

101072

CERTIFICATE OF LIMITED PARTNERSHIP

OF

SUN OPERATING LIMITED PARTNERSHIP

The undersigned, Partners in a limited partnership formed pursuant to the Delaware Revised Uniform Limited Partnership Act (the "Act") by the filing of a Certificate of Limited Partnership (herein called the "Original Certificate") on November 19, 1985 desiring to comply with all requirements for the qualification or reformation and operation of such limited partnership in all other jurisdictions where such limited partnership shall propose to conduct business, being all of the members of such limited partnership and having signed and sworn to this Certificate, do hereby certify as follows:

A. When used in this Certificate and Exhibit A to this Certificate, unless the context otherwise requires, the defined terms set forth in Article II of Exhibit A to this Certificate shall have the respective meanings assigned to them in such Article II unless otherwise expressly provided in this Certificate. Article II of Exhibit A to this Certificate is identical to Article II of the Agreement of Limited Partnership of Sun Operating Limited Partnership (herein called the "Partnership Agreement" and in Exhibit A to this Certificate called "this Agreement").

B. The name of the limited partnership is Sun Operating Limited Partnership (herein and in Exhibit A to this Certificate called the "Partnership").

C. The character of the business of the Partnership is set forth in Section 3.1 of Exhibit A to this Certificate.

D. The location of the principal place of business of the Partnership is 5656 Blackwell, Four NorthPark East, Dallas, Texas 75231. The Managing General Partner from time to time may change the location of the Partnership's principal place of business and designate such new location to the Partners and may maintain such other place or places of business as the Managing General Partner deems advisable.

E. The name and place of residence of the General Partners of the Partnership are as follows:

Sun Exploration and  
Production Company

5656 Blackwell  
Four NorthPark East  
Dallas, Texas 75231

Sun Equity, Inc.

Suite 101, Hagley Building  
3411 Silverside Road  
Wilmington, Delaware 19810

BOOK | 40 PAGE 438

The name and place of residence of the Limited Partner of the Partnership is as follows:

Sun Energy Partners,            5656 Blackwell  
L.P.                                    Four NorthPark East  
    Dallas, Texas 75231

F. The term for which the Partnership is to exist is the period (i) commencing on November 19, 1985, the date of the completion of filing for record with the Office of the Secretary of State of the State of Delaware of the Original Certificate and (ii) continuing until the dissolution of the Partnership upon the occurrence of any of the events set forth in Section 13.1 of Exhibit A to this Certificate. The Partnership shall terminate only after its affairs have been wound up and its assets distributed in liquidation as provided in the Partnership Agreement.

G. As of the date hereof, the Limited Partner has contributed One Hundred Dollars (\$100.00) in cash to the Partnership.

H. The Limited Partner is obligated to contribute the Original Properties to the Partnership and may contribute additional capital as set forth in Section 4.3 of Exhibit A to this Certificate. At the time any such additional contributions are made, an amendment to this Certificate will be filed, if necessary, pursuant to and in accordance with the applicable laws of the state in which this Certificate has been filed.

I. There is no agreed time at which the Limited Partner's contributions to the Partnership are to be returned, except that the Limited Partner's contributions, or parts thereof, may be returned to the extent, if any, that distributions made pursuant to the Partnership Agreement or upon termination of the Partnership may be considered as such by law and then only to the extent provided for in the Partnership Agreement.

J. The share of (i) Partnership profits or other compensation by way of Partnership income which the Limited Partner shall receive by reason of its contributions and (ii) costs, credits, deductions and other expenses pertaining to the Partnership (including expenses, losses, depletion and depreciation) which are allocated to and borne by the Limited Partner is set forth in Sections 4.4, 5.1, 5.2, 5.3, 13.3 and 13.4 of Exhibit A to this Certificate.

K. The Limited Partner has no right to substitute an assignee as a Limited Partner in its place. An assignee of the interest of the Limited Partner, or any portion thereof, shall become a substituted Limited Partner entitled to all of the

rights of the Limited Partner if, and only if, there has been compliance with all of the conditions set forth in Section 11.1 of Exhibit A to this Certificate.

L. Except for the admission of a successor to the Partnership Interest of the Limited Partner as set forth in Paragraph K of this Certificate, the Partnership Agreement does not confer any right upon the General Partners or the Limited Partner to admit new or substituted Limited Partners to the Partnership.

M. The priority of the Limited Partner over any other limited partner as to contributions or as to compensation by way of income is not applicable to the Partnership since the Limited Partner is the sole limited partner of the Partnership.

N. The right of the remaining General Partner or General Partners to continue the business of the Partnership upon the death, retirement or insanity of a General Partner is not applicable to the Partnership since the General Partners of the Partnership are corporations.

O. Except as provided in Section 13.4 of Exhibit A to this Certificate, the Limited Partner has no right to demand or receive property other than cash in return for its contributions.

P. The right of the Limited Partner to vote on, and the vote required for the election or removal of the General Partners is set forth in Sections 11.2, 11.3 and 12.1 of Exhibit A to this Certificate. The right of the Limited Partner to vote on the termination of the Partnership is set forth in Section 13.1 of Exhibit A to this Certificate. The right of the Limited Partner to vote on an amendment of the Partnership Agreement is set forth in Sections 11.4 and 14.1 of Exhibit A to this Certificate. The right of the Limited Partner to vote on the sale of all or substantially all of the assets of the Partnership is set forth in Section 15.1 of Exhibit A to this Certificate. The Limited Partner has the right to cause other action to be effective as to the Partnership as set forth in Exhibit A to this Certificate.

Q. Attached to this Certificate as Exhibit A is the Partnership Agreement which is incorporated into this Certificate for all purposes and shall be effective to provide the information required to be contained in the Certificate despite the lack of any reference thereto in this Certificate or in any paragraph of this Certificate. References to sections, subsections and other subdivisions contained in Exhibit A to this Certificate refer to corresponding sections, subsections and other subdivisions of Exhibit A to this Certificate and/or the Partnership Agreement unless expressly provided otherwise.

IN WITNESS WHEREOF, this Certificate has been executed as  
of the 3<sup>rd</sup> day of November, 1985.

GENERAL PARTNERS:

SUN EXPLORATION AND PRODUCTION  
COMPANY

By: Thomas W. Lynch  
Name: Thomas W. Lynch  
Title: Vice President

SUN EQUITY, INC.

By: \_\_\_\_\_  
Name: R. L. Beckershoff  
Title: President

LIMITED PARTNER

SUN ENERGY PARTNERS, L.P.

By: Sun Exploration and Production  
Company  
Managing General Partner

By: Thomas W. Lynch  
Name: Thomas W. Lynch  
Title: Vice President

IN WITNESS WHEREOF, this Certificate has been executed as  
of the \_\_\_\_\_ day of \_\_\_\_\_, 1985.

GENERAL PARTNERS:

SUN EXPLORATION AND PRODUCTION  
COMPANY

By: \_\_\_\_\_  
Name: Thomas W. Lynch  
Title: Vice President

SUN EQUITY, INC.

By: *R. L. Beckershoff*  
Name: R. L. Beckershoff  
Title: President

LIMITED PARTNER

SUN ENERGY PARTNERS, L.P.

By: Sun Exploration and Production  
Company  
Managing General Partner

By: \_\_\_\_\_  
Name: Thomas W. Lynch  
Title: Vice President

STATE OF TEXAS  
COUNTY OF DALLAS

§  
§  
§

Before me, J. Shea, Notary Public in and for the County of Dallas and State of Texas, on this day personally appeared THOMAS W. LYNCH, known to me to be the person whose name is subscribed to the foregoing instrument, and known to me to be the Vice President of Sun Exploration and Production Company, a Delaware corporation, and acknowledged to me that he executed that instrument for the purposes and consideration therein expressed and as the act of said corporation.

Given under my hand and official seal this 22<sup>nd</sup> day of November, 1985.



J. Shea  
Notary Public in and for the  
County of Dallas and State of Texas

STATE OF DELAWARE  
COUNTY OF \_\_\_\_\_

§  
§  
§

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of November, 1985 by \_\_\_\_\_, President of Sun Equity, Inc., a Delaware corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for the  
County of \_\_\_\_\_ and  
State of Delaware

STATE OF TEXAS      §  
COUNTY OF DALLAS      §

Before me, \_\_\_\_\_, Notary Public in and for the County of Dallas and State of Texas, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and known to me to be the Vice President of Sun Exploration and Production Company, a Delaware corporation, and acknowledged to me that he executed that instrument for the purposes and consideration therein expressed and as the act of said corporation.

Given under my hand and official seal this \_\_\_\_\_ day of November, 1985.

\_\_\_\_\_  
Notary Public in and for the  
County of Dallas and State of Texas

STATE OF DELAWARE      §  
COUNTY OF MANCATEE      §

The foregoing instrument was acknowledged before me this 27th day of November, 1985 by R. L. BECKERSHOFF, President of Sun Equity, Inc., a Delaware corporation, on behalf of the corporation.

*Rolene A. Horne*  
Notary Public in and for the  
County of MANCATEE and  
State of Delaware

My Commission expires Feb. 25, 1987



STATE OF TEXAS  
COUNTY OF DALLAS

§  
§  
§

Before me, J. Shea, Notary Public in and for the County of Dallas and State of Texas, on this day personally appeared THOMAS W. LYNCH, known to me to be the person whose name is subscribed to the foregoing instrument, and known to me to be the Vice President of Sun Exploration and Production Company, a Delaware corporation, acting in its capacity as Managing General Partner of Sun Energy Partners, L.P., a Delaware limited partnership, and acknowledged to me that he executed that instrument for the purposes and consideration therein expressed and as the act of said general partner.

Given under my hand and official seal this 22<sup>nd</sup> day of November, 1985.



J. Shea  
Notary Public in and for the  
County of Dallas and State of Texas



EXHIBIT A

AGREEMENT  
OF  
LIMITED PARTNERSHIP  
OF  
SUN OPERATING LIMITED PARTNERSHIP

BOOK | 40 PAGE 446

**AGREEMENT OF LIMITED PARTNERSHIP OF  
SUN OPERATING LIMITED PARTNERSHIP  
TABLE OF CONTENTS**

**ARTICLE I  
ORGANIZATIONAL MATTERS**

	<u>Page</u>
1.1 Formation .....	1
1.2 Name .....	1
1.3 Registered Office and Principal Office of Partnership; Addresses of Partners .....	1
1.4 Power of Attorney .....	1
1.5 Term .....	3

**ARTICLE II  
DEFINITIONS**

"Agreed Value" .....	3
"Agreement" .....	3
"Assignee" .....	3
"Assignments" .....	3
"Assumption Agreement" .....	4
"Capital Account" .....	4
"Capital Contribution" .....	4
"Carrying Value" .....	4
"Certificate of Limited Partnership" .....	4
"Commencement Date" .....	4
"Contributed Property" .....	4
"Contributing Partner" .....	4
"Departing Partner" .....	4
"Designated Expenses" .....	4
"General Partners" .....	4
"Guarantees" .....	5
"Initial Offering" .....	5
"License Agreement" .....	5
"Limited Partner" .....	5
"Liquidator" .....	5
"LP Unit" .....	5
"Managing General Partner" .....	5
"Net Agreed Value" .....	5
"Opinion of Counsel" .....	5
"Original Properties" .....	5
"Partner" .....	5
"Partnership" .....	5
"Partnership Interest" .....	5
"Percentage Interest" .....	5
"Recapture Income" .....	5
"Registration Statement" .....	5

	<u>Page</u>
"SEP Partnership Agreement" .....	6
"Simulated Basis" .....	6
"Simulated Depletion Allowance" .....	6
"Special General Partner" .....	6
"Supplemental Guarantees" .....	6
"Underwriters" .....	6
"Underwriting Agreement" .....	6
"Unrealized Gain" .....	6
"Unrealized Loss" .....	6

### ARTICLE III

#### PURPOSE

3.1 Purpose .....	7
-------------------	---

### ARTICLE IV

#### CAPITAL CONTRIBUTIONS

4.1 Managing General Partner .....	7
4.2 Special General Partner .....	7
4.3 Limited Partner .....	8
4.4 Capital Accounts .....	8
4.5 No Preemptive Rights .....	9
4.6 Interest .....	10
4.7 No Withdrawal .....	10
4.8 Loans from Partners .....	10

### ARTICLE V

#### ALLOCATIONS AND DISTRIBUTIONS

5.1 Capital Account Allocations .....	10
5.2 Tax Allocations .....	10
5.3 Distributions .....	12

### ARTICLE VI

#### MANAGEMENT AND OPERATION OF BUSINESS

6.1 Management .....	12
6.2 Certificate of Limited Partnership .....	13
6.3 Reliance by Third Parties .....	13
6.4 Compensation and Reimbursement of General Partners .....	14
6.5 Outside Activities .....	14
6.6 Partnership Funds .....	14
6.7 Contracts with Affiliates; Loans to or from General Partners; Joint Ventures .....	15
6.8 Indemnification of General Partners .....	16
6.9 Liability of General Partners .....	17
6.10 Resolution of Conflicts of Interest .....	18
6.11 Other Matters Concerning General Partners .....	18

**ARTICLE VII**

**RIGHTS AND OBLIGATIONS OF LIMITED PARTNER**

	<u>Page</u>
7.1 Limitation of Liability .....	19
7.2 Management of Business .....	19
7.3 Return of Capital .....	19

**ARTICLE VIII**

**BOOKS, RECORDS, ACCOUNTING AND REPORTS**

8.1 Records and Accounting .....	19
8.2 Fiscal Year .....	19
8.3 Reports .....	19
8.4 Other Information .....	19

**ARTICLE IX**

**TAX MATTERS**

9.1 Preparation of Tax Returns .....	20
9.2 Tax Elections .....	20
9.3 Tax Controversies .....	20
9.4 Organizational Expenses .....	20
9.5 Intangible Drilling Costs .....	20
9.6 Taxation as a Partnership .....	20
9.7 Opinions Regarding Taxation as a Partnership .....	21

**ARTICLE X**

**TRANSFER OF INTERESTS**

10.1 Transfer .....	21
10.2 Transfer of Interests of General Partners .....	21
10.3 Transfer of Interest of Limited Partner .....	21

**ARTICLE XI**

**ADMISSION OF SUCCESSOR PARTNERS**

11.1 Admission of Successor Limited Partner .....	21
11.2 Admission of Successor Managing General Partner .....	21
11.3 Admission of Successor Special General Partner .....	21
11.4 Amendment of Agreement and of Certificate of Limited Partnership ..	22

**ARTICLE XII**

**WITHDRAWAL OR REMOVAL OF THE GENERAL PARTNERS**

12.1 Withdrawal or Removal of Managing General Partner .....	22
12.2 Withdrawal or Removal of Special General Partner .....	22
12.3 Interest of Departing Partner .....	22

**ARTICLE XIII**  
**DISSOLUTION AND LIQUIDATION**

	<u>Page</u>
13.1 Dissolution .....	23
13.2 Continuation of the Partnership .....	24
13.3 Liquidation .....	24
13.4 Distribution in Kind .....	25
13.5 Cancellation of Certificate of Limited Partnership .....	25
13.6 Return of Capital .....	25
13.7 Waiver of Partition .....	25

**ARTICLE XIV**  
**AMENDMENT OF AGREEMENT**

14.1 Amendments .....	25
-----------------------	----

**ARTICLE XV**  
**LIMITATION ON SALE OF ASSETS**

15.1 Limitation on Sale of Assets .....	26
---	----

**ARTICLE XVI**  
**GENERAL PROVISIONS**

16.1 Addresses and Notices .....	27
16.2 Titles and Captions .....	27
16.3 Pronouns and Plurals .....	27
16.4 Further Action .....	27
16.5 Binding Effect .....	27
16.6 Integration .....	27
16.7 Creditors .....	27
16.8 Waiver .....	27
16.9 Counterparts .....	27
16.10 Applicable Law .....	27
16.11 Invalidity of Provisions .....	27
Annex I—Certificate for Limited Partnership Units in Sun Operating Limited Partnership .....	29

AGREEMENT  
OF  
LIMITED PARTNERSHIP  
OF  
SUN OPERATING LIMITED PARTNERSHIP

THIS AGREEMENT OF LIMITED PARTNERSHIP is entered into by and among Sun Exploration and Production Company, a Delaware corporation, as the Managing General Partner, Sun Equity, Inc., a Delaware corporation, as the Special General Partner, and Sun Energy Partners, L.P., a limited partnership formed pursuant to the Delaware Revised Uniform Limited Partnership Act, as the Limited Partner.

ARTICLE I  
ORGANIZATIONAL MATTERS

1.1. *Formation.* Subject to the provisions of this Agreement, the General Partners and the Limited Partner hereby form the Partnership as a limited partnership pursuant to the provisions of the Delaware Act. The General Partners and the Limited Partner hereby enter into this Agreement in order to set forth the rights and obligations of the Partners and certain matters related thereto. Except as expressly provided and permitted herein to the contrary, the rights and obligations of the Partners and the administration and termination of the Partnership shall be governed by the Delaware Act. The Partnership Interest of any Partner shall be personal property for all purposes.

1.2. *Name.* The name of the Partnership shall be, and the business of the Partnership shall be conducted under the name of, Sun Operating Limited Partnership. The Partnership's business may be conducted under any other name or names deemed advisable by the Managing General Partner to preserve the limited liability of the Limited Partner, including the name of the Managing General Partner or any Affiliate. The Managing General Partner in its sole discretion may change the name of the Partnership at any time and from time to time.

1.3. *Registered Office and Principal Office of Partnership; Addresses of Partners.*

(a) The registered office of the Partnership in the State of Delaware shall be the Corporate Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801, and its registered agent for service of process on the Partnership at such registered office shall be The Corporation Trust Company. The principal office of the Partnership shall be 5656 Blackwell, Four NorthPark East, Dallas, Texas 75231, or such other place as the Managing General Partner may from time to time designate to the Partners. The Managing General Partner will give notice to the Limited Partner within ten days after any change in the principal office of the Partnership. The Partnership may maintain offices at such other place or places as the Managing General Partner deems advisable.

(b) The address of the Managing General Partner is 5656 Blackwell, Four NorthPark East, Dallas, Texas 75231, and the address of the Special General Partner is Suite 101, Hagley Building, 3411 Silverside Road, Wilmington, Delaware 19810. The address of the Limited Partner is 5656 Blackwell, Four NorthPark East, Dallas, Texas 75231.

1.4. *Power of Attorney.*

(a) The Limited Partner hereby constitutes and appoints the Managing General Partner and the Liquidator and their authorized officers (and any successor to either thereof by merger, assignment, election

or otherwise and the authorized officers thereof) with full power of substitution as its true and lawful agent and attorney-in-fact, with full power and authority in its name, place and stead, to:

(i) execute, swear to, acknowledge, deliver, file and record in the appropriate public offices (A) all certificates and other instruments and all amendments or restatements thereof which the Managing General Partner or the Liquidator deems reasonable and appropriate or necessary to qualify, or continue the qualification of, the Partnership as a limited partnership (or a partnership in which the Limited Partner has limited liability) in all jurisdictions in which the Partnership may conduct business or own property; (B) all instruments, including an amendment or restatement of this Agreement, which the Managing General Partner or the Liquidator deems appropriate or necessary to reflect any amendment, change or modification of this Agreement in accordance with its terms; (C) all conveyances and other instruments or documents which the Managing General Partner or the Liquidator deems appropriate or necessary to reflect the dissolution and liquidation of the Partnership pursuant to the terms of this Agreement; and (D) all instruments relating to the admission or substitution of any Partner pursuant to Article XI or Article XII;

(ii) sign, execute and file with the Department of Interior (including any bureau, office, or other unit thereof, whether in Washington, D.C., or in the field, or any officer or employee thereof), as well as with any other federal or state agencies, departments, bureaus, offices or authorities, any documents or instruments related to the Partnership or its business which the Managing General Partner or the Liquidator in its sole discretion deems appropriate or necessary, including, without limitation, (A) any and all offers to lease and leases of or with respect to (including amendments, modifications, supplements, renewals and exchanges thereof) any lands under the jurisdiction of the United States or any state (including, without limitation, areas of the outer continental shelf, lands within the public domain, acquired lands and Indian lands) under any act or regulation which provides for the leasing thereof; (B) all statements of interest and holdings on behalf of the Partnership or the Partners; (C) any other statements, notices or communications now or hereafter required or permitted to be filed under any law, rule or regulation of the United States or any state, including, without limitation, the Mineral Lands Leasing Act of 1920, as amended, 30 U.S.C. § 181 et seq., the Mineral Leasing Act for Acquired Lands of 1947, as amended, 30 U.S.C. § 351 et seq., the Right-of-Way Leasing Act of 1930, 30 U.S.C. § 301 et seq., and the Outer Continental Shelf Lands Act of 1953, as amended, 43 U.S.C. § 1331 et seq., relating to the leasing of lands for oil or gas exploration or development; (D) any request for approval of assignments or transfers of oil and gas leases, any unitization or pooling agreements and any other documents relating to lands under the jurisdiction of the United States or any state; and (E) copies of this Agreement and of the Certificate of Limited Partnership and of amendments and restatements hereof and thereof; and

(iii) sign, execute, swear to and acknowledge all ballots, consents, approvals, waivers, certificates and other instruments appropriate or necessary, in the sole discretion of the Managing General Partner or the Liquidator, to make, evidence, give, confirm or ratify any vote, consent, approval, agreement or other action which is made or given by the Partners hereunder, is deemed to be made or given by the Partners hereunder, or is consistent with the terms of this Agreement and/or appropriate or necessary, in the sole discretion of the Managing General Partner or the Liquidator, to effectuate the terms or intent of this Agreement.

Nothing herein contained shall be construed as authorizing the Managing General Partner to amend this Agreement except in accordance with Article XIV or as may be otherwise expressly provided for in this Agreement.

(b) The foregoing power of attorney is hereby declared to be irrevocable and a power coupled with an interest, and it shall survive, and not be affected by, the dissolution, bankruptcy or termination of the Limited Partner and the transfer of all or any portion of its Partnership Interest and shall extend to the Limited Partner's successors, assigns and legal representatives. The Limited Partner hereby agrees to be bound by any representations made by the Managing General Partner or the Liquidator, acting in good faith pursuant to

such power of attorney; and the Limited Partner hereby waives any and all defenses which may be available to contest, negate or disaffirm the action of the Managing General Partner or the Liquidator, taken in good faith under such power of attorney. The Limited Partner shall execute and deliver to the Managing General Partner or the Liquidator, within fifteen days after receipt of the Managing General Partner's or the Liquidator's request therefor, such further designations, powers of attorney and other instruments as the Managing General Partner or the Liquidator deems necessary to effectuate this Agreement and the purposes of the Partnership.

1.5. *Term.* The Partnership shall commence at the time of filing of the Certificate of Limited Partnership for the Partnership in accordance with the Delaware Act and shall continue in existence until the close of Partnership business on December 31, 2035, or until the earlier termination of the Partnership in accordance with the provisions of Article XIII; provided, however, that if the SEP Partnership Agreement shall terminate pursuant to the proviso contained in the first sentence of Section 1.5 of the SEP Partnership Agreement, this Agreement and the Partnership shall thereupon terminate and all obligations of the Partnership shall be cancelled (or discharged solely by the Managing General Partner). The Managing General Partner shall not commence or engage in any business on behalf of the Partnership until after the Commencement Date, other than matters necessary or incidental to the Partnership's organization (including, without limitation, the issuance of a Partnership Interest to the Limited Partner) and qualification.

## ARTICLE II

### DEFINITIONS

(a) The following definitions shall for all purposes, unless otherwise clearly indicated to the contrary, apply to the terms used in this Agreement.

"Agreed Value" (a) of a Contributed Property transferred to the Partnership by the Limited Partner pursuant to Section 4.3, means such property's Agreed Value (as such term is defined in the SEP Partnership Agreement) determined in accordance with the provisions of the SEP Partnership Agreement, and (b) of any other property or consideration transferred to the Partnership, means the fair market value of such property or other consideration, as determined by the Managing General Partner using such reasonable method of valuation as may be adopted by the Managing General Partner. The Agreed Value of any Contributed Property shall reflect any adjustments made pursuant to Section 4.4(b)(v).

"Agreement" means this Agreement of Limited Partnership, as it may be amended, supplemented or restated from time to time.

"Assignee" means (a) a Person to whom one or more Depositary Units or LP Units have been transferred, by assignment of a Depositary Receipt or otherwise in a manner permitted under the SEP Partnership Agreement, and who thereby has an economic interest in the Limited Partner equivalent to that of a limited partner therein but (i) limited to the rights and obligations appurtenant to an LP Unit to share in the distributions, including liquidating distributions of the Limited Partner, provided in the SEP Partnership Agreement, and (ii) otherwise subject to the limitations set forth in the SEP Partnership Agreement on the rights of an assignee who has not become a substituted limited partner in the Limited Partner or (b) a Non-Eligible Assignee.

"Assignments" means collectively those Assignment and Assumption Agreements and Assignment Agreements wherein, among other things, (a) E&P or wholly-owned subsidiaries or Affiliates of E&P contribute and convey to the Limited Partner certain designated assets and the Limited Partner assumes certain designated indebtedness and liabilities and related obligations and (b) the Limited Partner contributes and conveys certain of such assets to the Partnership and the Partnership assumes certain of such designated indebtedness and liabilities and related obligations.



824 RV-21

"Assumption Agreement" means that Assumption Agreement among Sun, E&P, the Limited Partner, the Partnership, Sun R&M and Claymont wherein, among other things, the Limited Partner and the Partnership assume certain indebtedness and liabilities of E&P to Claymont described in Exhibit B to such agreement.

"Capital Account" means the capital account maintained for a Partner pursuant to Section 4.4.

"Capital Contribution" means any cash or any Contributed Property which a Partner contributes to the Partnership pursuant to Section 4.1, 4.2 or 4.3.

"Carrying Value" means (a) with respect to a Contributed Property, the Agreed Value of such property reduced (but not below zero) by all depletion, depreciation and cost recovery deductions charged to the Partners' Capital Accounts pursuant to Section 4.4(a) with respect to such property, as well as any other charges for sales, retirements and other dispositions of assets included in a Contributed Property, as of the time of determination, and (b) with respect to any other property, the adjusted basis of such property for federal income tax purposes as of the time of determination. The Carrying Value of any property shall be adjusted in accordance with Section 4.4(d).

"Certificate of Limited Partnership" means the Certificate of Limited Partnership filed with the Secretary of State of the State of Delaware pursuant to Section 6.2, as it may be amended and/or restated from time to time.

"Commencement Date" means the "Closing Date" as defined in the Underwriting Agreement.

"Contributed Property" means each Contributing Partner's interest in each property or other consideration in such form as may be permitted by the Delaware Act (but excluding cash) contributed to the Partnership by such Contributing Partner.

"Contributing Partner" means each Partner directly or indirectly contributing a Contributed Property to the Partnership.

"Departing Partner" means a former General Partner, as of the effective date of any withdrawal or removal of such former General Partner pursuant to Section 12.1 or 12.2.

"Designated Expenses" means all expenditures in connection with the Oil and Gas Activities of the Partnership that are (without duplication) incurred or made by the Partnership or by the Managing General Partner or Special General Partner or any Affiliate thereof (a) on behalf of, or in the management or operation of the business of, the Partnership (including, without limitation, amounts paid to any Person to perform services for the Partnership) and/or (b) of the type and nature that, if incurred prior to the Commencement Date, would have been, on a historical basis, recorded on the books and records of and attributed to E&P (including, without limitation, salaries and compensation expenses of employees, officers and directors of, and costs and expenses of a general and administrative nature and overhead costs and expenses incurred directly by, E&P) and are allocable to the Partnership. For purposes of this definition, such expenditures include all exploration and development costs and all other costs (including property acquisition costs) incurred in oil and gas exploration, development and production activities, whether the costs are capitalized or charged to expense as incurred, including all costs incurred in connection with activities related to or in support of, directly or indirectly, such oil and gas exploration, development and production activities, and all other capital and operating costs and expenses incurred in any business of the Partnership other than oil and gas exploration, development and production. The Managing General Partner shall determine the expenses described in clause (b) above which are allocable to the Partnership (and those which are not allocable to the Partnership because of the activities of E&P with respect to non-Partnership properties and business) in any manner which is fair and reasonable to all parties.

"General Partners" means E&P, Sun Equity, or their successors, in their respective capacities as general partners of the Partnership.

"Guarantees" means those Guarantees, more fully described in Exhibit A to the Assumption Agreement, pursuant to which E&P has guaranteed certain obligations of Sun R&M and Suncor.

"Initial Offering" means the first public offering of Depository Units, as described in the Registration Statement.

"License Agreement" means that License Agreement among E&P, the Limited Partner, the Partnership, Sun Pennsylvania Limited Partnership, Sun Crude Trading & Transportation Limited Partnership, Radep Pipeline Limited Partnership, Sun Cogeneration Limited Partnership, Sun Offshore Gathering Limited Partnership and Sun Gas Transmission Limited Partnership pursuant to which E&P grants certain licenses and rights under the patents, trademarks, confidential information, third party licenses and other intellectual property described therein, as such agreement may be amended or supplemented from time to time.

"Limited Partner" means Sun Energy Partners, L.P., a limited partnership organized under the Delaware Act, or its successors.

"Liquidator" has the meaning specified in Section 13.3.

"LP Unit" means a unit of limited partner's interest in the Limited Partner.

"Managing General Partner" means E&P, in its capacity as the managing general partner of the Partnership, or its successors.

"Net Agreed Value" means (a) in the case of any Contributed Property, the Agreed Value of such property or other consideration reduced by any indebtedness either assumed by the Partnership upon such contribution or to which such property is subject when contributed, (b) in the case of any property currently distributed to a Partner pursuant to Section 5.3, the Partnership's Carrying Value of such property at the time such property is distributed reduced by any indebtedness either assumed by such Partner upon such distribution or to which such property is subject at the time of distribution, and (c) in the case of any property distributed to a Partner in liquidation of the Partnership pursuant to Sections 13.3 and 13.4, the fair market value of such property at the time of such distribution (as determined in the manner provided in Section 13.4) reduced by any indebtedness either assumed by such Partner upon such distribution or to which such property is subject at the time of distribution.

"Opinion of Counsel" means a written opinion of counsel (who may be regular counsel to the Partnership or a General Partner) acceptable to the Managing General Partner.

"Original Properties" means those properties and assets described in the Assignments that are to be contributed to the Partnership by the Limited Partner pursuant to Section 4.3(b).

"Partner" means a General Partner or the Limited Partner.

"Partnership" means the limited partnership established by the filing of the Certificate of Limited Partnership with the Secretary of State of the State of Delaware pursuant to this Agreement.

"Partnership Interest" means the interest of a Partner in the Partnership.

"Percentage Interest" means (a) as to the Managing General Partner, .99%, (b) as to the Special General Partner, .01%, and (c) as to the Limited Partner, 99%.

"Recapture Income" means any gain recognized by the Partnership or, in the case of gain required by Section 613A(c)(7)(D) of the Code to be computed separately by each Partner, by a Partner (but computed without regard to any adjustment required by Section 734 or 743 of the Code) upon the disposition of any property or asset of the Partnership that is not capital gain because such gain represents the recapture of deductions previously taken for federal income tax purposes with respect to such property or assets.

"Registration Statement" means the Registration Statement on Form S-1 (No. 33-763), as it has been or as it may be amended from time to time, filed by the Limited Partner with the Securities and Exchange

Commission under the Securities Act to register the offering and sale of the Depository Units in the Initial Offering.

"SEP Partnership Agreement" means the agreement of limited partnership of the Limited Partner, as it may be amended or supplemented from time to time.

"Simulated Basis" means the adjusted basis of any oil and gas property (as defined in Section 614 of the Code), determined for federal income tax purposes immediately following the acquisition of such property, as adjusted to reflect (i) additions to basis and (ii) the Simulated Depletion Allowance.

"Simulated Depletion Allowance" means a depletion allowance computed (in accordance with federal income tax principles) for each taxable year with respect to each oil and gas property (as defined in Section 614 of the Code), using the cost method or percentage method of depletion (without regard to limitations imposed on the percentage method under Section 613A of the Code which could theoretically apply to less than all Partners), whichever results in the greater depletion allowance. For purposes of computing the Simulated Depletion Allowance with respect to any property, the adjusted basis of such property shall be deemed to be the Simulated Basis in such property and in no event shall such allowance, in the aggregate, exceed such Simulated Basis.

"Special General Partner" means Sun Equity, in its capacity as the special general partner of the Partnership, or its successors.

"Supplemental Guarantees" means collectively those Supplemental Guarantee Agreements, in the form attached to the Assumption Agreement as Exhibit C thereto, wherein, among other things, the Limited Partner and the Partnership assume certain obligations of E&P under the Guarantees.

"Underwriters" means those underwriting firms listed in the Underwriting Agreement or an exhibit or schedule thereto that agree to purchase LP Units from the Limited Partner.

"Underwriting Agreement" means that Underwriting Agreement between the Limited Partner and the Underwriters with respect to the Initial Offering, as it may be amended or supplemented from time to time.

"Unrealized Gain" attributable to a Partnership property means, as of any date of determination, the excess, if any, of the fair market value of such property as of such date of determination over the Carrying Value of such property as of such date (prior to any adjustment to be made pursuant to Section 4.4(d) as of such date).

"Unrealized Loss" attributable to a Partnership property means, as of any date of determination, the excess, if any, of the Carrying Value of such property as of such date of determination (prior to any adjustment to be made pursuant to Section 4.4(d) as of such date) over the fair market value of such property as of such date of determination.

(b) The following terms shall have the respective meanings assigned to them in the SEP Partnership Agreement:

"Affiliate"	"Non-Eligible Assignee"
"Claymont"	"Oil and Gas Activities"
"Code"	"Oil and Gas Interests"
"Delaware Act"	"Person"
"Depository Receipt"	"Securities Act"
"Depository Unit"	"Sun"
"E&P"	"Suncor"
"Indentures"	"Sun Equity"
"NASDAQ"	"Sun R&M"
	"Unit Price"

### ARTICLE III

#### PURPOSE

3.1. *Purpose.* The purpose and business of the Partnership shall be the conduct of Oil and Gas Activities, either alone or in association with others; the carrying on of any business relating to or arising from Oil and Gas Activities to the extent such business may be carried on under the Delaware Act; and anything incidental to the foregoing.

### ARTICLE IV

#### CAPITAL CONTRIBUTIONS

##### 4.1. *Managing General Partner.*

(a) On the date of this Agreement, the Managing General Partner shall contribute to the Partnership cash in an amount equal to .99% of the total Capital Contributions (based on the amounts credited to Capital Accounts on account thereof) then being made to the Partnership pursuant to this Section 4.1(a) and Sections 4.2(a) and 4.3(a).

(b) On the Commencement Date, the Managing General Partner shall contribute to the Partnership cash in an amount equal to .99% of the total Capital Contributions (based on the amounts credited to Capital Accounts on account thereof) then being made to the Partnership pursuant to this Section 4.1(b) and Sections 4.2(b) and 4.3(b).

(c) Following the Commencement Date, whenever the Limited Partner makes a Capital Contribution to the Partnership pursuant to Section 4.3(c), the Managing General Partner shall contribute to the Partnership cash in an amount, or property or other consideration in such form as may be permitted by the Delaware Act having a Net Agreed Value, such that its Capital Contribution then being made as Managing General Partner shall be equal to .99% of the total Capital Contributions (based on the amounts credited to Capital Accounts on account thereof) then being made pursuant to this Section 4.1(c) and Sections 4.2(c) and 4.3(c).

##### 4.2. *Special General Partner.*

(a) On the date of this Agreement, the Special General Partner shall contribute to the Partnership cash in an amount equal to .01% of the total Capital Contributions (based on the amounts credited to Capital Accounts on account thereof) then being made to the Partnership pursuant to this Section 4.2(a) and Sections 4.1(a) and 4.3(a).

(b) On the Commencement Date, the Special General Partner shall contribute to the Partnership cash in an amount equal to .01% of the total Capital Contributions (based on the amounts credited to Capital Accounts on account thereof) then being made to the Partnership pursuant to this Section 4.2(b) and Sections 4.1(b) and 4.3(b).

(c) Following the Commencement Date, whenever the Limited Partner makes a Capital Contribution to the Partnership pursuant to Section 4.3(c), the Special General Partner shall contribute to the Partnership cash in an amount, or property or other consideration in such form as may be permitted by the Delaware Act having a Net Agreed Value, such that its Capital Contribution then being made as Special General Partner shall be equal to .01% of the total Capital Contributions (based on the amounts credited to Capital Accounts on account thereof) then being made to the Partnership pursuant to this Section 4.2(c) and Sections 4.1(c) and 4.3(c).

4.3. *Limited Partner.*

(a) On the date of this Agreement, the Limited Partner shall contribute cash in the amount of \$100 to the capital of the Partnership.

(b) On the Commencement Date, in exchange for its Partnership interest the Limited Partner shall contribute the Original Properties to the Partnership and the Partnership shall assume (or take the Original Properties subject to) certain indebtedness and liabilities and assume certain related obligations in accordance with the Assignments, the Assumption Agreement and the Supplemental Guarantees.

(c) Following the Commencement Date, the Limited Partner may contribute additional capital, whether in the form of Oil and Gas Interests, cash or other property, to the Partnership and the Partnership shall assume, or take such property subject to, all liabilities attributable to any such contributed property.

4.4. *Capital Accounts.*

(a) The Partnership shall maintain for each Partner a separate Capital Account. Such Capital Account shall be increased by (i) the cash amount or Net Agreed Value of all Capital Contributions made by such Partner to the Partnership pursuant to this Agreement and (ii) all items of Partnership income and gain computed in accordance with Section 4.4(b) and allocated to such Partner pursuant to Section 5.1 and decreased by (iii) the cash amount or Net Agreed Value of all actual and deemed distributions of cash or property made to such Partner pursuant to this Agreement and (iv) all items of Partnership deduction and loss computed in accordance with Section 4.4(b) and allocated to such Partner pursuant to Section 5.1.

