Wuskwatim Power Limited Partnership (the “**Partnership**”) which was registered in accordance with the laws of the Province of Manitoba as a limited partnership on the 9th day of December 2004;

**NOW THEREFORE** in consideration of the premises herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

## ARTICLE I

### GENERAL INTERPRETATION

#### Definitions

1.01 For the purpose of this Agreement, the following terms shall be deemed to have the following meanings:

- (a) “**Act**” means *The Partnership Act* (Manitoba);
- (b) “**Affiliate**” has the meaning ascribed to affiliate or associate as those terms are defined in *The Securities Act* (Manitoba);
- (c) “**Agreement**” means this Amended and Restated Limited Partnership Agreement and any amendments or modifications made thereto, including without limitation any schedules or appendices attached hereto;
- (d) “**Allowable Operating Expenses**” means all expenses incurred directly or indirectly by the **General Partner** in managing the **Business** of the **Partnership**, including, without limiting the type of expenses, all administrative expenses, including the costs of holding meetings of the board of directors of the **General Partner** and preparing financial statements of the **General Partner** but, for greater certainty, shall not include any costs other than costs incurred in furtherance of the **Business** or which are properly allocated, in whole or in part, to the **Business**, and, without limiting the generality of the foregoing, shall not include any of the costs incurred by **Hydro** in building the project known as the Churchill River Diversion nor any of the costs incurred by **Hydro** and allocated to the operation of the project known as the Churchill River Diversion;
- (e) “**Business**” shall have the meaning ascribed to it in section 2.05 hereof;
- (f) “**Capital Contribution**” means, with respect to a **Partner**, the amount in cash or other property contributed to the **Partnership** by such **Partner**;
- (g) “**Construction Agreement**” means the agreement to be entered into by the **Partnership** as owner and **Hydro** as project manager in substantially the same form as described in the **PDA**;

- (h) “**Declaration**” means the declaration pursuant to the Act to be filed under *The Business Names Registration Act* of Manitoba;
- (i) “**Debt Ratio**” shall have the meaning ascribed thereto in the **Project Financing Agreement**;
- (j) “**Distributable Cash**” in respect of any distribution period, means **EBITDA** earned by the **Partnership** for such period, plus any additional cash on hand at the end of a distribution period and any additional amounts that the **General Partner** approves for distribution, less: (i) payments to satisfy debt service obligations (including principal, interest and deposits for debt retirement) incurred in such period under credit facilities of the **Partnership** (including under the **Project Financing Agreement**) or other agreements to which the **Partnership** is bound; (ii) payments to satisfy general and administrative expenses and other known expense obligations of the **Partnership**; and (iii) amounts retained in respect of the distribution period to cover (1) anticipated expenses, (2) reserves under section 6.06 of this **Agreement** and (3) the amount (if any) required to be held as equity in order to maintain the **Debt Ratio** in accordance with section 6.05;
- (k) “**EBITDA**” for any period means earnings before interest, income taxes, depreciation and amortization, determined in accordance with **Generally Accepted Accounting Principles** (“earnings” for this purpose means the **Net Income** or **Net Loss**, as applicable, for that period);
- (l) “**Final Closing Date**” has the meaning ascribed thereto in the **PDA**;
- (m) “**Financial Statements**” shall mean the audited financial statements of the **Partnership** prepared in accordance with **Generally Accepted Accounting Principles**;
- (n) “**Fiscal Year**” means the fiscal year of the **Partnership** as described in section 2.04;
- (o) “**General Partner**” shall mean 5022649 Manitoba Ltd. or any other **Person** who may become the general partner of the **Partnership** in place of or substitution for 5022649 Manitoba Ltd. and is deemed to be the **General Partner** from time to time under the terms of this **Agreement**;
- (p) “**Generally Accepted Accounting Principles**” means, at any time, accounting principles as recommended by the Canadian Institute of Chartered Accountants, or any successor **Person** at such time;
- (q) “**Hydro**” means The Manitoba Hydro-Electric Board, a Crown corporation continued by The Manitoba Hydro Act, R.S.M. 1987, c.H190;

- (r) “**Hydro Service Agreements**” means, collectively, the Management Agreement, the Project Financing Agreement, the Construction Agreement, the Power Purchase Agreement, the Operations and Maintenance Agreement, the Interconnection and Operating Agreement and the System Operations and Dispatch Agreement;
- (s) “**Initial Agreement**” means the Limited Partnership Agreement between the **General Partner** and the **Initial Limited Partner** signed December 9, 2004;
- (t) “**Initial Limited Partner**” means **Hydro**;
- (u) “**Integrated Power System**” means **Hydro’s** integrated system of hydraulic and thermal electric generation and power transmission facilities owned and operated by **Hydro** or in some circumstances, owned by **Hydro** in partnership with others, which system is interconnected with other power utilities. The **Wuskwatim Project** will be part of the **Integrated Power System**.
- (v) “**Interconnection and Operating Agreement**” means the agreement entered into between **Hydro** (Transmission and Distribution Business Unit) and **Hydro** (Power Supply Business Unit) dated May 4, 2005, as amended, and to be subsequently assigned by **Hydro** (Power Supply Business Unit) to the **Limited Partnership**, whereby the **Wuskwatim Project** will be interconnected with the **Integrated Power System**;
- (w) “**Limited Partner**” shall mean **Hydro** or **Taskinigahp Power Corporation** for so long as each is a holder of at least one **Unit**;
- (x) “**Limited Partnership**” or “**Partnership**” means the Wuskwatim Power Limited Partnership formed pursuant to the **Initial Agreement**, as amended and restated by this **Agreement**, for the purpose of the **Business**;
- (y) “**Management Agreement**” means the agreement entered into between the **Partnership** as owner and **Hydro** as contractor in substantially the same form as described in the **PDA**;
- (z) “**NCN**” means the Nisichawayasihk Cree Nation;
- (aa) “**NCN Adverse Effects Agreement**” means the agreement to be entered into by the **General Partner** on behalf of the **Partnership** and **NCN** and **Hydro** in substantially the same form as described in the **PDA**;
- (bb) “**NCN Financing Agreement**” means the agreement to be entered into between **NCN**, **Taskinigahp Power Corporation** and **Hydro** in substantially the same form as described in the **PDA**;



- (cc) “**Net Income**” or “**Net Loss**” in respect of any **Fiscal Year** means, respectively, the income or loss of the **Partnership** for such period determined in accordance with Section 6.07;
- (dd) “**Operations and Maintenance Agreement**” means the agreement to be entered into between the **Partnership** as owner and **Hydro** as contractor in substantially the same form as described in the **PDA**;
- (ee) “**Ordinary Resolution**” means a resolution passed by **Partners** holding, in the aggregate, a majority of the issued and outstanding **Units**, who, being entitled to do so, vote in person or by proxy at a duly convened meeting of **Partners** or any adjournment thereof or, alternatively, pass such a resolution unanimously in writing in lieu of a meeting;
- (ff) “**Partner**” means the **General Partner** or any **Limited Partner** and “**Partners**” means all **Limited Partners** together with the **General Partner**;
- (gg) “**Partnership Assets**” means all assets and property, whether tangible or intangible and whether real, personal or mixed, at any time owned legally or beneficially by the **Partnership**;
- (hh) “**Person**” means and includes any individual, corporation, partnership, firm, trust or any other form of entity or organization;
- (ii) “**Power Purchase Agreement**” means the agreement to be entered into between the **Partnership** as owner and **Hydro** in substantially the same form as described in the **PDA**;
- (jj) “**PDA**” means the project development agreement entered into by **Hydro**, **NCN**, **Taskinigahp Power Corporation**, the **General Partner** and the **Partnership** regarding the planning, development and construction of the **Wuskwatim Project** and the operation of the **Business**;
- (kk) “**Project Financing Agreement**” means the agreement to be entered into between the **Partnership** and **Hydro** in substantially the same form as described in the **PDA**;
- (ll) “**Record of Limited Partners**” means the record required to be maintained by the **General Partner** at the principal place of business of the **Partnership** pursuant to The Business Names Registration Act, C.C.S.M. c. B110;
- (mm) “**Refinancing**” means any borrowings made by the **Partnership** for any purpose other than operating purposes, which are secured by a mortgage or other charge on or against the **Partnership's** interest in the **Partnership Assets**;

- (nn) “**Refinancing Proceeds**” means the net proceeds resulting from a **Refinancing**;
- (oo) “**Registrar and Transfer Agent**” means the **General Partner** or an agent appointed thereby to keep a register of **Limited Partners** and a register of the transfer of **Units**;
- (pp) “**Sale**” means the disposition of all or any part of the **Partnership Assets**, whether by way of sale, expropriation or otherwise;
- (qq) “**Sale Proceeds**” means:
- i) the proceeds resulting from a **Sale**, after deducting the amounts required to discharge or partially discharge any security relating thereto, and/or repay or partially repay loans incurred in respect of the acquisition of any asset of the **Partnership** for which the **Sale Proceeds** are received and all costs incurred as a result of such **Sale**; and
  - ii) the proceeds of any insurance to the extent not applied to repair, rebuild or replace some or all of the assets held by the **Partnership**;
- (rr) “**Special Resolution**” means:
- i) a resolution approved by all of the votes cast in person or by proxy at a duly constituted meeting of **Partners** who are entitled to vote or at any adjournment of that meeting, called in accordance with this Agreement; or
  - ii) a written resolution in one or more counterparts signed by Partners holding in the aggregate all of the **Units** held by those **Partners** who are entitled to vote on that resolution at a meeting;
- (ss) “**Subscription Agreement**” means the subscription form and power of attorney attached hereto as Schedule “A”, or as determined by the **General Partner** pursuant to section 5.04 of this Agreement;
- (tt) “**Subscription Price**” means the price per **Unit** payable by a **Person** to purchase a **Unit** as set forth in section 5.04 of this Agreement;
- (uu) “**System Operations and Dispatch Agreement**” means the agreement to be entered into between the **Partnership** and **Hydro** in substantially the same form as described in the **PDA**;
- (vv) “**Taskinigahp Power Corporation Financing Agreement**” means the agreement to be entered into between **Taskinigahp Power Corporation** as borrower and **Hydro** as lender in substantially the same form as described in the **PDA**, in which it is defined as the TPC Financing Agreement;

- (ww) “**Tax Act**” means the *Income Tax Act* (Canada) as amended from time to time;
- (xx) “**Taxable Income**” and “**Tax Loss**”, in respect of any tax year means, respectively, the amount of income or loss of the **Partnership** for such period determined in accordance with the provisions of the **Tax Act** (including the amount of taxable capital gains or allowable capital losses, recapture of capital cost allowance or terminal loss, resulting from the disposition of each capital property of the **Partnership** as determined by the **General Partner** in accordance with the provisions of the **Tax Act**);
- (yy) “**Term**” has the meaning ascribed thereto in section 2.07 hereof;
- (zz) “**Unit**” means one of the units of the **Partnership** representing an interest in the **Partnership** and “**Units**” means all of the units of the **Partnership**;
- (aaa) “**Unit Certificate**” means the form of certificate issued by the **Limited Partnership** evidencing the number of **Units** owned by a **Partner** or any certificates issued in replacement thereof in accordance with the provisions of this **Agreement**;
- (bbb) “**Wuskwatim Generating Station**” means the proposed hydro-electric generating station forming the **Wuskwatim Project** and consisting of a complex of structures, including the powerhouse, spillway, dam, dyke and transition structures, used in the production of electricity;
- (ccc) “**Wuskwatim Project**” means the **Wuskwatim Generating Station** and all related works, excluding the **Wuskwatim Project Related Transmission Facilities**, but including, without limitation, all dams, dykes, channels, control structures, excavations, camps, storage areas, local roads and access road, to be located at Taskinigup Falls near Wuskwatim Lake which, if built, will contribute about 200 megawatts to the **Integrated Power System** through the **Wuskwatim Project Related Transmission Facilities**;
- (ddd) “**Wuskwatim Project Related Transmission Facilities**” means the proposed complex of transmission and communication related facilities to be constructed as part of the **Wuskwatim Transmission Project**, including without limitation all transmission lines, switching and transformer stations and the construction power line;
- (eee) “**Wuskwatim Transmission Project**” means **Hydro’s** proposed project to develop the **Wuskwatim Project Related Transmission Facilities** and all related works.

