
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **June 1, 2010**

DUNCAN ENERGY PARTNERS L.P.

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation)	1-33266 (Commission File Number)	20-5639997 (IRS Employer Identification No.)
1100 Louisiana St., 10th Floor, Houston, Texas (Address of principal executive offices)		77002 □ 0; (Zip Code)

Registrant's telephone number, including area code: **(713) 381-6500**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2 below):

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement

In connection with the construction of a 270-mile pipeline from the Haynesville shale formation in northern Louisiana to the existing pipeline system of Acadian Gas, LLC (“Acadian Gas”) in southern Louisiana (the “Haynesville Extension”), Duncan Energy Partners L.P. (the “Partnership”) and its subsidiaries, including Acadian Gas, have entered into certain agreements and arrangements with Enterprise Products Operating LLC (“EPO”), including the material agreements described below.

The projected cost of the Haynesville Extension is an aggregate of approximately \$1.56 billion, of which the 66% pro rata share of a subsidiary of the Partnership, DEP Operating Partnership, L.P. (“DEP OLP”), is approximately \$1.03 billion and EPO’s 34% pro rata share is approximately \$530 million. All of the cost for steel pipe has been locked in, and substantially all of the survey and title work has been completed on right of ways. The Haynesville Extension pipeline is designated to have capacity of approximately 1.8 Bcf per day, with the possibility of expansion of up to 2.1 Bcf per day. We expect the Haynesville Extension will be placed into service during the third quarter of 2011.

Second Amended and Restated Limited Liability Company Agreement of Acadian Gas, LLC

On June 1, 2010, EPO and DEP OLP entered into a Second Amended and Restated Limited Liability Company Agreement of Acadian Gas (the “Acadian LLC Agreement”). The amendments in this agreement reflect formally the agreement of the members to fund the construction of the Haynesville Extension on a pro rata basis in accordance with their respective Sharing Ratios, which are 66% for DEP OLP and 34% for EPO.

Under the Acadian LLC Agreement, the members acknowledge that the construction of the Haynesville Extension is underway and that certain construction expenses have been funded to date by EPO for the benefit of Acadian Gas and its members, and that as soon as practical following the entry into the Acadian LLC Agreement, DEP OLP shall reimburse EPO for 66% of such expenditures to date funded separately by EPO, along with interest accrued on such capital contributions from the date of each such contribution to the reimbursement date at an annual interest rate of LIBOR plus 250 basis points (with LIBOR being determined as of a date within 30 days prior to the date of such reimbursement). The members agree to make capital contributions to Acadian Gas in order to fund the remainder of the construction of the Haynesville Extension in accordance with their respective Sharing Ratios. Upon completion of the Haynesville Extension, to the extent any portion thereof is not owned by Acadian Gas or a direct or indirect wholly owned subsidiary of Acadian Gas, EPO and DEP OLP, as applicable, will contribute, or cause to be contributed, such portion to Acadian Gas. With respect to any reimbursement DEP OLP makes directly to EPO pursuant to this requirement, other than interest accrued on such capital contributions, (A) DEP OLP will be deemed to have made a cash capital contribution to Acadian Gas in an amount equal to such reimbursement, and (B) Acadian Gas shall be deemed to have made a cash distribution to EPO in an amount equal to such reimbursement.

The Acadian LLC Agreement also adds provisions relating to expansion activities with respect to Acadian Gas’ facilities, including without limitation, development of new pipelines, processing, treatment and storage facilities, expansion of existing pipelines, and the installation of new related piping and facilities other than the Haynesville Extension (an “Expansion Project”). The Acadian LLC Agreement provides that Acadian Gas may request additional capital contributions from each member to fund the costs of construction of, acquisition of assets relating to, and other expenditures (collectively, “Expansion Costs”) for Expansion Projects (“Expansion Cash Calls”). Except as otherwise provided in the following sentence or otherwise agreed to by each member, each member will make any Capital Contribution for Expansion Cash Calls in an amount equal to its Sharing Ratio multiplied by the aggregate Expansion Cash Call. Each member may decline to make a capital contribution for any Expansion Cash Call, and the members may agree to make capital contributions for Expansion Cash Calls in amounts other than based upon their respective Sharing Ratios; provided, that if the aggregate capital contributions which all members agree to make total less than the Expansion Cash Call, the members will decide whether to proceed with the Expansion Project with the agreed upon level of Capital Contributions. Unless otherwise agreed to by each member, Acadian Gas will fund any Expansion Project for which an Expansion Cash Call is made solely from Expansion Capital Contributions. The Expansion Costs and the related funding of any Expansion Cash Calls will be borne by each Member participating (“Expansion Participating Members”), unless agreed to otherwise by all of the Expansion Participating Members, in an amount equal to the product of (A) the aggregate amount of the Expansion Costs for the applicable Expansion Project multiplied by (B) a fraction (the “Expansion Sharing Ratio”), the numerator of which is the Sharing Ratio, or agreed upon contribution percentage, as applicable, of that Expansion Participating Member for that Expansion Project and the denominator of which is the aggregate Sharing Ratio of all of the Expansion Participating Members, or 100%, as applicable. The Board will provide written notice to the members of the initial date contributions are due, which date shall be not less than 30 nor more than 90 days following the date of such notice, the aggregate amount of the capital contribution required and each member’s share thereof, and setting forth in reasonable detail the proposed Expansion Project and expansion costs associated therewith. Each member will advise the Board in writing within 20 days whether it elects to make an Expansion Capital Contribution.

The foregoing description of the Acadian LLC Agreement is not complete and is qualified in its entirety by reference to the full and complete terms of the Acadian LLC Agreement, which is attached to this Current Report on Form 8-K as Exhibit 10.01 and incorporated herein by reference.

Loan Agreement

On June 1, 2010, the Partnership, as borrower, entered into a loan agreement with EPO, as lender (the "Loan Agreement"). EPO owns DEP Holdings, LLC, the general partner of the Partnership. We expect proceeds from any borrowings under the Loan Agreement will be used for costs incurred in connection with the Haynesville Extension or for general partnership purposes.

Under the terms of the Loan Agreement, the Partnership may borrow up to \$200.0 million (the "Commitment Amount"). Borrowings drawn under the Loan Agreement and repayments thereunder will be in minimum principal amounts of \$25.0 million and in whole increments of \$25.0 million in excess thereof. The Loan Agreement will terminate on the earliest of (i) September 28, 2010; (ii) three business days after an event of default; or (iii) upon full payment of the outstanding balance following three business days' notice given to EPO.

The Partnership is required to pay a fee on any undrawn portion of the Commitment Amount equal to the amount of any undrawn portion of the Commitment Amount multiplied by 0.375% per annum (on the basis of a 365-day year). These fees are due on the last day of each interest period, commencing July 1, 2010. The Partnership may reduce the Commitment Amount or terminate EPO's commitment to make the loan under the Loan Agreement upon three business days' prior written notice to EPO, provided such reduction amount is in an integral multiple of \$1.0 million and not less than \$5.0 million and complies with certain other conditions.

Interest will accrue on outstanding borrowings at a floating rate equal to the one-month LIBO Rate (as defined in the Loan Agreement) plus 2.50%.

The Loan Agreement contains customary representations, warranties, covenants and events of default, the occurrence of which would permit EPO to accelerate the maturity date of the amounts borrowed under the Loan Agreement.

The foregoing description of the Loan Agreement is not complete and is qualified in its entirety by reference to the full and complete terms of the Loan Agreement, which is attached to this Current Report on Form 8-K as Exhibit 10.02 and incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant

On June 1, 2010, the Partnership entered into the Loan Agreement. The description of the Loan Agreement in Item 1.01 under the caption "Loan Agreement" is incorporated by reference into this Item 2.03.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
10.01	Second Amended and Restated Limited Liability Company Agreement of Acadian Gas, LLC.
10.02	Loan Agreement, dated June 1, 2010, between Enterprise Products Operating LLC, as lender, and Duncan Energy Partners L.P., as borrower.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

DUNCAN ENERGY PARTNERS L.P.

By: DEP Holdings, LLC,

its General Partner

Date: June 3, 2010

By: /s/ Michael J. Knesek ; _____

Michael J. Knesek

*Senior Vice President, Controller and Principal Accounting
Officer of DEP Holdings, LLC*

EXHIBIT INDEX

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**SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT**

OF

**ACADIAN GAS, LLC
A Delaware Limited Liability Company**

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ACADIAN GAS, LLC
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TABLE OF CONTENTS

	Page	
ARTICLE 1	DEFINITIONS	2
1.01	Definitions	2
1.02	Construction	2
ARTICLE 2	ORGANIZATION	2
2.01	Formation	2
2.02	Name	2
2.03	Registered Office; Registered Agent; Principal Office; Other Offices	2
2.04	Purpose	3
2.05	Term	3
2.06	No State-Law Partnership; Withdrawal	3
ARTICLE 3	MATTERS RELATING TO MEMBERS	3
3.01	Members	3
3.02	Creation of Additional Membership Interest	3
3.03	Liability to Third Parties	3
ARTICLE 4	CAPITAL CONTRIBUTIONS	3
4.01	Capital Contributions.	3
4.02	Expansion Project Additional Capital Contributions.	5
4.03	Loans	5
4.04	Return of Contributions	6
4.05	Capital Accounts	6
ARTICLE 5	ALLOCATIONS AND DISTRIBUTIONS	6
5.01	Allocations	6
5.02	Distributions	8
ARTICLE 6	RIGHTS AND OBLIGATIONS OF MEMBERS	9
6.01	Limitation of Members' Responsibility, Liability	9

TABLE OF CONTENTS
(continued)

	Page
6.02 Return of Distributions	9
6.03 Priority and Return of Capital	9
6.04 Competition	10
6.05 Admission of Additional Members	10
6.06 Resignation	10
6.07 Indemnification	10
ARTICLE 7 MEETINGS OF MEMBERS	10
7.01 Meetings	10
7.02 Place of Meetings	10
7.03 Notice of Meetings	10
7.04 Meeting of All Members	10
7.05 Action by Members Without a Meeting	11
7.06 Waiver of Notice	11
7.07 Delegation to Board	11
7.08 Voting and Special Rights of the Members	11
ARTICLE 8 MANAGEMENT	11
8.01 Management by Board of Directors	11
8.02 Officers	14
8.03 Duties of Officers and Directors	16
8.04 Compensation	16
8.05 Indemnification	16
8.06 Liability of Indemnitees	18
ARTICLE 9 ACCOUNTING METHOD, PERIOD, RECORDS AND REPORTS	18
9.01 Accounting Method	18
9.02 Accounting Period	18
9.03 Records, Audits and Reports	18
9.04 Inspection	18
ARTICLE 10 TAX MATTERS	18
10.01 Tax Returns	19
10.02 Tax Elections	19

TABLE OF CONTENTS
(continued)

	Page
10.03 Tax Matters Partner	19
ARTICLE 11 RESTRICTIONS ON TRANSFERABILITY	19
11.01 Transfer Restrictions	19
ARTICLE 12 BOOKS, RECORDS, REPORTS, AND BANK ACCOUNTS	20
12.01 Maintenance of Books	20
12.02 Reports	20
12.03 Bank Accounts	20
12.04 Tax Statements	20
ARTICLE 13 DISSOLUTION, WINDING-UP AND TERMINATION	20
13.01 Dissolution	20
13.02 Winding-Up and Termination	21
ARTICLE 14 MERGER	22
14.01 Authority	22
14.02 Procedure for Merger or Consolidation	22
14.03 Approval by Members of Merger or Consolidation	23
14.04 Certificate of Merger or Consolidation	23
14.05 Effect of Merger or Consolidation	23
ARTICLE 15 GENERAL PROVISIONS	24
15.01 Notices	24
15.02 Entire Agreement; Supersedure	24
15.03 Effect of Waiver or Consent	25
15.04 Amendment or Restatement	25
15.05 Binding Effect	25
15.06 Governing Law; Severability	25
15.07 Further Assurances	25
15.08 Offset	25
15.09 Counterparts	26
15.10 Execution of Additional Instruments	26
15.11 Severability	26
15.12 Headings	26

**SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
ACADIAN GAS, LLC
A Delaware Limited Liability Company**

THIS SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (this "**Agreement**") of ACADIAN GAS, LLC, a Delaware limited liability company (the "**Company**"), executed on June 1, 2010 (the "**Effective Date**"), is adopted, executed and agreed to, by Enterprise Products Operating LLC (successor of Enterprise Products Operating L.P.), a Texas limited liability company ("**Enterprise Products LLC**") and DEP Operating Partnership, L.P., a Delaware limited partnership ("**DEP OLP**"), as the Members of the Company.

