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Amended and restated operating agreement form

EmailFacebookLinkedInTwitterRedditExhibition 10.1 FIRST MODIFIED AND RECREATED OPERATING AGREEMENT OF NAUTILUS POPLAR, LLC THIS FIRST MODIFIED AND REUSED OPERATING AGREEMENT is made and entered into from October 14, 2009 by and under NAUTILUS TECHNICAL GROUP, LLC, a Colorado limited liability company (Nautilus), WHITE BEAR, LLC, a Montana limited liability company (White Bear), YEP I, SICAV-FIS, a Luxembourg-based entity (the Fund), LLC, a Colorado limited liability company (East), (each a Member and collectively the Members). EXECUTIONS: A. The Members formed a limited liability company under the Montana Limited Liability Company Act (the Act) known as Nautilus Poplar, LLC (the Company) by causing sections of organization to be submitted to the Montana Secretary of State on 29 December 2006. The Company was established with the aim of continuing certain businesses and activities permitted by the laws of the state of Montana for limited liability companies. B. White Bear, Nautilus and Oriental carried out an operating agreement for the Company from January 1, 2007, as amended by six amendments (Original Operating Agreement). C. Before the date of this Agreement, White Bear awarded a portion of its membership interest in the Company to the Fund and the Fund was admitted as a member of the Company. D. The Members now desire to amend and restore the Original Operating Agreement in the form of this Amended and Reestablished Operating Agreement to fully set out their agreements and understandings concerning the Company and to own and operate the Company in accordance with the terms of this Agreement. CONSIDERING the aforementioned executions and the mutual covenants and agreements contained herein, the parties agree as follows: SECTION 1 DEFINITIONS The following terms used in this Agreement shall have the following meanings: 1.1 Act the Montana Limited Liability Company Act, as amended from time to time. 1.2 Affiliated means relating to any Person: (a) any Person who directly or indirectly controls, is governed by or under common control with such Person; (b) any Person who owns or controls fifty percent or more of the outstanding voting interests of such Person; (c) any officer, director, general partner or manager of such Person; (d) any Person described by an officer, director, general partner, manager, trustee or holder of fifty percent or more of the voting interests of any Person in clauses (a), (b) or (c). 1.3 Agreement this Amended and Cleansed Operating Agreement of the Company, as it may be amended from time to time. 1.4 Approval of or Approved by the Members means except as otherwise specifically set out herein, the approval of the holders of more than fifty percent of the 1.5 Articles of organisation means the statistical articles of the company, as filed with the Secretary of State C Montana, as the same can be amended from until time. 1.6 Bankruptcy means any case, proceeding or other action: (a) seeking reorganization or rearrangement (under any Chapter of Title 11 of the United States Code or as provision of any other or therein passes law); (b) where insolvency is determined by court proceedings; (c) in relation to any other reorganization, arrangement, adjustment, liquidation, dissolution or composition of a creditor or its debt in terms of any law relating to bankruptcy, insolvency, reorganisation or relief of debtors; (d) started by filing a petition to reach any of the aforementioned. 1.7 Capital account means in relation to any member the Capital Account upheld for such member in accordance with the following provisions: (a) To each member's Capital Account, such member's capital contributions and such member's distribution part of income and profit will be credited. (b) From each member's Capital Account there will be the amount of cash and the net fair market value of any property distributed to such member in accordance with any provision of this Agreement and such member's distribution share of Losses. (c) If any Membership Interest in the Company is transferred in accordance with the provisions of this Agreement, the transfer to the Capital Account of the transferer passes to the extent related to the transferred membership interest. This definition and the other provisions of this Agreement with respect to the maintenance of Capital Accounts are intended to comply with Treasury Regulations in order to give substantial economic effect to all transactions, and will be interpreted and applied in a manner consistent with such Treasury regulations. If the Manager will determine that it is prudent to change the manner in which the Capital Accounts or any debits or credits therein are secured (including, without limitations, debits or credits relating to liabilities secured by contrived or distributed property or accepted by the Company or the Members) in order to comply with Treasury Regulations, the Manager may make such amendment, depriving that it is not likely to have a material effect on the amounts distributable to any Interested owner during the dissolution of the Company. -2- 1.8 Capital contributions in respect of any member, the amount of money and the initial net fair market value of any property (other than money) are contributed or required to be contributed to the Company in relation to the membership interests held by such member. The value of any property other than money contributed to the Company will be agreed in writing by the contributing member and the Manager on behalf of the Company; provided that if the Manager is the contributing member or an affiliate of the contributing member, the value determines are placed by the holders of more than fifty percent of the Membership Interests of the remaining Members. The Capital Account of the contributing member will be credited with the amount of contribution, net of liabilities that incumbent on the property at the time of the contribution. 1.9 Code means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of the successive legislation). 1.10 Commencement date means the date on which the stat articles were filed with the state of Montana's secretary. 1.11 Company means Nautilus Poplar, LLC, a limited liability company under the Act. 1.12 Default interest rate means an annual interest rate equal to five per cent above the Prime Rate or 18 per cent per annum whatever is greater. 1.13 Economic Interest the share of Profits or other remuneration by means of income and proceeds of contributions to which an Economic Interest owner is entitled to receive, in accordance with this Agreement and the Act, but shall include no right to participate in the management of the business and affairs of the Company, including the right to vote on, permission to or otherwise participate in any decision of the Members. 1.14 Economic Interest owner means the owner of an economic interest or a membership interest. 1.15 Entity means any general or limited partnership, corporation, trust, business trust, limited liability company, joint enterprise, cooperative, association or any other entity. 1.16 Interest means an economic interest or a membership interest. 1.17 Interest owner means the owner of an economic interest or a membership interest. 1.18 Manager any person approved by the Members to manage the business and affairs of the Company on the provisions determined in this Agreement and has not stopped being a Manager in accordance with the provisions of this Agreement. -3- 1.19 Member means each of the parties that execute a counterpart to this Agreement as a member and each of the parties who then become a member. If a Member is a member immediately prior to the purchase or acquisition by such Person of an Economic Interest, such Person shall have all the rights of a member in relation to such subjected membership interest or economic interest, as may be the case. 1.20 Membership interest means a member's entire interest in the Company, including the Economic Interest of a Member and such other rights and privileges that the member may enjoy by virginity of a member, such as in accordance with the Statute Sections, this Agreement or the Act. The Membership Interests of each of the Members are specified as a percentage as provided in Section 5.1 of this Agreement. 1.21 Net cash flow means the gross receipts of the Company, less (i) expenses of earning such receipts, other than depreciation and other non-cash expenses, (ii) capital expenditure, (iii) payments in respect of any Company that is indebted in accordance with established payment schedules and loan agreements, (iv) payment of company accounts reserves established by the Manager. 1.22 Admitted Businesses Businesses has the meaning set out in Section 2.3 of this Agreement. 1.23 Person has the meaning allocated to it in the Act and will include any natural person and any entity. 1.24 Prime rate means an annual interest rate announced as the prime rate by the bank at which the Company maintains its operating account from time to time (adjusted from the first day of each calendar quarter) and if such rate is no longer announced, such a different comparable rate than the Manager may reasonably choose; with dear, however, in no case will the Prime Rate or any interest rate to be levied in terms of this Agreement based on the Prime Rate (including, but not limited to, the Default interest rate) exceed the maximum interest rate allowed by law. 1.25 Gains and Losses means, for each fiscal year or other period, an amount equivalent to the Company's taxable income or loss for such year or period, determined in accordance with Code Section 703(a), including all items necessary to be stated separately in terms of Code Section 702(a), and specifically including any tax-free income or profit and any profit or loss as a result of any revaluation of assets as permitted by the Treasury, or any profit or loss in respect of property whose book value differs from its adjusted tax base. 1.26 Reserves means in relation to any fiscal period funds set aside to Reserves during such period or amounts to be maintained in amounts adequately deemed by the Manager for Working Capital or other costs or expenses related to the ownership or operation of the Company's business. 1.27 Sales means the sale or other dissolution of an asset of the Company (except in the usual course of business). -4- 1.28 Securities Laws mean all applicable securities laws of the United States or of any State. 1.29 Share ratio (a) in relation to the Members, the proportion of the percentage of Membership Interest held by a member to the total percentage of Membership Interests held by all members, (b) in relation to the Economic Interest Owners, the proportion of the percentage of Economic Interest held by an Economic Interest owner to the total percentage of Economic Interests and (c) in relation to all Interest Owners, the proportion of the percentage interest held by an Interest owner to the total percentage of Interests held by all the Interest owners. 1.30 Replaced member means any Person permitted to the Company in connection with the procurement of another member's membership interest in accordance with the provisions of this Agreement. 1.31 Transfer means any voluntary or involuntary transfer, sale, hypotension, incumbent or other mindset or to voluntarily or involuntarily convey, sell, promise, hypothetize, encumber or otherwise get rid of. 1.32 Treasury Regulations the Income Tax Regulations, including Temporary Regulations, Regulations, in terms of the Code may be amended as such regulations from time to time (including corresponding provisions of the succession regulations). SECTION 2 FORMATION AND ORGANISATION 2.1 Formation and Name of the Company. The parties hereby ass ratify and approve the Stations formed by the Company, which was submitted to the Montana Secretary of State on the Start Date, and agree that the Company will be organized and operated in accordance with and in accordance with the Statute, the provisions of this Agreement and the Act. 2.2 Name. The business of the Company will be conducted under the name Nautilus Poplar, LLC, or such other brand name or names as may be chosen by the Manager, subject to applicable law. 2.3 Allowed businesses. The business of the Company will be: (a) to acquire, own or operate, and from time to time get rid of, oil, gas, or real estate interests of any kind, including but not limited to the oil and gas properties described on Schedule B to this Agreement, and to explore for, develop and produce oil or natural gas, and to conduct operations incident thereto; (b) to form, own and operate some limited liability companies or other entities to conduct the businesses of the Company. -5- (c) to establish any legal business whatsoever, or which will at any time be conducive or servant to the protection or benefit of the company and its assets; (d) to exercise all other powers necessary to or reasonably connect with the Company's businesses which may legally be exercised by companies with limited liability in terms of the Act; and (e) to engage in all activities necessary, customary, convenient or incident at any of the aforementioned. 2.4 Main place of business. The main place of business of the Company will be located at 700 East 9th Avenue, Second Floor, Denver, CO 80203. The Manager may change the principal place of the Company to anywhere else on written notice to the Members. 2.5 Term. The term of the Company has commenced on the Start Date and will continue to terminate as provided in this Agreement or by operations act. ARTICLE 3 MEMBERS AND CONTRIBUTIONS 3.1 Members. The names and postal addresses of the Members of the Company are as follows: Nautilus Technical Group, LLC 700 700 East 9th Avenue, Second Floor Denver, CO 80203 White Bear, LLC 700 East 9th Avenue, Second Floor Denver, CO 80203 Eastern Rider, LLC 700 East 9th Avenue, Second Floor Denver, CO 80203 YEP I, SICAV-FIS c/o YEP Management Sarl 7 rue Thomas Edison L-1445 Straatsen Grand Duchy of Luxembourg A member may change his address for all purposes under this Agreement by giving written notice of such change to the Company and each of the manager of the Company. -6- 3.2 Initial Capital Contributions. The Members got their initial to the capital of the Company as required by the Original Operating Agreement. The Membership Capital Accounts from the date of this Agreement are set out on Schedule of this Agreement. 3.3 Additional capital. At the written request of the Manager and with the Approval of the Members, the Members or the Economic Interest Owners may from time to time be required to collectively make additional contributions of cash (the Additional Contributions). The Members or Economic Interest Owners will pay the Additional Contributions on a pro rata basis in accordance with their membership interests or economic interests. The payment of the Additional Contributions amounts by the Members or Economic Interest Owners will be due 15 working days after the date on which the written request is sent by the Manager to the Members or Economic Interest Owners. In the event that a member or economic interest owner fails to pay his share of an additional contribution (the Default Owner), another member or economic interest owner may choose to pay such default owner's share of the Additional Contribution (the Healing Owner). If more than one member of the Company or Economic Interest Owner chooses to pay such defaulting owner's share of the Additional Contribution, such parties will participate in relation to their membership interests or economic interests. Such Healing Owner or Owners shall be entitled to receive from the Company from carvings that would otherwise be paid to the Defaulting Owner from the oil or gas, property or properties for which such Additional Contribution is used, or if not used for a specific oil and gas property or properties, of all carvings by the Company that would otherwise be paid to the Default Owner, an amount equal to three times the amount the Healing Owners pay on behalf of the Default Owner (the Compensation Amount). Once the Compensation Amount has been paid in full to the Healing Owners, the Defaulting Owner is entitled to receive endowments and other amounts payable to the Defaulting Owner in accordance with this Agreement. 3.4 Loans by Members. A member will be allowed to make loans to the Company for use in the Permitted Businesses on such provisions as agreed upon by the Manager and such member and as approved by a majority in the Membership Interest of the indispensable Members, provided that all members are afforded the opportunity to make loans to the Company on the same terms, pro rata in accordance with their membership interests, the Manager shall be authorised to borrow from the Members on such provisions as the Manager shall, at its discretion, be determined from time to time. 3.5 Allocations of Profits and Losses and Tax Items. (a) Allocations. Except as otherwise determined in this Agreement, profits and losses of the Company will be allocated among the Members in relation to their respective Share Relationships. (b) Definitions and special rules. For purposes of this Agreement, allocations of income, profit, loss, deduction credit (or cost of purchased assets or other amount on which a credit is based) of the Company, each component shall include if such item is to be allocated, as determined for purposes of the Company's income tax reports and returns. Notwithstanding any other provision of this Agreement, accounting for the Company's capital and income, profit, loss, deductions, credits and carvings must comply with Section 704 of the Code and the Treasury Regulations below. Any company's revenue, profit, loss, deduction or credit (or cost of -7- purchased assets or other amount on which a tax credit is based), as initially determined and allocated for any year, will be re-charged and reassigned if necessary to correct any errors, or to reflect the result of any tax audit, or to take into account other applicable factors: (c) Contributed property. For income tax purposes, and not for the purposes of Capital Account maintenance, income, profit, loss and deduction in respect of property contributed to the Company by a member, will be allocated under the Members as required by Section 704(c) of the Code and Treasury Regulations below. SECTION 4 CAPITAL ACCOUNTS 4.1 Separate Capital Accounts. A separate Capital Account will be maintained for each member and economic interest owner. Capital accounts shall be maintained in a manner corresponding to the capital of the Members and Economic Interest Owners as reported by the Company for federal revenue purposes, and in accordance with the requirements of the Treasury Regulation 1.704-1(b)(2)(iv). 4.2 Transfer of Interest. In the case of an admitted elected sale or exchange of an interest in the Company, the Capital Account of the transferring holder becomes the Capital Account of the transfers to the extent relating to the transfer interest in accordance with Section 1.7041 (b)(2)(iv) of the Treasury Regulations. 4.3 Compliance with code. The manner in which Capital Accounts must be upheld in accordance with this Agreement is intended to comply with the requirements of Section 704(b) of the Code and the Treasury Regulations promulgated thereon. If in the opinion of the Company's accountants the manner in which the Capital Accounts must be maintained in accordance with this article must be amended in order to comply with Section 704(b) of the Code and the Treasury Regulations, then notwithstanding anything to the contrary contained in this article, the method in which Capital Accounts are maintained will be changed so; however, with dear that any change in maintaining Capital Accounts will not materially change the economic agreement between or among the Members. 4.4 Deficit balance. Except as otherwise required in the Act (and subject to the provisions of this section), no member or economic interest owner shall have any liability to any portion of a deficiency balance in such member or ownership capital account. 