Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the Quarter Ended June 20, 2003

Commission File No. 1-13881

MARRIOTT INTERNATIONAL, INC.

Delaware	**52-2055918**
(State of Incorporation)	**(I.R.S. Employer Identification Number)**

10400 Fernwood Road
Bethesda, Maryland 20817
(301) 380-3000

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, and (2) has been subject to such filing requirements for the past 90 days.

Yes ☒ No ☐

Indicate by check mark whether the registrant is an accelerated filer (as defined by Rule 12b-2 of the Exchange Act).

Yes ☒ No ☐

Class	**Shares outstanding at July 3, 2003**
Class A Common Stock, $0.01 par value	232,925,341

MARRIOTT INTERNATIONAL, INC.
INDEX

Forward-Looking Statements

We have made forward-looking statements in this document that are based on the beliefs and assumptions of our management, and on information currently available to our management. Forward-looking statements include the information concerning our possible or assumed future results of operations and statements preceded by, followed by or that include the words “believes,” “expects,” “anticipates,” “intends,” “plans,” “estimates,” or similar expressions.

Forward-looking statements involve risks, uncertainties and assumptions. Actual results may differ materially from those expressed in these forward-looking statements. We caution you not to put undue reliance on any forward-looking statements.

You should understand that the following important factors, in addition to those discussed in Exhibit 99-1 and elsewhere in this quarterly report, could cause results to differ materially from those expressed in such forward-looking statements.

- competition in each of our business segments;
- business strategies and their intended results;
- the balance between supply of and demand for hotel rooms, timeshare units and corporate apartments;
- our continued ability to obtain new operating contracts and franchise agreements;
- our ability to develop and maintain positive relations with current and potential hotel owners;
- our ability to obtain adequate property and liability insurance to protect against losses or to obtain such insurance at reasonable rates;
- the effect of international, national and regional economic conditions, including the duration and severity of the current economic downturn in the United States, the pace of the lodging industry’s adjustment to the continuing war on terrorism, the unknown pace of recovery from the decrease in travel caused by the recent military action in Iraq, and the possible further decline in travel if military action is taken elsewhere;
- the impact of Severe Acute Respiratory Syndrome (“SARS”) on travel, particularly if recent apparent successes in efforts to control the disease are not maintained, or travel is slow to return to the affected areas;
- our ability to recover our loan and guarantee advances from hotel operations or from owners through the proceeds of hotel sales, refinancing of debt or otherwise;
- the availability of capital to allow us and potential and current hotel owners to fund investments and refurbishment of existing hotels;
- rejection by the Internal Revenue Service of our synthetic fuel tax credits on audit or its failure to issue a new private letter ruling enabling the purchaser of an interest in our synthetic fuel business to exercise its one-time option to return its ownership interests to us;
- interruption of our synthetic fuel operations due to problems at any of our operations, the power plants that buy synthetic fuel from us or the coal mines where we buy coal, which could be caused by accidents, union activity, severe weather or other similar unpredictable events;
- the effect that internet reservation channels may have on the rates that we are able to charge for hotel rooms and timeshare intervals; and
- other risks described from time to time in our filings with the Securities and Exchange Commission (the SEC).

PART I—FINANCIAL INFORMATION

Item 1. Financial Statements

MARRIOTT INTERNATIONAL, INC.
CONDENSED CONSOLIDATED STATEMENTS OF INCOME
($ in millions, except per share amounts)
(Unaudited)

	Twelve weeks ended		Twenty-four weeks ended	
	June 20, 2003	June 14, 2002	June 20, 2003	June 14, 2002
SALES				
Lodging				
Base management fees	$ 88	$ 91	$ 180	$ 176
Incentive management fees	28	52	57	84
Franchise fees	56	54	108	105
Owned and leased properties	87	96	176	189
Cost reimbursements	1,402	1,343	2,810	2,605
Other revenue	314	345	590	625
Synthetic Fuel	63	53	131	58
	2,038	2,034	4,052	3,842
OPERATING COSTS AND EXPENSES				
Lodging				
Owned and leased—direct	89	89	178	180
Other lodging—direct	265	287	515	527
Reimbursed costs	1,402	1,343	2,810	2,605
Administrative and other	44	70	96	127
Synthetic Fuel	105	96	232	107
	1,905	1,885	3,831	3,546
	133	149	221	296
Corporate expenses	(24)	(23)	(54)	(52)
Interest expense	(25)	(21)	(51)	(40)
Interest income	27	28	47	47
Provision for loan losses	(1)	—	(6)	—
INCOME FROM CONTINUING OPERATIONS, BEFORE INCOME TAXES	110	133	157	251
Income tax benefit (provision)	16	(6)	56	(42)
INCOME FROM CONTINUING OPERATIONS	126	127	213	209
Discontinued Operations				
Income from Senior Living Services, net of tax	1	3	8	7
(Loss) Gain on disposal of Senior Living Services, net of tax	(2)	—	21	—
Loss from Distribution Services, net of tax	—	(1)	—	(5)
Exit costs—Distribution Services, net of tax	—	—	(1)	—
NET INCOME	$ 125	$ 129	$ 241	$ 211
EARNINGS PER SHARE—Basic				
Earnings from continuing operations	$ .54	$ .52	$ .91	$ .86
Earnings from discontinued operations	—	.01	.12	.01
Earnings per share	$ .54	$ .53	$ 1.03	$ .87
EARNINGS PER SHARE—Diluted				
Earnings from continuing operations	$ .52	$ .49	$ .87	$ .81
(Loss) Earnings from discontinued operations	(.01)	.01	.12	.01
Earnings per share	$ .51	$ .50	$ .99	$ .82
DIVIDENDS DECLARED PER SHARE	$ 0.075	$ 0.07	$ 0.145	$ 0.135

See Notes to Condensed Consolidated Financial Statements

MARRIOTT INTERNATIONAL, INC.
CONDENSED CONSOLIDATED BALANCE SHEET
($ in millions)

	June 20, 2003 (Unaudited)	January 3, 2003
ASSETS		
Current assets		
Cash and equivalents	$ 144	$ 198
Accounts and notes receivable	645	522
Prepaid taxes	274	300
Other	152	89
Assets held for sale	228	664
	1,443	1,773
Property and equipment	2,535	2,560
Goodwill	923	923
Other intangible assets	511	495
Investments in affiliates—equity	488	493
Investments in affiliates—notes receivable	626	584
Notes and other receivables, net		
Loans to timeshare owners	143	153
Other notes receivable	179	304
Other long-term receivables	476	473
	798	930
Other	680	538
	$ 8,004	$ 8,296
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities		
Accounts payable	$ 469	$ 529
Current portion of long-term debt	263	221
Liabilities of businesses held for sale	54	390
Other	1,060	1,067
	1,846	2,207
Long-term debt	1,380	1,492
Casualty self insurance reserves	118	106
Other long-term liabilities and deferred income	920	857
Convertible debt	62	61
Shareholders' equity		
Class A common stock	3	3
Additional paid-in capital	3,280	3,224
Retained earnings	1,305	1,126
Deferred compensation	(96)	(43)
Treasury stock, at cost	(777)	(667)
Accumulated other comprehensive loss	(37)	(70)
	3,678	3,573
	$ 8,004	$ 8,296

See Notes to Condensed Consolidated Financial Statements

MARRIOTT INTERNATIONAL, INC.
CONDENSED CONSOLIDATED STATEMENT OF CASH FLOWS
($ in millions)
(Unaudited)

	Twenty-four weeks ended	
	June 20, 2003	June 14, 2002
OPERATING ACTIVITIES		
Income from continuing operations	$ 213	$ 209
Adjustments to reconcile to cash provided by operating activities:		
Income from discontinued operations	8	2
Discontinued operations—gain on sale/exit	20	—
Depreciation and amortization	68	86
Income taxes and other	(142)	57
Timeshare activity, net	(41)	(63)
Working capital changes	(106)	(7)
Net cash provided by operating activities	20	284
INVESTING ACTIVITIES		
Capital expenditures	(116)	(172)
Dispositions	361	282
Loan advances	(70)	(64)
Loan collections and sales	111	29
Other	(20)	(53)
Net cash provided by investing activities	266	22
FINANCING ACTIVITIES		
Commercial paper, net	(87)	353
Issuance of long-term debt	6	11
Repayment of long-term debt	(57)	(1,269)
Issuance of Class A common stock	29	27
Dividends paid	(33)	(31)
Purchase of treasury stock	(198)	(20)
Net cash used in financing activities	(340)	(929)
DECREASE IN CASH AND EQUIVALENTS	(54)	(623)
CASH AND EQUIVALENTS, beginning of period	198	812
CASH AND EQUIVALENTS, end of period	$ 144	$ 189

See Notes to Condensed Consolidated Financial Statements

MARRIOTT INTERNATIONAL, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

1. Basis of Presentation

The condensed consolidated financial statements present the results of operations, financial position and cash flows of Marriott International, Inc. (together with its subsidiaries, we, us or the Company).

The accompanying condensed consolidated financial statements have not been audited. We have condensed or omitted certain information and footnote disclosures normally included in financial statements presented in accordance with accounting principles generally accepted in the United States. We believe the disclosures made are adequate to make the information presented not misleading. However, you should read the condensed consolidated financial statements in conjunction with the consolidated financial statements and notes to those financial statements included in our Annual Report on Form 10-K for the fiscal year ended January 3, 2003. Certain terms not otherwise defined in this quarterly report have the meanings specified in such Annual Report.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities as of the date of the financial statements, the reported amounts of sales and expenses during the reporting period and the disclosures of contingent liabilities. Accordingly, ultimate results could differ from those estimates. Certain prior year amounts have been reclassified to conform to the 2003 presentation.

In our opinion, the accompanying condensed consolidated financial statements reflect all normal and recurring adjustments necessary to present fairly our financial position as of June 20, 2003 and January 3, 2003 and the results of operations for the twelve and twenty-four weeks ended June 20, 2003 and June 14, 2002 and cash flows for the twenty-four weeks ended June 20, 2003 and June 14, 2002. Interim results may not be indicative of fiscal year performance because of seasonal and short-term variations. We have eliminated all material intercompany transactions and balances between entities consolidated in these financial statements.

Revenue Recognition

Our sales include (1) base and incentive management fees, (2) franchise fees, (3) sales from lodging properties owned or leased by us, (4) cost reimbursements, (5) other lodging revenue, and (6) sales made by our Synthetic Fuel business. Management fees comprise a base fee, which is a percentage of the revenues of hotels and an incentive fee, which is generally based on unit profitability. Franchise fees comprise initial application fees and continuing royalties generated from our franchise programs, which permit the hotel owners and operators to use certain of our brand names. Cost reimbursements include direct and indirect costs that are reimbursed to us by lodging properties that we manage or franchise. Other lodging revenue includes sales from our Timeshare and ExecuStay businesses (excluding base fees, reimbursed costs and franchise fees).

Management Fees: We recognize base fees as revenue when earned in accordance with the contract. In interim periods and at year end we recognize incentive fees that would be due as if the contract were to terminate at that date, exclusive of any termination fees payable or receivable by us. For the twenty-four weeks ended June 20, 2003 we have recognized $57 million of incentive management fees, retention of which is dependent on achievement of hotel profitability for the balance of the year at levels specified in a number of our management contracts.

Timeshare: We recognize revenue from timeshare interest sales in accordance with Financial Accounting Standards (FAS) No. 66, “Accounting for Sales of Real Estate.” We recognize sales when a

minimum of 10 percent of the purchase price for the timeshare interval has been received, the period of cancellation with refund has expired, we deem receivables collectible and we have attained certain minimum sales and construction levels. For sales that do not meet these criteria, we defer all revenue using the deposit method.

Owned and Leased Units: We recognize room sales and revenues for our owned and leased units, including ExecuStay, when rooms are occupied and services have been rendered.

Franchise Revenue: We recognize franchise fee revenues in accordance with FAS No. 45, "Accounting for Franchise Fee Revenue." We recognize franchise fees as revenue in each accounting period as fees are earned and become receivable from the franchisee.

Cost Reimbursements: We recognize cost reimbursements, in accordance with operating agreements, from managed and franchised properties when we incur the related reimbursable costs.

Synthetic Fuel: We recognize revenue from the Synthetic Fuel business when the synthetic fuel is produced and sold.

2. New Accounting Standards

We adopted the disclosure provisions of FASB Interpretation No. (FIN) 45, "Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others," in the fourth quarter of 2002. We applied the recognition and measurement provisions for guarantees issued in the first and second quarters of 2003 and there was no material impact on our financial statements.

FIN 46, "Consolidation of Variable Interest Entities," is effective immediately for all enterprises with variable interests in variable interest entities created after January 31, 2003. The provisions of FIN 46 must be applied to variable interests in variable interest entities created before February 1, 2003 from the beginning of the third quarter of 2003. If an entity is determined to be a variable interest entity, it must be consolidated by the enterprise that absorbs the majority of the entity's expected losses if they occur, receives a majority of the entity's expected residual returns if they occur, or both. Where it is reasonably possible that the company will consolidate or disclose information about a variable interest entity, the company must disclose the nature, purpose, size and activity of the variable interest entity and the company's maximum exposure to loss as a result of its involvement with the variable interest entity in all financial statements issued after January 31, 2003. We are currently reviewing the potential impact of FIN 46 on our financial statements and we expect any disclosure or consolidation requirements arising from the adoption will be immaterial.

3. Earnings Per Share

The following table illustrates the reconciliation of the earnings and number of shares used in the basic and diluted earnings per share calculations (in millions, except per share amounts).

	Twelve weeks ended		Twenty-four weeks ended	
	June 20, 2003	June 14, 2002	June 20, 2003	June 14, 2002
Computation of Basic Earnings Per Share				
Income from continuing operations	$ 126	$ 127	$ 213	$ 209
Weighted average shares outstanding	232.3	242.8	233.1	242.4
Basic earnings per share from continuing operations	$ 0.54	$ 0.52	$ 0.91	$ 0.86
Computation of Diluted Earnings Per Share				
Income from continuing operations	$ 126	$ 127	$ 213	$ 209
After-tax interest expense on convertible debt	—	1	—	3
Income from continuing operations for diluted earnings per share	$ 126	$ 128	$ 213	$ 212
Weighted average shares outstanding	232.3	242.8	233.1	242.4
Effect of dilutive securities				
Employee stock option plan	6.0	8.1	4.8	7.9
Deferred stock incentive plan	4.7	4.9	4.7	4.9
Restricted stock plan	0.3	—	0.3	—
Convertible debt	1.0	4.0	1.0	5.2
Shares for diluted earnings per share	244.3	259.8	243.9	260.4
Diluted earnings per share from continuing operations	$ 0.52	$ 0.49	$ 0.87	$ 0.81

We compute the effect of dilutive securities using the treasury stock method and average market prices during the period. We determine dilution based on earnings from continuing operations.

The calculation of diluted earnings per share does not include the following because the inclusion would have an antidilutive impact for the applicable period: (a) for the twelve week and twenty-four week periods ended June 20, 2003, 6.9 million and 7.3 million options, respectively, and (b) for the twelve and twenty-four week periods ended June 14, 2002, 5.6 million and 5.8 million options, respectively.

4. Stock-Based Compensation

We have several stock-based employee compensation plans that we account for using the intrinsic value method under the recognition and measurement principles of APB Opinion No. 25, “Accounting for Stock Issued to Employees.” Accordingly, we do not reflect stock-based employee compensation cost in net income for our Stock Option Program, the Supplemental Executive Stock Option awards or the Stock Purchase Plan. We recognized stock-based employee compensation cost of $5 million and $2 million, net of tax, for deferred share grants, restricted share grants and restricted stock units for the twelve weeks ended June 20, 2003 and June 14, 2002. For the twenty-four weeks ended June 20, 2003 and June 14, 2002, we recognized stock-based employee compensation costs of $9 million and $4 million, respectively. Included in 2003 compensation for the twenty-four weeks ended June 20, 2003, is $4 million net of tax related to the grant of approximately 1.9 million units under the

employee restricted stock unit program which was started in the first quarter of 2003. At June 20, 2003, there was approximately $52 million in deferred compensation related to unit grants. Under the unit plan, fixed grants will be awarded annually to certain employees.

The following table illustrates the effect on net income and earnings per share if we had applied the fair value recognition provisions of FAS No. 123, "Accounting for Stock-Based Compensation," to stock-based employee compensation. The impact of measured but unrecognized compensation cost and excess tax benefits credited to additional paid-in capital is included in the denominator of the diluted pro forma shares for all periods presented.

	Twelve weeks ended		Twenty-four weeks ended	
($ in millions, except per share amounts)	June 20, 2003	June 14, 2002	June 20, 2003	June 14, 2002
Net income, as reported	$ 125	$ 129	$ 241	$ 211
Add: Stock-based employee compensation expense included in reported net income, net of related tax effects	5	2	9	4
Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards, net of related tax effects	(18)	(15)	(34)	(30)
Pro forma net income	$ 112	$ 116	$ 216	$ 185
Earnings per share:				
Basic—as reported	$ .54	$ .53	$ 1.03	$ .87
Basic—pro forma	$ .48	$ .48	$ .93	$ .76
Diluted—as reported	$ .51	$ .50	$ .99	$ .82
Diluted—pro forma	$ .46	$ .46	$ .90	$ .73

5. Marriott Rewards

We defer revenue received from managed, franchised, and Marriott-owned/leased hotels and program partners equal to the fair value of our future redemption obligation. We recognize the component of revenue from program partners that corresponds to program maintenance services over the expected life of the points awarded. Upon the redemption of points, we recognize as revenue the amounts previously deferred, and recognize the corresponding expense relating to the cost of the awards redeemed. The liability for the Marriott Rewards program was $728 million at June 20, 2003 and $683 million at January 3, 2003 of which $437 million and $418 million, respectively, are included in other long-term liabilities and deferred income in the accompanying condensed consolidated balance sheet.

6. Dispositions

In the second quarter of 2003, we sold two lodging properties for $98 million in cash. We will continue to operate the two hotels under long-term management agreements. The sales are accounted for under the full accrual method of accounting in accordance with FAS No. 66. The properties were sold for a gain of $4 million, which is deferred until certain contingencies in the sales contract expire.

7. Comprehensive Income

Total comprehensive income was $160 million and $138 million, for the twelve weeks ended June 20, 2003 and June 14, 2002, respectively, and $274 million and $218 million, respectively, for the twenty-four weeks ended June 20, 2003 and June 14, 2002. The principal difference between net income and total comprehensive income for the applicable 2003 and 2002 periods relates to foreign currency translation adjustments.

8. Business Segments

We are a diversified hospitality company with operations in five business segments:

- *Full-Service Lodging*, which includes Marriott Hotels and Resorts; The Ritz-Carlton Hotels; Renaissance Hotels and Resorts; and Ramada International;
- *Select-Service Lodging*, which includes Courtyard, Fairfield Inn and SpringHill Suites;
- *Extended-Stay Lodging*, which includes Residence Inn, TownePlace Suites, Marriott ExecuStay and Marriott Executive Apartments;
- *Timeshare*, which includes the operation, ownership, development and marketing of timeshare properties under the Marriott Vacation Club International, The Ritz-Carlton Club, Horizons by Marriott Vacation Club International and Marriott Grand Residence Club brands; and
- *Synthetic Fuel*, which includes the operation of our coal-based synthetic fuel production facilities. Our Synthetic Fuel Business generated tax benefits and credits of $68 million and $58 million for the twelve weeks ended June 20, 2003 and June 14, 2002, respectively, and $146 million and $65 million for the twenty-four weeks then ended.

We evaluate the performance of our segments based primarily on results of the segment without allocating corporate expenses, interest expense, interest income or income taxes (segment financial results).

We have aggregated the brands and businesses presented within each of our segments considering their similar economic characteristics, types of customers, distribution channels, and the regulatory business environment of the brands and operations within each segment.

	Twelve weeks ended		Twenty-four weeks ended	
	June 20, 2003	June 14, 2002	June 20, 2003	June 14, 2002
Sales				
($ in millions)				
Full-Service	$ 1,323	$ 1,299	$ 2,644	$ 2,520
Select-Service	229	238	463	445
Extended-Stay	130	148	254	269
Timeshare	293	296	560	550
Total Lodging	1,975	1,981	3,921	3,784
Synthetic Fuel	63	53	131	58
	$ 2,038	$ 2,034	$ 4,052	$ 3,842
Segment financial results				
($ in millions)				
Full-Service	$ 87	$ 103	$ 182	$ 189
Select-Service	29	40	53	68
Extended-Stay	15	10	25	18
Timeshare	44	39	62	70
Total Lodging	175	192	322	345
Synthetic Fuel	(42)	(43)	(101)	(49)
	$ 133	$ 149	$ 221	$ 296
Equity in income/(loss) of equity method investees				
($ in millions)				
Full-Service	$ 2	$ 6	$ 7	$ 4
Select-Service	(3)	—	(7)	(3)
Timeshare	—	—	(1)	—
Corporate	1	—	—	(1)
	$ —	$ 6	$ (1)	$ —

9. Contingencies

We issue guarantees to certain lenders and hotel owners primarily to obtain long-term management contracts. The guarantees have a stated maximum amount of funding and the terms are generally five years or less. The terms of guarantees to lenders generally require us to fund if cash flows from hotel operations are not adequate to cover annual debt service or to repay the loan at the end of the term. The terms of the guarantees to hotel owners generally require us to fund if specified levels of operating profit are not obtained.

We also enter into project completion guarantees with certain lenders in conjunction with hotels and timeshare units that are being built by us.

Additionally, we enter into guarantees in conjunction with the sale of notes receivable originated by our timeshare business. These guarantees have terms of between seven and ten years. The terms of the guarantees require us to repurchase a limited amount of non-performing loans under certain circumstances. When we repurchase non-performing timeshare loans, we will either collect the outstanding loan balance in full or foreclose on the asset and subsequently resell it.

Our guarantees include $406 million related to Senior Living Services lease obligations and lifecare bonds. Sunrise Assisted Living, Inc. (Sunrise) is the primary obligor of the leases and a portion of the lifecare bonds and CNL Retirement Properties, Inc. (CNL) is the primary obligor of the remainder of the lifecare bonds. Marriott International, Inc. has been indemnified by Sunrise and CNL with respect to any guarantee fundings in connection with these lease obligations and lifecare bonds. Prior to the sale of the Senior Living Services business these pre-existing guarantees were guarantees by Marriott International, Inc. of obligations of consolidated Senior Living Services subsidiaries. Our guarantees additionally include $51 million of guarantees associated with the Sunrise sale transaction.

The maximum potential amount of future fundings and the carrying amount of the liability for expected future fundings at June 20, 2003 are as follows ($ in millions):

Guarantee type	Maximum amount of future fundings	Liability for future fundings at June 20, 2003
Debt service	$ 407	$ 16
Operating profit	360	11
Project completion	52	—
Timeshare	25	—
Senior Living Services	457	—
Other	30	—
	$ 1,331	$ 27

Our guarantees listed above include $257 million for commitments which will not be in effect until the underlying hotels are open and we begin to manage the properties. Guarantee fundings to lenders and hotel owners are generally recoverable in the form of a loan and are generally repayable to us out of future hotel cash flows and/or proceeds from the sale of hotels.

As of June 20, 2003, we had extended approximately $192 million of loan commitments to owners of lodging properties and senior living communities under which we expect to fund approximately $118 million by January 2, 2004, and $28 million in one to three years.

Letters of credit outstanding on our behalf at June 20, 2003 totaled $107 million, the majority of which related to our self-insurance programs. Surety bonds issued on our behalf as of June 20, 2003 totaled $403 million, the majority of which were requested by federal, state, or local governments related to our timeshare and lodging operations and self-insurance programs.

Third-parties have severally indemnified us for guarantees by us of leases with minimum annual payments of approximately $57 million.

Litigation and Arbitration

Green Isle litigation. All claims in this matter, which we discussed in "Contingencies" notes in our prior periodic reports and which pertained to The Ritz-Carlton San Juan (Puerto Rico) Hotel, Spa and Casino, were dismissed with prejudice and released pursuant to the Disclosure Statement and Plan of Reorganization which was confirmed by the bankruptcy court on May 1, 2003.

CTF/HPI arbitration and litigation. On April 8, 2002, we initiated an arbitration proceeding against CTF Hotel Holdings, Inc. (CTF) and its affiliate, Hotel Property Investments (B.V.I.) Ltd. (HPI), in connection with a dispute over procurement issues for certain Renaissance hotels and resorts that we manage for CTF and HPI. On April 12, 2002, CTF filed a lawsuit in U.S. District Court in Delaware against us and Avendra LLC, alleging that, in connection with procurement at 20 of those hotels, we engaged in improper acts of self-dealing, and claiming breach of fiduciary, contractual and other duties; fraud; misrepresentation; and violations of the RICO and the Robinson-Patman Acts. CTF seeks various remedies, including a stay of the arbitration proceedings against CTF and unspecified actual, treble and punitive damages. The district court enjoined the arbitration with respect to CTF, but granted our request to stay the court proceedings pending the resolution of the arbitration with respect to HPI. Both parties have appealed that ruling. The arbitration panel granted HPI's request to postpone the hearing which was scheduled to commence in October 2003, but has yet to set a new date.

In Town Hotels litigation. On May 23, 2002, In Town Hotels filed suit against us, subsequently amended to include Avendra, LLC, in the U.S. District Court for the Southern District of West Virginia alleging that, in connection with the management, procurement and rebates related to the Charleston, West Virginia Marriott, we misused confidential information, improperly allocated corporate overhead to the hotel, engaged in improper self dealing, failed to disclose information related to the above to In Town Hotels, and breached obligations owed to In Town Hotels by refusing to replace the hotel's general manager and by opening two additional hotels in the Charleston area. In Town Hotels claims breach of contract, breach of fiduciary and other duties, conversion, violation of the West Virginia Unfair Trade Practices Act, fraud, misrepresentation, negligence, violations of the Robinson-Patman Act, and other related causes of action, and seeks various remedies, including unspecified compensatory and exemplary damages, return of $18.5 million in management fees, and a declaratory judgment terminating the management agreement. We denied the allegations and intend to vigorously contest the case. On June 15, 2003 the parties jointly entered into a stay of the proceedings in order to determine if the matter could be resolved. That stay was recently extended until August 13, 2003. Trial is scheduled for March 2004.

Strategic Hotel litigation. On August 20, 2002, several direct or indirect subsidiaries of Strategic Hotel Capital, L.L.C. (Strategic) filed suit against us in the Superior Court of Los Angeles County, California in a dispute related to the management, procurement and rebates related to three California hotels that we manage for Strategic. Strategic alleges that we misused confidential information related to the hotels, improperly allocated corporate overhead to the hotels, engaged in improper self dealing with regard to procurement and rebates, and failed to disclose information related to the above to Strategic. Strategic also claims breach of contract, breach of fiduciary and other duties, unfair and deceptive business practices, unfair competition, and other related causes of action. Strategic seeks various remedies, including unspecified compensatory and exemplary damages, and a declaratory judgment terminating our management agreements. We have filed a cross complaint alleging a breach of Strategic's covenant not to sue, a breach of the covenant of good faith and fair dealing, breach of an agreement to arbitrate, and a breach of The California Unfair Competition Statute. A discovery referee has been appointed, but no trial date has been set.

Senior Housing and Five Star litigation. We and Marriott Senior Living Services, Inc. (SLS) (which on March 28, 2003, became a subsidiary of Sunrise) are party to actions in the Circuit Court for Montgomery County, Maryland and the Superior Court for Middlesex County, Massachusetts both initiated on November 27, 2002. These actions relate to 31 senior living communities that SLS operates for Senior Housing Properties Trust (SNH) and Five Star Quality Care, Inc. (FVE), and SNH/FVE's attempt to terminate the operating agreements for these communities. In the Massachusetts action,

SNH/FVE sought a declaration that the operating agreements between FVE and SLS created a principal-agent relationship, and that SNH/FVE could therefore terminate the agreements at will. The Massachusetts court dismissed that action on March 4, 2003 and entered judgement declaring that (i) the Company could sell the stock of SLS to Sunrise without obtaining SNH/FVE's consent, (ii) the Company could remove Marriott proprietary marks from the communities and (iii) that the relationship in the operating agreements was not an agency relationship and not terminable other than as set forth in the agreements. SNH/FVE has appealed the Massachusetts dismissal and declaration. In the Maryland action, we and SLS are seeking, among other relief, a declaration that SLS is not in default or material breach of the operating agreements and a declaration that SNH/FVE had anticipatorily breached those agreements by violating their termination provisions. Trial in the Maryland action is scheduled to begin in April 2004.

Senior Care Associates litigation. All claims in this matter, which we discussed in "Contingencies" notes in our prior periodic reports and which pertained to fourteen Brighton Gardens properties which we beneficially own and which SLS manages, were settled and dismissed without prejudice on July 2, 2003.

Whitehouse Hotel litigation. On April 7, 2003, Whitehouse Hotel Limited Partnership and WH Holdings, L.L.C., the owners of the New Orleans Ritz-Carlton Hotel, filed suit against us and the Ritz-Carlton Hotel Company, L.L.C. ("Ritz-Carlton") in the Civil District Court for the Parish of New Orleans, Louisiana. Ritz-Carlton manages the hotel under contracts that identify it as an independent contractor, and that contain no territorial restrictions either on other Ritz-Carlton hotels or on Marriott hotels. Whitehouse sought a temporary restraining order and injunction to prevent us from managing, under the JW Marriott flag, the former LeMeridien hotel in New Orleans, claiming that the conversion to a JW Marriott would irreparably injure and damage the Ritz-Carlton hotel. The complaint against us and Ritz-Carlton alleges breach of contract, breach of fiduciary and other duties, violation of the Louisiana Unfair Trade Practices Act, breach of implied duty of good faith, civil conspiracy, and detrimental reliance. In addition to unspecified compensatory damages, Whitehouse seeks to enjoin the Company and Ritz-Carlton from both entering into any agreement to operate the former LeMeridien hotel and using or disclosing any confidential information of the New Orleans Ritz-Carlton, Iberville Suites and Maison Orleans hotels. Whitehouse also seeks a declaration of its right to terminate the operating agreements for cause. The court denied both Whitehouse's motion for a temporary restraining order on April 11, 2003 and its request for expedited discovery on April 15, 2003. In an amended complaint filed on April 23, 2003, Whitehouse added CNL Hospitality Corp. as a defendant, and demanded a jury trial. We moved to dismiss the amended complaint on June 9, 2003, and our motion is scheduled to be heard on August 29, 2003.

We believe that each of the foregoing claims against us and against SLS are without merit and we intend to vigorously defend against them. However, we cannot assure you as to the outcome of these lawsuits nor can we currently estimate the range of potential losses to the Company.

Shareholders' derivative action against our directors.

On January 16, 2003, Daniel and Raizel Taubenfeld filed a shareholder's derivative action in Delaware state court against each member of our Board of Directors and against Avendra LLC. The company is named as a nominal defendant. The individual defendants are accused of exposing the company to accusations and lawsuits which allege wrongdoing on the part of the company. The complaint alleges that, as a result, the company's reputation has been damaged leading to business losses and the compelled renegotiation of some management contracts. The substantive allegations of the complaint are derived exclusively from prior press reports. No damage claim is made against us and no specific damage number is asserted as to the individual defendants. Both the directors and the Company have moved to dismiss this action.

10. Convertible Debt

Approximately $70 million in face amount of our zero-coupon convertible senior notes due 2021, known as LYONs are presently outstanding. These LYONs which were issued on May 8, 2001, are convertible into approximately 0.9 million shares of our Class A Common Stock, and carry a yield to maturity of 0.75 percent. We may not redeem the LYONs prior to May 8, 2004. We may at the option of the holders be required to purchase the LYONs at their accreted value on May 8 of each of 2004, 2011 and 2016. We may choose to pay the purchase price for redemptions or repurchases in cash and/or shares of our Class A Common Stock.

We classify LYONs as long-term based on our ability and intent to refinance the obligation with long-term debt if we are required to repurchase the LYONs.

11. Restructuring Costs and Other Charges

The Company experienced a significant decline in demand for hotel rooms in the aftermath of the September 11, 2001 attacks on New York and Washington and the subsequent dramatic downturn in the economy. This decline resulted in reduced management and franchise fees, cancellation of development projects, and anticipated losses under guarantees and loans. In 2001, we responded by implementing certain companywide cost-saving measures, although we did not significantly change the scope of our operations. As a result of our restructuring plan, in the fourth quarter of 2001 we recorded pretax restructuring costs of $62 million, including (1) $15 million in severance costs; (2) $19 million, primarily associated with a loss on a sublease of excess space arising from the reduction in personnel; (3) $28 million related to the write-off of capitalized costs for development projects no longer deemed viable. We also incurred $142 million of other charges including (1) $85 million related to reserves for guarantees and loan losses; (2) $12 million related to accounts receivable reserves; (3) $13 million related to the write-down of properties held for sale; and (4) $32 million related to the impairment of technology related investments and other write-offs.

The following table summarizes our remaining restructuring liability ($ in millions):

	Restructuring costs and other charges liability, January 3, 2003	Cash payments made in the twenty-four weeks ended June 20, 2003	Charges reversed in the twenty-four weeks ended June 20, 2003	Restructuring costs and other charges liability, June 20, 2003
Severance	$ 2	$ 1	$ —	$ 1
Facilities exit costs	11	—	—	11
Total restructuring costs	13	1	—	12
Reserves for guarantees	21	3	—	18
Total	$ 34	$ 4	$ —	$ 30

In addition to the above, in 2001, we recorded restructuring charges of $62 million and other charges of $5 million for our Senior Living Services and Distribution Services businesses. The restructuring liability related to these discontinued operations was $1 million as of January 3, 2003 and was recorded on the balance sheet as liabilities of businesses held for sale. There was no restructuring liability related to discontinued operations as of June 20, 2003.

12. Assets Held for Sale—Discontinued Operations

Senior Living Services

On December 17, 2002, we sold twelve senior living communities to CNL for approximately $89 million in cash. We accounted for the sale under the full accrual method in accordance with FAS No. 66, and we recorded an after-tax loss of approximately $13 million. On December 30, 2002, we entered into definitive agreements to sell our senior living management business to Sunrise and to sell nine senior living communities to CNL. We completed these sales to Sunrise and CNL in addition to the related sale of a parcel of land to Sunrise on March 28, 2003, for $266 million and recognized a gain, net of taxes, of $23 million.

Also, on December 30, 2002, we purchased 14 senior living communities for approximately $15 million in cash, plus the assumption of $227 million in debt, from an unrelated owner. We had previously agreed to provide a form of credit enhancement on the outstanding debt related to these communities. Management has approved and committed to a plan to sell these communities within 12 months. As part of that plan, on March 31, 2003, we acquired all of the subordinated credit-enhanced mortgage securities relating to the 14 communities in a transaction in which we issued $46 million of unsecured Marriott International, Inc. notes, due April 2004. As a result of the above transactions, at June 20, 2003, the operating results of our Senior Living Services segment are reported in discontinued operations, and the remaining assets are classified as assets held for sale on the balance sheet.

Additional information regarding the Senior Living Services business is as follows ($ in millions):

	Twelve weeks ended		Twenty-four weeks ended	
	June 20, 2003	June 14, 2002	June 20, 2003	June 14, 2002
Income Statement Summary				
Sales	$ —	$ 177	$ 176	$ 357
Pretax income from operations	$ 2	$ 5	$ 13	$ 11
Tax provision	(1)	(2)	(5)	(4)
Income from operations, net of tax	$ 1	$ 3	$ 8	$ 7
Pretax (loss) gain on disposal	$ (4)	$ —	$ 34	$ —
Tax benefit (provision)	2	—	(13)	—
(Loss) gain on disposal, net of tax	$ (2)	$ —	$ 21	$ —

	June 20, 2003	January 3, 2003
Balance Sheet Summary		
Property, plant and equipment	$ 170	$ 434
Goodwill	—	115
Other assets	11	54
Liabilities	35	317

Distribution Services

As of January 3, 2003, through a combination of sale and transfer of nine facilities and the termination of all operations at four facilities, we had completed our exit of the distribution services business. Accordingly, we present the exit costs and the operating results for our distribution services business as discontinued operations for the twelve and twenty-four weeks ended June 20, 2003 and June 14, 2002, and the remaining assets are classified as held for sale at June 20, 2003 and January 3, 2003.

Additional information regarding the Distribution Services disposal group is as follows ($ in millions):

	Twelve weeks ended		Twenty-four weeks ended	
	June 20, 2003	June 14, 2002	June 20, 2003	June 14, 2002
Income Statement Summary				
Sales	$ —	$ 375	$ —	$ 751
Pretax loss from operations	$ —	$ (2)	$ —	$ (8)
Tax benefit	—	1	—	3
Loss on operations, net of tax	$ —	$ (1)	$ —	$ (5)
Pretax exit costs	$ —	$ —	$ (1)	$ —
Tax benefit	—	—	—	—
Exit costs, net of tax	$ —	$ —	$ (1)	$ —

	June 20, 2003	January 3, 2003
Balance Sheet Summary		
Property, plant and equipment	$ 9	$ 9
Other assets	3	21
Liabilities	18	49

Other Assets Held for Sale

Included in assets held for sale at June 20, 2003 and January 3, 2003 are $35 million and $31 million, respectively, representing one full-service lodging property, which was subsequently sold in July 2003, for $39 million, subject to a long-term management agreement. Included in liabilities of businesses held for sale at June 20, 2003 and January 3, 2003 are $1 million and $24 million, respectively, of liabilities related to the full-service lodging property held for sale.

13. Subsequent Events

On June 21, 2003, we completed the previously announced sale of an approximately 50 percent interest in the Synthetic Fuel business. We received cash and promissory notes totaling $25 million at closing and we will receive additional profits over the life of the venture based on the amount of tax credits allocated to the purchaser. The transaction announced in January 2003 was subject to certain closing conditions, including the receipt of a satisfactory private letter ruling from the Internal Revenue Service regarding the new ownership structure, however, both parties agreed to close on the transaction prior to receipt of a new private letter ruling. In the event the private letter ruling is not obtained by December 15, 2003, the purchaser will have a onetime option to return its ownership interest to us. To exercise this option, the purchaser would have to pay us $10 million and receive from us certain additional representations and warranties related to the 2003 tax credits allocated to the purchaser. If the private letter ruling is not obtained and the purchaser returns its interest in the Synthetic Fuel business to us, our contingent obligation under the representations and warranties would be included as a guarantee and accounted for under the provisions of FASB Interpretation No. 45, “Guarantor’s Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others.” The maximum amount of the contingent obligation would depend on the number of tax credits produced and allocated to the purchaser in 2003 and could range from $85 million to $170 million.

On June 27, 2003, the IRS issued Announcement 2003-46 publicly confirming that it had temporarily suspended the issuance of any new private letter rulings regarding tax credits generated under Section 29 of the Internal Revenue Code. In that announcement, the IRS indicated that it was reviewing the science behind whether existing processes cause coal feedstock to undergo significant chemical change as required by Section 29. We have in place rigorous procedures to ensure compliance with all of the requirements of Section 29, thus we remain confident that our existing private letter rulings and all of the tax credits claimed by us are valid. We, together with our outside tax advisors and scientific experts, intend to continue to work closely with the IRS to obtain our pending private letter rulings in a timely manner.

Given the presence of the onetime right, we expect to consolidate the joint venture for accounting purposes until the right expires. Thereafter, if the right is not exercised, we will use the equity method of accounting.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

CONSOLIDATED RESULTS

Continuing Operations

The following discussion presents an analysis of results of our operations for the twelve and twenty-four weeks ended June 20, 2003 and June 14, 2002.

Twelve Weeks Ended June 20, 2003 Compared to Twelve Weeks Ended June 14, 2002

Income from continuing operations, net of taxes decreased 1 percent to $126 million and diluted earnings per share from continuing operations advanced 6 percent to $0.52. Sales remained stable at $2 billion. Income from continuing operations reflected a net benefit of $26 million associated with our Synthetic Fuel business, and reflected a 9 percent decline in our lodging business results.

Marriott Lodging, which includes our Full-Service, Select-Service, Extended-Stay, and Timeshare segments, reported a 9 percent decrease in financial results on slightly lower sales. The results reflect the continued decline in hotel demand, partially offset by new unit additions and an increase in timeshare note sales. We recognized $32 million of timeshare note sale gains in the second quarter of 2003, compared to $15 million in the 2002 second quarter. We sold $130 million in notes in the quarter, compared to $85 million in the quarter ended June 14, 2002. Lodging sales remained steady at $2 billion and systemwide lodging sales remained stable at $4.4 billion. The reconciliation of sales to systemwide sales for the second quarter is as follows ($ in millions):

	Twelve weeks ended	
	June 20, 2003	June 14, 2002
Lodging sales, as reported	$ 1,975	$ 1,981
Guest sales revenue generated at franchised properties, excluding revenues which are already included in lodging sales	1,387	1,266
Guest sales revenue generated at managed properties, excluding revenues which are already included in lodging sales	1,056	1,173
Lodging systemwide sales	$ 4,418	$ 4,420

We consider Lodging systemwide sales to be a meaningful indicator of our performance because it measures the growth in revenues of all of the properties that carry one of the Marriott brand names. Our growth in profitability is in large part driven by such overall revenue growth.

We added a total of 55 lodging properties (7,449 rooms) during the second quarter of 2003, while four hotels (1,327 rooms) exited the system, increasing our total properties to 2,640 (477,397 rooms). Properties by brand as of June 20, 2003 (excluding 3,892 rental units relating to Marriott ExecuStay) are as indicated in the following table.

	Company-Operated		Franchised	
Brand	Properties	Rooms	Properties	Rooms
Full-Service Lodging				
Marriott Hotels and Resorts	268	114,985	197	55,552
The Ritz-Carlton Hotels	54	17,210	—	—
Renaissance Hotels and Resorts	84	32,486	42	13,098
Ramada International	4	727	167	23,042
Select-Service Lodging				
Courtyard	289	45,752	310	40,212
Fairfield Inn	2	855	514	48,511
SpringHill Suites	21	3,346	82	8,656
Extended-Stay Lodging				
Residence Inn	130	17,843	306	34,036
TownePlace Suites	31	3,376	75	7,523
Marriott Executive Apartments and other	11	2,068	1	99
Timeshare				
Marriott Vacation Club International	44	7,336	—	—
Horizons by Marriott Vacation Club International	2	212	—	—
The Ritz-Carlton Club	4	224	—	—
Marriott Grand Residence Club	2	248	—	—
Total	946	246,668	1,694	230,729

We consider Revenue per Available Room (REVPAR) to be a meaningful indicator of our performance because it measures the period over period change in room revenues for comparable properties. We calculate REVPAR by dividing room sales for comparable properties by room nights available to guests for the period. REVPAR may not be comparable to similarly titled measures such as revenues. We have not presented statistics for Fairfield Inn and SpringHill Suites company-operated North American properties—since these brands only have a few properties that we operate, the information would not be meaningful (identified as "nm" in the tables below). Systemwide statistics include data from our franchised properties, in addition to our owned, leased and managed properties. Systemwide international statistics by region are based on comparable worldwide units, excluding North America, and reflect constant foreign exchange rates. The following tables show occupancy, average daily rate and REVPAR for each of our principal established brands:

	Comparable Company-Operated North American Properties			Comparable Systemwide North American Properties		
	Twelve weeks ended June 20, 2003	Change vs. 2002		Twelve weeks ended June 20, 2003	Change vs. 2002	
Marriott Hotels and Resorts						
Occupancy	70.7%	-2.7%	pts.	68.9%	-2.3%	pts.
Average daily rate	$ 137.73	-3.3%		$ 130.24	-3.2%	
REVPAR	$ 97.32	-6.8%		$ 89.78	-6.4%	
The Ritz-Carlton Hotels [1]						
Occupancy	67.2%	-3.2%	pts.	67.2%	-3.2%	pts.
Average daily rate	$ 250.38	-0.7%		$ 250.38	-0.7%	
REVPAR	$ 168.30	-5.3%		$ 168.30	-5.3%	
Renaissance Hotels and Resorts						
Occupancy	67.2%	-2.0%	pts.	66.7%	-1.0%	pts.
Average daily rate	$ 135.14	-2.9%		$ 126.42	-3.5%	
REVPAR	$ 90.82	-5.7%		$ 84.27	-4.9%	
Courtyard						
Occupancy	70.0%	-2.9%	pts.	71.1%	-2.0%	pts.
Average daily rate	$ 92.82	-2.8%		$ 92.67	-2.3%	
REVPAR	$ 64.98	-6.7%		$ 65.88	-4.9%	
Fairfield Inn						
Occupancy	nm	nm		66.9%	-1.7%	pts.
Average daily rate	nm	nm		$ 64.66	-0.3%	
REVPAR	nm	nm		$ 43.25	-2.7%	
SpringHill Suites						
Occupancy	nm	nm		70.8%	-0.9%	pts.
Average daily rate	nm	nm		$ 80.55	1.0%	
REVPAR	nm	nm		$ 57.05	-0.3%	
Residence Inn						
Occupancy	79.6%	-0.6%	pts.	78.4%	-0.3%	pts.
Average daily rate	$ 95.26	-3.6%		$ 93.66	-2.8%	
REVPAR	$ 75.82	-4.3%		$ 73.47	-3.2%	
TownePlace Suites						
Occupancy	70.9%	-4.0%	pts.	71.7%	-1.9%	pts.
Average daily rate	$ 63.50	3.7%		$ 63.43	0.9%	
REVPAR	$ 45.03	-1.9%		$ 45.47	-1.6%	

[1] Statistics for The Ritz-Carlton Hotels are for March, April and May.

