

Limited Partnership Agreement



LIMITED PARTNERSHIP

There are many ways to design a corporate structure, a limited partnership is just one. Management of a limited partnership rests with the "general partner," who also bears unlimited liability for any of the corporation's obligations. A limited partnership allows for any number of "limited partners", whose liability is limited to their total capital contribution to the partnership.

In the Limited Partnership Agreement, Claystone Waste Ltd. is established as the "general partner", which is responsible for the management of the operations of the limited partnership. The "limited partners" are the member municipalities of Beaver County, the Town of Tofield, Town of Viking, Village of Holden, and Village of Ryley.

KEY PROVISIONS

WINDS DOWN BEAVER MUNICIPAL SOLUTIONS

The Limited Partnership Agreement sets up the vehicle for the transfer of control of the assets and landfill facilities currently held by Beaver Municipal Solutions to the Claystone Waste Limited Partnership. The agreement formally establishes Claystone Waste as the general partner, or operator of the landfill operations, and empowers municipal limited partners to request that Alberta Municipal Affairs dissolve Beaver Municipal Solutions.

ALLOWS FOR REVENUE TO BE DISTRIBUTED TO MUNICIPAL PARTNERS

The proposal to transition Beaver Municipal Solutions to Claystone Waste is designed to provide more revenue to municipal partners to support funding for local priorities. The Limited Partnership Agreement allows for the distribution of revenues to the municipal partners and defines the formula for how profits are allocated to each municipality. The existing allocation formula for determining how Beaver Municipal Solutions revenues are disbursed to each municipality is not changed by the Limited Partnership Agreement. Under the Claystone Waste model, revenues and transfers back to municipalities are expected to grow, but how those allocations are determined will stay as they are today.

LEGALLY ENSHRINES OTHER IMPORTANT AGREEMENTS

The Limited Partnership Agreement is the foundational legal document to establish the new corporate structure for Claystone Waste, but there are other agreements that are important, too. These include an operating agreement to define how Claystone Waste will operate the landfill facilities until the transition is complete and a land closure fund to ensure environmental liabilities are managed appropriately. Agreements like these are enshrined into the Limited Partnership Agreement.

The Limited Partnership Agreement is the foundational legal document to establish the new corporate structure for Claystone Waste. It creates the Claystone Waste Limited Partnership and defines key aspects relating to the relationship between the municipal partners.

LIMITED PARTNERSHIP AGREEMENT

(CLAYSTONE WASTE LIMITED PARTNERSHIP)

THIS AGREEMENT made as of the ____ day of _____, 20__.

AMONGST:

CLAYSTONE WASTE LTD.

a corporation incorporated under the laws of the Province of Alberta
(the "**General Partner**")

– and –

BEAVER COUNTY

a municipal corporation under the laws of the Province of Alberta
(**"Beaver"**)

– and –

VILLAGE OF HOLDEN

a municipal corporation under the laws of the Province of Alberta
(**"Holden"**)

– and –

VILLAGE OF RYLEY

a municipal corporation under the laws of the Province of Alberta
(**"Ryley"**)

– and –

TOWN OF TOFIELD

a municipal corporation under the laws of the Province of Alberta
(**"Tofield"**)

– and –

TOWN OF VIKING

a municipal corporation under the laws of the Province of Alberta
(**"Viking"**)

WHEREAS:

- A.** The Municipalities had previously formed the Commission to be the owner and operator of the Waste Facilities;
- B.** Each one of the Municipalities contribute Waste to the Waste Facilities and pay the Commission for the delivery of such Waste and, accordingly, each financially contribute to the Commission;
- C.** Non-members of the Commission contribute Waste to the Waste Facilities and, as such, the Commission earns an additional revenue source which is not attributable to the Municipalities;
- D.** Pursuant to the terms of the Commission's Regulation, the Commission is not permitted to operate for the purposes of making a profit or to distribute any of its surpluses to the Municipalities;
- E.** The Municipalities and the Commission each anticipate that the Commission will frequently and regularly have excess revenues that it is prohibited from distributing to the Municipalities unless ministerial exemptions are obtained for each distribution;
- F.** The Municipalities have deemed it expedient to transfer operations and control of the Waste Facilities from the Commission to the Limited Partnership;
- G.** Pursuant to Section 75.1 of the MGA, the Municipalities are entitled to control a corporation, including without limitation, the General Partner; and
- H.** The parties hereto wish to create the Limited Partnership to be the new corporate vehicle for the joint ownership and control of the Waste Facilities and provision of the Waste Services.

NOW THEREFORE in consideration of the premises and mutual covenants hereinafter contained, the parties hereto agree as follows:

**ARTICLE I
INTERPRETATION**

1.1 **Definitions.** In this Agreement, the following terms shall have the meanings set out below unless the context requires otherwise:

- (a) **"Agreement"** shall mean this Limited Partnership Agreement and all instruments supplemental thereto or in amendment or confirmation thereof; **"herein"**, **"hereof"**, **"hereto"**, **"hereunder"** and similar expressions mean and refer to this Agreement and not to any particular Article, Section, Subsection or other subdivision;

- (b) **"Applicable Law"** means, with respect to any Person, property, transaction, event or other matter, any law, rule, statute, regulation, order, judgment, decree, treaty or other requirement having the force of law (collectively the "**Law**") relating or applicable to such Person, property, transaction, event or other matter. Applicable Law also includes, where appropriate, any interpretation of the Law (or any part) by any Person having jurisdiction over it, or charged with its administration or interpretation;
- (c) **"Business Day"** means a day other than a Saturday, Sunday or statutory holiday in the province of Alberta;
- (d) **"Capital Account"** means the account maintained for each Partner pursuant to this Agreement;
- (e) **"Capital Contributions"** means the amount of money and the value of all property contributed by a Partner to the capital of the Limited Partnership, and includes the initial Capital Contribution and any additional Capital Contribution made by such Partner;
- (f) **"Commission"** means the Beaver Regional Waste Management Services Commission;
- (g) **"Commission's Regulation"** means the Beaver Regional Waste Management Services Commission Regulation, AR 75/92, as amended or replaced, from time to time;
- (h) **"Declaration"** means the declaration of Limited Partnership filed under the *Partnership Act*;
- (i) **"Dispute Resolution Procedure"** means that dispute resolution procedure as set forth in Schedule "A" hereof;
- (j) **"Dissolution/Amalgamation"** means either:
 - (i) A dissolution of one of the Limited Partners pursuant to Section 133 of the MGA; or
 - (ii) An amalgamation of two or more of the Limited Partners pursuant to Section 110 of the MGA;
- (k) **"Distribution"** means monies or other property paid or distributed by the Limited Partnership to a Partner in respect of or on account of its interest in the Limited Partnership, including distributions of Capital Contributions and Limited Partnership Profit;
- (l) **"Dividend Unit"** means those units of the Limited Partnership that have an entitlement to receive Distributions of Limited Partnership Profits or Property in accordance with the ratio of such percentage of each Dividend Unit issued to one

Partner as the numerator and the aggregate total of all Dividend Units issued to all Partners, but which Dividend Units shall have no voting rights;

