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ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

(Mark One)

☒ **Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

for the fiscal year ended December 31, 2012

OR

o **Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the transition period to

Commission File Number 001-32505

TRANSMONTAIGNE PARTNERS L.P.

(Exact name of registrant as specified in its charter)

Delaware	**34-2037221**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

Suite 3100, 1670 Broadway
Denver, Colorado 80202
(Address, including zip code, of principal executive offices)

(303) 626-8200
(Telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Limited Partner Units	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: **NONE**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes o No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes o No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No o

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer o	Accelerated filer ☒	Non-accelerated filer o (Do not check if a smaller reporting company)	Smaller reporting company o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act) Yes o No ☒

The aggregate market value of common limited partner units held by non-affiliates of the registrant on June 30, 2012 was $368,871,028, computed by reference to the last sale price ($33.26 per common unit) of the registrant's common limited partner units on the New York Stock Exchange on June 29, 2012.

The number of the registrant's common limited partner units outstanding on February 28, 2013 was 14,457,066.

DOCUMENTS INCORPORATED BY REFERENCE
None.

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Our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K (including exhibits), and any amendments to such reports, will be available free of charge on our website at *www.transmontaignepartners.com* under the heading "Unitholder Information," "SEC Filings" as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission. A copy of this annual report on Form 10-K, (without exhibits) will be furnished without charge to any unitholder who sends a written request to our offices, addressed as follows: TransMontaigne Partners L.P., Attention: Investor Relations, 1670 Broadway, Suite 3100, Denver, Colorado 80202.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This annual report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, including the following:

- any statements contained in this annual report regarding the prospects for our business or any of our services or our ability to pay distributions;
- any statements preceded by, followed by or that include the words "may," "seeks," "believes," "expects," "anticipates," "intends," "continues," "estimates," "plans," "targets," "predicts," "attempts," "is scheduled," or similar expressions; and
- other statements contained in this annual report regarding matters that are not historical facts.

Our business and results of operations are subject to risks and uncertainties, many of which are beyond our ability to control or predict. Because of these risks and uncertainties, actual results may differ materially from those expressed or implied by forward-looking statements, and investors are cautioned not to place undue reliance on such statements, which speak only as of the date thereof.

Important factors, many of which are described in more detail in "Item 1A. Risk Factors" of this annual report, that could cause actual results to differ materially from our expectations include, but are not limited to:

- failure by any of our significant customers to continue to engage us to provide services after the expiration of existing terminaling services agreements or our failure to secure comparable alternative arrangements;
- the expiration of our material terminaling services agreements with Morgan Stanley Capital Group could result in a default under the credit facility if we are unable to secure adequate replacement agreements;
- the impact of Morgan Stanley's status as a bank holding company on its ability to conduct certain nonbanking activities or retain certain investments, including control of our general partner;
- whether we are able to generate sufficient cash from operations to enable us to maintain or grow the amount of the quarterly distribution to our unitholders;
- a reduction in revenue from any of our significant customers upon which we rely for a substantial majority of our revenue;
- the continued creditworthiness of, and performance by, our significant customers;
- our ability to grow our business will be severely constrained by Morgan Stanley's determination that it will not approve any "significant" acquisition or investment that we may propose for the foreseeable future;
- changes that Morgan Stanley may make in the manner it conducts its commodities business could materially and adversely affect our business;

- a lack of access to new capital would impair our ability to expand our operations;
- the lack of availability of acquisition opportunities, constraints on our ability to make acquisitions, failure to successfully integrate acquired facilities and future performance of acquired facilities, could limit our ability to grow our business successfully and could adversely affect the price of our limited partnership units;
- a decrease in demand for products due to high prices, alternative fuel sources, new technologies or adverse economic conditions;
- our debt levels and restrictions in our debt agreements that may limit our operational flexibility;
- competition from other terminals and pipelines that may be able to supply our significant customers with terminaling services on a more competitive basis;
- the ability of our significant customers to secure financing arrangements adequate to purchase their desired volume of product;
- the impact on our facilities or operations of extreme weather conditions, such as hurricanes, and other events, such as terrorist attacks or war and costs associated with environmental compliance and remediation;
- we may have to refinance our existing debt in unfavorable market conditions;
- the failure of our existing and future insurance policies to fully cover all risks incident to our business;
- timing, cost and other economic uncertainties related to the construction of new tank capacity or facilities;
- the impact of current and future laws and governmental regulations, general economic, market or business conditions;
- the age and condition of many of our pipeline and storage assets may result in increased maintenance and remediation expenditures;
- conflicts of interest and the limited fiduciary duties of our general partner, which is indirectly controlled by Morgan Stanley Capital Group;
- cost reimbursements, which are determined by our general partner, and fees paid to our general partner and its affiliates for services will continue to be substantial;
- the control of our general partner being transferred to a third party without unitholder consent;
- our general partner's limited call right may require unitholders to sell their common units at an undesirable time or price;
- our ability to issue additional units without your approval would dilute your existing ownership interest;
- the possibility that our unitholders could be held liable under some circumstances for our obligations to the same extent as a general partner;
- our failure to avoid federal income taxation as a corporation or the imposition of state level taxation;
- constraints on our ability to make acquisitions and investments to increase our capital asset base may result in future declines in our tax depreciation;
- the impact of new IRS regulations or a challenge of our current allocation of income, gain, loss and deductions among our unitholders;

- unitholders will be required to pay taxes on their respective share of our taxable income regardless of the amount of cash distributions;
- investment in common partnership units by tax-exempt entities and non-United States persons raises tax issues unique to them;
- unitholders will likely be subject to state and local taxes and return filing requirements in states where they do not live as a result of investing in our units; and
- the sale or exchange of 50% or more of our capital and profits interests within a 12-month period would result in a deemed termination of our partnership for income tax purposes.

We do not intend to update these forward-looking statements except as required by law.

Part I

ITEMS 1 AND 2. BUSINESS AND PROPERTIES

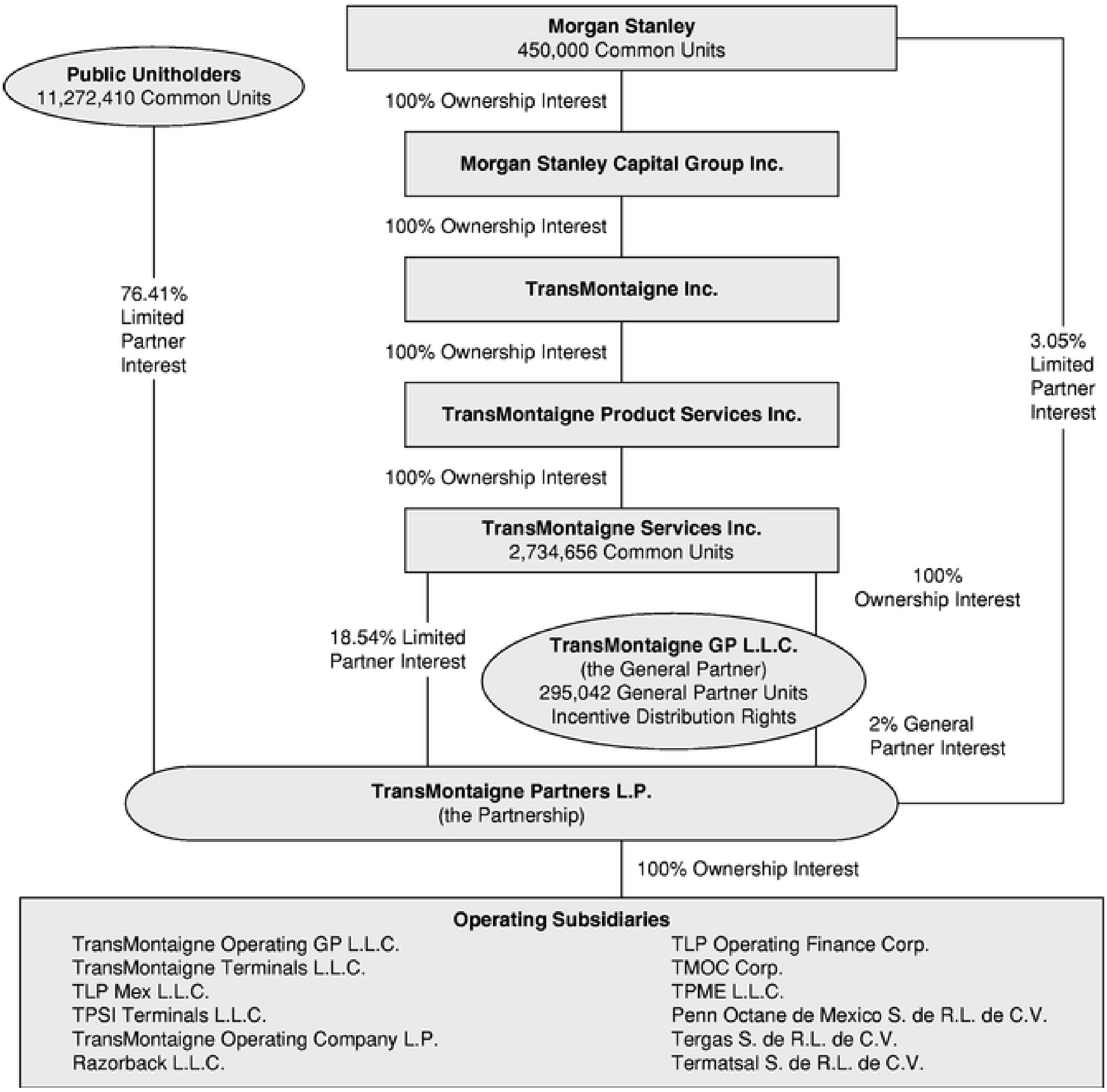
TransMontaigne Partners L.P. is a publicly traded Delaware limited partnership formed in February 2005 by TransMontaigne Inc. We commenced operations upon the closing of our initial public offering on May 27, 2005. Our common units are traded on the New York Stock Exchange under the symbol "TLP." Our principal executive offices are located at 1670 Broadway, Suite 3100, Denver, Colorado 80202; our telephone number is (303) 626-8200.

Our general partner is TransMontaigne GP L.L.C., which is indirectly wholly owned and controlled by TransMontaigne Inc. In 2006, TransMontaigne Inc. was acquired by Morgan Stanley Capital Group, Inc., which is indirectly wholly owned and controlled by Morgan Stanley. As a result, Morgan Stanley controls our general partner. Unless the context requires otherwise, references to "we," "us," "our," "TransMontaigne Partners," "Partners" or the "partnership" are intended to mean TransMontaigne Partners L.P. (and our wholly owned and controlled operating subsidiaries). References to TransMontaigne Inc. are intended to mean TransMontaigne Inc. and its subsidiaries other than TransMontaigne GP L.L.C., our general partner, and TransMontaigne Partners and its subsidiaries. Unless otherwise indicated in this annual report, references to common units owned by Morgan Stanley or its percentage ownership interest in us do not include common units that may be held in client or customer accounts controlled by affiliates of Morgan Stanley, which Morgan Stanley may be deemed to beneficially own under the federal securities laws.

OVERVIEW

We are a terminaling and transportation company with operations primarily in the United States along the Gulf Coast, in the Midwest, in Brownsville, Texas, along the Mississippi and Ohio Rivers, and in the Southeast. We provide integrated terminaling, storage, transportation and related services for customers engaged in the distribution and marketing of light refined petroleum products, heavy refined petroleum products, crude oil, chemicals, fertilizers and other liquid products. Light refined products include gasolines, diesel fuels, heating oil and jet fuels. Heavy refined products include residual fuel oils and asphalt. We do not purchase or market products that we handle or transport. Therefore, we do not have material direct exposure to changes in commodity prices, except for the value of refined product gains and losses arising from terminaling services agreements with certain customers.

TransMontaigne Partners has no officers or employees and all of our management and operational activities are provided by officers and employees of TransMontaigne Services Inc. TransMontaigne Services Inc. is an indirect wholly owned subsidiary of TransMontaigne Inc. TransMontaigne Inc. is an indirect wholly owned subsidiary of Morgan Stanley. We are controlled by our general partner, TransMontaigne GP L.L.C., which is an indirect wholly owned subsidiary of TransMontaigne Inc. TransMontaigne GP L.L.C. is a holding company with no independent assets or operations other than its general partner interest in TransMontaigne Partners L.P. TransMontaigne GP L.L.C. is dependent upon the cash distributions it receives from TransMontaigne Partners L.P. to service any obligations it may incur. The following diagram depicts our organization and structure:



TransMontaigne Inc. is a leading distributor of unbranded refined petroleum products to independent wholesalers, distributors and industrial and commercial end users, delivering approximately 0.3 million barrels per day throughout the United States, primarily in the Gulf Coast, Northeast, Southeast and Midwest regions. TransMontaigne Inc. currently relies on us to provide integrated terminaling services to support its operations in these geographic regions other than the Northeast.

Morgan Stanley is a leading global trading company with extensive trading activities focused on the energy markets, including crude oil and refined petroleum products. Morgan Stanley Capital Group is the principal commodities trading arm of Morgan Stanley. Morgan Stanley Capital Group's trading and risk management activities cover a broad spectrum of the energy industry with extensive resources dedicated to refined product supply and transportation. Morgan Stanley Capital Group engages in trading physical commodities, like the refined petroleum products that we handle in our terminals, and exchange or over-the-counter commodities derivative instruments. Morgan Stanley Capital Group has access to substantial strategic long-term storage capacity located on all three coasts of the United States, in Northwest Europe and Asia. Morgan Stanley Capital Group is our largest customer by volume and revenue.

Our existing facilities are located in five geographic regions, which we refer to as our Gulf Coast, Midwest, Brownsville, River and Southeast facilities.

- ***Gulf Coast.*** Our Gulf Coast facilities consist of eight refined product terminals, which are all located in Florida. These facilities currently have approximately 6.9 million barrels of aggregate active storage capacity.

- ***Midwest.*** Our Midwest facilities consist of a 67-mile, interstate refined products pipeline between Missouri and Arkansas, which we refer to as the Razorback pipeline, and three refined product terminals and one crude oil terminal with approximately 1.6 million barrels of aggregate active storage capacity.

- ***Brownsville.*** Effective as of April 1, 2011, we entered into a joint venture with P.M.I. Services North America Inc., or "PMI", an indirect subsidiary of Petroleos Mexicanos or "PEMEX", the Mexican state- owned petroleum company, at our Brownsville, Texas terminal. We contributed approximately 1.4 million barrels of light petroleum product storage capacity, as well as related ancillary facilities, to the joint venture, also known as Frontera Brownsville LLC or "Frontera", in exchange for a cash payment of approximately $25.6 million and a 50% ownership interest. We operate the Frontera assets under an operations and reimbursement agreement between us and Frontera. We continue to own and operate approximately 0.9 million barrels of additional tankage in Brownsville independent of Frontera, which includes a liquefied petroleum gas, or LPG, terminaling facility with aggregate active storage capacity of approximately 33,000 barrels. We own and operate an LPG pipeline from our Brownsville facilities to our terminal in Matamoros, Mexico which we refer to as the Diamondback pipeline. Our Matamoros terminal has approximately 7,000 barrels of aggregate active LPG storage capacity. We also operate a bi-directional refined products pipeline for PMI for deliveries to and from Brownsville and Reynosa and Cadereyta, Mexico.

- ***River.*** Our River facilities are composed of 12 refined product terminals located along the Mississippi and Ohio Rivers with approximately 2.8 million barrels of aggregate active storage capacity. Our River facilities also include a dock facility located in Baton Rouge, Louisiana that is connected to the Colonial pipeline.

- ***Southeast.*** Our Southeast facilities consist of 22 refined product terminals located along the Colonial and Plantation pipelines in Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Virginia with an aggregate active storage capacity of approximately 10.0 million barrels.

The volume of product that is handled, transported, throughput or stored in our terminals and pipelines is directly affected by the level of supply and demand in the wholesale markets served by our terminals and pipelines. Overall supply of refined products in the wholesale markets is influenced by the products' absolute prices, the availability of capacity on delivering pipelines and vessels, fluctuating refinery margins and the markets' perception of future product prices. The demand for gasoline typically peaks during the summer driving season, which extends from April to September, and declines during the fall and winter months. The demand for marine fuels typically peaks in the winter months due to the increase in the number of cruise ships originating from Florida ports. Despite these seasonalities, the overall impact on the volume of product throughput at our terminals and pipelines is not material.

Industry Overview

Refined product terminaling and transportation companies, such as TransMontaigne Partners, receive, store, blend, treat and distribute foreign and domestic cargoes to and from oil refineries, wholesalers, retailers and ultimate end-users around the country. The substantial majority of the petroleum refining that occurs in the United States is concentrated in the Gulf Coast region, which necessitates the transportation of this domestic product to other areas, such as the East Coast, Florida, Southeast and Midwest regions of the country. Recently, an increased amount of domestic crude oil is being extracted throughout unconventional shale formations (i.e. Bakken, Eagle Ford, Utica, etc.). These shale formations are generally located in areas that are highly constrained in storage transportation infrastructure; thereby offering the prospect of new growth and development for terminaling and transportation companies such as TransMontaigne Partners.

Refining. The storage and handling services of feedstocks or crude oil used in the refining process are generally handled by terminaling and transportation companies such as TransMontaigne Partners. United States based refineries refine multiple grades of feedstock or crude oil into various light refined products and heavy refined products. Light refined products include gasoline and diesel fuel, as well as propane, butane, heating oils and jet fuels. Heavy refined products include residual fuel oils for consumption in ships and power plants and asphalt. Refined products of specific grade and characteristics are substantially identical in composition from one refinery to another and are referred to as being "fungible." The refined products are initially staged at the refinery, and then shipped out either in large "batches" via pipeline or vessel or by individual truck-loads. The refineries owned by major oil companies then schedule for delivery some of their refined product output to satisfy their own retail delivery obligations, for example, at branded gasoline stations, and sell the remainder of their refined product output to independent marketing and distribution companies or traders, such as TransMontaigne Inc. and Morgan Stanley Capital Group, for resale.

Transportation. Before an independent distribution and marketing company, such as TransMontaigne Inc. and Morgan Stanley Capital Group, distributes refined petroleum products into wholesale markets, it must first schedule that product for shipment by tankers, barges, railcars or on common carrier pipelines to a liquid bulk terminal.

Refined product is transported to marine terminals, such as our Gulf Coast terminals and Baton Rouge, Louisiana dock facility, by vessels or barges. Because there are economies of scale in transporting products by vessel, marine terminals with larger storage capacities for various commodities have the ability to offer their customers lower per-barrel freight costs to a greater extent than do terminals with smaller storage capacities.

Refined product reaches inland terminals, such as our Southeast and Midwest terminals, primarily by common carrier pipelines. Common carrier pipelines are pipelines with published tariffs that are regulated by the Federal Energy Regulatory Commission, or FERC, or state authorities. These pipelines ship fungible refined products in multiple cycles of large batches, with each batch generally consisting of product owned by several different companies. As a batch of product is shipped on a pipeline, each terminal operator along the way draws the volume of product that is scheduled for that facility as the batch passes in the pipeline. Consequently, each terminal operator must monitor the type of product in the common carrier pipeline to determine when to draw product scheduled for delivery to that terminal. In addition, both the common carrier pipeline and the terminal operator monitor the volume of product drawn to ensure that the amount scheduled for delivery at that location is actually received.

At both inland and marine terminals, the various products are stored in tanks on behalf of our customers.

Delivery. Most terminals have a tanker truck loading facility commonly referred to as a "rack." Often, commercial and industrial end-users and independent retailers rely on independent trucking companies to pick up product at the rack and transport it to the end-user or retailer at its specified location. Each truck holds an aggregate of approximately 8,000 gallons (approximately 190 barrels) of various refined products in different compartments. To initiate the loading of product, the driver uses an access control card that identifies the customer purchasing the refined product, the carrier and the driver as well as the type or grade of refined products to be pumped into the truck. A computerized system electronically reviews the credentials of the carrier, including insurance and certain mandated certifications, and confirms the customer is within product allocation or credit limits. When all conditions are verified as being current and correct, the system authorizes the delivery of the refined product to the truck. As refined product is being loaded into the truck, ethanol, bio diesel or additives are injected to conform to government specifications and individual customer requirements. As part of the Renewable Fuel Standard Act, ethanol and biodiesel are often blended with the refined product across the rack to create a certain "spec" of saleable product. Additionally, if a truck is loading gasoline for retail sale by an independent gasoline station, generic additives will be added to the gasoline as it is loaded into the truck. If the gasoline is for delivery to a branded retail gasoline station, the proprietary additive compound of that particular retailer will be added to the gasoline as it is loaded. The type and amount of additive are electronically and mechanically controlled by equipment located at the truck loading rack. Generally one to two gallons of additive are injected into an 8,000 gallon truckload of gasoline.

At marine terminals, the refined product stored in tanks may be delivered to tanker trucks over a rack in the same manner as at an inland terminal or be delivered onto large ships, ocean-going barges, or inland barges for delivery to various distribution points around the world. In addition, cruise ships and other vessels are fueled through a process known as "bunkering", either at the dock, through a pipeline, or by truck or barge. Cruise ships typically purchase approximately 6,000 to 8,000 barrels, the equivalent of approximately 42 tanker truckloads, of bunker fuel per refueling. Bunker fuel is a mixture of residual fuel oil and diesel fuel. Each large vessel generally requires its own mixture of bunker fuel to match the distinct characteristics of that ship's engines and turbines. Because the mixture for each ship requires precision to mix and deliver, cruise ships often prefer to obtain their fuel from experienced companies such as TransMontaigne Inc.

Our Operations

We are a terminaling and transportation company with operations primarily in the United States along the Gulf Coast, in the Midwest, in Brownsville, Texas, along the Mississippi and Ohio Rivers, and in the Southeast. We use our terminaling facilities to, among other things:

- receive refined products from the pipeline, ship, barge or railcar making delivery on behalf of our customers, and transfer those refined products to the tanks located at our terminals;
- store the refined products in our tanks for our customers;
- monitor the volume of the refined products stored in our tanks;
- distribute the refined products out of our terminals in vessels or truckloads using truck racks and other distribution equipment located at our terminals, including pipelines; and
- heat residual fuel oils and asphalt stored in our tanks, and provide other ancillary services related to the throughput process.

We derive revenue from our terminal and pipeline transportation operations by charging fees for providing integrated terminaling, transportation and related services. The fees we charge and our other sources of revenue are composed of:

- ***Terminaling Services Fees.*** We generate terminaling services fees by distributing and storing products for our customers. Terminaling services fees include throughput fees based on the volume of product distributed from the facility, injection fees based on the volume of product injected with additive compounds and storage fees based on a rate per barrel of storage capacity per month.

- ***Pipeline Transportation Fees.*** We earn pipeline transportation fees on our Razorback pipeline and Diamondback pipeline and the Ella-Brownsville pipeline, which in January 2013 we began leasing from a third party, based on the volume of product transported and the distance from the origin point to the delivery point. The Federal Energy Regulatory Commission, or FERC, regulates the tariff on the Razorback, Diamondback and Ella-Brownsville pipelines.

- ***Management Fees and Reimbursed Costs.*** We manage and operate certain tank capacity at our Port Everglades (South) terminal for a major oil company and receive a reimbursement of its proportionate share of operating and maintenance costs. We manage and operate for an affiliate of PEMEX, Mexico's state-owned petroleum company, a bi-directional products pipeline connected to our Brownsville, Texas terminal facility and receive a management fee and reimbursement of costs. Effective as of April 1, 2011, we entered into the Frontera joint venture. We manage and operate Frontera and receive a management fee based on our costs incurred.

- ***Other Revenue.*** We provide ancillary services including heating and mixing of stored products, product transfer services, railcar handling, wharfage fees and vapor recovery fees. Pursuant to certain terminaling services agreements with our throughput customers, we are entitled to the volume of net product gained resulting from differences in the measurement of product volumes received and distributed at our terminaling facilities. Consistent with recognized industry practices, measurement differentials occur as the result of the inherent variances in measurement devices and methodology. We recognize as revenue the net proceeds from the sale of the product gained.

Further detail regarding our financial information can be found under Item 8. "Financial Statements and Supplementary Data" of this annual report.

The locations and approximate aggregate active storage capacity at our terminal facilities as of December 31, 2012 are as follows:

Locations	Active storage capacity (shell bbls)
Gulf Coast Facilities	
Florida	
Port Everglades Complex	
Port Everglades-North	2,487,000
Port Everglades-South(1)	377,000
Jacksonville	271,000
Cape Canaveral	724,000
Port Manatee	1,375,000
Pensacola	270,000
Fisher Island	673,000
Tampa	760,000
Gulf Coast Total	6,937,000
Midwest Facilities	
Rogers, AR and Mount Vernon, MO (aggregate amounts)	406,000
Cushing, OK	1,005,000
Oklahoma City, OK	158,000
Midwest Total	1,569,000
Brownsville Facilities	
Brownsville, TX	929,000
Frontera(2)	1,426,000
Matamoros, Mexico	7,000
Brownsville Total	2,362,000
River Facilities	
Arkansas City, AR	608,000
Evansville, IN	245,000
New Albany, IN	176,000
Greater Cincinnati, KY	158,000
Henderson, KY	182,000
Louisville, KY	150,000
Owensboro, KY	157,000
Paducah, KY	322,000
Baton Rouge, LA (Dock)	—
Greenville, MS (Clay Street)	350,000
Greenville, MS (Industrial Road)	56,000
Cape Girardeau, MO	140,000
East Liverpool, OH	227,000
River Total	2,771,000

Locations	Active storage capacity (shell bbls)
Southeast Facilities	
Albany, GA	203,000
Americus, GA	93,000
Athens, GA	203,000
Bainbridge, GA	377,000
Belton, SC	—
Birmingham, AL	178,000
Charlotte, NC	121,000
Collins/Purvis, MS	3,419,000
Collins, MS	200,000
Doraville, GA	438,000
Fairfax, VA	513,000
Greensboro, NC	479,000
Griffin, GA	107,000
Lookout Mountain, GA	221,000
Macon, GA	174,000
Meridian, MS	139,000
Montvale, VA	503,000
Norfolk, VA	1,336,000
Richmond, VA	478,000
Rome, GA	152,000
Selma, NC	529,000
Spartanburg, SC	166,000
Southeast Total	10,029,000
TOTAL CAPACITY	23,668,000

(1) Reflects our ownership interest net of a major oil company's ownership interest in certain tank capacity.

(2) Reflects the total active storage capacity of Frontera, of which we have a 50% ownership interest.

Gulf Coast Operations. Our Gulf Coast operations include eight refined product terminals located in Florida. At our Gulf Coast terminals we handle refined products and crude oil on behalf of, and provide integrated terminaling services to, customers engaged in the distribution and marketing of refined products and crude oil and the United States government. Our Gulf Coast terminals receive refined products from vessels on behalf of our customers. In addition, our Jacksonville terminal also receives asphalt by rail and our Port Everglades (North) terminal also receives product by truck. We distribute by truck or barge at all of our Gulf Coast terminals. In addition, we distribute products by pipeline at our Port Everglades and Tampa terminals. A major oil company retains an ownership interest, ranging from 25% to 50%, in specific tank capacity at our Port Everglades (South) terminal. We manage and operate the Port Everglades (South) terminal, and we are reimbursed by the major oil company for its proportionate share of our operating and maintenance costs.

The principal customers at our Gulf Coast facilities are Marathon Petroleum Company LLC, which we refer to as Marathon, and Morgan Stanley Capital Group. Our terminaling services agreement with Morgan Stanley Capital Group relating to our Florida operations expires May 31, 2014, unless extended by Morgan Stanley Capital Group on or before November 30, 2013. In February 2013, representatives of Morgan Stanley Capital Group indicated that they intend to extend or enter into new terminaling services agreements covering our Florida terminals for periods after the current agreements expire.

Midwest Terminals and Pipeline Operations. In Missouri and Arkansas we own and operate the Razorback pipeline and terminals in Mount Vernon, Missouri, at the origin of the pipeline and in Rogers, Arkansas, at the terminus of the pipeline. We refer to these two terminals collectively as the Razorback terminals. The Razorback pipeline is a 67-mile, 8-inch diameter interstate common carrier pipeline that transports light refined product on behalf of Morgan Stanley Capital Group from our terminal at Mount Vernon, where it is interconnected with a pipeline system owned by Magellan Midstream Partners, to our terminal at Rogers. The Razorback pipeline has a capacity of approximately 30,000 barrels per day. The FERC regulates the transportation tariffs for interstate shipments on the Razorback pipeline. Morgan Stanley Capital Group currently is the only shipper on the Razorback pipeline and our sole customer at our Rogers and Mount Vernon terminals.

We also own and operate a terminal facility at Oklahoma City, Oklahoma. Our Oklahoma City terminal receives gasolines and diesel fuels from a pipeline system owned by Magellan Midstream Partners for delivery via our truck rack to Shell Oil Products U.S., which we refer to as Shell, for redistribution to locations throughout the Oklahoma City region.

In 2011, we entered into agreements for the construction and operation of approximately 1.0 million barrels of crude oil storage in Cushing, Oklahoma. Pursuant to such agreements, we leased a portion of land in Cushing, Oklahoma and constructed storage tanks and associated infrastructure on that property for the receipt of crude oil by truck and pipeline, the blending of crude oil and the storage of approximately 1.0 million barrels of crude oil. The facility was completed and placed into service in August 2012. We have entered into a long-term services agreement with Morgan Stanley Capital Group Inc. for the use of the facility.

Brownsville, Texas Operations. Effective as of April 1, 2011, we entered into the Frontera joint venture with PMI at our Brownsville, Texas terminal. We contributed approximately 1.4 million barrels of light petroleum product storage capacity, as well as related ancillary facilities, to the Frontera joint venture, in exchange for a cash payment of approximately $25.6 million and a 50% ownership interest. PMI acquired the remaining 50% ownership interest in Frontera for a cash payment of approximately $25.6 million. We operate the Frontera assets under an operations and reimbursement agreement between us and Frontera.

We continue to own and operate approximately 0.9 million barrels of additional tankage and related ancillary facilities in Brownsville independent of the Frontera joint venture, as well as the Diamondback pipeline which handles liquid product movements between Mexico and south Texas. At our Brownsville terminal we handle refined petroleum products, chemicals, vegetable oils, naphtha, wax and propane on behalf of, and provide integrated terminaling services to, customers engaged in the distribution and marketing of refined products and natural gas liquids. Our Brownsville facilities receive refined products on behalf of our customers from vessels, by truck or railcar. We also receive natural gas liquids by pipeline.

The Diamondback pipeline consists of an 8" pipeline that transports LPG approximately 23 miles from our Brownsville facilities to our Matamoros terminal, with approximately 16 miles located in Texas and approximately 7 miles located in Mexico and a 6" pipeline, which runs parallel to the 8" pipeline, that can be used by us in the future to transport additional LPG or refined products to our Matamoros terminal. The 8" pipeline has a capacity of approximately 20,000 barrels per day. The 6" pipeline has a capacity of approximately 12,000 barrels per day.

Beginning in January 2013, we leased the capacity on the Ella-Brownsville pipeline from Seadrift Pipeline Corporation, which transports LPG from two points of origin to our terminal in Brownsville: from Exxon King Ranch in Kleberg County, Texas 121 miles to Brownsville and an additional 11 miles beginning near the Exxon King Ranch terminus to the DCP LaGloria Gas Plant in Jim Wells County, Texas.

We also operate and maintain the United States portion of a 174-mile bi-directional refined products pipeline owned by PMI. This pipeline connects our Brownsville terminal complex to a pipeline in Mexico that delivers to PEMEX's terminal located in Reynosa, Mexico and terminates at PEMEX's refinery, located in Cadereyta, Nuevo Leon, Mexico, a suburb of the large industrial city of Monterrey. The pipeline transports refined products and blending components. We operate and manage the 18-mile portion of the pipeline located in the United States for a fee that is based on the average daily volume handled during the month. Additionally, we are reimbursed for non-routine maintenance expenses based on the actual costs plus a fee based on a fixed percentage of the expense.

The customers we serve at our Brownsville terminal facilities consist principally of wholesale and retail marketers of refined products and industrial and commercial end-users of refined products, waxes and industrial chemicals. Our principal customers are Valero Marketing and Supply Company, which we refer to as Valero, TransMontaigne Inc. and PMI Trading Limited.

River Operations. Our River facilities include 12 refined product terminals along the Mississippi and Ohio Rivers and the Baton Rouge, Louisiana dock facility. At our River terminals, we handle gasolines, diesel fuels, heating oil, chemicals and fertilizers on behalf of, and provide integrated terminaling services to, customers engaged in the distribution and marketing of refined products and industrial and commercial end-users. Our River terminals receive products from vessels and barges on behalf of our customers and distribute products primarily to trucks and barges. The principal customer at our River facilities is Valero. Our terminaling services agreement with Valero for approximately 1.1 million barrels of tankage capacity in our River facilities (out of approximately 23.7 million barrels of active storage capacity across our entire system) will expire on March 31, 2013. Valero has indicated an interest in contracting for only a portion of its current capacity in our River facilities after its current terminaling services agreement expires. At this time we are negotiating a new terminaling services agreement with Valero for certain capacity at the terminals covered under the existing terminaling services agreement. We are also in discussions with prospective new and existing customers to engage our services for the terminal capacity that will become available when the Valero agreement expires.

Southeast Operations. Our Southeast facilities include 22 refined product terminals along the Plantation and Colonial pipelines. At our Southeast terminals, we handle gasolines, diesel fuels, jet fuel and heating oil on behalf of, and provide integrated terminaling services to customers engaged in the distribution and marketing of refined products. Our Southeast terminals primarily receive products from the Plantation and Colonial pipelines on behalf of our customers and distribute products primarily to trucks. The principal customer at our Southeast facilities is Morgan Stanley Capital Group. Our terminaling services agreement with Morgan Stanley Capital Group relating to our Southeast operations expires December 31, 2014, unless extended by Morgan Stanley Capital Group on or before December 31, 2013. In February 2013, representatives of Morgan Stanley Capital Group indicated that they intend to extend or enter into new terminaling services agreements covering the Southeast terminals for periods after the current agreements expire.

Business Strategies

Our primary business objective is to increase distributable cash flow per unit. The most effective means of growing our business and increasing cash distributions to our unitholders is to expand our asset base and infrastructure, and to increase utilization of our existing infrastructure. We intend to accomplish this by executing the following strategies:

Generate stable cash flows through the use of long-term contracts with our customers. We intend to continue to generate stable cash flows by capitalizing on the fee-based nature of our business, our minimum revenue commitments from our customers and the long-term nature of our contracts with many of our customers. We generate revenue from customers who pay us fees based on the volume of storage capacity contracted for, volume of refined products throughput at our terminals or volume of refined products transported in the Razorback, Diamondback and Ella-Brownsville pipelines. We have terminaling services agreements with, among others, Marathon, Morgan Stanley Capital Group, PMI Trading Limited, TransMontaigne Inc. and Valero.

Execute cost-effective expansion and asset enhancement opportunities. We continually evaluate opportunities to expand our existing asset base. For example, in August 2012 we completed the construction of 1.0 million barrels of crude oil storage tankage in Cushing, Oklahoma.

Pursue strategic and accretive acquisitions in new and existing markets. Historically, our growth strategy has included the pursuit of acquisitions of energy-related terminaling and transportation facilities, including facilities that may be outside our existing areas of operation, which we expected to pursue jointly with TransMontaigne Inc. and Morgan Stanley Capital Group. In December 2012, we acquired a 42.5% ownership interest in Battleground Oil Specialty Terminal Company LLC, or BOSTCO, from a subsidiary of Kinder Morgan Energy Partners, L.P., or Kinder Morgan. BOSTCO is developing a new black oil terminal facility on the Houston Ship Channel for handling residual fuel, feedstocks, distillates and other black oils. The initial phase of the BOSTCO terminal project involves construction of 50 storage tanks with approximately 6.1 million barrels of storage capacity at an estimated cost of approximately $425 million. Although the recent industry trend of large energy companies divesting their distribution and logistic assets has continued, our ability to pursue strategic acquisitions will be constrained because Morgan Stanley does not expect to approve any "significant" acquisition or investment that we may propose for the foreseeable future. We are currently unable to predict how the impact of this decision will affect Morgan Stanley's commodities business or the growth or development of our business and results of operations.

Maintain a disciplined financial policy. We will continue to pursue a disciplined financial policy by maintaining a prudent capital structure, managing our exposure to interest rate risk and conservatively managing our cash reserves.

Competitive Strengths

We believe that we are well positioned to successfully execute our business strategies using the following competitive strengths:

The terminaling services agreements we have with our existing customers provide us with stable cash flows. Based on our terminaling services agreements in effect at January 1, 2013, we have contractual commitments from our customers that are expected to generate a substantial majority of our actual revenue for the year ending December 31, 2013. Of this firmly committed revenue, approximately 88% was generated under terminaling services agreements with remaining terms of at least one year at December 31, 2012. We expect that our actual revenue for the year will be higher than our contractual commitments because certain of our terminaling services agreements with customers do not contain minimum revenue commitments and because our customers often use other ancillary services in addition to the services covered by the minimum revenue commitments. We believe that the fee-based nature of our business, our minimum revenue commitments from our customers, the long-term nature of our contracts with many of our customers and our lack of material direct exposure to changes in commodity prices (except for the value of refined product gains and losses arising from terminaling services agreements with certain customers) will provide us with stable cash flows.

We do not have material direct commodity price risk. Because we do not purchase or market the products that we handle or transport, our cash flows are not subject to material direct exposure to changes in commodity prices, except for the value of refined product gains and losses arising from terminaling services agreements with certain customers.

We benefit from the strategic fit between our operations and the operations of TransMontaigne Inc. and Morgan Stanley Capital Group. The operations of TransMontaigne Inc. and Morgan Stanley Capital Group fit strategically with our broad geographical terminal and transportation distribution capability. Our terminaling service agreements with TransMontaigne Inc. and Morgan Stanley Capital Group enable them to support their refined product supply, risk management and marketing businesses and, at the same time, provide us with stable cash flows and help ensure that our facilities are more fully utilized.

We will continue to seek cost-effective asset enhancement opportunities. We have high utilization of our existing storage capacity, which enables us to focus on expanding our terminal capacity and acquiring additional terminal capacity for our current and future customers, to the extent Morgan Stanley approves any such expansions. In December 2012, we acquired a 42.5% ownership interest in BOSTCO, which is developing a new black oil terminal facility on the Houston Ship Channel for handling residual fuel, feedstocks, distillates and other black oils. The initial phase of the BOSTCO terminal project involves construction of 50 storage tanks with approximately 6.1 million barrels of storage capacity at an estimated cost of approximately $425 million. The BOSTCO facility's docks will benefit from one of the deepest vessel drafts and nearest access points in the Houston Ship Channel and will be well positioned to capitalize on increasing exports of petroleum related products. In addition, in August 2012, we completed a project for the construction and operation of approximately 1.0 million barrels of crude oil storage in Cushing, Oklahoma.

We have a substantial presence in Florida, which has significant demand for refined petroleum products, and is not currently served by any local refinery or interstate refined product pipeline. Eight of our terminals serve our customers' operations in metropolitan areas in Florida, which we believe to be an attractive area for the following reasons:

- Refined products are largely distributed in Florida through terminals with waterborne access, such as our terminals, because Florida has no refineries or interstate refined product pipelines.
- The Florida market is attractive to physical commodity traders because they can originate product supplies from multiple locations, both domestically and overseas, and transport the product to the terminal by vessel.
- The ports served by our terminals are among the busiest cruise ship ports in the United States, with year-round demand.

Through TransMontaigne Inc. and Morgan Stanley Capital Group, our general partner has access to a knowledgeable management team with significant experience in the energy industry. The members of our general partner's management team have established long-standing relationships within the energy industry and significant experience with regard to the implementation of operating and growth strategies in many facets of the energy industry, including:

- crude oil marketing and transportation;
- renewable fuels, including ethanol, marketing and transportation;
- natural gas and natural gas liquid gathering, processing, transportation and marketing;
- propane storage, transportation and marketing; and
- refined product storage, transportation and marketing.

Competition

We face competition from other terminals and pipelines that may be able to supply our customers with integrated terminaling and transportation services on a more competitive basis. We compete with national, regional and local terminal and transportation companies, including the major integrated oil companies, of widely varying sizes, financial resources and experience. These competitors include BP p.l.c., Chevron U.S.A. Inc., CITGO Petroleum Corporation, Phillips 66, Exxon Mobil Corporation, Amerada Hess Corporation, Holly Corporation and its affiliate Holly Energy Partners, L.P., Kinder Morgan, Inc. and its affiliate Kinder Morgan Energy Partners, L.P., Magellan Midstream Partners, L.P., Marathon Ashland Petroleum L.L.C., Motiva Enterprises LLC, Murphy Oil Corporation, NuStar Energy L.P., Sunoco, Inc. and its affiliate Sunoco Logistics Partners L.P., and terminals in the Caribbean. In particular, our ability to compete could be harmed by factors we cannot control, including:

- price competition from terminal and transportation companies, some of which are substantially larger than we are and have greater financial resources, and control substantially greater storage capacity, than we do;
- the perception that another company can provide better service; and
- the availability of alternative supply points, or supply points located closer to our customers' operations.

We also compete with national, regional and local terminal and transportation companies for acquisition and expansion opportunities. Some of these competitors are substantially larger than us and have greater financial resources and lower costs of capital than we do.

Significant Customer Relationships

We have several significant customer relationships from which we expect to continue to derive a substantial majority of our revenue for the foreseeable future. These relationships include:

Customer	Location
Morgan Stanley Capital Group	Gulf Coast, Midwest and Southeast facilities
TransMontaigne Inc	Gulf Coast facilities
Valero Marketing and Supply Company	River facilities
Marathon Petroleum Company LLC	Gulf Coast facilities
United States Government	Southeast facilities

Our Relationship with TransMontaigne Inc. and Morgan Stanley Capital Group

General. A majority of our business is devoted to providing integrated terminaling and transportation services to Morgan Stanley Capital Group. Pursuant to the terms of our terminaling services agreements with Morgan Stanley Capital Group, in the aggregate, we earned revenues of $100.1 million for the year ended December 31, 2012, which represented approximately 64% of our total revenues during 2012. The substantial majority of our terminaling services with Morgan Stanley Capital Group and TransMontaigne Inc. will expire between May and December 2014, unless extended. In February 2013, representatives of Morgan Stanley Capital Group indicated that they intend to extend or enter into new terminaling services agreements covering our Florida and the Razorback terminals and the Southeast terminals for periods after the current agreements expire. As described below under "Risk Factors," if we are not successful in negotiating acceptable terms with Morgan Stanley and do not timely replace such revenues, or if we must incur substantial costs to replace such revenues, our financial condition and results of operations could be materially adversely affected.

We are controlled by our general partner, TransMontaigne GP L.L.C., which is an indirect wholly owned subsidiary of TransMontaigne Inc., which is a terminaling, distribution and marketing company that markets refined petroleum products to wholesalers, distributors and industrial and commercial end users throughout the United States, primarily in the Gulf Coast, Northeast, Southeast and Midwest regions. TransMontaigne Inc. also owns a 100% interest in TransMontaigne Canada Holdings, Inc., a Canadian petroleum marketing and terminaling company. As of December 31, 2012, TransMontaigne Inc. owned three refined product terminals; one dry bulk product terminal; three railcar facilities; a hydrant system in Port Everglades; and its distribution and marketing business. TransMontaigne Inc.'s marketing operations generally consist of the distribution and marketing of refined products through contract and rack spot sales in the physical markets. On September 1, 2006, a wholly owned subsidiary of Morgan Stanley Capital Group purchased all of the issued and outstanding capital stock of TransMontaigne Inc. TransMontaigne Inc. and Morgan Stanley Capital Group have a significant interest in our partnership through their ownership of common units representing limited partner interests equal to approximately 21.6% of our aggregate outstanding limited and general partner interests, our sole general partner interest (representing 2% of our aggregate outstanding limited and general partner interests) and the incentive distribution rights.

Morgan Stanley Capital Group is a leading global commodity trader involved in proprietary and counterparty-driven trading in numerous commodities markets including crude oil and refined products, natural gas and natural gas liquids, coal, electric power, base and precious metals and others. Morgan Stanley Capital Group has been actively trading crude oil and refined products for over 20 years and on a daily basis trades millions of barrels of physical crude oil and refined products and exchange-traded and over-the-counter crude oil and refined product derivative instruments. Morgan Stanley Capital Group also invests as principal in acquisitions that complement Morgan Stanley's commodity trading activities. Morgan Stanley Capital Group has substantial strategic long-term storage capacity located on all three coasts of the United States, in Northwest Europe and Asia.

Omnibus Agreement. On May 27, 2005, we entered into an omnibus agreement with TransMontaigne Inc. and our general partner, which agreement was amended and restated on December 31, 2007. The omnibus agreement, as amended and restated, addresses the following matters:

- our obligation to pay TransMontaigne Inc. an annual administrative fee, in the amount of approximately $10.8 million for the year ended December 31, 2012;

- our obligation to pay TransMontaigne Inc. an annual insurance reimbursement, in the amount of approximately $3.6 million for the year ended December 31, 2012;

- our obligation to pay TransMontaigne Inc. an annual reimbursement fee in an amount no less than $1.5 million for grants to key employees of TransMontaigne Inc. and its affiliates under the TransMontaigne Services Inc. savings and retention plan, provided that (i) no less than $1.5 million of the aggregate amount of such awards granted to key employees of TransMontaigne Inc. and its affiliates will be allocated to an investment fund indexed to the performance of our common units, and (ii) the proposed allocations of such awards among the key employees of TransMontaigne Inc. and its affiliates are approved by the compensation committee of our general partner;

- TransMontaigne Inc.'s right of first refusal to purchase any assets that we propose to sell; and

- TransMontaigne Inc.'s right of first refusal to contract for any storage capacity that becomes available after January 1, 2008.

Any or all of the provisions of the omnibus agreement are terminable by TransMontaigne Inc. at its option if our general partner is removed without cause and units held by our general partner and its affiliates are not voted in favor of that removal.

Terminaling Services Agreements

Florida Terminals and Razorback Pipeline System Terminaling Services Agreement—Morgan Stanley Capital Group. We have a terminaling services agreement with Morgan Stanley Capital Group relating to our Florida, Mount Vernon, Missouri and Rogers, Arkansas terminals. Effective June 1, 2008, we amended the terminaling services agreement to include renewable fuels blending functionality at the Florida Terminals. The initial term of the agreement expires on May 31, 2014. After May 31, 2014, the terminaling services agreement will automatically renew for subsequent one-year periods, subject to either party's right to terminate with six months' notice prior to May 31, 2014 or the then-current renewal term. Under this agreement, Morgan Stanley Capital Group agreed to throughput a volume of refined product that, at the fee and tariff schedule contained in the agreement, resulted in minimum throughput payments to us of approximately $37 million for the contract year ended May 31, 2012 (approximately $37.3 million for the contract year ending May 31, 2013 and approximately $37.6 million for the contract year ending May 31, 2014); with stipulated annual increases in throughput payments each contract year thereafter. Additionally, during the year ended December 31, 2012, we derived revenues of approximately $9.2 million from the proceeds of sales of product gains, ethanol blending and other ancillary services under this agreement. Morgan Stanley Capital Group's minimum annual throughput payment is reduced proportionately for any decrease in storage capacity due to out-of-service tank capacity.

If a force majeure event occurs that renders us unable to perform our obligations with respect to an asset, Morgan Stanley Capital Group's obligations would be temporarily suspended with respect to that asset. If a force majeure event continues for 30 consecutive days or more and results in a diminution in the storage capacity we make available to Morgan Stanley Capital Group, Morgan Stanley Capital Group may terminate its obligations with respect to the asset affected by the force majeure event and their minimum revenue commitment would be reduced proportionately for the duration of the agreement.

Morgan Stanley Capital Group may not assign the terminaling services agreement without our consent. Upon termination of the agreement, Morgan Stanley Capital Group has a right of first refusal to enter into a new terminaling services agreement with us, provided they pay no less than 105% of the fees offered by any third party.

Southeast Terminaling Services Agreement—Morgan Stanley Capital Group. We have a terminaling services agreement with Morgan Stanley Capital Group relating to our Southeast terminals. The terminaling services agreement commenced on January 1, 2008 and has a seven-year term expiring on December 31, 2014, subject to a seven-year renewal option at the election of Morgan Stanley Capital Group. Under this agreement, Morgan Stanley Capital Group agreed to throughput a volume of refined product at our Southeast terminals that, at the fee schedule contained in the agreement, resulted in minimum throughput payments to us of approximately $35.4 million for the contract year ended December 31, 2012 (approximately $36.0 million for the contract year ending December 31, 2013 and approximately $36.8 million for the contract year ending December 31, 2014); with stipulated annual increases in throughput payments each contract year thereafter. Additionally, during the year ended December 31, 2012, we derived revenues of approximately $12.8 million from the proceeds of sales of product gains, ethanol blending and other ancillary services under this agreement. Morgan Stanley Capital Group's minimum annual throughput payment is reduced proportionately for any decrease in storage capacity due to out-of-service tank capacity. In exchange for its minimum throughput commitment, we agreed to provide Morgan Stanley Capital Group approximately 8.9 million barrels of light oil storage capacity at our Southeast terminals and to undertake certain capital projects to provide ethanol blending functionality at certain of our Southeast terminals with completion dates that extended through August 31, 2011. Upon the completion of each of the projects, Morgan Stanley Capital Group paid us an ethanol blending fee that in total equaled approximately $22.5 million.

If a force majeure event occurs that renders us unable to perform our obligations with respect to an asset, Morgan Stanley Capital Group's obligations would be temporarily suspended with respect to that asset. If a force majeure event continues for 30 consecutive days or more and results in a diminution in the storage capacity we make available to Morgan Stanley Capital Group, Morgan Stanley Capital Group may terminate its obligations with respect to the asset affected by the force majeure event and their minimum revenue commitment would be reduced proportionately for the duration of the agreement.

Morgan Stanley Capital Group may not assign the terminaling services agreement without our consent.

Collins/Purvis Terminaling Services Agreement—Morgan Stanley Capital Group. In January 2010, we entered into a terminaling services agreement with Morgan Stanley Capital Group relating to our Collins, Mississippi facility that will expire in July 2018, subject to one-year automatic renewals unless terminated by either party upon 180 days prior notice. In exchange for its minimum revenue commitment, we agreed to undertake certain capital projects to provide an additional 700,000 barrels of light oil capacity and other improvements at the Collins terminal. These capital projects were completed and placed into service in July 2011. Under this agreement, Morgan Stanley Capital Group has agreed to throughput a volume of light oil products at our terminal that will, at the fee schedule contained in the agreement, result in minimum throughput payments to us of approximately $4.1 million for the one-year period following the in-service date of July 2011 for the aforementioned capital projects, and for each contract year thereafter.

If a force majeure event occurs that renders us unable to perform our obligations with respect to an asset, Morgan Stanley Capital Group's obligations would be temporarily suspended with respect to that asset. If a force majeure event continues for 30 consecutive days or more and results in a diminution in the storage capacity we make available to Morgan Stanley Capital Group, Morgan Stanley Capital Group may terminate its obligations with respect to the asset affected by the force majeure event and their minimum revenue commitment would be reduced proportionately for the duration of the agreement.

Neither party may transfer or assign this agreement without the consent of the other party unless such assignment is to an affiliate or, in the case of Partners, a successor in interest to us or to the Collins terminal.

Midwest (Cushing) Terminaling Services Agreement—Morgan Stanley Capital Group. In July 2011, we entered into a terminaling services agreement with Morgan Stanley Capital Group relating to our Cushing, Oklahoma facility that will expire in July 2019, subject to a five-year automatic renewal unless terminated by either party upon 180 days prior notice. In exchange for its minimum revenue commitment, we agreed to construct storage tanks and associated infrastructure to provide 1.0 million barrels of crude oil capacity. These capital projects were completed and placed into service on August 1, 2012. Under this agreement, Morgan Stanley Capital Group agreed to throughput a volume of crude oil products at our terminal that will, at the fee schedule contained in the agreement, result in minimum throughput payments to us of approximately $4.3 million for each one-year period following the in-service date of August 1, 2012.

If a force majeure event occurs that renders us unable to perform our obligations with respect to an asset, Morgan Stanley Capital Group's obligations would be temporarily suspended with respect to that asset. If a force majeure event continues for 120 consecutive days or more and results in a diminution in the storage capacity we make available to Morgan Stanley Capital Group, Morgan Stanley Capital Group may terminate its obligations with respect to the asset affected by the force majeure event and their minimum revenue commitment would be reduced proportionately for the duration of the agreement.

Neither party may transfer or assign this agreement without the consent of the other party unless such assignment is to an affiliate or, in the case of Partners, a successor in interest to us or to the Cushing terminal.

Southeast Terminaling Services Agreement—United States Government. We have a terminaling services agreement with the United States government that will expire on April 30, 2017. The United States government has the option to extend the agreement for two additional five-year increments. Pursuant to the terminaling services agreement, we agreed to provide the United States government with approximately 0.3 million barrels of light refined product storage capacity at our Selma, NC terminal.

Gulf Coast (Fisher Island) Terminaling Services Agreement—TransMontaigne Inc. We have a terminaling services agreement with TransMontaigne Inc. that will expire on December 31, 2013. Under this agreement, TransMontaigne Inc. agreed to throughput at our Fisher Island terminal in the Gulf Coast region a volume of fuel oils that, at the fee schedule contained in the agreement, resulted in minimum revenue to us of approximately $1.8 million for the contract year ended December 31, 2012. In exchange for its minimum throughput commitment, we agreed to provide TransMontaigne Inc. with approximately 185,000 barrels of fuel oil capacity.

Gulf Coast (Florida) Terminaling Services Agreement—Marathon. We have a terminaling services agreement with Marathon regarding approximately 1.0 million barrels of asphalt storage capacity throughout our Florida facilities that will expire on April 30, 2016. Under the terms of the terminaling services agreement, we are prohibited from placing into commercial service any new or converted asphalt storage capacity at our Florida facilities without Marathon's express written consent.

River Terminaling Services Agreement—Valero. We have a terminaling services agreement with Valero that will expire on March 31, 2013. Pursuant to the terminaling services agreement, we agreed to provide Valero with approximately 1.1 million barrels of light refined product storage capacity, in the aggregate, at our Cape Girardeau, Evansville, Greenville, Henderson, Owensboro and Paducah terminals. Valero also has a right to match any third-party offer to use any existing, new or converted light refined product storage capacity that we put into commercial service at any of the River terminals subject to this agreement. If Valero fails to exercise its right to match, it has the right to terminate the terminaling services agreement in its entirety or with respect to the applicable terminal. Valero has indicated an interest in contracting for only a portion of its current capacity in our River facilities after its current terminaling services agreement expires. We are currently negotiating a new terminaling services agreement with Valero for certain capacity at the terminals covered under the existing terminaling services agreement. We are also in discussions with prospective new and existing customers to engage our services for the terminal capacity that will become available when the Valero agreement expires.

Brownsville LPG Terminaling Services Agreement—TransMontaigne Inc. We had a terminaling and transportation services agreement with TransMontaigne Inc. relating to our Brownsville, Texas facilities that terminated on December 31, 2012. The storage capacity under this agreement was placed under contract with a third party on January 1, 2013. Under this agreement, TransMontaigne Inc. agreed to throughput at our Brownsville facilities certain minimum volumes of natural gas liquids that resulted in minimum revenue to us of approximately $1.3 million for the contract year ended December 31, 2012. In exchange for TransMontaigne Inc.'s minimum throughput commitment, we agreed to provide TransMontaigne Inc. approximately 33,000 barrels of storage capacity at our Brownsville facilities.

Uncertainty Relating to Certain Terminaling Relationships. If the changing regulatory environment applicable to Morgan Stanley's or TransMontaigne Inc.'s commodities business were to result in changes to the manner in which they operate, such that they would be unable to renew our terminaling services agreements or utilize our terminals and facilities at current levels, we would need to seek new or expanded terminaling relationships with new customers or our other existing customers. We cannot be certain that we would be able to replace all of the revenues generated from the capacity currently used by Morgan Stanley Capital Group and TransMontaigne Inc. at or prior to the termination of our current agreements.

Other Terminaling Services Agreements. We have additional terminaling service agreements with other customers at our terminal facilities for throughput and storage of refined products, crude oil and other products. These agreements include various minimum throughput commitments, storage commitments and other terms, including duration, which we negotiate on a case-by-case basis.

Operations and Reimbursement Agreement—Frontera

Effective as of April 1, 2011, we entered into the Frontera joint venture in which we have a 50% ownership interest (see Note 3 of Notes to consolidated financial statements). In conjunction with us entering into the joint venture, we agreed to operate Frontera, in accordance with an operations and reimbursement agreement executed between us and Frontera, for a management fee that is based on our costs incurred. Our agreement with Frontera stipulates that we may resign as the operator at any time with the prior written consent of Frontera, or that we may be removed as the operator for good cause, which includes material noncompliance with laws and material failure to adhere to good industry practice regarding health, safety or environmental matters. For the year ended December 31, 2012, we recognized approximately $3.4 million of revenue related to this operations and reimbursement agreement.

Terminals and Pipeline Control Operations

The pipelines we own or operate are operated via geosynchronous satellite, wireless, radio and frame relay communication systems from a central control room located in Atlanta, Georgia. We also monitor activity at our terminals from this control room.

The control center operates with System Control and Data Acquisition, or SCADA, systems. Our control center is equipped with computer systems designed to continuously monitor operational data, including refined product throughput, flow rates and pressures. In addition, the control center monitors alarms and throughput balances. The control center operates remote pumps, motors, engines, and valves associated with the receipt of refined products. The computer systems are designed to enhance leak-detection capabilities, sound automatic alarms if operational conditions outside of pre-established parameters occur, and provide for remote-controlled shutdown of pump stations on the pipeline. Pump stations and meter-measurement points on the pipeline are linked by satellite or telephone communication systems for remote monitoring and control. In addition, our Brownsville, Texas and Collins, Mississippi facilities contain full back-up/redundant disaster recovery systems covering all of our SCADA systems.

Safety and Maintenance

We perform preventive and normal maintenance on the pipeline and terminal systems we operate or own and make repairs and replacements when necessary or appropriate. We also conduct routine and required inspections of the pipeline and terminal tanks we operate or own as required by code or regulation. External coatings and impressed current cathodic protection systems are used to protect against external corrosion. We conduct all cathodic protection work in accordance with National Association of Corrosion Engineers standards. We continually monitor, test, and record the effectiveness of these corrosion- inhibiting systems.

We monitor the structural integrity of all of our Department of Transportation, or DOT, regulated pipeline systems. These pipeline systems include the 67-mile Razorback pipeline; a 37-mile pipeline, known as the "Pinebelt pipeline," located in Covington County, Mississippi that transports refined petroleum liquids between our Collins and Collins/Purvis terminal facilities; a 1-mile diesel fuel pipeline, known as the Bellemeade pipeline, owned by and operated for Dominion Virginia Power Corp. in Richmond, Virginia; the Diamondback pipeline; and an approximately 18-mile, bi-directional refined petroleum liquids pipeline in Texas, known as the "MB pipeline," that we operate and maintain on behalf of PMI Services North America, Inc., an affiliate of PEMEX. The maintenance of structural integrity includes a program of periodic internal inspections as well as hydrostatic testing that conforms to Federal standards. Beginning in 2002, the DOT required internal inspections or other integrity testing of all DOT-regulated crude oil and refined product pipelines. We believe that the pipelines we own and manage meet or exceed all DOT inspection requirements for all pipelines located in the United States, and meet or exceed the corresponding Mexican regulatory requirements for the portion of the Diamondback pipeline located in Mexico.

Maintenance facilities containing equipment for pipe repairs, spare parts, and trained response personnel are located along all of these pipelines. Employees participate in simulated spill deployment exercises on a regular basis. They also participate in actual spill response boom deployment exercises in planned spill scenarios in accordance with Oil Pollution Act of 1990 requirements. We believe that the pipelines we own and manage have been constructed and are maintained in all material respects in accordance with applicable federal, state, and local laws and the regulations and standards prescribed by the American Petroleum Institute, the DOT, and accepted industry practice.

At our terminals, tanks designed for gasoline storage are equipped with internal or external floating roofs that minimize emissions and prevent potentially flammable vapor accumulation between fluid levels and the roof of the tank. Our terminal facilities have all required facility response plans, spill prevention and control plans, and other plans and programs to respond to emergencies.

Many of our terminal loading racks are protected with water deluge systems activated by either heat sensors or an emergency switch. Several of our terminals also are protected by foam systems that are activated in case of fire.

Safety Regulation

We are subject to regulation by the DOT under the Pipeline Inspection, Protection, Enforcement and Safety Act of 2006, or PIPES, and comparable state statutes relating to the design, installation, testing, construction, operation, replacement and management of the pipeline facilities we operate or own. PIPES covers petroleum and petroleum products and requires any entity that owns or operates pipeline facilities to comply with such regulations and also to permit access to and copying of records and to make certain reports and provide information as required by the Secretary of Transportation. We believe that we are in material compliance with these PIPES regulations.

The DOT Office of Pipeline and Hazardous Materials Safety Administration, or PHMSA, has promulgated regulations that require qualification of pipeline personnel. These regulations require pipeline operators to develop and maintain a written qualification program for individuals performing covered tasks on pipeline facilities. The intent of these regulations is to ensure a qualified work force and to reduce the probability and consequence of incidents caused by human error. The regulations establish qualification requirements for individuals performing covered tasks, and amends certain training requirements in existing regulations. We believe that we are in material compliance with these PHMSA regulations.

We also are subject to PHMSA regulation for High Consequence Areas, or HCAs, for Category 2 pipeline systems (companies operating less than 500 miles of jurisdictional pipeline). This regulation specifies how to assess, evaluate, repair and validate the integrity of pipeline segments that could impact populated areas, areas unusually sensitive to environmental damage and commercially navigable waterways, in the event of a release. The pipelines we own or manage are subject to these requirements. The regulation requires an integrity management program that utilizes internal pipeline inspection, pressure testing, or other equally effective means to assess the integrity of pipeline segments in HCAs. The program requires periodic review of pipeline segments in HCAs to ensure adequate preventative and mitigative measures exist. Through this program, we evaluated a range of threats to each pipeline segment's integrity by analyzing available information about the pipeline segment and consequences of a failure in an HCA. The regulation requires prompt action to address integrity issues raised by the assessment and analysis. We have completed baseline assessments for all segments.

Our terminals also are subject to various state regulations regarding our storage of refined product in aboveground storage tanks. These regulations require, among other things, registration of tanks, financial assurances and inspection and testing, consistent with the standards established by the American Petroleum Institute. We have completed baseline assessments for all of the segments and believe that we are in material compliance with these aboveground storage tank regulations.

We also are subject to the requirements of the federal Occupational Safety and Health Act, or OSHA, and comparable state statutes that regulate the protection of the health and safety of workers. In addition, the OSHA hazard communication standard, the Environmental Protection Agency, or EPA, community right-to-know regulations under Title III of the Federal Superfund Amendment and Reauthorization Act, and comparable state statutes require us to organize and disclose information about the hazardous materials used in our operations. Certain parts of this information must be reported to employees, state and local governmental authorities, and local citizens upon request. We believe that we are in material compliance with OSHA and state requirements, including general industry standards, record keeping requirements and monitoring of occupational exposures.

In general, we expect to increase our expenditures during the next decade to comply with higher industry and regulatory safety standards such as those described above. Although we cannot estimate the magnitude of such expenditures at this time, we do not believe that they will have a material adverse impact on our results of operations.

Environmental Matters

Our operations are subject to stringent and complex laws and regulations pertaining to health, safety and the environment. As an owner or operator of refined product terminals and pipelines, we must comply with these laws and regulations at federal, state and local levels. These laws and regulations can restrict or impact our business activities in many ways, such as:

- requiring remedial action to mitigate releases of hydrocarbons, hazardous substances or wastes caused by our operations or attributable to former operators;
- requiring capital expenditures to comply with environmental control requirements; and
- enjoining the operations of facilities deemed in non-compliance with permits issued pursuant to such environmental laws and regulations.

Failure to comply with these laws and regulations may trigger a variety of administrative, civil and criminal enforcement measures, including the assessment of monetary penalties, the imposition of remedial requirements, and the issuance of orders enjoining future operations. Certain environmental statutes impose strict, joint and several liability for costs required to cleanup and restore sites where hydrocarbons, hazardous substances or wastes have been released or disposed of. Moreover, it is not uncommon for neighboring landowners and other third parties to file claims for personal injury and property damage allegedly caused by the release of hydrocarbons, hazardous substances or other wastes into the environment.

The trend in environmental regulation is to place more restrictions and limitations on activities that may affect the environment. As a result, there can be no assurance as to the amount or timing of future expenditures that may be required for environmental compliance or remediation, and actual future expenditures may be different from the amounts we currently anticipate. We try to anticipate future regulatory requirements that may affect our operations and to plan accordingly to comply with and minimize the costs of such requirements.

We do not believe that compliance with federal, state or local environmental laws and regulations will have a material adverse effect on our business, financial position or results of operations. In addition, we believe that the various environmental activities in which we are presently engaged are not expected to materially interrupt or diminish our operational ability. We cannot assure you, however, that future events, such as changes in existing laws, the promulgation of new laws, or the development or discovery of new facts or conditions will not cause us to incur significant costs. The following is a discussion of certain potential material environmental concerns that relate to our business.

Water. The Federal Water Pollution Control Act of 1972, renamed and amended as the Clean Water Act or CWA, imposes strict controls against the discharge of pollutants, including oil and its derivatives into navigable waters. The discharge of pollutants into regulated waters is prohibited except in accordance with the regulations issued by the EPA or the state. We are subject to various types of storm water discharge requirements at our terminals. The EPA and a number of states have adopted regulations that require us to obtain permits to discharge storm water run-off from our facilities. Such permits may require us to monitor and sample the effluent from our operations. The cost involved in obtaining and renewing these storm water permits is not material. We believe that we are in substantial compliance with effluent limitations at our facilities and with the CWA generally.

The CWA provides penalties for any discharges of petroleum products in reportable quantities and imposes substantial potential liability for the costs of removing an oil or hazardous substance spill. State laws for the control of water pollution also provide for various civil and criminal penalties and liabilities in the event of a release of petroleum or its derivatives in surface waters or into the groundwater. Spill prevention control and countermeasure requirements of federal laws require, among other things, appropriate containment be constructed around product storage tanks to help prevent the contamination of navigable waters in the event of a product tank spill, rupture or leak.

The primary federal law for oil spill liability is the Oil Pollution Act of 1990, as amended, or OPA, which addresses three principal areas of oil pollution—prevention, containment and cleanup. It applies to vessels, offshore platforms, and onshore facilities, including terminals, pipelines and transfer facilities. In order to handle, store or transport oil, shore facilities are required to file oil spill response plans with the United States Coast Guard, the OPS, or the EPA. Numerous states have enacted laws similar to OPA. Under OPA and similar state laws, responsible parties for a regulated facility from which oil is discharged may be liable for removal costs and natural resources damages. We believe that we are in substantial compliance with regulations pursuant to OPA and similar state laws.

Contamination resulting from spills or releases of refined products is an inherent risk in the petroleum terminal and pipeline industry. To the extent that groundwater contamination requiring remediation exists around the facilities we own as a result of past operations, we believe any such contamination is being controlled or remedied without having a material adverse effect on our financial condition. However, such costs can be unpredictable and are site specific and, therefore, the effect may be material in the aggregate.

Air Emissions. Our operations are subject to the federal Clean Air Act, or CAA, and comparable state and local statutes. The CAA requires most industrial operations in the United States to incur expenditures to meet the air emission control standards that are developed and implemented by the EPA and state environmental agencies. These laws and regulations regulate emissions of air pollutants from various industrial sources, including our operations, and also impose various monitoring and reporting requirements. Such laws and regulations may require a facility to obtain pre-approval for the construction or modification of certain projects or facilities expected to produce air emissions or result in the increase of existing air emissions and obtain and strictly comply with air permits containing requirements.

Many of our terminaling operations require air permits. These operations generally include volatile organic compound emissions (primarily hydrocarbons) associated with truck loading activities and tank working and breathing losses. The sources of these emissions are strictly regulated through the permitting process. Such regulation includes stringent control technology and extensive permit review and periodic renewal. The cost involved in obtaining and renewing these permits is not material.

Moreover, any of our facilities that emit volatile organic compounds or nitrogen oxides and are located in ozone non-attainment areas face increasingly stringent regulations, including requirements to install various levels of control technology on sources of pollutants. We believe that we are in substantial compliance with existing standards and regulations pursuant to the CAA and similar state and local laws, and we do not anticipate that implementation of additional regulations will have a material adverse effect on us.

Congress and numerous states are currently considering proposed legislation directed at reducing "greenhouse gas emissions." It is not possible at this time to predict how legislation that may be enacted to address greenhouse gas emissions would impact our operations. Although future laws and regulations could result in increased compliance costs or additional operating restrictions, they are not expected to have a material adverse effect on our business, financial position, results of operations and cash flows.

Hazardous and Solid Waste. Our operations are subject to the Federal Resource Conservation and Recovery Act, as amended, or RCRA, and comparable state laws, which impose detailed requirements for the handling, storage, treatment, and disposal of hazardous and solid waste. All of our terminal facilities are classified by the EPA as Conditionally Exempt Small Quantity Generators. Our terminals do not generate hazardous waste except in isolated and infrequent cases. At such times, only third party disposal sites which have been audited and approved by us are used. Our operations also generate solid wastes that are regulated under state law or the less stringent solid waste requirements of RCRA. We believe that we are in substantial compliance with the existing requirements of RCRA and similar state and local laws, and the cost involved in complying with these requirements is not material.

Site Remediation. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, or CERCLA, also known as the "Superfund" law, and comparable state laws impose liability without regard to fault or the legality of the original conduct, on certain classes of persons responsible for the release of hazardous substances into the environment. Such classes of persons include the current and past owners or operators of sites where a hazardous substance was released, and companies that disposed or arranged for disposal of hazardous substances at offsite locations such as landfills. In the course of our operations we will generate wastes or handle substances that may fall within the definition of a "hazardous substance." CERCLA authorizes the EPA and, in some cases, third parties to take actions in response to threats to the public health or the environment and to seek to recover from the responsible classes of persons the costs they incur. Under CERCLA, we could be subject to joint and several liability for the costs of cleaning up and restoring sites where hazardous substances have been released, for damages to natural resources and for the costs of certain health studies. We believe that we are in substantial compliance with the existing requirements of CERCLA.

We currently own, lease, or operate numerous properties and facilities that for many years have been used for industrial activities, including refined product terminaling operations. Hazardous substances, wastes, or hydrocarbons may have been released on or under the properties owned or leased by us, or on or under other locations where such substances have been taken for disposal. In addition, some of these properties have been operated by third parties or by previous owners whose treatment and disposal or release of hazardous substances, wastes, or hydrocarbons, was not under our control. These properties and the substances disposed or released on them may be subject to CERCLA, RCRA and analogous state laws. Under such laws, we could be required to remove previously disposed substances and wastes (including substances disposed of or released by prior owners or operators) or remediate contaminated property (including groundwater contamination, whether from prior owners or operators or other historic activities or spills).

Under an indemnification agreement, which contains the indemnification terms previously set forth in the omnibus agreement, TransMontaigne Inc. agreed to indemnify us against potential environmental claims, losses and expenses that were identified on or before May 27, 2010 and that were associated with the ownership or operation of the Florida and Midwest terminals prior to May 27, 2005. TransMontaigne Inc.'s maximum liability for this indemnification obligation is $15.0 million and it has no obligation to indemnify us for aggregate losses until such losses exceed $250,000 in the aggregate. TransMontaigne Inc. has no indemnification obligations with respect to environmental claims made as a result of additions to or modifications of environmental laws promulgated after May 27, 2005. TransMontaigne Inc. estimates that the total cost for remediating the contamination at the Florida terminals will be between approximately $3.5 million and approximately $5.6 million. TransMontaigne Inc.'s activities are being administered in part by the Florida Department of Environmental Protection under state administered programs that encourage and help to fund all or a portion of the cleanup of contaminated sites. Under these programs, TransMontaigne Inc. has received, and believes that it is eligible to continue to receive, state reimbursement of a significant portion of the costs associated with the remediation of the Florida terminals. As such, TransMontaigne Inc. believes that its share of the total remediation liability, net of probable reimbursements, will be approximately $0.6 million.

Under the purchase agreement for the Brownsville, Texas and River facilities, TransMontaigne Inc. agreed to indemnify us against potential environmental claims, losses and expenses that were identified on or before December 31, 2011 and that were associated with the ownership or operation of the Brownsville and River facilities prior to December 31, 2006. Our environmental losses must first exceed $250,000 and TransMontaigne Inc.'s indemnification obligations are capped at $15.0 million. The deductible amount, cap amount and time limitation for indemnification do not apply to any environmental liabilities known to exist as of December 31, 2006. TransMontaigne Inc. has no indemnification obligations with respect to environmental claims made as a result of additions to or modifications of environmental laws promulgated after December 31, 2006. TransMontaigne Inc. believes that its total remediation liability, net of probable reimbursements, for the Brownsville and River facilities will be between approximately $0.3 million and approximately $0.8 million.

Under the purchase agreement for the Southeast facilities, TransMontaigne Inc. has agreed to indemnify us against potential environmental claims, losses and expenses that were identified on or before December 31, 2012 and that were associated with the ownership or operation of the Southeast terminals prior to December 31, 2007. Our environmental losses must first exceed $250,000 and TransMontaigne Inc.'s indemnification obligations are capped at $15.0 million. The deductible amount, cap amount and time limitation for indemnification do not apply to any environmental liabilities known to exist as of December 31, 2007. TransMontaigne Inc. has no indemnification obligations with respect to environmental claims made as a result of additions to or modifications of environmental laws promulgated after December 31, 2007. TransMontaigne Inc. believes its total remediation liability for the Southeast facilities will be between approximately $1.3 million and approximately $2.3 million.

Under the purchase agreement for the Pensacola, Florida terminal, TransMontaigne Inc. agreed to indemnify us against potential environmental claims, losses and expenses that are identified on or before March 1, 2016, and that were associated with the ownership or operation of the Pensacola terminal prior to March 1, 2011. Our environmental losses must first exceed $200,000 and TransMontaigne Inc.'s indemnification obligations are capped at $2.5 million. The deductible amount, cap amount and limitation of time for indemnification do not apply to any environmental liabilities known to exist as of March 1, 2011. TransMontaigne Inc. has no indemnification obligations with respect to environmental claims made as a result of additions to or modifications of environmental laws promulgated after March 1, 2011.

Endangered Species Act. The Endangered Species Act restricts activities that may affect endangered or threatened species or their habitats. While some of our facilities are in areas that may be designated as habitat for endangered or threatened species, we believe that we are in substantial compliance with the Endangered Species Act. However, the discovery of previously unidentified endangered or threatened species could cause us to incur additional costs or become subject to operating restrictions or bans in the affected area.

Operational Hazards and Insurance

Our terminal and pipeline facilities may experience damage as a result of an accident or natural disaster. These hazards can cause personal injury and loss of life, severe damage to and destruction of property and equipment, pollution or environmental damage and suspension of operations. We maintain insurance of various types that we consider adequate to cover our operations, properties and loss of income at specified locations. Coverage for domestic acts of terrorism as defined in Terrorism Risk Insurance Program Reauthorization Act 2007 are covered under certain casualty insurance policies.

The insurance covers all of our facilities in amounts that we consider to be reasonable. The insurance policies are subject to deductibles that we consider reasonable and not excessive. Our insurance does not cover every potential risk associated with operating terminals, pipelines and other facilities. Consistent with insurance coverage generally available to the industry, our insurance policies provide limited coverage for losses or liabilities relating to pollution, with broader coverage for sudden and accidental occurrences.

We share insurance policies, including our general liability and pollution policies, with TransMontaigne Inc. These policies contain caps on the insurer's maximum liability under the policy, and claims made by either of TransMontaigne Inc. or us are applied against the caps. The possibility exists that, in any event in which we wish to make a claim under a shared insurance policy, our claim could be denied or only partially satisfied due to claims made by TransMontaigne Inc. against the policy cap.

Tariff Regulation

The Razorback pipeline, which runs between Mount Vernon, Missouri and Rogers, Arkansas, the Diamondback pipeline, which runs between Brownsville, Texas and Matamoros, Mexico, and the Ella-Brownsville pipeline, which runs from two points of origin in Texas to our Brownsville terminal, transport petroleum products subject to regulation by the FERC under the Interstate Commerce Act and the Energy Policy Act of 1992 and rules and orders promulgated under those statutes. FERC regulation requires that the rates of pipelines providing interstate service, such as the Razorback, Diamondback and Ella-Brownsville pipelines, be filed at FERC and posted publicly, and that these rates be "just and reasonable" and nondiscriminatory. Such rates are currently regulated by the FERC primarily through an index methodology, whereby a pipeline is allowed to change its rates based on the change from year to year in the Producer Price Index for Finished Goods (PPI-FG), plus a 1.3 percent adjustment for the period July 1, 2006 through June 30, 2011, and a 2.65 percent adjustment for the five-year period beginning July 1, 2011. In the alternative, interstate pipeline companies may elect to support rate filings by using a cost-of-service methodology, competitive market showings, or actual agreements between shippers and the oil pipeline company.

The FERC generally has not investigated interstate oil pipeline rates on its own initiative when those rates have not been the subject of a protest or a complaint by a shipper. A shipper or other party having a substantial economic interest in our rates could, however, challenge our rates. In response to such challenges, the FERC could investigate our rates. If our rates were successfully challenged, the amount of cash available for distribution to unitholders could be reduced. In the absence of a challenge to our rates, given our ability to utilize either filed rates as annually indexed or to utilize rates tied to cost of service methodology, competitive market showing, or actual agreements between shippers and us, we do not believe that FERC's regulations governing oil pipeline ratemaking would have any negative material monetary impact on us unless the regulations were substantially modified in such a manner so as to effectively prevent a pipeline company's ability to earn a fair return for the shipment of petroleum products utilizing its transportation system, which we believe to be an unlikely scenario.

On July 20, 2004, the United States Court of Appeals for the District of Columbia Circuit, or D.C. Circuit, issued its opinion in *BP West Coast Products, LLC v. FERC*, which vacated the portion of the FERC's decision applying the *Lakehead* policy, under which the FERC allowed a regulated entity organized as a master limited partnership to include in its cost-of-service an income tax allowance to the extent that entity's unitholders were corporations subject to income tax. On May 4, 2005, the FERC adopted a policy statement providing that all entities owning public utility assets—oil and gas pipelines and electric utilities—would be permitted to include an income tax allowance in their cost-of-service rates to reflect the actual or potential income tax liability attributable to their public utility income, regardless of the form of ownership. Any tax pass-through entity seeking an income tax allowance would have to establish that its partners or members have an actual or potential income tax obligation on the entity's public utility income. The FERC's new policy was subsequently challenged before the D.C. Circuit and on May 29, 2007, the D.C. Circuit denied the petitions for review with respect to the income tax allowance issues. As the FERC continues to apply this policy in individual cases, the ultimate impact remains uncertain. If the FERC were to act to substantially reduce or eliminate the right of a master limited partnership to include in its cost-of-service an income tax allowance to reflect actual or potential income tax liability on public utility income, it may affect the Razorback and Diamondback pipelines' ability to justify their rates if challenged in a protest or complaint.

In addition to being regulated by the FERC, we are required to maintain a Presidential Permit from the United States Department of State to operate and maintain the Diamondback pipeline, because the pipeline transports petroleum products across the international boundary line between the United States and Mexico. The Department of State's regulations do not affect our rates but do require the agency's approval for the international crossing. We do not believe that these regulations would have any negative material monetary impact on us unless the regulations were substantially modified, which we believe to be an unlikely scenario.

Title to Properties

The Razorback and Diamondback pipelines are generally constructed on easements and rights-of-way granted by the apparent record owners of the property and in some instances these grants are revocable at the election of the grantor. Several rights-of-way for the Razorback pipeline and other real property assets are shared with other pipelines and other assets owned by affiliates of TransMontaigne Inc. and by third parties. We have become aware that the location of our Diamondback pipeline deviates from the boundaries of certain easements obtained when the pipeline was built. We currently are investigating the situation and negotiating with individual landowners regarding several of the easements for the Diamondback pipeline in the United States and Mexico and are involved in a lawsuit with one landowner to resolve a right-of-way dispute. In many instances, lands over which rights-of-way have been obtained are subject to prior liens that have not been subordinated to the right-of-way grants. We have obtained permits from public authorities to cross over or under, or to lay facilities in or along, watercourses, county roads, municipal streets, and state highways and, in some instances, these permits are revocable at the election of the grantor. We have also obtained permits from railroad companies to cross over or under lands or rights-of-way, many of which are also revocable at the grantor's election. In some cases, property for pipeline purposes was purchased in fee.

Some of the leases, easements, rights-of-way, permits, licenses and franchise ordinances transferred to us will require the consent of the grantor to transfer these rights, which in some instances is a governmental entity. Our general partner has obtained or is in the process of obtaining sufficient third- party consents, permits, and authorizations for the transfer of the facilities necessary for us to operate our business in all material respects as described in this annual report. With respect to any consents, permits, or authorizations that have not been obtained, our general partner believes that these consents, permits, or authorizations will be obtained, or that the failure to obtain these consents, permits, or authorizations would not have a material adverse effect on the operation of our business.

Our general partner believes that we have satisfactory title to all of our assets. Although title to these properties is subject to encumbrances in some cases, such as customary interests generally retained in connection with acquisition of real property, liens that can be imposed in some jurisdictions for government-initiated action to cleanup environmental contamination, liens for current taxes and other burdens, and easements, restrictions, and other encumbrances to which the underlying properties were subject at the time of our acquisition, our general partner believes that none of these burdens should materially detract from the value of these properties or from our interest in these properties or should materially interfere with their use in the operation of our business.

Employees

TransMontaigne GP L.L.C. is our general partner and manages our operations and activities. TransMontaigne GP L.L.C. is an indirect wholly owned subsidiary of TransMontaigne Inc. Likewise, TransMontaigne Services Inc. is an indirect wholly owned subsidiary of TransMontaigne Inc. and employs the personnel who provide support to TransMontaigne Inc.'s operations, as well as our operations. As of February 28, 2013, TransMontaigne Services Inc. had approximately 586 employees, of whom 319 provide services directly to us. As of February 28, 2013, none of TransMontaigne Services Inc.'s employees who provide services directly to us were covered by a collective bargaining agreement. TransMontaigne Services Inc. considers its employee relations to be good.

ITEM 1A. RISK FACTORS

Our business, operations and financial condition are subject to various risks. You should consider carefully the following risk factors, in addition to the other information set forth in this annual report in connection with any investment in our securities. Limited partner interests are inherently different from the capital stock of a corporation, although many of the business risks to which we are subject are similar to those that would be faced by a corporation engaged in a similar business. If any of the following risks actually occurs, our business, financial condition, results of operations or cash flows could be materially adversely affected. In that case, we might not be able to continue to make distributions on our common units at current levels, or at all. As a result of any of these risks, the market value of our common units representing limited partnership interests could decline, and investors could lose all or a part of their investment.

Risks Inherent in Our Business

We depend upon Morgan Stanley Capital Group for a substantial majority of our revenue and have a small number of other significant customers. Several of our terminaling services agreements with Morgan Stanley Capital Group will terminate on or before December 31, 2014, unless extended. We would suffer a significant reduction of revenue, which could materially adversely affect our financial condition and results of operations, if our significant customers do not continue to engage us to provide services after the expiration of existing terminaling services agreements and we are not able to timely secure comparable alternative customer arrangements. In addition, our ability to maintain cash distributions at current levels could be materially adversely affected.

We derive a substantial majority of our revenue from a small number of significant customers, some of whose agreements with us expire in 2013 and 2014. For example, our terminaling services agreement with Morgan Stanley Capital Group relating to our Florida terminals and the Razorback terminals expires in May of 2014, unless extended prior to November 30, 2013. This agreement provides for minimum throughput payments of approximately $37.3 million for the contract year ending May 31, 2013 and approximately $37.6 million for the contract year ending May 31, 2014. Similarly, our terminaling services agreement with Morgan Stanley Capital Group relating to our Southeast terminals expires at the end of 2014, unless extended prior to December 31, 2013, and provides for minimum throughput payments of approximately $36.0 million for the contract year ending December 31, 2013 and approximately $36.8 million for the contract year ending December 31, 2014. Additionally, during the year ended December 31, 2012, we derived revenues of approximately $13.6 million from the proceeds of sales of product gains and approximately $8.4 million in fees for ethanol blending and other services under these agreements with Morgan Stanley Capital Group. In the aggregate, these agreements accounted for 60.3% of our revenue for the year ended December 31, 2012.

In February 2013, representatives of Morgan Stanley Capital Group indicated that they intend to extend or enter into new terminaling services agreements covering our Florida and the Razorback terminals and the Southeast terminals for periods after the current agreements expire. However, if we are not able to reach acceptable terms with respect to such terminaling services agreements, our revenues would be significantly reduced unless we are able to timely replace the expiring terminaling services agreements with new or expanded terminaling relationships with new customers or our other existing customers. Even if we are successful in entering into new agreements for such storage and transportation capacity, we cannot be certain that the new agreements will be effective at or prior to the expiration of our current agreements or that the terms of any new terminaling services agreements may be less favorable than the terms of our current agreements with Morgan Stanley Capital Group. In either case, our revenues would decline and our financial condition and results of operations could be materially adversely affected. A decline in our revenues and results of operations could adversely affect our ability to maintain cash distributions at current levels.

Morgan Stanley Capital Group, which is our largest customer and controls our general partner, is owned by Morgan Stanley. Morgan Stanley is a bank holding company under applicable federal banking law and regulations, which impose limitations on Morgan Stanley's ability to conduct certain nonbanking activities, or to retain or make certain investments. If the Board of Governors of the Federal Reserve System determines that certain of Morgan Stanley's activities or investments are not permissible, or if legislative and regulatory developments cause Morgan Stanley to change its business strategy as it relates to our activities and investments, Morgan Stanley (i) may cause us to discontinue any such activity or divest any such investment, or (ii) may transfer control of our general partner to an unaffiliated third party.

Our general partner is an indirect wholly-owned subsidiary of Morgan Stanley Capital Group Inc., which, in turn, is a wholly-owned subsidiary of Morgan Stanley. Morgan Stanley is a "bank holding company," due to its ownership of Morgan Stanley Bank, N.A., subject to consolidated supervision and regulation by the Board of Governors of the Federal Reserve System, or "FRB", under the Bank

Holding Company Act, or "BHC Act". Morgan Stanley qualifies as a bank holding company that is a "financial holding company."