## **Interpretation**

1.02 For all purposes of this **Agreement** except as otherwise expressly provided or unless the context otherwise requires:

- (a) headings are for convenience of reference only and do not form a part of this **Agreement**, nor are they intended to interpret, define or limit the scope, extent or intent of this **Agreement** or any provision hereof;
- (b) all references to currency herein are references to Canadian currency unless otherwise stated;
- (c) any reference to a statute shall include and shall be deemed to be a reference to such statute and the regulations made pursuant thereto, with amendments made thereto in force from time to time and to any statute or regulation that may be passed which has the effect of supplementing or superseding the statute so referred to or the regulations made pursuant thereto;
- (d) any reference to any entity shall include and shall be deemed to be a reference to any entity that is a successor to such entity;
- (e) words importing the masculine gender include the feminine or neuter gender and words importing the singular include the plural and vice versa;
- (f) the word “including” shall mean “including without limitation” and “includes” shall mean “includes without limitation”;
- (g) all accounting terms not specifically defined herein shall be construed in accordance with **Generally Accepted Accounting Principles**.

## **ARTICLE II**

### **THE PARTNERSHIP**

#### **Continuation of Partnership**

2.01 The **General Partner** and the **Limited Partners** acknowledge and confirm that the **Partnership** was formed pursuant to the **Initial Agreement** and that this **Agreement** is an amendment to and a restatement of the terms of the **Initial Agreement**. The **General Partner** and the **Limited Partners** agree to continue the **Partnership** under the laws of the Province of Manitoba and the **General Partner** agrees to prepare, complete and file the requisite “Change in a Limited Partnership Form” required pursuant to The Business Names Registration Act, C.C.S.M. c. B110 and to do all things and to execute and deliver all such documents, instruments and assurances as may be necessary to qualify, continue and keep in good standing the **Partnership** as a limited partnership.

The **General Partner** shall take all necessary actions on the basis of information available to it in order to maintain the status of the **Partnership** as a limited partnership.

### **Name of the Partnership**

2.02 The **Partnership** shall carry on business under the name “Wuskwatim Power Limited Partnership” (or such other name or names as the **General Partner** may from time to time adopt if required to comply with laws of the jurisdictions in which the **Partnership** may conduct business). The **General Partner** shall notify each **Limited Partner** of any change in the name of the **Partnership** within 10 days of such change. The **General Partner** shall hold the **Partnership** out as an entity separate from any other **Person**.

### **Maintaining Status of Partnership**

2.03 The **General Partner** shall be the sole general partner of the **Partnership**, and shall do all things and shall cause to be executed, amended and filed such certificates, declarations, registers, instruments and documents as may be required to reflect the constitution of the **Partnership** and to carry on the **Business** of the **Partnership**, including, without limitation, the maintaining of a **Record of Limited Partners** stating for each **Limited Partner** the information prescribed by The Business Names Registration Act, C.C.S.M. c. B110. The **General Partner** and each **Limited Partner** shall execute and deliver as promptly as possible any document that may be necessary or desirable to accomplish the purposes of this **Agreement** or to give effect to the formation and continuation of the **Partnership** under any and all applicable laws. The **General Partner** shall take all necessary action to reflect the constitution of the **Partnership**, on the basis of information available to it, in order to maintain the status of the **Partnership** as a limited partnership under the laws of the Province of Manitoba and to maintain the **Partnership** in compliance with the laws of any other governing authority having jurisdiction over the **Partnership**. The **General Partner** covenants and agrees that:

- i) The **Partnership** will not carry on any business in any jurisdiction unless the **General Partner** has taken all steps which may be required by the laws of that jurisdiction for the **Limited Partners** to benefit from limited liability to the same extent that **Limited Partners** enjoy limited liability under the **Act**. The **Partnership** will not carry on business in any jurisdiction in which the laws do not recognize the liability of the **Limited Partners** to be limited unless, in the opinion of the **General Partner**, the risks associated with the possible absence of limited liability in that jurisdiction are not significant considering the relevant circumstances.
- ii) The **Partnership** will carry on business in a manner so as to ensure to the greatest extent possible the limited liability of the **Limited Partners**, and the **General Partner** will register the **Partnership** in other jurisdictions where the **General Partner** considers it appropriate to do so.

## **Fiscal Year**

2.04 The **Fiscal Year** of the **Partnership** shall begin on the 1<sup>st</sup> day of April and shall end on the 31st day of March in each and every year or on such other date as the **Limited Partners** may determine by **Ordinary Resolution**.

## **Business of the Partnership**

2.05 The business of the **Partnership** (the “**Business**”) is the completion of the planning, construction, ownership, maintenance and operation of the **Wuskwatim Project** and the sale of energy generated by it and any activities incidental or related thereto with a view to making a profit therefrom.

## **Registered Office and Mailing Address**

2.06 The registered office and mailing address of the **Partnership** and the registered office and mailing address of the **General Partner** shall be 820 Taylor Avenue, Winnipeg, Manitoba R3C 2P4. The **General Partner** may not change the registered office or mailing address of the **Partnership** without the consent of all **Limited Partners**.

## **Term**

2.07 The term of the **Agreement** (the “**Term**”) shall be indefinite, unless the **Partnership** is dissolved in accordance with Article 10. For greater certainty, this **Agreement** is intended to preclude any **Partner** from dissolving the **Partnership** by giving notice to the other **Partners**, except in accordance with the provisions of Article 10.

## **Representations and Warranties of the General Partner**

2.08 The **General Partner** represents and warrants to, and covenants with, each **Limited Partner** that:

- (a) the **Partnership** is a valid limited partnership, duly formed under the laws of the Province of Manitoba;
- (b) it is and shall continue to be a corporation incorporated and in good standing under the laws of the Province of Manitoba, or any other jurisdiction under which the **General Partner** may continue or under which a successor to the **General Partner** may be incorporated or continue;
- (c) it will maintain all registrations in any jurisdiction where the **Business** of the **Partnership** requires such registration necessary for the conduct of the **Business** and, subject to the successful completion of all necessary regulatory reviews, will have and

will continue to have all licenses and permits necessary to carry on the **Business** as **General Partner**;

- (d) it has and will continue to have the capacity and corporate authority to act as the general partner of the **Partnership** and to perform its obligations under this **Agreement**, and such obligations do not and will not conflict with, nor do they or will they result in a breach of, its articles of incorporation, its by-laws, any resolutions of its directors or shareholders or any agreement to which it is a party or by which it is bound;
- (e) the entering into of this **Agreement** by the **General Partner**, and the performance of its obligations under this **Agreement**, do not and will not require the approval or consent of, or any notice to or filing with, any governmental authority except such approvals and consents as: (i) have been obtained on or before the date hereof; or (ii) will be obtained by the **General Partner** prior to such consents and approvals being required in order for the **General Partner** to carry out its duties and covenants hereunder;
- (f) it is not, and shall continue not to be, a non-resident of Canada within the meaning of the **Tax Act**;
- (g) the **General Partner** has taken and will take all necessary corporate action to authorize the execution, delivery and performance of this **Agreement**, and this **Agreement** constitutes a valid and binding obligation of the **General Partner**, enforceable against the **General Partner** in accordance with the terms of this **Agreement**;
- (h) no authorization, consent or approval of, or filing with, or notice to, any **Person** is required in connection with the execution, delivery or performance of this **Agreement** by the **General Partner**, except such authorizations, consents and approvals as: (i) have been obtained on or before the date hereof; or (ii) will be obtained prior to such authorizations, consents and approvals being required in order for the **General Partner** to carry out its duties and covenants hereunder;
- (i) there are no actions, suits or proceedings pending or, to the knowledge of the **General Partner**, threatened, against or affecting the **General Partner** or any of its assets or undertaking at law or in equity or before any arbitrator or any governmental authority having jurisdiction which, if determined adversely, could affect adversely the **General Partner**, and the **General Partner** is not in default with respect to any law, regulation, order, writ, judgment, injunction or award of any competent governmental authority, court, arbitrator or instrumentality which would have such an effect.

#### **Representations and Warranties of each Limited Partner**

2.09 Each **Limited Partner** represents and warrants to each other **Limited Partner** and to the **General Partner** that it:

- (a) is not and shall continue not to be a “non-resident” of Canada within the meaning of the **Tax Act**;
- (b) is not and shall not become a “non-Canadian” within the meaning of the Investment Canada Act (Canada);
- (c) is legally competent to execute this **Agreement** and all other agreements contemplated hereby and to take all actions required pursuant hereto, and further certifies that all necessary approvals of directors, shareholders, partners, members or otherwise have been given;
- (d) shall promptly provide such evidence of its status as the **General Partner** may reasonably request; and
- (e) is and shall continue to be a corporation incorporated and in good standing under its jurisdiction of incorporation, which is Manitoba in the case of **Hydro** and **Taskinigahp Power Corporation**.

#### **Covenant on Representations and Warranties**

2.10 Each **Limited Partner** covenants and agrees that it will not transfer or purport to transfer its **Units** to any **Person** which would be unable to make the representations and warranties in section 2.09 and will not change its status such that the above representations would at any time be untrue.

#### **Compliance with Laws**

2.11 Each **Limited Partner** shall, on request by the **General Partner**, immediately execute all certificates, declarations, instruments and documents necessary to comply with any applicable law or regulation in regard to the formation, continuance, operation or dissolution of the **Partnership** or in connection with the qualification of the **Partnership** to carry on the **Business** or to own the **Partnership Assets**.

#### **Limitation on the Authority of Limited Partners**

2.12 No **Partner**, other than the **General Partner**, shall or shall be entitled to:

- (a) take part in the management of the **Business** or the **Partnership** or exercise any power in connection with that control or management or transact business on behalf of the **Partnership**;



- (b) execute any document, other than those signed in connection with the **Partners** voting on a resolution of the **Partners**, which binds or purports to bind any other **Partner**, the **General Partner** or the **Partnership**;
- (c) hold itself out as having the authority or power to bind any other **Partner**, the **General Partner** or the **Partnership**;
- (d) have any authority or power to act for or undertake any obligation or responsibility on behalf of any other **Partner**, **General Partner** or the **Partnership**;
- (e) bring any action for partition or sale or otherwise in connection with the **Partnership**, or any interest in any property of the **Partnership**, whether real, tangible or intangible, or file or register or permit to be filed, registered or remain undischarged any lien or charge in respect of any property of the **Partnership**;
- (f) compel or seek a partition or sale, judicial or otherwise, of any of the assets of the **Partnership** distributed or to be distributed to the **Partners** in kind in accordance with this **Agreement**;
- (g) bring any action for the dissolution of the **Partnership**; or
- (h) take any action that will jeopardize or eliminate the status of the **Partnership** as a limited partnership or a “Canadian partnership” for the purposes of the **Tax Act**.

#### **Authority of Hydro**

2.13 Notwithstanding the provisions of section 2.12 or any other provision of this **Agreement**, but subject always to the receipt of such approvals as may be required under the **PDA** for **Hydro** or any **Affiliate** of **Hydro** to enter into any agreements with the **Partnership** other than the **Hydro Service Agreements**, **Hydro** shall be entitled to perform all acts and do all things necessary or desirable pursuant to the terms of any agreement between **Hydro** and the **Partnership**, including the **Hydro Service Agreements**, provided, however, that no such act or thing shall jeopardize or eliminate the status of the **Partnership** as a limited partnership or a “Canadian partnership” for the purposes of the **Tax Act**.