	Comparable Company-Operated International Properties			Comparable Systemwide International Properties		
	Three months ended May 31, 2003	Change vs. 2002		Three months ended May 31, 2003	Change vs. 2002	
Caribbean & Latin America						
Occupancy	68.2%	2.8%	pts.	66.4%	2.1%	pts.
Average daily rate	$ 132.33	3.5%		$ 127.87	2.4%	
REVPAR	$ 90.27	8.0%		$ 84.90	5.7%	
Continental Europe						
Occupancy	65.6%	-2.6%	pts.	61.9%	-3.4%	pts.
Average daily rate	$ 116.51	-7.4%		$ 119.19	-5.4%	
REVPAR	$ 76.46	-11.0%		$ 73.83	-10.3%	
United Kingdom						
Occupancy	69.2%	-8.3%	pts.	68.4%	-3.2%	pts.
Average daily rate	$ 143.93	-0.9%		$ 120.65	-4.4%	
REVPAR	$ 99.62	-11.4%		$ 82.49	-8.7%	
Middle East & Africa						
Occupancy	48.9%	-14.3%	pts.	48.4%	-10.7%	pts.
Average daily rate	$ 68.27	4.5%		$ 68.19	4.7%	
REVPAR	$ 33.39	-19.1%		$ 33.01	-14.2%	
Asia Pacific						
Occupancy	50.1%	-22.2%	pts.	55.0%	-19.2%	pts.
Average daily rate	$ 81.28	-7.3%		$ 88.18	-3.4%	
REVPAR	$ 40.76	-35.7%		$ 48.49	-28.3%	

Across our Lodging brands, REVPAR for comparable company-operated North American properties declined by an average of 6.2 percent in the second quarter of 2003. Average room rates for these hotels declined 2.8 percent and occupancy decreased 2.5 percentage points, to 70.7 percent.

Across Marriott's North American Full-Service lodging brands *(Marriott Hotels and Resorts; Renaissance Hotels and Resorts;* and *The Ritz-Carlton Hotels)*, REVPAR for comparable company-operated North American properties declined 6.4 percent. Average room rates for these hotels declined 2.9 percent and occupancy decreased 2.6 percentage points to 69.8 percent.

Our North American Select-Service and Extended-Stay brands *(Fairfield Inn; Courtyard; Residence Inn; SpringHill Suites;* and *TownePlace Suites)* had, for comparable company-operated North American properties, average REVPAR declines of 5.5 percent and average room rate declines of 2.5 percent, while occupancy decreased 2.3 percentage points.

International lodging reported a decrease in the results of operations, reflecting the impact of the war in Iraq and SARS on international travel.

The financial results of our Timeshare brands *(Marriott Vacation Club International; The Ritz-Carlton Club; Horizons by Marriott Vacation Club International; and Marriott Grand Residence Club)* increased 13 percent, to $44 million. The increase is primarily attributable to higher note sale gains of $32 million compared to $15 million in the second quarter of 2002. Second quarter 2003 results, compared to second quarter 2002 results also reflect a 7 percent increase in contract sales. While contract sales increased, a greater proportion of them, including properties in Aruba and Hawaii, were from projects that were under construction and have not yet reached the percent of completion threshold for financially reportable sales.

Corporate Expenses, Interest and Taxes. Corporate expenses increased 4 percent to $24 million. Interest expense increased $4 million, reflecting the impact of the mortgage debt assumed in the fourth quarter of

2002 associated with the acquisition of 14 senior living communities, as well as lower capitalized interest resulting from fewer projects under construction, primarily related to our timeshare business. Interest income decreased slightly to $27 million, before reflecting reserves of $1 million for an impaired loan.

The income from continuing operations before income taxes generated a tax benefit of $16 million in the second quarter of 2003 compared to a tax provision of $6 million in the second quarter of 2002. The difference was primarily attributable to our Synthetic Fuel business which generated a tax benefit and tax credits totaling $68 million in the second quarter of 2003 compared to $58 million in the year ago quarter. The 2003 taxes were also impacted by slightly higher state tax rates.

Synthetic Fuel. In October 2001, we acquired four coal-based synthetic fuel production facilities (the Facilities) for $46 million in cash. The synthetic fuel produced at the Facilities qualifies for tax credits based on Section 29 of the Internal Revenue Code. Under Section 29, tax credits are not available for synthetic fuel produced after 2007. We began operating these Facilities in the first quarter of 2002. The operation of the Facilities, together with the benefit arising from the tax credits, has been, and we expect will continue to be significantly accretive to our net income. Although the Facilities produce significant losses, these are more than offset by the tax credits generated under Section 29, which reduce our income tax expense. In the second quarter of 2003, our Synthetic Fuel business reflected sales of $63 million and a loss of $42 million, resulting in a tax benefit of $15 million and tax credits of $53 million. In the second quarter of 2002, our Synthetic Fuel business reflected sales of $53 million and a loss of $43 million, resulting in a tax benefit of $15 million and tax credits of $43 million.

On June 21, 2003, we completed the previously announced sale of an approximately 50 percent interest in the Synthetic Fuel business. We received cash and promissory notes totaling $25 million at closing and we will receive additional profits over the life of the venture based on the amount of tax credits allocated to the purchaser. The transaction announced in January 2003 was subject to certain closing conditions, including the receipt of a satisfactory private letter ruling from the Internal Revenue Service regarding the new ownership structure, however, both parties agreed to close on the transaction prior to receipt of a new private letter ruling. In the event the private letter ruling is not obtained by December 15, 2003, the purchaser will have a onetime option to return its ownership interest to us. To exercise this option, the purchaser would have to pay us $10 million and receive from us certain additional representations and warranties related to the 2003 tax credits allocated to the purchaser. If the private letter ruling is not obtained and the purchaser returns its interest in the Synthetic Fuel business to us, our contingent obligation under the representations and warranties would be included as a guarantee and accounted for under the provisions of FASB Interpretation No. 45, “Guarantor’s Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others.” The maximum amount of the contingent obligation would depend on the number of tax credits produced and allocated to the purchaser in 2003 and could range from $85 million to $170 million.

On June 27, 2003, the IRS issued Announcement 2003-46 publicly confirming that it had temporarily suspended the issuance of any new private letter rulings regarding tax credits generated under Section 29 of the Internal Revenue Code. In that announcement, the IRS indicated that it was reviewing the science behind whether existing processes cause coal feedstock to undergo significant chemical change as required by Section 29. We have in place rigorous procedures to ensure compliance with all of the requirements of Section 29, thus we remain confident that our existing private letter rulings and all of the tax credits claimed by us are valid. We, together with our outside tax advisors and scientific experts, intend to continue to work closely with the IRS to obtain our pending private letter rulings in a timely manner.

Given the presence of the onetime right, we expect to consolidate the joint venture for accounting purposes until the right expires. Thereafter, if the right is not exercised, we will use the equity method of accounting.

Twenty-Four Weeks Ended June 20, 2003 Compared to Twenty-Four Weeks Ended June 14, 2002

Income from continuing operations, net of taxes increased 2 percent to $213 million and diluted earnings per share from continuing operations advanced 7 percent to $0.87. Sales increased 5 percent to $4.1 billion. Income from continuing operations reflected $146 million of tax benefits, including tax credits, offset by $101 million of operating losses, associated with our Synthetic Fuel business, and reflected a 7 percent decline in our lodging business results.

Marriott Lodging, which includes our Full-Service, Select-Service, Extended-Stay, and Timeshare segments, reported a 7 percent decrease in financial results on 4 percent higher sales. The results reflect lower hotel demand, slightly offset by new unit additions. In addition, we recognized $32 million of timeshare note sale gains in the first half of 2003, compared to $28 million in 2002. Lodging sales increased to $3.9 billion and systemwide lodging sales increased to $8.7 billion.

The reconciliation of sales to systemwide sales is as follows ($ in millions):

	Twenty-four weeks ended	
	June 20, 2003	June 14, 2002
Lodging sales, as reported	$ 3,921	$ 3,784
Guest sales revenue generated at franchised properties, excluding revenues which are already included in lodging sales	2,579	2,372
Guest sales revenue generated at managed properties, excluding revenues which are already included in lodging sales	2,163	2,231
Lodging systemwide sales	$ 8,663	$ 8,387

We consider Lodging systemwide sales to be a meaningful indicator of our performance because it measures the growth in revenues of all of the properties that carry one of the Marriott brand names. Our growth in profitability is in large part driven by such overall revenue growth.

The following tables show occupancy, average daily rate and REVPAR for each of our principal established brands for the twenty-four weeks ended June 20, 2003 for our North American Properties, and the five months ended May 31, 2003 for our International Properties.

	Comparable Company-Operated North American Properties			Comparable Systemwide North American Properties		
	Twenty-four weeks ended June 20, 2003	Change vs. 2002		Twenty-four weeks ended June 20, 2003	Change vs. 2002	
Marriott Hotels and Resorts						
Occupancy	69.5%	-1.5%	pts.	67.9%	-1.0%	pts.
Average daily rate	$ 138.46	-2.5%		$ 130.99	-2.8%	
REVPAR	$ 96.18	-4.6%		$ 88.88	-4.2%	
The Ritz-Carlton Hotels [1]						
Occupancy	65.7%	-2.8%	pts.	65.7%	-2.8%	pts.
Average daily rate	$ 252.28	0.4%		$ 252.28	0.4%	
REVPAR	$ 165.72	-3.7%		$ 165.72	-3.7%	
Renaissance Hotels and Resorts						
Occupancy	66.1%	-0.3%	pts.	64.8%	0.5%	pts.
Average daily rate	$ 134.24	-2.4%		$ 126.18	-2.8%	
REVPAR	$ 88.80	-2.9%		$ 81.76	-2.0%	
Courtyard						
Occupancy	67.9%	-1.1%	pts.	68.9%	-0.5%	pts.
Average daily rate	$ 93.53	-2.2%		$ 93.05	-1.7%	
REVPAR	$ 63.55	-3.7%		$ 64.08	-2.3%	
Fairfield Inn						
Occupancy	nm	nm		63.4%	-0.5%	pts.
Average daily rate	nm	nm		$ 64.11	0.2%	
REVPAR	nm	nm		$ 40.65	-0.5%	
SpringHill Suites						
Occupancy	nm	nm		68.6%	0.9%	pts.
Average daily rate	nm	nm		$ 81.12	1.4%	
REVPAR	nm	nm		$ 55.63	2.7%	
Residence Inn						
Occupancy	77.6%	-0.2%	pts.	76.3%	0.3%	pts.
Average daily rate	$ 96.13	-3.1%		$ 94.21	-2.4%	
REVPAR	$ 74.56	-3.3%		$ 71.85	-2.1%	
TownePlace Suites						
Occupancy	67.7%	-5.3%	pts.	69.1%	-1.8%	pts.
Average daily rate	$ 63.19	4.6%		$ 63.54	1.0%	
REVPAR	$ 42.80	-3.0%		$ 43.91	-1.5%	

[1] Statistics for The Ritz-Carlton Hotels are for January through May.

	Comparable Company-Operated International Properties			Comparable Systemwide International Properties		
	Five months ended May 31, 2003	Change vs. 2002		Five months ended May 31, 2003	Change vs. 2002	
Caribbean & Latin America						
Occupancy	68.8%	4.2%	pts.	66.3%	3.7%	pts.
Average daily rate	$ 138.29	3.9%		$ 133.60	3.8%	
REVPAR	$ 95.10	10.7%		$ 88.52	9.9%	
Continental Europe						
Occupancy	62.4%	-1.6%	pts.	59.0%	-2.2%	pts.
Average daily rate	$ 115.67	-6.3%		$ 117.35	-4.2%	
REVPAR	$ 72.19	-8.6%		$ 69.25	-7.6%	
United Kingdom						
Occupancy	68.6%	-7.0%	pts.	65.4%	-3.1%	pts.
Average daily rate	$ 144.57	0.2%		$ 121.17	-4.6%	
REVPAR	$ 99.18	-9.2%		$ 79.30	-8.9%	
Middle East & Africa						
Occupancy	57.0%	-4.3%	pts.	56.3%	-1.9%	pts.
Average daily rate	$ 71.30	5.4%		$ 71.02	5.4%	
REVPAR	$ 40.62	-2.0%		$ 39.98	1.9%	
Asia Pacific						
Occupancy	58.1%	-10.9%	pts.	61.4%	-9.5%	pts.
Average daily rate	$ 82.29	-3.1%		$ 88.83	-0.9%	
REVPAR	$ 47.83	-18.4%		$ 54.52	-14.2%	

For North American properties (except for The Ritz-Carlton Hotels), the occupancy, average daily rate and REVPAR statistics used throughout this report for the twenty-four weeks ended June 20, 2003, include the period from January 4, 2003 through June 20, 2003, while the statistics for the twenty-four weeks ended June 14, 2002 include the period from December 29, 2001 through June 14, 2002. The 2003 statistics exclude the impact of the New Year's holiday, which is historically a slow week.

Across our Lodging brands, REVPAR for comparable company-operated North American properties declined by an average of 4.0 percent in the first half of 2003. Average room rates for these hotels declined 2.2 percent and occupancy decreased 1.3 percentage points, to 69.2 percent.

Across Marriott's North American Full-Service lodging brands *(Marriott Hotels and Resorts; Renaissance Hotels and Resorts;* and *The Ritz-Carlton Hotels)*, REVPAR for comparable company-operated North American properties declined 4.2 percent. Average room rates for these hotels declined 2.2 percent and occupancy decreased 1.4 percentage points to 68.6 percent.

Our North American Select-Service and Extended-Stay brands *(Fairfield Inn; Courtyard; Residence Inn; SpringHill Suites;* and *TownePlace Suites)* had, for comparable company-operated North American properties, average REVPAR declines of 3.2 percent and average room rate declines of 1.9 percent, while occupancy decreased 1.0 percentage points.

International lodging reported a decrease in the results of operations, reflecting the impact of the war and SARS on International travel.

The financial results of our Timeshare brands *(Marriott Vacation Club International; The Ritz-Carlton Club; Horizons by Marriott Vacation Club International; and Marriott Grand Residence Club)* decreased 11 percent to $62 million, while contract sales increased 15 percent. The results were impacted by increased financing costs, lower notes receivable, resulting in lower interest income, partially offset by a $4 million increase in note sale gains.

We have presented a claim with an insurance company for lost management fees from the September 11, 2001 terrorist attacks. In the fourth quarter of 2002, we recognized $1 million in income from insurance proceeds; we have not recognized any income in the first two quarters of 2003. Although we expect to realize further proceeds, we cannot currently estimate the amounts that may be paid to us.

Corporate Expenses, Interest and Taxes. Corporate expenses increased 4 percent to $54 million reflecting higher litigation expenses. Interest expense increased $11 million, reflecting the impact of the mortgage debt assumed in the fourth quarter of 2002 associated with the acquisition of 14 senior living communities, as well as lower capitalized interest resulting from fewer projects under construction, primarily related to our timeshare business. Interest income remained unchanged before reflecting reserves of $6 million for impaired loans at three hotels.

The income from continuing operations before income taxes generated a tax benefit of $56 million in the first two quarters of 2003 compared to a tax provision of $42 million in the prior year period. The difference was primarily attributable to our Synthetic Fuel business which generated a tax benefit and tax credits totaling $146 million in the first two quarters of 2003 compared to $65 million in the prior year period.

Discontinued Operations

Senior Living Services.

On December 17, 2002, we sold twelve senior living communities to CNL for approximately $89 million in cash. We accounted for the sale under the full accrual method in accordance with FAS No. 66, and we recorded an after-tax loss of approximately $13 million. On December 30, 2002, we entered into definitive agreements to sell our senior living management business to Sunrise and to sell nine senior living communities to CNL. We completed the sales to Sunrise and CNL in addition to the related sale of a parcel of land to Sunrise on March 28, 2003, for $266 million and recognized a gain, net of taxes, of $23 million.

Also, on December 30, 2002, we purchased 14 senior living communities for approximately $15 million in cash, plus the assumption of $227 million in debt, from an unrelated owner. We had previously agreed to provide a form of credit enhancement on the outstanding debt related to these communities. Management has approved and committed to a plan to sell these communities within 12 months. As part of the plan, on March 31, 2003, we acquired all of the subordinated credit-enhanced mortgage securities relating to the 14 communities in a transaction in which we issued $46 million of unsecured Marriott International, Inc. notes, due April 2004. As a result of the above transactions, at June 20, 2003, the operating results of our Senior Living Services segment are reported in discontinued operations, and the remaining assets are classified as assets held for sale on the balance sheet.

Distribution Services.

As of January 3, 2003, through a combination of sale and transfer of nine facilities and the termination of all operations at four facilities, we completed our exit of the distribution services business. Accordingly, we present the exit costs and the operating results for our distribution services business as discontinued operations for the twelve weeks and twenty-four weeks ended June 20, 2003 and June 14, 2002, and the remaining assets are classified as held for sale at June 20, 2003 and January 3, 2003. In the first two quarters of 2003, we incurred exit costs, net of tax of $1 million, primarily related to ongoing compensation costs associated with the wind down. The loss from discontinued operations, net of tax in the first two quarters of 2002 totaled $5 million. Additional costs associated with the wind down are expected to be incurred in the balance of 2003. Although we are unable to estimate the costs, we do not expect the costs to be material since the wind down is substantially complete.

LIQUIDITY AND CAPITAL RESOURCES

We have credit facilities which support our commercial paper program and letters of credit. At June 20, 2003, our cash balances combined with our available borrowing capacity under the credit facilities amounted to $2 billion. We consider these resources, together with cash we expect to generate from operations, adequate to meet our short-term and long-term liquidity requirements, finance our long-term growth plans, meet debt service and fulfill other cash requirements, including the repayment of $200 million of senior notes due in November 2003.

We monitor the status of the capital markets, and regularly evaluate the effect that changes in capital market conditions may have on our ability to execute our announced growth plans. We expect that part of our financing and liquidity needs will continue to be met through commercial paper borrowings and access to long-term committed credit facilities. If conditions in the lodging industry deteriorate, we may be unable to place some or all of our commercial paper, and may have to rely more on bank borrowings which may carry a higher cost than commercial paper.

Cash and equivalents totaled $144 million at June 20, 2003, a decrease of $54 million from year end 2002, primarily reflecting the repayment of debt, purchase of treasury stock and capital expenditures, offset by proceeds from dispositions.

Earnings before interest expense, income taxes, depreciation and amortization (EBITDA) from continuing operations is a financial measure that is not presented in accordance with accounting principles generally accepted in the United States. We consider EBITDA from continuing operations to be an indicator of operating performance, which can be used to measure our ability to service debt, fund capital expenditures and expand our business. However, EBITDA from continuing operations is not an alternative to net income, financial results, or any other operating measure prescribed by accounting principles generally accepted in the United States.

EBITDA from continuing operations for the twelve weeks ended June 20, 2003 decreased by $24 million, or 12 percent, to $169 million; and decreased by $85 million, or 24 percent, to $276 million for the twenty-four weeks then ended.

The reconciliation of income from continuing operations, before income taxes to EBITDA from continuing operations is as follows:

	Twelve weeks ended		Twenty-four weeks ended	
($ in millions)	June 20, 2003	June 14, 2002	June 20, 2003	June 14, 2002
Income from continuing operations, before taxes	$ 110	$ 133	$ 157	$ 251
Interest expense	25	21	51	40
Depreciation	27	29	56	51
Amortization	7	10	12	19
EBITDA from continuing operations	$ 169	$ 193	$ 276	$ 361

Reducing EBITDA from continuing operations are losses associated with our Synthetic Fuel operations of $42 million and $43 million for the twelve weeks ended June 20, 2003 and June 14, 2002, respectively, and $101 million and $49 million for the twenty-four weeks ended the same period. The Synthetic Fuel operating losses include depreciation expense of $3 million and $2 million for the twelve weeks ended June 20, 2003 and June 14, 2002, respectively, and $5 million and $3 million for the twenty-four weeks then ended.

Net cash provided by investing activities totaled $266 million for the twenty-four weeks ended June 20, 2003, and consisted primarily of proceeds from the sale of our senior living management business to Sunrise and the sale of nine senior living communities and a parcel of land to CNL, proceeds from a loan sale and disposition of two lodging properties, net of capital expenditures and loan advances.

In 2003, other investing activities outflows of $20 million included $8 million for equity investments and $16 million for investments in long-term contracts and other development. In 2002, other investing activities outflows of $53 million included $30 million for equity investments and $13 million for investments in long-term contracts and other development.

In April 1999, January 2000, and January 2001, we filed “universal shelf” registration statements with the Securities and Exchange Commission in the amounts of $500 million, $300 million and $300 million, respectively. As of June 20, 2003, we had offered and sold to the public under these registration statements, $300 million of debt securities at 7 7/8%, due 2009 and $300 million at 8 1/8%, due 2005, leaving a balance of $500 million available for future offerings.

Approximately $70 million in face amount of our zero-coupon convertible senior notes due 2021, known as LYONs are presently outstanding. These LYONs which were issued on May 8, 2001, are convertible into approximately 0.9 million shares of our Class A Common Stock, and carry a yield to maturity of 0.75 percent. We may not redeem the LYONs prior to May 8, 2004. We may at the option of the holders be required to purchase the LYONs at their accreted value on May 8 of each of 2004, 2011 and 2016. We may choose to pay the purchase price for redemptions or repurchases in cash and/or shares of our Class A Common Stock. We classify LYONs as long-term based on our ability and intent to refinance the obligation with long-term debt if we are required to repurchase the LYONs.

The following table summarizes our contractual obligations:

		Payments Due by Period			
Contractual Obligations	Total	Before January 2, 2004	1 – 3 years	4 – 5 years	After 5 years
($ in millions)					
Debt	$ 1,705	$ 210	$ 573	$ 32	$ 890
Operating Leases					
Recourse	946	58	176	124	588
Non-recourse	540	9	69	96	366
Total Contractual Cash Obligations	$ 3,191	$ 277	$ 818	$ 252	$ 1,844

The following table summarizes our commitments:

Other Commercial Commitments	Total Amounts Committed	Amount of Commitment Expiration Per Period: Before January 2, 2004	1 – 3 years	4 – 5 years	After 5 years
($ in millions)					
Guarantees	$ 1,306	$ 67	$ 265	$ 361	$ 613
Timeshare note repurchase obligations	25	—	—	—	25
Total	$ 1,331	$ 67	$ 265	$ 361	$ 638

Our guarantees include $257 million for commitments which will not be in effect until the underlying hotels are open and we begin to manage the properties. Our total unfunded loan commitments amounted to $192 million at June 20, 2003. We expect to fund $118 million by January 2, 2004 and $28 million in one to three years. We do not expect to fund the remaining $46 million of commitments, which expire as follows: $44 million within one year; none in one to three years; none in four to five years; and $2 million after five years. Included in guarantees above are $406 million related to Senior Living Services lease obligations and lifecare bonds. Sunrise is the primary obligor of the leases and a portion of the lifecare bonds and CNL is the primary obligor of the remainder of the lifecare bonds. Prior to the sale of the Senior Living Services business these pre-existing guarantees were guarantees by Marriott International, Inc. of obligations of consolidated Senior Living Services subsidiaries. Also included in the table above are $51 million of guarantees associated with the Sunrise sale transaction.