As a financial holding company, Morgan Stanley will generally be able to engage in any activity that is financial in nature, incidental to a financial activity or complementary to a financial activity in conformance with the BHC Act. Under certain circumstances and with the approval of the Board of Governors of the FRB, any company that becomes a bank holding company may have up to five years to conform its existing activities and investments to the BHC Act. When a company becomes a financial holding company, the BHC Act grandfathers "activities related to the trading, sale or investment in commodities and underlying physical properties," provided that the financial holding company conducted any such type of activities as of September 30, 1997 and provided that certain other conditions are satisfied. In addition, the BHC Act permits the FRB to determine by regulation or order that certain activities are complementary to a financial activity and do not pose a risk to safety and soundness. The FRB has previously determined that a range of commodities activities are either financial in nature, incidental to a financial activity, or complementary to a financial activity.

In 2009, Morgan Stanley advised us that its internal review reached the conclusion that all of our activities and investments are permissible under the BHC Act. To the extent that the FRB has not yet completed its review of these activities and investments, the FRB could conclude that certain of our activities or investments will not be deemed permissible under the BHC Act. If so, Morgan Stanley (i) may cause us to discontinue any such activity or divest any such investment or (ii) may transfer control of our general partner to an unaffiliated third party, prior to the end of the referenced grace period. We are unable to predict whether, if either of these actions is required, it would have a material adverse impact on our financial condition or results of operations.

Upon becoming a financial holding company in 2008, Morgan Stanley became subject to the consolidated supervision and regulation of the FRB. As a result, our general partner, which is an indirectly wholly owned subsidiary of Morgan Stanley, and the Partnership are now also subject to such supervision and regulation. We are currently unable to predict whether becoming subject to the consolidated supervision and regulation affecting Morgan Stanley as a financial holding company will have a material impact on us, or what any such impact may be.

In addition, on July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act, or Dodd-Frank Act, was enacted. The Dodd-Frank Act contains various provisions that, among other things, affect financial firms, including financial holding companies, and amend various Bank Holding Company Act provisions that affect the restrictions and prohibitions on the activities and investments of financial holding companies. The FRB and other regulatory agencies are required to issue regulations that carry out the intent of the Dodd-Frank Act's provisions. Although many new regulations remain to be written and adopted to implement the Dodd-Frank Act, including the proposed "Volcker Rule," Morgan Stanley has informed us that, based upon its internal review, Morgan Stanley has not yet identified any provision under the Dodd-Frank Act nor the regulations adopted or to be adopted thereunder that would appear to change its conclusion at this time that all of our activities and investments are permissible under the BHC Act.

We are currently unable to predict whether Morgan Stanley's becoming subject to the consolidated supervision and regulation as a financial holding company, or any future changes in the statutes and regulations governing the activities of financial holding companies, will have a material impact on us, or what any such impact may be, including whether Morgan Stanley's business strategy with respect to our activities or investments would be affected. We are therefore unable to predict whether Morgan Stanley will cause us to discontinue any such activities or investments, or whether Morgan Stanley will transfer control of our general partner to an unaffiliated third party. We are, therefore, also unable to predict whether, if either of these actions is taken, it would have a material adverse impact on our financial condition or results of operation. We also cannot currently predict whether, if Morgan Stanley is required to transfer control of our general partner to an unaffiliated third party, it would materially affect our relationship with Morgan Stanley Capital Group, or materially adversely affect our results of operations or financial condition.

We may not have sufficient cash from operations to enable us to maintain or grow the distribution to our unitholders following establishment of cash reserves and payment of fees and expenses, including payments to our general partner.

The amount of cash we can distribute on our common units principally depends upon the amount of cash we generate from our operations, which will fluctuate from quarter to quarter based on, among other things:

- the level of consumption of products in the markets in which we operate;
- the prices we obtain for our services;
- the level of our operating costs and expenses, including payments to our general partner; and
- prevailing economic conditions.

Additionally, the actual amount of cash we have available for distribution to our unitholders depends on other factors such as:

- the level of capital expenditures we make;
- the restrictions contained in our debt instruments and our debt service requirements;
- fluctuations in our working capital needs; and
- the amount, if any, of reserves, including reserves for future capital expenditures and other matters, established by our general partner in its discretion.

The amount of cash we have available for distribution to our unitholders depends primarily on our cash flow, including cash flow from operations and working capital borrowings, and not solely on profitability, which will be affected by non-cash items. As a result, we may make cash distributions to our unitholders during periods when we incur net losses and may not make cash distributions to our unitholders during periods when we generate net earnings. We may not be able to obtain debt or equity financing on terms that are favorable to us, if at all, and we may be required to fund our working capital requirements principally on cash generated by our operations and borrowings under our amended and restated senior secured credit facility. As a result, we may not be able to maintain or grow our quarterly distribution to our unitholders.

We are exposed to the credit risks of Morgan Stanley Capital Group and TransMontaigne Inc. and our other significant customers, which could affect our creditworthiness. Any material nonpayment or nonperformance by such customers could also adversely affect our financial condition and results of operations. Moreover, the expiration of our terminaling services agreements with Morgan Stanley Capital Group could result in a default under the credit facility if we are unable to secure adequate replacement agreements prior to the time our agreements with Morgan Stanley Capital Group expire. A default under our credit facility would materially adversely affect our financial condition and results of operations.

Because of Morgan Stanley Capital Group's and TransMontaigne Inc.'s ownership interest in and control of us, the strong operational links between Morgan Stanley Capital Group and TransMontaigne Inc. and us and our reliance on Morgan Stanley Capital Group and TransMontaigne Inc. for a substantial majority of our revenue, if one or more credit rating agencies were to view unfavorably the credit quality of Morgan Stanley Capital Group or TransMontaigne Inc., we could experience an increase in our borrowing costs or difficulty accessing capital markets. Such a development could adversely affect our ability to grow our business.

We have various credit terms with virtually all of our customers, and our customers have varying degrees of creditworthiness. Although we evaluate the creditworthiness of each of our customers, we may not always be able to fully anticipate or detect deterioration in their creditworthiness and overall financial condition, which could expose us to risks of loss resulting from nonpayment or nonperformance by our other significant customers. Some of our significant customers may be highly leveraged and subject to their own operating and regulatory risks. Any material nonpayment or nonperformance by our other significant customers could require us to pursue substitute customers for our affected assets or provide alternative services. There can be no assurance that any such efforts would be successful or would provide similar fees. These events could adversely affect our financial condition and results of operations.

Under the current terms of our senior secured bank credit facility, our terminaling service agreements with Morgan Stanley Capital Group relating to our Florida and Southeast terminals are deemed to be "Specified Contracts." The credit facility further provides that an event of default will occur if any Specified Contract terminates in whole or in part, "if such ... termination would reasonably be expected to result in a Material Adverse Effect after taking into account any replacement therefor." In February 2013, representatives of Morgan Stanley Capital Group indicated that they intend to extend or enter into new terminaling services agreements covering our Florida and the Razorback terminals and the Southeast terminals for periods after the current agreements expire. However, if these terminaling services agreements with Morgan Stanley Capital Group expire and, at that time, we have not secured sufficient replacement customer agreements to replace the majority of the revenues provided for under the expired agreements, an event of default could occur under our bank credit facility. The existence of a default under the bank credit facility would prevent us from borrowing any additional funds under the bank credit facility and could result in the banks becoming entitled to foreclose on their liens, which cover substantially all of our assets. Thus, a default under our bank credit facility could materially adversely affect our financial condition and results of operations.

We depend upon a relatively small number of customers for a substantial majority of our revenue. A substantial reduction of revenue from one or more of these customers would have a material adverse effect on our financial condition and results of operations.

We expect to derive a substantial majority of our revenue from a small number of significant customers for the foreseeable future. Events that adversely affect the business operations of any one or more of our significant customers may adversely affect our financial condition or results of operations. Therefore, we are indirectly subject to the business risks of our significant customers, many of which are similar to the business risks we face. For example, a material decline in refined petroleum product supplies available to our customers, or a significant decrease in our customers' ability to negotiate marketing contracts on favorable terms, could result in a material decline in the use of our tank capacity or throughput of product at our terminal facilities, which would likely cause our revenue and results of operations to decline. In addition, if any of our significant customers were unable to meet its contractual commitments to us for any reason, then our revenue and cash flow would decline.

The obligations of several of our key customers under their terminaling services agreements may be reduced or suspended in some circumstances, which would adversely affect our financial condition and results of operations.

Our agreements with several of our significant customers provide that, if any of a number of events occur, which we refer to as events of force majeure, and the event renders performance impossible with respect to a facility, usually for a specified minimum period of days, our customer's obligations would be temporarily suspended with respect to that facility. Force majeure events include, but are not limited to, wars, acts of enemies, embargoes, import or export restrictions, strikes, lockouts, acts of nature, including fires, storms, floods, hurricanes, explosions and mechanical or physical failures of our equipment or facilities or those of third parties. In the event of a force majeure, a significant customer's minimum revenue commitment may be reduced or the contract may be subject to termination. As a result, our revenue and results of operations could be materially adversely affected.

Our continued working capital requirements, distributions to unitholders and expansion programs may require access to additional capital. Tightened credit markets or more expensive capital could impair our ability to maintain or grow our operations, or to fund distributions to our unitholders.

Our primary liquidity needs are to fund our working capital requirements, distributions to unitholders, approved capital projects and future expansion, development and acquisition opportunities. Our amended and restated senior secured credit facility provides for a maximum borrowing line of credit equal to $350 million. At December 31, 2012, our outstanding borrowings were $184 million. At December 31, 2012, we have approved additional investments in BOSTCO and expansion capital projects that currently are or will be under construction with estimated completion dates that extend through the first quarter of 2014. At December 31, 2012, the remaining capital expenditures to complete the approved additional investments and expansion capital projects are estimated to be approximately $105 million. We expect to fund our future investments and expansion capital expenditures with additional borrowings under our credit facility. If we cannot obtain adequate financing to complete the approved investments and capital projects while maintaining our current operations, we may not be able to continue to operate our business as it is currently conducted, or we may be unable to maintain or grow the quarterly distribution to our unitholders.

Moreover, our long term business strategies include acquiring additional energy-related terminaling and transportation facilities and further expansion of our existing terminal capacity. We will need to raise additional funds to grow our business and implement these strategies. We anticipate that such additional funds would be raised through equity or debt financings. Any equity or debt financing, if available at all, may not be on terms that are favorable to us. Limitations on our access to capital, including on our ability to issue additional debt and equity, could result from events or causes beyond our control, and could include, among other factors, significant increases in interest rates, increases in the risk premium required by investors, generally or for investments in energy-related companies or master limited partnerships, decreases in the availability of credit or the tightening of terms required by lenders. An inability to access the capital markets may result in a substantial increase in our leverage and have a detrimental impact on our creditworthiness. If we cannot obtain adequate financing, we may not be able to fully implement our business strategies, and our business, results of operations and financial condition would be adversely affected.

Morgan Stanley has informed us that, for the foreseeable future, it does not expect to approve any "significant" acquisition or investment that we may propose, which will severely constrain or curtail our ability to grow our business and could reduce the potential for increasing distributions on our common units, could adversely affect the tax characteristics of an investment in our units for some of our unitholders and could cause the market price of our units to decline.

Morgan Stanley, which indirectly controls our general partner, informed us in October 2011 that, for the foreseeable future, it does not expect to approve any "significant" acquisition or investment that we may propose. Morgan Stanley indicated that it has not established a specific definition of what constitutes a "significant" investment and significance may be determined on either a quantitative or qualitative basis, depending on the facts and circumstances and relevant legal and regulatory considerations. Morgan Stanley has informed us they will review on a case by case basis each proposed transaction to determine its significance, whether an acquisition of, or investment in, assets or legal entities and that an acquisition of, or investment in, a noncontrolling interest or joint venture interest may be "significant" without respect to the size of the transaction. The practical effect of these limitations is to significantly constrain our ability to expand our asset base and operations through acquisitions from third parties. These constraints will reduce the potential for increasing our distributions to unitholders in the future. In addition, these constraints will limit additions to our capital assets primarily to additions and improvements that we construct or add to our existing facilities, although some acquisitions of assets from third parties may be possible to the extent approved by Morgan Stanley. As a result, we may not be able to add to our capital asset base quickly enough to prevent our tax depreciation from declining in the future, which could adversely affect the tax characteristics of an investment in our units for some of our unit holders as discussed under "Tax Risks," below, and could cause the market price of our units to decline. Our December 2012 investment in BOSTCO was approved by Morgan Stanley based on the specific facts and circumstances of the BOSTCO project and the structure of our investment in BOSTCO, and is not indicative of whether Morgan Stanley will approve any other acquisition or investment that we may propose in the future.

Morgan Stanley's decision regarding limitations on its approval of acquisitions or investments that we may propose is the result of the uncertain regulatory environment relating to Morgan Stanley's status as a financial holding company subject to the Bank Holding Company Act, or BHC Act, as amended by the Dodd-Frank Act, and consolidated supervision by the Board of Governors of the Federal Reserve System, or FRB, including uncertainty surrounding the application of regulations under the BHC Act affecting the acquisition and ownership of non-financial business activities. In particular, as a result of the Dodd-Frank Act (including the proposed Volcker Rule), Morgan Stanley is subject to significantly revised and expanded regulation and supervision, to more intensive scrutiny of its businesses and any plans for expansion of those businesses and to limitations on engaging in new business activities which, in turn, affect TransMontaigne Partners by virtue of Morgan Stanley having control of our business activities through its indirect ownership of our general partner. The Dodd-Frank Act and the mandates it includes for further regulatory actions are part of a trend to increase regulatory supervision of the financial industry. As a result of this trend, including further legislative or regulatory changes, Morgan Stanley's ability to own and operate our general partner or its business strategies with respect to operating our general partner and TransMontaigne Partners may change significantly in ways that we cannot currently predict with certainty. We are currently unable to predict how the impact of Morgan Stanley's decision and such regulatory developments will affect Morgan Stanley's commodities business or the growth or development of our business and results of operations. A sustained, material decrease in our ability to pursue opportunities for future growth could materially adversely affect the market price of our common units.

Together, Morgan Stanley Capital Group and TransMontaigne Inc. is our largest customer and we receive a substantial majority of our revenue from them. Material changes to Morgan Stanley's commodities business, if any, as a result of the changing regulatory environment may have a material adverse impact on our business.

Together, Morgan Stanley Capital Group and TransMontaigne Inc. is our largest customer and we receive a substantial majority of our revenue from them. As noted above, we and our general partner are subject to and affected by significantly revised and expanded regulation and supervision, and there is considerable uncertainty in this regulatory environment, including the interpretation of the Volcker Rule, as proposed in October 2011 and for which the comment period ended on February 13, 2012. We are unable to predict what the final version of the Volcker Rule will be or the impact it may have on Morgan Stanley's business, including its commodities business. Material changes to Morgan Stanley's commodities business, if any, resulting from the changing regulatory environment may have a material adverse impact on our business, financial condition and results of operations.

Although we cannot predict whether such circumstances will result in any material changes to Morgan Stanley's commodities business, if any such changes occur, they may have a material adverse impact on our business. For example, if Morgan Stanley Capital Group's or TransMontaigne Inc.'s commodities business were to change as a result of the changing regulatory environment such that they would be unable to renew our terminaling services agreements or utilize our terminals and facilities at current levels, we would need to seek new or expanded terminaling relationships with new customers or our other existing customers. We cannot be certain that we would be able to replace all of the revenues on account of capacity currently used by Morgan Stanley Capital Group and TransMontaigne Inc. at or prior to the termination of our current agreements. In addition, depending on market and other conditions, we may have to accept agreements with new customers on terms that are less favorable to us than the terms of our current agreements with Morgan Stanley Capital Group and TransMontaigne Inc. Additionally, we may incur costs for modifications to our terminals required by new customers. Any of these factors may adversely affect our ability to generate sufficient additional revenue and income to replace all of the revenue and income we earn under our current agreements, which may materially adversely affect our financial condition and results of operations.

If we do not make acquisitions or make acquisitions on economically acceptable terms, any future growth of our business will be limited and the price of our limited partnership units may be adversely affected.

Our ability to grow has been dependent principally on our ability to make acquisitions that are attractive because they are expected to result in an increase in our quarterly distributions to unitholders. As discussed above, Morgan Stanley informed us in October 2011 that, for the foreseeable future, it does not expect to approve any "significant" acquisition or investment that we may propose. Morgan Stanley's decision will severely limit our ability to grow our business for the foreseeable future and may have an adverse effect on the price of our common units representing limited partnership interests or on the tax characteristics of an investment in our common units.

To the extent Morgan Stanley approves any acquisition we may propose, our ability to acquire facilities will be based, in part, on divestitures of product terminal and transportation facilities by large industry participants. A material decrease in such divestitures could therefore limit our opportunities for future acquisitions.

In addition, we may be unable to make attractive acquisitions for any of the additional following reasons, among others:

- because we are outbid by competitors, some of which are substantially larger than us and have greater financial resources and lower costs of capital than we do;

- because we are unable to identify attractive acquisition candidates or negotiate acceptable purchase contracts with them, or acceptable terminaling services contracts with them or another customer; or

- because we are unable to raise financing for such acquisitions on economically acceptable terms.

If we consummate future acquisitions, our capitalization and results of operations may change significantly, and unitholders will not have the opportunity to evaluate the economic, financial and other relevant information that we will consider in determining the application of our capital resources.

Any acquisitions we make are subject to substantial risks, which could adversely affect our financial condition and results of operations.

Any acquisition involves potential risks, including risks that we may:

- fail to realize anticipated benefits, such as cost-savings or cash flow enhancements;

- decrease our liquidity by using a significant portion of our available cash or borrowing capacity to finance acquisitions;

- significantly increase our interest expense or financial leverage if we incur additional debt to finance acquisitions;
- encounter difficulties operating in new geographic areas or new lines of business;
- incur or assume unanticipated liabilities, losses or costs associated with the business or assets acquired for which we are not indemnified or for which the indemnity is inadequate;
- be unable to hire, train or retain qualified personnel to manage and operate our growing business and assets;
- less effectively manage our historical assets because of the diversion of management's attention; or
- incur other significant charges, such as impairment of goodwill or other intangible assets, asset devaluation or restructuring charges.

If any acquisitions we ultimately consummate result in one or more of these outcomes, our financial condition and results of operations may be adversely affected.

A significant decrease in demand for refined products due to high prices, alternative fuel sources, new technologies or adverse economic conditions may cause one or more of our significant customers to reduce their use of our tank capacity and throughput volumes at our terminal facilities, which would adversely affect our financial condition and results of operations.

The market uncertainties, economic recession resulting in lower consumer spending on gasolines, distillates and travel, and high prices of refined products may cause a reduction in demand for refined products, which could result in a material decline in the use of our tank capacity or throughput of product at our terminal facilities. Additionally, the volatility in the price of refined products may render our customers' hedging activities ineffective, which could cause one or more of our significant customers to decrease their supply and marketing activities in order to reduce their exposure to price fluctuations.

Additional factors that could lead to a decrease in market demand for refined products include:

- an increase in the market price of crude oil that leads to higher refined product prices;
- higher fuel taxes or other governmental or other regulatory actions that increase, directly or indirectly, the cost of gasolines or other refined products;
- a shift by consumers to more fuel-efficient or alternative fuel vehicles or an increase in fuel economy, whether as a result of technological advances by manufacturers, pending legislation proposing to mandate higher fuel economy or otherwise; or
- an increase in the use of alternative fuel sources, such as ethanol, biodiesel, fuel cells and solar, electric and battery-powered engines.

Mergers between our existing customers and our competitors could provide strong economic incentives for the combined entities to utilize their existing systems instead of ours in those markets where the systems compete. As a result, we could lose some or all of the volumes and associated revenues from these customers and we could experience difficulty in replacing those lost volumes and revenues.

Because most of our operating costs are fixed, any decrease in throughput volumes at our terminal facilities, would likely result not only in a decrease in our revenue, but also a decline in cash flow of a similar magnitude, which would adversely affect our results of operations, financial position and cash flows and may impair our ability to make quarterly distributions to our unitholders.

Our debt levels may limit our flexibility in obtaining additional financing and in pursuing other business opportunities.

Our level of debt could have important consequences to us. For example our level of debt could:

- impair our ability to obtain additional financing, if necessary, for distributions to unitholders, working capital, capital expenditures, acquisitions or other purposes;

- require us to dedicate a substantial portion of our cash flow to make principal and interest payments on our debt, reducing the funds that would otherwise be available for operations and future business opportunities;

- make us more vulnerable to competitive pressures, changes in interest rates or a downturn in our business or the economy generally;

- impair our ability to make quarterly distributions to our unitholders; and

- limit our flexibility in responding to changing business and economic conditions.

If our operating results are not sufficient to service our current or future indebtedness, we will be forced to take actions such as reducing distributions, reducing or delaying our business activities, acquisitions, investments or capital expenditures, selling assets, restructuring or refinancing our debt, or seeking additional equity capital. We may not be able to affect any of these actions on satisfactory terms, or at all.

Our amended and restated senior secured credit facility also contains covenants limiting our ability to make distributions to unitholders in certain circumstances. In addition, our amended and restated senior secured credit facility contains various covenants that limit, among other things, our ability to incur indebtedness, grant liens or enter into a merger, consolidation or sale of assets. Furthermore, our amended and restated senior secured credit facility contains covenants requiring us to maintain certain financial ratios and tests. Any future breach of any of these covenants or our failure to meet any of these ratios or conditions could result in a default under the terms of our amended and restated senior secured credit facility, which could result in acceleration of our debt and other financial obligations. If we were unable to repay those amounts, the lenders could initiate a bankruptcy proceeding or liquidation proceeding or proceed against the collateral.

Competition from other terminals and pipelines that are able to supply our customers with storage capacity at a lower price could adversely affect our financial condition and results of operations.

We face competition from other terminals and pipelines that may be able to supply our customers with integrated terminaling services on a more competitive basis. We compete with national, regional and local terminal and pipeline companies, including the major integrated oil companies, of widely varying sizes, financial resources and experience. Our ability to compete could be harmed by factors we cannot control, including:

- price competition from terminal and transportation companies, some of which are substantially larger than us and have greater financial resources and control substantially greater product storage capacity, than we do;

- the perception that another company may provide better service; and

- the availability of alternative supply points or supply points located closer to our customers' operations.

If we are unable to compete with services offered by other enterprises, our financial condition and results of operations would be adversely affected.

Adverse economic conditions periodically result in weakness and volatility in the capital markets, that may limit, temporarily or for extended periods, the ability of one or more of our significant customers to secure financing arrangements adequate to purchase their desired volume of product, which could reduce use of our tank capacity and throughput volumes at our terminal facilities and adversely affect our financial condition and results of operations.

Domestic and international economic conditions affect the functioning of capital markets and the availability of credit. Adverse economic conditions, such as those prevalent during the recent recessionary period, periodically result in weakness and volatility in the capital markets, which in turn can limit, temporarily or for extended periods, the credit available to various enterprises, including those involved in the supply and marketing of refined products. As a result of these conditions, some of our customers may suffer short or long-term reductions in their ability to finance their supply and marketing activities, or may voluntarily elect to reduce their supply and marketing activities in order to preserve working capital. A significant decrease in our customers' ability to secure financing arrangements adequate to support their historic refined product throughput volumes could result in a material decline in use of our tank capacity or the throughput of refined product at our terminal facilities. We may not be able to generate sufficient additional revenue from third parties to replace any shortfall in revenue from our current customers, which would likely cause our revenue and results of operations to decline and may impair our ability to make quarterly distributions to our unitholders.

Our business involves many hazards and operational risks, including adverse weather conditions, which could cause us to incur substantial liabilities and increased operating costs.

Our operations are subject to the many hazards inherent in the terminaling and transportation of products, including:

- leaks or accidental releases of products or other materials into the environment, whether as a result of human error or otherwise;
- extreme weather conditions, such as hurricanes, tropical storms, and rough seas, which are common along the Gulf Coast;
- explosions, fires, accidents, mechanical malfunctions, faulty measurement and other operating errors; and
- acts of terrorism or vandalism.

If any of these events were to occur, we could suffer substantial losses because of personal injury or loss of life, severe damage to and destruction of storage tanks, pipelines and related property and equipment, and pollution or other environmental damage resulting in curtailment or suspension of our related operations and potentially substantial unanticipated costs for the repair or replacement of property and environmental cleanup. In addition, if we suffer accidental releases or spills of products at our terminals or pipelines, we could be faced with material third-party costs and liabilities, including those relating to claims for damages to property and persons and governmental claims for natural resource damages or fines or penalties for related violations of environmental laws or regulations. We are not fully insured against all risks to our business and if losses in excess of our insurance coverage were to occur, they could have a material adverse effect on our operations. Furthermore, events like hurricanes can affect large geographical areas which can cause us to suffer additional costs and delays in connection with subsequent repairs and operations because contractors and other resources are not available, or are only available at substantially increased costs following widespread catastrophes.

In the event we are required to refinance our existing debt in unfavorable market conditions, we may have to pay higher interest rates and be subject to more stringent financial covenants, which could adversely affect our results of operations and may impair our ability to make quarterly distributions to our unitholders.

On March 9, 2011, we entered into an amended and restated senior secured credit facility that matures in March 2016. At December 31, 2012, we had outstanding borrowings of $184 million. Our amended and restated senior secured credit facility provides that we pay interest on outstanding balances at interest rates based on market rates plus specified margins, ranging from 2% to 3% depending on the total leverage ratio in the case of loans with interest rates based on LIBOR, or ranging from 1% to 2% depending on the total leverage ratio in the case of loans with interest rates based on the base rate. In the event we are required to refinance our amended and restated senior secured credit facility in unfavorable market conditions, we may have to pay interest at higher rates on outstanding borrowings and may be subject to more stringent financial covenants than we have today, which could adversely affect our results of operations and may impair our ability to make quarterly distributions to our unitholders.

We are not fully insured against all risks incident to our business, and could incur substantial liabilities as a result.

We may not be able to maintain or obtain insurance of the type and amount we desire at reasonable rates. As a result of market conditions, premiums and deductibles for certain of our insurance policies have increased substantially, and could escalate further. In some instances, certain insurance could become unavailable or available only for reduced amounts of coverage. For example, our insurance carriers require broad exclusions for losses due to terrorist acts. If we were to incur a significant liability for which we were not fully insured, it could have a material adverse effect on our financial condition. In accordance with typical industry practice, we do not have any property or title insurance on the Razorback and Diamondback pipelines.

We share insurance policies, including our general liability and pollution policies, with TransMontaigne Inc. These policies contain caps on the insurer's maximum liability under the policy, and claims made by either of TransMontaigne Inc. or us are applied against the caps. In the event we reach the cap, we would seek to acquire additional insurance in the marketplace; however, we can provide no assurance that such insurance would be available or if available, at a reasonable cost. The possibility exists that, in any event in which we wish to make a claim under a shared insurance policy, our claim could be denied or only partially satisfied due to claims made by TransMontaigne Inc. against the policy cap.

Expanding our business by constructing new facilities subjects us to risks that the project may not be completed on schedule and that the costs associated with the project may exceed our estimates or budgeted costs, which could adversely affect our financial condition and results of operations.

The construction of additions or modifications to our existing terminal and transportation facilities, and the construction of new terminals and pipelines, involves numerous regulatory, environmental, political, legal and operational uncertainties beyond our control and requires the expenditure of significant amounts of capital. If we undertake these projects, they may not be completed on schedule or at all and may exceed the budgeted cost. If we experience material cost overruns, we would have to finance these overruns using cash from operations, delaying other planned projects, incurring additional indebtedness, or issuing additional equity. Any or all of these methods may not be available when needed or may adversely affect our future results of operations and cash flows. Moreover, our revenue may not increase immediately upon the expenditure of funds on a particular project. For instance, if we construct additional storage capacity, the construction may occur over an extended period of time, and we will not receive any material increases in revenue until the project is completed. Moreover, we may construct additional storage capacity to capture anticipated future growth in consumption of products in a market in which such growth does not materialize.

Because of our lack of asset diversification, adverse developments in our terminals or pipeline operations could adversely affect our revenue and cash flows.

We rely exclusively on the revenue generated from our terminals and pipeline operations. Because of our lack of diversification in asset type, an adverse development in these businesses would have a significantly greater impact on our financial condition and results of operations than if we maintained more diverse assets.

Our operations are subject to governmental laws and regulations relating to the protection of the environment that may expose us to significant costs and liabilities.

Our business is subject to the jurisdiction of numerous governmental agencies that enforce complex and stringent laws and regulations with respect to a wide range of environmental, safety and other regulatory matters. We could be adversely affected by increased costs resulting from more strict pollution control requirements or liabilities resulting from non-compliance with required operating or other regulatory permits. New environmental laws and regulations might adversely impact our activities, including the transportation, storage and distribution of petroleum products. Federal, state and local agencies also could impose additional safety requirements, any of which could affect our profitability. Furthermore, our failure to comply with environmental or safety related laws and regulations also could result in the assessment of administrative, civil and criminal penalties, the imposition of investigatory and remedial obligations and even the issuance of injunctions that restrict or prohibit the performance of our operations.

Federal, state and local agencies also have the authority to prescribe specific product quality specifications of refined products. Changes in product quality specifications or blending requirements could reduce our throughput volume, require us to incur additional handling costs or require capital expenditures. For example, different product specifications for different markets impact the fungibility of the products in our system and could require the construction of additional storage. If we are unable to recover these costs through increased revenues, our cash flows and ability to pay cash distributions could be adversely affected.

Terrorist attacks, and the threat of terrorist attacks, have resulted in increased costs to our business. Continued hostilities in the Middle East or other sustained military campaigns may adversely impact our ability to make distributions to our unitholders.

The long-term impact of terrorist attacks, such as the attacks that occurred on September 11, 2001, and the threat of future terrorist attacks, on the energy transportation industry in general, and on us in particular, is impossible to predict. Increased security measures that we have taken as a precaution against possible terrorist attacks have resulted in increased costs to our business. Uncertainty surrounding continued hostilities in the Middle East or other sustained military campaigns may affect our operations in unpredictable ways, including the possibility that infrastructure facilities could be direct targets of, or indirect casualties of, an act of terrorism.

Many of our storage tanks and portions of our pipeline system have been in service for several decades that could result in increased maintenance or remediation expenditures, which could adversely affect our results of operations and our ability to pay cash distributions.

Our pipeline and storage assets are generally long-lived assets. As a result, some of those assets have been in service for many decades. The age and condition of these assets could result in increased maintenance or remediation expenditures. Any significant increase in these expenditures could adversely affect our results of operations, financial position and cash flows, as well as our ability to pay cash distributions.

Climate change legislation or regulations restricting emissions of "greenhouse gases" or setting fuel economy or air quality standards could result in increased operating costs or reduced demand for the refined petroleum products that we transport, store or otherwise handle in connection with our business.

New environmental laws and regulations, including new federal or state regulations relating to alternative energy sources and the risk of global climate change, increased governmental enforcement or other developments could increase our costs in complying with environmental and safety regulations and require us to make additional unforeseen expenditures. On December 15, 2009, the EPA officially published its findings that emissions of carbon dioxide, methane and other "greenhouse gases" endanger human health and the environment because emissions of such gases are, according to the EPA, contributing to the warming of the earth's atmosphere and other climatic changes. These findings by the EPA allow the agency to proceed with the adoption and implementation of regulations that would restrict emissions of greenhouse gases under existing provisions of the Federal Clean Air Act. Moreover, more than one-third of the states, either individually or through multi-state regional initiatives, have already begun implementing legal measures to reduce emissions of greenhouse gases.

While it is not possible at this time to fully predict how legislation or new regulations that may be adopted in the United States to address greenhouse gas emissions would impact our business, new legislation or regulatory programs that restrict emissions of greenhouse gases in areas where we conduct business could, depending on the particular program adopted, increase our costs to operate and maintain our facilities, measure and report our emissions, install new emission controls on our facilities and administer and manage a greenhouse gas emissions program. Laws or regulations regarding fuel economy, air quality or greenhouse gas emissions could also include efficiency requirements or other methods of curbing carbon emissions that could adversely affect demand for the refined petroleum products, natural gas and other hydrocarbon products that we transport, store or otherwise handle in connection with our business. A significant decrease in demand for petroleum products would have a material adverse effect on our business, financial condition, results of operations or cash flows.

In addition, some scientists have concluded that increasing concentrations of greenhouse gases in the earth's atmosphere may produce climate changes that have significant physical effects, such as increased frequency and severity of storms, droughts, floods and other climate events; if any such effects were to occur, they could have an adverse effect on our assets and operations.

Risks Inherent in an Investment in Us

TransMontaigne Inc. controls our general partner, which has sole responsibility for conducting our business and managing our operations. TransMontaigne Inc. and Morgan Stanley Capital Group have conflicts of interest and limited fiduciary duties, which may permit them to favor their own interests to our detriment.

TransMontaigne GP L.L.C. is our general partner and manages our operations and activities. TransMontaigne GP L.L.C. is an indirect wholly owned subsidiary of TransMontaigne Inc. Likewise, TransMontaigne Services Inc. is an indirect wholly owned subsidiary of TransMontaigne Inc. and employs the personnel who provide support to TransMontaigne Inc.'s operations, as well as our operations. TransMontaigne Inc., in turn, is wholly owned by Morgan Stanley Capital Group, which is the principal commodities trading arm of Morgan Stanley. Neither our general partner nor its board of directors is elected by our unitholders and our unitholders have no right to elect our general partner or its board of directors on an annual or other continuing basis. Furthermore, it may be difficult for unitholders to remove our general partner without its consent because our general partner and its affiliates own units representing approximately 22% of our aggregate outstanding limited partner interests. The vote of the holders of at least 66$^{2}/_{3}$% of all outstanding common units, including any common units owned by our general partner and its affiliates, but excluding the general partner interest, voting together as a single class, is required to remove our general partner.

Additionally, any or all of the provisions of our omnibus agreement with TransMontaigne Inc., other than the indemnification provisions, will be terminable by TransMontaigne Inc. at its option if our general partner is removed without cause and common units held by our general partner and its affiliates are not voted in favor of that removal. Cause is narrowly defined in the omnibus agreement to mean that a court of competent jurisdiction has entered a final, non-appealable judgment finding our general partner liable for actual fraud or willful or wanton misconduct in its capacity as our general partner. Cause does not include most cases of charges of poor management of the business.

All of the executive officers of our general partner are affiliated with TransMontaigne Inc. and three of our general partner's directors are affiliated with Morgan Stanley Capital Group. Therefore, conflicts of interest may arise between TransMontaigne Inc. and its affiliates, including Morgan Stanley Capital Group and our general partner, on the one hand, and us and our unitholders, on the other hand. In resolving those conflicts of interest, our general partner may favor its own interests and the interests of its affiliates over the interests of our unitholders.

The following are potential conflicts of interest:

- TransMontaigne Inc. and Morgan Stanley Capital Group, as users of our pipeline and terminals, have economic incentives not to cause us to seek higher tariffs or higher terminaling service fees, even if such higher rates or terminaling service fees would reflect rates that could be obtained in arm's- length, third-party transactions.

- Morgan Stanley Capital Group, TransMontaigne Inc. and their affiliates may engage in competition with us under certain circumstances.

- Neither our partnership agreement nor any other agreement requires TransMontaigne Inc. or Morgan Stanley Capital Group to pursue a business strategy that favors us. This entitles our general partner to consider only the interests and factors that it desires, and it has no duty or obligation to give any consideration to any interest of, or factors affecting, us, our affiliates or any limited partner. TransMontaigne Inc.'s and Morgan Stanley Capital Group's respective directors and officers have fiduciary duties to make decisions in the best interests of those companies, which may be contrary to our interests or the interests of our other customers.

- Our general partner is allowed to take into account the interests of parties other than us, such as TransMontaigne Inc. and Morgan Stanley Capital Group, in resolving conflicts of interest. Specifically, in determining whether a transaction or resolution is "fair and reasonable," our general partner may consider the totality of the relationships between the parties involved, including other transactions that may be particularly advantageous or beneficial to us.

- Officers of TransMontaigne Inc. who provide services to us also devote significant time to the businesses of TransMontaigne Inc., and are compensated by TransMontaigne Inc. for the services rendered to it.

- Our general partner has limited its liability and reduced its fiduciary duties, and also has restricted the remedies available to our unitholders for actions that, without the limitations, might constitute breaches of fiduciary duty. Our general partner will not have any liability to us or our unitholders for decisions made in its capacity as a general partner so long as it acted in good faith, meaning it believed that its decision was in the best interests of our partnership.

- Our general partner determines the amount and timing of acquisitions and dispositions, capital expenditures, borrowings, issuance of additional partnership securities, and reserves, each of which can affect the amount of cash that is distributed to our unitholders.

- Our general partner determines the amount and timing of any capital expenditures by our partnership and whether a capital expenditure is a maintenance capital expenditure, which reduces operating surplus, or an expansion capital expenditure, which does not reduce operating surplus. That determination can affect the amount of cash that is distributed to our unitholders.

- Our partnership agreement permits us to treat a distribution of a certain amount of cash from non-operating sources such as asset sales, issuances of securities and long-term borrowings as a distribution of operating surplus instead of capital surplus. The amount that can be distributed in such fashion is equal to four times the amount needed for us to pay a quarterly distribution on the common units, the general partner interest and the incentive distribution rights at the same per-unit distribution amount as the distribution paid in the immediately preceding quarter. As of December 31, 2012, that amount was $42.4 million, $13.5 million of which would go to TransMontaigne Inc. and Morgan Stanley Capital Group in the form of distributions on their common units, general partner interest and incentive distribution rights.

- Our general partner determines which out-of-pocket costs incurred by TransMontaigne Inc. are reimbursable by us.

- Our partnership agreement does not restrict our general partner from causing us to pay it or its affiliates for any services rendered to us or entering into additional contractual arrangements with any of these entities on our behalf.

- Our general partner and its officers and directors will not be liable for monetary damages to us, our limited partners or assignees for any acts or omissions unless there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that our general partner or those other persons acted in bad faith or engaged in fraud or willful misconduct.

- Our general partner controls the enforcement of obligations owed to us by our general partner and its affiliates, including the terminaling services agreements with TransMontaigne Inc. and Morgan Stanley Capital Group.

- Our general partner decides whether to retain separate counsel, accountants, or others to perform services on our behalf.

Cost reimbursements, which will be determined by our general partner, and fees due our general partner and its affiliates for services provided are and will continue to be substantial and will reduce our cash available for distribution to unitholders.

Payments to our general partner are and will continue to be substantial and will reduce the amount of available cash for distribution to unitholders. For the year ended December 31, 2012, we paid TransMontaigne Inc. and its affiliates an administrative fee of approximately $10.8 million, an additional insurance reimbursement of approximately $3.6 million and $1.3 million as partial reimbursement for grants to key employees of TransMontaigne Inc. and its affiliates under the TransMontaigne Services Inc. savings and retention plan. Both the administrative fee and the insurance reimbursement are subject to increase in the event we acquire or construct facilities to be managed and operated by TransMontaigne Inc. Our general partner and its affiliates will continue to be entitled to reimbursement for all other direct expenses they incur on our behalf, including the salaries of and the cost of employee benefits for employees working on-site at our terminals and pipelines. Our general partner will determine the amount of these expenses. Our general partner and its affiliates also may provide us other services for which we will be charged fees as determined by our general partner. The

Omnibus Agreement expires on December 31, 2014, subject to our right to extend the agreement for an additional seven years if Morgan Stanley Capital Group elects to renew the terminaling services agreement for the Southeast terminals. If we are unable to renew the Omnibus Agreement on terms that are satisfactory to us or if we are required to pay a higher administrative fee, our results of operations and financial condition could be adversely affected.

The control of our general partner may be transferred to a third party without unitholder consent.

Our general partner may transfer its general partner interest to a third party in a merger or in a sale of all or substantially all of its assets without the consent of the unitholders. Furthermore, our partnership agreement does not restrict the ability of the members of our general partner from transferring their respective limited liability company interests in our general partner to a third party. The new members of our general partner could then be in a position to replace the board of directors and officers of our general partner with their own choices and to control the decisions taken by the board of directors and officers.

Our general partner has a limited call right that may require unitholders to sell their common units at an undesirable time or price.

If at any time our general partner and its affiliates own more than 80% of the common units, our general partner will have the right, but not the obligation, which it may assign to any of its affiliates or to us, to acquire all, but not less than all, of the common units held by unaffiliated persons at a price not less than their then-current market price. As a result, unitholders may be required to sell their common units at an undesirable time or price and may not receive any return on their investment. Unitholders may also incur a tax liability upon a sale of their common units. At February 28, 2013, affiliates of our general partner own approximately 22.0% of our aggregate outstanding common units representing limited partner interests.

We may issue additional units without your approval, which would dilute your existing ownership interests.

Our partnership agreement does not limit the number of additional limited partner interests that we may issue at any time without the approval of our unitholders. The issuance by us of additional common units or other equity securities of equal or senior rank will have the following effects: your proportionate ownership interest in us will decrease; the amount of cash available for distribution on each unit may decrease; the ratio of taxable income to distributions may increase; the relative voting strength of each previously outstanding unit may be diminished; and the market price of the common units may decline.

Unitholders may not have limited liability in some circumstances.

The limitations on the liability of holders of limited partnership interests for the obligations of a limited partnership have not been clearly established in some states. If it were determined that we had been conducting business in any state without compliance with the applicable limited partnership statute, or that our unitholders as a group took any action pursuant to our partnership agreement that constituted participation in the "control" of our business, then the unitholders could be held liable under some circumstances for our obligations to the same extent as a general partner. Under applicable state law, our general partner has unlimited liability for our obligations, including our debts and environmental liabilities, if any, except for our contractual obligations that are expressly made without recourse to the general partner.

In addition, Section 17-607 of the Delaware Revised Uniform Limited Partnership Act provides that under some circumstances a Unitholder may be liable to us for the amount of distributions paid to the unitholder for a period of three years from the date of the distribution.

Tax Risks

Our tax treatment depends on our status as a partnership for federal income tax purposes, as well as not being subject to a material amount of entity-level taxation by states. If the Internal Revenue Service were to treat us as a corporation or if we were to become subject to a material amount of entity-level taxation for state tax purposes, then our cash available for distribution to unitholders would be substantially reduced.

The anticipated after-tax benefit of an investment in our common units depends largely on our being treated as a partnership for federal income tax purposes. We have not requested, and do not plan to request, a ruling from the IRS on this matter.

A publicly-traded partnership may be treated as a corporation for federal income tax purposes unless its gross income from its business activities satisfies a "qualifying income" requirement under U.S. tax code. Based upon our current operations, we believe that we qualify to be treated as a partnership for federal income tax purposes under these requirements. While we intend to continue to meet this gross income requirement, we may not find it possible to meet, or may inadvertently fail to meet, these requirements. If we do not meet these requirements for any taxable year, and the IRS does not determine that such failure was inadvertent, we would be treated as a corporation for such taxable year and each taxable year thereafter.

If we were treated as a corporation for federal income tax purposes, we would pay federal income tax on our income at the corporate tax rate, which is currently a maximum of 35%. In such a circumstance, distributions to our unitholders would generally be taxed again as corporate distributions (if such distributions were less than our earnings and profits) and no income, gains, losses, deductions or credits would flow through to our unitholders. Imposition of a corporate tax would substantially reduce our cash flows and after-tax return to our unitholders. This likely would cause a substantial reduction in the value of the common units.

Any modification to the U.S. federal income tax laws and interpretations thereof may or may not be applied retroactively and could make it more difficult or impossible to meet the qualifying income requirements, affect or cause us to change our business activities, affect the tax considerations of an investment in a publicly traded partnership, including us, change the character or treatment of portions of our income and adversely affect an investment in our common units. We are unable to predict whether any current or future proposed federal income tax law changes will ultimately be enacted.

In addition, some states have subjected partnerships to entity-level taxation through the imposition of state income, franchise or other forms of taxation, and other states may follow this trend. If any state were to impose a tax upon us as an entity, our cash flows would be reduced. For example, under current legislation, we are subject to an entity-level tax on the portion of our total revenue (as that term is defined in the legislation) that is generated in Texas. For the year ended December 31, 2012, we recognized a liability of approximately $73,000 for the Texas margin tax, which is imposed at a maximum effective rate of 0.7% of our total revenue and tax gains from Texas. Imposition of such a tax on us by Texas, or any other state, will reduce the cash available for distribution to our unitholders. The partnership agreement provides that if a law is enacted or existing law is modified or interpreted in a manner that subjects us to taxation as a corporation or otherwise subjects us to entity-level taxation for federal, state or local income tax purposes, then the minimum quarterly distribution amount and the target distribution amounts will be reduced to reflect the impact of that law on us.

Constraints on our ability to make acquisitions and investments to increase our capital asset base may result in future declines in our tax depreciation, which may cause some unitholders to recognize higher taxable income in respect of their units and adversely affect the tax characteristics of an investment in our units and reduce the market price of our units.

Morgan Stanley, which indirectly controls our general partner, informed us in October 2011 that, for the foreseeable future, it does not expect to approve any "significant" acquisition or investment that we may propose. The practical effect of these limitations is to significantly constrain our ability to expand our asset base and operations through acquisitions from third parties, limiting additions to our capital assets primarily to additions and improvements that we construct or add to our existing facilities, although some acquisitions of assets from third parties may be possible to the extent approved by Morgan Stanley. As a result, we may not be able to add to our capital asset base quickly enough to avoid our tax depreciation from declining in the future, which could cause some unitholders to recognize higher taxable income. The federal and state tax laws and regulations applicable to an investment in our units are complex and each investor's tax considerations are likely to be different from those of other investors, so it is impossible to state with certainty the impact of any change on any single investor or group of investors in our units. It is the responsibility of each unitholder to investigate the legal and tax consequences, under the laws of pertinent jurisdictions, of an investment in our common units. Accordingly, each unitholder or prospective investor in our units is urged to consult with, and depend upon, their tax counsel or other advisor with regard to those matters.

Nevertheless, adverse changes in investors' perception of the tax characteristics of an investment in our units could adversely affect market value of our units.

If the sale or exchange of 50% or more of our capital and profit interests occurs within a 12-month period, we would experience a deemed technical termination of our partnership for federal income tax purposes.

The sale or exchange of 50% or more of the partnership's units within a 12-month period would result in a deemed "technical" termination of our partnership for federal income tax purposes. Such an event would not terminate a unitholder's interest in the partnership, nor would it terminate the continuing business operations of the partnership. However, it would, among other things, result in the closing of our taxable year for all unitholders and would result in a deferral of depreciation and cost recovery deductions allowable in computing our taxable income for future tax years. The partnership previously experienced a deemed "technical" termination for the period ending December 30, 2007, due to a change in our ownership structure effective December 31, 2007. If our partnership were deemed terminated for federal income tax purposes, this deferral of cost recovery deductions would impact each unitholder through allocations of an increased amount of federal taxable income (or reduced amount of allocated loss) for the year in which the partnership is deemed terminated and for subsequent years as a percentage of the cash distributed to the unitholder with respect to that period.

We generally prorate our items of income, gain, loss and deduction between transferors and transferees of our common units each month based upon the ownership of our common units on the first day of each month, instead of on the basis of the date a particular common unit is transferred. The IRS may challenge this treatment, which could change the allocation of items of income, gain, loss and deduction among our unitholders.

For administrative purposes and consistent with other publicly traded partnerships, we generally prorate our items of income, gain, loss, and deduction between transferors and transferees of our common units each month based upon the ownership of our common units on the first day of each month, instead of on the basis of the date a particular common unit is transferred. The use of this proration method may not be permitted under existing Treasury Regulations. If the IRS were to challenge this method or new Treasury Regulations were issued, we may be required to change the allocation of items of income, gain, loss and deduction among our unitholders.

Unitholders will be required to pay taxes on their respective share of our taxable income regardless of the amount of cash distributions.

Unitholders will be required to pay federal income taxes and, in some cases, state and local income taxes on the unitholder's respective share of our taxable income, whether or not such unitholder receives cash distributions from us. In addition, supplemental taxes that apply to net investment income from passive activities and from gains on sales of partnership interests may be required of unitholders. Unitholders may not receive cash distributions from us equal to the unitholder's respective share of our taxable income or even equal to the actual tax liability that results from the unitholder's respective share of our taxable income or due to the unitholder's taxes relating to net investment income.

Tax-exempt entities and foreign persons face unique tax issues from owning units that may result in adverse tax consequences to them.

Investment in common partnership units by tax-exempt entities, such as individual retirement accounts, and non-United States persons raises tax issues unique to them. For example, the partnership's ordinary income allocated to organizations exempt from federal income tax, including individual retirement accounts and other retirement plans, will be unrelated business taxable income, or UBTI, and may be taxable to them. Due to allocations of reportable tax items to unitholders being dependent on the date of each unitholder's purchase of our common units, we are not able to provide an estimate of a unitholder's UBTI prior to processing that unitholder's Schedule K-1. Because the Partnership's distributions are attributed to income that is effectively connected with a United States trade or business, distributions to non-United States persons are subject to withholding taxes at the highest applicable effective tax rate set by the federal tax laws in effect at the time of such distributions. Nominees, rather than the Partnership, are treated as withholding agents. Non-United States persons will be required to file United States federal income tax returns and pay tax on their share of our taxable income.

Our unitholders will likely be subject to state and local taxes and return filing requirements in states where they do not live as a result of investing in our limited partner units.

In addition to federal income taxes, our unitholders will likely be subject to other taxes, including state and local income taxes, unincorporated business taxes and estate, inheritance or intangible taxes that are imposed by the various jurisdictions in which we do business or own property, even if they do not live in any of those jurisdictions. Our unitholders will likely be required to file returns and pay state and local income tax in some or all of these jurisdictions, and unitholders may be subject to penalties for failure to comply with those requirements. It is our unitholders' responsibility to file all United States federal, state and local tax returns.

We will treat each purchaser of our units as having the same tax benefits without regard to the units purchased. The IRS may challenge this treatment, which could adversely affect the value of our units.

Because we cannot match transferors and transferees of units, we adopt various conventions for administrative purposes (including depreciation and amortization positions) that may not conform in all aspects to existing Treasury regulations. A successful IRS challenge to those positions could adversely affect the amount of tax benefits available to unitholders. It also could affect the timing of these tax benefits or the amount of gain from any sale of units and could have a negative impact on the value of our units or result in audit adjustments to a unitholder's tax returns.

A unitholder whose units are loaned to a "short seller" to cover a short sale of units may be considered as having disposed of those units. If so, the unitholder would no longer be treated for tax purposes as a partner with respect to those units during the period of the loan and may recognize gain or loss from the disposition.

Because a unitholder whose units are loaned to a "short seller" to cover a short sale of units may be considered as having disposed of the loaned units, the unitholder may no longer be treated for tax purposes as a partner with respect to those units during the period of the loan to the short seller and the unitholder may recognize gain or loss from such disposition. Moreover, during the period of the loan to the short seller, any of our income, gain, loss or deduction with respect to those units may not be reportable by the unitholder and any cash distributions received by the unitholder as to those units could be fully taxable as ordinary income. Unitholders desiring to assure their status as partners and avoid the risk of gain recognition from a loan to a short seller are urged to modify any applicable brokerage account agreements to prohibit their brokers from loaning their units.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 3. LEGAL PROCEEDINGS

TransMontaigne Inc. has agreed to indemnify us for any losses we may suffer as a result of legal claims for actions that occurred prior to the closing of our initial public offering on May 27, 2005.

We currently are not a party to any material litigation. Our operations are subject to a variety of risks and disputes normally incident to our business. As a result, at any given time we may be a defendant in various legal proceedings and litigation arising in the ordinary course of business. We are a beneficiary of various insurance policies TransMontaigne Inc. maintains with insurers in amounts and with coverage and deductibles that our general partner believes are reasonable and prudent. However, we cannot assure that this insurance will be adequate to protect us from all material expenses related to potential future claims for personal and property damage or that the levels of insurance will be available in the future at economical prices.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

Part II

ITEM 5. MARKET FOR THE REGISTRANT'S COMMON UNITS, RELATED UNITHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

MARKET FOR COMMON UNITS

The common units are listed and traded on the New York Stock Exchange under the symbol "TLP." On February 28, 2013, there were approximately 23 unitholders of record of our common units. This number does not include unitholders whose units are held in trust by other entities. The actual number of unitholders is greater than the number of unitholders of record.

The following table sets forth, for the periods indicated, the range of high and low per unit sales prices for our common units as reported on the New York Stock Exchange.

	Low	High
January 1, 2011 through March 31, 2011	$ 33.81	$ 40.69
April 1, 2011 through June 30, 2011	$ 32.74	$ 37.78
July 1, 2011 through September 30, 2011	$ 29.65	$ 37.50
October 1, 2011 through December 31, 2011	$ 30.00	$ 36.90
January 1, 2012 through March 31, 2012	$ 33.62	$ 35.71
April 1, 2012 through June 30, 2012	$ 29.89	$ 35.48
July 1, 2012 through September 30, 2012	$ 33.28	$ 38.74
October 1, 2012 through December 31, 2012	$ 31.51	$ 38.55

DISTRIBUTIONS OF AVAILABLE CASH

The following table sets forth the distribution declared per common unit attributable to the periods indicated:

	Distribution
January 1, 2011 through March 31, 2011	$ 0.61
April 1, 2011 through June 30, 2011	$ 0.62
July 1, 2011 through September 30, 2011	$ 0.62
October 1, 2011 through December 31, 2011	$ 0.63
January 1, 2012 through March 31, 2012	$ 0.63
April 1, 2012 through June 30, 2012	$ 0.64
July 1, 2012 through September 30, 2012	$ 0.64
October 1, 2012 through December 31, 2012	$ 0.64

Within approximately 45 days after the end of each quarter, we will distribute all of our available cash, as defined in our partnership agreement, to unitholders of record on the applicable record date. Available cash generally means all cash on hand at the end of the quarter:

- *less* the amount of cash reserves established by our general partner to:
  - provide for the proper conduct of our business;
  - comply with applicable law, any of our debt instruments, or other agreements; or
  - provide funds for distributions to our unitholders and to our general partner for any one or more of the next four quarters;
- *plus*, if our general partner so determines, all or a portion of cash on hand on the date of determination of available cash for the quarter.

The terms of our credit facility may limit our ability to distribute cash under certain circumstances as discussed under "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources" of this annual report.

Incentive Distribution Rights

Incentive distribution rights are non-voting limited partner interests that represent the right to receive an increasing percentage of quarterly distributions of available cash from operating surplus after the minimum quarterly distribution and the target distribution levels have been achieved. Our general partner currently holds the incentive distribution rights, but may transfer these rights separately from its general partner interest, subject to restrictions in the partnership agreement.

The following table illustrates the percentage allocations of the additional available cash from operating surplus between the unitholders and our general partner up to the various target distribution levels. The amounts set forth under "Marginal percentage interest in distributions" are the percentage interests of our general partner and the unitholders in any available cash from operating surplus we distribute up to and including the corresponding amount in the column "Total per unit quarterly distribution," until available cash from operating surplus we distribute reaches the next target distribution level, if any. The percentage interests shown for the unitholders and our general partner for the minimum quarterly distribution are also applicable to quarterly distribution amounts that are less than the minimum quarterly distribution. The percentage interests set forth below for our general partner include its 2% general partner interest and assume our general partner has contributed any additional capital to maintain its 2% general partner interest and has not transferred its incentive distribution rights.

		Marginal percentage interest in distributions	
	Total per unit quarterly distribution	Unitholders	General partner
Minimum quarterly distribution	$0.40	98%	2%
First target distribution	up to $0.44	98%	2%
Second target distribution	above $0.44 up to $0.50	85%	15%
Third target distribution	above $0.50 up to $0.60	75%	25%
Thereafter	above $0.60	50%	50%

There is no guarantee that we will be able to pay the minimum quarterly distribution on the common units in any quarter, and we will be prohibited from making any distributions to unitholders if it would cause an event of default, or an event of default is existing, under our credit facility.

Common Unit Purchases for the quarter ended December 31, 2012

Purchases of Securities. The following table covers the purchases of our common units by, or on behalf of, Partners during the three months ended December 31, 2012.

Period	Total number of common units purchased	Average price paid per common unit	Total number of common units purchased as part of publicly announced plans or programs	Maximum number of common units that may yet be purchased under the plans or programs
October	575	$ 38.41	575	2,875
November	575	$ 36.06	575	2,300
December	575	$ 35.05	575	1,725
	1,725	$ 36.51	1,725	

During the three months ended December 31, 2012, we purchased 1,725 common units, with $62,980 of aggregate market value, in the open market pursuant to a purchase program announced on May 7, 2007. The purchase program establishes the purchase, from time to time, of our outstanding common units for purposes of making subsequent grants of restricted phantom units under the TransMontaigne Services Inc. Long-Term Incentive Plan to independent directors of our general partner. There is no guarantee as to the exact number of common units that will be purchased under the purchase program, and the purchase program may be amended or discontinued at any time. Unless we choose to terminate the purchase program earlier, the purchase program terminates on the earlier to occur of March 31, 2013; our liquidation, dissolution, bankruptcy or insolvency; the public announcement of a tender or exchange offer for the common units; or a merger, acquisition, recapitalization, business combination or other occurrence of a "Change of Control" under the TransMontaigne Services Inc. Long-Term Incentive Plan. We currently anticipate purchasing in the first quarter of 2013 up to approximately 1,725 common units, in the aggregate, through the purchase program's scheduled termination date of March 31, 2013.

ITEM 6. SELECTED FINANCIAL DATA

The following table sets forth selected historical consolidated financial data of TransMontaigne Partners for the periods and as of the dates indicated. The following selected financial data for each of the years in the five-year period ended December 31, 2012, has been derived from our consolidated financial statements. You should not expect the results for any prior periods to be indicative of the results that may be achieved in future periods. You should read the following information together with our historical consolidated financial statements and related notes and with "Management's Discussion and Analysis of Financial Condition and Results of Operations" included elsewhere in this annual report.

	Years ended December 31, 2012(1)	2011(2)	2010	2009	unaudited 2008(3)
	(dollars in thousands except per unit amounts)				
Operations Data:					
Revenue	$ 156,239	$ 152,292	$ 150,899	$ 142,547	$ 138,140
Direct operating costs and expenses	(65,964)	(64,498)	(64,696)	(64,968)	(61,850)
Direct general and administrative expenses	(4,810)	(4,703)	(3,159)	(3,242)	(4,138)
Allocated general and administrative expenses	(10,780)	(10,466)	(10,311)	(10,040)	(10,030)
Allocated insurance expense	(3,590)	(3,290)	(3,185)	(2,900)	(2,835)
Reimbursement of bonus awards	(1,250)	(1,250)	(1,250)	(1,237)	(1,500)
Depreciation and amortization	(28,260)	(27,654)	(27,869)	(26,306)	(23,316)
Gain (loss) on disposition of assets	—	9,576	(765)	1	2
Impairment of goodwill	—	—	(8,465)	—	—
Earnings from unconsolidated affiliates	558	113	—	—	—
Operating income	42,143	50,120	31,199	33,855	34,473
Other income (expenses):					
Interest income	22	1	8	7	38
Interest expense	(2,877)	(2,458)	(3,405)	(6,048)	(8,135)
Amortization of deferred financing costs	(767)	(1,055)	(598)	(598)	(599)
Foreign currency transaction gain (loss)	51	(88)	38	36	(179)
Net earnings	38,572	46,520	27,242	27,252	25,598
Less—earnings allocable to general partner interest including incentive distribution rights	(5,157)	(4,415)	(3,017)	(2,451)	(2,226)
Net earnings allocable to limited partners	$ 33,415	$ 42,105	$ 24,225	$ 24,801	$ 23,372
Net earnings per limited partner unit—basic	$ 2.31	$ 2.92	$ 1.69	$ 1.99	$ 1.88
Net earnings per limited partner unit—diluted	$ 2.31	$ 2.91	$ 1.68	$ 1.99	$ 1.88
Other Financial Data:					
Net cash provided by operating activities	$ 64,311	$ 66,091	$ 65,336	$ 72,045	$ 53,488
Net cash used in investing activities	$ (85,731)	$ (18,566)	$ (37,508)	$ (37,742)	$ (53,406)
Net cash provided by (used in) financing activities	$ 20,964	$ (45,605)	$ (29,056)	$ (32,534)	$ 3,200
Cash distributions declared per common unit attributable to the period	$ 2.55	$ 2.48	$ 2.41	$ 2.36	$ 2.33
Balance Sheet Data (at period end):					
Property, plant and equipment, net	$ 427,701	$ 431,782	$ 452,402	$ 459,598	$ 447,753
Investments in unconsolidated affiliates	$ 105,164	$ 25,875	$ —	$ —	$ —
Total assets	$ 569,801	$ 514,104	$ 514,306	$ 515,535	$ 507,039
Long-term debt	$ 184,000	$ 120,000	$ 122,000	$ 165,000	$ 165,500
Partners' equity	$ 348,737	$ 351,876	$ 344,816	$ 303,125	$ 307,579

(1) At December 31, 2012, our investments in unconsolidated affiliates include a 42.5% interest in BOSTCO and a 50% interest in Frontera with carrying values of approximately $78.9 million and $26.2 million, respectively. BOSTCO is a $425 million terminal facility construction project that is scheduled to begin commercial operations in the fourth quarter of 2013 (See Note 3 of Notes to consolidated financial statements).

(2) The consolidated financial statements, effective April 1, 2011, include the impact of our contribution of approximately 1.4 million barrels of light petroleum product storage capacity, as well as related ancillary facilities, to the Frontera joint venture in exchange for a cash payment of approximately $25.6 million and a 50% ownership interest (see Note 3 of Notes to consolidated financial statements).

(3) Based on the determination that our prior auditor, KPMG LLP, was not "independent" of TransMontaigne Partners within the meaning of the rules of applicable regulatory agencies, we have accordingly marked the year not subject to audit by our new auditor, Deloitte & Touche LLP, as unaudited (see Significant Developments During the Year Ended December 31, 2012 contained in Item 7. for further discussion).

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of the results of operations and financial condition should be read in conjunction with the accompanying consolidated financial statements included elsewhere in this annual report.

OVERVIEW

We are a refined petroleum products terminaling and pipeline transportation company formed by TransMontaigne Inc. At December 31, 2012, our operations are composed of:

- eight refined product terminals located in Florida, with an aggregate active storage capacity of approximately 6.9 million barrels, that provide integrated terminaling services to Marathon, Morgan Stanley Capital Group, TransMontaigne Inc. and other distribution and marketing companies;

- a 67-mile, interstate refined products pipeline, which we refer to as the Razorback pipeline, that currently transports gasoline and distillates for Morgan Stanley Capital Group from Mount Vernon, Missouri to Rogers, Arkansas;

- two refined product terminals, one located in Mount Vernon, Missouri and the other located in Rogers, Arkansas, with an aggregate active storage capacity of approximately 406,000 barrels, that are connected to the Razorback pipeline and provide integrated terminaling services to Morgan Stanley Capital Group;

- one crude oil terminal located in Cushing, Oklahoma, with aggregate active storage capacity of approximately 1.0 million barrels, that provides integrated terminaling services to Morgan Stanley Capital Group;

- one refined product terminal located in Oklahoma City, Oklahoma, with aggregate active storage capacity of approximately 158,000 barrels, that provides integrated terminaling services to a major oil company;

- one refined product terminal located in Brownsville, Texas with aggregate active storage capacity of approximately 929,000 barrels that provides integrated terminaling services to TransMontaigne Inc., Valero and other distribution and marketing companies;

- a 50/50 joint venture with PMI, an indirect subsidiary of PEMEX, for the operation of the Frontera light petroleum products terminal located in Brownsville, Texas with an aggregate active storage capacity of approximately 1.4 million barrels that provides services to PMI Trading Ltd, Valero and other distribution and marketing companies;

- one refined product terminal located in Matamoros, Mexico with aggregate active LPG storage capacity of approximately 7,000 barrels that provides integrated terminaling services to an affiliate of PEMEX;

- a pipeline from our Brownsville facilities to our terminal in Matamoros, Mexico, which we refer to as the Diamondback pipeline, that currently transports LPG for a third party;

- twelve refined product terminals located along the Mississippi and Ohio rivers ("River terminals") with aggregate active storage capacity of approximately 2.8 million barrels and the Baton Rouge, Louisiana dock facility that provide integrated terminaling services to Valero and other distribution and marketing companies; and

- twenty-two refined product terminals located along the Colonial and Plantation pipelines ("Southeast terminals") with aggregate active storage capacity of approximately 10 million barrels that provides integrated terminaling services to Morgan Stanley Capital Group and the United States government.

We provide integrated terminaling, storage, transportation and related services for customers engaged in the distribution and marketing of light refined petroleum products, heavy refined petroleum products, crude oil, chemicals, fertilizers and other liquid products. Light refined products include gasolines, diesel fuels, heating oil and jet fuels. Heavy refined products include residual fuel oils and asphalt.

We do not take ownership of or market products that we handle or transport and, therefore, we are not directly exposed to changes in commodity prices, except for the value of product gains and losses arising from certain of our terminaling services agreements with our customers. The volume of product that is handled, transported through or stored in our terminals and pipelines directly affected by the level of supply and demand in the wholesale markets served by our terminals and pipelines. Overall supply of refined products in the wholesale markets is influenced by the products' absolute prices, the availability of capacity on delivering pipelines and vessels, fluctuating refinery margins and the markets' perception of future product prices. The demand for gasoline typically peaks during the summer driving season, which extends from April to September, and declines during the fall and winter months. The demand for marine fuels typically peaks in the winter months due to the increase in the number of cruise ships originating from the Florida ports. Despite these seasonalities, the overall impact on the volume of product throughput in our terminals and pipelines is not material.

We are controlled by our general partner, TransMontaigne GP L.L.C., which is an indirect wholly owned subsidiary of TransMontaigne Inc. Effective September 1, 2006, Morgan Stanley Capital Group purchased all of the issued and outstanding capital stock of TransMontaigne Inc. As a result of Morgan Stanley's acquisition of TransMontaigne Inc., Morgan Stanley became the indirect owner of our general partner. TransMontaigne Inc. and Morgan Stanley have a significant interest in our partnership through their indirect ownership of a 22% limited partner interest, a 2% general partner interest and the incentive distribution rights.

The majority of our business is devoted to providing terminaling and transportation services to Morgan Stanley Capital Group and TransMontaigne Inc., which currently rely on us to provide substantially all the integrated terminaling services they require to support their operations along the Gulf Coast, along the Mississippi and Ohio rivers, along the Colonial and Plantation pipelines, and in the Midwest. TransMontaigne Inc., formed in 1995, is a terminaling, distribution and marketing company that distributes and markets refined petroleum products to wholesalers, distributors, marketers and industrial and commercial end users throughout the United States, primarily in the Gulf Coast, Midwest and Southeast regions. Morgan Stanley Capital Group, a wholly owned subsidiary of Morgan Stanley, is the principal commodities trading arm of Morgan Stanley. Morgan Stanley Capital Group is a leading global commodity trader involved in proprietary and counterparty-driven trading in numerous commodities including crude oil, refined petroleum products, natural gas and natural gas liquids, coal, electric power, base and precious metals and others. Morgan Stanley Capital Group engages in trading physical commodities, like the refined petroleum products that we handle in our terminals, and exchange or over-the-counter commodities derivative instruments.

Taken together, Morgan Stanley Capital Group and TransMontaigne Inc. is our largest customer and our agreements with them provide a substantial majority of our revenues, representing approximately 69%, 69% and 68% of our revenue for the years ended December 31, 2012, 2011 and 2010, respectively. Our revenue from Morgan Stanley Capital Group and TransMontaigne Inc. is primarily earned pursuant to terminaling services agreements with Morgan Stanley Capital Group relating to our Florida terminals and the Razorback terminals and our Southeast terminals. In the aggregate, these agreements accounted for approximately 60.3% of our revenue for the year ended December 31, 2012. See Item 1. "Business—Terminaling Services Agreements" in this Form 10-K for additional descriptions of these agreements.

Our terminaling services agreements with Morgan Stanley Capital Group relating to our Florida and Razorback terminals and our Southeast terminals expire in May and December 2014, respectively. In February 2013, representatives of Morgan Stanley Capital Group indicated that they intend to extend or enter into new terminaling services agreements covering our Florida and the Razorback terminals and the Southeast terminals for periods after the current agreements expire. However, if we are not able to reach acceptable terms with respect to such agreements, or to replace the expiring terminaling services agreements with new or expanded terminaling relationships with new customers or our other existing customers, our revenues would be significantly reduced. See Item 1A. "Risk Factors—Risks Inherent in Our Business" in this Form 10-K for further discussion.

REGULATORY MATTERS

During 2008, Morgan Stanley, which indirectly controls our general partner, obtained the approval of the Board of Governors of the Federal Reserve System, or the FRB, to become a bank holding company, due to its ownership of Morgan Stanley Bank, N.A., subject to regulation as a financial holding company under the Bank Holding Company Act, or the BHC Act. As a result, Morgan Stanley has become subject to the consolidated supervision and regulation of the FRB under the BHC Act. In addition, in 2010 the Dodd-Frank Wall Street Reform and Consumer Protection Act, or Dodd-Frank Act was enacted. The Dodd-Frank Act contains various provisions that affect financial firms, including financial holding companies, and amends various existing laws, including the BHC Act, as amended and supplemented by the Dodd-Frank Act.

As a financial holding company, Morgan Stanley is permitted to engage in any activity that is financial in nature, incidental to a financial activity, or complementary to a financial activity in conformance with the BHC Act. Under certain circumstances and with the approval of the FRB, any company that becomes a bank holding company may have up to five years to conform its existing activities and investments to the BHC Act. The BHC Act also grandfathers "activities of a financial holding company related to the trading, sale or investment in commodities and underlying physical properties" provided that the financial holding company conducted any of such type of activities as of September 30, 1997 and provided that certain other conditions are satisfied, which conditions Morgan Stanley has informed us are reasonably in the control of Morgan Stanley. In addition, the BHC Act permits the FRB to determine by regulation or order that certain activities are complementary to a financial activity and do not pose a risk to safety and soundness. The FRB has previously determined that a range of commodities activities are either financial in nature, incidental to a financial activity, or complementary to a financial activity.

In 2009, Morgan Stanley advised us that its internal review reached the conclusion that all of our activities and investments are permissible under the BHC Act. To the extent the FRB has not yet completed its review of these activities and investments, however, the FRB could conclude that certain of our activities or investments will not be deemed permissible under the BHC Act. We are unable to predict whether, or in what ways, such a determination might affect our financial condition or results of operations or how significant any such effects could be.

The Dodd-Frank Act and the mandates it includes for further regulatory actions are part of a trend to increase regulatory supervision of the financial industry. As a result of this trend, including further legislative and/or regulatory changes, Morgan Stanley's ability or business strategy to own and operate our general partner and to operate Partners may be adversely affected. We cannot predict how any such changes might affect our financial condition or results of operations or how significant any such effects could be.

Morgan Stanley informed us in October 2011 that, for the foreseeable future, it does not expect to approve any "significant" acquisition or investment that we may propose. Morgan Stanley indicated that it has not established a specific definition of what constitutes a "significant" investment and significance may be determined on either a quantitative or qualitative basis, depending on the facts and circumstances and relevant legal and regulatory considerations. Morgan Stanley has informed us they will review on a case by case basis each proposed transaction to determine its significance, whether an acquisition of, or investment in, assets or legal entities and that an acquisition of, or investment in, a noncontrolling interest or joint venture interest may be "significant" without respect to the size of the transaction. The practical effect of these limitations is to significantly constrain our ability to expand our asset base and operations through acquisitions from third parties. These constraints will reduce the potential for increasing our distributions to unitholders in the future. In addition, these constraints will limit additions to our capital assets primarily to additions and improvements that we construct or add to our existing facilities, although some acquisitions of assets from third parties may be possible to the extent approved by Morgan Stanley. See Item 1A. "Risk Factors—Tax Risks" in this Form 10-K for further discussion. Our December 2012 investment in BOSTCO was approved by Morgan Stanley based on the specific facts and circumstances of the BOSTCO project and the structure of our investment in BOSTCO, and is not indicative of whether Morgan Stanley will approve any other acquisition or investment that we may propose in the future.

Morgan Stanley's decision regarding limitations on its approval of acquisitions or investments that we may propose is the result of the uncertain regulatory environment relating to Morgan Stanley's status as a financial holding company subject to the BHC Act, as amended by the Dodd-Frank Act, and consolidated supervision by the Board of Governors of the FRB, including uncertainty surrounding the application of regulations under the BHC Act affecting the acquisition and ownership of non-financial business activities. In particular, as a result of the Dodd-Frank Act (including the proposed Volcker Rule), Morgan Stanley is subject to significantly revised and expanded regulation and supervision, to more intensive scrutiny of its businesses and any plans for expansion of those businesses and to limitations on engaging in new business activities which, in turn, affect TransMontaigne Partners by virtue of Morgan Stanley having control of our business activities through its indirect ownership of our general partner. The Dodd-Frank Act and the mandates it includes for further regulatory actions are part of a trend to increase regulatory supervision of the financial industry. As a result of this trend, including further legislative or regulatory changes, Morgan Stanley's ability to own and operate our general partner or its business strategies with respect to operating our general partner and TransMontaigne Partners may change significantly in ways that we cannot currently predict with certainty. We are currently unable to predict how the impact of Morgan Stanley's decision and such regulatory developments will affect Morgan Stanley's commodities business or the growth or development of our business and results of operations.

SIGNIFICANT DEVELOPMENTS DURING THE YEAR ENDED DECEMBER 31, 2012

On December 20, 2012, we acquired a 42.5% interest in BOSTCO, for approximately $79 million, from Kinder Morgan. BOSTCO is a new black oil terminal facility under construction on the Houston Ship Channel designed for the handling of residual fuel, feedstocks, distillates and other black oils. The initial phase of the BOSTCO project involves construction of 50 storage tanks with approximately 6.1 million barrels of storage capacity at an estimated cost of $425 million. The BOSTCO facility's docks will benefit from one of the deepest vessel drafts and nearest access points in the Houston Ship Channel and will be well positioned to capitalize on increasing exports of petroleum related products. The BOSTCO facility is scheduled to begin commercial operation in the fourth quarter of 2013. Completion of the full 6.1 million barrels of storage capacity and related infrastructure is scheduled for early 2014. Upon completion of the project, and assuming we maintain our 42.5% interest, we expect our total payments for the project to be approximately $183 million, which includes our December 20, 2012 investment of approximately $79 million. Our December 2012 investment in BOSTCO was approved by Morgan Stanley based on the specific facts and circumstances of the BOSTCO project and the structure of our investment in BOSTCO, and is not indicative of whether Morgan Stanley will approve any other acquisition or investment that we may propose in the future.

We funded the acquisition utilizing additional borrowings under our credit facility, which we amended in connection with the purchase of the BOSTCO interest. The amendment increased the maximum borrowing line of credit under the facility from $250 million to $350 million. The amendment also provided us with the ability to make future capital contributions to BOSTCO to fund its ongoing construction and to maintain our ownership interest percentage.

On January 13, 2012, we announced a distribution of $0.63 per unit for the period from October 1, 2011 through December 31, 2011, payable on February 7, 2012 to unitholders of record on January 31, 2012. The distribution represented a $0.01 increase over the previous quarter and a 3.3% increase over the $0.61 per unit distribution declared for the fourth quarter of 2010.

On April 16, 2012, we announced a distribution of $0.63 per unit for the period from January 1, 2012 through March 31, 2012, payable on May 8, 2012 to unitholders of record on April 30, 2012.

On May 3, 2012, we filed with the SEC our December 31, 2011 annual report on Form 10-K/A, Amendment No. 1. As previously disclosed, on December 15, 2011 the audit committee of our general partner dismissed KPMG LLP from its engagement as the principal accountant to audit the December 31, 2011 financial statements of TransMontaigne Partners L.P. The dismissal of KPMG LLP resulted from the determination that KPMG LLP was not "independent" of TransMontaigne Partners L.P. within the meaning of the rules of applicable regulatory agencies, and did not qualify as independent at the time of our audits for the years ended December 31, 2010 and 2009, and prior periods. In conjunction with our investigation of this matter, it was determined that our investors would receive meaningful benefit from the reassurance that would be provided by having our financial statements for the years ended December 31, 2010 and December 31, 2009 re-audited, and by having the quarterly financial information that is contained in the 2011 annual report re-reviewed, by Deloitte & Touche LLP, our new independent registered public accounting firm. The re-audits and re-reviews were completed by Deloitte & Touche LLP on May 3, 2012. The re-audits and re-reviews did not materially change the information previously reported in our consolidated financial statements for any of the prior periods presented in our 2011 annual report or our previously filed quarterly and annual reports with respect to such periods.

On July 16, 2012, we announced a distribution of $0.64 per unit for the period from April 1, 2012 through June 30, 2012, payable on August 7, 2012 to unitholders of record on July 31, 2012. The distribution represented a $0.01 increase over the previous quarter and a 3.2% increase over the $0.62 per unit distribution declared for the second quarter of 2011.

As of August 1, 2012 we completed the construction of 1.0 million barrels of crude oil storage tankage in Cushing, Oklahoma. We have a long-term terminaling services agreement with Morgan Stanley Capital Group for the use of this facility. Under this agreement, Morgan Stanley Capital Group has agreed to throughput a volume of crude oil at our Cushing, Oklahoma terminal that will, at the fee schedule contained in the agreement, result in minimum throughput payments to us of approximately $4.3 million for each one-year period following the in-service date of August 1, 2012 through July 31, 2019.

On October 15, 2012, we announced a distribution of $0.64 per unit for the period from July 1, 2012 through September 30, 2012, payable on November 6, 2012 to unitholders of record on October 31, 2012.

SUBSEQUENT DEVELOPMENT

On January 14, 2013, we announced a distribution of $0.64 per unit for the period from October 1, 2012 through December 31, 2012, payable on February 7, 2013 to unitholders of record on January 31, 2013.

NATURE OF REVENUE AND EXPENSES

We derive revenue from our terminal and pipeline transportation operations by charging fees for providing integrated terminaling, transportation and related services. The fees we charge, our other sources of revenue and our direct costs and expenses are described below.

Terminaling Services Fees, Net. We generate terminaling services fees, net by distributing and storing products for our customers. Terminaling services fees, net include throughput fees based on the volume of product distributed from the facility, injection fees based on the volume of product injected with additive compounds and storage fees based on a rate per barrel of storage capacity per month.

Pipeline Transportation Fees. We earned pipeline transportation fees at our Razorback pipeline and Diamondback pipeline based on the volume of product transported and the distance from the origin point to the delivery point. The Federal Energy Regulatory Commission regulates the tariff on the Razorback pipeline and the Diamondback pipeline.

Management Fees and Reimbursed Costs. We manage and operate certain tank capacity at our Port Everglades (South) terminal for a major oil company and receive a reimbursement of its proportionate share of operating and maintenance costs. We manage and operate for an affiliate of Mexico's state-owned petroleum company a bi-directional products pipeline connected to our Brownsville, Texas terminal facility and receive a management fee and reimbursement of costs. Prior to April 27, 2010, we managed and operated for another major oil company two terminals that are adjacent to our Collins, Mississippi and Bainbridge, Georgia facilities and received a reimbursement of their proportionate share of operating and maintenance costs. On April 27, 2010, we purchased these two terminals. Effective as of April 1, 2011, upon the formation of Frontera, we began providing operations and maintenance services to Frontera for a management fee based on our costs incurred.

Other Revenue. We provide ancillary services including heating and mixing of stored products and product transfer services. Pursuant to terminaling services agreements with certain of our throughput customers, we are entitled to the volume of product gained resulting from differences in the measurement of product volumes received and distributed at our terminaling facilities. Consistent with recognized industry practices, measurement differentials occur as the result of the inherent variances in measurement devices and methodology. We recognize as revenue the net proceeds from the sale of the product gained.

Direct Operating Costs and Expenses. The direct operating costs and expenses of our operations include the directly related wages and employee benefits, utilities, communications, repairs and maintenance, property taxes, rent, vehicle expenses, environmental compliance costs, materials and supplies.

Direct General and Administrative Expenses. The direct general and administrative expenses of our operations include accounting and legal costs associated with annual and quarterly reports and tax return and Schedule K-1 preparation and distribution, independent director fees and deferred equity-based compensation.

CRITICAL ACCOUNTING POLICIES AND ESTIMATES

A summary of the significant accounting policies that we have adopted and followed in the preparation of our historical consolidated financial statements is detailed in Note 1 of Notes to consolidated financial statements. Certain of these accounting policies require the use of estimates. We have identified the following estimates that, in our opinion, are subjective in nature, require the exercise of judgment, and involve complex analyses. These estimates are based on our knowledge and understanding of current conditions and actions that we may take in the future. Changes in these estimates will occur as a result of the passage of time and the occurrence of future events. Subsequent changes in these estimates may have a significant impact on our financial condition and results of operations.

Useful Lives of Plant and Equipment. We calculate depreciation using the straight-line method, based on estimated useful lives of our assets. These estimates are based on various factors including age (in the case of acquired assets), manufacturing specifications, technological advances and historical data concerning useful lives of similar assets. Uncertainties that impact these estimates include changes in laws and regulations relating to restoration, economic conditions and supply and demand in the area. When assets are put into service, we make estimates with respect to useful lives that we believe to be reasonable. However, subsequent events could cause us to change our estimates, thus impacting the future calculation of depreciation. Estimated useful lives are 15 to 25 years for plant, which includes buildings, storage tanks, and pipelines, and 3 to 25 years for equipment.

Accrued Environmental Obligations. At December 31, 2012, we have an accrued liability of approximately $3.1 million representing our best estimate of the undiscounted future payments we expect to pay for environmental costs to remediate existing conditions. Estimates of our environmental obligations are subject to change due to a number of factors and judgments involved in the estimation process, including the early stage of investigation at certain sites, the lengthy time frames required to complete remediation, technology changes affecting remediation methods, alternative remediation methods and strategies, and changes in environmental laws and regulations. Changes in our estimates and assumptions may occur as a result of the passage of time and the occurrence of future events.

Costs incurred to remediate existing contamination at the terminals we acquired from TransMontaigne Inc. have been, and are expected in the future to be, insignificant. Pursuant to agreements with TransMontaigne Inc., TransMontaigne Inc. retained 100% of these liabilities and indemnified us against certain potential environmental claims, losses and expenses associated with the operation of the acquired terminal facilities and occurring before our date of acquisition from TransMontaigne Inc., up to a maximum liability (not to exceed $15.0 million for the Florida and Midwest terminals acquired on May 27, 2005, not to exceed $15.0 million for the Brownsville and River facilities acquired on December 31, 2006, not to exceed $15.0 million for the Southeast terminals acquired on December 31, 2007 and not to exceed $2.5 million for the Pensacola terminal acquired on March 1, 2011) for these indemnification obligations.

Goodwill. Goodwill is required to be tested for impairment annually unless events or changes in circumstances indicate it is more likely than not that an impairment loss has been incurred at an interim date. Our annual test for the impairment of goodwill is performed as of December 31. The impairment test is performed at the reporting unit level. Our reporting units are our operating segments (see Note 18 of Notes to consolidated financial statements). The fair value of each reporting unit is determined on a stand-alone basis from the perspective of a market participant and represents an estimate of the price that would be received to sell the unit as a whole in an orderly transaction between market participants at the measurement date. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is not considered to be impaired. Management exercises judgment in estimating the fair values of the reporting units. The reporting units' fair values are estimated using a discounted cash flow technique. We believe that our estimates of the future cash flows and related assumptions are consistent with those that would be used by market participants (that is, potential buyers of the reporting units). The cash flows represent our best estimate of the future revenues, expenses and capital expenditures to maintain the facilities associated with each of our reporting units. Estimated cash flows do not include future expenditures to expand the facilities beyond the expenditures necessary to complete expansion projects approved prior to December 31, 2012. The cash flows attributed to our reporting units include only a portion of our historical general and administrative expenses under the assumption that market participants would only include limited amounts of general and administrative expenses in their estimates of future cash flows, since market participants would likely have pre-existing management and back office capabilities (that is, a market participant synergy). At December 31, 2012 we discounted the estimated net cash flows at an assumed market participant weighted average cost of capital of approximately 9.7%. The aggregate fair value of our reporting units was reconciled to the fair value of our partners' equity.

At December 31, 2012, our estimate of the fair value of our Brownsville terminals reporting unit exceeded its carrying amount. Accordingly, we did not recognize any goodwill impairment charges during the year ended December 31, 2012 for this reporting unit. However, a significant decline in the price of our common units with a resulting increase in the assumed market participants' weighted average cost of capital, the loss of a significant customer, the disposition of significant assets, or an unforeseen increase in the costs to operate and maintain the Brownsville terminals, could result in the recognition of an impairment charge in the future.

At December 31, 2010, our estimate of the fair value of our River terminals reporting unit was less than its carrying amount. The decline in the estimated fair value was attributable to the loss of a customer in 2010 at one of our larger River facilities and the underutilization of certain other facilities in the River region. Accordingly, management reduced its short and medium-term revenue forecasts related to these facilities, which resulted in an overall decline in the estimated future cash flows for the River terminals reporting unit. Given the estimated fair value of our River terminals was less than its carrying amount, we performed further analysis as required by generally accepted accounting principles. This resulted in a determination that goodwill for the River terminals reporting unit was no longer supported by its estimated fair value and, as a result, we recognized an $8.5 million impairment charge reflected in our accompanying consolidated statements of comprehensive income for the year ended December 31, 2010. There is no longer any goodwill recorded related to the River terminals reporting unit (see Note 7 of Notes to consolidated financial statements).

RESULTS OF OPERATIONS—YEARS ENDED DECEMBER 31, 2012, 2011 AND 2010

ANALYSIS OF REVENUE

Total Revenue. We derive revenue from our terminal and pipeline transportation operations by charging fees for providing integrated terminaling, transportation and related services. Our total revenue by category was as follows (in thousands):

	Total Revenue by Category		
	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Terminaling services fees, net	$ 119,465	$ 116,353	$ 122,289
Pipeline transportation fees	5,656	4,746	4,817
Management fees and reimbursed costs	5,806	3,899	2,161
Other	25,312	27,294	21,632
Revenue	$ 156,239	$ 152,292	$ 150,899

See discussion below for a detailed analysis of terminaling services fees, net, pipeline transportation fees, management fees and reimbursed costs and other revenue included in the table above.

We operate our business and report our results of operations in five principal business segments: (i) Gulf Coast terminals, (ii) Midwest terminals and pipeline system, (iii) Brownsville terminals, (iv) River terminals and (v) Southeast terminals. The aggregate revenue of each of our business segments was as follows (in thousands):

	Total Revenue by Business Segment		
	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Gulf Coast terminals	$ 57,752	$ 57,027	$ 54,729
Midwest terminals and pipeline system	10,553	7,857	7,721
Brownsville terminals	18,614	19,850	24,222
River terminals	14,161	12,672	14,739
Southeast terminals	55,159	54,886	49,488
Revenue	$ 156,239	$ 152,292	$ 150,899

Total revenue by business segment is presented and further analyzed below by category of revenue.