### **ARTICLE III**

#### **MANAGEMENT OF PARTNERSHIP**

##### **Authority of General Partner**

3.01 The **General Partner**, subject to the terms of this **Agreement** and to all applicable laws, shall and is authorized to carry on the **Business** of the **Partnership**, with full power and authority

to administer, manage, control and operate the **Business** of the **Partnership** and shall and is given all power and authority to do any act, take any proceeding, make any decision and execute and deliver any instrument, deed, agreement or document necessary for and incidental to carrying on the **Business** of the **Partnership** for and on behalf of and in the name of the **Partnership**. The **General Partner** shall have unlimited liability for the debts, liabilities, obligations and losses of the **Partnership** to the extent that they exceed the assets of the **Partnership**, as required by the **Act**.

### **Powers of General Partner**

3.02 Without limiting the generality of section 3.01 and subject to the terms of this **Agreement**, the **General Partner**, acting reasonably, shall carry out the objects, purposes and all of the activities of the **Partnership** and shall manage the **Business** of the **Partnership** and shall have full power and authority for and on behalf of and in the name of the **Partnership** to:

- (a) provide overall management, financial and business planning as required in the operation of the **Business**;
- (b) negotiate, execute and perform all agreements which require execution by or on behalf of the **Partnership** involving matters or transactions with respect to the **Business**;
- (c) subject to any prior approval of the **Limited Partners** required pursuant to the terms of this **Agreement**, cause the **Partnership** to acquire, sell, transfer or otherwise dispose of, mortgage, pledge, encumber, hypothecate or exchange any or all of the **Partnership Assets**;
- (d) use the **Partnership Assets** (including, without limitation, cash on hand) for the purpose of furthering the **Business** on such terms as it sees fit, including, without limitation, the financing of the **Business**, the repayment of obligations of the **Partnership**, the conduct of the **Business** and the purchase or acquisition, as **Partnership Assets**, of any other assets or interests in properties, as may be deemed appropriate in its sole discretion in connection with the **Partnership's** operations;
- (e) open and manage bank accounts in the name of the **Partnership** and spend the capital of the **Partnership** in the exercise of any right or power exercisable by the **General Partner** hereunder;
- (f) borrow funds in the name of the **Partnership** from time to time, including without limitation from the **General Partner** or any affiliate of the **General Partner** provided that the rate of interest and any other expenses relative to those

borrowings will not, under any circumstances, exceed that which the Partnership could obtain from a Canadian chartered bank with respect to similar borrowings;

- (g) draw, make, execute and issue promissory notes, evidences of indebtedness and all other negotiable or non-negotiable instruments;
- (h) mortgage, charge, assign, hypothecate, pledge or otherwise create a security interest in all **Partnership Assets**;
- (i) subject to section 6.06, establish such reserves as shall be determined to be reasonable in connection with the operation and future needs of the **Business** in order to carry on prudently the **Business**;
- (j) see to the sound management of the **Partnership** and to manage, control and develop all the activities of the **Partnership** and take all measures necessary or appropriate for the **Business** of the **Partnership** or ancillary thereto;
- (k) maintain, improve, upgrade, expand, acquire or dispose of the **Partnership Assets** from time to time;
- (l) incur and pay all costs and expenses in connection with the **Partnership**;
- (m) allocate **Net Income** or **Net Losses** and distribute **Distributable Cash** to the **Partners** in accordance with the provisions of this **Agreement**;
- (n) employ, retain, engage or dismiss from employment, individuals, agents, representatives or professionals or other persons with the powers and duties upon the terms and for the compensation as in the discretion of the **General Partner** may be necessary or advisable in the carrying on of the **Business**;
- (o) engage agents to assist the **General Partner** to carry out its management obligations to the **Partnership** or subcontract administrative functions;
- (p) establish advisory committees to provide to it such advice on such matters as it deems appropriate from time to time;
- (q) invest cash assets of the **Partnership** that are not immediately required for the **Business** in investments which the **General Partner** considers appropriate;
- (r) act as attorney in fact or agent of the **Partnership** in disbursing and collecting moneys for the **Partnership** and in paying debts and fulfilling the obligations of the **Partnership** and handling and settling any claims of the **Partnership**;
- (s) commence or defend any action or proceeding in connection with the **Partnership**;

- (t) file returns or other documents required by any governmental or like authority;
- (u) make any election that may be made under the **Tax Act** or any other legislation;
- (v) purchase, lease or otherwise acquire equipment and premises in connection with the **Business**;
- (w) retain legal counsel, experts, advisors or consultants as the **General Partner** considers appropriate and rely upon the advice of such persons;
- (x) purchase policies of insurance, as it considers appropriate, for the **Business** and to insure against any liabilities or potential liabilities of the **General Partner, Limited Partners** and the **Partnership** that arise or may arise from this **Agreement** or in law or in equity, including, without limiting the generality of the foregoing, relating to personal injury or property damage;
- (y) execute and carry out the obligations of the **Limited Partnership** under the terms of the **PDA** and in such other agreements as are referred to in the **PDA** or as are otherwise necessary or desirable for the carrying on of the **Business**;
- (z) do anything that is in furtherance of or incidental to the **Business** or that is provided for in this **Agreement** and execute, acknowledge and deliver the documents necessary to effectuate any or all of the foregoing or otherwise in connection with the **Business**; and
- (aa) conduct business so that no **Persons** dealing with the **Partnership** will be required to enquire into the authority of the **General Partner** to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf of or in the name of the **Partnership**. The **General Partner** will make all reasonable efforts to insert, and to cause agents of the **Partnership** to insert, the following clause in any contracts or agreements to which the **Partnership** is a party or by which it is bound (other than the **PDA**, the **Interconnection and Operating Agreement** and the **NCN Adverse Effects Agreement** provided that this exclusion from the requirement of inserting the following clause in these agreements shall not be construed as detracting from the limited liability of the **Limited Partners** hereunder or thereunder):

“The parties hereto acknowledge that Wuskwatim Power Limited Partnership is a limited partnership formed under the laws of the Province of Manitoba, a limited partner of which is only liable for any of its liabilities or any of its losses to the extent of the amount that the limited partner has contributed or agreed to contribute to the capital of the limited partnership and the limited partner’s pro rata share of any undistributed income. The parties hereto acknowledge that the obligations of Wuskwatim Power

Limited Partnership shall not be personally binding upon, nor shall resort be had to, the property of any of the limited partners, their heirs, successors and assigns, and that resort shall only be had to the property of the Wuskwatim Power Limited Partnership or the property of its general partner. 5022649 Manitoba Ltd. is the sole general partner of the limited partnership.”

### **Covenants of General Partner**

- 3.03 Subject to the provisions of this **Agreement**, the **General Partner** covenants that:
- (a) it will exercise the powers and discharge its duties under this **Agreement** honestly, in good faith, and in the best interests of the **Partnership**;
  - (b) in carrying out its obligations under this **Agreement**, it will exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
  - (c) it will maintain the confidentiality of financial and other information and data which it may obtain through or on behalf of the **Partnership**, the disclosure of which may adversely affect the interests of the **Partnership** or of a **Limited Partner**, except to the extent that disclosure is permitted as provided in this **Agreement**, is required by law, is required by virtue of the fact that **Hydro** is a Crown Corporation and must present annual financial statements for public review, or is in the best interests of the **Partnership**;
  - (d) it shall not carry on any operations in addition to its activities as general partner of the **Partnership** and will devote its best efforts to, and for the benefit of, the **Partnership** and will devote as much time as is necessary for the conduct and prudent management of the activities and affairs of the **Partnership**; and
  - (e) it will do all things and take all actions as may be necessary to ensure and protect, to the extent reasonably possible, the limited liability of the **Limited Partners**.

### **Conflict of Interest**

3.04 Notwithstanding sections 3.03 or 3.09 or any other provision of this **Agreement**, the **Parties** acknowledge that there is an inherent conflict of interest in **Hydro** entering into the **Hydro Service Agreements** with the **Partnership**. The parties agree that the entering into of the **Hydro Service Agreements** and the performance by the **General Partner** on behalf of the **Partnership** and **Hydro** of their respective obligations thereunder in accordance with their respective terms shall not constitute a breach by the **General Partner** of its obligations, fiduciary, contractual or otherwise, to the **Partnership**. It is further acknowledged and agreed that, in accordance with the provisions of the **Operations and Maintenance Agreement** and the **System**

**Operations and Dispatch Agreement, Hydro**, in performing its functions under the said two agreements only, is entitled to act and may act at any time as **Hydro** in its sole discretion acting in good faith deems advisable in the best interests of the **Integrated Power System** regardless of whether a particular act, or actions, taken by **Hydro** in the best interests of the **Integrated Power System** may be detrimental to the interests of the **Partnership** or constitute a breach by **Hydro** of an agreement between it and the **Partnership**. The parties agree that neither **Hydro** nor the **General Partner** shall be liable to any **Partner** nor to the **Partnership** for any loss or damage of whatever nature the latter may incur as a consequence of the **General Partner** having entered into the **Operations and Maintenance Agreement** and the **System Operations and Dispatch Agreement** or of **Hydro**, acting in good faith, having acted in the best interests of the **Integrated Power System** as described in this section, subject to section 3.08 hereof and the review processes set out in Articles XVIII and XIX, respectively, of the **PDA**.

#### **Other Activities of General Partner, Shareholder or Affiliates**

3.05 Notwithstanding any other provision of this **Agreement**, it is expressly understood and agreed that shareholders and **Affiliates** of the **General Partner** may engage in businesses which may be similar to or competitive with those in which the **Partnership** is or might be engaged and neither the **General Partner** nor its shareholders and affiliates shall be required to offer or make available to the **Partnership** any business, other than the **Business**, or investment opportunity which its shareholders and **Affiliates** may acquire or be engaged in for their own account. The validity of a transaction, agreement or payment involving the **Partnership** and the **General Partner's** shareholders or an **Affiliate** is not affected by reason of the relationship between the **General Partner** and its shareholders or **Affiliates** nor by reason of the approval or lack thereof of the transaction, agreement or payment by the directors of the **General Partner**, all or some of whom may be involved personally or as officers or directors of, or otherwise interested in or related to, the **General Partner's** shareholders or **Affiliates**. Subject always to the receipt of such approvals as may be required under section 2.19 of the **PDA** for **Hydro** or any **Affiliate of Hydro** to enter into any agreements with the **Partnership** (other than the **Hydro Service Agreements**), the **General Partner** may engage or retain its shareholders or **Affiliates** on behalf of the **Partnership** to provide goods or services to the **Partnership** and may, in its discretion, engage other **Persons** interested in or companies owned by, associated with or affiliated with the **General Partner**, to render on behalf of the **General Partner**, part or all of such generalized and specialized management functions or administrative services as are reasonably required to accomplish the **Business** of the **Partnership**. This section 3.05 is not intended to detract from or limit the fiduciary obligations of the **General Partner** to the **Partnership** and shall not be deemed to do so.

#### **Title to Partnership Assets**

3.06 Title to the **Partnership Assets** shall be deemed to be owned by the **Partnership** as an entirety, and no **Partner** individually shall have any ownership interest in the assets of the **Partnership** or any portion thereof. Title to any or all of the **Partnership's** assets shall be held in

the name of the **General Partner** for the benefit of the **Partnership** or in such other names as the **General Partner** may determine from time to time. The **General Partner** declares and warrants that any assets of the **Partnership** of which legal title is held in the name of the **General Partner** shall be held by the **General Partner** as agent of the **Partnership** for the use and benefit of the **Partnership** in accordance with the provisions of this **Agreement**. All of the assets of the **Partnership** shall be recorded as the property of the **Partnership** on its books and records, irrespective of the name in which legal title to such assets is held.