SHARE REPURCHASES

We purchased 6.1 million shares of our Class A Common Stock during the twenty-four weeks ended June 20, 2003 at an average price of $31.91 per share.

CRITICAL ACCOUNTING POLICIES

Our accounting policies, which are in compliance with principles generally accepted in the United States, require us to apply methodologies, estimates and judgments that have a significant impact on the results we report in our financial statements. In our annual report on Form 10-K we have discussed those policies that we believe are critical and require the use of complex judgment in their application. Since the date of that Form 10-K, there have been no material changes to our critical accounting policies or the methodologies or assumptions applied under them.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

There have been no material changes to our exposures to market risk since January 3, 2003.

Item 4. Controls and Procedures

In June 2003, we carried out an evaluation, under the supervision and with the participation of the Company's management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Exchange Act Rule 13a-14 and 15d-14. Management necessarily applied its judgement in assessing the costs and benefits of such controls and procedures which, by their nature, can provide only reasonable assurance regarding management's control objectives. It should be noted that the design of any system of controls is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions, regardless of how remote. Based upon that evaluation, the Chief Executive Officer and the Chief Financial Officer concluded that our disclosure controls and procedures are effective to timely alert them to any material information relating to the Company (including its consolidated subsidiaries) that must be included in our periodic SEC filings. In addition, there have been no significant changes in the Company's internal controls or in other factors that could significantly affect these controls subsequent to the date of their evaluation.

PART II—OTHER INFORMATION

Item 1. Legal Proceedings

The legal proceedings and claims described under the heading captioned "Contingencies" in Note 9 of the Notes to Condensed Consolidated Financial Statements set forth in Part I, Item 1 of this Quarterly Report are hereby incorporated by reference. From time to time, we are also subject to certain legal proceedings and claims in the ordinary course of business. We currently are not aware of any such legal proceedings or claims that we believe will have, individually or in aggregate, a material adverse effect on our business, financial condition, or operating results.

Item 2. Changes in Securities and Use of Proceeds

None.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Submission of Matters to a Vote of Security Holders

We held our Annual Meeting of Shareholders on May 2, 2003. The shareholders (1) re-elected directors Floretta Dukes McKenzie, Roger W. Sant and Lawrence M. Small to terms of office expiring at the 2006 Annual Meeting of Shareholders; (2) ratified the appointment of Ernst & Young LLP as independent auditor; (3) ratified an increase of 5 million shares of the Company's Class A Common Stock authorized for issuance under the Marriott International, Inc. Employee Stock Purchase Plan; (4) defeated a shareholder proposal to adopt cumulative voting for election of directors; (5) defeated a shareholder proposal to establish a policy of expensing future stock options; (6) defeated a shareholder proposal to adopt a policy that in the future, independent accountants will provide only audit services to the Company.

The following table sets forth the votes cast with respect to each of these matters:

MATTER	FOR	AGAINST	WITHHELD	ABSTAIN
Re-election of Floretta Dukes McKenzie	2,024,320,900		67,867,230	
Re-election of Roger W. Sant	2,018,173,940		74,014,190	
Re-election of Lawrence M. Small	2,026,029,960		66,158,170	
Ratification of appointment of Ernst & Young LLP as independent auditor	2,034,623,930	43,468,650		14,095,550
Ratification of an increase of 5 million shares of the Company's Class A Common Stock authorized for issuance under the Marriott International, Inc. Employee Stock Purchase Plan	2,043,764,770	31,440,140		16,979,220
Shareholder proposal on cumulative voting for election of directors	503,945,940	1,350,159,390		22,159,060
Shareholder proposal on establishing a policy of expensing future stock options	598,116,490	1,204,647,380		73,500,520
Shareholder proposal to adopt a policy that in the future, independent accountants will provide only audit services to the Company	159,762,560	1,694,162,510		22,339,320

Item 5. Other Information

None.

Item 6. Exhibits and Reports on Form 8-K

(a) Exhibits

Exhibit No	Description
10.1	Agreement for Purchase of Membership Interest in Synthetic American Fuel Enterprises I, LLC ("SynFuel I") dated as of January 28, 2003 ("SynFuel I Purchase Agreement").
10.2	Amendment to SynFuel I Purchase Agreement.
10.3	Amended and Restated Limited Liability Company Agreement of SynFuel I dated as of January 28, 2003.
10.4	Agreement for Purchase of Membership Interest in Synthetic American Fuel Enterprises II, LLC ("SynFuel II") dated as of January 28, 2003 ("SynFuel II Purchase Agreement").
10.5	Amendment to SynFuel II Purchase Agreement.
10.6	Amended and Restated Limited Liability Company Agreement of SynFuel II dated as of January 28, 2003.
10.7	Guaranty of Marriott International, Inc. dated as of January 28, 2003 of certain obligations under the SynFuel I and II purchase agreements and the amended and restated SynFuel I and II limited liability company agreements.
12	Statement of Computation of Ratio of Earnings to Fixed Charges.
99-1	Forward-Looking Statements.
99-2	Sarbanes-Oxley Act—Section 906 Certifications.

(b) Reports on Form 8-K

On April 1, 2003, we filed a report on Form 8-K discussing the March 28, 2003, completion of the sale of our Marriott Senior Living Services management business to Sunrise Assisted Living, Inc. and the assets of nine Marriott Senior Living Services communities to CNL Retirement Properties, Inc.

On April 8, 2003, we furnished a report on Form 8-K containing our Consolidated Statement of Income by Quarter for the Fiscal Year Ended January 3, 2003 in a new format.

On April 24, 2003, we furnished a report on Form 8-K reporting our financial results for the quarter ended March 28, 2003.

SIGNATURES

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

MARRIOTT INTERNATIONAL, INC.

22nd day of July, 2003

/s/ ARNE M. SORENSON

Arne M. Sorenson
Executive Vice President and
Chief Financial Officer

/s/ MICHAEL J. GREEN

Michael J. Green
Vice President Finance and
Principal Accounting Officer

CERTIFICATIONS

Certification of Chief Executive Officer
Pursuant to Rule 13a–14(a)

I, J.W. Marriott, Jr., certify that:

1. I have reviewed this quarterly report on Form 10-Q of Marriott International, Inc.;
2. Based on my knowledge, this quarterly 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 quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly 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 quarterly report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:
   a) designed such disclosure controls and procedures 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 quarterly report is being prepared;
   b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
   c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
   a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
   b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

July 22, 2003

/s/ J.W. MARRIOTT, JR.

J.W. Marriott, Jr.
Chairman of the Board and
Chief Executive Officer

.

Certification of Chief Financial Officer
Pursuant to Rule 13a–14(a)

I, Arne M. Sorenson, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Marriott International, Inc.;
2. Based on my knowledge, this quarterly 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 quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly 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 quarterly report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:
   a) designed such disclosure controls and procedures 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 quarterly report is being prepared;
   b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
   c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
   a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
   b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

July 22, 2003

/s/ ARNE M. SORENSON

Arne M. Sorenson
Executive Vice President and
Chief Financial Officer

EXHIBIT 10.1

AGREEMENT FOR PURCHASE OF MEMBERSHIP INTEREST

in

Synthetic American Fuel Enterprises I, LLC

by and among

SYNTHETIC AMERICAN FUEL ENTERPRISES HOLDINGS, INC.,

MARRIOTT HOTEL SERVICES, INC.,

and

SERRATUS LLC

dated as of

January 28, 2003

TABLE OF CONTENTS

AGREEMENT FOR PURCHASE OF MEMBERSHIP INTEREST

This Agreement for Purchase of Membership Interest (this "Agreement") is made and entered into as of January 28, 2003, by and among Serratus LLC, a Delaware limited liability company (the "Buyer"), Synthetic American Fuel Enterprises Holdings, Inc., an Oregon corporation ("Seller") and Marriott Hotel Services, Inc., a Delaware corporation ("MHSI").

R E C I T A L S

A. Seller owns a 49.9% membership interest in Synthetic American Fuel Enterprises I, LLC, a Delaware limited liability company (the "Operating Company" or "Company"), which, together with a 49.9% membership interest in Synthetic American Fuel Enterprises II, LLC, a Delaware limited liability company ("SynAmerica II"), are the only assets of Seller.

B. Buyer owns a 0.1% membership interest in each of the Company and SynAmerica II.

C. MHSI owns all of the outstanding capital stock of Seller and the remaining 50% membership interests in each of the Operating Company and SynAmerica II.

D. On the Closing Date (as defined herein) Seller will sell to Buyer a 48.8% membership interest in the Company and concurrently therewith Seller will sell to Buyer a 48.8% membership interest in SynAmerica II pursuant to the SynAmerica II Purchase Agreement (as defined herein).

E. The Operating Company owns as its only asset a coal-based synthetic fuel production facility located in Illinois (the "Facility") and related real property interests, contracts, licenses and permits.

F. Marriott International, Inc. ("Marriott") acquired all of the capital stock of Seller and 49% of the membership interests in the Operating Company and SynAmerica II from PacifiCorp Financial Services, Inc. ("PacifiCorp") pursuant to a stock purchase agreement dated as of October 15, 2001 by and among PacifiCorp, Marriott and Birmingham Syn Fuel I, Inc. (the "PacifiCorp/Marriott Agreement").

G. Seller desires to sell, and Buyer desires to purchase from Seller, a 48.8% membership interest in the Operating Company (together with the 0.1% membership interest, the "Membership Interest"), and thereby indirectly acquire an interest in the Facility, all in accordance with the terms and subject to the conditions set forth herein.

H. On the date hereof, Seller, MHSI and Buyer will enter into the Amended LLC Agreement (as defined herein), to be effective as of the Closing Date.

I. Marriott (the "Seller Parent"), the sole owner of MHSI, is deriving substantial benefit from the sale by Seller and the purchase by Buyer of the Membership Interest and, in consideration thereof, has executed and delivered to Buyer as of the date hereof the Seller Parent Guaranty (as hereinafter defined), pursuant to which Seller Parent guarantees in favor of Buyer

the obligations of Seller and MHSI hereunder and of MHSI under the Amended LLC Agreement.

J. _____ (the "Buyer Parent"), an Affiliate of Buyer, is deriving substantial benefit from the sale by Seller and the purchase by Buyer of the Membership Interest and, in consideration thereof, has executed and delivered to Seller as of the date hereof the Buyer Parent Guaranty (as hereinafter defined) pursuant to which Buyer Parent guarantees in favor of Seller, MHSI and the Operating Company certain obligations of Buyer hereunder and under the Amended LLC Agreement.

NOW, THEREFORE, in consideration of the respective representations, warranties, covenants, agreements, and conditions hereinafter set forth, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1
DEFINED TERMS

1.1 Defined Terms. Capitalized terms used but not otherwise defined herein shall have the meanings given such terms in Annex I hereto.

1.2 Construction of Certain Terms and Phrases. Titles appearing at the beginning of any Articles, Sections, subsections, or other subdivisions of this Agreement are for convenience only, do not constitute any part of such Articles, Sections, subsections or other subdivisions, and shall be disregarded in construing the language contained therein. The words "this Agreement," "herein," "hereby," "hereunder," and "hereof," and words of similar import, refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. The words "this Section," "this subsection," and words of similar import, refer only to the Sections or subsections hereof in which such words occur. The word "or" is not exclusive, and the word "including" (in its various forms) means "including without limitation." Pronouns in masculine, feminine, or neuter genders shall be construed to state and include any other gender and words, terms, and titles (including terms defined herein) in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires. Unless the context otherwise requires, all defined terms contained herein shall include the singular and plural and the conjunctive and disjunctive forms of such defined terms, and the term "Annex," "Exhibit" or "Schedule" shall refer to an Annex, Exhibit or Schedule attached to this Agreement. All references to the Code, U.S. Treasury regulations or other governmental pronouncements shall be deemed to include references to any applicable successor regulations or amending pronouncement.

ARTICLE 2
SALE AND PURCHASE OF MEMBERSHIP INTEREST

2.1 Agreement to Sell and Buy. Upon the terms and subject to the conditions set forth in this Agreement, Seller shall sell, assign, transfer and deliver to Buyer on the Closing Date, and Buyer shall purchase on the Closing Date, a 48.8% membership interest in the Company for the consideration set forth in Section 2.2.

2.2 Purchase Price. The aggregate purchase price (the "Purchase Price") for the Membership Interest being purchased under this Agreement, subject to adjustment as set forth below, will be comprised of a cash payment on the Closing Date in the amount of $1,000,000, the Base Note, the Fixed Deferred Payments and Variable Deferred Payments as provided in Sections 2.3, 2.4 and 2.5.

2.3 Base Note. On the Execution Date, Buyer shall execute and deliver to Seller the promissory note in the amount of $5,500,000 in the form attached hereto as Exhibit A (the "Base Note").

2.4 Fixed Deferred Payments. Commencing on the first Quarterly Payment Date following the Closing Date and on each Quarterly Payment Date thereafter, continuing through the Quarterly Payment Date immediately following December 31, 2007 (the "Fixed Payment Term"), Buyer shall make a payment to Seller (a "Fixed Deferred Payment") as set forth on Schedule 2.4 hereto (subject to adjustment as provided in Section 2.6 hereof). The Parties hereto acknowledge and agree that the obligation of Buyer to make such Fixed Deferred Payments pursuant to this Section 2.4, (x) is solely the obligation of Buyer and in no event whatsoever shall any member of Buyer, any Affiliate of Buyer (including Buyer Parent) or Affiliate of any member of Buyer have any obligation whatsoever or any liability in any way to make such Fixed Deferred Payments, and (y) is nonrecourse as against Buyer, and shall be satisfied only out of the Membership Interest and collateral pledged pursuant to the Buyer Security Agreement. The Fixed Deferred Payments shall be subordinated to payments then due and owing under the Base Note.

2.5 Variable Deferred Payments.

(a) Commencing on the first Quarterly Payment Date following the Closing Date and on each Quarterly Payment Date thereafter continuing through the Quarterly Payment Date immediately following December 31, 2007 or, if earlier, the permitted withdrawal of Buyer (or of its successors or assigns, as the case may be) as a member of the Operating Company, Buyer shall make a payment to Seller in an amount (a "Variable Deferred Payment") equal to the excess, if any, of (x) the Applicable Percentage of the Estimated Tax Credits (as defined below) with respect to the prior Quarter, minus (y) the sum of (I) the payment under the Base Note made with respect to such Quarter, (II) the Fixed Deferred Payment made with respect to such Quarter as provided in Section 2.4 above and as adjusted pursuant to Section 2.6 hereof and (III) the capital contributions made by Buyer, or by Buyer Parent on its behalf, to the Operating Company in respect of such Quarter pursuant to Section 4.1 of the Amended LLC Agreement. To the extent that the amount described in clause (y) of the preceding sentence with respect to any Quarter exceeds the amount described in clause (x) of the preceding sentence with respect to

such Quarter, the amount of the Variable Deferred Payment for such Quarter shall be zero and such excess of (y) over (x) shall be carried forward to offset future Variable Deferred Payments.

(b) "Estimated Tax Credits," with respect to any period after the Closing Date, means the estimated Tax Credits generated during such period as a result of the production of solid synthetic fuel at the Facility and the sale of such synthetic fuel to unrelated third parties that are allocable to Buyer in respect of Buyer's ownership of the Membership Interest, which estimate will be made in accordance with the methodology set forth in Schedule 2.5(b) hereto; provided, however, that Excluded Sales will not be taken into account. The Parties shall direct the Administrative Member to prepare and deliver on or before the tenth day after the end of each Quarter or, in the case of the first Quarter ending after the date hereof, the partial Quarter, to Buyer, Seller and MHSI a written report (each, an "Operations Report"), in the form attached hereto as Exhibit B, setting forth the following: (i) a calculation of the Estimated Tax Credits made in accordance with the methodology set forth in Schedule 2.5(b), and the amounts allocated to each Party for such Quarter, (ii) Seller's, MHSI's and Buyer's capital contributions to be made to the Operating Company pursuant to Section 4.1(c) of the Amended LLC Agreement for such Quarter, (iii) the payment on the Base Note, the Fixed Deferred Payment and Variable Deferred Payment owed by Buyer for such Quarter or partial Quarter computed in accordance with Schedule 2.5(b) hereof and any recomputations made by the Administrative Member under Sections 2.5(d) and 2.5(e) hereof during the period after the date of the relevant prior Operations Report and (iv) MHSI's initial estimate of the net taxable loss of the Operating Company for the Quarter and of the depreciation available to Buyer for the Quarter with respect to the special basis increase under Section 743(b) of the Code relating to Buyer's purchase of its interest in the Operating Company. Each Operations Report will include a detailed listing by customer of all synthetic fuel sales from the Facility and identification of any such sales that were Excluded Sales, the allocation of receipts and costs to any sales of Pre-Sale Inventory, and the average energy content per ton of synfuel produced and sold. Attached to the Operations Report will be the analyses from the Independent Chemist of the synthetic fuel produced during the Quarter. In addition, the Manager will certify as part of the Operations Report: (w) the number of tons of synthetic fuel sold to unrelated parties and that were not Excluded Sales, (x) a list of payments proposed to be made from any capital contributions with respect to that Quarter to the Operating Company, (y) that there was no change during the Quarter to the equipment at the Facility or, alternatively, that the only changes were a list of repairs and improvements described in the Operations Report, and (z) the synthetic fuel produced during the Quarter was produced in compliance with the Amended LLC Agreement, the Request and the Private Letter Ruling. Subject to Section 2.5(c), the Operations Report will be final and binding on the Parties and will serve as the basis for the determination of Variable Deferred Payments payable hereunder for such Quarter. Subject to Section 2.5(c), Buyer shall pay Fixed Deferred Payments and Variable Deferred Payments on or before the later of (i) the twentieth day after the end of the Quarter or partial Quarter to which each such Fixed Deferred Payment and Variable Deferred Payment relates and (ii) the tenth day after Buyer receives the Operations Report from the Administrative Member (or, if such day is not a Business Day, on the next succeeding Business Day) (each such date is referred to herein as a "Quarterly Payment Date").

(c) If Buyer disputes the Administrative Member's calculation of any items in an Operations Report, then Buyer shall notify the Administrative Member and Seller not more than ten Business Days after Buyer has received the applicable Operations Report from the

Administrative Member, and, in such event, Buyer, Seller and the Administrative Member shall consider the issues raised or in dispute and discuss such issues with each other and attempt to reach a mutually satisfactory agreement. If the dispute as to the Administrative Member's calculations is not promptly resolved within ten Business Days of such notification of the dispute, Buyer shall pay, on such date, any undisputed portion of the amount then due, and any amount in dispute may be withheld pending resolution of the dispute; it being understood that such sums as are withheld by Buyer in accordance with this Section 2.5(c) shall not give rise to any of Seller's rights under Section 6.1(a) hereof or the Buyer Security Agreement unless (i) such dispute is resolved in Seller's favor and (ii) Buyer fails to pay such disputed amount (together with interest at the Commercial Paper Rate) within the time period specified below. Thereafter, Buyer and MHSI shall each present their interpretations to the Accounting Firm, and shall instruct the Accounting Firm to determine the correct amount of the calculations in dispute (if applicable, in accordance with the methodology set forth in Schedule 2.5(b) and Exhibit B) and to resolve the dispute promptly, but in no event more than 30 calendar days after having the dispute submitted to it. The Accounting Firm will make a determination as to each of the items in dispute, which must be (i) in writing, (ii) furnished to each of MHSI and Buyer and (iii) made in accordance with this Agreement, and which determination, absent manifest error, will be conclusive and binding on Seller, MHSI and Buyer and may be enforced in the courts specified in Section 8.10 hereof. In the event the Accounting Firm determines that any of the calculations in dispute in the Operations Report was incorrect, the fees and expenses of the Accounting Firm shall be borne by MHSI, and in all other cases the fees and expenses of the Accounting Firm shall be borne by Buyer. Each of MHSI and Buyer shall use reasonable efforts to cause the Accounting Firm to render its decision as soon as reasonably practicable, including by promptly complying with all reasonable requests by the Accounting Firm for information, books, records and similar items. Upon receipt by Buyer of the Accounting Firm's written determination of the resolution of any such dispute in Seller's favor, Buyer shall pay all or any portion of the amounts in dispute in accordance with such resolution plus interest at the Commercial Paper Rate on the amounts in dispute from the date such amounts were due until the date of payment thereof, such payment date being in any event no later than ten Business Days from the receipt of such written determination. Upon the resolution of any such dispute in Buyer's favor, the amount in dispute shall not be considered due and owing and Seller and MHSI shall have no rights whatsoever with respect to such amount under Section 6.1(a) hereof or the Buyer Security Agreement.

(d) Each year within 15 Business Days following the later to occur of (i) completion of the audited financial statements of the Operating Company for the immediately preceding Fiscal Year and (ii) publication or disclosure by the IRS of the revised inflation adjustment factors and the reference prices applicable to the immediately preceding Fiscal Year pursuant to Section 29(d)(2) of the Code, the Administrative Member shall recompute the aggregate Estimated Tax Credits for each of the Quarters of the preceding Fiscal Year using (I) such revised factor and taking into account the effect, if any, of the operation of Section 29(b)(1) of the Code based on such reference price and (II) information on actual sales to unrelated persons (as defined in Section 29(d)(7) of the Code) of solid synthetic fuel produced in the Facility reflected in such audited financial statements (such recomputed amount for any Quarter being the "Actual Credit Amount"). For purposes hereof, the "Annual Adjustment Amount" shall mean the aggregate of the following for all of the Quarters of such preceding Fiscal Year: (w) the product of (I) the Applicable Percentage and (II) the Actual Credit Amount for each Quarter, reduced by (x) the Fixed Deferred Payment and the payments under the Base Note made

with respect to such Quarter but, in the case of this clause (x) only, not reduced below zero, (y) the Variable Deferred Payment made with respect to such Quarter and (z) capital contributions made by Buyer to the Operating Company with respect to such Quarter. If the Annual Adjustment Amount is a positive amount, such amount will be added to the amount of Buyer's Variable Deferred Payment otherwise due on the Adjustment Date. If the Annual Adjustment Amount is a negative amount, such amount will be used to reduce Buyer's Variable Deferred Payment otherwise due on the Adjustment Date, or if such amount exceeds the amount of Buyer's Variable Deferred Payment otherwise due on such date, the excess amount will be successively credited against Buyer's Variable Deferred Payments as they otherwise become due thereafter. In the event that the actual Tax Credits claimed on the Company's federal income tax return for any such Fiscal Year is different from the Actual Credit Amount for such Fiscal Year as computed pursuant to this Section 2.5(d), an additional adjustment amount will be promptly calculated and applied to adjust Buyer's Variable Deferred Payment in the same manner as described above for the Annual Adjustment Amount.

(e) In the Fiscal Year that the Final Adjustment Date occurs, within 15 Business Days following the later to occur of (i) completion of the audited financial statements of the Operating Company for the immediately preceding Fiscal Year and (ii) publication or disclosure by the IRS, pursuant to Section 29(d)(2) of the Code, of the revised inflation adjustment factors and the reference prices applicable to the immediately preceding Fiscal Year, the Administrative Member shall calculate the Actual Credit Amount for such Fiscal Year. For purposes hereof, the "Final Adjustment Amount" shall mean the amount equal to the aggregate of the following for all of the Quarters of such preceding Fiscal Year: (w) the product of (I) the Applicable Percentage and (II) the Actual Credit Amount for each Quarter, reduced by (x) the Fixed Deferred Payment and payments under the Base Note made with respect to such Quarter but, in the case of this clause (x) only, not reduced below zero, (y) the Variable Deferred Payment made with respect to such Quarter and (z) capital contributions made by Buyer to the Operating Company with respect to such Quarter. If the Final Adjustment Amount is positive, Buyer shall pay such amount to Seller on the Final Adjustment Date; provided, however, that if any amount required to be credited against the Variable Deferred Payments pursuant to Section 2.5(d) exceeds such amount, Seller shall pay Buyer an amount equal to such excess. If the Final Adjustment Amount is negative, then Seller shall pay such amount to Buyer on the Final Adjustment Date plus any amount required to be credited against the Variable Deferred Payments pursuant to Section 2.5(d). In the event that the actual Tax Credits claimed on the Company's federal income tax return for such Fiscal Year is different from the Actual Credit Amount for such Fiscal Year as computed pursuant to this Section 2.5(e), an additional adjustment amount will be promptly calculated and paid in the same manner as described above for the Final Adjustment Amount.

(f) On or before the Closing Date, and within ten days after the end of each Quarter thereafter, the Administrative Member shall provide to Buyer a list of Persons to whom the Company anticipates or is considering selling synthetic fuel, other than Pre-Sale Inventory (including information reasonably available to the Administrative Member regarding the ultimate ownership of such Person and applicable CUSIP number) (the "Customer List"). Seller shall, from time to time after the Closing Date, supplement the Customer List with any additional Persons to whom the Operating Company anticipates or is considering selling synthetic fuel during such Fiscal Year. Any such supplemental Customer Lists shall be sent to Buyer by

registered or certified mail with postage prepaid and return receipt requested. Within 10 Business Days following the Administrative Member's delivery of the Customer List (or supplement thereto) or the Administrative Member's request as to any specific Person that may be made from time to time, Buyer shall deliver to the Administrative Member a "Customer Certificate" in the form attached as Exhibit K hereto notifying the Administrative Member whether, as to each such Person, the Person is a Cleared Person. As to any such Person, if Buyer fails to deliver the Customer Certificate indicating that such Person is not a Cleared Person within such 10 Business Day period, the Person shall be deemed to be a Cleared Person until Buyer delivers to the Administrative Member a Customer Certificate notifying the Administrative Member that such Person is not a Cleared Person. To the extent any such Person is identified by Buyer in the Customer List as not being a Cleared Person, the Parties will meet, discuss and negotiate in good faith to develop and agree upon appropriate actions to maximize the full value of the Tax Credits generated by the production and sale of synthetic fuel at the Facility, including, without limitation, possible divestiture by Buyer or its Affiliates of interests in such customer and the sale by Buyer of part or all of the Membership Interest to a third party as provided in the Amended LLC Agreement or to Seller or its Affiliates. The Administrative Member hereby agrees to keep confidential the information contained in any Customer Certificate delivered by Buyer (except as necessary to enforce this Agreement and any of the other Transaction Agreements or to the extent such information made public by a party other than the Administrative Member is required by law to disclose such information). Buyer hereby agrees to keep confidential the information contained in any Customer List, or supplement thereto, delivered by the Administrative Member (except as necessary to enforce this Agreement and any of the other Transaction Agreements or to the extent such information made public by a party other than Buyer and its Affiliates or Buyer is required by law to disclose such information).

(g) Notwithstanding anything to the contrary contained in this Article II, until the earlier of the delivery by Buyer to the Operating Company and to Seller of a Termination Notice or December 31, 2003, all payments required to be made by Buyer under this Article II, for the period from the Closing Date until the foregoing earlier event (the "Initial Period"), up to an amount equal to 44 percent of the Estimated Tax Credits for such period, shall be made to the Escrow Agent to be held in the Escrow Account in accordance with the Escrow Agreement. If Buyer delivers a Termination Notice to the Operating Company and to Seller on or before December 31, 2003, (i) Buyer, MHSI and Seller shall promptly thereafter instruct the Escrow Agent to pay over to Buyer the amount in the Escrow Account (together with income earned as to such funds) on the Termination Date, and, upon such payment being made, the Escrow Agreement shall terminate, and (ii) thereafter, the aggregate of payments of Purchase Price hereunder and capital contributions under the Amended LLC Agreement to be made by Buyer (for the portion of the Initial Period as to which such payments have not been made at the Termination Date) shall be made only to the extent of 75 percent of the Estimated Tax Credits; provided, however, that if the Termination Date in the Termination Notice is prior to December 31, 2003, Marriott in its sole discretion may elect, by notice in writing to Buyer within five Business Days of receipt of the Termination Notice, to require Buyer to remain as a partner in the Operating Company until December 31, 2003, in which case the aggregate of payments of Purchase Price hereunder and capital contributions under the Amended LLC Agreement to be made by Buyer for the period from the Termination Date through December 31, 2003 shall be made only to the extent of 70 percent of the Estimated Tax Credits of the amount otherwise

required to be paid. If Buyer does not deliver a Termination Notice before the close of business on December 31, 2003, (y) Buyer, MHSI and Seller shall promptly thereafter instruct the Escrow Agent to pay over to Seller the amount in the Escrow Account (together with income earned as to such funds), and, upon such payment being made, the Escrow Agreement shall terminate and (z) thereafter, Buyer shall make in full (rather than in part to the Escrow Account) all payments required to be made by it under this Article II.

(h) To the extent Buyer elects to waive financial participation in the Company pursuant to Section 4.1(h) of the Amended LLC Agreement, and no Tax Credits are allocated to Buyer as provided in the Amended LLC Agreement, Buyer shall have no obligation to make a Variable Deferred Payment on the Quarterly Payment Date following the end of the Quarter for which the waiver is effective.

2.6 Low Production Volume. In the event that the aggregate sales (not counting Excluded Sales) of synthetic fuel produced at the Facility fall below 175,000 tons for any Quarter (for any reason, including without limitation, a force majeure event), Buyer may defer the scheduled payment under the Base Note and the Fixed Deferred Payment for such Quarter by giving Seller written notice of such deferral on or before the Quarterly Payment Date in the form of a notice substantially similar to Exhibit C hereto. Notwithstanding the foregoing, Buyer may not defer the scheduled payment under the Base Note and the Fixed Deferred Payments hereunder more than four times in aggregate during the Fixed Payment Term. If Buyer makes the scheduled payment under the Base Note, but defers the Fixed Deferred Payment, that shall be regarded as a deferral for purposes of the preceding sentence. In the event of any deferral under this Section 2.6, the deferred amounts will be reallocated over the remaining scheduled payments, assuming an interest rate of 8% per annum on such deferred amounts.

2.7 Tax Event. Upon the occurrence of a Tax Event and redemption of the Membership Interest by the Operating Company in accordance with Section 10.8 of the Amended LLC Agreement, Buyer shall have no further obligation to make Fixed Deferred Payments, Variable Deferred Payments or payments under the Base Note, other than any such payments that are due and payable at the time of such redemption but which have not been paid in full.

2.8 Payments. All payments to be made pursuant to this Article 2 shall be made by wire transfer of immediately available funds to an Account of Seller.

2.9 Execution and Closing.

(a) The execution of this Agreement and the deliveries set forth in Section 2.10 will take place (i) at the offices of Jones Day in Washington, D.C., at 10:00 a.m., local time, on the date hereof or (ii) at such other place and time as Buyer, Seller and MHSI may agree in writing (the "Execution Date"). The Parties agree that their respective rights and obligations hereunder and under the documents delivered pursuant to Section 2.10(a) and Section 2.10(b) shall not take effect until the Closing Date, that such documents will be held in escrow from the Execution Date to the Closing Date by Jones Day and released only pursuant to joint instructions of MHSI and Buyer, and that such documents shall be of no force and effect until the Closing is consummated.

(b) Subject to Section 2.9(c) below, the Closing will take place within 30 days after receipt from the IRS of an additional private letter ruling (the "Private Letter Ruling") containing the following rulings:

(i) the Operating Company, using the Covol 298-1 reagent, will produce a "qualified fuel" within the meaning of Section 29(c)(1)(C) of the Code;

(ii) production of qualified fuel at the Facility will be attributable solely to the Operating Company, entitling the Operating Company to the Tax Credit on such fuel sold to unrelated parties; and

(iii) the Tax Credit may be passed through to and allocated among the members of the Operating Company (which shall be defined in the Private Letter Ruling as MHSI, Buyer and Seller), in accordance with each member's interest in the Operating Company when the Tax Credit arises, which is determined based on a valid allocation of the receipts from the sale of the qualified fuel.

(c) Buyer shall not be obligated to consummate the Closing if the Private Letter Ruling is not issued by July 31, 2003 or if, at the time the requirements of Section 2.9(b) are satisfied, either (i) a Tax Event has occurred; (ii) MHSI and Seller have not funded the Operating Company fully for the period up to and including the Closing Date; (iii) Seller or MHSI has not performed any of the covenants the Seller or MHSI is required to perform between the Execution Date and the Closing Date under this Agreement or any other Transaction Document, or there is a material breach of a representation and warranty set forth in Section 3.3(p) and such failure or breach, in the written opinion of Chadbourne & Parke LLP (or other nationally recognized tax counsel) should have a materially adverse effect on Buyer's ability to claim Tax Credits, or (iv) the Private Letter Ruling contains (or fails to contain) language the presence (or absence) of which in the written opinion of Chadbourne & Parke LLP (or other nationally recognized tax counsel) should have a materially adverse effect on Buyer's ability to claim Tax Credits or (v) there shall be revealed or there shall have occurred a circumstance or an event that, in Buyer's reasonable judgment, results in, or at the Closing Date would result in (A) a material breach of a representation and warranty set forth in Section 3.3(i), (B) a breach of a representation and warranty set forth in Section 3.1(b) of this Agreement, (C) a tort claim against the Operating Company that could reasonably be expected to result in a liability to the Operating Company in excess of $5 million or (D) a casualty to the Facility that has a material adverse effect on the capacity of the Facility to produce synthetic fuel qualifying for Tax Credits, and in any such case (A)-(D), Seller and MHSI have not, within ninety (90) days of such revelation or occurrence, cured or corrected such circumstance or event.

(d) On the Closing Date, Seller and MHSI each shall deliver to Buyer an officer's certificate of an Authorized Officer certifying that each of the representations and warranties set forth in Sections 3.1, 3.2 and 3.3 of this Agreement is true and correct in all material respects as of the Closing Date; provided that if MHSI is not able to deliver such certificate, Buyer shall not be obligated to consummate the Closing only if the circumstances preventing the delivery of such certificate should in the written opinion of Chadbourne & Parke LLP (or other nationally recognized tax counsel) have a materially adverse effect on Buyer's ability to claim Tax Credits.

(e) On the Closing Date, Seller shall deliver to Buyer a bring-down opinion of internal and outside counsels to MHSI and Seller addressing the matters set forth in Section 2.10(b)(ii), (iii) and (iv), which opinions shall be in form and substance satisfactory to Buyer.

2.10 Actions to Occur on the Execution Date.

(a) On the Execution Date, Buyer shall deliver or cause to be delivered to Seller the following:

(i) a certificate of incumbency from the secretary or an assistant secretary of Buyer as to the officers of Buyer who sign the Transaction Documents on behalf of Buyer; and a certificate of incumbency from the secretary or assistant secretary of Buyer Parent as to the officers of Buyer Parent who sign the Buyer Guaranty on behalf of Buyer Parent;

(ii) a legal opinion of internal counsel to Buyer, in form and substance satisfactory to Seller, to the effect that (1) each of the Buyer and the Buyer Parent has been duly formed and is validly existing and in good standing under the laws of the jurisdiction in which such corporation or legal entity was formed; (2) each of the Buyer and Buyer Parent has all entity power and authority to enter into and perform the transactions contemplated by the Transaction Documents; (3) each of the Transaction Documents to which Buyer and Buyer Parent is a party has been authorized by all necessary entity action and has been duly executed and delivered by such entity, and (4) the execution and delivery of the Transaction Documents to which Buyer and Buyer Parent are a party do not and will not violate such entity's constitutive documents;

(iii) a legal opinion of Chadbourne & Parke LLP, outside counsel to Buyer, in form and substance satisfactory to Seller, to the effect that (1) each of the Transaction Documents to which Buyer and Buyer Parent is a party constitutes the valid and binding obligation of such entity enforceable against such entity in accordance with its terms, except as may be limited or otherwise affected by (I) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other laws affecting the rights of creditors generally and (II) principles of equity, whether considered at law or in equity; and (2) no filing with, notice to, or consent, approval, authorization or order of any court or government agency or body or official is required by federal or applicable state law to be obtained in connection with the execution, delivery and performance by Buyer or the Buyer Parent of the Transaction Documents to which it is a party.

(iv) the Buyer Parent Guarantee, duly executed by Buyer Parent;

(v) the Buyer Security Agreement, duly executed by Buyer;

(vi) the Amended LLC Agreement, duly executed by Buyer;

(vii) the Assignment Agreement, duly executed by Buyer; and

(viii) the Base Note, duly executed by Buyer.

(b) On the Execution Date, Seller shall deliver or cause to be delivered to Buyer the following:

(i) a certificate of incumbency from the secretary or assistant secretary of Seller as to the officers of Seller who sign the Transaction Documents on behalf of such Seller; and a certificate of incumbency from the secretary or an assistant secretary of Seller Parent as to the officers of Seller Parent who sign the Seller Parent Guaranty on behalf of Seller Parent; and a certificate of incumbency from the secretary or an assistant secretary of MHSI as to the officers of MHSI who sign the Transaction Documents on behalf of MHSI;

(ii) a legal opinion of internal counsel to MHSI and Seller Parent, in form and substance satisfactory to Buyer, to the effect that (1) each of MHSI and the Seller Parent has been duly formed and is validly existing and in good standing under the laws of the jurisdiction in which such corporation or legal entity was formed; (2) each of MHSI and the Seller Parent has all entity power and authority to enter into and perform the transactions contemplated by the Transaction Documents to which it is a party; (3) each of the Transaction Documents to which MHSI or the Seller Parent is a party has been authorized by all necessary entity action and has been duly executed and delivered by such entity; and (4) the execution and delivery of the Transaction Documents to which MHSI and Seller Parent are a party do not and will not violate such entity's constitutive documents.

(iii) a legal opinion of Stoel Rives LLP, in form and substance satisfactory to Buyer, to the effect that (1) Seller has been duly formed and is validly existing and in good standing under the laws of the State of Oregon; (2) Seller has all entity power and authority to enter into and perform the transactions contemplated by the Transaction Documents to which it is a party; (3) each of the Transaction Documents to which Seller is a party has been authorized by all necessary entity action and has been duly executed and delivered by such entity; (4) the execution and delivery of the Transaction Documents to which Seller is a party do not and will not violate Seller's constitutive documents; and (5) Seller was retroactively reinstated under Oregon law on December 16, 2002.

(iv) a legal opinion of Jones Day, outside counsel to MHSI, Operating Company and Seller, in form and substance satisfactory to Buyer, to the effect that (1) the Operating Company has been duly formed in Delaware and is validly existing and in good standing under the laws of Delaware; (2) the Operating Company has all limited liability company power and authority to enter into and perform the transactions contemplated by the Transaction Documents to which it is a party; (3) each of the Transaction Documents to which Seller, the Operating Company, MHSI or the Seller Parent is a party constitutes the valid and binding obligation of such entity enforceable against such entity in accordance with its terms, except as may be limited or otherwise affected by (I) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other laws affecting the rights of creditors generally and (II) principles of equity, whether considered at law or in equity; and (4) no filing with, notice to, or consent, approval, authorization or order of any court or government agency or body or official is required by federal or applicable state law to be obtained in connection with the execution, delivery and performance by Seller, the Operating Company, MHSI or the Seller Parent of the Transaction Documents to which it is a party;

(v) all consents, waivers or approvals required to be obtained by Seller with respect to the sale of the Membership Interest by Seller contemplated herein and the consummation of the transactions related to such sale of Membership Interest;

(vi) an affidavit of nonforeign status that complies with Section 1445 of the Code, duly executed by Seller;

(vii) the Amended LLC Agreement, duly executed by Seller and MHSI;

(viii) the Assignment Agreement, duly executed by Seller;

(ix) the Seller Guarantee, duly executed by Seller Parent in favor of Buyer; and

(x) the Seller Security Agreement, duly executed by MHSI.

2.11 First Quarterly Payment Date. For purposes of the Fixed Deferred Payments it is assumed that the first Quarterly Payment Date following the Closing Date will be the Quarterly Payment Date in respect of the Quarter ending August 31, 2003. If this assumption turns out to be incorrect, the payment schedule for the Fixed Deferred Payments shall be adjusted to reflect that.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties Regarding Seller, MHSI and the Operating Company. Seller and MHSI represent and warrant to Buyer both as of the Execution Date and the Closing Date as follows (with the understanding that Buyer is relying on such representations and warranties in entering into and performing this Agreement):

(a) Organization, Good Standing, Etc. (i) each of Seller and MHSI is a corporation duly incorporated, validly existing and in good standing under the laws of the state of its incorporation, and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted; (ii) the Operating Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, and has all requisite limited liability company power and authority to own, lease and operate its properties and to carry on its business as now being conducted. The Operating Company is qualified to do business and in good standing under the laws of each jurisdiction in which the character of the Subject Assets owned or leased by that company or the nature of the activities conducted by it in operating its businesses makes such qualification necessary under law. Attached hereto as Schedule 3.1(a) are complete and correct copies of the certificate of formation and the limited liability company operating agreement of the Operating Company, and all amendments thereto.

(b) Ownership. Seller and MHSI are members of the Operating Company, with Seller owning 49.9 percent of all of the outstanding membership interests of the Operating Company and MHSI owning 50 percent of all of the outstanding membership interests of the Operating Company. Except with respect to the transactions contemplated by this Agreement

and the SynAmerica II Purchase Agreement, Seller is not a party to any agreement, arrangement or understanding relating to the sale or disposition of all or any part of the membership interest of the Operating Company or the sale or disposition of all or any part of the membership interests in Seller as of the date hereof, nor is Seller in discussions with any Person with respect to the foregoing. On the date hereof Seller has, and immediately prior to the Closing of this Agreement Seller will have, absolute record and beneficial ownership and title to a 49.9 percent membership interest in the Operating Company free and clear of any liens or other encumbrances except for the obligations imposed on members of the Operating Company under its operating agreement. There are no outstanding options, warrants, calls, puts, convertible securities or other contracts of any nature to which the Operating Company is bound obligating it to issue, deliver or sell, or cause to be issued, delivered or sold, membership interests or any securities or obligations convertible into or exchangeable for membership interests or to grant, extend or enter into any such option, warrant, call, put, convertible security or other contract.

(c) Subsidiaries, Etc. The Operating Company has no direct or indirect ownership interest in any corporation, limited liability company, partnership, joint venture or other firm or entity nor any contractual obligation or commitment to make any investment in (by way of contributions, advances, loans or otherwise) to any other Person or to provide guarantees of, or credit support relating to any third-party debt.

(d) Authority. Each of Seller and MHSI has all requisite corporate power and authority to enter into this Agreement and the other Transaction Documents to which it is a party, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby or thereby. The execution and delivery by each of Seller and MHSI of this Agreement and the Transaction Documents to which it is a party, the performance by it of its obligations hereunder and thereunder, and the consummation by it of the transactions contemplated hereby or thereby, have been duly authorized by all necessary corporate action on the part of Seller and MHSI. This Agreement has been duly executed and delivered by each of Seller and MHSI, and upon the execution and delivery by it of the other Transaction Documents to which it is a party, the Transaction Documents will be duly executed and delivered by Seller and MHSI. This Agreement (assuming due authorization, execution and delivery by Buyer) constitutes, and upon execution and delivery by each of Seller and MHSI of the other Transactions Documents to which it is a party, the Transaction Documents will constitute, the valid and binding obligations of each of Seller and MHSI, enforceable against it in accordance with their terms, subject as to enforceability to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting enforcement of creditors' rights and remedies generally and to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

(e) No Conflict; Required Filings and Consents. The execution and delivery by each of Seller and MHSI of this Agreement and the other Transaction Documents to which it is a party do not, the performance by it of its obligations hereunder and thereunder, and the consummation by it of the transactions contemplated hereby or thereby will not, (i) violate, conflict with, or result in any breach of any provision of its or the Operating Company's certificate of formation, articles of incorporation, articles of organization, bylaws, limited liability company operating agreement or other organizational documents, (ii) violate, conflict with, or result in a violation or breach of, or constitute a default (with or without due notice or

lapse of time or both) under, or permit the termination of, or result in the acceleration of, or entitle any Person to accelerate any obligation, or result in the loss of any benefit, or give any Person the right to require any security to be repurchased, or give rise to the creation of any Lien upon the Membership Interest or any Subject Asset, or affect its or the Operating Company's rights under any of the terms, conditions, or provisions of any loan or credit agreement, note, bond, mortgage, indenture, or deed of trust, or any license, lease, agreement, or other instrument or obligation to which such entity is a party or by which or to which it or the Operating Company or any of their respective assets, the Membership Interest or the Subject Assets may be bound or subject, or (iii) violate any Applicable Law. Except as disclosed on Schedule 3.1(e), no Consent of any Governmental Authority or other Person is necessary or required with respect to Seller, MHSI or the Operating Company in connection with the execution and delivery by Seller and MHSI of this Agreement or any of the other Transaction Documents to which Seller or MHSI is a party, the performance by Seller or MHSI of its obligations hereunder and thereunder, or the consummation by Seller or MHSI of the transactions contemplated hereby or thereby, except for any such Consent that is routine or ministerial in nature.

(f) Absence of Litigation. There is no claim, action, suit, inquiry, judicial or administrative proceeding, grievance, or arbitration pending or, to the Knowledge of Marriott, threatened against any Seller Party that seeks to restrain, prohibit, or otherwise enjoin this Agreement or the consummation of the transactions contemplated hereby.

(g) Broker's Fees. Except for broker's fees to be paid by MHSI to Meridian Investments, Inc., a Massachusetts corporation, no agent, broker, investment banker, or other Person engaged by any Seller Party is or will be entitled to any broker's or finder's fee or any other commission or similar fee payable by Buyer or the Operating Company in connection with any of the transactions contemplated by this Agreement.

3.2 Representations and Warranties Regarding the Operating Companies - - Historical. Attached hereto as Schedule 3.2 are the "Representations and Warranties Regarding the Companies" that PacifiCorp made to Marriott in Section 3.2 of the PacifiCorp/Marriott Agreement (the "Historical Representations and Warranties"). For the period up to October 15, 2001 (but not thereafter), Seller and MHSI hereby repeat and incorporate herein by this reference as representations and warranties of Seller and MHSI both as of the Execution Date and the Closing Date the Historical Representations and Warranties. The sole liability of Seller and MHSI with respect to this Section 3.2 is as set forth in Section 7.10 hereof.

3.3 Representations and Warranties Regarding the Operating Company. The representations and warranties set forth in this Section 3.3 and the Schedules with respect thereto have effect only for, and relate only to, the period commencing October 15, 2001.

Seller and MHSI represent and warrant to Buyer both as of the Execution Date and the Closing Date as follows (with the understanding that Buyer is relying on such representations and warranties in entering into and performing this Agreement):

(a) Financial Statements; Undisclosed Liabilities; Absence of Certain Changes or Events.

(i) Attached as Exhibit J is the balance sheet of the Operating Company as of November 29, 2002 (the "Balance Sheet"), and the statements of income of the Operating Company for the fiscal year to such date (such financial statements collectively referred to as the "Financial Statements"). The Financial Statements have been prepared in accordance with GAAP and fairly present the information purported to be presented therein as of such date and for the periods to such date.

(ii) There is no liability or obligation of any kind, whether accrued, absolute, fixed, contingent (as such term is defined under FASB Statements of Financial Accounting Standards No. 5), or otherwise, of the Operating Company for the period since October 15, 2001 that is not disclosed or reserved against in the Balance Sheet as of November 29, 2002 (the "Balance Sheet Date"), other than liabilities and obligations incurred in the Ordinary Course of Business since the Balance Sheet Date that do not impose any material liability on the Operating Company. No facts or circumstances exist that, with or without the passing of time or the giving of notice or both, might reasonably serve as the basis for any such liabilities not covered by the exception in the foregoing sentence.

(iii) Since the Balance Sheet Date, the Operating Company has conducted its business only in the Ordinary Course of Business. Since the Balance Sheet Date, no material adverse change has occurred to the business, the assets or the financial condition or prospects of the Operating Company. As of the date hereof, the Operating Company does not have any liabilities of any nature, whether accrued, absolute, contingent or otherwise (including, without limitation, liabilities as guarantor or otherwise with respect to obligation of others, or liabilities for taxes due or then accrued or to become due or contingent or potential liabilities relating to activities of the Company or the conduct of its business) (collectively "Liabilities"), except: (i) Liabilities reflected in the Financial Statements, (ii) Liabilities incurred in the ordinary course of business of the Company since the Balance Sheet Date which singly or in the aggregate do not have a Material Adverse Effect on the condition (financial or otherwise), properties, assets, liabilities, business or operations of the Company, and (iii) as set forth on Schedule 3.3(a) attached hereto.

(b) Compliance with Applicable Laws; Permits. Except as regards Taxes, which are the subject of Section 3.3(j), since October 15, 2001, the Operating Company has complied in all material respects with, the Operating Company has not received any notices of any violation of, and the Subject Assets of the Operating Company have been in compliance in all material respects with, all Applicable Laws. Except as listed on Schedule 3.3(b) there are no material permits, approvals, registrations, licenses, legal notifications, authorizations, exemptions or the like ("Permits") required to be obtained or filed by the Operating Company under any Applicable Law either to conduct the business of the Operating Company or otherwise to own or operate the Facility or the other Subject Assets. All Permits owned or held by the Operating Company to conduct its businesses or otherwise to own and operate the Facility and the other Subject Assets are listed or described on Schedule 3.3(b). All such Permits are in full force and effect, the Operating Company is and has been in compliance in all material respects with such Permits, and, to the Operating Company's Knowledge, there are no conditions which, with the

passage of time or the giving of notice or both, would give rise to a material breach or default by the Operating Company under any thereof.

(c) Absence of Litigation. Since October 15, 2001, except as set forth on Schedule 3.3(c) there is no claim, action, suit, inquiry, judicial, or administrative proceeding, grievance, or arbitration that has been formally asserted or filed or, to the Knowledge of Marriott, threatened against the Operating Company or any of the Subject Assets or that questions the validity of the Transaction Documents or that seeks to delay, prevent or alter the consummation of any of the transactions contemplated hereby and thereby; nor have there been any investigations relating to the Operating Company or any of the Subject Assets that have been formally advised to the Operating Company or, to the Knowledge of Marriott, threatened by any Governmental Authority. Since October 15, 2001, there are no claims, actions or suits that have been filed by the Operating Company. Since October 15, 2001, there is no judgment, decree, injunction, order, determination, award, notice of violation, finding, or letter of deficiency of any Governmental Authority or arbitrator that has become outstanding against the Operating Company or any of the Subject Assets.

(d) Insurance. Since October 15, 2001, the Operating Company has been insured against such risks and in such amounts as companies engaged in a similar business would, in accordance with good business practice, customarily be insured. Schedule 3.3(d) sets forth a list of all fire, general liability, malpractice liability, theft, and other forms of insurance and all fidelity and surety bonds held by or applicable to the Operating Company or the Subject Assets for the period since October 15, 2001, and except as disclosed on such Schedule 3.3(d), for the period since October 15, 2001, there is no claim by the Operating Company pending under any such policies or bonds as to which coverage has been questioned, denied, or disputed by the underwriters of such policies or bonds. All premiums due and payable under such policies and bonds since October 15, 2001 have been paid, and except as set forth on Schedule 3.3(d) the Operating Company is otherwise in compliance in all material respects with the terms and conditions of such policies and bonds. Since October 15, 2001, no event has occurred, including the failure by the Operating Company to give any notice or information or the delivery of any inaccurate or erroneous notice or information, which materially limits or impairs the rights of the Operating Company under any such insurance policies. Excluding insurance policies that have expired and been replaced in the Ordinary Course of Business, except as set forth on Schedule 3.3(d), no insurance policy held by or applicable to the Operating Company or the Subject Assets of the Operating Company has been canceled since October 15, 2001 and, to the Knowledge of Marriott, there is no threatened termination of such policies and, except as noted on Schedule 3.3(d), since October 15, 2001, the Operating Company has not received any notice of any premium increase with respect to such policies. With respect to any period since October 15, 2001 during which any third-party operator provided material operational and/or maintenance services to the Facility, to the Knowledge of Marriott, such third-party operator acquired or otherwise maintained workmen's compensation and liability insurance coverage in such amounts as third-party operators engaged in a similar business would, in accordance with good business practices, customarily be insured.

(e) Owned Real Property. The Operating Company does not own any real property.

(f) Leased Real Property. The Operating Company currently does not lease or sublease any real property, including any real property leasehold interests covering office space or industrial sites, other than the real property leasehold interests described on Schedule 3.3(f). Except as set forth on Schedule 3.3(f), there is no real property owned or leased by Seller Parent or one of its Affiliates (other than the Operating Company or SynAmerica II) that is used or held for use primarily in connection with the Facility or the operations of the Operating Company. Each lease listed on Schedule 3.3(f), if any, is in full force and effect without any amendment. The Operating Company is not, and, to the Knowledge of Marriott, no other Person is, in default under any lease listed on Schedule 3.3(f), if any, that could reasonably be expected to have a Material Adverse Effect. No Consent from any landlord or third party to any lease listed on Schedule 3.3(f), will be required as a result of the execution, delivery or performance by the Parties of this Agreement and the other Transaction Documents. All leasehold interests listed on Schedule 3.3(f) are available for immediate use as related to the Facility and the operations of the Operating Company as currently conducted or as otherwise conducted in the Ordinary Course of Business, and such leasehold interests listed on Schedule 3.3(f) are adequate for the Operating Company to operate in accordance with its operations as currently conducted or as otherwise conducted in the Ordinary Course of Business. Since October 15, 2001, the Operating Company has not purchased or leased any additional real property. Seller has delivered to Buyer true and complete copies of all leases listed in Schedule 3.3(f), if any, and all amendments thereto, prior to the execution of this Agreement. Each such lease is valid and binding on the Operating Company and, to the Knowledge of Marriott, on the other parties thereto, and is enforceable in accordance with the terms thereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, applicable equitable principles or other similar laws affecting the enforcement of creditors' rights generally.

(g) Personal Property. Schedule 3.3(g) contains a list of the items of Personal Property having a replacement cost of not less than $10,000 for each item acquired by the Operating Company since October 15, 2001, and not since disposed of in the Ordinary Course of Business. Except as set forth in Schedule 3.3(g), there is no personal property owned or leased by Seller Guarantor or one of its Affiliates (other than the Operating Company or SynAmerica II) that has become used or held for use primarily in connection with the Synfuel Facility or the operations of the Operating Company since October 15, 2001. All Personal Property listed on Schedule 3.3(g) is located at the locations listed on such Schedule 3.3(g). Except as set forth on Schedule 3.3(g), the Operating Company has good and marketable title to, or a valid leasehold or license interest in, all of the Personal Property listed on such Schedule. The Operating Company is not, and, to the Knowledge of Marriott, no other Person is, in default under any of the leases, licenses and other Contracts relating to the Personal Property listed on such Schedule that could reasonably be expected to have a Material Adverse Effect. Except as otherwise disclosed in Schedule 3.3(g), the Personal Property listed on such Schedule (i) is in good operating condition and repair (ordinary wear and tear excepted), (ii) is available for immediate use in the operations of the Operating Company as and where currently conducted, and (iii) is adequate for the Operating Company to operate in accordance with its operations as and where currently conducted or as otherwise conducted in the Ordinary Course of Business.

(h) Liens. All of the Subject Assets are free and clear of all liens, pledges, claims, security interests, restrictions, mortgages, deeds of trust, tenancies, and other possessory interests, conditional sale or other title retention agreements, assessments, easements, rights of

way, covenants, restrictions, rights of first refusal, defects in title, encroachments, and other burdens, options or encumbrances of any kind (collectively, "Liens") except for Permitted Liens.

(i) Environmental Matters.

(i) Except as set forth on Schedule 3.3(i)(i), the Operating Company, the operations of the Operating Company, and the Subject Assets have at all times since October 15, 2001 complied with all Environmental Laws, and currently comply with all Environmental Laws.

(ii) Since October 15, 2001, except as set forth on Schedule 3.3(i)(ii), no judicial or administrative proceedings have been filed or, to the Knowledge of Marriott, threatened against the Operating Company alleging the violation of any Environmental Laws, or alleging any liabilities arising under any Environmental Laws, or otherwise requiring the Operating Company to take, or refrain from taking, any action in order to comply with any Environmental Laws, and no claims, actions or suits have been formally asserted or filed or, to the Knowledge of Seller or MHSI, threatened against the Operating Company from or related to exposure (or alleged exposure) of Persons or property to Hazardous Substances in connection with the operation of the Operating Company or the Facility, and no notice from any Governmental Authority or any private or public Person has been received by the Operating Company or any other Seller Party or, to the Knowledge of Marriott, threatened against the Operating Company or any other Seller Party claiming any violation of any Environmental Laws by the Operating Company in connection with any real property or facility owned, operated or leased by the Operating Company, or claiming any liabilities arising under Environmental Laws or requiring any investigation, remediation, or monitoring on or in connection with any real property or facility owned, operated or leased by the Operating Company or any offsite location that may have been impacted by operations of the Operating Company that are necessary to comply with any Environmental Laws and that have not been fully complied with or otherwise resolved to the full satisfaction of the Person giving notice, or that otherwise may reasonably be expected to give rise to any liability arising under Environmental Laws.

(iii) Since October 15, 2001, except as set forth on Schedule 3.3(i)(iii), the Operating Company possesses, has possessed or otherwise holds or has held all Permits required to conduct all of its activities, including those activities relating to the generation, use, storage, treatment, transport, disposal, release, investigation, remediation or monitoring of Hazardous Substances. All such Permits are final, in full force and effect, and are not subject to any judicial or administrative appeal or other proceedings.

(iv) Since October 15, 2001, all Hazardous Substances generated, used, stored, treated, transported, disposed of, arranged for transport, arranged for disposal or released (collectively, "Managed") by the Operating Company on, in, under or from any of its owned, operated, or leased real property or facilities have been Managed by the Operating Company in such manner as to be in compliance with Environmental Law and not to result in any Environmental Costs or Liabilities. To the Knowledge of Marriott, no

Hazardous Substances exist in or on the Subject Assets except in compliance in all material respects with Environmental Laws.

(v) Since October 15, 2001, neither the Operating Company nor other Seller Party has received any written notification from any source advising the Operating Company or Seller Party that: (A) the Operating Company is a potentially responsible party under CERCLA or any other Environmental Laws; (B) any real property or facility currently or previously owned, operated or leased by the Operating Company is identified or proposed for listing as a federal National Priorities List ("NPL") (or state-equivalent) site or a Comprehensive Environmental Response, Compensation and Liability Information System ("CERCLIS") (or state-equivalent) site; and (C) any facility to which the Operating Company has ever transported, disposed or otherwise arranged for the transport or disposal of Hazardous Substances is identified or proposed for listing as an NPL (or state-equivalent) site or CERCLIS (or state-equivalent) site.

(vi) Since October 15, 2001, no Hazardous Substance has been released or been present in a reportable quantity or quantity potentially requiring remedial action or warranting environmental investigation, or that could otherwise reasonably be expected to result in liability at, on, or under any real property or facility now or previously owned, operated or leased by the Operating Company.

(vii) The Operating Company has made available to Buyer all environmental site assessment reports, studies, and related documents in its possession and relating to the operation, businesses and property of the Operating Company and the Facility.

(j) Taxes. The Operating Company has timely filed, or caused to be timely filed on its behalf, all Tax Returns required to be filed since October 15, 2001, and has paid, or caused to be paid on its behalf, all Taxes required to be paid since October 15, 2001. All such Tax Returns are complete and accurate in all material respects. Waivers of the statute of limitations in respect of Taxes for which the Operating Company is liable that have been given to the IRS are listed on Schedule 3.3(j). To Marriott's Knowledge, no other such waivers have been given or requested.

(k) Company Contracts. Schedule 3.3(k) lists all material (i) lease agreements, easements, right-of-way agreements, partnership, joint venture or alliance agreements, agreements under which any indebtedness for borrowed money has been created, incurred, assumed or guaranteed, agreements with Sellers or any Affiliate of Seller (other than the Operating Company or SynAmerica II), non-compete agreements, stock option, stock purchase, severance and similar agreements, employment agreements, collective bargaining agreements, license agreements, asset purchase agreements, merger agreements, operation and maintenance agreements, engineering, procurement and construction agreements, fuel supply agreements, fuel sales agreements, and loan agreements entered into since October 15, 2001, to which the Operating Company is a party, and (ii) all other agreements entered into since October 15, 2001 to which the Operating Company is a party involving payments to, or a liability of, the Operating Company in excess of $10,000, in each case (A) which agreements are currently in effect and (B) with respect to such agreements, the Operating Company is a party thereto or such

agreements bind or are included in the Subject Assets of the Operating Company. Seller has delivered or made available to Buyer a complete and correct copy of each such contract or other agreement listed on Schedule 3.3(k) (including all exhibits and schedules thereto) as in effect on the date hereof. With respect to each such agreement: (A) the agreement is in full force and effect, valid and binding on the Operating Company, and, to the Knowledge of Marriott, on the other parties thereto, and is enforceable in accordance with the terms thereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, applicable equitable principles or other similar laws affecting the enforcement of creditors' rights generally; (B) the agreement will continue to be in full force and effect on identical terms following the Closing; (C) the Operating Company is not and, to the Knowledge of Marriott, no other party under such agreement is, in breach or default, and no event or circumstance has occurred or exists with respect to the Operating Company or, to the Knowledge of Marriott, with respect to the other party to such agreement, which with notice or lapse of time would constitute a breach or default, or permit termination, modification, or acceleration, under the agreement, in each case that could reasonably be expected be have a Material Adverse Effect; (D) to the Knowledge of Marriott, no other party to such agreement has any valid defense, setoff or counterclaim against the Operating Company under any such agreement and the Operating Company or any other Seller Party has not received any notice of any such claim; and (E) the Operating Company has not repudiated and, except as disclosed on Schedule 3.3(k), does not intend to terminate, cancel or not renew any provisions of such agreement, and, to Marriott's Knowledge, no other party to such agreement has repudiated or intends to terminate, cancel or not renew any provision of such agreement.

(l) Employee Matters.

(i) The Operating Company has no employees. Except as set forth on Schedule 3.3(l), there is not any collective bargaining or similar agreement with any labor organization relating to the individuals who currently provide or, since October 15, 2001, have provided services in connection with the operation of the Facility including, without limitation, the delivery of coal feedstock (the "Facility Employees"). None of the Facility Employees is a common law employee of the Operating Company. With respect to the Operating Company and Synfuel Management, LLC, Marriott has no Knowledge of, after due inquiry with Synfuel Management, LLC, (A) any current or planned employee union or organizing activities; (B) any current or threatened strike, dispute, slowdown, stoppage or lockout; (C) any unfair labor practice charge or complaint by any Facility Employee pending before the National Labor Relations Board or any similar state agency; (D) any charge or investigation pending before the Equal Employment Opportunity Commission or any other federal or state entity responsible for the prevention of unlawful employment practices; or (E) except as disclosed on Schedule 3.3(l)(i), any material violation or notices of violations of MSHA.

(ii) Since October 15, 2001, the Operating Company has not maintained, sponsored, administered or participated in any employee benefit plan, program or arrangement, including without limitation any employee benefit plan subject to ERISA. To the Knowledge of Marriott the Operating Company has no outstanding or threatened liability relating to any employee benefit plan that it maintained, sponsored or administered, or in which it participated prior to October 15, 2001.

(m) Intellectual Property.

(i) Other than the licenses listed on Schedule 3.3(k), the Company does not own or hold under license any material Intellectual Property.

(ii) Since October 15, 2001, the Operating Company has not unlawfully interfered with, infringed upon or misappropriated any Intellectual Property rights of third parties and no third party has unlawfully interfered with, infringed upon, or misappropriated any Intellectual Property rights of the Operating Company, except in any such case as could not reasonably be expected to have a Material Adverse Effect.

(n) Powers of Attorney. There are no outstanding powers of attorney executed by or on behalf of the Operating Company since October 15, 2001.

(o) Affiliate Transactions. There are no contracts between the Operating Company and any other Affiliate of Seller or MHSI.

(p) Section 29.

(i) Except as disclosed in the Marston Report or on Schedule 3.3(p)(i), no material change or modification has been made to the equipment at the Facility since October 15, 2001.

(ii) To Marriott's Knowledge, there is no material misstatement of fact or any material omission of fact in the Request that would permit the IRS to revoke any of the rulings in the Private Letter Ruling or to successfully assert in a revenue agent's report or notice of proposed disallowance that any such ruling does not apply to the Operating Company or Buyer.

(iii) To Marriott's Knowledge, there is no material misrepresentation in Section 3.2(k) of the PacifiCorp/Marriott Agreement, or any material misstatement of fact or material omission of fact in earlier ruling requests, which would permit the IRS to revoke the earlier IRS letter rulings issued with respect to the Facility and the Operating Company or to successfully assert in a revenue agent's report or notice of proposed disallowance that any such ruling does not apply to the Operating Company.

(iv) At least 20% of the current fair market value of the Facility is attributable to used property (within the meaning of the private ruling issued to the Operating Company in 1997) retained from the Facility at its original site in Jefferson County, Alabama.

(v) The Operating Company is classified as a partnership for federal income tax purposes and not as an association taxable as a corporation.

(vi) IRS audits of the Operating Company commenced in January 2000. The Operating Company received the information document requests from the IRS set forth on Schedule 3.3(p)(vii) and has responded to certain of these requests, but to Marriott's Knowledge there has been no other written communication with the IRS about the audit. For tactical reasons, all contact with the IRS through the end of 2002 has been by PacifiCorp

personnel and not by Marriott or its counsel, and accordingly Marriott's knowledge of the audits is limited. To Marriott's Knowledge, the IRS has not indicated an intention to disallow tax credits claimed by PacifiCorp or advanced any particular theory for such a disallowance.

For purposes of any indemnity relating to, or claim of breach with respect to, the representations in subsections 3.3(p)(ii) or (iii), Marriott shall not be treated as having Knowledge of any misstatement, omission or misrepresentation, and the representations in such subsections shall not be treated as incorrect or breached, to the extent that the relevant facts were disclosed to Buyer or its counsel in writing or through documents provided as part of Buyer's due diligence. For the avoidance of doubt, the parties acknowledge that the items listed on Schedule 3.3(p)(iv)B were provided to Buyer's counsel in the course of due diligence. In addition, in the absence of fraud (a remedy which is provided for in Section 7.1 hereof), the parties acknowledge that Marriott shall not have Knowledge of any additional facts if such facts are included in the Excluded Boxes described on Schedule 3.3(p)(iv)A and are not otherwise known to Marriott.

3.4 Updating of Schedules. For purposes of the representations and warranties of Seller and MHSI to be made on the Closing Date pursuant to Sections 3.1, 3.2 and 3.3, the schedules to such representations and warranties shall be updated through the Closing Date. Buyer shall not be obligated to consummate the Closing if the schedules, as updated, should in the written opinion of Chadbourne & Parke LLP (or other nationally recognized tax counsel) have a materially adverse effect on Buyer's ability to claim Tax Credits.

3.5 Application of Representations and Warranties to 0.1% Interest. Seller and MHSI agree that the representations and warranties made in Sections 3.2 and 3.3 also are made as of the Closing Date to Buyer and its predecessors in interest with respect to the 0.1% interest in the Operating Company previously acquired by Buyer.

3.6 Representations and Warranties of Buyer. Buyer represents and warrants to Seller and MHSI both as of the Execution Date and the Closing Date as follows (with the understanding that Seller and MHSI are relying on such representations and warranties in entering into and performing this Agreement):

(a) Organization; Good Standing; Etc. Buyer is a limited liability company duly incorporated, validly existing, and in good standing under the laws of the State of Delaware, and has all requisite corporate power and authority to own, lease, and operate its properties and to carry on its business as now being conducted.