- (m) **"Fiscal Year"** has the meaning set forth in Section 8.1;
- (n) **"General Partner"** means Claystone Waste Ltd. and each person who from time to time is appointed as a general partner in the Limited Partnership or who is successor of the General Partner or any such Person and who becomes a general partner of the Limited Partnership.
- (o) **"Good Neighbour Grant"** means that good neighbor grant that shall be payable from the funds of the Limited Partnership to only those Limited Partners as are set forth in the Limited Partnership's business plan, as that business plan is agreed upon from time to time.
- (p) **"Governmental Body"** shall mean:
 - (i) any domestic or foreign national, federal, provincial, municipal or other government or body,
 - (ii) any subdivision, ministry, department, secretariat, bureau, agency, commission, board, instrumentality or authority of any of the foregoing governments or bodies,
 - (iii) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under, or for the account of, any of the foregoing governments or bodies, or
 - (iv) any domestic, foreign, international, multilateral or multinational judicial, quasi-judicial, arbitration or administrative court, tribunal, commission or board;
- (q) **"IFRS Standards"** shall mean the set of International Financial Reporting Standards from time to time approved by the International Accounting Standards Board as applicable as at the date on which the relevant calculation has been made, is made or is required to be made;
- (r) **"including"** means including, without limitation, and **"includes"** means includes, without limitation;
- (s) **"Landfill" or "Lands"** have the same meaning as the term **"Lands"** has in the Operating Agreement;
- (t) **"LAPP"** means the LAPP Corporation, operating as the "Local Authorities Pension Plan" or "LAPP", as the legislated administrator and trustee of the Local Authorities Pension Plan pursuant to the *Employment Pension Plans Act*;

- (u) **"Limited Partners"** refers to each of Beaver, Holden, Ryley, Tofield and Viking and to each Person who, from time to time, is accepted as a limited partner in the Limited Partnership or who is a successor of a Limited Partner; **"Limited Partner"** means any one of the Limited Partners;
- (v) **"Limited Partnership"** means the Limited Partnership formed under the *Partnership Act* and constituted by the terms of this Agreement;
- (w) **"Limited Partnership Business"** means the provision of:
 - (i) the Waste Services; and
 - (ii) any other services that the General Partner may direct or cause the Limited Partnership to engage in with the unanimous consent of the Limited Partners, at all times in compliance with any and all Applicable Law;
- (x) **"Limited Partnership Interest"** has the meaning set forth in Section 6.5;
- (y) **"Limited Partnership Loss"** means the unconsolidated net loss, if any, of the Limited Partnership for a particular period, determined in accordance with IFRS Standards;
- (z) **"Limited Partnership Profit"** means the unconsolidated net profit, if any, of the Limited Partnership for a particular period, determined in accordance with IFRS Standards;
- (aa) **"Limited Partnership Property"** means, at the relevant time, all continuing property, rights and interests in property contributed to the Limited Partnership by a Partner or Partners, or acquired, whether by purchase or otherwise, on account of the Limited Partnership or for the purposes of and in the course of the Limited Partnership Business;
- (bb) **"MGA"** means the *Municipal Government Act*, RSA 2000, c M-26, as the same may be from time to time amended, re-enacted or replaced, and includes any and all regulations thereunder;
- (cc) **"Municipalities"** means all of Beaver, Tofield, Viking, Holden and Ryley, or such of them as the context may dictate, and **"Municipality"** means any one of them as the context may dictate;
- (dd) **"Operating Agreement"** means that memorandum of agreement dated the ____ day of _____, 20__ between the Commission and the Limited Partnership which pertains to:
 - (i) the ownership and transfer of ownership of the Landfill whereby the solid waste is treated and disposed of;

- (ii) the lease of the Landfill by the Commission to the Limited Partnership until such time as the Landfill can be transferred to the Limited Partnership;
 - (iii) the transfer of the Remediation Fund to a non-profit entity to be held in trust for the benefit of the Limited Partnership;
 - (iv) the obligation to reclaim and restore the Landfill;
 - (v) the transfer of assets from the Commission to the Limited Partnership relating to the Waste Services once ministerial approval is obtained;
 - (vi) the transfer of contracts from the Commission to the Limited Partnership relating to the Waste Services once they have been assigned to the Limited Partnership or have ended and replacements have been entered into by the Limited Partnership;
 - (vii) the transfer of employees of the Commission to the Limited Partnership once LAPP approval has been obtained; and
 - (viii) such other matters as contained therein;
- (ee) **"Partner"** means the General Partner or any Limited Partner; **"Partners"** refers to all Limited Partners together with the General Partner or such of them as the context may dictate;
- (ff) **"Partnership Act"** means the *Partnership Act* (Alberta), as the same may be from time to time amended, re-enacted or replaced, and includes any and all regulations thereunder;
- (gg) **"Person"** is to be broadly interpreted and includes an individual, corporation, a Limited Partnership, a general Limited Partnership, an unincorporated organization, a joint venture and a Governmental Body, or any other legal entity;
- (hh) **"Proportionate Dividend Units"** means the aggregate of those 10,000 Dividend Units that the General Partner shall cause to be distributed and redistributed amongst the Limited Partners in accordance with the percentages of the Proportionate Population Formula as set forth in Section 6.3(b);
- (ii) **"Proportionate Population Formula"** means that formula that is calculated by having as the numerator, the number of residents residing in that Municipality and as the denominator, the total number of residents as residing in all the Municipalities, as these resident statistics are published by the Minister of Municipal Affairs;
- (jj) **"Remediation Fund" or "Closure Fund"** has the meaning as ascribed to the term **"Closure Fund"** in the Operating Agreement;

- (kk) "**Tax Act**" shall mean the *Income Tax Act* (Canada), as the same may be from time to time amended, re-enacted or replaced, and includes any and all regulations thereunder, and, when applicable, any other taxation or similar laws of Canada, a province of Canada or any other jurisdiction of Canada;
- (ll) "**Transfer**" has the meaning set forth in Section 9.1;
- (mm) "**Trust Deed**" means that Trust Deed Agreement between the Limited Partnership and the Claystone Trustee Association;
- (nn) "**Unit**" means the aggregate of those Voting Units and Dividend Units;
- (oo) "**Voting Unit**" means those units of the Limited Partnership that have voting rights, which have one (1) vote per one (1) voting unit issued but shall have no right or entitlement to receive any Distribution of Limited Partnership property;
- (pp) "**Waste**" means waste which is primarily solid in nature including, but not limited to, rubbish, refuse, garbage, paper, packaging, containers, bottles, cans, or the whole or any part of materials, vehicles or other machinery that is disposed of or recycled;
- (qq) "**Waste Facilities**" means that landfill, equipment, machinery and all ancillary items used in the provision of Waste Services; and
- (rr) "**Waste Services**" means the provision of collection, transport, disposal and treatment of Waste together with any other utility services that may be provided from time to time.

1.2 **Number and Gender.** Unless the context requires otherwise, words importing gender shall include all genders, and words importing the singular shall include the plural and vice versa.

1.3 **Headings.** The division of this Agreement into Articles, Sections, Subsections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in the construction or interpretation hereof.

1.4 **Accounting Principles.** Accounting terms not otherwise defined herein have the meanings ascribed thereto under the IFRS Standards.

1.5 **Delays.** When calculating the period of time within which or following which any act is to be done or any step is to be taken pursuant to this Agreement, the date which is the reference date shall be excluded in calculating such period. If the last day of such period is not a Business Day, the period in question shall end on the next Business Day.