### **Expenses of the General Partner**

3.07 The **Partnership** shall be directly responsible for the payment of all **Allowable Operating Expenses** and shall reimburse the **General Partner** for them, to the extent that they are not otherwise recoverable from the revenues of the **Business**, on a monthly basis, or on any other basis as the **General Partner** may determine in its sole and complete discretion, provided that the **General Partner** is not in default of its duties in connection with such expenses.

### **Limitation of Liability**

3.08 The **General Partner** and its officers, directors, shareholders, employees, agents and **Affiliates** shall not be liable to a **Limited Partner** for any act or omission that does not constitute actual fraud, gross negligence or willful misconduct, if the **General Partner** or the **Person** acted in good faith and in a manner the **General Partner**, or the **Person**, believed to be in the interests of the **Partnership** or not opposed to the interests of the **Partnership** or pursuant to section 3.04. The **General Partner** shall indemnify the **Partnership** and the **Limited Partners** for any costs, damages, liabilities or expenses (including legal fees and expenses) suffered or incurred by the **Partnership** or the **Limited Partners** for an act or omission other than in the circumstances where the **General Partner** is excluded from liability in accordance with the immediately preceding sentence or in circumstances wherein **Hydro**, its subsidiaries and employees are either exempt from liability, or liability is limited (in which instances no more than the amounts determined through application of the sections in question shall be paid), pursuant to the provisions of sections 4(4), 13, 23(4), 24(2), 24(3) and 25(5) of the *Hydro Act*, R.S.M. 1987, c. H190 and amendments thereto (in which instances no more than the amounts determined through application of the sections in question shall be paid).

### **Indemnity**

3.09 The **Partnership** shall indemnify the **General Partner** and its officers, directors, shareholders, employees, agents and **Affiliates** for any costs, damages, liabilities or expenses (including legal fees and expenses) suffered or incurred by them arising out of or incidental to the furtherance of the **Business**, except where the **General Partner** is not entitled to indemnity by application of section 3.08 hereof. Nothing in this provision is intended to detract from the limited liability to which the **Limited Partners** are entitled hereunder and under the **Act**.

### **Limited Liability of Limited Partners**

3.10 Subject to the Act and the applicable legislation of any other jurisdiction in which the **Partnership** carries on business, and subject further to any act taken or thing done by a **Limited Partner** contrary to the provisions of this **Agreement**, the liability of each **Limited Partner** for the debts, liabilities and obligations of the **Partnership** is limited to the **Limited Partner's Capital Contribution**, plus the **Limited Partner's pro rata** share of any undistributed income of the **Partnership**. Where **Limited Partners** have received the return of all or part of their **Capital Contribution**, the **Limited Partners** shall be liable to the **Partnership's** creditors for any amount, not in excess of the amount returned with interest, necessary to discharge the liabilities of the **Partnership** to all creditors who extended credit or whose claims otherwise arose before the return of the **Capital Contribution**. The **General Partner** will operate the **Partnership** to ensure to the greatest extent possible the limited liability of the **Limited Partners** and will indemnify and hold harmless each **Limited Partner** (including former **Limited Partners**) for all costs, expenses, damages or liabilities suffered or incurred by the **Limited Partner** if the limited liability of that **Limited Partner** is lost, but only if that **Limited Partner's** limited liability is lost as a result of the gross negligence, wilful misconduct or fraud of the **General Partner** in performing its duties and obligations under this **Agreement**. Each **Limited Partner** (the "**Breaching Limited Partner**") will indemnify and hold harmless each of the other **Limited Partners** (including former **Limited Partners**) for all costs, expenses, damages or liabilities suffered or incurred by any such other **Limited Partner** if the limited liability of such other **Limited Partner** is lost due to an act or omission of the **Breaching Limited Partner** that constitutes a breach of this **Agreement**, gross negligence, wilful misconduct or fraud.

### **Power of Attorney**

3.11 In consideration of the sum of \$10.00, the receipt and sufficiency of which is hereby acknowledged, each **Limited Partner** hereby irrevocably and unconditionally nominates, constitutes and appoints the **General Partner** with full power of substitution, as its true and lawful attorney and agent with full power and authority in its name, place and stead and for its use and benefit to do the following, namely:

- (a) make, execute, swear to, sign, acknowledge, deliver and file, including filing for recording at the appropriate public offices, as, when and where required, any and all of the following:
  - (i) this **Agreement** and all declarations and other instruments necessary to form, qualify or continue and keep in good standing the **Partnership** as a limited partnership under the laws of the Province of Manitoba and any other jurisdiction in which any such documents may be required or desirable;



- (ii) all instruments, declarations and certificates necessary to reflect any amendment to this **Agreement** (subject to such approvals as may be required hereunder) or to the constitution of the **Partnership**; and
- (iii) all conveyances, agreements and other instruments necessary or desirable to reflect the dissolution and termination of the **Partnership** and the cancellation of any certificates or declarations, subject always to the provisions of this **Agreement**, including Article 10 hereof;
- (b) execute and file with any government body or instrumentality thereof of the Government of Canada or a province in Canada or any other governmental authority having jurisdiction any documents necessary to be filed in connection with the **Business**, property, assets and undertaking of the **Partnership**;
- (c) execute and deliver this **Agreement** and any amendments to it approved as required under this **Agreement**;
- (d) execute and deliver all such other documents or instruments on behalf of and in the name of the **Partnership** and/or the **Limited Partners** as may be deemed necessary or desirable by the **General Partner** to carry out fully the provisions of this **Agreement** and the provisions of any agreements to which it is a party;
- (e) prepare, execute and file all income tax, sales tax and other tax forms, returns and elections which the **Partnership** is required to file or which are deemed desirable to be filed by the **General Partner**; and
- (f) prepare and execute assignments and transfers of **Units** when necessary or desirable in accordance with the terms of this **Agreement**.

To evidence the foregoing, each **Limited Partner**, in executing a **Subscription Agreement** or in executing the form of transfer of a **Unit**, will have executed a power of attorney containing substantially the same powers set forth above. Each **Limited Partner** hereby declares that the power of attorney granted herein is irrevocable, is a power coupled with an interest, will survive the insolvency of a **Limited Partner** and will survive the assignment (to the extent of the **Limited Partner's** obligations hereunder and with respect to such actions as are necessary to effect the substitution of the assignee as a limited partner in the **Partnership**) by the **Limited Partner** of the whole or any part of the interest of the **Limited Partner** in the **Partnership** and extends to the heirs, executors, administrators, successors and assigns of the **Limited Partner** and may be exercised by the **General Partner** executing on behalf of each **Limited Partner** any instrument with a single signature as attorney and agent for all of them.

This power of attorney shall not revoke any previous general or continuing power of attorney granted by the **Limited Partner** and will not itself be revoked by any future grant of a general or continuing power of attorney by the **Limited Partner**.

This power of attorney shall not be affected by the withdrawal, resignation or deemed resignation of the **General Partner** as general partner for the **Partnership** and, upon substitution therefore of a replacement **General Partner**, may be exercised by such replacement **General Partner** as if it were an original party to this **Agreement**.

Each **Limited Partner** agrees to be bound by any representations and actions made or taken in good faith by the **General Partner** pursuant to such power of attorney in accordance with the terms hereof, and hereby waives any and all defences which may be available to contest, negate or disaffirm the action of the **General Partner** taken in good faith under such power of attorney.

#### **Restrictions on Authority of General Partner**

3.12 The **General Partner's** powers and authorities do not extend to any powers, actions or authority enumerated in Section 9.11 unless and until the requisite **Special Resolution** is passed by the applicable **Partners**. The **General Partner** will not:

- (a) commingle the funds of the **Partnership** with its own funds or the funds of any of its **Affiliates** or associates or any other **Person**;
- (b) dissolve the affairs of the **Partnership**, except in accordance with the provisions of Article 10;
- (c) sell, exchange or otherwise dispose of all or substantially all of the assets of the **Partnership**;
- (d) except in accordance with Article 4, assign, transfer or otherwise dispose of its entire interest as **General Partner** without approval of the **Limited Partners**; and
- (e) enter into any agreement on behalf of the **Partnership** with **Hydro** or an **Affiliate** of **Hydro** that requires prior approval in accordance with section 2.19 of the **PDA** until such approval is obtained.

## **ARTICLE IV**

### **WITHDRAWAL OR REMOVAL OF GENERAL PARTNER**

#### **Withdrawal of General Partner**

4.01 The **General Partner** may withdraw if such withdrawal is approved by **Special Resolution** of the **Limited Partners**.

#### **Deemed Resignation of General Partner**

4.02 The **General Partner** shall be deemed to have resigned as the general partner of the **Partnership** in the event of the bankruptcy, dissolution, liquidation or winding-up of the **General Partner** (or the commencement of any act or proceeding in connection therewith which is not contested in good faith by the **General Partner**) or by the appointment by a court of competent

jurisdiction of a trustee, receiver or manager of the affairs of all or substantially all of the properties of the **General Partner**. The **General Partner** shall forthwith advise the **Limited Partners** by written notice of the occurrence of any event referred to in this section 4.02. In such circumstances, the **Limited Partners** shall have the right by **Ordinary Resolution**, after consultation, to designate a successor **General Partner**.

#### **No Removal of General Partner**

4.03 The **General Partner** may not be removed by the **Partners** as the **General Partner** except by **Special Resolution**. In such circumstances, the **Limited Partners**, after consultation, shall have the right by **Ordinary Resolution** to designate a successor general partner.

#### **Effect of Withdrawal, Deemed Resignation or Removal of General Partner**

4.04 In the event of the withdrawal, deemed resignation or the removal of the **General Partner**, as provided herein, the **General Partner** shall cease to be entitled to any allocation of **Net Income** or **Net Loss** provided for herein upon the effective date of such resignation, deemed resignation or removal, but shall be entitled to its share of any allocation of **Net Income** or **Net Loss** up to such date. The withdrawing, resigning or removed **General Partner** shall be, and shall remain liable for all obligations and liabilities incurred by the **Partnership** for which the **General Partner** was liable before such withdrawal, deemed resignation or removal became effective.

#### **Successor General Partner**

4.05 A **Special Resolution** recording the withdrawal or removal of the **General Partner** may provide for the nomination and appointment of a successor **General Partner**, and the resolution in that circumstance shall become effective only on the admission of the successor **General Partner** to the **Partnership** in accordance with the provisions of this **Agreement**. Upon the occurrence of the events described in this paragraph, the successor **General Partner** shall continue the **Business** of the **Partnership** without dissolution.

On the admission of a successor **General Partner** to the **Partnership** on the resignation or removal of the **General Partner**, the resigning or retiring **General Partner** will do all things and take all steps to transfer the administration, management, control and operation of the **Business** of the **Partnership** and the books, records and accounts of the **Partnership** to the successor **General Partner** and will execute and deliver all deeds, certificates, declarations and other documents necessary or desirable to effect such transfer in a timely fashion.

On the resignation or removal of the **General Partner** and the admission of a successor **General Partner**, the resigning, or retiring, **General Partner**, at the cost of the **Partnership**, will transfer title to the **Partnership's** property to such successor **General Partner** and will execute and deliver all deeds, certificates, declarations and other documents necessary or desirable to effect such transfer in a timely fashion.

On the resignation or removal of the **General Partner**, the **Partnership** will release and hold harmless the **General Partner** resigning or being removed from any costs, expenses, damages or liabilities suffered or incurred by the **General Partner** as a result of or arising out of events which occur in relation to the **Partnership** after such resignation or removal.

A successor **General Partner** shall not be a “non-resident” of Canada within the meaning of the *Tax Act* and will become a party to this **Agreement** and will agree to be bound by all of the provisions of this **Agreement** and to assume the obligations, duties and liabilities of the **General Partner** from the date the new **General Partner** becomes a party to this **Agreement**.