RECITALS

A. The Company was formed on January 20, 1998 by the filing of the Certificate of Formation with the Secretary of State of the State of Delaware.

B. The Limited Liability Company Agreement of the Company was executed effective January 20, 1998 by its Initial Member, Acadian Gas Corporation, a Nevada corporation (the "**Initial Agreement**").

C. DEP OLP entered into that certain Contribution, Conveyance and Assumption Agreement by and among DEP Holdings, LLC, Duncan Energy Partners L.P. ("**MLP**"), DEP OLPGP, LLC and Enterprise Products LLC on the Effective Date (the "**Contribution Agreement**") whereby Enterprise Products LLC contributed 66% of its membership interests in the Company (the "**Interest**") to MLP as consideration for the receipt of proceeds raised in the initial public offering of MLP.< /font>

D. Pursuant to the Contribution Agreement, MLP contributed the Interest to DEP OLP as a capital contribution.

E. Enterprise Products LLC and DEP OLP considered it advisable to amend and restate the Initial Agreement in its entirety to reflect (i) the contribution of the Interest from Enterprise Products LLC to DEP OLP and (ii) the admission of DEP OLP as a Member of the Company, which is reflected by that certain Amended and Restated Limited Liability Company Agreement dated February 5, 2007 between DEP OLP and Enterprise Products LLC (the "**Existing Agreement**").

F. Enterprise Products LLC and DEP OLP have agreed to fund through the Company the construction of a 270-mile pipeline from the Haynesville shale formation in northern Louisiana to the existing pipeline system of the Company in southern Louisiana (the "**Haynesville Extension**") on a pro rata basis in accordance with their respective Sharing Ratios.

G. Enterprise Products LLC and DEP OLP consider it advisable to reflect their additional agreements and modifications to the Existing Agreement in their entirety and to amend and restate the Existing Agreement as set forth herein.

ARTICLE 1 DEFINITIONS

1.01 Definitions. Each capitalized term used herein shall have the meaning given such term in Attachment I.

1.02 Construction. Unless the context requires otherwise: (a) the gender (or lack of gender) of all words used in this Agreement includes the masculine, feminine and neuter; (b) references to Articles and Sections refer to Articles and Sections of this Agreement; (c) references to Laws refer to such Laws as they may be amended from time to time, and references to particular provisions of a Law include any corresponding provisions of any succeeding Law; (d) references to money refer to legal currency of the United States of America; (e) “including” means “including without limitation” and is a term of illustration and not of limitation; (f) all definitions set forth herein shall be deemed applicable whether the words defined are used herein in the singular or the plural; and (g) neither this Agreement nor any other agreement, document or instrument referred to herein or executed and delivered in connection herewith shall be construed against any Person as the principal draftsman hereof or thereof.

ARTICLE 2 ORGANIZATION

2.01 Formation. The Company was organized as a Delaware limited liability company by the filing of a Certificate of Formation (“**Organizational Certificate**”) on January 20, 1998 with the Secretary of State of the State of Delaware under and pursuant to the Act.

2.02 Name. The name of the Company is “Acadian Gas, LLC” and all Company business must be conducted in that name or such other names that comply with Law as the Board of Directors may select.

2.03 Registered Office; Registered Agent; Principal Office; Other Offices. The registered office of the Company required by the Act to be maintained in the State of Delaware shall be the office of the initial registered agent for service of process named in the Organizational Certificate or such other office (which need not be a place of business of the Company) as the Board of Directors may designate in the manner provided by Law. The registered agent for service of process of the Company in the State of Delaware shall be the initial registered agent for service of process named in the Organizational Certificate or such other Person or Persons as the Board of Directors may designate in the manner provided by Law. The principal office of the Company in the United States shall be at such a place as the Board of Directors may from time to time designate, which need not be in the State of Delaware, and the Company shall maintain records there and shall keep the street address of such principal office at the registered office of the Company in the State of Delaware. The Company may have such other offices as the Board of Directors may designate.

2.04 Purpose. The purposes of the Company are the transaction of any or all lawful business for which limited liability companies may be organized under the Act.

2.05 Term. The period of existence of the Company commenced on January 20, 1998 and shall end at such time as a Certificate of Cancellation is filed in accordance with Section 13.02(c).

2.06 No State-Law Partnership; Withdrawal. It is the intent that the Company shall be a limited liability company formed under the Laws of the State of Delaware and shall not be a partnership (including a limited partnership) or joint venture, and that the Members not be a partner or joint venturer of any other party for any purposes other than federal and state tax purposes, and this Agreement may not be construed to suggest otherwise. A Member does not have the right to Withdraw from the Company; *provided, however*, that a Member shall have the power to Withdraw at any time in violation of this Agreement. If a Member exercises such power in violation of this Agreement, (a) such Member shall be liable to the Company and its Affiliates for all monetary damages suffered by them as a result of such Withdrawal; and (b) such Member shall not have any rights under Section 18.604 of the Act. In no event shall the Company have the right, through specific performance or otherwise, to prevent a Member from Withdrawing in violation of this Agreement.

ARTICLE 3 MATTERS RELATING TO MEMBERS

3.01 Members.

- (a) Enterprise Products LLC has previously been admitted as a Member of the Company.
- (b) DEP OLP has previously been admitted as a Member of the Company.

3.02 Creation of Additional Membership Interest. The Company may issue additional Membership Interests in the Company only in compliance with the provisions in Article 5 of the Omnibus Agreement. The Company shall be bound by the terms of such Omnibus Agreement.

3.03 Liability to Third Parties. No Member or beneficial owner of any Membership Interest shall be liable for the Liabilities of the Company.

ARTICLE 4 CAPITAL CONTRIBUTIONS

4.01 Capital Contributions.

(a) The amount of money and the fair market value (as of the date of contribution) of any property (other than money) contributed to the Company by a Member shall constitute a "**Capital Contribution.**" Any reference in this Agreement to the Capital Contribution of a Member shall include a Capital Contribution of its predecessors in interest.

(b) Enterprise Products LLC directly, or its predecessor in interest, has made certain Capital Contributions.

(c) DEP OLP directly, or its predecessor in interest, has made certain Capital Contributions.

(d) Except as set forth below in Sections 4.01(e) and (f), no Member shall be required to make any additional Capital Contributions on or after the date of this Agreement.

(e) If the Board of Directors determines for any quarter there exists an operating cash flow deficit such that available cash is insufficient to cover operating expenses, debt service and a reasonable contingency reserve (but excluding cash needed for acquisitions or Expansion Projects), the Board of Directors may require each Member to make additional Capital Contributions pro rata in accordance with its respective Sharing Ratio in an amount sufficient, together with the other Member's Capital Contributions, to cover such operating cash flow deficit. If the Board of Directors determines, in accordance with a procedure approved by the Members, that an operating cash flow deficit exists for any quarter for any Expansion Project such that available cash therefrom is insufficient to cover operating expenses, debt service and a reasonable contingency reserve therefor, the Board of Directors may require each Expansion Participating Member with respect to that Expansion Project to make additional Capital Contributions in accordance with its respective Expansion Sharing Ratio, if any, in an amount sufficient, together with the other Expansion Participating Members' (with respect to that Expansion Project) Capital Contributions, to cover such operating cash flow deficit.

(f) The Members acknowledge that the construction of the Haynesville Extension is underway and that certain construction expenses have been funded to date by Enterprise Products LLC for the benefit of the Company and its Members, and that as soon as practical following the entry into this Agreement, DEP OLP shall reimburse Enterprise Products LLC for 66% of such expenditures to date funded separately by Enterprise Products LLC, along with interest accrued on such capital contributions from the date of each such contribution to the reimbursement date at an annual interest rate of LIBOR plus 250 basis points (with LIBOR being determined as of a date within 30 days prior to the date of such reimbursement). The Members agree to make capital contributions to the Company in order to fund the remainder of the construction of the Haynesville Extension in accordance with their respective Sharing Ratios. Upon completion of the Haynesville Extension, to the extent any portion thereof is not owned by the Company or a direct or indirect wholly owned subsidiary of the Company, Enterprise Products LLC and DEP OLP, as applicable, shall contribute, or cause to be contributed, such portion to the Company. With respect to any reimbursement DEP OLP makes directly to Enterprise Products LLC pursuant to this Section 4.01(f) other than interest accrued on such capital contributions, (A) DEP OLP shall be deemed to have made a cash Capital Contribution to the Company in an amount equal to such reimbursement, and (B) the Company shall be deemed to have made a cash distribution to Enterprise Products LLC in an amount equal to such reimbursement. The Board of Directors shall provide each Member a reasonably detailed quarterly status report containing, among other things, a quarterly comparison of actual costs incurred to date versus budgeted costs as presented to each Member in connection with the Haynesville Extension, accompanied by an explanation of all variances among the two amounts in excess of 10% during the period for which the status report is rendered.

4.02 *Expansion Project Additional Capital Contributions.*

(a) The Company may request additional Capital Contributions from each Member to fund the costs of construction of, acquisition of assets relating to, and other expenditures (collectively, “**Expansion Costs**”) for Expansion Projects (“**Expansion Cash Calls**”). Except as otherwise provided in the following sentence of this Section 4.02(a) or otherwise agreed to by each Member, each Member shall make any Capital Contribution for Expansion Cash Calls in an amount equal to its Sharing Ratio multiplied by the aggregate Expansion Cash Call. \square 0; Each Member may decline to make a Capital Contribution for any Expansion Cash Call, and the Members may agree to make Capital Contributions for Expansion Cash Calls in amounts other than based upon their respective Sharing Ratios; *provided*, that if the aggregate Capital Contributions which all Members agree to make total less than the Expansion Cash Call, the Members shall decide whether to proceed with the Expansion Project with the agreed upon level of Capital Contributions. Unless otherwise agreed to by each Member, the Company shall fund any Expansion Project for which an Expansion Cash Call is made solely from Expansion Capital Contributions. The Expansion Costs and the related funding of any Expansion Cash Calls shall be borne by each Member participating (“**Expansion Participating Members**”), unless agreed to otherwise by all of the Expansion Participating Members, in an amount equal to the product of (A) the aggregate amount of the Expansion Costs for the applicable Expansion Project multiplied by (B) a fraction (the “**Expansion Sharing Ratio**”), the numerator of which is the Sharing Ratio, or agreed upon contribution percentage, as applicable, of that Expansion Participating Member for that Expansion Project and the denominator of which is the aggregate Sharing Ratio of all of the Expansion Participating Members, or 100%, as applicable.

(b) The Board of Directors shall provide written notice to the Members of the initial date contributions are due, which date shall be not less than 30 nor more than 90 Days following the date of such notice, the aggregate amount of the Capital Contribution required and each Member’s share thereof, and setting forth in reasonable detail the proposed Expansion Project and Expansion Costs associated therewith. Each Member shall advise the Board of Directors in writing within 20 Days whether it elects to make an Expansion Capital Contribution.

(c) In connection with any Expansion Project, the Board of Directors shall provide to each Member a reasonably detailed monthly status report containing, among other things, a month-by-month comparison of actual Expansion Costs incurred to date versus Expansion Costs as presented to each Member on the date the Expansion Cash Call notice was sent, accompanied by an explanation of all variances among the two amounts in excess of 10% during the period for which the status report is rendered.