ARTICLE II THE LIMITED PARTNERSHIP

2.1 Formation of Limited Partnership. The parties hereto agree to form a Limited Partnership under the *Partnership Act* in accordance with the terms of this Agreement. The term of the Limited Partnership shall be as set out in Section 10.1. The rights, restrictions and liabilities of the Partners shall be governed by the provisions of the *Partnership Act* except as herein otherwise expressly provided.

2.2 Filings. As soon as practicable following the execution hereof, the General Partner shall cause to be executed and filed such declarations, instruments and documents as may be required under the *Partnership Act* and other Applicable Laws to give effect to the formation of the Limited Partnership and to cause it to exist in good standing in Alberta. The General Partner shall take any and all necessary actions from time to time to give effect to and maintain the status of the Limited Partnership as a Limited Partnership or similar type of entity under the Applicable Laws of any other jurisdictions in which the Limited Partnership may conduct business or own property.

2.3 Name. The Limited Partnership shall carry on business under the name "Claystone Waste Limited Partnership" or such other name or names as the Partners may determine unanimously from time to time, provided that the General Partner files such declarations as are required under the *Partnership Act*.

2.4 Address. The Limited Partnership's principal place of business shall be 50117 Range Road 173 (Secondary Highway 854), Ryley, AB T0B 4A0 or such place or places as the General Partner may, from time to time, determine upon written notice to the Limited Partners.

2.5 Business of the Limited Partnership. The Limited Partnership has been formed for the purpose of directly or indirectly carrying on the Limited Partnership Business.

2.6 Title to and Ownership of Limited Partnership Property. Except as otherwise required by law or determined by the General Partner, acting reasonably or otherwise held by the Commission pursuant to any agreement, including, without limitation, the Operating Agreement:

- (a) legal title to all Limited Partnership Property shall be registered in the name of the Limited Partnership or in the name of the General Partner on behalf of the Limited Partnership;
- (b) all Limited Partnership Property shall be held and applied exclusively for the purposes of the Limited Partnership and in accordance with this Agreement;
- (c) the rights and interests of the Partners, individually, in the Limited Partnership Property shall be governed by this Agreement; and
- (d) except as provided in this Agreement, no Partner, individually, may sell, assign, pledge or transfer any Limited Partnership Property.

2.7 **Status of Limited Partner.** The Limited Partners represent and warrant to the General Partner that each:

- (a) are not a "non-resident" of Canada within the meaning of the Tax Act; and
- (b) are municipalities incorporated under the MGA; and
- (c) have the power, capacity and authority to enter into and be bound by this Agreement; and
- (d) complied with the necessary requirements in the MGA to enter into this Agreement and become Limited Partners.

2.8 **Status of General Partner.** The General Partner represents and warrants to any Person who becomes a Limited Partner that the General Partner:

- (a) is not a "non-resident" of Canada within the meaning of the Tax Act;
- (b) is a corporation incorporated and in good standing under the laws of the Province of Alberta; and
- (c) has the power, capacity and corporate authority to act as the general partner of the Limited Partnership and to perform its obligations under this Agreement, and such obligations do not and will not conflict with or breach its articles of incorporation, by-laws or any agreement by which it is bound.

ARTICLE III MANAGEMENT

3.1 **Management of Limited Partnership.** The General Partner shall have the exclusive right, power and authority to manage and control the Limited Partnership Business. The General Partner shall have all right, power and authority, for and on behalf of and in the name of the Limited Partnership, to do or cause to be done any act, take any proceeding, make any decision and execute and deliver any instrument, deed, agreement or document necessary for or incidental to the purposes of or the carrying on of the Limited Partnership Business.

3.2 **Ostensible Authority of General Partner.** No Person dealing with the Limited Partnership shall be required to inquire into the authority of the General Partner to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for and on behalf of, or in the name of, the Limited Partnership.

3.3 **Powers of General Partner.** Without limiting the generality of Section 3.1, the General Partner shall have the right, power and authority for and on behalf of and in the name of the Limited Partnership to:

- (a) determine the amount and date of any Distribution(s) by the Limited Partnership;
- (b) appoint and remove agents and grant and rescind powers of attorney;

- (c) borrow money from any Person from time to time and, without limiting the generality of the foregoing, draw, make, execute and issue promissory notes, evidences of indebtedness, and other negotiable or non-negotiable instruments and to grant a security in Limited Partnership Property as the General Partner considers appropriate;
- (d) file such declarations and do such other acts as may be required to qualify and maintain the Limited Partnership as a limited partnership;
- (e) retain such legal counsel, accountants, experts, advisers and consultants as the General Partner considers appropriate in regard to the management of the Limited Partnership;
- (f) open and operate one or more bank or trust accounts and designate, and from time to time change, the signatories to such accounts;
- (g) pay expenses, capital expenditures and other outlays of the Limited Partnership;
- (h) commence, defend or intervene in any action, suit or proceeding in connection with the Limited Partnership;
- (i) acquire and sell property of the Limited Partnership, both moveable and immovable, real and personal, and enter into or renew any lease of such property;
- (j) invest any money received by the Limited Partnership in accordance with Section 250 of the MGA, as may be amended from time to time, as if the Limited Partnership is a municipality, and invest any money as authorized by the *Muni Funds Investment Regulation*, Alta Reg 22/2010 and the *Investment Regulation*, Alta Reg 66/2000;
- (k) file returns required by any Governmental Body;
- (l) conclude, enter into, execute and carry out all agreements which require execution by or on behalf of the Limited Partnership;
- (m) exercise any voting rights in respect of shares or other securities included in Limited Partnership Property;
- (n) do anything that is in furtherance of or is incidental to the business of the Limited Partnership and anything that is necessary or desirable to carry out the intent and purpose of this Agreement;
- (o) cause the Limited Partnership to guarantee the obligations, indebtedness or liabilities of, or make loans to, the General Partner, provided that such obligations, indebtedness, liabilities or loans relate to the Limited Partnership Business;
- (p) lease any portion of the Limited Partnership Property; and

- (q) possess property of the Limited Partnership, or assign any rights in property of the Limited Partnership, for a Limited Partnership purpose;

and for and on behalf of each Limited Partner to execute in respect of such Limited Partner's interest in the Limited Partnership any and all elections, determinations or designations under the Tax Act or other Applicable Laws. In addition to any right, power and authority of the General Partner provided herein or in the *Partnership Act*, the General Partner, as part of its responsibilities as General Partner of the Limited Partnership, will be responsible for providing to the Limited Partnership such services as may be required, from time to time, by the Limited Partnership for purposes of the Limited Partnership Business. For greater certainty, it is understood that the General Partner may, in rendering services at the request of the Limited Partnership, use its own employees or may contract with other persons for such services.

3.4 **Delegation.** Except as noted above with respect to contracting with third parties for the provision of specific services, the General Partner shall not be permitted to delegate its authority and decision making powers hereunder.

3.5 **No Commingling of Funds.** The General Partner shall take all necessary actions to ensure that the funds and other property of the Limited Partnership are not commingled with the funds or other property of the General Partner or of any other Partner.