(b) For purposes of computing the amount of any item of income, gain, deduction or loss to be reflected in the Partners' Capital Accounts, the determination, recognition and classification of any such item shall be the same as its determination, recognition and classification for federal income tax purposes; provided, however, that:

(i) Solely for purposes of the application of the provisions hereof, the Partnership shall be treated as owning directly its proportionate share (as determined by the Managing General Partner based upon the provisions of the partnership agreement of a partnership which is an Affiliate of the Partnership and in which the Partnership owns a partnership interest) of all property owned by any partnership which is an Affiliate of the Partnership.

(ii) Any deductions for depreciation, cost recovery or amortization (other than depletion under Section 611 of the Code) attributable to a Contributed Property shall be determined as if the adjusted basis of such property on the date it was acquired by the Partnership was equal to the Agreed Value of such property. Upon an adjustment pursuant to Section 4.4(d)(i) to the Carrying Value of any Partnership property subject to depreciation, cost recovery or amortization (other than depletion under Section 611 of the Code), any further deductions for such depreciation, cost recovery or amortization attributable to such property shall be determined as if the adjusted basis of such property was equal to the Carrying Value of such property immediately following such adjustment.

(iii) Any depletion deductions attributable to a separate oil and gas property (as defined in Section 614 of the Code) shall be computed by the Partnership using the cost or percentage method of depletion (without regard to limitations imposed on the percentage method under Section 613A of the Code which theoretically could apply to less than all of the Partners), whichever results in the greater deduction. For purposes hereof, any cost depletion determined with respect to an oil and gas property shall be determined as if the adjusted basis of such property on the date of such determination was equal in amount to the Partnership's Carrying Value with respect to such property as of such date. Depletion deductions determined with respect to an oil and gas property shall, in the aggregate, reduce the Capital

Accounts of the Partners only to the extent of the Partnership's Carrying Value with respect to such property. The allocations of basis and amount realized (and all items of income, gain, deduction or loss computed with respect thereto) required by Section 613A(c)(7)(D) of the Code shall not affect the Capital Accounts of the Partners.

(iv) Any income, gain or loss attributable to the taxable disposition of any property (including any property subject to depletion under Section 611 of the Code) shall be determined by the Partnership as if the adjusted basis of such property as of such date of disposition was equal in amount to the Partnership's Carrying Value with respect to such property as of such date.

(v) If the Partnership's adjusted basis in a depreciable or cost recovery property is reduced for federal income tax purposes pursuant to Section 48(g)(1) of the Code, the amount of such reduction shall, solely for purposes hereof, be deemed to be an additional depreciation or cost recovery deduction in the year such property is placed in service and shall be allocated among the Partners pursuant to Section 5.1. Any restoration of such basis pursuant to Section 48(q)(2) of the Code shall be allocated in the same manner to the Partners to whom such deemed deduction was allocated.

(vi) All fees and other expenses incurred by the Partnership to promote the sale of (or to sell) a Partnership Interest that can neither be deducted nor amortized under Section 709 of the Code shall, for purposes of Capital Account maintenance, be treated as an item of deduction and shall be allocated among the Partners pursuant to Section 5.1.

(vii) The computation of all items of income, gain, loss and deduction shall be made without regard to any election under Section 754 of the Code which may be made by the Partnership and, as to those items described in Section 705(a)(1)(B) or Section 705(a)(2)(B) of the Code, without regard to the fact that such items are not includable in gross income or are neither currently deductible nor capitalizable for federal income tax purposes.

(c) A transferee of a Partnership Interest will succeed to the Capital Account relating to the Partnership Interest transferred; provided, however, that if the transfer causes a termination of the Partnership under Section 708(b)(1)(B) of the Code, the Partnership properties shall be deemed to have been distributed in liquidation of the Partnership to the Partners (including the transferee of a Partnership Interest) pursuant to Sections 13.3 and 13.4 and recontributed by such Partners and transferees in the reconstitution of the Partnership. The Capital Accounts of such reconstituted Partnership shall be maintained in accordance with the principles of this Section 4.4.

(d) (i) Upon the Limited Partner's contribution to the Partnership of cash or properties received by the Limited Partner in exchange for additional LP Units pursuant to Section 4.4 of the SEP Partnership Agreement, the Managing General Partner shall make appropriate adjustments to the Capital Accounts (and to the Carrying Values of Partnership properties) as necessary to reflect any adjustments made by the Managing General Partner pursuant to Section 4.6(d) of the SEP Partnership Agreement.

(ii) Immediately prior to the distribution of any Partnership property in liquidation of the Partnership pursuant to Sections 13.3 and 13.4, the Capital Accounts of all Partners (and the Carrying Values of all Partnership properties) shall, immediately prior to any such distribution, be adjusted (consistent with the provisions hereof) upwards or downwards to reflect any Unrealized Gain or Unrealized Loss attributable to all Partnership properties (as if such Unrealized Gain or Unrealized Loss had been recognized upon an actual sale of such properties, immediately prior to such distribution, and had been allocated to the Partners, at such time, pursuant to Section 5.1). In determining such Unrealized Gain or Unrealized Loss attributable to the properties, the fair market value of the Partnership properties shall be determined by the Managing General Partner using such reasonable methods of valuation as it may adopt.

**4.5. No Preemptive Rights.** No Partner shall have any preemptive, preferential or other right with respect to (a) additional Capital Contributions; (b) issuance or sale of partnership interests in the Partnership; (c) issuance of any obligations, evidences of indebtedness or other securities of the Partnership convertible into or exchangeable for, or carrying or accompanied by any rights to receive, purchase or

subscribe to, any such partnership interests in the Partnership; (d) issuance of any right of, subscription to or right to receive, or any warrant or option for the purchase of, any of the foregoing securities; or (e) issuance or sale of any other securities that may be issued or sold by the Partnership.

4.6. *Interest.* No interest shall be paid by the Partnership on Capital Contributions or on balances in Partners' Capital Accounts.

4.7. *No Withdrawal.* A Partner shall not be entitled to withdraw any part of its Capital Contribution or its Capital Account or to receive any distribution from the Partnership, except as provided in Section 5.3 and Articles XII and XIII.

4.8. *Loans from Partners.* Loans by a Partner to the Partnership shall not be considered Capital Contributions.

## ARTICLE V

### ALLOCATIONS AND DISTRIBUTIONS

5.1. *Capital Account Allocations.* For purposes of maintaining the Capital Accounts and in determining the rights of the Partners among themselves, each item of income, gain, loss and deduction (computed in accordance with Section 4.4(b)) shall be allocated to the Partners in accordance with their respective Percentage Interests.

#### 5.2. *Tax Allocations.*

(a) For federal income tax purposes, except as otherwise provided in this Section 5.2, each item of amount realized, income, gain, loss, deduction and credit of the Partnership shall be allocated among the Partners in accordance with their respective Percentage Interests.

(b) The deduction for depletion with respect to each separate oil and gas property (as defined in Section 614 of the Code) shall be computed for federal income tax purposes separately by the Partners rather than the Partnership in accordance with Section 613A(c)(7)(D) of the Code. For purposes of such computation, the proportionate share of the adjusted basis (before taking into account any adjustments resulting from an election made by the Partnership on behalf of such Partner under Section 754 of the Code) of each oil and gas property (as defined in Section 614 of the Code) allocated to each Partner shall be determined in accordance with the following principles:

(i) In the case of a Contributed Property, the adjusted basis of such property shall be allocated at the time of contribution to the Partners in a manner consistent with Section 704(c) of the Code.

(ii) In all other cases, the adjusted basis of each oil and gas property shall be allocated to the Partners in accordance with their respective Percentage Interests.

Each Partner shall separately keep records of his share of the adjusted basis in each oil and gas property, allocated as provided above, adjust such share of the adjusted basis for any cost or percentage depletion allowable on such property and use such adjusted basis in the computation of his cost depletion or in the computation of his gain or loss on the disposition of such property by the Partnership.

(c) For the purpose of the separate computation of gain or loss by each Partner on the sale or disposition of each separate oil and gas property (as defined in Section 614 of the Code), the Partnership's allocable share of the "amount realized" (as such term is defined in Section 1001(b) of the Code) from such sale shall be allocated for federal income tax purposes to the Partners as follows:

(i) In the case of a Contributed Property, such "amount realized" shall be allocated (A) first, to the Partners in an amount equal to the Simulated Basis in such property in the same proportion as such Partners were allocated adjusted basis in (or attributable to) such property (as determined in accordance with Section 5.2(b)), (B) second, to the Contributing Partners with respect to such

property, in a manner consistent with Section 704(c) of the Code, and (C) third, the balance to the Partners in accordance with their respective Percentage Interests.

(ii) In all other cases, the "amount realized" shall be allocated (A) first, to the Partners in an amount equal to the Simulated Basis in each oil and gas property in the same proportion as such Partners were allocated adjusted basis in (or attributable to) such property (as determined in accordance with Section 5.2(b)) and (B) second, the balance to the Partners in accordance with their respective Percentage Interests.

(d) Each item of depreciation and cost recovery deduction attributable to, and each item of gain or loss from the sale of, any property which is not an oil and gas property, as defined in Section 614 of the Code, shall be allocated for federal income tax purposes to the Partners in accordance with their Percentage Interests unless Section 704 of the Code requires a different allocation.

(e) It is intended that the allocations in paragraphs (b), (c) and (d) hereof effect an allocation for federal income tax purposes in a manner consistent with Section 704 of the Code and comply with any limitations or restrictions therein and in a manner consistent with the corresponding provisions in Section 5.2 of the SEP Partnership Agreement. The Managing General Partner shall have complete discretion to make the allocations pursuant to this Section 5.2 and the allocations and adjustments to Capital Accounts in any manner consistent with Section 704 of the Code and to amend the provisions of this Agreement as appropriate as a result of the promulgation of final Treasury Regulations under Section 704 of the Code, if in the opinion of counsel such an amendment is advisable to reflect allocations among the Partners consistent with those Regulations.

(f) All items of income, gain, loss, deduction, credit and basis allocation recognized by the Partnership for federal income tax purposes and allocated to the Partners in accordance with the provisions hereof shall be determined without regard to any election under Section 754 of the Code which may be made by the Partnership; provided, however, such allocations, once made, shall be adjusted as necessary or appropriate to take into account those adjustments permitted by Sections 734 and 743 of the Code and, where appropriate, to provide only Partners recognizing gain on Partnership distributions covered by Section 734 of the Code with the federal income tax benefits attributable to the increased basis in Partnership property resulting from any election under Section 754 of the Code.

(g) To the extent of any Recapture Income resulting from the sale or other taxable disposition of a Partnership asset, the amount of any gain from such disposition allocated to (or recognized by) a Partner (or its successor in interest) for federal income tax purposes pursuant to the above provisions shall be deemed to be Recapture Income to the extent such Partner has been allocated or has claimed any deduction directly or indirectly giving rise to the treatment of such gain as Recapture Income. Any recapture of investment tax credits or other credits shall be taken into account by those Partners to whom such credits were allocated as required under the Code and applicable Treasury Regulations.

(h) In the event of the transfer of a Partnership Interest during a year, each item of Partnership amount realized, income, gain, loss, deduction and credit attributable to the transferred Partnership Interest shall for federal income tax purposes be prorated between the transferor and transferee on a daily or other reasonable basis, as required by Section 706 of the Code; provided, however, that gain or loss on a sale or other disposition of all or a substantial portion of the assets of the Partnership shall be allocated to the holder of the Partnership Interest on the date of sale.

(i) If the Percentage Interest of the Limited Partner is changed during a taxable year for any reason other than the transfer of a Partnership Interest to another Person, the Limited Partner's share of taxable income or loss shall be determined for federal income tax purposes by prorating all items of taxable income or loss on a daily or other reasonable basis and allocating such items among the Partners taking into account each such Partner's varying Percentage Interest in the Partnership on each such day (or other reasonable period) as required or permitted by Section 706 of the Code.



### 5.3. Distributions.

(a) From time to time, and not less often than quarterly, the Managing General Partner shall review the Partnership's accounts to determine whether distributions are appropriate. At any time the Managing General Partner may make such distributions as it in its sole discretion may determine, without being limited to current or accumulated income or gains, but no such distribution shall be made out of funds required to make current payments on Partnership indebtedness. Such distributions may be made from Partnership revenues, Capital Contributions or Partnership borrowings. The Managing General Partner may in its sole discretion distribute to Partners other Partnership property. All such distributions shall be made concurrently to all Partners and in accordance with the Percentage Interests of the Partners.