4.03 Loans. If the Company does not have sufficient cash to pay its obligations, any Member that may agree to do so may, upon approval by the Board of Directors, advance all or part of the needed funds for such obligation to or on behalf of the Company. An advance described in this Section 4.03 constitutes a loan from the Member to the Company, shall bear interest at a rate comparable to the rate the Company could obtain from third parties, from the date of the advance until the date of repayment, and is not a Capital Contribution.

4.04 Return of Contributions. A Member is not entitled to the return of any part of its Capital Contributions or to be paid interest in respect of its Capital Contributions. An unrepaid Capital Contribution is not a liability of the Company or of any Member. No Member will be required to contribute or to lend any cash or property to the Company to enable the Company to return any Member's Capital Contributions.

4.05 Capital Accounts.

(a) A separate capital account shall be established and maintained for each Member in accordance with Treas. Reg. § 1.704-1(b)(2)(iv).

(b) Each Member's capital account (a) shall be increased by (i) the amount of money contributed by that Member to the Company, (ii) the fair market value of property contributed by that Member to the Company (net of liabilities secured by the contributed property that the Company is considered to assume or take subject to under section 752 of the Code), and (iii) allocations to that Member of Company income and gain (or items of income and gain), including income and gain exempt from tax and income and gain described in Treas. Reg. § 1.704-1(b)(2)(iv)(g), but excluding income and gain described in Treas. Reg. § 1.704-1(b)(4)(i), and (b) shall be decreased by (i) the amount of money distributed to that Member by the Company, (ii) the fair market value of property distributed to that Member by the Company (net of liabilities secured by the distributed property that the Member is considered to assume or take subject to under section 752 of the Code), (iii) allocations to that Member of expenditures of the Company described in section 705(a)(2)(B) of the Code, and (iv) allocations of Company loss and deduction (or items of loss and deduction), including loss and deduction described in Treas. Reg. § 1.704-1(b)(2)(iv)(g), but excluding items described in clause (b)(iii) above and loss or deduction described in Treas. Reg. § 1.704-1(b)(4)(i) or § 1.704-1(b)(4)(iii). The Members' capital accounts also shall be maintained and adjusted as permitted by the provisions of Treas. Reg. § 1.704-1(b)(2)(iv)(f) and as required by the other provisions of Treas. Reg. §§ 1.704-1(b)(2)(iv) and 1.704-1(b)(4), including adjustments to reflect the allocations to the Members of depreciation, depletion, amortization, and gain or loss as computed for book purposes rather than the allocation of the corresponding items as computed for tax purposes, as required by Treas. Reg. § 1.704-1(b)(2)(iv)(g). A Member that has more than one Membership Interest shall have a single capital account that reflects all its Membership Interests, regardless of the class of Membership Interests owned by that Member and regardless of the time or manner in which those Membership Interests were acquired.

**ARTICLE 5
ALLOCATIONS AND DISTRIBUTIONS**

5.01 Allocations.

(a) *General.* After giving effect to the special allocations set forth in Section 5.01(b), for purposes of maintaining the capital accounts and in determining the rights of the Members among themselves, the Profits and Losses of the Company shall be allocated and charged to the Members' capital accounts in accordance with their Sharing Ratios; *provided, however,* Losses shall not be allocated pursuant to this Section 5.01(a) to the extent such allocation would cause any Member to have a deficit adjusted capital account balance at the end

of such taxable year (or increase any existing deficit adjusted capital account balance) but shall instead be allocated to the Member(s) with a positive adjusted capital balance to the extent of such balance.

(b) *Special Allocations.* Notwithstanding any other provisions of this Section 5.01, the following special allocations shall be made prior to making any allocations provided for in 5.01(a) above:

(i) *Minimum Gain Chargeback.* Notwithstanding any other provision hereof to the contrary, if there is a net decrease in Minimum Gain (as generally defined under Treas. Reg. § 1.704-1 or § 1.704-2) for a taxable year (or if there was a net decrease in Minimum Gain for a prior taxable year and the Company did not have sufficient amounts of income and gain during prior years to allocate among the Members under this subsection 5.01(b)(i)), then items of income and gain shall be allocated to each Member in an amount equal to such Member's share of the net decrease in such Minimum Gain (as determined pursuant to Treas. Reg. § 1.704-2(g)(2)). It is the intent of the Members that any allocation pursuant to this subsection 5.01(b)(i) shall constitute a "minimum gain chargeback" under Treas. Reg. § 1.7042(f) and shall be interpreted consistently therewith.

(ii) *Member Nonrecourse Debt Minimum Gain Chargeback.* Notwithstanding any other provision of this Article 5, except subsection 5.01(b)(i), if there is a net decrease in Member Nonrecourse Debt Minimum Gain (as generally defined under Treas. Reg. § 1.704-1 or § 1.704-2), during any taxable year, any Member who has a share of the Member Nonrecourse Debt Minimum Gain shall be allocated such amount of income and gain for such year (and subsequent years, if necessary) determined in the manner required by Treas. Reg. § 1.704-2(i)(4) as is necessary to meet the requirements for a chargeback of Member Nonrecourse Debt Minimum Gain.

(iii) *Qualified Income Offset.* Except as provided in subsection 5.01(b)(i) and (ii) hereof, in the event any Member unexpectedly receives any adjustments, allocations or distributions described in Treas. Reg. Sections 1.704-1(b)(2)(i)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6), items of Company income and gain shall be specifically allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Allocation Regulations, the deficit balance, if any, in its adjusted capital account created by such adjustments, allocations or distributions as quickly as possible.

(iv) *Gross Income Allocations.* In the event any Member has a deficit balance in its adjusted capital account at the end of any Company taxable period, such Member shall be specially allocated items of Company gross income and gain in the amount of such excess as quickly as possible.

(v) *Company Nonrecourse Deductions.* Company Nonrecourse Deductions (as determined under Treas. Reg. Section 1.704-2(c)) for any fiscal year shall be allocated among the Members in proportion to their Membership Interests.

(vi) *Member Nonrecourse Deductions.* Any Member Nonrecourse Deductions (as defined under Treas. Reg. Section 1.704-2(i)(2)) shall be allocated pursuant to

Treas. Reg. Section 1.704-2(i) to the Member who bears the economic risk of loss with respect to the partner nonrecourse debt to which it is attributable.

(vii) *Code Section 754 Adjustment.* To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Section 734(b) or 743(b) of the Code is required, pursuant to the Allocation Regulations, to be taken into account in determining capital accounts, the amount of such adjustment to the capital accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such item of gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their capital accounts are required to be adjusted pursuant to the Allocation Regulations.

(viii) *Curative Allocation.* The special allocations set forth in subsections 5.01(b)(i)-(vi) (the “**Regulatory Allocations**”) are intended to comply with the Allocation Regulations. Notwithstanding any other provisions of this Section 5.01, the Regulatory Allocations shall be taken into account in allocating items of income, gain, loss and deduction among the Members such that, to the extent possible, the net amount of allocations of such items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to each Member if the Regulatory Allocations had not occurred.

(ix) *Expansion Projects.* If an Expansion Project has occurred and all of the Members are not Expansion Participating Members in the same percentage as their Sharing Ratios, unless otherwise agreed to by the Company and the Members in connection with an Expansion Cash Call, the Company shall determine for each calendar month, Expansion Profits and Losses, which shall be allocated among Expansion Participating Members in accordance with their respective Expansion Sharing Ratios.

(c) For federal income tax purposes, except as otherwise required by the Code, the Allocation Regulations or the following sentence, each item of Company income, gain, loss, deduction and credit shall be allocated among the Members in the same manner as corresponding items are allocated in Section 5.01(a) and (b). Notwithstanding any provisions contained herein to the contrary, solely for federal income tax purposes, items of income, gain, depreciation, gain or loss with respect to property contributed or deemed contributed to the Company by a Member or whose value is adjusted pursuant to the Allocation Regulations shall be allocated among the Members so as to take into account the variation between the Company’s tax basis in such property and its Carrying Value in the manner provided under section 704(c) of the Code and Treas. Reg. § 1.704-3(d) (i.e., the “remedial method”).

5.02 Distributions.

(a) Within thirty days after the end of each calendar quarter, prior to commencement of winding up under Article 13, , the Board of Directors shall determine in its reasonable judgment to what extent (if any) the Company’s cash on hand (other than Expansion Capital Contributions and cash attributable to Expansion Cash Flow) exceeds its current and anticipated needs, including, without limitation, for operating expenses, debt service, acquisitions, and a reasonable contingency reserve. If such an excess exists, the Board of Directors shall cause the Company to distribute to the Members, in accordance with their

Sharing Ratios, an amount in cash equal to that excess on or after the date 30 days following the end of that calendar quarter.

(b) If an Expansion Project has occurred and all of the Members are not Expansion Participating Members in an Expansion Project in the same percentage as their Sharing Ratios, the Board of Directors shall determine, in accordance with a procedure approved by the Members for that Expansion Project, for each calendar quarter, the Expansion Cash Flow for that Expansion Project. Within thirty days after the end of each calendar quarter prior to commencement of winding up under Article 13, the Board of Directors shall cause the Company to distribute to each Expansion Participating Member for that Expansion Project an amount of cash equal to (x) such Expansion Participating Member's Expansion Sharing Ratio for that Expansion Project multiplied by (y) the excess Expansion Cash Flow for that Expansion Project for such calendar quarter, minus any reasonably anticipated current and anticipated needs with respect to that Expansion Project, including, without limitation, operating expenses, debt service, maintenance capital expenditures and a reasonable contingency reserve.

(c) From time to time the Board of Directors also may cause property of the Company other than cash to be distributed to the Members, which distribution must be made in accordance with their Sharing Ratios and may be made subject to existing liabilities and obligations. Immediately prior to such a distribution, the capital accounts of the Members shall be adjusted as provided in Treas. Reg. § 1.704-1(b)(2)(iv)(f).

(d) For purposes of Section 5.02(a), each Expansion Capital Contribution shall be deemed made and applicable to the foregoing calculations only effective as of the first day of the quarter immediately following the Commencement Date of such Expansion Project.

ARTICLE 6 RIGHTS AND OBLIGATIONS OF MEMBERS

6.01 Limitation of Members' Responsibility, Liability. The Members shall not perform any act on behalf of the Company, incur any expense, obligation or indebtedness of any nature on behalf of the Company, or in any manner participate in the management of the Company, except as specifically contemplated hereunder. No Member shall be liable under a judgment, decree or order of a court, or in any other manner, except as agreed to by any such Member, for the indebtedness or any other obligations or liabilities of the Company or liable, responsible or accountable in damages to the Company or its Members for breach of fiduciary duty as a Member, for any acts performed within the scope of the authority conferred on it by this Agreement, or for its failure or refusal to perform any acts except those expressly required by or pursuant to the terms of this Agreement, or for any debt or loss in connection with the affairs of the Company, except as required by the Act.

6.02 Return of Distributions. A Member will be obligated to return any distribution from the Company only as provided by applicable law.

6.03 Priority and Return of Capital. Except as may be provided in this Agreement, no Member shall have priority over any other Member, either as to the return of Capital

Contributions or as to profits, losses or distributions; provided that this Section shall not apply to loans (as distinguished from Capital Contributions) that a Member has made to the Company.

6.04 Competition. Except as otherwise expressly provided in this Agreement and notwithstanding any duty otherwise existing at law or in equity, each Member may engage in or possess an interest in any other business venture or ventures, including any activity that is competitive with the Company without offering any such opportunity to the Company, and neither the Company nor the other Member shall have any rights in or to such venture or ventures or activity or the income or profits derived therefrom.

6.05 Admission of Additional Members. The Company shall not admit additional Members without the prior written consent of all of the Members.

6.06 Resignation. Without the prior approval of all other Members, no Member may resign from the Company.

6.07 Indemnification. To the extent permitted by law, the Company shall (to the extent of the assets of the Company) indemnify, defend and hold harmless each Member and each officer, employee, director, manager or equivalent thereof, and the general partner and each officer, employee, director, manager or equivalent thereof of the general partner, of such Member from and against all losses, expenses, claims or liabilities, including reasonable attorneys' fees and disbursements, arising out of or in connection with the indebtedness or any other obligation or liabilities of the Company, other than losses, expenses, claims or liabilities of such indemnified Member which result from a violation in any material respect of any of the provisions of this Agreement or fraud, willful misconduct, gross negligence or misappropriation of funds. The foregoing indemnity expressly includes an indemnity with respect to the negligence (excluding the gross negligence) of a Member.