3.6 **Reimbursement.** The Limited Partnership shall reimburse the General Partner for all costs and expenses actually incurred by the General Partner in the performance of its respective duties hereunder, including costs directly incurred for the benefit of the Limited Partnership and such portion of the indirect and general office and administrative costs of the General Partner as are reasonably allocable to the services rendered by the General Partner under this Agreement, and including legal, accounting and other consultant expenses, expenses associated with the preparation of financial statements, tax returns and tax information forms, and litigation and other extraordinary expenses, but specifically excluding the expenses of any action, suit or other proceeding in or in relation to which the General Partner is adjudged to be in breach of any duty or responsibility imposed on it hereunder.

3.7 **Limitations on Authority of Limited Partners.** No Limited Partner, in such capacity, shall:

- (a) be or purport to be entitled to take part in the management or control of the Limited Partnership Business;
- (b) have or purport to have the right, power or authority to act as agent for or on behalf of the Limited Partnership or any other Partner;
- (c) be or purport to be entitled to transact any business on behalf of the Limited Partnership or make any commitment on behalf of or otherwise obligate or bind the Limited Partnership;
- (d) be or purport to be entitled, as such, to make any commitment on behalf of or otherwise obligate or bind any other Partner;

- (e) purport to be capable, on behalf of the Limited Partnership, of being a party to any litigation involving a claim by or against the Limited Partnership, other than in respect of the Limited Partner's rights and obligations as a Limited Partner; or
- (f) register or permit any lien, charge, security interest or other encumbrance of any kind whatsoever to be registered, recorded or remain undischarged against any property of the Limited Partnership.

3.8 **Duties of General Partner.** The General Partner shall exercise the powers and discharge the duties of its office hereunder honestly, in good faith and in the best interests all Partners.

3.9 **LAPP Employee Transfer.** The Parties hereto agree that the Limited Partnership shall make and/or approve of a request to the agency responsible for administration of the LAPP for an approval of the Commission's employees being transferred to the Limited Partnership while maintaining eligibility for participation in the LAPP program.

3.10 **Dissolution of Commission.** The Parties hereto agree that the Limited Partnership shall make and/or approve of a request to the Minister of Municipal Affairs and Environment (and/or such other government ministries or agencies as may be required) that all assets and liabilities of the Commission, including the Landfill and all Waste Facilities and other assets and equipment relating to the Waste Services, are transferred to the Limited Partnership, and that the Remediation Fund is transferred to a non-profit entity to be held in trust for the benefit of the Limited Partnership. In addition to the above, once the aforementioned assets have been transferred and all employees and contracts of the Commission have been transferred to the Limited Partnership, the Limited Partnership shall make a request to the Minister of Municipal Affairs and Environment (and/or such other government ministries or agencies as may be required) that the Commission be dissolved.

ARTICLE IV – intentionally deleted

ARTICLE V LIMITATION OF LIABILITY

5.1 **Unlimited Liability of General Partner.** The General Partner shall have unlimited liability for the debts, liabilities and obligations of the Limited Partnership; provided, however, that the General Partner shall not be liable for the return of the Capital Contributions of the Limited Partners, and upon dissolution the Limited Partners shall have recourse solely to the Limited Partnership Property.

5.2 **Limited Liability of Limited Partners.** Subject to the provisions of the *Partnership Act*, and any specific assumption of liability, the liability of a Limited Partner for the debts, liabilities and obligations of the Limited Partnership shall be limited to the amount of the Capital Contributions made or agreed to be made by the Limited Partner plus the Limited Partner's share of the undistributed profits of the Limited Partnership as set out herein, and the Limited Partner shall have no further personal liability for any debts, liabilities or obligations of the Limited Partnership after making the full amount of the Limited Partner's Capital

Contributions to the Limited Partnership, subject to any additional Capital Contributions to the Limited Partnership required pursuant to the terms of this Agreement.

5.3 **Limited Partner Not Liable as a General Partner.** Any provision of this Agreement which would otherwise have the effect of imposing on the Limited Partner any of the debts, liabilities or obligations of a general partner shall be of no force and effect to the extent of such imposition.

ARTICLE VI

CAPITAL CONTRIBUTIONS, WITHDRAWALS & LIMITED PARTNERSHIP UNITS

6.1 **Initial General Partner Capital Contributions.** The General Partner shall make an initial Capital Contribution:

- (a) of \$0.10 to the capital of the Limited Partnership and in exchange, shall be issued one (1) Voting Unit; and
- (b) of \$0.10 to the capital of the Limited Partnership and in exchange, shall be issued one (1) Dividend Unit.

6.2 **Acknowledgment re: Proportionality.** As the Limited Partnership shall follow the same principles as previously governed the Commission, the Partners agree and acknowledge that the following principles shall apply respecting proportionality of obligations and entitlements as follows:

- (a) *Capital Contribution Obligations on Proportionate Population Formula* – In the event that the Limited Partnership shall require a Capital Contribution for the provision of the Waste Services, that each Limited Partner shall be responsible to contribute in accordance with the Proportionate Population Formula, even if the proportionate responsibility shall differ from the percentage of each Limited Partner's Limited Partnership Interest. Additionally, the Municipalities agree that the Proportionate Population Formula shall be based upon their respective population as compared to the region as a whole. The obligation for each Limited Partner to pay this additional Capital Contribution shall be based upon a requisition made of the General Partner. Each Limited Partner shall be issued one (1) additional Dividend Unit per \$0.10 in additional Capital Contribution made;
- (b) *Partial Issuance of Equal Dividend Units* – The Limited Partners agree that one third (1/3) of the aggregate number of Dividend Units shall be issued to all of the Municipalities on an equal basis, regardless of population or volume of Waste contributed;
- (c) *Remaining Issuance of Equal Dividend Units* – The Limited Partners agree that two third (2/3) of the aggregate number of Dividend Units shall be issued to the Municipalities based on their respective population as compared to the region as a whole and additionally, that these Dividend Units shall be amended every four (4) years; and

- (d) Issuance of Voting Units- the Limited Partners agree that the percentage of Voting Units and percentage of Dividend Units shall be different from each other and shall be set forth in Section 6.3 hereof.

6.3 Issuance of Units to Limited Partners. The Partners agree and acknowledge that there will be Limited Partnership Units issued to the Municipalities as follows:

- (a) Equal Issuance of Dividend Units - Upon each Limited Partner paying to the Limited Partnership the capital contribution amount as set forth below, the General Partner shall issue 5,000 Dividend Units for the Capital Contribution of \$0.10 each issued to each Limited Partner as follows:

Limited Partner	# of Equal Limited Dividend Units	Equal Capital Contribution Amount
Beaver	1,000	\$100.00
Holden	1,000	\$100.00
Ryley	1,000	\$100.00
Tofield	1,000	\$100.00
Viking	1,000	\$100.00
AGGREGATE	5,000	\$500.00

- (b) Proportionate Issuance of Dividend Units –

- (i) The General Partner shall cause the aggregate amount of 10,000 Dividend Units to be distributed amongst the Municipalities in accordance with the principle that each Municipality shall be issued that number of Dividend Units determined by multiplying 10,000 by the percentage determined in accordance with Proportionate Population Formula for that Municipality. Once calculated, that Limited Partner shall pay the capital contribution amount as set forth below at the price of \$0.10 per Dividend Unit issued:

