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**AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT**

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AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

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**AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT**

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (this "Agreement") is entered into as of July __, 1998, by and among the Utilities identified on the signature pages of this Agreement and any other Utilities who shall in the future execute and deliver this Agreement pursuant to the provisions hereof.

WHEREAS, the Members have formed a limited liability company (the "LLC") pursuant to the provisions of the Delaware Limited Liability Company Act, as amended (the "Delaware LLC Act"), pursuant to a Certificate of Formation dated September 6, 1995, as amended (the "Certificate");

WHEREAS, the Members entered into that certain Limited Liability Company Agreement, dated as of September 6, 1995 (the "Original LLC Agreement");

WHEREAS, the Original LLC Agreement was amended by the Members through the execution of Amendment No. 1 to LLC Agreement and Amendment No. 2 to LLC Agreement (collectively, the "Amendments");

WHEREAS, the Members desire to amend and restate the Original LLC Agreement to reflect the changes to the Original LLC Agreement set forth in the Amendments, to reflect admissions and withdrawals of certain parties to the Original LLC Agreement and to make certain other changes desired by the Members; and

WHEREAS, the Members desire to continue the LLC for the purposes hereinafter set forth, subject to the terms and conditions hereof.

NOW, THEREFORE, in consideration of the foregoing, and of the covenants and agreements hereinafter set forth, the Members hereby agree as follows:

**ARTICLE I
CERTAIN DEFINITIONS**

Unless the context otherwise specifies or requires, capitalized terms used herein shall have the respective meanings assigned thereto in Addendum I attached hereto, and incorporated herein by reference, for all purposes of this

Agreement (such definitions to be equally applicable to both the singular and the plural forms of the terms defined). Unless otherwise specified, all references herein to Articles, Sections, Exhibits or Addenda are to Articles, Sections, Exhibits or Addenda of this Agreement.

ARTICLE II FORMATION; NAME; PLACE OF BUSINESS

2.01 Formation of LLC; Certificate of Formation

The Members of the LLC hereby:

2.01(a) acknowledge the formation of the LLC as a limited liability company pursuant to the Delaware LLC Act by virtue of the filing of the Certificate with the Recording Office;

2.01(b) confirm and agree to their status as Members of the LLC;

2.01(c) execute this Agreement for the purpose of continuing the existence of the LLC and establishing the rights, duties, and relationship of the Members; and

2.01(d) (i) agree that if the laws of any jurisdiction in which the LLC transacts business so require, the Board of Managers also shall file, with the appropriate office in that jurisdiction, any documents necessary for the LLC to qualify to transact business under such laws; and (ii) agree and obligate themselves to execute, acknowledge, and cause to be filed for record, in the place or places and manner prescribed by law, any amendments to the Certificate as may be required, either by the Delaware LLC Act, by the laws of any jurisdiction in which the LLC transacts business, or by this Agreement, to reflect changes in the information contained therein or otherwise to comply with the requirements of law for the continuation, preservation, and operation of the LLC as a limited liability company under the Delaware LLC Act.

2.02 Name of LLC

The name under which the LLC shall conduct its business is "Private Fuel Storage L.L.C." The business of the LLC may be conducted under any other name permitted by the Delaware LLC Act that is deemed necessary or desirable by the Board of Managers, in its sole and absolute discretion. The Board of Managers promptly shall execute, file, and record any assumed or fictitious name certificates required by the laws of the State of Delaware or any state in which the LLC conducts business.

2.03 Place of Business

The location of the principal place of business of the LLC shall be Tooele Utah. The Board of Managers may hereafter change the principal place of business of the LLC to such other place or places within the United States as the Board of Managers may from time to time determine, in its sole and absolute discretion, provided that the Board of Managers shall give written notice thereof to the Members within thirty (30) calendar days after the effective date of any such change. If necessary, the Board of Managers shall amend the Certificate in accordance with the applicable requirements of the Delaware LLC Act. The Board of Managers may, in its sole and absolute discretion, establish and maintain such other offices and additional places of business of the LLC, either within or without the State of Delaware, as it deems appropriate.

2.04 Registered Office and Registered Agent

The street address of the registered office of the LLC is 1209 Orange Street, Wilmington, Delaware 19801, and the LLC's registered agent at such address shall be The Corporation Trust Company.

ARTICLE III PURPOSES AND POWERS OF LLC

3.01 Purposes

3.01(a) The purposes of the LLC shall be:


(i) to represent the interests of the Members in the development, construction, financing, ownership, operation and maintenance of a private temporary spent nuclear fuel storage facility (the "Temporary Storage Facility") and in furtherance thereof (A) to apply for, acquire and obtain licenses, permits and approvals necessary for the development, construction, financing, ownership, operation and maintenance of the Temporary Storage Facility, (B) to own or lease property, equipment and facilities necessary for the development, construction, financing, ownership, operation and maintenance of the Temporary Storage Facility, (C) to contract with third parties to obtain goods and services necessary for the development, construction, financing, ownership, operation and maintenance of the Temporary Storage Facility and (D) to contract with third parties to provide such parties with storage and related services in connection with the Temporary Storage Facility;

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(ii) to enter into a legal relationship with an interested host community or other interested party or parties (which legal relationship may, but does not have to, take the form of a limited liability company, or a corporation, or the acquisition of stock or other equity interests of an existing entity or entity to be formed) as the Board of Managers, upon advice of counsel, determines is the appropriate legal relationship, and to undertake on a joint basis with such host community or interested party any or all of the activities required to develop, construct, finance, own and operate the Temporary Storage Facility, including, without limitation, those activities identified in Section 3.01(a)(i);

(iii) to grant, create, incur or assume any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien, preference, priority, guarantee or other security agreement or preferential arrangement of any kind or nature whatsoever on any of the LLC Assets in order to facilitate acquisition of external debt financing to the extent such external debt financing is required to enable the LLC to develop, construct, own or operate the Temporary Storage Facility; and

(iv) to engage in any lawful business permitted by the Delaware LLC Act or the laws of any jurisdiction in which the LLC may do business and to enter into any lawful transaction and engage in any lawful activities in furtherance of the foregoing purposes and as may be necessary, incidental or convenient to carry out the business of the LLC as contemplated by this Agreement;



3.02 Powers

The LLC shall have the power to do any and all acts and things necessary, appropriate, advisable, or convenient for the furtherance and accomplishment of the purposes of the LLC, including, without limitation, to engage in any kind of activity and to enter into and perform obligations of any kind necessary to or in connection with, or incidental to, the accomplishment of the purposes of the LLC, so long as said activities and obligations may be lawfully engaged in or performed by a limited liability company under the Delaware LLC Act; provided, however, that the LLC shall take no action which would cause the LLC to be subject to regulation under PUHCA as a PUHCA Subsidiary of a Registered Holding Company System.

ARTICLE IV TERM OF LLC

The existence of the LLC commenced on September 6, 1995, the date as of which the Certificate was duly filed with the Recording Office, and shall continue until the Termination Date, unless (a) the Termination Date is otherwise extended in accordance with the supermajority requirements of Section 7.03 or (b) the LLC is dissolved and liquidated before the Termination Date in accordance with the provisions of Article X.

ARTICLE V CAPITAL

5.01 Step III Capital Contributions

Each Member has made total Capital Contributions to the LLC during Step III (as to each Member, its "Step III Capital Contribution") in the amount set forth under its name opposite the heading "Step III Capital Contribution" on Exhibit A.

5.02 Step IV Capital Contributions

5.02(a) Step IV Commencement Date

The Board of Managers selected July 21, 1997 as the commencement date for Step IV (the "Step IV Commencement Date").

5.02(b) Step IV Total Capital Commitment

(i) Each Member has agreed to make total Capital Contributions to the LLC during Step IV (as to each Member, its "Step IV Total Capital Commitment") in the amount set forth under its name opposite the heading "Step IV Total Capital Commitment" on Exhibit A.

(ii) Each Member's Percentage Interest during Step IV shall be determined by aggregating the total Capital Contributions made by such Member during Step III and such Member's total Capital Contributions made during Step IV and dividing such number by the total Capital Contributions made during Step III and Step IV by all the Members. Each Member's Step IV Total Capital Commitment shall be payable in installments pursuant to Section 5.02(c), at the option of such Member.

(iii) Notwithstanding any provision of this Agreement to the contrary, to the extent that Interested Utilities submit Step IV Subscriptions, each

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Member shall have the right to submit additional Step IV Subscriptions up to the aggregate amount of such Interested Utilities' Step IV Subscriptions, in which event such Interested Utilities Step IV Subscriptions shall be deemed rejected. In the event that more than one Member elects to so substitute its additional Step IV Subscriptions for such Interested Utilities Step IV Subscriptions, such aggregate amount of Interested Utilities' Step IV Subscriptions shall be allocated among such Members as they may agree or, if they fail to agree, in proportion to their respective Percentage Interests (calculated without taking into account the amount of their Step IV Subscriptions). In the event that such Members do not elect to make all of the aggregate amount of such Interested Utilities' Step IV Subscriptions, such Interested Utilities shall be able to subscribe for such remaining amount.

5.02(c) Step IV Installments

During Step IV, each Member shall be obligated to fund its Step IV Total Capital Commitment in such proportionate amounts and at such times as prescribed by the Chairman of the Board consistent with the Step IV Budget (the "Step IV Installments"). Any Member may prepay its Step IV Installments in accordance with Section 5.04(c)(i).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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5.03 Step V Capital Contributions

5.03(a) Commencement of Step V

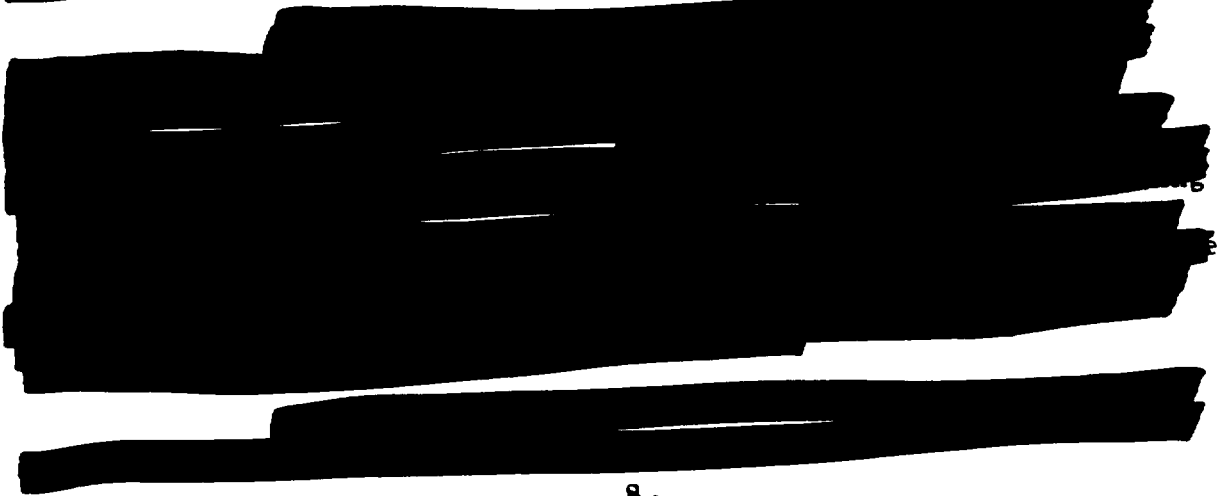

The Chairman of the Board shall take reasonable action to remain informed regarding the status of the NRC approval process for the License and shall keep the Board of Managers apprised of such status. Approximately six (6) months prior to the date which the Chairman of the Board reasonably believes will be the date on which the NRC will grant the License (the "Expected Approval Date"), the Chairman of the Board shall notify the Board of Managers of such Expected Approval Date and the Board of Managers shall determine the amount of Capital Contributions required for Step V through preparation of a budget (the "Step V Budget"), subject to the supermajority requirements set forth in Section 7.03. The Step V Budget shall be provided promptly to each Member and to each Interested Utility (which Interested Utility shall be required to deliver a

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confidentiality agreement related to such budget), together with such supporting financial information as such Member or Interested Utility may reasonably request. The Chairman of the Board shall notify the Board of Managers of any changes to the Expected Approval Date.

5.03(b) Step V Total Capital Commitment

(i) Each Member electing to participate in Step V agrees to make total Capital Contributions to the LLC during Step V (as to each Member, its "Step V Total Capital Commitment") in accordance with the provisions of this Section 5.03.



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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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5.04 Notice of, Failure to Pay and Payment of Capital Contributions

5.04(a) Notice of Capital Contributions

The Chairman of the Board shall give each Member written notice in accordance with Section 12.03 ("Notice") of the due date ("Respective Due Date") and amount of such Member's proportionate share of Capital Contributions as follows: (i) Notice not less than thirty (30) calendar days prior to the Respective Due Date of any Step IV Installment or Step V Installment, as the case may be; (ii) Notice not less than thirty (30) calendar days in advance of the Respective Due Date of any Additional Capital Contribution or Step IV Excess Capital Contributions; and (iii) Notice not less than thirty (30) calendar days in advance of the Step V Commencement Date. The failure of the Chairman of the Board to provide such Notice or its failure to provide such Notice within the thirty (30) calendar day period shall not excuse nor relieve a Member from its obligation to make its Capital Contribution.

5.04(b) Failure to Pay Capital Contributions

(i) Any Member failing to pay its proportionate share of any Capital Contribution it has committed to make within five (5) calendar days after the later of (A) the Respective Due Date and (B) the date which is thirty (30) calendar days after the date on which the Member received the Notice shall be assessed a late fee equal to ten percent (10%) per annum on the due but unpaid amount of such Member's Capital Contribution. The Chairman of the Board shall provide written notice in accordance with Section 12.03 to each Member who has not made such Capital Contribution by the date it is due, which written notice shall specify the due date by which such payment, together with the late fee, is due (the "Final Due Date").

(ii) Any Member refusing or failing to contribute any Capital Contribution it has committed to make by the Final Due Date shall be deemed to be a "Defaulting Member." Any Defaulting Member shall be deemed to have elected to withdraw pursuant to Section 9.03 as of the Final Due Date, but shall continue to be liable to the LLC for the unpaid portion of such Capital Contribution.

