

## DRAFT

### DISBURSEMENT AGENCY AGREEMENT

THIS DISBURSEMENT AGENCY AGREEMENT is made as of May 12, 2005 between USGen New England, Inc., a Delaware corporation (the “**Issuer**”), and Wilmington Trust Company, a Delaware banking corporation (in its individual capacity, “**WTC**”).

### RECITALS

**WHEREAS**, reference is hereby made to the Issuer’s Second Amended Plan of Reorganization under Chapter 11 of the Bankruptcy Reform Act of 1978, as amended, Title 11, United States Code (the “**Bankruptcy Code**”), dated as of May 12, 2005, as confirmed and modified by order of the Bankruptcy Court for the District of Maryland (Greenbelt Division), on May 12, 2005 (such plan, as it may be altered, amended or modified from time to time, the “**Plan**”); capitalized terms used herein but not defined have the meanings assigned to them in the Plan and the Plan Administrator Agreement (as that term is defined in the Plan); and

**WHEREAS**, the Plan will become effective on the Effective Date; and

**WHEREAS**, at the direction of the Plan Administrator as set forth herein, the Issuer may make certain Distributions of Cash to holders of Allowed Class 1, 2, and 3 Claims (but not in respect of Class 4 Interests or the Shareholder Participation), all as provided in the Plan, which may consist of Distributions or Catch-Up Distributions of Cash; and

**WHEREAS**, the Issuer may request from time to time that WTC distribute, on the Issuer’s behalf, Cash on the Initial Distribution Date, other Distribution Dates, or as otherwise provided in or permitted by the Plan, in accordance with applicable provisions of the Plan, the Plan Administrator Agreement, and this Agreement and the Issuer’s written instructions provided hereunder (all such distributions of Cash being referred to herein as “**Cash Distributions**” and all such dates on which Cash Distributions are to be made being referred to herein as “**Cash Distribution Dates**”);

**NOW, THEREFORE**, for the purpose of appointing an agent to effectuate the Cash Distributions, the Issuer and WTC agree as follows:

1. Appointment of Agent. The Issuer hereby appoints WTC as its agent (in such capacity, the “**Agent**”) for the purpose of effectuating Cash Distributions to holders of Allowed Claims in Classes 1, 2 and 3 of the Plan (but not in respect of effectuating Cash Distributions to holders of Allowed Interests in Class 4 of the Plan, including, without limitation, the Shareholder Participation) in accordance with applicable provisions of the Plan and the Issuer’s written instructions from time to time; provided, however, that the Issuer reserves the right to make any Cash Distribution to any holder of Allowed Claims in Classes 1, 2 and 3 of the Plan itself through the Plan Administrator.

2. Payments. The Issuer shall pay the Agent (i) an initial fee of \$\_\_\_\_\_, payable on the Initial Distribution Date, and (ii) a fee of \$\_\_\_\_\_ for each annual period for which this Agreement is in effect (prorated for any portion of any such annual period), payable

on the Initial Distribution Date and on each annual anniversary thereof while this Agreement is in effect (and subject to the refund by the Agent of any amount resulting from any such proration), as compensation for all services rendered by the Agent hereunder, together with all reasonable costs and expenses (including attorneys' fees and expenses) incurred by the Agent in connection with the preparation and negotiation of this Agreement and the performance of its services (including the making of Cash Distributions) hereunder.

3. Distribution Instructions.

(a) All Cash Distributions to be made by the Agent pursuant to this Agreement shall be made upon its receipt from the Issuer or from an agent of the Issuer, including, without limitation, the Plan Administrator (specified in a notice by the Issuer to the Agent), no later than five days (or a lesser number acceptable to the Agent) before the applicable Cash Distribution Date, of instructions provided for in subsection (b) or (c) below.

(b) In the case of Cash Distributions that may be made to the Indenture Trustee by Agent with respect to the Bear Swamp Certificates, the Issuer may deliver to the Agent instructions that specify (i) the Cash Distribution Date, (ii) the aggregate amount of the Cash Distributions to be made on such date to the Indenture Trustee for the benefit of the holders of the Bear Swamp Certificates as of the BSC Record Date, net of applicable withholding taxes, if any, on the Cash Distribution amount not inclusive of tax, if any, on the Post-Petition Interest component of such Distribution, and (iii) the distribution rate per \$1,000 principal amount of the Bear Swamp Certificates. In such a circumstance, the Agent will coordinate with the Indenture Trustee, to the extent requested by the Indenture Trustee, so that such Cash Distributions are effectuated through the book-entry transfer facilities of The Depository Trust Company ("DTC").

(c) In the case of Cash Distributions to be made to Class 1, 2 and 3 Claimants other than those referred to in subsection (b) above, the Issuer may deliver to the Agent instructions that specify (i) the Cash Distribution Date, (ii) the aggregate amount of the Cash Distributions to be made on such date to such Claimants, net of applicable withholding taxes, if any, on the Cash Distribution amount not inclusive of tax, if any, on the Post-Petition Interest component of such Distribution, (iii) the names of the Class 1, 2 and 3 Claimants who are to receive payments of such Cash Distributions, who shall be Class 1, 2 and 3 Claimants as of the Record Date, or, in the case of claims arising under certain revolving credit, financing, guaranty or similar agreements, the agent or trustee for the Class 3 Claimants with respect thereto, all as specified in such instructions, (iv) the Claim in respect of which each such payment is being made, and (v) wire transfer or other delivery instructions for each such payment. Upon receipt of such instructions, the Agent shall make or cause to be made such payments in accordance with such instructions.