ARTICLE 7 MEETINGS OF MEMBERS

7.01 Meetings. Meetings of the Members, for any purpose or purposes, unless otherwise prescribed by law, may be called by the Chairman of the Board of Directors or the President of the Company or by any Member. The chairperson at any meeting shall be designated by the Chairman of the Board of Directors or the President of the Company.

7.02 Place of Meetings. Meetings of the Members shall be held at the principal place of business of the Company or at such other place as may be designated by the Chairman of the Board of Directors or the President of the Company.

7.03 Notice of Meetings. Except as provided in Section 7.04, written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be sent not less than five days before the date of the meeting, either personally, by facsimile or by mail, by or at the direction of the person calling the meeting, to each Member.

7.04 Meeting of All Members. If all of the Members shall meet at any time and place and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting any lawful action may be taken.

7.05 Action by Members Without a Meeting. Action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by all Members and delivered to the Secretary or any Assistant Secretary of the Company for inclusion in the minutes or for filing with the Company records. Action taken under this Section is effective when all Members have signed the consent, unless the consent specifies a different effective date.

7.06 Waiver of Notice. When any notice is required to be given to any Member, a waiver thereof in writing signed by the Person entitled to such notice, whether before, at or after the time stated therein, shall be equivalent to the giving of such notice.

7.07 Delegation to Board. Except as may be otherwise specifically provided in this Agreement or the Act, the Members agree that they shall act solely through the mechanisms provided herein relating to the appointment and authority of the Board of Directors.

7.08 Voting and Special Voting Rights of the Members. Except as may be otherwise specifically provided in this Agreement or the Act, the Members agree that the following actions requiring a vote of the Members shall require the vote of the Members as follows:

(a) The Members shall be entitled to vote on the election of Directors as set forth in Sections 8.01(b) and (e).

(b) The vote and approval by all of the Members shall be required (i) to amend or restate this Agreement (as also provided in Section 15.04), or to repeal or adopt a new limited liability company agreement, or to amend or restate the Organizational Certificate, (ii) to increase or decrease the number of Directors constituting the Board pursuant to Section 8.01, (iii) to approve a fundamental business transaction by the Company (including, without limitation, the sale of all or substantially all of the assets of the Company, or to approve or adopt any merger or consolidation as described in Section 18-209(b) of the Act, (iv) to approve an action that would make it impossible for the Company to carry out the ordinary business of the Company, (v) for the Company to approve or permit the issuance of any equity securities (or any securities convertible, exercisable or exchangeable into any equity securities) by any subsidiary of the Company to any Person other than direct or indirect wholly owned subsidiaries of the Company, or (vi) for the Company to approve or permit any repurchases or redemptions of any equity interest of the Company or its subsidiaries (other than of equity interests of its Subsidiaries by the Company or by direct or indirect wholly owned Subsidiaries of the Company).

(c) The vote of the Members holding a majority of the voting interest shall be required for any other matters under the Act requiring the vote of a majority of the Members.

ARTICLE 8 MANAGEMENT

8.01 Management by Board of Directors.

(a) *Generally.* Subject to any limitations and powers reserved to the Members under this Agreement, the business and affairs of the Company shall be fully vested in, and managed by, a board of managers (the “**Board of Directors**” or “**Board**”) and subject to the

discretion of the Board, officers elected pursuant to this Article 8. The Directors and officers shall collectively constitute “managers” of the Company within the meaning of the Act. Except as otherwise provided in this Agreement, the authority and functions of the Board, on the one hand, and of the officers, on the other hand, shall be identical to the authority and functions of the board of directors and officers, respectively, of a corporation organized under the General Corporation Law of the State of Delaware. The officers shall be vested with such powers and duties as are set forth in this Article 8 and as are specified by the Board. Accordingly, except as otherwise specifically provided in this Agreement, the business and affairs of the Company shall be managed under the direction of the Board, and the day-to-day activities of the Company shall be conducted on the Company’s behalf by the officers who shall be agents of the Company.

(b) *Number; Qualification; Tenure.* The number of Directors constituting the initial Board of Directors shall be four. The number of Directors constituting the Board of Directors may be increased or decreased from time to time by resolution of the Members. Except as provided in Section 8.01(e) hereof, Directors shall be elected by the Members holding a plurality of the Member Interests, and each Director so elected shall hold office for the full term to which he shall have been elected and until his successor is duly elected and qualified, or until his earlier death, resignation or removal. Any Director may resign at any time upon notice to the Company. A Director need not be a Member of the Company or a resident of the State of Delaware.

(c) *Regular Meetings.* Regular quarterly and annual meetings of the Board shall be held at such time and place as shall be designated from time to time by resolution of the Board. Notice of such regular quarterly and annual meetings shall not be required.

(d) *Special Meetings.* Special meetings of the Board of Directors may be held at any time, whenever called by the Chairman of the Board of Directors, the President of the Company or a majority of Directors then in office, at such place or places within or without the State of Delaware as may be stated in the notice of the meeting. Notice of the time and place of a special meeting must be given by the person or persons calling such meeting at least twenty-four (24) hours, before the special meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the sole purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

(e) *Term; Resignation; Vacancies; Removal.* Each Director shall hold office until his successor is appointed and qualified or until his earlier resignation or removal. Any Director may resign at any time upon written notice to the Board, the Chairman of the Board, to the Chief Executive Officer or to any other Officer. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective. Vacancies and newly created directorships resulting from any increase in the authorized number of Directors or from any other cause shall be filled by an affirmative vote of a majority of the remaining Directors then in office, though less than a quorum, or by a sole remaining Director, and each Director so elected shall hold office for the remainder of the full term in which the new directorship was created or the vacancy occurred and

until such Director's successor is duly elected and qualified, or until his earlier death, resignation or removal. Any Director may be removed, with or without cause, by a majority of the Members at any time, and the vacancy in the Board caused by any such removal shall be filled by a majority of the Members.

(f) *Quorum; Required Vote for Action.* Except as may be otherwise specifically provided by law or this Agreement, at all meetings of the Board of Directors a majority of the whole Board of Directors shall constitute a quorum for the transaction of business. The vote of a majority of the Directors present at any meeting of the Board of Directors at which there is a quorum shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

(g) *Committees.* The Board of Directors may, by resolution passed by a majority of the whole Board of Directors, designate one or more committees, each committee to consist of one or more of the Directors of the Company. The Board of Directors may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, and in the absence of a designation by the Board of Directors of an alternate member to replace the absent or disqualified member, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any absent or disqualified member. Any committee, to the extent provided in the resolution of the Board of Directors establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Company, and may authorize the seal of the Company to be affixed to all papers which may require it. Each committee shall keep regular minutes and report to the Board of Directors when required.

The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility imposed upon it or him by law, nor shall such committee function where action of the Board of Directors is required under applicable law. The Board of Directors shall have the power at any time to change the membership of any such committee and to fill vacancies in it. A majority of the members of any such committee shall constitute a quorum. Each such committee may elect a chairman and appoint such subcommittees and assistants as it may deem necessary. Except as otherwise provided by the Board of Directors, meetings of any committee shall be conducted in the same manner as the Board of Directors conducts its business pursuant to this Agreement, as the same shall from time to time be amended. Any member of any such committee elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Company will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of a member of a committee shall not of itself create contract rights.

8.02 Officers.

(a) *Generally.* The officers of the Company shall be appointed by the Board of Directors. Unless provided otherwise by resolution of the Board of Directors, the Officers shall have the titles, power, authority and duties described below in this Section 8.02.

(b) *Titles and Number.* The Officers of the Company shall be the Chairman of the Board (unless the Board of Directors provides otherwise), the Chief Executive Officer, the President, any and all Vice Presidents (including any Vice Presidents who may be designated as Executive Vice President or Senior Vice President), the Secretary, the Chief Financial Officer, any Treasurer and any and all Assistant Secretaries and Assistant Treasurers and the General Counsel. There shall be appointed from time to time such Vice Presidents, Secretaries, Assistant Secretaries, Treasurers and Assistant Treasurers as the Board of Directors may desire. ; Any person may hold more than one office.

(c) *Appointment and Term of Office.* The Officers shall be appointed by the Board of Directors at such time and for such term as the Board of Directors shall determine. Any Officer may be removed, with or without cause, only by the Board of Directors. Vacancies in any office may be filled only by the Board of Directors.

(d) *Chairman of the Board.* The Chairman of the Board shall preside at all meetings of the Board of Directors and he shall be a non-executive unless and until other executive powers and duties are assigned to him from time to time by the Board of Directors.

(e) *Chief Executive Officer.* Subject to the limitations imposed by this Agreement, any employment agreement, any employee plan or any determination of the Board of Directors, the Chief Executive Officer, subject to the direction of the Board of Directors, shall be the chief executive officer of the Company and shall be responsible for the management and direction of the day-to-day business and affairs of the Company, its other Officers, employees and agents, shall supervise generally the affairs of the Company and shall have full authority to execute all documents and take all actions that the Company may legally take. In the absence of the Chairman of the Board, the Chief Executive Officer shall preside at all meetings (should he be a director) of the Board of Directors. The Chief Executive Officer shall exercise such other powers and perform such other duties as may be assigned to him by this Agreement or the Board of Directors, including any duties and powers stated in any employment agreement approved by the Board of Directors.

(f) *President.* Subject to the limitations imposed by this Agreement, any employment agreement, any employee plan or any determination of the Board of Directors, the President, subject to the direction of the Board of Directors, shall be the chief executive officer of the Company in the absence of a Chief Executive Officer and shall be responsible for the management and direction of the day-to-day business and affairs of the Company, its other Officers, employees and agents, shall supervise generally the affairs of the Company and shall have full authority to execute all documents and take all actions that the Company may legally take. The President shall preside at all meetings of the Members and, in the absence of the Chairman of the Board and a Chief Executive Officer, the President shall preside at all meetings (should he be a director) of the Board of Directors. The President shall exercise such other

powers and perform such other duties as may be assigned to him by this Agreement or the Board of Directors, including any duties and powers stated in any employment agreement approved by the Board of Directors.

(g) *Vice Presidents.* In the absence of a Chief Executive Officer and the President, each Vice President (including any Vice Presidents designated as Executive Vice President or Senior Vice President) appointed by the Board of Directors shall have all of the powers and duties conferred upon the President, including the same power as the President to execute documents on behalf of the Company. Each such Vice President shall perform such other duties and may exercise such other powers as may from time to time be assigned to him by the Board of Directors or the President.

(h) *Secretary and Assistant Secretaries.* The Secretary shall record or cause to be recorded in books provided for that purpose the minutes of the meetings or actions of the Board of Directors, shall see that all notices are duly given in accordance with the provisions of this Agreement and as required by law, shall be custodian of all records (other than financial), shall see that the books, reports, statements, certificates and all other documents and records required by law are properly kept and filed, and, in general, shall perform all duties incident to the office of Secretary and such other duties as may, from time to time, be assigned to him by this Agreement, the Board of Directors or the President. The Assistant Secretaries shall exercise the powers of the Secretary during that Officer's absence or inability or refusal to act.

(i) *Chief Financial Officer.* The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of account of the Company. He shall receive and deposit all moneys and other valuables belonging to the Company in the name and to the credit of the Company and shall disburse the same and only in such manner as the Board of Directors or the appropriate Officer of the Company may from time to time determine. He shall render to the Board of Directors and the Chief Executive Officer, whenever any of them request it, an account of all his transactions as Chief Financial Officer and of the financial condition of the Company, and shall perform such further duties as the Board of Directors or the Chief Executive Officer may require. The Chief Financial Officer shall have the same power as the Chief Executive Officer to execute documents on behalf of the Company.