(iii) In the event that any Member becomes a Defaulting Member, with respect to such Defaulting Member's remaining proportionate share of any Capital Contribution, each Member shall be offered the opportunity to contribute the Defaulting Member's unpaid portion of such Capital Contribution;

provided, however, that no such contribution by any Member shall relieve the Defaulting Member of its liability to the LLC with respect thereto.

(iv) In the event that more than one Member elects to make all or part of the Defaulting Member's unpaid portion of any Capital Contribution, such unpaid portion shall be allocated among such Members as they may agree or, if they fail to agree, in proportion to their respective Percentage Interests.

(v) Upon the deemed withdrawal of a Defaulting Member or the payment by a Member of all or part of the Defaulting Member's unpaid portion of any Capital Contribution, the Percentage Interests of the Members shall be adjusted automatically, effective as of the date of such deemed withdrawal or such payment of Capital Contributions, so that each Member's Percentage Interest shall be equal to the percentage derived by dividing the amount of the total Capital Contributions made by each Member during Step III, Step IV and Step V by the total amount of Capital Contributions made by all Members during Step III, Step IV and Step V.

5.04(c) Payment of Capital Contributions

(i) Each Member shall cause such Member's bank to pay by electronic funds transfer to a bank account to be designated by the LLC to each such Member ("Wire Transfer") (A) each installment of the Step IV Installments on or before the Respective Due Dates and (B) the full amount of the Step V Total Capital Commitment on the Step V Commencement Date, unless such Member chooses to pay in installments pursuant to Section 5.03(c), in which case the installments will be paid on or before the Respective Due Dates.

(ii) Payment of the Additional Capital Contributions and Step IV Excess Capital Contributions of each Member shall be made in immediately available funds and shall be payable to the LLC by Wire Transfer.

(iii) In the event a Member is admitted as a Member of the LLC pursuant to Sections 5.14 or 7.02(a)(iii), the provisions of this Section 5.04(c) shall be applicable to such Member upon execution of an Instrument of Adoption substantially in the form attached hereto as Exhibit F (an "Instrument of Adoption").

5.05 Class of LLC Interest Acquired

5.05(a) Class A and Class B Interests

The LLC Interests shall be composed of two classes, "Class A Interests" and "Class B Interests". The relative rights and powers of Class A Interests and

Class B Interests shall be identical in all respects, except that Class A Interests shall have voting power and the right to appoint a Board Member as provided herein and Class B Interests shall have no voting power and no right to appoint a Board Member. The class of LLC Interest acquired by Members pursuant to this Article V shall be Class A Interests; provided, however, that if a Member which is also a Registered Utility at any time would own, control or hold with power to vote more than 9.9% of the voting securities of the LLC, whether through acquisition of LLC Interests as provided in this Article V, through a business combination of Members, through an automatic adjustment of Percentage Interests in accordance with the provisions of this Agreement, or otherwise (unless having a voting interest in the LLC in excess of such amount would not cause the LLC to become subject to regulation under PUHCA as a PUHCA Subsidiary of a Registered Holding Company) the excess of the LLC Interest over 9.9% shall be issued as or converted to, as the case may be, Class B Interests; provided, further, that if PUHCA is (a) repealed and is not replaced by or superseded by an analogous statute or regulation which contains similar voting interest restrictions (an "Analogous Statute") or (b) amended to remove such voting interest restrictions, all Class B Interests shall be automatically converted to Class A Interests, and the provisions of this Section 5.05 shall no longer apply.

5.05(b) Adjustment

The Board of Managers shall adjust the LLC Interests upon acquisition of new LLC Interests and an adjustment of LLC Interests contemplated by Sections 5.02(f), 5.03(e), 5.04(b)(v) and 9.03.

5.06 Amendments to Exhibit A

Exhibit A shall be amended from time to time by the Board of Managers to the extent necessary to reflect accurately the Members' Capital Contributions, the admission of additional Members, the issuance of additional LLC Interests, the issuance of or conversion to, Class B Interests pursuant to Section 5.05(a) or similar events making an amendment to Exhibit A necessary or appropriate in the judgment of the Board of Managers; provided, however, that no amendment shall be made which shall increase a Member's Total Capital Commitment without the consent of the affected Member.

5.07 Capital Accounts

A separate Capital Account shall be established and maintained for each Member in all events in accordance with the Tax Allocations Addendum which is Addendum II attached hereto and incorporated herein by reference.

5.08 Negative Capital Accounts

Except to the extent the Members are required or elect to make contributions to the capital of the LLC under Section 5.02 and Section 5.03, no Member shall be required to pay to the LLC or to any other Member any deficit or negative balance which may exist from time to time in such Member's Capital Account.

5.09 No Interest on Capital Contributions or Capital Accounts

No Member shall be entitled to receive any interest on its Capital Contributions or its outstanding Capital Account balance.

5.10 Advances to LLC

5.10(a) Advances by Members

No Member shall advance funds to the LLC in excess of the amounts required hereunder to be contributed by it to the capital of the LLC without the express written consent of the Board of Managers. Any such approved advances by a Member shall not result in any increase in the amount of such Member's Capital Account or entitle it to any increase in its Percentage Interest. The amounts of such advances shall be a debt of the LLC to such Member and shall be treated as a loan to the LLC and shall be payable or convertible as provided in Section 5.11.

5.10(b) Advances by Registered Utilities or State-Regulated Utilities

Registered Utilities or State-Regulated Utilities that are not Members may, but are not obligated to, advance funds to the LLC with the express written consent of the Board of Managers. Such approved advances by a Registered Utility or State-Regulated Utility shall not bear interest and shall be applied to such Registered Utility's or State-Regulated Utility's Capital Account in the event such Registered Utility or State-Regulated Utility is later admitted as a Member of the LLC. In the event such Registered Utility or State-Regulated Utility is not later admitted as a Member of the LLC, such approved advances shall not be refundable.

5.11 Member Loans to LLC

Members shall be entitled to loan funds to the LLC in excess of the amounts required hereunder to be contributed by it to the capital of the LLC with the express written consent of the Board of Managers. Any such approved loan by a Member shall not result in any increase in the amount of such Member's Capital Account or entitle it to any increase in its Percentage Interest. The amounts of such

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loans shall be a debt of the LLC to such Member and shall bear such rates of interest and shall be payable or collectible out of the LLC Assets in accordance with terms and conditions agreed upon by the Member making such loan and the Board of Managers; provided, however, that such loans shall become obligations of the LLC and shall by their terms be payable by the LLC only during the Step immediately after the Step in which such amounts were loaned unless the Board of Managers agrees otherwise.

5.12 Liability of Members and the Board of Managers

Except as otherwise provided in the Delaware LLC Act, the debts, obligations and liabilities of the LLC, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the LLC, and none of the Members or their respective directors, officers, employees, agents or designated Board Member shall be obligated personally for any such debt, obligation or liability of the LLC solely by reason of being a Member or a Board Member or for rendering advice and/or services to or on behalf of the LLC. The failure of the LLC to observe any formalities or requirements relating to the exercise of its powers or management of its business or affairs under the Delaware LLC Act or this Agreement shall not be grounds for imposing personal liability on the Members or the Board Members for liabilities of the LLC.

5.13 Return of Capital

Except upon the dissolution of the LLC or as may be specifically provided in this Agreement, no Member shall have the right to demand or receive the return of all or any part of such Member's Capital Account or Capital Contributions to the LLC.

5.14 Issuance of Additional LLC Interests

5.14(a) Issuances to Interested Utilities

Subject to the approvals required by Section 7.04(b) and the rights of Members set forth in Sections 5.02(b)(iii) and 5.03(b)(v), the Board of Managers from time to time may cause the LLC to issue additional LLC Interests to Interested Utilities which, upon the execution and delivery of an Instrument of Adoption and such other documents or opinions of counsel as the Board of Managers may deem necessary or appropriate, including, without limitation, evidence that admitting such Interested Utility will not subject the LLC to regulation under PUHCA as a PUHCA Subsidiary of a Registered Holding Company, shall become Members.

5.14(b) Issuances to Registered Utilities

Subject to the approvals required by Section 7.04(b) and the rights of Members set forth in Sections 5.02(b)(iii) and 5.03(b)(v), a Registered Utility that has executed and delivered to the LLC an agreement to participate in the LLC substantially in the form of Exhibit D (a "Registered Utility Agreement to Participate") may be admitted as a Member of the LLC upon fulfillment of the conditions precedent set forth in Section 2.2 thereof and receipt by the LLC of such Registered Utility's Capital Contribution, in whole or in part, in accordance with Sections 5.02 and 5.03, as the case may be.

5.14(c) Issuances to State-Regulated Utilities

Subject to the approvals required by Section 7.04(b) and the rights of Members set forth in Sections 5.02(b)(iii) and 5.03(b)(v), a State-Regulated Utility that has executed and delivered to the LLC an agreement to participate in the LLC substantially in the form attached hereto as Exhibit E (a "State-Regulated Utility Agreement to Participate") may be admitted as a Member of the LLC upon fulfillment of the conditions precedent set forth in Section 2.2 thereof and receipt by the LLC of such State-Regulated Utility's Capital Contribution, in whole or in part, in accordance with Sections 5.02 and 5.03, as the case may be.

5.14(d) Issuances of Other Rights

The Board of Managers shall be entitled to designate the rights, powers and duties associated with new classes of LLC Interests, subject, however, to the rights of the Members with respect to the issuance of such LLC interests pursuant to Section 7.04(b). In addition, the Board of Managers may issue non-equity rights and other types of interests to Utilities which agree to participate in the LLC by contributing funds for the development and construction of the Temporary Storage Facility.

5.15 Allocation of Storage Capacity

Except as otherwise required by law, the Members agree to allocate the fuel storage capacity at the Temporary Storage Facility in accordance with principles of storage allocation which are set out in Exhibit G (the "Principles of Storage Allocation"). The Principles of Storage Allocation may be amended from time to time by the Members in accordance with Section 7.04 in order to establish the priority of Utilities contributing funds to the LLC as contemplated by Section 5.14(d).

**PRIVILEGED AND
PROPRIETARY****ARTICLE VI
ALLOCATION OF PROFITS AND LOSSES;
DISTRIBUTIONS****6.01 Allocation of Net Income or Net Loss**

Except as otherwise provided in the Tax Allocations Addendum or to the extent that any class of LLC Interests is issued in accordance with this Agreement with rights to allocations of Net Income and Net Loss that differ from the allocation rights of any other class of LLC Interests, the Net Income or Net Loss, other items of income, gains, losses, deductions and credits, and the taxable income, gains, losses, deductions and credits of the LLC, if any, for each Fiscal Year (or portion thereof) shall be allocated to the Members in accordance with their Percentage Interests. If events occur necessitating amendments of this Section 6.01, for example, to comply with Section 704 of the Code or the regulations thereunder, the Board of Managers shall make all such amendments.

**6.02 Allocation of Income and Loss With Respect to LLC Interests
Transferred**

If any LLC Interest is transferred during any Fiscal Year, the Net Income or Net Loss (and other items referred to in Section 6.01) attributable to such LLC Interest for such Fiscal Year shall be allocated proportionately between the transferor and the transferee based on the number of days during such Fiscal Year for which each party was the owner of the LLC Interest transferred.

6.03 Distributions

Except as provided in Section 10.04, cash available or property available to be distributed in-kind by the LLC to the Members ("Distributions") shall be determined for each Fiscal Year by the Board of Managers and shall be distributed to the Members in proportion to their Percentage Interests as of the end of each such Fiscal Year.

**PRIVILEGED AND
PROPRIETARY****ARTICLE VII
MEMBERS AND MANAGEMENT****7.01 Members****7.01(a) Limitation on Membership**

No Member may be admitted to the LLC unless such Member is a Utility.

7.01(b) Meetings and Actions

(i) **Meetings.** Meetings of the Members may be called by the Chairman of the Board, and shall be called by the Chairman of the Board upon the request of any member of the Board of Managers or the request of any two (2) or more Members upon ten (10) calendar days' notice to all Members in writing or by telephone or facsimile transmission. No business shall be taken at a special meeting that is not stated in the notice of the meeting. Members may participate in a meeting of the Members by proxy or by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

(ii) **Quorum.** No action may be taken at a meeting of the Members unless a quorum consisting of Members whose Class A Percentage Interests represent more than eighty percent (80%) of the Class A Interests of all Members is present in person or by proxy.

(iii) **Action by Written Consent.** Any action to be taken by the Members may be taken without a meeting if consents in writing setting forth the action so taken are signed by all of the Members. Any such consents may be executed in counterparts.

(iv) **Voting.** Each Member shall be entitled to receive advance notice of and to vote its Class A Percentage Interest with respect to all decisions to be made by the Members to the extent provided for herein. To be approved, any action requiring or properly submitted for approval by the Members shall be approved by a Majority in Interest, unless such action is a Supermajority Decision or a Member Decision, in which event the provisions of Section 7.03 or Section 7.04 shall be controlling.

(v) **Waiver of Meeting.** Whenever the giving of any notice is required by statute or this Agreement, a waiver thereof, in writing and delivered to the LLC signed by the person or persons entitled to said notice, whether before or

after the event as to which such notice is required, shall be deemed equivalent to notice. Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting.

(vi) **Removal of Members.** Except as provided in Section 5.04(b) with respect to failure to pay Capital Contributions, at a meeting of the Members called for such purpose, a Majority in Interest may remove any Member for (A) a material, uncured breach by such Member of its obligations under this Agreement or actions taken beyond the authority of such Member to act on behalf of the LLC or (B) a breach of any representation or warranty set forth in Article XI which is material and either uncured or incapable of being cured. Effective upon such removal, such Member against whom such action has been taken shall be deemed to have withdrawn as a Member pursuant to Section 9.03.