Terminaling Services Fees, Net. Pursuant to terminaling services agreements with our customers, which range from one month to seven years in duration, we generate fees by distributing and storing products for our customers. Terminaling services fees, net include throughput fees based on the volume of product distributed from the facility, injection fees based on the volume of product injected with additive compounds and storage fees based on a rate per barrel of storage capacity per month. The terminaling services fees, net by business segments were as follows (in thousands):

	Terminaling Services Fees, Net, by Business Segment		
	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Gulf Coast terminals	$ 47,692	$ 46,699	$ 46,508
Midwest terminals and pipeline system	5,381	3,784	3,757
Brownsville terminals	6,398	9,133	15,709
River terminals	13,219	12,244	14,359
Southeast terminals	46,775	44,493	41,956
Terminaling services fees, net	$ 119,465	$ 116,353	$ 122,289

The increase in terminaling services fees, net for the year ended December 31, 2012 as compared to the year ended December 31, 2011 includes an increase of approximately $0.5 million resulting from a full year of revenue from the acquisition of the Pensacola terminal, which occurred on March 1, 2011 in the Gulf Coast region, an increase of approximately $1.8 million resulting from newly constructed tank capacity placed into service during August of 2012 at our Cushing, Oklahoma facility in the Midwest region, an increase of approximately $0.5 million from new business in our River region and an increase of approximately $1.8 million resulting from newly constructed tank capacity placed into service during July of 2011 at our Collins/Purvis complex in the Southeast region. This increase has been partially offset by a decrease in terminaling service fees, net of approximately $2.5 million at our Brownsville terminals resulting from product storage capacity contributed to Frontera effective as of April 1, 2011.

Included in terminaling services fees, net for the years ended December 31, 2012, 2011 and 2010 are fees charged to Morgan Stanley Capital Group of approximately $81.1 million, $77.6 million and $76.1 million, respectively, and fees charged to TransMontaigne Inc. of approximately $3.0 million, $3.5 million and $6.4 million, respectively.

Our terminaling services agreements are structured as either throughput agreements or storage agreements. Most of our throughput agreements contain provisions that require our customers to throughput a minimum volume of product at our facilities over a stipulated period of time, which results in a fixed amount of revenue to be recognized by us. Our storage agreements require our customers to make minimum payments based on the volume of storage capacity available to the customer under the agreement, which results in a fixed amount of revenue to be recognized by us. We refer to the fixed amount of revenue recognized pursuant to our terminaling services agreements as being "firm commitments." Revenue recognized in excess of firm commitments and revenue recognized based solely on the volume of product distributed or injected are referred to as "variable." The "firm commitments" and "variable" revenue included in terminaling services fees, net were as follows (in thousands):

	Firm Commitments and Variable Revenue		
	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Firm commitments:			
External customers	$ 32,412	$ 32,744	$ 35,554
Affiliates	84,347	81,190	82,651
Total	116,759	113,934	118,205
Variable:			
External customers	2,814	2,585	4,230
Affiliates	(108)	(166)	(146)
Total	2,706	2,419	4,084
Terminaling services fees, net	$ 119,465	$ 116,353	$ 122,289

At December 31, 2012, the remaining terms on the terminaling services agreements that generated "firm commitments" for the year ended December 31, 2012 were as follows (in thousands):

	At December 31, 2012
Remaining terms on terminaling services agreements that generated "firm commitments:"	
Less than 1 year remaining	$ 13,557
1 year or more, but less than 3 years remaining	84,574
3 years or more, but less than 5 years remaining	16,828
5 years or more remaining	1,800
Total firm commitments for the year ended December 31, 2012	$ 116,759

Pipeline Transportation Fees. We earned pipeline transportation fees at our Razorback pipeline and Diamondback pipeline based on the volume of product transported and the distance from the origin point to the delivery point. The Federal Energy Regulatory Commission regulates the tariff on the Razorback pipeline and the Diamondback pipeline. The pipeline transportation fees by business segments were as follows (in thousands):

	Pipeline Transportation Fees by Business Segment		
	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Gulf Coast terminals	$ —	$ —	$ —
Midwest terminals and pipeline system	1,876	1,948	2,041
Brownsville terminals	3,780	2,798	2,776
River terminals	—	—	—
Southeast terminals	—	—	—
Pipeline transportation fees	$ 5,656	$ 4,746	$ 4,817

Included in pipeline transportation fees for the years ended December 31, 2012, 2011 and 2010 are fees charged to Morgan Stanley Capital Group of approximately $1.9 million, $1.9 million and

$2.0 million, respectively, and TransMontaigne Inc. of approximately $3.8 million, $2.8 million and $2.8 million, respectively.

Management Fees and Reimbursed Costs. We manage and operate for a major oil company certain tank capacity at our Port Everglades (South) terminal and receive reimbursement of their proportionate share of operating and maintenance costs. We manage and operate for an affiliate of Mexico's state-owned petroleum company a bi-directional products pipeline connected to our Brownsville, Texas terminal facility and receive a management fee and reimbursement of costs. Prior to April 27, 2010, we also managed and operated for another major oil company two terminals that are adjacent to our Collins and Bainbridge terminals and received a reimbursement of their proportionate share of operating and maintenance costs. On April 27, 2010, we purchased these terminals. Effective as of April 1, 2011, upon the formation of Frontera, we began providing operations and maintenance services to Frontera for a management fee based on our costs incurred. The management fees and reimbursed costs by business segments were as follows (in thousands):

	Management Fees and Reimbursed Costs by Business Segment		
	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Gulf Coast terminals	$ 288	$ 75	$ 103
Midwest terminals and pipeline system	—	—	—
Brownsville terminals	5,518	3,824	1,938
River terminals	—	—	—
Southeast terminals	—	—	120
Management fees and reimbursed costs	$ 5,806	$ 3,899	$ 2,161

Included in management fees and reimbursed costs for the years ended December 31, 2012 and 2011 are fees charged to Frontera of approximately $3.4 million and $1.9 million, respectively.

Other Revenue. We provide ancillary services including heating and mixing of stored products, product transfer services, railcar handling, wharfage fees and vapor recovery fees. Pursuant to terminaling services agreements with certain throughput customers, we are entitled to the volume of product gained resulting from differences in the measurement of product volumes received and distributed at our terminaling facilities. Consistent with recognized industry practices, measurement differentials occur as the result of the inherent variances in measurement devices and methodology. We recognize as revenue the net proceeds from the sale of the product gained. Other revenue is composed of the following (in thousands):

	Principal Components of Other Revenue		
	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Product gains	$ 16,136	$ 18,686	$ 12,755
Steam heating fees	3,473	4,380	4,313
Product transfer services	1,166	1,110	1,342
Railcar handling	533	617	639
Other	4,004	2,501	2,583
Other revenue	$ 25,312	$ 27,294	$ 21,632

For the years ended December 31, 2012, 2011 and 2010, we sold approximately 161,000, 208,000 and 172,000 barrels, respectively, of product gained resulting from differences in the measurement of product volumes received and distributed at our terminaling facilities at average prices of $121, $118 and $92 per barrel, respectively. Pursuant to our terminaling services agreement related to the Southeast terminals, we agreed to rebate to Morgan Stanley Capital Group 50% of the proceeds we receive annually in excess of $4.2 million from the sale of product gains at our Southeast terminals. For the years ended December 31, 2012 and 2011, we have accrued a liability due to Morgan Stanley Capital Group of approximately $3.4 million and $5.9 million, respectively, representing our rebate liability.

Included in other revenue for the years ended December 31, 2012, 2011 and 2010 are amounts charged to Morgan Stanley Capital Group of approximately $17.1 million, $18.9 million and $14.1 million, respectively, and TransMontaigne Inc. of approximately $0.1 million, $0.1 million and $0.7 million, respectively.

The other revenue by business segments were as follows (in thousands):

	Other Revenue by Business Segment		
	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Gulf Coast terminals	$ 9,772	$ 10,253	$ 8,118
Midwest terminals and pipeline system	3,296	2,125	1,923
Brownsville terminals	2,918	4,095	3,799
River terminals	942	428	380
Southeast terminals	8,384	10,393	7,412
Other revenue	$ 25,312	$ 27,294	$ 21,632

ANALYSIS OF COSTS AND EXPENSES

The direct operating costs and expenses of our operations include the directly related wages and employee benefits, utilities, communications, repairs and maintenance, rent, property taxes, vehicle expenses, environmental compliance costs, materials and supplies. The direct operating costs and expenses of our operations were as follows (in thousands):

	Direct Operating Costs and Expenses		
	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Wages and employee benefits	$ 22,957	$ 22,410	$ 22,574
Utilities and communication charges	6,972	7,973	8,032
Repairs and maintenance	21,440	20,614	20,633
Office, rentals and property taxes	6,669	6,562	7,055
Vehicles and fuel costs	1,306	1,448	1,353
Environmental compliance costs	2,978	3,264	3,203
Other	3,642	2,227	1,846
Direct operating costs and expenses	$ 65,964	$ 64,498	$ 64,696

The direct operating costs and expenses of our business segments were as follows (in thousands):

	Direct Operating Costs and Expenses by Business Segment		
	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Gulf Coast terminals	$ 21,586	$ 20,425	$ 22,115
Midwest terminals and pipeline system	1,976	1,329	1,662
Brownsville terminals	11,584	12,746	12,740
River terminals	9,171	8,586	8,521
Southeast terminals	21,647	21,412	19,658
Direct operating costs and expenses	$ 65,964	$ 64,498	$ 64,696

Direct general and administrative expenses of our operations primarily include accounting and legal costs associated with annual and quarterly reports and tax return and Schedule K-1 preparation and distribution, independent director fees and deferred equity-based compensation. The direct general and administrative expenses for the years ended December 31, 2012, 2011 and 2010 were approximately $4.8 million, $4.7 million and $3.2 million, respectively.

Allocated general and administrative expenses include charges from TransMontaigne Inc. for indirect corporate overhead to cover costs of centralized corporate functions such as legal, accounting, treasury, insurance administration and claims processing, health, safety and environmental, information technology, human resources, credit, payroll, taxes, engineering and other corporate services. The allocated general and administrative expenses for the years ended December 31, 2012, 2011 and 2010 were approximately $10.8 million, $10.5 million and $10.3 million, respectively.

Allocated insurance expense include charges from TransMontaigne Inc. for allocations of insurance premiums to cover costs of insuring activities such as property, casualty, pollution, automobile, directors' and officers' liability, and other insurable risks. The allocated insurance expenses for the years ended December 31, 2012, 2011 and 2010 were approximately $3.6 million, $3.3 million and $3.2 million, respectively.

The accompanying consolidated financial statements also include amounts paid to TransMontaigne Services Inc. as a partial reimbursement of bonus awards granted by TransMontaigne Services Inc. to certain key officers and employees that vest over future service periods. The reimbursements were approximately $1.3 million for each of the years ended December 31, 2012, 2011 and 2010, respectively.

Depreciation and amortization expenses for the years ended December 31, 2012, 2011 and 2010 were approximately $28.3 million, $27.7 million and $27.9 million, respectively.

The accompanying consolidated financial statements for the year ended December 31, 2011 also include a gain of approximately $9.6 million recognized on the deconsolidation of assets transferred to the Frontera joint venture effective April 1, 2011 (see Note 3 of Notes to consolidated financial statements). The gain was measured as the difference between the carrying amount of the contributed assets and the aggregate of the cash we received and the fair value of the 50% interest we retained in the joint venture.

The accompanying consolidated financial statements for the year ended December 31, 2010 also include a goodwill impairment charge to operating income for approximately $8.5 million related to our River terminals reporting unit (see Note 7 of Notes to consolidated financial statements).

LIQUIDITY AND CAPITAL RESOURCES

Our primary liquidity needs are to fund our working capital requirements, distributions to unitholders, approved capital projects and approved future expansion, development and acquisition opportunities. Future expansion, development and acquisition expenditures will depend on numerous factors, including approval by Morgan Stanley; the availability, economics and cost of appropriate acquisitions which we identify and evaluate; the economics, cost and required regulatory approvals with respect to the expansion and enhancement of existing systems and facilities; customer demand for the services we provide; local, state and federal governmental regulations; environmental compliance requirements; and the availability of debt financing and equity capital on acceptable terms. Further discussion of Morgan Stanley's current position with respect to approval of any proposed acquisitions and investments and the potential impact of such decision is set forth under the captions "Item 1A. Risk Factors" and "Overview—Regulatory Matters" in Item 7.

We expect to initially fund our approved capital projects and our approved future expansion, development and acquisition opportunities, if any, with additional borrowings under our credit facility (see Note 12 of Notes to consolidated financial statements). After initially funding expenditures for approved capital projects and approved future expansion, development and acquisition opportunities, if any, with borrowings under our credit facility, we may raise funds through additional equity offerings and debt financings, which may include the issuance of senior unsecured notes. The proceeds of such equity offerings and debt financings may then be used to reduce our outstanding borrowings under our credit facility.

Our capital expenditures for the year ended December 31, 2012 were approximately $23.6 million for terminal and pipeline facilities and assets to support these facilities. In addition, we made cash investments during the year ended December 31, 2012 of approximately $80.2 million in unconsolidated affiliates. Management and the board of directors of our general partner have approved additional investments in BOSTCO and expansion capital projects that currently are or will be under construction with estimated completion dates that extend through the first quarter of 2014. At December 31, 2012, the remaining capital expenditures to complete the approved additional investments and expansion capital projects are estimated to be approximately $105 million. We expect to fund our future investments and expansion capital expenditures with additional borrowings under our credit facility.

Amended and restated senior secured credit facility. On March 9, 2011, we entered into an amended and restated senior secured credit facility, or credit facility. The credit facility originally provided for a maximum borrowing line of credit equal to the lesser of (i) $250 million and (ii) 4.75 times Consolidated EBITDA (as defined: $340.7 million at December 31, 2012). On December 20, 2012, in connection with our repurchase of a 42.5% interest in BOSTCO, we amended the credit facility to increase our maximum borrowing line of credit to the lesser of (i) $350 million and (ii) 4.75 times Consolidated EBITDA. The amendment also provided us with the ability to make up to $225 million of investments in BOSTCO, referred to as the "Specified BOSTCO Investment", without regard to certain financial tests (including the "total leverage ratio," the "senior secured leverage ratio," the "interest coverage ratio" and the minimum liquidity requirements to have at least $50 million in unused borrowing capacity before and after giving effect to each such joint venture investment) that must otherwise be satisfied in order for us to make "permitted joint venture investments". In addition to the Specified BOSTCO Investment, under the terms of the amendment, we may also make an additional $75 million of other permitted joint venture investments (including additional investments in BOSTCO). Prior to the December 20, 2012 amendment, the credit facility permitted us to make up to only $125 million of joint venture investments in the aggregate, subject to satisfying the financial and other conditions set forth in the credit facility.

We may elect to have loans under the credit facility bear interest either (i) at a rate of LIBOR plus a margin ranging from 2% to 3% depending on the total leverage ratio then in effect, or (ii) at the base rate plus a margin ranging from 1% to 2% depending on the total leverage ratio then in effect. We also pay a commitment fee on the unused amount of commitments, ranging from 0.375% to 0.5% per annum, depending on the total leverage ratio then in effect. Our obligations under the credit facility are secured by a first priority security interest in favor of the lenders in the majority of our assets, including our interests in unconsolidated affiliates. At December 31, 2012, our outstanding borrowings under the credit facility were $184 million.

The terms of the credit facility include covenants that restrict our ability to make cash distributions, acquisitions and investments, including investments in joint ventures. We may make distributions of cash to the extent of our "available cash" as defined in our partnership agreement. We may make acquisitions and investments that meet the definition of "permitted acquisitions"; "other investments" which may not exceed 5% of "consolidated net tangible assets"; and "permitted JV investments". The principal balance of loans and any accrued and unpaid interest are due and payable in full on the maturity date, March 9, 2016.

Under the credit facility, our terminaling service agreements with Morgan Stanley Capital Group relating to our Florida and the Razorback terminals and the Southeast terminals are deemed to be "Specified Contracts." The credit facility further provides that an event of default will occur if any Specified Contract terminates in whole or in part, "if such ... termination would reasonably be expected to result in a Material Adverse Effect after taking into account any replacement therefor." In February 2013, representatives of Morgan Stanley Capital Group indicated that they intend to extend or enter into new terminaling services agreements covering our Florida and the Razorback terminals and the Southeast terminals for periods after the current agreements expire. However, in the event that these terminaling services agreements with Morgan Stanley Capital Group expire and, at that time, we have not secured sufficient replacement customer agreements to replace the majority of the revenues provided for under the expired agreements, an event of default could occur under our bank credit facility.

The credit facility also contains customary representations and warranties (including those relating to organization and authorization, compliance with laws, absence of defaults, material agreements and litigation) and customary events of default (including those relating to monetary defaults, covenant defaults, cross defaults and bankruptcy events). The primary financial covenants contained in the credit facility are (i) a total leverage ratio test (not to exceed 4.75 times), (ii) a senior secured leverage ratio test (not to exceed 3.75 times) in the event we issue senior unsecured notes, and (iii) a minimum interest coverage ratio test (not less than 3.0 times). These financial covenants are based on a defined financial performance measure within the credit facility known as "Consolidated EBITDA." The calculation of the "total leverage ratio" and "interest coverage ratio" contained in the credit facility is as follows (in thousands, except ratios):

	Three months ended				Twelve months ended
	March 31, 2012	June 30, 2012	September 30, 2012	December 31, 2012	December 31, 2012
Financial performance debt covenant test:					
Consolidated EBITDA for the total leverage ratio, as stipulated in the credit facility	$ 18,311	$ 19,662	$ 18,102	$ 15,654	$ 71,729
Consolidated funded indebtedness					$ 184,000
Total leverage ratio					2.57x
Consolidated EBITDA for the interest coverage ratio	$ 18,311	$ 19,662	$ 18,102	$ 15,654	$ 71,729
Consolidated interest expense, as stipulated in the credit facility	$ 681	$ 648	$ 692	$ 834	$ 2,855
Interest coverage ratio					25.12x
Reconciliation of consolidated EBITDA to cash flows provided by operating activities:					
Consolidated EBITDA	$ 18,311	$ 19,662	$ 18,102	$ 15,654	$ 71,729
Consolidated interest expense	(681)	(648)	(692)	(834)	(2,855)
Amortization of deferred revenue	(1,144)	(1,134)	(1,173)	(1,173)	(4,624)
Amounts due under long-term terminaling services agreements, net	128	140	179	105	552
Change in operating assets and liabilities	(7,076)	(1,584)	6,264	1,905	(491)
Cash flows provided by operating activities	$ 9,538	$ 16,436	$ 22,680	$ 15,657	$ 64,311

If we were to fail either financial performance covenant, or any other covenant contained in the credit facility, we would seek a waiver from our lenders under such facility. If we were unable to obtain a waiver from our lenders and the default remained uncured after any applicable grace period, we would be in breach of the credit facility, and the lenders would be entitled to declare all outstanding borrowings immediately due and payable.

Contractual Obligations and Contingencies. We have contractual obligations that are required to be settled in cash. The amounts of our contractual obligations at December 31, 2012 are as follows (in thousands):

	Years ending December 31,					
	2013	2014	2015	2016	2017	Thereafter
Additions to property, plant and equipment under contract	$ 10,008	$ —	$ —	$ —	$ —	$ —
Operating leases—property and equipment	1,451	1,536	1,552	1,567	633	4,244
Long-term debt	—	—	—	184,000	—	—
Interest expense on debt(1)	4,416	4,416	4,416	823	—	—
Total contractual obligations to be settled in cash	$ 15,875	$ 5,952	$ 5,968	$ 186,390	$ 633	$ 4,244

(1) Assumes that our outstanding long-term debt at December 31, 2012 remains outstanding until its maturity date under the amended and restated senior secured credit facility and we incur interest

expense at the weighted average interest rate on our borrowings outstanding for the three months ended December 31, 2012, which is 2.4% per year.

Off-Balance Sheet Arrangements. At December 31, 2012 our outstanding letters of credit were approximately $nil.

See Notes 2, 10, 11, 12, 14 and 15 of Notes to consolidated financial statements for additional information regarding our contractual obligations and off-balance sheet arrangements that may affect our results of operations and financial condition.

We believe that our future cash expected to be provided by operating activities, available borrowing capacity under our amended and restated senior secured credit facility, and our relationship with institutional lenders and equity investors should enable us to meet our committed capital and our essential liquidity requirements for the next twelve months.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISKS

Market risk is the risk of loss arising from adverse changes in market rates and prices. The principal market risk to which we are exposed is interest rate risk associated with borrowings under our credit facility. Borrowings under our credit facility bear interest at a variable rate based on LIBOR or the lender's base rate. At December 31, 2012, we had outstanding borrowings of $184 million under our credit facility. Based on the outstanding balance of our variable-interest-rate debt at December 31, 2012 and assuming market interest rates increase or decrease by 100 basis points, the potential annual increase or decrease in interest expense is $1.8 million.

We do not purchase or market products that we handle or transport and, therefore, we do not have material direct exposure to changes in commodity prices, except for the value of product gains arising from certain of our terminaling services agreements with our customers. Pursuant to our terminaling services agreement related to the Southeast terminals, we agreed to rebate to Morgan Stanley Capital Group 50% of the proceeds we receive annually in excess of $4.2 million from the sale of product gains at our Southeast terminals. We do not use derivative commodity instruments to manage the commodity risk associated with the product we may own at any given time. Generally, to the extent we are entitled to retain product pursuant to terminaling services agreements with our customers, we sell the product to Morgan Stanley Capital Group and other marketing and distribution companies on a monthly basis; the sales price is based on industry indices. For the years ended December 31, 2012, 2011 and 2010, we sold approximately 161,000, 208,000 and 172,000 barrels, respectively, of product gained resulting from differences in the measurement of product volumes received and distributed at our terminaling facilities at average prices of $121, $118 and $92 per barrel, respectively.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The following consolidated financial statements should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" included elsewhere in this annual report.

TransMontaigne Partners L.P. and Subsidiaries:

Report of Independent Registered Public Accounting Firm

The Board of Directors and Member
TransMontaigne GP L.L.C.:

We have audited the accompanying consolidated balance sheets of TransMontaigne Partners L.P. and subsidiaries (the "Partnership") as of December 31, 2012 and 2011, and the related consolidated statements of comprehensive income, partners' equity, and cash flows for each of the three years in the period ended December 31, 2012. These financial statements are the responsibility of the Partnership's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of TransMontaigne Partners L.P. and subsidiaries as of December 31, 2012 and 2011, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2012, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Partnership's internal control over financial reporting as of December 31, 2012, based on the criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission, and our report dated March 12, 2013 expressed an unqualified opinion on the Partnership's internal control over financial reporting.

/s/ DELOITTE & TOUCHE LLP

Denver, Colorado
March 12, 2013

TransMontaigne Partners L.P. and subsidiaries

Consolidated balance sheets

(Dollars in thousands)

	December 31, 2012	December 31, 2011
ASSETS		
Current assets:		
Cash and cash equivalents	$ 6,745	$ 7,138
Trade accounts receivable, net	5,035	4,271
Due from affiliates	3,035	3,906
Other current assets	4,579	22,768
Total current assets	19,394	38,083
Property, plant and equipment, net	427,701	431,782
Goodwill	8,736	8,716
Investments in unconsolidated affiliates	105,164	25,875
Other assets, net	8,806	9,648
	$ 569,801	$ 514,104
LIABILITIES AND EQUITY		
Current liabilities:		
Trade accounts payable	$ 10,810	$ 7,936
Accrued liabilities	15,606	19,924
Total current liabilities	26,416	27,860
Other liabilities	10,648	14,368
Long-term debt	184,000	120,000
Total liabilities	221,064	162,228
Partners' equity:		
Common unitholders (14,457,066 units issued and outstanding at December 31, 2012 and 2011)	292,648	296,052
General partner interest (2% interest with 295,042 equivalent units outstanding at December 31, 2012 and 2011)	56,564	56,490
Accumulated other comprehensive loss	(475)	(666)
Total partners' equity	348,737	351,876
	$ 569,801	$ 514,104

See accompanying notes to consolidated financial statements.

TransMontaigne Partners L.P. and subsidiaries

Consolidated statements of comprehensive income

(In thousands, except per unit amounts)

	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Revenue:			
External customers	$ 45,749	$ 45,576	$ 48,787
Affiliates	110,490	106,716	102,112
Total revenue	156,239	152,292	150,899
Operating costs and expenses and other:			
Direct operating costs and expenses	(65,964)	(64,498)	(64,696)
Direct general and administrative expenses	(4,810)	(4,703)	(3,159)
Allocated general and administrative expenses	(10,780)	(10,466)	(10,311)
Allocated insurance expense	(3,590)	(3,290)	(3,185)
Reimbursement of bonus awards	(1,250)	(1,250)	(1,250)
Depreciation and amortization	(28,260)	(27,654)	(27,869)
Gain (loss) on disposition of assets	—	9,576	(765)
Impairment of goodwill	—	—	(8,465)
Earnings from unconsolidated affiliates	558	113	—
Total operating costs and expenses and other	(114,096)	(102,172)	(119,700)
Operating income	42,143	50,120	31,199
Other income (expenses):			
Interest income	22	1	8
Interest expense	(2,877)	(2,458)	(3,405)
Amortization of deferred financing costs	(767)	(1,055)	(598)
Foreign currency transaction gain (loss)	51	(88)	38
Total other expenses, net	(3,571)	(3,600)	(3,957)
Net earnings	38,572	46,520	27,242
Other comprehensive income (loss)—foreign currency translation adjustments	191	(317)	120
Comprehensive income	$ 38,763	$ 46,203	$ 27,362
Net earnings	$ 38,572	$ 46,520	$ 27,242
Less—earnings allocable to general partner interest including incentive distribution rights	(5,157)	(4,415)	(3,017)
Net earnings allocable to limited partners	$ 33,415	$ 42,105	$ 24,225
Net earnings per limited partner unit—basic	$ 2.31	$ 2.92	$ 1.69
Net earnings per limited partner unit—diluted	$ 2.31	$ 2.91	$ 1.68
Weighted average limited partner units outstanding—basic	14,441	14,442	14,363
Weighted average limited partner units outstanding—diluted	14,448	14,457	14,379

See accompanying notes to consolidated financial statements.

TransMontaigne Partners L.P. and subsidiaries

Consolidated statements of partners' equity

(Dollars in thousands)

	Common units	General partner interest	Accumulated other comprehensive loss	Total
Balance January 1, 2010	**$ 249,160**	**$ 54,434**	**$ (469)**	**$ 303,125**
Proceeds from offering of 2,012,500 common units, net of underwriters' discounts and offering expenses of $2,562	50,971	—	—	50,971
Contribution of cash by TransMontaigne GP to maintain its 2% general partner interest	—	1,093	—	1,093
Distributions to unitholders	(34,567)	(3,011)	—	(37,578)
Deferred equity-based compensation related to restricted phantom units	385	—	—	385
Purchase of 19,435 common units by our long-term incentive plan and from affiliate	(542)	—	—	(542)
Issuance of 14,000 common units by our long-term incentive plan due to vesting of restricted phantom units	—	—	—	—
Net earnings for year ended December 31, 2010	24,225	3,017	—	27,242
Other comprehensive income			120	120
Balance December 31, 2010	**289,632**	**55,533**	**(349)**	**344,816**
Distributions to unitholders	(35,575)	(3,926)	—	(39,501)
Deferred equity-based compensation related to restricted phantom units	419	—	—	419
Purchase of 13,652 common units by our long-term incentive plan and from affiliate	(529)	—	—	(529)
Acquisition of Pensacola Terminal from TransMontaigne Inc. in exchange for $12.8 million	—	468	—	468
Issuance of 11,392 common units by our long-term incentive plan due to vesting of restricted phantom units	—	—	—	—
Net earnings for year ended December 31, 2011	42,105	4,415	—	46,520
Other comprehensive loss	—	—	(317)	(317)
Balance December 31, 2011	**296,052**	**56,490**	**(666)**	**351,876**
Distributions to unitholders	(36,763)	(5,083)	—	(41,846)
Deferred equity-based compensation related to restricted phantom units	398	—	—	398
Purchase of 12,716 common units by our long-term incentive plan and from affiliate	(454)	—	—	(454)
Issuance of 11,980 common units by our long-term incentive plan due to vesting of restricted phantom units	—	—	—	—
Net earnings for year ended December 31, 2012	33,415	5,157	—	38,572
Other comprehensive income	—	—	191	191
Balance December 31, 2012	**$ 292,648**	**$ 56,564**	**$ (475)**	**$ 348,737**

See accompanying notes to consolidated financial statements.

TransMontaigne Partners L.P. and subsidiaries

Consolidated statements of cash flows

(In thousands)

	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Cash flows from operating activities:			
Net earnings	$ 38,572	$ 46,520	$ 27,242
Adjustments to reconcile net earnings to net cash provided by operating activities:			
Depreciation and amortization	28,260	27,654	27,869
(Gain) loss on disposition of assets	—	(9,576)	765
Earnings from unconsolidated affiliates	(558)	(113)	—
Distributions from unconsolidated affiliates	1,435	852	—
Deferred equity-based compensation	398	419	385
Amortization of deferred financing costs	767	1,055	598
Amortization of deferred revenue	(4,624)	(4,508)	(3,817)
Amounts due under long-term terminaling services agreements, net	552	(579)	(7)
Unrealized gain on derivative instrument	—	(1,250)	(1,440)
Impairment of goodwill	—	—	8,465
Changes in operating assets and liabilities, net of effects from acquisitions and dispositions:			
Trade accounts receivable, net	(640)	2,083	319
Due from affiliates	1,662	1,497	2,248
Other current assets	203	2,188	738
Trade accounts payable	2,623	(1,580)	692
Due to affiliates	—	(89)	(32)
Accrued liabilities	(4,339)	1,518	1,311
Net cash provided by operating activities	64,311	66,091	65,336
Cash flows from investing activities:			
Acquisition of terminal facilities	—	(12,781)	(1,633)
Investments in unconsolidated affiliates	(80,166)	(1,021)	—
Capital expenditures—expansion of facilities	(15,805)	(33,359)	(33,290)
Capital expenditures—maintain existing facilities	(7,760)	(7,814)	(7,675)
Proceeds in return for contribution of assets to unconsolidated affiliate	—	25,593	—
Proceeds from sale of assets	18,000	10,816	5,181
Other	—	—	(91)
Net cash used in investing activities	(85,731)	(18,566)	(37,508)
Cash flows from financing activities:			
Net proceeds from issuance of common units	—	—	50,971
Contribution of cash by TransMontaigne GP	—	—	1,093
Borrowings of debt under credit facility	147,000	80,343	53,000
Repayments of debt under credit facility	(83,000)	(82,343)	(96,000)
Deferred debt issuance costs	(736)	(3,575)	—
Distributions paid to unitholders	(41,846)	(39,501)	(37,578)
Purchase of common units by our long-term incentive plan and from affiliate	(454)	(529)	(542)
Net cash provided by (used in) financing activities	20,964	(45,605)	(29,056)
(Decrease) increase in cash and cash equivalents	(456)	1,920	(1,228)
Foreign currency translation effect on cash	63	(135)	13
Cash and cash equivalents at beginning of period	7,138	5,353	6,568
Cash and cash equivalents at end of period	$ 6,745	$ 7,138	$ 5,353
Supplemental disclosure of cash flow information:			
Cash paid for interest	$ 2,886	$ 3,865	$ 5,258

See accompanying notes to consolidated financial statements.

Notes to Consolidated Financial Statements

Years ended December 31, 2012, 2011 and 2010

(1) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Nature of business

TransMontaigne Partners L.P. ("Partners") was formed in February 2005 as a Delaware limited partnership initially to own and operate refined petroleum products terminaling and transportation facilities. We conduct our operations primarily in the United States along the Gulf Coast, in the Southeast, in Brownsville, Texas, along the Mississippi and Ohio rivers, and in the Midwest. We provide integrated terminaling, storage, transportation and related services for companies engaged in the trading, distribution and marketing of refined petroleum products, crude oil, chemicals, fertilizers and other liquid products, including TransMontaigne Inc. and Morgan Stanley Capital Group Inc.

We are controlled by our general partner, TransMontaigne GP L.L.C. ("TransMontaigne GP"), which is a wholly-owned subsidiary of TransMontaigne Inc. Effective September 1, 2006, Morgan Stanley Capital Group Inc. ("Morgan Stanley Capital Group"), a wholly-owned subsidiary of Morgan Stanley, purchased all of the issued and outstanding capital stock of TransMontaigne Inc. Morgan Stanley Capital Group is the principal commodities trading arm of Morgan Stanley. As a result of Morgan Stanley's acquisition of TransMontaigne Inc., Morgan Stanley became the indirect owner of our general partner. At December 31, 2012, TransMontaigne Inc. and Morgan Stanley have a significant interest in our partnership through their indirect ownership of a 22% limited partner interest, a 2% general partner interest and the incentive distribution rights.

(b) Basis of presentation and use of estimates

Our accounting and financial reporting policies conform to accounting principles and practices generally accepted in the United States of America. The accompanying consolidated financial statements include the accounts of TransMontaigne Partners L.P., a Delaware limited partnership, and its controlled subsidiaries. Investments where we do not have the ability to exercise control, but do have the ability to exercise significant influence, are accounted for using the equity method of accounting. All inter-company accounts and transactions have been eliminated in the preparation of the accompanying consolidated financial statements. The accompanying consolidated financial statements include all adjustments (consisting of normal and recurring accruals) considered necessary to present fairly our financial position as of December 31, 2012 and 2011, our results of operations for the years ended December 31, 2012, 2011 and 2010 and our cash flows for the years ended December 31, 2012, 2011 and 2010.

The preparation of financial statements in conformity with generally accepted accounting principles requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the reporting periods. The following estimates, in management's opinion, are subjective in nature, require the exercise of judgment, and involve complex analyses: useful lives of our plant and equipment, accrued environmental obligations and determining the fair value of our reporting units when analyzing goodwill. Changes in these estimates and assumptions will occur as a result of the passage of time and the occurrence of future events. Actual results could differ from these estimates.

The accompanying consolidated financial statements include allocated general and administrative charges from TransMontaigne Inc. for indirect corporate overhead to cover costs of functions such as legal, accounting, treasury, engineering, environmental safety, information technology, and other corporate services (see Note 2 of Notes to consolidated financial statements). The allocated general

(1) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

and administrative expenses were approximately $10.8 million, $10.5 million and $10.3 million for the years ended December 31, 2012, 2011 and 2010, respectively. The accompanying consolidated financial statements also include allocated insurance charges from TransMontaigne Inc. for insurance premiums to cover costs of insuring activities such as property, casualty, pollution, automobile, directors' and officers' liability, and other insurable risks. The allocated insurance charges were approximately $3.6 million, $3.3 million and $3.2 million for the years ended December 31, 2012, 2011 and 2010, respectively. The accompanying consolidated financial statements also include reimbursement of amounts paid to TransMontaigne Services Inc. (a wholly-owned subsidiary of TransMontaigne Inc.) towards bonus awards granted by TransMontaigne Services Inc. to certain key officers and employees who provide services to Partners that vest over future periods. The reimbursement of bonus awards was approximately $1.3 million for each of the years ended December 31, 2012, 2011 and 2010, respectively.

(c) Accounting for terminal and pipeline operations

In connection with our terminal and pipeline operations, we utilize the accrual method of accounting for revenue and expenses. We generate revenue in our terminal and pipeline operations from terminaling services fees, transportation fees, management fees and cost reimbursements, fees from other ancillary services and net gains from the sale of refined products. Terminaling services revenue is recognized ratably over the term of the agreement for storage fees and minimum revenue commitments that are fixed at the inception of the agreement and when product is delivered to the customer for fees based on a rate per barrel throughput; transportation revenue is recognized when the product has been delivered to the customer at the specified delivery location; management fee revenue and cost reimbursements are recognized as the services are performed or as the costs are incurred; ancillary service revenue is recognized as the services are performed; and gains from the sale of refined products are recognized when the title to the product is transferred.

Pursuant to terminaling services agreements with certain of our throughput customers, we are entitled to the volume of product gained resulting from differences in the measurement of product volumes received and distributed at our terminaling facilities. Consistent with recognized industry practices, measurement differentials occur as the result of the inherent variances in measurement devices and methodology. We recognize as revenue the net proceeds from the sale of the product gained. For the years ended December 31, 2012, 2011 and 2010, we recognized revenue of approximately $16.1 million, $18.7 million and $12.8 million, respectively, for net product gained. Within these amounts, approximately $13.6 million, $16.8 million and $12.1 million, respectively, were pursuant to terminaling services agreements with affiliate customers.

(d) Cash and cash equivalents

We consider all short-term investments with a remaining maturity of three months or less at the date of purchase to be cash equivalents.

(e) Property, plant and equipment

Depreciation is computed using the straight-line method. Estimated useful lives are 15 to 25 years for terminals and pipelines, and 3 to 25 years for furniture, fixtures and equipment. All items of property, plant and equipment are carried at cost. Expenditures that increase capacity or extend useful lives are capitalized. Repairs and maintenance are expensed as incurred.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(1) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

We evaluate long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying value of an asset group may not be recoverable based on expected undiscounted future cash flows attributable to that asset group. If an asset group is impaired, the impairment loss to be recognized is the excess of the carrying amount of the asset group over its estimated fair value.

(f) Investments in unconsolidated affiliates

We account for our investments in our unconsolidated affiliates, which we do not control but do have the ability to exercise significant influence over, using the equity method of accounting. Under this method, the investment is recorded at acquisition cost, increased by our proportionate share of any earnings and additional capital contributions and decreased by our proportionate share of any losses, distributions received, and amortization of any excess investment. Excess investment is the amount by which our total investment exceeds our proportionate share of the book value of the net assets of the investment entity. We evaluate our investments in unconsolidated affiliates for impairment whenever events or circumstances indicate there is a loss in value of the investment that is other than temporary. In the event of impairment, we would record a charge to earnings to adjust the carrying amount to fair value.

(g) Environmental obligations

We accrue for environmental costs that relate to existing conditions caused by past operations when estimable (see Note 10 of Notes to consolidated financial statements). Environmental costs include initial site surveys and environmental studies of potentially contaminated sites, costs for remediation and restoration of sites determined to be contaminated and ongoing monitoring costs, as well as fines, damages and other costs, including direct legal costs. Liabilities for environmental costs at a specific site are initially recorded, on an undiscounted basis, when it is probable that we will be liable for such costs, and a reasonable estimate of the associated costs can be made based on available information. Such an estimate includes our share of the liability for each specific site and the sharing of the amounts related to each site that will not be paid by other potentially responsible parties, based on enacted laws and adopted regulations and policies. Adjustments to initial estimates are recorded, from time to time, to reflect changing circumstances and estimates based upon additional information developed in subsequent periods. Estimates of our ultimate liabilities associated with environmental costs are difficult to make with certainty due to the number of variables involved, including the early stage of investigation at certain sites, the lengthy time frames required to complete remediation, technology changes, alternatives available and the evolving nature of environmental laws and regulations. We periodically file claims for insurance recoveries of certain environmental remediation costs with our insurance carriers under our comprehensive liability policies (see Note 5 of Notes to consolidated financial statements). We recognize our insurance recoveries as a credit to income in the period that we assess the likelihood of recovery as being probable (i.e., likely to occur).

TransMontaigne Inc. agreed to indemnify us against certain potential environmental claims, losses and expenses that were identified on or before May 27, 2010 and that were associated with the ownership or operation of the Florida and Midwest terminal facilities prior to May 27, 2005, up to a maximum liability not to exceed $15.0 million for this indemnification obligation (see Note 2 of Notes to consolidated financial statements). TransMontaigne Inc. agreed to indemnify us against certain potential environmental claims, losses and expenses that were identified on or before December 31, 2011 and that were associated with the ownership or operation of the Brownsville and River facilities

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(1) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

prior to December 31, 2006, up to a maximum liability not to exceed $15.0 million for this indemnification obligation (see Note 2 of Notes to consolidated financial statements). TransMontaigne Inc. agreed to indemnify us against certain potential environmental claims, losses and expenses that were identified on or before December 31, 2012 and that were associated with the ownership or operation of the Southeast terminals prior to December 31, 2007, up to a maximum liability not to exceed $15.0 million for this indemnification obligation (see Note 2 of Notes to consolidated financial statements). TransMontaigne Inc. has agreed to indemnify us against certain potential environmental claims, losses and expenses that are identified on or before March 1, 2016 and that were associated with the ownership or operation of the Pensacola terminal prior to March 1, 2011, up to a maximum liability not to exceed $2.5 million for this indemnification obligation (see Note 2 of Notes to consolidated financial statements).

(h) Asset retirement obligations

Asset retirement obligations are legal obligations associated with the retirement of long-lived assets that result from the acquisition, construction, development or normal use of the asset. Generally accepted accounting principles require that the fair value of a liability related to the retirement of long-lived assets be recorded at the time a legal obligation is incurred. Once an asset retirement obligation is identified and a liability is recorded, a corresponding asset is recorded, which is depreciated over the remaining useful life of the asset. After the initial measurement, the liability is adjusted to reflect changes in the asset retirement obligation. If and when it is determined that a legal obligation has been incurred, the fair value of the liability is determined based on estimates and assumptions related to retirement costs, future inflation rates and interest rates. Our long-lived assets include above-ground storage facilities and underground pipelines. We are unable to predict if and when these long-lived assets will become completely obsolete and require dismantlement. We have not recorded an asset retirement obligation, or corresponding asset, because the future dismantlement and removal dates of our long-lived assets is indeterminable and the amount of any associated costs are believed to be insignificant. Changes in our estimates and assumptions may occur as a result of the passage of time and the occurrence of future events.

(i) Equity-based compensation plan

Generally accepted accounting principles require us to measure the cost of services received in exchange for an award of equity instruments based on the grant-date fair value of the award. That cost will be recognized over the period during which a board member or employee is required to provide service in exchange for the award. We are required to estimate the number of equity instruments that are expected to vest in measuring the total compensation cost to be recognized over the related service period. Compensation cost is recognized over the service period on a straight-line basis.

(j) Foreign currency translation and transactions

The functional currency of Partners and its U.S.-based subsidiaries is the U.S. Dollar. The functional currency of our foreign subsidiaries, including Penn Octane de Mexico, S. de R.L. de C.V., Termatsal, S. de R.L. de C.V., and Tergas, S. de R.L. de C.V., is the Mexican Peso. The assets and liabilities of our foreign subsidiaries are translated at period-end rates of exchange, and revenue and expenses are translated at average exchange rates prevailing for the period. The resulting translation adjustments, net of related income taxes, are recorded as a component of other comprehensive income

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(1) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

in the consolidated statements of comprehensive income. Gains and losses from the remeasurement of foreign currency transactions (transactions denominated in a currency other than the entity's functional currency) are included in other income (expenses) in the consolidated statements of comprehensive income.

(k) Accounting for derivative instruments

Generally accepted accounting principles require us to recognize all derivative instruments at fair value in the consolidated balance sheet as assets or liabilities. Changes in the fair value of our derivative instruments are recognized as a component of net earnings unless specific hedge accounting criteria are met.

We did not have any derivative instruments during the year ended December 31, 2012. During the years ended December 31, 2011 and 2010, our derivative instruments were limited to an interest rate swap agreement with a notional amount of $150.0 million. Our interest rate swap agreement expired in June 2011. The interest rate swap reduced our cash exposure to changes in interest rates by converting variable interest rates to fixed interest rates. Pursuant to the terms of the interest rate swap agreement, we paid a fixed rate of approximately 2.2% and received an interest payment based on the one-month LIBOR. The net difference to be paid or received under the interest rate swap agreement was settled monthly and was recognized as an adjustment to interest expense. For the years ended December 31, 2012, 2011 and 2010, we recognized net payments to the counterparty of $nil and approximately $1.3 million and $2.8 million, respectively.

At the time we entered into the interest rate swap we did not designate it as a hedge, and therefore the change in the fair value of our interest rate swap is included in the consolidated statements of comprehensive income. During the years ended December 31, 2012, 2011 and 2010, we recognized unrealized gains in the amount of $nil and approximately $1.3 million and $1.4 million, respectively, related to the estimated change in the fair value of the interest rate swap, which was recorded as a reduction to interest expense. The fair value of our interest rate swap was determined using a pricing model based on the LIBOR swap rate and other observable market data. The fair value was determined after considering the potential impact of collateralization, adjusted to reflect nonperformance risk.

(l) Income taxes

No provision for U.S. federal income taxes has been reflected in the accompanying consolidated financial statements because Partners is treated as a partnership for federal income taxes. As a partnership, all income, gains, losses, expenses, deductions and tax credits generated by Partners flow through to the unitholders of the partnership.

Partners is a taxable entity under certain U.S. state jurisdictions, primarily Texas. Certain of our Mexican subsidiaries are corporations for Mexican tax purposes and, therefore, are subject to Mexican federal and provincial income taxes.

Partners accounts for U.S. state income taxes and Mexican federal and provincial income taxes under the asset and liability method pursuant to generally accepted accounting principles. Currently, Mexican federal and provincial income taxes and U.S. state income taxes are not material.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(1) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

(m) Net earnings per limited partner unit

Generally accepted accounting principles address the computation of earnings per limited partnership unit for master limited partnerships that consist of publicly traded common units held by limited partners, a general partner interest, and incentive distribution rights that are accounted for as equity interests. Partners' incentive distribution rights are owned by our general partner. Distributions are declared from available cash (as defined by our partnership agreement) and the incentive distribution rights are not entitled to distributions other than from available cash. Any excess of distributions over earnings are allocated to the limited partners and general partner interest based on their respective sharing of losses specified in the partnership agreement, which is based on their ownership percentages of 98% and 2%, respectively. Incentive distribution rights do not share in losses under our partnership agreement. The earnings allocable to the general partner interest for the period represents distributions attributable to the period on behalf of the general partner interest and any incentive distribution rights less the excess of distributions over earnings allocated to the limited partners (see Note 16 of Notes to consolidated financial statements). Basic earnings per limited partner unit are computed by dividing net earnings allocable to limited partners by the weighted average number of limited partnership units outstanding during the period, excluding restricted phantom units. Diluted earnings per limited partner unit are computed by dividing net earnings allocable to limited partners by the weighted average number of limited partnership units outstanding during the period and, when dilutive, restricted phantom units. Net earnings allocable to limited partners are net of the earnings allocable to the general partner interest including incentive distribution rights.

(2) TRANSACTIONS WITH AFFILIATES

Constraints on expansion. Morgan Stanley informed us in October 2011 that, for the foreseeable future, it does not expect to approve any "significant" acquisition or investment that we may propose. Morgan Stanley's decision is the result of the uncertain regulatory environment relating to Morgan Stanley's status as a financial holding company subject to the Bank Holding Company Act and consolidated supervision by the Board of Governors of the Federal Reserve System. Morgan Stanley indicated that it has not established a specific definition of what constitutes a "significant" investment and significance may be determined on either a quantitative or qualitative basis, depending on the facts and circumstances and relevant legal and regulatory considerations. Morgan Stanley has informed us they will review on a case by case basis each proposed transaction to determine its significance, whether an acquisition of, or investment in, assets or legal entities and that an acquisition of, or investment in, a noncontrolling interest or joint venture interest may be "significant" without respect to the size of the transaction. The practical effect of these limitations is to significantly constrain our ability to expand our asset base and operations through acquisitions from third parties. These constraints will reduce the potential for increasing our distributions to unitholders in the future. In addition, these constraints will limit additions to our capital assets primarily to additions and improvements that we construct or add to our existing facilities, although some acquisitions of assets from third parties may be possible to the extent approved by Morgan Stanley. For example, our December 2012 investment in Battleground Oil Specialty Terminal Company LLC ("BOSTCO") was approved by Morgan Stanley based on the specific facts and circumstances of the BOSTCO project and the structure of our investment in BOSTCO, and is not indicative of whether Morgan Stanley will approve any other acquisition or investment that we may propose in the future (see Note 3 of Notes to consolidated financial statements).

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(2) TRANSACTIONS WITH AFFILIATES (Continued)

Omnibus agreement. We have an omnibus agreement with TransMontaigne Inc. that will expire in December 2014, unless extended. Under the omnibus agreement we pay TransMontaigne Inc. an administrative fee for the provision of various general and administrative services for our benefit. Effective January 1, 2013, the annual administrative fee payable to TransMontaigne Inc. will be approximately $10.9 million. If we acquire or construct additional facilities, TransMontaigne Inc. will propose a revised administrative fee covering the provision of services for such additional facilities. If the conflicts committee of our general partner agrees to the revised administrative fee, TransMontaigne Inc. will provide services for the additional facilities pursuant to the agreement. The administrative fee includes expenses incurred by TransMontaigne Inc. to perform centralized corporate functions, such as legal, accounting, treasury, insurance administration and claims processing, health, safety and environmental, information technology, human resources, credit, payroll, taxes and engineering and other corporate services, to the extent such services are not outsourced by TransMontaigne Inc.

The omnibus agreement further provides that we pay TransMontaigne Inc. an insurance reimbursement for premiums on insurance policies covering our facilities and operations. Effective January 1, 2013, the annual insurance reimbursement payable to TransMontaigne Inc. will be approximately $3.7 million. We also reimburse TransMontaigne Inc. for direct operating costs and expenses that TransMontaigne Inc. incurs on our behalf, such as salaries of operational personnel performing services on-site at our terminals and pipelines and the cost of their employee benefits, including 401(k) and health insurance benefits.

We also agreed to reimburse TransMontaigne Inc. and its affiliates for a portion of the incentive payment grants to key employees of TransMontaigne Inc. and its affiliates under the TransMontaigne Services Inc. savings and retention plan, provided the compensation committee of our general partner determines that an adequate portion of the incentive payment grants are allocated to an investment fund indexed to the performance of our common units. For the year ending December 31, 2012, we have agreed to reimburse TransMontaigne Inc. and its affiliates approximately $1.3 million.

The omnibus agreement also provides TransMontaigne Inc. a right of first refusal to purchase our assets, provided that TransMontaigne Inc. agrees to pay no less than 105% of the purchase price offered by the third party bidder. Before we enter into any contract to sell such terminal or pipeline facilities, we must give written notice of all material terms of such proposed sale to TransMontaigne Inc. TransMontaigne Inc. will then have the sole and exclusive option, for a period of 45 days following receipt of the notice, to purchase the subject facilities for no less than 105% of the purchase price on the terms specified in the notice.

TransMontaigne Inc. also has a right of first refusal to contract for the use of any petroleum product storage capacity that (i) is put into commercial service after January 1, 2008, or (ii) was subject to a terminaling services agreement that expires or is terminated (excluding a contract renewable solely at the option of our customer), provided that TransMontaigne Inc. agrees to pay no less than 105% of the fees offered by the third party customer.

Environmental indemnification. In connection with our acquisition of the Florida and Midwest terminals, TransMontaigne Inc. agreed to indemnify us against certain potential environmental claims, losses and expenses that were identified on or before May 27, 2010, and that were associated with the ownership or operation of the Florida and Midwest terminals prior to May 27, 2005. TransMontaigne

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(2) TRANSACTIONS WITH AFFILIATES (Continued)

Inc.'s maximum liability for this indemnification obligation is $15.0 million. TransMontaigne Inc. has no obligation to indemnify us for losses until such aggregate losses exceed $250,000. TransMontaigne Inc. has no indemnification obligations with respect to environmental claims made as a result of additions to or modifications of environmental laws promulgated after May 27, 2005.

In connection with our acquisition of the Brownsville, Texas and River terminals, TransMontaigne Inc. agreed to indemnify us against potential environmental claims, losses and expenses that were identified on or before December 31, 2011, and that were associated with the ownership or operation of the Brownsville and River facilities prior to December 31, 2006. TransMontaigne Inc.'s maximum liability for this indemnification obligation is $15.0 million. TransMontaigne Inc. has no obligation to indemnify us for losses until such aggregate losses exceed $250,000. The deductible amount, cap amount and limitation of time for indemnification do not apply to any environmental liabilities known to exist as of December 31, 2006. TransMontaigne Inc. has no indemnification obligations with respect to environmental claims made as a result of additions to or modifications of environmental laws promulgated after December 31, 2006.

In connection with our acquisition of the Southeast terminals, TransMontaigne Inc. agreed to indemnify us against potential environmental claims, losses and expenses that were identified on or before December 31, 2012, and that were associated with the ownership or operation of the Southeast terminals prior to December 31, 2007. TransMontaigne Inc.'s maximum liability for this indemnification obligation is $15.0 million. TransMontaigne Inc. has no obligation to indemnify us for losses until such aggregate losses exceed $250,000. The deductible amount, cap amount and limitation of time for indemnification do not apply to any environmental liabilities known to exist as of December 31, 2007. TransMontaigne Inc. has no indemnification obligations with respect to environmental claims made as a result of additions to or modifications of environmental laws promulgated after December 31, 2007.

In connection with our acquisition of the Pensacola terminal, TransMontaigne Inc. agreed to indemnify us against potential environmental claims, losses and expenses that are identified on or before March 1, 2016, and that are associated with the ownership or operation of the Pensacola terminal prior to March 1, 2011. Our environmental losses must first exceed $200,000 and TransMontaigne Inc.'s indemnification obligations are capped at $2.5 million. The deductible amount, cap amount and limitation of time for indemnification do not apply to any environmental liabilities known to exist as of March 1, 2011. TransMontaigne Inc. has no indemnification obligations with respect to environmental claims made as a result of additions to or modifications of environmental laws promulgated after March 1, 2011.

Terminaling services agreement—Florida terminals and Razorback pipeline system. We have a terminaling services agreement with Morgan Stanley Capital Group relating to our Florida, Mount Vernon, Missouri and Rogers, Arkansas terminals. Effective June 1, 2008, we amended the terminaling services agreement to include renewable fuels blending functionality at the Florida Terminals. The initial term of the agreement expires on May 31, 2014. After May 31, 2014, the terminaling services agreement will automatically renew for subsequent one-year periods, subject to either party's right to terminate with six months' notice prior to May 31, 2014 or the then-current renewal term. Under this agreement, Morgan Stanley Capital Group agreed to throughput a volume of refined product that, at the fee and tariff schedule contained in the agreement, resulted in minimum throughput payments to us of approximately $37 million for the contract year ended May 31, 2012 (approximately $37.3 million for the contract year ending May 31, 2013); with stipulated annual increases in throughput payments

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(2) TRANSACTIONS WITH AFFILIATES (Continued)

each contract year thereafter. Morgan Stanley Capital Group's minimum annual throughput payment is reduced proportionately for any decrease in storage capacity due to out-of-service tank capacity.

If a force majeure event occurs that renders us unable to perform our obligations with respect to an asset, Morgan Stanley Capital Group's obligations would be temporarily suspended with respect to that asset. If a force majeure event continues for 30 consecutive days or more and results in a diminution in the storage capacity we make available to Morgan Stanley Capital Group, Morgan Stanley Capital Group may terminate its obligations with respect to the asset affected by the force majeure event and their minimum revenue commitment would be reduced proportionately for the duration of the agreement.

Morgan Stanley Capital Group may not assign the terminaling services agreement without our consent. Upon termination of the agreement, Morgan Stanley Capital Group has a right of first refusal to enter into a new terminaling services agreement with us, provided they pay no less than 105% of the fees offered by any third party.

Terminaling services agreement—Fisher Island terminal. We have a terminaling services agreement with TransMontaigne Inc. that will expire on December 31, 2013. Under this agreement, TransMontaigne Inc. agreed to throughput at our Fisher Island terminal in the Gulf Coast region a volume of fuel oils that, at the fee schedule contained in the agreement, resulted in minimum revenue to us of approximately $1.8 million for the contract year ended December 31, 2012. In exchange for its minimum throughput commitment, we agreed to provide TransMontaigne Inc. with approximately 185,000 barrels of fuel oil capacity.

Terminaling services agreement—Mobile terminal. We had a terminaling services agreement with TransMontaigne Inc. that terminated on December 17, 2010 with the sale of the Mobile terminal (see Note 3 of Notes to consolidated financial statements). As consideration for the early termination of the terminaling services agreement and release of TransMontaigne Inc. from its obligations thereunder, we received an early termination payment of approximately $1.3 million. Under this agreement, TransMontaigne Inc. agreed to throughput at our Mobile terminal a volume of refined products that, at the fee schedule contained in the agreement, resulted in minimum revenue to us of approximately $2.5 million for the contract year ending December 31, 2010.

Terminaling services agreement—Cushing terminal. In July 2011, we entered into a terminaling services agreement with Morgan Stanley Capital Group relating to our Cushing, Oklahoma facility that will expire in July 2019, subject to a five-year automatic renewal unless terminated by either party upon 180 days prior notice. In exchange for its minimum revenue commitment, we agreed to construct storage tanks and associated infrastructure to provide 1.0 million barrels of crude oil capacity. These capital projects were completed and placed into service on August 1, 2012. Under this agreement, Morgan Stanley Capital Group agreed to throughput a volume of crude oil products at our terminal that will, at the fee schedule contained in the agreement, result in minimum throughput payments to us of approximately $4.3 million for each one-year period following the in-service date of August 1, 2012.

If a force majeure event occurs that renders us unable to perform our obligations with respect to an asset, Morgan Stanley Capital Group's obligations would be temporarily suspended with respect to that asset. If a force majeure event continues for 120 consecutive days or more and results in a diminution in the storage capacity we make available to Morgan Stanley Capital Group, Morgan Stanley Capital Group may terminate its obligations with respect to the asset affected by the force

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(2) TRANSACTIONS WITH AFFILIATES (Continued)

majeure event and their minimum revenue commitment would be reduced proportionately for the duration of the agreement.

Neither party may transfer or assign this agreement without the consent of the other party unless such assignment is to an affiliate or, in the case of Partners, a successor in interest to us or to the Cushing terminal.

Terminaling services agreement—Brownsville LPG. We had a terminaling services agreement with TransMontaigne Inc. relating to our Brownsville, Texas facilities that terminated on December 31, 2012. The storage capacity under this agreement is now under contract with a third party beginning January 1, 2013. Under this agreement, TransMontaigne Inc. agreed to throughput at our Brownsville facilities certain minimum volumes of natural gas liquids that resulted in minimum revenue to us of approximately $1.3 million for the contract year ended December 31, 2012. In exchange for TransMontaigne Inc.'s minimum throughput commitment, we agreed to provide TransMontaigne Inc. approximately 33,000 barrels of storage capacity at our Brownsville facilities.

Operations and reimbursement agreement—Frontera. Effective as of April 1, 2011, we entered into the Frontera joint venture in which we have a 50% ownership interest (see Note 3 of Notes to consolidated financial statements). In conjunction with us entering into the joint venture, we agreed to operate Frontera, in accordance with an operations and reimbursement agreement executed between us and Frontera, for a management fee that is based on our costs incurred. Our agreement with Frontera stipulates that we may resign as the operator at any time with the prior written consent of Frontera, or that we may be removed as the operator for good cause, which includes material noncompliance with laws and material failure to adhere to good industry practice regarding health, safety or environmental matters. For the years ended December 31, 2012 and 2011, we recognized approximately $3.4 million and $1.9 million, respectively, of revenue related to this operations and reimbursement agreement.

Terminaling services agreement—Southeast terminals. We have a terminaling services agreement with Morgan Stanley Capital Group relating to our Southeast terminals. The terminaling services agreement commenced on January 1, 2008 and has a seven-year term expiring on December 31, 2014, subject to a seven-year renewal option at the election of Morgan Stanley Capital Group. Under this agreement, Morgan Stanley Capital Group agreed to throughput a volume of refined product at our Southeast terminals that, at the fee schedule contained in the agreement, resulted in minimum throughput payments to us of approximately $35.4 million for the contract year ended December 31, 2012; with stipulated annual increases in throughput payments each contract year thereafter. Morgan Stanley Capital Group's minimum annual throughput payment is reduced proportionately for any decrease in storage capacity due to out-of-service tank capacity. In exchange for its minimum throughput commitment, we agreed to provide Morgan Stanley Capital Group approximately 8.9 million barrels of light oil storage capacity at our Southeast terminals and to undertake certain capital projects to provide ethanol blending functionality at certain of our Southeast terminals with completion dates that extended through August 31, 2011. Upon the completion of each of the projects, Morgan Stanley Capital Group paid us a lump-sum ethanol blending fee that in total equaled approximately $22.5 million.

If a force majeure event occurs that renders us unable to perform our obligations with respect to an asset, Morgan Stanley Capital Group's obligations would be temporarily suspended with respect to that asset. If a force majeure event continues for 30 consecutive days or more and results in a

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(2) TRANSACTIONS WITH AFFILIATES (Continued)

diminution in the storage capacity we make available to Morgan Stanley Capital Group, Morgan Stanley Capital Group may terminate its obligations with respect to the asset affected by the force majeure event and their minimum revenue commitment would be reduced proportionately for the duration of the agreement.

Morgan Stanley Capital Group may not assign the terminaling services agreement without our consent.

Terminaling services agreement—Collins/Purvis terminal. In January 2010, we entered into a terminaling services agreement with Morgan Stanley Capital Group relating to our Collins, Mississippi facility that will expire in July 2018, subject to one-year automatic renewals unless terminated by either party upon 180 days prior notice. In exchange for its minimum revenue commitment, we agreed to undertake certain capital projects to provide an additional 700,000 barrels of light oil capacity and other improvements at the Collins terminal. These capital projects were completed and placed into service in July 2011. Under this agreement, Morgan Stanley Capital Group has agreed to throughput a volume of light oil products at our terminal that will, at the fee schedule contained in the agreement, result in minimum throughput payments to us of approximately $4.1 million for the one-year period following the in-service date of July 2011 for the aforementioned capital projects, and for each contract year thereafter.

If a force majeure event occurs that renders us unable to perform our obligations with respect to an asset, Morgan Stanley Capital Group's obligations would be temporarily suspended with respect to that asset. If a force majeure event continues for 30 consecutive days or more and results in a diminution in the storage capacity we make available to Morgan Stanley Capital Group, Morgan Stanley Capital Group may terminate its obligations with respect to the asset affected by the force majeure event and their minimum revenue commitment would be reduced proportionately for the duration of the agreement.

Neither party may transfer or assign this agreement without the consent of the other party unless such assignment is to an affiliate or, in the case of Partners, a successor in interest to us or to the Collins terminal.

(3) ACQUISITIONS AND DISPOSITIONS

Investment in BOSTCO project. On December 20, 2012, we acquired a 42.5% interest in Battleground Oil Specialty Terminal Company LLC ("BOSTCO"), for approximately $79 million, from Kinder Morgan Energy Partners, L.P. ("Kinder Morgan"). We funded this acquisition utilizing additional borrowings under our credit facility. BOSTCO is a new black oil terminal facility on the Houston Ship Channel designed to handle residual fuel, feedstocks, distillates and other black oils. The initial phase of the BOSTCO project involves construction of 50 storage tanks with approximately 6.1 million barrels of storage capacity at an estimated cost of approximately $425 million. The BOSTCO facility is scheduled to begin commercial operation in the fourth quarter of 2013. Completion of the full 6.1 million barrels of storage capacity and related infrastructure is scheduled for early 2014. Upon completion of the project, and assuming we maintain our 42.5% interest, we expect our total payments for the project to be approximately $183 million, which includes our December 20, 2012 investment of approximately $79 million.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(3) ACQUISITIONS AND DISPOSITIONS (Continued)

Our investment in BOSTCO entitles us to appoint a member to the Board of Managers of BOSTCO to vote our proportionate ownership share on general governance matters and to certain rights of approval over significant changes in, or expansion of, BOSTCO's business. Kinder Morgan will be responsible for managing BOSTCO's day-to-day operations. Our 42.5% interest does not allow us to control BOSTCO, but does allow us to exercise significant influence over its operations. Accordingly, as of December 20, 2012 we account for our investment in BOSTCO under the equity method of accounting.

We originally initiated the BOSTCO project by acquiring approximately 190 acres of undeveloped land on the Houston Ship Channel in November 2010. During 2010 and 2011, we undertook the design, permitting and initial development of BOSTCO. On October 18, 2011, as part of our original plan to involve one or more strategic partners, we sold 50% of our interest in the BOSTCO project to Kinder Morgan for approximately $10.8 million. The consideration received was equivalent to 50% of our recorded investment in the BOSTCO project at the time of the sale, and, accordingly, no gain or loss was recognized.

On December 29, 2011, as a result of Morgan Stanley's October 2011 determination that we cannot continue to pursue any "significant" acquisition or investment, we sold our remaining 50% interest in BOSTCO to Kinder Morgan for $18 million plus a transferrable option to buy up to 50% of Kinder Morgan's interest in the project at any time prior to January 20, 2013. The $18 million was equivalent to the amount we had recorded for our remaining 50% interest in the BOSTCO project and, accordingly, no gain or loss was recognized. The $18 million was not received by us until January 3, 2012, and at December 31, 2011 is reflected in other current assets as amounts due from the sale of the BOSTCO project (see Note 5 of Notes to consolidated financial statements).

Our December 20, 2012 reentry into the BOSTCO project was approved by Morgan Stanley based on the specific facts and circumstances of the BOSTCO project and the structure of our investment in BOSTCO, and is not indicative of whether Morgan Stanley will approve any other acquisition or investment that we may propose in the future.

Contribution of certain Brownsville, Texas terminal assets to Frontera. Effective as of April 1, 2011, we entered into a joint venture with P.M.I. Services North America Inc. ("PMI"), an indirect subsidiary of Petroleos Mexicanos ("PEMEX"), the Mexican state- owned petroleum company, at our Brownsville, Texas terminal. We contributed approximately 1.4 million barrels of light petroleum product storage capacity, as well as related ancillary facilities, to the joint venture, also known as Frontera Brownsville LLC or "Frontera", in exchange for a cash payment of approximately $25.6 million and a 50% ownership interest. PMI acquired a 50% ownership interest in Frontera for a cash payment of approximately $25.6 million. We operate the Frontera assets under an operations and reimbursement agreement executed between us and Frontera. All significant decisions affecting the business are decided by PMI and us based upon our respective 50% ownership interests. We continue to own and operate approximately 0.9 million barrels of tankage in Brownsville independent of Frontera.

The assets contributed to Frontera constitute a business that we no longer control. We accounted for the deconsolidation of these assets by recognizing a gain on disposition of assets of approximately $9.6 million in the accompanying consolidated statement of comprehensive income for the year ended December 31, 2011. The gain was measured as the difference between the carrying amount of the contributed assets and the aggregate of the cash we received and the fair value of the 50% interest we

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(3) ACQUISITIONS AND DISPOSITIONS (Continued)

retained in Frontera. The approximate $7.5 million carrying amount of goodwill associated with the contributed assets was disposed. The carrying amount of goodwill disposed was based on the relative fair values of the contributed assets and the portion of Brownsville assets retained by us independent of Frontera. The fair value of the contributed assets was determined based on the cash payment made by PMI to acquire a 50% interest in Frontera multiplied by two. The fair value of the assets retained in Brownsville independent of Frontera was estimated using a discounted cash flow model, similar to the model we use to evaluate the recovery of goodwill on at least an annual basis. At the time of our contribution of assets to Frontera, the carrying amount of the contributed assets was approximately $41.6 million and consisted of the following as of April 1, 2011 (in thousands):

Other current assets	$ 98
Property, plant and equipment, net	33,244
Goodwill	7,481
Other assets, net—customer relationships, net	787
Total carrying amount	$ 41,610

We account for our investment in Frontera, which we do not control but do have the ability to exercise significant influence over, using the equity method of accounting. Under this method, the investment was initially recorded at the fair value of our 50% ownership interest on April 1, 2011.

Acquisition of Pensacola terminal. Effective as of March 1, 2011, we acquired from TransMontaigne Inc. its Pensacola, Florida refined petroleum products terminal with approximately 270,000 barrels of aggregate active storage capacity for a cash payment of approximately $12.8 million. The Pensacola terminal provides integrated terminaling services principally to a third party customer. The acquisition of the Pensacola terminal from TransMontaigne Inc. has been recorded at carryover basis in a manner similar to a reorganization of entities under common control. As TransMontaigne Inc. controls our general partner, the difference between the consideration we paid to TransMontaigne Inc. and the carryover basis of the net assets purchased has been reflected in the accompanying consolidated balance sheet and changes in partners' equity as an increase to the general partner's equity interest. The accompanying consolidated financial statements include the assets, liabilities and results of operations of the Pensacola Terminal from March 1, 2011.

The carryover basis in the assets and liabilities of the Pensacola terminal as of March 1, 2011 was as follows (in thousands):

Cash and cash equivalents	$ 1
Other current assets	61
Property, plant and equipment, net	13,232
Accrued liabilities	(45)
Total carryover basis	$ 13,249

Disposition of Mobile terminal. On December 17, 2010, we sold our Mobile terminal with approximately 163,000 barrels of aggregate active storage capacity to an unaffiliated third party for cash proceeds of approximately $3.9 million. The accompanying consolidated financial statements exclude the assets, liabilities and results of operations of these assets subsequent to December 17, 2010.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(3) ACQUISITIONS AND DISPOSITIONS (Continued)

Acquisition of Collins and Bainbridge terminals. On April 27, 2010, we purchased from BP Products North America Inc. ("BP"), two refined product terminals with approximately 60,000 barrels and 110,000 barrels of aggregate active storage capacity in Collins, Mississippi and Bainbridge, Georgia, respectively, for cash consideration of approximately $1.6 million. We previously managed and operated these two refined product terminals that are adjacent to our Collins and Bainbridge terminals and received a reimbursement of their proportionate share of operating and maintenance costs. These two refined product terminals currently provide integrated terminaling services to Morgan Stanley Capital Group. The accompanying consolidated financial statements include the assets, liabilities and results of operations of these assets from April 27, 2010.

(4) CONCENTRATION OF CREDIT RISK AND TRADE ACCOUNTS RECEIVABLE

Our primary market areas are located in the United States along the Gulf Coast, in the Southeast, in Brownsville, Texas, along the Mississippi and Ohio rivers, and in the Midwest. We have a concentration of trade receivable balances due from companies engaged in the trading, distribution and marketing of refined products and crude oil, and the United States government. These concentrations of customers may affect our overall credit risk in that the customers may be similarly affected by changes in economic, regulatory or other factors. Our customers' historical financial and operating information is analyzed prior to extending credit. We manage our exposure to credit risk through credit analysis, credit approvals, credit limits and monitoring procedures, and for certain transactions we may request letters of credit, prepayments or guarantees. We maintain allowances for potentially uncollectible accounts receivable.

Trade accounts receivable, net consists of the following (in thousands):

	December 31, 2012	December 31, 2011
Trade accounts receivable	$ 5,235	$ 4,471
Less allowance for doubtful accounts	(200)	(200)
	$ 5,035	$ 4,271

The following table presents a rollforward of our allowance for doubtful accounts (in thousands):

	Balance at beginning of period	Charged to expenses	Deductions	Balance at end of period
2012	$ 200	$ —	$ —	$ 200
2011	$ 310	$ —	$ (110)	$ 200
2010	$ 394	$ —	$ (84)	$ 310

The following customer accounted for at least 10% of our consolidated revenue in at least one of the periods presented in the accompanying consolidated statements of comprehensive income:

	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Morgan Stanley Capital Group	64%	65%	61%

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(5) OTHER CURRENT ASSETS

Other current assets are as follows (in thousands):

	December 31, 2012	December 31, 2011
Amounts due from insurance companies	$ 2,631	$ 2,695
Amounts due from the sale of the BOSTCO project	—	18,000
Additive detergent	1,603	1,812
Deposits and other assets	345	261
	$ 4,579	$ 22,768

Amounts due from insurance companies. We periodically file claims for recovery of environmental remediation costs with our insurance carriers under our comprehensive liability policies. We recognize our insurance recoveries in the period that we assess the likelihood of recovery as being probable (i.e., likely to occur). At December 31, 2012 and December 31, 2011, we have recognized amounts due from insurance companies of approximately $2.6 million and $2.7 million, respectively, representing our best estimate of our probable insurance recoveries. During the year ended December 31, 2012, we received reimbursements from insurance companies of approximately $1.2 million. During the year ended December 31, 2012, we increased our estimate of insurance recoveries approximately $1.1 million to reflect a change in our estimate of our future environmental remediation costs (see Note 10 of Notes to consolidated financial statements).

Amounts due from the sale of the BOSTCO project. On December 29, 2011 we sold our remaining interest in the BOSTCO project, which at that time represented 50% of the outstanding ownership interest, for $18 million and a transferrable purchase option to buy back into the project at any time prior to January 20, 2013, which we exercised on December 20, 2012 to reacquire a 42.5% interest in BOSTCO (see Note 3 of Notes to consolidated financial statements). The $18 million in cash consideration was received on January 3, 2012 and, accordingly, has been reflected as amounts due at December 31, 2011.

(6) PROPERTY, PLANT AND EQUIPMENT, NET

Property, plant and equipment, net is as follows (in thousands):

	December 31, 2012	December 31, 2011
Land	$ 52,652	$ 52,641
Terminals, pipelines and equipment	552,232	524,346
Furniture, fixtures and equipment	1,716	1,507
Construction in progress	4,652	8,745
	611,252	587,239
Less accumulated depreciation	(183,551)	(155,457)
	$ 427,701	$ 431,782

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(7) GOODWILL

Goodwill is as follows (in thousands):

	December 31, 2012	December 31, 2011
Brownsville terminals (includes approximately $55 and $75, respectively, of foreign currency translation adjustments)	$ 8,736	$ 8,716

Goodwill is required to be tested for impairment annually unless events or changes in circumstances indicate it is more likely than not that an impairment loss has been incurred at an interim date. Our annual test for the impairment of goodwill is performed as of December 31. The impairment test is performed at the reporting unit level. Our reporting units are our operating segments (see Note 18 of Notes to consolidated financial statements). The fair value of each reporting unit is determined on a stand-alone basis from the perspective of a market participant and represents an estimate of the price that would be received to sell the unit as a whole in an orderly transaction between market participants at the measurement date. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is not considered to be impaired.

At December 31, 2012 and 2011, our only reporting unit that contained goodwill was our Brownsville terminals. Our estimate of the fair value of our Brownsville terminals at December 31, 2012 and 2011 exceeded its carrying amount. Accordingly, we did not recognize any goodwill impairment charges during the years ended December 31, 2012 and 2011, respectively, for this reporting unit. However, a significant decline in the price of our common units with a resulting increase in the assumed market participants' weighted average cost of capital, the loss of a significant customer, the disposition of significant assets, or an unforeseen increase in the costs to operate and maintain the Brownsville terminals, could result in the recognition of an impairment charge in the future.

At December 31, 2010, our estimate of the fair value of our River terminals was less than its carrying amount. The decline in the estimated fair value was attributable primarily to the loss of a customer in 2010 at one of our larger River facilities and the underutilization of certain other facilities in the River region. This resulted in a determination that goodwill for the River terminals reporting unit, as of December 31, 2010, was no longer supported by its estimated fair value and, as a result, we recognized an $8.5 million impairment charge reflected in our accompanying consolidated statement of comprehensive income for the year ended December 31, 2010. Subsequent to December 31, 2010, there was no longer any goodwill recorded related to the River terminals reporting unit.

(8) INVESTMENTS IN UNCONSOLIDATED AFFILIATES

At December 31, 2012, our investments in unconsolidated affiliates include a 42.5% interest in BOSTCO and a 50% interest in Frontera. At December 31, 2011, our investments in unconsolidated affiliates include a 50% interest in Frontera. BOSTCO is a terminal facility construction project for 6.1 million barrels of storage capacity at an estimated cost of approximately $425 million. BOSTCO is located on the Houston Ship Channel and is scheduled to begin commercial operations in the fourth quarter of 2013. Frontera is a terminal facility located in Brownsville, Texas that encompasses approximately 1.4 million barrels of light petroleum product storage capacity, as well as related ancillary facilities (see Note 3 of Notes to consolidated financial statements).

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(8) INVESTMENTS IN UNCONSOLIDATED AFFILIATES (Continued)

The following table summarizes our investments in unconsolidated affiliates:

	Percentage of ownership December 31,		Carrying value (in thousands) December 31,	
	2012	2011	2012	2011
BOSTCO	42.5%	—	$ 78,930	$ —
Frontera	50%	50%	26,234	25,875
Total investments in unconsolidated affiliates			$ 105,164	$ 25,875

As of December 31, 2012, our investment in BOSTCO includes approximately $2.9 million of excess investment related to a one time buy-in fee paid to Kinder Morgan to acquire our 42.5% interest and capitalization of interest on our investment during the construction of BOSTCO. Excess investment is the amount by which our investment exceeds our proportionate share of the book value of the net assets of the BOSTCO entity.

Earnings from investments in unconsolidated affiliates were as follows (in thousands):

	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
BOSTCO	$ —	$ —	$ —
Frontera	558	113	—
Total earnings from unconsolidated affiliates	$ 558	$ 113	$ —

The financial information of our investments in unconsolidated affiliates was as follows (in thousands):

Balance sheets:

	BOSTCO December 31,		Frontera December 31,	
	2012	2011	2012	2011
Current assets	$ —	$ 9,936	$ 4,209	$ 4,045
Long-term assets	234,520	26,064	50,013	48,859
Current liabilities	(55,541)	—	(1,754)	(1,154)
Long-term liabilities	—	—	—	—
Net assets	$ 178,979	$ 36,000	$ 52,468	$ 51,750

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(8) INVESTMENTS IN UNCONSOLIDATED AFFILIATES (Continued)

Statements of comprehensive income:

	BOSTCO Year ended December 31, 2012	BOSTCO Year ended December 31, 2011	Frontera Year ended December 31, 2012	Frontera Year ended December 31, 2011
Operating revenue	$ —	$ —	$ 11,539	$ 8,440
Operating expenses	—	—	(10,423)	(8,214)
Net earnings and comprehensive income	$ —	$ —	$ 1,116	$ 226

(9) OTHER ASSETS, NET

Other assets, net are as follows (in thousands):

	December 31, 2012	December 31, 2011
Amounts due under long-term terminaling services agreements:		
External customers	$ 652	$ 760
Morgan Stanley Capital Group	3,648	4,146
	4,300	4,906
Deferred financing costs, net of accumulated amortization of $1,328 and $561, respectively	3,088	3,119
Customer relationships, net of accumulated amortization of $1,283 and $1,080, respectively	1,147	1,350
Deposits and other assets	271	273
	$ 8,806	$ 9,648

Amounts due under long-term terminaling services agreements. We have long-term terminaling services agreements with certain of our customers that provide for minimum payments that increase over the terms of the respective agreements. We recognize as revenue the minimum payments under the long-term terminaling services agreements on a straight-line basis over the term of the respective agreements. At December 31, 2012 and 2011, we have recognized revenue in excess of the minimum payments that are due through those respective dates under the long-term terminaling services agreements resulting in an asset of approximately $4.3 million and $4.9 million, respectively.

Deferred financing costs. Deferred financing costs are amortized using the effective interest method over the term of the related credit facility (see Note 12 of Notes to consolidated financial statements).

Customer relationships. Our acquisitions from TransMontaigne Inc. have been recorded at TransMontaigne Inc.'s carryover basis in a manner similar to a reorganization of entities under common control. Other assets, net include the carryover basis of certain customer relationships. The carryover basis of the customer relationships is being amortized on a straight-line basis over twelve years.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(9) OTHER ASSETS, NET (Continued)

Expected amortization expense for the customer relationships as of December 31, 2012 is as follows (in thousands):

	Years ending December 31, 2013	2014	2015	2016	2017	Thereafter
Amortization expense	$ 203	$ 203	$ 203	$ 203	$ 203	$ 132

(10) ACCRUED LIABILITIES

Accrued liabilities are as follows (in thousands):

	December 31, 2012	December 31, 2011
Customer advances and deposits:		
External customers	$ 1,205	$ 1,364
Morgan Stanley Capital Group	3,470	6,378
	4,675	7,742
Accrued property taxes	658	558
Accrued environmental obligations	3,116	2,887
Interest payable	39	48
Rebate due to Morgan Stanley Capital Group	3,402	5,877
Accrued expenses and other	3,716	2,812
	$ 15,606	$ 19,924

Customer advances and deposits. We bill certain of our customers one month in advance for terminaling services to be provided in the following month. At December 31, 2012 and 2011, we have billed and collected from certain of our customers approximately $4.7 million and $7.7 million, respectively, in advance of the terminaling services being provided.

Accrued environmental obligations. At December 31, 2012 and 2011, we have accrued environmental obligations of approximately $3.1 million and $2.9 million, respectively, representing our best estimate of our remediation obligations. During the year ended December 31, 2012, we made payments of approximately $1.1 million towards our environmental remediation obligations. During the year ended December 31, 2012, we increased our remediation obligations by approximately $1.3 million to reflect a change in our estimate of our future environmental remediation costs. Changes in our estimates of our future environmental remediation obligations may occur as a result of the passage of time and the occurrence of future events.

Rebate due to Morgan Stanley Capital Group. Pursuant to our terminaling services agreement related to the Southeast terminals, we agreed to rebate to Morgan Stanley Capital Group 50% of the proceeds we receive annually in excess of $4.2 million from the sale of product gains at our Southeast terminals. At December 31, 2012 and 2011, we have accrued a liability due to Morgan Stanley Capital Group of approximately $3.4 million and $5.9 million, respectively. During the three months ended March 31, 2012, we paid Morgan Stanley Capital Group approximately $5.9 million for the rebate due to Morgan Stanley Capital Group for the year ended December 31, 2011.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(11) OTHER LIABILITIES

Other liabilities are as follows (in thousands):

	December 31, 2012	December 31, 2011
Advance payments received under long-term terminaling services agreements	$ 1,067	$ 1,121
Deferred revenue—ethanol blending fees and other projects	9,581	13,247
	$ 10,648	$ 14,368

Advance payments received under long-term terminaling services agreements. We have long-term terminaling services agreements with certain of our customers that provide for advance minimum payments. We recognize the advance minimum payments as revenue either on a straight-line basis over the term of the respective agreements or when services have been provided based on volumes of product distributed. At December 31, 2012 and 2011, we have received advance minimum payments in excess of revenue recognized under these long-term terminaling services agreements resulting in a liability of approximately $1.1 million and $1.1 million, respectively.

Deferred revenue—ethanol blending fees and other projects. Pursuant to agreements with Morgan Stanley Capital Group and others, we agreed to undertake certain capital projects that primarily pertain to providing ethanol blending functionality at certain of our Southeast terminals. Upon completion of the projects, Morgan Stanley Capital Group and others have agreed to pay us lump-sum amounts that will be recognized as revenue on a straight-line basis over the remaining term of the agreements. At December 31, 2012 and 2011, we have unamortized deferred revenue of approximately $9.6 million and $13.2 million, respectively, for completed projects. During the years ended December 31, 2012, 2011 and 2010, we billed Morgan Stanley Capital Group and others approximately $1 million, $1.5 million, and $4.3 million, respectively, for completed projects. During the years ended December 31, 2012, 2011 and 2010, we recognized revenue on a straight-line basis of approximately $4.6 million, $4.5 million and $3.8 million, respectively, for completed projects.

(12) LONG-TERM DEBT

On March 9, 2011, we entered into an amended and restated senior secured credit facility, or credit facility. The credit facility replaced in its entirety the senior secured credit facility that was in place as of December 31, 2010. The credit facility provides for a maximum borrowing line of credit equal to the lesser of (i) $350 million and (ii) 4.75 times Consolidated EBITDA (as defined: $340.7 million at December 31, 2012). We may elect to have loans under the credit facility bear interest either (i) at a rate of LIBOR plus a margin ranging from 2% to 3% depending on the total leverage ratio then in effect, or (ii) at the base rate plus a margin ranging from 1% to 2% depending on the total leverage ratio then in effect. We also pay a commitment fee on the unused amount of commitments, ranging from 0.375% to 0.5% per annum, depending on the total leverage ratio then in effect. Our obligations under the credit facility are secured by a first priority security interest in favor of the lenders in the majority of our assets.

The terms of the credit facility include covenants that restrict our ability to make cash distributions, acquisitions and investments, including investments in joint ventures. We may make

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(12) LONG-TERM DEBT (Continued)

distributions of cash to the extent of our "available cash" as defined in our partnership agreement. We may make acquisitions and investments that meet the definition of "permitted acquisitions"; "other investments" which may not exceed 5% of "consolidated net tangible assets"; and "permitted JV investments". Permitted JV investments include up to $225 million of investments in BOSTCO (including the initial investment on December 20, 2012 for approximately $79 million), the "Specified BOSTCO Investment". In addition to the Specified BOSTCO Investment, under the terms of the credit facility, we may make an additional $75 million of other joint venture investments (including additional investments in BOSTCO). The principal balance of loans and any accrued and unpaid interest are due and payable in full on the maturity date, March 9, 2016.

Under the credit facility, our terminaling service agreements with Morgan Stanley Capital Group relating to our Florida and Mount Vernon, Missouri and Rogers, Arkansas terminals and our Southeast terminals are deemed to be "Specified Contracts." The credit facility further provides that an event of default will occur if any Specified Contract terminates in whole or in part, "if such .... termination would reasonably be expected to result in a Material Adverse Effect after taking into account any replacement therefor." The credit facility also contains customary representations and warranties (including those relating to organization and authorization, compliance with laws, absence of defaults, material agreements and litigation) and customary events of default (including those relating to monetary defaults, covenant defaults, cross defaults and bankruptcy events). The primary financial covenants contained in the credit facility are (i) a total leverage ratio test (not to exceed 4.75 times), (ii) a senior secured leverage ratio test (not to exceed 3.75 times) in the event we issue senior unsecured notes, and (iii) a minimum interest coverage ratio test (not less than 3.0 times).

If we were to fail any financial performance covenant, or any other covenant contained in the credit facility, we would seek a waiver from our lenders under such facility. If we were unable to obtain a waiver from our lenders and the default remained uncured after any applicable grace period, we would be in breach of the credit facility, and the lenders would be entitled to declare all outstanding borrowings immediately due and payable. We were in compliance with all of the covenants under the credit facility as of December 31, 2012.

For the years ended December 31, 2012, 2011 and 2010, the weighted average interest rate on borrowings under the applicable credit facility was approximately 2.4%, 3.3% and 4.2%, respectively. Weighted average interest rates include any net settlements received or paid under our interest rate swap, which was applicable during 2010 and the first six months of 2011, expiring in June 2011. At December 31, 2012 and 2011, our outstanding borrowings under the applicable credit facility were $184 million and $120 million, respectively. At December 31, 2012 and 2011, our outstanding letters of credit were approximately $nil at both dates.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(13) PARTNERS' EQUITY

The number of units outstanding is as follows:

	Common units	General partner units
Units outstanding at January 1, 2010	12,444,566	253,971
Public offering of common units	2,012,500	—
TransMontaigne GP to maintain its 2% general partner interest	—	41,071
Units outstanding at December 31, 2010, 2011 and 2012	14,457,066	295,042

At December 31, 2012 and 2011, common units outstanding include 17,635 and 16,899 common units, respectively, held on behalf of TransMontaigne Services Inc.'s long-term incentive plan.