4.5 Qualified income offset. Any member or economic interest owner who unexpectedly receives an adjustment, award or distribution Treasury regulations section 1.704-1 (b)(2)(ii)(d)(4), (5) or (6) shall be allocated items of revenue and profit (consisting of a pro rata portion of each item of Company Revenue, including gross revenue, and profit for such year) on an amount and manner sufficient to eliminate any resulting deficit balance as soon as possible. -8- 4.6 Non-recreation debt. Notwithstanding any other provision of this Agreement, if there is a net decrease in the Company's minimum profit as defined in Treasury Regulations §1.704-2(d) during a taxable year of the Company, the Capital Accounts of each member will be allocated items of income (including gross income) and profit for such year (and if necessary for subsequent years) equivalent to that member's share. This subsection is intended to meet the minimum profit requirement of §1.704-2 of the Treasury Regulations and will be consistently interpreted with it. If in any taxable year that the Company has a net decrease in the company's minimum profit, if the minimum profit charge back requirement will cause a distortion in the economic arrangement among the Members and it is not expected that the Company will have sufficient other revenue to rectification that distortion, the Members may at its discretion seek to waive the Internal Revenue Service the minimum profit cost return requirement in accordance with the Treasury Regulation §1.704-2(f)(4). 4.7 Restriction on Return of Capital. Each member or economic interest owner shall be entitled to recover the amount of such member or economic interest owner's capital account only at the time or times provided for herein and only from the assets of the Company. The Capital Accounts of the Members or Economic Interest Owners will not bear interest. SECTION 5 OWNERSHIP AND CARVINGS 5.1 Membership interests. The Membership interests of the Members are as follows: Member Membership(Part) Interest Nautilus 10.0000 % White Bear 58.3086 % Fund Eastern Rider 25.1466 % 6.5448 % % 100.0000 % 5.2 Carvings in general. Except for carvings made at liquidation of the Company, the Company must at such times and in such amounts make carvings to its members as the Manager will determine. Distributions must be made to members in relation to their respective Share Interests from the date of the distribution. All amounts withheld in accordance with the Code or any provisions of the state or local tax act relating to any payment or distribution to the Members of the Company shall be treated as amounts distributed to the member concerned in accordance with this Section. Every year the Manager will make his good faith best efforts to make carvings that are no less than the Members and Economic Interests Owners' income tax obligations in respect of the taxable income of the Company for such year. 5.3 Restriction on carvings. No member has right to claim or receive carvings in any form other than cash. not. Manager may at his discretion make distributions in cash or in kind, or partially in each, provided that no member shall be compelled to accept a distribution of any asset in kind to the extent that the percentage of the asset distributed to such member exceeds the Percentage Interest of such member. -9- 5.4 Net cash flow. In determining whether to make a distribution and the amount of any non-liquidation distribution, the Manager may consider, among other things, relevant factors, the Company's Net Cash Flow. The determination of Just Cash Flow will be made in accordance with the same accounting principles as used in accordance with the company's books and the preparation of its tax returns. 5.5 Limitation on carvings. No distributions will be declared and paid unless, after the distribution is made, the assets of the Company are more than all liabilities of the Company, except liabilities to members and economic interest owners because of their capital accounts. SECTION 6 MEMBERS 6.1 Limitation of Liability. Each member's liability will be limited as set out in this Agreement, the Act and other applicable legislation. 6.2 Company Debt Liability. Except as agreed separately, a member will not be personally liable for any debts or losses of the Company outside its respective Capital Contributions and any obligation of the member under this Agreement to make capital contributions, except as provided for in Section 3.4 herein or as otherwise required by law. 6.3 Company books. The Manager must, during the term of the Company, and for five years thereafter maintain and preserve all accounts, books and other relevant company documents. On reasonable request, each member and economic interest owner will have the right during ordinary business hours, to inspect and copy such company documents at the expense of the requesting member and economic interest owner. 6.4 Priority and return of capital. Other than as may be expressly provided in this Agreement, no member will have priority over any other member, whether on returning capital contributions or in order to net profits, net losses or any carvings; with the intention that this Section does not apply to loans (as distinguished from Capital Contributions) that a member may make to the Company. 6.5 Liability of a member to the Company. A member who receives any distribution is only liable to the Act to the extent now or herein. SECTION 7 MEETINGS 7.1 Annual Meeting. An annual meeting of the Members may be held at such time and date as may be determined by the Manager. The annual meeting of the Members will be held for the purpose of electing or re-electing the Manager and for the transaction of such other business as may come before the meeting. -10- 7.2 Failure to 10.2.1: If any election of the Manager will not be held on the day designated by the Manager for any annual meeting of the Members or at an ad adjumation thereof, then on the call for such an election by Member, the Manager will cause the annual meeting or election to be held at a special meeting of the Members as soon as may be convenient. Failure to hold the annual meeting or election at the designated time may not work a forfeiture or dissolution of the Company. 7.3 Special Assembly. Special meetings of the Members may be called by the Manager or by members who own no less than one-tenth of the votes entitled to vote at the meeting. 7.4 Place of Assembly. The Manager may design anywhere, whether inside or outside Colorado, as the location for any annual meeting or for any special meeting of members. If no designation is made, or if a special meeting is called other than by a Manager, the place of assembly will be the main place of business of the Company in Colorado. 7.5 Notice of Assembly. Written notice stating the place, day and hour of the meeting, and in the case of a special meeting, shall not be less than ten or more than fifty days before the date of the meeting, whether personally or by e-mail, by or on the direction of the Manager or the Members calling the meeting, delivered, to each member of record entitled to vote at such a meeting. If sent by post, such notice will be deemed to have been delivered as to any member when deposited in the United States post, the member will be sent to the member at his address as it appears on the membership records of the Company, with postage paid thereon in advance, but if three consecutive letters sent to the last known address of any member, if, if unreliable is returned, no further notices will be required to such member until another address is known for such a member. Company. 7.6 Quorum. The presence in person or by proxy members who collectively hold more than fifty percent of the Membership Interests entitled to vote constitutes a quorum of members at any meeting of members. In the absence of a quorum at any such meeting, a majority of the Membership Interests present at the meeting may adjourn the meeting for a period of time not to exceed sixty days at anyone adjournment. At such adjourned meeting at which a quorum must be present or represented, any business may be redacted that may have been redacted at the meeting as originally noted. The members present at a properly organized meeting can continue to transact business to ad ad dissent, notwithstanding the withdrawal of enough members to leave less than a quorum. 7.7 Number of votes. Other than as set out in the Act, each member is entitled to cast one vote for each of one per cent Membership Interest in the Company owned by such member When transferring an economic interest separately and apart from a membership interest, all voting rights previously to such interest will be terminated. 7.8 Manner of Acting. If a quorum is present, the affirmative vote of Members holding more than fifty percent of the Membership Interests will be the Approval of the Members, unless the vote of a larger or lesser relationship, number or vote per capita or by classes is required by the Act. Any member who alone or together with his affiliates has more than fifty percent of the Membership Interests will make a reasonable effort to consult with the other members before approve of any action that has a material effect on the Company and its businesses. 7.10 Proxies. At all meetings of members, a member may vote by proxy written by the member or the member's duly authorised attorney-in-reality. Such proxy will be submitted to any Manager before or on the meeting. No proxy will be valid after eleven months from the date of execution thereof, unless otherwise determined in the proxy. 7.11 Informal Action by Members. Any action required or permitted to be taken at a meeting of the Members may be taken without a meeting if the action is proven by one or more written permissions, deferring the action taken in such a way, signed by Members who have a total amount of membership interests sufficient to have such action approved at a meeting of members. Such permission shall have the same force and effect as a vote of the Members, and may be stated as such in any document. Action taken under this Section will be effective when all members have signed the permission unless the permission specifies a different effective date. 7.12 Waiver of Notice. When any notice must be given to any member, waiver thereof is signed in writing by the party entitled to such notice, either before, at or after the time of the meeting stated in the notice, equivalent to the giving of such notice. 