Limited Partner	Population	Percentage of Population	Number of Dividend Units to Issued	Capital Contribution
Beaver	5,905	59.63%	5,963	\$596.34
Ryley	483	4.88%	488	\$48.78

Limited Partner	Population	Percentage of Population	Number of Dividend Units to Issued	Capital Contribution
Holden	350	3.53%	353	\$35.35
Viking	1,083	10.94%	1,094	\$109.37
Tofield	2,081	21.02%	2,102	\$210.16
AGGREGATE	9,902	100%	10,000	\$1,000.00

(ii) On the fourth (4th) anniversary hereof, the Limited Partners shall update the foregoing chart in Section 6.3(b)(i) hereof, by recalculating the Proportionate Population Formula and multiplying the resulting percentage by the 10,000 Dividend Units. Upon each recalculation of the Proportionate Population Formula, the General Partner shall compare the new entitlement to Dividend Units as compared to the prior issuance of Dividend Units and shall cause a redistribution of these Dividend Units in this Section 6.3(b) as follows:

(1) In the event that a Limited Partner is entitled to more Dividend Units of the Proportionate Dividend Units after the recalculation of the Proportionate Population Formula;

(I) the General Partner shall issue more Proportionate Dividend Units to that Limited Partner to cause the relevant Limited Partner to have the same proportion of Proportionate Dividend Units as the percentage determined by its Proportionate Population Formula;

(II) that Limited Partner shall pay such additional Capital Contribution to the General Partner to ensure that it has paid the equivalent amount of \$0.10 per Proportionate Dividend Unit as issued to it; and

(III) if a Limited Partner does not pay its additional Capital Contribution in Section 6.3(b)(ii)(1)(II), then the General Partner shall be entitled to deduct the unpaid Capital Contribution from any subsequent distribution of funds to the Limited Partners;

(2) In the event that a Limited Partner is entitled to less Limited Partnership Units of the Proportionate Dividend Units after the recalculation of the Proportionate Population Formula;

- (I) the General Partner shall cancel such certificates of the Proportionate Dividend Units to that Limited Partner and issue a new, lesser certificate of Limited Partnership Units to cause the relevant Limited Partner to have the same proportion of Proportionate Dividend Units as the percentage determined by its Proportionate Population Formula; and
 - (II) that General Partner shall pay such surplus Capital Contribution to that relevant Limited Partner to ensure that it has paid the equivalent amount of \$0.10 per Proportionate Dividend Unit as issued to it;
- (3) After the redistributions in this Section 6.3(b) hereof, the Limited Partner shall ensure that no more than the 10,000 Proportionate Dividend Units are issued to the Limited Partners.
- (c) Issuance of Voting Units - Upon each Limited Partner paying to the Limited Partnership the capital contribution amount as set forth below, the General Partner shall issue 10,000 Voting Units for the Capital Contribution of \$0.01 each issued to each Limited Partner as follows:

Limited Partner	# of Equal Limited Voting Units	Equal Capital Contribution Amount
Beaver	4,867	\$48.67
Holden	585	\$5.85
Ryley	613	\$6.13
Tofield	2,359	\$23.59
Viking	1,576	\$15.76
AGGREGATE	10,000	\$100.00

6.4 Additional Capital Contributions. No Partner may make additional Capital Contributions for the subscription of either additional Dividend Units or Voting Units to the Limited Partnership without the prior approval of the General Partner. Where any such additional Capital Contributions are made, such Capital Contributions shall be made in accordance with this Agreement and in such amounts as may be approved by the General Partner. For clarity, no additional Capital Contribution can be required without the approval of the General Partner.

6.5 **Capital Accounts.** A Capital Account shall be maintained for each Partner. The Capital Account for each Partner shall consist of such Partner's initial Capital Contribution pursuant to Section 6.1 and which shall be additionally:

- (a) increased by additional Capital Contributions by such Partner which results in the issuance of Dividend Units only, not in the issuance of Voting Units;
- (b) increased by Limited Partnership Profits allocated to such Partner;
- (c) decreased by Distributions to such Partner;
- (d) decreased by Limited Partnership Losses allocated to such Partner; and
- (e) adjusted to reflect any transfers made pursuant to Section 9.7.

A Partner's interest from time to time shall equal that percentage of the aggregate Capital Accounts of all the Partners constituted by such Partner's Capital Account ("**Limited Partnership Interest**"). Where a Capital Contribution or a Distribution is made in property, the General Partner shall determine the value of such Capital Contribution or Distribution.

6.6 **Withdrawal of Capital.** No Partner shall be entitled to withdrawals from its Capital Account without the prior approval of the General Partner.

6.7 **Limited Partnership Interest.** Upon any additional Capital Contribution by a Partner or any Distribution to a Partner (other than pursuant to a dissolution of the Limited Partnership), the General Partner shall determine the value of the Capital Contribution from or Distribution to such Partner as a proportion of the total current value of all Limited Partnership Property immediately prior to such Capital Contribution or Distribution. The General Partner shall then calculate revised Limited Partnership Interests for each of the Partners so that the Limited Partnership Interests following such Capital Contribution or Distribution shall reflect the value of the Limited Partnership Interest of each Partner prior to such Capital Contribution or Distribution as so determined.

6.8 **Voting and Approvals.** Any vote or approval of the Partners or Limited Partners hereunder, unless otherwise indicated, will be based upon a vote with each of the Partners or Limited Partners voting based on their Voting Units. Any such vote will be decided by a majority of votes unless otherwise indicated herein. Notwithstanding the above, for any vote or approval to be valid not only must the majority of votes be exercised, but at least two (2) of the Limited Partners who are active and duly existing and in good standing under the laws of their jurisdiction of incorporation must vote in favour of the vote or approval. For clarity, upon the dissolution or winding up and/or amalgamation of any of the Municipalities, that Municipality will no longer be considered active and in good standing for the purposes of this Agreement and will not be capable of providing its vote or approval and satisfying the requirement herein that two (2) of the active Limited Partners in good standing provide their vote and approval in order for such vote or approval to be valid.

**ARTICLE VII
ALLOCATION OF PROFIT AND LOSS AND INCOME TAX**

7.1 **Limited Partnership Profit or Loss.** Limited Partnership Profit or Limited Partnership Loss for each Fiscal Year shall be determined and allocated pro-rata among all of the persons who were Partners during such Fiscal Year in proportion to their respective Limited Partnership Interests as determined by the General Partner.

7.2 **Income Tax Allocation.** The income or loss for each Fiscal Year of the Limited Partnership, as computed under the direction of the General Partner for income tax purposes, shall be allocated among all of the persons who were Partners during such Fiscal Year in proportion to their respective Limited Partnership Interests as determined by the General Partner.

7.3 **Payment of Good Neighbour Grant.** Prior to the distribution of payment of any Limited Partnership Profit for each Fiscal Year, the General Partner shall firstly pay the Good Neighbour Grant in accordance with such terms of the Limited Partnership's business plan.

**ARTICLE VIII
ACCOUNTING AND REPORTING**

8.1 **Fiscal Period.** The fiscal year of the Limited Partnership (the "**Fiscal Year**") shall end on the December 31 in each year, or on such other date as shall be determined by the General Partner from time to time.

8.2 **Accounting Principles.** The accounts of the Limited Partnership shall be kept in accordance with IFRS Standards consistently applied.