On January 15, 2010, we issued, pursuant to an underwritten public offering, 1,750,000 common units representing limited partner interests at a public offering price of $26.60 per common unit. On January 15, 2010, the underwriters of our secondary offering exercised in full their over-allotment option to purchase an additional 262,500 common units representing limited partnership interests at a price of $26.60 per common unit. The net proceeds from the offering were approximately $51.0 million, after deducting underwriting discounts, commissions, and offering expenses of approximately $0.3 million. Additionally, TransMontaigne GP, our general partner, made a cash contribution of approximately $1.1 million to us to maintain its 2% general partner interest.

(14) LONG-TERM INCENTIVE PLAN

TransMontaigne GP is our general partner and manages our operations and activities. TransMontaigne GP is an indirect wholly owned subsidiary of TransMontaigne Inc. TransMontaigne Services Inc. is an indirect wholly owned subsidiary of TransMontaigne Inc. TransMontaigne Services Inc. employs the personnel who provide support to TransMontaigne Inc.'s operations, as well as our operations. TransMontaigne Services Inc. adopted a long-term incentive plan for its employees and consultants and the independent directors of our general partner. The long-term incentive plan currently permits the grant of awards covering an aggregate of 1,816,745 units, which amount will automatically increase on an annual basis by 2% of the total outstanding common and subordinated units, if any, at the end of the preceding fiscal year. At December 31, 2012, 1,583,933 units are available for future grant under the long-term incentive plan. Ownership in the awards is subject to forfeiture until the vesting date, but recipients have distribution and voting rights from the date of grant. Pursuant to the terms of the long-term incentive plan, all restricted phantom units and restricted common units vest upon a change in control of TransMontaigne Inc. The long-term incentive plan is administered by the compensation committee of the board of directors of our general partner. TransMontaigne GP purchases outstanding common units on the open market for purposes of making grants of restricted phantom units to independent directors of our general partner.

TransMontaigne GP, on behalf of the long-term incentive plan, has purchased 6,825, 7,760 and 9,435 common units pursuant to the program during the years ended December 31, 2012, 2011 and 2010, respectively. In addition to the foregoing purchases, upon the vesting of 10,000 restricted phantom units on August 10, 2012, 2011 and 2010, respectively, we purchased 5,891, 5,892 and 10,000 common units, respectively, from TransMontaigne Services Inc. for the purpose of delivering these units to Charles L. Dunlap, the Chief Executive Officer ("CEO") of our general partner. These units were

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(14) LONG-TERM INCENTIVE PLAN (Continued)

granted to Mr. Dunlap on August 10, 2009 under the long-term incentive plan. The amount of the units purchased for delivery to Mr. Dunlap varies based upon the funding of the related withholding taxes.

Information about restricted phantom unit activity is as follows:

	Available for future grant	Restricted phantom units	NYSE closing price
Units outstanding at January 1, 2010	765,632	56,000	
Automatic increase in units available for future grant on January 1, 2010	248,891	—	
Vesting on January 7, 2010	—	(3,500)	$ 27.97
Grant on March 31, 2010	(6,000)	6,000	$ 27.24
Vesting on March 31, 2010	—	(4,000)	$ 27.24
Vesting on August 10, 2010	—	(10,000)	$ 32.50
Units outstanding at December 31, 2010	1,008,523	44,500	
Automatic increase in units available for future grant on January 1, 2011	289,141	—	
Grant on March 31, 2011	(8,000)	8,000	$ 36.33
Vesting on March 31, 2011	—	(5,500)	$ 36.33
Vesting on August 10, 2011	—	(10,000)	$ 32.29
Units withheld for taxes on August 10, 2011	4,108	—	
Units outstanding at December 31, 2011	1,293,772	37,000	
Automatic increase in units available for future grant on January 1, 2012	289,141	—	
Grant on March 31, 2012	(8,000)	8,000	$ 34.76
Vesting on March 31, 2012	—	(6,500)	$ 34.76
Units withheld for taxes on March 31, 2012	411	—	
Units forfeited on July 18, 2012	4,500	(4,500)	
Vesting on August 10, 2012	—	(10,000)	$ 36.48
Units withheld for taxes on August 10, 2012	4,109	—	
Units outstanding at December 31, 2012	1,583,933	24,000	

On March 31, 2012, 2011 and 2010, TransMontaigne Services Inc. granted 8,000, 8,000 and 6,000 restricted phantom units, respectively, to the independent directors of our general partner. Over their respective four-year vesting periods, we will recognize deferred equity-based compensation of approximately $0.3 million, $0.3 million and $0.2 million, associated with the March 2012, March 2011 and March 2010 grants, respectively.

On July 18, 2012, Mr. Henry M. Kuchta forfeited the vesting of 4,500 restricted phantom units as a result of his resignation as a member of the board of directors of our general partner.

On January 7, 2010, we accelerated the vesting of 3,500 restricted phantom units held by Duke R. Ligon as a result of his resignation as a member of the board of directors of our general partner and

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(14) LONG-TERM INCENTIVE PLAN (Continued)

then repurchased those units for cash. The aggregate consideration paid to the former director of approximately $98,000 is included in direct general and administrative expenses in 2010.

Effective August 10, 2009, Charles L. Dunlap was appointed to serve as CEO of our general partner and President and CEO of TransMontaigne Inc. In connection with his appointments, on August 10, 2009, TransMontaigne Services Inc. granted Mr. Dunlap 40,000 restricted phantom units under the long-term incentive plan. In accordance with the long-term incentive plan, because Mr. Dunlap continues to provide services to our general partner as an employee, the restricted phantom units previously granted to Mr. Dunlap for his services as an independent member of the board of directors of our general partner remain in effect and continue to vest in accordance with the four-year vesting schedule applicable for the grants to our independent directors. Over the respective four-year vesting period, we will recognize deferred equity-based compensation of approximately $1.0 million associated with the August 2009 grant.

Deferred equity-based compensation of approximately $398,000, $419,000 and $385,000 is included in direct general and administrative expenses for the years ended December 31, 2012, 2011 and 2010, respectively.

(15) COMMITMENTS AND CONTINGENCIES

Contract commitments. At December 31, 2012, we have contractual commitments of approximately $10 million for the supply of services, labor and materials related to capital projects that currently are under development. We expect that these contractual commitments will be paid during the year ending December 31, 2013.

Operating leases. We lease property and equipment under non-cancelable operating leases that extend through August 2030. At December 31, 2012, future minimum lease payments under these non-cancelable operating leases are as follows (in thousands):

Years ending December 31:	Property and equipment
2013	$ 1,451
2014	1,536
2015	1,552
2016	1,567
2017	633
Thereafter	4,244
	$ 10,983

Included in the above non-cancelable operating lease commitments are amounts for property rentals that we have sublet under non-cancelable sublease agreements, for which we expect to receive minimum rentals of approximately $2.1 million in future periods.

Rental expense under operating leases was approximately $1.3 million, $1.3 million and $1.7 million for the years ended December 31, 2012, 2011 and 2010, respectively.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(16) NET EARNINGS PER LIMITED PARTNER UNIT

The following table reconciles net earnings to earnings allocable to limited partners (in thousands):

	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Net earnings	$ 38,572	$ 46,520	$ 27,242
Less:			
Distributions payable on behalf of incentive distribution rights	(4,475)	(3,484)	(2,493)
Distributions payable on behalf of general partner interest	(752)	(732)	(711)
Earnings allocable to general partner interest less than (in excess of) distributions payable to general partner interest	70	(199)	187
Earnings allocable to general partner interest including incentive distribution rights	(5,157)	(4,415)	(3,017)
Net earnings allocable to limited partners	$ 33,415	$ 42,105	$ 24,225

Earnings allocated to the general partner interest include amounts attributable to the incentive distribution rights. Pursuant to our partnership agreement we are required to distribute available cash (as defined by our partnership agreement) as of the end of the reporting period. Such distributions are declared within 45 days after period end. The net earnings allocated to the general partner interest in the consolidated statements of partners' equity and comprehensive income reflects the earnings allocation included in the table above.

The following table sets forth the distribution declared per common unit attributable to the periods indicated:

	Distribution
January 1, 2010 through March 31, 2010	$ 0.60
April 1, 2010 through June 30, 2010	$ 0.60
July 1, 2010 through September 30, 2010	$ 0.60
October 1, 2010 through December 31, 2010	$ 0.61
January 1, 2011 through March 31, 2011	$ 0.61
April 1, 2011 through June 30, 2011	$ 0.62
July 1, 2011 through September 30, 2011	$ 0.62
October 1, 2011 through December 31, 2011	$ 0.63
January 1, 2012 through March 31, 2012	$ 0.63
April 1, 2012 through June 30, 2012	$ 0.64
July 1, 2012 through September 30, 2012	$ 0.64
October 1, 2012 through December 31, 2012	$ 0.64

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(16) NET EARNINGS PER LIMITED PARTNER UNIT (Continued)

The following table reconciles the computation of basic and diluted weighted average units (in thousands):

	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Basic weighted average units	14,441	14,442	14,363
Dilutive effect of restricted phantom units	7	15	16
Diluted weighted average units	14,448	14,457	14,379

For the year ended December 31, 2012, we included the dilutive effect of approximately 2,000, 10,000 and 1,500 restricted phantom units granted March 31, 2010, August 10, 2009 and March 31, 2009, respectively, in the computation of diluted earnings per limited partner unit because the average closing market price of our common units exceeded the related remaining deferred compensation per unvested restricted phantom units. For the year ended December 31, 2011, we included the dilutive effect of approximately 8,000, 4,500, 20,000, 3,000, 500 and 1,000 restricted phantom units granted March 31, 2011, March 31, 2010, August 10, 2009, March 31, 2009, July 18, 2008 and March 31, 2008, respectively, in the computation of diluted earnings per limited partner unit because the average closing market price of our common units exceeded the related remaining deferred compensation per unvested restricted phantom units. For the year ended December 31, 2010, we included the dilutive effect of approximately 6,000, 30,000, 4,500, 1,000, 2,000 and 1,000 restricted phantom units granted March 31, 2010, August 10, 2009, March 31, 2009, July 18, 2008, March 31, 2008 and March 31, 2007, respectively, in the computation of diluted earnings per limited partner unit because the average closing market price of our common units exceeded the related remaining deferred compensation per unvested restricted phantom units.

We exclude potentially dilutive securities from our computation of diluted earnings per limited partner unit when their effect would be anti-dilutive. For the year ended December 31, 2012, we excluded the dilutive effect of approximately 6,000 and 4,500 restricted phantom units granted March 31, 2012 and March 31, 2011, respectively, in the computation of diluted earnings per limited partner unit because the related remaining deferred compensation per unvested restricted phantom units exceeded the average closing market price of our common units for the period. For the years ended December 31, 2011 and 2010, we did not have any securities that were anti-dilutive.

(17) DISCLOSURES ABOUT FAIR VALUE

Generally accepted accounting principles define fair value, establish a framework for measuring fair value and require disclosures about fair value measurements. Generally accepted accounting principles also establish a fair value hierarchy that prioritizes the use of higher-level inputs for valuation techniques used to measure fair value. The three levels of the fair value hierarchy are: (1) Level 1 inputs, which are quoted prices (unadjusted) in active markets for identical assets or liabilities; (2) Level 2 inputs, which are inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly; and (3) Level 3 inputs, which are unobservable inputs for the asset or liability.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(17) DISCLOSURES ABOUT FAIR VALUE (Continued)

The fair values of the following financial instruments represent our best estimate of the amounts that would be received to sell those assets or that would be paid to transfer those liabilities in an orderly transaction between market participants at that date. Our fair value measurements maximize the use of observable inputs. However, in situations where there is little, if any, market activity for the asset or liability at the measurement date, the fair value measurement reflects our judgments about the assumptions that market participants would use in pricing the asset or liability based on the best information available in the circumstances. The following methods and assumptions were used to estimate the fair value of financial instruments at December 31, 2012 and 2011.

Cash and cash equivalents. The carrying amount approximates fair value because of the short-term maturity of these instruments. The fair value is categorized in Level 1 of the fair value hierarchy.

Debt. The carrying amount of our credit facility debt approximates fair value since borrowings under the facility bear interest at current market interest rates. The fair value is categorized in Level 2 of the fair value hierarchy.

(18) BUSINESS SEGMENTS

We provide integrated terminaling, storage, transportation and related services to companies engaged in the trading, distribution and marketing of refined petroleum products, crude oil, chemicals, fertilizers and other liquid products. Our chief operating decision maker is our general partner's CEO. Our general partner's CEO reviews the financial performance of our business segments using disaggregated financial information about "net margins" for purposes of making operating decisions and assessing financial performance. "Net margins" is composed of revenue less direct operating costs and expenses. Accordingly, we present "net margins" for each of our business segments: (i) Gulf Coast terminals, (ii) Midwest terminals and pipeline system, (iii) Brownsville terminals, (iv) River terminals and (v) Southeast terminals.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(18) BUSINESS SEGMENTS (Continued)

The financial performance of our business segments is as follows (in thousands):

	Year ended December 31, 2012	Year ended December 31, 2011	Year ended December 31, 2010
Gulf Coast Terminals:			
Terminaling services fees, net	$ 47,692	$ 46,699	$ 46,508
Other	10,060	10,328	8,221
Revenue	57,752	57,027	54,729
Direct operating costs and expenses	(21,586)	(20,425)	(22,115)
Net margins	36,166	36,602	32,614
Midwest Terminals and Pipeline System:			
Terminaling services fees, net	5,381	3,784	3,757
Pipeline transportation fees	1,876	1,948	2,041
Other	3,296	2,125	1,923
Revenue	10,553	7,857	7,721
Direct operating costs and expenses	(1,976)	(1,329)	(1,662)
Net margins	8,577	6,528	6,059
Brownsville Terminals:			
Terminaling services fees, net	6,398	9,133	15,709
Pipeline transportation fees	3,780	2,798	2,776
Other	8,436	7,919	5,737
Revenue	18,614	19,850	24,222
Direct operating costs and expenses	(11,584)	(12,746)	(12,740)
Net margins	7,030	7,104	11,482
River Terminals:			
Terminaling services fees, net	13,219	12,244	14,359
Other	942	428	380
Revenue	14,161	12,672	14,739
Direct operating costs and expenses	(9,171)	(8,586)	(8,521)
Net margins	4,990	4,086	6,218
Southeast Terminals:			
Terminaling services fees, net	46,775	44,493	41,956
Other	8,384	10,393	7,532
Revenue	55,159	54,886	49,488
Direct operating costs and expenses	(21,647)	(21,412)	(19,658)
Net margins	33,512	33,474	29,830
Total net margins	90,275	87,794	86,203
Direct general and administrative expenses	(4,810)	(4,703)	(3,159)
Allocated general and administrative expenses	(10,780)	(10,466)	(10,311)
Allocated insurance expense	(3,590)	(3,290)	(3,185)
Reimbursement of bonus awards	(1,250)	(1,250)	(1,250)
Depreciation and amortization	(28,260)	(27,654)	(27,869)
Gain (loss) on disposition of assets	—	9,576	(765)
Impairment of goodwill	—	—	(8,465)
Earnings from unconsolidated affiliates	558	113	—
Operating income	42,143	50,120	31,199
Other expenses, net	(3,571)	(3,600)	(3,957)
Net earnings	$ 38,572	$ 46,520	$ 27,242

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(18) BUSINESS SEGMENTS (Continued)

Supplemental information about our business segments is summarized below (in thousands):

	Year ended December 31, 2012					
	Gulf Coast Terminals	Midwest Terminals and Pipeline System	Brownsville Terminals	River Terminals	Southeast Terminals	Total
Revenue:						
External customers	$ 15,482	$ 2,578	$ 10,154	$ 14,142	$ 3,393	$ 45,749
Morgan Stanley Capital Group	40,406	7,975	—	19	51,716	100,116
Frontera	—	—	3,445	—	—	3,445
TransMontaigne Inc.	1,864	—	5,015	—	50	6,929
Revenue	$ 57,752	$ 10,553	$ 18,614	$ 14,161	$ 55,159	$ 156,239
Capital expenditures	$ 1,718	$ 11,917	$ 1,658	$ 3,004	$ 5,268	$ 23,565
Identifiable assets	$ 136,207	$ 26,115	$ 50,223	$ 59,521	$ 182,738	$ 454,804
Cash and cash equivalents						6,745
Investments in unconsolidated affiliates						105,164
Deferred financing costs						3,088
Total assets						$ 569,801

	Year ended December 31, 2011					
	Gulf Coast Terminals	Midwest Terminals and Pipeline System	Brownsville Terminals	River Terminals	Southeast Terminals	Total
Revenue:						
External customers	$ 14,237	$ 2,406	$ 13,423	$ 12,584	$ 2,926	$ 45,576
Morgan Stanley Capital Group	40,943	5,451	—	88	51,909	98,391
Frontera	—	—	1,914	—	—	1,914
TransMontaigne Inc.	1,847	—	4,513	—	51	6,411
Revenue	$ 57,027	$ 7,857	$ 19,850	$ 12,672	$ 54,886	$ 152,292
Capital expenditures	$ 1,753	$ 6,393	$ 1,792	$ 2,961	$ 14,592	$ 27,491
Identifiable assets	$ 143,258	$ 15,935	$ 50,553	$ 59,654	$ 190,159	$ 459,559
Cash and cash equivalents						7,138
Amounts due from the sale of the BOSTCO project						18,000
Investments in unconsolidated affiliates						25,875
Deferred financing costs						3,119
Other						413
Total assets						$ 514,104

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(18) BUSINESS SEGMENTS (Continued)

	Year ended December 31, 2010					
	Gulf Coast Terminals	Midwest Terminals and Pipeline System	Brownsville Terminals	River Terminals	Southeast Terminals	Total
Revenue:						
External customers	$ 11,322	$ 2,016	$ 19,175	$ 12,884	$ 3,390	$ 48,787
Morgan Stanley Capital Group	38,725	5,705	32	1,634	46,098	92,194
TransMontaigne Inc.	4,682	—	5,015	221	—	9,918
Revenue	$ 54,729	$ 7,721	$ 24,222	$ 14,739	$ 49,488	$ 150,899
Capital expenditures	$ 4,713	$ 65	$ 7,048	$ 1,026	$ 15,104	$ 27,956
Identifiable assets	$ 136,462	$ 10,859	$ 96,365	$ 61,293	$ 188,552	$ 493,531
Cash and cash equivalents						5,353
Investment in BOSTCO project						15,134
Deferred financing costs						598
Other						(310)
Total assets						$ 514,306

(19) FINANCIAL RESULTS BY QUARTER (UNAUDITED)

	Three months ended				Year ended December 31, 2012
	March 31, 2012	June 30, 2012	September 30, 2012	December 31, 2012	
	(in thousands except per unit amounts)				
Revenue	$ 38,833	$ 38,442	$ 38,874	$ 40,090	$ 156,239
Direct operating costs and expenses	(13,969)	(16,184)	(16,170)	(19,641)	(65,964)
Direct general and administrative expenses	(3,188)	785	(1,204)	(1,203)	(4,810)
Allocated general and administrative expenses	(2,695)	(2,695)	(2,695)	(2,695)	(10,780)
Allocated insurance expense	(897)	(898)	(897)	(898)	(3,590)
Reimbursement of bonus awards	(313)	(312)	(313)	(312)	(1,250)
Depreciation and amortization	(6,930)	(6,940)	(7,112)	(7,278)	(28,260)
Earnings (loss) from unconsolidated affiliates	107	328	217	(94)	558
Operating income	10,948	12,526	10,700	7,969	42,143
Other expenses, net	(806)	(872)	(847)	(1,046)	(3,571)
Net earnings	$ 10,142	$ 11,654	$ 9,853	$ 6,923	$ 38,572
Net earnings per limited partner unit—basic	$ 0.62	$ 0.71	$ 0.59	$ 0.39	$ 2.31
Net earnings per limited partner unit—diluted	$ 0.62	$ 0.71	$ 0.59	$ 0.39	$ 2.31

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2012, 2011 and 2010

(19) FINANCIAL RESULTS BY QUARTER (UNAUDITED) (Continued)

	Three months ended				Year ended
	March 31, 2011	June 30, 2011	September 30, 2011	December 31, 2011	December 31, 2011
	(in thousands except per unit amounts)				
Revenue	$ 39,136	$ 36,832	$ 37,085	$ 39,239	$ 152,292
Direct operating costs and expenses	(14,577)	(17,636)	(16,490)	(15,795)	(64,498)
Direct general and administrative expenses	(1,365)	(815)	(1,060)	(1,463)	(4,703)
Allocated general and administrative expenses	(2,616)	(2,617)	(2,616)	(2,617)	(10,466)
Allocated insurance expense	(823)	(822)	(823)	(822)	(3,290)
Reimbursement of bonus awards	(313)	(312)	(313)	(312)	(1,250)
Depreciation and amortization	(7,138)	(6,722)	(6,873)	(6,921)	(27,654)
Gain on disposition of assets	—	9,576	—	—	9,576
Earnings (loss) from unconsolidated affiliates	—	233	(285)	165	113
Operating income	12,304	17,717	8,625	11,474	50,120
Other expenses, net	(978)	(689)	(959)	(974)	(3,600)
Net earnings	$ 11,326	$ 17,028	$ 7,666	$ 10,500	$ 46,520
Net earnings per limited partner unit—basic	$ 0.71	$ 1.10	$ 0.46	$ 0.65	$ 2.92
Net earnings per limited partner unit—diluted	$ 0.71	$ 1.09	$ 0.46	$ 0.65	$ 2.91

The increase in net earnings reported for the three months ended June 30, 2011 is primarily attributable to a gain of approximately $9.6 million recognized on the deconsolidation of assets transferred to Frontera effective April 1, 2011 (see Note 3 of Notes to consolidated financial statements). The gain was measured as the difference between the carrying amount of the contributed assets and the aggregate of the cash we received and the fair value of the 50% interest we retained in Frontera.

(20) SUBSEQUENT EVENT

On January 14, 2013, we announced a distribution of $0.64 per unit for the period from October 1, 2012 through December 31, 2012, payable on February 7, 2013 to unitholders of record on January 31, 2013.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit to the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified by the Commission's rules and forms, and that information is accumulated and communicated to the management of our general partner, including our general partner's principal executive and principal financial officer (whom we refer to as the Certifying Officers), as appropriate to allow timely decisions regarding required disclosure. The management of our general partner evaluated, with the participation of the Certifying Officers, the effectiveness of our disclosure controls and procedures as of December 31, 2012, pursuant to Rule 13a-15(b) under the Exchange Act. Based upon that evaluation, the Certifying Officers concluded that, as of December 31, 2012, our disclosure controls and procedures were effective at the reasonable assurance level. In addition, our Certifying Officers concluded that there were no changes in our internal control over financial reporting that occurred during the fiscal quarter ended December 31, 2012 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Management's Report on Internal Control Over Financial Reporting

The management of our general partner is responsible for establishing and maintaining adequate internal control over financial reporting. Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.

Internal control over financial reporting cannot provide absolute assurance of achieving financial reporting objectives because of its inherent limitations. Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. Internal control over financial reporting also can be circumvented by collusion or improper management override. Because of such limitations, there is a risk that material misstatements may not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process. Therefore, it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

The management of our general partner has used the framework set forth in the report entitled "Internal Control—Integrated Framework" published by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") to evaluate the effectiveness of our internal control over financial reporting. Based on that evaluation, the management of our general partner has concluded that our internal control over financial reporting was effective as of December 31, 2012. The effectiveness of our internal control over financial reporting as of December 31, 2012 has been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report which appears herein.

March 12, 2013

Report of Independent Registered Public Accounting Firm

The Board of Directors and Member
TransMontaigne GP L.L.C.:

We have audited the internal control over financial reporting of TransMontaigne Partners L.P. and subsidiaries (the "Partnership") as of December 31, 2012 based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Partnership's management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Partnership's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Partnership maintained, in all material respects, effective internal control over financial reporting as of December 31, 2012, based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements as of and for the year ended December 31, 2012 of the Partnership, and our report dated March 12, 2013 expressed an unqualified opinion on those financial statements.

/s/ DELOITTE & TOUCHE LLP

Denver, Colorado
March 12, 2013

ITEM 9B. OTHER INFORMATION

No information was required to be disclosed in a report on Form 8-K, but not so reported, for the quarter ended December 31, 2012.

Part III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS OF OUR GENERAL PARTNER AND CORPORATE GOVERNANCE

Management of TransMontaigne Partners

TransMontaigne GP L.L.C. is our general partner and manages our operations and activities on our behalf. TransMontaigne Services Inc. is an indirect wholly owned subsidiary of TransMontaigne Inc. and TransMontaigne Inc., through its wholly owned subsidiaries, controls our general partner. TransMontaigne Inc. is a wholly owned subsidiary of Morgan Stanley Capital Group. TransMontaigne Partners has no officers or employees and all of our management and operational activities are provided by officers and employees of TransMontaigne Services Inc. Our general partner is not elected by our unitholders and is not subject to re-election on a regular basis in the future. Unitholders are not entitled to elect directors to the board of directors of our general partner or directly or indirectly participate in our management or operation. Under the Corporate Governance Guidelines adopted by the board of directors of our general partner, the board assesses, on an annual basis, the skills and characteristics that candidates for election to the board of directors should possess, as well as the composition of the board of directors as a whole. This assessment includes the qualifications under applicable independence standards and other standards applicable to the board of directors and its committees, as well as consideration of skills and experience in the context of the needs of the board of directors as a whole. Our general partner has no formal policy regarding the diversity of board members, but seeks to ensure that its board of directors collectively have the personal qualities to be able to make an active contribution to the board of directors' deliberations, which qualities may include relevant industry experience, financial management, reporting and control expertise and executive and operational management experience.

Board of Directors and Officers

The board of directors of our general partner oversees our operations. As part of its oversight function, the board of directors monitors how management operates the partnership, in part via its committee structure. When granting authority to management, approving strategies and receiving management reports, the board of directors considers, among other things, the risks and vulnerabilities we face. The audit committee of the board of directors considers risk issues associated with our overall accounting, financial reporting and disclosure process. Except for executive sessions held with unaffiliated directors, all members of the board of directors are invited to and generally attend the meetings of the audit committee. The conflicts committee of our general partner reviews specific matters that the board believes may involve conflicts of interests.

As of the date of this report, there are six members of the board of directors of our general partner, three of whom, Messrs. Masters, Wiese and Peters, are independent as defined under the independence standards established by the New York Stock Exchange (the "NYSE"). The NYSE does not require a publicly traded limited partnership listed on the exchange, like TransMontaigne Partners, to have a majority of independent directors on the board of directors of its general partner or to establish a compensation committee or a nominating or governance committee. However, the Governance Guidelines of our general partner provide that at least three directors will be independent and one additional director will not be employed by, serve as a director of or have a significant commercial relationship with, TransMontaigne Inc. or its affiliates at the time of his or her election to the board of directors or while serving thereon. On July 18, 2012, Henry M. Kuchta resigned from the board of directors and from the audit and conflicts committees of our general partner. In his letter of resignation, Mr. Kuchta indicated that there were no disagreements between himself and the Partnership or the board of directors regarding the Partnership's operations, policies or practices. As of the date of this report, our general partner is evaluating qualified candidates to serve on the board of directors. In appointing a new director to its board of directors, our general partner will evaluate, among other qualifications, such person's energy industry experience, executive management experience, financial and accounting knowledge.

The officers of our general partner manage the day-to-day affairs of our business. All of the officers listed below split their time between managing our business and affairs and the business and affairs of TransMontaigne Inc. The officers of our general partner may face a conflict regarding the allocation of their time between our business and the other business interests of TransMontaigne Inc. TransMontaigne Inc. intends to seek to cause the officers to devote as much time to the management of our operations as is necessary for the proper conduct of our business and affairs.

Directors and Executive Officers

The following table shows information for the directors and reporting officers of TransMontaigne GP L.L.C. under Section 16 of the Securities Exchange Act of 1934:

Name	Age	Position
Stephen R. Munger	55	Chairman of the Board
Charles L. Dunlap	69	Chief Executive Officer
Gregory J. Pound	60	President and Chief Operating Officer
Frederick W. Boutin	57	Executive Vice President, Chief Financial Officer and Treasurer
Michael A. Hammell	42	Executive Vice President, General Counsel and Secretary
Erik B. Carlson	65	Executive Vice President, Chief Administrative Officer and Assistant Secretary
Ronald A. Majors	54	Senior Vice President, Business Development
Robert T. Fuller	43	Vice President and Chief Accounting Officer
Jerry R. Masters	54	Director, Chairman of Audit and Compensation Committees
Randall P. O'Connor	53	Director
David A. Peters	54	Director, Chairman of Conflicts Committee
Goran Trapp	50	Director
Jay A. Wiese	56	Director

Stephen R. Munger was appointed to serve as the Chairman of the Board of directors of our general partner, effective March 17, 2008. Mr. Munger was asked to join the board of directors, in part, based on his position at Morgan Stanley, his executive management experience and his experience in mergers and acquisitions. Mr. Munger has served as the Co-Chairman of the Mergers & Acquisitions Department of Morgan Stanley since 2003, having served as the operating Co-Head from 1999 through 2003. Mr. Munger has also served as Chairman of the Morgan Stanley Global Energy Group since 2004. Mr. Munger was named a Managing Director of Morgan Stanley in 1992, and joined Morgan Stanley in 1988, having previously worked in the Mergers & Acquisition Department of Merrill Lynch. Mr. Munger is a graduate of Dartmouth College and the Wharton School of Business.

Charles L. Dunlap has served as the Chief Executive Officer of our general partner since August 10, 2009 and served as a director of our general partner from July 8, 2008 to August 10, 2009. Mr. Dunlap has served as the President and Chief Executive Officer of TransMontaigne Inc. since August 10, 2009. Mr. Dunlap served as Chief Executive Officer and President of Pasadena Refining System, Inc. based in Houston, Texas from January 2005 to December 2008. In addition, from May 2000 to February 2004, Mr. Dunlap served as one of the founding partners of Strategic Advisors, LLC, a management consulting firm based in Baltimore, Maryland. Prior to that time, Mr. Dunlap served in various senior management and executive positions at various oil and gas companies including Crown Central Petroleum Corporation, Pacific Resources, Inc., Arco Petroleum Products Company and Clark Oil & Refining Corporation. Mr. Dunlap is a graduate of Rockhurst University and holds a Juris Doctor degree from Saint Louis University Law School and is a graduate of the Harvard Business School Advanced Management Program.

Gregory J. Pound has served as the President and Chief Operating Officer of our general partner since January 2008 and served as its Executive Vice President from May 2007 to December 2007. Mr. Pound has served as the Executive Vice President—Asset Operations of TransMontaigne Inc. since February 2002. Mr. Pound has also served as a director of Olco Petroleum Group Inc. since December 2006.

Frederick W. Boutin has served as an Executive Vice President and the Chief Financial Officer of our general partner since January 2008 and as its Treasurer since February 2005. Mr. Boutin served as the Senior Vice President of our general partner from February 2005 to December 2007. Mr. Boutin has served as the Executive Vice President of TransMontaigne Inc. since February 2008, as its Treasurer since June 2003 and served as its Senior Vice President from September 1996 to January 2008. Mr. Boutin holds a B.S. in Electrical Engineering and a M.S. in Accounting from Colorado State University.

Michael A. Hammell was appointed to serve as Executive Vice President, General Counsel and Secretary of our general partner and its subsidiaries and affiliates, including TransMontaigne Inc., effective October 1, 2012. Mr. Hammell served as the Senior Vice President, Assistant General Counsel and Secretary of each of the TransMontaigne entities from July 2011 to October 2012; as Vice President, Assistant General Counsel and Secretary from January 2011 to July 2011; as Vice President, Assistant General Counsel and Assistant Secretary from November 2007 until January 2011 and as Assistant General Counsel from April 2007 to November 2007. Prior to joining TransMontaigne, Mr. Hammell practiced at the law firm of Hogan & Hartson LLP (now Hogan Lovells). Mr. Hammell received a B.S. in Business Administration from the University of Colorado at Boulder and a J.D. from Northwestern University School of Law.

Erik B. Carlson has served as Executive Vice President of our general partner since January 2008 and as its General Counsel from February 2005 to October 2012. Mr. Carlson was appointed Chief Administrative Officer and Assistant Secretary of our general partner and its subsidiaries and affiliates, including TransMontaigne Inc., effective October 1, 2012. Mr. Carlson also served as Secretary from February 2005 to January 2011. Mr. Carlson served as the Senior Vice President of our general partner from February 2005 to December 2007. Mr. Carlson has been an Executive Vice President of TransMontaigne Inc. since February 2008, as its General Counsel from January 1998 to October 2012 and served as its Senior Vice President from January 1998 to January 2008. From February 1983 until January 1998, Mr. Carlson served as Senior Vice President, General Counsel and Corporate Secretary of Associated Natural Gas Corporation and its successor, Duke Energy Field Services.

Ronald A. Majors has served as Senior Vice President, Business Development of our general partner since July 12, 2010. Mr. Majors has also served as Senior Vice President, Business Development of TransMontaigne Inc. since July 12, 2010. Mr. Majors served as President and Chief Executive Officer of Pipestream from December 2009 to February 2010. Mr. Majors also served as President and Chief Operating Officer of SemGroup Europe Holdings, LLC, and Executive Director of SemEuro Limited, both divisions of SemGroup LP, from May 2006 to December 2009. From January 1998 to April 2006, Mr. Majors worked for The Williams Companies in various business development capacities, and served as the Chairman of the Board of AB Mazeikiai Nafta, from September 2000 to October 2002 and as President of Williams International Company from May 2002 to May 2003. Mr. Majors holds a B.S. in Chemical Engineering from Texas A&M University and executive training experience from the Wharton School of Business.

Robert T. Fuller has served as Vice President and Chief Accounting Officer of our general partner since January 2011 and as its Assistant Treasurer since February 2012. Prior to his employment with TransMontaigne Services Inc. in July of 2010, Mr. Fuller spent 13 years with KPMG LLP, departing as an Audit Senior Manager. Mr. Fuller has a BA in Political Science from Fort Lewis College and a Masters in Accounting from the University of Colorado.

Jerry R. Masters was elected as a director of our general partner on May 24, 2005, and serves as a member of the conflicts committee, and as chair of the audit and compensation committees, of the board of directors of our general partner. Mr. Masters was asked to join the board of directors, in part, based on his executive management experience, his financial and accounting knowledge and because he qualified as an independent director. Mr. Masters is a private investor and also serves on the board of directors of Sandhills State Bank. From 1991 to 2000, Mr. Masters held various executive positions within the financial organization at Microsoft Corporation. In his last position as Senior Director, Mr. Masters was responsible for external and internal financial reporting, budgeting and forecasting. From 1980 to 1991 Mr. Masters worked in the audit department of Deloitte & Touche LLP. Mr. Masters holds a B.S. in Business Administration from the University of Nebraska.

Randall P. O'Connor was elected as a director of our general partner on March 31, 2009. Mr. O'Connor was asked to join the board of directors, in part, based on his position at Morgan Stanley and his executive management experience in the oil and gas industry. Mr. O'Connor is a Managing Director at Morgan Stanley, working in the firm's Commodities Group and currently serves as head of the Strategic Transactions Group. He has been with Morgan Stanley since 2002. Prior to joining Morgan Stanley, Mr. O'Connor held numerous positions of responsibility at various energy companies, including Chevron Corporation, Transworld Oil, Clark Oil & Refining and TransCanada Energy. In addition to being a director of our general partner, Mr. O'Connor is a director of TransMontaigne Inc. and Olco Petroleum Group Inc. Mr. O'Connor holds a B.S. in Chemical Engineering from the University of Texas at Austin and an M.B.A. from the University of California at Berkeley.

David A. Peters was elected as a director of our general partner on May 24, 2005, and serves as a member of the audit and compensation committees and as the chair of the conflicts committee of the board of directors of our general partner. Mr. Peters was asked to join the board of directors, in part, based on his knowledge of the energy industry, his financial and accounting knowledge and because he qualified as an independent director. Since 1999 Mr. Peters has been a business consultant with a primary client focus in the energy sector; in addition, Mr. Peters also served as a member of the board of directors of QDOBA Restaurant Corporation from 1998 to 2003. From 1997 to 1999 Mr. Peters was a managing director of a private investment fund, and from 1995 to 1997 he served as an executive vice president at DukeEnergy/PanEnergy Field Services responsible for natural gas gathering, processing and storage operations. Prior to joining DukeEnergy/PanEnergy Field Services, Mr. Peters held various positions with Associated Natural Gas Corporation, and from 1980 to 1984 he worked in the audit department of Peat Marwick Mitchell & Co. Mr. Peters holds a bachelor's degree in business administration from the University of Michigan.

Goran Trapp was elected as a director of our general partner on October 22, 2008. Mr. Trapp was asked to join the board of directors, in part, based on his position at Morgan Stanley and his executive management experience in the energy commodity markets. Mr. Trapp is a Managing Director at Morgan Stanley and has served as the Head of Global Oil Liquids in Commodities at Morgan Stanley since July 2008 and the Head of Europe, Middle East and Africa Commodities since January 2008. Mr. Trapp joined Morgan Stanley in 1990 and became a Managing Director in 1999. Earlier in his career at Morgan Stanley, Mr. Trapp served as the Head of the Europe and Asia Oil Liquids Group and the Global Chief Operating Officer of the Oil Liquids Group. He has also served as a Member of the Firm's Europe, Middle East and Asia Management Committee since November 2007. Mr. Trapp holds a Master of Science degree from the Stockholm School of Economics.

Jay A. Wiese was elected as a director of our general partner on October 26, 2010, and serves as a member of the audit, conflicts and compensation committees of the board of directors of our general partner. Mr. Wiese was asked to join the board of directors, in part, based on his executive management experience in the energy industry and because he qualified as an independent director. From December 2006 to the present, Mr. Wiese has served as the Managing Member of Liberated Partners LLC, a global energy consulting business with a focus on client strategy, acquisitions, logistics, business development and operational analysis. From 1982 to October 2006, Mr. Wiese served in various senior management positions, including most recently Vice President, with Magellan Midstream Partners, L.P., where he had responsibility over Magellan Terminal Holdings in the areas of commercial and business development, acquisitions and operations. In March 2012, Mr. Wiese was appointed to the board of directors of Associated Asphalt, Inc., a private company engaged in the supply of liquid asphalt to the paving industry. Mr. Wiese holds a Bachelor of Science degree in Business from Oklahoma State University where Mr. Wiese is a member of the Foundation's Board of Trustees and a member of its Investment and Audit Committees.

Compliance with Section 16(a) of the Securities Exchange Act of 1934

Section 16(a) of the Securities Exchange Act of 1934 requires the executive officers and directors of our general partner, and persons who own more than ten percent of a registered class of our equity securities (collectively, "Reporting Persons") to file with the SEC and the New York Stock Exchange initial reports of ownership and reports of changes in ownership of our common units and our other equity securities. Specific due dates for those reports have been established, and we are required to report herein any failure to file reports by those due dates. Reporting Persons are also required by SEC regulations to furnish TransMontaigne Partners with copies of all Section 16(a) reports they file.

To our knowledge, based solely on a review of the copies of such reports furnished to us and written representations that no other reports were required during the year ended December 31, 2012, all Section 16(a) filing requirements applicable to such Reporting Persons were satisfied.

Audit Committee

The board of directors of our general partner has a standing audit committee. The audit committee currently has three members, Jerry R. Masters, David A. Peters and Jay A. Wiese, each of whom is able to understand fundamental financial statements and at least one of whom has past experience in accounting or related financial management. Henry M. Kuchta resigned from the audit committee and the board of directors of our General Partner on July 18, 2012. The board has determined that each member of the audit committee is independent under Section 303A.02 of the New York Stock Exchange listing standards and Section 10A(m)(3) of the Securities Exchange Act of 1934, as amended. In making the independence determination, the board considered the requirements of the New York Stock Exchange and the Corporate Governance Guidelines of our general partner. Among other factors, the board considered current or previous employment with the partnership, its auditors or their affiliates by the director or his immediate family members, ownership of our voting securities, and other material relationships with the partnership. The audit committee has adopted a charter, which has been ratified and approved by the board of directors of our general partner.

With respect to material relationships, the following relationships are not considered to be material for purposes of assessing independence: service as an officer, director, employee or trustee of, or greater than five percent beneficial ownership in (a) a supplier to the partnership if the annual sales to the partnership are less than one percent of the sales of the supplier; (b) a lender to the partnership if the total amount of the partnership's indebtedness is less than one percent of the total consolidated assets of the lender; or (c) a charitable organization if the total amount of the partnership's annual charitable contributions to the organization are less than three percent of that organization's annual charitable receipts.

Based upon his education and employment experience as more fully detailed in Mr. Masters' biography set forth above, Mr. Masters has been designated by the board as the audit committee's financial expert meeting the requirements promulgated by the SEC and set forth in Item 407(d)(5)(ii) of Regulation S-K of the Securities Exchange Act of 1934.

Conflicts Committee

Messrs. Masters, Wiese and Peters currently serve on the conflicts committee of the board of directors of our general partner. Henry M. Kuchta resigned from the conflicts committee and the board of directors of our General Partner on July 18, 2012. The conflicts committee reviews specific matters that the board believes may involve conflicts of interest. The conflicts committee determines if the resolution of the conflict of interest is fair and reasonable to us. The members of the conflicts committee may not be officers or employees of our general partner or directors, officers, or employees of its affiliates, and must meet the independence standards established by the New York Stock Exchange and the Securities Exchange Act of 1934 to serve on an audit committee of a board of directors, and certain other requirements. Any matter approved by the conflicts committee will be conclusively deemed to be fair and reasonable to us, to be approved by all of our partners, and not deemed a breach by our general partner of any duties it may owe us or our unitholders.

Compensation Committee

Although not required by New York Stock Exchange listing requirements, the board of directors of our general partner has a standing compensation committee, which (1) administers the TransMontaigne Services Inc. long-term incentive plan, pursuant to which we currently grant equity-based awards to the independent directors of our general partner, and (2) which reviews the allocation of grants to certain employees of TransMontaigne Services Inc. under the TransMontaigne Services Inc. savings and retention plan. The compensation committee has adopted a charter, which the board of directors of our general partner has ratified and approved. Messrs. Masters, Peters and Wiese currently serve on the compensation committee.

Corporate Governance Guidelines; Code of Business Conduct and Ethics

The board of directors of our general partner has adopted Corporate Governance Guidelines that outline the important policies and practices regarding our governance. The board of directors has no policy requiring either that the positions of the Chairman of the Board and of the Chief Executive Officer of our general partner be separate or that they be occupied by the same individual. The board of directors believes that this issue is properly addressed as part of the succession planning process and that a determination on this subject should be made when it elects a new chief executive officer or at such other times as when consideration of the matter is warranted by circumstances. Currently, different individuals hold the positions of Chairman of the Board and Chief Executive Officer of our general partner. We believe that separating the roles of Chairman of the Board and Chief Executive Officer preserves the distinction between management and oversight, which in turn enhances the board's ability to oversee and evaluate management.

The audit committee has adopted a Code of Business Conduct and Ethics, which the board of directors of our general partner has ratified and approved. The Code of Business Conduct applies to all employees of TransMontaigne Services Inc. acting on behalf of our general partner and to the officers and directors of our general partner. The audit committee has also adopted, and the board of directors of our general partner has ratified and approved, a Code of Ethics for Senior Financial Officers of our general partner. The Code of Ethics for Senior Financial Officers applies to the senior financial officers of our general partner, including the chief executive officer, the chief financial officer and the chief accounting officer or persons performing similar functions. The Code of Business Conduct and Code of Ethics for Senior Financial Officers each require prompt disclosure of any waiver of the code for executive officers or directors made by the general partner's board of directors or any committee thereof as required by law or the New York Stock Exchange.

Copies of our Code of Business Conduct, Code of Ethics for Senior Financial Officers, Corporate Governance Guidelines, Audit Committee Charter, and Compensation Committee Charter, are available on our website at *www.transmontaignepartners.com*.

Communications by Unitholders

Pursuant to our Corporate Governance Guidelines, the board of directors of our general partner meets at the conclusion of regularly-scheduled board meetings without the executive officers of our general partner or other employees of TransMontaigne Services Inc. present, which meetings are presided over by Mr. Munger as Chairman of the Board. In addition, the independent members of the board of directors of our general partner meet in executive sessions at the conclusion of regularly-scheduled board meetings, pursuant to which, the board has chosen Mr. Peters to preside as chairman of these executive session meetings.

Unitholders and other interested parties may communicate with (1) Mr. Peters, in his capacity as chairman of the executive session meetings of the board of directors of our general partner, (2) the independent members of the board of directors of our general partner as a group, or (3) any and all members of the board of directors of our general partner by transmitting correspondence by mail or facsimile addressed to one or more directors by name or to the independent directors (or to the Chairman of the Board or any standing committee of the board) at the following address and fax number:

Name of the Director(s)
c/o Secretary
TransMontaigne Partners L.P.
1670 Broadway, Suite 3100
Denver, Colorado 80202
(303) 626-8228

The secretary of our general partner will collect and organize all such communications in accordance with procedures approved by the board. The secretary will forward all communications to the Chairman of the Board or to the identified director(s) as soon as practicable. However, we may handle differently communications that are abusive, offensive or that present safety or security concerns. If we receive multiple communications on a similar topic, our secretary may, in his or her discretion, forward only representative correspondence.

The Chairman of the Board will determine whether any communication addressed to the entire board should be properly addressed by the entire board or a committee thereof if a communication is sent to the board or a committee, the Chairman of the Board or the chairman of that committee, as the case may be, will determine whether the communication warrants a response. If a response to the communication is warranted, the content and method of the response will be coordinated with our general partner's internal or external counsel.

ITEM 11. EXECUTIVE COMPENSATION

EXECUTIVE COMPENSATION

Compensation Discussion and Analysis

We do not directly employ any of the persons responsible for managing our business. We are managed by our general partner, TransMontaigne GP L.L.C. The executive officers of our general partner are employees of and paid by TransMontaigne Services Inc. We do not incur any direct compensation charge for the executive officers of our general partner. Instead, under the omnibus agreement we pay TransMontaigne Inc. a yearly administrative fee that is intended to compensate TransMontaigne Inc. for providing certain corporate staff and support services to us, including services provided to us by the executive officers of our general partner. During the year ended December 31, 2012, we paid TransMontaigne Inc. an administrative fee of approximately $10.8 million. The administrative fee is a lump-sum payment and does not reflect specific amounts attributable to the compensation of the executive officers of our general partner while acting on our behalf. In addition, we agreed to reimburse TransMontaigne Inc. and its affiliates at least $1.5 million for grants to key employees of TransMontaigne Inc. and its affiliates under the TransMontaigne Services Inc. savings and retention plan, provided that (i) no less than $1.5 million of the aggregate amount of such awards granted to key employees of TransMontaigne Inc. and its affiliates will be allocated to an investment fund indexed to the performance of our common units, and (ii) the proposed allocations of such awards among these key employees are approved by the compensation committee of our general partner to assure that an adequate portion of such awards are deemed invested in an investment fund indexed to the performance of our common units. For the year ended December 31, 2012, we reimbursed TransMontaigne Services Inc. approximately $1.3 million for bonus awards granted to its key employees under the TransMontaigne Services Inc. savings and retention plan and approximately $0.3 million for a portion of the vested awards granted to the Chief Executive Officer ("CEO") of our general partner under the long-term incentive plan. Effective August 10, 2009, Charles L. Dunlap was appointed to serve as CEO of our general partner and President and CEO of TransMontaigne Inc. In connection with his appointments and because he was not eligible to participate in the savings and retention plan then in effect, on August 10, 2009, TransMontaigne Services Inc. awarded Mr. Dunlap 40,000 restricted phantom units under the long-term incentive plan that vest in equal amounts over a four year vesting period.

Neither the board of directors nor the compensation committee of our general partner plays any role in setting the compensation of the executive officers of our general partner, all of which is determined by TransMontaigne Inc. The compensation committee of our general partner, however, determines the amount, timing and terms of all equity awards granted to our independent directors under TransMontaigne Services Inc.'s long-term incentive plan. To the extent that awards of phantom units granted under TransMontaigne Services Inc.'s long-term incentive plan are replaced with common units purchased by TransMontaigne Services Inc. on the open market, we will reimburse TransMontaigne Services Inc. for the purchase price of such units.

The primary elements of TransMontaigne Inc.'s compensation program are a combination of annual cash and long-term equity-based compensation. During 2012, elements of compensation for our executive officers consisted of the following:

- Annual base salary;
- Discretionary annual cash awards;
- Long-term equity-based compensation; and
- Other compensation, including very limited perquisites.

The elements of TransMontaigne Inc.'s compensation program, along with TransMontaigne Inc.'s other rewards (for example, benefits, work environment, career development), are intended to provide a total rewards package designed to drive performance and reward contributions in support of the business strategies of TransMontaigne Inc. During 2012, TransMontaigne Inc. did not use any elements of compensation based on specific performance-based criteria and did not have any other specific performance-based objectives. Although neither the board of directors nor the compensation committee of our general partner plays any role in setting the compensation of the executive officers of our general partner, we are not aware of any compensation elements of TransMontaigne Inc.'s compensation program which are reasonably likely to have a material adverse effect on us.

We believe that TransMontaigne Inc.'s compensation policies allow it to attract, motivate and retain high quality, talented individuals with the skills and competencies we require. In addition, the TransMontaigne Services Inc.'s savings and retention plan and long-term incentive plan are intended to align the long-term interests of the executive officers of our general partner with those of our unitholders to the extent a portion of the bonus awards under the savings and retention plan is deemed invested in our common units.

Employment and Other Agreements

We have not entered into any employment agreements with any officers of our general partner.

Compensation Committee Report

The compensation committee has reviewed and discussed with our management the Compensation Discussion and Analysis under "Item 11. Executive Compensation" of this annual report. Based on such review and discussions, the Compensation Committee recommended to the board of directors of our general partner that the Compensation Discussion and Analysis be included in this annual report.

COMPENSATION COMMITTEE
Jerry R. Masters, Chair
David A. Peters
Jay A. Wiese

COMPENSATION OF DIRECTORS

Employees of our general partner or its affiliates (including employees of Morgan Stanley and its affiliates) who also serve as directors of our general partner will not receive additional compensation. Independent directors will receive a $30,000 annual cash retainer and an annual grant of 2,000 restricted phantom units, which will vest in 25% increments on March 31 and each of the succeeding three anniversaries (with vesting to be accelerated upon a change of control). Upon vesting, the restricted phantom units will be replaced with our common units on a one-for-one basis, as the common units are acquired in the open market by the plan, or paid out in cash based upon the closing market price of the common units on the date of vesting, at the option of the plan administrator. Distributions are paid on restricted phantom units at the same rate as distributions on our unrestricted common units. In addition, each director will be reimbursed for out-of-pocket expenses in connection with attending meetings of the board of directors or committees. Each director will be fully indemnified by us for actions associated with being a director to the extent permitted under Delaware law. The following table provides information concerning the compensation of our general partner's directors for 2012.

Director Compensation Table for 2012

Name (a)	Fees earned or paid in cash ($) (b)	Stock awards ($) (c)	All other compensation ($) (g)	Total ($) (h)
Stephen R. Munger(1)	—	—	—	—
Randall P. O'Connor(1)	—	—	—	—
Goran Trapp(1)	—	—	—	—
Henry M. Kuchta(2)	$ 22,500	—	—	$ 22,500
Jay A. Wiese	$ 30,000	$ 69,520(3)	—	$ 99,520
Jerry R. Masters	$ 30,000	$ 69,520(3)	—	$ 99,520
David A. Peters	$ 30,000	$ 69,520(3)	—	$ 99,520

(1) Because Messrs. Munger, O'Connor and Trapp are employees of an affiliate of our general partner, none of them receives compensation for service as a director of our general partner. At December 31, 2012, none of the foregoing directors held any restricted phantom or other limited partnership interests.

(2) On July 18, 2012, Mr. Kuchta resigned from the board of directors of our general partner. In accordance with the TransMontaigne Services Inc. long term incentive plan, all unvested phantom units were forfeited.

(3) This dollar amount reflects the aggregate grant-date fair value of the restricted phantom units, computed in accordance with generally accepted accounting principles. The grant-date fair value is equal to $34.76, the closing price of our unrestricted common units on March 30, 2012. The restricted phantom units vest in 25% increments beginning on March 31, 2013 and each of the succeeding three anniversaries (with vesting to be accelerated upon a change of control). At December 31, 2012, Messrs. Masters and Peters each held 5,000 restricted phantom units and Mr. Wiese held 3,500 restricted phantom units.

COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION

During the year ended December 31, 2012, Messrs. Masters, Wiese and Peters served on the compensation committee of our general partner. During 2012, none of the members of the compensation committee was an officer or employee of our general partner or any of our subsidiaries or served as an officer of any company with respect to which any of the executive officers of our general partner served on such company's board of directors.

SAVINGS AND RETENTION PLAN

The board of directors of TransMontaigne Inc. adopted the savings and retention plan of TransMontaigne Services Inc. effective January 1, 2007, which was subsequently amended and restated as of January 29, 2010 to revise certain age and length of service thresholds that had previously excluded a number of TransMontaigne Services Inc. employees, including the Chief Executive Officer, the President and the Executive Vice President, Chief Administrative Officer of our general partner, from participation in the plan. The plan is administered by the compensation committee of TransMontaigne Inc. The purpose of the plan is to provide for the reward and retention of certain key employees of TransMontaigne Services Inc. by providing them with bonus awards that vest over future service periods. Awards under the plan generally become vested as to 50% of a participant's annual award as of the January 1 that falls closest to the second anniversary of the grant date, and the remaining 50% as of the January 1 that falls closest to the third anniversary of the grant date, subject to earlier vesting upon a participant's retirement, death or disability, involuntary termination without cause, or termination of a participant's employment following a change of control of Morgan Stanley or

TransMontaigne Inc., or their affiliates, as specified in the plan. Awards are payable as to 50% of a participant's annual award in the month containing the second anniversary of the grant date, and the remaining 50% in the month containing the third anniversary of the grant date, subject to earlier payment upon the participant's retirement, death or disability, involuntary termination without cause, or termination of a participant's employment following a change of control of Morgan Stanley or TransMontaigne Inc., or their affiliates, as specified in the plan. Pursuant to the provisions of the plan, once participating employees of TransMontaigne Services Inc. reach the age and length of service thresholds set forth below, awards are immediately vested and become payable as set forth above, and such vested awards remain subject to forfeiture as specified in the plan. A person will satisfy the age and length of service thresholds of the plan upon the attainment of the earliest of (a) age sixty, (b) age fifty-five and ten years of service as an officer of TransMontaigne Inc. or its affiliates, or (c) age fifty and twenty years of service as an employee of TransMontaigne Inc. or its affiliates. For the awards granted under the plan in 2012, the Chief Executive Officer, Chief Financial Officer, Chief Operating Officer and Chief Administrative Officer of our general partner have each satisfied the age and length of service thresholds of the plan. Generally, only senior level management of TransMontaigne Services Inc. will receive awards under the plan. Although no assets are segregated or otherwise set aside with respect to a participant's account, the amount ultimately payable to a participant shall be the amount credited to such participant's account as if such account had been invested in some or all of the investment funds selected by the plan administrator.

The plan administrator determines both the amount and investment funds in which the bonus award will be deemed invested for each participant. For the year ended December 31, 2012, the four investment funds that the plan administrator could select were (1) a fixed interest fund, under which interest accrues at a rate to be determined annually by the plan administrator; (2) a fund under which a participant's account is deemed invested in the Dodge & Cox Income Fund, which invests primarily in bonds and other fixed income securities; (3) an equity index fund under which a participant's account is deemed invested in the SPDR Trust Series 1, which has an investment goal of tracking the performance of the Standard & Poors 500 Index, or such other equity index as the plan administrator may from time to time select; and (4) a fund under which a participant's account tracks the performance of our common units, with all distributions automatically reinvested in common units. Upon vesting and payment, the participant shall be paid the value of the investment funds in cash or in-kind, at the sole discretion of the plan administrator. For the year ended December 31, 2012, we reimbursed TransMontaigne Services Inc. approximately $1.3 million for bonus awards under the plan.

LONG-TERM INCENTIVE PLAN

Upon the consummation of our initial public offering in May 2005, TransMontaigne Services Inc. adopted a long-term incentive plan for employees and consultants of TransMontaigne Services Inc. who provide services on our behalf, and our independent directors. Following the adoption of the amended and restated savings and retention plan of TransMontaigne Services Inc., we do not currently anticipate that awards will be made under the long-term incentive plan to officers or employees of TransMontaigne Services Inc., although we anticipate that annual grants to the independent directors of our general partner will continue to be made under the long-term incentive plan. During the year ended December 31, 2012, the compensation committee of the board of directors of our general partner awarded 8,000 restricted phantom units to the independent directors of our general partner under the plan, of which 2,000 were subsequently forfeited upon the resignation of one of the independent directors on July 18, 2012.

The summary of the proposed long-term incentive plan contained below does not purport to be complete, but outlines its material provisions. The long-term incentive plan consists of four components: restricted units, restricted phantom units, unit options and unit appreciation rights. As of February 28, 2013, the long-term incentive plan permits the grant of awards covering an aggregate of

2,105,886 units, which amount will automatically increase on an annual basis by 2% of the total outstanding common and subordinated units, if any, at the end of the preceding fiscal year. As of February 28, 2013, there were 1,873,074 units available for future grant under the long-term incentive plan. The plan is administered by the compensation committee of the board of directors of our general partner.

The board of directors of our general partner, in its discretion may terminate, suspend or discontinue the long-term incentive plan at any time with respect to any award that has not yet been granted. The board of directors also has the right to alter or amend the long-term incentive plan or any part of the plan from time to time, including increasing the number of units that may be granted subject to unitholder approval as required by the exchange upon which the common units are listed at that time. However, no change in any outstanding grant may be made that would materially impair the rights of the participant without the consent of the participant, unless the change is necessary to comply with certain tax requirements.

Restricted Units and Restricted Phantom Units. A restricted unit is a common unit subject to forfeiture prior to the vesting of the award. A restricted phantom unit is a notional unit that entitles the grantee to receive a common unit upon the vesting of the phantom unit or, in the discretion of the compensation committee, cash equivalent to the value of a common unit. The compensation committee may determine to make grants under the plan of restricted units and restricted phantom units to employees, consultants and independent directors containing such terms as the compensation committee shall determine. The compensation committee will determine the period over which restricted units and restricted phantom units granted to employees, consultants and independent directors will vest. The compensation committee may base its determination upon the achievement of specified financial objectives. In addition, the restricted units and restricted phantom units will vest upon a change of control of us, our general partner or TransMontaigne Inc.

If a grantee's employment, service relationship or membership on the board of directors terminates for any reason, the grantee's restricted units and restricted phantom units will be automatically forfeited unless, and to the extent, the compensation committee provides otherwise. Common units to be delivered in connection with the grant of restricted units or upon the vesting of restricted phantom units may be common units acquired by our general partner on the open market, common units already owned by our general partner, common units acquired by our general partner directly from us or any other person or any combination of the foregoing. TransMontaigne Services Inc. will be entitled to reimbursement by us for the cost incurred in acquiring common units. Thus, the cost of the restricted units and delivery of common units upon the vesting of restricted phantom units will be borne by us. If we issue new common units in connection with the grant of restricted units or upon vesting of the restricted phantom units, the total number of common units outstanding will increase. The compensation committee, in its discretion, may grant tandem distribution rights with respect to restricted units and tandem distribution equivalent rights with respect to restricted phantom units.

We intend the issuance of restricted units and common units upon the vesting of the restricted phantom units under the plan to serve as a means of incentive compensation for performance and not primarily as an opportunity to participate in the equity appreciation of the common units. Therefore, at this time it is not contemplated that plan participants will pay any consideration for restricted units or common units they receive, and at this time we do not contemplate that we will receive any remuneration for the restricted units and common units.

Unit Options and Unit Appreciation Rights. The long-term incentive plan permits the grant of options covering common units and the grant of unit appreciation rights. A unit appreciation right is an award that, upon exercise, entitles the participant to receive the excess of the fair market value of a unit on the exercise date over the exercise price established for the unit appreciation right. Such excess may be paid in common units, cash, or a combination thereof, as determined by the compensation committee in its discretion. The long-term incentive plan permits grants of unit options and unit appreciation rights to employees, consultants and independent directors containing such terms as the compensation committee shall determine. Unit options and unit appreciation rights may have an exercise price that is equal to or greater than the fair market value of the common units on the date of grant. In general, unit options and unit appreciation rights granted will become exercisable over a period determined by the compensation committee. In addition, the unit options and unit appreciation rights will become exercisable upon a change in control of us, our general partner or TransMontaigne Inc., unless provided otherwise by the compensation committee.

Upon exercise of a unit option (or a unit appreciation right settled in common units), our general partner will acquire common units on the open market or directly from us or any other person or use common units already owned by our general partner, or any combination of the foregoing. Our general partner will be entitled to reimbursement by us for the difference between the cost incurred by our general partner in acquiring these common units and the proceeds received from a participant at the time of exercise. Thus, the cost of the unit options (or a unit appreciation right settled in common units) will be borne by us. If we issue new common units upon exercise of the unit options (or a unit appreciation right settled in common units), the total number of common units outstanding will increase, and our general partner will pay us the proceeds it receives from an optionee upon exercise of a unit option. The availability of unit options and unit appreciation rights is intended to furnish additional compensation to employees, consultants and independent directors and to align their economic interests with those of common unitholders.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED UNITHOLDER MATTERS

The following table sets forth certain information regarding the beneficial ownership of our limited partnership common units as of February 28, 2013 by each director of our general partner, by each individual serving as an executive officer of our general partner as of February 28, 2013, by each person known by us to own more than 5% of the outstanding units, and by all directors, director nominees and the named executive officers as of February 28, 2013 as a group. The information set forth below is based solely upon information furnished by such individuals or contained in filings made by such beneficial owners with the SEC.

The calculation of the percentage of beneficial ownership is based on an aggregate of 14,457,066 limited partnership common units outstanding as of February 28, 2013. Beneficial ownership is determined in accordance with the rules of the SEC and includes voting and investment power with respect to the units. To our knowledge, except under applicable community property laws or as otherwise indicated, the persons named in the table have sole voting and sole investment power with respect to all units beneficially owned. Units underlying outstanding warrants or options that are currently exercisable or exercisable within 60 days of February 28, 2013 are deemed outstanding for the purpose of computing the percentage of beneficial ownership of the person holding those options or warrants, but are not deemed outstanding for computing the percentage of beneficial ownership of any other person. The address for each named executive officer, director and director nominee is care of TransMontaigne Partners L.P., 1670 Broadway, Suite 3100, Denver, Colorado 80202.

Name of beneficial owner	Common units beneficially owned	Percentage of common units beneficially owned
TransMontaigne Inc.(1)	2,731,953	18.8%
Morgan Stanley(2)	462,858	3.2%
OppenheimerFunds, Inc.(3)	1,297,785	9.0%
Energy Income Partners, LLC(4)	937,089	6.5%
Named Executive Officers		
Frederick W. Boutin(5)(6)	46,114	*
Erik B. Carlson(5)(6)	45,303	*
Charles L. Dunlap(5)(7)	71,113	*
Robert T. Fuller(8)	—	*
Michael A. Hammell(8)	—	*
Ronald A. Majors(8)	800	*
Gregory J. Pound(5)(6)	35,181	*
Directors		
Jerry R. Masters(9)	27,000	*
Stephen R. Munger	—	*
Randall P. O'Connor	—	*
David A. Peters(9)	24,600	*
Goran Trapp	—	*
Jay A. Wiese(9)	1,500	*
All directors, director nominees and executive officers as a group (13 persons)	251,611	1.7%

* Less than 1%.

(1) The common units beneficially owned by TransMontaigne Inc. are held by TransMontaigne Services Inc. TransMontaigne Inc. is the indirect parent company of TransMontaigne Services Inc. and may, therefore, be deemed to beneficially own the units held by each of them. Excludes the 2% general partnership interest and related incentive distribution rights held by our general partner, which are not considered "units" for purposes of our limited partnership agreement. The general partner, accordingly, is not considered a "unitholder." The address of TransMontaigne Inc. is 1670 Broadway, Suite 3100, Denver, Colorado 80202.

(2) Based on the number of common units beneficially owned by TransMontaigne Inc. and the Schedule 13D (Amendment No. 2) filed with the Securities and Exchange Commission on November 13, 2009 and information furnished by Morgan Stanley ("MS"). Morgan Stanley, in its capacity as parent company of, and indirect beneficial owner of securities held by Morgan Stanley Capital Group, Inc. ("MSCGI") (and through TransMontaigne Inc. and its subsidiaries), and Morgan Stanley Smith Barney ("MSSB"), may be deemed to beneficially own 3,194,811 common units, or approximately 22.1%, of the outstanding common units. MSCGI may be deemed to beneficially own the 2,731,953 common units, indirectly held by TransMontaigne Services Inc. Morgan Stanley Strategic Investments, Inc. ("MSSI") beneficially owns 450,000 common units. MSSB has voting and/or dispositive power over certain shares of common units held in accounts of certain of its clients and customers and, as a result, may be deemed to beneficially own up to 12,858 common units. Each of MS and MSCGI may be deemed to have shared voting

and dispositive power with respect to 2,731,953 common units beneficially owned by TransMontaigne Services Inc.; (ii) each of MS and MSSI may be deemed to have shared voting and dispositive power with respect to 450,000 common units beneficially owned by MSSI; and (iii) each of MS and MSSB may be deemed to have shared voting and/or dispositive power with respect to 12,858 common units beneficially owned by MSSB. The address of MS and MSSI, affiliates of Morgan Stanley Capital Group Inc., is 1585 Broadway, New York, New York 10036.

(3) Based on the Schedule 13G filed with the Securities and Exchange Commission on February 14, 2013 by OppenheimerFunds, Inc. The address of OppenheimerFunds, Inc. is Two World Financial Center, 225 Liberty Street, New York, New York 10281.

(4) Based on the Schedule 13G filed with the Securities and Exchange Commission on February 14, 2013 by Energy Income Partners, LLC, James J. Murchie, Eva Pao, Linda A. Longville and Saul Ballesteros. James J. Murchie and Eva Pao are the Portfolio Managers with respect to the portfolios managed by Energy Income Partners, LLC. Linda A. Longville and Saul Ballesteros are control persons of Energy Income Partners, LLC. Each of the foregoing report shared voting and dispositive power over 937,089 common units. The address of each of the foregoing is 49 Riverside Avenue, Westport, Connecticut 06880.

(5) Each of Messrs. Boutin, Carlson, Dunlap and Pound have satisfied the age and length of service thresholds under the TransMontaigne Services Inc. savings and retention plan, therefore, the common units beneficially owned and reported in the table above include phantom units that were immediately vested upon grant and will become payable as to 50% of a participant's award in the month containing the second anniversary of the grant date, and the remaining 50% in the month containing the third anniversary of the grant date. The phantom units are subject to earlier payment as described under "—Savings and Retention Plan" above. At the time of payment, phantom units will be paid out, in the sole discretion of the plan administrator, in cash, in common units or a combination thereof.

(6) Includes 10,680 phantom units awarded to Mr. Boutin, 14,303 phantom units awarded to Mr. Carlson and 12,154 phantom units awarded to Mr. Pound pursuant to the TransMontaigne Services Inc. savings and retention plan.

(7) Includes 43,577 phantom units awarded to Mr. Dunlap under the TransMontaigne Services Inc. savings and retention plan. Includes 500 restricted phantom units granted to Mr. Dunlap under the TransMontaigne Services Inc. long term incentive plan for his service as an independent director that remain subject to continued vesting in annual installments, with the next and final vesting date March 31, 2013. Effective August 10, 2009, Mr. Dunlap was appointed to serve as Chief Executive Officer of our general partner and President and Chief Executive Officer of TransMontaigne Inc. As a result of these appointments, Mr. Dunlap ceased to qualify as an independent director and therefore tendered his resignation from the board of directors of our general partner, effective as of the same date. Excludes 10,000 restricted phantom units granted to Mr. Dunlap under the TransMontaigne Services Inc. long term incentive plan in connection with the foregoing appointments that remain subject to continued vesting in annual installments, with the next and final vesting date occurring on August 10, 2013.

(8) Excludes 3,591 phantom units awarded to Mr. Fuller, 7,787 phantom units awarded to Mr. Hammell and 4,790 phantom units awarded to Mr. Majors pursuant to the TransMontaigne Services Inc. savings and retention plan. The phantom units vest 50% as of the January 1 that falls closest to the second anniversary of the grant date, with the

remaining 50% vesting as of the January 1 that falls closest to the third anniversary of the grant date. Phantom units granted are subject to earlier vesting as described under "—Savings and Retention Plan" above. At the time of payment, phantom units will be paid out, in the sole discretion of the plan administrator, in cash, in common units or a combination thereof.

(9) Includes 2,000 restricted phantom units awarded to each of Messrs. Masters and Peters and 1,000 restricted phantom units awarded to Mr. Wiese under the TransMontaigne Services Inc. long term incentive plan that vest on March 31, 2013. Excludes 500 restricted phantom units awarded to each of Messrs. Masters and Peters under the TransMontaigne Services Inc. long term incentive plan that vest on March 31, 2014. Excludes 1,000 restricted phantom units awarded to each of Messrs. Masters, Peters and Wiese under the TransMontaigne Services Inc. long term incentive plan that remain subject to continued vesting over two equal annual installments, beginning with the next vesting date March 31, 2014. Excludes 1,500 restricted phantom units awarded to each of Messrs. Masters, Peters and Wiese under the TransMontaigne Services Inc. long term incentive plan that remain subject to continued vesting over three equal annual installments, beginning with the next vesting date March 31, 2014.

EQUITY COMPENSATION PLAN INFORMATION

The following table summarizes information about our equity compensation plans as of December 31, 2012.

	Number of securities to be issued upon exercise of outstanding options, warrants and rights(1) (a)	Weighted average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))(1) (c)
Equity compensation plans approved by security holders	—	—	—
Equity compensation plans not approved by security holders	24,000	—	1,583,933
Total	24,000	—	1,583,933

(1) At December 31, 2012, the long-term incentive plan permits the grant of awards covering an aggregate of 1,816,745 units, of which 232,812 units had been granted since the inception of the plan, net of forfeitures. The number of units available for grant automatically increase on an annual basis by 2% of the total outstanding common units at the end of the preceding fiscal year. After giving effect to the automatic increase at the beginning of the 2013 fiscal year, a total of 2,105,886 units were made available for issuance under the plan, of which 1,873,074 units remain available for issuance under the plan as of February 28, 2013. For more information about our long-term incentive plan, which did not require approval by our limited partners, refer to "Item 11. Executive Compensation—Long-Term Incentive Plan," and Note 14 to Notes to consolidated financial statements in Item 8 of this annual report.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

REVIEW, APPROVAL OR RATIFICATION OF TRANSACTIONS WITH RELATED PERSONS

Our general partner's conflicts committee reviews specific matters that the board of directors of our general partner believes may involve conflicts of interest and other transactions with related persons in accordance with the procedures set forth in our amended and restated limited partnership agreement. Due to the conflicts of interest inherent in our operating structure, our general partner may, but is not required to, seek the approval of any conflict of interest transaction from the conflicts committee. Generally, such approval is requested for material transactions, including the purchase of a material amount of assets from TransMontaigne Inc. or the modification of a material agreement between us and TransMontaigne Inc. or Morgan Stanley Capital Group. Any matter approved by the conflicts committee will be conclusively deemed fair and reasonable to us, to be approved by all of our partners, and not to be a breach by our general partner of its fiduciary duties. The conflicts committee may consider any factors it determines in good faith to consider when resolving a conflict, including taking into account the totality of the relationships among the parties involved, including other transactions that may be particularly favorable or advantageous to us. In addition the conflicts committee has the authority to engage outside advisors to assist it in making its determinations. For example, in approving our December 31, 2007 acquisition of the Southeast facilities from TransMontaigne Inc., the conflicts committee engaged, and obtained a fairness opinion from, an independent outside financial advisor.

We also have attempted to resolve many of the conflicts of interest inherent in our operating structure by entering into various documents and agreements with TransMontaigne Inc. These agreements, and any amendments thereto, discussed below were not the result of arm's-length negotiations, and they, or any of the transactions that they provide for, may not be effected on terms at least as favorable to the parties to these agreements as they could have been obtained from unaffiliated third parties.

RELATIONSHIP AND AGREEMENTS WITH OUR AFFILIATES

Morgan Stanley controls our operations through its indirect ownership of our general partner and has a significant limited partner ownership interest in us through its indirect ownership of our common units. As of February 28, 2013, affiliates of Morgan Stanley, in the aggregate, owned a 23.6% interest in the partnership, consisting of 3,184,656 common units, 2% general partner interest and the incentive distribution rights (excluding any common units that Morgan Stanley may be deemed to indirectly beneficially own through investment accounts managed by its affiliates).

The following table summarizes the distributions and payments to be made by us to Morgan Stanley and its other affiliates in connection with our ongoing operations.

Operational stage

Distributions of available cash to our general partner and its affiliates	We will generally make cash distributions 98% to the unitholders and 2% to our general partner. In addition, if distributions exceed the minimum quarterly distribution and other higher target levels, our general partner will be entitled to increasing percentages of the distributions, up to 50% of the distributions above the highest target level. During the year ended December 31, 2012, we distributed approximately $13.5 million to Morgan Stanley and its affiliates. Assuming we have sufficient available cash to pay the minimum quarterly distribution on all of our outstanding units for four quarters, our general partner and its affiliates would receive an annual distribution of approximately $0.5 million on the 2% general partner interest and approximately $5.1 million on their common units.
Payments to our general partner and its affiliates	For the year ended December 31, 2012, we paid Morgan Stanley and its affiliates an administrative fee of approximately $10.8 million with an additional insurance reimbursement of approximately $3.6 million for the provision of various general and administrative services for our benefit. We also reimbursed TransMontaigne Inc. approximately $1.3 million for grants to key employees of TransMontaigne Inc. and its affiliates under the TransMontaigne Services Inc. savings and retention plan and approximately $0.3 million for a portion of the vested awards granted to the CEO of our general partner under the long-term incentive plan. For further information regarding the administrative fee, please see "—Omnibus Agreement; Payment of general and administrative services fee" below.

Omnibus Agreement

On May 27, 2005, we entered into an omnibus agreement with TransMontaigne Inc. and our general partner, which agreement was amended and restated on December 31, 2007. The omnibus agreement, as amended and restated, addresses the following matters:

- our obligation to pay TransMontaigne Inc. an annual administrative fee, in the amount of approximately $10.8 million for the year ended December 31, 2012;
- our obligation to pay TransMontaigne Inc. an annual insurance reimbursement, in the amount of approximately $3.6 million for the year ended December 31, 2012;
- our obligation to pay TransMontaigne Inc. an annual reimbursement fee in an amount no less than $1.5 million for grants to key employees of TransMontaigne Inc. and its affiliates under the TransMontaigne Services Inc. savings and retention plan, provided that (i) no less than $1.5 million of the aggregate amount of such awards granted to key employees of TransMontaigne Inc. and its affiliates will be allocated to an investment fund indexed to the performance of our common units, and (ii) the proposed allocations of such awards among the

key employees of TransMontaigne Inc. and its affiliates are approved by the compensation committee of our general partner;

- TransMontaigne Inc.'s right of first refusal to purchase any assets that we propose to sell; and

- TransMontaigne Inc.'s right of first refusal to any storage capacity that becomes available after January 1, 2008.

Any or all of the provisions of the omnibus agreement, are terminable by TransMontaigne Inc. at its option if our general partner is removed without cause and units held by our general partner and its affiliates are not voted in favor of that removal.

Payment of general and administrative services fee and reimbursement of direct expenses. Pursuant to the omnibus agreement, for the year ended December 31, 2012, we paid TransMontaigne Inc. an annual administrative fee of approximately $10.8 million for the provision of various general and administrative services for our benefit. The administrative fee paid in fiscal 2012 partially reimburses TransMontaigne Inc. for expenses it incurred to perform centralized corporate functions, such as legal, accounting, treasury, insurance administration and claims processing, health, safety and environmental, information technology, human resources, including the services of our executive officers, credit, payroll, taxes and engineering and other corporate services, to the extent such services were not outsourced by TransMontaigne Inc. The omnibus agreement further requires us to pay TransMontaigne Inc. an annual insurance reimbursement in the amount of approximately $3.6 million for premiums on insurance policies covering our terminals and pipelines. The administrative fee may be increased annually by the percentage increase in the consumer price index for the immediately preceding year, and the insurance reimbursement will increase in accordance with increases in the premiums payable under the relevant policies. In addition, if we acquire or construct additional assets during the term of the agreement, TransMontaigne Inc. will propose a revised administrative fee covering the provision of services for such additional assets. If the conflicts committee of our general partner agrees to the revised administrative fee, TransMontaigne Inc. will provide services for the additional assets pursuant to the agreement. In addition, we agreed to reimburse TransMontaigne Inc. and its affiliates no less than $1.5 million for grants to key employees of TransMontaigne Inc. and its affiliates under the TransMontaigne Services Inc. savings and retention plan, provided that (i) no less than $1.5 million of the aggregate amount of such awards granted to key employees of TransMontaigne Inc. and its affiliates will be allocated to an investment fund indexed to the performance of our common units, and (ii) the proposed allocations of such awards among the key employees of TransMontaigne Inc. and its affiliates are approved by the compensation committee of our general partner to assure that an adequate portion of such awards are deemed invested in an investment fund indexed to the performance of our common units. The omnibus agreement will expire on December 31, 2014. If Morgan Stanley Capital Group elects to renew the terminaling services agreement for the Southeast terminals, we have the right to extend the term of the omnibus agreement for an additional seven years. Due to the acquisition of TransMontaigne Inc. by Morgan Stanley Capital Group on September 1, 2006, the omnibus agreement no longer requires TransMontaigne Inc. to offer us any tangible assets that it acquires or constructs after September 1, 2006 related to the storage, transportation or terminaling of refined products in the United States.

The administrative fee did not include reimbursements for direct expenses TransMontaigne Inc. incurred on our behalf, such as salaries of operational personnel performing services on-site at our terminal and pipeline facilities and related employee benefit costs, including 401(k) and health insurance benefits. For the year ended December 31, 2012, we reimbursed TransMontaigne Inc. approximately $22.5 million for direct expenses it incurred on our behalf, excluding reimbursements for grants to key employees of TransMontaigne Inc. and its affiliates under the TransMontaigne Services Inc. savings and retention plan.

Rights of First Offer and First Refusal. The omnibus agreement also provides TransMontaigne Inc. a right of first refusal to purchase any assets that we propose to sell. Before we enter into any contract to sell such terminal or pipeline facilities to a third party, we must give written notice of all material terms of such proposed sale to TransMontaigne Inc. TransMontaigne Inc. will then have the sole and exclusive option for a period of 45 days following receipt of the notice, to purchase the subject facilities for no less than 105% of the purchase price offered by the third party on the terms specified in the notice.

TransMontaigne Inc. also has a right of first refusal to contract for the use of any refined product storage capacity that either (1) we put into commercial service after January 1, 2008, or (2) was subject to a terminaling services agreement that expires or is terminated (excluding a contract renewable solely at the option of our customer) after January 1, 2008. In order to exercise such rights, TransMontaigne Inc. must agree to pay 105% of the fees offered by any third party customer.

The above provisions are discussed under Item 1. "Business—Our Relationship with TransMontaigne Inc. and Morgan Stanley Capital Group" of this annual report.

Terminaling Services Agreements

We have entered into various terminaling services agreements with Morgan Stanley Capital Group and TransMontaigne Inc., which are discussed under Item 1. "Business and Properties—Our Relationship with TransMontaigne Inc. and Morgan Stanley Capital Group" and "Business and Properties—Terminaling Services Agreements" of this annual report.

Indemnification

We have entered into various indemnification agreements with TransMontaigne Inc., which are discussed under Item 1. "Business and Properties—Environmental Matters—Site Remediation" of this annual report.

DIRECTOR INDEPENDENCE

A description of the independence of the board of directors of our general partner may be found under Item 10. "Directors, Executive Officers of our General Partner and Corporate Governance" of this annual report.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

Deloitte & Touche LLP is our independent auditor. Deloitte & Touche LLP's accounting fees and services were as follows (in thousands):

	2012	2011(2)
Audit fees(1)	$ 575,000	$ 2,341,720
Comfort letter and consents	—	—
Audit-related fees	—	—
Tax fees	—	—
All other fees	—	—
Total accounting fees and services	$ 575,000	$ 2,341,720

(1) Represents an estimate of fees for professional services provided in connection with the annual audit of our financial statements and internal control over financial reporting, including Sarbanes-Oxley 404 attestation, the reviews of our quarterly financial

statements, and other services provided by the auditor in connection with statutory and regulatory filings.

(2) For the year ended December 31, 2011, the audit fees also include Deloitte & Touche LLP's re-audits of our financial statements for the years ended December 31, 2010 and December 31, 2009 and the re-reviews of the quarterly financial information contained in our 2011 annual report. As further discussed under Item 7. "Management's Discussion and Analysis of Financial Condition and Results of Operations—Significant Developments During the Year Ended December 31, 2012, on December 15, 2011 the audit committee of our general partner dismissed KPMG LLP from its engagement as the principal accountant to audit the December 31, 2011 financial statements of TransMontaigne Partners L.P. The dismissal of KPMG LLP resulted from the determination that KPMG LLP was not "independent" of TransMontaigne Partners L.P. within the meaning of the rules of applicable regulatory agencies, and did not qualify as independent at the time of our audits for the years ended December 31, 2010 and 2009, and prior periods. In conjunction with our investigation of this matter, it was determined that our investors would receive meaningful benefit from the reassurance that would be provided by having our financial statements for the years ended December 31, 2010 and December 31, 2009 re-audited, and by having the quarterly financial information that is contained in the 2011 annual report re-reviewed, by Deloitte & Touche LLP, our new independent registered public accounting firm. The re-audits and re-reviews were completed by Deloitte & Touche LLP on May 3, 2012. In July of 2012, KPMG reimbursed us approximately $1.8 million related to the cost of the re-audits and re-reviews performed by Deloitte & Touche LLP.

The audit committee of our general partner's board of directors has adopted an audit committee charter, which is available on our website at *www.transmontaignepartners.com*. The charter requires the audit committee to approve in advance all audit and non-audit services to be provided by our independent registered public accounting firm. All services reported in the audit, comfort letter and consents, audit-related, tax and all other fees categories above were approved by the audit committee in advance.

Part IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

(a) The following documents are filed as a part of this annual report.

1. *Consolidated Financial Statements and Schedules:* See the index to the consolidated financial statements of TransMontaigne Partners L.P. and its subsidiaries that appears under Item 8. "Financial Statements and Supplementary Data" of this annual report.

2. *Financial Statement Schedules.* Financial statement schedules are omitted because they are not required, are inapplicable or the required information is included in the financial statements or notes thereto.

3. *Exhibits:* The following is a list of exhibits required by Item 601 of Regulation S-K to be filed as part of this annual report:

Exhibit Number	Description
2.1	Facilities Sale Agreement, dated as of December 29, 2006, by and between TransMontaigne Product Services Inc. and TransMontaigne Partners L.P. (incorporated by reference to Exhibit 2.1 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on January 5, 2007).
2.2	Facilities Sale Agreement, dated as of December 28, 2007, by and between TransMontaigne Product Services Inc. and TransMontaigne Partners L.P. (incorporated by reference to Exhibit 2.1 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on January 3, 2008).
3.1	Certificate of Limited Partnership of TransMontaigne Partners L.P., dated February 23, 2005 (incorporated by reference to Exhibit 3.1 of TransMontaigne Partners L.P.'s Registration Statement on Form S-1 (Registration No. 333-123219) filed on March 9, 2005).
3.2	First Amended and Restated Agreement of Limited Partnership of TransMontaigne Partners L.P., dated May 27, 2005 (incorporated by reference to Exhibit 3.1 of the Annual Report on Form 10-K filed by TransMontaigne Partners L.P. with the SEC on September 13, 2005).
3.3	First Amendment to the First Amended and Restated Agreement of Limited Partnership of TransMontaigne Partners L.P. dated January 23, 2006 (incorporated by reference to Exhibit 3.3 of TransMontaigne Partners L.P.'s Annual Report on Form 10-K filed by TransMontaigne Partners with the SEC on March 8, 2010).
3.4	Second Amendment to the First Amended and Restated Agreement of Limited Partnership of TransMontaigne Partners L.P. (incorporated by reference to Exhibit 3.1 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on April 8, 2008).
10.1	Amended and Restated Senior Secured Credit Facility, dated March 9, 2011, by and among TransMontaigne Operating Company L.P., as borrower, U.S. Bank National Association, as Syndication Agent, Bank of America, N.A., as Documentation Agent and Wells Fargo Bank, National Association, as Administrative Agent, and the other lenders a party thereto (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on March 10, 2011).

Exhibit Number	Description
10.2	Third Amendment to Second Amended and Restated Senior Secured Credit Facility, effective as of December 20, 2012 among TransMontaigne Operating Company L.P., as borrower, among the financial institutions party thereto as lenders, and Wells Fargo Bank, National Association, as Administrative Agent (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on December 20, 2012).
10.3	Letter Agreement to Second Amended and Restated Senior Secured Credit Facility, dated January 5, 2012 among TransMontaigne Operating Company L.P., as borrower, among the financial institutions party thereto as lenders, and Wells Fargo Bank, National Association, as Administrative Agent (incorporated by reference to Exhibit 99.2 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on December 20, 2012).
10.4	Second Amendment to Second Amended and Restated Senior Secured Credit Facility, dated March 20, 2012 among TransMontaigne Operating Company L.P., as borrower, among the financial institutions party thereto as lenders, and Wells Fargo Bank, National Association, as Administrative Agent (incorporated by reference to Exhibit 99.3 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on December 20, 2012).
10.5	Contribution, Conveyance and Assumption Agreement, dated May 27, 2005, among TransMontaigne Inc., TransMontaigne Partners L.P., TransMontaigne GP L.L.C., TransMontaigne Operating GP L.L.C., TransMontaigne Operating Company L.P., TransMontaigne Product Services Inc. and Coastal Fuels Marketing, Inc., Coastal Terminals L.L.C., Razorback L.L.C., TPSI Terminals L.L.C. and TransMontaigne Services, Inc. (incorporated by reference to Exhibit 10.2 of the Annual Report on Form 10-K filed by TransMontaigne Partners L.P. with the SEC on September 13, 2005).
10.6	Amended and Restated Omnibus Agreement, dated December 28, 2007, among TransMontaigne Inc., TransMontaigne Partners L.P., TransMontaigne GP L.L.C., TransMontaigne Operating GP L.L.C. and TransMontaigne Operating Company L.P. (incorporated by reference to Exhibit 10.5 of the Annual Report on Form 10-K filed by TransMontaigne Partners L.P. with the SEC on March 10, 2008).
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16.1	KPMG LLP Letter, dated January 13, 2012 (incorporated by reference to Exhibit 16.1 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on January 13, 2012).
21.1*	List of Subsidiaries of TransMontaigne Partners L.P.
23.1*	Consent of Independent Registered Public Accounting Firm.