7.13 Vote by entities and successors. (a) Corporations. Membership interests that are in the name of a corporation may be voted on by such officer, agent or proxy, as the by-law of such corporation may prescribe, or in the absence of such provision, as the board may determine of such corporation. (b) Trusts. Membership Interests owned in the name of a trust may be voted on by any trustee of the trust, and Member Interests in the name of a trustee may be voted on by such trustee or any successor. (c) Limited Liability companies and Partnerships. Membership Interests that stand in the name of a limited liability company or a partnership may be voted on by such manager or general partner respectively, or agent as may prescribe the operating agreement or partnership agreement, or in the absence of such provision, as the Manager or Partners, may be determined after the case. (d) Joint Members. Membership Interests held jointly by more than one Person, either held as joint tenants, tenants in common otherwise, it shall be voted against by any of the joint Members and, if there is a disagreement between the joint Members, according to such instructions as previously given to the Company, on prescribed such instructions are in writing and signed by all the joint members. Absent such instructions, in the case case a disagreement, the joint membership interests will vote proportionately. (e) Successors. Except as provided in paragraph (c) above, no successor to any member's membership interest, and no recipient or promise or person who has a security interest in or lion on a Membership Interest, shall have any right or viewpoint to vote such interests unless permitted as a member of the Company. -12- SECTION 8 DRIVER 8.1 General Powers. The business and affairs of the Company will be run by its Manager. Subject to the restrictions established in the Act, the Company's Sections of Organization or this Agreement, and subject to the right of holders of more than fifty percent of the Membership Interests to disapprove of any action, the Manager shall have full and complete authority, power and discretion to manage and control the business, business and properties of the Company, to make all decisions on the matters of the case and to carry out any and all other actions or activities customary or incident to the management of the company's business. If there is more than one manager, the Drivers will act by a majority of the Drivers who then serve. 8.2 Authority of Manager. Without limiting the generality of Section 8.1, the Manager may and authority will have on behalf of the Company. (a) To purchase liability and other insurance to protect the company's property and business; (b) To keep and own any actual and personal properties of the Company only in the name of the Company; (c) To temporarily invest any Company funds (by example but not restriction) on time deposits, short-term government obligations, commercial paper or other investments; (d) With the Approval of the Members, to sell or otherwise dispose of all the assets of the Company as part of a single transaction or plan as long as such mindset is not in violation of or a cause of a default under any other agreement to which the Company may be bound which is not subject to and by payment of the proceeds of such transaction; provided that the Approval of the Members shall not be expected in relation to any sale or disposal of an irresistible portion of the Company's assets in the ordinary course of the Company's business; (e) To perform all instruments and documents on behalf of the Company, including without limitation, checks, drafts, notes and other negotiable instruments, mortgages or deeds of trust, security agreements, financing statements, documents allowing for the acquisition, mortgage or mindset of the Company's property, assignments, sales accounts, leases, partnership agreements, operating agreements of other limited liability companies, and any other instruments or documents, in the opinion of the Manager, to Company; (f) To employ accountants, legal advice, managing agents or other experts to perform services for the Company and to reimburse them with company funds; -13- -13- To enter into any all other agreements on behalf of the Company, with any other Person for any purpose, in such forms which the Manager may approve; (h) To submit an election in terms of Section 754 of the Code to apply the provisions of Sections 734(b) and 743(b) of the Code in respect of the adjustment of the Member Foundation; and (i) To conduct and perform all other actions necessary or appropriate for the conduct of the Company's business. 8.3 Restrictions on authority of the Manager. No Manager shall have the authority to, and every manager attached and agree that it shall not take or do any of the following actions without the Approval of the Members: (a) Cause or permit the Company to engage in any activity that is not consistent with the purposes of the Company as set out in this Agreement; (b) The Company obliges to obtain any interest in any oil and gas properties or any other property; (c) Borrow money for the Company of banks, other lending institutions, the Manager, Members or Affiliates of the Manager or Members or in connection thereto, to hypothetize, incumbent and grant security interests in the assets of the Company to ensure the repayment of the borrowed amounts; no debt will be contracted or liability incurred by or on behalf of the Company, except by the Manager, or to the extent permitted by agents or employees of the Company in terms of the Act, expressly authorised to contract such debt or incur such liability by the Manager; (d) Knowingly do any action in contraction with this Agreement; (e) Without the Approval of the Members, knowingly do any action that would make it impossible to continue the ordinary business of the Company, except as otherwise provided in this Agreement; (f) Confess a ruling against the Company in an amount of more than \$2,500.00; (g) own property, or allocate rights in specific property for the purpose of a company; (h) Without the Approval of the Members, knowingly carry out any action that would cause the Company to do business in a state that has not enacted legislation that allows limited liability companies to organize in such state or allow the Company to conduct limited liability company in such a state as an offshore company; (i) Cause the Company to voluntarily take any steps that would cause a bankruptcy of the Company; -14- (j) Causes the Company to obtain any equity or debt securities from any member or any of its affiliates, or otherwise make loans to any member or any of its affiliates; (k) Causes the Company to recognize any additional members other than in accordance with the provisions of this Agreement; (l) Cause the Company to cause any liabilities in any transaction of more than 100,000.00 incursion; (m) Cause the Company to make any capital expenditure in any single transaction of more than \$100,000.00; (n) Sell or otherwise dispose of all or materially all of the company's assets other than irresistible assets in the ordinary course of the company's business, except for a liquidation sale in with the dissolution of the Company. 8.4 Appointments of Agents. Unless authorised to do so by this Agreement or by the Manager, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to make it liable for any purpose. No member may have any power or authority to bind the Company as a member in its capacity unless the member is authorised by the Manager to act as agent of the Company in accordance with the previous sentence. 8.5 Number and Qualifications. Each manager shall hold office until the next annual meeting of Members, and thereafter until such manager's successor will be elected and qualified. Notwithstanding anything to the contrary set out in this Agreement, by the Approval of the Members, preceded by consultation as set out in Section 7.9 above, any Manager may at any time be removed as such and elect his successor. 8.6 Execution of duties. The Manager shall perform his duties as Manager in good faith, in a manner reasonably believed to be in the best interests of the Company, and with such care as a usually prudent person will use in a similar position under similar circumstances. The Manager shall devote such time, knowledge and skill to the business of the Company if the Manager deems reasonably necessary to operate the business of the Company. 8.7 Trust with Advisors. In performing his duties, the Manager is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by the following persons and group: (a) One or more employees or other agents of the Company who the Manager reasonably believes are reliable and competent in the matters offered; (b) Any attorney, public accountant or other person on matters reasonably believed to be within such person's professional or expert competence; Notwithstanding the aforementioned, a manager will not be acted against in good faith if such manager has knowledge regarding the matter concerned which will cause such trust to be unjustified. -15- 8.8 Vacancies. Any manager vacancies that take place must be filled by the Approval of the Members. 8.9 Removal of Drivers. At a meeting explicitly called for that purpose, any manager, with or without cause, can be removed by the Approval of the Members. Removing a manager who is also a member may not affect the Manager's rights as a member and may not make a termination as a member. 8.10 Compensation. No Manager or Member may be paid any compensation by the Company except in accordance with a written agreement between such party the Company, which agreement is approved by members. 8.11 Overhead. Nautilus will be compensated for his general overhead costs of acting as the Manager in accordance with the budget set out on Schedule B to this Agreement. 8.12 8.12 and Indemnification of Manager. The management, operation and operation of the Company's business will be at the expense and risk of the Company and not at the expense or risk of any driver. No Manager shall be liable, responsible or liable in damages or otherwise to the Company or any member for any action taken or failure to act (even if such actions or failure to act simple negligence) on behalf of the Company within the expiration of the authority conferred on the Manager by this Agreement or by law unless such action or failure has been carried out or omitted fraudulently, in bad faith or extorted gross negligence. The Manager is entitled upon request by the Company of liabilities for damages to the maximum extent permitted in terms of the Act. Within the area of mutual interest described on Schedule B hereby (the Territory of Mutual Interest), no manager, member or economic interest owner will be free and have the right to engage and receive the benefit of any and all other oil and gas and related businesses of any kind whatsoever, whether competitive with the business of the Company, without obtaining the consent of the untrained members who have more than fifty percent of the Membership Interests in the Company from such untrained members. During the Approval of the Members, the Territory of Mutual Interest can be expanded, reduced or otherwise changed. Outside the Territory of Mutual Interest, every manager, member or economic interest owner will have the free and unlimited right to engage and receive the full benefit of any and all other businesses of any kind whatsoever, whether competitive with the business of the Company, without consulting the other or inviting the Company or other members to participate in it. Outside the Territory of Mutual Interest, (i) the members acknowledge that every member and manager is involved with other businesses at this time and from time to time, both similar and different to those undertaken by the Company and (ii) The