### **General Partner’s Interest**

4.06 The **General Partner** shall transfer all, but not less than all, of its **General Partner** interest in the **Partnership** to a successor **General Partner** appointed in accordance with the provisions of this **Agreement** or otherwise with the unanimous consent of the **Limited Partners**, provided in each case that any transferee assumes the rights and duties of the **General Partner** and agrees to be bound by the provisions of this **Agreement**.

### **Continuity of Partnership**

4.07 In the event of the bankruptcy, insolvency, dissolution, liquidation or winding up of the **General Partner**, the **Partnership** shall not terminate but shall be continued by the then newly appointed or admitted **General Partner**.

## **ARTICLE V**

### **THE UNITS**

#### **Number of Units**

5.01 Subject to this **Agreement**, the **Partnership** shall be divided into **Units**. Subject to section 5.02, the **Units** may be sub-divided into such classes as the **General Partner** may determine are necessary or appropriate provided that the prior consent is obtained from any **Limited Partner** owning **Units** at the time of such proposed sub-division. The **Partnership** shall be authorized to issue an unlimited number of **Units**. **Units** may be issued in fractions.

#### **Nature of Unit**

5.02 Each issued and outstanding **Unit** shall be equal to each other **Unit** with respect to voting rights, the right to receive distributions from the **Partnership** and otherwise. No **Unit** shall have any preference or right in any circumstances over any other **Unit**. Each **Unit** carries the right to one vote in respect of all matters to be decided by the **Limited Partners**. Holders of fractional **Units** shall be entitled to vote as hereinafter provided. **Units** have no preference, exchange,

preemptive or redemption rights. Only registered holders of **Units** will be entitled to vote or receive distributions or otherwise to exercise or enjoy the rights of **Limited Partners**.

### **Unit Certificates**

5.03 **Unit Certificates** shall be in such form as is from time to time approved by the **General Partner** and shall be signed by the **General Partner** for and on behalf of the **Partnership**.

### **Unit Subscription**

5.04 For each **Unit** subscribed for a **Person** shall pay to the **Partnership** the sum of \$1,000 per **Unit**. The **General Partner** shall subscribe for a nominal number of **Units**, not to exceed 0.01% of the issued **Units**. Unless the Parties otherwise agree, subscriptions for **Units** shall be accepted by the **General Partner** only if they are in compliance with this **Agreement** and the **PDA**. The **General Partner** shall subscribe for, and maintain at all times while it is the general partner of the **Partnership**, such number of **Units** equal to 0.01% of the issued **Units**.

### **Receipt by Limited Partner**

5.05 The receipt of any money, securities or other property from the **Partnership** by a **Person** in whose name any **Units** are recorded, or if such **Units** are recorded in the names of more than one **Person**, the receipt thereof by any one of such **Persons**, or by the duly authorized agent of any such **Person** in that regard, shall be a sufficient and proper discharge for that amount of money, securities and other property payable or deliverable in respect of such **Units**.

### **Registrar and Transfer Agent**

5.06 The **General Partner**, or such other **Person** as may be appointed from time to time by the **General Partner**, shall act as **Registrar and Transfer Agent** of the **Partnership** and shall maintain such books as are necessary to record the names and addresses of the **Limited Partners**, the number of **Units** held by each **Limited Partner** and particulars of the transfer of **Units**. The **General Partner** shall cause the **Registrar and Transfer Agent** to perform all duties usually performed by a registrar and transfer agent of certificates of shares in a corporation except as the same may be modified by reason of the nature of the **Units**.

For so long as the **General Partner** shall be **Registrar and Transfer Agent**, the register of **Limited Partners** will be kept by the **General Partner** at its registered office.

### **Inspection of Records**

5.07 The **General Partner** shall cause the **Registrar and Transfer Agent** to make the records relating to the **Limited Partners** available for inspection by any **Limited Partner**, or his agent duly authorized in writing, at the expense of such **Limited Partner**. A copy of the register of the **Limited**

Partners shall be provided to any **Limited Partner** on forty-eight [48] hours notice in writing to the **Registrar and Transfer Agent**, at the expense of the **Limited Partner** requesting same.

### **Transfer of Units**

5.08 **Partners** shall not transfer any **Units** owned by them without the unanimous consent of all **Limited Partners**, which consent can be unreasonably withheld except, no consent shall be required in the case of transfers of **Units** between **Hydro** and **Taskinigahp Power Corporation** and transfers of **Units** from the **General Partner** to a successor **General Partner** appointed in accordance with the provisions of this **Agreement**, and the refusal to consent must be reasonable in the case of transfers from **Taskinigahp Power Corporation** to another wholly owned subsidiary of **NCN** or from **Hydro** to another entity wholly owned by **Hydro**. The **General Partner** shall effect any transfer of **Units** required pursuant to the exercise of any sale or purchase right conferred upon **Hydro** or **Taskinigahp Power Corporation**, as the case may be, in the **Taskinigahp Power Corporation Financing Agreement**.

### **Restriction on Pledge of Unit(s)**

5.09 Save and except for the provisions of the **NCN Financing Agreement**, the **Taskinigahp Power Corporation Financing Agreement** and the **Revenue Advances Consolidation Agreement** as described in the **PDA**, **Limited Partners** shall not pledge, encumber or assign their **Units** or their interests in their respective capital accounts without the unanimous consent of all **Limited Partners**, which consent can be unreasonably withheld.

### **Parties Not Bound To See To Trust or Equity**

5.10 Except where specific provision has been made therefore in this **Agreement** or a related agreement, including such related finance agreements as may be entered into between **Hydro** and **NCN** and/or **Taskinigahp Power Corporation**, the **Registrar and Transfer Agent** may not be bound to see to the execution of any trust, express, implied or constructive, or any charge, pledge or equity to which any **Unit** or any interest therein is subject or to ascertain or inquire whether any sale or transfer of any such **Unit** or interest therein by a **Limited Partner** or his personal representative is authorized by such trust, charge, pledge or equity, or to recognize any **Person** having any interest therein except for the **Person** or **Persons** recorded as such **Limited Partner**.

### **Insolvency or Bankruptcy**

5.11 In the event of the incapacity, death, insolvency or bankruptcy of a **Limited Partner**, the remaining **Limited Partners** shall have the right, if they so elect, to purchase the **Units** of the **Limited Partner** so incapacitated, deceased, insolvent or bankrupt for a price equal to the fair market value of such **Units** less the amount of any outstanding indebtedness in respect of such **Units** which would have to be paid to obtain the full release of any security interest in such **Units** and after making such adjustments as are reasonable on account of the limited market for the sale

of the **Units** and the fact that such sale, in some circumstances, would amount only to a disposition of the minority interest in the **Partnership**, all as determined by an independent third party with expertise in the generation and sale of electricity at the time of disposition.

### **Lost Unit Certificates**

5.12 Where a **Limited Partner** claims that the **Unit Certificate** for its **Units** has been defaced, lost, apparently destroyed or wrongly taken, the **Registrar and Transfer Agent** shall cause a new **Unit Certificate** to be issued, provided that the **Limited Partner** files with the **Registrar and Transfer Agent** a proof of loss in a form satisfactory to the **General Partner** to protect the **Registrar and Transfer Agent** and the **Partnership** from any claimants producing the lost **Unit Certificate** and provided further that the **Limited Partner** satisfies all other reasonable requirements imposed by the **Registrar and Transfer Agent**.

## **ARTICLE VI**

### **CONTRIBUTIONS, ALLOCATIONS AND DISTRIBUTIONS**

#### **Capital Contribution**

6.01 The capital of the **Partnership** shall be the aggregate amount of the **Capital Contributions** made by all of the **Partners** from time to time.

#### **Separate Capital Accounts**

6.02 There shall be established on the books of the **Partnership** a separate capital account for each **Partner** and each **Partner** shall be credited with the amount of its **Capital Contribution** to the **Partnership**. The capital account of each **Partner** shall be increased by the **Partner's** share of **Net Income** for each **Fiscal Year** and any additional **Capital Contributions**, and shall be decreased by distributions to the **Partner** and **Partner's** share of **Net Loss** for any **Fiscal Year**. No **Partner** shall be entitled to withdraw any part of its capital account or to receive any distribution on return of its **Capital Contribution** except as provided in this **Agreement**. The interest of a **Partner** in the **Partnership** shall not terminate by reason of a negative balance in its capital account.

#### **Additional Capital Contributions**

6.03 The **General Partner** shall be entitled to call upon the **Partners** to make additional cash contributions by way of capital investment in the **Partnership** in pro rata amounts in accordance with the number of **Units** owned by each on the date of such call. The **General Partner** shall be entitled to call for such additional cash contributions at any time and from time to time as the **General Partner**, in its sole discretion, determines necessary or desirable for the operation of the

**Business**, including, without limiting the generality of the foregoing, cash for the costs of construction of the **Wuskwatim Project**, cash for the costs of maintaining and operating the **Wuskwatim Project** once it is constructed, and cash for maintaining the **Debt Ratio** of the **Partnership**. If each **Partner** contributes its pro rata amount of any cash contribution demanded of it by the **General Partner** within 90 days of such demand having been received, such cash contribution will be allocated to each **Partner's** respective capital account and each **Partner** shall be issued additional **Units** in the **Partnership** in a number calculated by taking the amount contributed by such **Partner** within the 90-day period pursuant to the demand by the **General Partner** and dividing it by \$1,000.00.

In the event that any **Partner** (the "**Defaulting Partner**") does not contribute the full amount demanded of it by the **General Partner** within 90 days of receiving such demand (provided that the amount demanded of such **Defaulting Partner** does not exceed an amount calculated by multiplying the aggregate amount demanded of all **Partners** by a fraction, the numerator of which is the number of **Units** owned by the **Defaulting Partner** prior to the demand, and the denominator of which is the total number of issued **Units** in the **Partnership** prior to the demand), then each of the **Partners** (including the **Defaulting Partner**) shall be issued additional **Units** in the **Partnership** in a number calculated by taking the amount contributed by such **Partner** within the 90-day period pursuant to the demand by the **General Partner** and dividing it by \$1,000.00.

**Hydro** agrees that it shall ensure that at all times while there is one or more **Limited Partners** other than **Hydro** and the **General Partner** is a subsidiary or **Affiliate** of **Hydro**, **Hydro** shall cause the **General Partner** to make all of its **Capital Contributions** pursuant to any demand hereunder so as to maintain the **General Partner's** proportionate ownership of **Units** at a percentage not less than 0.01%.

#### **No Interest Payable**

6.04 No interest shall be payable to any **Partner** on account of its **Capital Contribution** by the **Partnership**.

#### **Debt Ratio**

6.05 The **General Partner** shall at all times maintain the **Partnership** at a **Debt Ratio** of not greater than 75%, provided that, in the first ten years following the **Final Closing**, the **General Partner** will allow the **Debt Ratio** of the **Partnership** to increase to as high as 85% to reduce the amount of cash required to be invested by the **Partners** during those years. The **Debt Ratio** shall be calculated to the nearest full percentage point when decisions regarding the distribution of **Distributable Cash** and regarding cash calls are to be made. The amount of the reserves as determined in accordance with section 6.06 shall not be included in calculating the **Debt Ratio**.

#### **Reserves**



6.06 The **General Partner** may cause the **Partnership** to establish reserves for capital expenditures, decommissioning costs and other legitimate business purposes and may set aside such funds for reserves as the **General Partner** shall determine to be reasonable in connection with the current operation and the future needs of the **Partnership** in order to carry on prudently the **Business**. The **General Partner** shall have the right to establish reserves as long as the **General Partner** acts reasonably and in a manner that is consistent with prudent business practices having regard to the purposes for which the reserves were established. Funds set aside as reserves shall not be considered to be a cash distribution. Reserves will be funded only out of the income or capital of the **Partnership** and not by calls for additional cash contributions. Once reserves are established, the **General Partner** need not draw on reserves prior to making calls upon **Partners** for additional cash contributions except where expenditures are required for which the reserves were established. For greater certainty, the **General Partner** shall ensure that income used to fund reserves is allocated as between the **Partners** based on their respective pro rata shares of the **Units** of the **Partnership**. The **General Partner** shall provide the **Partners** within 120 days of the end of each **Fiscal Year** with a written report on how the amount of the reserves was determined, which shall include an estimate of capital expenditures and other costs. The reasonableness of the amount of reserves being held by the **Partnership** may be reviewed in the manner set forth in Article XX of the PDA.