7.02 Management of the LLC by the Board of Managers

7.02(a) Management by the Board of Managers

Subject to this Agreement and the Delaware LLC Act, the Members hereby unanimously agree that the responsibility for management of the business and affairs of the LLC shall be delegated to a board of managers (the "Board of Managers") pursuant to Section 18-402 of the Delaware LLC Act, subject to the limitations set forth in Sections 7.03 and 7.04. Subject to the limitations of Sections 7.03 and 7.04, the Board of Managers (acting on behalf of the LLC) shall have the right, power, and authority to manage, operate and control the business and affairs of the LLC and to do or cause to be done any and all acts, at the expense of the LLC, deemed by the Board of Managers to be necessary or appropriate to effectuate the purposes of the LLC, including, without limitation, the right, power and authority on behalf of the LLC to make, execute, assign, acknowledge, and file on behalf of the LLC any and all documents or instruments of any kind which the Board of Managers may deem necessary or appropriate in carrying out the business and affairs of the LLC (and the signature of any two Board Members shall be sufficient to evidence that such action has been taken by the Board of Managers), including, without limitation, powers of attorney, agreements of indemnification, documents, or instruments of any kind or character, and amendments thereto (and no person, firm or corporation dealing with the Board of Managers shall be required to determine or inquire into the authority or power of the Board of Managers to bind the LLC or to execute, acknowledge, or deliver any and all documents in connection therewith). Except as otherwise expressly provided in this Agreement or as may be approved by the Board of Managers, no Member shall have any authority, right, or power to bind the LLC, or to manage or control, or to participate in the management or control of, the business and affairs of the LLC in any manner whatsoever.

Without limiting the generality of the foregoing, but subject to Sections 7.03 and 7.04, the Board of Managers shall have full authority to determine:

- (i) incurrence of indebtedness by the LLC;
- (ii) mergers, consolidations, sales or transfers of all or substantially all of the assets, liquidation (partial or complete) or dissolution of the LLC;
- (iii) admission of additional Members to the LLC and issuance of additional LLC Interests, subject to the rights of the Members set forth in Sections 5.02(b)(iii) and 5.03(b)(v) and Article IX;
- (iv) declaration of distributions of cash, benefits, property or other LLC Assets to Members with respect to their LLC Interests;
- (v) subject to Article V, the amounts of Capital Contributions required and requested of the Members;
- (vi) the extension of the Termination Date; and
- (vii) the grant, creation, incurrence or assumption of any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien, preference, priority, guarantee or other security agreement or preferential arrangement of any kind or nature whatsoever on the LLC Assets.

7.02(b) Board of Managers.

(i) **Composition.** Each Member whose Class A Percentage Interest equals at least five percent (5%) of the Class A Interests then held by all Members shall be entitled to designate a representative to the Board of Managers (each, a "Board Member").

(ii) **Removal and Replacement of Board Members.** Each Board Member may be removed or replaced only by the Member authorized to designate such Board Member; provided, however, that (A) in the event a Member's Class A Percentage Interest falls below five percent (5%) of the Class A Interests held by all Members, the Board Member appointed by such Member shall automatically be removed, and such vacancy shall not be filled, or (B) at a meeting of the Members called for such purpose, a Majority in Interest present may remove or suspend from office a Board Member which in such Members' collective judgment has committed any of the following: any breach of fiduciary duty to the LLC, any breach of such Board Member's duty of loyalty to the LLC, any acts or omissions not

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in good faith or which involve intentional misconduct or a knowing violation of law or any act of self-dealing from which the Board Member received any personal benefit. Such vacancy shall be filled by the Member represented by such removed Board Member.

7.02(c) Meetings and Actions.

(i) **Meetings.** The Board of Managers shall meet at least once each Fiscal Year at the principal place of business of the LLC or at such other place as may be agreed upon from time to time by the Board of Managers (unless such meeting shall be waived by all of the Board Members), upon at least ten (10) calendar days' notice to all Board Members in writing or by telephone or facsimile transmission. Special meetings of the Board of Managers may be called by any Board Member upon at least seven (7) calendar days' notice to all Board Members in writing or by telephone or facsimile transmission. No business shall be taken at a special meeting that is not stated in the notice of the meeting. Board Members may participate in a meeting of the Board of Managers by proxy or by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

(ii) **Quorum.** No action may be taken at a meeting of the Board of Managers unless a quorum consisting of more than fifty percent (50%) of the Class A Interests as represented by Board Members is present in person or by proxy.

(iii) **Action by Written Consent.** Any action to be taken by the Board of Managers may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all of the Board Members, which consent may be executed in counterparts.

(iv) **Voting.** Each Board Member shall be entitled to vote the Class A Percentage Interest of the Member designating such Board Member with respect to any decision made by the Board of Managers, except with respect to a determination to seek indemnification pursuant to Section 7.06, in which event a Board Member seeking indemnification hereunder shall have no vote with respect to his indemnification. Any action to be taken by the Board of Managers shall be approved by more than fifty percent (50%) of the Class A Percentage Interests represented by the Board Members of the votes taken at a meeting at which a quorum exists, unless such action is a Supermajority Decision, in which event the provisions of Section 7.03 shall be controlling.

(v) **Committees.** The Board of Managers from time to time may appoint one or more committees to perform any functions or conduct any

activities that the Board of Managers has the right, power, and authority to perform or conduct.

7.02(d) Officers.

(i) *Chairman of the Board.* The Board of Managers shall appoint one of its members to serve as its chairman (the "Chairman of the Board") to preside over all meetings of the Board of Managers, to ensure that all orders and resolutions of the Board of Managers are carried into effect and to exercise such other powers and authority as provided in this Agreement or as the Board of Managers from time to time may prescribe. The Chairman of the Board may execute bonds, mortgages and other contracts on behalf of the LLC, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Managers to some other officer or agent of the LLC. The Chairman of the Board is authorized to maintain the books and records of the LLC and to manage the funds of the LLC.

(ii) *Other Officers.* The Board of Managers may by resolution appoint such other officers of the LLC (including, but not limited to, a president, one or more vice presidents, a treasurer and a secretary) upon terms and conditions the Board of Managers deems necessary and appropriate, the powers, duties and responsibilities of which shall be set forth in such resolution. Any officer shall hold his or her respective office unless and until such officer is removed by the written consent of the Board of Managers.

7.02(e) Compensation of the Board of Managers.

Except as expressly provided in this Agreement, none of the Board Members, in their capacity as such, shall be entitled to any fees or other compensation for services rendered for or on behalf of the LLC.

7.02(f) Limitations on Liability.

No Board Member shall be (i) liable to the LLC or its Members for monetary damages or otherwise for breach of fiduciary duty as a Board Member or (ii) otherwise liable, responsible or accountable to the LLC or its Members for monetary damages or otherwise for any acts performed, or for any failure to act; provided, however, that this provision shall not eliminate or limit the liability of a Board Member (i) for any breach of the Board Member's duty of loyalty to the LLC or its Members, (ii) for acts or omissions which involve intentional misconduct or a knowing violation of law, or (iii) for any acts of self dealing from which the Board Member received personal benefit.

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7.02(g) Reimbursement.

All expenses incurred with respect to the organization, operation, and management of the LLC shall be borne by the LLC.

7.03 Supermajority Decisions

The LLC (or the Board of Managers) shall not take any action relating to a Supermajority Decision (as hereinafter defined) unless, in addition to any other consents or approvals that may be required, Board Members representing at least eighty percent (80%) in interest of the Class A Percentage Interests have approved such Supermajority Decision. For the purposes of this Agreement, a "Supermajority Decision" shall mean any of the following events:

- (i) the adoption or modification of a Step IV Budget;
- (ii) the adoption or modification of a Step V Budget;
- (iii) the adoption or modification of any other budget of the LLC, including, without limitation, any annual or operating budget which is not otherwise a Step IV Budget or a Step V Budget;
- (iv) the determination of Additional Capital Contributions;
- (v) the determination of Step IV Excess Capital Contributions;
- (vi) the merger, consolidation, sale or transfer of all or substantially all of the assets, liquidation (partial or complete) or dissolution of the LLC;
- (vii) the extension of the Termination Date;
- (viii) the grant, creation, incurrence or assumption of any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien, preference, priority, guarantee or other security agreement or preferential arrangement of any kind or nature whatsoever on any of the LLC Assets;
- (ix) the incurrence of indebtedness in an aggregate amount in excess of \$2,500,000; provided, however, that any and all such amounts are reflected in a budget referenced in subsections (i), (ii) or (iii) above; and

- (x) the adoption of an appropriate course of action pursuant to Section 5.03(b)(iii).

7.04 Member Decisions

The LLC (or the Board of Managers) shall not take any action relating to a Member Decision (as hereinafter defined) unless, in addition to any other consents or approvals that may be required, one hundred percent (100%) of the Class A Percentage Interests have approved such Member Decision. For the purpose of this Agreement, a "Member Decision" shall mean any of the following events:

- (a) entering into any line of business or activities other than to accomplish the purposes of the LLC set forth in Section 3.01;
- (b) the issuance of additional LLC Interests in one or more new classes, or one or more series of any of such classes; and
- (c) the modification or amendment of this Agreement; provided, however, that such unanimity shall be required only if modifications or amendments are made to this Section 7.04, any provision of Article V or the Principles of Storage Allocation, with eighty percent (80%) approval of the Class A Percentage Interests being required for all other modifications and amendments.

7.05 Other Activities of Members or Affiliates

Any Member or any Affiliate thereof may have other business interests or may engage in other business ventures of any nature or description whatsoever, whether currently existing or hereafter created, and may compete, directly or indirectly, with the business of the LLC. No Member or Affiliate thereof shall incur any liability to the LLC or any other Member as a result of such Member's or Affiliate's pursuit of such other business interests, ventures and competitive activity, and neither the LLC nor the other Members shall have any right to participate in such other business ventures or to receive or share in any income or profits derived therefrom.

7.06 Indemnification of the Members, Board Members and Officers

7.06(a) The LLC shall indemnify and hold harmless any Member, Board Member and officer of the LLC, or their respective partners, directors, officers, employees and agents (individually, in each case, an "Indemnitee") to the fullest extent permitted by law from and against any and all losses, claims,

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demands, costs, damages, liabilities (joint or several), expenses of any nature (including reasonable attorneys' fees and disbursements), judgments, fines, settlements, and other amounts arising from any and all claims, demands, actions, suits, or proceedings, whether civil, criminal, administrative or investigative, in which the Indemnatee may be involved, or threatened to be involved, as a party or otherwise arising out of or incidental to the business or activities of or relating to the LLC, including, without limitation, pre-formation or promotional activities ratified by the Members regardless of whether the Indemnatee continues to be a Member, a Board Member, or an officer of the LLC at the time any such liability or expense is paid or incurred; provided, however, that this provision shall not be applicable to (i) any breach of the Indemnatee's duty of loyalty to the LLC or its Members, (ii) acts or omissions which involve intentional misconduct or a knowing violation of law, or (iii) any transaction from which the Indemnatee received any improper personal benefit.

7.06(b) Expenses incurred by an Indemnatee in defending any claim, demand, action, suit, or proceeding subject to this Section 7.06 shall, from time to time, upon request by the Indemnatee be advanced by the LLC prior to the final disposition of such claim, demand, action, suit, or proceeding upon receipt by the LLC of a written undertaking by or on behalf of the Indemnatee to repay such amount in the event that it is determined in a judicial proceeding or a binding arbitration that such Indemnatee is not entitled to be indemnified as authorized in this Section 7.06.

7.06(c) The indemnification provided by this Section 7.06 shall be in addition to any other rights to which an Indemnatee may be entitled under any agreement, vote of the Members, as a matter of law or equity, or otherwise, both as to an action in the Indemnatee's capacity as a Member, a Board Member, or an officer of the LLC, and as to an action in another capacity, and shall continue as to an Indemnatee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns, and administrators of the Indemnatee.

7.06(d) The LLC shall purchase and maintain insurance on behalf of the Board of Managers and such other persons as the Board of Managers shall determine against any liability that may be asserted against or expense that may be incurred by such persons in connection with the issuance of interests in the LLC or the business or activities of the LLC, regardless of whether the LLC would have the power to indemnify such persons against such liability under the provisions of this Agreement.

7.06(e) An Indemnatee shall not be denied indemnification in whole or in part under this Section 7.06 or otherwise by reason of the fact that the Indemnatee had an interest in the transaction with respect to which the

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indemnification applies if the transaction was otherwise permitted or not expressly prohibited by the terms of this Agreement.

7.06(f) The provisions of this Section 7.06 are for the benefit of the Indemnitees, their heirs, successors, assigns and administrators and shall not be deemed to create any rights for the benefit of any other persons.

7.07 Right of Registered Utilities to Attend Meetings

Registered Utilities that have executed and delivered to the LLC a Regulated Utility Agreement to Participate shall be entitled to designate an individual to receive notice of all meetings of the Board of Managers and to attend and participate in all such meetings as a non-voting participant, but such Registered Utility or designated individual shall not be permitted to vote at such meetings nor be included in determining a quorum for such meetings until and unless such Registered Utility shall have become a Member pursuant to Section 5.14(b) and then only to the extent of the Class A Percentage Interests held by it.

7.08 Right of State-Regulated Utilities to Attend Meetings

State-Regulated Utilities that have executed and delivered to the LLC a State-Regulated Utility Agreement to Participate shall be entitled to designate an individual to receive notice of all meetings of the Board of Managers and to attend and participate in all such meetings as a non-voting participant, but such State-Regulated Utility or designated individual shall not be permitted to vote at such meetings nor be included in determining a quorum for such meetings until and unless such State-Regulated Utility shall have become a Member pursuant to Section 5.14(c) and then only to the extent of the Class A Percentage Interests held by it.

ARTICLE VIII BANK ACCOUNTS; BOOKS AND RECORDS; STATEMENTS; TAXES; FISCAL YEAR

8.01 Bank Accounts

All funds of the LLC shall be deposited in its name in such checking and savings accounts, time deposits or certificates of deposit, or other accounts at such banks as shall be designated by the Board of Managers from time to time, and the Board of Managers shall arrange for the appropriate conduct of such account or accounts.

8.02 Books and Records

The Board of Managers shall keep, or cause to be kept, accurate, full and complete books and accounts showing assets, liabilities, income, operations, transactions and the financial condition of the LLC. Such books and accounts shall be prepared on a cash basis of accounting, unless otherwise determined by the Board of Managers, in accordance with generally accepted accounting principles. Any Member, or its respective designee, shall have access thereto at any reasonable time during regular business hours and shall have the right to copy said records at its expense.