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31.1*	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1*	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2*	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101	The following financial information from the Annual Report on Form 10-K of TransMontaigne Partners L.P. and subsidiaries for the year ended December 31, 2012, formatted in XBRL (eXtensible Business Reporting Language): (i) consolidated balance sheets, (ii) consolidated statements of comprehensive income, (iii) consolidated statements of partners' equity, (iv) consolidated statements of cash flows and (v) notes to the consolidated financial statements. In accordance with Rule 406T of Regulation S-T, this information is "furnished" and not "filed" with this annual report for purposes of Sections 11 and 12 of the Securities Act of 1933 and Section 18 of the Securities and Exchange Act of 1934, or otherwise subject to the liability of such sections, and shall not be part of any registration statement or other document filed under the Securities Act or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

* Filed with this annual report.

\+ Identifies each management compensation plan or arrangement.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

TRANSMONTAIGNE PARTNERS L.P.

By: TRANSMONTAIGNE GP L.L.C., its General Partner

By: /s/ CHARLES L. DUNLAP

Charles L. Dunlap
Chief Executive Officer

Date: March 12, 2013

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities with TransMontaigne GP L.L.C., the general partner of the registrant, on the date indicated.

Name and Signature	Title	Date
/s/ CHARLES L. DUNLAP Charles L. Dunlap	Chief Executive Officer	March 12, 2013
/s/ FREDERICK W. BOUTIN Frederick W. Boutin	Executive Vice President, Chief Financial Officer and Treasurer	March 12, 2013
/s/ ROBERT T. FULLER Robert T. Fuller	Vice President and Chief Accounting Officer	March 12, 2013
/s/ STEPHEN R. MUNGER Stephen R. Munger	Chairman of the Board of Directors	March 12, 2013
/s/ RANDALL P. O'CONNOR Randall P. O'Connor	Director	March 12, 2013
/s/ GORAN TRAPP Goran Trapp	Director	March 12, 2013

Name and Signature	Title	Date
/s/ JERRY R. MASTERS Jerry R. Masters	Director	March 12, 2013
/s/ DAVID A. PETERS David A. Peters	Director	March 12, 2013
/s/ JAY A. WIESE Jay A. Wiese	Director	March 12, 2013

EXHIBIT INDEX

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2.1	Facilities Sale Agreement, dated as of December 29, 2006, by and between TransMontaigne Product Services Inc. and TransMontaigne Partners L.P. (incorporated by reference to Exhibit 2.1 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on January 5, 2007).
2.2	Facilities Sale Agreement, dated as of December 28, 2007, by and between TransMontaigne Product Services Inc. and TransMontaigne Partners L.P. (incorporated by reference to Exhibit 2.1 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on January 3, 2008).
3.1	Certificate of Limited Partnership of TransMontaigne Partners L.P., dated February 23, 2005 (incorporated by reference to Exhibit 3.1 of TransMontaigne Partners L.P.'s Registration Statement on Form S-1 (Registration No. 333-123219) filed on March 9, 2005).
3.2	First Amended and Restated Agreement of Limited Partnership of TransMontaigne Partners L.P., dated May 27, 2005 (incorporated by reference to Exhibit 3.1 of the Annual Report on Form 10-K filed by TransMontaigne Partners L.P. with the SEC on September 13, 2005).
3.3	First Amendment to the First Amended and Restated Agreement of Limited Partnership of TransMontaigne Partners L.P. dated January 23, 2006 (incorporated by reference to Exhibit 3.3 of TransMontaigne Partners L.P.'s Annual Report on Form 10-K filed by TransMontaigne Partners with the SEC on March 8, 2010).
3.4	Second Amendment to the First Amended and Restated Agreement of Limited Partnership of TransMontaigne Partners L.P. (incorporated by reference to Exhibit 3.1 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on April 8, 2008).
10.1	Amended and Restated Senior Secured Credit Facility, dated March 9, 2011, by and among TransMontaigne Operating Company L.P., as borrower, U.S. Bank National Association, as Syndication Agent, Bank of America, N.A., as Documentation Agent and Wells Fargo Bank, National Association, as Administrative Agent, and the other lenders a party thereto (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on March 10, 2011).
10.2	Third Amendment to Second Amended and Restated Senior Secured Credit Facility, effective as of December 20, 2012 among TransMontaigne Operating Company L.P., as borrower, among the financial institutions party thereto as lenders, and Wells Fargo Bank, National Association, as Administrative Agent (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on December 20, 2012).
10.3	Letter Agreement to Second Amended and Restated Senior Secured Credit Facility, dated January 5, 2012 among TransMontaigne Operating Company L.P., as borrower, among the financial institutions party thereto as lenders, and Wells Fargo Bank, National Association, as Administrative Agent (incorporated by reference to Exhibit 99.2 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on December 20, 2012).
10.4	Second Amendment to Second Amended and Restated Senior Secured Credit Facility, dated March 20, 2012 among TransMontaigne Operating Company L.P., as borrower, among the financial institutions party thereto as lenders, and Wells Fargo Bank, National Association, as Administrative Agent (incorporated by reference to Exhibit 99.3 of the Current Report on Form 8-K filed by TransMontaigne Partners L.P. with the SEC on December 20, 2012).

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* Filed with this annual report.

\+ Identifies each management compensation plan or arrangement.

Exhibit 10.16

Execution Version

Confidential Treatment Requested by Transmontaigne Partners L.P.

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

OF

BATTLEGROUND OIL SPECIALTY TERMINAL COMPANY LLC

EFFECTIVE AS OF OCTOBER 18, 2011

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EXHIBITS AND SCHEDULES

THE MEMBERSHIP INTERESTS REPRESENTED HEREBY (OR BY CERTIFICATES IF ANY ARE ISSUED) HAVE BEEN ACQUIRED FOR INVESTMENT AND WERE ISSUED WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (“*SECURITIES ACT*”), OR UNDER THE SECURITIES LAWS OF ANY STATE. THESE INTERESTS MAY NOT BE SOLD, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED AT ANY TIME EXCEPT IN ACCORDANCE WITH THE RESTRICTIONS CONTAINED IN THIS AGREEMENT AND PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAW OR IN THE EVENT THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO IT THAT SUCH TRANSFER DOES NOT REQUIRE REGISTRATION UNDER ANY APPLICABLE LAWS.

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT
OF
BATTLEGROUND OIL SPECIALTY TERMINAL COMPANY LLC

This Amended and Restated Limited Liability Company Agreement (this “*Agreement*”) of Battleground Oil Specialty Terminal Company LLC, a Delaware limited liability company (the “*Company*”), is entered into and effective as of October 18, 2011 (the “*Effective Date*”), by and among the Persons signing this Agreement (each such Person is referred to individually as a “*Member*” and collectively as the “*Members*”).

W I T N E S S E T H:

WHEREAS, the Company was formed as a Delaware limited liability company pursuant to the Act (as defined below) upon the filing of the Certificate of Formation of Battleground Oil Specialty Terminal Company LLC (the “*Certificate of Formation*”) with the office of the Secretary of State of the State of Delaware on May 26, 2011 (the “*Formation Date*”);

WHEREAS, TransMontaigne, as the initial sole member of the Company, adopted the Limited Liability Company Agreement of the Company dated as of May 26, 2011 (the “*Original Agreement*”);

WHEREAS, on May 27, 2011, the Company merged with Battleground Oil Specialty Terminal Company LLC, a Texas limited liability company (“*Battleground Texas*”), with the Company surviving (the “*Merger*”) and as a result of the Merger, TransMontaigne, as the former sole member of Battleground Texas, remained the sole member of the Company, and the Company obtained all right, title and interest of Battleground Texas in and to the Property and all of the other assets of Battleground Texas;

WHEREAS, in connection with the amendment and restatement of the Original Agreement in its entirety by this Agreement, TransMontaigne’s membership interests in the Company are being recapitalized as Class A Units;

WHEREAS, TransMontaigne and the Class B Members previously entered into that certain Option Agreement, dated November 18, 2010 (the “*Option Agreement*”), whereby TransMontaigne granted to the Class B Members, jointly and not severally, an option and right to acquire and receive, in the aggregate, one hundred percent (100%) of the Class B Units of the Company;

WHEREAS, in connection with the entrance into this Agreement, pursuant to the terms of the Contribution Agreement (as defined below), (a) Kinder Morgan is contributing the Cash Contribution (as defined in the Contribution Agreement) to the Company in consideration for the Class A Units issued to Kinder Morgan thereunder and (b) the Company is distributing to TransMontaigne a portion of the Cash Contribution in redemption of a portion of TransMontaigne’s membership interests in the Company, such that, immediately after such contributions, distribution and redemption and the adoption of this Agreement, TransMontaigne owns fifty percent (50%) of the issued and outstanding Class A Units, Kinder Morgan owns fifty percent (50%) of the issued and outstanding Class A Units, in each case, as set forth on Exhibit A attached hereto; and

WHEREAS, the Members desire to enter into this Agreement in order to set forth their agreement regarding the manner in which the Company shall be governed and operated and the other matters set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I.
DEFINITIONS AND RULES OF CONSTRUCTION

1.1 Defined Terms. The following terms, when used in this Agreement, shall have the meanings set forth below unless the context requires otherwise.

“*Accredited Investor*” has the meaning ascribed to such term in the regulations promulgated under the Securities Act.

“*Act*” means the Delaware Limited Liability Company Act, Chapter 18, Title 6 of the Delaware Code, as it may be amended from time to time, and the corresponding provisions of any successor statute.

“*Additional Capital Contribution*” means, with respect to any Member, any Capital Contribution made by such Member from time to time in accordance with the terms of Article V (other than such Member’s Initial Capital Contribution).

“*Additional Member*” means any Person that is not already a Member who acquires newly issued Membership Interests from the Company and, in each case, is admitted to the Company as a Member pursuant to the provisions of Section 9.6.

“*Additional Remaining Offered Membership Interests*” has the meaning set forth in Section 9.2(c).

"*Adjusted Capital Account*" means, with respect to any Member, the balance in the Capital Account maintained for such Member as of the end of each taxable year of the Company (a) increased by any amounts which such Member is obligated to restore under the standards set by Treasury Regulations Section 1.704-1(b)(2)(ii)(c) (or is deemed obligated to restore under Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5)) and (b) decreased by (i) the amount of all losses and deductions that, as of the end of such taxable year, are reasonably expected to be allocated to such Member in subsequent years under Sections 704(e)(2) and 706(d) of the Code and Treasury Regulations Section 1.751-1(b)(2)(ii), and (ii) the amount of all distributions that, as of the end of such taxable year, are reasonably expected to be made to such Member in subsequent years in accordance with the terms of this Agreement or otherwise to the extent they exceed offsetting increases to such Member's Capital Account that are reasonably expected to occur during (or prior to) the year in which such distributions are reasonably expected to be made (other than increases pursuant to a minimum gain chargeback pursuant to Section 6.2(a) or 6.2(b) hereof). The foregoing definition of Adjusted Capital Account is intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"*Adjusted Property*" means any property or asset, the Agreed Value of which has been adjusted pursuant to the definition of "*Agreed Value*."

"*Affiliate*" means, when used with respect to any specified Person, any Person that, directly or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with, the Person in question; provided, that notwithstanding the foregoing, no Person shall be deemed to be an Affiliate of another Person solely by virtue of the fact that both Persons (or their Affiliates) own Membership Interests in the Company.

"*Agreed Value*" means, with respect to any asset, the asset's adjusted basis for federal income Tax purposes, except as follows:

(a) The initial Agreed Value of any asset contributed by a Member to the Company shall be the gross Fair Market Value, as determined by the contributing Member and the Company.

(b) The Agreed Values of all Company assets shall be adjusted to equal their respective gross Fair Market Values, as determined by the Company, as of the following times: (i) the acquisition of an additional Equity Percentage Interest in the Company by any new Member in exchange for a Capital Contribution; (ii) the acquisition of an interest in the Company by a new or existing Member as consideration for the provision of services to or for the benefit of the Company; (iii) the distribution by the Company to a Member of property as consideration for an additional Equity Percentage Interest in the Company; and (iv) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); provided, however, that adjustments pursuant to clauses (i) and (ii) above shall be made only if the Company reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company.

(c) The Agreed Value of any Company asset distributed to any Member shall be the gross Fair Market Value of such asset on the date of distribution as determined by the distributee Member and the Company.

(d) The Agreed Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m) and subparagraph (f) of the definition of "*Profit*" and "*Loss*"; provided, however, that Agreed Values shall not be adjusted pursuant to this subparagraph (d) to the extent the Company determines that an adjustment pursuant to subparagraph (b) hereof is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (d).

(e) If the Agreed Value of an asset has been determined or adjusted pursuant to subparagraph (a), (b) or (d) hereof, such Agreed Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profit and Loss.

(f) Agreed Value shall be reduced (i) in the case of Contributed Property, by any liabilities either assumed by the Company upon such contribution or to which such property is subject when contributed and (ii) by any indebtedness either assumed by the transferee upon such distribution or to which such property is subject at the time of distribution as determined under Code Section 752.

"*Agreement*" has the meaning given that term in the introductory paragraph to this Agreement.

"*Amended Drag-Along Notice*" has the meaning set forth in Section 9.4(b).

"*Amended Tag Notice*" has the meaning set forth in Section 9.3(b).

"*Applicable Price per Unit*" means, with respect to any Additional Capital Contribution, and issuance of Class A Units in exchange therefor, the value ascribed by the Board to one Class A Unit, in its reasonable judgment, taking into account the capitalization, assets and liabilities of the Company and such other factors as the Board may reasonably consider.

"*Appraiser*" has the meaning set forth in Section 7.9(b).

"*Approved Additional Initial Member*" means any of Tauber Oil Company or one or more of its Affiliates in an aggregate initial Class A Equity Percentage Interest not to exceed two percent (2%).

"*Approved Projects*" means the Project and any Future Project that is approved by Supermajority Approval.

"*Arbitrable Dispute*" means any Dispute except (a) any Dispute relating to the failure of a Member to agree or consent to any matter or action that, under the express terms of this Agreement, requires its agreement or consent unless (i) the particular provision of this

Agreement relevant to the Dispute expressly requires resolution of such a Dispute in accordance with Article XI or (ii) the particular provision of this Agreement relevant to the Dispute expressly requires that such agreement or consent not be unreasonably withheld or delayed and such Dispute relates to a Member allegedly unreasonably withholding or delaying its agreement or consent or (b) any Dispute of a type or category not arbitrable under applicable state or federal Law.

"*Bank*" means the banking or other financial institution which is the Company's primary lender from time to time; if the Company has no such lender, references herein to the interest rate quoted by the Bank shall mean the Prime Rate.

"*Bankruptcy Event*" means the occurrence of one or more of the following events: (a) the Company (i) admits in writing its inability to pay its debts as they become due, (ii) makes a general assignment for the benefit of creditors; (iii) files a voluntary bankruptcy petition; (iv) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency Proceedings; (v) files a petition or answer seeking for the Company a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law; (vi) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Company in a Proceeding of the type described in subclauses (i) through (v) of this clause (a); (vii) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the Company or of all or any substantial part of the Company's properties; (viii) gives notice to any Governmental Authority of insolvency or pending insolvency, or (ix) takes corporate action for the purpose of any of the foregoing; or (b) a Proceeding seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any law has been commenced against the Company and one hundred twenty (120) Days have expired without dismissal thereof or with respect to which, without the Company's consent or acquiescence, a trustee, receiver, or liquidator of the Company or of all or any substantial part of the Company's properties has been appointed and ninety (90) Days have expired without the appointment's having been vacated or stayed, or ninety (90) Days have expired after the date of expiration of a stay, if the appointment has not previously been vacated.

"*Bankrupt Member*" means any Member (except to the extent the Board, acting by Majority Approval (excluding any Manager appointed by such Member or its Affiliates), determines that such Member should not be deemed a Bankrupt Member) (a) that (i) admits in writing its inability to pay its debts as they become due, (ii) makes a general assignment for the benefit of creditors; (iii) files a voluntary bankruptcy petition; (iv) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency Proceedings; (v) files a petition or answer seeking for the Member a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law; (vi) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in a Proceeding of the type described in subclauses (i) through (v) of this clause (a); (vii) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the Member or of all or any substantial part of the Member's properties; (viii) gives notice to any Governmental Authority of insolvency or pending insolvency, or (ix) takes corporate action for the purpose of any of the foregoing; or (b) against which a Proceeding seeking reorganization, arrangement, composition, readjustment, liquidation,

dissolution, or similar relief under any law has been commenced and one hundred twenty (120) Days have expired without dismissal thereof or with respect to which, without the Member's consent or acquiescence, a trustee, receiver, or liquidator of the Member or of all or any substantial part of the Member's properties has been appointed and ninety (90) Days have expired without the appointment's having been vacated or stayed, or ninety (90) Days have expired after the date of expiration of a stay, if the appointment has not previously been vacated.

"*Battleground Texas*" has the meaning set forth in the Recitals.

"*Board*" has the meaning set forth in Section 7.1(b).

"*Book-Tax Disparity*" means with respect to any item of Contributed Property or Adjusted Property, as of the date of any determination, the difference between the Agreed Value of such Contributed Property or Adjusted Property and the adjusted basis thereof for federal income tax purposes as of such date. A Member's share of the Company's Book-Tax Disparities in all of its Contributed Property and Adjusted Property will be reflected by the difference between such Member's Capital Account balance as maintained pursuant to Section 5.9 and the hypothetical balance of such Member's Capital Account computed as if it had been maintained strictly in accordance with federal income tax accounting principles. The determination of Book-Tax Disparity and a Member's share thereof will be determined consistently with Treasury Regulation Section 1.704-3(a).

"*Budget*" means the Design and Development Budget, the Construction Budget or any LLC Budget, as applicable.

"*Business*" has the meaning set forth in Section 3.1.

"*Business Day*" means any Day other than a Saturday, Sunday or other Day on which banks are authorized or required to be closed in Houston, Texas or New York, New York, and on any such Day the period of time between 8:00 a.m. and 4:00 p.m. in Houston, Texas.

"*Capital Account*" means a book account to be established and maintained by the Company for each Member as computed from time to time in accordance with the capital account maintenance rules set forth in Treasury Regulations Section 1.704-1(b)(2)(iv) and in accordance with this Agreement.

"*Capital Call*" means a Design and Development Capital Call, a Phase I Capital Call, a New Project Capital Call or an Other Capital Call.

"*Capital Contribution*" means, with respect to any Member, such Member's Initial Capital Contribution and any Additional Capital Contributions by such Member and shall be the amount of cash and the initial Agreed Value of all non-cash property (net of any liabilities secured by such property that the Company is considered to assume or take subject to under Code Section 752) contributed by such Member to the Company in accordance with this Agreement. The principal amount of a promissory note which is not readily traded on an established securities market and which is contributed to the Company by the maker of the note shall not be included in the Capital Account of any Member until the Company makes a taxable disposition of the note or until (and to the extent) principal payments are made on the note, all in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(d)(2). Following the Disposition by a Member of all or any part of its Membership Interest, the Capital Contributions made prior to such Disposition by the Disposing Member with respect to the portion of the Membership Interest so Disposed shall thereafter be attributed to the Transferee of such Membership Interest for purposes of this Agreement.

"*Capital Transaction*" means any transaction pursuant to which a long-term asset of the Company is disposed of, financed or otherwise monetized.

"*Cash Equivalents*" means any of the following having a maturity of not greater than one year from the date of issuance thereof: (a) readily marketable direct obligations of the government of the United States of America or any agency or instrumentality thereof or obligations unconditionally guaranteed by the full faith and credit of the government of the United States of America, (b) insured certificates of deposit of or time deposits with any commercial bank that is a member of the Federal Reserve System, issues (or the parent of which issues) commercial paper rated as described in clause (c) below, is organized under the Laws of the United States or any State thereof and has combined capital and surplus of at least $1,000,000,000.00 or (c) commercial paper issued by any corporation organized under the Laws of any State of the United States and rated at least "*Prime-1*" (or the then equivalent grade) by Moody's or "*A-1*" (or the then equivalent grade) by S&P.

"*Certificate of Cancellation*" has the meaning set forth in Section 10.3.

"*Certificate of Formation*" has the meaning set forth in the Recitals.

"*Change of Control of TransMontaigne*" means (a) the direct or indirect sale of all or substantially all of TransMontaigne GP L.L.C.'s assets in one transaction or series of related transactions to any Person that is not an Affiliate of TransMontaigne, (b) a merger, consolidation, refinancing or recapitalization as a result of which the holders of TransMontaigne GP L.L.C.'s issued and outstanding voting securities immediately before such transaction own or Control less than 50% of the voting securities of the continuing or surviving entity immediately after such transaction, (c) the acquisition (in one or more transactions) by any Person that is not an Affiliate of TransMontaigne of at least (i) 50% of the total voting power of all classes of securities entitled to vote generally in the election of TransMontaigne GP L.L.C.'s board of directors or similar governing body or (ii) an amount of securities of TransMontaigne Partners L.P. sufficient to entitle the holder(s) thereof to remove or replace TransMontaigne GP L.L.C. as the general partner of TransMontaigne Partners L.P., (d) the removal, or replacement with any Person other than its Affiliates, of TransMontaigne GP L.L.C. as the general partner of TransMontaigne Partners L.P., (e) TransMontaigne Partners L.P. or its Affiliates no longer having Control of TransMontaigne or (f) Morgan Stanley (NYSE: MS) no longer having Control of each of TransMontaigne, TransMontaigne Partners L.P., a Delaware limited partnership, and each of their respective general partners.

"*Charter Documents*" means the organizational documents that govern a Person pursuant to its jurisdiction of formation, including as applicable, certificates or articles of incorporation, certificates or articles of formation, bylaws, limited liability company operating agreements, partnership agreements, and similar instruments.

"*Claim*" means any demand, demand letter, claim, cause of action, lawsuit, investigation by a Governmental Authority or audit, judgment, notice of noncompliance or violation, or other Proceeding, loss, assessment, fine, penalty, administrative order, obligation, cost, expense, liability and damage (whether actual, consequential or punitive), including interest, penalties, reasonable attorneys' fees, disbursements and costs of investigations, deficiencies, levies, duties and imposts.

"*Class A Equity Percentage Interest*" means the interest of a Class A Member in the Class A Units of the Company, stated as a percentage obtained by dividing the number of Class A Units held by such Class A Member by the total number of Class A Units then outstanding. The initial Class A Equity Percentage Interest of each Class A Member is set forth on Exhibit A and is subject to adjustment or revision from time to time in accordance with this Agreement.

"*Class A Members*" means holders of Class A Units.

"*Class A Units*" has the meaning set forth in Section 4.3(a)(i).

"*Class B Construction Manager*" has the meaning set forth in Section 4.3(c)(ii).

"*Class B Equity Percentage Interest*" means the interest of a Class B Member in the Class B Units of the Company, stated as a percentage obtained by dividing the number of Class B Units held by such Class B Member by the total number of Class B Units then outstanding. The Class B Equity Percentage Interest of each Class B Member will be set forth on Exhibit A and is subject to adjustment or revision from time to time in accordance with this Agreement.

"*Class B Members*" means holders of Class B Units.

"*Class B Units*" has the meaning set forth in Section 4.3(a)(i).

"*Code*" means the Internal Revenue Code of 1986, as amended (or any corresponding provisions of a successor statute).

"*Commercial Operation Date*" means the first Day upon which the Company shall have accepted crude oil or black oil products from customers for storage at the Project.

"*Company*" has the meaning given that term in the introductory paragraph to this Agreement.

"*Company Minimum Gain*" has the meaning given the term "partnership minimum gain" in Treasury Regulations Section 1.704-2(b)(2) and shall be determined in accordance with Treasury Regulations Section 1.704-2(d) by (i) computing with respect to each Nonrecourse Liability of the Company the amount of income or gain, if any, that would be realized by the Company if it disposed of the property securing such Nonrecourse Liability in full satisfaction thereof, and (ii) aggregating all separate amounts so computed.

"*Conditions*" means each of the conditions set forth on Exhibit F hereto.

"*Confidential Information*" has the meaning set forth in Section 7.13(a).

"*Confidentiality Affiliates*" has the meaning set forth in Section 7.13(a).

"*Consequential Damages*" means all exemplary, punitive, special, indirect, consequential, remote or speculative damages, including loss of profit, loss of revenue or any other special damages, whether in contract, tort (including negligence), strict liability or otherwise, whether or not the Person at fault knew, or should have known, that such damage would likely be suffered.

"*Construction Budget*" means the budget for the development and construction of the Project, attached hereto as Exhibit G as it may be modified or amended from time to time by Supermajority Approval.

"*Construction Management Agreement*" means the Construction Management Agreement governing the development and construction of the Project, as approved (and as it may be modified or amended from time to time) by Supermajority Approval.

"*Construction Manager*" means any Person or Persons engaged by the Company to oversee and manage the construction of the Project.

"*Construction Timeline*" means the timeline setting forth in detail by phase or task the estimated time to complete the development and construction of the Project.

"*Contracts*" means the contracts, agreements, licenses, leases, franchises, purchase orders, bids, commitments, options, guaranties, letters of credit, warranties, loans, evidences of indebtedness, mortgages, bonds, indentures, security agreements or any other legally binding contract, agreement, commitment, undertaking or arrangement of any kind to which the Company is a party or by or to which the Project is bound or subject, including any Financing Documents.

"*Contributed Property*" means each property or asset, but excluding cash or Cash Equivalents, contributed to the Company by a Member. Once the Agreed Value of a Contributed Property is adjusted pursuant to the definition of "*Agreed Value*", such property or asset will no longer constitute a Contributed Property for purposes of Section 6.3(b), but will be deemed an Adjusted Property for such purposes.

"*Contribution Agreement*" means the Contribution and Redemption Agreement, dated as of the date hereof, by and among, TransMontaigne, Kinder Morgan and the Company.

"*Control*" means, with respect to a specified Person, the possession, directly or indirectly, of the power, directly or indirectly, to direct or cause the direction of the management or policies of such specified Person, whether through ownership of voting securities, by contract, or otherwise; provided that, "*control*" shall also be deemed to exist by virtue of the direct or indirect ownership of fifty percent (50%) or more of the equity securities of such specified Person.

"*Credit Support*" means any and all equity contribution agreements, letters of credit, guarantees, comfort letters, "keep whole" agreements, bonds or other financial security arrangements or credit support arrangements, cash deposits, and other sureties, credit assurances

and financial support required to be provided to any Third Party by or on behalf of the Company in connection with the conduct of the Business by the Company.

"*Curing Payments*" has the meaning set forth in Section 5.3(b).

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

"*Default Interest Rate*" means a rate per annum equal to the lesser of (a) five percent (5%) plus a varying rate per annum that is equal to the Prime Rate, with adjustments in that varying rate to be made on the same date as any changes in that rate, and (b) the maximum rate permitted by applicable law, in each case accruing daily and compounding on a quarterly basis.

"*Deficiency*" has the meaning set forth in Section 5.3.

"*Deficiency Notice*" has the meaning set forth in Section 5.3.

"*Depreciation*" means, for each fiscal year or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such year or other period, except that (a) if the Agreed Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period and such difference is being eliminated by use of the "remedial allocation method" described in Treasury Regulations Section 1.704-3(d), Depreciation for such period shall be the amount of the book basis recovered for such period under the rules prescribed in Treasury Regulations Section 1.704-3(d) and (b) with respect to any other asset whose Agreed Value differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount which bears the same ratio to such beginning Agreed Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; provided, however, that if the federal income tax depreciation, amortization, or other cost recovery deduction for such year or other periods is zero, Depreciation shall be determined with reference to such beginning Agreed Value using any reasonable method approved by the Board.

"*Design and Development Budget*" means the budget for the Design and Development Period, attached hereto as Exhibit C, as it may be modified or amended from time to time by Supermajority Approval.

"*Design and Development Capital Call*" has the meaning set forth in Section 5.2(a).

"*Design and Development Completion Date*" has the meaning set forth in Section 5.2(b).

"*Design and Development Outside Date*" has the meaning set forth in Section 5.12.

"*Design and Development Outside Date Discussion Period*" has the meaning set forth in Section 5.12.

"*Design and Development Period*" means the period beginning on the Effective Date and ending on the Design and Development Completion Date.

"*Design Basis*" means the scope of the Project as set forth on Exhibit D hereto, as it may be modified or amended from time to time by Supermajority Approval.

"*Determination Date*" has the meaning set forth in Section 9.2(j).

"*Disposing Member*" has the meaning set forth in Section 9.2(a), and shall also include any Member whose Membership Interest is deemed to be the subject of a proposed Disposition under Sections 9.2(h) or (i).

"*Disposition*" including the correlative terms "*Dispose*" or "*Disposed*," means any direct or indirect (including pursuant to a direct or indirect chain of ownership or Control of one or more Persons) transfer, assignment, sale, gift, pledge, hypothecation, mortgage, or other encumbrance, or any other disposition (whether voluntary or involuntary or by operation of law) of Membership Interests (or any interest (pecuniary or otherwise) therein or right thereto), including derivative or similar transactions or arrangements whereby a portion or all of the Economic Interest in, or risk of loss or opportunity for gain with respect to, Membership Interests is transferred or shifted to another Person.

"*Disproportionately Supporting Member*" has the meaning set forth in Section 4.4(b).

"*Dispute*" means any dispute, controversy or Claim (including those based on agreement, tort, statute, common law or other applicable Law or other legal or equitable theory) and other matter in question arising out of or relating to this Agreement or the agreements attached as Exhibits to this Agreement, or the construction, interpretation, performance, breach, termination, enforceability or validity hereof or thereof, or in any way relating to the Company or the subject matter of this Agreement or the agreements attached as Exhibits to this Agreement or the relationship among the Members created by this Agreement or the agreements attached as Exhibits to this Agreement.

"*Distributable Cash*" means, prior to the occurrence of a Liquidating Event, the sum of the following as of the applicable date of determination (or zero, in the event such sum is a negative number): (a) net cash provided by operating activities, plus (b) the reversal of the changes in operating assets and liabilities, including reversal of reserves, plus (c) any and all other available cash on hand of the Company, as reasonably determined by the Board, minus (d) cash expenditures made to maintain the operating capacity of the property, plant and equipment of the Company (including expenditures for the repair, refurbishment, improvement or replacement of such property, plant and equipment), minus (e) required payments in respect of Financing, minus, (f) Short Term Cash Requirements (if any); provided, that items (a), (b), and (d) shall be determined in accordance with GAAP, to the extent applicable, and reflected in the Company's statement of cash flows and item (e) shall be determined in accordance with the Company's Financing Documents.

"*Drag-Along Notice*" has the meaning set forth in Section 9.4(b).

"*Drag-Along Transferee*" has the meaning set forth in Section 9.4(a).

"*Drag Consideration*" has the meaning set forth in Section 9.4(c).

"*Dragging Member*" has the meaning set forth in Section 9.4(a).

"*Drag Sale*" has the meaning set forth in Section 9.4(a).

"*Economic Interest*" means a Member's right to share in the profits, losses or similar items of, and to receive distributions from, the Company, but does not include any other rights of a Member including, without limitation, the right to vote, consent or otherwise participate in the management of the Company, the right to designate Managers or attend (or be counted for purposes of a quorum at) meetings of the Board (including through its designees) or Members, or, except as specifically provided in this Agreement or required under the Act, any right to information concerning the business and affairs of the Company.

"*Economic Risk of Loss*" shall have the meaning set forth in Treasury Regulations Section 1.752-2(a).

"*Effective Date*" has the meaning given that term in the introductory paragraph to this Agreement.

"*Equity Percentage Interest*" means the interest of a Member in the equity of the Company, stated as a percentage, relative to all other Members based on the respective Class A Equity Percentage Interests and Class B Equity Percentage Interests (or other Units approved and issued in accordance with this Agreement) of the Members, and for all Members aggregating to one hundred percent (100%); provided, that except as provided in Section 4.3(c) or as may otherwise be consented to by Majority Approval of the Class B Members and Supermajority Approval, in no event shall the aggregate Equity Percentage Interest of the Class B Members be greater or less than **[**]**. The initial Equity Percentage Interest of each Member is set forth on Exhibit A and is subject to adjustment or revision from time to time in accordance with this Agreement.

"*Excess Amount*" has the meaning set forth in Section 4.3(c)(ii)(A).

"*Excess Capital Investment*" has the meaning set forth in Section 4.3(c)(i).

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended.

"*Excluded Joint Affiliate*" means a Person that is an Affiliate of two (2) or more Members if such Members would not be deemed Affiliates of each other but for their Affiliation with such Excluded Joint Affiliate and such joint Affiliation became effective with the purpose or intent of qualifying the Excluded Joint Affiliate as a Dragging Member under Section 9.4.

"*Exempt Permitted Disposition*" means a Permitted Disposition pursuant to Sections 9.1(e)(iii) or (e)(iv).

"*Fair Market Value*" means the value of any specified interest or property, which shall not in any event be less than zero, that would be obtained in an arm's length transaction for cash between an informed and willing buyer and an informed and willing seller, neither of whom is

under any compulsion to purchase or sell, respectively, and without regard to the particular circumstances of the buyer or seller.

"*Financing*" means debt incurred, debt securities issued, or obligations incurred, by the Company, if any, the proceeds of which are used by the Company for the financing, refinancing or hedging of all or a portion of costs and expenses of the Business, including the construction, financing, owning and operating of the Project.

"*Financing Documents*" means the financing agreement, promissory note(s), deed of trust, security agreement, and all other documents evidencing or securing any Financing and loans made in connection therewith or entered into in connection therewith.

"*Foreclosure Disposition*" has the meaning set forth in Section 9.1(e).

"*Foreclosure Transferee*" has the meaning set forth in Section 9.1(e).

"*Foreclosure Transferor*" has the meaning set forth in Section 9.1(e).

"*Formation Date*" has the meaning given that term in the recitals of this Agreement.

"*Fully Contributing Member*" has the meaning set forth in Section 5.3.

"*Fully Subscribed Non-Disposing Members*" has the meaning set forth in Section 9.2(c).

"*Future Project*" means a Future Project Opportunity that is approved by Supermajority Approval.

"*Future Project Opportunity*" means any opportunity for a New Project.

"*GAAP*" means accounting principles generally accepted in the United States which are applicable to publicly-traded companies, consistently applied.

"*Gisser*" means Yaron Gisser, an individual resident in the State of Texas.

"*Governmental Authority*" means any domestic or foreign, national, state, parish, county, local or tribal government, or any subdivision, agency, branch, bureau, board, commission, legislature, court, tribunal, arbitrator, official or other instrumentality or authority thereof, or any governmental, quasi-governmental or non-governmental body exercising or entitled to exercise any similar powers of authority thereunder including regulatory, administrative, executive, judicial, legislative, police or taxing authority.

"*Hypothetical Value*" means, in respect of a Member's Membership Interests, the amount that would have been distributed with respect to such Member's Membership Interest being Disposed of pursuant to a Drag Sale, if the Company's assets and liabilities had been sold for the Drag Consideration and, immediately following the consummation of such hypothetical sale, the Company distributed the proceeds in accordance with Section 6.5.

"*Inclusion Right*" has the meaning set forth in Section 9.3(c).

"*Increased Distributions*" has the meaning set forth in Section 4.3(c)(ii)(A).

"*Indemnitee*" has the meaning set forth in Section 7.11(c)(i).

"*Independent Accountants*" means KPMG LLP, or if such firm is unable or unwilling to serve, such other independent accounting firm as is appointed by the Board.

"*Initial Capital Contribution*" means a Member's Capital Contributions as described in Section 4.3(c) and Section 5.1 and set forth on Exhibit A attached hereto as of the Effective Date.

"*Interest*" has the same meaning as Membership Interest.

"*Interested Party*" means any Member or its Affiliates, any of their respective officers or directors, or any Manager or officer of the Company (other than in such Manager or officer's capacity as such).

"*Interested Party Transaction*" means any transaction or agreement (or proposed transaction or agreement), any guaranty or the purchase, sale, lease or exchange of property (tangible or intangible), or the rendering of any service, involving the Company, on the one hand, and any Interested Party, on the other hand, including any exercise or waiver of rights of the Company under this Agreement with respect to an action taken or to be taken by a Member hereunder.

"*IRS*" means the Internal Revenue Service or any successor agency succeeding to substantially all of the authority of the Internal Revenue Service.

"*Kinder Morgan*" means Kinder Morgan Battleground Oil LLC.

"*Kinder Morgan Member*" means Kinder Morgan as a Member hereunder or any of its Affiliates that becomes a Member and is designated by the then current Kinder Morgan Member as the "Kinder Morgan Member" (it being understood and agreed, however, that there shall only be one Kinder Morgan Member at any given time).

[**]

"*Law*" means any statute, law, rule or regulation, or any judgment, order, ordinance, writ, injunction or decree of any Governmental Authority to which a specified Person or asset is subject, whether such Law now exists or hereafter comes into effect.

"*Lending Members*" has the meaning set forth in Section 5.3(b)(ii)(A).

"*Liquidating Event*" has the meaning set forth in Section 10.1.

"*Liquidating Trustee*" has the meaning set forth in Section 10.2(a).

"*LLC Budget*" means the budget for ordinary course matters of the Company as determined by the Board.

"*Loss*" has the meaning set forth in the definition of Profit and Loss.

"*Majority Approval*", means (i) when used with respect to the Board, approval by one or more Managers entitled to vote and appointed to the Board by one or more Member(s) holding, in the aggregate, more than fifty percent (50%) of the Class A Units then outstanding, (ii) when used with respect to the Class A Members, or a specified group of the Class A Members, approval by one or more Class A Member(s) holding, in the aggregate, more than fifty percent (50%) of the Class A Units then outstanding held by all Class A Members, or all Class A Members in such specified group, as applicable, (iii) when used with respect to the Class B Members, or a specified group of the Class B Members, approval by one or more Class B Member(s) holding, in the aggregate, more than fifty percent (50%) of the Class B Units then outstanding held by all Class B Members, or all Class B Members in such specified group, as applicable and (iv) when otherwise used with respect to the Members, or a specified group of Members, approval by one or more Member(s) holding, in the aggregate, more than fifty percent (50%) of the Class A Units then outstanding held by all Members, or all Members in such specified group, as applicable.

"*Make-whole Amount*" has the meaning set forth in Section 9.1(b).

"*Manager*" means any individual appointed to the Board as provided in Section 7.1(b), but only for so long as each such Person remains a member of the Board in accordance with this Agreement.

"*Mandatory Capital Call*" means any Design and Development Capital Call, Mandatory Phase I Capital Call, Mandatory New Project Capital Call, or Other Capital Call pursuant to clauses (i) or (ii) of Section 5.2(d).

"*Mandatory New Project Capital Call*" has the meaning set forth in Section 5.2(c).

"*Mandatory Phase I Capital Call*" has the meaning set forth in Section 5.2(b)(iii).

"*McDonald*" means John L. McDonald, an individual resident in the State of Texas.

"*Member*" means each of the Persons that are parties to this Agreement, and any other Person that hereafter becomes a Member in accordance with Article IX, but only for so long as each such Person remains a Member of the Company in accordance with this Agreement and the Act.

"*Member Nonrecourse Debt*" shall have the meaning set forth for "partner nonrecourse debt" in Treasury Regulations Section 1.704-2(b)(4).

"*Member Nonrecourse Deductions*" means any and all items of loss, deduction or expenditure (described in Section 705(a)(2)(B) of the Code) that, in accordance with the principles of Treasury Regulations Section 1.704-2(i)(2), are attributable to Member Nonrecourse Debt.

"*Membership Interest*" means all of the ownership interests and rights of a Member in the Company, as represented by their Units, as applicable, including, to the extent applicable, such Member's (a) right to a distributive share of the Profits and Losses (and items thereof) of the Company, (b) right to a distributive share of the assets of the Company, (c) rights to allocations, information and to consent or approve, and (d) right to participate in the management of the affairs of the Company as provided herein. References in this Agreement to Membership Interests shall be construed to mean "limited liability company interests" within the meaning of the Act.

"*Merger*" has the meaning set forth in the Recitals.

"*Minimum Gain Attributable to Member Nonrecourse Debt*" means the Company Minimum Gain attributable to Member Nonrecourse Debt as determined under the rules of Treasury Regulations Section 1.704-2(i).

"*Moody's*" means Moody's Investors Services, Inc. or its successors.

"*New Membership Interests*" has the meaning set forth in Section 5.10(a).

"*New Membership Interests Notice*" has the meaning set forth in Section 5.10(b).

"*New Project*" means any additional capital improvements or new projects on the Property in addition to the Phase I development.

"*New Project Capital Call*" has the meaning set forth in Section 5.2(c).

"*New Project Notice*" has the meaning set forth in Section 5.2(c).

"*Non-Company Business Opportunity*" has the meaning set forth in Section 7.10(c).

"*Non-Disposing Members*" has the meaning set forth in Section 9.2(a).

"*Non-Fully Contributing Member*" has the meaning set forth in Section 5.3.

"*Non-Subscribing Member*" has the meaning set forth in Section 5.10(d).

"*Nonrecourse Deductions*" means any and all items of loss, deduction or expenditures (described in Section 705(a)(2)(B) of the Code) that, in accordance with the principles of Treasury Regulations Section 1.704-2(b)(1), are attributable to a Nonrecourse Liability.

"*Nonrecourse Liability*" shall have the meaning set forth in Treasury Regulations Section 1.704-2(b)(3).

"*Offered Membership Interests*" has the meaning set forth in Section 9.2(a).

"*Offering Notice*" has the meaning set forth in Section 9.2(a).

"*Optional Capital Call*" means any Optional Phase I Capital Call, Optional New Project Capital Call, or Other Capital Call pursuant to Section 5.2(d)(iii).

"*Optional Curing Payments*" has the meaning set forth in Section 5.4.

"*Optional Default Interest Rate*" means a rate per annum equal to the lesser of (a) three percent (3%) plus a varying rate per annum that is equal to the Prime Rate, with adjustments in that varying rate to be made on the same date as any changes in that rate, and (b) the maximum rate permitted by applicable law, in each case accruing daily and compounding on a quarterly basis.

"*Optional Deficiency*" has the meaning set forth in Section 5.4.

"*Optional Deficiency Notice*" has the meaning set forth in Section 5.4.

"*Optional Fully Contributing Member*" has the meaning set forth in Section 5.4.

"*Optional Lending Members*" has the meaning set forth in Section 5.4(a).

"*Optional New Project Capital Call*" has the meaning set forth in Section 5.2(c).

"*Optional Non-Fully Contributing Member*" has the meaning set forth in Section 5.4.

"*Optional Phase I Capital Call*" has the meaning set forth in Section 5.2(b).

"*Original Agreement*" has the meaning set forth in the Recitals.

"*Other Capital Call*" has the meaning set forth in Section 5.2(d).

"*Other Class A Member Redemption Date*" has the meaning set forth in Section 5.11(b).

"*Other Class A Members*" has the meaning set forth in Section 5.2(b).

"*Permits*" means any licenses, permits, certificates of authority, authorizations, approvals, registrations, franchises and similar consents granted by a Governmental Authority.

"*Permitted Bundled Transaction*" means a Disposition pursuant to a single transaction or series of related transactions involving the direct or indirect (including pursuant to a direct or indirect chain of ownership or Control of one or more Persons) transfer, assignment, sale, gift, pledge, hypothecation, mortgage, encumbrance or other disposition of equity interests, or all or substantially all of the assets, of a Member or any Person directly or indirectly (including pursuant to a direct or indirect chain of ownership or Control of one or more Persons) owning or Controlling all or any portion of such Member, where: (a) any one or more of the following apply: (i) the Membership Interests being Disposed of constitute less than fifty percent (50%) of the total value of the assets (including equity interests) being so transferred, assigned, sold, gifted, pledged, hypothecated, mortgaged, encumbered or otherwise disposed of; (ii) with respect to any Member that is, or is directly or indirectly (including pursuant to a direct or indirect chain of ownership or Control of one or more Persons) owned or Controlled in whole or in part by, an investment fund or similar vehicle, only equity interests in such investment fund or similar vehicle that do not have the right to vote with respect to, or otherwise Control, the Day-to-Day management activities of such investment fund or similar vehicle are being transferred, assigned,

sold, gifted, pledged, hypothecated, mortgaged, encumbered or disposed of; (iii) only equity interests that are either listed on a national securities exchange or publicly traded in the over-the-counter market or issued by a Person other than the Company whose equity securities are registered under the Securities Act of 1933, are being transferred, assigned, sold, gifted, pledged, hypothecated, mortgaged, encumbered or disposed of; or (iv) with respect to any Member that is, or is directly or indirectly (including pursuant to a direct or indirect chain of ownership or Control of one or more Persons) owned or Controlled in whole or in part by, a master limited partnership, only general partnership equity interests, or equity interests in the general partner or any Person directly or indirectly (including pursuant to a direct or indirect chain of ownership or Control of one or more Persons) owning or Controlling in whole or in part such general partner, are being transferred, assigned, sold, gifted, pledged, hypothecated, mortgaged, encumbered or disposed of; and (b) the transaction or series of related transactions are done with a valid business purpose other than the purpose or intent of circumventing the restrictions on Dispositions in this Agreement.

"*Permitted Disposition*" has the meaning set forth in Section 9.1(e).

"*Permitted Pledge Disposition*" has the meaning set forth in Section 9.1(e)(ii).

"*Person*" means any natural person, corporation, partnership (general, limited, limited liability or otherwise), limited liability company, firm, association, trust or any other entity, whether acting in an individual, fiduciary or other capacity, or any Governmental Authority.

"*Phase I*" means the build out of the Project pursuant to and as further described in the Construction Management Agreement.

"*Phase I Capital Call*" has the meaning set forth in Section 5.2(b).

"*Phase I Commencement Date*" has the meaning set forth in Section 5.2(b).

"*Phase I Election Period*" has the meaning set forth in Section 5.2(b).

"*Phase I Members*" has the meaning set forth in Section 5.2(b).

"*Phase I Notice*" has the meaning set forth in Section 5.2(b).

"*Preemptive Rights*" has the meaning set forth in Section 5.10(a).

"*Prime Rate*" means a varying rate per annum that is equal to the interest rate publicly quoted by the Bank or such other financial institution which is the Company's primary lender from time to time as its prime commercial or similar reference interest rate, with adjustments in that varying rate to be made on the same date as any change in that rate is so published; if the Company has no such lender, references herein to the interest rate quoted by the Bank shall mean the New York bank prime rate as reported in the "Money Rates" section of *The Wall Street Journal — Southwest Edition* from time to time.

"*Principal Member Offeree*" has the meaning set forth in Section 5.12.

"*Principal Member Offeror*" has the meaning set forth in Section 5.12.

"*Principal Member Phase I Initiator*" has the meaning set forth in Section 5.2(b).

"*Principal Member Phase I Respondent*" has the meaning set forth in Section 5.2(b).

"*Principal Member Redemption Date*" has the meaning set forth in Section 5.11(a).

"*Principal Members*" means each of the TransMontaigne Member and the Kinder Morgan Member; provided, however, for so long as any such Member and its Affiliates collectively hold less than **[**]** of the Class A Units then outstanding, such Member shall not be considered a Principal Member.

"*Priority Capital Contributions*" has the meaning set forth in Section 5.3(b)(iii).

"*Priority Interest*" has the meaning set forth in Section 5.3(b)(iii)(A).

"*Priority Member*" has the meaning set forth in Section 5.3(b)(iii)(A).

"*Proceeding*" means any action, suit, arbitration, alternate dispute resolution mechanism, investigation, administrative hearing and any other Proceeding (including any appeals from any of the foregoing) whether civil, criminal, administrative or investigative.

"*Profit*" and "*Loss*" mean, for each taxable period, an amount equal to the Company's taxable income or loss for such taxable period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profit and Loss pursuant to this definition will increase the amount of such income and/or decrease the amount of such loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profit or Loss pursuant to this definition will decrease the amount of such income and/or increase the amount of such loss;

(c) In the event the Agreed Value of any Company asset is adjusted pursuant to subparagraphs (b) or (d) of the definition of "Agreed Value," the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Profit or Loss;

(d) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Agreed Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Agreed Value;

(e) In lieu of the Depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period, computed in accordance with the definition of "*Depreciation*";

(f) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or 743(b) is required pursuant to Treasury Regulations Sections 1.704-1(b)(2)(iv)(m)(2) or 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member's Membership Interest in the Company, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Profit and Loss; and

(g) Notwithstanding any other provision of this definition of "*Profit*" and "*Loss*," any items which are specially allocated pursuant to Section 6.2 hereof shall not be taken into account in computing Profit or Loss. The amounts of the items of the Company income, gain, loss, or deduction available to be specially allocated pursuant to Sections 6.2 hereof shall be determined by applying rules analogous to those set forth in subparagraphs (a) through (f) above.

"*Project*" means the tankage, dock and related ancillary facilities located on the Property meeting either (i) the scope and parameters contemplated by the Design Basis or (ii) such other scope and parameters as may otherwise be approved by Supermajority Approval.

"*Property*" means that certain property on the Houston Ship Channel as set forth in the Purchase and Sale Agreement, dated as of August 11, 2010, by and between NRG Texas Power LLC and Battleground Texas (as amended by the First Amendment dated October 22, 2010 and by the Second Amendment dated October 29, 2010).

"*Pro Rata*" means proportionately among the Members in a specified group of Members (including, if not otherwise specified, a group consisting of all of the Members), determined for each such Member based upon (i) in the case of Class A Members, the number of Class A Units held by such Class A Member relative to the number of Class A Units then outstanding held by all Class A Members in such specified group, (ii) in the case of Class B Members, the number of Class B Units held by such Class B Member relative to the number of Class B Units then outstanding held by all Class B Members in such specified group or (iii) in the case of Members generally, the Equity Percentage Interest of such Member relative to the Equity Percentage Interests then outstanding of all Members in such specified group.

"*Purchase Date*" has the meaning set forth in Section 5.11(e).

"*Purchase Option Units*" has the meaning set forth in Section 5.11(e).

"*Purchase Right Offering Notice*" has the meaning set forth in Section 5.11(e).

"*Purchase Right Qualifying Offer*" has the meaning set forth in Section 5.11(e).

"*Purchase Right ROFO Acceptance*" has the meaning set forth in Section 5.11(e).

"*Purchase Right ROFO Price*" has the meaning set forth in Section 5.11(e).

"*Purchase Right Transferee*" has the meaning set forth in Section 5.11(e).

"*Qualifying Income*" means any item or items of gross income that are described in Code Section 7704(d).

"*Qualifying Offer*" has the meaning set forth in Section 9.2(a).

"*Recapture Income*" means any gain recognized by the Company (computed without regard to any adjustment required by Code Sections 734 or 743) upon the disposition of any property or asset of the Company, which gain is characterized as ordinary income or gain specified in Section 1(h)(6) of the Code because it represents the recapture of deductions previously taken with respect to such property or asset.

"*Redemption Election Period*" has the meaning set forth in Section 5.2(b)(i).

"*Reduced Distributions*" has the meaning set forth in Section 4.3(c)(ii)(A).

"*Rejected Business Opportunity*" has the meaning set forth in Section 7.10(c).

"*Remaining New Membership Interests*" has the meaning set forth in Section 5.10(d).

"*Remaining Offered Membership Interests*" has the meaning set forth in Section 9.2(c).

"*Required Seller*" has the meaning set forth in Section 9.4(a).

"*ROFO Acceptance*" has the meaning set forth in Section 9.2(b).

"*ROFO Period*" has the meaning set forth in Section 9.2(e).

"*ROFO Price*" has the meaning set forth in Section 9.2(a).

"*Rules*" has the meaning set forth in Section 11.1(c)(i).

"*S&P*" means the Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.) or its successor.

"*Sale Period*" has the meaning set forth in Section 9.2(b).

"*Second ROFO Acceptance*" has the meaning set forth in Section 9.2(c).

"*Second Sale Period*" has the meaning set forth in Section 9.2(c).

"Secondary Phase I Election Period" has the meaning set forth in Section 5.2(b)(ii).

"*Securities Act*" has the meaning set forth in the legend appearing at the top of this Agreement.

"*708 Termination*" has the meaning set forth in Section 9.1(b).

"*Short Term Cash Requirements*" means the Company's current and anticipated needs, as of any calendar quarter, to provide for the proper conduct of the business of the Company for the subsequent calendar quarter, including reasonable reserves for working capital, repair and maintenance expenditures, operating expenditures, debt service, expenditures for compliance with Law, any Permit or any agreement or obligation to which the Company is a party or its assets are subject, and for other obligations and reasonable contingencies, in each case, as determined by Supermajority Approval; provided, that if the Supermajority Approval does not set an amount of Short Term Cash Requirements with respect to any calendar quarter, the Short Term Cash Requirements for such quarter shall be equal to zero.

"*Special Allocations*" has the meaning set forth in Section 6.2(h).

"*Subscribing Member*" has the meaning set forth in Section 5.10(d).

"*Substituted Member*" means any Person who acquires Membership Interests from a Member and is admitted to the Company as a Member pursuant to the provisions of Sections 5.11(e) or 9.5, as applicable.

"*Supermajority Approval*" means approval by one or more Managers entitled to vote and appointed to the Board by one or more Member(s) holding, in the aggregate, at least sixty percent (60%) of the Class A Units then outstanding; and including in every case each Manager appointed by the Principal Members, to the extent each such Manager is entitled to vote on the applicable matter; provided, however, that if a Manager appointed by a Principal Member is not entitled to vote pursuant to Sections 5.3(e) or 9.1(e), then solely for purposes of determining Supermajority Approval, the voting power represented by the Class A Equity Percentage Interest of the Member appointing such non-voting Manager shall be deemed to be held by any Principal Members with Managers that are entitled to vote, allocated on a Pro Rata basis among such Members.

"*Tag-Along Transaction*" has the meaning set forth in Section 9.3(a).

"*Tag Notice*" has the meaning set forth in Section 9.3(b).

"*Tag Offeree*" has the meaning set forth in Section 9.3(a).

"*Tag Offeror*" has the meaning set forth in Section 9.3(a).

"*Tag Transferee*" has the meaning set forth in Section 9.3(a).

"*Tax*" or "*Taxes*" means any United States federal, state or local income tax, ad valorem tax, excise tax, sales tax, use tax, franchise tax, margin tax, real or personal property tax, transfer tax, gross receipts tax or other tax assessment, fee, levy or other governmental charge, together with and including any and all interest, fines, penalties, assessments and additions to the Tax resulting from, relating to, or incurred in connection with any of the foregoing or any contest or dispute thereof.

"*Tax Matters Partner*" has the meaning set forth in Section 6.10.

"*Third Party*" means any Person other than (i) the Company and (ii) each Member and their respective Affiliates.

"*Transferee*" means a Person who receives all or part of a Member's Membership Interest through a Disposition in accordance with this Agreement, including pursuant to Section 9.1(e)(ii); provided that a Person who holds or has an interest in such Membership Interests solely as collateral security pursuant to a Permitted Pledge Disposition shall not be considered a Transferee for the purposes of this Agreement but a Person who receives such Membership Interests through a Foreclosure Disposition shall be considered a Transferee (but only to the extent provided in Section 9.1(e)).

"*TransMontaigne*" means TransMontaigne Operating Company L.P., a Delaware limited partnership.

"*TransMontaigne Member*" means TransMontaigne as a Member hereunder or any of its Affiliates that becomes a Member and is designated by the then current TransMontaigne Member as the "TransMontaigne Member" (it being understood and agreed, however, that there shall only be one TransMontaigne Member at any given time).

"*TransMontaigne Purchase Right*" has the meaning set forth in Section 5.11(e).

"*TransMontaigne Purchase Right Option-holder*" has the meaning set forth in Section 5.11(e).

"*TransMontaigne Purchase Right Period*" has the meaning set forth in Section 5.11(e).

"*Treasury Regulations*" means the income tax Treasury Regulations promulgated under the Code, as may be amended from time to time (including corresponding provisions of successor regulations).

"*Triggering Event*" means any one of the following:

(a) any Taxable year in which less than ninety-four percent (94%) of the Company's gross income is determined to be Qualifying Income, as determined at the end of such Taxable year; and

(b) any change in Tax Law pursuant to which the ownership alone of a Membership Interest could result in the allocation of gross income to a Member that is reasonably unlikely to constitute Qualifying Income.

"*Units*" means the Class A Units and the Class B Units, as well as units in any additional classes of Membership Interests issued by the Company from time to time in accordance with the provisions of this Agreement.

"*Unreturned Additional Capital*" means the Members' aggregate Additional Capital Contributions less the aggregate distributions made to the Members pursuant to Sections

6.5(d)(i) or 10.2(c) (without double counting in any respect). Where the term "*Unreturned Additional Capital*" is used with respect to a particular Capital Call, it refers to the Additional Capital Contributions made in respect of such Capital Call less the distributions made in respect of such Capital Call.

"*Unreturned Initial Capital*" means the Members' aggregate Initial Capital Contributions less the aggregate distributions made to the Members pursuant to Sections 6.5(d)(ii) or 10.2(c) (without double counting in any respect).

"*Withdrawing Member*" means any Withdrawing Other Class A Member or Withdrawing Principal Member.

"*Withdrawing Other Class A Member*" has the meaning set forth in Section 5.2(b).

"*Withdrawing Principal Member*" has the meaning set forth in Section 5.2(b).

1.2 Rules of Construction. In construing this Agreement:

(a) no consideration shall be given to the captions of the articles, sections, subsections, or clauses, which are inserted for convenience in locating the provisions of this Agreement and not as an aid in its construction;

(b) no consideration shall be given to the fact or presumption that one party had a greater or lesser hand in drafting this Agreement;

(c) examples shall not be construed to limit, expressly or by implication, the matter they illustrate;

(d) the use herein of the word "include" or "including," when following any general statement, term or matter, will not be construed to limit such statement, term or matter to the specific items or matters set forth following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather will be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter;

(e) a defined term has its defined meaning throughout this Agreement, and each exhibit, attachment, and schedule to this Agreement, regardless of whether it appears before or after the place where it is defined;

(f) the plural shall be deemed to include the singular, and vice versa, and derivative forms of defined terms will have correlative meanings to the terms defined;

(g) each gender shall be deemed to include the other genders;

(h) all references to prices, values or monetary amounts refer to United States dollars, unless expressly provided otherwise;

(i) all references to articles, sections, paragraphs, clauses, exhibits, attachments or schedules refer to articles, sections, paragraphs and clauses of this Agreement, and to exhibits, attachments or schedules attached to this Agreement, unless expressly provided otherwise;

(j) each exhibit, attachment, and schedule to this Agreement is a part of this Agreement, but if there is any conflict or inconsistency between the main body of this Agreement and any exhibit, attachment or schedule, the provisions of the main body of this Agreement shall prevail;

(k) the words "this Agreement," "herein," "hereof," "hereby," "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular subdivision, unless expressly so limited, but do not refer to documents attached hereto as exhibits and schedules or referred to therein unless expressly so stated;

(l) the word "or" may not be mutually exclusive, and can be construed to mean "and" where the context requires there to be a multiple rather than an alternative obligation;

(m) reference to a given agreement, instrument, exhibit or schedule constitutes a reference to that agreement, instrument, exhibit or schedule as, and as may be, from time to time, modified, amended, supplemented and restated;

(n) except as expressly provided herein, all accounting determinations will be made in accordance with GAAP;

(o) where any provision in this Agreement refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision will be applicable whether such action is taken directly or indirectly by such Person, including actions taken by or on behalf of any Affiliate of such Person, and without duplication of any rights or obligations under this Agreement, any Member may exercise any rights or fulfill any obligations on behalf of (and in lieu of) any other Member that is an Affiliate of such Member; and

(p) references to any Person include successors of such Person and transferees of such Person which acquire such Person's Membership Interests as permitted in and in accordance with this Agreement.

ARTICLE II.
ORGANIZATIONAL MATTERS

2.1 Formation. The Company was formed as a limited liability company under and pursuant to the provisions of the Act by the filing of the Certificate of Formation in accordance with the Act on the Formation Date. The rights and liabilities of all Members shall be as provided under the Act, the Certificate of Formation and this Agreement.

2.2 Name. The name of the Company is Battleground Oil Specialty Terminal Company LLC and all Company business must be conducted in that name or such other names that comply with applicable Law as the Board may select from time to time with notice to the

Members. The Members hereby agree to execute an appropriate assumed name certificate or certificates if required by the applicable Law of any state, and to file such certificate, and all amendments that may be necessitated from time to time, in the appropriate filing locations.

2.3 Principal Place of Business. The principal place of business of the Company is located at 1670 Broadway, Suite 3100, Denver, Colorado 80202. The Company may locate its place of business, other or additional offices and the Company's registered office at any other place or places, and may seek qualification of the Company to conduct business in such other jurisdictions, as the Board may from time to time deem advisable with notice to the Members.

2.4 Registered Office and Registered Agent. The registered office and registered agent of the Company in the State of Delaware shall be as set forth in the Certificate of Formation. From time to time, the Board may change the Company's registered office and/or registered agent in the State of Delaware as provided in the Act with notice to the Members.

2.5 Foreign Qualification. Prior to the Company's conducting business in any jurisdiction other than Delaware, the Company shall comply, to the extent procedures are available and those matters are reasonably within the control of the Company, with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Company, each Member shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

2.6 Term. The term of the Company commenced on the date of the filing of the Certificate of Formation with the Delaware Secretary of State, and shall continue until the Company is dissolved and wound up in accordance with this Agreement and the Act and a Certificate of Cancellation is filed with the Delaware Secretary of State in accordance with Section 10.3.

2.7 General.

(a) The rights and liabilities of the Members shall be as provided herein, except as otherwise required by applicable Law.

(b) A Member's Membership Interest in the Company shall be personal property for all purposes. All real and other property owned or leased by the Company shall be deemed owned or leased by the Company as an entity. Title to all real or other property owned or leased by the Company shall be held in the name of the Company and no Member, individually, shall have any ownership of or other interest in any such property.

(c) This Agreement completely amends, restates and supersedes the Original Agreement as of the Effective Date.

2.8 Tax Status. The Members intend that the Company shall be treated as a partnership for federal and state income tax purposes, rather than an association taxable as a corporation, and neither the Members nor the Company shall make any election pursuant to

Treasury Regulation Section 301.7701-3(c) or any similar state statute, regulation, rule or policy to be treated as an entity other than a partnership for federal or state income tax purposes.

2.9 No Partnership Intended for Nontax Purposes. The Members have formed the Company under the Act, and expressly do not intend hereby to form a partnership under the Laws of the State of Delaware or any other jurisdiction. By executing this Agreement, the Members do not intend to be partners as to one another, or partners as to any Third Party, for any purpose other than federal, state, local or foreign tax purposes. To the extent any Member, by word or action, represents to another person that any other Member is a partner or that the Company is a partnership, the Member making such wrongful representation shall be liable to any other Member who incurs personal liability by reason of such wrongful representation.

ARTICLE III.
PURPOSE OF THE COMPANY

3.1 Purposes of the Company. The purpose for which the Company is organized is to engage, directly or indirectly, in (a) the Project, including the acquisition, development, design, siting, construction, financing, installation, placing in service, ownership, leasing, use, operation and maintenance of, the marketing of storage-related services in connection with, and the sale or other disposition of, the Project, (b) other Approved Projects, if any, (c) with respect to the Project and any other Approved Projects, in any business activities that relate to the business of storing petroleum products, or activities now or hereafter customarily conducted in conjunction with storing petroleum products and (d) the generation of Qualifying Income and the maximization of Distributable Cash (collectively, the "*Business*"), and to engage in any other directly-related business activities that now or hereafter may be necessary, incidental, proper, advisable, or convenient to accomplish the Business and that is not forbidden by the Law of the jurisdiction in which the Company engages in that business; provided that, notwithstanding anything to the contrary herein, it is not within the Company's Business to engage in, and the Company shall not engage in, any activity unless the Board determines in good faith by Supermajority Approval and such determination is made following reasonable consultation with counsel, that such activity would be reasonably likely to lead to the generation of gross income of which at least ninety-four percent (94%) constitutes Qualifying Income.

3.2 General Powers. The Company shall have the power to enter into all transactions necessary or incidental to accomplish or implement the Business or purposes of the Company, in its own name or in the name of, or by or through, one or more agents, nominees or trustees, including, without limitation, the incurring of indebtedness and the granting of liens and security interests in assets of the Company to secure the payment of such indebtedness, together with such other powers as may be authorized by this Agreement or permitted under the Act and which are necessary, incidental or customary in connection with the Business of the Company.

ARTICLE IV.
MEMBERS; MEMBERSHIP INTERESTS

4.1 Names and Addresses of Members. In connection with the amendment and restatement of the Original Agreement by this Agreement, and the consummation of the transactions contemplated by the Contribution Agreement, TransMontaigne's membership

interests in the Company under the Original Agreement are hereby reclassified in their entirety, as of the Effective Date, as Class A Units. As of the Effective Date, the Persons listed on Exhibit A are the sole Members of the Company. Each of the Persons listed on Exhibit A holds that number of and class of Membership Interests as set forth on Exhibit A next to such Person's name. The officers and directors of the Company shall revise Exhibit A from time to time to properly reflect any changes to the information set forth therein, including to reflect the admission or withdrawal of Members in accordance with this Agreement. The rights and obligations of the Members shall be as provided in the Act, except as may be expressly provided otherwise in this Agreement.

4.2 Additional or Substituted Members.

(a) No Person shall be admitted to the Company as a Member other than in accordance with Article IX.

(b) Unless admitted to the Company as a Member as provided in this Agreement, no Person (including an assignee of rights with respect to Membership Interests or a transferee of Membership Interests, whether voluntary, by operation of Law or otherwise) shall be, or shall be considered, a Member. The Company may elect to deal only with Persons validly admitted as Members (including their duly authorized representatives). Any distribution by the Company to the Person shown on the Company's records as a Member or to its legal representatives shall relieve the Company of any and all liability to any Person who may have an interest in such distribution.

4.3 Membership Interests.

(a) Class A and Class B Units.

(i) There shall initially be two classes of Membership Interests of the Company, the "*Class A Units*" and the "*Class B Units*". The Class A Units shall have the rights, obligations, restrictions, limitations and preferences described in this Agreement where specific reference is made to the Class A Units and to the Class A Members. The Class B Units shall have the rights, obligations, restrictions, limitations and preferences described in this Agreement where specific reference is made to the Class B Units and to the Class B Members.

(ii) Class A Units have been issued by the Company upon the Effective Date and additional Class A Units, and Class B Units, may be issued at such additional times and from time to time as provided in this Agreement. Subject to the terms of this Agreement, the Board acting by Supermajority Approval may create additional series or classes of Membership Interests, including through subdivision or by issuance of Units of such class or series. Except as otherwise expressly required by the Act or expressly required by this Agreement, Class B Units are not entitled to vote on any matter for vote, consent or other action by the Members.

(b) Class A Units. On the Effective Date, the Class A Members are contributing to the Company an aggregate amount equal to their respective Initial Capital Contributions and, in exchange for such contributions, the Company is issuing to such Members their respective Class A Units.

(c) Class B Units. The Class B Units are to be issued in consideration of services rendered by the holders for the benefit of Battleground Texas, the predecessor-in-interest to the Company. The Class B Units are intended to constitute "profits interests" as that term is used in Revenue Procedures 93-27 and 2001-43 or, to the extent Revenue Procedures 93-27 and 2001-43 are superseded by the proposed regulations under IRS Notice 2005-43, then to the extent such regulations are applicable, if at all, to such Class B Units. The Capital Accounts of the Class B Members in respect of the Class B Units as of the date of their issuance shall have a balance of zero. Within thirty (30) Days following the receipt of any Class B Unit, each Class B Member will file with the Internal Revenue Service an election authorized by Section 83(b) of the Code with respect to such Class B Unit and will deliver to the Company a copy of such election promptly after its filing.

(i) If the aggregate equity investments and debt financing (including all Capital Contributions and Financing) obtained by the Company and all liabilities incurred by the Company to fund its capital assets exceed **[**]** (the amount in excess of **[**]** being referred to as an "*Excess Capital Investment*"), then the Class B Units will not have any interest in the Excess Capital Investment distributions pursuant to Section 6.5 with respect to such Excess Capital Investment or participate in any income, gain, loss, deductions, credits or other economic benefits resulting from such Excess Capital Investments. In the event of an Excess Capital Investment, then the Board shall make reasonable determinations and allocations to achieve the economic results contemplated

by this Section 4.3(c)(i), including appropriate adjustments to the Class B Equity Percentage Interests relative to the other Members' respective Equity Percentage Interests.

(ii) If either McDonald or Gisser is a Construction Manager (each, a "*Class B Construction Manager*") and:

(A) The construction costs for Phase I (excluding scope changes approved hereunder) exceed the Construction Budget by more than **[**]** (such excess, the "*Excess Amount*"), then the distributions that would otherwise be made to such Class B Construction Manager pursuant to Section 6.5 will be reduced by fifty percent (50%) ("*Reduced Distributions*") and the Class A Members' aggregate distributions will be increased ("*Increased Distributions*") by an equal amount until such time as the aggregate amount of the Reduced Distributions equals a percentage of the Excess Amount equal to the Class B Construction Manager's Equity Percentage Interest immediately prior to the Reduced Distributions. At such time as the aggregate amount of the Reduced Distributions equal a percentage of the Excess Amount equal to the Class B Construction Manager's Equity Percentage Interest immediately prior to the Reduced Distributions, the Reduced Distributions and Increased Distributions shall cease.

(B) If the aggregate construction costs needed to fund the completion of Phase I (excluding scope changes approved hereunder) are less than the Construction Budget, then the Class B Construction Manager(s) will collectively be paid an aggregate one-time bonus in the form of a guaranteed payment equal to **[**]** of the amount by which such construction costs were below the Construction Budget (excluding scope changes approved by the Board).

(C) If an event of force majeure occurs during the construction of Phase I resulting in aggregate construction costs needed to fund the completion of Phase I equaling or exceeding the Construction Budget, then all costs directly or indirectly associated with the force majeure event and its consequences to the Construction Budget shall be excluded from the calculations set forth in Sections 4.3(c)(ii)(A) and 4.3(c)(ii)(B). "Force majeure" event shall mean any act of God; act of the public enemy; terrorist act; war; landslide; lightning; earthquake; fire; storm; hurricane; flood; explosion; destruction of or damage to any of the facilities involved in the Project from any involuntary cause which is not reasonably within the control of the Company; or any other cause of any kind or character which is not reasonably within the control of either of the Class B Construction Managers and not caused by or attributable to the negligence, gross negligence or willful misconduct, regardless of whether by act or omission, of either of the Class B Construction Managers or either of their respective employees, agents, contractors or other representatives.

(iii) If the Company elects to sell the Property and not pursue the development of the Project:

(A) The Class B Units shall not entitle the holders thereof any interest whatsoever in the Company or the proceeds of such sale of the Property or any right to participate in any economic benefits or losses resulting from such sale of the Property, and no income, gain, loss or deduction shall be allocated to the Class B Units and no distributions resulting from such sale of the Property shall be made with respect to the Class B Units pursuant to Section 6.5; and

(B) Contemporaneous with, or following, the sale of the Property, the Company shall then have an irrevocable right, exercisable at any time upon notice by the Company to the Class B Members, to redeem all (but not less than all) of the Class B Units then outstanding, free and clear of all liens, for aggregate consideration of $1 and upon any such notice the Class B Units then outstanding shall be deemed to have ceased to be outstanding as Units, and shall represent only the right to receive a Pro Rata share of such $1 consideration.

(iv) For the avoidance of doubt, except as may otherwise be approved by Supermajority Approval and otherwise subject to the terms and conditions of this Agreement, no additional Class B Units shall be issued or issuable by the Company hereunder.

4.4 Credit Support Obligation.

(a) If the Company is required to provide Credit Support and the Board determines that the Company is unable to provide such Credit Support on commercially reasonable terms, each Class A Member shall provide or cause the provision of the Credit Support Pro Rata, which such Credit Support shall be furnished to the beneficiaries thereof on a several and not joint basis; provided, that without the prior written consent of each Class A Member, the Class A Members shall not be required to provide Credit Support contemplated by this Section 4.4 or otherwise in an aggregate amount outstanding at any given time in excess of **[**]** among all such Class A Members. For the avoidance of doubt, the Credit Support obligations herein are not applicable to Credit Support requirements that may be applicable to any Construction Manager in such capacity.

(b) It is the intention of the Class A Members that any Credit Support required in accordance with Section 4.4(a) shall only be provided, borne and drawn Pro Rata by the beneficiaries of such Credit Support and, if not provided, borne and drawn Pro Rata, then each Class A Member that provides Credit Support, or suffers a draw against its Credit Support, in excess of its Pro Rata share (in such capacity, a "*Disproportionately Supporting Member*") shall be indemnified and held harmless, on a several but not joint basis, by each other Class A Member, and each such other Class A Member shall make payments to such Disproportionately Supporting Member, in each case, as necessary to cause each Class A Member to bear the amount that would have been borne and/or drawn if the provision and/or draw of Credit Support

was on a Pro Rata basis across all Class A Members. Unless and until each Class A Member required to provide Credit Support in accordance with this Section 4.4 is providing and bearing such Credit Support on a Pro Rata basis, any Disproportionately Supporting Members shall have the rights of Fully Contributing Members vis a vis the other Class A Members with respect to the Credit Support provided and borne by such Disproportionately Supporting Members in excess of what such Disproportionately Supporting Members would have borne and drawn on a Pro Rata basis, with such excess being treated for these purposes as a Deficiency, such Credit Support being treated as a Mandatory Capital Call and the Class A Members other than the Disproportionately Supporting Members being treated as Non-Fully Contributing Members, and the provisions of Section 5.3 shall apply *mutatis mutandis* with respect thereto; provided, that no Disproportionately Supporting Member may exercise the aforementioned rights against any Class A Member before the thirtieth (30th) Day following the receipt by the Company and each Class A Member that is not a Disproportionately Supporting Member of written notice from such Disproportionately Supporting Member notifying the Company and such Class A Member(s) that the applicable Credit Support and/or draw is not on a Pro Rata basis across all Class A Members (and setting forth in reasonable detail the disproportionate amount borne by the Disproportionately Supporting Member and the circumstances relating thereto), and then only to the extent that such Class A Member does not provide Credit Support or make payments to such Disproportionately Supporting Member as necessary to cause such Class A Member to bear the amount that would have been borne by such Class A Member if the Credit Support was provided and/or drawn on a Pro Rata basis across all Class A Members; provided, further, that notwithstanding the foregoing, in no event shall this Section 4.4 require any Class A Member to compensate, indemnify or otherwise make payments to any other Class A Member (and no Class A Member may exercise remedies) for any incremental cost or expense incurred by such Class A Member in providing its Pro Rata portion of any Credit Support, or in connection with any draw thereon, relative to the cost or expense incurred by other Class A Members in connection with the provision by such other Class A Members of their respective Pro Rata portions of Credit Support or any draw thereon; provided, further, that, except as provided in Sections 9.1(e)(i), 9.1(e)(ii) and 9.1(e)(iv), in the event a Withdrawing Member withdraws in circumstances where there is no Transferee of such Withdrawing Member, such Withdrawing Member will no longer be obligated to provide Credit Support pursuant to this Section 4.4, and the Company will take all reasonable actions to relieve such Withdrawing Member of such Credit Support obligations and the Members other than the Withdrawing Member shall provide Credit Support pursuant to this Section 4.4 sufficient to replace the Credit Support theretofore provided by the Withdrawing Member, which such Credit Support shall be provided by such Members on a Pro Rata basis across such Members.

ARTICLE V.
CONTRIBUTIONS; CAPITAL ACCOUNTS

5.1 Initial Capital Contributions and Capital Structure.

(a) Initial Capital Contributions. Capital Contributions shall be comprised of Initial Capital Contributions and Additional Capital Contributions. The Initial Capital Contributions of the Members as of the Effective Date are agreed to be valued at the amounts as set forth on Exhibit A (as may be adjusted from time to time in accordance with this Agreement, provided that a failure to reflect any such adjustment on Exhibit A shall not prevent the

adjustment from being effective). Additional Capital Contributions shall be comprised of contributions pursuant to Design and Development Capital Calls, contributions pursuant to Phase I Capital Calls, contributions pursuant to New Project Capital Calls and contributions pursuant to Other Capital Calls. Except as may otherwise be approved by Supermajority Approval, no Phase I Capital Call may be made by the Company unless the Board acting pursuant to Majority Approval (and subject to Sections 5.1(b) and 7.7) determines in good faith that Financing in lieu thereof is unavailable on commercially reasonable terms; provided that, for purposes of this Section 5.1(a), Financing shall not be on "commercially reasonable terms" if such Financing requires Supermajority Approval pursuant to Section 7.7(a)(xxvii). All Additional Capital Contributions shall be made in cash except as otherwise approved by Supermajority Approval. The Capital Contributions of the Class A Members may be used for any valid Company purpose. The Capital Account balances of each Member as of the Effective Date are agreed to be amounts equal to each Member's respective Initial Capital Contributions.

(b) Capital Structure. The Company may not, other than upon Supermajority Approval, issue or incur indebtedness that causes its ratio of indebtedness to total capitalization to exceed fifty percent (50%) at any time. For purposes of this paragraph, "total capitalization" shall mean the sum of the total indebtedness of the Company plus the total amount of Capital Contributions made on or prior to the date of calculation.

5.2 Additional Capital Contributions.

(a) Design and Development Capital Calls. Each of the Class A Members hereby commits to contribute the required capital to fund its Pro Rata portion of all Design and Development Capital Calls in accordance with this Section 5.2(a). At any time that a Principal Member, or the Board prior to the occurrence of any Bankruptcy Event, reasonably determines in good faith that the Company requires capital to fund (but unless otherwise agreed by Supermajority Approval, not to exceed, together with any then previously made Capital Calls) the amounts set forth in the Design and Development Budget for the purposes set forth therein or the completion of the actions necessary to satisfy the Conditions, such Principal Member or the Board may, on behalf of the Company, call for such capital by written notice ("*Design and Development Capital Call*") to each of the Class A Members, and each Class A Member shall have the right and obligation to make an Additional Capital Contribution in an amount equal to its Pro Rata portion of the Design and Development Capital Call in accordance with the Design and Development Capital Call. Each Design and Development Capital Call shall state (i) the aggregate amount of the additional capital called for, (ii) the payment date (which may not be less than ten (10) Business Days after the delivery of the Design and Development Capital Call), (iii) the purposes for which the additional capital will be utilized in reasonable detail (including a reference to the applicable item(s) in the Design and Development Budget against which such capital will be applied), (iv) the actual expenditures incurred through the date of such Design and Development Capital Call (v) a detailed explanation for any variance from the Design and Development Budget and (vi) the Applicable Price per Unit. All Design and Development Capital Calls are mandatory.

(b) Design and Development Completion Date; Commencement of Phase I; Member Withdrawal.

(i) From and after the earlier of (1) the date each of the Conditions have been satisfied or have been waived in writing by each of the Principal Members or (2) regardless of whether the Conditions have been satisfied or waived, the date on which the Kinder Morgan Member has determined to participate in Phase I of the Project, provided the date referred to in this clause (2) shall not be prior to December 31, 2011 (such date, the "*Design and Development Completion Date*"), either Principal Member with respect to clause (1) and the Kinder Morgan Member with respect to clause (2) (the "*Principal Member Phase I Initiator*") may give notice to the other Principal Member (the "*Principal Member Phase I Respondent*") detailing either the satisfaction (or waiver, as applicable) of the Conditions or the determination of the Kinder Morgan Member to participate in Phase I of the Project, as applicable (the "*Phase I Notice*"), and the Principal Member Phase I Initiator's irrevocable election to participate in Phase I of the Project so long as the Principal Member Phase I Respondent participates. The Principal Member Phase I Respondent shall have twenty-one (21) Days from the date of the Phase I Notice (the "*Phase I Election Period*") to elect not to participate in Phase I by providing written notice to the Principal Member Phase I Initiator of such election. If the Principal Member Phase I Respondent so elects not to participate in the funding of Phase I (the "*Withdrawing Principal Member*"), the Principal Member Phase I Initiator shall have the right (but not the obligation), exercisable by delivery of written notice to the Withdrawing Principal Member and the Company no later than fourteen (14) Days following the expiration of the Phase I Election Period ("*Redemption Election Period*"), to cause the Company to redeem the Withdrawing Principal Member's Class A Units, and in connection therewith, at the option of the Principal Member Phase I Initiator (exercisable in the Principal Member Phase I Initiator's sole discretion in any such written election notice), any other Class A Members' Class A Units in accordance with Section 5.11(a). If the Principal Member Phase I Initiator does not so elect to cause the Company to redeem the Withdrawing Principal Member's Class A Units in accordance with Section 5.11(a), the Company shall be dissolved and its affairs wound up in accordance with Section 10.1(f) unless the Principal Members otherwise mutually agree in writing within thirty (30) Days following the expiration of the Redemption Election Period.

(ii) If the Principal Member Phase I Respondent does not make an election not to participate in Phase I prior to the expiration of the Phase I Election Period or earlier provides notice of its election to participate in Phase I, the Principal Member Phase I Respondent shall be deemed to have irrevocably elected to participate in Phase I, and the Company shall provide notice thereof to any Class A Members who are not Principal Members ("*Other Class A Members*"). Each Other Class A Member shall have twenty-one (21) Days following such notice (the "*Secondary Phase I Election Period*") to elect not to participate in funding of Phase I by providing written notice to the Company of such election. The Class A Units of any such Other Class A Member(s) who so elect(s) not to participate in the funding of Phase I (each, a "*Withdrawing Other Class A Member*") shall be redeemed by the Company in accordance with Section 5.11(b).

(iii) Subject to Section 5.1, and the other provisions of this Section 5.2(b), if the Company is not to be wound up in accordance with Section 5.2(b)(i) and Section 10.1(f), then at any time following the expiration of the Secondary Phase I Election Period (or if there is no Secondary Phase I Election Period, then following the expiration of the Phase I Election Period) (the "*Phase I Commencement Date*"), if a Principal Member, or the Board prior to the occurrence of any Bankruptcy Event, reasonably determines in good faith that the Company requires capital to construct and develop the Project in accordance with the Design Basis, and such capital is required to fund (but unless otherwise agreed by Supermajority Approval, not to exceed, together with any then previously made Capital Calls and Financings) the amounts set forth in the Construction Budget for the purposes set forth in the Construction Budget, such Principal Member, or the Board prior to the occurrence of any Bankruptcy Event, may, on behalf of the Company, call for such capital by written notice (each such call, a "*Phase I Capital Call*") to each of the Class A Members participating in the funding of Phase I (each, a "*Phase I Member*") setting forth the aggregate amount of capital required and each Phase I Member's Pro Rata portion thereof. If the aggregate amount of capital requested in any Phase I Capital Call, together with all amounts then previously called pursuant to Initial Capital Calls, Design and Development Capital Calls, Phase I Capital Calls and Other Capital Calls made and Financing incurred in connection with the Project, is in an aggregate amount equal to or less than **[**]** (each such Phase I Capital Call, a "*Mandatory Phase I Capital Call*"), each Phase I Member shall have the right and obligation to make an Additional Capital Contribution in an amount equal to its Pro Rata portion of the amount required by the Mandatory Phase I Capital Call in accordance with the Mandatory Phase I Capital Call. The Phase I Members shall have the right in accordance with the applicable Phase I Capital Call, but (subject to Section 5.4) shall have no obligation, to make any Additional Capital Contribution with respect to any portion of such Phase I Capital Call that, together with all amounts then previously called pursuant to Initial Capital Calls, Design and Development and Capital Calls, Phase I Capital Calls and Other Capital Calls made and Financings incurred in connection with the Project, is for an aggregate amount in excess of **[**]** (each such Phase I Capital Call, an "*Optional Phase I Capital Call*"). Each Phase I Capital Call shall state (A) the aggregate amount of the additional capital called for, (B) the payment date (which may not be less than ten (10) Business Days after the delivery of the Phase I Capital Call), (C) the purposes for which the additional capital will be utilized in reasonable detail, (D) the actual expenditures incurred through the date of such Phase I Capital Call, (E) a detailed explanation for any material variance from the Construction Budget and (F) the Applicable Price per Unit. All Mandatory Phase I Capital Calls are mandatory for Phase I Members, but each Phase I Member shall have the right, but not obligation, exercisable in its sole discretion, to fund its Pro Rata portion of any Optional Phase I Capital Call in accordance with Section 5.4.

(c) New Project Capital Calls. In addition to Phase I Capital Calls and subject to Section 5.1, upon Supermajority Approval the Company may call for additional capital necessary to fund any New Projects (each such call, a "*New Project Capital Call*") by written notice (a "*New Project Notice*") to each of the Class A Members setting forth the aggregate amount of capital required and each Class A Member's Pro Rata portion thereof. If the aggregate amount of capital requested in the New Project Capital Call relating to a New Project,

together with all amounts previously called pursuant to New Project Capital Calls relating to such New Project, is in an aggregate amount equal to or less than **[**]** (each such New Project Capital Call, a "*Mandatory New Project Capital Call*"), then each Class A Member shall have the right and obligation to make an Additional Capital Contribution in an amount equal to its Pro Rata portion of the amount required by the applicable Mandatory New Project Capital Call in accordance with the Mandatory New Project Capital Call. The Class A Members shall have the right in accordance with the applicable New Project Capital Call, but (subject to Section 5.4) shall have no obligation, to make an Additional Capital Contribution with respect to any portion of such New Project Capital Call relating to a New Project that, together with all amounts previously called pursuant to New Project Capital Calls relating to such New Project, is for an aggregate amount in excess of **[**]** (each such New Project Capital Call, an "*Optional New Project Capital Call*"). Each New Project Capital Call shall state (i) the aggregate amount of the additional capital called for, (ii) the payment date (which may not be less than ten (10) Business Days after the delivery of the New Project Capital Call), (iii) the purposes for which the additional capital will be utilized in reasonable detail, (iv) the actual expenditures incurred through the date of such New Project Capital Call, (v) a detailed explanation for any material variance from the applicable LLC Budget and (vi) the Applicable Price per Unit. All Mandatory New Project Capital Calls are mandatory, but each Class A Member shall have the right, but not obligation, exercisable in its sole discretion, to fund its Pro Rata portion of any Optional New Project Capital Call in accordance with Section 5.4.