jurispriciary of business opportunity, sometimes applied to persons occupying a partnership, joint venture or other fiduciary status. , in order to prevent such persons from engaging in or enjoying the benefits of competing enterprises within the general scope of business provided by such fiduciary for another, will not be applied in the event of any activity, enterprise or business enterprise of any Manager, Member or Economic Interest Owner of the Company. -16- 9.2 Bank accounts. The Manager has the right to establish company bank accounts on such signature or signatures, as it deems it to be in the best interests of the Company. All funds of the Company that are not otherwise employed will from time to time be such deposits are deposited as the Manager may choose. 9.3 Accounting period. The Company's accounting period will the calendar year. 9.4 Records and reports. At the expense of the Company, the Manager will maintain records and accounts of all operations and expenses of the Company. The Company must keep such records at its main place of business as required in accordance with the Act together with all other business records of the Company. 9.5 Returns and other elections. The Manager shall cause the preparation and timely filing of all tax returns to be filed by the Company in accordance with United States, state and local tax laws, and all other tax returns deemed necessary and required in every jurisdiction in which the Company does business. Copies of such returns or relevant information from it shall be provided to the Members within a reasonable time after the end of the Company's fiscal year. All elections allowed to be made by the Company under any federal state or local tax laws will be made by the Manager, as it will deem in the best interests of the Company, provided that the Manager will in all occasions make any tax election approved by the Members. 9.6 Tax matters member. If necessary under the Code, Nautilus will be the 'tax matters partner of the Company, as defined in the Code, and will be held uncondiion and harmless by the Company for acting in such capacity to the maximum extent permitted under the Act. No transfer of all or any portion of a membership interest in the Company, whether by sale, gift, bequest, legacy, devise, desist, assignment or otherwise, including transfers by the operation of the law and transfers due to levy, sequestration, foreclosure, execution, bankruptcy or otherwise, and or made voluntary, will be valid or effective unless it is made in accordance with the provisions of this Agreement. Notwithstanding any provision of this section 10, any member may transfer all or part of its membership interest to a parent or wholly subsidiary without the consent of any member, free from the terms and conditions of this section 10 and any such transfer shall be permitted as a member of the Company (Permitted Affiliate Transfer). 10.2 Transfers to non-members. No member may transfer any part of such member's interest in the Company to a person or entity who is not a member immediately prior to the Transfer and has permitted the transfer as a replaced member in respect of such interest without the prior approval of the indispensable Members who have more than fifty percent of the membership interests held by such Members. No additional member may be admitted to the Company except with the prior approval of the Members. -17- 10.3 Conditions after transfers. All transfers of member interests must comply with all the terms and conditions (the Conditions of Transfer): (a) except in the case of a transfer as a result of an involuntary transfer (as such a term is defined hereunder in 13.1), at the request of the Company, the transferror, on transferable concern, shall comply with the Company and opinion of board, which board and opinion will be satisfactory for the Company, that the Transfer will not cause the Company to be terminated for federal income tax purposes in accordance with Section 708 of the Code; (b) the transferring and transfer the Company provides with the taxpayer identification number and sufficient information to determine the transfers' initial tax basis transferred in the Membership Interest; (c) the transferer and the transfer comply with the provisions of this Agreement in relation to Securities Laws; and (d) except in the case of a Transfer of a Membership Interest as a result of an Involuntary Transfer (as defined in such term herein in Section 13.1) or: (i) such Membership Interest shall be registered in terms of any applicable Securities Laws; (ii) the transferer must provide an opinion of advice, which opinion and advice will be satisfactory for the Company, to the effect that such transfer is exempt from all applicable registration requirements and that such transfer shall not contravene any applicable laws regulating the Transfer of Securities. In no case may all or any part of an interest in the Company be transferred to a minor or an incompetent. Notwithstanding the satisfaction of the Conditions of Transfer, a transfer will not be permitted as a Replaced Member unless all the conditions as set out in this Agreement are also satisfied. 10.4 Prohibited Transfers. Any alleged transfer of member interest in contradicting any of the provisions of this Agreement or does not comply with all the conditions of transfer shall be null and of no effect; however, provided that, if the Company must acknowledge a transfer that does not comply with the Transfer Conditions, or if the Company elects in its sole discretion to acknowledge a transfer that does not comply with the Transfer Conditions, the transferring owner and not a member. The parties involved or attempting to engage in a transfer or attempted transfer of an interest that does not comply with this Agreement, including, but not limited to, the Transfer Conditions, shall be unfree and keep harmless the Company and the other members of all costs, liability, and damages, that any of such parties may incur (including , without limitation, incremental tax liability and reasonable attorney's fees and expenses) as a result of such transfer or attempt at transfer and efforts to enforce the freedom granted hereby. -18- 10.5 Admission of transfers as members. Subject to the other provisions of this section, a transfer of a membership interest may only be permitted to the Company during satisfaction of all the following conditions: (a) Members who have more than fifty percent of the the Company held by the Company Members approve of such admission; (b) The membership interest in respect of which the transfer is permitted is obtained through a transfer that complied with the Conditions of Transfer; (c) The transfer becomes a party to this Agreement as a member and executes such documents and instruments as the Manager may reasonably request as is necessary or appropriate to confirm such transfer as a member in the Company and such transfer's agreement to be bound by the terms and conditions of this Agreement; and (d) The transfer pays or compensates the Company for all legal, submission and publication costs incurred by the Company in connection with the admission of the transfer as a member. When the admission of the Replaced Member, the records of the Company will be amended to reflect the name and address of such Replaced Member and to eliminate the name and address of the transferring member. 10.6 Complete Assignment by member. Any member who will allocate all his interest in the Company will cease to be a member of the Company, and will no longer have any rights or privileges of a member; provided with the fact that, unless and until the transfer of such member is permitted to the Company in accordance with this Agreement, the allocation member (a) retains the statutory rights and be subject to the statutory obligations of a transferring member in terms of the Act, and (b) will continue to be liable for all its obligations below, including the obligation to make contributions to the Company in terms of this Agreement. the Transfer. 10.7 Carvings and Awards. If any Interest is transferred during any accounting period in accordance with the provisions of this Agreement, Profits, Losses and each item thereof, and all other items attributable to such Interest for such period shall be divided and allocated between the transfer container and the transfer by taking into account their varying interests during the period, using any conventions permitted by law and chosen by the Manager. All carvings on a before the date of such transfer must be made to the transfer holder, and all carvings thereafter will be made to the transfer. Neither the Company nor the Manager shall enter into any liability to make allocations and carvings in accordance with the provisions of this Section, whether the Manager, Member or the Company have notice of any Transfer of ownership or any interest. 10.8 Representations. Each member now or after this acquires a membership interest and agrees with the Company for the benefit of the Company and all members who (a) he does not currently make a market in Membership Interests and will not make a market in membership interests in the future; and (b) he shall not have any Membership Interest on an established securities market or a secondary market (or its material equivalent) within the meaning of code section (and any -19 regulations, proposed regulations, revenue statements or other official statements from the Internal Revenue Service or Treasury Department that may be promulgated or published under it). Each member further agrees that he will not transfer any membership interest to any person unless such person agrees in writing to be bound by this Section and transfer such membership interest only to parties who agree in writing to be similarly bound. 