8.03 Financial Statements and Information

8.03(a) The Board of Managers shall appoint a business services firm which shall provide the Chairman of the Board with monthly financial reports, which shall include unaudited balance sheets and statements of income and expenses for the preceding month. Promptly upon receipt thereof, the Chairman of the Board shall provide two (2) copies of such monthly reports to each Board Member, together with comparisons of such statements as against the appropriate line items in the Budget, showing any variances.

8.03(b) All financial reports and statements prepared pursuant to this Section 8.03 shall present fairly the financial position and operating results of the LLC and shall be prepared in accordance with generally accepted accounting principles as provided in Section 8.02 during the term of this Agreement. The Board of Managers shall appoint an independent certified public accounting firm which is not the business services firm referenced in Section 8.03(a) (the "Auditors"). The Board of Managers shall cause the Auditors to audit the financial statements of the LLC once per Fiscal Year or as otherwise determined by the Board of Managers and to perform such other accounting functions as the Board of Managers deems advisable or necessary.

8.03(c) The Board of Managers shall provide to the Members such other reports and information concerning the business and affairs of the LLC as may be required by the Delaware LLC Act or by any other law or regulation of any regulatory body applicable to the LLC.

8.04 Accounting Decisions

All decisions as to accounting matters, except as specifically provided to the contrary herein, shall be made by the Board of Managers.

**PRIVILEGED AND
PROPRIETARY****8.05 Maintenance of Books and Records**

The books, accounts and records of the LLC at all times shall be maintained at the LLC's principal place of business or such other place designated by the Chairman of the Board.

8.06 Tax Returns; Tax Matters Partner

8.06(a) The Board of Managers shall, at the expense of the LLC, cause to be prepared and delivered to the Members, in a timely fashion after the end of each Fiscal Year, copies of all federal and state income tax returns for the LLC for such Fiscal Year, one copy of which shall be filed by the Board of Managers. Such returns shall accurately reflect the results of operations of the LLC for such Fiscal Year.

8.06(b) The Board of Managers shall designate one Member as the "tax matters partner" (as defined in the Code) of the LLC who is hereby authorized and required to represent the LLC (at the expense of the LLC) in connection with all examinations of the affairs of the LLC by any federal, state, or local tax authorities, including any resulting administrative and judicial proceedings, and to expend funds of the LLC for professional services and costs associated therewith. The "tax matters partner" shall keep all Members fully informed of the progress of any such examination, audit or other proceeding, and any Member (and any person that was a Member in the year to which such examination, audit or other proceeding relates) shall have the right to participate in such examination, audit or other proceeding. Each Member and former Member agrees to cooperate with the Board of Managers and the "tax matters partner" and to do or refrain from doing any or all things reasonably required by the Board of Managers in connection with the conduct of such proceedings.

8.07 Fiscal Year

The fiscal year of the LLC for financial, accounting, Federal, state and local income tax purposes shall be the fiscal year which begins on January 1 and ends on December 31 (the "Fiscal Year"), with the initial fiscal year commencing upon the filing of the Certificate with the Recording Office and ending on December 31, 1995.

**ARTICLE IX
TRANSFER AND ASSIGNMENT OF LLC INTERESTS AND
THE ADDITION, SUBSTITUTION AND WITHDRAWAL
OF MEMBERS**

9.01 Transfer of LLC Interests

9.01(a) No Member shall dispose of any LLC Interest pursuant to a pledge, hypothecation, mortgage, exchange, or other disposition, except for any pledge, mortgage, or hypothecation of or granting of a security interest in an LLC Interest in connection with any financing obtained on behalf of the LLC.

9.01(b) No LLC Interest shall be assigned or sold or transferred (collectively, "transferred"), in whole or in part, except in accordance with the terms and conditions set forth in this Article IX. Any assignment or transfer or purported assignment or transfer of any LLC Interest not made in accordance with this Article IX shall be void ab initio.

[REDACTED]

[REDACTED]

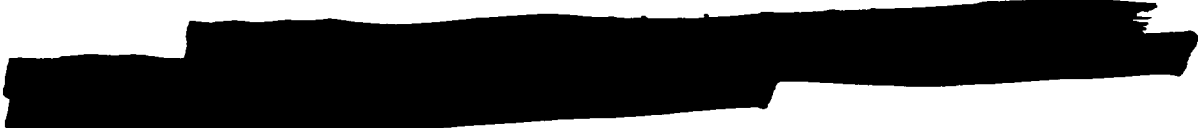
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**PRIVILEGED AND
PROPRIETARY****9.03 Withdrawal**

(a) Except as otherwise provided in Section 9.03(b)(i), any Member shall have the right to withdraw from the LLC at any time upon written notice of such withdrawal to the other Members. A Defaulting Member shall be deemed to have withdrawn if it fails to pay its share of any Capital Contribution it has committed to make (as further provided in Section 5.04(b)), such withdrawal to be effective as of the Final Due Date without any further action or notice by or on behalf of the LLC, the Members or the Board of Managers. A Member which does not obtain the consents required by Sections 11.03 and 11.05 shall be deemed to have withdrawn effective as of the Step IV or Step V Commencement Date, as the case may be. Unless otherwise determined by the Board of Managers, any Member withdrawing or deemed to have withdrawn from the LLC shall remain liable for its unpaid Installments, Additional Capital Contributions and Step IV Excess Capital Contributions it has obligated itself to make. Unless otherwise determined by the Board of Managers, upon withdrawal or deemed withdrawal of a Member from the LLC, the Percentage Interest and positive Capital Account balance (if any) of such Member shall be forfeited by such Member and allocated to the other Members, pro rata in proportion to their Percentage Interests, subject to the provisions of Sections 5.04(b)(iii), 5.04(b)(iv) and 5.04(b)(v). From and after a Member's effective date of withdrawal, such Member shall have no continuing rights under this Agreement.

**9.04 No Distribution Upon Withdrawal**

No Member shall have any right to demand or receive the return of all or any part of such Member's Capital Account or Capital Contributions to the LLC, or any other distribution from the LLC, upon such Member's withdrawal from the LLC.

**ARTICLE X
DISSOLUTION AND LIQUIDATION****10.01 Events Causing Dissolution**

The LLC shall be dissolved and its affairs wound up upon the occurrence of any of the following events:

10.01(a) the consent in writing to dissolve and wind up the affairs of the LLC by one hundred percent (100%) of the Class A Percentage Interests.

10.01(b) the sale or other disposition by the LLC of all or substantially all of the LLC Assets and the collection of all amounts derived from any such sale or other disposition, including all amounts payable to the LLC under any promissory notes or other evidences of indebtedness taken by the LLC, and the satisfaction of contingent liabilities of the LLC in connection with such sale or other disposition (unless the Members shall elect to distribute such indebtedness to the Members in liquidation);

10.01(c) the Termination Date; or

10.01(d) the occurrence of any event that, under the Delaware LLC Act, would cause the dissolution of the LLC or that would make it unlawful for the business of the LLC to be continued.

Notwithstanding the foregoing or any provision to the contrary in the Delaware LLC Act, neither the withdrawal, removal, "Bankruptcy" (as hereinafter defined), dissolution or liquidation of a Member nor any other event which terminates the continued membership of a Member in the LLC shall by itself cause the dissolution of the LLC. For purposes of this Agreement, the term "Bankruptcy" shall mean, and the Member shall be deemed "Bankrupt" upon, (i) the entry of a decree or order for relief of the Member by a court of competent jurisdiction in any involuntary case involving the Member under any bankruptcy, insolvency, or other similar law now or hereafter in effect; (ii) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator, or other similar agent for the Member or for any substantial part of the Member's assets or property; (iii) the ordering of the winding up or liquidation of the Member's affairs; (iv) the filing with respect to the Member of a petition in any such involuntary bankruptcy case, which petition remains undismissed for a period of 90 calendar days or which is dismissed or suspended pursuant to Section 305 of the Federal Bankruptcy Code (or any corresponding provision of any future United States bankruptcy law); (v) the commencement by the Member of a voluntary case under any bankruptcy, insolvency, or other similar law now or hereafter in effect; (vi) the consent by the Member to the entry of an order for relief in an involuntary case under any such law or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator, or other similar agent for the Member or for any substantial part of the Member's assets or property; (vii) the making by the Member of any general assignment for the benefit of creditors; or (viii) the failure by the Member generally to pay its debts as such debts become due.

**PRIVILEGED AND
PROPRIETARY****10.02 Right to Continue Business of the LLC**

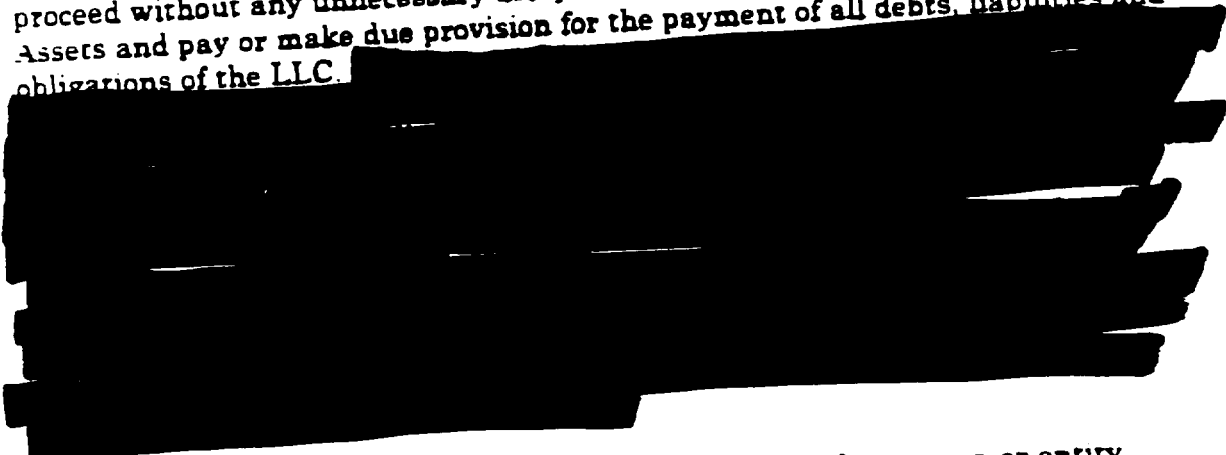
Upon an event described in Sections 10.01(c) or 10.01(d) (but not an event described in 10.01(d) that makes it unlawful for the business of the LLC to be continued), the LLC thereafter shall be dissolved and liquidated unless, within ninety (90) calendar days after the event described in any of such Sections, an election to continue the business of the LLC shall be made in writing by the Members holding Class A Percentage Interests that represent more than fifty percent (50%) of the aggregate amount of the Class A Interests and Class B Interests.

10.03 Cancellation of Certificate

Upon the dissolution of the LLC, the Certificate shall be canceled in accordance with the provisions of Section 18-203 of the Delaware LLC Act, and the Board of Managers (or any other person or entity responsible for winding up the affairs of the LLC) shall promptly notify the Members of such dissolution.

10.04 Distributions Upon Dissolution

10.04(a) Upon the dissolution of the LLC, the Board of Managers (or any other person or entity responsible for winding up the affairs of the LLC) shall proceed without any unnecessary delay to sell or otherwise liquidate the LLC Assets and pay or make due provision for the payment of all debts, liabilities and obligations of the LLC.



10.04(b) The Board of Managers (or any other person or entity responsible for winding up the affairs of the LLC) shall distribute any net liquidation proceeds and all other remaining assets of the LLC after the payment of all debts, liabilities and obligations of the LLC (including, without limitation, all amounts owing to a Member under this Agreement or under any agreement between the LLC and a Member entered into by the Member other than in its capacity as a Member in the LLC), the payment of expenses of liquidation of the

**PRIVILEGED AND
PROPRIETARY**

LLC, and the establishment of a reasonable reserve in an amount estimated by the Board of Managers to be sufficient to pay any amounts reasonably anticipated to be required to be paid by the LLC, which shall be distributed to the Members first pro rata, in proportion to the positive balances, if any, in their respective Capital Accounts until such Capital Accounts are reduced to zero amounts, and second, the remaining LLC Assets, if any, shall be distributed to the Members, pro rata, in accordance with their respective Percentage Interests.

10.05 Reasonable Time for Winding Up

A reasonable time shall be allowed for the orderly winding up of the business and affairs of the LLC and the liquidation of its assets pursuant to Section 10.04 in order to minimize any losses otherwise attendant upon such a winding up.

**ARTICLE XI
REPRESENTATIONS, WARRANTIES AND COVENANTS OF MEMBERS**

Each Member represents, warrants and covenants to each other Member as of the date of this Agreement as follows:

11.01 Organization and Good Standing

The Member is duly organized, validly existing, and in good standing under the laws of the state of its organization. The Member is qualified to do business in any state in which such qualification is required, unless the failure to be so qualified would not result in a material liability or disability to such Member.

11.02 Due Authorization; No Conflicts

The execution, delivery and performance by the Member of this Agreement has been duly and effectively authorized. No other proceedings or actions are necessary to authorize the execution and delivery of this Agreement; and this Agreement, after execution and delivery by the Member, shall be a valid and binding obligation of the Member, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting rights of creditors generally. Neither the execution and delivery of this Agreement nor the compliance by the Member of any of the provisions contained herein shall (i) violate, or conflict with, or result in a breach of any provisions of, or constitute a default (or an event of default which, with notice of lapse of time or both, would constitute default) under.

**PRIVILEGED AND
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or result in the termination of, or result in the acceleration of performance required by, or result in the creation of any lien, charge or encumbrance upon any of the properties or assets of the Member under any of its formation documents in effect on the date of this Agreement or under any note, bond, mortgage, indenture, deed of trust, license, agreement or other obligation to which it is a party, or by which it or any of its properties may be bound or affected or (ii) violate any order, writ, injunction, tribal or judicial decree, statute, rule or regulation applicable to the Member or any of the properties or assets of the Member.