8.3 **Books of Account.** True, correct and complete books of account with respect to the operations of the Limited Partnership shall be kept at the principal place of business of the Limited Partnership. The General Partner shall be responsible for keeping the books of account. The Limited Partnership shall also maintain at its principal place of business the following records:

- (a) a copy of the Agreement,
- (b) a copy of the Declaration and a copy of each declaration of change amending the Declaration, and
- (c) all other records required to be maintained under the *Partnership Act*.

8.4 **Access to Books and Records.** Each Partner shall have the right, at its own expense, to examine, or have its duly authorized representative examine, the books of account of the Limited Partnership and such other records at the Limited Partnership's principal place of business.

8.5 **Reports.** The General Partner shall prepare or cause to be prepared and shall file on or before the due date, or any extension thereof any federal, provincial or local tax and information returns required to be filed by the Limited Partnership. The General Partner shall

furnish the Limited Partner with such information concerning the Limited Partnership as may be needed to enable the Limited Partner to file its income tax return under the Tax Act and under the Applicable Laws of the province or other jurisdiction in which it is resident.

8.6 **Reporting on Payment of Good Neighbour Grant.** The General Partner shall annually report on the payment of each Good Neighbour Grant to the Limited Partnership.

ARTICLE IX
TRANSFERS OF LIMITED PARTNERSHIP INTERESTS AND
ADMISSION OF NEW LIMITED PARTNERS

9.1 **Transfer by General Partner.** The General Partner shall not sell, assign, surrender, give, transfer, pledge, mortgage, charge, create a security interest in or otherwise encumber or dispose of, whether voluntarily, involuntarily, by operation of law or otherwise, ("**Transfer**") all or any part of its interest in the Limited Partnership.

9.2 **Resignation of General Partner.** The General Partner shall not be entitled to withdraw from the Limited Partnership and may only be replaced by unanimous consent of the Limited Partners.

9.3 **Transfer of Management.** Upon any change of a general partner of the Limited Partnership, the replaced general partner shall do all things and shall take all steps to immediately and effectively transfer the management and operations, assets, books, records and accounts of the Limited Partnership to the new general partner, including the execution and delivery of all deeds, certificates, declarations of change and other documents whatsoever which may be necessary or desirable to effect such change and to convey all the assets of the Limited Partnership to the new general partner. All costs of such transfer shall be for the account of the Limited Partnership.

9.4 **Powers, Duties and Obligations of New General Partner.** In the event of a change of a general partner of the Limited Partnership, the new general partner of the Limited Partnership shall execute this Agreement and shall from that time forward, for all purposes and in all ways, assume the powers, duties and obligations of the replaced general partner under this Agreement and shall be subject to the terms of this Agreement. The new general partner shall file an amendment to the declaration constituting the Limited Partnership and any other instruments necessary to record the substitution of the new general partner as general partner of the Limited Partnership or to continue the Limited Partnership as a Limited Partnership in the Province of Alberta.

9.5 **Transfer by Limited Partner.** No Limited Partner shall Transfer all or any part of its interest in the Limited Partnership to any Person without the unanimous prior approval of all the Limited Partners, such approval which may be withheld by each Limited Partner in their sole and absolute discretion. No Transfer of a Limited Partner's interest in the Limited Partnership shall be effective unless:

- (a) except where the transferee is already a Limited Partner, the transferee has executed a counterpart of this Agreement or otherwise agrees to be bound by the

terms of this Agreement by executing an agreement in form and substance satisfactory to the General Partner (or for clarity, such amended form of this Agreement as is required to account for the transferee becoming a Limited Partner); and

- (b) the relevant requirements of the *Partnership Act*, including the filing of a declaration, have been complied with.

9.6 **Additional Partners.** A Person may be admitted as a Limited Partner upon:

- (a) the approval of the General Partner of the admission of the Person and the amount of the Capital Contribution the Person is to make to the Limited Partnership;
- (b) the unanimous approval of each Limited Partner, in each Limited Partners' sole and absolute discretion, of the admission of the Person and the amount of the Capital Contribution the Person is to make to the Limited Partnership;
- (c) the Person making the approved Capital Contribution;
- (d) the Person executing a counterpart of this Agreement or otherwise executing an agreement in form and substance satisfactory to the General Partner agreeing to observe and be bound by the terms of this Agreement (or for clarity, such amended form of this Agreement as is required to account for the transferee becoming a Limited Partner);
- (e) the relevant requirements of the *Partnership Act*, including the filing of a declaration, having been complied with; and
- (f) that Person fulfilling any other infrastructure, municipal, financial or other condition as the Limited Partners may impose upon that Person.

9.7 **Dissolution/Amalgamation.** In the event of a Dissolution/Amalgamation, notwithstanding anything else to the contrary herein, the Units formerly held by those affected by the Dissolution/Amalgamation shall be dealt with as follows:

- (a) As the Limited Partners have always intended that one third (1/3) of the Dividend Units shall be held equally by each of the Limited Partners, one thousand (1,000) Dividend Units of the former Limited Partner shall be cancelled and terminated, resulting in one third (1/3) of the Dividend Units shall be held equally by each of the remaining Limited Partners;
- (b) Those Dividend Units as issued to the former Limited Partner in Section 6.3(b) hereof shall be transferred to that Limited Partner that is the “new municipal authority” as a result of the Dissolution/Amalgamation, as that term “new municipal authority” is defined in the MGA; and
- (c) Those Voting Units as issued to the former Limited Partner in Section 6.3(c) hereof shall be transferred to that Limited Partner that is the “new municipal

authority” as a result of the Dissolution/Amalgamation, as that term “new municipal authority” is defined in the MGA.

ARTICLE X TERMINATION AND DISSOLUTION

10.1 **Term.** The Limited Partnership shall commence on the date the Declaration is filed and shall continue for ninety-nine (99) years or until the Limited Partnership is sooner dissolved pursuant to Section 10.2 or by operation of law, and the property of the Limited Partnership has been distributed as provided herein.

10.2 **Termination.** The Limited Partnership shall be dissolved upon the occurrence of any of the following events:

- (a) the written approval of all Partners;
- (b) the disposition of all or substantially all of the property of the Limited Partnership in contemplation of a winding-up of the Limited Partnership; or
- (c) the happening of any other event causing the dissolution of the Limited Partnership under the *Partnership Act* or other Applicable Law.

Notwithstanding any rule of law or equity to the contrary, the Limited Partnership shall not be terminated except in the manner provided for herein. For greater certainty, it is hereby confirmed that none of:

- (i) the admitting of new Partners,
- (ii) the transfer of an interest in the Limited Partnership by any Partner, or
- (iii) the disposition of all or substantially all of the property of the Limited Partnership in exchange for other property where the Limited Partnership Business will continue to be carried on,

shall give rise to a dissolution or termination of the Limited Partnership.

10.3 **Return of Physical Assets.** The Partners shall, upon a unanimous resolution, determine how the Waste Facilities will be distributed upon dissolution of the Limited Partnership, with the common understanding and agreement that these assets shall not be liquidated without a unanimous resolution respecting the distribution of same. In the event that the Partners are unable to agree upon the distribution of same, they shall implement the Dispute Resolution Procedure to determine how the Waste Facilities are to be distributed to the Partners, if at all.