(b) For the purpose of this Agreement the amount of windfall profit tax attributable to a Partner shall be treated as follows:

(i) The cash proceeds that are offset by the withholding of such tax shall be deemed to have been distributed to the Partner. The amount of such tax shall be treated as paid by the Partner.

(ii) If any Partner is subject to a higher rate of windfall profit tax on any oil production of the Partnership than the rate imposed on any other Partner, the Managing General Partner is authorized to adjust appropriately actual cash distributions in order to reflect accurately the varying rates of windfall profit tax imposed upon the various Partners.

(c) Any amounts paid pursuant to Section 6.4 shall not be deemed distributions for purposes of this Agreement.

## ARTICLE VI

### MANAGEMENT AND OPERATION OF BUSINESS

#### 6.1. Management.

(a) The Managing General Partner shall have the exclusive management and control of the business and affairs of the Partnership. Except as otherwise expressly provided in this Agreement, all management powers over the business and affairs of the Partnership shall be exclusively vested in the Managing General Partner, and neither the Special General Partner nor the Limited Partner shall have any right of control over the business and affairs of the Partnership. In addition to the powers now or hereafter granted a general partner of a limited partnership under applicable law or which are granted to the Managing General Partner under any other provision of this Agreement, the Managing General Partner shall have full power and authority to do all things deemed necessary or desirable by it to conduct the business of the Partnership, in the name of the Partnership or in the Managing General Partner's own name, including, without limitation, (i) the determination of the Oil and Gas Activities or Oil and Gas Interests in which the Partnership will participate; (ii) the making of any expenditures, the borrowing of money, the guaranteeing of indebtedness and other liabilities, the issuance of evidences of indebtedness, and the incurring of any obligations it deems necessary or advisable for the conduct of the activities of the Partnership; (iii) the acquisition, disposition (subject to any approval of the Limited Partner which may be required by Section 15.1), mortgage, pledge, encumbrance, hypothecation or exchange of any or all of the assets of the Partnership; (iv) the use of the assets of the Partnership (including, without limitation, cash on hand) for any Partnership purpose and on any terms it sees fit, including, without limitation, the financing of the conduct of the drilling activities and other operations of the Partnership, the repayment of obligations of the Partnership, the lending of funds to other Persons, the conduct of additional Partnership operations and the purchase of Oil and Gas Interests; (v) the negotiation and execution on terms deemed desirable to the Partnership in its sole discretion and the performance of any contracts, conveyances or other instruments that it considers useful or necessary to the conduct of the Partnership operations or the implementation of its powers under this Agreement; (vi) the distribution of Partnership cash; (vii) the selection and dismissal of employees and outside attorneys, accountants, consultants and contractors and the determination of their compensation and other terms of

624 RW-21

employment or hiring; (viii) the making of all decisions concerning the desirability of payment, and the payment or supervision of payment, of all delay rentals and shut-in royalty payments; (ix) the maintenance of such insurance for the benefit of the Partnership and the Partners as it deems necessary; (x) the formation of any further limited or general partnerships, joint ventures or other relationships that it deems desirable, and the contribution to such partnerships or ventures of assets and properties of the Partnership; (xi) the control of any matters affecting the rights and obligations of the Partnership, including the conduct of litigation and the incurring of legal expenses and the settlement of claims and litigation; and (xii) the purchase, sale or other acquisition or disposition of LP Units and Depository Units at such times and on such terms as it deems to be in the best interests of the Partnership and the Partners.

(b) Each of the Partners hereby approves, ratifies and confirms the execution, delivery and performance of the Assignments, the Assumption Agreement, the Supplemental Guarantees, the License Agreement and any other agreements, acts, transactions and matters described in this Agreement and the Registration Statement and agrees that the Managing General Partner is authorized to execute, deliver and perform such agreements and take such action on behalf of the Partnership without any further act, approval or vote of the Partners or the Partnership, notwithstanding any other provision of this Agreement, the SEP Partnership Agreement, the Delaware Act or any applicable law, rule or regulation. The participation by the Managing General Partner in any agreement authorized or permitted under this Agreement shall not constitute a breach by the Managing General Partner of any duty that the Managing General Partner may owe the Partnership or the Limited Partner under this Agreement or under applicable law.

6.2. *Certificate of Limited Partnership.* The Managing General Partner shall cause to be filed with the Secretary of State of the State of Delaware as required by the Delaware Act the Certificate of Limited Partnership of the Partnership and shall cause to be filed such other certificates or documents (including, without limitation, copies of this Agreement) as may be determined by the Managing General Partner to be reasonable and necessary or appropriate for the formation or qualification and operation of a limited partnership (or a partnership in which the Limited Partner has limited liability) in the State of Delaware and in any other state in which the Partnership may elect to do business. To the extent that the Managing General Partner in its sole discretion determines such action to be reasonable and necessary or appropriate, the Managing General Partner shall file amendments to and/or restatements of the Certificate of Limited Partnership and do all things to maintain the Partnership as a limited partnership (or a partnership in which the Limited Partner has limited liability) under the laws of the State of Delaware and any other state in which the Partnership may elect to do business.

6.3. *Reliance by Third Parties.* Notwithstanding any other provision of this Agreement to the contrary, no lender or purchaser, including any purchaser of property from the Partnership or any other Person dealing with the Partnership, including any purchaser of production, shall be required to look to the application of proceeds hereunder or to verify any representation by the Managing General Partner as to the extent of the interest in the assets of the Partnership that the Managing General Partner is entitled to encumber, sell or otherwise use, and any such lender or purchaser shall be entitled to rely exclusively on the representations of the Managing General Partner as to its authority to enter into such financing or sale arrangements and shall be entitled to deal with the Managing General Partner as if it were the sole party in interest therein, both legally and beneficially. The Limited Partner hereby waives any and all defenses or other remedies that may be available against any such lender, purchaser or other Person to contest, negate or disaffirm any action of the Managing General Partner in connection with any such sale or financing. In no event shall any Person dealing with the Managing General Partner or the Managing General Partner's representative with respect to any business or property of the Partnership be obligated to ascertain that the terms of this Agreement have been complied with, and each such Person shall be entitled to rely on the assumptions that the Partnership has been duly formed and is validly in existence and that the Commencement Date has occurred. In no event shall any such Person be obligated to inquire into the necessity or expedience of any act or action of the Managing General Partner or the Managing General Partner's representative; and every contract, agreement, deed, mortgage, security agreement, promissory note or other instrument or document executed by the Managing General Partner or the Managing General

Partner's representative with respect to any business or property of the Partnership shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that (a) at the time of the execution and/or delivery thereof this Agreement was in full force and effect, (b) such instrument or document was duly executed in accordance with the terms and provisions of this Agreement and is binding upon the Partnership, and (c) the Managing General Partner or the Managing General Partner's representative was duly authorized and empowered to execute and deliver any and every such instrument or document for and on behalf of the Partnership.

**6.4. Compensation and Reimbursement of General Partners.**

(a) Except as provided in this Section 6.4 and elsewhere in this Agreement or in the SEP Partnership Agreement and any other agreement contemplated herein or therein, the General Partners shall not be compensated for their services rendered to the Partnership as General Partners.

(b) Each of the General Partners shall be reimbursed for all expenses, disbursements, and advances incurred or made in connection with the organization of the Partnership and the qualification of the Partnership and the General Partners to do business.

(c) Each General Partner shall be paid (i) on a monthly basis, as reimbursement for Designated Expenses, 100% of the Designated Expenses incurred by it and its Affiliates and (ii) on a monthly basis, as reimbursement for all expenses other than Designated Expenses that such General Partner and its Affiliates incur on behalf of, or in the management and operation of the business of, the Partnership, that portion of such General Partner's and its Affiliates' in-house legal, accounting, geological, engineering and well supervision costs and expenses, telephone, secretarial, aircraft, travel and entertainment expenses, office rent and other office expenses, salaries and other compensation expenses of employees, officers and directors, other administrative expenses and other expenses (other than salaries and compensation expenses and other general and administrative and overhead expenses attributable to E&P that are included within the definition of Designated Expenses and for which the General Partners are reimbursed pursuant to clause (i) above) that is necessary or appropriate to the conduct of the Partnership's business and allocable to the Partnership. The Managing General Partner shall determine the expenses which are allocable to the Partnership in any manner which is fair and reasonable to all parties. Such reimbursements shall be in addition to any reimbursement to the General Partners as a result of indemnification pursuant to Section 6.8. All expenses that have been or would otherwise be incurred by or charged to the Limited Partner shall constitute expenses of, and shall be paid by, the Partnership (either by direct payment by the Partnership or by payment to the Limited Partner for payment of such expense).

**6.5. Outside Activities.** The Managing General Partner, the Special General Partner, any Affiliate of a General Partner and any director, officer, partner or employee of either General Partner or any Affiliate of a General Partner shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Partnership and may engage in Oil and Gas Activities and in any other businesses and activities, including business interests and activities in direct competition with the Partnership and the Limited Partner, for their own accounts and for the accounts of others, and may own interests in the same properties as those in which the Partnership or the Limited Partner owns an interest, without having or incurring any obligation to offer any interest in such properties, businesses or activities to the Partnership, the Limited Partner or the General Partners, and no other provision of this Agreement shall be deemed to prohibit the Managing General Partner, the Special General Partner or any such Person from conducting such other businesses and activities. To the extent that E&P engages in domestic Oil and Gas Activities for its own account, it will take reasonable steps to maintain current records sufficient to identify such activities as separate from those of the Partnership. Neither the Partnership, the Limited Partner nor the General Partners shall have any rights by virtue of this Agreement or the partnership relationship created hereby in any independent business ventures of the Managing General Partner, the Special General Partner, any Affiliate of a General Partner or any director, officer, partner or employee of either General Partner or an Affiliate of a General Partner.

**6.6. Partnership Funds.** The funds of the Partnership shall be deposited in such account or accounts as are designated by the Managing General Partner. The Managing General Partner may, in its sole

discretion, deposit funds of the Partnership in a central disbursing account maintained by or in the name of the Managing General Partner or the Limited Partner in which funds of the Limited Partner and other Persons are also deposited, provided that at all times books of account are maintained which show the amount of funds of the Partnership on deposit in such account and interest accrued with respect to such funds as credited to the Partnership. The Managing General Partner may use the funds of the Partnership as compensating balances for its benefit, provided that such funds do not directly or indirectly secure, and are not otherwise at risk on account of, any indebtedness or other obligation of the Managing General Partner or any director, officer, partner, employee or Affiliate thereof. Nothing in this Section 6.6 shall be deemed to prohibit or limit in any manner the right of the Partnership to lend funds to a General Partner or any Affiliate thereof pursuant to Section 6.7(c). All withdrawals from or charges against such accounts shall be made by the Managing General Partner or by its officers or agents. Funds of the Partnership may be invested as determined by the Managing General Partner, except in connection with acts otherwise prohibited by this Agreement.

*6.7. Contracts with Affiliates; Loans to or from General Partners; Joint Ventures.*

(a) The Managing General Partner may itself, or may enter into an agreement with the Special General Partner or an Affiliate of a General Partner to, render services for the Partnership. Any service rendered to the Partnership by a General Partner or any Affiliate thereof shall be on terms that are fair and reasonable to the Partnership. The provisions of Section 6.4 shall apply to the rendering of services described in this Section 6.7(a).

(b) A General Partner or any Affiliate of a General Partner may lend to the Partnership funds needed by the Partnership for such periods of time as the Managing General Partner may determine; provided, however, that such General Partner or Affiliate may not charge the Partnership interest at a rate greater than the rate (including points or other financing charges or fees) that would be charged the Partnership (without reference to the Managing General Partner's or Special General Partner's financial abilities or guaranties) by unrelated lenders on comparable loans. The Partnership shall reimburse a General Partner or its Affiliate, as the case may be, for any costs incurred by such General Partner or Affiliate in connection with the borrowing of funds obtained by such General Partner or Affiliate and loaned to the Partnership; provided, however, that, notwithstanding the provisions of this Section 6.7(b), assumption of certain indebtedness and liabilities and related obligations by the Partnership pursuant to the Assignments, the Assumption Agreement and the Supplemental Guarantees is hereby ratified by all Partners.

(c) The Partnership may lend or contribute funds to the Limited Partner on terms and conditions established in the sole discretion of the Managing General Partner, provided that such loans or contributions are made in connection with the conduct of the business of the Partnership. The foregoing authority shall be exercised by the Managing General Partner in its sole discretion and shall not create any right or benefit in favor of the Limited Partner or any other Person. The Partnership also may lend funds to a General Partner or any Affiliate thereof; provided, however, that the Partnership shall not charge interest at a rate less than the rate (including points or other financing charges or fees) that would be charged the General Partner or such Affiliate (without reference to third parties' financial abilities or guaranties) by unrelated lenders on comparable loans.