11.03 Consents Obtained

All consents required or necessary on the Member's behalf to authorize the execution and delivery of this Agreement, or for the taking by such Member of any action contemplated by this Agreement during Step IV, or for the legality, validity, binding effect or enforceability of this Agreement during Step IV have been obtained. Each Member participating in Step V covenants and agrees that prior to the Step V Commencement Date, such Member shall obtain all consents required or necessary on such Member's behalf for the taking by such Member of any action contemplated by this Agreement during Step V or for the legality, validity, binding effect or enforceability of this Agreement during Step V. In the event that any Member does not obtain the consents required by this Section 11.03 prior to the commencement of Step V, such Member agrees that it shall not participate in Step V, and shall be deemed to have withdrawn pursuant to Section 9.03.

11.04 No Litigation

There is no obligation, investigation, administrative proceeding or other action existing, pending or threatened that could reasonably be expected to materially affect the ability of the Member to fulfill its obligations under this Agreement.

11.05 Approvals Obtained

All authorizations, approvals or consents of any Federal, state or local regulatory authority or agency necessary in connection with the Member becoming a party to this Agreement or fulfilling its obligations under this Agreement during Step IV have been obtained. Each Member participating in Step V covenants and agrees that prior to the Step V Commencement Date, such Member shall obtain all authorizations, approvals or consents of any Federal, state or local regulatory authority or agency necessary in connection with such Member fulfilling its obligations under this Agreement during Step V or for the legality, validity, binding effect or enforceability of this Agreement during Step V. In the event that such

**PRIVILEGED AND
PROPRIETARY**

Member does not obtain the approvals required by this Section 11.05 prior to the commencement of Step V, such Member agrees that it shall not participate in Step V and shall be deemed to have withdrawn pursuant to Section 9.03.

11.06 Future Financing

The Member covenants and agrees to grant, create, incur or assume any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien, preference, priority, guarantee or other security agreement or preferential arrangement of any kind or nature whatsoever on any of such Member's LLC Interests, in order to facilitate acquisition of external debt financing to the extent such external debt financing is required by the LLC to develop, construct, own or operate the Temporary Storage Facility.

11.07 Nature of Investment

The Member is acquiring the LLC Interest for such Member's own account as principal, for investment and not with a view to distribution within the meaning of the Act, and the Member agrees not to transfer, sell, assign, pledge, hypothecate or otherwise dispose of the Interest unless (i) such transfer, sale, assignment, pledge, hypothecation or disposal is expressly permitted by this Agreement, and (ii) such Interest has been registered under the Act and applicable state securities laws or an exemption from the registration requirements of the Act and such laws is available, unless, with respect to this clause (ii), (A) such transfer, sale, assignment, pledge, hypothecation or other disposition is made pursuant to an effective registration statement under the Act and has been registered under any applicable state securities and "Blue Sky" laws, or (B) the Member shall have furnished the LLC with an opinion of counsel, which counsel shall be reasonably satisfactory to the LLC and which opinion shall be reasonably satisfactory in form and substance to the LLC, to the effect that no such registration is required because of the availability of exemptions from registration under the Act and any applicable state securities or "Blue Sky" laws.

11.08 Ability to Invest

The Member is, or is a wholly-owned subsidiary of, an "accredited investor" within the meaning of Regulation D under the Act.

**PRIVILEGED AND
PROPRIETARY****11.09 Representations, Warranties and Covenants True**

The Member hereby agrees that each of its representations, warranties and covenants is true, complete and correct as of the date hereof and shall remain true, complete and correct during the term of this Agreement.

**ARTICLE XII
MISCELLANEOUS PROVISIONS****12.01 Compliance with PUHCA**

Each Member agrees not to take any action or fail to take any action which, considered alone or in the aggregate with other actions or events, would cause the LLC to be subject to regulation under PUHCA as a PUHCA Subsidiary of a Registered Holding Company System.

12.02 Additional Actions and Documents

Each of the Members hereby agrees to take or cause to be taken such further actions, to execute, acknowledge, deliver and file or cause to be executed, acknowledged, delivered and filed such further documents and instruments, and to use best efforts to obtain such consents, as may be necessary or as may be reasonably requested in order to fully effectuate the purposes, terms and conditions of this Agreement, whether before, at or after the closing of the transactions contemplated by this Agreement, including any actions necessary or advisable in connection with the admission of a Registered Utility or State-Regulated Utility as a Member of the LLC in accordance with the terms hereof.

12.03 Notices

All notices, demands, requests or other communications which may be or are required to be given, served, or sent to a Member pursuant to this Agreement shall be in writing and shall be hand delivered (including delivery by a nationally recognized courier service), mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or transmitted by telegram or facsimile transmission, addressed as set forth on Exhibit A.

Each notice, demand, request or other communication which is given, served or sent in the manner set forth above shall be deemed sufficiently given, served or sent for all purposes at such time as it is delivered to the addressee (with the return receipt, the delivery receipt, the affidavit of messenger or (with respect to a facsimile transmission) the answerback being deemed conclusive but not exclusive

**PRIVILEGED AND
PROPRIETARY**

evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

Each Member may designate by notice in writing a new address to which any notice, demand, request or communication may thereafter be so given, served or sent. Each notice, demand, request or communication which shall be delivered, mailed or transmitted in the manner described above shall be deemed sufficiently given, served, sent or received for all purposes at such time as it is delivered to the addressee (with an affidavit of personal delivery, the return receipt, the delivery receipt, or (with respect to a telex) the answer back being deemed conclusive evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

12.04 Severability

The invalidity of any one or more provisions hereof or of any other agreement or instrument given pursuant to or in connection with this Agreement shall not affect the remaining portions of this Agreement or any such other agreement or instrument or any part thereof, all of which are inserted conditionally on their being held valid in law; and in the event that one or more of the provisions contained herein or therein should be invalid, or should operate to render this Agreement or any such other agreement or instrument invalid, this Agreement and such other agreements and instruments shall be construed as if such invalid provisions had not been inserted.

12.05 Survival

It is the express intention and agreement of the Members that all covenants, agreements, statements, representations, warranties and indemnities made in this Agreement shall survive the execution and delivery of this Agreement.

12.06 Waivers

Neither the waiver by the LLC or a Member of a breach of or a default under any of the provisions of this Agreement, nor the failure of the LLC or a Member, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right, remedy or privilege hereunder, shall thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any such provisions, rights, remedies or privileges hereunder. The rights and remedies herein expressly provided are cumulative and not exclusive of any other rights or remedies which a Member or the LLC would otherwise have at law or in equity or otherwise.

**PRIVILEGED AND
PROPRIETARY****12.07 Binding Effect**

This Agreement shall be binding upon and shall inure to the benefit of the Members and their respective successors and permitted assigns and transferees.

12.08 Limitation on Benefits of this Agreement

Subject to Section 7.06 and Section 8.06(b), it is the explicit intention of the Members that no person or entity other than the Members and the LLC is or shall be entitled to bring any action to enforce any provision of this Agreement against any Member or the LLC, and that the covenants, undertakings and agreements set forth in this Agreement shall be solely for the benefit of, and shall be enforceable only by, the Members (or their respective successors and assigns as permitted hereunder) and the LLC.

12.09 Entire Agreement

This Agreement (including the Exhibits and Addenda hereto) contains the entire agreement among the Members with respect to the matters contemplated herein, and supersedes all prior oral or written agreements, commitments or understandings with respect to the matters provided for herein and therein.

12.10 Pronouns

All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or entity may require.

12.11 Headings

Article, Section and subsection headings contained in this Agreement are inserted for convenience of reference only, shall not be deemed to be a part of this Agreement for any purpose, and shall not in any way define or affect the meaning, construction or scope of any of the provisions hereof.

12.12 Governing Law

This Agreement, the rights and obligations of the parties hereto, and any claims or disputes relating thereto, shall be governed by and construed in

accordance with the laws of the State of Delaware (but not including the choice of law rules thereof).

12.13 Execution in Counterparts

To facilitate execution, this Agreement may be executed in as many counterparts as may be required; and it shall not be necessary that the signatures of, or on behalf of, each party, or that the signatures of all persons required to bind any party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the parties hereto.

12.14 Confidentiality


Each Member agrees to protect and keep the contents of this Agreement in strict confidence with the same degree of precaution and safeguards utilized in treating such Member's confidential information, and agrees not to disclose nor cause to be disclosed whether directly or indirectly to any person other than another Member or those persons within such Member's organization that have a need to know the contents of this Agreement, except as may be necessary in connection with obtaining any required federal or state approval, or as may be required by applicable law or judicial or regulatory process.

12.15 Securities Act Registration

THE LIMITED LIABILITY COMPANY INTERESTS EVIDENCED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED OR UNDER APPLICABLE STATE SECURITIES LAWS, AND MAY BE ASSIGNED OR TRANSFERRED BY A PURCHASER OF THE LIMITED LIABILITY COMPANY INTERESTS ONLY (1) UPON REGISTRATION OF THE LIMITED LIABILITY COMPANY INTERESTS UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION THEREFROM, AND (2) AFTER COMPLIANCE WITH ALL RESTRICTIONS ON TRANSFER AND ASSIGNMENT OF LIMITED LIABILITY COMPANY INTERESTS IMPOSED BY THIS AGREEMENT, INCLUDING (WITHOUT LIMITATION) THE PROVISIONS OF ARTICLE IX.

IN WITNESS WHEREOF, the undersigned have duly executed this Amended and Restated Limited Liability Company Agreement, or have caused this Amended and Restated Limited Liability Company Agreement to be duly executed on their behalf, as of the day and year first hereinabove set forth

GENOA FUELTECH, INC

By: 
Name: Bob Briner
Title: President

ILLINOIS POWER

By: _____
Name: _____
Title: _____

NORTHERN STATES POWER COMPANY

By: _____
Name: _____
Title: _____

SOUTHERN CALIFORNIA EDISON
COMPANY

By: _____
Name: _____
Title: _____

CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF the undersigned have duly executed this Amended and Restated Limited Liability Company Agreement, or have caused this Amended and Restated Limited Liability Company Agreement to be duly executed on their behalf, as of the day and year first hereinabove set forth.

GENOA FUELTECH, INC.

By: _____
Name: _____
Title: _____

ILLINOIS POWER

By: Walter C. MacFarland
Name: Walter C. MacFarland
Title: Senior Vice President and Chief Nuclear Officer

NORTHERN STATES POWER COMPANY

By: _____
Name: _____
Title: _____

SOUTHERN CALIFORNIA EDISON
COMPANY

By: _____
Name: _____
Title: _____

CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.

By: _____
Name: _____
Title: _____

**PRIVILEGED AND
PROPRIETARY**

IN WITNESS WHEREOF, the undersigned have duly executed this Amended and Restated Limited Liability Company Agreement, or have caused this Amended and Restated Limited Liability Company Agreement to be duly executed on their behalf, as of the day and year first hereinabove set forth.

GENOA FUELTECH. INC

By: _____
Name: _____
Title: _____

ILLINOIS POWER

By: _____
Name: _____
Title: _____

NORTHERN STATES POWER COMPANY

By: E. J. Watt
Name: E. J. WATT
Title: EXECUTIVE VICE PRESIDENT

**SOUTHERN CALIFORNIA EDISON
COMPANY**

By: _____
Name: _____
Title: _____

**CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.**

By: _____
Name: _____
Title: _____

PROPRIETARY

IN WITNESS WHEREOF, the undersigned have duly executed this Amended and Restated Limited Liability Company Agreement, or have caused this Amended and Restated Limited Liability Company Agreement to be duly executed on their behalf, as of the day and year first hereinabove set forth.

GENOA FUELTECH, INC.

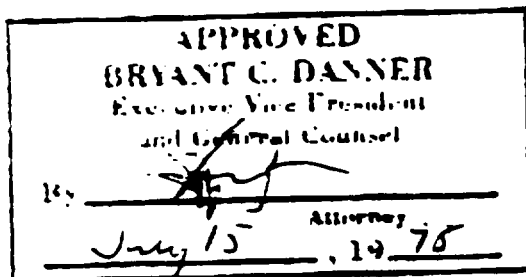
By: _____
Name: _____
Title: _____

ILLINOIS POWER

By: _____
Name: _____
Title: _____

NORTHERN STATES POWER COMPANY

By: _____
Name: _____
Title: _____



SOUTHERN CALIFORNIA EDISON
COMPANY

By: [Signature]
Name: Dwight E. Nunn
Title: Vice President

CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.

By: _____
Name: _____
Title: _____

PROPRIETARY

IN WITNESS WHEREOF, the undersigned have duly executed this Amended and Restated Limited Liability Company Agreement, or have caused this Amended and Restated Limited Liability Company Agreement to be duly executed on their behalf, as of the day and year first hereinabove set forth.

GENOA FUELTECH, INC.

By: _____
Name: _____
Title: _____

ILLINOIS POWER

By: _____
Name: _____
Title: _____

NORTHERN STATES POWER COMPANY

By: _____
Name: _____
Title: _____

**SOUTHERN CALIFORNIA EDISON
COMPANY**

By: _____
Name: _____
Title: _____

**CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.**

By: Neil S. Cams
Name: Neil S. Cams
Title: Chief Nuclear Officer

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PRIVILEGED AND
PROPRIETARY

INDIANA MICHIGAN POWER COMPANY

By: John R. Sampson
Name: John R. Sampson
Title: Site Vice President/Acting Chief Nuclear Officer
③ 7-78

GPU NUCLEAR CORPORATION

By: _____
Name: _____
Title: _____

SOUTHERN NUCLEAR OPERATING
COMPANY, INC.

By: _____
Name: _____
Title: _____

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**PRIVILEGED AND
PROPRIETARY**

INDIANA MICHIGAN POWER COMPANY

By: _____
Name: _____
Title: _____

True.
GPU NUCLEAR CORPORATION *jar*

By: *Arthur H. Rone*
Name: Arthur H. Rone
Title: VP, Engineering

**SOUTHERN NUCLEAR OPERATING
COMPANY, INC.**

By: _____
Name: _____
Title: _____

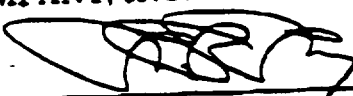
INDIANA MICHIGAN POWER COMPANY

By: _____
Name: _____
Title: _____

GPU NUCLEAR CORPORATION

By: _____
Name: _____
Title: _____

SOUTHERN NUCLEAR OPERATING
COMPANY, INC.