10.9 Transfer by White Bear and the Fund. The Company and each member hereby agree to (i) the Transfer by White Bear and the Fund to Magellan Petroleum Corporation or its Affiliate (MPC) of up to all the membership interest held by White Bedy and the Fund and (ii) the admission of MPC as a member of the Company. Furthermore, and without limitation of the foregoing, the member and the Company irrevocably waive any right of first refusal in terms of this Agreement in relation to the transfer of any membership interest by the fund or White Bear to MPC. SECTION 11 RIGHT OF FIRST REFUSAL 11.1 Third Party Offer. Except as provided in the last sentence of Section 10.1. A member (the Sales member) may transfer all or any portion of its membership interest to a third party only if (a) the Transfer is in accordance with a bona fide written offer to purchase (Third Party offer) from a third party, (b) the purchase price must be paid in all cash or share cash and the rest by a close note secured by the appropriate Economic Interest. , and (c) such portion of the Member of Sale's Membership Interest is presented first to the Company and the other members on the terms and conditions set out in this section. 11.2 Offer to the Company. If the Sales Member desires to accept such a third-party offer, the Sales member will first make a written offer (the Offer) to sell its membership interest to the Company on the same terms and conditions on which the Sales member proposes to transfer its membership interest, which offer is accompanied by a copy of the Third Party offer, which would name the name of the proposed transfer (the Transferee) and all the terms and conditions of the proposed Transfer , including the price specified in dollars, to be paid by the Transfer and the manner of payment. 11.3 Option to buy. The Company has the right for a period of thirty days after receiving the Offer to choose to buy everything, but not less than all, from the Membership Interest so offered by the Sales Member by giving written notice of this election to the Sales Member. In order for the Company to choose to purchase the member of the sale member's membership interest, uninterested Members who hold more than fifty percent of the Membership Interests of such disinterested members must approve the purchase. In such a case, the purchase will be closed and payment will be made on the same terms and conditions as in the Offer. If the company refuses to buy the member of sale membership the Sales member shall be obliged to make the same offer to the remaining members in accordance with the provisions and provisions of Section 11.2 of this Agreement. The remaining members have the right for a period of thirty days after receiving the Offer to choose to buy everything, but not less than all, from the membership interests offered by the Sales Member by giving written notice of such election to the Sales Member. In such a case, the purchase will be closed and payment made on the same terms and conditions as set out in the Offer. Unless otherwise -20- agreed, if more than one remaining member prefers to purchase, the remaining members who so prefer will purchase the Sales member's Membership Interest in relation to their respective Share Relationships. 11.4 Right to sell. If the Company and the remaining Members do not choose to purchase all of the member's membership interests on offer, they will be deemed to be elected not to purchase any of the membership interest, and the Sales member may transfer his membership interest to the Transfer on the same terms and conditions as set out in the Third Party Offer (except for immoral changes to the offer no longer favourable to the Transfer if the provisions are not the Offer). Any transfer made to a Transfer shall not be in force unless it also conspire with all the other provisions of this Agreement in relation to the transfer of member interests, and the Transfers will not become a replaced member unless it is so permitted in accordance with the provisions of this Agreement. If the Transfer to the Transfer has not been made within sixty days of the remaining members' right to purchase, and the member of sale desires to transfer its membership interest, such transfer will only be made after it has again complied with the provisions of this article. 11.5 Allowed affiliate transfer. Any allowed affiliate transfer will not be subject to the provisions of this section 11. SECTION 12 TRANSFERS OF ECONOMIC IMPORTANCE 12.1 Restriction on transfers -Generally. Economic Interest Owners are subject to the same restrictions and conditions relating to the transfer of the Economic Interests as applicable to members who intend to transfer membership interests. All transfers of economic interests must comply with all the conditions of transfer, and any alleged transfer of an economic interest inconsistent with any of the provisions of this Agreement or does not comply with all the conditions of transfer will be self-evict and of no effect. 12.2 Third Party Offer. An economic interest owner (the Sales owner) may transfer all or any portion of his Economic Interest to a third party only if: (a) the transfer must be paid in all cash or share cash and the remainth by a statement note made by the appropriate and (c) such portion of the Salesowner's Economic Interest is presented first to the Company and the other members on the terms and conditions set out in this section. 12.3 Offer to the Company. If the Sales owner desires to accept such a Bona Fide offer, the Sales owner will first make a written offer (the Written Offer) to sell his Economic Interest to the Company on the same terms and conditions on which the Sales owner proposes to convey his Economic Interest, which written offer will be accompanied by a copy of the Bona Fide offer which will set the name of the proposed transfer (the Economic Interest Transfer , including the price, declared in dollars to be paid by the Economic Interest Transfer and the manner of payment. -21- 12.4 Option to Buy. The Company has the right for a period of thirty days after receiving the Written Offer to choose to purchase everything, but not less than all, of the Economic Interest so offered by the Sales owner by giving written notice of this election to the Sales Owner. In order for the Company to choose to purchase the Sales member's Economic Interests, uninterested Members who take more than fifty percent of the Membership Interests of such indispensable members as a whole must consent to the purchase. In such a case, the purchase will be closed and payment will be made on the same terms and conditions as set out in the Written Offer. If the Company refuses to purchase the sales member's economic interest, the Sales owner will be obliged to make the same offer to the remaining members in accordance with the terms and provisions of Section 12.3 of this Agreement. The remaining members have the right for a period of thirty days after receiving the Offer to choose to buy everything, but no less than all, from the Economic Interests so presented by the Sales owner by giving written notice of this election to the Sales owner. In such a case, the purchase will be closed and payment will be made on the same terms and conditions as set out in the Written Offer. Unless otherwise agreed, if more than agreed on a member to purchase, the Members who so prefer will buy the Economic Interest so offered in relation to their respective Sharing Relationships. 12.5 Right to sell. If the Company and the remaining members do not choose to purchase all the sale of owner's economic interest, they will be deemed to be elected not to buy one of the Economic Interest, and the Sales owner may transfer his economic interest to the Economic Interest Transfer on the same terms and conditions set out in the Third Party Offer (except for irresistible changes to the offer that are no longer favourable to the Transfer than the not sitting out in the Offer). Any transfer made to an Economic Interest Transfer will not be in force unless it also complies with all the other provisions of this Agreement relating to the Transfer Economic Interests. If the Transfer to the Economic Interest Transfer is not made within sixty days of the remaining members' right to purchase, and the Sales owner desires to transfer his Economic Interest, such economic transfer will only be made after he has again complied with the provisions of this article. SECTION 13 DEATH, DISSOLUTION OR BANKRUPTCY 13.1 Involuntary transfer event. After death, legal incompetence, bankruptcy, dissolution of marriage or diss the submission of a member (the Transferring Member) which results in any of the importance of the transferring member being transferred (herein referred to as an Involuntary Transfer), the legal representatives or other successor to such transfer must have the same status as an addressee of the member who is not a member. , unless and until the members will allow such legal representative or other successor to become a replacement. Member on the same terms and conditions as provided herein for assigneds in general. The date on which an Involuntary Transfer is referred to herein as the Transfer Date. A natural person is deemed to be incapacitated if it is determined judiciary that the Person is under a legal disability due to incompetence, insanity or incompetence. The appearance of an involuntary transfer in relation to a member will not resolve the Company. The dissolution of the marriage of a member will only be an Involuntary Transfer if the former spouse of the member is awarded or otherwise acquires any interest in the Company. -22- 13.2 Compulsory Sale. In the appearance of an involuntary transfer in relation to any member of transfer, or during the termination of a party's status as the Manager, the Company and then the other members (the Remaining Members) will have the option, but not the obligation, to purchase all or any portion of the Interest of the Transferring Member or the Manager on the terms and conditions set out in this section. The term Transferring Member includes the legal representative of the estate of a deceased member and any other successor to a transferring member. If the Company refuses to purchase all or part of the Transferring Member or Manager's Interest, the Remaining Members will have the right for a period of thirty days from the date of the Company's election not to purchase to purchase all or such portion of the Interest of the Transferring Member or the Manager by giving written notice of such election to the Transferring Member or the Manager. Unless otherwise agreed, if more than one remaining member prefers to purchase, the Remaining Members who so prefer will purchase the Transferring Member or the Manager's Interest in relation to their respective Share Relationships. 