(d) The Partnership may transfer Oil and Gas Interests or other assets to joint ventures or other partnerships in which it is or thereby becomes a participant upon such terms and subject to such conditions consistent with applicable law as the Managing General Partner deems appropriate.

(e) Neither a General Partner nor any Affiliate of a General Partner shall sell, transfer or convey any Oil and Gas Interest or other property to, or purchase any Oil and Gas Interest or other property from, the Partnership, directly or indirectly, except pursuant to transactions that are fair and reasonable to the Partnership; provided that the conditions of this Section 6.7(e) expressly shall not be applicable to the transaction effected pursuant to Section 4.3(b).

(f) Notwithstanding any other provision of this Agreement or the SEP Partnership Agreement, a General Partner or any Affiliate of a General Partner shall be free to purchase, and the Partnership shall be free to sell, any oil, gas or other liquids produced by the Partnership at prices and upon terms and conditions (i) with respect to sales pursuant to existing contracts and agreements covering such oil, gas and liquids, in accordance with the prices, terms and conditions of such contracts and agreements and (ii) with respect to other sales, at such prices and upon such terms and conditions as are believed by the Managing General Partner in good faith to be comparable to those that could be negotiated by the Partnership with an unrelated third party.

6.8. *Indemnification of General Partners.* To the fullest extent permitted by law, the Partnership shall indemnify and hold harmless the General Partners and their directors, officers, employees and agents, and any Person who is or was serving at the request of the Partnership acting through the General Partners as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (individually, an "Indemnitee"), as follows:

(a) In any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, to which an Indemnitee was or is a party or is threatened to be made a party by reason of the fact that such Indemnitee is or was a General Partner or a director, officer, employee or agent of a General Partner or a Person serving at the request of the Partnership in another entity in a similar capacity, involving an alleged cause of action arising from the activities of such General Partner under this Agreement or from the management of the affairs of the Partnership, or which relates to the Partnership, its property, business or affairs, the Partnership shall indemnify such Indemnitee against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by such Indemnitee in connection with the defense and/or settlement of such action, suit or proceeding, if such Indemnitee acted in good faith and in a manner reasonably believed by such Indemnitee to be in or not opposed to the best interests of the Partnership, and provided that the Indemnitee's conduct does not constitute gross negligence or willful or wanton misconduct and with respect to any criminal action or proceeding, such Indemnitee did not have reasonable cause to believe that such Indemnitee's conduct was unlawful. The termination of a proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere, or its equivalent, shall not, of itself, create a presumption that an Indemnitee did not act in good faith and in a manner reasonably believed by such Indemnitee to be in, or not opposed to, the best interests of the Partnership. The Partnership shall also provide such indemnification in any action, suit or proceeding by or in the right of the Partnership to procure a judgment in its favor, provided that if in such action, suit or proceeding the Indemnitee shall have been adjudged to be liable for gross negligence or willful or wanton misconduct, such indemnification shall be provided only if, and only to the extent that, the court in which such action, suit or proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, the Indemnitee is fairly and reasonably entitled to indemnification for such expenses which such court shall deem proper.

(b) Expenses (including legal fees and expenses) incurred in defending any proceeding subject to subsection (a) of this Section 6.8 shall be paid by the Partnership in advance of the final disposition of such proceeding upon receipt of an undertaking (which need not be secured) by or on behalf of the Indemnitee to repay such amount if it shall ultimately be determined, by a court of competent jurisdiction or otherwise, that the Indemnitee is not entitled to be indemnified by the Partnership as authorized hereunder.

(c) Any indemnification under subsection (a) of this Section 6.8, unless ordered by a court, shall be made by the Partnership only as authorized in the specific case and only upon a determination (i) by a majority vote of a quorum of directors of the Managing General Partner who at the time of the vote are not named defendants or respondents in the proceeding, or (ii) if such a quorum cannot be obtained, by a majority vote of a committee of the board of directors of the Managing General Partner, designated to act in the matter by a majority vote of all directors, consisting solely of two or more directors who at the time of the vote are not named defendants or respondents in the proceeding, or (iii) by special independent legal counsel selected by the board of directors or a committee of the board by vote as set forth in (i) or (ii) above, or if

such a quorum cannot be obtained and such a committee cannot be established, by a majority vote of all directors of the Managing General Partner, that indemnification of an Indemnitee is proper in the circumstances because such Indemnitee has met the applicable standard of conduct set forth in subsection (a) of this Section 6.8. Any such indemnification shall be made only out of the assets of the Partnership.

(d) The indemnification provided by this Section 6.8 shall be in addition to any other rights to which each Indemnitee may be entitled under any agreement or vote of the Partners, as a matter of law or otherwise, both as to action in the Indemnitee's capacity as a General Partner or a director, officer, employee or agent of a General Partner or as a Person serving at the request of the Partnership as set forth above and to action in another capacity (including, without limitation, any capacity under the Underwriting Agreement, the Assignments, the Assumption Agreement, the Supplemental Guarantees and the License Agreement), and shall continue as to an Indemnitee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns, administrators and personal representatives of the Indemnitee.

(e) The Partnership may purchase and maintain insurance on behalf of any one or more Indemnitees and such other Persons as the Managing General Partner shall determine against any liability which may be asserted against or expense which may be incurred by such Person in connection with the Partnership's activities, whether or not the Partnership would have the power to indemnify such Person against such liability under the provisions of this Agreement.

(f) In no event may an Indemnitee subject the Limited Partner to personal liability by reason of these indemnification provisions.

(g) An Indemnitee shall not be denied indemnification in whole or in part under this Section 6.8 because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

(h) The provisions of this Section 6.8 are for the benefit of the Indemnitees and the heirs, successors, assigns, administrators and personal representatives of the Indemnitees and shall not be deemed to create any rights for the benefit of any other Persons.

#### 6.9. *Liability of General Partners*

(a) Neither a General Partner nor its partners or shareholders, directors, officers, employees or agents shall be liable to the Partnership or the Limited Partner or to any owner of an LP Unit or any Assignee thereof for errors in judgment or for any acts or omissions that do not constitute gross negligence or willful or wanton misconduct.

(b) Each Partner hereby acknowledges that the restrictions contained in the Indentures, the Guarantees and the Supplemental Guarantees may adversely affect the Partnership and its business and operations, and, notwithstanding any provisions of this Agreement to the contrary, each Partner hereby agrees that the Managing General Partner will not be deemed to be in breach of any fiduciary or other duty to the Partners or the Partnership (i) because of the existence of the Indentures, the Guarantees and the Supplemental Guarantees, (ii) because of the conduct of operations in such a manner or the taking of, or the failure to take, any action (whether through the Partnership or otherwise) that the Managing General Partner deems, in its sole discretion, to be appropriate to cause Sun or E&P to be in compliance with the Indentures, the Guarantees and the Supplemental Guarantees, or (iii) if the Managing General Partner causes the Partnership to refrain from taking any action in order to permit Sun and its subsidiaries (but excluding the Partnership) to take such action to the full extent of the limitations under the Indentures, the Guarantees and the Supplemental Guarantees even if the Partnership is thereby adversely affected.

(c) The Managing General Partner may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its agents, and the

Managing General Partner shall not be responsible for any misconduct or negligence on the part of any such agent appointed by the Managing General Partner with due care.

**6.10. Resolution of Conflicts of Interest.**

(a) Unless otherwise expressly provided in this Agreement, the SEP Partnership Agreement or any other agreement contemplated herein or therein, (i) whenever a conflict of interest exists or arises between the Managing General Partner or any of its Affiliates, on the one hand, and the Partnership or the Limited Partner, on the other hand, or (ii) whenever this Agreement, the SEP Partnership Agreement or any other agreement contemplated herein or therein provides that the Managing General Partner shall act in a manner which is, or provide terms which are, fair and/or reasonable to the Partnership or the Limited Partner, the Managing General Partner shall resolve such conflict of interest, take such action or provide such terms considering, in each case, the relative interests of each party to such conflict, agreement, transaction or situation and the benefits and burdens relating to such interests, any customary or accepted industry practices, and any applicable generally accepted accounting or engineering practices or principles, and in the absence of bad faith by the Managing General Partner, the resolution, action or terms so made, taken or provided by the Managing General Partner shall not constitute a breach of this Agreement, the SEP Partnership Agreement or any other agreement contemplated herein or therein or a breach of any standard of care or duty imposed herein or therein or under the Delaware Act or any other applicable law, rule or regulation. Unless otherwise expressly provided in this Agreement, the SEP Partnership Agreement or any other agreement contemplated herein or therein, any provision contained herein or therein shall control to the fullest extent possible if it is in conflict with such standard of care or duty, the Delaware Act or any other applicable law, rule or regulation; and the Limited Partner hereby waives such standard of care or duty and the Delaware Act and such applicable law, rule or regulation and agrees that the same shall be modified and/or waived to the extent necessary to permit the Managing General Partner to act as described above and to give effect to the foregoing provisions of this Section 6.10(a).

(b) Whenever in this Agreement, the SEP Partnership Agreement or any other agreement contemplated herein or therein, the Managing General Partner is permitted or required to make a decision (i) in its "sole discretion" or "discretion", with "complete discretion", or under a grant of similar authority or latitude, the Managing General Partner shall be entitled to consider only such interests and factors as it desires and shall have no duty or obligation to give any consideration to any interests of or factors affecting the Partnership or the Limited Partner, or (ii) in its "good faith" or under another express standard, the Managing General Partner shall act under such express standard and shall not be subject to any other or different standards imposed by this Agreement, the SEP Partnership Agreement or any other agreement contemplated herein or therein or under the Delaware Act or any other applicable law, rule or regulation. The Limited Partner hereby consents and agrees that the Managing General Partner may so act, waives any standard of care or duty imposed in this Agreement, the SEP Partnership Agreement or any other agreement contemplated herein or therein or under the Delaware Act or any other applicable law, rule or regulation, waives the rights and protection provided and afforded thereby, and agrees that the same shall be modified and/or waived to the extent necessary to permit the Managing General Partner to act as described above and to give effect to the foregoing provisions of this Section 6.10(b).

**6.11. Other Matters Concerning General Partners.**

(a) Each of the General Partners may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, order, bond, debenture, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(b) Each of the General Partners may consult with legal counsel, accountants, appraisers, management consultants, investment bankers and other consultants and advisers selected by it and any opinion of any such Person as to matters which the General Partner believes to be within such Person's professional or expert

competence shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by the General Partner hereunder in good faith and in accordance with such opinion.

## ARTICLE VII

### RIGHTS AND OBLIGATIONS OF LIMITED PARTNER

7.1. *Limitation of Liability.* The Limited Partner shall have no liability under this Agreement except as provided in this Agreement or in the Delaware Act.

7.2. *Management of Business.* The Limited Partner shall not take part in the control (within the meaning of the Delaware Act) of the Partnership's business, transact any business in the Partnership's name or have the power to sign documents for or otherwise bind the Partnership.

7.3. *Return of Capital.* The Limited Partner shall not be entitled to the withdrawal or return of its Capital Contribution, except to the extent, if any, that distributions made pursuant to this Agreement or upon termination of the Partnership may be considered as such by law and then only to the extent provided for in this Agreement.

## ARTICLE VIII

### BOOKS, RECORDS, ACCOUNTING AND REPORTS

8.1. *Records and Accounting.* The Managing General Partner shall keep or cause to be kept appropriate books and records with respect to the Partnership's business, which books and records shall at all times be kept at the principal office of the Partnership. Any books and records maintained by the Partnership in the regular course of its business may be kept on, or be in the form of, punch cards, magnetic tape, photographs, micrographics or any other information storage device, provided that the books and records so kept are convertible into clearly legible written form within a reasonable period of time. The books of the Partnership shall be maintained for financial reporting purposes on the accrual basis or on a cash basis adjusted periodically to an accrual basis, as the Managing General Partner shall determine in its sole discretion, in accordance with generally accepted accounting principles and applicable law.

8.2. *Fiscal Year.* The fiscal year of the Partnership shall be the calendar year.

8.3. *Reports.*

(a) As soon as practicable, but in no event later than ninety days after the close of each fiscal year, the Managing General Partner shall deliver to the Limited Partner reports containing financial statements of the Partnership for the fiscal year, presented in accordance with generally accepted accounting principles, including a balance sheet, a statement of income, a statement of Partners' equity and a statement of changes in financial position, such statements to be audited by a nationally recognized firm of independent public accountants selected by the Managing General Partner.

(b) As soon as practicable, but in no event later than forty-five days after the close of each calendar quarter, except the last calendar quarter of each fiscal year, the Managing General Partner shall deliver to the Limited Partner a report containing such financial and other information for that calendar quarter as the Managing General Partner deems appropriate.