By:  _____
Name: Louis B. Long
Title: Vice President, Technical Services

ADDENDUM I**DEFINITIONS**

Act: The Securities Act of 1933, as in effect and hereafter amended, and, unless the context otherwise requires, applicable regulations thereunder.

Additional Capital Contribution: Any one or more of Step IV Additional Capital Contributions and Step V Additional Capital Contributions.

Affiliate: (a) Any Person directly or indirectly owning, controlling, or holding power to vote ten percent (10%) or more of the outstanding voting securities of the Person in question; (b) any Person ten percent (10%) or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the Person in question; (c) any Person directly or indirectly controlling, controlled by, or under common control with the Person in question; (d) if the Person in question is a corporation, any executive officer or director of the Person in question or of any corporation directly or indirectly controlling the Person in question; (e) without limitation of subsection (c) above, if the Person in question is a partnership, any general partner owning or controlling ten percent (10%) or more of either the capital or profits interest in such partnership; and (f) without limitation of subsection (c) above, if the Person in question is a limited liability company, any member owning or controlling ten percent (10%) or more of either the capital or profits interest in such limited liability company. As used in this definition of "Affiliate", the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

Agreement: This Limited Liability Company Agreement, as it may be further amended or supplemented from time to time.

Auditors: As defined in Section 8.03(b).

Bankruptcy: As defined in Section 10.01.

Board Member: As defined in Section 7.02(b)(i).

Board of Managers: As defined in Section 7.02(a).

Budget: The Step IV Budget or the Step V Budget, as appropriate.

Capital Account: The capital account established and maintained for each Member pursuant to the Tax Allocation Addendum attached hereto.

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PROPRIETARY

Capital Contribution: Any property (including cash) contributed to the LLC by or on behalf of a Member, exclusive of advances or loans.

Certificate: The Certificate of Formation, and any and all amendments thereto, filed on behalf of the LLC with the Recording Office as required under the Delaware LLC Act.

Chairman of the Board: As defined in Section 7.02(d)(i).

Class A Interests: As defined in Section 5.05

Class A Percentage Interest: A Member's ownership interest in the LLC expressed as a percentage of all Class A Interests then outstanding and as specified on Exhibit A to this Agreement, as Exhibit A may be amended from time to time.

Class B Interests: As defined in Section 5.05.

Code: The Internal Revenue Code of 1986, as in effect and hereafter amended, and, unless the context otherwise requires, applicable regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.

Defaulting Member: As defined in Section 5.04(b)(ii).

Delaware LLC Act: As defined in the preamble.

Distributions: As defined in Section 6.03.

Electric Utility: An "electric utility company" as defined in Section 2(a)(3) of PUHCA.

Electric Utility Holding Company: A "holding company" as defined in Section 2(a)(7) of PUHCA which owns at least one Electric Utility.

Expected Approval Date: As defined in Section 5.03(a)

Final Due Date: As defined in Section 5.04(b)(i).

Fiscal Year: As defined in Section 8.07.

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PROPRIETARY**

Formation Date: September 6, 1995.

Indemnatee: As defined in Section 7.06(a).

Installments: Step IV Installments and Step V Installments.

Interested Utilities: Non-Member Utilities, including Registered Utilities or State-Regulated Utilities that have become Utilities that exhibit interest in making Capital Contributions to the LLC during Step IV or Step V prior to the Step V Commencement Date.

Interested Utility Subscription Agreement: A subscription agreement substantially in the form of Exhibit C.

Instrument of Adoption: As defined in Section 5.04(c)(iii).

License: The license from the NRC for the Temporary Storage Facility.

LLC: As defined in the preamble.

LLC Assets: All assets and property, whether tangible or intangible and whether real, personal, or mixed, at any time owned by or held for the benefit of the LLC.

LLC Interest: As to any Member, all of the interest of that Member in the LLC, whether Class A Interests or Class B Interests, including, without limitation, such Member's (i) right to a distributive share of the income, gain, losses and deductions of the LLC in accordance with this Agreement, and (ii) right to a distributive share of LLC Assets.

Majority in Interest: Class A Percentage Interests that represent more than fifty percent (50%) of the Class A Interests.

Member: The Utilities identified on the signature pages of the Agreement and any other Utilities or other owners and/or operators of nuclear energy facilities who are admitted to the LLC in accordance with the provisions of the Agreement.

Member Decisions: As defined in Section 7.04.

Member Subscription Agreement: A subscription agreement substantially in the form of Exhibit B.

Net Income or Net Loss: As defined in the Tax Allocations Addendum.

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PROPRIETARY**

Non-Affiliate: As defined in Section 9.02(b).

Notice: As defined in Section 5.04(a).

NRC: United States Nuclear Regulatory Commission.

Offered Interest: As defined in Section 9.02(b).

Offeree Member: As defined Section 9.02(b).

Offeror Member: As defined in Section 9.02(b).

Percentage Interest: On any date, the amount of a Member's paid Capital Contribution as a percentage of the total paid Capital Contributions from the Formation Date through the date of such calculation, subject, however, to the provisions of Sections 5.02(b)(ii) and 5.03(b)(vi).

Person: Any individual, corporation, association, partnership, limited liability company, joint venture, trust, estate, or other entity or organization.

Principles of Storage Allocation: As defined in Section 5.16.

Pro Rata Contribution: The percentage determined by dividing the Percentage Interest of a Member by the aggregate Percentage Interests of all Members at the time of a Step IV Additional Capital Call or Step V Additional Capital Call, as the case may be.

Pro Rata Share: As defined in Section 9.02(b).

Purchase Offer: As defined in Section 9.02(b).

PUHCA: The Public Utility Holding Company Act of 1935, as amended, 15 U.S.C. §§ 79-79z.

PUHCA Affiliate: An "affiliate" as defined in Section 2(a)(11) of PUHCA.

PUHCA Subsidiary: A "subsidiary company" as defined in Section 2(a)(8) of PUHCA.

Recording Office: The office of the Secretary of State of the State of Delaware.

Registered Holding Company: A "holding company" as defined in Section 2(a)(7) of PUHCA that is registered under Section 5 of PUHCA.

Registered Holding Company System: A "holding-company system" as defined in Section 2(a)(9) of PUHCA that includes a Registered Holding Company.

Registered Utility: A domestic Electric Utility Holding Company that is registered under Section 5 of PUHCA, or its PUHCA Subsidiaries, having an interest in a nuclear-fired generation station.

Registered Utility Agreement to Participate: As defined in Section 5.14(b).

Required Majority: As defined in Section 9.02(d).

Respective Due Date: As defined in Section 5.04(a).

SEC: United States Securities and Exchange Commission, and any successor agency thereto.

State-Regulated Utility Agreement to Participate: As defined in Section 5.14(c).

State-Regulated Utility: A Utility that requires the permission or approval of a relevant state regulatory authority to become a Member of the LLC.

Step III: The third Step of the development, construction and operation of the Temporary Storage Facility, which terminated upon acceptance by the NRC of an application for the License.

Step III Capital Contribution: As defined in Section 5.01.

Step IV: The fourth Step of the development, construction and operation of the Temporary Storage Facility, commencing upon the acceptance by the NRC of the application for the License and terminating, unless terminated earlier, upon NRC's grant of the License.

Step IV Budget: The budget prepared by the Board of Managers and accepted by the Members as the budget for Step IV.

Step IV Installments: As defined in Section 5.02(c).

Step IV Additional Capital Calls: As defined in Section 5.02(e)

Step IV Additional Capital Contribution: As defined in Section 5.02(e).

Step IV Commencement Date: As defined in Section 5.02(a).

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PROPRIETARY**

Step IV Excess Capital Contribution: As defined in Section

5.02(d).

Step IV Subscription: The amount a Member or Interested Utility obligates itself to contribute to the LLC during Step IV.

Step IV Total Capital Commitment: As defined in Section 5.02(b).

Step V: The fifth Step of the development, construction and operation of the Temporary Storage Facility which shall commence upon the NRC's grant of the License and shall terminate, unless terminated earlier, upon completion of the final decommissioning of the Temporary Storage Facility.

Step V Additional Capital Calls: As defined in Section 5.03(d).

Step V Additional Capital Contribution: As defined in Section

5.03(d).

Step V Budget: As defined in Section 5.03(a).

Step V Commencement Date: The date on which the NRC grants the License.

Step V Installments: As defined in Section 5.03(c).

Step V Subscription: As defined in Section 5.03(b).

Step V Subscription Date: As defined in Section 5.03(a).

Step V Total Capital Commitment: As defined in Section 5.03(b).

Subscription Agreement: Either a Member Subscription Agreement or an Interested Utility Subscription Agreement.

Supermajority Decision: As defined in Section 7.03.

Tax Allocations Addendum: The Addendum attached to the Agreement as Addendum II and incorporated therein by reference.

Temporary Storage Facility: As defined in Section 3.01(a)(i).

Termination Date: Fifty (50) years from the Formation Date.

Total Capital Commitments: Step III Total Capital Contributions, Step IV Total Capital Commitments and Step V Total Capital Commitments.

Utilities: (a) Domestic Electric Utilities having an interest in a domestic nuclear-fired generation station or their Affiliates each of which is not regulated under PUHCA as a Registered Holding Company, PUHCA Subsidiary or other company in the same Registered Holding Company System; or (b) domestic Electric Utility Holding Companies having an interest in a domestic nuclear-fired generation station that are exempt from PUHCA under Section 3 of that Act, or their PUHCA Subsidiaries or PUHCA Affiliates; or (c) Registered Utilities whose participation in the LLC does not subject the LLC to regulation under PUHCA as a PUHCA Subsidiary of a Registered Holding Company; or (d) PUHCA Subsidiaries that are in the same Registered Holding Company System as a company defined in subsection (c) above; or (e) domestic cooperative corporations having an interest in a domestic nuclear-fired generation station that are not subject to regulation under PUHCA, or their Affiliates; or (f) public power districts or governmental power authorities having an interest in a domestic nuclear generating station that are not regulated under PUHCA, or their Affiliates; or (g) other entities which are licensed by the NRC to own and/or operate a domestic nuclear generating station.

Wire Transfer: As defined in Section 5.04(c)(i).

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ADDENDUM II

TAX ALLOCATIONS ADDENDUM

1. Purpose.

This Tax Allocations Addendum (the "Addendum") is attached to and constitutes a part of, the Limited Liability Company Agreement of Private Fuel Storage L.L.C. (the "LLC"), as it may be amended from time to time (the "Agreement"), for the purpose of setting forth the rules governing the maintenance of the Capital Accounts required to be maintained for each Member under the Agreement and the rules governing the allocation of the LLC's items of Net Income and Net Loss, other items of income, gain, loss, deduction and credit, and taxable income, gain, loss, deduction, and credit. This Addendum is to be construed and applied to the extent practicable in a manner consistent with the Members' agreement with respect to LLC distributions as set forth in Article VI of the Agreement.

2. Certain Definitions.

Unless otherwise provided in this Addendum, all capitalized terms used in this Addendum shall have the meanings assigned to them in other provisions of the Agreement. In addition, the following terms shall have the meanings indicated:

Addendum: This Tax Allocations Addendum, as it may be amended from time to time.

Adjusted Basis: The basis for determining gain or loss for federal income tax purposes from the sale or other disposition of property, as defined in section 1011 of the Code.

Adjusted Capital Account Balance: The balance in a Member's Capital Account after crediting to that account the Member's current share of minimum gain as determined in Regulations sections 1.704-2(g)(1) and 1.704-2(i)(5). This definition of "Adjusted Capital Account Balance" and the provisions in section 4 of this Addendum that contain the term "Adjusted Capital Account Balance" are intended to take into account, in determining a Member's Capital Account balance prior to liquidation, such Member's share, if any, of future expected recapture of deductions attributable to nonrecourse debt.

Carrying Value: With respect to any asset, the asset's Adjusted Basis, except as follows:

- (a) the initial Carrying Value of any asset contributed (or deemed contributed) to the LLC shall be such asset's fair market value at the time of such contribution;
- (b) upon adjustment of the Members' Capital Accounts pursuant to section 3(d) of this Addendum, the Carrying Values of all LLC assets shall be adjusted to equal their respective fair market values at the time of such adjustment;
- (c) any adjustments to the Adjusted Basis of any asset of the LLC pursuant to section 734 or 743 of the Code shall not be taken into account in determining such asset's Carrying Value; and
- (d) if the Carrying Value of any asset has been determined pursuant to paragraph (a), (b) or (c) above, such Carrying Value shall thereafter be adjusted in the same manner as would the asset's Adjusted Basis, except that depreciation, amortization or other cost recovery deductions shall be computed based on the asset's Carrying Value as so determined, and not on the asset's Adjusted Basis.

Excess Deficit Balance: The deficit balance, if any, in a Member's Capital Account as of the end of a Fiscal Year determined, solely for purposes of this definition of "Excess Deficit Balance", by crediting the Member's Capital Account with the amount of any deficit balance in such Capital Account that the Member is obligated to restore or is treated as obligated to restore pursuant to Regulations sections 1.704-1(b)(2)(ii)(b)(3) and 1.704-1(b)(2)(ii)(c) or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations sections 1.704-2(g)(1) and 1.704-2(i)(5) (determined after taking into account any Nonrecourse Deductions or recapture of Nonrecourse Deductions, as provided in section 4.3(a) of this Addendum, for such year), and by debiting the Member's Capital Account with any adjustment, allocation, or distribution described in paragraph (4), (5), or (6) of Regulations section 1.704-1(b)(2)(ii)(d). This definition of "Excess Deficit Balance" and the provisions in section 4 of this Addendum that contain the term "Excess Deficit Balance" are intended to deal with the theoretical but unlikely circumstances in which Capital Accounts could, but for the inclusion of such provisions in this Addendum, become negative without economic significance.

Fiscal Year: The fiscal year of the LLC under the Agreement.