(j) *Treasurer and Assistant Treasurers.* The Treasurer shall have such duties as may be specified by the Chief Financial Officer in the performance of his duties. The Assistant Treasurers shall exercise the power of the Treasurer during that Officer's absence or inability or refusal to act. Each of the Assistant Treasurers shall possess the same power as the Treasurer to sign all certificates, contracts, obligations and other instruments of the Company. If no Treasurer or Assistant Treasurer is appointed and serving or in the absence of the appointed Treasurer and Assistant Treasurer, the Senior Vice President, or such other Officer as the Board of Directors shall select, shall have the powers and duties conferred upon the Treasurer.

(k) *General Counsel.* The General Counsel subject to the discretion of the Board of Directors, shall be responsible for the management and direction of the day-to-day legal affairs of the Company. The General Counsel shall perform such other duties and may exercise such other powers as may from time to time be assigned to him by the Board of Directors or the President.

(l) *Powers of Attorney.* The Company may grant powers of attorney or other authority as appropriate to establish and evidence the authority of the Officers and other persons.

(m) *Delegation of Authority.* Unless otherwise provided by resolution of the Board of Directors, no Officer shall have the power or authority to delegate to any person such Officer's rights and powers as an Officer to manage the business and affairs of the Company.

(n) *Officers.* The Board of Directors shall appoint Officers of the Company to serve from the date of such appointment until the death, resignation or removal by the Board of Directors with or without cause of such officer.

8.03 Duties of Officers and Directors. Except as otherwise specifically provided in this Agreement, the duties and obligations owed to the Company and to the Board of Directors by the Officers of the Company and by members of the Board of Directors of the Company shall be the same as the respective duties and obligations owed to a corporation organized under the Delaware General Corporation Law by its officers and directors, respectively.

8.04 Compensation. The members of the Board of Directors who are neither Officers nor employees of the Company shall be entitled to compensation as directors and committee members as approved by the Board and shall be reimbursed for out-of-pocket expenses incurred in connection with attending meetings of the Board of Directors or committees thereof.

8.05 Indemnification.

(a) To the fullest extent permitted by Law but subject to the limitations expressly provided in this Agreement, each Indemnitee (as defined below) shall be indemnified and held harmless by the Company from and against any and all losses, claims, damages, liabilities (joint or several), expenses (including reasonable legal fees and expenses), judgments, fines, penalties, interest, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, in which any such person may be involved, or is threatened to be involved, as a party or otherwise, by reason of such person's status as (i) a present or former member of the Board of Directors or any committee thereof, (ii) a present or former Member, (iii) a present or former Officer, or (iv) a Person serving at the request of the Company in another entity in a similar capacity as that referred to in the immediately preceding clauses (i) or (iii), *provided*, that the Person described in the immediately preceding clauses (i), (ii), (iii) or (iv) ("**Indemnitee**") shall not be indemnified and held harmless if there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of the matter for which the Indemnitee is seeking indemnification pursuant to this Section 8.05, the Indemnitee acted in bad faith or engaged in fraud, willful misconduct or, in the case of a criminal matter, acted with knowledge that the Indemnitee's conduct was unlawful. Any indemnification pursuant to this Section 8.05 shall be made only out of the assets of the Company.

(b) To the fullest extent permitted by law, expenses (including reasonable legal fees and expenses) incurred by an Indemnitee who is indemnified pursuant to Section 8.05(a) in defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Company prior to the final disposition of such claim, demand, action, suit or

proceeding upon receipt by the Company of an undertaking by or on behalf of the Indemnitee to repay such amount if it shall be determined that the Indemnitee is not entitled to be indemnified as authorized in this Section 8.05.

(c) The indemnification provided by this Section 8.05 shall be in addition to any other rights to which an Indemnitee may be entitled under any agreement, as a matter of law or otherwise, both as to actions in the Indemnitee's capacity as an Indemnitee and as to actions in any other capacity, and shall continue as to an Indemnitee who has ceased to serve in such capacity.

(d) The Company may purchase and maintain insurance, on behalf of the members of the Board of Directors, the Officers and such other persons as the Board of Directors shall determine, against any liability that may be asserted against or expense that may be incurred by such person in connection with the Company's activities, regardless of whether the Company would have the power to indemnify such person against such liability under the provisions of this Agreement.

(e) For purposes of this Section 8.05, the Company shall be deemed to have requested an Indemnitee to serve as fiduciary of an employee benefit plan whenever the performance by the Indemnitee of such Indemnitee's duties to the Company also imposes duties on, or otherwise involves services by, the Indemnitee to the plan or participants or beneficiaries of the plan; excise taxes assessed on an Indemnitee with respect to an employee benefit plan pursuant to applicable law shall constitute "fines" within the meaning of Section 8.05(a); and action taken or omitted by the Indemnitee with respect to an employee benefit plan in the performance of such Indemnitee's duties for a purpose reasonably believed by such Indemnitee to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is in, or not opposed to, the best interests of the Company.

(f) In no event may an Indemnitee subject any Members of the Company to personal liability by reason of the indemnification provisions of this Agreement.

(g) An Indemnitee shall not be denied indemnification in whole or in part under this Section 8.05 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 8.05 are for the benefit of the Indemnitees, their heirs, successors, assigns and administrators and shall not be deemed to create any rights for the benefit of any other Persons.

(i) No amendment, modification or repeal of this Section 8.05 or any provision hereof shall in any manner terminate, reduce or impair either the right of any past, present or future Indemnitee to be indemnified by the Company or the obligation of the Company to indemnify any such Indemnitee under and in accordance with the provisions of this Section 8.05 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such

amendment, modification or repeal, regardless of when such claims may arise or be asserted, and such Person became an Indemnitee hereunder prior to such amendment, modification or repeal.

(j) THE PROVISIONS OF THE INDEMNIFICATION PROVIDED IN THIS SECTION 8.05 ARE INTENDED BY THE PARTIES TO APPLY EVEN IF SUCH PROVISIONS HAVE THE EFFECT OF EXCULPATING THE INDEMNITEE FROM LEGAL RESPONSIBILITY FOR THE CONSEQUENCES OF SUCH PERSON'S NEGLIGENCE, FAULT OR OTHER CONDUCT.

8.06 Liability of Indemnitees.

(a) Notwithstanding anything to the contrary set forth in this Agreement, no Indemnitee shall be liable for monetary damages to the Company, the Members or any other Person for losses sustained or liabilities incurred as a result of any act or omission of an Indemnitee unless there has been a final and non-appealable judgment entered in a court of competent jurisdiction determining that, in respect of the matter in question, the Indemnitee acted in bad faith or engaged in fraud, willful misconduct or, in the case of a criminal matter, acted with knowledge that the Indemnitee's conduct was criminal.

(b) Subject to its obligations and duties as set forth in this Article 8, the Board of Directors and any committee thereof 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 the Company's Officers or agents, and neither the Board of Directors nor any committee thereof shall be responsible for any misconduct or negligence on the part of any such Officer or agent appointed by the Board of Directors or any committee thereof in good faith.

(c) Any amendment, modification or repeal of this Section 8.06 or any provision hereof shall be prospective only and shall not in any way affect the limitations on liability under this Section 8.06 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may be asserted.

ARTICLE 9 ACCOUNTING METHOD, PERIOD, RECORDS AND REPORTS

9.01 Accounting Method. The books and records of account of the Company shall be maintained in accordance with the accrual method of accounting.

9.02 Accounting Period. The Company's accounting period shall be the fiscal year.

9.03 Records, Audits and Reports. At the expense of the Company, the Board of Directors shall maintain books and records of account of all operations and expenditures of the Company.

9.04 Inspection. The books and records of account of the Company shall be maintained at the principal place of business of the Company or such other location as shall be

determined by the Board of Directors and shall be open to inspection by the Members at all reasonable times during any business day.

**ARTICLE 10
TAX MATTERS**

10.01 Tax Returns. The Board shall cause to be prepared and filed all necessary federal and state income tax returns for the Company, including making the elections described in Section 10.02. Each Member shall furnish to the Board all pertinent information in its possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed.

10.02 Tax Elections. The Company shall make the following elections on the appropriate tax returns:

- (a) to adopt a fiscal year ending on December 31 of each year;
- (b) to adopt the accrual method of accounting and to keep the Company's books and records on the income-tax method;
- (c) to adjust the basis of Company properties pursuant to section 754 of the Code; and
- (d) any other election the Board may deem appropriate and in the best interests of the Members.

Neither the Company nor any Member may make an election for the Company to be excluded from the application of the provisions of subchapter K of chapter 1 of subtitle A of the Code or any similar provisions of applicable state law.

10.03 Tax Matters Partner. DEP OLP shall be the "tax matters partner" of the Company pursuant to section 6231(a)(7) of the Code. Tax matters partner shall take such action as may be necessary to cause each Member to become a "notice partner" within the meaning of section 6223 of the Code. The tax matters partner shall inform each Member of all significant matters that may come to its attention in its capacity as tax matters partner by giving notice on or before the fifth Business Day after becoming aware of the matter and, within that time, shall forward to each Member copies of all significant written communications it may receive in that capacity.

**ARTICLE 11
RESTRICTIONS ON TRANSFERABILITY**

11.01 Transfer Restrictions. Except as set forth in Article 4 of the Omnibus Agreement, no Member shall be permitted to sell, assign, transfer or otherwise dispose of, or mortgage, hypothecate or otherwise encumber, or permit or suffer any encumbrance of, all or any portion of its Member Interest without the prior written consent of all other Members (which consent may be withheld in the sole discretion of such Members).

ARTICLE 12
BOOKS, RECORDS, REPORTS, AND BANK ACCOUNTS

12.01 Maintenance of Books.

(a) The Board of Directors shall keep or cause to be kept at the principal office of the Company or at such other location approved by the Board of Directors complete and accurate books and records of the Company, supporting documentation of the transactions with respect to the conduct of the Company's business and minutes of the proceedings of the Board of Directors and any other books and records that are required to be maintained by applicable Law.

(b) The books of account of the Company shall be maintained on the basis of a fiscal year that is the calendar year and on an accrual basis in accordance with generally accepted accounting principles, consistently applied, except that the capital accounts of the Members shall be maintained in accordance with Section 4.05.

12.02 Reports. The Board of Directors shall cause to be prepared and delivered to each Member such reports, forecasts, studies, budgets and other information as the Members may reasonably request from time to time.

12.03 Bank Accounts. Funds of the Company shall be deposited in such banks or other depositories as shall be designated from time to time by the Board of Directors. All withdrawals from any such depository shall be made only as authorized by the Board of Directors and shall be made only by check, wire transfer, debit memorandum or other written instruction.

12.04 Tax Statements. The Company shall use reasonable efforts to furnish, within 90 Days of the close of each taxable year of the Company, estimated tax information reasonably required by the Members for federal and state income tax reporting purposes.

ARTICLE 13
DISSOLUTION, WINDING-UP AND TERMINATION

13.01 Dissolution.

(a) The Company shall dissolve and its affairs shall be wound up on the first to occur of the following events (each a "**Dissolution Event**"):

- (i) the unanimous consent of the Members in writing;
- (ii) the entry of a decree of judicial dissolution of the Company under Section 18-802 of the Act;
- (iii) at any time there are no Members of the Company, unless the Company is continued in accordance with the Act or this Agreement.

(b) No other event shall cause a dissolution of the Company.

(c) Upon the occurrence of any event that causes there to be no Members of the Company, to the fullest extent permitted by law, the personal representative of the last remaining Member is hereby authorized to, and shall, within 90 days after the occurrence of the event that terminated the continued membership of such Member in the Company, agree in writing (i) to continue the Company and (ii) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute Member of the Company, effective as of the occurrence of the event that terminated the continued membership of such Member in the Company .

(d) Notwithstanding any other provision of this Agreement, the Bankruptcy of a Member shall not cause such Member to cease to be a member of the Company and, upon the occurrence of such an event, the Company shall continue without dissolution.