13.3 Purchase price. The purchase price for the Interest of the Transferring Member or the Manager (the Purchase Price) is equal to the fair market value of the company's assets owned by, attributable to, the Interest of the Transferring Member or the Manager from the end of the fiscal quarter of the Company immediately before the Transfer Date. The fair market value of the Company's assets will be determined in accordance with the following procedures: (i) proof developed producing oil and gas reserves will be valued by an independent engineering firm selected by the Manager using the PV-10 methodology (future net income discounted to current value using a ten per cent interest rate); (ii) prove undeveloped and proven developed non-producing oil and gas reserves will be valued by the same independent engineering firm using the same methodology with the result that fifty percent is then reduced by fifty percent; (iii) probable reserves may not be assigned any value; and (iv) the remainder of the Company's assets, fewer liabilities, be valued on their respective book values. When determining the purchase price to be paid to the Transferring Member or the Manager, the parties then apply to the aforementioned amounts set by the Transferring Member or the Manager's Share Relationship. 13.4 Payment of purchase price. The purchase price of the member or the Manager's membership interest in terms of this section XIII will be paid, starting thirty days after determining the purchase price, in equal quarterly instalments of principal and interest (using the Prime rate determined at the time of purchase) over a five-year period. 13.5 Actions at the closure. During the conclusion of the purchase and sale of the Transferring Member or the Manager's Interest which will take place thirty days after the determination of the purchase price, (a) the Transferring Member or the Manager must carry out a directive of such interest free and clear of all items and incumbents, and (b) the Company or the Remaining Members, as applicable, a note must carry out to the Transferring Member or the Manager the obligation to pay the purchase price. , e sitting out. The obligation to pay the Purchase Price will be secured by a security interest granted in the purchased Membership Interest. The parties must execute a security agreement and financing statement and take such other actions as may be necessary to perfect such security interest. -23- 13.6 Company decisions. All decisions on behalf of the Company under this section shall be taken by the holders of more than fifty percent of the Membership Interests held by the unintentional Members. SECTION 14 COMPLIANCE WITH SECURITIES ACTS 14.1 No registration. Every interest owner understands that the Interests turned out of this Agreement are not registered under the Securities Laws because the Company is issuing these interests capable of exemption from the registration requirements of the Securities Acts which provides for the issuing of securities not in relation to a public offering: the Company has relied on the that the interests must be held by each member and economic interest owner for investment; release release Securities Laws would not be available if the Interests were acquired by an Interest owner with a view to distribution. 14.2 Investment representation. Each interest owner hereby confirms to the Company that such owner acquires the Interest for such own owner's account, for investment and not for the re-sale or distribution thereof. Every Interest Owner agrees not to transfer any portion of the Membership Interest or Economic Interest, unless there is an effective registration or other qualification related thereto under all applicable Securities Laws, or unless the Interested Owner delivers a legal opinion of a law firm to the Company, and in a form, reasonably acceptable to the Company stating that such registration or other qualification in terms of the securities laws is not in connection with such transfer. , offer or sale. Every interest parent understands that the Company is under no obligation to register the Interests or to assist such interests owner or any transfer to comply with any exemption from registration in terms of Securities Laws if such interests owner wishes to dispose of the Membership Interest or any Economic Interest at a later date. Every Interest owner acknowledges that the membership interests and economic interests are unlikely to qualify for mindset forces under Rule 144 of the U.S. Securities and Exchange Commission unless such interest owner is not an affiliate of the Company and the Membership Interest or Economic Interest has been beneficially owned and paid for at least three years. 14.3 Right to revise. Before an interest in the Company was acquired, each owner will confirm that it has made an investigation of the Company and its business and that there has been all information made available in respect of the Company and its business for it that such interest owner needed to make an informed decision to acquire the Interest and that it considers itself a person who possesses experience and sophistication as an investor adequate to the merits and risks of such interest owner's investment in the Interest. 14.4 Confirmation. By postponing this Agreement, each of the original members confirms its understanding and agreement on the provisions of this article in relation to its membership interest. By agreeing to be bound by this Agreement, any Person who obtains any interest in the Company will be deemed to have confirmed that it must be understanding and agreement bound by all the provisions of this article in relation to the interest gained. -24- SECTION 15 RESIGNATION, CONTINUATION AND DISSOLUTION 15.1 Dissolution. The Company will be dissolved with the appearance of any of the following events: (a) The Approval of the Members; (b) The sale of all the assets of the Company with the Approval of the Members, serving that if the Company receives any deferred or non-cash consideration aggregation with such sale, the Company will not be dissolved until the Manager determines that the survival of the Company is no longer required to collect or hold such deferred non-cash consideration. 15.2 Dissolution. During the dissolution of the Company, the Members will continue, liquidate the Company's affairs within a reasonable time and must submit a declaration of intention to resolve and articles of dissolution as required by the Act. All the terms of this Agreement will continue to apply throughout the dissolution process. Nothing in this is intended to limit the rights or remedies of the Company or other members against any member who wrongly dissolves or attempts to disband the Company. 15.3 Liquidation and Distribution of Assets. After dissolution, the Company will make an accounting of the accounting of the Company and the Company's assets, liabilities and operations by the date of dissolution, and the Manager will immediately continue to liquidate the affairs of the Company. If deemed necessary by members who hold more than fifty percent of the Membership Interests, the accounting will be undertaken by the Company's independent accountants. Throughout the dissolution process, all the provisions of this Agreement will continue to apply, except as limited by the Act. If the Company is dissolved and its business is to be wound up, the Manager must sell or otherwise liquidate all of the company's assets as quickly as feat as feminin (except to the extent that the Manager may determine to distribute any assets to the Members in type), as a result of such sales as a result of such sales to the Capital Accounts of the Members and Economic Interest owners. , as provided for in this Agreement, and distributes the remaining assets of the Company in the following priority: (a) First, to creditors, including members and economic interest owners who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the Company other than liabilities to members and economic interest owners for carvings; (b) Secondly, to establish such Reserves which may be necessary to provide for liabilities or pre-known liabilities of the Company (for purposes of determining the Capital Accounts of the Members and Economic Interest Owners, the amounts of such Reserve shall be deemed to be an expenditure of the Company); and (c) Thirdly, to the Members and Economic Interest Owners of the Company, first to the payments of any positive balances in their respective Capital accounts, and any remaining amount, to the Members and Economic Interest owners in relation to their Share Interests. -25- The Company may offset damages for breach of this Agreement by a member or economic interest owner against the amount otherwise distributable to such member or economic interest owner. Any carvings to the Members or Interest Owners in respect of their Capital Accounts will be made in accordance with the time requirements set out as set out Section 1.704-1(B) (2)(ii)(b)(2) of the Treasury Regulations. During the liquidation, liquidation and distribution of the assets, the Manager must at all times comply with the requirements of any applicable law relating to the liquidation of the affairs of the Company and the final distribution of its assets. 