#### **Determination of Net Income and Net Loss**

6.07 The **Partnership** shall calculate **Net Income** and **Net Loss** according to the application of **Hydro's** accounting policies and practices, in effect from time to time, in accordance with **Generally Accepted Accounting Principles** as evidenced by an unqualified audit opinion. In the event that the application of **Hydro's** accounting policies and practices results in an inability to get an unqualified audit opinion, then the policies and practices in question will not be followed for the **Partnership**.

#### **Allocation of Net Income and Net Loss**

6.08 **Net Income** and **Net Loss** shall be allocated between the **General Partner** and the **Limited Partners** pro rata in accordance with the number of **Units** owned by each of them as of the close of business on the last day of the **Fiscal Year** as determined by the **General Partner** from time to time.

#### **Allocation of Taxable Income and Tax Loss**

6.09 In respect of each **Fiscal Year**, **Taxable Income**, **Tax Losses** and any tax credits due to the **Partnership** shall be allocated among the **Partners** in the same proportion as the allocation of **Net Income** and **Net Loss** as determined in accordance with section 6.08.

## **Distributions**

6.10 Within 120 days of the end of each **Fiscal Year**, the **General Partner** shall provide the **Partners** with a written report showing the **General Partner's** determination of **EBITDA** and **Distributable Cash** together with its supporting calculations thereof in reasonable detail. The written report shall include disclosure of the amount of cash held by the **Partnership** and the deductions therefrom in accordance with the definition of **Distributable Cash** to arrive at the **Distributable Cash** for the relevant period. Subject to sections 6.05 and 6.06, and subject to the proviso that there shall be no distributions of **Distributable Cash** at any time prior to the **Final Closing Date** without the unanimous consent of the **Partners**, the **General Partner** shall distribute to the **Partners** the amount of **Distributable Cash** shown on such report within 10 business days of having provided such statement to the **Partners**. Without limiting the **General Partner's** obligation to report on, and distribute, **Distributable Cash** not less than once annually as herein contemplated, the **General Partner** may calculate the amount of and make a distribution thereof in such amounts and at such other time or times as the **General Partner** may determine from time to time, subject always to sections 6.05 and 6.06 and subject to the proviso that there shall be no distributions of **Distributable Cash** at any time prior to the **Final Closing Date** without the unanimous consent of the **Partners**.

Each **Partner** shall receive its pro rata share of distributions of **Distributable Cash** made by the **General Partner**, calculated as the amount determined by multiplying the total amount of the distribution by a fraction, in which the numerator is the number of **Units** owned by the **Partner** on the last day of the period for which such distribution is made and the denominator is the total number of **Units** owned by all **Partners** on the same date. Distributions shall not be made subject to any withholding taxes except as may be required by law.

Distributions payable pursuant to this provision will be made by electronic transfer of funds and, in the event of the failure of electronic payment methods, by cheque. Any payment by the **General Partner** to a **Partner** pursuant to this **Agreement** will be deemed to have been made upon the date of the electronic withdrawal of funds from the **General Partner's** bank account or upon the date the cheque clears the **General Partner's** bank account. Upon such payment, the **General Partner** will be discharged from all liability to the **Partner** in respect of such payment; provided, however, that if the electronic payment fails to deposit funds in a **Partner's** bank account or a cheque is lost or destroyed, then, upon the presentation of evidence satisfactory to the **General Partner** of such failure or loss, together with such indemnity as the **General Partner** may reasonably require, the **General Partner** will make a further electronic transfer or issue a replacement cheque to the **Partner**.

## **Adjustments**

6.11 Any financial statements prepared and certified by the auditors of the **Partnership** as provided in this **Agreement** shall be final, binding and conclusive among the **Partners**, provided that any error or omission therein of which notice is given by any **Partner** to the **General Partner**

within 180 days after the receipt of a copy thereof by such **Partner** shall be rectified and all proper adjustments made.

### **Return of Capital**

6.12 The **Partners** shall not be entitled to a return of all or a portion of their **Capital Contributions** except as determined by the General Partner.

## **ARTICLE VII**

### **BOOKS, RECORDS AND FINANCIAL INFORMATION**

#### **Books and Records**

7.01 The **General Partner** will keep and maintain, or cause to be kept and maintained on behalf of the **Partnership** at its principal place of business, full, complete and accurate books of account and records of the business and affairs of the **Partnership** which will, without limitation, include:

- (a) capital accounts for the **Partners**;
- (b) **Capital Contributions** of the **Partners**;
- (c) a register to record the names and addresses of the **Partners**, the number of **Units** held by each **Partner** and the particulars of registration and assignment of **Units**; and
- (d) a copy of this **Agreement** and any amendments to it.

#### **Inspection by Limited Partners**

7.02 Each **Limited Partner** and the duly authorized representative of each **Limited Partner** shall have the right, at any reasonable time during regular business hours and without charge, to obtain from the **General Partner**:

- (a) a current list of the name and last known business or mailing address of each **Partner**;
- (b) a copy of this **Agreement** and the **Declaration** and all amendments to either of them, together with executed copies of any Powers of Attorney pursuant to which this **Agreement**, and all amendments to it, have been executed;
- (c) true and full information regarding the amount of cash and the description and statement of any other property and services contributed by each **Partner** and which each **Partner** has agreed to contribute in the future and the date on which each **Partner** became a **Partner**;

- (d) the **Record of Limited Partners**;
- (e) copies of all minutes of meetings of the **Partners** and all resolutions in writing of the **Partners** in lieu of meetings; and
- (f) any other information regarding the affairs of the **Partnership** as is just and reasonable.

### **Financial Information**

7.03 The **General Partner**, or its agent in that behalf, shall be responsible for the preparation and maintenance of internal financial records and retaining auditors with respect to the preparation of annual **Financial Statements** of the **Partnership** at the end of each **Fiscal Year**. Within five days after the receipt of audited **Financial Statements**, the **General Partner** will forward to each **Partner** appearing in the register as a **Partner** at the end of the **Fiscal Year** an annual report for the **Fiscal Year** containing:

- (a) **Financial Statements** for the **Partnership** as at the end of the **Fiscal Year** with comparative **Financial Statements** as at the end of, and for the immediately preceding **Fiscal Year**;
- (b) a report of the auditor on the **Financial Statements**;
- (c) a report on allocations and distributions to **Partners**;
- (d) the amount of reserves being maintained by the **General Partner** for the **Partnership**, and each **Partner's** allocation of such reserves;
- (e) the current **Debt Ratio**; and
- (f) any other information as is material to the **Business**, in the opinion of the **General Partner** (including any management letter).

The **General Partner** shall cause unaudited, monthly financial statements (also including year-to-date financial information), together with a monthly report providing month-end and year-to-date information in respect of the matters outlined in clauses (c) to (e) above) to be prepared within fifteen [15] days of the end of each month and shall forward copies of them to each **Limited Partner** appearing in the **Record of Limited Partners** as a limited partner at the end of the month to which they relate.

No later than 120 days after the end of each **Fiscal Year** of the **Partnership**, **Financial Statements** shall be prepared and certified by the auditors of the **Partnership**, for and as of the end of such **Fiscal Year**, and such **Financial Statements** shall show the assets and the liabilities of the **Partnership**, all incomes and revenues received and receivable, and all expenses, costs, and

charges incurred and paid or payable by the **Partnership** in respect of such **Fiscal Year**, with the resulting **Net Income** or **Net Loss** of the **Partnership** in respect of such **Fiscal Year**, and shall also show the amounts standing to the credit of each of the **Partners** in respect of its capital account and separately in respect of the **Net Income** and **Net Loss** of the **Partnership** which has been allocated to each such **Partner** (which amount shall be set out in an account for such **Partner** called its “current account”), all in accordance with the provisions contained in this **Agreement**. The auditors of the **Partnership** shall be the auditors of **Hydro**.

The cost of preparing all such reports shall be at the **Partnership’s** expense. Subject to section 7.04, each **Partner** shall be solely responsible for filing its income tax returns and reporting its share of the **Partnership’s Taxable Income** or **Tax Loss**, as the case may be.

In addition to the foregoing reporting, the **General Partner** agrees to provide to each **Limited Partner** copies of the written statements provided monthly by **Hydro** to the **Partnership** in accordance with Section 5.13 of the **Project Financing Agreement**, copies of any notices and statements provided by **Hydro** to the **Partnership** pursuant to the **Project Financing Agreement**, the Access Road User Easement as described in the **PDA**, the Transmission Lease as described in the **PDA** and copies of such other business and financial information as the **General Partner** determines to be reasonable in the circumstances with the objective of keeping the **Limited Partners** informed as to matters of a material nature affecting the **Business** of the **Partnership**.

#### **Tax Matters**

7.04 The **Partnership** shall be treated as a limited partnership for federal, provincial and municipal income tax and other tax purposes. The **General Partner** shall prepare, or cause to be prepared, any federal, provincial and municipal tax or information returns required to be filed by the **Partnership** and all financial statements required by each **Partner** to enable the filing of any tax or information return which is required to be filed by such **Partner**.

### **ARTICLE VIII**

#### **AMENDMENTS**

##### **Amendments to be Adopted Solely by the General Partner**

8.01 The **General Partner** (pursuant to the **General Partner’s** Powers of Attorney from the **Limited Partners** described in section 3.07), without the consent or approval at the time of any **Limited Partner** (each **Limited Partner**, by acquiring a **Unit**, being deemed to consent to any amendment pursuant to this section 8.01), may amend any provision of this **Agreement** or the **Declaration**, and execute, swear to, acknowledge, deliver, file and record all documents required or desirable in connection with it to reflect:

- (a) the omission, substitution, termination or withdrawal of any **Partner** in accordance with this **Agreement**;
- (b) a change that is necessary to qualify the **Partnership** as a limited partnership or a partnership in which the **Limited Partners** have limited liability under the laws of any province or state;
- (c) a change that is:
  - (i) of an inconsequential nature and does not adversely affect the **Limited Partners** (or any of them) in any material respect; or
  - (ii) required or specifically contemplated by this **Agreement** to be accomplished by the **General Partner** acting alone;
- (d) a change in any provision of this **Agreement** which requires any action to be taken by or on behalf of the **General Partner** or the **Partnership** pursuant to the requirements of applicable law if the provisions of applicable law are amended, modified or revoked so that the taking of action is no longer required. The authority set forth in this paragraph shall specifically include the authority to make amendments to this **Agreement** and to the **Declaration** as the **General Partner** deems necessary or desirable in the event the **Act** is amended to eliminate or change any provision now in effect.

Notwithstanding the foregoing, the unanimous consent of all of the **Partners** shall be required for any amendments to this **Agreement** that: (i) alter the ability of the **Limited Partners** to remove the **General Partner** involuntarily; (ii) change the limited liability of any **Limited Partner**; (iii) change the right of a **Limited Partner** to vote at any meeting; (iv) change the **Partnership** from a limited partnership to a general partnership; (v) reduce the percentage of net income allocable to the **Limited Partners** to below 99.99%; or (vi) adversely affect the rights and obligations of any particular **Limited Partner** without similarly affecting the rights and obligations of all other **Limited Partners**.

The **General Partner** shall notify the **Limited Partners** of the full details of any amendment to this **Agreement** that does not require the approval of the **Limited Partners** within 10 days of the effective date of such amendment.