(d) Other Capital Calls. Subject to Section 5.1, at any time prior to the occurrence of any Bankruptcy Event that (i) the Board determines by Supermajority Approval to call for any Capital Contributions from the Class A Members, other than those set forth in Sections 5.2(a)-(c), as needed for the Company to operate in the ordinary course and meet and satisfy its short term liabilities, (ii) the Board or a Principal Member determines to call capital based on a reasonable determination made in good faith that the Company requires capital to fund (but not to exceed, together with any then previously made Other Capital Calls with respect thereto) the amounts set forth in the then current LLC Budget for the purposes set forth in such LLC Budget, or (iii) the Board expressly determines by Supermajority Approval to otherwise call for any Capital Contributions of the Class A Members (any such capital call described in the foregoing clauses (i) through (iii), an "*Other Capital Call*"), the Company shall make such Other Capital Call, and each Class A Member shall have the right and, except for any Other Capital Call pursuant to Section 5.2(d)(iii), obligation to make an Additional Capital Contribution in an amount equal to its Pro Rata portion of the Other Capital Call in accordance with the Other Capital Call. Each Other Capital Call shall state (v) the aggregate amount of the additional capital called for, (w) the payment date (which may not be less than ten (10) Business Days after the delivery of the Other Capital Call), (x) the purposes for which the additional capital will be utilized in reasonable detail (including a reference to the applicable funding in the LLC Budget against which such capital will be applied), (y) a detailed explanation for any material variance from the applicable LLC Budget and (z) the Applicable Price per Unit. Any Other Capital Call described in this Section 5.2(d)(iii) is an Optional Capital Call. All other Other Capital Calls are Mandatory Capital Calls.

(e) Additional Class A Units. The Company shall issue Class A Units at the Applicable Price per Unit to each Member making a Capital Contribution to the Company in accordance with this Section 5.2 in exchange for such Capital Contribution.

5.3 Remedies for Non-payment of Mandatory Capital Calls. If a Class A Member required to make an Additional Capital Contribution in respect of a Mandatory Capital Call fails to make an Additional Capital Contribution in an amount equal to its Pro Rata portion of such Mandatory Capital Call (a "*Non-Fully Contributing Member*"), and if such failure continues for more than three (3) Days after the date on which such Additional Capital Contribution is due, then any Class A Member or Manager may notify the other Class A Members (the "*Deficiency Notice*") of the amount of the Non-Fully Contributing Member's unpaid portion (the "*Deficiency*"), and the other Class A Members who have fully paid their respective Pro Rata portions of the Mandatory Capital Call ("*Fully Contributing Members*") may exercise any one or more of the following rights or remedies, acting collectively as a group as determined by a Majority Approval of the Fully Contributing Members:

(a) Litigation. Upon Majority Approval of the Fully Contributing Members, any one or more of the Fully Contributing Members may cause the Company to take (and is authorized to act on behalf and in the name of the Company in that regard) such action (including the filing of a lawsuit) and to exercise any other rights and remedies available at Law or in equity as deemed appropriate to obtain payment by the Non-Fully Contributing Member of its Deficiency, together with interest thereon at the Default Interest Rate from the date that such contribution was due, at the sole cost and expense of the Non-Fully Contributing Member.

(b) Curing of Deficiency. In addition to the pursuit of litigation under Section 5.3(a) (but without duplication of any remedies awarded thereunder in cure of any Deficiency), the Fully Contributing Members shall have the right to elect one of the following remedies. Only one such remedy may be chosen by the Fully Contributing Members in addition to the pursuit of litigation under Section 5.3(a) to cure a Deficiency and such remedy must be selected by Majority Approval of the Fully Contributing Members from among the alternatives of dilution in accordance with Section 5.3(b)(i), loans in accordance with Section 5.3(b)(ii) and special distribution rights in accordance with Section 5.3(b)(iii). The amounts paid by any Fully Contributing Member under such Sections 5.3(b)(i), (ii) or (iii) shall be referred to as "*Curing Payments*."

(i) Dilution. Permit the Fully Contributing Members to make Additional Capital Contributions Pro Rata (or in such other portions as they may unanimously agree) up to the amount of the Deficiency by giving written notice to the Company and the other Class A Members within ten (10) Business Days after the Deficiency Notice, specifying the amount that such Fully Contributing Member agrees to contribute. If, after the ten

(10) Day period, the Fully Contributing Members have not agreed to make Curing Payments, in the aggregate, equal to the full amount of the Deficiency, the Company shall notify the Fully Contributing Members of the remaining Deficiency and the Fully Contributing Members, whether or not they previously agreed to make Additional Capital Contributions with respect to such Deficiency, will have the right, but not the obligation, to make further Additional Capital Contributions Pro Rata (or in such other portions as they may unanimously agree) up to the amount of the remaining Deficiency by giving written notice to the Company and the other Class A Members within an additional five (5) Business Days after such notice from the notifying Fully Contributing Members, specifying the additional amount that the Fully Contributing Member agrees to contribute. If, after such five (5) Business Day period, the Fully Contributing Members

have not agreed to make Curing Payments, in the aggregate, equal to the full amount of the remaining Deficiency, the Company shall notify the Fully Contributing Members of the remaining Deficiency and the Fully Contributing Members that have agreed to pay their Pro Rata amount of the Deficiency shall have the right to cure the remaining Deficiency using any remedy set forth in Section 5.3(b)(ii) or Section 5.3(b)(iii) with respect to such remaining Deficiency, as determined by Majority Approval of such Fully Contributing Members. Upon payment of any Additional Capital Contributions under this Section 5.3(b)(i), the Company shall issue to each Fully Contributing Member a number of Class A Units (net of and without duplication for any Class A Units previously issued to such Fully Contributing Member in respect of such Additional Capital Contributions) equal to the quotient of (A) the total Additional Capital Contributions made by such Fully Contributing Member with respect to the applicable Capital Call (including any Additional Capital Contributions made pursuant to this Section 5.3(b)(i)) divided by (B) the Applicable Price per Unit.

(ii) Loan. Permit the Fully Contributing Members to elect to make advances to the Company Pro Rata (or in such other portions as they may unanimously agree) in the amount of the Deficiency by giving written notice to the Company and the other Class A Members within ten (10) Business Days after the Deficiency Notice. Loans made under this Section 5.3(b)(ii) shall be treated as follows:

(A) the amounts thus advanced shall be deemed to be loans from the Fully Contributing Members making such advances (“*Lending Members*”) to the Non-Fully Contributing Member; provided, that the Lending Members’ recourse with respect to such loans shall be limited to the distributions as set forth in Section 5.3(b)(ii)(D) below and shall otherwise be non-recourse to the Non-Fully Contributing Member;

(B) the principal balance of such loans and all accrued unpaid interest thereon shall be due and payable ten (10) Days after written demand given any time after one (1) year from the date of the advance by the Lending Members (acting by Majority Approval of the Lending Members); provided, that the Non-Fully Contributing Member may elect to pay any such loans in full by providing written notice of such intention to the Lending Members at any time prior to such Non-Fully Contributing Member’s receipt of written notice from the Lending Members or the Company that the Lending Members have elected to exercise their rights pursuant to Section 5.3(b)(ii)(E) and by, within ten (10) Business Days following delivery of such written notice to the Lending Members of an election to repay such loans in full, paying in cash by wire transfer of immediately available funds an amount to each Lending Member equal to such Lending Member’s Pro Rata portion (relative to the other Lending Members) of the unpaid principal balance of and accrued unpaid interest on such loan;

(C) the loans shall bear interest at the Default Interest Rate from the date that the loan was made until the date that such loan, together with all interest accrued thereon, is repaid to the Lending Members;

(D) all distributions from the Company that would otherwise be made to the Non-Fully Contributing Member (whether before or after dissolution of the Company) shall, instead, be paid to the Lending Members until the loans (including all interest accrued and unpaid thereon) have been repaid in full to the Lending Members (with all such payments being applied first to interest earned and unpaid and then to principal) and any such payment to the Lending Members shall be deemed for all purposes as if the cash had first been distributed to the Non-Fully Contributing Member who then paid such cash to the Lending Member as a payment on the loan;

(E) initially, a loan by any Lending Member to a Non-Fully Contributing Member as contemplated by this Section 5.3(b)(ii) shall not be considered a Capital Contribution by the Lending Member and shall not increase the Capital Account balance or Equity Percentage Interest of the Lending Member; provided that, in the event the principal and interest of any such loan have not been repaid in full following a demand therefor in accordance with Section 5.3(b)(ii)(B), the Lending Members (acting by Majority Approval of the Lending Members) may at any time following the expiration of the ten (10) Day period specified in Section 5.3(b)(ii)(B), with thirty (30) Days advance written notice to the Company and the other Class A Members, elect to have the Company issue to each Fully Contributing Member in respect of the Capital Call giving rise to the loan a number of Class A Units (net of and without duplication for any Class A Units previously issued to such Fully Contributing Member in respect of the Additional Capital Contributions made pursuant to such Capital Call) equal to the quotient of (1) the sum of (x) the total Additional Capital Contributions made by such Fully Contributing Member with respect to the applicable Capital Call plus (y) to the extent such Fully Contributing Member is a Lending Member, such Lending Member’s Pro Rata portion (relative to the other Lending Members) of the unpaid principal balance and accrued unpaid interest on such loan divided by (2) the Applicable Price per Unit for such Fully Contributing Member; provided, that upon any such election and issuance pursuant to this Section 5.3(b)(ii)(E), such loan (including all accrued interest thereon) shall be deemed to be paid, satisfied and discharged in full without any further liability or obligation on the part of the Non-Fully Contributing Members; and

(F) subject to the last proviso of Section 5.3(b)(ii)(E), the Lending Member(s) may, in addition to the other rights and remedies granted pursuant to this Agreement or available at Law or in equity, take any action (including court Proceedings) that such Lending Member may deem appropriate to obtain payment when due by the Non-Fully Contributing Member of the loan and all accrued and unpaid interest thereon, at the cost and expense of the Non-Fully Contributing Member.

(iii) Priority Interest. Permit the Fully Contributing Members to make Additional Capital Contributions Pro Rata (or in such other portions as they may unanimously agree) in the amount of the Deficiency (“*Priority Capital Contributions*”) and to treat such Priority Capital Contributions as a contribution on behalf of the Non-Fully Contributing Member, with the following result:

(A) Each such Fully Contributing Member (in this capacity, each a "*Priority Member*") shall receive a priority interest in the distributions from the Company that would otherwise be due and payable to such Non-Fully Contributing Member(s) in the amount of three hundred percent (300%) of its Priority Capital Contribution (the "*Priority Interest*"). All distributions from the Company that would otherwise be due and payable to the Non-Fully Contributing Members instead shall be paid to the Priority Members in accordance with their respective Priority Interests, and no distribution shall be made from the Company to any Non-Fully Contributing Member until all Priority Interests have been satisfied and paid in full. The Priority Interest shall terminate with respect to a Priority Member when that Priority Member has received, through the distributions it receives in respect of its Priority Interest an amount equal to three hundred percent (300%) of the contribution made by the Priority Member in respect of such Non-Fully Contributing Member's Deficiency.

(B) For purposes of maintaining Capital Accounts in the event that the remedy of this Section 5.3(b)(iii) is elected:

(1) The contribution made by the Priority Member in respect of such Non-Fully Contributing Member's Deficiency shall increase the Non-Fully Contributing Member's Capital Account; and

(2) The Priority Interest in distributions is to be paid to the Priority Member. To the extent that the distribution provisions of Section 6.5(d) or Section 10.2 require that all distributions be made to the holders of Membership Interests Pro Rata, then any amount which would be distributable to the Non-Fully Contributing Member (x) shall be deemed to have been first distributed to the Non-Fully Contributing Member and (y) then the amount of the distribution in excess of the Priority Capital Contributions shall be deemed to have been re-contributed by such Non-Fully Contributing Member, followed by distribution to the Priority Member in respect of its Priority Interest;

(C) Although allocations and distributions will reflect the Priority Interest as described in Sections 6.2(i) and 6.5(d), the Priority Interests shall not otherwise alter the Equity Percentage Interests of the Class A Members in the Company, nor shall the Priority Interests alter any distributions to the Fully Contributing Members (in their capacity as Fully Contributing Members, as opposed to their capacity as Priority Members) in accordance with their respective Membership Interests. Notwithstanding any provision in this Agreement to the contrary, a Class A Member may not Dispose of its Priority Interest except to a person to whom it Disposes all or the applicable Pro Rata portion of its Membership Interest after compliance with the requirements of this Agreement in connection therewith; and

(D) No Class A Member that is a Non-Fully Contributing Member may Dispose of its Membership Interest unless at the closing of such Disposition, after receiving the unanimous consent of the Priority Members to do so, either the Non-Fully Contributing Member or the proposed transferee pays to Priority Members the amount necessary to terminate the Priority Interest arising from such Non-Fully Contributing Member's failure to contribute in accordance with Section 5.3(b)(iii)(A); no Transferee of a Non-Fully Contributing Member shall be admitted to the Company as a Substituted Member until compliance with this Section 5.3(b)(iii)(D) has occurred.

(c) Adjustment of Exhibit A. Upon the adjustment of the Membership Interests and issuance of Class A Units in the manner set forth in Sections 5.2(e), 5.3(b)(i), 5.3(b)(ii)(E), 5.4(a)(v) or 5.4(b), Exhibit A shall be deemed to be amended to reflect such adjustment.

(d) Further Assurances. In connection with this Section 5.3, each Class A Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Section 5.3.

(e) Voting Rights. Notwithstanding anything to the contrary in this Agreement, unless required by applicable Law or agreed otherwise by Majority Approval of the Board exclusive of any Managers designated by a Non-Fully Contributing Member and its Affiliates, during the pendency of a default on an obligation to make a Capital Contribution in respect of a Mandatory Capital Call, until such Non-Fully Contributing Member has been irrevocably diluted pursuant to Section 5.3(b)(i), the advances have been fully repaid with interest or converted to equity pursuant to Section 5.3(b)(ii) or the Priority Interests have been paid in full pursuant to Section 5.3(b)(iii), neither any Non-Fully Contributing Member (or any Affiliate of such Non-Fully Contributing Member) nor any Manager appointed by a Non-Fully Contributing Member (or an Affiliate of such Class A Member) shall be entitled to vote on, consent to, call for or approve any matters under this Agreement or in its capacity as a Class A Member, Principal Member or Manager (as applicable), nor be included in determining whether there is a Majority Approval of the Board or Supermajority Approval.

5.4 Remedies for Non-payment of Optional Capital Calls. If a Class A Member fails to make an Additional Capital Contribution in an amount equal to its Pro Rata portion of such Optional Capital Call (an "*Optional Non-Fully Contributing Member*"), and if such failure continues for more than three (3) Days after the date on which such Additional Capital Contribution is due, then any Class A Member or Manager may notify the other Class A Members (the "*Optional Deficiency Notice*") of the amount of the Optional Non-Fully Contributing Member's unpaid portion (the "*Optional Deficiency*"), and the other Class A Members who have fully paid their respective Pro Rata portions of the Optional Capital Call ("*Optional Fully Contributing Members*") may exercise any one or more of the following rights or remedies pursuant to Section 5.4(a) or 5.4(b), acting collectively as a group as determined by a Majority Approval of the Optional Fully Contributing Members (with the amounts paid by any Optional Fully Contributing Member under such Sections 5.4(a) or 5.4(b) referred to as "*Optional Curing Payments*"):

(a) Loan: Permit the Optional Fully Contributing Members to elect to make advances to the Company Pro Rata (or in such other portions as they may unanimously agree) in the amount of the Optional Deficiency by giving written notice to the Company and the other Class A Members within ten (10) Business Days after the Optional Deficiency Notice. Loans made under this Section 5.4(a) shall be treated as follows:

(i) the amounts thus advanced shall be deemed to be non-recourse loans from the Optional Fully Contributing Members making such advances ("*Optional Lending Members*") to the Optional Non-Fully Contributing Member;

(ii) the Optional Non-Fully Contributing Member may elect to pay any such loans in full by providing written notice of such intention to the Optional Lending Members at any time prior to such Optional Non-Fully Contributing Member's receipt of written notice from the Optional Lending Members or the Company that the Optional Lending Members have elected to exercise their rights pursuant to Section 5.4(a)(v) and by, within ten (10) Business Days following delivery of such written notice to the Optional Lending Members of an election to repay such loans in full, paying in cash by wire transfer of immediately available funds an amount to each Optional Lending Member equal to such Optional Lending Member's Pro Rata portion (relative to the other Optional Lending Members) of the unpaid principal balance of and accrued unpaid interest on such loan;

(iii) the loans shall bear interest at the Optional Default Interest Rate from the date that the loan was made until the date that such loan, together with all interest accrued thereon, is repaid to the Optional Lending Members;

(iv) all distributions from the Company that would otherwise be made to the Optional Non-Fully Contributing Member (whether before or after dissolution of the Company) shall, instead, be paid to the Optional Lending Members until the loans (including all interest accrued and unpaid thereon) have been repaid in full to the Optional Lending Members (with all such payments being applied first to interest earned and unpaid and then to principal) and any such payment to the Optional Lending Members shall be deemed for all purposes as if the cash had first been distributed to the Optional Non-Fully Contributing Member who then paid such cash to the Optional Lending Member as a payment on the loan;

(v) initially, a loan by any Optional Lending Member to an Optional Non-Fully Contributing Member as contemplated by this Section 5.4(a) shall not be considered a Capital Contribution by the Optional Lending Member and shall not increase the Capital Account balance or Equity Percentage Interest of the Optional Lending Member; provided that, in the event the principal and interest of any such loan have not been repaid in full within one (1) year from the date of the loan, the Optional Lending Members (acting by Majority Approval of the Optional Lending Members) may at any time with thirty (30) Days advance written notice to the Company and the other Class A Members, elect to have the Company issue to each Optional Fully Contributing Member in respect of the Capital Call giving rise to the loan a number of Class A Units (net of and without duplication for any Class A Units previously issued to such Optional

Fully Contributing Member in respect of the Additional Capital Contributions made pursuant to such Capital Call) equal to the quotient of (1) the sum of (x) the total Additional Capital Contributions made by such Optional Fully Contributing Member with respect to the applicable Capital Call plus (y) to the extent such Optional Fully Contributing Member is an Optional Lending Member, such Optional Lending Member's Pro Rata portion (relative to the other Optional Lending Members) of the unpaid principal balance and accrued unpaid interest on such loan divided by (2) the Applicable Price per Unit for such Optional Fully Contributing Member; provided, that upon any such election and issuance pursuant to this Section 5.4(a)(v), such loan (including all accrued interest thereon) shall be deemed to be paid, satisfied and discharged in full without any further liability or obligation on the part of the Optional Non-Fully Contributing Members; and

(vi) subject to the last proviso of Section 5.4(a)(v), the Optional Lending Member(s) may, in addition to the other rights and remedies granted pursuant to this Agreement or available at Law or in equity, take any action (including court Proceedings) that such Optional Lending Member may deem appropriate to obtain payment when due by the Optional Non-Fully Contributing Member of the loan and all accrued and unpaid interest thereon, at the cost and expense of the Optional Non-Fully Contributing Member.

(b) Dilution. Permit the Optional Fully Contributing Members to make Additional Capital Contributions Pro Rata (or in such other portions as they may agree) up to the amount of the Optional Deficiency by giving written notice to the Company and the other Class A Members within ten (10) Business Days after the Optional Deficiency Notice, specifying the amount that such Optional Fully Contributing Member agrees to contribute. If, after the ten (10) Day period, the Optional Fully Contributing Members have not agreed to make advances, in the aggregate, equal to the full amount of the Optional Deficiency, the Company shall notify the Optional Fully Contributing Members of the remaining Optional Deficiency and the Optional Fully Contributing Members, whether or not they previously agreed to make Additional Capital Contributions with respect to such Optional Deficiency, will have the right, but not the obligation, to make further Additional Capital Contributions Pro Rata (or in such other portions as they may unanimously agree) up to the amount of the remaining Optional Deficiency by giving written notice to the Company and the other Class A Members within an additional five (5) Business Days after such notice from the notifying Optional Fully Contributing Member, specifying the additional amount that the Optional Fully Contributing Member agrees to contribute. If, after such five (5) Business Day period, the Optional Fully Contributing Members have not agreed to make advances, in the aggregate, equal to the full amount of the remaining Deficiency, the Company shall notify the Optional Fully Contributing Members of the remaining Optional Deficiency and the Optional Fully Contributing Members that have agreed to pay their Pro Rata amount of the Optional Deficiency shall have the right to cure the remaining Optional Deficiency using either the remedy set forth in Section 5.4(a) or this Section 5.4(b), as determined by Majority Approval of such Optional Fully Contributing Members. Upon payment of any Additional Capital Contributions under this Section 5.4(b), the Company shall issue to each Optional Fully Contributing Member a number of Class A Units (net of and without duplication for any Class A Units previously issued to such Optional Fully Contributing Member in respect of such Additional Capital Contributions) equal to the quotient of (A) the total Additional Capital Contributions made by such Optional Fully Contributing Member with

respect to the applicable Capital Call (including any Additional Capital Contributions made pursuant to this Section 5.4(b)) divided by (B) the Applicable Price per Unit.

5.5 Required Capital Contributions. No Member shall have any obligation to make any Capital Contributions to the Company other than as expressly set forth herein. In particular, no Member shall have any obligation to restore (to the Company or to or for the benefit of any creditor of the Company) any deficit balance in its Capital Account at any time, whether on liquidation or otherwise, and such deficit balance shall not be considered a debt owed by such Member to the Company or to any other Person for any purpose whatsoever.

5.6 Interest. Except as expressly provided in Sections 5.3 and 5.4, no Member shall be entitled to be paid interest in respect of either its Capital Account or its Capital Contributions.

5.7 Return of Capital. No Member shall be entitled to have any Capital Contribution returned to it or to receive any distributions from the Company upon withdrawal or otherwise, except in accordance with the express provisions of this Agreement. No unrepaid Capital Contribution shall be deemed or considered to be a liability of the Company or any Member. No Member shall be required to contribute any cash or property to the Company to enable the Company to return any Member's Capital Contribution.

5.8 Loans. Except as expressly provided in Sections 5.3 and 5.4, no Member may make any loans to the Company (a) without Supermajority Approval and (b) without offering to the other Members the opportunity to make such loans Pro Rata. Subject to Sections 5.3(b)(ii)(E) and 5.4(a)(v), loans shall not be treated as a Capital Contribution.

5.9 Capital Accounts.

(a) A Capital Account shall be established and maintained for each Member in accordance with the following provisions:

(i) To each Member's Capital Account there shall be credited such Member's Capital Contributions, such Member's distributive share of Profits and any items in the nature of income or gain that are specially allocated pursuant to Section 6.2 and Section 6.3, the amount of any Company liabilities assumed by such Member or that are secured by any Company property distributed to such Member.

(ii) To each Member's Capital Account there shall be debited the amount of cash and the Agreed Value of any Company property distributed to such Member pursuant to any provision of this Agreement, such Member's distributive share of Losses and any items in the nature of expenses or losses that are specially allocated pursuant to Section 6.2 or Section 6.3, and the amount of any liabilities of such Member assumed by the Company or that are secured by any property contributed by such Member to the Company.

(iii) In the event all or a portion of a Membership Interest in the Company is transferred in accordance with the terms of this Agreement, the Transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Membership Interest.

(iv) In determining the amount of any liability for purposes of subparagraphs (i) and (ii), there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Treasury Regulations.

(b) This Section 5.9 and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Treasury Regulations. In the event the Board shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by contributed or distributed property or which are assumed by the Company or a Member), are computed in order to comply with the Treasury Regulations, the Board may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Member pursuant to Section 10.2(c) hereof upon the dissolution and liquidation of the Company. The Board may also make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Treasury Regulations Sections 1.704-1(b) and 1.704-2.

5.10 Preemptive Rights.

(a) Subject to and without limiting the provisions set forth in this Article V, the Company grants to each Class A Member, and each Class A Member shall have the right to purchase, in accordance with the procedures set forth herein, up to such Class A Member's Pro Rata portion of any Membership Interests which the Company may, pursuant to Supermajority Approval, from time to time after the Effective Date, propose to issue and sell ("*New Membership Interests*") (such rights held by the Class A Members are hereinafter collectively referred to as the "*Preemptive Rights*").

(b) In the event that the Company proposes, pursuant to Supermajority Approval, to issue or sell New Membership Interests, the Company shall notify each Class A Member in writing with respect to the proposed New Membership Interests to be issued or sold (the "*New Membership Interests Notice*"). Each New Membership Interests Notice shall set forth: (i) the number of New Membership Interests proposed to be issued or sold by the Company and their purchase price; (ii) such Class A Member's Pro Rata portion of New Membership Interests and (iii) any other material term, including any applicable regulatory requirements and, if known, the expected date of consummation of the issuance and sale of the New Membership Interests (which date, in any event shall be no earlier than forty-five (45) Days following the date of delivery of the New Membership Interests Notice).

(c) Each Class A Member shall be entitled to exercise its Preemptive Right to purchase such New Membership Interests by delivering an irrevocable written notice to the Company within thirty (30) Days from the date of receipt of any New Membership Interests Notice specifying the number of New Membership Interests to be subscribed, which in any event can be no greater than such Class A Member's Pro Rata portion of such New Membership Interests, at the price and on the terms and conditions specified in the New Membership Interests Notice.

(d) Each Class A Member exercising its right to purchase its entire Pro Rata portion of New Membership Interests being issued (each a "*Subscribing Member*") shall have a right of over-allotment such that if any other Class A Member fails to exercise its Preemptive Right to purchase its entire Pro Rata portion of New Membership Interests (each, a "*Non-Subscribing Member*," including any Class A Member that fails to exercise its right to purchase its entire Pro Rata share of the Remaining New Membership Interests, as described below), such Subscribing Member may purchase its Pro Rata share, based on the relative percentage ownership of the Membership Interests then outstanding then owned by the Subscribing Members, of those New Membership Interests in respect to which the Non-Subscribing Members have not exercised their Preemptive Right (the "*Remaining New Membership Interests*") by giving written notice to the Company within three (3) Business Days from the date that the Company provides written notice of the amount of New Membership Interests as to which such Non-Subscribing Members have failed to exercise their rights thereunder. The Company shall reoffer any Remaining New Membership Interests to the Class A Members in successive rounds (without regard to the time periods specified in the foregoing provisions) until such time as the Class A Members have collectively agreed to purchase all of the New Membership Interests being issued or all of the Class A Members are Non-Subscribing Members in the last round of offers.

(e) If the Class A Members do not elect within the applicable notice periods described above to exercise their Preemptive Rights with respect to any of the New Membership Interests proposed to be sold by the Company, the Company shall have ninety (90) Days after the expiration of all such notice periods to sell or to enter into an agreement to sell such unsubscribed New Membership Interests proposed to be sold by the Company, at a price and on terms no more favorable to the purchaser than those offered to the Class A Members pursuant to this Section 5.10.

(f) No Class A Member will be required to take up and pay for any New Membership Interests pursuant to the Preemptive Right unless all New Membership Interests (other than those to be taken up by the Class A Member) are sold, whether to the other Class A Members or pursuant to Section 5.10(e) above.

(g) A Class A Member may assign its rights to acquire New Membership Interests under this Section 5.10 to, and such rights may be exercised on behalf of such Class A Member by, any Affiliate of such Class A Member to whom such Class A Member would have been permitted to Dispose of such New Membership Interests immediately following such Class A Member's acquisition thereof pursuant to Article IX.

(h) Notwithstanding anything in this Section 5.10 to the contrary, the Class A Members shall not have Preemptive Rights pursuant to this Section 5.10 in the following circumstances:

(i) the issuance or sale of Membership Interests to employees, consultants or directors of the Company pursuant to any equity incentive plan, arrangement or agreement, to the extent approved by Supermajority Approval;

(ii) the issuance of Membership Interests as consideration for (A) any business combination or acquisition transaction involving the Company or (B) any joint venture or strategic partnership, in each case, to the extent approved by Supermajority Approval;

(iii) the issuance of Membership Interests, not in excess of five percent (5%) of the total amount of Membership Interests then outstanding, to lenders, bond purchasers or other financial institutions in exchange for convertible debt securities in connection with a *bona fide* debt financing transaction involving the Company approved by Supermajority Approval;

(iv) the issuance of Membership Interests in exchange for Capital Contributions pursuant to Section 5.2 or in connection with the exercise of rights or remedies pursuant to Section 5.3 or Section 5.4; or

(v) the issuance of Class A Units to any Approved Additional Initial Member in accordance with Section 9.1(f).

5.11 Redemption of Withdrawing Member; TransMontaigne Purchase Right.

(a) Upon the election of the Principal Member Phase I Initiator to cause the Company to redeem (the date of such election, the "*Principal Member Redemption Date*") the Withdrawing Principal Member's Membership Interests in accordance with Section 5.2(b) and, if applicable, upon the election of the Principal Member Offeror in accordance with Section 5.2(b), any Other Class A Members' Membership Interests (who, upon any such election, for purposes of this Section 5.11(a), shall also be deemed a Withdrawing Member) in accordance with Section 5.2(b), any Class A Units held by any such Withdrawing Member shall be redeemed, free and clear of all liens (and any such Withdrawing Member shall be withdrawn as a Member of the Company with respect thereto) upon the terms set forth in this Section 5.11(a). Upon the Principal Member Redemption Date, such Withdrawing Member's Membership Interests shall be automatically converted into the right to receive, and shall evidence solely the right to receive, in cash an amount equal to (x) all Capital Contributions made by such Withdrawing Member through the Principal Member Redemption Date, less (y) all distributions made by the Company to such Withdrawing Member in respect of its Membership Interest through the Principal Member Redemption Date (including, in the case of the TransMontaigne Member, the Redemption Amount, as defined in the Contribution Agreement, to the extent that the Redemption Amount is included within the Capital Contributions made by the TransMontaigne Member), less (z) to the extent such Withdrawing Member is a Non-Fully Contributing Member pursuant to a Design and Development Capital Call (1) the amount of any Curing Payments made pursuant to Section 5.3(b)(i) with respect to such Withdrawing Member's Deficiency relating to such Design and Development Capital Call, (2) the unpaid principal balance and accrued unpaid interest on any loan pursuant to Section 5.3(b)(ii) with respect to such Withdrawing Member's Deficiency relating to such Design and Development Capital Call and (3) the outstanding balance of any outstanding Priority Interest pursuant to Section 5.3(b)(iii) with respect to such Withdrawing Member's Deficiency relating to such Design and Development Capital Call.

(b) Except as otherwise set forth in Section 5.11(a) or as may otherwise be agreed by the Board (by Majority Approval, excluding all Managers appointed by any Withdrawing Member) and Majority Approval of any Withdrawing Other Class A Members, any Class A Units held by any Withdrawing Other Class A Members shall be redeemed, free and clear of all liens (and each such Withdrawing Member shall be withdrawn as a Member of the Company with respect thereto) upon the terms set forth in this Section 5.11(b). Immediately upon the expiration of the Secondary Phase I Election Period or the earlier elections of all Other Class A Members to become Withdrawing Other Class A Member (the date of such occurrence, the "*Other Class A Member Redemption Date*"), if there is any Withdrawing Other Class A Member, then all of such Withdrawing Other Class A Member's Membership Interests shall be automatically converted into the right to receive, and shall evidence solely the right to receive, in cash an amount equal to eighty percent (80%) of (x) all Capital Contributions made by such Withdrawing Other Class A Member through the Other Class A Member Redemption Date less (y) all distributions made by the Company to such Withdrawing Other Class A Member in respect of its Membership Interest through the Other Class A Member Redemption Date less (z) to the extent such Withdrawing Other Class A Member is a Non-Fully Contributing Member pursuant to a Design and Development Capital Call (1) the amount of any Curing Payments made pursuant to Section 5.3(b)(i) with respect to such Withdrawing Other Class A Member's Deficiency relating to such Design and Development Capital Call, (2) the unpaid principal balance and accrued unpaid interest on any loan pursuant to Section 5.3(b)(ii) with respect to such Withdrawing Other Class A Member's Deficiency relating to such Design and Development Capital Call and (3) the outstanding balance of any outstanding Priority Interest pursuant to Section 5.3(b)(iii) with respect to such Withdrawing Other Class A Member's Deficiency relating to such Design and Development Capital Call.

(c) All Membership Interests converted into the right to receive the consideration set forth in Section 5.11(a) or Section 5.11(b) shall, on the Principal Member Redemption Date or the Other Class A Member Redemption Date, as the case may be, cease to be outstanding, shall automatically be deemed cancelled and retired and the Withdrawing Member(s) formerly holding such Membership Interests shall thereafter cease to have any rights with respect to such Membership Interests, except the right to receive the consideration set forth in Section 5.11(a) or Section 5.11(b) in respect of such Membership Interests and, with respect to the TransMontaigne Member, the rights set forth in Section 5.11(e) and Section 12.9. The

Company shall be obligated to pay to each Withdrawing Member the cash amount as described in Section 5.11(a) or Section 5.11(b), as the case may be, within thirty (30) Business Days after the Principal Member Redemption Date or the Other Class A Member Redemption Date, as the case may be.

(d) Promptly following the later of (as applicable) any Principal Member Redemption Date and any Other Class A Member Redemption Date, the Company shall make a special distribution to any Phase I Member that is a Fully Contributing Member who has made Curing Payments pursuant to Section 5.3(b)(ii) or Section 5.3(b)(iii) with respect to any Design and Development Capital Call relating to a Deficiency by a Withdrawing Member, which distribution shall be in an amount equal to such Phase I Member's Pro Rata portion (relative to any other such Phase I Members described in this Section 5.11(d)) of: (A) the unpaid principal balance and accrued unpaid interest on any loan pursuant to Section 5.3(b)(ii) with respect to such Withdrawing Member's Deficiency relating to such Design and Development Capital Call to the extent of any reduction described in Sections 5.11(a)(y)(2) or 5.11(b)(y)(2) attributable to such Deficiency; provided, that such distribution will be applied to and reduce the outstanding balance of such loan and (B) the outstanding balance of any outstanding Priority Interest pursuant to Section 5.3(b)(iii) with respect to such Withdrawing Member's Deficiency relating to such Design and Development Capital Call to the extent of any reduction described in Sections 5.11(a)(y)(3) or 5.11(b)(y)(3) attributable to such Deficiency; provided, that such distribution will be applied to and reduce the outstanding balance of such Priority Interest.

(e) Notwithstanding anything in this Agreement to the contrary, if the TransMontaigne Member's Class A Units are redeemed pursuant to Section 5.11(a), then:

(i) For a period of one (1) year following the date of such redemption (such period and, if the TransMontaigne Purchase Right is exercised, such additional period through the Purchase Date, the "*TransMontaigne Purchase Right Period*"), such former TransMontaigne Member or any Purchase Right Transferee, as applicable (the "*TransMontaigne Purchase Right Option-holder*"), shall have the right (but not the obligation) to purchase in the aggregate up to one-half (1/2) of all of the Units then-owned by any Kinder Morgan Member or its Affiliates (the "*Purchase Option Units*"), subject to the terms set forth in this Section 5.11(e) (the "*TransMontaigne Purchase Right*"). On the date that is thirty (30) Days following the date the TransMontaigne Purchase Right Option-holder provides notice of its election to exercise the TransMontaigne Purchase Right, or if the approval of any Governmental Authority is required under competition, antitrust or similar Laws in connection with any TransMontaigne Purchase Right on the third Business Day after such approval of a Governmental Authority has been completed or obtained, or such other date that is mutually agreed to by the TransMontaigne Purchase Right Option-holder and the Kinder Morgan Member (the "*Purchase Date*"): (x) the TransMontaigne Purchase Right Option-holder shall deliver to the Kinder Morgan Member an amount in cash equal to (A) the amounts paid to the former TransMontaigne Member pursuant to Section 5.11(a) upon redemption, plus interest accrued at the **[**]** from the date of such redemption, plus, (B) without duplication of any amounts in clause (C), fifty percent (50%) of the sum of any consideration paid by the Kinder Morgan Member to acquire any Units, including any Class B Units from the Class B Members, following such redemption, plus fifty percent

(50%) of the interest accrued on such consideration at the **[**]** from the respective dates of any such acquisition, plus (C) without duplication of any amounts in clause (B), fifty percent (50%) of the sum of all Additional Capital Contributions made by the Kinder Morgan Member following such redemption, plus fifty percent (50%) of the interest accrued on all Additional Capital Contributions made by the Kinder Morgan Member at the **[**]** from the respective dates of such Additional Capital Contributions, minus (D) fifty percent (50%) of the sum of any cash and non-cash distributions (which non-cash distributions shall be valued at their respective Fair Market Values) received by the Kinder Morgan Member from the date of such redemption; and (y) immediately following the delivery of the amount set forth in clause (x), the Kinder Morgan Member shall transfer fifty percent (50%) of the Purchase Option Units to the TransMontaigne Purchase Right Option-holder.

(ii) In connection with any exercise of the TransMontaigne Purchase Right, the Kinder Morgan Member shall provide representations and warranties, and recourse and survival related thereto, with respect to the Purchase Option Units acquired by the TransMontaigne Purchase Right Option-holder and the operation of the Company during the TransMontaigne Purchase Right Period, comparable to the representations and warranties, and recourse and survival related thereto, provided to Kinder Morgan under the Contribution Agreement; provided, such representations and warranties shall only relate to the TransMontaigne Purchase Right Period.

(iii) During the TransMontaigne Purchase Right Period, the Company and the Kinder Morgan Member shall promptly provide the TransMontaigne Purchase Right Option-holder with access to all reasonably requested information about the Purchase Option Units, the Company and its operations to allow the TransMontaigne Purchase Right Option-holder to evaluate whether to exercise the TransMontaigne Purchase Right, including access to information consistent with the rights of a Class A Member to information pursuant to Section 8.4 (solely for these purposes disregarding the proviso in the parenthetical in the lead-in thereto).

(iv) Immediately following delivery of the Purchase Option Units to the TransMontaigne Purchase Right Option-holder pursuant to Section 5.11(e)(i), the TransMontaigne Purchase Right Option-holder shall be admitted as a Substituted Member in respect of the Purchase Option Units acquired upon agreement to assume the obligations in respect of the Purchase Option Units to make any future required Capital Contributions and execution of a counterpart of this Agreement, and shall be deemed a Principal Member hereunder; provided, however, that if a Change of Control of TransMontaigne has occurred or if such TransMontaigne Purchase Right Option-holder is a Purchase Right Transferee that is not an Affiliate of TransMontaigne, the TransMontaigne Purchase Right Option-holder shall not be admitted as a Substituted Member without

Supermajority Approval, which shall not be unreasonably withheld, conditioned or delayed. For the avoidance of doubt, in the event the TransMontaigne Purchase Right Option-holder is not admitted as a Substituted Member in accordance

with the preceding sentence, the TransMontaigne Purchase Right Option-holder shall not be entitled to (x) appoint any Manager, (y) vote on, consent to, call for or approve any matters under this Agreement as a Class A Member or Principal Member or (z) act in the capacity of a Principal Member, nor be included in determining whether there is a Majority Approval of the Board or Supermajority Approval.

(v) During the TransMontaigne Purchase Right Period, without the prior written consent of the TransMontaigne Purchase Right Option-holder, which consent shall not be unreasonably withheld, conditioned or delayed, the Company and its Members shall not take any action, or fail to take any action, that would result in (A) the Kinder Morgan Member owning less than seventy-five percent (75%) of the outstanding Class A Units, (B) any Person other than Kinder Morgan and its Affiliates owning any Membership Interest other than Class A Units (other than the Class B Units held by the Class B Members), or Kinder Morgan or its Affiliates owning any Membership Interest that is not a Unit, (C) any special distributions, (D) the Company entering into any transaction with any Affiliate of the Company other than on an arms' length basis on terms that are generally no less favorable to the Company than those reasonably available from Third Parties, (E) any other material action that is intended to adversely affect the rights and privileges that would be applicable to the former TransMontaigne Member had its Class A Units not been redeemed pursuant to Section 5.11(a), (F) any amendment or modification to this Agreement other than in accordance with Section 12.3 or (G) wind-up or liquidate the Company; provided, that the Kinder Morgan Member may, without the consent of the TransMontaigne Purchase Right Option-holder, Dispose of one hundred percent (100%) of its Units, and the Company may make special distributions or wind-up or liquidate the Company, in each case, if the TransMontaigne Purchase Right Option-holder receives the net economic benefit directly attributable to such Disposition, special distribution or winding-up or liquidation of the Company, if any, that such TransMontaigne Purchase Right Option-holder would have received had it exercised the TransMontaigne Purchase Right and the Purchase Date had occurred immediately prior to the consummation of such Disposition, special distribution or winding-up or liquidation of the Company such that the TransMontaigne Option-holder was a participant therein.

(vi) During the TransMontaigne Purchase Right Period and after complying with the obligations set forth in Section 5.11(e)(vii), the TransMontaigne Purchase Right Option-holder shall have the right, in its sole discretion, to transfer and assign the TransMontaigne Purchase Right to any other Person (the "*Purchase Right Transferee*"). Promptly following any transfer or assignment, the former TransMontaigne Purchase Right Option-holder shall provide notice to the Company and the Kinder Morgan Member of such transfer, including the identity of the Purchase Right Transferee.

(vii) If any TransMontaigne Purchase Right Option-holder proposes to transfer or assign the TransMontaigne Purchase Right pursuant to clause (vi) above to any Person (other than an Affiliate of TransMontaigne who remains an Affiliate of TransMontaigne at all times during the Purchase Right Period following such transfer or assignment), the TransMontaigne Purchase Right Option-holder shall first give written notice (the "*Purchase Right Offering Notice*") to the Kinder Morgan Member stating its bona fide

intention to transfer or assign the TransMontaigne Purchase Right, including a description of all material terms, including the aggregate price (the "*Purchase Right ROFO Price*"), of such intended transfer or assignment. The Purchase Right Offering Notice shall constitute an irrevocable and binding written offer (the "*Purchase Right Qualifying Offer*") to sell the TransMontaigne Purchase Right to the Kinder Morgan Member at the Purchase Right ROFO Price, free and clear of any liens created by any TransMontaigne Purchase Right Option-holder or its Affiliates (other than liens created at the request of or by the Company and liens under this Agreement or applicable Law) and on the offer terms specified in the Purchase Right Qualifying Offer. The Kinder Morgan Member shall have the right to elect (which election shall be irrevocable) within twenty (20) Days after the date the Purchase Right Offering Notice is received by the Kinder Morgan Member (the "*Purchase Right Sale Period*") to purchase the Purchase Right Option at the price and on the terms and conditions set forth in the Purchase Right Qualifying Offer by delivery of a written notice to the TransMontaigne Purchase Right Option-holder (the "*Purchase Right ROFO Acceptance*"). The Purchase Right ROFO Acceptance will be binding on and enforceable against the Kinder Morgan Member at the price and on the terms and conditions set forth in the Purchase Right Offering Notice. The Purchase Right ROFO Price shall be payable in cash at the closing of the sale of the TransMontaigne Purchase Right. Within thirty (30) Days of receipt of the Purchase Right ROFO Acceptance (or if the approval of any Governmental Authority is required under competition, antitrust or similar Laws in connection with any TransMontaigne Purchase Right on the third Business Day after such approval of a Governmental Authority has been completed or obtained), the Kinder Morgan Member shall deliver to the TransMontaigne Purchase Right Option-holder (by certified check or wire transfer in immediately available funds to an account specified by the TransMontaigne Purchase Right Option-holder) the Purchase Right ROFO Price, and the Kinder Morgan Member and the TransMontaigne Purchase Right Option-holder shall enter into and deliver such instruments of transfer and assumption as may be reasonably necessary to effect the sale of the TransMontaigne Purchase Right. If the Kinder Morgan Member has not elected to purchase the TransMontaigne Purchase Right prior to the expiry of the Purchase Right Sale Period, the TransMontaigne Purchase Right Option-holder shall have the right to transfer or assign the TransMontaigne Purchase Right in accordance with Section 5.11(e)(vi) for a period of one hundred ninety five (195) Days from the end of the Purchase Right Sale Period; provided, that the price paid in such sale shall be not less than one hundred percent (100%) of the Purchase Right ROFO Price specified in the Purchase Right Offering Notice and shall otherwise not be on terms materially more favorable to the transferee than those set forth in the Purchase Right Offering Notice. If the TransMontaigne Purchase Right Option-holder does not transfer or assign the TransMontaigne Purchase Right before the end of the Purchase Right ROFO Period, the TransMontaigne Purchase Right Option-holder may not sell the TransMontaigne Purchase Right without complying with this Section 5.11(e)(vii).

(viii) The Members agree that the TransMontaigne Purchase Right Option-holder shall be entitled to enforce the provisions of this Section 5.11(e) and assert rights and remedies under this Section 5.11(e) as a third party beneficiary hereof.

5.12 Design and Development Required Completion Date. Notwithstanding anything in this Agreement to the contrary, if the Design and Development Completion Date shall not have occurred on or before January 20, 2012 or such other date as may otherwise be approved by Supermajority Approval (the "*Design and Development Outside Date*"), then the Company shall be dissolved and its affairs wound up in accordance with Section 10.2 unless the Principal Members otherwise mutually agree in writing within thirty (30) Days following the Design and Development Outside Date (such thirty (30) Day period or such longer period as may be mutually agreed upon in writing by the Principal Members, the "*Design and Development Outside Date Discussion Period*"). Without limiting the Principal Members' rights to agree upon other alternatives, if the Principal Members agree during the Design and Development Outside Date Discussion Period that in lieu of a dissolution that would otherwise apply pursuant to this Section 5.12, one Principal Member (the "*Principal Member Offeror*") shall purchase the Membership Interests of the other Principal Member (the "*Principal Member Offeree*"), the provisions of Section 9.4 shall apply *mutatis mutandis*, as if the Principal Members were the Dragging Member and the Principal Member Offeror were the Drag-Along Transferee, and each other Member is a Required Seller disregarding the requirement that a Dragging Member must hold a Class A Equity Percentage Interest of at least eighty percent (80%) and the restriction that a Drag-Along Transferee must not be Affiliate of the Dragging Member.

ARTICLE VI.
ALLOCATIONS AND DISTRIBUTIONS

6.1 Allocations for Capital Account Purposes. For purposes of maintaining the Capital Accounts and in determining the rights of the Members among themselves, the Company's Profit and Loss shall be allocated among the Members in each taxable period (or portion thereof) as provided herein below.

(a) Profit. After giving effect to Section 4.3(c) and the Special Allocations set forth in Section 6.2, Profit for each taxable period and all items of income, gain, loss and deduction taken into account in computing Profit for such taxable period shall be allocated to the Members in accordance with their Equity Percentage Interests, Pro Rata.

(b) Loss. After giving effect to Section 4.3(c) and the Special Allocations set forth in Section 6.2, Loss for each taxable period and all items of income, gain, loss and deduction taken into account in computing Loss for such taxable period shall be allocated to the Members in accordance with their Equity Percentage Interests, Pro Rata.

6.2 Special Allocations. The following special allocations shall be made in the following order:

(a) Company Minimum Gain Chargeback. Notwithstanding the other provisions of this Section 6.2, except as provided in Treasury Regulation Section 1.704-2(f)(2) through (5), if there is a net decrease in Company Minimum Gain during any Company taxable period, each Member shall be allocated items of Company income and gain for such period (and, if necessary subsequent periods) in the manner and in the amounts provided in Treasury Regulation Sections 1.704-2(f)(6), 1.704-2(g)(2) and 1.704-2(j)(2)(i), or any successor provisions. This Section 6.2(a) is intended to comply with the minimum gain chargeback

requirement in Treasury Regulation Section 1.704-2(f) and shall be interpreted consistently therewith. For purposes of this Section 6.2(a), each Member's Adjusted Capital Account balance shall be determined, and the allocation of income or gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Section 6.2.

(b) Chargeback of Minimum Gain Attributable to Member Nonrecourse Debt. Notwithstanding the other provisions of this Section 6.2 (other than Section 6.2(a) hereof), except as provided in Treasury Regulation Section 1.704-2(i)(4), if there is a net decrease in Minimum Gain Attributable to Member Nonrecourse Debt determined in accordance with Treasury Regulation Section 1.704-2(i)(5) at the beginning of a taxable period, any Member with a share of Minimum Gain Attributable to Member Nonrecourse Debt at the beginning of such taxable period shall be allocated items of Company income and gain for such period (and, if necessary, subsequent taxable periods) in the manner and in the amounts provided in Treasury Regulation Sections 1.704-2(i)(4) and 1.704-2(j)(2)(ii), or any successor provisions. This Section 6.2(b) is intended to comply with the minimum gain chargeback requirement in Treasury Regulation Section 1.704-2(i) and shall be interpreted consistently therewith. For purposes of this Section 6.2(b), each Member's Adjusted Capital Account balance shall be determined, and the allocation of income or gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Section 6.2 with respect to such taxable period (other than an allocation pursuant to Section 6.2(a)).

(c) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) or 1.704-1(b)(2)(ii)(d)(6), items of Company gross income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations promulgated under Section 704(b) of the Code, the deficit balance, if any, in such Member's Adjusted Capital Account created by such adjustments, allocations or distributions as quickly as possible; provided, that an allocation pursuant to this Section 6.2(c) shall be made only if and to the extent that such Member would have a deficit balance in its Adjusted Capital Account after all other allocations provided for in this Article VI have been tentatively made as if this Section 6.2(c) were not in this Agreement. This Section 6.2(c) is intended to be a "qualified income offset" as that term is used in Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(d) Gross Income Allocations. In the event any Member has a deficit balance in its Adjusted Capital Account at the end of any Company taxable period, such Member shall be specially allocated items of Company gross income and gain in the amount of such deficit as quickly as possible; provided that, an allocation pursuant to this Section 6.2(d) shall be made only if and to the extent that such Member would have a deficit balance in its Adjusted Capital Account in excess of such amount after all other allocations provided for in this Article VI have been tentatively made as if this Section 6.2(d) were not in this Agreement.

(e) Nonrecourse Deductions. Nonrecourse Deductions for any taxable period shall be allocated to the Members in accordance with their Equity Percentage Interests. If the Board determines in its good faith discretion that the Company's Nonrecourse Deductions must be allocated in a different ratio to satisfy the safe harbor requirements of the Treasury

Regulations promulgated under Section 704(b) of the Code, the Board is authorized, upon notice to the Members, to revise the prescribed ratio to the numerically closest ratio which does satisfy such requirements.

(f) Member Nonrecourse Deductions. Member Nonrecourse Deductions for any taxable period shall be allocated one hundred percent (100%) to the Member that bears the Economic Risk of Loss for the Company's Nonrecourse Liability to which such Member's Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i). If more than one Member bears the Economic Risk of Loss with respect to a Member Nonrecourse Debt, such Member Nonrecourse Deductions attributable thereto shall be allocated between or among such Members in accordance with the ratios in which they share such Economic Risk of Loss.

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Section 743(b) is required, pursuant to Treasury Regulation Sections 704-1(b)(2)(iv)(m)(2) or § 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of such Member's interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their interests in the Company in the event Treasury Regulation Sections 1.704-1(b)(2)(iv)(m)(2) applies, or to the Member to whom such distribution was made in the event Treasury Regulation Sections 1.704-1(b)(2)(iv)(m)(4) applies.

(h) Curative Allocations. The allocations set forth in Section 6.2(a) through (g) hereof (the "*Special Allocations*") are intended to comply with certain requirements of the Code and the Treasury Regulations promulgated thereunder. It is the intent of the Members that, to the extent possible, all Special Allocations will be offset either with other Special Allocations or with special allocations of items of income, gain, loss or deduction among the Members pursuant to this Section 6.2(h). Therefore, notwithstanding any other provision of this Article VI (other than the Special Allocations), the Board shall make such offsetting special allocations in whatever manner it deems appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Special Allocations were not a part of this Agreement and all Company items were allocated pursuant to Sections 6.1.

(i) Priority Interest. With respect to each period during which a Priority Interest is outstanding, each Priority Member shall be allocated items of gross income and gain in an amount equal to the amount paid to such Priority Member in respect of its Priority Interest pursuant to Section 5.3(b)(iii)(B)(2)(y) until such Priority Member has been allocated a cumulative amount of gross income or gain equal to the distributions received by the Priority Member in excess of the Priority Member's contribution on behalf of a Non-Fully Contributing Member.

(j) Loss Limitations. No allocation of items of Loss pursuant to Section 6.1(b) shall be made to a Member if such allocation would cause or increase a deficit in the balance of a Member's Adjusted Capital Account. In the event some but not all of the

Members would have a deficit in the balance of their Adjusted Capital Account as a consequence of an allocation of items of Loss pursuant to Section 6.1(b), the limitation set forth in this Section 6.2(j) shall be applied on a Member by Member basis and items of Loss not allocable to any Member as a result of such limitation shall be allocated to the other Members in the manner otherwise required pursuant to Section 6.1(b) to the extent such other Members have positive balances in their Capital Accounts so as to allocate the maximum permissible items of Loss to each Member under Treasury Regulation Section 1.704-1(b)(2)(ii)(d).

6.3 Allocations for Tax Purposes.

(a) Except as otherwise provided herein, for federal income tax purposes, each item of income, gain, loss and deduction which is recognized by the Company for federal income tax purposes shall be allocated in the same manner among the Members as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to Section 6.1 hereof. Tax credits arising from Company expenditures shall be allocated in the same manner as the allocation of the corresponding items of loss or deduction pursuant to Section 6.1. Tax credits arising from receipts of the Company shall be allocated in the same manner as the allocation of the corresponding items of income or gain pursuant to Section 6.1 hereof.

(b) The Company shall adopt the "remedial allocation method", as described in Treasury Regulation Section 1.704-3(d), to eliminate Book-Tax Disparities.

(c) For the proper administration of the Company, the Company will adopt such conventions as it deems appropriate in determining the amount of depreciation, amortization and cost recovery deductions; provided, that such depreciation, amortization and cost recovery methods will be the most accelerated methods allowed under federal income tax laws; provided further, that the Company will not take "bonus depreciation" under Code section 168 (or other applicable provisions of the Code) without Supermajority Approval.

(d) Any gain allocated to the Members upon the sale or other taxable disposition of any Company property or asset shall, to the extent possible, after taking into account other required allocations of gain pursuant to this Section 6.3 be characterized as Recapture Income in the same proportions and the same extent as such Members (or their predecessors in interest) have been allocated any deductions directly or indirectly giving rise to the treatment of such gains as Recapture Income.

(e) All items of income, gain, loss, deduction and credit recognized by the Company for federal income Tax purposes and allocated to the Members in accordance with the provisions hereof shall be determined without regard to any election under Code Section 754 (other than any change in Capital Account balance pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m)) which may be made by the Company; provided, however, that such allocations, once made, shall be adjusted (in any manner determined by the Board) to take into account those adjustments permitted or required by Code Sections 734 and 743.

6.4 Other Rules.

(a) For purposes of determining the Profit, Loss or any other item allocable to any period, Profit, Loss and other items will be determined on a daily, monthly or other basis, as reasonably determined by the Board using any permissible method under Code Section 706 and the related Regulations.

(b) Except as otherwise provided in this Agreement, all items of Company income, gain, loss, deduction, credit and other allocations not provided for in this Agreement will be divided among the Members in the same proportions as they share Profit and Loss.

(c) Except as otherwise provided herein, all items of income, gain, expense, loss, deduction, and credit allocable to any Membership Interest that may have been transferred during any calendar year shall, if permitted by Law, be allocated between the transferor and the transferee, based upon the interim closing of the books method but without regard to whether cash distributions were made to the transferor or the transferee during that calendar year and using a calendar Day convention that closes the books in any Day on which the valuation in the Members' Membership Interest occurs.

(d) The Members agree that their share of Profits, as determined under Section 6.1 represent their interests in the Company profits for purposes of allocating excess nonrecourse liabilities pursuant to Treasury Regulations Section 1.752-3(a)(3).

(e) The foregoing provisions of this Article relating to the allocation of Profit, Loss and other items for federal income tax purposes are intended to comply with Treasury Regulations Sections 1.704-1(b) and 1.704-2, and shall be interpreted and applied in a manner consistent with such Regulations.

6.5 Distributions.

(a) From time to time after the Commercial Operation Date, but not less than quarterly, the Board shall determine the amount of Distributable Cash and, unless the Board determines otherwise by Supermajority Approval, the Company shall distribute such Distributable Cash to the Members within forty-five (45) Days after the end of each such quarter, in accordance with the distribution procedures described in this Section 6.5, provided that the Company shall not make any distribution to its Members that would be prohibited by the Act.

(b) Distributions from the Company shall be made in cash unless expressly approved by Supermajority Approval. Any distributions of assets of the Company other than cash must be made in accordance with the distribution procedures described in Section 6.5(d) and may be made subject to existing liabilities and obligations. Any non-cash distributions will be valued at their respective Fair Market Values for all purposes including the computations under Section 6.5(d).

(c) The Company and the Board shall be entitled to treat the record owner of a Membership Interest as the absolute owner thereof in all respects and shall incur no liability for distributions of cash or other property made in good faith to such record owner until such time as an assignment of such Membership Interest has become effective on the books of the Company. From the date of the receipt of any instrument relating to transfer of a Membership Interest or at any time if the Company or the Board is reasonably in doubt as to the Person entitled to receive distributions in respect of such Membership Interest, the Company or the Board may withhold any such distributions until the transfer is completed or abandoned or the dispute is resolved.

Any amounts that a Member owes the Company may be deducted from the amount of a distribution to such Member before payment.

(d) All distributions made pursuant to Section 6.5 will be made to the Members according to the following procedures, subject to the rights of a Priority Member under Section 5.3(b)(iii) to receive certain distributions that would otherwise be distributed to an affected Non-Fully Contributing Member and, in the case of any Class B Members, subject to any limitations or reductions on amounts receivable by the Class B Members (with applicable increases to the amounts receivable by the Class A Members) in respect of Excess Capital Investment or Excess Amount pursuant to Section 4.3(c) and the right to receive any one-time bonus payable pursuant to Section 4.3(c)(ii)(B).

(i) Distributions not relating to a Capital Transaction shall be made to the Members in accordance with their Equity Percentage Interests, Pro Rata.

(ii) In the event of a distribution relating to a Capital Transaction, then subject to Section 4.3(c)(iii):

(A) If there is any Unreturned Additional Capital, the distribution will be made to the Members Pro Rata (according to their relative Additional Capital Contributions in respect of the most recent Capital Call for which there is Unreturned Additional Capital) to the extent of such Unreturned Additional Capital in respect of such Capital Call. If at the time of a distribution there is Unreturned Additional Capital in respect of more than one Capital Call, the distribution shall be made to eliminate Unreturned Additional Capital in respect of the most recent Capital Call for which there is Unreturned Additional Capital (i.e., on a last-in, first-out basis). The excess of the distribution, if any, after the elimination of Unreturned Additional Capital in respect of such most recent Capital Call will be distributed according to this Section 6.5(d) as if it were a new distribution approved in accordance with Section 6.5(a).

(B) If there is no Unreturned Additional Capital but there is Unreturned Initial Capital, then the distribution will be made to the Members Pro Rata (according to their relative Equity Percentage Interests), to the extent of the Unreturned Initial Capital; and the excess of the distribution, if any, after the elimination of Unreturned Initial Capital will be distributed according to this Section 6.5(d) as if it were a new distribution approved in accordance with Section 6.5(a).

(C) If there is no Unreturned Additional Capital and no Unreturned Initial Capital, the distribution will be made to the Members Pro Rata (in accordance with Equity Percentage Interests).

(e) Notwithstanding the provisions of Article VI, upon dissolution of the Company as provided in Article X, all distributions occurring after such dissolution shall be made in accordance with Article X.

6.6 Accounting Matters.

(a) The fiscal year of the Company shall end on December 31. The books and records of account of the Company shall be, at the expense of the Company, (i) kept, or caused to be kept, by the Company at the principal place of business of the Company, (ii) on a basis consistent with GAAP, (iii) reflect all Company transactions, and (iv) appropriate and adequate for conducting the Business. The Company may cause accountants who are employees of one or more Members or of the Company to keep the Company's books and records, or the Company may hire Third Party accountants to keep the Company's books and records.

(b) The Company books and records of account will be available for inspection and audit as provided in Section 8.4.

(c) The Company shall engage PricewaterhouseCoopers LLP (or such other outside expert as may be approved by Supermajority Approval) to prepare the federal tax returns for the Company. No later than thirty (30) Days prior to the due date (including extensions) for the filing of any federal tax return, the Tax Matters Partner shall provide a draft of such return to the Class A Members for review and comment. Class A Members must provide any comments on the draft of the federal tax return to the Tax Matters Partner no later than fifteen (15) Days following the receipt of such draft. The Tax Matters Partner shall be responsible for ensuring that all tax returns of the Company are timely filed. The Company shall send all Members a copy of any federal tax return filed by the Company.

(d) The Company, with the assistance of PricewaterhouseCoopers LLP (or such other outside expert as may be approved by Supermajority Approval), shall furnish each Member, or the Member's tax advisor designated by the Member, with (i) details related to Company fixed asset additions for the immediately preceding Tax year and Tax basis balance sheet data for the immediately preceding Tax year as soon as practicable following the end of the Tax year, but in no event later than January 24 of each year, and (ii) the following information relating to the immediately preceding Tax year as soon as reasonably practicable following the end of the Tax year, but in no event later than the last Day of January of each year: (A) additional information reasonably necessary or appropriate for the Member to file its respective Tax reports, including information relating to the Member's Schedule K-1 and apportionment schedules; (B) information reasonably necessary for the Member to determine its portion of the Company's Qualifying Income and items of gross income that do not constitute Qualifying Income; and (C) any other information or materials that a Member may reasonably require in order to comply with its respective tax-related reporting responsibilities.

(e) Each Principal Member shall have the right to request a conference with the Company and the Tax Matters Partner to discuss any position that may be taken by the Company that impacts any item reported on such Member's Schedule K-1. If a Member disagrees with a position taken by the Company and the Tax Matters Partner, the Member shall notify the Company of such disagreement by November 30th of the applicable Tax year. The Tax Matters Partner shall call a special meeting of the Board prior to December 5th of the applicable Tax year, which special meeting shall be held prior to December 15th of the applicable Tax year. At such special meeting, the Board shall, upon the advice of PricewaterhouseCoopers LLP (or such other outside expert as may be approved by Supermajority Approval), settle the

disagreement by Majority Approval. Notwithstanding the foregoing, if there is any change in law or other event that occurs after November 1st of the applicable Tax year and causes a Member (including the Tax Matters Partner) to believe, in its reasonable opinion, that a position that will be taken by the Company that impacts any item reported on such Member's Schedule K-1 should be changed, such Member shall inform the Tax Matters Partner of the matter prior to December 31st of the applicable Tax year and the Tax Matters Partner shall thereafter call a special meeting of the Board prior to January 5th of year following the applicable Tax year, which special meeting shall be held prior to January 15th of year following the applicable Tax year. At such special meeting, the Board shall, upon the advice of PricewaterhouseCoopers LLP (or such other outside expert as may be approved by Supermajority Approval), settle the disagreement by Majority Approval. In any event, the Tax Matters Partner shall not cause the Company to take any position that would prevent PricewaterhouseCoopers LLP (or such other outside expert as may be approved by Supermajority Approval) from being able to sign the applicable federal tax return. All positions that have been taken by the Company without disagreement by any Principal Member and all positions that have been settled by the Majority Approval of the Board shall be final and binding on all Members, and may be subsequently changed only by Supermajority Approval of the Board.

(f) During the existence of the Company, to the extent requested by a Member, the Company shall provide a schedule of Book-Tax Disparities to such requesting Member within a reasonable period of time.

(g) Subject to the provisions of Section 8.4, within fifty (50) Days after the end of each fiscal year of the Company and within thirty (30) Days after the end of each of the first three (3) fiscal quarters of each fiscal year of the Company, the Company shall furnish each Member with a copy of the balance sheet of the Company and a statement of Member's capital as of the last Day of the applicable period, and a statement of income or loss and statement of cash flows for the Company for the current quarterly period (if applicable) and current year-to-date period, compared to budget, which shall be prepared in accordance with GAAP; provided, however, notes to the Company's financials shall only be prepared and provided for the Company's annual audited reports. The Company's year-end annual statements shall be audited by the Independent Accountants and furnished to each Member within ninety (90) Days of the end of the fiscal year of the Company. Within thirty (30) Days after the end of each month other than December, the Company shall also furnish each Member with a copy of the income statement and balance sheet of the Company as of the last Day of such month. In addition to the obligations above, the Company shall use its commercially reasonable efforts to provide, within a reasonable period following such Member's request and at such Member's sole expense, any financial information reasonably requested by a Member and shall prepare and deliver to any Member, within a reasonable period following such Member's request and at such Member's sole expense, such additional financial information as may be required in order for such Member or its Affiliate to comply with any reporting requirements under (i) the Securities Act and the rules and regulations promulgated thereunder, (ii) the Exchange Act and the rules and regulations promulgated thereunder, and (iii) any national securities exchange or automated quotation system.

(h) The Company's financial statements, tax returns and other books and records are "*Confidential Information*" subject to the provisions of Section 7.13.

(i) The funds of the Company shall not be commingled with the funds of any Member or any other Person, and neither the Company nor any Member shall employ or permit any other Person to employ such funds in any manner except for the benefit of the Company. The bank accounts of the Company shall be maintained in the name of the Company in such banking institutions as are approved by the Board, and withdrawals shall be made only in the regular course of the Company business and as otherwise authorized in this Agreement on such signature or signatures as the Board may determine.

(j) Each Member shall furnish to the Company all pertinent information in its possession that is necessary to enable the Company's income Tax returns and financial statements to be prepared and shall inform the Company of all significant matters that may come to its attention that may relate to the Tax status and Tax reporting obligations of the Company by giving notice thereof on or before the tenth (10th) Day after becoming aware thereof and, within that time, shall forward to the Company copies of all material written communications it may receive relating thereto.

6.7 Amounts Withheld. All amounts withheld pursuant to the Code or any provision of any state, local or other Tax Law with respect to any payment or distribution to the Members shall be treated as amounts distributed to the Members pursuant to this Article VI for all purposes of this Agreement.

6.8 Conformity of Reporting. The Members are aware of the income Tax consequences of the allocations made by this Article VI and hereby agree to be bound by the provisions of this Article VI in reporting their shares of the Company profits, gains, income, losses, deductions, credits and other items for income Tax purposes.

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

(a) to adopt the calendar year as the Company's Taxable year;

(b) to adopt the accrual method of accounting;

(c) to the extent and as early as possible as provided by Law, the Board, on behalf of the Company, shall elect in a timely manner pursuant to Section 754 of the Code and pursuant to corresponding provisions of applicable state and local Tax Laws, to make an election under Section 754 of the Code and the Treasury Regulations promulgated thereunder to adjust the bases of the Company's properties under Sections 734 and 743 of the Code;

(d) to elect to deduct the organizational expenses of the Company as permitted by Section 709(b) of the Code;

(e) to elect to deduct the start-up expenditures of the Company as permitted by Section 195(b) of the Code; and

(f) any other election approved by a Majority Approval of the Board.

Neither the Company nor any Member may make an election for the Company to be excluded from the application of the provisions of subchapter K of chapter 1 of subtitle A of the Code or any similar provisions of applicable state Law or take any other action which would result in the Company not being treated as a "partnership" for federal Tax purposes.

6.10 Tax Matters Partner.

(a) The TransMontaigne Member shall be the "tax matters partner" of the Company pursuant to Section 6231(a)(7) of the Code until such time as another Member agrees to become the "tax matters partner" of the Company pursuant to Section 6231(a)(7) of the Code and is approved in such capacity by Majority Approval of the Class A Members (the TransMontaigne Member or any such other Member, in each case, in its capacity as such, the "*Tax Matters Partner*"). For purposes of this Section 6.10, the term "*partnership*" shall mean the Company. The Tax Matters Partner shall take and shall have a continuing obligation to take such action as may be necessary to cause each other Member to become a "notice partner" within the meaning of Section 6223 of the Code. The Tax Matters Partner shall inform each other Member of all significant matters that may come to its attention in its capacity as the Tax Matters Partner by giving notice thereof on or before the tenth (10th) Day after becoming aware thereof and, within that time, shall forward to each other Member copies of all material written communications it may receive in that capacity. The Tax Matters Partner shall keep each Member informed of all administrative and/or judicial Proceedings for the adjustment of the partnership items (as defined in Code Section 6231(a)(3) of the Code and Treasury Regulations promulgated thereunder) at the partnership level. Without limiting the generality of the foregoing sentence, within ten (10) Days of receiving any written or oral notice of the time and place of a meeting or other Proceeding from the Internal Revenue Service regarding a partnership Proceeding (and in any event, within a reasonable time prior to such meeting or Proceeding), the Tax Matters Partner shall furnish a copy of such written communication or notice, or inform the Members in writing of the substance of any such oral communication. This obligation of the Tax Matters Partner to inform the Members shall not extend to routine and minor events. The Tax Matters Partner may not extend the statute of limitations, file a request for administrative adjustment on behalf of the Company, file suit on behalf of the Company concerning any tax refund or deficiency relating to any Company administrative adjustment or enter into any settlement agreement relating to any item of income, gain, loss, deduction or credit for any taxable year of the Company or take any other action contemplated by Sections 6222 through 6231 of the Code without the unanimous written consent of the Members. The Tax Matters Partner shall have general oversight authority with respect to the accounting matters described in Section 6.6.

(b) The Members have the following obligations:

(i) Each Member shall notify the Tax Matters Partner of its treatment of any item on its federal income tax return which is or may be inconsistent with the treatment of that item on the Company's return and shall give notice to the Tax Matters Partner on or before the thirtieth (30th) Day following its filing of any notice of inconsistent treatment pursuant to Code Section 6222(b).

(ii) Any Member that enters into a settlement agreement with the Secretary of the Treasury with respect to partnership items (as defined in Code Section 6231(a)(3)) of the Company shall notify the other Members of such settlement agreement and its terms within 30 Days after the date of such settlement.

(iii) No Member will file, pursuant to Section 6227 of the Code, a request for administrative adjustment for any Company taxable year without first notifying all other Members. If all other Members agree with the requested adjustment, the Tax Matters Partner will file the request for administrative adjustment on behalf of the Company. If unanimous consent is not obtained within thirty (30) Days (or, if shorter, within the period required to timely file the request for administrative adjustment), any Member, including the Tax Matters Partner, may file a request for administrative adjustment on its own behalf.

(iv) If the Tax Matters Partner elects not to file suit concerning an administrative adjustment or request for administrative adjustment and another Member elects to file such a suit, such other Member shall notify all Members of such intention and the forum or forums in which such suit shall be filed.

(v) Each Member agrees to cooperate with the Tax Matters Partner and to do or refrain from doing any or all things reasonably required by the Tax Matters Partner to conduct such Proceedings.

(vi) Notwithstanding anything to the contrary contained herein, any liabilities arising in connection with the performance of the Tax Matters Partner's duties and responsibilities hereunder (whether to the Company, any Member, any Third Party or otherwise) shall be borne and allocated on a Pro Rata basis among the Class A Members based on their respective Class A Equity Percentage Interests and each Class A Member agrees to indemnify and hold harmless the Tax Matters Partner and otherwise be responsible, on a several basis, for its Pro Rata portion of such liabilities in accordance with this Section 6.10(b)(vi).

(c) The obligations imposed on the Tax Matters Partner and participation rights afforded the Members by this Agreement and Sections 6221 through 6233 of the Code may not be restricted or limited in any fashion by the Tax Matters Partner or any Member or Members without the written consent of all the Members. The provisions of this Section 6.10 will survive the termination of the Company or the termination of any Member's interest in the Company and will remain binding on the Members for a period of time necessary to resolve any and all matters regarding the federal and, if applicable, state income taxation of the Company. In the event that the Tax Matters Partner ceases to be a Member for any reason, the remaining Members shall elect a substitute Tax Matters Partner by Majority Approval of the Class A Members. The Company shall retain its records with respect to each fiscal year until the expiration of the period within which additional federal or state income tax may be assessed for such year.

ARTICLE VII.
MANAGEMENT OF THE COMPANY

7.1 Management by Board of Managers.

(a) The Members hereby approve the Design and Development Budget as described in Exhibit C attached hereto.

(b) The overall management and control of the Company shall be exercised by or under the authority of the board of managers ("*Board*") as provided in this Article VII. A Manager shall be deemed to be a "manager" within the meaning of the Act. The Board shall be exclusively vested with all management powers over the Business and affairs of the Company except as otherwise expressly provided in this Agreement or by non-waivable provisions of applicable Law. Except as expressly provided herein or as is otherwise required by Law, no Member, in its capacity as a Member, shall have any management power over the Business and affairs of the Company or actual or apparent authority to enter into contracts on behalf of the Company.

(c) Each Class A Member shall have the right to appoint one (1) Manager to the Board. Each Class A Member may also appoint an alternate to serve as its representative Manager in the event of the unavailability of the appointed Manager. The Persons initially serving as Managers, and alternates, if appointed, are listed on Exhibit B.

(d) Each Manager shall continue to serve in such capacity until his resignation, death or removal. A Manager shall serve at the pleasure of the Member that appointed such Manager and may be removed at any time with or without cause by, and only by, the Member that appointed such Person.

(e) In the event of a vacancy on the Board, the Member entitled pursuant to Section 7.1(c) to appoint the Manager in respect of which such vacancy occurred may appoint a Person to fill such vacancy.

(f) After the date hereof, Members entitled to appoint Managers may appoint such Persons by providing written notice thereof to the other Members and the Company, which notice shall state the effective date of any such appointment.

(g) A Manager may resign at any time by giving written notice to the Company and the Member that appointed such Manager. Such resignation shall be in writing and shall take effect at the time specified therein, or, if no time is specified, at the time of its receipt by the Company. The acceptance of a resignation shall not be necessary to make it effective unless expressly so provided in the resignation.

7.2 Authority of the Board. Except for matters that (a) require approval of any Member(s), or for which any Member(s) are permitted to act, by the express terms of this Agreement or (b) relate to the responsibilities and authority delegated by the Board to the officers, the Board shall have the exclusive authority to make all decisions and take all actions and act on behalf of the Company generally to conduct, direct and manage the business, activities, operations and affairs of the Company.

7.3 Board Decisions and Quorum. Unless otherwise required by the Act, other applicable Law or the provisions hereof (including Sections 5.3(e) and 9.1(e)):

(a) Each Manager shall be entitled to cast on all matters to come before the Board a number of votes equal to the Class A Units held by the Member that appointed such Manager (e.g., if one Member is the owner of fifty percent (50%) of the Class A Units then outstanding, the Manager appointed by that Member shall be entitled to cast in the aggregate votes equal to fifty percent (50%) of the total votes cast by the Board).

(b) The Board shall hold periodic regular meetings which shall not require prior written notice, and such special meetings as may be called by any one or more Managers appointed by Class A Member(s) holding, in the aggregate, at least fifteen percent (15%) of the Class A Units then outstanding, or by any one or more Managers appointed by the Tax Matters Partner to discuss Tax matters of the Company, in either case upon not less than five (5) Days' prior written notice to all Managers for special meetings in person, or upon not less than two (2) Business Days' prior written notice to all Managers for special telephonic meetings, and in no event upon more than sixty (60) Business Days' prior written notice. The periodic regular meetings of the Board shall be held monthly on the first Wednesday of each month prior to the Commercial Operation Date of the Project, and thereafter shall be held quarterly on the first Wednesday of each quarter.

(c) Notices of Board meetings shall state the place, Day and hour thereof, shall include appropriate dial-in information to each Manager to participate in such meeting by means of telephone conference, and shall otherwise be in accordance with Section 12.1. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting.

(d) Attendance of a Manager at any meeting shall constitute a waiver of notice of such meeting, except where the Manager attends a meeting for the express purpose of objecting to the transaction of business at such meeting on the ground that such meeting is not lawfully called or convened. Any Manager may waive notice of any meeting by signing a written waiver to such effect before or after such meeting and such waiver shall be effective for all purposes as satisfying all notice requirements under this Agreement or applicable Law.

(e) The presence in person or by proxy of Managers having, in the aggregate, a majority of the votes held by all Managers shall constitute a quorum for the transaction of business at any meeting of the Board. If, however, a quorum shall not be present at any meeting of the Board, the Managers present may adjourn the meeting from time to time without notice other than announcement at the meeting until a quorum shall be present. Notwithstanding anything contained herein to the contrary, where a Manager attends a meeting for the express purpose of objecting to the transaction of business at such meeting on the ground that such meeting is not lawfully called or convened, such attendance shall not constitute participation in, or presence at, such meeting.

(f) With respect to any matter for which the approval, consent or vote of Managers is required by the Act or this Agreement, except to the extent Supermajority Approval is expressly required by this Agreement or as otherwise expressly provided in this Agreement,

the Majority Approval of the Board at a meeting at which a quorum is present shall be the act of the Board, and the phrases "approval", "consent" or "vote" of or by the Board and phrases of like import shall mean approval by the Board, similarly construed. At any meeting of the Board, each Manager shall be entitled to vote in person or by proxy executed in writing by such Manager or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution unless such proxy otherwise provides. Each proxy shall be revocable before it has been voted unless the proxy form conspicuously states that the proxy is irrevocable and the proxy is coupled with an interest.

(g) Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if a unanimous consent in writing, setting forth the action so taken, shall be signed by all of the Managers then sitting on the Board and such unanimous consent shall have the same force and effect as the Majority Approval of the Board or a Supermajority Approval, as applicable, at a validly-held meeting of the Board. Such consent shall be filed with the consents of the Board and a copy of such consent shall be provided to all Managers within three (3) Days after the effective date thereof.

(h) Any meeting of the Board may be held by conference telephone, televideo or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to such telephone or communication equipment shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(i) The Managers shall designate a person to keep and maintain minutes of each meeting of the Board with the other books and records of the Company, and shall provide copies thereof to the other Managers and alternate Managers for approval by the Managers.

7.4 Officers and Employees; Outsourced Services.

(a) The Board may appoint by Majority Approval of the Board such officers and assistant officers of the Company at any time as it shall deem necessary, who shall hold their offices for such terms and, subject to such matters as may be reserved for Supermajority Approval and the general oversight of the Board, shall have such authority and exercise such powers and perform such duties as may be delegated to them by the Board from its authority from time to time by pursuant to resolutions adopted by the Board. Any person may hold two or more offices simultaneously. Subject to the general oversight and direction of the Board, the officers shall have responsibility for the conduct of the normal and customary Day-to-Day operations of the Company.

(b) Vacancy and Removal. Any officer of the Company may be removed from office, with or without cause, by Majority Approval of the Board, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Appointment of an officer shall not of itself create contract rights. Any vacancy occurring in any office of the Company by death, resignation, removal or otherwise shall be filled by Majority Approval of the Board.

(c) Resignation. An officer may resign at any time by giving written notice of resignation to the Board. Any such resignation shall be effective immediately unless a certain date is specified for it to take effect, in which event it shall be effective upon such date. Acceptance of any such resignation shall not be necessary to make it effective.

(d) Compensation. The compensation, if any, of all officers, employees and agents of the Company shall be fixed by Majority Approval of the Board.

(e) Reimbursements. To the extent approved by Majority Approval of the Board or contained in the LLC Budget, the officers, employees and agents of the Company may be reimbursed for out-of-pocket costs and expenses of the Company paid or incurred by them on behalf of the Company.

7.5 Member Decisions and Quorum.

(a) The Members in their capacity as Members shall not have any power or authority to manage the business or affairs of the Company or to bind the Company or enter into agreements on behalf of the Company. Except as otherwise expressly provided in this Agreement, Members shall have no voting rights or rights of approval, veto or consent or similar rights over any actions of the Company.

(b) There shall be no regular meetings of the Members. Special meetings of the Class A Members for any purpose or purposes, unless otherwise prescribed by Law, may be called by any Class A Member holding, together with its Affiliates, at least an aggregate ten percent (10%) or more of the Class A Units then outstanding. Meetings of the Class A Members shall take place at the principal office of the Company unless the Class A Members agree otherwise.

(c) Written notice of all special meetings of Class A Members stating the place, Day and hour thereof, and the purpose for which the meeting is called, shall be given not less than five (5) Business Days nor more than sixty (60) Days prior to the date of the meeting, to the Class A Members of record entitled to vote at such meeting and shall otherwise be in accordance with Section 12.1.

(d) Attendance of a Class A Member at any meeting shall constitute a waiver of notice of such meeting, except where the Class A Member attends a meeting for the express purpose of objecting to the transaction of business at such meeting on the ground that such meeting is not lawfully called or convened. Any Class A Member may waive notice of any meeting by signing a written waiver to such effect before or after such meeting and such waiver shall be effective for all purposes as satisfying all notice requirements under this Agreement or applicable Law.

(e) The presence in person or by proxy of Class A Members holding in the aggregate a majority of the Class A Units then outstanding shall constitute a quorum for the transaction of business at any meeting of the Class A Members. If, however, such quorum shall not be present or represented at any meeting of the Class A Members, the Class A Members entitled to vote at such meeting, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time without notice other than announcement at the meeting

until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted which might have been transacted at the meeting as originally convened.

(f) With respect to any matter for which the approval, consent or vote of Members is required by the Act or this Agreement, the affirmative vote of a Majority Approval of the Class A Members at a meeting of the Class A Members at which a quorum is present shall be the act of the Members, unless the matter is one for which the Act (in a non-waivable provision thereof) or this Agreement requires the consent, approval or vote of a greater percentage of the Class A Members than that represented by Majority Approval of the Class A Members. The terms “approval”, “consent” or “vote” of or by the Class A Members and phrases of like import shall mean approval by the Class A Members, similarly construed. At any meeting of the Class A Members, each Class A Member entitled to vote at such meeting shall be entitled to vote in person or by proxy executed in writing by such Class A Member or by his or its duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution unless such proxy otherwise provides. Each proxy shall be revocable before it has been voted unless the proxy form conspicuously states that the proxy is irrevocable and the proxy is coupled with an interest.

(g) Any action required or permitted to be taken by the Members at a meeting of the Class A Members may be taken without a meeting if a unanimous consent in writing, setting forth the action so taken, shall be signed by all of the Class A Members. Such consent shall be filed with the minutes of the Class A Members, and a copy of such consent shall be provided to all Class A Members within three (3) Days after the effective date thereof.

(h) Class A Members may participate in and hold a meeting of the Class A Members by means of conference telephone, televideo or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to such telephone or communication equipment shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

7.6 Interested Party Transactions. Notwithstanding any other provision of this Agreement to the contrary:

(a) All Interested Party Transactions must be approved by Supermajority Approval (which may include any Manager appointed to the Board by an Interested Party or its Affiliates).

(b) Without limiting Section 7.6(a), in the event that the Company requires operations, management, selling, general and administrative or any similar services, and the officers and employees of the Company are unable or unwilling to provide such services on the terms required by the Company, prior to seeking such services from a Third Party, the Company shall offer the Principal Members the opportunity to provide such services and negotiate in good faith with any interested Principal Member with respect thereto (it being understood and agreed, however, that no Principal Member shall have any obligation to offer or provide any such

services to the Company or to negotiate in good faith with respect thereto if such Principal Member does not desire to provide such services); provided, that the Company shall have satisfied its obligations under this Section 7.6(b) if it obtains a bona fide offer from a Third Party for the provision of such services and has given the Principal Members a reasonable opportunity to review such offer and provide such services on comparable terms, and neither of the Principal Members has elected to do so within thirty (30) Days from their receipt of such offer.

7.7 Acts Requiring Supermajority Approval.

(a) Supermajority Approval. Neither any Member, Manager or officer shall have any authority to take any of the following actions or enter into any agreement or arrangement to consummate any of the following actions on behalf of the Company, or otherwise cause or permit the Company to do any of the following without Supermajority Approval:

(i) any change in the information provided to the Class A Members pursuant to this Agreement;

(ii) except as expressly contemplated in any then valid Budget, purchase, sell, lease, exchange, transfer, assign or otherwise acquire or dispose, whether in a single transaction or a series of related transactions, an asset or assets in a transaction that could reasonably be expected to result in payments made or received of more than $10,000,000;

(iii) approve a loan from a Member (or an Affiliate of a Member) to the Company pursuant to Section 5.8;

(iv) except as expressly contemplated in any then valid Budget, borrow, assume or guarantee, or otherwise incur or contract for, indebtedness in excess of $5,000,000, or pledge, create or incur any lien or other encumbrance on any assets of the Company in connection therewith; and amend or modify in any material respect any such arrangement;

(v) loan money in excess of $1,000,000 other than to an entity wholly owned by the Company or advances or extensions of credit in the form of accounts receivable incurred in the ordinary course of business;

(vi) other than in accordance with Sections 4.3(c), 5.2, 5.3(b), 5.4, 5.10, 5.11 or 9.1(f), issue, sell or otherwise dispose of any Membership Interests, except pursuant to any convertible security, call, option, warrant, subscription, purchase right or other contract or commitment previously approved by Supermajority Approval, or change the number of Membership Interests then outstanding whether by recapitalization, reclassification, split-up, combination, exchange, repurchase, acquisition or otherwise or take any action affecting the amount of Membership Interests then outstanding or altering the rights of outstanding Membership Interests set forth in this Agreement, including creating additional series or classes of Membership Interests;

(vii) other than in accordance with Section 9.1(f), approve the admission of any Additional Member, including the terms of such Additional Member's admission;

(viii) forego making distributions pursuant to Section 6.5 in any quarter;

(ix) set Short Term Cash Requirements in an amount in excess of zero;

(x) approve any merger, consolidation or other combination of the Company, or participation of the Company in a share exchange, or sale of all or substantially all of the assets of the Company;

(xi) assign all or substantially all of the Company's assets in trust for creditors or on the assignee's promise to pay its debts or file a voluntary petition commencing a bankruptcy, insolvency or similar Proceeding;

(xii) approve the dissolution or liquidation of the Company or the appointment or designation of any Person other than the Board as Liquidating Trustee;

(xiii) enter into any customer agreement that would be substantially likely to result in (or amend any existing customer agreement in a manner that would be substantially likely to result in) receipt by the Company of gross income in excess of $100,000 per annum (individually or in the aggregate) that would not constitute Qualifying Income;

(xiv) approve any Capital Contribution in a form other than cash;

(xv) make any distribution to a Member in a form other than cash;

(xvi) take any "bonus depreciation" under Code section 168 (or other applicable provisions of the Code);

(xvii) approve any New Project;

(xviii) other than in accordance with Section 12.3, approve any amendment to this Agreement or to the Charter Documents of the Company or waive any provisions of this Agreement;

(xix) take any action or engage in any business beyond the scope of the Business;

(xx) approve the certification of any Membership Interests or the issuance to any Member of any certificate representing the Membership Interests held by such Member;

(xxi) approve the Construction Budget or any LLC Budget;

(xxii) approve any amendment to any Budget;

(xxiii) approve any operation and management agreement, management services agreement or any similar agreement for the general operation and management of the Business and the assets of the Company;

(xxiv) except as expressly contemplated in any then valid Budget, approve any capital expenditure in excess of $5,000,0000;

(xxv) approve any amendment to the Construction Management Agreement, the Design Basis, the scope and parameters of the Project, or the Design and Development Outside Date;

(xxvi) except as provided in Section 4.3(c), approve the aggregate Equity Percentage Interest of the Class B Members to be greater or less than **[**]**;

(xxvii) issue or incur any indebtedness during any period other than Phase I, or issue or incur any indebtedness during Phase I that (A) has a term that extends for a period in excess of three (3) years following the Commercial Operation Date; (B) is not nonrecourse to the Members; or (C) has an interest rate of more than LIBOR plus four percent (4%);

(xxviii) issue or incur indebtedness that causes the Company's ratio of indebtedness to total capitalization to exceed fifty percent (50%) at any time (for purposes hereof, "total capitalization" shall mean the sum of the total indebtedness of the Company plus the total amount of Capital Contributions made on or prior to the date of calculation);

(xxix) approve any Other Capital Call pursuant to Section 5.2(d)(i) or 5.2(d)(iii);

(xxx) grant Principal Member status to any Approved Additional Initial Member;

(xxxi) except as otherwise set forth in this Agreement, permit the withdrawal of a Member;

(xxxii) except as otherwise required by Law, approve any policies or procedures with respect to regulatory, environmental and risk management standards;

(xxxiii) approve an outside expert pursuant to Section 6.6 other than PricewaterhouseCoopers LLP; and

(xxxiv) perform any act in contravention of this Agreement.