15.4 Articles of Dissolution. When all the debts, liabilities and obligations of the Company have been paid or dismissed or sufficient provisions have therefore been made, and all the remaining property and assets are distributed to the Members and Economic Interest Owners as applicable, the Company will be deemed terminated and articles of dissolution will be carried out and filed with the Montana Secretary of State in accordance with the Act. When issuing the certificate of dissolution, the existence of the Company will cease except for the purposes of suits, other proceedings and appropriate action as determined in the Act. The Manager has authority to distribute any company property discovered after dissolution, transfer real estate and take such other action as may be necessary on behalf of and in the name of the Company as provided in the Act. SECTION 16 ECONOMIC INTEREST OWNERS 16.1 Creation. An economic interest owner is an interest owner who obtains his interest in the Company through a transfer whereby: a member conveys all or part of such member's interest in the Company and there is no approval of the Members for the transfer and admission of the transfer as a replaced member; (b) The Company must acknowledge a transfer that does not comply with the Conditions of Transfer; (c) the Company, at its discretion, prefers to acknowledge a transfer that does not comply with the Conditions of Transfer; (d) the Transfer is the transfer of an economic interest; (e) any other Transfer creates an Economic Interest as provided for in this Agreement. When transferring an economic interest separately and apart from a membership interest, all voting rights previously to such interest will be terminated. 16.2 Rights of Economic Interest owner. An economic interest owner is only entitled to receive the share of Profits or other compensation by means of income and the proceeds of contributions to which the transferring member under which the Economic Interest was created would otherwise have been entitled in relation to the interest transferred, and an Economic Interest owner will be awarded the share of company income. , profit, loss, deduction and credit that would otherwise be awarded to the transferring member in relation to such interest. An Economic Interest Owner will from time to time receive reasonable amounts of information on the affairs of the Company; will not be entitled to vote on company matters; and may not have any of the other rights of a member in terms of the Act or this Agreement. -26- 16.3 Carvings. If there is any economic interest in the Company, any provision of this Agreement for carving out to Members shall be deemed to mean carvings to Interest Owners in relation to their respective Sharing Relationships. 16.4 Relation to Membership Interest. Every Economic Interest shall relate to the original membership interest from which it was created with the purposes of determining the rights and obligations of the Economic Interest owner, including, but not limited to: (a) liability to the Company for the return of the Capital Contribution of such membership interest as may be required in terms of this Agreement; and (b) the right of the Company to comply with the debt, obligations or liabilities for damages which may have the transfer or transfer of such membership interest to the Company, including, but not limited to, the right to satisfy the same by any allocations and carvings that would otherwise have been made in respect of the Membership Interest. 16.5 Liability to the Company. An economic interest owner who rightly receives the return in whole or in part of a capital contribution, as defined in the Act, may be liable to the Company for the return of the contribution, but only to the extent now or after this provided by the Act. Any unresolved dispute or controversy arising under or in connection with this Agreement shall be resolved through binding arbitration administered by the Judicial Arbitrator Group (JAG), and, except as expressly determined in this Agreement, must be carried out in accordance with the Commercial Arbitration Rules of the JAG, as such rules may be amended from time to time (the Rules). The hearing venues will be Denver, Colorado. The arbitrator or arbitrators (the Arbitrators) will be selected according to the Rules. The Arbiters' decision (the Decision) will be binding, and the ruling party may enforce the Decision in any court of competent jurisdiction. The parties will use their best efforts to cooperated with each other so that the arbitration is kept as efficient and expediting a manner as feasible, including but not limited to providing such documents and making available to such a staff as the Arbiters may request, so that the decision can be reached on time. The authority of the Arbiters will be limited to decisive liability for, and the proper amount of, a claim, and the Arbiters will have no authority to award punitive damages. The Arbitrators must have such powers and establish such procedures provided for in the Rules, as long as such powers and procedures are in accordance with this Agreement and are required to resolve the arbitrated dispute within the periods specified in this Agreement. Notwithstanding the above, the Arbiters will allocate reasonable attorney's fees and costs to the ruling party. The Arbitrators will make a decision within days after being appointed to serve as Arbitrator unless the parties otherwise agree in whether the Arbiters make a finding that a party carried the burden for showing good reason for a longer period of time, such as obtaining the necessary documentation and other reasonable discovery. 17.2 Amendment. No amendment or amendment to this Agreement will be in force unless such amendment or amendment will be in writing and signed by all the Members. -27- 17.3 Advantage. Subject to the restrictions on transfer set out herein, this Agreement will be binding, and for the benefit of the Members and Economic Interest Owners (if any), and their respective heirs, allotted allocations, excurs, administrators and successors. 17.4 Applicable legislation. This Agreement will be deemed to be made under, and will be made out in accordance with, the laws of the state of Montana. 17.5 Waiver of Partition. Each of the Members hereby waives any right he may have to partition any property now held or after this obtained by the Members. 17.6 Execution in Peers. This agreement can be carried out in any number of peers with the same effect as if all parties have signed the same document. All peers must be stuck out together and will make up one deal. 17.7 Time of the Essation. Time is of the essent under this Agreement. 17.8 Severly. If any of the provisions of this Agreement are to any extent invalid or unruly, the rest of this Agreement will take full effect and take effect to the fullest extent possible. 17.9 Whole agreement. This Agreement embodies the entire understanding and agreement between the parties contained in relation to the matters contained herein, and loses all prior negotiations, understandings or agreements with respect therein, whether in writing or verbally. 17.10 Waiver. No provision of this Agreement may be waived except by an agreement signed by all parties herein. A waiver of any term or provision will not be left out as a waiver of any other term or provision. 17.11 Headings. The subject headings used in this Agreement are included for reference purposes only, and will not affect the construction or interpretation of any of its terms. 17.12 Notices. All notices required or permitted by this Agreement must be in writing and must be given by personal delivery or sent to the address of the party set out in this Agreement by registered or certified mail, postal paid, return receipt requested, or recognised by reliable overnight attendant, prepaid receipt. Notices are deemed to be received at the earlier date of actual receipt or, in the event of notification by email or overnight courier, the date of receipt marked on the recognition of receipt, rejection or refusal to accept or the inability to deliver due to the change of of which no notice will be given from the date on which such notice was deposited in the post or delivered to the courier. Any party can change its address to which notifications must be sent to it by the Company and the Members written notice of the new address in the manner set out in this paragraph. 17.13 Construction. Through this Agreement the singular will include the plural, the plural will include the singular, and all generations will be deemed to include other generations, wherever the context requires. 17.14 Further Acts. At reasonable request of a party heretoe, from time to time, each party shall conduct and deliver such additional documents and instruments and take such other actions as may reasonably be necessary to establish the intentions and purposes of this Agreement -28- 17.15 Attorney's fees. In the event of any litigation or arbitration proceedings between the parties hereto in relation to the subject of this Agreement, the ruling party shall be allocated in such litigation or proceedings, in addition to the amount of any judgement or other allocation incurred therein, the costs and expenses, including reasonable attorney's fees, incurred by the ruling party in the litigation or proceedings. 17.16 Authority. Each of the parties for this represents to the other that such party has full power and authority to execute, deliver and execute this Agreement, and that the individuals who are fully empowered and authorised to do so are executed on behalf of the fully empowered. 17.17 No beneficiaries. No third parties (including but not limited to creditors of members and economic interest owners) are intended to benefit from the covenants, agreements, representations, guarantees or any other terms or conditions of this Agreement. 17.18 References to Laws, Rules and Regulations. All references in this Agreement to laws, articles of association, rules, regulations, ordinances and other promulgations of government authorities shall refer to those in effect from the date of this Agreement or corresponding provisions of such announcements. 17.19 Drugs. All rights and remedies set out in this Agreement are intended to be cumulative and not exclusive. (Rest of the page deliberately left empty) -29- THIS AGREEMENT is carried out effectively due to the day and year first written above. MEMBERS: Nautilus Technical Group, LLC By: /s/ Roland E. Blauer Name: Roland E. Blauer Title: Manager White Bear, LLC By: /s/Nikolay V. Bogachev Name: Nikolay V. Bogachev Title: Owner East Rider, LLC By: /s/J. Thomas Wilson Name: J. Thomas Wilson Title: Member - Manager YEP I. SICAV-FIS By: /s/P. Hansen Name: P. Hansen Title: Director By: /s/P. Kaufmann Name: P. Kaufman Title: Director -30- -30- -30- -30-