13.02 Winding-Up and Termination.

(a) On the occurrence of a Dissolution Event, the Board of Directors shall select one or more Persons to act as liquidator. The liquidator shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Act. The costs of winding up shall be borne as a Company expense. Until final distribution, the liquidator shall continue to operate the Company properties with all of the power and authority of the Board of Directors. The steps to be accomplished by the liquidator are as follows:

(i) as promptly as possible after dissolution and again after final winding up, the liquidator shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities, and operations through the last calendar day of the month in which the dissolution occurs or the final winding up is completed, as applicable;

(ii) the liquidator shall discharge from Company funds all of the debts, liabilities and obligations of the Company or otherwise make adequate provision for payment and discharge thereof (including the establishment of a cash escrow fund for contingent liabilities in such amount and for such term as the liquidator may reasonably determine); and

(iii) all remaining assets of the Company shall be distributed to the Members as follows:

(A) the liquidator may sell any or all Company property, including to Members, and any resulting gain or loss from each sale shall be computed and allocated to the capital accounts of the Members;

(B) with respect to all Company property that has not been sold, the fair market value of that property shall be determined and the capital accounts of the Members shall be adjusted to reflect the manner in which the unrealized income, gain, loss, and deduction inherent in property that has not been reflected in the capital accounts previously would be allocated among the Members if there were a taxable disposition of that property for the fair market value of that property on the date of distribution; and

(C) Company property shall be distributed among the Members in accordance with the positive capital account balances of the Members, as determined after taking into account all capital account adjustments for the taxable year of the Company during which the liquidation of the Company occurs (other than those made by reason of this clause (iii)); and those distributions shall be made by the end of the taxable year of the Company during which the liquidation of the Company occurs (or, if later, 90 days after the date of the liquidation).

(b) The distribution of cash or property to a Member in accordance with the provisions of this Section 13.02 constitutes a complete return to the Member of its Capital Contributions and a complete distribution to the Member of its share of all the Company's property and constitutes a compromise to which all Members have consented within the meaning of Section 18-502(b) of the Act. No Member shall be required to make any Capital Contribution to the Company to enable the Company to make the distributions described in this Section 13.02.

(c) On completion of such final distribution, the liquidator shall file a Certificate of Cancellation with the Secretary of State of the State of Delaware and take such other actions as may be necessary to terminate the existence of the Company.

ARTICLE 14 MERGER

14.01 Authority. The Company may merge or consolidate with one or more limited liability companies, corporations, business trusts or associations, real estate investment trusts, common law trusts or unincorporated businesses, including a general partnership or limited partnership, formed under the laws of the State of Delaware or any other jurisdiction, pursuant to a written agreement of merger or consolidation ("**Merger Agreement**" 21;) in accordance with this Article 14.

14.02 Procedure for Merger or Consolidation. The merger or consolidation of the Company pursuant to this Article 14 requires the prior approval of a majority the Board of Directors and compliance with Section 14.03. Upon such approval, the Merger Agreement shall set forth:

(a) The names and jurisdictions of formation or organization of each of the business entities proposing to merge or consolidate;

(b) The name and jurisdiction of formation or organization of the business entity that is to survive the proposed merger or consolidation ("**Surviving Business Entity**");

(c) The terms and conditions of the proposed merger or consolidation;

(d) The manner and basis of exchanging or converting the equity securities of each constituent business entity for, or into, cash, property or general or limited partnership or limited liability company interests, rights, securities or obligations of the Surviving Business Entity; and (i) if any general or limited partnership or limited liability company interests, rights, securities or obligations of any constituent business entity are not to be exchanged or converted solely for, or into, cash, property or general or limited partnership or limited liability company

interests, rights, securities or obligations of the Surviving Business Entity, the cash, property or general or limited partnership or limited liability company interests, rights, securities or obligations of any general or limited partnership, limited liability company, corporation, trust or other entity (other than the Surviving Business Entity) which the holders of such interests, rights, securities or obligations of the constituent business entity are to receive in exchange for, or upon conversion of, their interests, rights, securities or obligations and (ii) in the case of securities represented by certificates, upon the surrender of such certificates, which cash, property or general or limited partnership or limited liability company interests, rights, securities or obligations of the Surviving Business Entity or any general or limited partnership, limited liability company, corporation, trust or other entity (other than the Surviving Business Entity), or evidences thereof, are to be delivered;

(e) A statement of any changes in the constituent documents or the adoption of new constituent documents (the articles or certificate of incorporation, articles of trust, declaration of trust, certificate or agreement of limited partnership or limited liability company or other similar charter or governing document) of the Surviving Business Entity to be effected by such merger or consolidation;

(f) The effective time of the merger or consolidation, which may be the date of the filing of the certificate of merger pursuant to Section 14.04 or a later date specified in or determinable in accordance with the Merger Agreement (*provided*, that if the effective time of the merger or consolidation is to be later than the date of the filing of the certificate of merger or consolidation, the effective time shall be fixed no later than the time of the filing of the certificate of merger or consolidation and stated therein); and

(g) Such other provisions with respect to the proposed merger or consolidation as are deemed necessary or appropriate by the Board of Directors.

14.03 Approval by Members of Merger or Consolidation.

(a) The Board of Directors, upon its approval of the Merger Agreement, shall direct that the Merger Agreement be submitted to a vote of the Members, whether at a meeting or by written consent. A copy or a summary of the Merger Agreement shall be included in or enclosed with the notice of a meeting or the written consent.

(b) After approval by vote or consent of the Members, and at any time prior to the filing of the certificate of merger or consolidation pursuant to Section 14.04, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the Merger Agreement.

14.04 Certificate of Merger or Consolidation. Upon the required approval by the Board of Directors and the Members of a Merger Agreement, a certificate of merger or consolidation shall be executed and filed with the Secretary of State of the State of Delaware in conformity with the requirements of the Act.

14.05 Effect of Merger or Consolidation.

(a) At the effective time of the certificate of merger or consolidation:

(i) all of the rights, privileges and powers of each of the business entities that has merged or consolidated, and all property, real, personal and mixed, and all debts due to any of those business entities and all other things and causes of action belonging to each of those business entities shall be vested in the Surviving Business Entity and after the merger or consolidation shall be the property of the Surviving Business Entity to the extent they were property of each constituent business entity;

(ii) the title to any real property vested by deed or otherwise in any of those constituent business entities shall not revert and is not in any way impaired because of the merger or consolidation;

(iii) all rights of creditors and all liens on or security interest in property of any of those constituent business entities shall be preserved unimpaired; and

(iv) all debts, liabilities and duties of those constituent business entities shall attach to the Surviving Business Entity, and may be enforced against it to the same extent as if the debts, liabilities and duties had been incurred or contracted by it.

(b) A merger or consolidation effected pursuant to this Article 14 shall, to the fullest extent legally permissible, not (i) be deemed to result in a transfer or assignment of assets or liabilities from one entity to another having occurred or (ii) require the Company (if it is not the Surviving Business Entity) to wind up its affairs, pay its liabilities or distribute its assets as required under Article 13 of this Agreement or under the applicable provisions of the Act.

ARTICLE 5 GENERAL PROVISIONS

15.01 Notices. Except as expressly set forth to the contrary in this Agreement, all notices, requests or consents provided for or permitted to be given under this Agreement must be in writing and must be delivered to the recipient in person, by courier or mail or by facsimile or other electronic transmission and a notice, request or consent given under this Agreement is effective on receipt by the Person to receive it; provided, however, that a facsimile or other electronic transmission that is transmitted after the normal business hours of the recipient shall be deemed effective on the next Business Day. All notices, requests and consents to be sent to a Member must be sent to or made at the addresses given for that Member as that Member may specify by notice to the other Members. Any notice, request or consent to the Company must be given to all of the Members. Whenever any notice is required to be given by applicable Law, the Organizational Certificate or this Agreement, a written waiver thereof, signed by the Person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Whenever any notice is required to be given by Law, the Organizational Certificate or this Agreement, a written waiver thereof, signed by the Person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

15.02 Entire Agreement; Supersedure. This Agreement constitutes the entire agreement of the Members and their respective Affiliates relating to the subject matter hereof

and supersedes all prior contracts or agreements with respect to such subject matter, whether oral or written.

15.03 Effect of Waiver or Consent. Except as provided in this Agreement, a waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person with respect to the Company. Except as provided in this Agreement, failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute-of-limitations period has run.

15.04 Amendment or Restatement. This Agreement may be amended or restated only by a written instrument executed by all Members.

15.05 Binding Effect. This Agreement is binding on and shall inure to the benefit of the Members and their respective heirs, legal representatives, successors and assigns.

15.06 Governing Law; Severability. THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE, EXCLUDING ANY CONFLICT-OF-LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. In the event of a direct conflict between the provisions of this Agreement and (a) any provision of the Organizational Certificate, or (b) any mandatory, non-waivable provision of the Act, such provision of the Organizational Certificate or the Act shall control. If any provision of the Act provides that it may be varied or superseded in the limited liability company agreement (or otherwise by agreement of the members or managers of a limited liability company), such provision shall be deemed superseded and waived in its entirety if this Agreement contains a provision addressing the same issue or subject matter. If any provision of this Agreement or the application thereof to any Person or circumstance is held invalid or unenforceable to any extent, (a) the remainder of this Agreement and the application of that provision to other Persons or circumstances is not affected thereby and that provision shall be enforced to the greatest extent permitted by Law, and (b) the Members or Directors (as the case may be) shall negotiate in good faith to replace that provision with a new provision that is valid and enforceable and that puts the Members in substantially the same economic, business and legal position as they would have been in if the original provision had been valid and enforceable.

15.07 Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions.

15.08 Offset. Whenever the Company is to pay any sum to any Member, any amounts that a Member owes the Company may be deducted from that sum before payment.

15.09 Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

15.10 Execution of Additional Instruments. Each Member hereby agrees to execute such other and further statements of interest and holdings, designations, powers of attorney and other instruments necessary to comply with any laws, rules or regulations.

15.11 Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

15.12 Headings. The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the Members have executed this Agreement as of the date first set forth above.

MEMBERS:

DEP OPERATING PARTNERSHIP, L.P.

By: DEP OLPGP, LLC,
its general partner

By: /s/ W. Randall Fowler
W. Randall Fowler
President and Chief Executive Officer

ENTERPRISE PRODUCTS OPERATING LLC

By: Enterprise Products OLPGP, Inc.,
its managing member

By: /s/ Richard H. Bachmann
Richard H. Bachmann
Executive Vice President, Chief Legal Officer
and Secretary

Attachment I

Defined Terms

Act – the Delaware Limited Liability Company Act and any successor statute, as amended from time to time.

Affiliate – with respect to any Person, each Person Controlling, Controlled by or under common Control with such first Person.

Agreement – this Second Amended and Restated Limited Liability Company Agreement of the Company, as the same may be amended, modified, supplemented or restated from time to time.

Allocation Regulations means Treas. Reg. §§ 1.704-1(b), 1.704-2 and 1.704-3 (including any temporary regulations) as such regulations may be amended and in effect from time to time and any corresponding provision of succeeding regulations.

Bankruptcy or Bankrupt – with respect to any Person, that (a) such Person (i) makes an assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) is insolvent, or has entered against such Person an order for relief in any bankruptcy or insolvency proceeding; (iv) files a petition or answer seeking for such Person any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any Law; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against such Person in a proceeding of the type described in subclauses (i) through (iv) of this clause (a); or (vi) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of such Person or of all or any substantial part of such Person's properties; or (b) 120 Days have passed after the commencement of any proceeding seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any Law, if the proceeding has not been dismissed, or 90 Days have passed after the appointment without such Person's consent or acquiescence of a trustee, receiver or liquidator of such Person or of all or any substantial part of such Person's properties, if the appointment is not vacated or stayed, or 90 Days have passed after the date of expiration of any such stay, if the appointment has not been vacated.

Board of Directors or Board – Section 8.01.

Business Day – any Day other than a Saturday, a Sunday or a Day on which national banking associations in the State of Texas are authorized or required by Law to close.

Capital Contribution – with respect to any Member of the Company, the amount of money and the initial Carrying Value of any property (other than money) contributed to the Company by such Member.

Carrying Value means (a) with respect to property contributed to the Company, the fair market value of such property at the time of contribution reduced (but not below zero) by all depreciation, depletion (computed as a separate item of deduction), amortization and cost

recovery deductions charged to the Members' capital accounts, (b) with respect to any property whose value is adjusted pursuant to the Allocation Regulations, the adjusted value of such property reduced (but not below zero) by all depreciation and cost recovery deductions charged to the Partner's capital accounts and (c) with respect to any other Company property, the adjusted basis of such property for federal income tax purposes, all as of the time of determination.

Commencement Date – the first date on which an Expansion Project has become operational and is placed into service.

Company – initial paragraph.

Control – shall mean the possession, directly or indirectly, of the power and authority to direct or cause the direction of the management and policies of a Person, whether through ownership or control of Voting Stock, by contract or otherwise.

Contribution Agreement – Recitals.

Day – a calendar Day; provided, however, that, if any period of Days referred to in this Agreement shall end on a Day that is not a Business Day, then the expiration of such period shall be automatically extended until the end of the first succeeding Business Day.

Delaware General Corporation Law – Title 8 of the Delaware Code, as amended from time to time.

Director – each member of the Board of Directors elected as provided in Section 8.01.

Dispose, Disposing or Disposition means, with respect to any asset, any sale, assignment, transfer, conveyance, gift, exchange or other disposition of such asset, whether such disposition be voluntary, involuntary or by operation of Law.

Dissolution Event – Section 13.01(a).

Effective Date – initial paragraph.

Enterprise Products LLC – Initial paragraph.

Existing Agreement – Recitals.

Expansion Capital Contribution – means additional Capital Contributions of cash or property pursuant to an Expansion Cash Call in accordance with Section 4.02.

Expansion Cash Call – Section 4.02(a).

Expansion Cash Flow – the net cash flow attributable to a particular Expansion Project as determined under Section 5.02(b).

Expansion Costs – Section 4.02(a).

Expansion Profits and Losses – the Profits and Losses attributable to a particular Expansion Project as determined under Section 5.02(b)(ix).

Expansion Project – any expansion activities with respect to the Company’s facilities, including without limitation, development of new pipelines, processing, treatment and storage facilities, expansion of existing pipelines, and the installation of new related piping and facilities; however, the Haynesville Extension does not constitute an Expansion Project for the purposes of this Agreement.

Expansion Sharing Ratio – Section 4.02(a).

Indemnitee – Section 8.05(a).

Initial Agreement – Recitals.

Initial Member – Enterprise Products LLC.

Law – any applicable constitutional provision, statute, act, code (including the Code), law, regulation, rule, ordinance, order, decree, ruling, proclamation, resolution, judgment, decision, declaration or interpretative or advisory opinion or letter of a governmental authority.

Liability – any liability or obligation, whether known or unknown, asserted or unasserted, absolute or contingent, matured or unmatured, conditional or unconditional, latent or patent, accrued or unaccrued, liquidated or unliquidated, or due or to become due.

Member – any Person executing this Agreement as of the date of this Agreement as a member or hereafter admitted to the Company as a member as provided in this Agreement, but such term does not include any Person who has ceased to be a member in the Company.

Membership Interest – with respect to any Member, (a) that Member’s status as a Member; (b) that Member’s share of the income, gain, loss, deduction and credits of, and the right to receive distributions from, the Company; (c) all other rights, benefits and privileges enjoyed by that Member (under the Act, this Agreement, or otherwise) in its capacity as a Member; and (d) all obligations, duties and liabilities imposed on that Member (under the Act, this Agreement or otherwise) in its capacity as a Member, including any obligations to make Capital Contributions.

Merger Agreement – Section 14.01.

MLP – Recitals.

Officers – any person elected as an officer of the Company as provided in Section 8.02(a), but such term does not include any person who has ceased to be an officer of the Company.

Omnibus Agreement – means the Omnibus Agreement between Enterprise Products

LLC, DEP Holdings, LLC, MLP, DEP OLPGP, LLC, DEP OLP, Enterprise Lou-Tex Propylene Pipeline L.P., Sabine Propylene Pipeline L.P., Mont Belvieu Caverns, LLC, South Texas NGL Pipelines, LLC and the Company, dated February 5, 2007, as amended or restated from time to time.

Organizational Certificate – Section 2.01.

Person – a natural person, partnership (whether general or limited), limited liability company, governmental entity, trust, estate, association, corporation, venture, custodian, nominee or any other individual or entity in its own or any representative capacity.

Profits and Losses – means for each taxable year of the Company an amount equal to the Company’s taxable income or loss for such year as determined for federal income tax purposes in accordance with the accounting method and rules used by the Company and in accordance with Section 703(a) of the Code (for such purpose, all items of income, gain, loss or deduction required to be separately stated pursuant to Section 703(a)(1) of the Code shall be included in taxable income or loss), subject to the following modifications:

- (a) All fees and other expenses incurred by the Company to promote the sale of (or to sell) any interest that can neither be deducted nor amortized under Section 709 of the Code, if any, shall, for purposes of Capital Account maintenance, be treated as an item of deduction at the time such fees and other expenses are required;
- (b) Except as otherwise provided in Treas. Reg. § 1.704-1(b)(2)(iv)(m), 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 Company;
- (c) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits and Losses shall be added to such taxable income or loss;
- (d) Any expenditures of the Company described in Section 705(a)(2)(B) of the Code or treated as Code Section 705(a)(2)(B) expenditures pursuant to Treas. Reg. § 1.704-1(b)(2)(iv)(i), and not otherwise taken into account, shall be subtracted from such taxable income or loss;
- (e) With respect to Company property which, in conformity with Treasury Regulations, has a book value greater than or less than its adjusted tax basis, “Profits” and “Losses” of the Company shall be determined by reference to the depreciation and amortization deduction, if any, allowable with respect to such property as computed for book purposes (and not for tax purposes), as determined pursuant to Treas. Reg. § 1.704-1(b)(2)(iv)(g), and by the gain or loss attributable to such property as computed for book purposes (and not for tax purposes), by reference to such property’s adjusted book value; and
- (f) Notwithstanding any other provision of this definition, any items which are specially allocated to the Members pursuant to Sections 5.01(b) or (c) hereof shall not be taken into account in computing Profits or Losses.

Regulatory Allocations – Section 5.01(b)(viii).

Sharing Ratio – subject in each case to adjustments in accordance with this Agreement or in connection with Dispositions of Membership Interests, (a) in the case of a Member executing this Agreement as of the date of this Agreement or a Person acquiring such Member's Membership Interest, the percentage specified for that Member as its Sharing Ratio on Exhibit A, and (b) in the case of Membership Interests issued pursuant to Section 3.02, the Sharing Ratio established pursuant thereto; provided, however, that the total of all Sharing Ratios shall always equal 100%.

Surviving Business Entity – Section 14.02(b).

Voting Stock – with respect to any Person, equity interests in such Person, the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of, or otherwise appoint, directors (or Persons with management authority performing similar functions) of such Person.

Withdraw, Withdrawing and Withdrawal – the withdrawal, resignation or retirement of a Member from the Company as a Member.

Attachment I-5

Exhibit A

Name and Address of Member	Sharing Ratio
DEP Operating Partnership, L.P. 1100 Louisiana Street, 10 th Floor Houston, Texas 77002	66%
Enterprise Products Operating LLC 1100 Louisiana Street, 10 th Floor Houston, Texas 77002	34%

Exhibit A-1

LOAN AGREEMENT

\$200,000,000

This LOAN AGREEMENT (this "**Agreement**") is made as of June 1, 2010 (the "**Effective Date**"), between ENTERPRISE PRODUCTS OPERATING LLC, a Texas limited liability company, with principal offices at 1100 Louisiana Street, Suite 1000, Houston, Texas 77002 ("**Lender**"), and DUNCAN ENERGY PARTNERS L.P., a Delaware limited partnership with principal offices at 1100 Louisiana Street, Suite 1000, Houston, Texas 77002 ("**Borrower**"). Each capitalized term used but not otherwise defined in this Agreement shall have the meaning given to such term in Exhibit A hereto.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender and Borrower agree as follows:

1. **Commitment.** Subject to the terms and conditions set forth herein, Lender agrees to make available to Borrower funds in an aggregate maximum outstanding principal amount of \$200,000,000 (as such amount may be reduced from time to time pursuant to Section 13, the "**Commitment Amount**").

2. **Loan.** Subject to the provisions of this Agreement, upon the receipt of a Request for Borrowing (as defined in Section 5), Lender agrees to make a revolving loan (the "**Loan**") to Borrower in an aggregate maximum outstanding principal amount not to exceed the Commitment Amount. Each amount drawn under the Loan ("**Borrowings**"), and each repayment of Borrowings, will be in a minimum principal amount of \$25,000,000 and in whole increments of \$25,000,000 in excess thereof.

3. **Repayment of the Loan.** Borrower promises to pay the outstanding principal balance of the Loan, together with interest accrued and outstanding thereon and any other sums due hereunder, on the earliest to occur of (a) September 28, 2010 (the "**Maturity Date**"), (b) the date upon which the maturity of the Loan may have been accelerated pursuant to Section 12, or (c) the date upon which the commitment of Lender hereunder may have been terminated pursuant to Section 13.

4. **Early Repayment of the Loan.** Borrower will have the option to repay the Loan upon three (3) Business Days prior written notice, in whole or in part (subject to the minimum and incremental principal amounts for repayments, as described in Section 2), on any Business Day. Any repayment of principal must be accompanied by a concurrent payment of any and all accrued and unpaid interest on such principal amount to the date of repayment. Amounts repaid may be reborrowed in accordance with the terms of this Agreement, until the Maturity Date.

5. **Request for Borrowing.** On any Business Day including or after the Effective Date, but prior to the Maturity Date, Borrower may request a Borrowing by delivering a written notice to Lender (each, a "**Request for Borrowing**"), which such notice (a) shall be irrevocable and binding on Borrower, (b) shall state (i) the amount of such requested Borrowing and (ii) the date on which the funds underlying such Borrowing are to be delivered to Borrower, (c) must be received by Lender no later than 9:00 a.m., Houston, Texas time, on the third Business Day immediately preceding the date on which the funds underlying such Borrowing are to be delivered to Borrower, and (d) shall otherwise be in a form acceptable to Lender.

6. **Fees.** Borrower agrees to pay Lender all fees as calculated below:

(a) **Fee on Undrawn Portion of Commitment Amount.** Borrower agrees to pay Lender a fee equal to (i) the amount of any undrawn portion of the Commitment Amount (i.e., the Commitment Amount minus the aggregate principal amount of any and all outstanding Borrowings), multiplied by (ii) 0.375% per annum (on the basis of a 365 day year), for each day commencing on the Effective Date and ending upon the earlier of, and including, the Maturity Date or the date that Lender's commitment under this Agreement is terminated in accordance with Section 12 or Section 13. Fees payable in accordance with this Section 6 will be due on each Payment Date.

(b) All fees payable herein shall be paid on the dates due, and shall not be refundable under any circumstances.

7. *Interest.* Borrower shall pay interest on the unpaid principal amount of the Loan outstanding from the Effective Date until the principal amount shall be paid in full, at a rate per annum at all times during each Interest Period equal to the Interest Rate for such Interest Period, payable in arrears on each Payment Date; *provided* that, in the event of any repayment or prepayment of the Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment. Interest payable hereunder shall be calculated on the basis of a year of 360 days.

8. *Interest Period.* For the purposes of this Agreement, “*Interest Period*” means (a) the period commencing on the Effective Date and ending on, but not including, July 1, 2010 and (b) thereafter, each subsequent period commencing on the last day of the next preceding Interest Period and ending on, but not including, the first Business Day of the next succeeding calendar month; *provided*, that, in the case of any Interest Period that commences before the Maturity Date, and would otherwise end on a date occurring after the Maturity Date, such Interest Period shall end on the Maturity Date.