### **Amendment Procedures**

8.02 Except as specifically provided in the preceding paragraph, all amendments to this **Agreement** shall be made solely in accordance with the following procedures:

- (a) any amendments to this **Agreement** must be proposed by either:

- (i) the **General Partner**, by submitting the text of the proposed amendment to all **Limited Partners** in writing; or
  - (ii) any **Limited Partner** submitting the text of the proposed amendment in writing to the **Partners**.
- (b) The **General Partner** shall, within 10 days after the receipt of any proposed amendment or as soon thereafter as is reasonably practicable, submit the text of the proposed amendment to all **Limited Partners**. The **General Partner** may include in the submission its recommendation as to the proposed amendment.
- (c) If any amendment is proposed pursuant to this section the **General Partner** shall seek the written consent of the **Partners** to the amendment or shall call a meeting of the **Partners** in accordance with the provisions of this **Agreement** to consider and vote on the proposed amendment. A proposed amendment shall be effective only if approved by **Special Resolution**, unless a greater or different percentage vote of the **Partners** is required by law or any other provision of this **Agreement**. The **General Partner** shall notify all **Partners** upon final adoption or rejection of any proposed amendment.

## **ARTICLE IX**

### **MEETINGS**

#### **Meetings Called by General Partner**

9.01 The **General Partner** may call a meeting of the **Partnership** subject to sections 9.03 and 9.04 at such time and place as it considers appropriate in its absolute discretion for the purpose of considering any matters set forth in the notice of meeting.

#### **Meetings Called by Limited Partners**

9.02 Any **Limited Partner** may give to the **General Partner** notice, accompanied by the information required to be provided under paragraph 9.04(b), signed by it requesting a meeting of the **Partnership**. The **General Partner** will, within 30 days of receipt of such notice, convene a meeting, and if it fails to do so, the **Limited Partner** requesting the meeting may convene the meeting by giving notice to the **Partners** in accordance with this **Agreement**, signed by such **Person** as the **Limited Partner** requesting the meeting specifies. Every meeting, however convened, will be conducted in accordance with this **Agreement** and the **Act**.

#### **Place of Meeting**

9.03 The annual meeting will be held on a rotational basis, unless otherwise unanimously agreed by the **Partners**, at convenient locations in northern Manitoba and southern Manitoba. Meetings can be attended by telephone conference.

#### **Notice of Meetings**

9.04 Notice of any meeting will be given to each **Partner** by prepaid ordinary mail or by personal delivery not less than fourteen [14] days (nor more than forty-five [45] days) prior to such meeting, and will state:

- (a) the time, date and place of such meeting; and
- (b) in general terms, the nature of the business to be transacted at the meeting in sufficient detail to enable the **Partners** to make a reasoned judgment concerning each matter to be considered at the meeting. A copy of the text of any proposed resolution shall accompany the notice of the meeting.

#### **Corporations and Proxies**

9.05 A **Partner** which is a corporation shall appoint by resolution an officer, director or other authorized person as its representative to attend, vote and act on its behalf at a meeting of **Partners**. Any **Limited Partner** entitled to vote at a meeting of **Partners** may vote by proxy if a form of proxy has been received by the **General Partner** or the chairperson of the meeting for verification prior to the time fixed by the **General Partner** preceding the meeting, or any adjournment of the meeting. A proxy purporting to be executed by or on behalf of a **Limited Partner** will be considered to be valid unless challenged at the time of or prior to its exercise. The **Person** challenging the proxy will have the burden of proving to the satisfaction of the chairperson of the meeting that the proxy is invalid and any decision of the chairperson concerning the validity of a proxy will be final. Every proxy will be substantially in the form as may be approved by the **General Partner** or as may be satisfactory to the chairperson of the meeting at which it is sought to be exercised. A vote cast in accordance with the terms of an instrument of proxy will be valid notwithstanding the previous death, incapacity, insolvency or bankruptcy of the **Limited Partner** giving the proxy or the revocation of the proxy unless written notice of that death, incapacity, insolvency, bankruptcy or revocation has been received by the chairperson of the meeting prior to the commencement of the meeting.

#### **Attendance of Others**

9.06 Any officer or director of the **General Partner** will be entitled to attend and receive notice of any meeting of **Partners**.

#### **Chairperson**

9.07 The **General Partner** may nominate an individual (including an officer, director or shareholder of the **General Partner** and who need not be a **Partner**) to be chairperson of a meeting



of **Partners** and the individual nominated by the **General Partner** will be chairperson of such meeting unless the **Partners** elect a chairperson by **Ordinary Resolution**. The position of chairperson at the annual meeting of the **Partners** shall rotate annually between a nominee proposed by **Taskinigahp Power Corporation** and a nominee proposed by **Hydro**.

### **Quorum**

9.08 The quorum for a meeting of **Partners** will consist of all **Partners** being present in person or by proxy; provided however, that if within half an hour after the time fixed for the holding of any meeting of **Partners**, all **Partners** are not present, the meeting, will be held at the same time, and, if available, the same place, not fewer than 10 days nor more than 21 days later (or if that date is not a business day, the first business day after that date), and the **Partner** which requested the meeting will give at least 7 days notice to all **Partners** of the date of the reconvening of the adjourned meeting. Such notice need not set forth the matters to be considered unless they are different from those for which the original meeting was called. At such reconvened meeting the quorum for the meeting will consist of one **Limited Partner** present in person or by proxy holding not less than 50% of the outstanding **Units**. Nothing herein shall detract from the requirement of all **Partners** being present in person or by proxy at any meeting (whether original or adjourned) at which a **Special Resolution** will be proposed for consideration and vote of the **Partners**. **Partners** can attend meetings by telephone conference.

### **Voting**

9.09 Each question submitted to a meeting will be decided on a show of hands unless a **Partner** demands a ballot be executed by each **Partner**, in which case ballots shall be prepared and signed by each **Partner** present in person or by proxy and entitled to vote and such ballots shall be preserved. The Chairperson will be entitled to vote in respect of any **Units** pursuant to which he or she may have been appointed to vote. On any vote at a meeting of **Partners**, a declaration of the chairperson concerning the result of the vote will be conclusive absent demonstrable error.

Subject as hereinafter provided, each **Partner** present at the meeting will have one vote for each **Unit** of which it is registered as the **Unit** holder. A holder of a fractional **Unit** is entitled to one vote upon a show of hands at all meetings at which holders of that class of **Units** is entitled to vote but if a ballot is demanded, the vote of the holder of the fractional **Unit** shall only be counted as a fractional vote in the same fraction as the **Unit** held by it.

A vote requested or required concerning the election of a chairperson or an adjournment will be taken immediately on request and any other matter will be managed at the meeting or an adjournment of the meeting in such manner as the chairperson directs.

## **Resolutions Binding**

9.10 Any resolution passed in accordance with this **Agreement** will be binding on all the **Partners** and their respective heirs, executors, administrators, successors and assigns, whether or not any such **Partner** was present in person or voted against any resolution so passed.

## **Powers Requiring Special Resolution**

9.11 The following powers shall only be exercisable by the **General Partner** upon the Special Resolution of the **Partners**:

- (a) selling, exchanging or otherwise disposing of all or substantially all of the assets of the **Partnership**;
- (b) continuing the **Partnership** in the event that the **Partnership** is terminated by operation of law;
- (c) changing the business of the **Partnership**;
- (d) issuing to any party other than **Hydro** or **Taskinigahp Power Corporation**, or a wholly owned subsidiary of **Hydro** or **NCN**, additional **Units**;
- (e) changing the auditors except in the event of a change to Manitoba **Hydro's** auditors;
- (f) any amendment of this **Agreement**, except as expressly provided for herein or any amendment, alteration, modification or repeal of any **Special Resolution** previously passed by the **Partners**;
- (g) dissolving or terminating the **Partnership**, other than as provided for in this **Agreement**;
- (h) a merger or consolidation involving the **Partnership**;
- (i) a consolidation, subdivision or reclassification of any **Units**;
- (j) adding to, changing or removing any right, privilege, restriction or condition attaching to the **Units** which may reasonably be considered materially adverse to any one or more of the holders of the **Units**;
- (k) any change to Article VI, provided that where **Partners** are unable to agree on a proposed change to any part of Article VI, such dispute may be referred to arbitration in accordance with the provisions of this **Agreement** and the **PDA**;

- (l) requiring the **General Partner** on behalf of the **Partnership** to enforce any obligation or covenant on the part of any **Limited Partner**; and
- (m) consenting to any judgment in favour of **Hydro** entered in a court of competent jurisdiction against the **Partnership**.

### **Powers Exercisable by Ordinary Resolution**

9.12 Any other matters not expressly stated in this **Agreement** (including in section 9.11) to be determined by **Special Resolution** and effected by the **General Partner** or stated in section 8.01 to be effected solely by the General Partner shall be determined by **Ordinary Resolution**.

### **Minutes**

9.13 The **General Partner** will cause minutes to be kept of all proceedings and resolutions passed at every meeting, with copies of any resolutions of the **Partnership** to be made and entered in books to be kept for that purpose, and any minutes, if signed by the chairperson of the meeting, will be deemed to be evidence of the matters stated in them and such meeting will be deemed to have been duly convened and held and all resolutions and proceedings shown in them will be deemed to have been duly passed.

### **Additional Rules and Procedures**

9.14 To the extent that the rules and procedures for the conduct of a meeting of the **Partners** are not prescribed in this **Agreement**, the rules and procedures will be determined by the chairperson of the meeting in accordance with *Robert's Rules of Order*.

### **Authorized Attendance**

9.15 The **General Partner** has the right to authorize the presence of any **Person** at a meeting regardless of whether the **Person** is a **Partner**, providing that **Persons** who are not **Partners** are attending the meeting in connection with the **Business**. With the approval of the **General Partner** that **Person** is entitled to address the meeting. When requested by a **Limited Partner**, the **General Partner** shall authorize the attendance of legal counsel for the **Limited Partner** at any meeting of the **Partners**.

### **Consent Without Meeting**

9.16 Any matter which may be addressed by the **Partners** at a meeting may be addressed by written resolution signed by all of such **Partners** in lieu of holding such meeting. In addition, any action required or permitted by this **Agreement** or any provision of law to be taken at a meeting of the **Partners**, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by all of the **Partners** holding all of the

**Units** then issued and outstanding and entitled to vote thereon. Such consent shall have the same effect as a vote of such **Partners** and may be stated as such in any certificate or document.

## ARTICLE X

### DISSOLUTION AND LIQUIDATION

#### Events of Dissolution

10.01 The **Partnership** shall be dissolved upon the earliest to occur of any one of the following events:

- (a) subject to section 4.02 of this **Agreement**, the bankruptcy, dissolution, liquidation or winding up of the **General Partner**, unless a successor **General Partner** is elected in accordance with this **Agreement** in such manner so as to preserve the on-going limited liability of the **Limited Partners**;
- (b) withdrawal or resignation of the **General Partner** unless a successor **General Partner** is elected in accordance with this **Agreement** in such manner so as to preserve the on-going limited liability of the **Limited Partners**;
- (c) the removal of the **General Partner** in accordance with section 4.03 and the failure to elect a successor **General Partner** in such manner so as to preserve the on-going limited liability of the **Limited Partners**;
- (d) except as otherwise provided in this **Agreement**, any other event which would cause a dissolution under the **Act**;
- (e) after the passing of a resolution requiring unanimous consent in accordance with paragraph 9.11 (g);
- (f) the dissolution of the **Partnership** by operation of law; and
- (g) the conversion or reconstitution of the **Partnership** into another form of entity under circumstances permitted by this **Agreement**.