Net Income and Net Loss: For a period as determined for federal income tax purposes, the taxable income or loss, respectively, computed with the following adjustments:

(a) items of gain, loss and deduction relating to LLC assets shall be computed based on the Carrying Values of the LLC's assets rather than upon the assets' Adjusted Bases, and in the case of depreciation, amortization or other cost recovery deductions, computed using the same method and useful life used by the LLC in computing such deductions for federal income tax purposes;

(b) tax-exempt income of the LLC shall be treated, for purposes of this definition only, as gross income;

(c) expenditures of the LLC described in section 705(a)(2)(B) of the Code or treated as such expenditures pursuant to Regulations section 1.704-1(b)(2)(iv)(i) shall be treated, for purposes of this definition only, as deductible expenses; and

(d) notwithstanding any other provision of this definition, any items which are specially allocated pursuant to section 4.3 of this Addendum shall not be taken into account in computing Net Income or Net Loss.

Nonrecourse Deduction: A deduction of the LLC described in Regulations sections 1.704-2(c) and (j)(1)(ii).

Regulations: The regulations issued by the United States Department of the Treasury under the Code as now in effect and as they may be amended from time to time, and any successor regulations.

3. **Maintenance of Capital Accounts.**

(a) The Board of Managers shall maintain Capital Accounts for each Member in accordance with the rules set forth in Regulations sections 1.704-1(b)(2)(iv) and 1.704-2. Consistent with such Regulations, the Capital Account of each Member shall be credited with:

(i) the amount of cash and the fair market value of any property (net of liabilities secured by such property, which liabilities are assumed or taken subject to by the LLC) contributed to the LLC by such Member; and

(ii) all Net Income and other specially allocated items of income and gain of the LLC allocated to such Member pursuant to section 4 of this Addendum;

and shall be debited with the sum of:

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(iii) all Net Losses and other specially allocated items of loss or deduction of the LLC allocated to such Member pursuant to section 4 of this Addendum; and

(iv) all cash and the fair market value of any property (net of liabilities secured by such property, which liabilities are assumed or taken subject to by such Member) distributed by the LLC to such Member pursuant to Section 6.03 or Section 10.04 of the Agreement.

Any references in this Addendum or in the Agreement to the Capital Account of a Member shall be deemed to refer to such Capital Account as the same may be credited or debited from time to time as set forth above.

(b) Immediately prior to decreasing a Member's Capital Account to reflect any distribution of an LLC asset to it (other than cash) (including a deemed liquidating distribution under section 708 of the Code), all Members' Capital Accounts shall be adjusted to reflect the manner in which the unrealized income, gain, loss and deduction inherent in such LLC asset (that has not been reflected in the Capital Accounts previously) would be allocated among the Members if there were a taxable disposition of such LLC asset for its fair market value (but not for less than the amount of any nonrecourse indebtedness secured by such LLC asset).

(c) A Member shall be considered to have only one Capital Account.

(d) The Members may increase or decrease the Capital Account balances of the Members to reflect a revaluation of LLC assets on the LLC's books to the extent required or permitted by the Regulations. Any adjustment to the Capital Account balances made pursuant to this section 3(d) of this Addendum shall be based on the fair market value of the LLC assets as determined by the Members (provided that no LLC asset shall be valued at an amount less than any nonrecourse indebtedness to which such LLC asset is subject on the date of adjustment) and shall reflect the manner in which the unrealized income, gain, loss, or deduction inherent in such LLC assets (that has not been reflected in a Capital Account previously) would be allocated among the Members if there were a taxable disposition of such LLC assets for such fair market value on that date.

(e) Any permitted transferee of an interest in the LLC shall succeed to the Capital Account relating to the interest transferred.

(f) Except as otherwise provided in this Addendum or the Agreement, whenever it is necessary to determine the Capital Account of any Member, the Capital Account of such Member shall be determined after giving

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effect to all allocations pursuant to section 4 of this Addendum and all actual or deemed contributions and distributions made prior to the time as of which such determination is to be made.

4. Allocations.

4.1 Net Income. Subject to section 4.3 of this Addendum, the Net Income of the LLC, if any, for each Fiscal Year (or portion thereof) shall be allocated as follows and in the following order of priority:

- (i) **First:** To the Members, to the extent of, and in proportion to, the amounts necessary to cause their respective Adjusted Capital Account Balances to be in the same ratios to each other as their respective Percentage Interests are to each other; and
- (ii) **Second:** To the Members, pro rata, in proportion to their Percentage Interests.

4.2 Net Loss. Subject to section 4.3 of this Addendum, the Net Loss of the LLC, if any, for each Fiscal Year (or portion thereof) shall be allocated to the Members as follows and in the following order of priority:

- (i) **First:** To the Members, to the extent of, and in proportion to, the amounts necessary to cause their respective Adjusted Capital Account Balances to be in the same ratios to each other as their respective Percentage Interests are to each other; and
- (ii) **Second:** The balance of such Net Loss, if any, shall be allocated to the Members in proportion to their respective Percentage Interests.

4.3 Special Allocation Rules. The following allocation rules shall apply notwithstanding the provisions of sections 4.1 and 4.2 of this Addendum, and the provisions of section 4.1 and 4.2 of this Addendum shall be applied only after giving effect to the following rules.

- (a) **Nonrecourse Deductions** for a Fiscal Year shall be allocated to the Members in the same manner as Net Loss is allocated pursuant to section 4.2 of this Addendum. In accordance with Regulations sections 1.704-2(f), (g) and (j), upon the recapture (or other reversal) of Nonrecourse Deductions, items of income or gain of the LLC shall be allocated to the Members in proportion to the amount of such Nonrecourse Deductions previously allocated to them pursuant to the preceding sentence (and not previously recaptured pursuant to this sentence). With respect to a liability (or portion thereof) of the LLC that is considered nonrecourse for purposes of Regulations section 1.1001-2 but with respect to which a Member bears (or is deemed to bear) the economic risk of loss under Regulations section 1.752-2, deductions associated with such liability (and the recapture or other

reversal of such deductions) shall be allocated in accordance with Regulations section 1.704-2(i) and (j).

(b) For purposes of determining a Member's proportionate share of the "excess nonrecourse liabilities" of the LLC within the meaning of Regulations section 1.752-3(a)(3), the respective interests of the Members in LLC profits shall be equal to their respective Percentage Interests.

(c) In the event a Member unexpectedly receives with respect to a Fiscal Year an adjustment, allocation, or distribution described in subparagraphs (4), (5), or (6) of Regulations section 1.704-1(b)(2)(ii)(d) that causes or increases an Excess Deficit Balance in such Member's Capital Account, such Member shall be specially allocated for such Fiscal Year (and, if necessary, in subsequent Fiscal Years) items of income and gain in an amount and manner sufficient to eliminate such Excess Deficit Balance as promptly as possible. Items to be so allocated shall be determined and the allocations made as provided in Regulations section 1.704-1(b)(2)(ii)(d).

(d) No Net Loss or LLC deductions for any Fiscal Year shall be allocated to any Member to the extent such allocation would cause or increase an Excess Deficit Balance in such Member's Capital Account.

(e) In the event that any fees, interest, or other amounts paid to a Member or Affiliate of a Member pursuant to the Agreement, or any agreement between the LLC and the Member or Affiliate providing for the payment of such amounts, and deducted by the LLC, whether in reliance on sections 162, 163, 707(a), and/or 707(c) of the Code or otherwise, on its federal income tax return for the Fiscal Year in or with respect to which such amounts are claimed, are disallowed as deductions to the LLC and are treated as LLC distributions, then:

(i) the Net Income or Net Loss, as the case may be, for the Fiscal Year in or with respect to which such deduction was claimed shall be increased or decreased, as the case may be, by the amount of such deduction that is so disallowed and treated as an LLC distribution; and

(ii) there shall be allocated to the Member who received (or whose Affiliate received) such payments, prior to the allocations pursuant to sections 4.1 and 4.2 of this Addendum, an amount of gross income of the LLC for the Fiscal Year in or with respect to which such claimed deduction was disallowed equal to the amount of such deduction that is so disallowed and treated as an LLC distribution.

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(a) For federal income and applicable state tax purposes, all items of taxable income, gain, loss and deduction of the LLC shall be allocated to the Members in the same manner as are Net Income, Net Loss and items of income, gain, loss and deduction pursuant to sections 4.1, 4.2 and 4.3 of this Addendum, and items of credit shall be allocated to the Members, generally in the same manner as items of Net Income, Net Loss and items of income, gain, loss and deduction, as provided in Regulations section 1.704-1(b)(4)(ii); provided, however, that the character of any income recognized pursuant to section 1245 or 1250 of the Code and any investment credit recapture recognized pursuant to section 47 of the Code shall be allocated among the Members in the same proportions as the cost recovery deductions and investment credits giving rise to such income or recapture were allocated among such members and their respective predecessors in interest; and provided further, that if the Carrying Value of any LLC asset differs from its Adjusted Basis, then items of taxable income, gain, loss and deduction shall be allocated among the Members in a manner that takes account of both the amount and character of such difference and that is consistent with section 704(c) of the Code and the Regulations thereunder and Regulations sections 1.704-1(b)(2)(iv)(f), (b)(2)(iv)(g) and (b)(4)(i).

(b) In making the tax allocations provided for in section 4.4(a) of this Addendum, appropriate adjustments shall be made as necessary to take into account the effects of any section 754 election.

4.5 Withholding Taxes

(a) The LLC shall be entitled to withhold or cause to be withheld from any Member's distributions from the LLC such amounts on account of taxes or similar charges, if any, as are required by applicable law. Each Member shall furnish to the LLC from time to time all such information as is required by applicable law or otherwise reasonably requested by the LLC (including certificates in the form prescribed by the Code or Regulations or applicable state, local or foreign law) to permit the LLC to ascertain whether and in what amount withholding is required in respect of such Member.

(b) If the LLC itself pays any tax (including penalties or interest) or similar charge on behalf of any Member (other than by withholding from a distribution) or pays any amount (including any tax, penalty, or interest) in respect of any failure to withhold from any Member as required by applicable law, such Member shall on demand reimburse the LLC for the amount of such payment plus interest thereon (accruing from the date such payment was made by the LLC) at a floating rate per annum (which shall change from time to time in accordance with the Prime Rate specified below, as the Prime Rate changes) equal to the lesser of (i) the highest lawful rate of interest or (ii) the prime rate of interest (as

established by Citibank, N.A. in New York, New York, from time to time, regardless of whether such rate is designated by such bank as its "prime" rate, "reference" rate, "base" rate, or some other nomenclature) (the "Prime Rate") plus 2%. The LLC shall have a security interest in the LLC Interest of any Member who owes money to it pursuant to this section 4.5(b) of this Addendum and, in addition to all other rights and remedies of the LLC with respect to such security interest or otherwise available at law or in equity, the LLC shall have the right to offset, or cause to be offset, against any such Member's distributions under the Agreement or this Addendum all amounts owed by such Member to the LLC pursuant to this section 4.5(b) of this Addendum.

(c) Any amounts withheld or offset by the LLC in accordance with section 4.5(a) or 4.5(b) of this Addendum shall nevertheless, for purposes of the Agreement and this Addendum be deemed to have been distributed to the Member in respect of which they are withheld.

5. Section 754 Election

The "tax matters partner" described in Section 8.06 of the Agreement shall cause the LLC to file an election under section 754 of the Code to provide for an adjustment to the Adjusted Basis of LLC assets if requested to by a Member in connection with the disposition of an LLC interest by that Member.

6. Compliance With Section 704(b)

The provisions in this Addendum and Agreement pertaining to allocations and adjustments of the Capital Accounts are intended to comply with Code section 704(b) and the regulations thereunder. The Board of Managers or the "tax matters partner", whichever the case may be, shall, subject to Section 7.04 of the LLC Agreement, make appropriate modifications when needed to comply with this Code section or the Regulations thereunder, to the extent such modifications would not result in any material modification of the economic arrangement of the Members as reflected in the allocation, distribution and liquidation provisions of section 4 of this Addendum and sections 6.03 and 10.04 of the Agreement.

7. Issuances to New Members

The Members acknowledge that the provisions of this Tax Allocations Addendum may require amendment in the event of an issuance of an LLC Interest to a new Member in accordance with Section 7.04 of the LLC Agreement.

ADDENDUM II

TAX ALLOCATIONS ADDENDUM

1. Purpose.

This Tax Allocations Addendum (the "Addendum") is attached to, and constitutes a part of, the Limited Liability Company Agreement of Private Fuel Storage L.L.C. (the "LLC"), as it may be amended from time to time (the "Agreement"), for the purpose of setting forth the rules governing the maintenance of the Capital Accounts required to be maintained for each Member under the Agreement and the rules governing the allocation of the LLC's items of Net Income and Net Loss, other items of income, gain, loss, deduction and credit, and taxable income, gain, loss, deduction, and credit. This Addendum is to be construed and applied to the extent practicable in a manner consistent with the Members' agreement with respect to LLC distributions as set forth in Article VI of the Agreement.

2. Certain Definitions.

Unless otherwise provided in this Addendum, all capitalized terms used in this Addendum shall have the meanings assigned to them in other provisions of the Agreement. In addition, the following terms shall have the meanings indicated:

Addendum: This Tax Allocations Addendum, as it may be amended from time to time.

Adjusted Basis: The basis for determining gain or loss for federal income tax purposes from the sale or other disposition of property, as defined in section 1011 of the Code.

Adjusted Capital Account Balance: The balance in a Member's Capital Account after crediting to that account the Member's current share of minimum gain as determined in Regulations sections 1.704-2(g)(1) and 1.704-2(i)(5). This definition of "Adjusted Capital Account Balance" and the provisions in section 4 of this Addendum that contain the term "Adjusted Capital Account Balance" are intended to take into account, in determining a Member's Capital Account balance prior to liquidation, such Member's share, if any, of future expected recapture of deductions attributable to nonrecourse debt.