(b) Authority. Buyer has all requisite power and authority as a limited liability company to enter into this Agreement and the other Transaction Documents to which it is a party, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and the other Transaction Documents to which it is a party, the performance by it of its obligations hereunder and thereunder, and the consummation by it of the transactions contemplated hereby or thereby, have been duly authorized by all necessary limited liability company action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer, and upon execution and delivery by it of the other Transaction Documents to which it is a party, the other Transaction Documents will be duly executed and delivered by Buyer. This

Agreement (assuming due authorization, execution and delivery by Seller and MHSI) constitutes, and upon execution and delivery by Buyer of the other Transaction Documents to which it is a party, the other Transaction Documents will constitute, the valid and binding obligations of Buyer, enforceable against it in accordance with their terms, subject as to enforceability to applicable bankruptcy, insolvency, reorganization, moratorium, and similar laws affecting enforcement of creditors' rights and remedies generally and to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

(c) No Conflict; Required Filings and Consents. The execution and delivery by Buyer of this Agreement and the other Transaction Documents to which it is a party do not, the performance by it of its obligations hereunder and thereunder, and the consummation by Buyer of the transactions contemplated hereby or thereby will not (i) violate, conflict with, or result in any breach of any provisions of its certificate of formation or limited liability company operating agreement, (ii) violate, conflict with, or result in a violation or breach of, or constitute a default (with or without due notice or lapse of time or both) under, or permit the termination of, or result in the acceleration of, or entitle any Person to accelerate any obligation, or result in the loss of any benefit, or give any Person the right to require any security to be repurchased, or give rise to the creation of any Lien upon any of its assets under, any of the terms, conditions, or provisions of any loan or credit agreement, note, bond, mortgage, indenture, or deed of trust, or any license, lease, agreement, or other instrument or obligation to which Buyer is a party or by which or to which it or any of its assets may be bound or subject, or (iii) violate any Applicable Law; except in the case of clauses (ii) and (iii) of this Section 3.4(c) for any such violations, conflicts, breaches, defaults, rights of termination, cancellation or acceleration, loss of benefits, repurchase rights, Liens or effects that would not adversely affect the ability of Buyer to consummate the transactions contemplated by this Agreement. No Consent of any Governmental Authority is required by or with respect to Buyer in connection with the execution and delivery by Buyer of this Agreement or any of the other Transaction Documents to which Buyer is a party, the performance by Buyer of its obligations hereunder and thereunder, or the consummation by Buyer of the transactions contemplated hereby or thereby, except for any such Consent that is routine or ministerial in nature.

(d) Absence of Litigation. There is no claim, action, suit, inquiry, judicial or administrative proceeding, grievance, or arbitration pending or, to the knowledge of Buyer, threatened against Buyer or any of its Affiliates that seeks to restrain, prohibit, or otherwise enjoin this Agreement or the consummation of the transactions contemplated hereby.

(e) Broker's Fee. No agent, broker, investment banker, or other Person engaged by Buyer or any of its Affiliates will be entitled to any broker's or finder's fee or any other commission or similar fee payable by any Seller Party in connection with any of the transactions contemplated by this Agreement.

ARTICLE 4
CERTAIN COVENANTS

4.1 Conduct of Operations. During the period from the Execution Date to the Closing, Seller and MHSI shall cause the Operating Company to (i) conduct its operations in the Ordinary Course of Business (including the paying of all premiums due and payable under, and

the taking of all actions necessary to maintain, all insurance policies and bonds described in Section 3.3(d)) and in compliance in all material respects with Applicable Laws (including Environmental Laws), (ii) cause tests for significant chemical change to be conducted in accordance with the testing protocol set forth on Schedule 4.1, (iii) not produce during any Quarter at a level exceeding the Quarterly Maximum Production, (iv) cause the Facility to be maintained in good condition and in accordance with Prudent Operating Standards, (v) cause the Facility to be operated in all material respects consistently with the statement of facts in the Request, (vi) not terminate or amend in any material respect any real property leases and (vii) not instruct or permit the Manager to replace, change or modify any of the equipment at the Facility, except for the following changes: (a) the replacement of parts with substantially identical parts; (b) the replacement or addition of electrical components (excluding motor drives), meters, scales, sampling and testing, programmable logic controller or other measuring equipment to improve quality control; (c) the replacement of front-end loaders, vehicles and other similarly mobile equipment (it being agreed that the Facility itself is not "mobile equipment" for this purpose) or (d) the addition, replacement or modification of equipment for the purpose of safety or occupational health improvements.

4.2 Existing Accounts Payable. To the extent not funded prior to the Closing Date, MHSI shall be responsible for funding working capital requirements of the Operating Company that relate specifically to accounts payable accruing prior to the Closing Date.

4.3 Independent Engineer. MHSI acknowledges that Buyer has engaged the Independent Engineer to assist it in monitoring its investment in the Company and compliance with this Agreement and to advise it as to matters requiring the consent of or Consultation with Buyer hereunder or under the Amended LLC Agreement. In particular, MHSI acknowledges that the Independent Engineer may visit the Facility during normal business hours prior to each Quarterly Payment Date. MHSI will ask the Manager and Independent Chemist to cooperate with the Independent Engineer and to provide the Independent Engineer with reasonable access to all data and personnel to the extent that providing such access and data is reasonably related to such purposes and does not materially interfere with the operation of the Facility or the business and operations of MHSI or the Company. Additionally, every day during which the Facility is operational, MHSI shall ask the Manager to provide the Independent Engineer a Daily Production Report. MHSI shall also ask the Manager to provide the Independent Engineer any notices of MSHA violations, corrections or notices of state or federal inspection at the Facility that indicate a deficiency or violation when they are received, as well as any chemical change reports that do not indicate that the coal feedstock used at the Facility to create synthetic fuel underwent a significant chemical change.

ARTICLE 5
TAX MATTERS

5.1 Tax Returns and Proceedings.

(a) MHSI shall cause the Operating Company to prepare and file all Tax Returns when due and all reports related to the Operating Company that are required to be filed or furnished with respect to all taxable periods ending on or before the Closing Date. For taxable periods ending after the Closing Date, MHSI shall (in its capacity as Administrative Member)

cause all such returns and reports to be filed in accordance with the Amended LLC Agreement. The parties shall cooperate with respect to the preparation and filing of all such returns and reports.

(b) Subject to any additional obligations or covenants provided under the Amended LLC Agreement, Buyer, on the one hand, and MHSI, on the other hand, shall provide the other with such assistance as may reasonably be requested by the other Party in connection with the preparation of any Tax Return, any audit or other examination by any taxing authority, or any judicial or administrative proceedings relating to the liability for any Taxes with respect to the operations of the Operating Company or the allowance or disallowance of any Tax Credits arising from the sale by the Operating Company of solid synthetic fuel produced in the Facility, and each shall retain (until the expiration of the applicable statute of limitations) and provide the requesting Party with any records or information that may be relevant to such Tax Return, audit or examination or proceedings. Any information obtained under this section or under any other section hereof providing for the sharing of information or review of any Tax Return will be kept confidential by the Parties; provided that such information may be provided to the applicable tax authorities. Each Party shall provide timely notice to the other in writing of any pending or threatened Tax audits or assessments of which such Party is aware relating to the liability for any Taxes with respect to the operations of the Operating Company or the allowance or disallowance of any Tax Credits arising from the sale by the Operating Company of solid synthetic fuel produced in the Facility.

(c) MHSI shall cause the Operating Company to make an election under Section 754 of the Code for the taxable year of the Operating Company which includes the sale of the Membership Interest contemplated hereby.

5.2 Transaction Taxes. Any real property transfer or gains tax, sales tax, use tax, stamp tax, stock transfer tax or other similar tax, including any penalties, interest and additions to tax imposed by reason of the transactions contemplated by this Agreement to occur at the Closing shall be borne by Seller.

5.3 Private Letter Ruling.

(a) The Parties shall exercise commercially reasonable efforts to cause the Operating Company to submit the additional ruling request substantially in the form attached hereto as Exhibit D ("Request") as promptly as possible following the Execution Date.

(b) The Parties shall cause the Company to (i) inform Buyer and its counsel in a timely manner of all material developments in the private letter ruling process, including all communications related thereto to and from the IRS; (ii) provide Buyer and its counsel with a draft copy of any supplements to the Request (including any exhibits or attachments thereto) and of any other written communication related thereto proposed to be submitted to the IRS for its review and comment at least five Business Days prior to submission; (iii) incorporate all reasonable changes and comments to such supplements as may be requested by Buyer or its counsel, (iv) provide Buyer and its counsel with notice reasonably in advance of any meetings or conferences (including telephonic meetings or conferences) with the IRS with respect to the Request and arrange with the IRS to permit Buyer and its counsel to participate in any such

meetings or conferences (including signing any necessary IRS forms), and (v) consult with Buyer and its counsel regarding potential withdrawal of any parts of the Request on which the IRS indicates it remains adverse after a conference of right if the IRS indicates that it does not intend to grant the Private Letter Ruling.

(c) The Parties agree that, should either of their respective tax counsels recommend changes to the Transaction Documents as required by the IRS to obtain the Private Letter Ruling, the Parties will cooperate and negotiate in good faith to attempt to reach agreement to amend the Transaction Documents to the extent necessary to obtain the Private Letter Ruling.

ARTICLE 6
TERMINATION

6.1 Termination. Without limiting Seller's, MHSI's or Buyer's ability to exercise any right or remedy to which it is entitled hereunder or under any of the Transaction Documents, except as otherwise provided herein, this Agreement may be terminated as provided in this Section 6.1.

(a) If Buyer or Buyer Parent fails to pay in full any portion of the Purchase Price that is due and payable under Article 2 on the date such payment is due under Article 2 (such failure not being due to a deferral of the Fixed Deferred Payment pursuant to Section 2.6 or deferral under the Base Note), and such failure continues for 20 days after Buyer and Buyer Parent receive written notice of such failure from MHSI, then MHSI shall have the option, exercisable by delivery of written notice thereof to Buyer within 180 days following Buyer's receipt of the notice of default so long as such default is continuing at such time of exercise, to terminate this Agreement and cause the Membership Interest to be redeemed by the Operating Company. If MHSI exercises such option, this Agreement shall terminate and (i) Buyer shall reconvey and transfer to the Operating Company all right, title and interest in and to the Membership Interest, free and clear of all Liens other than the obligations and liabilities under Transaction Documents with respect thereto; (ii) Buyer will be deemed to have made the written representations set forth on Exhibit D to the Amended LLC Agreement to Seller, MHSI and the Operating Company; (iii) Buyer shall take all such further actions and execute, acknowledge and deliver all such further documents that are necessary or useful to effectuate the transfer of the Membership Interest contemplated by this Section 6.1(a); (iv) the Operating Company shall effectuate such redemption; (v) all obligations and liabilities associated with the Membership Interest will terminate except those obligations and liabilities accrued through the date of termination or relating to any taxable year or portion thereof prior to such date; (vi) Buyer will have no further rights as a member of the Operating Company; (vii) the Amended LLC Agreement shall be amended to reflect Buyer's resignation as a member of the Operating Company; and (viii) Buyer shall have no further obligation thereafter to make any Fixed Deferred Payments, Variable Deferred Payments, payments under the Base Note or contributions to the capital of the Operating Company pursuant to the Amended LLC Agreement, except those obligations and liabilities accrued through the date of termination. Relief from the obligation of Buyer to make such payments will be deemed sufficient consideration for the reconveyance and transfer of the Membership Interest to the Operating Company.

(b) If Buyer delivers to the Operating Company and to MHSI a Termination Notice on or before December 31, 2003, then on the Termination Date (or on December 31, 2003, if MHSI has elected pursuant to Section 2.5(g) to require Buyer to remain as a partner in the Operating Company until such date), this Agreement shall terminate and (i) Buyer shall convey and transfer to MHSI all right, title and interest in and to the Membership Interest free and clear of all Liens other than the obligations and liabilities under Transaction Documents with respect thereto; (ii) Buyer will be deemed to have made the written representations set forth on Exhibit D to the Amended LLC Agreement to MHSI; (iii) Buyer shall take all such further actions and execute, acknowledge and deliver all such further documents that are necessary or useful to effectuate such conveyance and transfer; (iv) all obligations and liabilities of Buyer associated with the Membership Interest will terminate except those obligations and liabilities accrued through the date of termination or relating to any taxable year or portion thereof prior to such date; (v) Buyer will have no further rights as a member of the Operating Company; (vi) the Amended LLC Agreement shall be amended to reflect such conveyance and transfer; and (vii) Buyer shall have no obligation thereafter to make any Fixed Deferred Payments, Variable Deferred Payments, payments under the Base Note or contributions to the capital of the Operating Company pursuant to the Amended LLC Agreement, except those obligations and liabilities accrued through the date of termination.

(c) If the Membership Interest held by Buyer is redeemed pursuant to Section 4.4 or Section 10.8 of the Amended LLC Agreement or if the action with respect to the "the Collateral" referred to in Section 3.10 of the Amended LLC Agreement is taken, then this Agreement shall terminate, and Buyer shall have no further obligation to make any Fixed Deferred Payments, Variable Deferred Payments, payments under the Base Note or any other obligations under Article 2, except for those obligations and liabilities accrued through the date of such termination.

(d) If the Closing has not been consummated by the close of business on August 31, 2003, this Agreement shall automatically terminate, unless the parties hereto mutually agree to a later termination date.

6.2 Procedure and Effect of Termination. A termination of this Agreement under Section 6.1 will not affect the rights of the Parties with respect to breaches of any agreement, covenant, representation or warranty contained in this Agreement, except as stated in Section 6.1 with respect to the obligation of Buyer to make Fixed Deferred Payments, Variable Deferred Payments or payments under the Base Note.

ARTICLE 7
INDEMNIFICATION

7.1 Indemnification of Buyer. MHSI agrees, subject to Section 7.10, to indemnify, defend and hold harmless the Buyer Indemnified Parties from and against any and all Buyer Indemnified Costs; provided, however, that, except for events specified in Section 2.9(c)(v) which relate to the period between the Execution Date and the Closing Date and which have not been remedied (and in spite of which Buyer elects to proceed with the Closing), MHSI's aggregate obligation to indemnify the Buyer Indemnified Parties under this Section 7.1 and Section 7.10 shall not exceed in the aggregate the MHSI Cap, except (a) as to breaches of the representation in Section 3.3(j) (as to which no cap shall apply) and (b) as to breaches of representations in subsections (i), (ii), (iii), (iv) and (v) of Section 3.3(p) or any claim of fraud that has a materially adverse effect on Buyer's ability to claim Tax Credits (as to which such indemnification obligations shall not exceed in the aggregate 119% of all Tax Credits allocated to Buyer).

7.2 Indemnification of Seller. Buyer hereby agrees to indemnify, defend and hold harmless the Seller Indemnified Parties from and against any and all Seller Indemnified Costs; provided, however, that in no event shall Buyer's aggregate obligation to indemnify the Seller Indemnified Parties under this Section 7.2 exceed installments of Purchase Price and Monthly Capital Contributions (as defined in the Amended LLC Agreement) required to be paid that have not been paid at the time the request for indemnity is made.

7.3 Defense of Third Party Claims. (a) An Indemnified Party shall give written notice to any Indemnifying Party within 30 days after it has actual knowledge of commencement or assertion of any action, proceeding, demand, or claim by a third party (collectively, a "Third Party Claims") in respect of which such Indemnified Party may seek indemnification under this Article 7. Such notice shall state the nature and basis of such Third Party Claim and the events and the amounts thereof to the extent known. Any failure so to notify an Indemnifying Party shall not relieve such Indemnifying Party from any liability that it, he, or she may have to such Indemnified Party under this Article 7, except to the extent the failure to give such notice materially and adversely prejudices such Indemnifying Party. In case any such action, proceeding or claim is brought against an Indemnified Party, the Indemnifying Party shall be entitled to participate in and, unless in the reasonable judgment of the Indemnified Party a conflict of interest between it and the Indemnifying Party may exist in respect of such action, proceeding or claim, to assume the defense thereof, with counsel selected by the Indemnifying Party and reasonably satisfactory to the Indemnified Party, and after notice from the Indemnifying Party to the Indemnified Party of its election so to assume the defense thereof, the Indemnifying Party shall not be liable to such Indemnified Party for any legal or other expenses subsequently incurred by the latter in connection with the defense thereof other than reasonable costs of investigation, provided nothing contained herein shall permit the Company or Seller to control or participate in any tax contest or dispute involving any Affiliate of Buyer, or permit Buyer to control or participate in any tax contest or dispute involving any Affiliate of Seller; further provided, however, that each Party agrees to keep the other Party and the Company reasonably apprised of the status of such tax contest and any settlement negotiations related solely to tax items that are Company items at issue in such tax contest. In the event that (i) the Indemnifying Party advises an Indemnified Party that it will not contest a claim for

indemnification hereunder, (ii) the Indemnifying Party fails, within 30 days of receipt of any indemnification notice to notify, in writing, such Indemnified Party of its election, to defend, settle or compromise, at is sole cost and expense, any action, proceeding or claim (or discontinues its defense at any time after it commences such defense) or (iii) in the reasonable judgment of the Indemnified Party, a conflict of interest between it and the Indemnifying Party exists in respect of such action, proceeding or claim, then the Indemnified Party may, at its option, defend, settle or otherwise compromise or pay such action or claim. In any event, unless and until the Indemnifying Party elects in writing to assume and does so assume the defense of any such claim, proceeding or action, the Indemnifying Party shall be liable for the Indemnified Party's reasonable costs and expenses arising out of the defense, settlement or compromise of any such action, claim or proceeding. The Indemnified Party shall cooperate fully with the Indemnifying Party in connection with any negotiation or defense of any such action or claim by the Indemnifying Party. The Indemnifying Party shall keep the Indemnified Party fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. If the Indemnifying Party elects to defend any such action or claim, then the Indemnifed Party shall be entitled to participate in such defense with counsel of its choice at its sole cost and expense. If the Indemnifying Party does not assume such defense, the Indemnified Party shall keep the Indemnifying Party apprised at all times as to the status of the defense; provided, however, that the failure to keep the Indemnifying Party so informed shall not affect the obligations of the Indemnifying Party hereunder. The Indemnifying Party shall not be liable for any settlement of any action, claim or proceeding effected without its written consent; provided, however, that the Indemnifying Party shall not unreasonably withhold, delay or condition its consent. Notwithstanding anything in this Section 7.3 to the contrary, the Indemnifying Party shall not, without the Indemnified Party's prior written consent, settle or compromise any claim or consent to entry of judgment in respect thereof which imposes any future obligation on the Indemnified Party or which does not include, as an unconditional term thereof, the giving by the claimant or the plaintiff to the Indemnified Party, a release from all liability in respect of such claim.

(b) If the amount of any Buyer Indemnified Costs, at any time after the making of an indemnity payment in respect thereof, is reduced by recovery, settlement or otherwise under any insurance coverage (excluding any proceeds from self-insurance or flow-through insurance policies) or under any claim, recovery, settlement or payment by or against any other entity, the amount of such reduction, less any costs, expenses or premiums incurred in connection therewith (together with interest thereon from the date of payment thereof by such insurer or other entity to the Indemnified Party at the Commercial Paper Rate), must promptly be repaid by the Indemnified Party to the Indemnifying Party. Upon making any indemnity payment, the Indemnifying Party will, to the extent of such indemnity payment, be subrogated to all rights of the Indemnified Party against any third party, except third parties that provide insurance coverage to the Indemnified Party or its Affiliates, in respect of the Buyer Indemnified Costs to which the indemnity payment relates; provided, however, that (i) the Indemnifying Party must then be in compliance with its obligations under this Agreement in respect of such Buyer Indemnified Costs and (ii) until the Indemnified Party recovers full payment of its Buyer Indemnified Costs, any and all claims of the Indemnifying Party against any such third party on account of said indemnity payment are hereby made expressly subordinate and subject in right of payment to the Indemnified Party's rights against such third party. Without limiting the generality or effect of any other provision hereof, each such Indemnified Party and Indemnifying Party shall duly execute upon request all instruments reasonably necessary to evidence and

perfect the above-described subrogation and subordination rights, and otherwise cooperate in the prosecution of such claims at the direction of the Indemnifying Party. Nothing in this Section 7.3(b) will be construed to require any Party to obtain or maintain any insurance coverage.

(c) The Parties hereby agree that, in the event of any conflict between the rights and obligations of the Parties set forth in this Section 7.3 with respect to defense of claims relating to any loss of Tax Credits and the rights and obligations of the Members set forth in Section 7.7 of the Amended LLC Agreement, the provisions of the latter shall control.

7.4 Direct Claims. In any case in which an Indemnified Party seeks indemnification under this Article 7 which is not subject to Section 7.3 because no Third Party Claim is involved, the Indemnified Party shall notify the Indemnifying Party in writing of any costs which such Indemnified Party claims are subject to indemnification under the terms of this Article 7. The failure of the Indemnified Party to exercise promptness in such notification shall not amount to a waiver of such claim, except to the extent the resulting delay materially prejudices the position of the Indemnifying Party with respect to such claim.

7.5 After-Tax Basis. For tax reporting purposes, to the maximum extent permitted by the Code, each Party will agree to treat all amounts paid under any of the provisions of this Article 7 as an adjustment to the purchase price for the Membership Interest (or otherwise as a non-taxable reimbursement, contribution or return of capital, as the case may be). To the extent that any indemnification payment treated as a purchase price adjustment arises from a loss that does not give rise to a deduction for the Indemnified Party for income tax purposes, such indemnification payment shall be increased in an amount equal, on an after-tax basis, to the lost tax benefits (calculated using a discount rate of ten percent per annum and assuming that depreciation or amortization deductions would be fully utilized when available) or additional tax due as a result of the purchase price adjustment. To the extent any such indemnification payment is includable as income of the Indemnified Party as determined by agreement of the Parties, or if there is no agreement, by an opinion of Chadbourne & Parke LLP or other nationally recognized tax counsel of the Indemnified Party (after consultation in good faith with the Indemnifying Party and its tax counsel) that such amount is "more likely than not" includable as income of the recipient (accompanied by certification by the Indemnified Party's tax director or a managing director of its tax department that such amount will be included as income in the consolidated federal income tax return in which such amount would be includable), the amount of the payment shall be increased by the amount of any federal or state income tax required to be paid by the Indemnified Party or its Affiliates on the receipt or accrual of the indemnification payment, including, for this purpose, the amount of any such Tax required to be paid by the Indemnified Party on the receipt or accrual of the additional amount required to be added to such payment pursuant to this Section 7.5, using an assumed rate equal to the highest marginal federal income tax rate applicable to corporations generally (currently 35 percent) and an assumed blended state and local tax rate of 5.25 percent (taking into account the deductibility of state income tax for federal income tax purposes) applicable to corporations from time to time and assuming that the Indemnified Party and its Affiliates recognize the same amount of taxable income for state and local income tax purposes as they recognize for federal income tax purposes in respect of such indemnification payment. Any payment made under this Article 7 shall be reduced by the present value (as determined on the basis of a discount rate equal to ten percent per annum) of any federal or state income tax benefit to be realized by the Indemnified Party or

its Affiliates by reason of the facts and circumstances giving rise to such indemnification. For purposes of this Section 7.5, the amount of any state income tax benefit or cost shall take into account the federal income tax effect of such benefit or cost.

7.6 Express Negligence Rule. WITHOUT LIMITING OR ENLARGING THE SCOPE OF THE INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS ARTICLE 7, AN INDEMNIFIED PARTY SHALL BE ENTITLED TO INDEMNIFICATION UNDER THIS ARTICLE 7 IN ACCORDANCE WITH THE TERMS HEREOF, REGARDLESS OF WHETHER THE LOSS OR CLAIM GIVING RISE TO SUCH INDEMNIFICATION OBLIGATION IS THE RESULT OF THE SOLE, CONCURRENT OR COMPARATIVE NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY OR VIOLATION OF ANY LAW OF OR BY SUCH INDEMNIFIED PARTY. THE PARTIES AGREE THAT THIS PARAGRAPH CONSTITUTES A CONSPICUOUS LEGEND.