8.4. *Other Information.* The Managing General Partner may release such information concerning the operations of the Partnership to such sources as is customary in the industry or required by law or regulation of any regulatory body. The Managing General Partner shall furnish the Limited Partner or its representatives, at its request, any further nonconfidential information relating to any phase of the operations of the Partnership in such form as it may reasonably request. The Limited Partner and its representatives



shall have free access during normal business hours to all nonconfidential records relating to the operations of the Partnership. For the term of the Partnership and for a period of five years thereafter, the Managing General Partner shall maintain and preserve all books of account and other relevant documents. Notwithstanding the provisions of this Section 8.4, any seismic data, logs, well reports or other drilling data may be kept confidential by the Managing General Partner for a reasonable period of time.

## ARTICLE IX

### TAX MATTERS

9.1. *Preparation of Tax Returns.* The Managing General Partner shall arrange for the preparation and timely filing of all returns of Partnership income, gains, deductions, losses and other items necessary for federal, state and local income tax purposes and shall use all reasonable efforts to furnish to Partners within ninety days of the close of the taxable year the tax information reasonably required for federal and state income tax reporting purposes. A copy of the Partnership's federal income tax return will be furnished to any Partner upon request at such Partner's own expense. The classification, realization and recognition of income, gains, losses and deductions and other items shall be on the cash or accrual method of accounting for federal income tax purposes, as the Managing General Partner shall determine in its sole discretion. The taxable year of the Partnership shall be the calendar year, unless the Managing General Partner shall determine otherwise in its sole discretion. The Managing General Partner in its sole discretion may pay state and local income taxes attributable to operations of the Partnership and treat such taxes as an expense of the Partnership.

9.2. *Tax Elections.* Except as otherwise provided herein, the Managing General Partner shall, in its sole discretion, determine whether to make any available election (including the elections provided for in Sections 48(q)(4) and 168 of the Code). The Managing General Partner shall make the election under Section 754 of the Code in accordance with applicable regulations thereunder to cause the basis of Partnership property to be adjusted for federal income tax purposes as provided by Sections 734 and 743 of the Code, subject to the reservation of the right to seek to revoke any such election upon the Managing General Partner's determination that such revocation is in the best interests of the Limited Partner, provided that the Managing General Partner shall not seek to revoke any such election unless it receives an Opinion of Counsel that such revocation would not result in the loss of limited liability of the Limited Partner or cause the Partnership to be treated as an association taxable as a corporation for federal income tax purposes.

9.3. *Tax Controversies.* Subject to the provisions hereof, the Managing General Partner is designated the Tax Matters Partner (as defined in Section 6231 of the Code), and is authorized and required to represent the Partnership (at the Partnership's expense) in connection with all examinations of the Partnership's affairs by tax authorities, including resulting administrative and judicial proceedings, and to expend Partnership funds for professional services and costs associated therewith. Each Partner agrees to cooperate with the Managing General Partner and to do or refrain from doing any or all things reasonably required by the Managing General Partner to conduct such proceedings.

9.4. *Organizational Expenses.* The Partnership shall elect to deduct expenses incurred in organizing the Partnership ratably over a sixty-month period as provided in Section 709 of the Code.

9.5. *Intangible Drilling Costs.* The Partnership shall make an election to deduct intangible drilling and development costs on its federal income tax return in accordance with the option granted by Section 263(c) of the Code.

9.6. *Taxation as a Partnership.* No election shall be made by the Partnership or any Partner for the Partnership to be excluded from the application of any of the provisions of Subchapter K, Chapter 1 of Subtitle A of the Code or from any similar provisions of any state tax laws.

9.7. *Opinions Regarding Taxation as a Partnership.* Notwithstanding any other provision of this Agreement, the requirement, as a condition to any action proposed to be taken under this Agreement, that the Partnership be furnished an Opinion of Counsel to the effect that the proposed transaction would not result in the Partnership being treated as an association taxable as a corporation for federal income tax purposes shall not be applicable if the Partnership is at such time treated in all material respects as an association taxable as a corporation for federal income tax purposes.

## ARTICLE X TRANSFER OF INTERESTS

### 10.1. *Transfer.*

(a) The term "transfer," when used in this Article X with respect to a Partnership Interest, includes a sale, assignment, gift, pledge, encumbrance, hypothecation, mortgage, exchange or any other disposition.

(b) No Partnership Interest shall be transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Article X. Any transfer or purported transfer of any Partnership Interest not made in accordance with this Article X shall be null and void.

10.2. *Transfer of Interests of General Partners.* A General Partner may not transfer all or any part of its Partnership Interest as a General Partner, except that if a General Partner transfers to any Person its partnership interest as a general partner of the Limited Partner, such General Partner shall transfer its Partnership Interest as a General Partner to such Person. The Limited Partner hereby consents to any such transfer.

10.3. *Transfer of Interest of Limited Partner.* The Limited Partner may not transfer all or any part of its Partnership Interest as the Limited Partner except that a successor of the Limited Partner may succeed to its Partnership Interest as the Limited Partner.

## ARTICLE XI ADMISSION OF SUCCESSOR PARTNERS

11.1. *Admission of Successor Limited Partner.* The successor to the Partnership Interest of the Limited Partner shall be admitted to the Partnership as a Limited Partner upon furnishing to the Managing General Partner (a) acceptance, in form satisfactory to the Managing General Partner, of all the terms and conditions of this Agreement and (b) such other documents or instruments as may be required in order to effect its admission as a Limited Partner. Such admission shall be effective on the date such successor is reflected as a Limited Partner on the books and records of the Partnership.

11.2. *Admission of Successor Managing General Partner.* A successor Managing General Partner selected pursuant to Section 12.1 or the transferee of the entire Partnership Interest of the Managing General Partner pursuant to Section 10.2 shall be admitted to the Partnership as the Managing General Partner, effective as of the date of the withdrawal or removal of the predecessor General Partner or the date of such transfer of such predecessor's Partnership Interest. To the extent required by the laws of any jurisdiction to which the Partnership or the Partnership Agreement is subject, the Partners unanimously consent to the admission of such successor Managing General Partner pursuant to such Section 12.1 or 10.2.

11.3. *Admission of Successor Special General Partner.* A successor Special General Partner selected pursuant to Section 12.2 or the transferee of the entire Partnership Interest of the Special General Partner pursuant to Section 10.2 shall be admitted to the Partnership as the Special General Partner upon furnishing to the Managing General Partner (a) acceptance, in form satisfactory to the Managing General Partner, of all the terms and conditions of this Agreement and (b) such other documents or instruments as the Managing General Partner shall require, effective as of the date of the withdrawal or removal of the

predecessor General Partner or the date of such transfer of such predecessor's Partnership Interest. To the extent required by the laws of any jurisdiction to which the Partnership or the Partnership Agreement is subject, the Partners unanimously consent to the admission of such successor Special General Partner pursuant to such Section 12.2 or 10.2.

11.4. *Amendment of Agreement and of Certificate of Limited Partnership.* In connection with the admission to the Partnership of any successor General Partner or Limited Partner, the Managing General Partner shall take all steps necessary and appropriate to prepare and record or file any amendment or restatement of this Agreement or the Certificate of Limited Partnership that may be required with respect to such admission, and may for this purpose exercise the power of attorney granted by the Limited Partner pursuant to Section 1.4.

## ARTICLE XII

### WITHDRAWAL OR REMOVAL OF THE GENERAL PARTNERS

12.1. *Withdrawal or Removal of Managing General Partner.* The Managing General Partner shall automatically withdraw from the Partnership or be removed as Managing General Partner if, and only if, it withdraws from, or is removed as the managing general partner of, the Limited Partner. Such withdrawal or removal shall be effective at the same time as is its withdrawal or removal as managing general partner of the Limited Partner. The Partners agree that the selection of a successor managing general partner of the Limited Partner shall constitute selection by each Partner of such successor as the successor Managing General Partner. If no successor Managing General Partner is selected, the Partnership shall be dissolved pursuant to Section 13.1.

12.2. *Withdrawal or Removal of Special General Partner.* The Special General Partner shall automatically withdraw from the Partnership or be removed as Special General Partner if, and only if, it withdraws from, or is removed as special general partner of, the Limited Partner. Such withdrawal or removal shall be effective at the same time as is its withdrawal or removal as special general partner of the Limited Partner. The Partners agree that the selection of a successor special general partner of the Limited Partner shall constitute selection by each Partner of such successor as the successor Special General Partner. If, as provided in the SEP Partnership Agreement, a successor Special General Partner is not selected, the Managing General Partner shall have the rights, and be subject to the obligations, of a successor to the Special General Partner under Section 12.3.

#### 12.3. *Interest of Departing Partner.*

(a) A Departing Partner shall, at the option of its successor (if any) exercisable prior to the effective date of the departure of the Departing Partner, promptly receive from its successor in exchange for its Partnership Interest as General Partner an amount in cash equal to the fair market value of the Departing Partner's Partnership Interest as a General Partner herein, determined as of the effective date of its departure in the manner specified in the SEP Partnership Agreement. If the option is exercised, the Departing Partner shall, as of the effective date of its departure, cease to share in any allocations or distributions with respect to its Partnership Interest as a General Partner.

(b) If the successor (if any) to a Departing Partner does not exercise the option described in Section 12.3(a), the Departing Partner shall become a limited partner in the Partnership with respect to its Partnership Interest hereunder and shall be entitled to such allocations and distributions (including liquidating distributions) as are herein provided with respect to its Partnership Interest (subject to proportionate dilution by reason of the admission of its successor), and otherwise shall be entitled to such rights and subject to such obligations as is the Limited Partner hereunder. The Departing Partner's interest in the Partnership will be transferred to the Limited Partner in exchange for interests in the Limited Partner pursuant to Sections 13.3(b)(ii) and (iii) of the SEP Partnership Agreement. This Agreement will be amended to reflect such change.

(c) If the successor (if any) to a Departing Partner does not exercise the option described in Section 12.3(a), the successor shall at the effective date of its admission to the Partnership contribute to the Partnership cash or property or other consideration having a Net Agreed Value such that its Capital Account, after giving effect to such contribution, shall be equal to that percentage of the Capital Accounts of all Partners that is equal to its Percentage Interest as Managing General Partner, in the case of a successor Managing General Partner, or its Percentage Interest as Special General Partner, in the case of a successor Special General Partner. In such event, such successor shall be entitled to such Percentage Interest, as the case may be, of all Partnership allocations and distributions.

### ARTICLE XIII

#### DISSOLUTION AND LIQUIDATION

13.1. *Dissolution.* The Partnership shall be dissolved upon:

- (a) the expiration of its term as provided in Section 1.5;
- (b) notice of withdrawal, bankruptcy or dissolution of the Managing General Partner, or any other event that results in its ceasing to be the Managing General Partner (other than by reason of a transfer pursuant to Section 10.2 or withdrawal occurring after, or removal effective upon or after, selection of a successor pursuant to Section 12.1);
- (c) an election to dissolve the Partnership given to the Managing General Partner by the Limited Partner;
- (d) the bankruptcy of the Special General Partner; provided, however, the Managing General Partner and the successor Special General Partner selected pursuant to Section 12.2, if any, shall continue the operations and business of the Partnership until the end of the term for which it is formed unless earlier dissolved in accordance with this Article XIII;
- (e) any other event that, under the Delaware Act, would cause its dissolution, except as provided below in this Section 13.1; or
- (f) dissolution of the Limited Partner, unless the Limited Partner is continued thereafter in accordance with the terms of Article XIV of the SEP Partnership Agreement.

For purposes of this Section 13.1, bankruptcy of the Managing General Partner or Special General Partner shall be deemed to have occurred when (u) it commences a voluntary proceeding or files an answer in any involuntary proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereafter in effect, (v) it is adjudged a bankrupt or insolvent, or has entered against it a final and nonappealable order for relief under any bankruptcy, insolvency or similar law now or hereafter in effect, (w) it executes and delivers a general assignment for the benefit of its creditors, (x) it files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any proceeding of the nature described in clause (u) above, (y) it seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator for it or for all or any substantial part of its properties, or (z) (1) any proceeding of the nature described in clause (u) above has not been dismissed one hundred twenty days after the commencement thereof or (2) the appointment without its consent or acquiescence of a trustee, receiver or liquidator pursuant to clause (y) above has not been vacated or stayed within ninety days of such appointment, or (3) such appointment is not vacated within ninety days after the expiration of any such stay. The withdrawal or dissolution of the Special General Partner or the occurrence of any other event of dissolution pursuant to Section 13.1(e) will not dissolve the Partnership (or if as a matter of law the Partnership is dissolved, then the Partnership shall be deemed dissolved and reconstituted), and in such event the Managing General Partner and the successor Special General Partner selected pursuant to Section 12.2, if any, or the Special General Partner, as the case may be, shall continue the operations and business of the Partnership.