10.4 **Distributions Upon Liquidation.**

- (a) Upon dissolution of the Limited Partnership, the General Partner shall liquidate the property of the Limited Partnership that the Partners agree shall be liquidated

as set forth in Section 10.3 hereof, as promptly as is consistent with obtaining the fair value thereof, and apply and distribute the proceeds thereof in the following order:

- (i) first, to creditors, in the order of priority provided by law;
 - (ii) second, to the establishment of any reserves for contingencies which the General Partner or the liquidator, as the case may be, may consider necessary; and
 - (iii) third, the balance, if any, to the Partners in accordance with their Limited Partnership Interests or in accordance with such other determination as made pursuant to Section 10.3 hereof.
- (b) After the proceeds of the liquidation of the property of the Limited Partnership have been distributed, which shall occur as soon as practicable upon dissolution of the Limited Partnership, the General Partner or liquidator, as the case may be, shall cause the Declaration to be cancelled.

10.5 **Events Not Giving Rise to Dissolution.** Notwithstanding any rule of law or equity to the contrary, the Limited Partnership shall not be dissolved or terminated except in the manner provided for in this Agreement. For greater certainty and without limiting the generality of the foregoing, it is hereby confirmed that none of the removal or resignation of the General Partner, the admission of new Partners or the transfer of an interest in the Limited Partnership by any Partner shall give rise to a dissolution or termination of the Limited Partnership.

ARTICLE XI MISCELLANEOUS

11.1 **Amendment of Agreement.** No modification of or amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by all of the Partners.

11.2 **Competing Interests.** A Limited Partner is entitled, without the consent of the General Partner, to carry on any business or activity of the same nature and competing with that of the Limited Partnership, and is not liable to account to the General Partner therefor.

11.3 **Notice.** Any notice, consent, approval or other communication required or permitted to be given under this Agreement shall be in writing and shall be effectively given if delivered personally, sent by prepaid courier service, or by facsimile, electronic mail or other telecommunication to the applicable address set out below:

- (a) to the General Partner:

Box 322
Ryley, AB
T0B 4A0

Attention: General Manager
Email: Pierre.Breau@BeaverMunicipal.com

(b) to Beaver

PO Box 140
Ryley, Alberta
T0B 4A0
Attention: CAO
E-mail: bbeck@beaver.ab.ca

(c) to Holden

PO Box 357
Holden, Alberta
T0B 2C0
Attention: CAO
E-mail: vholden@telusplanet.net

(d) to Ryley

PO Box 230
Ryley, Alberta
T0B 4A0
Attention: CAO
E-mail: cao@ryley.ca

(e) to Tofield:

PO Box 30
Tofield, Alberta
T0B 4J0
Attention: CAO
E-mail: cneufeld@tofieldalberta.ca

(f) to Viking:

PO Box 369
Viking, Alberta
T0B 4N0
Attention: CAO
E-mail: don.mcleod@viking.ca

Any such communication shall be conclusively deemed to have been given and received if delivered or sent by courier service, on the day of delivery, and if sent by facsimile, electronic mail or other telecommunication, on the day of faxing or dispatch, provided that in any event, such day is a Business Day and the communication is delivered, faxed, dispatched or sent prior

to 4:30 p.m. on such day, and otherwise such communication shall be deemed to have been given and received on the next Business Day. Any such communication given in any other manner shall be deemed to have been given and received only upon actual receipt. Any party may change its address for receipt of communications hereunder by giving notice to the other parties hereto in the manner set out above.

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

11.5 Assignment. Subject to the restrictions of Transfer herein contained, this Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

11.6 Severability. Any Article, Section, Subsection or other subdivision of this Agreement or any other provision of this Agreement which is, or becomes, illegal, invalid or unenforceable shall be severed herefrom, and shall be ineffective to the extent of such illegality, invalidity or unenforceability and shall not affect or impair the remaining provisions hereof, which provisions shall otherwise remain in full force and effect.

11.7 Status of Limited Partnership. If at any time it is determined that contrary to the terms of this Agreement and the intention of the parties hereto, the Limited Partnership was not properly constituted as a Limited Partnership, the parties hereto agree that the terms and conditions of this Agreement shall continue to govern their relationship, including their interest in the Limited Partnership Property and their allocation of the income, gain, loss or proceeds of sale of the Limited Partnership Property, the responsibility for liabilities of the Limited Partnership and the authority of the General Partner in respect of the Limited Partnership Property and the Limited Partnership Business.

11.8 Entire Agreement. This Agreement, together with any agreements and documents to be delivered pursuant hereto, constitute the entire agreement by and among the parties hereto pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, between the parties in connection with the subject matter hereof.

11.9 Waiver. No waiver, whether by conduct or otherwise, of any of the provisions of this Agreement shall be effective or binding unless made in writing and duly executed by the party purporting to give the same and, unless otherwise provided, shall be limited to the specific breach waived and shall not constitute a continuing waiver.

11.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

11.11 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the province of Alberta and the federal laws of Canada applicable therein, and shall be treated in all respects as an Alberta contract.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

CLAYSTONE WASTE LTD.

Per: _____

Per: _____

VILLAGE OF HOLDEN

Per: _____

Per: _____

TOWN OF TOFIELD

Per: _____

Per: _____

BEAVER COUNTY

Per: _____

Per: _____

VILLAGE OF RYLEY

Per: _____

Per: _____

TOWN OF VIKING

Per: _____

Per: _____

SCHEDULE "A"

DISPUTE RESOLUTION PROCEDURE

1. Definitions

In this Schedule, in addition to terms defined elsewhere in the Agreement, the following words and phrases have the following meanings:

- (a) "**Arbitrator**" means the person appointed to act as such to resolve any Dispute;
- (b) "**Arbitration**" means a process whereby each of the Partners, with or without legal counsel, agrees to jointly engage and meet with an Arbitrator who will render a binding decision in respect of any Disputes;
- (c) "**Disclosed Information**" means the information disclosed by a Partner for the purpose of settlement, negotiation, Mediation or Arbitration;
- (d) "**Dispute**" means any matter that the Partners are unable to resolve themselves, which includes but is not limited to a difference of opinion, differing interpretation or a divergence of interest. Notwithstanding this, an Event of Default is not a Dispute for the purposes of this Schedule;
- (e) "**Mediation**" means a process whereby a Representative of a Partner, with or without legal counsel, agrees to jointly engage the services and meet with a Mediator to participate in a mediation, conciliation or similar dispute resolution process;
- (f) "**Mediator**" means the person appointed to facilitate the resolution of a Dispute between the Partners;
- (g) "**Representative**" means an individual who has no direct operational responsibility for the matters comprising the Dispute, who holds a senior position with a Partner and who has full authority to settle a Dispute.

2. Principles of Dispute Resolution

The Partners acknowledge and agree that:

- (a) in any business relationship a difference of opinion or interpretation or a divergence of interest may arise;
- (b) The Partners are committed to resolving any disputes in a non-adversarial, informal and cost efficient manner;

- (c) the following process shall apply in respect of Disputes which are either referred to, or are required by the terms of this Agreement to be resolved in accordance with, the Dispute Resolution Procedure; and
- (d) the Partners shall make all reasonable efforts to resolve all Disputes by negotiation and agree to provide, without prejudice, open and timely disclosure of relevant facts, information and documents to facilitate these negotiations as further contemplated within this Schedule.