(b) Notwithstanding anything to the contrary in this Agreement, nothing herein authorizes the Members, Managers or the officers of the Company to take any action for which the unanimous consent of the Members is required by the express terms of this Agreement or the non-waivable provisions of the Act without the consent of all of the Members.

7.8 Budget.

(a) As of the Effective Date, the Members and the Board have approved the Design and Development Budget, a copy of which is attached hereto as Exhibit C.

(b) The Company shall endeavor to, at least forty-five (45) Days prior to the earlier of the Commercial Operation Date and the completion of Phase I, present to the Board a reasonably detailed LLC Budget for the remainder of the fiscal year and, to the extent practicable, estimated amounts and timing of Capital Calls and estimated distributions for the remainder of such fiscal year. Following the earlier of the Commercial Operation Date and the completion of Phase I, the Company shall present to the Board, at least forty-five (45) Days before the end of each fiscal year, a reasonably detailed LLC Budget for each upcoming fiscal year and, to the extent practicable, estimated amounts and timing of Capital Calls, estimated working capital levels and estimated distributions for the upcoming fiscal year. If any such LLC Budget is not approved prior to the commencement of the next fiscal year then, until a new LLC Budget is approved, the Company shall continue to operate under the LLC Budget approved for the preceding fiscal year; provided, that the line item amounts therein shall each be deemed increased by five percent (5%).

(c) Within five (5) Days of the issuance of the Phase I Notice in accordance with Section 5.2(b), the Company or any of the Officers shall distribute to the Class A Members the latest drafts of the Construction Timeline and the LLC Budget, provided that such Construction Timeline and LLC Budget shall not be binding on the Class A Members unless they have been approved by Supermajority Approval.

(d) Upon the election of the Principal Member Phase I Respondent to participate in the funding of Phase I, the Phase I Members shall negotiate in good faith to update

the Construction Budget and finalize the then current LLC Budget and have each approved by Supermajority Approval as soon as practicable.

7.9 Determination of Fair Market Value.

(a) Whenever a determination of Fair Market Value is required under this Agreement (including as part of a determination of Agreed Value), the Board shall endeavor in good faith to determine the Fair Market Value and shall notify the Member who (or whose Affiliate) owns or to whom is being distributed the interest or property being valued of the Board's determination The Interested Party may dispute the Board's determination of Fair Market Value by giving written notice of objection to the Board within ten (10) Business Days of written notice of the Board's determination.

(b) The Interested Party may elect to have Fair Market Value determined by appraisal if (i) the Board is unable to reach a determination of Fair Market Value within thirty (30) Days after the obligation to determine Fair Market Value arises or (ii) the Board and the Interested Party are unable to reach an agreement on Fair Market Value within thirty (30) Days after the giving of the notice of objection by the Interested Party in accordance with Section 7.9(a). If the Interested Party gives notice of election of appraisal within ten (10) Days after the applicable thirty (30) Day period, then the appraisal shall be conducted by an independent valuation firm with at least fifteen (15) years experience in undertaking valuations of petroleum products storage terminal assets and businesses ("*Appraiser*") selected by the mutual written agreement of the Interested Party and the Board. The Appraiser shall determine Fair Market Value within forty-five (45) Days after its appointment and its determination shall be final and conclusive on the parties. If the Interested Party and the Board are unable to agree upon an Appraiser within ten (10) Days after the Interested Party has given notice of election of appraisal, then each of the Interested Party and the Board shall designate an Appraiser within an additional ten (10) Days after such ten (10) Day period and the two (2) Appraisers so selected shall determine jointly the Fair Market Value within forty-five (45) Days after the appointment of the last of such Appraisers, and their determination shall be final and conclusive on the parties. If either party fails to appoint an Appraiser within the ten (10) Day period, the Appraiser timely selected by the other party shall determine the Fair Market Value within forty-five (45) Days after the expiration of such ten (10) Day period and its determination shall be final and conclusive on the parties. All expenses of appraisal shall be paid by the Interested Party unless (i) the Board was initially unable to timely make a determination of the Fair Market Value or (ii) the Fair Market Value resulting from the appraisal exceeds by five percent (5%) or more the Fair Market Value initially determined by the Board, in either which case, the expenses of the appraisal shall be paid by the Company.

(c) If the Appraisers selected above are unable to reach a joint determination of Fair Market Value within the time period provided, then such Appraisers shall promptly submit their respective valuation reports, together with supporting documentation, to a third Appraiser mutually selected by the first two Appraisers, which third Appraiser shall within an additional forty-five (45) Day period, determine the Fair Market Value and such determination shall be final and conclusive as to all parties hereto. In addition to the expenses provided for in Section 7.9(b), all expenses of the third Appraiser shall be payable one-half by the Company and one-half by the Interested Party.

(d) Each Appraiser's determination of Fair Market Value shall be contained in a written report, with copies provided to the Interested Party and the Board. The Interested Party and the Company agree to provide the Appraisers access to all information, books and records and other data and documentation (including matters that may be deemed trade secrets or otherwise confidential) and to fully and promptly cooperate with requests by the Appraisers for information regarding the Company or its business or assets.

(e) Notwithstanding the foregoing, the time periods provided for determination of Fair Market Value under this Agreement shall be automatically extended (but no more than double the time period provided for herein) at the request of the Company or an Appraiser if necessary in order to obtain additional information or to provide a reasonable period of time to properly analyze information needed to determine Fair Market Value.

(f) Notwithstanding the foregoing, in the event an appraisal is requested, then the time periods provided (i) for the exercise of options to purchase Membership Interests from a Disposing Member under this Agreement that have an option exercise price based on Fair Market Value shall be automatically extended to provide the parties with an option period under this Agreement of at least ten (10) Days following the giving of written notice to the Company and the relevant Members of the determination of Fair Market Value and (ii) for the closing of any purchase and sale of Membership Interests under this Agreement shall be extended to a date ten (10) Business Days after the determination of the Fair Market Value.

7.10 Other Activities; Future Projects. Subject to and without limiting the terms of any agreements that a Member may separately enter into with the Company or any other Member:

(a) No Member, Manager, or Affiliate thereof shall be expressly or implicitly required pursuant to this Agreement, by Law or otherwise, to tend to the business and affairs of the Company as such Member's, Manager's or Affiliate's sole and exclusive function, and any Member, Manager or Affiliate thereof may have other business interests and may engage in other investments and activities in addition to those relating to the Business or the Company, independently or with others, including businesses, investments and activities that may be similar to, or in competition with, the Business, the Company, any of its Members or any of their respective Affiliates, and none of the same shall constitute a breach of this Agreement or any duty expressed or implied by Law to any Member or the Company. Without limitation of and subject to the foregoing, nothing in this Agreement shall be construed (i) to require any Manager to manage the Company as his or her exclusive function or (ii) to require any officer to serve as an officer of the Company as his or her exclusive function. No Member, Manager or Affiliate thereof shall incur any liability to the Company or to any other Member as a result of engaging in any other such business, investment or activity.

(b) The Company and the other Members acknowledge and agree that each Member and its Affiliates (i) have made, prior to the date hereof, and are expected to make, on and after the date hereof, investments (by way of capital contributions, loans or otherwise), and (ii) have engaged, prior to the date hereof, and are expected to engage, on and after the date hereof, in other transactions with and with respect to, in each case, Persons engaged in businesses that may directly or indirectly compete with the Business or the Company. The Company and the other Members agree that any involvement, engagement or participation of a

Member and its Affiliates in such investments, transactions and businesses, even if competitive with the Business or the Company, shall not be deemed wrongful or improper or to violate any duty express or implied under applicable Law.

(c) The doctrine of corporate opportunity, or any analogous doctrine, shall not apply to a Member. Except with respect to Future Project Opportunities that receive Supermajority Approval, the Company and each Member hereby renounce any interest or expectancy in any business opportunity, transaction, agreement, arrangement or other matter that involves any aspect of the petroleum products storage industry or any other industry or business (each, a "*Non-Company Business Opportunity*") including any pipelines connecting to tanks or other facilities on the Property. No Member who acquires knowledge of a business opportunity shall have any duty to communicate or offer such opportunity to the Company or any other Member, and such Member shall not be liable to the Company, to any Member or any other Person for breach of any fiduciary or other duty by reason of the fact that such Member does not communicate such opportunity or information to the Company or any other Member or pursues or acquires such opportunity for itself or directs such opportunity to another Person. By way of example and not in limitation of the foregoing, any Non-Company Business Opportunity (other than Future Project Opportunities that receive Supermajority Approval) and any business opportunity that has been presented to the Board for consideration and has failed to receive the requisite approval ("*Rejected Business Opportunities*") may be separately pursued by one or more of the Members or their respective Affiliates. Neither the Company nor any Member shall have any right, by virtue of this Agreement, to share or participate in such Non-Company Business Opportunities or Rejected Business Opportunities or to the income or proceeds derived therefrom.

(d) Notwithstanding anything in this Agreement to the contrary, each of the Company and the Members acknowledges and agrees that each Member, in its capacity as a Member, and each Manager that it designated, may decide or determine any matter subject to the approval of such Member or any such Manager pursuant to any provision of this Agreement in the sole and absolute discretion of such Member or any such Manager, and in making such decision or determination, such Member or any such Manager shall have no duty, fiduciary or otherwise, to any other Member or to the Company, it being the intent of all Members that such Member, in its capacity as a Member, and each Manager, in its capacity as a Manager, have the right to make such determination solely on the basis of its own interests or the interests of the Member(s) that designated such Manager. Each of the Company and the Members hereby agrees that any claims against, actions, rights to sue, other remedies or other recourse to or against the Members or any of their respective Affiliates (including each of their Manager appointees) for or in connection with any such decision or determination, including any decision or determination to approve a proposed Capital Call or Future Project Opportunity, in each case whether arising in common Law or equity or created by rule of Law, statute, constitution, contract (including this Agreement) or otherwise, are in each case expressly released and waived by the Company and each Member, to the fullest extent permitted by Law, as a condition of, and as part of the consideration for, the execution of this Agreement and any related agreement, and the incurring by the Members of the obligations provided in such agreements.

7.11 Disclaimer of Duties; Limitation of Liability; Indemnity of Members, Employees and Other Agents.

(a) Disclaimer of Duties: TO THE FULLEST EXTENT PERMITTED BY THE ACT, EACH MANAGER SHALL REPRESENT, AND OWE DUTIES TO, ONLY THE MEMBER THAT DESIGNATED SUCH MANAGER (THE NATURE AND EXTENT OF SUCH DUTIES BEING AN INTERNAL AFFAIR OF SUCH MEMBER), AND NOT TO THE COMPANY, ANY OTHER MEMBER OR MANAGER, OR ANY OFFICER OR EMPLOYEE OF THE COMPANY.

(b) Limitation of Liability: No Member has guaranteed nor shall it have any obligation with respect to the return of a Member's Capital Contributions, and no Member has guaranteed Profits from the operation of the Company. No officer of the Company or Manager or Member or any of its Affiliates shall be liable to the Company or to any other Member for any loss or damage sustained by the Company or any other Member arising from any actions taken or omitted to be taken in its capacity as an officer of the Company or a Manager or a Member, as applicable, except for any loss or damage directly resulting from fraud or willful misconduct by such officer of the Company or such Manager or such Member or its officers, directors, employees, agents or Affiliates (such fraud or willful misconduct having been determined by a final and non-appealable judgment entered by a court of competent jurisdiction) which has a material adverse financial impact on the Company, it being specifically agreed that no officer of the Company or Manager or Member shall be liable for its own ordinary, gross, joint or, in the case of a Member, the concurrent negligence of such Member or its officers, directors, employees, agents or Affiliates. In no event shall any officer of the Company or Manager or any Member or its officers, directors, employees, agents or Affiliates be liable to the Company or to any other Member under this Agreement for any Consequential Damages sustained by the Company or any other Member. Each officer of the Company and each Manager and each Member shall be entitled to rely in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Person as to matters the officer of the Company or Manager or Member, as applicable, reasonably believes are within such Person's professional competence or expertise, including financial statements or other financial data prepared or presented in accordance with the provisions of the Act, and any act taken or omitted in reliance thereon shall be conclusively presumed to have been done or omitted in good faith and in accordance therewith. Notwithstanding any other provision of this Agreement or any duty otherwise existing at Law or in equity, the parties hereby agree that each Member, the Managers and its Affiliates shall owe, to the maximum extent permitted by Law, including Section 18-1101 of the Act, no fiduciary duties to the Company, the other Members or any other Person bound by this Agreement and any standard of care and duty otherwise imposed on any Member, Manager or its Affiliates by this Agreement or under the Act or any applicable Law shall be eliminated to the fullest extent permitted by Law. The provisions of this Agreement, to the extent that they restrict or eliminate fiduciary and other duties of Members, Managers or Affiliates to the Company or its Members otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Members, Managers or Affiliates.

(c) Indemnity:

(i) To the fullest extent permitted under the Act, the Members, Managers and officers of the Company to the extent acting on behalf of the Company in accordance with the terms of this Agreement and, if applicable, any delegation of authority from the Board and each of such Person's agents, representatives and employees ("*Indemnitees*"), shall be indemnified and held harmless by the Company against all losses, claims, liabilities, damages, fines, penalties, costs and expenses (including attorneys' fees, judgments and amounts paid in settlement actually and reasonably paid or incurred by the Indemnitee), other than, with respect to a Manager, losses, claims, liabilities, damages, fines, penalties, costs and expenses arising from claims brought forward by the Member that appointed such Manager, whether or not such Indemnitee is acting in such capacity at the time such liability or expense is paid or incurred, as a result of a Claim arising out of or related to the business, assets or affairs of the Company, to the extent in the action, omission or transaction giving rise to such Claim, (i) in the case of employees, the Indemnitee's actions or omissions were in good faith and in a manner the Indemnitee reasonably believed to be in, or not opposed to, the best interest of the Company and (ii) the Indemnitee's conduct did not constitute fraud or willful misconduct. **SUBJECT TO THE QUALIFICATIONS SET FORTH ABOVE, THE FOREGOING INDEMNITY EXPRESSLY INCLUDES AN INDEMNITY TO PROTECT A MEMBER, AN OFFICER OF THE COMPANY AND MANAGER FROM THE CONSEQUENCES OF ITS OWN CONDUCT WITH RESPECT TO THE SOLE, CONCURRENT, PASSIVE OR ACTIVE NEGLIGENCE (INCLUDING GROSS NEGLIGENCE) OR STRICT LIABILITY OF A MEMBER OR ITS OFFICERS, MANAGERS, EMPLOYEES, AGENT OR AFFILIATES.** The termination of any action, suit or Proceeding by judgment, order or settlement shall not, of itself, create a presumption that the Indemnitee's actions or omissions were not in good faith and in a manner that the Indemnitee reasonably believed to be in, or not opposed to, the best interest of the Company, or constituted fraud or willful misconduct. The right of indemnification provided herein shall be cumulative of, and in addition to, any and all rights to which any Indemnitee may otherwise be entitled by contract or as a matter of law or equity and shall extend to his heirs, successors, assigns and personal representatives.

(ii) To the extent an Indemnitee is successful on the merits or otherwise in any Proceeding that arises out of or otherwise relates to the Company or this Agreement, such Indemnitee shall be indemnified by the Company against all expenses actually and reasonably incurred by such

Indemnitee or on such Indemnitee's behalf in connection therewith. If an Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all Claims, issues or matters in such Proceeding, the Company shall indemnify such Indemnitee against all expenses actually and reasonably incurred by him or on his behalf in connection with each successfully resolved Claim, issue or matter. For purposes of this Section 7.11(c)(ii) and without limitation, the termination of any Claim, issue or matter in such a Proceeding by dismissal or withdrawal with or without prejudice, shall be deemed to be a successful result as to such Claim, issue or matter.

(iii) The Company shall advance all reasonable expenses incurred by or on behalf of an Indemnitee in connection with any Proceeding within twenty (20) Days after

the receipt by the Company of a statement or statements from the Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the expenses incurred by the Indemnitee and shall include or be preceded or accompanied by an undertaking by or on behalf of any Indemnitee to repay any expenses advanced if it shall ultimately be determined that such Indemnitee is not entitled to be indemnified against such expenses.

(iv) If the indemnification provided for in this Section 7.11(c) is unavailable to an Indemnitee in respect of any amount referred to therein as a result of a final judicial determination that such indemnification cannot be enforced, then, to the extent permitted by Law, the Company shall, in lieu of indemnifying each Indemnitee, contribute to the amount paid or payable by such Indemnitee as a result of such amount in such proportion as is appropriate to reflect the relative benefits received by the Company and each Indemnitee and the relative fault of the Company and each Indemnitee in connection with the matter which resulted in such claims, damages, liabilities, judgments, penalties (including excise and similar Taxes and punitive damages), fines, cost, expense or settlement amount, as well as any other relevant equitable considerations.

(v) An Indemnitee shall not be denied indemnification in whole or in part under this Section 7.11 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.

(vi) The provisions of this Section 7.11 are for the benefit of the Indemnitees, their heirs, successors and assigns, and shall not be deemed to create any rights for the benefit of other Persons.

(vii) No amendment or repeal of this Section 7.11 or any provision hereof shall in any manner terminate, reduce or impair the right of any past, present or future Indemnitee to be indemnified by the Company, nor the obligations of the Company to indemnify any such Indemnitee under and in accordance with the provisions of this Section 7.11 as in effect immediately prior to such amendment or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment or repeal, regardless of when such claims may arise or be asserted.

7.12 Compensation and Reimbursement of Expenses. Unless approved by the Board, no Member, Manager or officer shall be entitled to compensation for actions taken on behalf of the Company.

7.13 Confidentiality and Publicity.

(a) Each Member agrees that it shall, and shall cause its Affiliates and its and their officers, managers, directors, employees, legal counsel, agents and representatives (together with the Affiliates, the "*Confidentiality Affiliates*") to, hold confidential and not disclose, without the prior written consent of the Board, (i) the terms of this Agreement, (ii) information, data and results generated or acquired by or on behalf of the Company as a result of the Company

conducting its operations, business and affairs, including agreements and Permits of the Company, and (iii) any data, information, materials and reports furnished pursuant to this Agreement relating to the Company and its business and affairs, whether furnished verbally, in writing or in electronic form, and whether the confidential or proprietary status is indicated orally or in writing or in a context in which the Company or the disclosing Member or its Confidentiality Affiliates reasonably communicated, or the receiving Member or its Confidentiality Affiliates should reasonably have understood, that the information should be treated as confidential, whether or not the specific words "confidential" or "proprietary" are used to so identify such information ("*Confidential Information*"). Subject to the remaining provisions of this Section 7.13, each Member agrees that it will not disclose Confidential Information to any Person, other than any of its Confidentiality Affiliates who has been made aware of the confidentiality restrictions contained in Section 7.13 that are applicable to Confidentiality Affiliates.

(b) The obligations contained in Section 7.13(a) shall not apply, or shall cease to apply, to Confidential Information if or when, and to the extent that, such Confidential Information (i) was known to the receiving Member or its Confidentiality Affiliates prior to receipt from the Company or the disclosing Class A Member or its Confidentiality Affiliates; (ii) was, or becomes through no breach of the obligations of the receiving Member or its Confidentiality Affiliates hereunder, known to the public; (iii) becomes known to the receiving Member or its Confidentiality Affiliates from other sources under circumstances not involving any breach of any confidentiality obligation between such source and the disclosing Member's or its Confidentiality Affiliates or a Third Party; (iv) is independently developed by the receiving Member or its Confidentiality Affiliates separate and apart from the Company and the Business in a capacity other than as a Member, agent, representative or Affiliate of the Company; (v) is required to be disclosed by Law, applicable legal process or applicable stock exchange rules or policies, as determined in the reasonable judgment of the disclosing Member; (vi) is necessary or desirable to be disclosed to Governmental Authorities or (vii) is necessary or reasonably desirable to be disclosed to the public, to members of the financial community or to the equity holders of the disclosing Person in connection with any reporting requirements or common practices relating to public companies; provided, however, that any Member intending to disclose Confidential Information in reliance on Section 7.13(b)(v), (vi) or (vii) shall, to the extent commercially practicable and lawful, prior to making such disclosure, notify the Company of the intended disclosure in writing (including a draft in substantially final form of the intended disclosure, or a transcript if the intended disclosure is oral) reasonably in advance of making such disclosure and consider in good faith all comments received from the Company or any Class A Member with respect to modification of the disclosure.

(c) The obligations contained in Section 7.13(a) shall not apply to the use of Confidential Information in the conduct by the Company or the Board of the Business on behalf of the Company. Notwithstanding anything in Section 7.13(a) to the contrary, a Class A Member or its Confidentiality Affiliate may disclose Confidential Information (i) to a Class A Member's Confidentiality Affiliates having a reasonable need to know; (ii) to a Class A Member's or the Company's accountants; (iii) to contractors, subcontractors and other service providers acting on behalf of the Company, but only if the recipients of such Confidential Information have agreed to be bound by confidentiality provisions that are no less stringent than those set forth in this Section 7.13, (iv) to lenders or potential lenders or other Persons providing

Financing in connection with bona fide Financing by the Company or a Class A Member or its Confidentiality Affiliate but only if the recipients of such Confidential Information have agreed to be bound by confidentiality provisions that are not materially less stringent than those set forth in this Section, (v) in connection with a bona fide proposed Disposition by a Class A Member, to Persons who are Transferees or potential Transferees or, in the case of Permitted Pledge Dispositions, secured creditors of such Class A Member, in connection with such Disposition, but only if the recipients of such Confidential Information have agreed to be bound by confidentiality provisions that limit their use of the Confidential Information to the sole purpose of evaluating the potential Disposition and are otherwise no less stringent than those set forth in this Section, (vi) to a nationally recognized credit rating agency and (vii) to a court of competent jurisdiction or arbitrators to the extent necessary to the exercise of its rights and remedies under this Agreement.

(d) No article for external publication, advertising, press release or other public announcement, regulatory filing, statement or comment relating to the Company, other than the sole fact that such Member is a Member of the Company, shall be issued or made by the Members without Majority Approval of the Board; provided, that an article, advertisement, press release or other public announcement, regulatory filing, statement or comment made without Majority Approval of the Board shall not be in violation of this Section 7.13 if it is (i) required to be issued or made by Law, applicable legal process or applicable stock exchange rules and policies; (ii) necessary or desirable to a Class A Member to be issued to or filed with Governmental Authorities or (iii) necessary or reasonably desirable to a Class A Member to be issued or made in connection with any reporting requirements or common practices relating to public companies; provided, further, that any Class A Member intending to issue or make an article, advertisement, press release or other public announcement, regulatory filing, statement or comment without Majority Approval of the Board in reliance on Sections 7.13(d)(i)-(iii) shall, to the extent commercially practicable and lawful, prior to such issuance, notify the Company of the intended issuance in writing (including a draft in substantially final form of the intended article, advertisement, press release or other public announcement, regulatory filing, statement or comment) reasonably in advance of making such issuance and consider in good faith all comments received from the Company or any Class A Member with respect to modification of the disclosure.

(e) The Members acknowledge that, from time to time, the Company may need information from any or all of such Members for various reasons, including to comply with various federal and state Laws. Each Member shall provide to the Company all information reasonably requested by the Company for purposes of complying with federal or state Laws or for purposes of providing information to federal or state regulatory authorities in connection with tariff rate or other regulation, in each case within a reasonable amount of time from the date such Member receives such request.

7.14 Insurance.

(a) Subject to Section 7.14(b), the Company shall, either directly or through the Members (or their respective Affiliates), obtain and maintain in effect casualty, liability and such other insurance as may be determined by the Board, by Majority Approval, to be reasonable and prudent. On an annual basis, the Board shall, by Majority Approval of the Board, approve a

plan for the procurement of the Company's insurance policies and the minimum insurance levels for the Company pursuant thereto. The initial insurance of the Company shall be as set forth on Exhibit E and is hereby approved by the Company and by the Members and shall not require any further approval hereunder.

(b) Notwithstanding anything in Section 7.14(a) to the contrary, each Member shall be responsible for obtaining director's and officer's (D&O) insurance for all Managers appointed by such Member, and shall be responsible for all costs in connection therewith, and shall not look to the Company therefor; provided, that the Company may purchase and maintain insurance, at its expense, to protect itself and any Indemnitee, whether or not the Company would have the power to indemnify such Person against such expense, liability or loss under Section 7.11(c)(iv).

ARTICLE VIII.
RIGHTS AND OBLIGATIONS OF MEMBERS

8.1 Limitation on Liability and Authority. Each Member's liability shall be limited as set forth in this Agreement, the Act and other applicable Law. Without limiting the right of any Member to exercise the rights specifically granted to such Member under this Agreement, each Member agrees that it has no authority under this Agreement, and will not exercise any authority it may have under the Act, to act for, bind or commit the Company to agreements, transactions or other arrangements, or hold itself out as an agent of the Company, without the express prior written consent of the Board.

8.2 No Liability for Company Obligations. No Member or its officers, directors, employees, agents or Affiliates shall be liable for the debts, obligations or liabilities of the Company (whether arising in contract, tort, statute or otherwise), including under a judgment, decree or order of a court, except as may be expressly provided in a separate, written guaranty or other agreement executed by such Member or its officers, directors, employees, agents or Affiliates or as may be provided under the Act relating to liability for wrongful distributions.

8.3 Priority and Return of Capital. Except as is expressly provided herein, no Member shall have priority over any other Member, either as to the return of Capital Contributions or as to Profits, Losses, or distributions. This Section 8.3 shall not apply to loans made to the Company by any Member.

8.4 Access to Information. Each Class A Member shall be entitled to receive the following (provided, however, an assignee of a Class A Unit who is not admitted as a Substituted Member shall not be entitled to any of the following):

(a) to receive a copy of this Agreement and any amendments hereto;

(b) to receive a current list of the name and last known address of each Member;

(c) to receive information regarding the amount of cash and a description and statement of the Agreed Value of any other property or services contributed by each Member and

that each Member has agreed to contribute in the future, and the date on which each became a Member;

(d) to receive the financial information described in Section 6.6;

(e) to receive copies of the Company's federal, state and local tax returns for each year;

(f) to inspect the assets of the Company during business hours at the principal office of the Company upon reasonable prior written notice; and

(g) to audit, examine and make copies of the books of account and other records of the Company, including compliance-related records, during business hours at the principal office of the Company upon reasonable prior written notice;

The inspection and audit rights in Sections 8.4(a), (f) and (g) may be exercised through any agent or employee of such Class A Member designated in writing by it or by an independent public accountant, attorney or other consultant so designated and the Class A Member making the request shall bear all costs and expenses incurred in any inspection, examination or audit made on such Class A Member's behalf. Notwithstanding anything in this Section 8.4, each Class A Member's access to information is subject to and limited by all applicable Laws.

8.5 Certificates.

(a) Except as otherwise approved pursuant to Section 7.7(a)(xx), the Membership Interests shall not be represented by certificates.

(b) The Company shall keep or cause to be kept on behalf of the Company a register that will provide for the registration and transfer of Membership Interests. The Company shall not recognize transfers of Membership Interests unless the same are effected in compliance with this Agreement and in the manner described in this Section 8.5.

(c) If the assignee has the right, pursuant to Article IX and the other applicable provisions of this Agreement, to be admitted to the Company as a Substituted Member, such assignee shall become a Member when such transfer and admission is reflected in the books and records of the Company.

(d) Each distribution in respect of a Membership Interest shall be paid by the Company only to the Member of record thereof as of the date of such distribution, unless otherwise directed by the Member in writing. Such payment shall constitute full payment and satisfaction of the Company's liability in respect of such distribution, regardless of any Claim of any Person who may have an interest in such payment by reason of assignment or otherwise.

8.6 Representations and Warranties. Each Member hereby represents and warrants to the Company and each other Member that (a) it is duly formed, validly existing and (if applicable) in good standing under the Laws of the state of its formation, and if required by Laws is duly qualified to do business and (if applicable) is in good standing in the jurisdiction of its principal place of business (if not formed therein); (b) it has full corporate, limited liability

company, partnership, trust, or other applicable power and authority to execute and agree to this Agreement and to perform its obligations hereunder and all necessary actions by the board of directors, shareholders, managers, members, partners, trustees, beneficiaries, or other Persons necessary for the due authorization, execution, delivery and performance of this Agreement by that Member have been duly taken; (c) it has duly executed and delivered this Agreement, and this Agreement is enforceable against such Member in accordance with its terms, subject to bankruptcy, moratorium, insolvency and other Laws generally affecting creditors' rights and general principles of equity (whether applied in a Proceeding in a court of Law or equity); (d) its authorization, execution, delivery and performance of this Agreement does not conflict with any material obligation under any other material agreement or arrangement to which that Member is a party or by which it is bound; and (e) it (i) has been furnished with such information about the Company and the Membership Interest as that Member has requested, (ii) has made its own independent inquiry and investigation into, and based thereon has formed an independent judgment concerning, the Company and that Member's Membership Interest therein, (iii) has adequate means of providing for its current needs and possible individual contingencies and is able to bear the economic risks of this investment and has a sufficient net worth to sustain a loss of its entire investment in the Company in the event such loss should occur, (iv) has such knowledge and experience (based on actual participation) in financial and business matters as to be capable of evaluating the merits and risks of an investment in the Company and making an informed investment decision, (v) is an Accredited Investor, and (vi) understands and agrees that its Membership Interest shall not be sold, pledged, hypothecated or otherwise transferred except in accordance with the terms of this Agreement and pursuant to an effective registration statement or applicable exemption from registration under the Securities Act of 1933 and other applicable securities Laws.

8.7 Member Marks and Branding. Neither the Company nor any Member shall be permitted to use any trademark owned by any other Member or its Affiliates, without the express written consent of such Member or its Affiliate or as otherwise required by Law.

ARTICLE IX.
DISPOSITIONS

9.1 Restrictions on Dispositions.

(a) No Member may Dispose of all or any portion of its Membership Interest except in accordance with the terms and conditions of this Article IX. Except for Permitted Dispositions, but subject to Section 9.3 in the case of a Tag-Along Transaction, no Disposition of all or any portion of a Membership Interest may be made unless it is subject to the purchase options provided for in Section 9.2 and otherwise in compliance with Article IX, and any such purported Disposition without such compliance shall be null and void ab initio (but shall remain subject to the purchase options provided for below).

(b) Without limitation of the foregoing, (i) except to the extent otherwise required by Law or in connection with a Permitted Disposition or the exercise of a right to participate as a Tag Offeree in a Tag-Along Transaction or in connection with any "roll-over" in a Drag Sale, no Class A Member may Dispose of any of its Class A Units to any Person unless such Class A Member Disposes at least a five percent (5%) Class A Equity Percentage Interest to

such Person (unless the Board unanimously approves a Disposition of less than a five percent (5%) Class A Equity Percentage Interest); (ii) except in connection with an Exempt Permitted Disposition, no Member may Dispose of its Membership Interest if such Disposition would cause a material breach, event of default, default or acceleration of payments under any agreement or instrument to which the Company is a party or to which its assets are subject unless such Member agrees to indemnify the Company against any economic loss resulting therefrom on terms and conditions reasonably satisfactory to the Board; (iii) no Member may Dispose of its Membership Interest if the Disposition would, in the opinion of counsel to the Company, cause the Company to be taxed as a corporation or otherwise taxed as an entity for federal income tax purposes or cause the Company to be treated as a publicly traded partnership taxable as a corporation under Code section 7704, (iv) no Member may Dispose of its Membership Interest if the Disposition would (A) require the registration of Membership Interests under applicable federal or state securities laws, (B) cause the Company or any of its Affiliates to be subject to regulation under the Investment Company Act of 1940, the Investment Advisors Act of 1940 or the Employee Retirement Income Security Act of 1974, each as amended, or (C) violate any applicable Law and (v) except in connection with an Exempt Permitted Disposition, or in connection with a Disposition that would not cause a 708 Termination but for the exercise of Inclusion Rights hereunder, no Member may Dispose of any portion of its Class A Units if such disposition would cause the Company to terminate within the meaning of Section 708(b)(1)(B) of the Code (a "*708 Termination*") unless such Disposing Member either (A) receives the unanimous written consent of the Non-Disposing Class A Members to proceed with such Disposition or (B) offers to pay to each other Class A Member prior to such Disposition, on a Pro Rata basis, in cash the amount (in each case, the "*Make-whole Amount*") necessary to hold the other Class A Members harmless against any deferral of state and federal income Tax depreciation and other increase in liability for such Tax (including any change in the present value of such liability) that such 708 Termination would cause. For purposes of calculating the Make-whole Amount, such other Class A Members will be treated as if they are corporations for federal and state income Tax purposes. The Make-whole Amount for each Class A Member entitled to be paid that amount will be computed on a net present value basis using: (x) the Prime Rate in effect on the date of payment plus 1.0% and (y) the highest marginal applicable state and federal corporate income Tax rates for the year of payment. Using those same highest marginal rates, the amount that is determined pursuant to the preceding sentence will be grossed up such that the increased amount reduced by the state and federal income Tax that are deemed paid by reason of the receipt thereof is equal to the amount that is determined pursuant to the preceding sentence. If the applicable state income Tax is deductible for federal income Tax purposes, effect will be given to that deduction in calculating the Make-whole Amounts. Each Class A Member other than the Disposing Member may accept this payment or, in the sole discretion of each such Class A Member, receive full indemnity on such after-Tax basis from the Disposing Member for all state and federal income Tax impacts relating to such Non-Disposing Class A Members directly resulting from the 708 Termination.

(c) Other than in connection with a Permitted Bundled Disposition where there is no change in the direct holder of the subject Class A Units or a Permitted Pledge Disposition, all Dispositions hereunder, including other Permitted Dispositions, shall be subject to the requirements that the Disposing Member provide a copy of the instrument pursuant to which the Disposition is effected, which instrument or a separate instrument shall contain an express statement by the Transferee of its agreement to accept the assignment and to ratify, adopt

and be bound by all of the terms and provisions of this Agreement, as the same may have been amended from time to time, shall provide the notice address of the transferee, shall affirm the representations and warranties in Section 8.6 as applicable to it, and shall provide for the payment by the transferring Member or Transferee of all reasonable expenses incurred by the Company in connection with such Disposition, including the necessary amendments to this Agreement to reflect such Disposition. The transferring Member and the Transferee shall execute and acknowledge any and all such other instruments as the Company may reasonably request to effectuate such Disposition in compliance with this Article IX, in each case in form and substance reasonably satisfactory to the Company. The Transferee shall also be bound by the confidentiality requirements as set forth in Section 7.13. In no event shall the Company dissolve or terminate (other than for Tax purposes, to the extent provided by the Code and Treasury Regulations) upon the admission of any Member to the Company or upon any Permitted Disposition of a Membership Interest in the Company by any Member. In no event shall a Disposition effect a release of the Disposing Member from any liabilities or obligations to the Company or the other Members except as expressly provided in this Article IX.

(d) Each Member acknowledges that it shall be inadequate or impossible, or both, to measure in money the damage to the Company or the Members if any of them or any transferee or any legal representative of any party hereto fails to comply with any of the restrictions or obligations imposed by this Article IX, that every such restriction and obligation is material, and that in the event of any such failure, the Company or the Members shall not have an adequate remedy at Law or in damages. Therefore, each Member and any Transferee or any legal representative of any party hereto consents to the issuance of an injunction or the enforcement of other equitable remedies against such Member at the suit of an aggrieved party without the posting of any bond or other security, to compel specific performance of all of the terms of this Article IX and to prevent any Disposition of Membership Interests in contravention of any terms of this Article IX, and waives any defenses thereto, including the defenses of (a) failure of consideration, (b) breach of any other provision of this Agreement and (c) availability of relief in damages.

(e) Each of the following Dispositions of a Membership Interest shall be deemed to be a "*Permitted Disposition*" for purposes of this Agreement:

(i) a Disposition of a Membership Interest by a Member to an Affiliate (other than an Excluded Joint Affiliate) of such Member who (A) remains an Affiliate of the Disposing Member at all times following such Disposition or (B) ceases to be an Affiliate of the Disposing Member following such Disposition, so long as (x) at the time of the Disposition there was no then-present intention to cease such Affiliation and (y) such former Affiliate holds Class A Units received from the Disposing Member representing no more than fifteen percent (15%) of the Class A Units outstanding at the time such Affiliation ceases; provided, that in all events, (x) all Credit Support provided by the Disposing Member or its Affiliates shall remain valid and in effect and the Disposing Member shall not be released from its obligations under this Agreement by virtue of such Disposition and (y) if at any time a Transferee in a Permitted Disposition under this Section 9.1(e)(i) satisfies neither of the requirements of the foregoing clauses (A) and (B), such Transferee shall immediately transfer to the original owning Member that made

the Disposition, and such original owning Member shall reacquire, all such Membership Interests held by the Transferee;

(ii) a Disposition consisting of (A) the pledge of Class A Units by a Class A Member in connection with a bona fide general credit facility or other financing arrangement of such Class A Member or of any Person Controlling such Class A Member not entered into with the primary intent of circumventing restrictions on Dispositions that would otherwise apply pursuant to this Article IX, pursuant to which any assets of such Class A Member or the Person Controlling such Class A Member or any of its Affiliates are pledged (each such pledge, a "*Permitted Pledge Disposition*") or (B) any subsequent foreclosure, sale, assignment, transfer or other Disposition of any Economic Interest in such pledged Membership Interests or other assets on behalf of applicable secured parties to itself or to any other Person in accordance with the agreements governing such credit facilities or financing arrangements, or applicable Law (each a "*Foreclosure Disposition*"); provided that no Disposition pursuant to this Section 9.1(e)(ii) shall relieve the Disposing Member of any obligation or liability hereunder and all Credit Support provided by the Disposing Member or its Affiliates shall remain valid and in effect;

(iii) a Disposition by a Class A Member to any Person in the twelve (12) months following the occurrence of a Triggering Event;

(iv) a Disposition of Class A Units as part of a Permitted Bundled Transaction (with all Credit Support provided by the Disposing Member or its Affiliates remaining valid and in effect except as arranged otherwise by the Disposing Member or such Affiliates in a manner acceptable to the relevant Third Party counterparties, and, in the event of a new direct holder of such Class A Units, the Disposing Member otherwise being automatically released from its obligations to the Company attributable to the period after the Disposition upon the effectiveness of such Disposition);

(v) any Disposition of Class B Units pursuant to the following automatic disposition provisions:

(A) on the death of a Class B Member, the Class B Units of such Class B Member will pass to the estate or beneficiaries of such Class B Member;

(B) on the disability of a Class B Member, the Class B Units of such Class B Member will be retained by such holder of the Class B Units; provided the legal rights with respect to such Class B Units may pass to the legal representative of such Class B Member;

(C) on the death of a Class B Member's spouse, the Class B Member shall be entitled to acquire any of such Class B Units which belong to the Class B Member's spouse or direct the disposition of such Class B Units in accordance with the estate planning documents of such Class B Member's spouse; and

(D) in the event of a divorce of a Class B Member, such Class B Member shall be entitled to acquire any and all Class B Units which the spouse of

such Class B Member receives or otherwise becomes the owner of in such divorce; and

(vi) a Disposition by the Kinder Morgan Member to the TransMontaigne Purchase Right Option-holder pursuant to Section 5.11(e) and any transfer or assignment of the TransMontaigne Purchase Right pursuant to Section 5.11(e)(vi).

A Member may make a Permitted Disposition of all or any of its Membership Interest at any time without complying with the provisions of Section 9.2, so long as such Member and any Transferee thereof (other than a Transferee pursuant to a Permitted Pledge Disposition or a Foreclosure Disposition) executes a counterpart to this Agreement and otherwise complies with Sections 9.1 and 9.3. Notice of any Permitted Disposition that will result in a change of Member shall be given by the Member effecting the Permitted Disposition to the other Members at least ten (10) Business Days prior to such Permitted Disposition. A holder of Membership Interests may not make a Permitted Disposition if such Disposition has as its primary purpose the avoidance of or is otherwise undertaken with the express purpose of avoiding the restrictions on Dispositions in this Agreement. Any Transferee of a Membership Interest pursuant to a Foreclosure Disposition (a "*Foreclosure Transferee*") shall be a Transferee only, and shall only be entitled to receive, to the extent Disposed in such Foreclosure Disposition, the Economic Interest associated with the Membership Interest Disposed in the Foreclosure Disposition, and such Foreclosure Transferee shall not be entitled or enabled to exercise, directly or indirectly, any other rights or powers of a Member, such other rights, and all obligations relating to, or in connection with, such Membership Interest (including, without limitation, the obligation to make Capital Contributions) to remain with the Disposing Member (a "*Foreclosure Transferor*"); provided, that no Foreclosure Transferor (or any Affiliate of a Foreclosure Transferor) nor any Manager appointed by Foreclosure Transferor (or such an Affiliate of such Foreclosure Transferor) shall be entitled to vote on, consent to, call for or approve any matters under this Agreement or in its capacity as a Class A Member, Principal Member or Manager, nor be included in determining whether there is a Majority Approval of the Board or Supermajority Approval; provided further, that a Foreclosure Transferee may become a Substituted Member with respect to the Membership Interest Disposed in the Foreclosure Disposition if such Foreclosure Transferee is admitted to the Company as a Substituted Member pursuant to the unanimous written consent of the other Members. Any Foreclosure Disposition shall be subject to, and any Membership Interests Transferred pursuant to a Foreclosure Disposition shall continue to be subject to, as applicable, this Article IX. For the avoidance of doubt, notwithstanding any other provision set forth in this Agreement, no pledgee or secured party in a Permitted Pledge Disposition shall be entitled to vote, consent to or approve any matters under this Agreement, or appoint (or direct the vote, consent or approval of) any Manager. For the avoidance of doubt, notwithstanding any other provision set forth in this Agreement, the pledgee or secured party in a Permitted Pledge Disposition shall be entitled to assert the validity of its pledge in any proceeding in which the Company is a party.

(f) Notwithstanding anything else in this Agreement to the contrary, until the earlier of (i) the date that is thirty (30) Days following the Effective Date and (ii) the Design and Development Completion Date, Kinder Morgan shall have the right to cause the Company to (and to control the

Company and to cause the Company to take such actions as may be reasonably necessary to) issue Class A Units to any one or more Approved Additional Initial

Member(s) such that, following such issuance, any such Approved Additional Initial Member(s) hold, in the aggregate together with any other such Approved Additional Initial Members, up to 2% of the Class A Units outstanding immediately following such issuance; provided, that (A) such issuance shall be for a price per Class A Unit received by the Company that is no less than an amount equal to the quotient obtained by taking (x) the aggregate amount, in dollars, paid by each Class A Member for all of the Class A Units held by the Class A Members immediately prior to such issuance divided by (y) the aggregate number of Class A Units held by all such Class A Members immediately prior to such issuance, (B) any such Approved Additional Initial Member(s) shall comply with the requirements of Section 9.1(c) as if such Approved Additional Initial Member(s) received such Class A Units in a Disposition, (C) any such Approved Additional Initial Member(s) shall otherwise acquire such Class A Units on terms that are generally no more favorable in the aggregate to such Approved Additional Initial Member than those upon which the Principal Members acquired their Class A Units prior to such issuance and (D) any such Approved Additional Initial Members shall not be granted Principal Member status without Supermajority Approval. Each Member agrees to cooperate with Kinder Morgan and to take all actions reasonably requested by Kinder Morgan (and to cause each Manager appointed to the Board by such Member to cooperate with Kinder Morgan and to take all actions reasonably requested by Kinder Morgan) as may be necessary or advisable in order to consummate the issuances contemplated by this Section 9.1(f). For the avoidance of doubt, each Member hereby agrees and acknowledges that Sections 5.11 and 7.7(a)(vi) and (vii) shall not apply to any issuances of Class A Units pursuant to this Section 9.1(f).

9.2 Rights of First Offer.

(a) If any Class A Member proposes to Dispose of all or any portion of its Class A Units (the "*Offered Membership Interests*"), other than (i) in a Permitted Disposition, (ii) as a Tag Offeree pursuant to Section 9.3 or (iii) as a Dragging Member pursuant to Section 9.4, such Class A Member (the "*Disposing Member*"), shall first give written notice (the "*Offering Notice*") to the Company stating its bona fide intention to Dispose of such Offered Membership Interests, including a description of all material terms, including the aggregate price (the "*ROFO Price*"), of such intended Disposition. The Offering Notice shall constitute an irrevocable and binding written offer (the "*Qualifying Offer*") to sell all, but not less than all, of the Offered Membership Interests to the Class A Members other than the Disposing Member (the "*Non-Disposing Members*") at the ROFO Price and on the offer terms specified in the Qualifying Offer. The Company shall provide written copies of the Offering Notice to each of the Non-Disposing Members within five (5) Days after the Company's receipt of the Offering Notice.

(b) Each Non-Disposing Member shall have the right to elect (which election shall be irrevocable) within twenty (20) Days after the date the Offering Notice is received by the Company (the "*Sale Period*") to purchase up to such Non-Disposing Member's Pro Rata portion (based upon the relative number of Class A Units owned by such Non-Disposing Member to the Class A Units then outstanding owned by all other Non-Disposing Members at such time) of the Offered Membership Interests at the price and on the terms and conditions set forth in the Qualifying Offer by delivery of a written notice to the Disposing Member and the Company (the "*ROFO Acceptance*"). The ROFO Acceptance will be binding on and enforceable against each Non-Disposing Member with respect to the purchase and sale of all of such Offered Membership

Interests at the price and on the terms and conditions set forth in the Offering Notice. The ROFO Price shall be payable in cash at the closing of the sale of the Offered Membership Interests.

(c) If the Non-Disposing Members have in the aggregate elected to purchase some but less than all of the Offered Membership Interests, the Company shall give each of those Non-Disposing Members, if any, who elected to purchase all of the Offered Membership Interests which were available to be purchased by them pursuant to Section 9.2(b) (each, a "*Fully Subscribed Non-Disposing Member*"), a notice within two (2) Business Days of the expiry of the Sale Period of the number of additional Offered Membership Interests available to be purchased (the "*Remaining Offered Membership Interests*"). Each Fully Subscribed Non-Disposing Member may elect (which election shall be irrevocable) to purchase up to its Pro Rata portion (based upon the relative number of Membership Interests owned by such Non-Disposing Member to the Membership Interests owned by all other Non-Disposing Members at such time) of the Remaining Offered Membership Interests by delivery to the Company of a written notice (the "*Second ROFO Acceptance*") within seven (7) Business Days following the date of the Company's notice of the Remaining Offered Membership Interests (the "*Second Sale Period*"). In anticipation of the contingency that not all of the Remaining Offered Membership Interests are elected to be purchased pursuant to the preceding sentence (any such Remaining Offered Membership Interests not elected to be purchased, the "*Additional Remaining Offered Membership Interests*"), each Fully Subscribed Non-Disposing Member may also elect prior to the expiry of the Second Sale Period (which election shall be made concurrently and on the same form as the election in the previous sentence, and in any event shall be irrevocable) to purchase up to all of the Additional Remaining Offered Membership Interests; provided, that the Class A Members shall, as much as reasonably practicable, consult with each other and coordinate the exercise of rights such that all Remaining Offered Membership Interests and Additional Remaining Offered Membership Interests are elected to be purchased and each shall use all reasonable efforts to inform the others of the actions it will take at least three (3) Business Days in advance of the expiration of the Second Sale Period and to inform each other as promptly as practicable of any change of intention made thereafter, but prior to the expiration of the Second Sale Period. To the extent that there are Remaining Offered Membership Interests and the Fully Subscribed Non-Disposing Members have, in the aggregate, elected to purchase more of the Remaining Offered Membership Interests than are available, such Remaining Offered Membership Interests shall be apportioned Pro Rata amongst the Fully Subscribed Non-Disposing Members who have elected to purchase Remaining Offered Membership Interests (determined based on the ratio of the number of Class A Units owned by each such Fully Subscribed Non-Disposing Member who has elected to purchase more than its Pro Rata portion of Remaining Offered Membership Interests to the aggregate number of Class A Units then outstanding held by all such Fully Subscribed Non-Disposing Members who have elected to purchase more than their Pro Rata portion of the Remaining Offered Membership Interests).

(d) Provided that all ROFO Acceptances and all Second ROFO Acceptances, collectively, constitute an offer to purchase all of the Offered Membership Interests, then within thirty (30) Days of receipt of the ROFO Acceptances and the Second ROFO Acceptances, as the case may be, each of the Fully Subscribed Non-Disposing Members shall deliver to the Disposing Member (by certified check or wire transfer in immediately available funds to an account specified by the Disposing Member) the purchase price of such Offered Membership Interests to be purchased by each such Fully Subscribed Non-Disposing Member, and the

Disposing Member and such Fully Subscribed Non-Disposing Members shall enter into and deliver such instruments of transfer and assumption as may be reasonably necessary to effect the sale of such Offered Membership Interests to the Fully Subscribed Non-Disposing Members (it being understood and agreed that except as otherwise agreed by the Disposing Member in its sole discretion, the closing of the sale of the Offered Membership Interests shall occur substantially concurrently and pursuant to substantially similar instruments of transfer, which shall not include any representations, warranties or indemnities other than those relating to title, authorization and similar matters with respect to the Offered Membership Interests and such sale). If the approval of any Governmental Authority is required in connection with any such purchase of Offered Membership Interests and such approval of a Governmental Authority has not been completed or obtained on or prior to the date scheduled for closing, the closing of the purchase of all Offered Membership Interests shall take place on the third Business Day after such approval of a Governmental Authority has been completed or obtained. The Disposing Member and each Fully Subscribed Non-Disposing Member shall use reasonable efforts to complete or obtain any such required approval of a Governmental Authority; provided, however, that neither the Disposing Member nor any Fully Subscribed Non-Disposing Member shall be required to agree to any divestiture or operational constraint or pay any material amount of money (other than the filing fee payable in connection with any notification required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, or in connection with any notification or filing under any foreign competition laws which shall be paid by such Fully Subscribed Non-Disposing Member) as a condition of obtaining such approval of a Governmental Authority. If each of the Disposing Member and each Fully Subscribed Non-Disposing Member has acted in good faith to complete or obtain any such required approval of a Governmental Authority and such approval of a Governmental Authority has not been completed or obtained on or before the date which is ninety (90) Days after receipt by the Disposing Member of the ROFO Acceptance or the Second ROFO Acceptance, as the case may be, the proposed sale of Offered Membership Interests subject to such required approval of a Governmental Authority shall be cancelled with respect to each Fully Subscribed Non-Disposing Member subject to such required approval of the Governmental Authority and, for all purposes, each such Fully Subscribed Non-Disposing Member shall be deemed to have elected not to purchase such Offered Membership Interests pursuant to this Section 9.2, and the provisions of Section 9.2(c) shall apply anew with respect to such Offered Membership Interests; provided, that if a Second ROFO Acceptance is not received with respect to such Offered Membership Interests pursuant to Section 9.2(c) or all of the Offered Membership Interests are subject to such required approval of a Governmental Authority, the Disposing Member shall be free to Dispose of the Offered Membership Interests in accordance with this Section 9.2 as if the Non-Disposing Members had elected not to purchase all of the Offered Membership Interests and the Second Sale Period had ended as of the later of such ninety (90) Day date or the expiration of any Second Sale Period relating to such Offered Membership Interests contemplated by this Section 9.2(d).

(e) Subject to Section 9.3, if the Non-Disposing Members have not collectively elected to purchase all of the Offered Membership Interests prior to the expiry of the Sale Period or the Second Sale Period, as the case may be, the Disposing Member shall have the right to Dispose of the Offered Membership Interests specified in the Offering Notice in accordance with this Section 9.2(e) to a Third Party for a period of one hundred ninety five (195) Days from the end of the latter of the Sale Period and, if applicable, the Second Sale Period (the

"*ROFO Period*"); provided, that the price paid in such sale shall be not less than one hundred percent (100%) of the ROFO Price specified in the Offering Notice and shall otherwise not be on terms (other than with respect to representations, warranties and indemnification to the extent relating to the business and operation of, and other matters relating to, the Company) materially more favorable to the transferee than those set forth in the Offering Notice. Upon consummation of the purchase and sale of such Offered Membership Interests, the transferee or transferees of such Offered Membership Interests shall agree in writing to be bound by the terms of this Agreement and to assume and agree to discharge any and all obligations of the Disposing Member hereunder. If the Disposing Member does not Dispose of the applicable Offered Membership Interests before the end of the ROFO Period, such Disposing Member may not sell any Offered Membership Interests without complying with this Section 9.2.

(f) The closing of the transactions contemplated by this Section 9.2 shall occur at the principal place of business of the Company unless otherwise agreed to in writing by the parties to such transaction.

(g) The Class B Units will be subject to a right of first offer and a right of first refusal in favor of each of the Class A Members. If a Class B Member desires to sell his or its Class B Units, such Class B Units shall first be offered to the holders of the Class A Units in proportion to the number of Class A Units held by each Class A Member relative to the total number of Class A Units then outstanding. Such offer shall be held open for forty-five (45) Days. If an agreement is not reached within the allotted forty-five (45) Day period with those Class A Members who elect to participate in such purchase of the Class B Units, then the holder of such Class B Units may pursue a sale of such Class B Units to a Third Party during the succeeding one hundred twenty (120) Day period, provided that the holder of such Class B Units shall not sell any of such Class B Units to a Third Party without first complying with the terms of the next sentence. If the holder of the Class B Units intends to sell any of such Class B Units to a Third Party, then the Class B Units must first be offered to the holders of the Class A Units at the same price and on the same terms as those offered to the unrelated Third Party in proportion to the number of Class A Units held by each Class A Member relative to the total number of Class A Units then outstanding. If a Class A Member elects not to exercise its right of first offer or its right of first refusal, the other Class A Members shall have the right to purchase such Class B Units in proportion to their number of Class A Units owned relative to all Class A Units then outstanding owned by Class A Members who desire to purchase additional Class B Units. In the event a Class B Member transfers any of its Class B Units, that Class B Member must transfer all of its Class B Units. If an agreement is not entered into within the allotted one hundred twenty (120) Day period, then the right of first offer process set forth in this Section 9.2(g) must begin again for an additional period of forty-five (45) Days.

(h) If a Member is dissolved and wound up (unless the sole distributee of the Member's Membership Interest is an Affiliate of the Member), the affected Member shall be obligated to notify the other Members in writing (and such notice shall be deemed to be the Offering Notice) and all of the Membership Interests owned by such Member and its Affiliates shall be deemed to be the subject of a proposed Disposition and, therefore, an Offered Membership Interest under Section 9.2(a) at a price equal to the Fair Market Value of such Membership Interest.

(i) If a Member, subject to a vote to the contrary by Majority Approval of the Class A Members (excluding therefrom the affected Member), becomes a Bankrupt Member, the affected Member shall be obligated to notify the other Members in writing (and such notice shall be deemed to be the Offering Notice) and all of the Membership Interests owned by such Member and its Affiliates shall be deemed to be the subject of a proposed Disposition and, therefore, an Offered Membership Interest under Section 9.2(a) at a price equal to the Fair Market Value of such Membership Interest.

(j) Whenever the Fair Market Value of a Membership Interest is to be determined under Section 9.2, the Fair Market Value shall be determined as of the last Day of the calendar month immediately preceding the occurrence of the Disposition or other Triggering Event, as applicable (the "*Determination Date*"); provided, however, that for purposes of determining the purchase price for the Offered Membership Interest, the Fair Market Value shall be reduced by any distributions made to the Disposing Member attributable to the Offered Membership Interest and any Priority Interests owed to another Member, and increased by any Capital Contributions made by the Disposing Member attributable to the Offered Membership Interest, occurring during the time period between the Determination Date and the closing of the purchase and sale.

(k) Whenever an option arises as a result of a deemed transfer under Sections 9.2(h) or (i), the option period shall begin upon the occurrence of the event constituting the deemed transfer and shall continue until the end of the stated period following the giving of the notification to the other Members referenced in the applicable provision of Sections 9.2(h) or (i).

9.3 Tag-Along Rights.

(a) If any holder of Class A Units (each, a "*Tag Offeror*") desires to Dispose of all or any portion of its Class A Units to one or more Third Parties (each, a "*Tag Transferee*") pursuant to a Disposition that is not a Permitted Disposition such that, immediately following such Disposition, such Tag Transferee would hold fifty percent (50%) or more of the Class A Units then outstanding (a "*Tag-Along Transaction*"), then such Tag Offeror(s) shall offer to include the Membership Interests held by each other Class A Member (each, a "*Tag Offeree*") in such proposed Tag-Along Transaction in accordance with this Section 9.3. For the avoidance of doubt, a proposed Disposition by the Tag Offeror described above shall constitute a Disposition covered by Section 9.2 and the waiver or failure of a Tag Offeree to exercise its rights under Section 9.2, if applicable, shall not preclude such Tag Offeree from exercising its rights under this Section 9.3.

(b) The Tag Offerors shall send written notice of such Tag-Along Transaction (the "*Tag Notice*") to each Tag Offeree. In the event that the terms and/or conditions set forth in the Tag Notice are thereafter amended in any material respect, the Tag Offeror shall give written notice (an "*Amended Tag Notice*") of the amended terms and conditions of the proposed Disposition to each Tag Offeree and the Company. Each Tag Notice and Amended Tag Notice shall set forth: (i) the name of the Tag Transferee and the amount of Membership Interests proposed to be purchased by such Tag Transferee; (ii) the proposed amount and type of consideration and the material terms and conditions of payment offered by the Tag Transferee;

and (iii) a summary of any other material terms of the Tag-Along Transaction. Upon the delivery of a Tag Notice, no further Dispositions of Membership Interests by any Member shall be permitted (including pursuant to a Permitted Disposition) until such Tag Notice is withdrawn or the Tag-Along Transaction is consummated.

(c) Each Tag Offeree shall have the right (an "*Inclusion Right*"), exercisable by delivery of notice to the Tag Offerors at any time prior to the later of (i) ten (10) Days after the end of the Second Sale Period under Section 9.2 or (ii) ten (10) Days after receipt of the Tag Notice to sell pursuant to such Tag-Along Transaction any Class A Units and other Membership Interests (provided that such other Membership Interests may only be included if a Tag Offeree disposes of all of the Class A Units held by it and its Affiliates) requested to be included by such Tag Offeree. The proposed Tag Transferee shall be obligated to purchase all such Class A Units requested to be included by the exercising Tag Offerees pursuant to the proposed Tag-Along Transaction or the proposed Tag Transferee shall not be permitted to consummate the proposed Tag-Along Transaction. The aggregate purchase price payable for the Membership Interests purchased by the Tag Transferee will be allocated, paid and distributed among the Members participating in such Tag-Along Transaction in accordance with the Hypothetical Value of each such Member's Membership Interests. To the extent that the Members provide any indemnification or otherwise assume any other post-closing liabilities in connection with the Tag-Along Transaction, the participating Members shall do so severally and not jointly (and on a Pro Rata basis in accordance with the Membership Interests being sold by each, except with respect to the representations and warranties described in the following sentence) and their respective potential liability thereunder shall not exceed the proceeds received as consideration for their respective Membership Interests. To the extent the Members make representations and warranties in connection with a Tag-Along Transaction relating to title to the Membership Interests conveyed (free and clear of all liens and encumbrances), due authorization, legal authority and capacity to Dispose of their Membership Interests and non-contravention of other agreements to which such Member is a party, any indemnification or other post-closing liabilities related to such representations and warranties shall be specific to the Member making such representations and warranties.

9.4 Drag-Along Rights.

(a) If one or more Class A Members (each such Class A Member in its capacity as such, the "*Dragging Member*") and its or their respective Affiliates hold a Class A Equity Percentage Interest of at least eighty percent (80%) and the Dragging Members desire to sell all of the Class A Units held by such Dragging Members and their respective Affiliates pursuant to a sale to a Third Party that is not an Affiliate of any such Dragging Member (a "*Drag-Along Transferee*"), such Dragging Member may require each other Member (each, a "*Required Seller*") to sell all of their Membership Interests in the Company, subject to reasonable allowances (applied Pro Rata to the Dragging Members and each Required Seller based on the relative Equity Percentage Interests of the Dragging Members and each Required Seller) for the "roll-over" of equity required by the Drag-Along Transferee, in a *bona fide* arm's length transaction or series of transactions, including pursuant to a merger, equity purchase, tender offer, business combination, asset sale contemplated by Section 9.4(d) or otherwise (such transaction or series of related transactions, a "*Drag Sale*") at the purchase price and upon the terms set forth in the Drag-Along Notice (or Amended Drag-Along Notice) described below;

provided, that, notwithstanding the foregoing provisions with respect to allowances for the "roll-over" of equity required by the Drag-Along Transferee, each Required Seller may, in its sole discretion, require that 100% of its Membership Interests be sold in connection with any Drag Sale. In connection with a Drag Sale, the Dragging Members may also require each Required Seller to vote in favor of such Drag Sale or act by written consent approving the same with respect to all Membership Interests owned by such Required Seller, as necessary or desirable to approve and consummate the Drag Sale. The consummation of a Drag Sale by any Dragging Members shall be subject to the sole discretion of such Dragging Members, who shall have no liability or obligation whatsoever (other than compliance with this Section 9.4) to any Required Sellers participating therein in connection with such Required Sellers' Disposition of Membership Interests.

(b) Two (2) Business Days after being instructed to do so by any Dragging Member, the Company shall provide written notice (the "*Drag-Along Notice*") of a Drag Sale to each Required Seller. In the event that the terms and/or conditions set forth in the Drag-Along Notice are thereafter amended in any material respect, the Dragging Members shall give written notice (an "*Amended Drag-Along Notice*") of the amended terms and conditions of the proposed Disposition to each Required Seller and the Company. Each Drag-Along Notice and Amended Drag-Along Notice shall set forth: (i) the name of the Drag-Along Transferee and the amount of Membership Interests proposed to be purchased by such Drag-Along Transferee; (ii) the proposed amount and type of consideration and the material terms and conditions of payment offered by the Drag-Along Transferee; and (iii) a summary of any other material terms of the Drag Sale. Upon the delivery of a Drag-Along Notice, no further Dispositions of Membership Interests by any Member shall be permitted (including pursuant to a Permitted Disposition) until such Drag-Along Notice is withdrawn or the Drag Sale is consummated.

(c) All Dispositions of Membership Interests to the Drag-Along Transferee pursuant to this Section 9.4 shall be consummated simultaneously at the offices of the Company, on the later of (i) a Business Day not less than twenty (20) nor more than ninety (90) Days after the Drag-Along Notice is received by such Required Sellers and the Company or (ii) five (5) Business Days following receipt of all material approvals, including approvals of Governmental Authorities and any approval of any party to any material agreement of the Company. The aggregate purchase price payable for the Membership Interests purchased by the Drag-Along Transferee (the "*Drag Consideration*") will be allocated, paid and distributed among the Members participating in such Drag Sale in accordance with the Hypothetical Value of each such Member's Membership Interests; provided, that (i) if any Dragging Member is granted the right to designate any manager(s) or director(s) in connection with such sale, the Required Sellers shall not receive any portion of such right, and (ii) if any of the consideration is in a form other than cash, the consideration payable to the Required Sellers shall, if requested by the Required Sellers, consist solely of cash with the same Fair Market Value as the non-cash consideration. To the extent that the Members provide any indemnification or otherwise assume any other post-closing liabilities in connection with the Drag Sale, each of the Dragging Members and the Required Sellers shall do so severally and not jointly (and on a Pro Rata basis in accordance with the Membership Interests being sold by each, except with respect to the representations and warranties described in the following sentence) and their respective potential liability thereunder shall not exceed the proceeds received as consideration for their respective Membership Interests. Each Required Seller shall give customary representations and warranties in

connection with a Drag Sale relating to title to the Membership Interests conveyed (free and clear of all liens and encumbrances), due authorization, legal authority and capacity to Dispose of their Membership Interests and non-contravention of other agreements to which such Required Seller is a party. Any indemnification or other post-closing liabilities related to such representations and warranties shall be specific to the Required Seller making such representations and warranties. No Required Seller shall be required to enter into any non-competition agreement pursuant to a Drag Sale. Each Required Seller shall be required to enter into any instrument, undertaking or obligation necessary or reasonably requested and deliver all documents necessary or reasonably requested in connection with such Disposition in connection with this Section 9.4.

(d) Each Required Seller shall be required to sell its Membership Interests pursuant to a Drag Sale free and clear of all liens and encumbrances. In connection with a Drag Sale, each Member subject thereto will also (A) consent to and raise no objections against the Drag Sale or the process pursuant to which the Drag Sale was arranged, (B) waive any dissenter's rights and other similar rights, (C) take all actions reasonably required or desirable or requested by the Dragging Members to consummate such Drag Sale, (D) comply with the terms of the documentation relating to such Drag Sale and (E) use commercially reasonable efforts to cause any Manager designated to the Board by such Member to facilitate and take, and cause the Company to facilitate and take, the actions described in the foregoing clauses (A) through (D). Notwithstanding anything in Section 9.4(a) to the contrary, if desirable to the Dragging Members and Drag-Along Transferee, in lieu of a transfer of Membership Interests, the Drag Sale may be exercised to cause a sale of all or substantially all of the assets of the Company, so long as it would have substantially the same economic effect to the Required Sellers as a substantially similar Drag Sale involving a transfer of Membership Interests.

(e) The Company will pay the reasonable fees and expenses of legal counsel (and such local counsel as may be appropriate) for each Dragging Member in connection with any Disposition pursuant to this Section 9.4 (including by way of a purchase agreement, tender offer, merger or other business combination transaction or otherwise).

9.5 Admission of Substituted Members. Except as otherwise set forth in Section 5.11(e), Transferees of a Membership Interest will not become a Substituted Member without Supermajority Approval, unless, except as otherwise set forth in Section 5.11(e), the Transferee acquired its Membership Interests in a Permitted Disposition or otherwise in compliance with the provisions of this Article IX, in which case the Transferee shall automatically become a Substituted Member so long as the Transferee pays the Company all unpaid Capital Contribution obligations of its transferor attributable to the transferred Membership Interests, agrees to assume the transferor's obligations to make any future required Capital Contributions, executes a counterpart of this Agreement and otherwise complies with Section 9.1 hereof. Substituted Members shall have all of the rights and obligations of Members.

9.6 Admission of Additional Members. Subject to compliance with Section 5.10, an Additional Member (which shall not include a Substituted Member resulting from a Permitted Disposition or a Disposition otherwise in compliance with the provisions of this Article IX) may be admitted into the Company only upon Supermajority Approval, including in such approval the additional Member's required Capital Contribution and number of Membership Interests held,

and execution of a counterpart of this Agreement by the Additional Member. Each Additional Member shall provide the Company with an express statement of such Additional Member's agreement to ratify, adopt and be bound by all of the terms and provisions of this Agreement, as the same may have been amended from time to time, in a form reasonably acceptable to a Supermajority Approval. Additional Members shall have all of the rights and obligations of Members.

9.7 Withdrawal. No Member has the right or power to withdraw from the Company and, no Member shall withdraw from the Company, without the approval of Managers appointed by one or more Class A Member(s) holding at least seventy-five percent (75%) of the Class A Units then outstanding not held by such Member or its Affiliates, other than pursuant to: (i) any redemption of a Member's Membership Interests pursuant to Section 5.11; (ii) a Disposition to a Substituted Member in accordance with this Article IX; (iii) with respect to a Class B Member, the redemption of such Class B Member's Class B Units pursuant to Section 4.3(c)(iii); or (iv) a Liquidating Event in accordance with Section 10.1. Notwithstanding the foregoing, except in the case of a withdrawal in connection with the redemption of a Member's interest pursuant to Section 5.11, no Member has the right or power to withdraw from the Company, and no Member shall (without Supermajority Approval) withdraw from the Company, until all liabilities of the Company, except liabilities to Members on account of their Capital Contributions, have been paid or there remains property of the Company sufficient to pay them.

9.8 Effective Date of Dispositions. In the event a Disposition of a Membership Interest is consummated in accordance with this Article IX, such Disposition will be recognized for the purpose of distributions and allocations as of the date on which such Disposition became effective, provided that the Company shall have been given a copy of all documents or instruments executed in connection with such Disposition. Notwithstanding any assumption of liabilities by a Transferee, the Disposing Member shall not be released from its obligations under this Agreement or otherwise with respect to the Company unless expressly so provided in this Agreement. The Company shall be entitled to treat the record owner of a Membership Interest as the absolute owner thereof in all respects and shall incur no liability for distributions of cash or other property made in good faith to such record owner until such time as the Disposition of such Membership Interest has become effective on the books of the Company.

9.9 Withholding of Distributions. From the date of the receipt of any instrument relating to Disposition of a Membership Interest or at any time if the Board is reasonably in doubt as to the Person entitled to receive distributions in respect of such Membership Interest, the Board may withhold any such distributions until the Disposition is completed or abandoned or the dispute is resolved.

9.10 Disposed Membership Interests. Unless otherwise agreed by the transferor and the Transferee, each item of income, gain, expense, loss, deduction or credit allocable to any Membership Interest which may have been transferred during any year shall, if permitted by Law, be allocated between the transferor and Transferee of such Membership Interest based on a closing of the books as of the date of Disposition. The Transferee shall receive credit for the portion of the transferor's Capital Contributions allocable to the transferred Membership Interest for the purposes of calculating the transferor's and Transferee's respective number of Membership Interests.

9.11 Compliance with Securities Laws. In addition to the restrictions on Disposition of the Membership Interests contained in this Agreement, no Disposition of any Membership Interest shall be made by or on behalf of any Member unless the Membership Interests are registered under the Securities Act, pursuant to an effective registration statement which contemplates the proposed Dispositions and complies with the then applicable regulations, rules and administrative procedures and practices of the Securities and Exchange Commission, and are registered or qualified in accordance with any applicable state securities laws, regulations, rules and administrative procedures and practices, or except as otherwise agreed by Majority Approval of the Class A Members that are not making the proposed Disposition, unless the Company has received the written opinion of counsel in a form reasonably satisfactory to its legal counsel that the proposed Disposition is exempt from registration under applicable securities laws.

ARTICLE X.
DISSOLUTION AND TERMINATION

10.1 Dissolution. The Company shall be dissolved and its affairs shall be wound up in accordance with Section 10.2 upon the occurrence of any of the following ("*Liquidating Events*"):

(a) the end of the term of the Company, if any, stated in the Certificate of Formation;

(b) the unanimous consent of the Members to dissolve the Company;

(c) the sale or other disposition of all or substantially all of the Company assets and the receipt of all proceeds therefor;

(d) a Bankruptcy Event;

(e) the occurrence of any other event which causes a dissolution of the Company under the Act, unless the remaining Member or Members vote to continue the Company within the time period provided in the Act or, if no such period is provided, within ninety (90) Days after the occurrence of the event;

(f) the failure of the Principal Member Phase I Initiator to elect to cause the Company to redeem any Withdrawing Principal Member's Class A Units in accordance with Section 5.2(b)(i), unless the Principal Members otherwise mutually agree in writing as provided in Section 5.2(b)(i) (it being understood and agreed, for the avoidance of doubt, that any Liquidating Event pursuant to this Section 10.1(f) shall not occur until the expiration of the time period provided in Section 5.2(b)(i) to reach any such agreement); or

(g) upon the expiration of the Design and Development Outside Date Discussion Period if the Design and Development Completion Date has not occurred by the Design and Development Outside Date unless the Principal Members otherwise mutually agree in writing as provided in Section 5.12 during the Design and Development Outside Date Discussion Period.

Notwithstanding the foregoing, it is expressly agreed and provided that the death, retirement, resignation, expulsion, bankruptcy or dissolution of any Member or the occurrence of any other event that terminates the continued membership of any Member shall not cause the Company to be wound up or dissolved, and upon the occurrence of any such event, the Company shall be continued without winding up or dissolution.

10.2 Winding Up, Liquidation and Distribution of Assets.

(a) Upon the dissolution of the Company because of an occurrence of any of the events described in Section 10.1, no further business shall be conducted except for the taking of such action as shall be necessary for the winding up of the affairs of the Company and the distribution of its assets to the Members pursuant to the provisions of this Article X. Upon the occurrence of an event requiring dissolution and unless the Board decides otherwise by Supermajority Approval, the Board shall act as the liquidator ("*Liquidating Trustee*"). The Liquidating Trustee shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein, subject to the same restrictions under Section 6.4, and under the Act. The costs of the winding up shall be borne by the Company.

(b) Upon dissolution of the Company, the Liquidating Trustee shall sell the assets of the Company at the best price available and shall retain the services of an investment banking firm with mergers and acquisition experience in the energy sector to establish and conduct an auction of the Company or its assets as a whole. The property of the Company shall be liquidated as promptly as is consistent with obtaining the fair value thereof. If any assets are sold or otherwise liquidated for value, the Liquidating Trustee shall proceed as promptly as practicable in a commercially reasonable manner to implement the procedures of this Section 10.2. If any assets are to be distributed in kind, the Fair Market Value of such assets shall be determined in accordance with Section 7.9, and each Member's Capital Account shall be charged or credited, as the case may be, as if such asset had been sold for cash at such Fair Market Value and the net gain or net loss recognized thereby had been allocated to and among the Members in accordance with Article VI.

(c) All assets of the Company shall be applied and distributed by the Liquidating Trustee in the following order:

(i) first, to the creditors of the Company (including any Member who has made a loan that remains outstanding) other than liabilities to Members on account of their Capital Contributions or on account of a Member's withdrawal from the Company or pursuant to a withdrawal of capital;

(ii) second, to setting up the reserves that the Liquidating Trustee may deem reasonably necessary for contingent or unforeseen liabilities or obligations of the Company; and

(iii) third, to the Members in accordance with, and to the extent of, the positive balances of their Capital Accounts (after all adjustments to such Capital Accounts have been made for such taxable year, including to reflect any Profits or Losses to be allocated to the Members in connection with the dissolution and liquidation of the Company),

subject to the rights of a Priority Member under Section 5.3(e) to receive certain distributions in respect of its Priority Interest that would otherwise be distributed to a Non-Fully Contributing Member.

10.3 Certificate of Cancellation. When all debts, liabilities and obligations of the Company have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets of the Company have been distributed to the Members, a Certificate of Cancellation shall be executed and filed with the Secretary of State of the State of Delaware in accordance with the Act ("*Certificate of Cancellation*").

10.4 Return of Contribution; Nonrecourse Against Other Members. Except as provided by Law or as expressly provided in this Agreement, upon dissolution, each Member shall look solely to the assets of the Company for the return of its Capital Contributions. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company are insufficient to return the Capital Contributions of one or more Members, such Member or Members shall have no recourse against any other Member. No Member shall be required to contribute any cash or property to the Company to enable the Company to return any Member's Capital Contributions.

10.5 Liquidation Trust. In the discretion of the Liquidating Trustee, a Pro Rata portion (according to the amount of the distributions) of the distributions that would otherwise be made to the Members may be:

(a) Distributed to a trust established for the benefit of the Members for the purposes of paying any contingent or unforeseen liabilities or obligations of the Company arising out of or in connection with the Company. The assets of any such trust shall be distributed to the Members from time to time, in the reasonable discretion of the Liquidating Trustee, in the same proportions as the amount distributed to such trust by the Company would otherwise have been distributed to the Members pursuant to this Agreement; or

(b) Withheld to provide a reasonable reserve for the Company liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Company, provided that such withheld amounts shall be distributed to the Members as soon as practicable.

ARTICLE XI.
DISPUTE RESOLUTION

11.1 Dispute Resolution. It is the policy of the Members to avoid Disputes, if possible, and in the event a Dispute should occur, to resolve the Dispute in a peaceable and expeditious manner. In keeping with this policy and to avoid the time and expense involved in lengthy litigation, the Members agree to use their good faith efforts to negotiate and resolve any Dispute arising hereunder through negotiation and mediation prior to the commencement of any binding arbitration. In furtherance thereof, the Members agree:

(a) In the event of any Dispute, the disputing Members will first endeavor, in good faith, to promptly resolve the Dispute through informal negotiation. If the disputing

Members are unable to resolve the Dispute through informal negotiation, any disputing Member may request resolution by senior executive-level negotiations by the disputing Members.

(b) If the disputing Members are unable to resolve such Dispute within a thirty (30) Day period after senior executive-level negotiations are requested (or within such extended period of time as the disputing Members shall agree upon in writing), the disputing Members will then submit the disputed matters to mediation in accordance with the following terms:

(i) the disputing Members will have five (5) Business Days from the end of such thirty (30) Day (or longer if jointly extended) period to submit to each other a written list of acceptable qualified mediators not affiliated with any of the disputing Members. Within ten (10) Business Days from the date of receipt of such list, the disputing Members shall attempt to agree on a mediator. If no mediator has been selected under this procedure, any disputing Member can request the Houston, Texas office of the American Arbitration Association to supply a list of potential qualified mediators. Within five (5) Business Days of receipt of the list, the Members shall rank the proposed mediators in numerical order of preference, shall simultaneously exchange such list and shall select as the mediator the individual receiving the highest combined ranking. If such mediator is not available to serve, they shall proceed to contact the mediator who was next highest in ranking until they are able to select a mediator. Mediation, as that term is used herein, means a forum in which the mediator conducts a non-binding conference to facilitate communication between the Members to promote a voluntary settlement of their dispute. The mediator will assist the Members in evaluating the Dispute and in reaching a reasonable settlement, but the mediator will not impose a judgment on the issues or attempt to coerce the Members to make a settlement. In preparing for the mediation session, the Members agree to file pre-hearing position papers and to cooperate with the mediator in employing such expert witnesses or facilitators as the Members and the mediators may agree are appropriate.

(ii) All mediation procedures conducted pursuant to this Agreement will be confidential and subject to the provisions of applicable state or federal Law. Therefore, no stenographic or other record shall be made in any such Proceeding except that the Members may enter into a memorandum of understanding setting forth the elements of any settlement reached.

(iii) The disputing Members agree to participate in the mediation procedure to its conclusion. The mediation shall be terminated (A) by the execution of a settlement agreement by the Members, (B) by a declaration of the mediator that the mediation is terminated, or (C) by a written declaration of a Member to the effect that the mediation process is terminated at the conclusion of at least one full Day's mediation session. Even if the mediation is terminated without a resolution of the Dispute, the disputing Members agree not to terminate negotiations and not to commence any legal action or seek other remedies prior to the expiration of five (5) Days following the termination of the mediation.

(c) If the disputing Members are unable to resolve the Dispute by mediation as set forth above, and the Dispute is an Arbitrable Dispute, any of the disputing Members may then submit the Arbitrable Dispute to arbitration in accordance with the following terms:

(i) The arbitration will be conducted by a sole arbitrator in the city of Houston, Texas in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "*Rules*") effective as of the commencement of the arbitration except as such Rules may be modified as provided herein.

(ii) The disputing Members will have five (5) Business Days from the termination of mediation under Section 11.1(b) (or longer if jointly extended) period to submit to each other a written list of acceptable qualified arbitrators not affiliated with any of the disputing Members. Within ten (10) Business Days from the date of receipt of such list, the disputing Members shall attempt to agree on an arbitrator. If no arbitrator has been selected under this procedure, the arbitrator will be chosen in accordance with the Rules.

(iii) The arbitrator shall permit such discovery of documents as he shall determine is appropriate in the circumstances, taking into account the needs of the disputing Members and the desirability of making discovery expeditious and cost-effective. The arbitrator shall also permit the exchange of lists of exhibits and witnesses in advance of the hearing. The arbitrator shall not award any remedy or relief that includes Consequential Damages.

(iv) The decision of such arbitrator shall be final, and judgment upon the award rendered by the arbitration may be entered in any court having jurisdiction thereof. The arbitrator shall have no power to waive, alter, amend, revoke or suspend any of the provisions of this Agreement, provided, however, that the arbitrator shall have the power to decide all questions with respect to the interpretation and validity of this Section 11.1.

(d) For purposes of this Section 11.1, Members who are Affiliates shall be considered one and the same disputing Member.

(e) Subject to and not in any way limiting this Section 11.1, each of the Members irrevocably consents and submits to the exclusive jurisdiction in any action brought in connection with this Agreement in the United States District Court for the Southern District of Texas or in the appropriate courts of Houston, Texas if such United States District Court does not have jurisdiction over such action, including, but not limited to, any action to enforce an award rendered pursuant to this Section 11.1.

(f) All fees and costs of any mediation or arbitration will be assessed and paid, in the absence of the disputing Members' agreement to the contrary, equally by all disputing Members.

(g) Except to the extent required by Law or court or administrative order, no party, mediator, arbitrator, representative, counsel or witness shall disclose or confirm to any Person not present at the negotiation, mediation or arbitration any information about the negotiation, mediation or arbitration Proceeding or hearings, including the names of the parties

and the mediators or arbitrators, the nature and amount of the claims, the financial condition of any party, the expected date of the hearing or the award made.

Unless otherwise expressly provided in this Agreement, all Arbitrable Disputes not resolved by mediation or other agreement must be resolved through the use of binding arbitration as described above. Notwithstanding the foregoing, any Member may commence litigation prior to the expiration of any applicable time period described above if litigation could be barred by an applicable statute of limitations or in order to request any equitable relief, including, without limitation, an injunction to prevent irreparable harm.

ARTICLE XII.
MISCELLANEOUS PROVISIONS

12.1 Notices. All notices or other communications required or permitted by this Agreement shall be in writing, shall be addressed to the Members at their respective addresses or facsimile number set forth on Exhibit A attached hereto or to such other address or facsimile number as may be specified by a party hereto pursuant to notice given by such party in accordance with the provisions of this Section 12.1, and shall be deemed to have been duly given and received (a) when delivered in person, (b) five (5) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid, (c) when dispatched by electronic facsimile transfer (if confirmed in writing by mail simultaneously dispatched) or by electronic mail in portable document format (.pdf), if delivery thereof is confirmed to have occurred on a Business Day prior to 5:00 p.m. in the time zone of the receiving Party, otherwise it shall be deemed delivered and received on the next Business Day, or (d) one (1) Business Day after having been dispatched by a nationally recognized overnight courier service, to the appropriate Party at the address or facsimile number specified on Exhibit A (or to such other addresses and facsimile numbers as a Party may designate by written notice to each of the other Parties in any manner permitted in this Section 12.1). Notices to the Company shall be made to the Company at its principal place of business, with a copy of the notice to each Member.

12.2 Entire Agreement. This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings of the parties relating to the subject matter hereof.

12.3 Modifications and Waivers.

(a) Except as otherwise expressly set forth in this Agreement, neither this Agreement nor the Charter Documents of the Company may be amended without Supermajority Approval; provided, however, that any amendment or modification to a provision of this Agreement that requires the action or approval of a specified percentage of either the Class A Members (or the Managers appointed by the Class A Members) or the Class B Members shall require the consent of the equivalent percentage of the Class A Members (or the Managers appointed by the Class A Members) or the Class B Members, as applicable, then outstanding before such amendment or modification may become effective (other than to the extent that, in the case of a provision requiring the action or approval of a specified percentage of the Class A Members, such specified percentage is lower than the percentage of the Class A Members constituting a Supermajority Approval); provided, further, that during the TransMontaigne

Purchase Right Period, any amendment or modification to Section 5.11(e), this Section 12.3 or Section 12.9, or any other amendment or modification to this Agreement that would have the effect of creating any difference immediately following the exercise of the TransMontaigne Purchase Right between (x) the rights, privileges or obligations of the TransMontaigne Purchase Right Option-holder hereunder or associated with the Purchase Right Units transferred pursuant to the TransMontaigne Purchase Right and (y) the rights, privileges or obligations of the Kinder Morgan Member and its Affiliates (as applicable) hereunder or associated with the Purchase Right Units owned by the Kinder Morgan Member or its Affiliates, in each case, shall require the consent of the TransMontaigne Purchase Right Option-holder, such consent not to be unreasonably withheld, conditioned or delayed.

(b) In addition to amendments pursuant to Section 12.3(a), amendments of this Agreement may be made from time to time by the Board, without the consent of any of the Members, (i) to delete or add any provision of this Agreement required to be so deleted or added by any state or provincial securities commissioner or similar official, which addition or deletion is deemed by such commission or official to be for the benefit or protection of the Members, (ii) to revise this Agreement as necessary to comply or conform with any revisions in applicable laws, rules and/or regulations governing the Company, (iii) to effect a change that the Board in its sole discretion determines to be necessary or desirable to qualify or continue the qualification of the Company as a limited liability company or as a Person in which the Members have limited liability under the laws of any state or to ensure that the Company will not be taxed as an association taxable as a corporation for federal income tax purposes, and (iv) to reflect the admission of Additional Members or Substituted Members in the Company, and the withdrawal of Members from the Company pursuant to Section 9.7, in accordance with Article IX and any other applicable provisions of this Agreement relating thereto; provided, however, that no amendment shall be adopted pursuant to clauses (i) through (iv) above unless the adoption thereof, in the reasonable opinion of the Board, is for the benefit of or not adverse to the interest of the Members or any Member or, during the TransMontaigne Purchase Right Period, the TransMontaigne Purchase Right Option-holder, and in the opinion of counsel for the Company, does not affect the limited liability of the Members or any Member or the status of the Company as a partnership for federal income tax purposes. The Board shall promptly notify the Members and the TransMontaigne Purchase Right Option-holder of any amendment adopted pursuant to clauses (i) through (v) of this Section 12.3(b).