4. Establishment of Accounts.

(a) The Issuer and the Agent shall cause to be opened and maintained such accounts and reserves (the "**Payment Account(s)**") from which the Agent may make Cash Distributions hereunder. The Issuer shall fund the Payment Accounts, prior to each Cash

Distribution Date, with an amount in Cash sufficient to allow the Agent to make the Cash Distributions to be made on such Date.

(b) Without limitation, the Issuer and the Agent shall cause to be opened and maintained an account ( the “**Disputed Claims Reserve**”) into which the Issuer shall deposit from time to time Cash to be held for Cash Distributions to holders of Disputed Claims pursuant to Articles V and VII of and otherwise under the Plan and the Plan Administrator Agreement. As Disputed Claims become Allowed Claims, the Issuer shall instruct the Agent to transfer to the proper Payment Account, prior to the Cash Distribution Date on which the applicable Distributions are to be made, amounts necessary to make Cash Distributions on account of such Claims pursuant to the Plan. Amounts held in the Disputed Claims Reserve may be invested by the Agent as specified in written instructions delivered to the Agent by the Issuer from time to time. The Agent shall have no liability in respect of any investment made as provided in this subsection (b). If at any time the Agent has no effective investment instructions as to any amounts in the Disputed Claims Reserve, the Agent shall not invest such amounts, and uninvested funds held hereunder shall not earn or accrue interest. Any interest or earnings received on funds invested pursuant to this subsection (b) will be held in the Disputed Claims Reserve and applied in accordance with the provisions of this Agreement. The Agent shall not be accountable for any losses resulting from any sale or depreciation in the market value of any investments made hereunder.

(c) No amounts or assets shall be held in any Payment Account, including, without limitation, the Disputed Claims Reserve, except as set forth in subsection (a) or (b) above, as the case may be.

5. Indemnification. The Issuer shall indemnify the Agent against any and all losses, liabilities, damages, claims, expenses (including reasonable attorneys’ fees and expenses) or taxes (other than taxes based on the income of the Agent) incurred by it arising out of or in connection with the Cash Distributions, the acceptance of the agency and the performance of the Agent’s duties under this Agreement and defending itself against any claim (whether asserted by the Issuer or any natural person or other entity) or liability in connection with the exercise or performance of any of the Agent’s powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to the Agent’s gross negligence, willful misconduct or bad faith. The Agent shall notify the Issuer promptly of any claim for which it may seek indemnity. Failure by the Agent so to notify the Issuer shall not relieve the Issuer of its obligations hereunder except to the extent that the Issuer is materially prejudiced by such failure. The Issuer shall defend the claim and the Agent shall cooperate in the defense. The Agent may retain separate counsel and the Issuer shall pay the reasonable fees and expenses of such counsel. The Issuer need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld, delayed or conditioned. The obligations of the Issuer under this Section 5 shall survive the termination of this Agreement.

6. Agency. In acting under this Agreement and in connection with the Cash Distributions, and in its capacity as the Issuer’s Disbursing Agent, the Agent is acting solely as agent of the Issuer and does not assume any obligations or relationship of agency or trust for or with any of the recipients of the Cash.

7. Liability.

(a) The Agent shall be protected and shall incur no liability for or in respect of any action taken or omitted to be taken or anything suffered by it in reliance upon any notice, direction, certificate, affidavit, statement or other paper, document or communication reasonably believed by it to be genuine and to have been made or delivered by the proper party, including, without limitation, distribution or delivery instructions provided to the Agent by the Issuer pursuant to the Plan or this Agreement.

(b) In no event shall the Agent be liable for any (i) indirect, special, punitive or consequential loss or damage of any kind whatsoever, including, but not limited to, lost profits, even if the Agent has been advised of the likelihood of such loss or damage and regardless of the form of action or (ii) failure or delay in the performance of its obligations hereunder because of circumstances beyond its control, including, but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, embargo or government action, including any laws, ordinances, regulations, governmental actions or the like which delay, restrict or prohibit the providing of the services contemplated by this Agreement.

8. Consultation with Counsel. The Agent may consult with counsel at its own cost and expense satisfactory to it and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken, omitted to be taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

9. Notice by Issuer. Any order, certificate, notice, request, direction or other communication from the Issuer made or given by it under any provision of this Agreement shall be sufficient if signed by an officer or agent of the Issuer.

10. Termination. WTC's appointment as agent hereunder shall commence on the first date on which any Cash Distribution is to be made, as specified in a written notice given by the Issuer to WTC not less than five days before such date, and shall continue for a term of one year (the "**Initial Term**"). Unless either party gives written notice of termination of this Agreement at least 30 days prior to the end of the Initial Term, or any successive one-year term, this Agreement shall automatically renew for an additional one-year term or, in any case, for such shorter period as shall be agreed by the Issuer and WTC. Notwithstanding the foregoing provisions, either the Issuer or the Agent may terminate this Agreement upon 60 days' prior written notice to the other party.

(b) Prior to termination of this Agreement, the Issuer shall provide WTC with written instructions as to the disposition of records, as well as any additional documentation reasonably requested by WTC. Except as otherwise expressly provided in this Agreement, the respective rights and duties of the Issuer and WTC under this Agreement shall cease upon termination of the appointment.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland, without regard to its principles of conflict of laws.

12. Headings. The headings contained in this Agreement are for the purposes of convenience only and are not intended to define or limit the contents of this Agreement.

13. Severability. Whenever possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is found to violate a law, it will be severed from the rest of the Agreement and ignored.

14. Counterparts. This Agreement may be executed by each of the parties hereto in any number of counterparts, and by each of the parties hereto on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

USGEN NEW ENGLAND, INC.

By: \_\_\_\_\_  
Name: William Runge  
Title: Plan Administrator

WILMINGTON TRUST COMPANY

By: \_\_\_\_\_  
Name:  
Title: