



The State of Texas

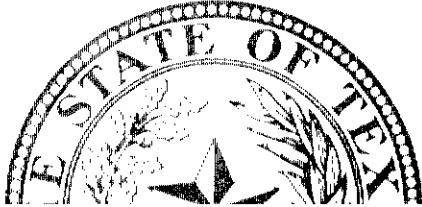
SECRETARY OF STATE

The undersigned, as Secretary of State of the State of Texas, HEREBY CERTIFIES that the attached is a true and correct copy of the following described instruments on file in this office:

FMP OPERATING COMPANY

Amended and Restated Certificate
of Limited Partnership

April 26, 1985



IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in the City of Austin, this

21st day of May A. D. 19 85.

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In the Office of the
Secretary of State of Texas
**AMENDED AND RESTATED
CERTIFICATE OF LIMITED PARTNERSHIP
OF
FMP OPERATING COMPANY**

APR 26 1985

Clerk [I.I.]
Corporations Section

WHEREAS, on March 18, 1985 a Certificate of Limited Partnership of FMP Operating Company (the "Partnership") was filed with the Secretary of State of the State of Texas;

WHEREAS, the Partners of the Partnership have made additional contributions to the capital of the Partnership;

WHEREAS, the Agreement of Limited Partnership of the Partnership has been amended and restated;

WHEREAS, the Partners of the Partnership wish to amend the Certificate to reflect the additional capital contributions to the capital of the Partnership and the changes to the Agreement of Limited Partnership of the Partnership;

NOW THEREFORE, pursuant to the provisions of the Texas Uniform Limited Partnership Act (the "Texas Act"), as amended, the parties hereto do hereby make, subscribe and swear to this certificate in writing in accordance with the provisions of the laws of the State of Texas. All undefined capitalized terms used herein shall have the meanings assigned to them in the Agreement of Limited Partnership of FMP Operating Company (the "Partnership Agreement"), a copy of which is attached hereto as Exhibit A and incorporated herein for all purposes.

A. The name of the limited partnership is **FMP OPERATING COMPANY** (the "Partnership").

B. The character of business of the Partnership is as set forth in Article III of the Partnership Agreement.

C. The location of the principal place of business is as set forth in Section 1.3 of the Partnership Agreement.

D. The name and principal place of business of the Managing General Partner is as follows:

McMoRan Oil & Gas Co.
3421 N. Causeway Boulevard
Metairie, Louisiana 70002

The name and principal place of business of the Special General Partner is as follows:

Freeport-McMoRan Inc.
200 Park Avenue
New York, New York 10166

The name and principal place of business of the Limited Partner is as follows:

Freeport-McMoRan Energy Partners, Ltd.
3421 N. Causeway Boulevard
Metairie, Louisiana 70002

E. The Partnership shall exist until the close of Partnership business on December 31, 2025, or until earlier dissolved in accordance with the provisions of Article XIII of the Partnership Agreement.

F. The Limited Partner has contributed cash and property to the Partnership, the amount and agreed value of which is set forth in Exhibit B.

G. The Limited Partner is not required to make any additional contributions to the Partnership.

H. There is no agreement as to the time when the contributions of the Limited Partner are to be returned; however, such contributions may be returned through distributions by the Partnership.

I. The share of the profits which the Limited Partner shall receive by reason of its contribution to the Partnership is set forth in Article V of the Partnership Agreement.

J. The rights of the Limited Partner to substitute an assignee as a contributor in its place, and the terms and conditions of the substitution, are set forth in Articles X and XI of the Partnership Agreement.

K. The General Partners do not have the right to admit additional Limited Partners without the consent of the Limited Partner, except as set forth in Sections 11.1 and 12.3 of the Partnership Agreement.

L. The Limited Partner shall not have priority over any other Partner as to contributions or as to compensation by way of income.

M. The rights of the Partners to continue the business of the Partnership on the withdrawal, bankruptcy, assignment for the benefit of creditors or dissolution of the Managing General Partner or Special General Partner are set forth in Articles XII and XIII of the Partnership Agreement.

N. The Limited Partner is given no right to demand and receive property other than cash in return for its contribution.

IN WITNESS WHEREOF, the parties hereto, constituting all of the Partners of FMP Operating Company, have executed this amended and restated certificate effective as of this 26th day of April, 1985.

1910961

Special General Partner:

FREEPORT-McMORAN INC.

By:

Title:

Attest:

Title:

THE STATE OF NEW YORK
COUNTY OF NEW YORK

SUBSCRIBED AND SWEARN TO BEFORE ME, the undersigned authority by
FREEPORT-McMORAN INC., a Delaware corporation, as Special General Partner,
acting through and by Albert J. Rothwell, its ^{vice President} Treasurer,
this 26th day of April, 1968.

Cyril A. Wilson
Notary Public in and for
New York County, New York

CYRIL A. WILSON
NOTARY PUBLIC, State of New York
No. 41-450543, Qualified in Queens Co.
Certificate #142 in New York County
Commission Expires March 30, 1972

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Managing General Partner:

McMullan OIL & GAS CO.

By: John C. Caw
Title: Vice-President & Controller
Attest: Richard L. Epting
Title: Secretary

THE STATE OF LOUISIANA
PARISH OF JEFFERSON

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SUBSCRIBED AND SWEORN TO BEFORE ME, the undersigned authority by
McMullan OIL & GAS CO., a Delaware corporation, as Managing General Partner,
acting through and by John H. Atchison, its Controller, this 27th day
of April, 1985.

HENRY J. BERTHELOT
NOTARY PUBLIC
Parish of Jefferson, State of Louisiana
My Commission issued for life

Henry J. Berthelot
Notary Public in and for
Jefferson Parish, Louisiana

19019100964

Limited Partner:

FREEPORT-McMORAN ENERGY
PARTNERS, LTD.,
a Texas limited partnership

By: Freeport-McMORAN Inc.
Special General Partner

By: C. T. Wilson
Title: Co. Vice President
Attest: Mark A. Kell
Title: Secretary

THE STATE OF NEW YORK
COUNTY OF NEW YORK

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority by
FREEPORT-McMORAN ENERGY PARTNERS, LTD., as Limited Partner, acting
through and by FREEPORT-McMORAN INC., its Special General Partner, acting
through and by Mark A. Kell, its Co. Vice President, and Secretary, this 26th day of
April, 1988.

Cyril A. Wilson
Notary Public in and for
New York County, New York

CYRIL A. WILSON
NOTARY PUBLIC, State of New York
No. 61-4586458 Qualified in Queens Co.
Certificate Filed in New York County
Commission Expires March 30, 1982

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By: McMoRan OIL & GAS CO.
Managing General Partner

By: John C. Cason
Title: Vice-President & Controller
Attest: Richard L. Gates
Title: Secretary

THE STATE OF LOUISIANA
PARISH OF JEFFERSON

SUBSCRIBED AND SWEORN TO BEFORE ME, the undersigned authority by
FREEPORT-McMoRan ENERGY PARTNERS, LTD., a Texas Limited partnership, as
Limited Partner, acting through and by McMoRan OIL & GAS CO., its Managing
General Partner, acting through and by John H. Athrens, its Vice Pres & Controller
this 26th day of April, 1985.

HENRY J. BEAUMELOT
NOTARY PUBLIC
Parish of Jefferson, State of Louisiana
My Commission issued for life

Henry J. Beaumelot
Notary Public in and for
Jefferson Parish, Louisiana

AMENDED AND RESTATED

AGREEMENT

OF

LIMITED PARTNERSHIP

OF

FMP OPERATING COMPANY

THIS AGREEMENT OF LIMITED PARTNERSHIP is entered into by and between McMoRan Oil & Gas Co., a Delaware corporation, as the Managing General Partner, Freeport-McMoRan, Inc., a Delaware corporation, as the Special General Partner and Freeport-McMoRan Energy Partners, Ltd., a limited partnership formed pursuant to the Texas Uniform Limited Partnership Act, as the Limited Partner.

ARTICLE I

ORGANIZATIONAL MATTERS

1.1 *Formation.* The General Partners and the Limited Partner have heretofore associated themselves in the formation of the Partnership as a limited partnership pursuant to the provisions of the Texas Act by the filing in the Office of the Secretary of State of Texas on March 18, 1985 of the Certificate of Limited Partnership of the Partnership. In connection with the filing in the Office of the Secretary of State of Texas of the First Amended and Restated Certificate of Limited Partnership of the Partnership, the General Partners and the Limited Partner have entered into this Agreement in order to set forth the rights and obligations of the Partners and certain matters related thereto. Except as expressly provided herein to the contrary, the rights and obligations of the Partners and the administration and termination of the Partnership shall be governed by the Texas Act. The Partnership interest of any Partner shall be personal property for all purposes.

1.2 *Name.* The name of the Partnership shall be, and the business of the Partnership shall be conducted under the name of, "FMP Operating Company". In the State of Louisiana the name of the Partnership shall be, and the business of the Partnership shall be conducted under the name of, "FMP Operating Company, a Limited Partnership". In the State of Florida the name of the Partnership shall be, and the business of the Partnership shall be conducted under the name of, "FMP Operating Company, Limited Partnership". The Partnership's business may be conducted under any other name or names deemed advisable by the Managing General Partner to preserve the limited liability of the Limited Partner, including the name of the Managing General Partner. The Managing General Partner in its sole discretion may change the name of the Partnership at any time and from time to time. The words "Ltd." or "Limited Partnership" shall be included in the name where necessary for purposes of complying with the laws of any jurisdiction that so requires.

1.3 *Principal Office.* The principal office of the Partnership shall be 3421 North Causeway Boulevard Metairie, Louisiana 70002, or such other place as the Managing General Partner may from time to time designate to the Partners. The Managing General Partner will give notice to the Limited Partner within ten days after any change in the principal office of the Partnership. The Partnership may maintain such offices at such other locations as the Managing General Partner deems advisable.

1.4 *Term.* The Partnership shall continue in existence until the close of Partnership business on December 31, 2035, or until the earlier termination of the Partnership in accordance with the provisions of Article XIII.

1.5 *Power of Attorney.* (a) Each Partner hereby constitutes and appoints the Managing General Partner (and any successor by merger, assignment, election or otherwise) with full power of substitution as his true and lawful agent and attorney-in-fact, with full power and authority in his name, place and stead to:

(i) execute, swear to, acknowledge, deliver, file and record in the appropriate public offices (A) all certificates and other instruments (including, at the option of the Managing General Partner, this Agreement) and all amendments thereto which the Managing General Partner deems appropriate or necessary to qualify, or continue the qualification of, the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability) in all jurisdictions in which the Partnership may conduct business or own property. (B) all instruments which the Managing General

Partner deems appropriate or necessary to reflect any amendment, change or modification of this Agreement in accordance with its terms, (C) all conveyances and other instruments or documents which the Managing General Partner deems appropriate or necessary to reflect the dissolution and liquidation of the Partnership pursuant to the terms of this Agreement; and (D) instruments relating to the admission or substitution of any Partner pursuant to Article XI, and

(u) sign, execute and file with the Department of Interior (including any bureau, office, or other unit thereof, whether in Washington, D.C., or in the field, or any officer or employee thereof), as well as with any other Federal or state agencies, departments, bureaus, offices or authorities any documents or instruments related to the Partnership or its business which the Managing General Partner in its sole discretion determines should be filed, including, without limitation, (A) any and all offers to lease and leases of or with respect to (including amendments, modifications, supplements, renewals and exchanges thereof) any lands under the jurisdiction of the United States or any state (including without limitation lands within the public domain, acquired lands and Indian lands) under any act or regulation which provides for the leasing thereof; (B) all statements of interest and holdings on behalf of the Partnership or the Partners; (C) any other statements, notices or communications now or hereafter required or permitted to be filed under any law, rule or regulation of the United States or any state, including, without limitation, the Mineral Lands Leasing Act of 1920, as amended, 30 U.S.C. § 181 et seq., the Mineral Leasing Act for Acquired Lands of 1947, as amended, 30 U.S.C. § 331 et seq., the Right-of-Way Leasing Act of 1930, 30 U.S.C. § 301 et seq., and the Outer Continental Shelf Lands Act of 1953, 43 U.S.C. § 1331 et seq., relating to the leasing of lands for oil or gas exploration or development; and (D) any request for approval of assignments or transfers of oil and gas leases, any unitization or pooling agreements and any other documents relating to lands under the jurisdiction of the United States or any state.

Nothing herein contained shall be construed as authorizing the Managing General Partner to amend this Agreement except in accordance with Article XIV.

ARTICLE II

DEFINITIONS

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

"Adjusted Property" means any property the Carrying Value of which has been adjusted pursuant to Section 4.4(d)(1).

"Affiliate" means any Person that directly or indirectly controls, is controlled by, or is under common control with, the Person in question. As used in the definition of "Affiliate", the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

"Affiliated Partnership" means a partnership which is an Affiliate of the Partnership and in which the Partnership owns a partnership interest.

"Affiliated Partnership Agreement" means the partnership agreement entered into by the partners of an Affiliated Partnership.

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

"Agreement" means this agreement of limited partnership, as it may be amended or supplemented from time to time.

"Assignee" means a Non-citizen Assignee (as defined in the FMP Partnership Agreement) a person to whom one or more Depositary Units (as defined in the FMP Partnership Agreement) or FMP Units have been transferred, by assignment of a depositary receipt, or otherwise, in the manner permitted in the FMP Partnership Agreement and who thereby has an interest in the Limited Partner equivalent to that of a limited partner but (a) limited to the rights and obligations appurtenant to an FMP Unit to share in the allocations and distributions, including liquidating distributions, provided in the FMP Partnership Agreement and (b) otherwise subject to the limitations under the Texas Act on the rights of an assignee who has not become a substituted limited partner.

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

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

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

"Certificate of Limited Partnership" means the Certificate of Limited Partnership filed with the Secretary of State of the State of Texas pursuant to Section 6.1, as it may be amended from time to time.

"Code" means the Internal Revenue Code of 1954, as amended and in effect from time to time.

"Commencement Date" means the date of the "first closing date" as defined in the Underwriting Agreement.

"Contributed Property" means each Contributing Partner's interest in each property (other than cash) contributed to the Partnership by such Contributing Partner. Once the Carrying Value of a Contributed Property is adjusted pursuant to Section 4.4(d)(i), such property shall no longer constitute a Contributed Property for purposes of Sections 5.2(b), (c) and (d).

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

"Conveyance Agreement" means that agreement entered into among McMoran, Freeport-McMoran Inc., the Limited Partner and the Partnership wherein (a) McMoran and FMI contribute and convey to the Limited Partner certain designated assets and the Limited Partner agrees to assume certain designated liabilities and (b) the Limited Partner contributes and conveys such assets to the Partnership and the Partnership agrees to assume such liabilities.

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

"Exploration Agreement" means that agreement between the Limited Partner, McMoran and the Partnership dated as of the Commencement Date pursuant to which the Partnership may purchase McMoran's interest in certain unproved and not yet evaluated acreage.

"FMI" means Freeport-McMoran, Inc., a Delaware corporation.

"FMP Partnership Agreement" means the agreement of limited partnership of the Limited Partner.

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

"General Partners" means McMoran, FMI and their successors.

"Initial Offering" means the initial public offering of FMP Units.

"Leases" means full or partial interests in oil and gas leases, oil and gas mineral rights (other than net profits, royalty or overriding royalty interests), fee rights, licenses, concessions or other rights authorizing the owner to explore for and produce oil and gas or contractual rights to acquire any such interests.

"Assignee" means a Non-citizen Assignee (as defined in the FMP Partnership Agreement) or FMP Units to whom one or more Depositary Units (as defined in the FMP Partnership Agreement) or FMP Units have been transferred, by assignment of a depositary receipt, or otherwise, in the manner permitted in the FMP Partnership Agreement and who thereby has an interest in the Limited Partner equivalent to that of a limited partner but (a) limited to the rights and obligations appertaining to an FMP Unit to share in the allocations and distributions, including liquidating distributions, provided in the FMP Partnership Agreement and (b) otherwise subject to the limitations under the Texas Act on the rights of an assignee who has not become a substituted limited partner.

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

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

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

"Certificate of Limited Partnership" means the Certificate of Limited Partnership filed with the Secretary of State of the State of Texas pursuant to Section 6.1, as it may be amended from time to time.

"Code" means the Internal Revenue Code of 1954, as amended and in effect from time to time.

"Commencement Date" means the date of the "first closing date" as defined in the Underwriting Agreement.

"Contributed Property" means each Contributing Partner's interest in each property (other than cash) contributed to the Partnership by such Contributing Partner. Once the Carrying Value of a Contributed Property is adjusted pursuant to Section 4.4(d)(i), such property shall no longer constitute a Contributed Property for purposes of Sections 3.2(b), (c) and (d).

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

"Conveyance Agreement" means that agreement entered into among McMoran, Freeport-McMoRan Inc., the Limited Partner and the Partnership wherein (a) McMoran and FMI contribute and convey to the Limited Partner certain designated assets and the Limited Partner agrees to assume certain designated liabilities and (b) the Limited Partner contributes and conveys such assets to the Partnership and the Partnership agrees to assume such liabilities.

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

"Exploration Agreement" means that agreement between the Limited Partner, McMoran and the Partnership dated as of the Commencement Date pursuant to which the Partnership may purchase McMoran's interest in certain unproved and not yet evaluated acreage.

"FMI" means Freeport-McMoRan, Inc., a Delaware corporation.

"FMP Partnership Agreement" means the agreement of limited partnership of the Limited Partner.

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

"General Partner" means McMoran, FMI and their successors.

"Initial Offering" means the initial public offering of FMP Units.

"Leases" means full or partial interests in oil and gas leases, oil and gas mineral rights (other than net profits, royalty or overriding royalty interests), fee rights, licenses, covenances or other rights authorizing the owner to explore for and produce oil and gas or contractual rights to acquire any such interests.

"Limited Partner" means Freeport McMoRan Energy Partners, Ltd., a limited partnership organized under the Texas Act, and any successors of the Limited Partner.

"Liquidator" has the meaning specified in Section 13.3.

"Managing General Partner" means McMoRan or its successors.

"McMoRan" means McMoRan Oil & Gas Co., a Delaware corporation.

"NASDAQ" means the National Association of Securities Dealers Automated Quotation System.

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

"Oil and Gas Interests" means direct or indirect interests in (a) properties suitable for, believed to be suitable for or currently the subject of oil and gas exploration, development or production, including leasehold, operating, non-operating, working and royalty interests, and contract rights relating thereto, (b) geophysical exploration permits; and (c) any tangible or intangible assets or rights incident to the foregoing, whether real, personal or mixed.

"Opinion of Counsel" means a written opinion of counsel acceptable to the Managing General Partner.

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

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

"Partnership" means the limited partnership established by this Agreement.

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

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

"Person" means an individual or a corporation, partnership, trust, unincorporated organization, association or other entity.

"Registration Statement" means the Registration Statement on Form S-1 filed with the Securities and Exchange Commission under the Securities Act of 1933, to register the offering and sale of the Depository Units representing FMP Units in the Initial Offering, as it may be amended from time to time.

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

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

"Special General Partner" means FMI or its successors.

"Texas Act" means the Texas Uniform Limited Partnership Act, Article 6132a of the Revised Civil Statutes of the State of Texas, as it may be amended from time to time, and any successor to such Act.

"Underwriting Agreement" means that agreement to be entered into prior to the Commencement Date between McMullan, the Underwriters and others with respect to the purchase of certain FMP Units by the Underwriters.

"Unit Price" has the meaning specified in the FMP Partnership Agreement of the Limited Partner.

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

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

ARTICLE III

PURPOSE

The purpose and business of the Partnership shall be the acquisition, exploration, development, operation and disposition of Oil and Gas Interests; the sale and marketing of any product from such Oil and Gas Interests; the carrying on of any business relating to or arising from explorations for or development, production, treatment, processing or marketing of oil and gas and other minerals produced in association therewith that a limited partnership organized under the Texas Act may carry on, the entering into any partnership, joint venture or other similar arrangement to engage in any of the foregoing and anything incidental to the foregoing.

ARTICLE IV

CAPITAL CONTRIBUTIONS

4.1 *Managing General Partner.* (a) On the Commencement Date, the Managing General Partner shall contribute to the Partnership cash in an amount, or property having a Net Agreed Value, such that its Capital Contribution then being made as Managing General Partner shall be equal to .99% of the total Capital Contributions (based on the amounts credited to Capital Accounts on account thereof) to the Partnership then being made pursuant to this Section and Sections 4.2(a) and 4.3(a).

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

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

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

4.3 *Limited Partner's Contributions.* (a) On the Commencement Date, the Limited Partner shall contribute the Original Properties to the Partnership and the Partnership shall assume (or take the Original Properties subject to) all liabilities and other indebtedness to be assumed by the Partnership in accordance with the Cover Letter Agreement.

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

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

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

(i) Solely for purposes of the application of the provisions hereof, the Partnership shall be treated as owning directly its proportionate share (as determined by the Managing General Partner based upon the provisions of the Affiliated Partnership Agreements) of all property owned by all Affiliated Partnerships.

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

(iii) Any depletion deductions attributable to a separate oil and gas property (as defined in Section 614 of the Code) shall be computed by the Partnership using the cost or percentage method of depletion (without regard to limitations imposed on the percentage method under Section 613A of the Code which theoretically could apply to less than all of the Partners), whichever results in the greatest deduction. For purposes hereof, any cost depletion determined with respect to an oil and gas property shall be determined as if the adjusted basis of such property on the date of such determination was equal in amount to the Partnership's Carrying Value with respect to such property as of such date. Depletion deductions determined with respect to an oil and gas property shall, in the aggregate, reduce the Capital Accounts of the Partners only to the extent of the Partnership's Carrying Value with respect to such property. The allocations of basis and amount resulting (and all items of income, gain, deduction or loss computed with respect thereto) required by Section 613A(c)(7)(D) of the Code shall not affect the Capital Accounts of the Partners.

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

(v) If the Partnership's adjusted basis in a depreciable or cost recovery property is reduced for Federal income tax purposes pursuant to Section 484(q)(1) of the Code, the amount of such reduction shall, solely for purposes hereof, be deemed to be an additional depreciation or cost recovery deduction in the year such property is placed in service and shall be allocated among the Partners pursuant to Section 5.1. Any restoration of such basis pursuant to Section 484(q)(2) of the Code shall be allocated in the same manner to the Partners in whom such deemed deduction was allocated.

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

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

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

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

(ii) In addition, immediately prior to the distribution of any Partnership property in liquidation of the Partnership pursuant to Sections 13.3 and 13.4, the Capital Accounts of all Partners (and the Carrying Values of all Partnership properties) shall, immediately prior to any such distribution, be adjusted (consistent with the provisions hereof and of Section 704 of the Code) upwards or downwards to reflect any Unrealized Gain or Unrealized Loss attributable to all Partnership properties (as if such Unrealized Gain or Unrealized Loss had been recognized upon an actual sale of such properties, immediately prior to such distribution, and was allocated to the Partners, at such time, pursuant to Section 5.1). In determining such Unrealized Gain or Unrealized Loss attributable to the properties, the fair market value of Partnership properties shall be determined by the Managing General Partner using such reasonable methods of valuation as it may adopt.

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

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

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

ARTICLE V

ALLOCATIONS AND DISTRIBUTIONS

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

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

(b) The deduction for depletion with respect to each separate oil and gas property (as defined in Section 614 of the Code) shall be computed for Federal income tax purposes separately by the Partner (other than the Partnership) in accordance with Section 613A(c)(7)(D) of the Code. For purposes of such computation, the adjusted basis (before taking into account any adjustments resulting from an election made by the Partnership on behalf of such Partner under Section 754 of the Code) of each oil and gas property (as defined in Section 614 of the Code) shall be allocated to the Partners in accordance with their respective Percentage Interests unless regulations under Section 704 of the Code require a different allocation. Each Partner shall separately keep records of his share of the adjusted basis in each oil and gas property, adjust such share of the adjusted basis for any cost or percentage depletion allowable on such property and use such adjusted basis in the computation of his cost depletion or in the computation of his gain or loss on the disposition of such property by the Partnership.

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

(i) In the case of a Contributed Property, such "amount realized" shall be allocated (1) first, to the Partners in an amount equal to the Simulated Basis in such property in the same proportion as such Partners were allocated adjusted basis in (or attributable to) such property (as determined in accordance with Section 5.2(b)), (2) second, to the Contributing Partners with respect to such property, in a manner to take into account the variation between the Agreed Value of such property and its adjusted basis for Federal income tax purposes at the time of contribution, and (3) third, the balance to the Partners in accordance with their respective Percentage Interests.

(ii) In the case of an Adjusted Property, such "amount realized" shall be allocated (1) first, to the Partners in an amount equal to the Simulated Basis in such property in the same proportion as such Partners were allocated adjusted basis in (or attributable to) such property (as determined in accordance with Section 5.2(b)), (2) second, among the Partners in a manner (consistent with the principles of Section 704(c) of the Code and the Treasury Regulations promulgated under Section 704 of the Code) to take into account the Unrealized Gain or Unrealized Loss attributable to such property and the allocations thereof pursuant to Section 4.4(d)(1), (3) third, in the event such property was originally a Contributed Property, to the Contributing Partners with respect to such property, in a manner to take into account the variation between the Agreed Value of such property and its adjusted basis for Federal income tax purposes at the time of contribution, and (4) fourth, the balance to the Partners in accordance with their respective Percentage Interests.

(iii) In the case of all other oil and gas properties, the "amount realized" shall be allocated (1) first, to the Partners in an amount equal to the Simulated Basis in each such property in the same proportion as such Partners were allocated adjusted basis in (or attributable to) such property (as determined in accordance with Section 5.2(b)) and (2) second, the balance to the Partners in accordance with their respective Percentage Interests.

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

(e) It is intended that the allocations in Paragraphs (b), (c)(i), (c)(ii) and (d) hereof effect an allocation for Federal income tax purposes pursuant to Section 704(c) of the Code and the Treasury Regulations promulgated under Section 704 of the Code and comply with any limitations or restrictions thereon. Such allocations are designed to eliminate, to the extent possible, disparities that otherwise exist between the balances of the Partners' Capital Accounts, as maintained pursuant to Section 4.4, and such balances had such Capital Accounts been maintained strictly in accordance with tax accounting principles. The Managing General Partner shall have discretion to make the allocations and adjustments to Capital Accounts in any reasonable manner consistent with the intentions of the Partners as reflected in the provisions of this Agreement and permitted or required by Section 704 of the Code or by final Treasury Regulations promulgated under Section 704 of the Code.

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

(g) To the extent of any Recapture Income resulting from the sale or other taxable disposition of a Partnership asset, the amount of any gain from such disposition allocated to (or recognized by) a Partner (or its successor in interest) for Federal income tax purposes pursuant to the above provisions shall be deemed to be Recapture Income to the extent such Partner has been allocated or has claimed any deduction directly or indirectly giving rise to the treatment of such gain as Recapture Income.

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

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

5.3 Distributions. (a) From time to time, and not less often than quarterly, the Managing General Partner shall review the Partnership's accounts to determine whether distributions are appropriate. At any time the Managing General Partner may make such distributions as it, in its discretion may determine, without being limited to current or accumulated income or gains. Such distributions may be made from Partnership revenues, Capital Contributions or Partnership borrowings. The Managing General Partner may in its sole discretion distribute to Partners other Partnership property. All such distributions shall be made concurrently to all Partners and in accordance with the Percentage Interests of the Partners.

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

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

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

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

ARTICLE VI

MANAGEMENT AND OPERATION OF BUSINESS

6.1 Duties of the Managing General Partner. (a) The Managing General Partner shall have the exclusive management and control of the business and affairs of the Partnership.

(b) The Managing General Partner shall cause a Certificate of Limited Partnership of the Partnership to be filed with the Secretary of State of the State of Texas, as required by the Texas Act, and

shall cause to be filed such other certificates or documents as may be required for the formation and operation of a limited partnership in Texas or any other state in which the Partnership may elect to do business.

6.2 Authority of the Managing General Partner. In addition to the powers now or hereafter granted a general partner of a limited partnership under applicable law or which are granted the Managing General Partner under any other provisions of this Agreement, the Managing General Partner shall have full power and authority to do all things deemed necessary or desirable by it to conduct the business of the Partnership, including without limitation: (a) the determination of the wells and operations in which the Partnership will participate; (b) the making of any expenditures, the borrowing of money and the incurring of any obligations it deems necessary for the conduct of the activities of the Partnership; (c) the acquisition, disposition, mortgage, pledge, encumbrance, hypothecation or exchange of any or all of the assets of the Partnership; (d) the use of the assets of the Partnership (including, without limitation, cash on hand) for any purpose and on any terms it sees fit, including, without limitation, the financing of the conduct of the drilling activities and other operations of the Partnership, the repayment of obligations of the Partnership, the conduct of additional Partnership operations and the purchase of Oil and Gas Interests; (e) the negotiation and execution on any terms deemed desirable in its sole discretion of any contracts, conveyances or other instruments that it considers useful or necessary to the conduct of the Partnership operations or the implementation of its powers under this Agreement; (f) the distribution of Partnership cash; (g) the selection and dismissal of employees and outside attorneys, accountants, consultants and contractors and the determination of their compensation and other terms of employment or hiring; (h) the making of all decisions concerning the desirability of payment, and the payment or supervision of the payment, of all delay rentals and shut-in royalty payments; (i) the maintenance of such insurance for the benefit of the Partnership and the Partners as it deems necessary; (j) the formation of any further limited or general partnerships, joint ventures or other relationships that it deems desirable; (k) the control of any matters affecting the rights and obligations of the Partnership, including the conduct of litigation and other incurring of legal expenses and the settlement of claims and litigation; (l) the operation of producing wells drilled on Leases acquired by the Partnership or on a regulatory unit that includes any part of such a Lease; and (m) the purchase, sale or other acquisition or disposition of FMP Units and depository units representing FMP Units at such times and on such terms as it deems to be in the best interests of the Partnership and the Partners.

6.3 Reliance by Third Parties. Notwithstanding any other provision of this Agreement to the contrary, no lender or purchaser, including any purchaser of property from the Partnership or any other Person dealing with the Partnership, including any purchaser of production, shall be required to look to the application of proceeds hereunder or to verify any representation by the Managing General Partner as to the extent of the interest in the assets of the Partnership that the Managing General Partner is entitled to encumber, sell or otherwise use, and any such lender or purchaser shall be entitled to rely exclusively on the representations of the Managing General Partner as to its authority to enter into such financing or sale arrangements and shall be entitled to deal with the Managing General Partner as if it were the sole party in interest therein, both legally and beneficially. In no event shall any Person dealing with the Managing General Partner or the Managing General Partner's representative with respect to any business or property of the Partnership be obligated to ascertain that the terms of this Agreement have been complied with, or be obligated to inquire into the necessity or expedience of any act or action of the Managing General Partner or the Managing General Partner's representative; and every contract, agreement, deed, mortgage, security agreement, promissory note or other instrument or document executed by the Managing General Partner or the Managing General Partner's representative with respect to any business or property of the Partnership shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that (i) at the time of the execution and/or delivery thereof this Agreement was in full force and effect, (ii) such instrument or document was duly executed in accordance with the terms and provisions of this Agreement and is binding upon the Partnership, and (iii) the Managing General Partner or the Managing General Partner's representative was duly authorized and empowered to execute and deliver any and every such instrument or document for and on behalf of the Partnership.

6.4 Compensation and Reimbursement of General Partners. (a) The General Partners shall not be compensated for their services as General Partners to the Partnership.

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

(c) Each General Partner shall be reimbursed on a monthly basis for all direct expenses it incurs or makes on behalf of the Partnership (including amounts paid to any Person to perform services for the Partnership) and for that portion of each General Partner's legal, accounting, geological, engineering, well supervision, telephone, secretarial, aircraft, travel and entertainment fees and expenses, office rent and other office expenses, salaries and other compensation expenses of employees, officers and directors, other administrative expenses and other expenses necessary or appropriate to the conduct of the Partnership's business which are incurred by such General Partner in operating the Partnership's business (including, without limitation, expenses, indirect or otherwise, reasonably allocated to a General Partner by its affiliates) which is reasonably allocated to the Partnership, in addition to any reimbursement as a result of indemnification pursuant to Section 6.8; provided, however, that no compensation shall be allocated to the Partnership which is payable in connection with the termination of an officer of a General Partner by virtue of a change in control of a General Partner. The Managing General Partner shall determine such fees and expenses which are allocated to the Partnership in any reasonable manner. All expenses that have been or would otherwise be incurred by or charged to the Limited Partner shall constitute expenses of, and shall be paid by (either by direct payment by the Partnership or by payment to the Limited Partner for payment of such expense), the Partnership.

6.5 Outside Activities. The Managing General Partner may engage in the ownership, businesses and activities permitted by Section 6.6(a) of the FMP Partnership Agreement in direct competition with the Partnership without having or incurring any obligation to offer any interest in such properties, businesses or activities to the Partnership, the Limited Partner or any other Partner. Except as provided in Section 6.6 of the FMP Partnership Agreement, the Special General Partner, any Affiliate thereof and any director, officer, partner or employee of either General Partner or any Affiliate of a General Partner shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Partnership, may engage in the ownership, operation and management of working, nonparticipating or other interests or royalties in oil and gas properties, and any other businesses and activities, including business interests and activities in direct competition with the Partnership, for their own account and for the account of others, and may own interests in the same properties as those in which the Partnership or the Limited Partner owns an interest, without having or incurring any obligation to offer any interest in such properties, businesses or activities to the Partnership, the Limited Partner or any other Partner. No other provision of this Agreement shall be deemed to prohibit the General Partners or any such Person from conducting such other businesses and activities. Neither the Partnership nor the Limited Partner shall have any rights by virtue of this Agreement in any independent business venture of the Special General Partner, any Affiliate of the Special General Partner or any director, officer, partner or employee of either General Partner or an Affiliate of a General Partner or any independent business venture of the Managing General Partner permitted by Section 6.6(a) of the FMP Partnership Agreement.

6.6 Partnership Funds. The funds of the Partnership shall be deposited in such account or accounts as are designated by the Managing General Partner and shall not be commingled with the funds of either General Partner or any Affiliate thereof, other than the Limited Partner. All withdrawals from or charges against such accounts shall be made by the Managing General Partner or by its agents. The Managing General Partner may use the funds of the Partnership as compensating balances, provided that such funds do not directly or indirectly secure, and are not otherwise at risk on account of, any indebtedness or other obligation of any General Partner or any director, officer, partner, employee or Affiliate of a General Partner, other than the Limited Partner. All withdrawals from or charges against such accounts shall be made by the Managing General Partner or by its agents. Funds of the Partnership may be invested as determined by the Managing General Partner, except in connection with acts otherwise prohibited by this Agreement.

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

(b) A General Partner or any Affiliate of a General Partner may lend to the Partnership funds needed by the Partnership for such period of time as the Managing General Partner may determine, provided, however, that such General Partner or Affiliate may not charge the Partnership interest greater than the lesser of (i) the General Partner's or Affiliate's actual interest cost (including points or other financing charges or fees, if any); or (ii) the rate (including points or other financing charges or fees) that would be charged the Partnership (without reference to the Managing General Partner's or Special General Partner's financial abilities or guarantees) by unrelated lenders on comparable loans for the same purpose; provided, however, that assumption of indebtedness by the Partnership pursuant to the Conveyance Agreement is hereby ratified by all Partners. The Partnership shall reimburse a General Partner or its Affiliate, as the case may be, for any costs incurred by such General Partner or Affiliate in connection with the borrowing of funds obtained by such General Partner or Affiliate and loaned to the Partnership; provided, however, that assumption of indebtedness by the Partnership pursuant to the Conveyance Agreement is hereby ratified by all Partners.

(c) The Partnership shall not lend funds to the General Partners or their Affiliates, other than the Limited Partner.

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

(e) Neither a General Partner nor any Affiliate of a General Partner shall sell, transfer or convey any Lease or other property to, or purchase any Lease or other property from, the Partnership, directly or indirectly, except pursuant to transactions that are fair and reasonable to the Limited Partner. The provisions of this subsection (e) shall not apply to transactions pursuant to the Exploration Agreement.

(f) Notwithstanding any other provision of this Agreement or the FMP Partnership Agreement, a General Partner or any Affiliate of a General Partner shall be free to purchase, and the Partnership shall be free to sell, any oil, gas and other liquids and sulphur or other minerals produced by the Partnership upon such other terms and conditions as are mutually agreeable to the Partnership and such General Partner or Affiliate.

(g) Each of the Partners hereby approves, ratifies and confirms the execution, delivery and performance of the Conveyance Agreement, the Exploration Agreement and any other agreements, etc., transactions or matters described in the Registration Statement and authorizes, ratifies and confirms the execution, delivery and performance of such agreements by the Managing General Partner or the taking of such action on behalf of the Partnership without any further act, approval or vote of the Partners of the Partnership, notwithstanding any other provision of this Agreement or the FMP Partnership Agreement.

6.8 Indemnification of General Partners. The Partnership shall indemnify and hold harmless the General Partners and their directors and officers (individually, an "Indemnitee"), to the extent permitted by law, as follows:

(a) In any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, to which an Indemnitee was or is a party or is threatened to be made a party by reason of the fact that it is or was a General Partner of the Partnership or a director or officer of a General Partner of the Partnership (other than an action by or in the right of the Partnership), involving an alleged cause of action arising from the activities of such General Partner under this Agreement or the management of the affairs of the Partnership, or which relate to the Partnership, its property, business or affairs, the Partnership shall indemnify such Indemnitee against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by such Indemnitee in

connection with such action, suit or proceeding, if such Indemnitee acted in good faith and in a manner he or it reasonably believed to be in or not opposed to the best interests of the Partnership and provided that the Indemnitee's conduct does not constitute gross negligence, willful or wanton misconduct or a breach of its fiduciary obligations to the Limited Partner. The termination of a proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere, or its equivalent, shall not, of itself, create a presumption that an Indemnitee did not act in good faith and in a manner that he or it reasonably believed to be in, or not opposed to, the best interests of the Partnership.

(b) In any threatened, pending or completed action, suit or proceeding by or in the right of the Partnership, to which an Indemnitee was or is a party or is threatened to be made a party, involving an alleged cause of action by or in the right of the Limited Partner arising from the activities of a General Partner under this Agreement, the Partnership shall indemnify such Indemnitee against expenses, including attorneys' fees, actually and reasonably incurred by such Indemnitee in connection with the defense and settlement of such action, suit or proceeding, if such Indemnitee acted in good faith and in a manner it reasonably believed to be in or not opposed to the best interests of the Partnership, except that no indemnification may be made with respect to any claim, issue or matter as to which such Indemnitee shall have been adjudged to be liable for negligence, misconduct or breach of fiduciary obligation in the performance of his or its duty to the Partnership, unless and only to the extent that the court in which such action, suit or proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such Indemnitee is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

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

(d) Any indemnification under Section 6.8(a) or (b) above, unless ordered by a court, shall be made by the Partnership only as authorized in the specific case and only upon a determination (i) by a majority vote of a quorum of directors of the Managing General Partner who at the time of the vote are not named defendants or respondents in the proceeding or (ii) if such a quorum cannot be obtained, by a majority vote of a committee of the board of directors of the Managing General Partner, designated to act in the matter by a majority vote of all directors, consisting solely of two or more directors who at the time of the vote are not named defendants or respondents in the proceeding, or (iii) by special legal counsel selected by the board of directors or a committee of the board by vote as set forth in (i) or (ii) above, or if such a quorum cannot be obtained and such a committee cannot be established, by a majority vote of all directors of the Managing General Partner, that indemnification of an Indemnitee is proper in the circumstances because such Indemnitee has met the applicable standard of conduct set forth in the pertinent subsection. Any such indemnification shall be made only out of the assets of the Partnership.

(e) The indemnification provided by this Section 6.8 shall be in addition to any other rights to which those indemnified may be entitled under any agreement, vote of the Partners, as a matter of law or otherwise, both as to action in the Indemnitee's capacity as a General Partner or as a director or officer of a General Partner and to action in another capacity, and shall continue as to an Indemnitee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns and administrators of the Indemnitee.

(f) To the extent commercially reasonable, the Partnership shall purchase and maintain insurance on behalf of the General Partners, their directors and officers and such other Persons as the Managing General Partner shall determine against any liability which may be asserted against or expense which may be incurred by such Person in connection with the Partnership's activities whether or not the Partnership would have the power to indemnify such Person against such liability under the provisions of this Agreement.

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

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

(i) The indemnifications provided in this Section 6.8 are for the benefit of the Indemnitees and shall not be deemed to create any rights to indemnification for any other Persons.

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

(b) Each of the General Partners may consult with legal counsel, accountants, appraisers, management consultants, investment bankers, and other consultants and advisers selected by it and any opinion of such Person as to matters which the General Partner believes to be within its professional or expert competence shall be full and complete authorization and protection in respect to any action taken or suffered or omitted by the General Partner hereunder in good faith and in accordance with such opinion.

6.10 *Organizational Certificate.* The Managing General Partner shall cause a Certificate of Limited Partnership of the Partnership to be filed with the Secretary of State of the State of Texas as required by the Texas Act and shall cause to be filed such other certificates or documents as may be required for the formation and operation of a limited partnership in Texas and any other state in which the Partnership may elect to do business. The Managing General Partner shall thereafter file any necessary amendments to the Certificate of Limited Partnership and do all things requisite to the maintenance of the Partnership as a limited partnership under the laws of the State of Texas and any other state in which the Partnership may elect to do business.

ARTICLE VII

RIGHTS AND OBLIGATIONS OF LIMITED PARTNERS

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

7.2 *Management of Business.* The Limited Partner shall not take part in the operation, management or control (within the meaning of the Texas Act) of the Partnership's business, transact any business in the Partnership's name or have the power to sign documents for or otherwise bind the Partnership. The transaction of any such business by an employee or agent of a General Partner in his capacity as such shall not affect, impair or eliminate the limitations on the liability of the Limited Partner under this Agreement.

ARTICLE VIII

BOOKS, RECORDS, ACCOUNTING AND REPORTS

8.1 *Records, Accounting and Reports.* The Managing General Partner shall keep or cause to be kept complete and accurate books with respect to the Partnership's business, which books shall at all times be kept at the principal office of the Partnership. The books of the Partnership shall be maintained for financial reporting purposes on the accrual basis or on a cash basis as the Managing General Partner shall determine in its sole discretion, and adjusted periodically to an accrual basis, in accordance with generally accepted accounting principles.

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

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

8.4 *Other Reports.* As soon as practicable, but in no event later than forty-five days after the close of each calendar quarter, except the last calendar quarter of each fiscal year, the Managing General Partner

shall furnish to the Limited Partner a quarterly report for the calendar quarter containing such financial and other information as the Managing General Partner deems appropriate.

8.5 Other Information. The Managing General Partner may release such information concerning the operations of the Partnership to such sources as is customary in the industry or required by law or regulation of any regulatory body. The Managing General Partner shall furnish the Limited Partner or its representatives, at its request, any further nonconfidential information in such form as it may reasonably request relative to any phase of the operations of the Partnership. The Limited Partner and its representatives shall have free access during normal business hours to all nonconfidential records relative to the operations of the Partnership. For the term of the Partnership and for a period of five years thereafter, the Managing General Partner shall maintain and preserve all books of account and other relevant documents. Notwithstanding the provisions of this section, any seismic data, any logs, well reports or other drilling data may be kept confidential for a reasonable period of time.

ARTICLE IX

INCOME TAX MATTERS

9.1 Preparation of Tax Returns. The Managing General Partner shall arrange for the preparation and timely filing of all returns of Partnership income, gains, deductions and losses necessary for Federal and state income tax purposes and shall use its best efforts to furnish to Partners and Assignees within ninety days of the close of the taxable year the tax information reasonably required for Federal and state income tax reporting purposes. A copy of the Partnership's Federal income tax return will be furnished to any Partner upon request, at the expense of such Partner. The classification, realization and recognition of income, gain, losses and deductions and other items shall be on the accrual method of accounting for Federal income tax purposes, as the Managing General Partner shall determine in its discretion. The taxable year of the Partnership shall be the calendar year.

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

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

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

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

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

ARTICLE X

TRANSFER OF INTERESTS

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

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

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

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

ARTICLE XI

ADMISSION OR SUBSTITUTION PARTNERS

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

11.2 *Admission of Successor Managing General Partner.* A successor Managing General Partner selected pursuant to Section 12.1 or the transferee of the entire Partnership Interest of the Managing General Partner pursuant to Section 10.2 shall be admitted to the Partnership as a substitute Managing General Partner.

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

11.4 *Amendment of Agreement.* For the admission to the Partnership of any Partner, the Managing General Partner shall take all steps necessary and appropriate to prepare and record an amendment of the Agreement and the Certificate of Limited Partnership.

ARTICLE XII

WITHDRAWAL OR REMOVAL OF THE GENERAL PARTNERS

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

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

12.3 *Interest of Departing Partner.* (a) A Departing Partner departing as a result of withdrawal or removal pursuant to Section 13.1 or 13.2 of the FMP Partnership Agreement shall, at the option of its successor, exercisable prior to the effective date of the departure of the Departing Partner, promptly receive in exchange for its Partnership Interest as General Partner from its successor an amount in cash equal to the fair market value of the Departing Partner's Partnership Interest as General Partner hereunder determined as of the effective date of its departure in the manner specified in the FMP Partnership Agreement. If the option is exercised, the Departing Partner shall, as of the effective date of its departure, cease to share in any allocations or distributions with respect to its Partnership Interest as General Partner under this Agreement.

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

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

ARTICLE XIII

DISSOLUTION AND LIQUIDATION

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

- (a) the expiration of its term as provided in Section 1.4;
- (b) notice of withdrawal, bankruptcy or dissolution of the Managing General Partner, or any other event that results in its ceasing to be the Managing General Partner (other than by reason of a transfer pursuant to Section 10.2 or withdrawal occurring after, or removal effective upon or after, selection of a successor pursuant to Section 12.1);
- (c) an election to dissolve the Partnership given to the Managing General Partner by the Limited Partner;
- (d) the bankruptcy of the Special General Partner; provided, however, the Managing General Partner and the successor Special General Partner selected pursuant to Section 12.2 shall continue the operations and business of the Partnership until the end of the term for which it was formed unless earlier dissolved in accordance with this Article.

(e) any other event that, under the Texas Act, would cause its dissolution, except as provided below in this Section 14.1, or

(f) dissolution of the Limited Partner, unless the Limited Partner is continued thereafter in accordance with the terms of the FMP Partnership Agreement

For purposes of this section, bankruptcy of the Managing General Partner shall be deemed to have occurred when (i) it commences a voluntary proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereinafter in effect, (ii) a final and nonappealable order for relief is entered against it under the Federal bankruptcy laws as now or hereinafter in effect, or (iii) it executes and delivers a general assignment for the benefit of its creditors. The withdrawal or dissolution of the Special General Partner will not dissolve the Partnership (or if as a matter of law the Partnership is deemed dissolved, then the Partnership shall be deemed dissolved and reconstituted), and in such event the Managing General Partner and the successor Special General Partner selected pursuant to Section 12.2, if any, shall continue the operations and business of the Partnership.

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

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

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

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

(d) all necessary steps shall be taken to amend the Agreement.

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

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

(b) pro rata payment to Partners for loans made by them to the Partnership;

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

(d) to the Partners in accordance with their respective Percentage Interests;

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

13.4 *Distribution in Kind.* Notwithstanding the provisions of Section 13.3 which require the liquidation of the assets of the Partnership, but subject to the order of priorities set forth therein, if on dissolution of the Partnership the Liquidator determines that an immediate sale of part or all of the Partnership's assets would be impractical or would cause undue loss to the Partners, the Liquidator may, in its absolute discretion, defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (other than those to Partners) and may, in its absolute discretion, distribute to the Partners, in lieu of cash, as tenants in common and in accordance with the provisions of Sections 13.3(c) and 13.3(d), undivided interests in such Partnership assets as the Liquidator deems not suitable for liquidation. Any distributions in kind shall be subject to such conditions relating to the disposition and management thereof as the Liquidator deems reasonable and equitable and to any joint operating agreements or other agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using such reasonable method of valuation as it may adopt.

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

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

ARTICLE XIV

AMENDMENT OF PARTNERSHIP AGREEMENT

14.1 *Amendments.* (a) Amendments to this Agreement may be proposed only by the Managing General Partner. Subject to Sections 14.1(b), (c), (d) and (e), any such amendment shall become effective only upon the consent of the Limited Partner. The Managing General Partner shall notify all Partners upon final adoption of any proposed amendment.

(b) Notwithstanding Section 14.1(a), amendments to this Agreement that (i) are of an inconsequential nature and do not adversely affect the Limited Partner in any material respect or (ii) are necessary or desirable to satisfy any requirement, condition or guideline contained in any opinion, directive, order, ruling or regulation of any Federal or state agency or contained in any Federal or state statute or that are necessary or desirable in order to implement the provisions of the last sentence of Section 5.2(d), or that are necessary or desirable to facilitate the trading of FMP Units (or depository units representing FMP Units) or comply with any rule, regulation, guideline or requirement of any securities exchange on which the FMP Units (or depository units representing FMP Units) are or will be listed for trading, compliance with any of which the Managing General Partner deems to be in the best interests of the Partners, or (iii) are required or contemplated by this Agreement, may be made by the Managing General Partner without the consent of the Limited Partner.

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

(d) Notwithstanding Section 1411(a), an amendment that is necessary, in the opinion of counsel to the Partnership, to prevent the Partnership or the Managing General Partner or Special General Partner or their respective directors or officers from in any manner being subjected to the provisions of the Investment Company Act of 1940, as amended, the Investment Advisers Act of 1940, as amended, or "plan asset" regulations adopted under the Employee Retirement Income Security Act of 1974, as amended, whether or not substantially similar to plan asset regulations currently applied or proposed by the United States Department of Labor may be made without the consent of the Limited Partner.

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

ARTICLE XV

LIMITATIONS

15.1 *Sale of Substantially All Assets.* Except in connection with the termination of the Partnership pursuant to Article XIII hereof, the Managing General Partner may not sell or exchange all or substantially all of the assets of the Partnership without the consent of the Limited Partner. The foregoing limitation on the Managing General Partner's ability to sell or exchange all or substantially all of the assets of the Partnership shall not affect the right of the Managing General Partner to encumber any or all of the assets of the Partnership for Partnership obligations, and shall not apply to any forced sale of any or all encumbrance.

ARTICLE XVI

GENERAL PROVISIONS

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

16.2 *Titles and Captions.* All articles or section titles or captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof.

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

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

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

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

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

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

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

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

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

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

IN WITNESS WHEREOF, this Agreement has been duly executed by the Managing General Partner, Special General Partner and the Limited Partner on this 23rd day of April, 1985.

MANAGING GENERAL PARTNER:

McMoRan Oil & Gas Co.

By: John D. Orr

Title: Vice-President & Controller

Attest: Richard R. Estes

Title: Secretary

STATE OF LOUISIANA }
PARISH OF JEFFERSON }
SS:

Subscribed and sworn before me this 23rd day of April, 1985.

Henry J. Burkhardt
Notary Public

HENRY J. BURKHARDT

NOTARY PUBLIC

Parish of Jefferson, State of Louisiana
My Commission issued for life

19131011
SPECIAL GENERAL PARTNER

Freeport-McMoRan Inc.

D. F. Collier

Title: Senior Vice President & Treasurer

Address: 1100 11th Street

Title: Secretary

STATE OF NEW YORK }
COUNTY OF NEW YORK }
} RE:

Subscribed and sworn before me this 23rd day of April, 1985.

DEBORAH B. PEARIN
Notary Public, State of New York
No. 30-4482739
Qualified in Nassau County
Certificate Filed in New York County
Commission Expires March 28, 1986

Deborah B. Pease

Notary Public

LIMITED PARTNER:

Freeport-McMoRan Energy Partners, Ltd.,
a Texas Limited partnership

By: Freeport-McMoRan Inc.
Special General Partner

D. F. Collier

Title: Senior Vice President & Treasurer

Address: 1100 11th Street

Title: Secretary

STATE OF NEW YORK }
COUNTY OF NEW YORK }
} RE:

Subscribed and sworn before me this 23rd day of April, 1985.

Deborah B. Pease

Notary Public

DEBORAH B. PEARIN
Notary Public, State of New York
No. 30-4482739
Qualified in Nassau County
Certificate Filed in New York County
Commission Expires March 28, 1986

1993/04/01 010100

By: McMoRan Oil & Gas Co.
Managing General Partner

Mr. John A. Cen
Title: Vice-President & Controller
Attn: Richard R. Estes
Title: Secretary

STATE OF LOUISIANA }
PARISH OF JEFFERSON } ss:

Subscribed and sworn before me this 23rd day of April, 1993.

Henry J. Berthelot
Notary Public

HENRY J. BERTHELOT
NOTARY PUBLIC
Parish of Jefferson, State of Louisiana
My Commission issued for life

EXHIBIT B
TO
AMENDED AND RESTATED
CERTIFICATE OF LIMITED PARTNERSHIP
OF
PMP OPERATING COMPANY

Limited Partner:

Freeport-McMoRan Energy Partners, Ltd.
3421 N. Causeway Blvd.
Metairie, LA 70002

Capital Contribution

Property having an agreed value of \$927,273,718 (of which property approximately \$20,500,000 is cash). Of such cash, \$980.00 was previously contributed upon formation of the partnership. Such contributed property was described in the Registration Statement on Form S-1/S-3, as amended to date (No. 2-96216) of Freeport-McMoRan Energy Partners, Ltd. and Freeport-McMoRan Inc. which was filed with the Securities and Exchange Commission under the Securities Act of 1933 with respect to the offering of units of limited partnership interests in Freeport-McMoRan Energy Partners, Ltd. Such contributed property and cash were collectively referred to in such Registration Statement as the "FMP Properties."