3. **Dispute Process**

In the event of any Dispute, the Partners agree that they shall undertake a process to promote the resolution of a Dispute in the following order:

- (a) first, by negotiation;
- (b) second, by way of Mediation; and
- (c) third, if agreed to mutually by the Partners, by Arbitration.

Negotiation, Mediation or Arbitration shall refer to, take into account, and apply the intentions and principles stated by the Partners within the Agreement.

4. **Negotiation**

A Partner shall give written notice ("**Dispute Notice**") to the other Partners of a Dispute and outline in reasonable detail the relevant information concerning the Dispute. Within seven (7) days following receipt of the Dispute Notice, the Partners shall each appoint a Representative, who shall meet and attempt to resolve the Dispute through discussion and negotiation. If the Dispute is not resolved within thirty (30) days of the appointment of a Representative by each Partner, the negotiation shall be deemed to have failed.

5. **Mediation:**

- (a) If the Representatives cannot resolve the Dispute through negotiation within such thirty (30) day period, then the Dispute shall be referred to Mediation.
- (b) In such event, any Partner shall be entitled to provide the other Partners with a written notice ("**Mediation Notice**") specifying:
 - (i) the subject matters remaining in Dispute, and the details of the matters in Dispute that are to be mediated; and
 - (ii) the nomination of an individual to act as the Mediator.

- (c) The Partners shall, within thirty (30) days of the Mediation Notice, jointly nominate or agree upon a Mediator.
- (d) Where a Mediator is appointed, the Partners shall submit in writing their Dispute to the Mediator, and afford to the Mediator access to all records, documents and information the Mediator may reasonably request. The Partners shall meet with the Mediator at such reasonable times as may be required and shall, through the intervention of the Mediator, negotiate in good faith to resolve their dispute. All proceedings involving a Mediator are agreed to be without prejudice, and the cost of the Mediator shall be shared equally between the Partners.
- (e) In the event that
 - (i) the Partners do not agree on the appointment of a Mediator with thirty (30) days of the Mediation Notice;
 - (ii) the Mediation is not completed within thirty (30) days after the appointment of the Mediator; or
 - (iii) the Dispute has not been resolved within sixty (60) days from the date of receipt of the Dispute Notice;

any Partner may by notice to the others, withdraw from the Mediation process and in such event the Dispute shall be deemed to have failed to be resolved by Mediation.

6. **Arbitration:**

- (a) If Mediation fails to resolve the Dispute, the Dispute shall be submitted to binding Arbitration. Any of the Partners may provide the other Partners with written notice ("**Arbitration Notice**") specifying:
 - (i) the subject matters remaining in Dispute and the details of the matters in Dispute that are to be arbitrated; and
 - (ii) the nomination of an individual to act as the Arbitrator.
- (b) Within fourteen (14) days following receipt of the Arbitration Notice, the other Partner shall, by written notice, advise as to which matters stated in the Arbitration Notice it accepts and with which matters it disagrees and shall also advise whether it agrees with the resolution of the disputed items by Arbitration, and whether it agrees with the Arbitrator selected by the initiating Partner or provide the name of one Arbitrator selected by that other Partner. Should the Partners fail to agree to resolve any disputed items by Arbitration, this Dispute Resolution Process shall come to an end.

- (c) Subject to agreement of the Partners to resolve any disputed items by Arbitration as contemplated above the Partners shall, within thirty (30) days of the Arbitration Notice, jointly nominate or agree upon an Arbitrator.
- (d) Should the Partners fail to agree on a single arbitrator within the fourteen (14) day period referred to above, then any Partner may apply to a Justice of the Court of Queen's Bench of Alberta to have the Arbitrator appointed.
- (e) The terms of reference for Arbitration shall be those areas of dispute referred to in the Arbitration Notice, and the receiving Partner's response thereto.
- (f) The Arbitrator shall conduct the Arbitration in accordance with the commercial arbitration rules (the "**Rules**") established from time to time by the ADR Institute of Canada Inc., unless the Partners agree to modify the same pursuant to any arbitration agreement. The Arbitration Act (Alberta) shall apply to all Arbitrations but if there is a conflict between the Rules and the provisions of the Act, the Rules shall prevail. Notwithstanding the foregoing, any such Arbitration shall be conducted in the English language.
- (g) The Arbitrator shall proceed to hear and render a written decision concerning any Dispute within:
 - (i) forty-five (45) days, if the subject matter of the Dispute is less than \$250,000.00; or
 - (ii) ninety (90) days, if the subject matter of the Dispute is greater than \$250,000.00.
- (h) The Arbitrator has the right to award solicitor-client costs against the unsuccessful Partner and to award interest but does not have the right to award punitive, consequential or other exemplary damages.
- (i) The Arbitrator's decision is final and binding but is subject to appeal or review by any court of proper jurisdiction only with respect to an allegation of fraud.
- (j) Judgment upon any award (an "**Award**") rendered in any such Arbitration may be entered in any court having jurisdiction thereof, or application may be made to such court for a judicial acceptance of the Award and an enforcement order, as the laws of such jurisdiction may require or allow.
- (k) The Partners acknowledge and agree that, where a Dispute involves a claim for injunctive relief, a Partner may refer such matter to Arbitration in accordance with this Schedule or apply to the appropriate court for relief.

7. Participation

The Partners and their Representatives will participate in good faith in the negotiation, Mediation and, if applicable, Arbitration processes and provide such assistance and Disclosed Information as may be reasonably necessary.

8. Location

The place for Mediation and Arbitration shall be within the City of Edmonton, or such other location as the Partners may agree.

9. Selection of Mediator and Arbitrator

Without restricting any of the foregoing, if the Partners are unable to agree upon the appointment of a single Mediator or Arbitrator, respectively, within ten (10) days after receipt of the Mediation Notice or Arbitration Notice, as the case may be, any of the Partners may request that a single Mediator or Arbitrator, as the case may be, of suitable training, experience and independence, and who in respect of the subject matter of the Dispute has a reasonable practical understanding, be recommended for appointment by the executive director or other individual fulfilling that role for the ADR Institute of Canada, Inc. The executive director shall be requested to make this determination within five (5) days of receipt of the request.

10. Costs

Subject to clause 6(h) of this Schedule, in the case of an Arbitration, the Partners shall bear their respective costs incurred in connection with the negotiation, Mediation and, if applicable, Arbitration except that the Partners shall equally share the fees and expenses of the Mediator and Arbitrator and the cost of the facilities required for Mediation and Arbitration.

11. Disclosed Information

All Disclosed Information shall be treated as confidential and neither its delivery nor disclosure shall represent any waiver of privilege by a Partner disclosing such Disclosed Information. Subject only to the rules of discovery, each Partner agrees not to disclose the Disclosed Information to any other Person or for any other purpose. Such Disclosed Information cannot be used in any subsequent proceedings without the consent of the Partner who has made the disclosure. The Partners agree that any Representative, Mediator and, if applicable, Arbitrator shall not be subpoenaed or otherwise compelled as a witness in any proceedings for the purpose of testifying with respect to the nature or substance of any dispute resolution process that may arise in relation to any matter that is a subject of this Agreement. Nothing in this Dispute Resolution Procedure shall require a Partner to disclose information that is subject to confidentiality provisions with third parties.