Carrying Value: With respect to any asset, the asset's Adjusted Basis, except as follows:

(a) the initial Carrying Value of any asset contributed (or deemed contributed) to the LLC shall be such asset's fair market value at the time of such contribution;

(b) upon adjustment of the Members' Capital Accounts pursuant to section 3(d) of this Addendum, the Carrying Values of all LLC assets shall be adjusted to equal their respective fair market values at the time of such adjustment;

(c) any adjustments to the Adjusted Basis of any asset of the LLC pursuant to section 734 or 743 of the Code shall not be taken into account in determining such asset's Carrying Value; and

(d) if the Carrying Value of any asset has been determined pursuant to paragraph (a), (b) or (c) above, such Carrying Value shall thereafter be adjusted in the same manner as would the asset's Adjusted Basis, except that depreciation, amortization or other cost recovery deductions shall be computed based on the asset's Carrying Value as so determined, and not on the asset's Adjusted Basis.

Excess Deficit Balance: The deficit balance, if any, in a Member's Capital Account as of the end of a Fiscal Year determined, solely for purposes of this definition of "Excess Deficit Balance", by crediting the Member's Capital Account with the amount of any deficit balance in such Capital Account that the Member is obligated to restore or is treated as obligated to restore pursuant to Regulations sections 1.704-1(b)(2)(ii)(b)(3) and 1.704-1(b)(2)(ii)(c) or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations sections 1.704-2(g)(1) and 1.704-2(i)(5) (determined after taking into account any Nonrecourse Deductions or recapture of Nonrecourse Deductions, as provided in section 4.3(a) of this Addendum, for such year), and by debiting the Member's Capital Account with any adjustment, allocation, or distribution described in paragraph (4), (5), or (6) of Regulations section 1.704-1(b)(2)(ii)(d). This definition of "Excess Deficit Balance" and the provisions in section 4 of this Addendum that contain the term "Excess Deficit Balance" are intended to deal with the theoretical but unlikely circumstances in which Capital Accounts could, but for the inclusion of such provisions in this Addendum, become negative without economic significance.

Fiscal Year: The fiscal year of the LLC under the Agreement.

Net Income and Net Loss: For a period as determined for federal income tax purposes, the taxable income or loss, respectively, computed with the following adjustments:

(a) items of gain, loss and deduction relating to LLC assets shall be computed based on the Carrying Values of the LLC's assets rather than upon the assets' Adjusted Bases, and in the case of depreciation, amortization or other cost recovery deductions, computed using the same method and useful life used by the LLC in computing such deductions for federal income tax purposes;

(b) tax-exempt income of the LLC shall be treated, for purposes of this definition only, as gross income;

(c) expenditures of the LLC described in section 705(a)(2)(B) of the Code or treated as such expenditures pursuant to Regulations section 1.704-1(b)(2)(iv)(i) shall be treated, for purposes of this definition only, as deductible expenses; and

(d) notwithstanding any other provision of this definition, any items which are specially allocated pursuant to section 4.3 of this Addendum shall not be taken into account in computing Net Income or Net Loss.

Nonrecourse Deduction: A deduction of the LLC described in Regulations sections 1.704-2(c) and (j)(1)(ii).

Regulations: The regulations issued by the United States Department of the Treasury under the Code as now in effect and as they may be amended from time to time, and any successor regulations.

3. Maintenance of Capital Accounts.

(a) The Board of Managers shall maintain Capital Accounts for each Member in accordance with the rules set forth in Regulations sections 1.704-1(b)(2)(iv) and 1.704-2. Consistent with such Regulations, the Capital Account of each Member shall be credited with:

(i) the amount of cash and the fair market value of any property (net of liabilities secured by such property, which liabilities are assumed or taken subject to by the LLC) contributed to the LLC by such Member; and

(ii) all Net Income and other specially allocated items of income and gain of the LLC allocated to such Member pursuant to section 4 of this Addendum;

and shall be debited with the sum of:

(iii) all Net Losses and other specially allocated items of loss or deduction of the LLC allocated to such Member pursuant to section 4 of this Addendum; and

(iv) all cash and the fair market value of any property (net of liabilities secured by such property, which liabilities are assumed or taken subject to by such Member) distributed by the LLC to such Member pursuant to Section 6.03 or Section 10.04 of the Agreement.

Any references in this Addendum or in the Agreement to the Capital Account of a Member shall be deemed to refer to such Capital Account as the same may be credited or debited from time to time as set forth above.

(b) Immediately prior to decreasing a Member's Capital Account to reflect any distribution of an LLC asset to it (other than cash) (including a deemed liquidating distribution under section 708 of the Code), all Members' Capital Accounts shall be adjusted to reflect the manner in which the unrealized income, gain, loss and deduction inherent in such LLC asset (that has not been reflected in the Capital Accounts previously) would be allocated among the Members if there were a taxable disposition of such LLC asset for its fair market value (but not for less than the amount of any nonrecourse indebtedness secured by such LLC asset).

(c) A Member shall be considered to have only one Capital Account.

(d) The Members may increase or decrease the Capital Account balances of the Members to reflect a revaluation of LLC assets on the LLC's books to the extent required or permitted by the Regulations. Any adjustment to the Capital Account balances made pursuant to this section 3(d) of this Addendum shall be based on the fair market value of the LLC assets as determined by the Members (provided that no LLC asset shall be valued at an amount less than any nonrecourse indebtedness to which such LLC asset is subject on the date of adjustment) and shall reflect the manner in which the unrealized income, gain, loss, or deduction inherent in such LLC assets (that has not been reflected in a Capital Account previously) would be allocated among the Members if there were a taxable disposition of such LLC assets for such fair market value on that date.

(e) Any permitted transferee of an interest in the LLC shall succeed to the Capital Account relating to the interest transferred.

(f) Except as otherwise provided in this Addendum or the Agreement, whenever it is necessary to determine the Capital Account of any Member, the Capital Account of such Member shall be determined after giving

effect to all allocations pursuant to section 4 of this Addendum and all actual or deemed contributions and distributions made prior to the time as of which such determination is to be made.

4. Allocations.

4.1 Net Income. Subject to section 4.3 of this Addendum, the Net Income of the LLC, if any, for each Fiscal Year (or portion thereof) shall be allocated as follows and in the following order of priority:

(i) First: To the Members, to the extent of, and in proportion to, the amounts necessary to cause their respective Adjusted Capital Account Balances to be in the same ratios to each other as their respective Percentage Interests are to each other; and

(ii) Second: To the Members, pro rata, in proportion to their Percentage Interests.

4.2 Net Loss. Subject to section 4.3 of this Addendum, the Net Loss of the LLC, if any, for each Fiscal Year (or portion thereof) shall be allocated to the Members as follows and in the following order of priority:

(i) First: To the Members, to the extent of, and in proportion to, the amounts necessary to cause their respective Adjusted Capital Account Balances to be in the same ratios to each other as their respective Percentage Interests are to each other; and

(ii) Second: The balance of such Net Loss, if any, shall be allocated to the Members in proportion to their respective Percentage Interests.

4.3 Special Allocation Rules. The following allocation rules shall apply notwithstanding the provisions of sections 4.1 and 4.2 of this Addendum, and the provisions of section 4.1 and 4.2 of this Addendum shall be applied only after giving effect to the following rules.

(a) Nonrecourse Deductions for a Fiscal Year shall be allocated to the Members in the same manner as Net Loss is allocated pursuant to section 4.2 of this Addendum. In accordance with Regulations sections 1.704-2(f), (g) and (j), upon the recapture (or other reversal) of Nonrecourse Deductions, items of income or gain of the LLC shall be allocated to the Members in proportion to the amount of such Nonrecourse Deductions previously allocated to them pursuant to the preceding sentence (and not previously recaptured pursuant to this sentence). With respect to a liability (or portion thereof) of the LLC that is considered nonrecourse for purposes of Regulations section 1.1001-2 but with respect to which a Member bears (or is deemed to bear) the economic risk of loss under Regulations section 1.752-2, deductions associated with such liability (and the recapture or other

reversal of such deductions) shall be allocated in accordance with Regulations section 1.704-2(i) and (j).

(b) For purposes of determining a Member's proportionate share of the "excess nonrecourse liabilities" of the LLC within the meaning of Regulations section 1.752-3(a)(3), the respective interests of the Members in LLC profits shall be equal to their respective Percentage Interests.

(c) In the event a Member unexpectedly receives with respect to a Fiscal Year an adjustment, allocation, or distribution described in subparagraphs (4), (5), or (6) of Regulations section 1.704-1(b)(2)(ii)(d) that causes or increases an Excess Deficit Balance in such Member's Capital Account, such Member shall be specially allocated for such Fiscal Year (and, if necessary, in subsequent Fiscal Years) items of income and gain in an amount and manner sufficient to eliminate such Excess Deficit Balance as promptly as possible. Items to be so allocated shall be determined and the allocations made as provided in Regulations section 1.704-1(b)(2)(ii)(d).

(d) No Net Loss or LLC deductions for any Fiscal Year shall be allocated to any Member to the extent such allocation would cause or increase an Excess Deficit Balance in such Member's Capital Account.

(e) In the event that any fees, interest, or other amounts paid to a Member or Affiliate of a Member pursuant to the Agreement, or any agreement between the LLC and the Member or Affiliate providing for the payment of such amounts, and deducted by the LLC, whether in reliance on sections 162, 163, 707(a), and/or 707(c) of the Code or otherwise, on its federal income tax return for the Fiscal Year in or with respect to which such amounts are claimed, are disallowed as deductions to the LLC and are treated as LLC distributions, then:

(i) the Net Income or Net Loss, as the case may be, for the Fiscal Year in or with respect to which such deduction was claimed shall be increased or decreased, as the case may be, by the amount of such deduction that is so disallowed and treated as an LLC distribution; and

(ii) there shall be allocated to the Member who received (or whose Affiliate received) such payments, prior to the allocations pursuant to sections 4.1 and 4.2 of this Addendum, an amount of gross income of the LLC for the Fiscal Year in or with respect to which such claimed deduction was disallowed equal to the amount of such deduction that is so disallowed and treated as an LLC distribution.

4.4 Tax Allocations

(a) For federal income and applicable state tax purposes, all items of taxable income, gain, loss and deduction of the LLC shall be allocated to the Members in the same manner as are Net Income, Net Loss and items of income, gain, loss and deduction pursuant to sections 4.1, 4.2 and 4.3 of this Addendum, and items of credit shall be allocated to the Members, generally in the same manner as items of Net Income, Net Loss and items of income, gain, loss and deduction, as provided in Regulations section 1.704-1(b)(4)(ii); provided, however, that the character of any income recognized pursuant to section 1245 or 1250 of the Code and any investment credit recapture recognized pursuant to section 47 of the Code shall be allocated among the Members in the same proportions as the cost recovery deductions and investment credits giving rise to such income or recapture were allocated among such members and their respective predecessors in interest; and provided further, that if the Carrying Value of any LLC asset differs from its Adjusted Basis, then items of taxable income, gain, loss and deduction shall be allocated among the Members in a manner that takes account of both the amount and character of such difference and that is consistent with section 704(c) of the Code and the Regulations thereunder and Regulations sections 1.704-1(b)(2)(iv)(f), (b)(2)(iv)(g) and (b)(4)(i).

(b) In making the tax allocations provided for in section 4.4(a) of this Addendum, appropriate adjustments shall be made as necessary to take into account the effects of any section 754 election.

4.5 Withholding Taxes

(a) The LLC shall be entitled to withhold or cause to be withheld from any Member's distributions from the LLC such amounts on account of taxes or similar charges, if any, as are required by applicable law. Each Member shall furnish to the LLC from time to time all such information as is required by applicable law or otherwise reasonably requested by the LLC (including certificates in the form prescribed by the Code or Regulations or applicable state, local or foreign law) to permit the LLC to ascertain whether and in what amount withholding is required in respect of such Member.

(b) If the LLC itself pays any tax (including penalties or interest) or similar charge on behalf of any Member (other than by withholding from a distribution) or pays any amount (including any tax, penalty, or interest) in respect of any failure to withhold from any Member as required by applicable law, such Member shall on demand reimburse the LLC for the amount of such payment plus interest thereon (accruing from the date such payment was made by the LLC) at a floating rate per annum (which shall change from time to time in accordance with the Prime Rate specified below, as the Prime Rate changes) equal to the lesser of (i) the highest lawful rate of interest or (ii) the prime rate of interest (as

established by Citibank, N.A. in New York, New York, from time to time, regardless of whether such rate is designated by such bank as its "prime" rate, "reference" rate, "base" rate, or some other nomenclature) (the "Prime Rate") plus 2%. The LLC shall have a security interest in the LLC Interest of any Member who owes money to it pursuant to this section 4.5(b) of this Addendum and, in addition to all other rights and remedies of the LLC with respect to such security interest or otherwise available at law or in equity, the LLC shall have the right to offset, or cause to be offset, against any such Member's distributions under the Agreement or this Addendum all amounts owed by such Member to the LLC pursuant to this section 4.5(b) of this Addendum.

(c) Any amounts withheld or offset by the LLC in accordance with section 4.5(a) or 4.5(b) of this Addendum shall nevertheless, for purposes of the Agreement and this Addendum be deemed to have been distributed to the Member in respect of which they are withheld.

5. Section 754 Election

The "tax matters partner" described in Section 8.06 of the Agreement shall cause the LLC to file an election under section 754 of the Code to provide for an adjustment to the Adjusted Basis of LLC assets if requested to by a Member in connection with the disposition of an LLC interest by that Member.

6. Compliance With Section 704(b)

The provisions in this Addendum and Agreement pertaining to allocations and adjustments of the Capital Accounts are intended to comply with Code section 704(b) and the regulations thereunder. The Board of Managers or the "tax matters partner", whichever the case may be, shall, subject to Section 7.04 of the LLC Agreement, make appropriate modifications when needed to comply with this Code section or the Regulations thereunder, to the extent such modifications would not result in any material modification of the economic arrangement of the Members as reflected in the allocation, distribution and liquidation provisions of section 4 of this Addendum and sections 6.03 and 10.04 of the Agreement.

7. Issuances to New Members

The Members acknowledge that the provisions of this Tax Allocations Addendum may require amendment in the event of an issuance of an LLC Interest to a new Member in accordance with Section 7.04 of the LLC Agreement.