9. *Interest Rate.* For the period commencing on the Effective Date and ending on (but not including) July 1, 2010, interest on outstanding Borrowings shall be assessed at a floating rate of interest equivalent to the one-month LIBO Rate plus 2.50% (the “*Interest Rate*”). The LIBO Rate shall be set for each Interest Period as provided in the definition of the term “LIBO Rate” set forth in Exhibit A hereto.

Notwithstanding the foregoing provisions of this Section 9 or any other provision of this Agreement, interest on the Loan and other amounts due hereunder at any time shall be limited to the highest lawful rate that may be charged under the laws of the State of New York at such time.

10. *Borrower’s Representations and Warranties.* Borrower represents and warrants to Lender that:

(a) each of Borrower and its Subsidiaries (i) has been duly formed and is validly existing in good standing under the laws of its jurisdiction of organization and (ii) is qualified to do business as a foreign entity in good standing in each jurisdiction of the United States in which the ownership of its properties or the conduct of its business requires such qualification and where the failure to so qualify would be reasonably expected to have a material adverse effect on Borrower and its Subsidiaries, taken as a whole; and

(b) this Agreement has been duly authorized, executed and delivered by Borrower and constitutes the valid and binding agreement of Borrower, enforceable in accordance with its terms, except as enforceability may be limited by Bankruptcy Laws and general principles of equity.

11. *Conditions of Lending.* The obligation of Lender to fund any Borrowing hereunder is subject to the conditions precedent that, on and as of the date of funding of such Borrowing:

(a) each of the representations and warranties set forth in Section 10 is true and accurate; and

(b) no event has occurred and is continuing (or would result from the proposed Borrowing) that constitutes a Default or Event of Default under this Agreement or under the Credit Agreement.

12. *Events of Default.* If one or more of the following events of default (each an “*Event of Default*”) shall occur and be continuing:

(a) Borrower shall default in any payment of principal of the Loan when and as the payment shall become due and payable, or Borrower shall default in any payment of interest as required herein, or in the payment of any fees or other amounts as required herein, when the same shall become due and payable, and such default shall continue for a period of three (3) Business Days;

(b) Borrower shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of its property, (ii) admit in writing of its inability to pay its debts as such debts become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under any Bankruptcy Law, (v) file a petition seeking to take advantage of any other law providing for similar relief of debtors, or (vi) consent or acquiesce in writing to any petition duly filed against it in any involuntary case under any Bankruptcy Law;

(c) a proceeding or case shall be commenced, without the application or consent of Borrower in any court of competent jurisdiction seeking (i) its liquidation, reorganization, dissolution or winding up, or the composition or readjustment of its debts, (ii) the appointment of a trustee, receiver, custodian, liquidator or the like of it or of its assets, or (iii) similar relief in respect of it, under any law providing for the relief of debtors, and such proceeding or case shall continue undismissed, or unstayed and in effect, for a period of sixty (60) days (or such longer period, so long as Borrower shall be taking such action in good faith as shall be reasonably necessary to obtain the timely dismissal or stay of such proceeding or case); or an order for relief shall be entered in an involuntary case under any applicable Bankruptcy Law, against Borrower;

(d) a Change in Control (as defined in the Credit Agreement) shall occur; or

(e) any Event of Default (as defined in the Credit Agreement) shall occur;

then (and in each and every such case) Lender, by notice in writing to Borrower, may terminate the commitment of Lender hereunder and/or declare the unpaid balance of the Loan and any other amounts payable hereunder to be forthwith due and payable, and thereupon such balance shall become so due and payable without presentation, protest or further demand or notice of any kind, all of which are hereby expressly waived; *provided* that in the case of Section 12(b) and Section 12(c) above, the commitments of Lender hereunder shall automatically terminate and the Loan and any other amounts payable hereunder shall forthwith be due and payable.

13. *Termination and Reduction of Lender's Commitment at Election of Borrower.* Upon three Business Days' prior written notice to Lender, Borrower may at any time terminate, or from time to time reduce, Lender's commitment to make the Loan under this Agreement; *provided*, that (a) upon any such termination or reduction, (i) any unpaid balance of the Loan and any other amounts payable hereunder (in the case of a termination) or (ii) any unpaid balance of the Loan in excess of the Commitment Amount, as so reduced (in the case of a reduction), shall become immediately due and payable without presentation, protest or further demand or notice of any kind, all of which are hereby expressly waived, and (b) any such reduction shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000.

14. *Waivers; Amendments.* No failure or delay by Lender to exercise any right or power shall operate as a waiver thereof, nor shall any partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, preclude any other or further exercise of such right or power. No waiver of any right or power of Lender in this Agreement shall be effective unless given in writing signed by Lender. This Agreement may not be amended or modified except by a writing signed by the parties.

15. *Expenses of Enforcement.* Borrower shall reimburse Lender on demand for any fees or other expenses of Lender in connection with the enforcement of this Agreement and the collection of the Loan and any other amounts due Lender hereunder. Borrower agrees, to the fullest extent permitted by law, to indemnify and hold harmless Lender and each of its directors, officers, employees and agents (each an "**Indemnified Party**") from and against any and all claims, damages, liabilities and expenses (including without limitation fees and disbursements of counsel) arising out of or in connection with any investigation, litigation or proceeding (whether or not any Indemnified Party is a party) arising out of, related to or in connection with this Agreement, the Loan or any transaction in which any proceeds of all or any part of the Loan made hereunder are applied, *provided* that such indemnity shall not, as to any Indemnified Party, be available to the extent that such losses, claims, damages, liabilities or related expenses resulted from the gross negligence, unlawful conduct or willful misconduct of such Indemnified Party.

16. *Successors and Assigns.* This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and permitted assigns. Borrower may not assign this Agreement or delegate any of its duties hereunder without the express written consent of Lender.

17. *Governing Law.* This Agreement shall be construed in accordance with and governed by the laws of the State of New York.

18. *Headings; Section References.* Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions. Unless otherwise specified, references to Sections in this Agreement are to Sections of this Agreement.

19. *Counterparts.* This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

20. *Entire Agreement.* This instrument and any other loan documents executed in connection herewith constitute the entire Agreement between Lender and Borrower and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

21. *Notices.* All notices under this Agreement shall be in writing and mailed, hand delivered or faxed and confirmed to the respective parties as follows:

If to Lender:

Enterprise Products Operating LLC
1100 Louisiana, Suite 1000
Houston, TX 77002
Facsimile: (713) 381-8200
Attention: Michael A. Creel, President and Chief Executive Officer

If to Borrower:

Duncan Energy Partners L.P.
1100 Louisiana, Suite 1000
Houston, TX 77002
Facsimile: (713) 803-1482
Attention : W. Randall Fowler, President and Chief Executive Officer

Any party hereto may change its address for receipt of communications by giving written notice to the other party in accordance with this Section 21.

22. *No Third Party Beneficiaries.* The agreement of Lender to make the Loan to Borrower on the terms and conditions set forth in this Agreement is solely for the benefit of Borrower and no other person has any rights hereunder against Lender or with respect to the extension of credit contemplated hereby.

23. *Special Exculpation.* No claim may be made by Borrower or any other person against Lender, its directors, officers, employees, attorneys or agents of any of them for any special, indirect, consequential or punitive damages in respect of any claim for breach of contract or any other theory of liability arising out of or relating to this Agreement or any other financing document or the transactions contemplated hereby or thereby, or any act, omission or event occurring in connection therewith, and Borrower hereby waives, releases and agrees not to sue upon any claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

24. *Waiver of Jury Trial.* Each of Borrower and Lender hereby irrevocably waives, to the fullest extent permitted by law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

25. *Severability.* If any term or provision of this Agreement shall be determined to be illegal or unenforceable, all other terms and provisions of this Agreement shall nevertheless remain effective and shall be enforced to the fullest extent permitted by applicable law.

26. *Further Assurances.* The parties agree (a) to furnish upon request to each other such further information, (b) to execute and deliver to each other such other documents, and (c) to do such other acts and things, all as the other party may reasonably request for the purpose of carrying out the intent of this Agreement.

27. *Non-Recourse to Partners.* Lender agrees that in the event of non-performance by Borrower hereunder, including an Event of Default, Lender's rights to payment under this Agreement are limited to the assets of Borrower, and Lender may not pursue payment from any general partner (including the General Partner) or limited partner of Borrower for any amounts hereunder, even if the assets of Borrower are collectively insufficient to pay all amounts due to Lender under this Agreement.

(Signature Page Follows)

In witness whereof the parties have caused this Agreement to be executed by their proper officers on the day and year first above written.

Enterprise Products Operating LLC, as Lender

By: Enterprise Products OLPGP, Inc.,
its managing member

By: /s/ Michael A. Creel
Michael A. Creel
President and Chief Executive Officer

Duncan Energy Partners L.P., as Borrower

By: DEP Holdings, LLC,
its general partner

By: /s/ W. Randall Fowler
W. Randall Fowler
President and Chief Executive Officer

Signature Page to Loan Agreement

As used in the Agreement to which this Exhibit A is attached, the following terms have the meanings indicated below.

“**Affiliate**” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“**Bankruptcy Law**” means Title 11 of the United States Code entitled “Bankruptcy”, as amended from time to time and any similar other applicable law or statute in any other jurisdiction as amended from time to time.

“**Business Day**” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City, New York are authorized or required by law to remain closed; *provided* that when used in connection with an Interest Period, the term “Business Day” shall also exclude any day on which banks are not open for dealings in U.S. Dollar deposits in the London interbank market.

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlling**” and “**Controlled**” have meanings correlative thereto.

“**Credit Agreement**” means the Revolving Credit Agreement, dated as of January 5, 2007, by and among Borrower, the Lenders party thereto, Wachovia Bank, National Association, as administrative agent, issuing bank and swingline lender, The Bank of Nova Scotia and Citibank, N.A., as co-syndication agents, and JPMorgan Chase Bank, N.A. and Mizuho Corporate Bank, as co-documentation agents, as amended and supplemented by the First Amendment to Revolving Credit Agreement, dated as of June 30, 2007 (as such agreement may be further amended, restated, modified, renewed, refunded, replaced or refinanced from time to time, regardless of whether such amendment, restatement, modification, renewal, refunding, replacement or refinancing is with the same financial institutions or otherwise).

“**Default**” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“**DEP Holdings**” means DEP Holdings, LLC, a Delaware limited liability company.

“**Equity Interest**” means shares of the capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity interests in any Person, or any warrants, options or other rights to acquire such interests.

“**General Partner**” means DEP Holdings or any other Person that serves as the general partner of Borrower without causing the occurrence of a Default or an Event of Default.

“**Governmental Authority**” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“**LIBO Rate**” means, with respect to any Borrowing for any Interest Period, (a) the rate per annum appearing on Page 3750 of the Bridge Telerate Service (formerly Dow Jones Market Service) (or on any successor or substitute page of such Service, or any successor to or substitute for such Service, providing rate quotations comparable to those currently provided on such page of such Service, as determined by the Lender from time to time for purposes of providing quotations of interest rates applicable to dollar deposits

in the London interbank market) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, as the rate for dollar deposits with a maturity comparable to such Interest Period; (b) if for any reason the rate specified in clause (a) of this definition does not so appear on Page 3750 of the Bridge Telerate Service (or any successor or substitute page or any such successor to or substitute for such Service), the rate per annum appearing on Reuters Screen LIBO page (or any successor or substitute page) as the London interbank offered rate for deposits in dollars at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period for a maturity comparable to such Interest Period; and (c) if the rate specified in clause (a) of this definition does not so appear on Page 3750 of the Bridge Telerate Service (or any successor or substitute page or any such successor to or substitute for such Service) and if no rate specified in clause (b) of this definition so appears on Reuters Screen LIBO page (or any successor or substitute page), the average of the interest rates per annum at which dollar deposits of \$5,000,000 and for a maturity comparable to such Interest Period are offered by the principal London office of the Reference Bank in immediately available funds in the London interbank market at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period.

“Payment Date” means the last day of each Interest Period, commencing July 1, 2010.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Reference Bank” means, at any time, the then-current administrative agent under the Credit Agreement.

“Subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests, are, as of such date, owned, controlled or held by the parent and one or more subsidiaries of the parent.