13.2. *Continuation of the Partnership.* Upon an event of dissolution described in Section 13.1(b), the Partnership shall thereafter be terminated unless the Special General Partner and the Limited Partner elect in writing to continue the Partnership. Unless an election to continue the Partnership is made within ninety days of the event of dissolution, the Partnership shall conduct only activities necessary to wind up its affairs. If an election to continue the Partnership is made upon the occurrence of an event of dissolution described in Section 13.1(b), then:

(a) within such ninety-day period a successor Managing General Partner shall be selected by the Special General Partner and the Limited Partner;

(b) the Partnership shall continue until the end of the term for which it is formed unless earlier dissolved in accordance with this Article XIII;

(c) the interest of the former Managing General Partner shall be treated thenceforth as the interest of a limited partner; and

(d) all necessary steps shall be taken to amend or restate this Agreement and the Certificate of Limited Partnership, and the successor Managing General Partner may for this purpose exercise the power of attorney granted pursuant to Section 1.4.

13.3. *Liquidation.* Upon dissolution of the Partnership, unless the Partnership is continued under Section 13.1(d) or an election to continue the Partnership is made pursuant to Section 13.2, the Managing General Partner or, in the event the Managing General Partner has been dissolved or removed, become bankrupt as defined in Section 13.1 or withdrawn from the Partnership, a liquidator or liquidating committee selected by the Limited Partner, shall be the Liquidator. The Liquidator (if other than the Managing General Partner) shall be entitled to receive such compensation for its services as may be approved by the Limited Partner. The Liquidator shall agree not to resign at any time without fifteen days prior written notice and (if other than the Managing General Partner) may be removed at any time, with or without cause, by written notice of removal signed by the Limited Partner. Upon dissolution, removal or resignation of the Liquidator, a successor and substitute Liquidator (who shall have and succeed to all rights, powers and duties of the original Liquidator) shall within thirty days thereafter be selected by the Limited Partner. The right to appoint a successor or substitute Liquidator in the manner provided herein shall be recurring and continuing for so long as the functions and services of the Liquidator are authorized to continue under the provisions hereof, and every reference herein to the Liquidator will be deemed to refer also to any such successor or substitute Liquidator appointed in the manner herein provided. Except as expressly provided in this Article XIII, the Liquidator appointed in the manner provided herein shall have and may exercise, without further authorization or consent of any of the parties hereto, all of the powers conferred upon the Managing General Partner under the terms of this Agreement (but subject to all of the applicable limitations, contractual and otherwise, upon the exercise of such powers, other than the limitation on sale set forth in Section 15.1), to the extent necessary or desirable in the good faith judgment of the Liquidator to carry out the duties and functions of the Liquidator hereunder for and during such period of time as shall be reasonably required in the good faith judgment of the Liquidator to complete the winding up and liquidation of the Partnership as provided for herein. The Liquidator shall liquidate the assets of the Partnership, and apply and distribute the proceeds of such liquidation in the following order of priority, unless otherwise required by mandatory provisions of applicable law:

(a) the payment to creditors of the Partnership, including Partners, in order of priority provided by law;

(b) to the Partners in proportion to and to the extent of the positive balances in their respective Capital Accounts; and

(c) to the Partners in accordance with their respective Partnership Interests;

provided, however, that the Liquidator may place in escrow a reserve of cash or other assets of the Partnership for contingent liabilities in an amount determined by the Liquidator as appropriate for such purposes.

13.4. *Distribution in Kind.* Notwithstanding the provisions of Section 13.3 which require the liquidation of the assets of the Partnership, but subject to the order of priorities set forth therein,

(a) if on dissolution of the Partnership the Liquidator determines that an immediate sale of part or all of the Partnership's assets would be impractical or would cause undue loss to the Partners, the Liquidator may defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (other than those to Partners) and/or may distribute to the Partners, in lieu of cash, as tenants in common and in accordance with the provisions of Sections 13.3(b) and 13.3(c), undivided interests in such Partnership assets as the Liquidator deems not suitable for liquidation; and

(b) upon dissolution of the Partnership the Limited Partner, if required to satisfy the election of a partner therein pursuant to Section 14.4(b) of the SEP Partnership Agreement, may elect to receive in liquidation of its Partnership Interest and in lieu of cash an undivided interest in all Partnership Oil and Gas Interests not otherwise liquidated by the Liquidator to pay creditors, such undivided interest to be equal to the interest required to satisfy such election of such partner of the Limited Partner.

Any such distributions in kind shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any joint operating agreements or other agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using such reasonable method of valuation as it may adopt.

13.5. *Cancellation of Certificate of Limited Partnership.* Upon the completion of the distribution of Partnership property as provided in Sections 13.3 and 13.4, the Partnership shall be terminated, and the Liquidator (or the General Partners and the Limited Partner if necessary) shall cause the cancellation of the Certificate of Limited Partnership in the State of Delaware and of all qualifications of the Partnership as a foreign limited partnership in jurisdictions other than the State of Delaware and shall take such other actions as may be necessary to terminate the Partnership.

13.6. *Return of Capital.* The General Partners shall not be personally liable for the return of the Capital Contributions of the Limited Partner, or any portion thereof, it being expressly understood that any such return shall be made solely from Partnership assets.

13.7. *Waiver of Partition.* Each Partner hereby waives any rights to partition of the Partnership property.

#### ARTICLE XIV

##### AMENDMENT OF AGREEMENT

###### 14.1. *Amendments.*

(a) Amendments to this Agreement may be proposed by the Managing General Partner or by the Limited Partner. Any such amendment shall be proposed by submitting to the Managing General Partner and the Limited Partner in writing the proposed amendment. Subject to Sections 14.1(b), (c), (d) and (e), any such amendment shall become effective only upon the consent of the Limited Partner. Except as otherwise provided in Section 14.1(e), the consent of the Special General Partner shall not be required for any amendment.

(b) Notwithstanding Section 14.1(a), amendments to this Agreement that (i) the Managing General Partner has determined do not adversely affect the Limited Partner in any material respect, (ii) are necessary

or desirable to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, ruling or regulation of any federal or state agency or judicial authority or contained in any federal or state statute or that are necessary or desirable to implement the provisions of the last sentence of Section 5.2(e), or that are necessary or desirable to facilitate the trading of LP Units or Depositary Units or comply with any rule, regulation, guideline or requirement of any stock exchange on which the LP Units or Depositary Units are or will be listed or admitted to trading, compliance with any of which the Managing General Partner deems to be in the best interests of the Partners, (iii) are required or contemplated by this Agreement, (iv) are reasonable and necessary or appropriate in the sole discretion of the Managing General Partner to qualify or continue the qualification of the Partnership as a limited partnership or a partnership in which the Limited Partner has limited liability under the laws of any state, (v) are advisable in the opinion of the Managing General Partner to ensure that the Partnership will not be treated as an association taxable as a corporation for federal income tax purposes, or (vi) are required to effect a change in the name of the Partnership, in the registered office or registered agent of the Partnership or in the location of the principal place of business of the Partnership or the admission, substitution or termination of Partners in accordance with this Agreement, may be made by the Managing General Partner without the consent of the Limited Partner.

(c) Notwithstanding Section 14.1(a), amendments to this Agreement that are necessary to conform this Agreement to any amendments made in the SEP Partnership Agreement may be made by the Managing General Partner without the consent of the Limited Partner.

(d) Notwithstanding Section 14.1(a), an amendment that is necessary, in the opinion of counsel to the Partnership, to prevent the Partnership or the Managing General Partner or Special General Partner or their respective directors or officers from in any manner being subjected to the provisions of the Investment Company Act of 1940, as amended, the Investment Advisers Act of 1940, as amended, or "plan asset" regulations adopted under the Employee Retirement Income Security Act of 1974, as amended, whether or not substantially similar to plan asset regulations currently applied or proposed by the United States Department of Labor, may be made by the Managing General Partner without the consent of the Limited Partner.

(e) Unless approved by all Partners, no amendment to this Agreement shall be permitted unless the Partnership has received an Opinion of Counsel that such amendment would not result in the loss of limited liability of the Limited Partner under this Agreement or cause the Partnership to be treated as an association taxable as a corporation for federal income tax purposes. In addition, no amendment that would increase the duties or liabilities of a General Partner or change such General Partner's Percentage Interest may be made without its consent, and no amendment that would increase the duties or liabilities, or decrease the rights, of the Managing General Partner, in its separate capacity, may be made without the consent of the Managing General Partner.

## ARTICLE XV

### LIMITATION ON SALE OF ASSETS

15.1. *Limitation on Sale of Assets.* Except in connection with the termination of the Partnership pursuant to Article XIII, the Managing General Partner shall not sell or exchange all or substantially all of the assets of the Partnership in a single transaction, a series of related transactions or pursuant to a plan of liquidation without the consent of the Limited Partner. The foregoing limitation on the Managing General Partner's ability to sell or exchange all or substantially all of the Partnership's assets shall not affect the right of the Managing General Partner to encumber any or all of the assets of the Partnership for Partnership obligations, and shall not apply to any forced sale of any or all of the assets of the Partnership pursuant to foreclosure of, or other realization upon, any such encumbrance.

**ARTICLE XVI**  
**GENERAL PROVISIONS**

16.1. *Addresses and Notices.* The address of each Partner for all purposes shall be the address set forth in Section 1.3 or such other address of which each other Partner has received written notice. Any notice, demand, request or report required or permitted to be given or made to a Partner under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent to the Partner at such address by first class mail or by other means of written communication.

16.2. *Titles and Captions.* All article or section titles or captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof. Except as specifically provided otherwise, references to "Articles" and "Sections" are to Articles and Sections of this Agreement.

16.3. *Pronouns and Plurals.* Whenever the context may require, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa.

16.4. *Further Action.* The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

16.5. *Binding Effect.* This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors, legal representatives and permitted assigns.

16.6. *Integration.* This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

16.7. *Creditors.* None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Partnership.

16.8. *Waiver.* No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement or condition.

16.9. *Counterparts.* This Agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing its signature hereto, independently of the signature of any other party.

16.10. *Applicable Law.* This Agreement shall be construed in accordance with and governed by the laws of the State of Delaware, without regard to the principles of conflicts of law.

16.11. *Invalidity of Provisions.* If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the 18th day of November, 1985.

MANAGING GENERAL PARTNER:

SUN EXPLORATION AND PRODUCTION  
COMPANY

By: 

E. W. Moneybenny, Vice President

SPECIAL GENERAL PARTNER:

SUN EQUITY, INC.

By: \_\_\_\_\_

R. L. Beckershoff, President

LIMITED PARTNER:

SUN ENERGY PARTNERS, L.P.

BY: SUN EXPLORATION AND PRODUCTION  
COMPANY, MANAGING GENERAL  
PARTNER

By: 

E. W. Moneybenny, Vice President

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the 18th day of November, 1985.

**MANAGING GENERAL PARTNER:**

**SUN EXPLORATION AND PRODUCTION  
COMPANY**

By: \_\_\_\_\_  
E. W. Moneypenny, Vice President

**SPECIAL GENERAL PARTNER:**

**SUN EQUITY, INC.**

By: *R. L. Beckershoff*  
R. L. Beckershoff, President

**LIMITED PARTNER:**

**SUN ENERGY PARTNERS, L.P.**

**BY: SUN EXPLORATION AND PRODUCTION  
COMPANY, MANAGING GENERAL  
PARTNER**

By: \_\_\_\_\_  
E. W. Moneypenny, Vice President

**CERTIFICATE  
for  
LIMITED PARTNERSHIP UNITS  
in  
SUN OPERATING LIMITED PARTNERSHIP**

Sun Exploration and Production Company, as the managing general partner of Sun Operating Limited Partnership, a Delaware limited partnership ("Sun Operating"), hereby certifies that Sun Energy Partners, L.P., a Delaware limited partnership, is the Limited Partner of Sun Operating, as set forth in the Agreement of Limited Partnership (the "Limited Partnership Agreement") under which Sun Operating was organized and is existing (copies of which are on file at Sun Operating's principal office in Dallas, Texas), and is the owner of its Percentage Interest (as that term is defined in the Limited Partnership Agreement) as Limited Partner in Sun Operating.

This Certificate is not negotiable or transferable except as specified in Article X of the Limited Partnership Agreement or by operation of law.

Sun Exploration and Production Company,  
Managing General Partner of  
Sun Operating Limited Partnership

Dated: \_\_\_\_\_

By: \_\_\_\_\_

RECORDED AT REQUEST OF  
*Vargas + Bartlett*  
BOOK 140 PAGE 438

85 DEC 2 AM 11

OFFICIAL RECORDS  
CLARK COUNTY, NEVADA  
E.M. REBALCATT, RECORDER  
FILE NO. 101072  
OFF. 4700