#### Appointment of Receiver

10.02 Upon the occurrence of an event described in section 10.01, the **General Partner** shall act as the Receiver (the "Receiver") of the **Partnership**. If the **General Partner** is unable or unwilling to act as the Receiver or if the event causing dissolution is set out in section 10.01(a), (b) or (c), the **Partners** shall, by **Ordinary Resolution**, appoint some other appropriate person to act as Receiver. Subject to section 10.03, the Receiver shall proceed diligently to wind up the affairs of the **Partnership** and to liquidate the **Partnership Assets** and to distribute the net proceeds from the sale

of the **Partnership Assets** in the priority set out herein unless otherwise required by mandatory provisions of applicable law. During the course of such liquidation, the Receiver shall operate the **Business** and in so doing shall be vested with all the powers and authority of the **General Partner** in relation to the **Partnership** under the terms of this **Agreement**. A Receiver which is not the **General Partner** shall be paid reasonable fees and disbursements incurred in carrying out such duties.

### **Sale of Partnership Assets**

10.03 In the event of dissolution, any sale, liquidation, distribution or other disposition of the **Partnership Assets** shall only be to **Hydro**. Not later than 120 days from a decision by the Receiver to liquidate the **Partnership Assets**, the Receiver shall sell the **Partnership Assets** to **Hydro** and **Hydro** shall purchase the **Partnership Assets** from the Receiver for an amount equal to the fair market value of such assets after making such adjustments as are reasonable on account of the limited market for the sale of the assets, all as determined by an independent third party with expertise in the generation and sale of electricity at the time of sale.

### **Distribution Upon Dissolution**

10.04 In the event of the dissolution of the **Partnership**, the Receiver shall distribute the net proceeds from the sale of the **Partnership Assets** as follows:

- (a) first, to pay the expenses of liquidation and the creditors of the **Partnership**;
- (b) secondly, to provide such reserves as the Receiver considers necessary for any contingent liabilities, including the costs of foreseeable environmental requirements, of the **Partnership**;
- (c) thirdly, to return the balance to the **Partners**, pro rata among them according to the capital accounts of each of them at the time.

### **Events Not Causing Dissolution**

10.05 To the maximum extent permitted by the laws of the Province of Manitoba and notwithstanding any rule of law or equity to the contrary, the **Partnership** shall not be dissolved or terminated by admission of any new **General Partner** or **Limited Partner** or the removal, actual or deemed resignation, death, incompetence, bankruptcy, insolvency, other disability or incapacity, dissolution, liquidation, winding-up or receivership, or the admission, resignation or withdrawal of the **General Partner**, the **Limited Partners** or any **Limited Partner**, except in accordance with this **Agreement**.

### **Deferring Liquidation**

10.06 Subject to section 10.03, upon the occurrence of an event described in section 10.01, the Receiver may defer the liquidation of the **Partnership Assets** or may distribute any of the **Partnership Assets** in kind if the **General Partner** or the Receiver determines that a sale would be impractical or would cause undue loss to the **Limited Partners**.

#### **Reasonable Time for Winding Up**

10.07 A reasonable time shall be allowed for the orderly winding up of the **Business** and affairs of the **Partnership** and the liquidation of the **Partnership Assets** pursuant to section 10.02 in order to minimize any losses otherwise attendant upon a winding up.

### **ARTICLE XI**

#### **MISCELLANEOUS**

##### **Notices**

11.01 Any notice or other written communication which must be given or sent under this **Agreement** shall be deemed to have been validly given and received on the third business day following its sending by first class ordinary mail to the address of the **General Partner** and the **Limited Partners** as follows:

- (a) in the case of the **General Partner**, at P.O. Box 815, 820 Taylor Avenue, Winnipeg, Manitoba R3C 2P4 (Facsimile No. 204-474-4947) or any new address as the **General Partner** may give notice of; and
- (b) in the case of the **Limited Partners** to the address appearing on the register maintained by the **Registrar and Transfer Agent**, which shall include, where available, a mailing address, facsimile number and electronic mail address for each such **Limited Partner** (a **Limited Partner** may give notice to the **Registrar and Transfer Agent** of a new address for such **Limited Partner**, and the **Registrar and Transfer Agent** shall update the register accordingly).

Notices may be personally delivered or delivered by facsimile or other electronic communication and shall be deemed to be received on the day delivered or, if transmitted, as evidenced by confirmed transmission report.

##### **Further Acts**

11.02 The parties hereto agree to execute and deliver such further and other documents and perform and cause to be performed such further and other acts and things as may be necessary or desirable in order to give full effect to this **Agreement** and every part thereof.

##### **Binding Effect**

11.03 Subject to the restrictions on assignment and transfer herein contained, this **Agreement** shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators and other legal representatives, successors and assigns.

### **Severability**

11.04 Each provision of this **Agreement** is intended to be severable. If any provision hereof is illegal or invalid, such illegality or invalidity shall not affect the validity of the remainder hereof.

### **Counterparts**

11.05 This **Agreement** may be executed in any number of counterparts (either originally or by facsimile) with the same effect as if all parties hereto had signed the same document. This **Agreement** may also be adopted in any subscription and assignment forms or similar instruments signed by a **Partner**, with the same effect as if such **Partner** had executed a counterpart of this **Agreement**. All counterparts and adopting instruments shall be construed together and shall constitute one and the same agreement.

### **Time**

11.06 Time shall be of the essence.

### **Governing Law**


11.07 This **Agreement** shall be governed by and construed in accordance with the laws of the Province of Manitoba and the laws of Canada applicable therein.

### **Dispute Resolution**

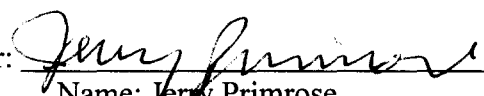
11.08 The parties each agree that any disputes or claims arising out of this **Agreement** (other than a review of reserves established by the **General Partner** under section 6.06 hereof, which shall be carried out in accordance with the process set out in Article XX of the **PDA**), including, for greater certainty, any dispute about whether the General Partner has breached its fiduciary obligations to the Partnership, shall be determined solely in accordance with the dispute resolution process set out in Article XXI of the **PDA** and they shall not bring any action, other than pursuant to Article XXI of the **PDA**, against any other party or against the **Limited Partnership**. The parties each agree that they shall not bring any action against any officer or director of the **General Partner**, except where such officer or director has committed fraud or has, by act or omission, done anything in respect of which such officer or director would not be entitled to indemnity from the **General Partner** under The Corporations Act (Manitoba), The Manitoba Hydro Act or such other legislation as may be applicable.

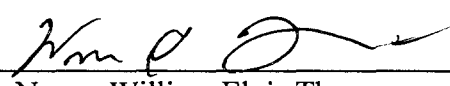
**IN WITNESS WHEREOF**, the parties hereto have executed this **Agreement** or caused it to be executed on their behalf by their duly authorized signing officers as of the day and year first above written.

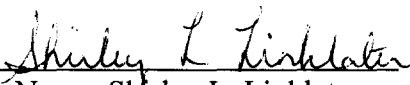
**5022649 MANITOBA LTD.**

Per:   
Name: Ken R. F. Adams  
Title: Chairman

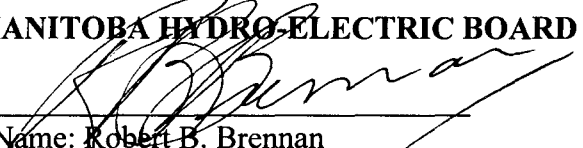
**TASKINIGAHP POWER CORPORATION**

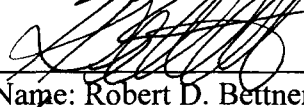
Per:   
Name: Jerry Primrose  
Title: President

Per:   
Name: William Elvis Thomas  
Title: Vice-President

Per:   
Name: Shirley L. Linklater  
Title: Secretary-Treasurer

**THE MANITOBA HYDRO-ELECTRIC BOARD**

Per:   
Name: Robert B. Brennan  
Title: President and Chief Executive Officer

Per:   
Name: Robert D. Belfner  
Title: Assistant Corporate Secretary



## SCHEDULE A

### WUSKWATIM POWER LIMITED PARTNERSHIP SUBSCRIPTION FORM AND POWER OF ATTORNEY

TO: WUSKWATIM POWER LIMITED PARTNERSHIP

The undersigned hereby subscribes for \_\_\_\_\_ **Unit(s)** of Wuskwatim Power Limited Partnership (the “Limited Partnership”) on the terms and as described in the Amended and Restated Limited Partnership Agreement, receipt of which is hereby acknowledged and tenders herewith its cheque in the amount of \_\_\_\_\_ in full payment of the aggregate subscription price for the said **Unit(s)**. The undersigned agrees to be bound, as a party to and as limited partner in the **Partnership**, by the terms and conditions of the Amended and Restated Limited Partnership (the “**Agreement**”), as same may be amended from time to time in accordance with its terms, as if the undersigned had executed the **Agreement**.

The undersigned hereby represents, warrants and declares that:

- (a) the undersigned is a “resident” of Canada within the meaning of *The Income Tax Act* (Canada);
- (b) the undersigned is purchasing the **Units** as principal for its own account and not for the benefit of any other person; and
- (c) this subscription agreement has been duly authorized, executed and delivered by and constitutes a legal, valid, binding and enforceable obligation of, the undersigned.

The undersigned hereby irrevocably constitutes and appoints the **General Partner** of the **Partnership**, with full power of substitution, as his or its true and lawful attorney and agent, with full power and authority in his name, place and stead to:

- (a) execute, deliver, swear to and record in the appropriate public offices any and all of the following:
  - (i) the **Agreement**, all declarations and declarations of change required under *The Partnership Act* (Manitoba), *The Business Names Registration Act* (Manitoba) and elsewhere as may be required, and any other instruments and amendments thereto which the **General Partner** deems appropriate or necessary to form, qualify, continue and keep in good standing the **Partnership** as a limited partnership in compliance with the laws of the Province of Manitoba or elsewhere as may be required;

- (ii) any instruments, certificates and any amendments thereto necessary to reflect any amendment to the Amended and Restated Limited Partnership Agreement properly approved as required pursuant to the terms of the Amended and Restated Limited Partnership Agreement; and
  - (iii) any conveyances, agreements and other instruments which the **General Partner** deems appropriate or necessary to reflect the dissolution and termination of the **Partnership** pursuant to the terms of the **Agreement** to be entered into on behalf of each **Partner**, including cancellation of any declarations;
- (b) execute and file with any governmental body or instrumentality of the Government of Canada or of a province any documents necessary to be filed in connection with the business, property, assets and undertaking of the **Partnership**;
  - (c) execute and deliver such documents on behalf of and in the name of the **Partnership** and for the **Partners** as may be necessary to give effect to the purposes of the **Partnership** as described in the **Agreement**;
  - (d) prepare, execute and file all income tax, sales tax and other tax forms, returns and elections which the **Partnership** is required to file or which are deemed desirable to be filed by the **General Partner**; and
  - (e) prepare and execute assignments and transfers of **Units** when necessary or desirable in accordance with the terms of the **Agreement**.

The power of attorney granted herein is irrevocable and is a power coupled with an interest and is executed under seal and will survive the legal incapacity or mental incompetence of the undersigned and extend to the heirs, executors, administrators, successors and assigns of the undersigned. The undersigned agrees to be bound by any representation or action made or taken by the **General Partner** pursuant to this power of attorney and hereby waives any and all defences which may be available to contest, negate or disaffirm any action of the **General Partner** taken in good faith under this power of attorney.

IN WITNESS WHEREOF the undersigned has executed this subscription form and power of attorney at Winnipeg, in the Province of Manitoba, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Subscriber

IN WITNESS WHEREOF the Wuskwatim Power Limited Partnership has accepted this subscription form and power of attorney by its **General Partner**, 5022649 Manitoba Ltd., having caused its duly authorized proper officer to execute this subscription form and power of attorney this \_\_\_\_ day of \_\_\_\_\_, 2005.

WUSKWATIM POWER LIMITED PARTNERSHIP  
by its **General Partner**, 5022649 Manitoba Ltd.

Per: \_\_\_\_\_