(c) Notwithstanding anything in this Agreement to the contrary: (i) no amendments may be made to any of the rights and privileges of the Class B Units pursuant to this Agreement without the prior written consent of a Majority Approval of the Class B Members who are not Class A Members and no amendment may be made to any other provision of this Agreement which would have the effect of amending or in any way modifying any of the rights and privileges of the Class B Units pursuant to this Agreement without the prior written consent of a Majority Approval of the Class B Members who are not Class A Members; (ii) no transaction or series of transactions may be entered into by the Company, directly or indirectly, which has the effect of amending or in any way modifying any of the rights and privileges of the Class B Units pursuant to this Agreement without the prior written consent of a Majority Approval of the Class B Members who are not Class A Members; (iii) this Agreement may not be amended so as to (A) modify the limited liability of any Member; (B) disproportionately and adversely affect the interest of any Member in any Profits, Losses or distributions or

disproportionately and adversely affect any other rights of a Member pursuant to Article VI or disproportionately and adversely affect any Member's voting rights pursuant to Article VII or (C) restrict the ability of any Member to Dispose of its Membership Interests, in each case of the foregoing clause (A), (B) or (C), without the consent of each such Member.

12.4 Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable Laws of the jurisdictions in which the Company does business. If any provision of this Agreement or the application thereof to any person or circumstances is for any reason and to any extent invalid or unenforceable, (a) the remainder of this Agreement and the application of such provision to the other persons or circumstances will not be affected thereby, but rather are to be enforced to the greatest extent permitted by Law and (b) the Members shall negotiate in good faith to replace that provision with a new provision that is valid and enforceable and that puts the Members in substantially the same economic, business and legal position as they would have been in if the original provision had been valid and enforceable.

12.5 LIMITATION OF LIABILITY. THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED FOR IN THIS AGREEMENT SHALL BE THE SOLE AND EXCLUSIVE REMEDIES FOR A PARTY HEREUNDER AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY HEREIN PROVIDED, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY (INCLUDING WITHOUT LIMITATION ANY COSTS AND EXPENSES OF ENFORCEMENT), SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NEITHER PARTY SHALL UNDER ANY CIRCUMSTANCES BE LIABLE FOR CONSEQUENTIAL DAMAGES, WHETHER BY STATUTE, IN TORT OR CONTRACT OR OTHERWISE. THE LIMITATIONS IN THIS

SECTION IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES SHALL BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY AND STRICT LIABILITY. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

12.6 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE WITHOUT REGARD TO ITS PRINCIPLES OF CONFLICTS OF LAWS.

12.7 Further Assurances. Subject to the terms and conditions set forth in this Agreement, each of the Members shall use all commercially reasonable efforts to execute such agreements, instruments and other documents and to take or cause to be taken such further actions as may be reasonably required or desirable to consummate and give full force and effect to the transactions contemplated hereby.

12.8 Successors and Assigns. The rights and obligations of any party hereto under this Agreement may not be assigned except in compliance with Article IX hereof. Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement, their respective successors and permitted assigns.

12.9 Third Party Beneficiaries. The provisions of this Agreement shall only be for the benefit of, and enforceable by, the Company and its Members and shall not inure to the benefit of or be enforceable by any Third Party, except that the Members agree that (i) any Indemnitee shall be entitled to assert rights and remedies under Section 7.11 as a third party beneficiary thereof, (ii) the Transferee in a Foreclosure Disposition shall be entitled to enforce the rights provided to such Transferee under Section 9.1(e), and (iii) the TransMontaigne Purchase Right Option-holder shall be entitled to assert any rights and remedies under any provisions referencing the TransMontaigne Purchase Right Option-holder or the TransMontaigne Purchase Right, including Sections 5.11(e) and 12.3, as a third party beneficiary thereof.

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representative as of the date first above written.

Class A Members:

TransMontaigne Operating Company L.P.

By: TransMontaigne Operating GP L.L.C.,
its general partner

By: ______________________
Name: ______________________
Title: ______________________

Kinder Morgan Battleground Oil LLC

By: ______________________
Name: ______________________
Title: ______________________

The Company:

Battleground Oil Specialty Terminal Company LLC

By: ______________________
Name: ______________________
Title: ______________________

[Signature Page to Amended and Restated Limited Liability Company Agreement of Battleground Oil Specialty Company LLC]

EXHIBIT A — MEMBERS

Membership Interests

Name and Address of Member	Initial Capital Contributions	Initial Equity Percentage Interest*	Initial Class A Equity Percentage Interest*	Initial Class B Equity Percentage Interest*	Initial Class A Units	Initial Class B Units
Class A Members		**100%**				

TransMontaigne 1670 Broadway Suite 3100 Denver, Colorado 80202 Attn: President Facsimile: 303-626-8228	$ 12,000,000	50%	50%	1,000,000
Kinder Morgan c/o Kinder Morgan Energy Partners, L.P. 500 Dallas, Suite 1000 Houston, Texas 77002 Attention: Secretary and General Counsel Facsimile: 713-369-9499	$ 12,000,000	50%	50%	1,000,000
Class B Members		**0%**	**0%**	**0**

* Percentages reflected constitute the respective initial Equity Percentage Interests and are subject to adjustment in each case in accordance with the provisions of the Agreement (all of which adjustments shall be deemed to amend this Exhibit A automatically for all purposes).

EXHIBIT B — MANAGERS

Class A Member	Manager:	Alternate Manager:
TransMontaigne	Chuck Dunlap	Greg Pound
Kinder Morgan	John Schlosser	Alan Muyskens

Confidential Treatment Requested

EXHIBIT C — DESIGN AND DEVELOPMENT BUDGET

	Month of Sep 2011 - Incurred but not Paid	Monthly Expenditures During the Design & Development Period	Required Expenditures During the Design & Development Period
Land Ownership Costs			
Property Tax Accrual	$ —	$ **[**]**	
Design			
[**]	**[**]**		**[**]**
[**] - Tanks			**[**]**
[**] - Civil	**[**]**		**[**]**
[**] - Marine	**[**]**		**[**]**
[**] Surveying	**[**]**		**[**]**
[**] - Borings	**[**]**		
Permitting			
[**]	**[**]**		**[**]**
Air Permit Ammendment Fee			**[**]**
Harris County Construction Permit			
[**]	**[**]**		
[**]			**[**]**
Construction			
[**] - Trailer Area	**[**]**		
Install 2nd/3rd Trailer/Furniture/Cabling/Electrical			**[**]**
Site Prep - Rough Grade, Storm Sewer, Dikes, etc.			
Fencing			

Confidential Treatment Requested

	Month of Sep 2011 - Incurred but not Paid	Monthly Expenditures During the Design &	Required Expenditures During the Design &

		Development Period	Development Period
Barnes Island Dredge Disposal + QA/QC			
Bridge			
Dredging			
Dredge Fees to Port of Houston and USACE			
Bulkhead for Peggy’s Lake			
Marine - Docks & Trestle			
Navigation Aids			
Purchase Plate Steel - Initial Order			
Foundations			
CenterPoint - Release of Easement			**[**]**
CenterPoint - Substation Connection			
Port of Houston - Lease Fee & Deposit			**[**]**
Long Lead Time Items			
Loading Arms			
Cranes			
Pumps			
Vapor Combustion System			
Fire Water Pumps			
Steam Boilers			
Sump Pumps			
Substation			

	Month of Sep 2011 - Incurred but not Paid	Monthly Expenditures During the Design & Development Period	Required Expenditures During the Design & Development Period
Project Management/Support			
Salary and Benefits of **[**]**	**[**]**	**[**]**	
[**] Consulting Fee	—	**[**]**	
Construction Mgmt — **[**]**	**[**]**	**[**]**	
Burnett Staffing — **[**]**	**[**]**	**[**]**	
ModSpace - Trailer(s) on Site	**[**]**	**[**]**	
Site Security		**[**]**	
Office Lease — **[**]** Offices		**[**]**	
Insurance			
Outside Legal Fees	**[**]**	**[**]**	
Miscellaneous, Utilities, AT&T, Truck, Etc.	**[**]**	**[**]**	—
Totals	**$ [**]**	**$ [**]**	
Design and Development Period		3	
Total Recurring - October 1 - December 31, 2011		**$ [**]**	
Total Non-Recurring - October 1- December 31, 2011			**$ [**]**

EXHIBIT D — DESIGN BASIS

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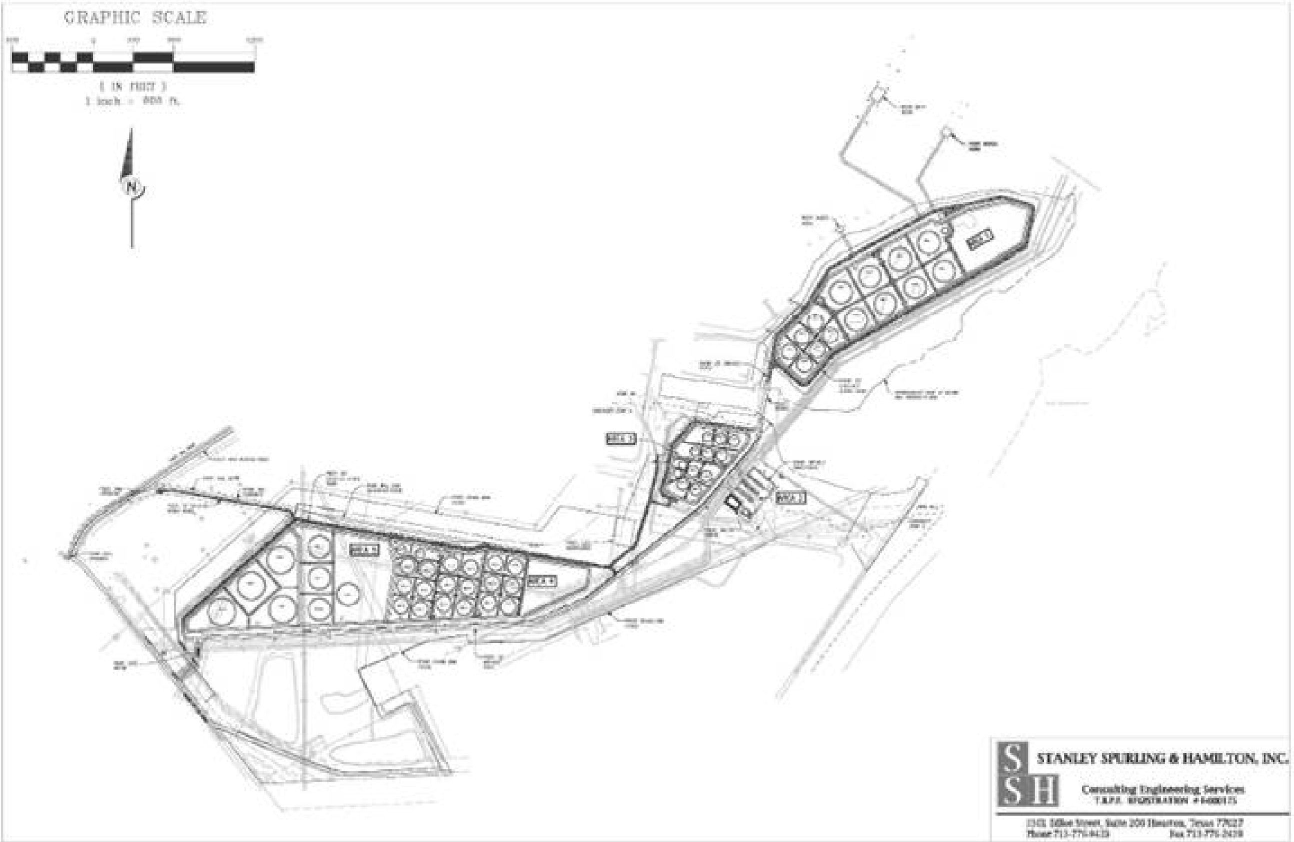
Loading and Unloading Facilities
Electrical
Architectural

MAP



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BASIC OVERVIEW

· 52 new tanks totaling 6,600,000 (shell) bbl of new storage capacity varying in size from 30,000 bbl to 320,000 bbl, constructed of carbon-steel and designed to API 650 Standards.

· Dredging and marine construction will provide two ship docks and three barge docks. The ship docks will be designed to provide berths for ships that have a length overall of 950 feet, a beam of 150 feet, and a draft of 45 feet (with the ability to handle ships that have a maximum length overall of 1,000 feet, a beam of 168 feet and equal displacement). The barge docks will handle up to 12 barges total, each barge having a maximum length overall of 300 feet and a draft of 12 feet.

· A twin track rail siding will be constructed to handle unloading from 12 rail cars.

CAPACITIES

· **Transfer Capacities**

[**]

· **Storage Capacity**

Tank Product and Capacity	Qty and Total Initial Build-Out	
[**]	8	400,000 bbl
[**]	2	60,000 bbl
[**]	8	1,600,000 bbl
[**]	6	600,000 bbl
[**]	2	60,000 bbl
[**]	4	1,280,000 bbl
[**]	4	800,000 bbl
[**]	18	1,800,000 bbl

Total	52	6,600,000 bbl

· **Main Product Pipelines**

[**]

· **Other Bulk Storage**

Tank Use and Capacity		Qty and Total Initial Build-Out	
Surge tanks	9,000 bbl	1	9,000 bbl
Waste Water Holding tanks	20,000 bbl	2	40,000 bbl
Slop Oil tanks	400 bbl	2	800 bbl
Total		5	49,800 bbl

DESIGN DETAILS

· **Tanks**

1. Tank Design — All tanks will be constructed in accordance with the latest edition of API 650, including seismic concerns. Variable point design will be allowed where applicable. They will be designed for a product with a specific gravity of 1.0 that may be heated to 170°F. They will be designed for a 125 mph wind speed. The tanks will be carbon steel with a minimum design metal temperature of 30°F. Tank design will include an overfill safety margin, consider incorporating flush-type nozzles and maximize working capacity by minimizing tank low working level. Venting will be designed for full inbound flow rate into each tank.

   a. Fixed roof product tanks, surge tanks and waste water holding tanks will have **[**]**.

   b. Fixed roof slop oil tanks will have **[**]**.

   c. **[**]**.

2. **Soil Improvement** — Soil improvements will be needed for tank foundations on Barnes Island. Design and installation of soil improvement will meet the requirements of the soil improvement specification prepared for this project following acceptance criteria:

   a. Net soil bearing capacity greater than 3,800 pounds per square foot.

   b. Edge-to-center dishing less than 3.75 inches for 200,000 bbl tanks and 2.75 inches for 100,000 bbl tanks.

   c. Planar tilt less than 12.5 inches for 200,000 bbl tanks and 9.0 inches for 100,000 bbl tanks.

   d. Total settlement less than one inch after hydrotest.

   e. Edge settlement less than one inch after piping is connected.

   f. Out-of-plane settlement less than 0.375 inch in an arc distance of 30 feet.

3. **Tank Foundations** — Ring wall foundations will be constructed under the tanks. Minimum ring wall dimensions are three feet tall and 18 inches thick. The ring wall will project out of the existing grade 12 inches on the mainland and 24 inches on Barnes Island. Foundations will be designed to meet the following settlement criteria:

   a. 4-inch uniform total (including hydrotest).

   b. 2-inch additional center deflection.

   c. 2-inch uniform post-hydrotest.

   d. Tank bottom settlement less than 50 percent of values calculated in API-653 Annex B.

4. **Cathodic Protection** — Unless determined to be unnecessary due to specific site conditions, cathodic protection will be required under tank bottoms.

5. **Leak Prevention and Detection** — Liners and leak ports placed every 80 feet along the circumference of the tank foundation will be installed under all tanks on Barnes Island.

6. **Tank Insulation** — Heated tanks will receive two inches of standing seam, polyisocyanurate insulation with a mill finish aluminum jacket on the shell and no insulation on the roof.

7. **Tank Coatings** — Tanks will have internal and external coatings as specified in the final design. Shell exteriors of uninsulated tanks will receive one prime coat and one white finish coat. Roof exteriors of these tanks will receive one prime coat, one intermediate coat and one white finish coat. Insulated surfaces will receive only one prime coat.

   Roof interiors, roof structural elements and the top three feet of all shell interiors on tanks without internal floating roofs will receive a two-coat marine coating.

8. **Tank Spacing** — Tanks will be spaced in accordance with NFPA 30 requirements. The design will consider a future need to accommodate Class I liquids in floating roof tanks. Distance between tanks will be maintained for pipe rack routes and future maintenance work (equipment access).

9. **Tank Access Stairs** — Access stairs will be provided to the top of each tank. Adequate lighting will be provided for safe access.

10. **Surge Tanks** — Surge tanks and valves will be included in Area 1 for Residual Fuel Oil loading to. Design will consider additional surge protection for future ship and barge loading.

· <u>Civil / Structural</u>

1. **Geotechnical** — Geotechnical analysis will be used to finalize the designs of the tank foundations and other structures to ensure stable foundations. Construction methodology will be such that environmental impacts are minimized. Final size, height and depth of all foundations will be based on the recommendations of the soils report and the latest edition of applicable building codes. Tanks and piping connections to the tanks will be designed to allow for expected tank settlement.

2. **Construction Elevation and Coordinates —** Designs will use surveyor established benchmarks, elevations and co-ordinates for layout and design of new facilities.

3. **Tank Containment Area Berms and Dikes —** Dikes will be constructed with existing materials on site, if possible. All selected materials will be sampled and sent to a geotechnical laboratory to determine suitability for use in containment walls.

   Containment Dikes will be designed in accordance with SPCC and NFPA 30 regulations with regard to capacity and permeability. Primary containment dikes will segregate areas into fields containing a maximum of 10 — 12 tanks. Dike heights will be kept low enough to avoid having the diked area considered an OSHA-defined confined space area. Intermediate dikes will be used to segregate tanks when required by NFPA codes.

   Access to the tanks and pump pads will be provided for small service vehicles. Ramps will be constructed as needed to permit such access. Eighteen-wheel tractor trailers will not be able to access the floor of the containment areas.

   Earthen containment dikes will have top benches and 2:1 side slopes. The dikes will be stabilized to prevent erosion. The top benches will be wide enough and be dressed to provide a surface suitable for light vehicular traffic where needed. On Barnes Island containment area floors will be covered with a geosynthetic clay layer if existing soils are not sufficiently impermeable (greater than 1×10^{-7} cm/sec).

4. **Site Drainage —** Storm water drainage will be provided within the containment area. Storm water drainage away from the tanks will be provided by fine grading the surface soils. Surface drainage will be used where feasible, supplemented by underground storm sewers when surface drainage is not practicable. If underground storm sewers are needed, catch basins with silt trap capability will be included. Grades within the containment areas will range from 1% (min.) to 8% (max.). Drain valves for primary diked areas (containing one or several intermediate diked areas) will be located outside the dike. Drain valves between intermediate dikes will also be provided.

   Drainage will be designed so that the natural flow of the land is followed as much as possible. Gravity flow will be used. Pump pads will drain into containment areas. No storm water lift stations are anticipated.

   Tank foundations will be elevated so that a three-foot wide path around the tanks will remain dry during the impoundment of a 25-year rainfall event and the tank bottoms will be above the water surface during the impoundment of a 100-year rainfall pursuant to Harris County Flood Control District rainfall data.

5. **Roadways —** The roadway along the main access route of the plant will be 25 feet wide and constructed of asphaltic concrete. Perimeter roads around the containment areas will be 20 feet wide and constructed of crushed stone. Roads will be drained by a combination of swales and underground storm sewers.

6. **Storm Sewer —** Storm sewers shall be designed for a five-year storm event pursuant to City of Houston design criteria. Storm sewer piping will be high-density polyethylene with smooth interior and annular exterior corrugations and shall meet ASTM F2048. Storm sewers crossing under rail, pipelines, and in public easements

and rights-of-way will be reinforced concrete pipe in accordance with ASTM C-76 Class III with rubber gasket joints in accordance with ASTM C-443.

7. **Sanitary Sewer** — An onsite sanitary treatment facility will be constructed. The treatment facility will be an aerobic system with a spray field effluent discharge. Sanitary sewer line will be extended to the administration building, the guard house at the main entrance, the port operations building on Barnes Island, and the ship docks. Underground sanitary sewer piping will be PVC SDR-26 in accordance with ASTM 3034. All joints shall be gasketed push on type in accordance with ASTM F-477.

8. **Domestic Water** — Potable water will be supplied by construction of an on-site well. Water will be treated and supplied to the administration building, the guard house at the main entrance, the port operations building on Barnes Island, and the ship docks. Underground domestic water lines will be PVC SDR-21 rated for 200 psi in accordance with ASTM 2241. Joints shall be gasketed push-on type in accordance with ASTM D-3137 and ASTM F-477.

9. **Foundations and Concrete Slabs on Grade** - Design of reinforced concrete members will be performed using the latest ACI codes. The minimum concrete compressive strength to be used for design will be 3,000 psi. Reinforcing steel will meet or exceed the requirements of ASTM A615, Grade 60. Foundations shall be of the type recommended in the geotechnical report.

   Spill containment curbs with water stops will be used where needed.

10. **Structural and Miscellaneous Steel** — Steel (i.e.: pipe supports, pipe bridges, miscellaneous steel, platforms, etc.) will be designed to meet the most stringent requirements of local, state and federal regulations. Local climatic loads will be considered and the designs will be in accordance with good engineering practice.

    All structural steel and connections will be designed in accordance with the AISC Manual of Steel Construction, Thirteenth Edition, 2005. All structural steel will be galvanized and consist of wide flange, channel or angle members. No hollow square members or hollow round members will be used.

11. **Material, Fabrication, and Coatings** — Material certifications will be required for purchased material when deemed necessary. Fabricated steel pieces, miscellaneous steel, and related materials will be galvanized where practicable. If non-galvanized materials are needed, it will be shop coated to the extent possible prior to shipping to site for economic and field congestion reasons. Traceability will be maintained for all fabricated and received materials when deemed necessary. Concrete embedded steel and anchor bolts will be galvanized or equally protected.

12. **Platforms and Stairways** — Extent and size of platforms and stairways will be determined during the detailed engineering phase. All metal stairways and platforms

will be galvanized. Platforms and stairways will be designed for a 100 psf live load and a wind load based on a wind speed of 125 mph, 3 second gust.

13. **Pipe and Cable Tray Supports —** Pipe and cable tray supports will be structural steel sized and located during the detailed engineering phase. Every effort will be made during the design and engineering phase to enable off-site fabrication and / or modularization.

14. **Pipe Racks** — Pipe racks will be constructed of galvanized steel on concrete foundations. They will be designed for the proposed pipe loads including product plus a 50 percent factor for future pipes and a wind load based on a wind speed of 125 mph, 3 second gust. Additional design criteria (i.e.: thermal, pipe anchor, guide, and pipe friction forces) will be obtained from Process Industry Practices, PIP STC01015 (PIP, 2007) and ASCE guidelines for petrochemical facilities (ASCE, 1997a, 1997b).

15. **Roadway and Pipe Rack Bridge** - The roadway and pipe rack bridge will be designed in accordance with AASHTO LRFD Bridge Design Specifications for HL-93 loading, which consists of a combination of the design truck or tandem and the design live load. Additionally, the bridge will be designed for the pipe rack load reactions with consideration to wave, current, dynamic, braking, temperature, and wind forces.

    The bridge superstructure will be constructed of pre-stressed concrete boxes with cast-in-place concrete slabs. The bridge substructure will consist of cast-in-place concrete caps on pre-stressed concrete piles. Joints will be provided in the bridge deck to allow for expansion and contraction. The box beams will be anchored down to the bent caps to keep them from raising or shifting during large storm events.

    A six-foot wide sidewalk for pedestrian or golf cart traffic will be provided on one side of the pipe rack bridge. A traffic rail will be provided on each side of the concrete traffic surface.

· <u>**Mechanical**</u>

1. **Tank Mixing** — Each tank will have a liquid eductor system for blending. Piping to enable tank-to-tank blending will be provided. Tank manways will be designed to allow for the addition of mechanical mixers in the future.

2. **Blending** — **[**]**, meters be used to measure product blending of Blend Stocks and Bunker Fuels.

3. **Stripping and Future Flushing** — Product movements that require stripping will be stripped forward to the destination of the movement. Dock lines will be strippable back to tanks to accommodate dock repair and maintenance.

4. **Tank Heating** — Residual Fuel Oil tanks and their pipelines will be insulated and heated. **[**]**

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5. **Tank Gauging —** Tank level measurement will be custody-grade SAAB radar systems.

6. **Fire Protection** — The fire protection system will be designed in accordance with NFPA 10, 11, 13, 17, 20, 24, 25, 30, 45 and 72, API 2610 and UL 162. Supply for the fire water system will be a Coastal Water Authority line located adjacent to Miller Cut Road and/or the Houston Ship Channel. Underground piping material will be HDPE.

   There will be an underground fire water main around each diked area. Fire water piping will be above ground where necessary and at pumps and docks. Two firewater pumping systems each consisting of two 4,000 gpm fire pumps will be provided. One will be at the facility entrance and one will be at Barge Dock 1. The entire facility will be ringed with roadways suitable for fire truck / emergency vehicles.

7. **Tank Connection Lines** — **[**]**

8. **Pipe Leak Detection** — Visual detection by the operators will be used to identify leaks on all flanges, valves, pumps, and hoses. Tank level gauges, visual, API- required, and regulatory inspections will be used to detect leaks in tanks.

9. **Pipe Pressure Relief —** Excess pressure in oil lines will relieve back to the proper tank when not in use to prevent overpressure due to thermal expansion or other conditions.

10. **Quality Control** — Tank product measurement will be done via the tank level indicator. A laboratory will be built for product quality control.

11. **Pumps** — **[**]**

   [**]

12. **Piping** — Residual Fuel Oil, Blend Stock, and VGO piping will not be constructed to U.S. Department of Transportation or Texas Railroad Commission standards. All oil

pipelines will be aboveground except when pipelines penetrate dikes. Expansion joints will be used to compensate for tank settlement.

The specifications, size and quantities of valves will be determined in the final design. Valves over 12 inches NPS and others selected by the design team will be electrical motor-operated. Piping will be supported on metallic shoes welded to the pipe.

13. **Materials —** All materials will be in strict compliance with the applicable codes, standards, and specifications.

14. **Insulation and Coatings** — To the extent possible, all piping fabrication and straight run piping will be shop coated prior to shipping to the site. Heat tracing and insulation will be performed in the shop or in the field, as dictated from value engineering analysis.

15. **Pipe Cathodic Protection** — Cathodic protection is not included.

16. **Grounding** — Pipe racks, product pipelines, docks, thermal oxidizers, pumps, pump pads, tanks, tank pads, etc. will be grounded.

17. **Vapor Combustion** — Thermal oxidizing VCUs will be provided for VGO barge loading. Vapor Combustion will be natural gas fired and use natural gas for enrichment. The enrichment and pilot gas will be delivered via underground gas lines. VCUs will be designed for 99.5% VOC destruction and placed adjacent to the area serviced, outside the dike.

   For Barge Dock 1, two thermal oxidizers and blower systems will provide vapor combustion for filling of barges at a maximum rate of 20,000 bbl/hr. The system will be designed to provide 50 percent spare blower capacity. The thermal oxidizers will be located in Area 1. Two U.S. Coast Guard safety skids will be located on the dock.

   The design will consider filling of future Crude Oil tanks and future ship loading of Crude Oil and Diesel Fuel.

18. **Wastewater and Oily Water** — Wastewater and oily water will be collected at all docks, boiler house, and the rail unloading facility and carried along the pipe racks. Treatment will be through a new oil/water separator into new holding tanks and through a new filtration and treatment system.

19. **Air —** There will be a 100 cfm compressor and dryer at each substation / motor control center. Distribution will be on the pipe racks to each pump pad and all tanks.

20. **Control Systems —** Tank levels will be transmitted to the control/operations room. Valves over 12 inches will be remotely operated. Valves 10 inches and under will either be manually operated or remotely operated, depending on operational

requirements. Emergency shutdown systems will be provided. Automatic tank high-high shutdown will be provided if needed in the final design. A fire alarm system will be provided. Closed circuit television will be provided.

All instruments in the oil systems except for tank product levels will be local read only. The final design will incorporate appropriate overfill protection in accordance with API and other relevant codes. Other control systems included are: steam, vapor combustion, Blend Stocks blending, water treatment, fire water and automated valves.

[**]

· **Loading and Unloading Facilities**

1. **Marine —** Two ship docks will be constructed. Provisions for a future third ship dock (with expansion capability for a fourth berth) will be included. Three 16-inch loading arms and two 10-inch barge hoses will be provided at the ship docks.

Three barge docks will be constructed to accommodate a total of 12 barges. Provisions for a future fourth barge dock to accommodate an additional four barges will be included. Two 10-inch hoses will be provided at each barge dock.

The breasting structures for the ship docks will be designed for an Aframax class vessel (950 feet long × 150 feet wide × 45-foot draft, with a displacement tonnage of 205,000 metric tons). The berths will be able to handle ships that have a maximum length overall of 1,000 feet, a beam of 168 feet and equal displacement. The largest vessel currently coming to facilities beyond this point in the channel are in the range of 175,000 — 185,000 metric tons.

The mooring structures for the ship dock will be designed for a vessel approximately 922 feet in length, 158 feet in width, with a design draft of 44 feet being moored at the BOSTCO facility. The passing vessel that will be used for the design of the breasting structures is the Aframax class vessel. **[**]**

The design wind speed is either [**] knots combined with passing vessel loads or [**] knots without passing vessel loads. Vessels are not expected to be moored at the facility during a hurricane. Data was collected from the Morgan's Point Station. This station is located 5.3 miles southeast of the BOSTCO site. The 50-year wind speeds were less than approximately 50 knots in any direction.

The barge docks will be designed with four barges lashed together. Each barge will be assumed to be 300 feet long × 54 feet wide × 12-foot draft. The passing vesselwill be the same Aframax class vessel. **[**]** The barges will be able to be moored at the facility during a hurricane. The mooring/breasting structures will be designed for these conditions.

The decks and supporting piles for the ship dock and the barge docks will be designed for a live load of 500 psf or the equipment loads, whichever is greater, plus the dead load. All piles, mooring structures and breasting structures will be steel. Cathodic protection will be provided for all steel marine structures. Six-foot wide accessways to the ship dock and the barge docks, which can accommodate small operations vehicles and maintenance equipment, will be provided. The pipe racks between the shore and the docks will be designed for the proposed pipe loads including product plus a 50 percent factor for future pipes and a **[**]**

A barge staging area will be provided and consist of six 48-inch diameter pipe piles with used tires as fenders. They will be spaced on 100-foot centers. There will be no access bridge.

Emergency dock shut down systems will be designed to stop product flow within 30 seconds.

2. **Rail Car Unloading** — A twin-track rail car unloading facility will be constructed, providing service for 12 rail cars. Rail car loading is not included. Spill containment will be provided for the unloading facility, including containment for one fully-loaded rail car plus the entire unloading area. Rail track will be constructed in accordance with Union Pacific standards for industrial track.

3. **Truck Loading / Unloading —** None included.

· **Electrical**

1. **Power** — Electrical power needs will be satisfied with one 138 kV — 12.47 kV transformer from a new on-site substation. The transformer will be sized to handle the full load of the terminal. All electrical systems will be minimally designed in accordance with latest editions of NEC, IEEE, and ISA.

Distribution will be from 12.47 kV pole lines to the substation / motor control center, then by 480 V / 4,160 V lines in cable trays on pipe racks to the pump pads. Battery backup will be provided for critical systems. One 2,000 kW generator will be provided for prolonged outages. Provisions for a second 2,000 kW generator will be included in the design.

2. **Area Lighting** — Lighting will be pole mounted floods along roads, at pump pads, on tanks, on docks and around buildings.

3. **Telephone / Internet** — Telephone and internet will be pole line distributed to the administration building, port building, guard shack and boiler house.

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4. **Security System** — A staged security plan will be developed in compliance with TWIC and Coast Guard requirements. **[**]**

· **<u>Architectural</u>**

1. **Administration Building** — A new terminal administration building will be constructed. It will be a steel frame building with brick exterior and metal roof. Finishes will be commercial grade and furnishings will be included in the specifications. The administration building will house:

   a. Office.

   b. Warehouse.

   c. Maintenance.

   d. Control room. The control room will be designed to have security-protected access that isolates it from other operations in accordance with DOT control room regulations.

   e. Laboratory.

   f. Security.

2. **Port Operations Building** — A new port operations building will be located adjacent to the docks on Barnes Island. It will be a steel frame building with metal siding and metal roof.

3. **Boiler House** — A new boiler house will be built.

4. **Guard House —** A guard house will be built at the main entrance gate.

5. **Other** — New substation / motor control center, dock sheds, sample storage enclosures proximate to tank farm areas and miscellaneous buildings will be included as needed.

EXHIBIT E — INSURANCE REQUIREMENTS

On the Effective Date and until the Board adopts new standards of insurance for the Company pursuant to <u>Section 7.14</u>, the Principal Members shall each insure their Equity Percentage Interest under policies of insurance meeting the following minimum requirements:

1. Comprehensive or commercial general liability coverage and umbrella excess liability coverage in a minimum amount of twenty-five million dollars ($25,000,000) with a maximum retention or deductible of $1,000,000.

2. Pollution Legal Liability that includes third party liability coverage, including fines and penalties, for both “sudden and accidental” and “gradual” pollution” events as well as on-site clean-up in a minimum amount of twenty-five million dollars ($25,000,000) with a maximum retention or deductible of $1,000,000.

To the extent that a Principal Member does not provide such insurance, such Principal Member shall be liable to the Company for liabilities to the extent that such insurance would have compensated the Company for a loss had the Principal Member provided the coverage required by this <u>Exhibit E</u>.

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EXHIBIT F — CONDITIONS

Each of the following is a Condition and must be satisfied (or waived in writing by each of the Principal Members) prior to either Principal Member providing the Phase I Notice as set forth in Section 5.2(b) of the Agreement:

1. The Company has executed terminaling services agreements that provide for minimum throughput commitments of at least **[**]** bbls per month for an average term of at least 5 years and at an average per bbl throughput rate of at least **[**]** plus ancillaries.

2. The following permits have been issued or approvals / agreements obtained:

   a. US Army Corps of Engineers permit application No. SWG-2011-00011.
   b. An agreement or agreements with the Port of Houston Authority providing the Company with a lease for 6.092 acres on Barnes Island and rights to construct and operate docks in area of submerged land.

c. Marine Construction and Dredge Permit from the Port of Houston Authority.

d. The following agreements with CenterPoint Energy:

   i. Easement release for ~13 acres; and

   ii. Access Agreement, New Easement, and Ingress/Egress Agreement required by CenterPoint Energy.

3. The Company has received all consents, approvals, waivers or other agreements (in forms approved by the Principal Members, and which approvals will not be unreasonably withheld, conditioned or delayed) from any adjacent landowners and from the owners of pipelines and pipeline easements affecting the Property whose consent, approval, waiver or other agreement is necessary for the Project or, if not obtained, would materially increase the costs to complete or operate the Project, materially extend the schedule for completion of the Project or otherwise have a material adverse impact on the Project.

EXHIBIT G — CONSTRUCTION BUDGET

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BOSTCO
Capital Expenditure Estimate

	Black Oil — October 2011			
Item (Dollar in OOO's)	**Equip & Labor**	**Material**	**Other**	**Total**
Land Acquisition & Diligence				
Land Acquisition	**[**]**	**[**]**	**[**]**	**[**]**
Diligence, Prelim Design, Legal	**[**]**			**[**]**
Total Land Acquisition & Diligence	**[**]**		**[**]**	**[**]**
Permitting				
Construction	**[**]**		**[**]**	**[**]**
Operational	**[**]**			**[**]**
Total Permitting	**[**]**	**[**]**	**[**]**	**[**]**
Civil				
Final Engineering Design	**[**]**			**[**]**
Construction Support	**[**]**			**[**]**
Topo & Field Verification	**[**]**			**[**]**
Land Borings & Materials Testing	**[**]**			**[**]**
Barnes Island Fill & Berm	**[**]**	**[**]**		**[**]**
Main Land Fill & Berm	**[**]**	**[**]**		**[**]**
Site Clearing	**[**]**			**[**]**
Site Grading and SWPPP	**[**]**	**[**]**		**[**]**
Roadways & Parking Lot	**[**]**	**[**]**		**[**]**
Parking and Trailer Location for Contractors	**[**]**	**[**]**		**[**]**
Laydown Area	**[**]**	**[**]**		**[**]**
Fencing & Gates	**[**]**	**[**]**		**[**]**
Water Distribution System	**[**]**	**[**]**		**[**]**
Site Drainage & Sewage	**[**]**	**[**]**		**[**]**
Bridge- Main to Barnes	**[**]**	**[**]**		**[**]**
Foundations	**[**]**	**[**]**		**[**]**
Pipe Racks	**[**]**	**[**]**		**[**]**
Rail spur	**[**]**	**[**]**		**[**]**
Total Civil	**[**]**	**[**]**	**[**]**	**[**]**
Marine				
Final Engineering Design	**[**]**		**[**]**	**[**]**
Construction Support	**[**]**			**[**]**
Water/Dredge Dike Borings/Sediment	**[**]**			**[**]**
Dredging, Mob/Demob, & Fees	**[**]**			**[**]**
Bulk Head- Peggy's Lake 300ft			**[**]**	**[**]**
Marine Mob/Demob			**[**]**	**[**]**
Ship Docks 1& 2				
Piperack & Access Bridge	**[**]**	**[**]**		**[**]**
Platform	**[**]**	**[**]**		**[**]**
Breasting Monopiles & Fendering	**[**]**	**[**]**		**[**]**
Mooring Monopiles & Fendering	**[**]**	**[**]**		**[**]**
Dock House	**[**]**	**[**]**		**[**]**

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BOSTCO

Capital Expenditure Estimate

Item (Dollar in OOO's)	Black Oil — October 2011 Equip & Labor	Material	Other	Total
Slop Tank & Other	[**]	[**]		[**]
Relocate Coast Guard Beacons	[**]	[**]		[**]
Barge Docks A & B				
Piperack & Access Bridge	[**]	[**]		[**]
Platform	[**]	[**]		[**]
Barge Dolpins & Fendering	[**]	[**]		[**]
Dock House	[**]	[**]		[**]
Barge Dock C				
Piperack & Access Bridge	[**]	[**]		[**]
Platform	[**]	[**]		[**]
Barge Dolpins & Fendering	[**]	[**]		[**]
Dock House	[**]	[**]		[**]
Total Marine	[**]	[**]	[**]	[**]
Tanks				
Soil Borings	[**]			[**]
Barnes Island				
Soil Improvement	[**]	[**]		[**]
Foundations	[**]	[**]		[**]
Tanks	[**]	[**]		[**]
Cathodic Protection	[**]	[**]		[**]
Insulation	[**]	[**]		[**]
Paint	[**]	[**]		[**]
Testing & Hydrotest	[**]			[**]
Sub-Total Barnes Island	[**]	[**]		[**]
Main Land				
Foundations	[**]	[**]		[**]
Tanks	[**]	[**]		[**]
Cathodic Protection	[**]	[**]		[**]
Insulation	[**]	[**]		[**]
Paint	[**]	[**]		[**]
Testing & Hydrotest	[**]			[**]
Sub-Total Main Land	[**]	[**]		[**]
Total Tanks	[**]	[**]	[**]	[**]
Mechanical & Infrastructure				
Final Engineering Design	[**]			[**]
Construction Support	[**]			[**]
Building Construction	[**]	[**]	[**]	[**]
Tank Internals	[**]	[**]		[**]
Piping In Place of Expansion Joints				
Expansion Joints	[**]	[**]		[**]
Piping, Insulation & Valves				
Island	[**]	[**]		[**]
Inland	[**]	[**]		[**]
Pipe Rack	[**]	[**]		[**]
Crude - Not on Pipe Rack	[**]	[**]		[**]

BOSTCO
Capital Expenditure Estimate

Item (Dollar in OOO's)	Black Oil — October 2011 Equip & Labor	Material	Other	Total
Marine Piping	[**]	[**]		[**]
Equipment				
Island	[**]	[**]		[**]
Inland	[**]	[**]		[**]
Marine	[**]	[**]		[**]
Rail unloading	[**]	[**]		[**]
Vapor Combustion System (Including Piping)	[**]	[**]		[**]
Fire Protection & Pumps (Including Piping)	[**]	[**]		[**]
Steam- Boilers, Distribution, Tracing	[**]	[**]		[**]
Air Compressor System	[**]	[**]		[**]
Raw Water Treatment	[**]	[**]		[**]
Natural Gas Line Connection		[**]		[**]

Electrical	[**]	[**]		[**]
69kv relocation for CenterPoint			[**]	[**]
Sub-Station	[**]	[**]	[**]	[**]
Backup Generator	[**]	[**]		[**]
MCC	[**]	[**]		[**]
lnstrumentation/PLC/Communications	[**]	[**]		[**]
SAAB Systems	[**]	[**]		[**]
Security System	[**]	[**]		[**]
Telephone	[**]	[**]		[**]
Lighting	[**]	[**]		[**]
Water Supply- Potable	[**]	[**]		[**]
Wastewater Treatment Facility	[**]	[**]		[**]
Total Infrastructure	[**]	[**]	[**]	[**]
Startup & Commissioning	[**]			[**]
Project & Construction Management				
BOSTCO				
Personnel	[**]			[**]
Legal	[**]			[**]
Insurance			[**]	[**]
Property Tax			[**]	[**]
Operations Staffing	[**]		[**]	[**]
Other BOSTCO Expenses			[**]	[**]
Site Security	[**]			[**]
Onsite Services	[**]	[**]		[**]
KM/TM Support Services	[**]			[**]
QA/QC- Tank/Oversight	[**]			[**]
Procurement & Contract Admin	[**]			[**]
CB&I Construction Management	[**]			[**]
Total Project & Construction Management	[**]	[**]	[**]	[**]
Total BOSTCO Project	[**]	[**]	[**]	[**]

Execution Copy

Confidential Treatment Requested by TransMontaigne Partners L.P.

FIRST AMENDMENT TO
AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT
OF
BATTLEGROUND OIL SPECIALTY TERMINAL COMPANY LLC

A Delaware Limited Liability Company

This First Amendment to the Amended and Restated Limited Liability Company Agreement (the "*First Amendment*") of Battleground Oil Specialty Terminal Company LLC (the "*Company*") is executed effective as of December 20, 2012, by and among the undersigned parties. Any capitalized terms used in this First Amendment which are not defined herein shall have the meanings respectively ascribed to them in the LLC Agreement (as defined below).

Recitals

WHEREAS, the Company was formed as a Delaware limited liability company pursuant to the Delaware Limited Liability Company Act upon the filing of the Certificate of Formation of Battleground Oil Specialty Terminal Company LLC with the office of the Secretary of State of the State of Delaware on May 26, 2011;

WHEREAS, TransMontaigne Operating Company L.P. ("*TransMontaigne*"), as the initial sole member of the Company, adopted the Limited Liability Company Agreement of the Company dated as of May 26, 2011 (the "*May 2011 LLC Agreement*");

WHEREAS, in order to create a joint venture to pursue the business of the Company, TransMontaigne and Kinder Morgan Battleground Oil LLC ("*Kinder Morgan*") entered into (i) that certain Contribution and Redemption Agreement (the "*Contribution Agreement*"), dated as of October 18, 2011, by and among, TransMontaigne, Kinder Morgan and the Company and (ii) that certain Amended and Restated Limited Liability Company Agreement of the Company, dated October 18, 2011 (the "*LLC Agreement*"), which amended and restated the May 2011 LLC Agreement in its entirety;

WHEREAS, upon consummation of the transactions contemplated in the Contribution Agreement, each of TransMontaigne and Kinder Morgan was the record and beneficial owner of fifty percent (50%) of the outstanding Class A Units issued by the Company;

WHEREAS, pursuant to the terms of that certain Redemption Agreement dated December 29, 2011, the Company redeemed all of TransMontaigne's Class A Units in the Company pursuant to Section 5.2(b)(i) and Section 5.11(a) of the LLC Agreement (the "*Redemption*");

WHEREAS, immediately after the Redemption, TransMontaigne was withdrawn as a Member of the Company;

WHEREAS, pursuant to Section 5.11(e) of the LLC Agreement, during the TransMontaigne Purchase Right Period, TransMontaigne had the TransMontaigne Purchase Right;

WHEREAS, pursuant to Section 5.11(e) of the LLC Agreement, immediately prior to the execution of this Agreement, TransMontaigne elected to exercise the TransMontaigne Purchase Right and purchase from Kinder Morgan 6,338,832.39 Class A Units in the Company (the "*Acquired Purchase Option Units*"), representing forty-two and one-half percent (42.5%) of the outstanding Class A Units in the Company, and the Parties entered into that certain Purchase Agreement dated December 20, 2012 in order to effectuate the exercise of the TransMontaigne Purchase Right;

WHEREAS, immediately following delivery of the Acquired Purchase Option Units to TransMontaigne in accordance with the terms and conditions of this Agreement and Section 5.11(e)(i) of the LLC Agreement, TransMontaigne was admitted as a Substituted Member in respect thereof and was deemed a Principal Member under the LLC Agreement;

WHEREAS, Section 12.3 of the LLC Agreement requires Supermajority Approval to make certain modifications to the LLC Agreement; and

WHEREAS, TransMontaigne and Kinder Morgan, whose approval constitute Supermajority Approval, desire to make certain amendments to the LLC Agreement as set forth herein.

Amendment

NOW THEREFORE BE IT RESOLVED, that the LLC Agreement is hereby amended as set forth below:

1. The definition of "Applicable Price per Unit" contained in Article I of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

> "*Applicable Price per Unit*" means, with respect to any Additional Capital Contribution, and issuance of Class A Units in exchange therefor, the value ascribed by the Board to one Class A Unit, in its reasonable judgment, taking into account the capitalization, assets and liabilities of the Company and such other factors as the Board may reasonably consider; <u>provided</u> that if such Applicable Price per Unit was not approved by a Manager appointed to the Board by each Principal Member, then within five (5) Business Days after receipt of a Mandatory Capital Call or an Optional Capital Call (for the avoidance of doubt, in each case, including the Applicable Price per Unit) by any Principal Member that did not have any Manager appointed by it to the Board approve such Applicable Price Per Unit, such Principal Member may deliver a written notice to the Board disputing in good faith the Applicable Price per Unit, and upon receipt of any such notice the Company shall retain a nationally recognized independent (of the Company and Principal Members and their respective Affiliates) valuation firm, which shall render a valuation of the Applicable Price per Unit as soon as reasonably practicable, but not more

than thirty (30) Days after being retained, and such valuation shall be the Applicable Price per Unit, binding on the Company and the Members with respect to the issuance of Class A Units that is the subject of such Additional Capital Contribution; provided, further, that if a

valuation firm is used to determine the Applicable Price per Unit, no Principal Member shall have the right to dispute the Applicable Price per Unit within the six (6) months following the determination by the valuation firm.

2. The definition of "Approved Project" contained in Article I of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

"*Approved Project*" means the Project and any Future Project.

3. Article I is hereby amended by adding the following definition of "Approving Class A Member":

"*Approving Class A Member*" has the meaning set forth in Section 5.4(b).

4. The definition of "Future Project" contained in Article I of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

"*Future Project*" means a Future Project Opportunity that is approved by Majority Approval of the Board; provided, however, that Supermajority Approval shall be required for any Future Project Opportunity with respect to which the President of the Company has in good faith projected an unlevered internal rate of return of less than a rate equal to **[**]**.

5. The definition of "Independent Accountants" contained in Article I of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

"*Independent Accountants*" means an accounting firm approved by Supermajority Approval that is registered with the Public Company Accounting Oversight Board and is independent of the Company and each of the Principal Members in accordance with the Securities Act, the Exchange Act and the rules and regulations promulgated under each.

6. Article I is hereby amended by adding the following definition of "Initial Optional New Project Capital Call":

"*Initial Optional New Project Capital Call*" has the meaning set forth in Section 5.2(c).

7. The definition of "Interested Party Transaction" contained in Article I of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

"*Interested Party Transaction*" means any transaction or agreement (or proposed transaction or agreement), any guaranty or the purchase, sale, lease or exchange of property (tangible or intangible), or the rendering of any service, involving the Company, on the one hand, and any Interested Party, on the other hand, including (i) any exercise or waiver of rights of the Company under this

Agreement with respect to an action taken or to be taken by a Member hereunder and (ii) for the avoidance of doubt, any transaction with respect to or relating to the Property (or any other real property acquired by the Company) involving any Interested Party or the use of the Property or such other real property by any Interested Party other than, as applicable, through the use of the Property or such other real property by the Company in the conduct of its business.

8. Article I is hereby amended by adding the following definition of "LIBOR":

"*LIBOR*" means the rate per annum equal to the offered rate that displays an average British Bankers Association Interest Settlement Rate for deposits in U.S. dollars for an interest period of one month as in effect on such Day.

9. Article I is hereby amended by adding the following definition of "Non-Approving Class A Member":

"*Non-Approving Class A Member*" has the meaning set forth in Section 5.4(b).

10. Article I is hereby amended by adding the following definition of "Non-Approving Class A Member Notice":

"*Non-Approving Class A Member Notice*" has the meaning set forth in Section 5.4(b).

11. The definition of "Optional Curing Payments" contained in Article I of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

"*Optional Curing Payments*" has the meaning set forth in Section 5.4(a).

12. The definition of "Optional Default Interest Rate" contained in Article I of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

"*Optional Default Interest Rate*" means a rate per annum equal to the lesser of (a) four percent (4%) plus a varying rate per annum that is equal to LIBOR, with adjustments in that varying rate to be made on the same date as any changes in that rate, and (b) the maximum rate permitted by applicable law, in each case accruing daily and compounding on a quarterly basis.

13. The definition of "Optional Deficiency" contained in Article I of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

"*Optional Deficiency*" has the meaning set forth in Section 5.4(a).

14. The definition of "Optional Deficiency Notice" contained in Article I of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

"*Optional Deficiency Notice*" has the meaning set forth in Section 5.4(a).

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15. The definition of "Optional Fully Contributing Member" contained in Article I of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

"*Optional Fully Contributing Member*" has the meaning set forth in Section 5.4(a).

16. The definition of "Optional Lending Members" contained in Article I of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

"*Optional Lending Members*" has the meaning set forth in Section 5.4(a)(i)(A).

17. Article I is hereby amended by adding the following definition of "Optional New Project Capital Call Information":

"*Optional New Project Capital Call Information*" has the meaning set forth in Section 5.4(b).

18. Article I is hereby amended by adding the following definition of "Optional New Project Deficiency":

"*Optional New Project Deficiency*" has the meaning set forth in Section 5.4(b)(ii).

19. Article I is hereby amended by adding the following definition of "Optional New Project Fully Contributing Member":

"*Optional New Project Fully Contributing Member*" has the meaning set forth in Section 5.4(b)(i).

20. The definition of "Optional Non-Fully Contributing Member" contained in Article I of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

"*Optional Non-Fully Contributing Member*" has the meaning set forth in Section 5.4(a).

21. Article I is hereby amended by adding the following definition of "Subsequent Optional New Project Capital Call":

"*Subsequent Optional New Project Capital Call*" has the meaning set forth in Section 5.2(c).

22. Section 1.2 of the LLC Agreement is hereby amended by restating Section 1.2(p) and adding a new Section 1.2(q) to read as follows:

(p) references to any Person include successors of such Person and transferees of such Person which acquire such Person's Membership Interests as permitted in and in accordance with this Agreement; and

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(q) any required approval or consent of the Board or any Member hereunder with respect to the Company shall apply *mutatis mutandis* with respect to any direct or indirect subsidiaries of the Company.

23. Section 2.3 of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

2.3 Principal Place of Business. The principal place of business of the Company is located at One Allen Center, 500 Dallas St., Suite 1000, Houston, TX 77002. The Company may locate its place of business, other or additional offices and the Company's registered office at any other place or places, and may seek qualification of the Company to conduct business in such other jurisdictions, as the Board may from time to time deem advisable with notice to the Members.

24. Section 5.2(c) of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

(c) New Project Capital Calls. In addition to Phase I Capital Calls and subject to Section 5.1, upon Majority Approval of the Board of a New Project, or upon Supermajority Approval of a New Project for those New Projects described in Section 7.7(a)(xvii), as applicable, the Company may call for additional capital necessary to fund such New Project (each such call, a "*New Project Capital Call*") by written notice (a "*New Project Notice*") to each of the Class A Members setting forth the aggregate amount of capital required and each Class A Member's Pro Rata portion thereof. If the aggregate amount of capital requested in the New Project Capital Call relating to a New Project, together with all amounts previously called pursuant to New Project Capital Calls relating to such New Project, is in an aggregate amount equal to or less than **[**]** (each such New Project Capital Call, a "*Mandatory New Project Capital Call*"), then each Class A Member shall have the right and obligation to make an Additional Capital Contribution in an amount equal to its Pro Rata portion of the amount required by the applicable Mandatory New Project Capital Call in accordance with the Mandatory New Project Capital Call. Upon the issuance of a New Project Capital Call relating to a New Project that, together with all amounts previously called pursuant to New Project Capital Calls relating to such New Project, is for an aggregate amount in excess of **[**]** (each such New Project Capital Call, an "*Initial Optional New Project Capital Call*"), the Company shall provide notice to the Class A Members that the provisions of Section 5.4(b) shall apply to such Initial Optional New Project Capital Call. The Class A Members shall have the right in accordance with the applicable Initial Optional New Project Capital Call, but (subject to Section 5.4(b)) shall have no obligation, to make an Additional Capital Contribution with respect to any portion of such Initial Optional New Project Capital Call, and all future New Project Capital Calls relating to the development and construction of such New Project (each, a "*Subsequent Optional New Project Capital Call*", and together with the Initial Optional New Project Capital Call, a "*Optional New Project Capital Call*"). Each New Project Capital Call shall state (i) the aggregate amount of the

additional capital called for, (ii) the payment date or payment schedule (it being understood and agreed that unless each of the Principal Members otherwise agrees, the first payment of Additional Capital Contribution may not be less than ten (10) Business Days after (x) the delivery of the Mandatory New Project Capital Call, (y) in the case of the Initial Optional New Project Capital Call, the earlier of (1) the delivery of the Non-Approving Class A Member Notice, or (2) the expiration of the 90-Day period during which a Non-Approving Class A Member may deliver a Non-Approving Class A Member Notice pursuant to Section 5.4(b), or (z) the delivery of the Subsequent Optional New Project Capital Call, as applicable), (iii) the purposes for which the additional capital will be utilized in reasonable detail, (iv) any available financial projections and other reasonable detail and information with respect to such New Project, including the anticipated aggregate cost to construct and develop such New Project, the sources and uses of any required capital, the identity of any parties involved, the material terms of any actual or proposed material contracts, the anticipated timing for completion and any material known risks or liabilities, (v) the actual expenditures incurred through the date of such New Project Capital Call, (vi) a detailed explanation for any material variance from the applicable LLC Budget and (vii) the Applicable Price per Unit, which, unless otherwise agreed to by all of the Principal Members, shall apply to all New Project Capital Calls made with respect to such New Project until the earlier to occur of (x) the completion of such New Project or (y) three years from the date of the New Project Notice related to such New Project Capital Call. All Mandatory New Project Capital Calls are mandatory, but each Class A Member shall have the right, but not the obligation, exercisable in its sole discretion, to fund its Pro Rata portion of any Optional New Project Capital Call in accordance with Section 5.4(b); provided however, that a Class A Member that has elected Optional New Project Deficiency or is deemed to have elected Optional New Project Deficiency in accordance with Section 5.4(b)(ii) shall have no right to fund its Pro Rata portion of any Subsequent Optional New Project Capital Call with respect to such New Project. The Class A Members acknowledge their intent that the Board should not split a large New Project into multiple smaller New Projects for the purpose of, and with the primary intent being, increasing the amount of New Project Capital Calls that are Mandatory New Project Capital Calls with respect to such New Projects that are substantially related.

25. Section 5.3(c) of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

(c) Adjustment of Exhibit A. Upon the adjustment of the Membership Interests and issuance of Class A Units in the manner set forth in Sections 5.2(e), 5.3(b)(i), 5.3(b)(ii)(E), 5.4(a)(i)(E), 5.4(a)(ii) or 5.4(b)(iii), Exhibit A shall be deemed to be amended to reflect such adjustment.

26. Section 5.4 of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

5.4 Remedies for Non-payment of Optional Capital Calls.

(a) Except as provided in Section 5.4(b) with respect to an Optional New Project Capital Call, if a Class A Member fails to make an Additional Capital Contribution in an amount equal to its Pro Rata portion of such Optional Capital Call (an "*Optional Non-Fully Contributing Member*"), and if such failure continues for more than three (3) Days after the date on which such Additional Capital Contribution is due, then any Class A Member or Manager may notify the other Class A Members (the "*Optional Deficiency Notice*") of the amount of the Optional Non-Fully Contributing Member's unpaid portion (the "*Optional Deficiency*"), and the other Class A Members who have fully paid their respective Pro Rata portions of the Optional Capital Call ("*Optional Fully Contributing Members*") may exercise any one or more of the following rights or remedies pursuant to Section 5.4(a)(i) or 5.4(a)(ii), acting collectively as a group as determined by a Majority Approval of the Optional Fully Contributing Members (with the amounts paid by any Optional Fully Contributing Member under such Sections 5.4(a)(i) or 5.4(a)(ii) referred to as "*Optional Curing Payments*"):

(i) Loan: Permit the Optional Fully Contributing Members to elect to make advances to the Company Pro Rata (or in such other portions as they may unanimously agree) in the amount of the Optional Deficiency by giving written notice to the Company and the other Class A Members within ten (10) Business Days after the Optional Deficiency Notice. Loans made under this Section 5.4(a)(i) shall be treated as follows:

(A) the amounts thus advanced shall be deemed to be non-recourse loans from the Optional Fully Contributing Members making such advances ("*Optional Lending Members*") to the Optional Non-Fully Contributing Member;

(B) the Optional Non-Fully Contributing Member may elect to pay any such loans in full by providing written notice of such intention to the Optional Lending Members at any time prior to such Optional Non-Fully Contributing Member's receipt of written notice from the Optional Lending Members or the Company that the Optional

Lending Members have elected to exercise their rights pursuant to Section 5.4(a)(i)(E) and by, within ten (10) Business Days following delivery of such written notice to the Optional Lending Members of an election to repay such loans in full, paying in cash by wire transfer of immediately available funds an amount to each Optional Lending Member equal to such Optional Lending Member's Pro Rata portion (relative to the other Optional Lending Members) of the unpaid principal balance of and accrued unpaid interest on such loan;

(C) the loans shall bear interest at the Optional Default Interest Rate from the date that the loan was made until the date that such loan, together with all interest accrued thereon, is repaid to the Optional Lending Members;

(D) all distributions from the Company that would otherwise be made to the Optional Non-Fully Contributing Member (whether before or after dissolution of the Company) shall, instead, be paid to the Optional Lending Members until the loans (including all interest accrued and unpaid thereon) have been repaid in full to the Optional Lending Members (with all such payments being applied first to interest earned and unpaid and then to principal) and any such payment to the Optional Lending Members shall be deemed for all purposes as if the cash had first been distributed to the Optional Non-Fully Contributing Member who then paid such cash to the Optional Lending Member as a payment on the loan;

(E) initially, a loan by any Optional Lending Member to an Optional Non-Fully Contributing Member as contemplated by this Section 5.4(a)(i) shall not be considered a Capital Contribution by the Optional Lending Member and shall not increase the Capital Account balance or Equity Percentage Interest of the Optional Lending Member; provided that, in the event the principal and interest of any such loan have not been repaid in full within one (1) year from the date of the loan, the Optional Lending Members (acting by Majority Approval of the Optional Lending Members) may at any time with thirty (30) Days advance written notice to the Company and the other Class A Members, elect to have the Company issue to each Optional Fully Contributing Member in respect of the Capital Call giving rise to the loan a number of Class A Units (net of and without duplication for any Class A Units previously issued to such Optional Fully Contributing Member in respect of the Additional Capital Contributions made pursuant to such Capital Call) equal to the quotient of (1) the sum of (x) the total Additional Capital Contributions made by such Optional Fully Contributing Member with respect to the applicable Capital Call plus (y) to the extent such Optional Fully Contributing Member is an Optional Lending Member, such Optional Lending Member's Pro Rata portion (relative to the other Optional Lending Members) of the unpaid principal balance and accrued unpaid interest on such loan divided by (2) the Applicable Price per Unit for such Optional Fully Contributing Member; provided, that upon any such election and issuance pursuant to this Section 5.4(a)(i)(E), such loan (including all accrued interest thereon) shall be deemed to be paid, satisfied and discharged in full without any

further liability or obligation on the part of the Optional Non-Fully Contributing Members; and

(F) subject to the last proviso of Section 5.4(a)(i)(E), the Optional Lending Member(s) may, in addition to the other rights and remedies granted pursuant to this Agreement or available at Law or in equity, take any action (including court Proceedings) that such Optional Lending Member may deem appropriate to obtain payment when due by the Optional Non-Fully Contributing Member of the loan and all accrued and unpaid interest thereon, at the cost and expense of the Optional Non-Fully Contributing Member.

(ii) Dilution. Permit the Optional Fully Contributing Members to make Additional Capital Contributions Pro Rata (or in such other portions as they may agree) up to the amount of the Optional Deficiency by giving written notice to the Company and the other Class A Members within ten (10) Business Days after the Optional Deficiency Notice, specifying the amount that such Optional Fully Contributing Member agrees to contribute. If, after the ten (10) Day period, the Optional Fully Contributing Members have not agreed to make advances, in the aggregate, equal to the full amount of the Optional Deficiency, the Company shall notify the Optional Fully Contributing Members of the remaining Optional Deficiency and the Optional Fully Contributing Members, whether or not they previously agreed to make Additional Capital Contributions with respect to such Optional Deficiency, will have the right, but not the obligation, to make further Additional Capital Contributions Pro Rata (or in such other portions as they may unanimously agree) up to the amount of the remaining Optional Deficiency by giving written notice to the Company and the other Class A Members within an additional five (5) Business Days after such notice from the notifying Optional Fully Contributing Member, specifying the additional amount that the Optional Fully Contributing Member agrees to contribute. If, after such five (5) Business Day period, the Optional Fully Contributing Members have not agreed to make advances, in the aggregate, equal to the full amount of the remaining Deficiency, the Company shall notify the Optional Fully Contributing Members of the remaining Optional Deficiency and the Optional Fully Contributing Members that have agreed to pay their Pro Rata amount of the Optional Deficiency shall have the right to cure the remaining Optional Deficiency using either the remedy set forth in Section 5.4(a)(i) or this Section 5.4(a)(ii), as determined by Majority Approval of such Optional Fully Contributing Members. Upon payment of any Additional Capital Contributions under this Section 5.4(a)(ii), the Company shall issue to each Optional Fully Contributing Member a number of Class A Units (net of and without duplication for any Class A Units previously issued to such Optional Fully Contributing Member in respect of such Additional Capital

Contributions) equal to the quotient of (A) the total Additional Capital Contributions made by such Optional Fully Contributing Member with respect to the applicable Capital Call (including any Additional Capital Contributions made pursuant to this

Section 5.4(a)(ii)) divided by (B) the Applicable Price per Unit.

(b) Notwithstanding anything to the contrary contained in this Agreement, upon the issuance of an Initial Optional New Project Capital Call with respect to any New Project, in addition to any other information required pursuant to Section 5.2(c), each Principal Member that did not have any Manager appointed by it to the Board approve such New Project, if any (a "*Non-Approving Class A Member*"), shall have the right, exercisable by delivering to the Company written notice within five (5) Business Days of its receipt of the notice of the Initial Optional New Project Capital Call, to receive such additional information (the "*Optional New Project Capital Call Information*") reasonably related to such New Project (including such information that is reasonably necessary for such Non-Approving Class A Member to make an independent judgment about the risks and merits of the underlying investment related to such New Project), which the Company shall provide as soon as practicable following receipt of a request therefor from a Non-Approving Class A Member as provided above. The Non-Approving Class A Member shall, within ninety (90) Days after the Company has provided notice of an Initial Optional New Project Capital Call and any applicable Optional New Project Capital Call Information in connection with such Initial Optional New Project Capital Call, deliver written notice (the "*Non-Approving Class A Member Notice*") to the Company and any Class A Members that appointed a Manager to the Board who approved such New Project (an "*Approving Class A Member*"), indicating whether such Non-Approving Class A Member agrees to make an Additional Capital Contribution in an amount equal to its Pro Rata portion of the Initial Optional New Project Capital Call and Additional Capital Contributions in an amount equal to its Pro Rata portion of any Subsequent Optional New Project Capital Call with respect to such New Project.

(i) In the event that any Non-Approving Class A Member delivers a Non-Approving Class A Member Notice electing to make an Additional Capital Contribution in an amount equal to its Pro Rata portion of the Initial Optional New Project Capital Call and any Subsequent Optional New Project Capital Call with respect to such New Project, then any such Non-Approving Class A Member, together with the Approving Class A Members (each, an "*Optional New Project Fully Contributing Member*") shall make Additional Capital Contributions in accordance with Section 5.2(c). In the event any Optional New Project Fully Contributing Member fails to make an Additional Capital Contribution in an amount equal to its Pro Rata portion of any Subsequent Optional New Project Capital Call, then (A) the amount of the Additional Capital Contribution equal to the Pro Rata portion of such Optional New Project Fully Contributing Member shall be deemed an Optional New Project Deficiency and the provisions of Section 5.4(b)(iii) shall apply to such

amount, and (B) such Optional New Project Fully Contributing Member shall have no right to fund its Pro Rata portion of any Subsequent Optional New Project Capital Call with respect to such New Project without the Majority Approval of the Approving Class A Members.

(ii) In the event that any Non-Approving Class A Member delivers a Non-Approving Class A Member Notice electing not to make an Additional Capital Contribution in an amount equal to its Pro Rata portion of the Initial Optional New Project Capital Call and any Subsequent Optional New Project Capital Call with respect to such New Project (an "*Optional New Project Deficiency*"), then the Approving Class A Members shall have the right, exercisable by a Majority Approval of such Approving Class A Members, to rescind the Initial Optional New Project Capital Call by delivering written notice to the Company and the Non-Approving Class A Members within five (5) Business Days after the Company receives the Non-Approving Class A Member Notice. In the event that the Approving Class A Members do not so rescind the Initial Optional New Project Capital Call, then on the date that the Class A Members would first be required to fund the Initial Optional New Project Capital Call, (x) each Optional New Project Fully Contributing Member shall make an Additional Capital Contribution in an amount equal to its Pro Rata portion of such Initial Optional Capital Call, and (y) any Optional New Project Fully Contributing Member shall fund any Optional New Project Deficiency pursuant to Section 5.4(b)(iii) to the extent it has elected to do so. In the event that any Non-Approving Class A Member fails to deliver a Non-Approving Class A Member Notice within the 90-Day period, such Non-Approving Class A Member shall be deemed to have elected for an Optional New Project Deficiency.

(iii) Oversubscription. In the event that any Non-Approving Class A Member elects for an Optional New Project Deficiency, or is deemed to have elected for an Optional New Project Deficiency, then each Optional New Project Fully Contributing Member shall have the right, but not the obligation, to make Additional Capital Contributions Pro Rata (or in such other portions as they may agree) up to the amount of the Optional New Project Deficiency by giving written notice to the Company and the other Optional New Project Fully Contributing Members within ten (10) Business Days after the Non-Approving Class A Member Notice, specifying the amount that such Optional New Project Fully Contributing Member agrees to contribute. If, after the ten (10) Business Day period, the Optional New Project Fully Contributing Members have not agreed to make advances, in the aggregate, equal to the full amount of the Optional New Project Deficiency, the Company shall notify the Optional New Project Fully Contributing Members of the remaining Optional New Project Deficiency and the Optional New Project Fully Contributing Members, whether or not they previously agreed to make Additional Capital Contributions with respect to such Optional New Project

Deficiency, will have the right, but not the obligation, to make further Additional Capital Contributions Pro Rata (or in such other portions as they may unanimously agree) up to the amount of the remaining Optional New Project Deficiency by giving written notice to the Company and the other Optional New Project Fully Contributing Members within an additional five (5) Business Days after such notice from the notifying Optional New Project Fully Contributing Member, specifying the additional amount that the Optional New Project Fully Contributing Member agrees to contribute. If, after such five (5) Business Day period, the Optional New Project Fully Contributing Members have not agreed to make advances, in the aggregate, equal to the full amount of the remaining Optional New Project Deficiency, then the remaining portion of such Optional New Project Deficiency shall remain unfunded. Upon payment of any Additional Capital Contributions under this Section 5.4(b)(iii), the Company shall issue to each Optional New Project Fully Contributing Member a number of Class A Units (net of and without duplication for any Class A Units previously issued to such Optional New Project Fully Contributing Member in respect of such Additional Capital Contributions) equal to the quotient of (A) the total Additional Capital Contributions made by such Optional New Project Fully Contributing Member with respect to the applicable Optional Capital Call (including any Additional Capital Contributions made pursuant to this Section 5.4(d)) divided by (B) the Applicable Price per Unit.

27. Section 5.8 of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

5.8 Loans. Except as expressly provided in Sections 5.3 and 5.4, no Member may make any loans to the Company (a) without Supermajority Approval and (b) without offering to the other Members the opportunity to make such loans Pro Rata. Subject to Sections 5.3(b)(ii)(E) and 5.4(a)(i)(E), loans shall not be treated as a Capital Contribution.

28. Section 6.6(g) of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

(g) Subject to the provisions of Section 8.4, within forty-five (45) Days after the end of each fiscal year of the Company and within twenty (20) Days after the end of each of the first three (3) fiscal quarters of each fiscal year of the Company, the Company shall furnish each Member with a copy of the balance sheet of the Company and a statement of Member's capital as of the last Day of the applicable period, and a statement of income or loss and statement of cash flows for the Company for the current quarterly period (if applicable) and current year-to-date period, compared to budget, which shall be prepared in accordance with GAAP; provided, however, notes to the Company's financials shall only be prepared and provided for the Company's annual audited reports. The Company's year-end annual financial statements shall be audited by the

Independent Accountants in accordance with standards of the Public Company Accounting Oversight Board (United States) and furnished to each Member within sixty (60) Days of the end of the fiscal year of the Company. Within twenty (20) Days after the end of each month other than December, the Company shall also furnish each Member with a copy of the income statement and balance sheet of the Company as of the last Day of such month. In addition to the obligations above, the Company shall use its commercially reasonable efforts to provide, within a reasonable period following such Member's request and at such Member's sole expense, any financial or other information reasonably requested by a Member and shall prepare and deliver to any Member, within a reasonable period following such Member's request and at such Member's sole expense, such additional financial or other information as may be required in order for such Member or its Affiliate to comply with any reporting requirements under (i) the Securities Act and the rules and regulations promulgated thereunder, (ii) the Exchange Act and the rules and regulations promulgated thereunder, and (iii) any national securities exchange or automated quotation system.

29. Section 6.10(a) of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

(a) The Kinder Morgan Member shall be the "tax matters partner" of the Company pursuant to Section 6231(a)(7) of the Code until such time as another Member agrees to become the "tax matters partner" of the Company pursuant to Section 6231(a)(7) of the Code and is approved in such capacity by Majority Approval of the Class A Members (the Kinder Morgan Member or any such other Member, in each case, in its capacity as such, the "*Tax Matters Partner*"). For purposes of this Section 6.10, the term "*partnership*" shall mean the Company. The Tax Matters Partner shall take and shall have a continuing obligation to take such action as may be necessary to cause each other Member to become a "notice partner" within the meaning of Section 6223 of the Code. The Tax Matters Partner shall inform each other Member of all significant matters that may come to its attention in its capacity as the Tax Matters Partner by giving notice thereof on or before the tenth (10^{th}) Day after becoming aware thereof and, within that time, shall forward to each other Member copies of all material written communications it may receive in that capacity. The Tax Matters Partner shall keep each Member informed of all administrative and/or judicial Proceedings for the adjustment of the partnership items (as defined in Code Section 6231(a)(3) of the Code and Treasury Regulations promulgated thereunder) at the partnership level. Without limiting the generality of the foregoing sentence, within ten (10) Days of receiving any written or oral notice of the time and place of a meeting or other Proceeding from the Internal Revenue Service regarding a partnership Proceeding (and in any event, within a reasonable time prior to such meeting or Proceeding), the Tax Matters Partner shall furnish a copy of such written communication or notice, or inform the Members in writing of the substance of any such oral communication. This obligation of the Tax Matters Partner to inform the Members shall not extend to routine and minor events. The Tax Matters Partner may not extend the statute of limitations, file a request for

administrative adjustment on behalf of the Company, file suit on behalf of the Company concerning any tax refund or deficiency relating to any Company administrative adjustment or enter into any settlement agreement relating to any item of income, gain, loss, deduction or credit for any taxable year of the Company or take any other action contemplated by Sections 6222 through 6231 of the Code without the unanimous written consent of the Members. The Tax Matters Partner shall have general oversight authority with respect to the accounting matters described in Section 6.6.

30. Section 7.4(a) of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

(a) The Board may appoint by Majority Approval of the Board such officers and assistant officers of the Company at any time as it shall deem necessary, who shall hold their offices for such terms and, subject to such matters as may be reserved for Supermajority Approval and the general oversight of the Board, shall have such authority and exercise such powers and perform such duties as may be delegated to them by the Board from its authority from time to time by pursuant to resolutions adopted by the Board. Any person may hold two or more offices simultaneously. Subject to the general oversight and direction of the Board, the officers shall have responsibility for the conduct of the normal and customary Day-to-Day operations of the Company. Without limiting the generality of the foregoing, at any time, any Principal Member may request that the Company retain, either directly as an employee of the Company or in another capacity as determined appropriate by the Board, the services of a qualified professional, who shall have no current or past affiliations with any of the Members, to represent the commercial interests of the Company with respect to existing and potential customers of the Company, and following such a request, the Company shall use commercially reasonable efforts to retain such a professional as soon as possible and to appropriately compensate, empower and incent such professional to vigorously pursue the commercial interests of the Company.

31. Section 7.4(d) of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

(d) Compensation. The compensation, if any, of all officers, of the Company shall be fixed by Supermajority Approval. The compensation, if any, of all employees and agents of the Company other than the officers of the Company shall be fixed by Majority Approval of the Board.

32. The LLC Agreement is hereby amended by adding a new Section 7.6(c), to read as follows:

(c) Notwithstanding anything in this Agreement to the contrary (including any approval of the Board or Members that would otherwise be required), any Principal Member shall have the right, but not the obligation, at its

election and in its sole discretion, after giving five (5) Business Days prior written notice to each of the Company and the other Principal Member, to assert, exercise, pursue or prosecute any rights of the Company on behalf of the Company under or in respect of any Interested Party Transaction involving the other Principal Member, any of its Affiliates, or any of its and their officers, directors, employees or agents, including by bringing, or controlling the defense of, any claims under or in respect of such Interested Party Transaction; provided, however, that such election, assertion, exercising, pursuit, prosecution and defense of any such rights shall be taken in good faith and with the reasonable belief by the electing Principal Member that doing so is in the best interest of the Company.

33. Section 7.7(a)(xvii) of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

(xvii) approve any New Project with respect to which the President of the Company has in good faith projected an unlevered internal rate of return of less than a rate equal to **[**]**;

34. Sections 7.7(a)(xxi) and 7.7(a)(xxii) of the LLC Agreement are hereby amended and restated in their entirety to read as follows:

(xxi) approve the Construction Budget and certain LLC Budget increases pursuant to Section 7.8(b) below;

(xxii) approve any amendment to the Construction Budget or to an LLC Budget (solely to the extent such amendment, if it had been included in the current LLC Budget as originally proposed, would have resulted in the current LLC Budget requiring Supermajority Approval in accordance with clauses (i) and (ii) of Section 7.8(b));

35. Section 7.7(a) of the LLC Agreement is hereby amended by amending and restating Sections 7.7(a)(xxxiii) and (xxxiv) in their entirety, and adding a new Section 7.7(a)(xxxv), to read as follows:

(xxxiii) approve an outside expert pursuant to Section 6.6 other than PricewaterhouseCoopers LLP;

(xxxiv) approve the appointment of the Independent Accountants;

(xxxv) approve insurance matters pursuant to the final sentence of Section 7.14(a); and

(xxxvi) perform any act in contravention of this Agreement.

36. Section 7.8(b) of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

(b) The Company shall endeavor to, at least forty-five (45) Days prior to the earlier of the Commercial Operation Date and the completion of Phase I, present to the Board a reasonably detailed LLC Budget for the remainder of the fiscal year and, to the extent practicable, estimated amounts and timing of Capital Calls and estimated distributions for the remainder of such fiscal year. Following the earlier of the Commercial Operation Date and the completion of Phase I, the Company shall present to the Board, at least forty-five (45) Days before the end of each fiscal year, a reasonably detailed LLC Budget for each upcoming fiscal year and, to the extent practicable, estimated amounts and timing of Capital Calls, estimated working capital levels and estimated distributions for the upcoming fiscal year. The Board, by Majority Approval, may approve any subsequent LLC Budget; provided, however, that (i) an increase in the aggregate amount of the LLC Budget by an amount in excess of 5% of the lesser of (A) the current LLC Budget or (B) the actual results for the time period represented in the current LLC Budget, (ii) an increase of greater than 5% to any of the following line items of an LLC Budget: (A) Sustaining Capital, (B) Consulting and Contract Services, or (C) Routine R&M and Field Ops Supplies (in each of (A) through (C) inclusive of sub line items, if any, consistent with the format and presentation of the initial LLC Budget), and (iii) any change in an LLC Budget line item that relates to an Interested Party Transaction (including, without limitation, with respect to wages and employee benefits under any operation and management agreement, management services agreement or any similar agreement for the general operation and management of the Business and the assets of the Company) shall, in each case, require Supermajority Approval. If any such LLC Budget is not approved prior to the commencement of the next fiscal year then, until a new LLC Budget is approved, the Company shall continue to operate under the LLC Budget approved for the preceding fiscal year; provided, that the line item amounts therein shall each be deemed increased by five percent (5%). Notwithstanding anything in this Agreement to the contrary, including Section 7.11, in determining any expenditures in an LLC Budget, the Managers appointed by the Class A Members to the Board in the performance of their duties as such in respect of such determination, shall act in good faith and shall exercise the same degree of diligence and care that such Managers exercise with respect to the performance of similar duties on behalf of the Class A Member that appointed such Managers.

37. Section 7.10(c) of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

(c) The doctrine of corporate opportunity, or any analogous doctrine, shall not apply to a Member. Except with respect to Future Project Opportunities that receive the requisite approval by the Company, the Company and each Member hereby renounce any interest or expectancy in any business opportunity, transaction, agreement, arrangement or other matter that involves any aspect of the petroleum products storage industry or any other industry or business (each, a

"*Non-Company Business Opportunity*") including any pipelines connecting to tanks or other facilities on the Property. No Member who acquires knowledge of a business opportunity shall have any duty to communicate or offer such opportunity to the Company or any other Member, and such Member shall not be liable to the Company, to any Member or any other Person for breach of any fiduciary or other duty by reason of the fact that such Member does not communicate such opportunity or information to the Company or any other Member or pursues or acquires such opportunity for itself or directs such opportunity to another Person. By way of example and not in limitation of the foregoing, any Non-Company Business Opportunity (other than Future Project Opportunities that receive the requisite approval) and any business opportunity that has been presented to the Board for consideration and has failed to receive the requisite approval ("*Rejected Business Opportunities*") may be separately pursued by one or more of the Members or their respective Affiliates. Neither the Company nor any Member shall have any right, by virtue of this Agreement, to share or participate in such Non-Company Business Opportunities or Rejected Business Opportunities or to the income or proceeds derived therefrom.

38. Section 7.14(a) of the LLC Agreement is hereby amended and restated in its entirety to read as follows:

(a) Subject to Section 7.14(b), the Company shall, either directly or through the Members (or their respective Affiliates), obtain and maintain in effect casualty, liability and such other insurance as may be determined by the Board, by Majority Approval, to be reasonable and prudent. On an annual basis, the Board shall, by Majority Approval of the Board, approve a plan for the procurement of the Company's insurance policies and the minimum insurance levels for the Company pursuant thereto. The initial insurance of the Company shall be as set forth on Exhibit E and is hereby approved by the Company and by the Members and shall not require any further approval hereunder. Notwithstanding the foregoing, Supermajority Approval of the Board shall be required to the extent the cost of acquiring insurance of a like kind to the initial insurance exceeds 110% of the budgeted amount for the initial insurance as increased annually beginning January 1, 2013 by the 12-month change in the Producer Price Index for Finished Goods, not seasonally adjusted as reported by the Bureau of Labor Statistics.

39. Exhibit A of the LLC Agreement is hereby amended and restated in its entirety by replacing the existing Exhibit A with the Exhibit A attached hereto and hereby made a part hereof.

40. Except as hereby expressly modified, the LLC Agreement remains in full force and effect. This First Amendment (i) shall bind and benefit the Members and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns; (ii) shall be modified or amended only in the manner set forth in the LLC Agreement; (iii) SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE FROM TIME TO TIME IN EFFECT; and (iv) embodies the entire agreement and understanding between the parties with respect to modifications of instruments

provided for herein and supersedes all prior conflicting or inconsistent agreements, consents and understandings relating to such subject matter.

41. The undersigned parties hereto hereby ratify, confirm and adopt all the terms and provisions of the LLC Agreement, as amended hereby.

[***Signature Page Follows***]

IN WITNESS WHEREOF, the undersigned parties have executed this First Amendment in one or more counterparts, each of which shall constitute an original and all of which taken together shall constitute one instrument, effective as of the date first above written.

KINDER MORGAN BATTLEGROUND OIL LLC

By: ____________________
Name: ____________________
Title: ____________________

TRANSMONTAIGNE OPERATING COMPANY L.P.

By: TransMontaigne Operating GP L.L. C., its general partner

By: ____________________
Name: ____________________
Title: ____________________

TAUBER TERMINALS, LP

By: Tauber Brothers, LLC, its General Partner

By: ____________________
Name: ____________________
Title: ____________________

Signature Page to First Amendment to Amended and Restated Limited Liability Company Agreement of Battleground Oil Specialty Terminal Company LLC

Confidential Treatment Requested

EXHIBIT A — MEMBERS

Membership Interests

Name and Address of Member	Capital Contributions	Equity Percentage Interest	Class A Equity Percentage Interest	Class B Equity Percentage Interest	Class A Units	Class B Units
Class A Members		**[**]**				
TransMontaigne 1670 Broadway Suite 3100 Denver, Colorado 80202 Attn: President Facsimile: 303-626-8228	$ 76,065,988.69	**[**]**	42.50%		6,338,832.39	
Kinder Morgan c/o Kinder Morgan Energy Partners, L.P. 500 Dallas, Suite 1000 Houston, Texas 77002 Attention: Secretary and General Counsel Facsimile: 713-369-9499	$ 98,438,388.31	**[**]**	55.00%		8,203,194.86	
Tauber Terminals, LP 55 Waugh, Suite 700 Houston, TX 77007-5837 Attention: David W. Tauber	$ 4,474,470.00	**[**]**	2.50%		372,872.50	
Class B Members		**[**]**		**100%**		**0**
BOSTCO Partners, L.P. [ ] [ ]		**[**]**		71.43%		500
Yaron Gisser [ ] [ ]		**[**]**		28.57%		200

Exhibit 21.1

List of Subsidiaries of TransMontaigne Partners L.P. at December 31, 2012*

Ownership of subsidiary	Name of subsidiary	Trade name	State/Country of organization
100%	TransMontaigne Operating GP L.L.C.	None	Delaware
100%	TransMontaigne Terminals L.L.C.	None	Delaware
100%	TLP Mex L.L.C.	None	Delaware
100%	TPSI Terminals L.L.C.	None	Delaware
100%	TransMontaigne Operating Company L.P.	None	Delaware
100%	Razorback L.L.C. (d/b/a Diamondback Pipeline L.L.C.)	None	Delaware
100%	TLP Operating Finance Corp.	None	Delaware
100%	TMOC Corp.	None	Delaware
100%	TPME L.L.C.	None	Delaware
100%	Penn Octane de Mexico, S. de R.L.de C.V.	None	Mexico
100%	Tergas, S. de R.L. de C.V.	None	Mexico
100%	Termatsal, S. de R.L. de C.V.	None	Mexico

* Omits non-operating subsidiaries that, considered in the aggregate, do not constitute significant subsidiaries as of December 31, 2012.

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Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

The Board of Directors and Member
TransMontaigne GP L.L.C.:

We consent to the incorporation by reference in Registration Statement Nos. 333-125209 and 333-148280 on Form S-8 of our reports dated March 12, 2013, relating to the consolidated financial statements of TransMontaigne Partners L.P. and subsidiaries, and the effectiveness of TransMontaigne Partners L.P. and subsidiaries' internal control over financial reporting, appearing in this Annual Report on Form 10-K of TransMontaigne Partners L.P. for the year ended December 31, 2012.

/s/ Deloitte & Touche LLP

Denver, Colorado
March 12, 2013

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Exhibit 31.1

Certification Pursuant to
Section 302 of the Sarbanes-Oxley Act of 2002

I, Charles L. Dunlap, Chief Executive Officer of TransMontaigne GP L.L.C., a Delaware limited liability company and general partner of TransMontaigne Partners L.P. (the "Company"), certify that:

1. I have reviewed this Annual Report on Form 10-K of TransMontaigne Partners L.P. for the fiscal year ended December 31, 2012;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

March 12, 2013

/s/ CHARLES L. DUNLAP

Charles L. Dunlap
Chief Executive Officer

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Exhibit 31.2

Certification Pursuant to
Section 302 of the Sarbanes-Oxley Act of 2002

I, Frederick W. Boutin, Chief Financial Officer of TransMontaigne GP L.L.C., a Delaware limited liability company and general partner of TransMontaigne Partners L.P. (the "Company"), certify that:

1. I have reviewed this Annual Report on Form 10-K of TransMontaigne Partners L.P. for the fiscal year ended December 31, 2012;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

March 12, 2013

/s/ FREDERICK W. BOUTIN

Frederick W. Boutin
Chief Financial Officer

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Exhibit 32.1

Certification of Chief Executive Officer and Chief Financial Officer
Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
(18 U.S.C. Section 1350)

The undersigned, the Chief Executive Officer of TransMontaigne GP L.L.C., a Delaware limited liability company and general partner of TransMontaigne Partners L.P. (the "Company"), hereby certifies that, to his knowledge on the date hereof:

(a) the Annual Report on Form 10-K of the Company for the fiscal year ended December 31, 2012, filed on the date hereof with the Securities and Exchange Commission (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(b) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ CHARLES L. DUNLAP

Charles L. Dunlap
Chief Executive Officer

March 12, 2013

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Exhibit 32.2

Certification of Chief Executive Officer and Chief Financial Officer
Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
(18 U.S.C. Section 1350)

The undersigned, the Chief Financial Officer of TransMontaigne GP L.L.C., a Delaware limited liability company and general partner of TransMontaigne Partners L.P. (the "Company"), hereby certifies that, to his knowledge on the date hereof:

(a) the Annual Report on Form 10-K of the Company for the fiscal year ended December 31, 2012, filed on the date hereof with the Securities and Exchange Commission (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(b) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ FREDERICK W. BOUTIN

Frederick W. Boutin
Chief Financial Officer

March 12, 2013

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