7.7 No Duplication. Any liability for indemnification under this Article 7 shall be determined without duplication of recovery by reason of the state of facts giving rise to such liability constituting a breach of more than one representation, warranty, covenant or agreement. The liability of any Party hereunder with respect to the representations and warranties of such Party will not be reduced by any investigation made at any time by or on behalf of any other Party.

7.8 Sole Remedy. The remedies of the Parties under this Article VII are the sole and exclusive remedies that a Party may have under this Agreement for the recovery of monetary damages with respect to any breach or failure to perform any covenant or agreement set forth in Article IV of this Agreement or any breach of any representation or warranty set forth in this Agreement.

7.9 Survival.

(a) All representations, warranties, covenants and obligations made or undertaken by a Party in this Agreement or in any Transaction Document are material, have been relied upon by the other Parties and shall survive the Closing hereunder as set forth in this Section 7.9, and shall not merge in the performance of any obligation by any Party hereto.

(b) Subject to Section 7.10, all claims by a Buyer Indemnified Party for indemnification pursuant to this Article 7 resulting from breaches of representations or warranties shall be forever barred unless MHSI is notified within 18 months after the Closing Date, except that the representations and warranties set forth in Sections 3.3(i) and 3.3(p) with respect to the period after October 15, 2001 shall survive until six months after the expiration of the applicable statute of limitations (giving effect to any waiver, mitigation or extensions thereof); provided, that, if written notice of a claim for indemnification has been given by such Buyer Indemnified Party on or prior to the last day of the respective foregoing period, as applicable, then the obligation of MHSI to indemnify such Buyer Indemnified Party pursuant to this Article 7 shall survive with respect to such claim until such claim is finally resolved.

(c) All claims by a Seller Indemnified Party for indemnification pursuant to this Article 7 resulting from breaches of representations or warranties shall be forever barred unless Buyer is notified within 18 months after the Closing Date; provided, that, if written notice for a claim of indemnification has been given by such Seller Indemnified Party on or prior to the last day of the foregoing period, then the obligation of Buyer to indemnify such Seller Indemnified Party pursuant to this Article 7 shall survive with respect to such claim until such claim is finally resolved.

7.10 Indemnification as to Historical Representations and Warranties; Other Indemnification.

(a) For the period up to and including October 15, 2001, Seller and MHSI have, in Section 3.2 hereof, repeated the Historical Representations and Warranties under the PacifiCorp/Marriott Agreement. With respect to any claim for breach of representations or warranties contained in Section 3.2 hereof, the sole remedy of Buyer is the following. Buyer shall notify MHSI of Buyer's claim and MHSI shall cause Marriott to seek from PacifiCorp any indemnification or pursue any other claim in contract, tort or equity available to Marriott (considering any survival periods in the PacifiCorp/Marriott Agreement) from PacifiCorp for breach of the counterpart Historical Representation and Warranty or for other breach of the PacifiCorp/Marriott Agreement. Any indemnification amounts resulting therefrom which are paid to Marriott shall be caused by MHSI to be divided by Marriott between Buyer and Marriott on a pro rata basis reflecting the relative damages suffered by Buyer from the Closing Date to the date the claim giving rise to such indemnification is made and by Marriott and/or MHSI from October 15, 2001 to the date the claim giving rise to such indemnification is made. To the extent that aggregate indemnification payments made by PacifiCorp to Marriott with respect to a breach or breaches by PacifiCorp of representations and warranties contained in Section 3.2 of the PacifiCorp/Marriott Agreement are less than the indemnification payments required to be made therefor by PacifiCorp under such Agreement, MHSI agrees to indemnify Buyer for the amount of such deficiency; provided, however, that, except as otherwise provided in Section 7.1, in no event shall MHSI's aggregate obligations under this Section 7.10 and Section 7.1 (in each case excluding indemnification payments made directly by PacifiCorp in respect of breach of Historical Representations and Warranties) exceed in the aggregate the MHSI Cap.

(b) As provided in Section 3.3 hereof, the representations and warranties set forth therein (except for those which expressly relate to the period before October 15, 2001) have effect from, and relate only to, the period commencing October 15, 2001, and the indemnification obligations of MHSI under this Article 7 in respect of such Section 3.3 relate only to that period.

ARTICLE 8
GENERAL PROVISIONS

8.1 Exhibits and Schedules. All Exhibits and Schedules attached hereto are incorporated herein by reference.

8.2 Further Actions. After the Execution Date, each of Seller, MHSI and Buyer shall, without further consideration, at its own expense, execute and deliver such other

certificates, agreements, conveyances, and other documents, and take such other action, as may be reasonably requested by the other Party in order to transfer and assign to, and vest in, Buyer all right, title and interest in the Membership Interest and more effectively to consummate the sale of the Membership Interest pursuant to the terms of this Agreement.

8.3 Amendment, Modification and Waiver. This Agreement may not be amended or modified except by an instrument in writing signed by the Party against which enforcement of such amendment or modification is sought. Any failure of Buyer on the one hand, or Seller or MHSI, on the other hand, to comply with any obligation, covenant, agreement, or condition contained herein may be waived only if set forth in an instrument in writing signed by the Party or Parties to be bound thereby, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any other failure.

8.4 Severability. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any rule of Applicable Law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated herein are not affected in any manner materially adverse to any Party.

8.5 Expenses and Obligations. Except as otherwise expressly provided in this Agreement, all costs and expenses incurred by the Parties in connection with this Agreement and the consummation of the transactions contemplated hereby shall be borne solely and entirely by the Party which has incurred such expenses. Seller and MHSI acknowledge and agree that the Operating Company has not borne and will not bear, any of Seller's or MHSI's costs and expenses (including legal fees and expenses) in connection with this Agreement or the transactions contemplated hereby.

8.6 Parties in Interest. This Agreement shall be binding upon and, except as provided below, inure solely to the benefit of each Party and their successors and assigns, and nothing in this Agreement, express or implied, is intended to confer upon any other Person (other than the Buyer Indemnified Parties and Seller Indemnified Parties as provided in Article 7) any rights or remedies of any nature whatsoever under or by reason of this Agreement.

8.7 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally, by a nationally recognized overnight courier, by facsimile, or mailed by registered or certified mail (return receipt requested) to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

(a) If to Seller, to:

Synthetic American Fuel
Enterprises Holdings, Inc.
10400 Fernwood Road
Bethesda, MD 20817
Attention: Senior Vice President, Tax
Fax: 301-380-8299

With a copy to:

Marriott International, Inc.
10400 Fernwood Road
Bethesda, MD 20817
Attention: General Counsel
Fax: (301) 380-6727

(b) If to MHSI, to:

Marriott Hotel Services, Inc.
10400 Fernwood Road
Bethesda, MD 20817
Attention: Senior Vice President, Tax
Fax: 301-380-8299

With a copy to:

Marriott International, Inc.
10400 Fernwood Road
Bethesda, MD 20817
Attention: General Counsel
Fax: (301) 380-6727

(c) If to Buyer, to:

Serratus LLC
c/o _____
_____
New York, NY _____
Attention: _____
Fax: _____
With a copy to:

_____
_____
New York, NY _____
Attention: _____
Fax: _____

All notices and other communications given in accordance herewith shall be deemed given (i) on the date of delivery, if hand delivered, (ii) on the date of receipt, if faxed (provided a hard copy of such transmission is dispatched by first class mail within 48 hours), (iii) three Business Days

after the date of mailing, if mailed by registered or certified mail, return receipt requested, and (iv) one Business Day after the date of sending, if sent by a nationally recognized overnight courier; provided, that a notice given in accordance with this Section 8.7 but received on any day other than a Business Day or after business hours in the place of receipt, will be deemed given on the next Business Day in that place.

8.8 Counterparts. This Agreement may be executed and delivered (including by facsimile transmission) in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart.

8.9 Entire Agreement.. This Agreement (which term shall be deemed to include the Exhibits and Schedules hereto and the other certificates, documents and instruments delivered hereunder) constitutes the entire agreement of the Parties and supersedes all prior agreements, letters of intent and understandings, both written and oral, among the Parties with respect to the subject matter hereof. There are no representations or warranties, agreements, or covenants other than those expressly set forth in this Agreement.

8.10 Governing Law; Choice of Forum; Waiver of Jury Trial. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS EXECUTED AND PERFORMED THEREIN. THE PARTIES HEREBY IRREVOCABLY SUBMIT TO THE NON-EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT IN NEW YORK WITH RESPECT TO ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING RELATING TO A DISPUTE AND FOR ANY COUNTERCLAIM WITH RESPECT THERETO.

8.11 Public Announcements. Except for statements made or press releases issued (i) pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934, (ii) pursuant to any listing agreement with any national securities exchange or the National Association of Securities Dealers, Inc., or (iii) as otherwise required by law, neither MHSI, the Seller, the Buyer or any of its Affiliates shall issue any press release or otherwise make any public statements with respect to this Agreement or the transactions contemplated hereby without the prior written consent of the other Parties. MHSI, on the one hand, and Buyer, on the other hand, will have the right to review in advance all information relating to the transactions contemplated by the Transaction Documents that appear in any filing made in connection with the transactions contemplated hereby or thereby.

8.12 Assignment. This Agreement and all of the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement may only be assigned to the same extent (and only by and to the same Persons) that membership interests in the Operating Company are assignable pursuant to the terms of Article X of the Amended LLC Agreement. Any attempted assignment of this Agreement other than in strict accordance with this Section 8.12 and the terms of Article X of the Amended LLC

Agreement shall be null and void and of no force or effect.

8.13 Relationship of Parties. This Agreement does not constitute a joint venture, association or partnership between the Parties. No express or implied term, provision or condition of this Agreement shall create, or shall be deemed to create, an agency, joint venture, partnership or any fiduciary relationship between the Parties.

[Signatures on the Following Page]

IN WITNESS WHEREOF, each party hereto has caused this Agreement for Purchase of Membership Interest to be signed on its behalf as of the date first written above.

SYNTHETIC AMERICAN FUEL
ENTERPRISES HOLDINGS, INC.

By: /s/ Mark W. Brugger

Name: Mark W. Brugger

Title: President

MARRIOTT HOTEL SERVICES, INC.

By: /s/ Mark W. Brugger

Name: Mark W. Brugger

Title: Vice President

SERRATUS LLC

By: /s/

Name:

Title:

ANNEX I
DEFINITIONS

"Actual Credit Amount" has the meaning set forth in Section 2.5(d).

"Adjustment Date" means the first Quarterly Payment Date after May 31 of each calendar year.

"Account" shall mean an account of Seller, as designated in writing by Seller no later than five Business Days prior to the first applicable Quarterly Payment Date after the Closing Date for which a Fixed Deferred Payment, Variable Deferred Payment or payment under the Base Note is due hereunder, or such other account as Seller shall designate in writing no later than ten Business Days prior to the next applicable Quarterly Payment Date at any time following the Closing Date.

"Accounting Firm" means the Operating Company's primary independent accounting firm, which shall be Deloitte & Touche or such other "Final 4" firm of certified public accountants (i.e., Ernst & Young, KPMG Peat Marwick or PricewaterhouseCoopers) selected by the Administrative Member and approved by the Buyer.

"Administrative Member" means MHSI in its capacity as administrative member of the Operating Company under the Amended LLC Agreement or such Person that is appointed pursuant to and in accordance with the terms of the Amended LLC Agreement as the administrative member.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, (a) the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person, and (b) the Operating Company shall be deemed to be an Affiliate of Seller prior to the Closing (for purposes of representations and warranties), but shall not be deemed to be an Affiliate of Seller or Buyer from and after the Closing.

"Agreement" means this Agreement for Purchase of Membership Interest.

"Amended LLC Agreement" means the Amended and Restated Limited Liability Company Agreement of the Operating Company, of even date herewith, by and among Seller, Holdings and Buyer in the form attached hereto as Exhibit I.

"Annual Adjustment Amount" has the meaning set forth in Section 2.5(d).

"Applicable Laws" means all laws (including common law), statutes, rules, regulations, ordinances, judgments, settlements, orders, decrees, injunctions, and writs of any Governmental Authority having jurisdiction over the Facility, the Subject Assets, or the operations of the Operating Company, including any applicable zoning laws and building codes.

"Applicable Percentage" means 119 percent.

"Assignment Agreement" means the Assignment of Membership Interest, of even date herewith, by and between Buyer and Seller.

"Balance Sheets" has the meaning set forth in Section 3.3(a)(i).

"Balance Sheet Date" has the meaning set forth in Section 3.3(a)(ii).

"Base Note" means the promissory note attached hereto as Exhibit A.

"Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which commercial banks in New York, New York are authorized or required to be closed.

"Buyer" has the meaning set forth in the first paragraph of the Agreement and includes its permitted successors and assigns.

"Buyer Indemnified Costs" means any and all damages, losses, claims, liabilities, demands, charges, suits, penalties, costs, and expenses (including disallowance of Tax Credits or other tax deductions, together with IRS interest and penalties thereon and reasonable costs and expenses of any and all actions, suits, proceedings, investigations, assessments, judgments, settlements and compromises relating thereto and reasonable attorneys' fees and reasonable disbursements in connection therewith, whether such costs, expenses, fees and disbursements relate to a third party claim or to a claim by Buyer directly against Seller or MHSI) incurred by any of the Buyer Indemnified Parties resulting from or relating to any breach or default by Seller or MHSI of any representation, warranty, covenant, indemnity or agreement under this Agreement or any other Transaction Document or a claim for fraud.

"Buyer Indemnified Parties" means Buyer and each of its Affiliates and each of their respective shareholders, members, officers, directors, employees, agents, and other representatives, and their respective successors and assigns.

"Buyer Parent" has the meaning set forth in the recitals to the Agreement.

"Buyer Parent Guaranty" means the Guarantee, of even date herewith, made by Buyer Parent in favor of Seller, MHSI and the Operating Company substantially in the form attached hereto as Exhibit E.

"Buyer Security Agreement" means the Pledge and Security Agreement, of even date herewith, by Buyer in favor of Seller and the Operating Company in the form attached hereto as Exhibit G.

"CERCLA" has the meaning set forth in the definition of Environmental Laws contained in this Annex I.

"CERCLIS" has the meaning set forth in Section 3.2(i).

"Cleared Person" means the Tennessee Valley Authority, Tampa Electric Company, Alabama Power Company and any Person as to which Buyer notifies Seller (or is deemed to have notified Seller) is a Cleared Person in the Customer Certificate pursuant to Section 2.5(g) hereof, such Person to constitute a Cleared Person for purposes hereof as of the date of such Customer Certificate and at all times prior thereto.

"Closing" means, subject to Section 2.9(c), the satisfaction of the requirements set forth in Section 2.9(b).

"Closing Date" means the date of the Closing specified in Section 2.9(b).

"Code" means the United States Internal Revenue Code of 1986, as amended.

"Commercial Paper Rate" means, for each day that any payment obligation hereunder is outstanding, the most recent published yield on commercial paper with the shortest quoted period of not fewer than 30 days placed by dealers, as reported for each such day either in the Federal Reserve Rate Report that customarily appears in the Friday issue of The Wall Street Journal (Eastern Edition) under "Money Rates" or, if such report does not so appear, in such other nationally-recognized publication or electronic data service as Seller and Buyer may, from time to time, agree on. On days when such a rate is not reported, the most recently reported rate on a preceding day will be deemed to be the applicable rate.

"Consent" means any consents or approval of any Governmental Authority or any other Person.

"Consultation" or "Consult" means to confer with, and reasonably consider and take into account the reasonable suggestions, comments or opinions of another Person.

"Contracts" means all written agreements, contracts, or other binding commitments or arrangements (including any amendments and other modifications thereto), to which the Operating Company is a party or is otherwise bound and which affect, relate to, or are included in, the Subject Assets.

"Customer Certificate" has the meaning given to such term in Section 2.5(g) hereof.

"Environmental Costs or Liabilities" means any losses, liabilities, obligations, damages, fines, penalties, judgments, settlements, actions, claims, demands, costs and expenses (including costs relating to personal injury, death or property damage, reasonable fees, disbursements and expenses of legal counsel, experts, engineers and consultants, and the costs of investigation or feasibility studies and performance of remedial or removal actions and cleanup and monitoring activities) arising from, under or in connection with (a) any violation of, or alleged violation of, any Environmental Laws, (b) any remedial obligation under any Environmental Laws, or (c) any other liability imposed under any Environmental Laws.

"Environmental Laws" means all Applicable Laws and rules of common law pertaining to the environment, human health, safety and natural resources, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of

1980 (42 U.S.C. Section 9601 et seq.) ("CERCLA"), the Emergency Planning and Community Right to Know Act and the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act of 1976, the Hazardous and Solid Waste Amendments Act of 1984, the Clean Air Act, the Clean Water Act, the Federal Water Pollution Control Act, the Toxic Substances Control Act, the Safe Drinking Water Act, the Occupational Safety and Health Act of 1970, the Federal Mine Safety and Health Act, the Surface Mining Control and Reclamation Act, the Oil Pollution Act of 1990, the Hazardous Materials Transportation Act, and any similar or analogous statutes, regulations promulgated thereunder and decisional law of any Governmental Authority, as each of the foregoing may have been or are in the future amended or supplemented, in each case to the extent applicable with respect to the property or operation to which application of the term "Environmental Laws" relates.

"ERISA" means the United States Employee Retirement Income Security Act of 1974, as amended.

"Escrow Account" means the account maintained by the Escrow Agent pursuant to the Escrow Agreement.

"Escrow Agent" means the escrow agent under the Escrow Agreement.

"Escrow Agreement" means the Escrow Agreement to be entered into among MHSI, Holdings, Buyer and the Escrow Agent as soon as practicable after the date hereof in substantially the form attached hereto as Exhibit L.

"Estimated Tax Credits" has the meaning set forth in Section 2.5(b).

"Excluded Boxes" means the items described in Schedule 3.3(p)(iv)A.

"Excluded Sales" means (a) sales of Pre-Sale Inventory and (b) sales to any MS Related Person that is not a Cleared Person.

"Execution Date" has the meaning set forth in Section 2.9(a).

"Exhibits" means the Exhibits attached to the Agreement.

"Facility" has the meaning set forth in the recitals to the Agreement.

"Final Adjustment Amount" has the meaning set forth in Section 2.5(e).

"Final Adjustment Date" means June 20 of the year following the year that the last Variable Deferred Payment is due under Section 2.5.

"Financial Statements" has the meaning set forth in Section 3.2(a)(i).

"Fiscal Year" means the fiscal year of the Operating Company, which shall be the same as the taxable year of the Operating Company. The taxable year of the Operating Company will be a year that ends on November 30, or such other year as may be required by applicable federal income tax law.

"Fixed Deferred Payment" has the meaning set forth in Section 2.4.

"Fixed Payment Term" has the meaning set forth in Section 2.4.

"GAAP" means generally accepted accounting principles as recognized by the American Institute of Certified Public Accountants, as in effect from time to time, consistently applied and maintained on a consistent basis for a Person throughout the period indicated and consistent with such Person's prior financial practice.

"Governmental Authority" means any governmental department, commission, board, bureau, agency, court or other instrumentality of any country, state, province, county, parish or municipality, jurisdiction, or other political subdivision thereof.

"Hazardous Substances" means (A) any hazardous materials, hazardous wastes, hazardous substances, toxic wastes, solid wastes, and toxic substances as those or similar terms are defined under any Environmental Laws; (B) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite and/or actinolite, whether friable or non-friable; (C) polychlorinated biphenyls ("PCBs"), or PCB-containing materials, or fluids; (D) radon; (E) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, contaminant, constituent, or solid, liquid or gaseous waste; (F) any petroleum, petroleum hydrocarbons, petroleum products, crude oil and any fractions or derivatives thereof, and any natural gas, synthetic gas and any mixtures thereof; and (G) any substance that, whether by its nature or its use, is subject to regulation under any Environmental Laws or with respect to which any Environmental Laws or Governmental Authority requires environmental investigation, monitoring or remediation.

"Historical Representations and Warranties" has the meaning set forth in Section 3.2.

"Indemnified Party" means any Person seeking indemnification from another Person pursuant to Article 7.

"Indemnifying Party" means any Person against whom a claim for indemnification is asserted by another Person pursuant to Article 7.

"Independent Chemist" means Paspek Consulting LLC, or such other chemist as may be chosen by the Members of the Company from time to time.

"Independent Engineer" means John T. Boyd Company, or such other engineer as selected by the Buyer from time to time.

"Intellectual Property" means all trademarks, know-how, copyrights, copyright registrations and applications for registration, patents and all other intellectual property rights including Internet domain names, whether registered or not, and the goodwill related to all of the foregoing.

"IRS" means the Internal Revenue Service of the United States of America.

"Knowledge" means the actual knowledge of, or knowledge that would have been obtained after reasonable investigation by, with respect to a Party and its Affiliates, any of its respective officers, directors or management personnel. References to Marriott's Knowledge shall mean the Knowledge of Marriott, MHSI or Seller.

"Liabilities" has the meaning set forth in Section 3.3(a)(iii).

"Liens" has the meaning set forth in Section 3.3(h).

"Manager" has the meaning set forth in the Amended LLC Agreement.

"Marriott" has the meaning set forth in the recitals to the Agreement.

"Marston Report" means a report entitled "Verification of Synfuel Project Asset Relocation" prepared by Marston & Marston, Inc. for Synthetic American Fuel Enterprises I, LLC and Synthetic American Fuel Enterprises II, LLC and dated June 2002.

"Material Adverse Effect" means a material adverse effect on the ability of the Companies to validly claim Tax Credits (under the Tax laws as they exist as of the date of this Agreement) from the sale of Synfuel or on the business, operations, properties, condition, results of operations, assets, liabilities, or prospects (financial or otherwise) of the Company taken as a whole or the transactions contemplated hereby.

"Membership Interest" means a 48.9% membership interest in the Operating Company, including an 0.1% membership interest previously acquired by Buyer (it being understood that Seller is not required to convey such 0.1% interest a second time).

"MHSI Cap" means 53% of the aggregate Tax Credits, plus Estimated Tax Credits for any period as to which a Tax Return has not yet been filed, to the time or times that an indemnification claim is made, less the aggregate of all indemnification payments based on the MHSI Cap theretofore made pursuant to Sections 7.1 and 7.10 hereof.

"MSHA" means the Mine Safety and Health Act of 1977, as amended (29 U.S.C. Section 801 et seq.).

"MS Related Person" means any Person which, as to the Operating Company, at a given point in time, is a "related person" within the meaning of Section 29(d)(7) of the Code by reason of a direct or indirect relationship or affiliation with Buyer or any of Buyer's Affiliates.

"NPL" has the meaning set forth in Section 3.3(i)(v).

"Operating Company" or "Company" has the meaning set forth in the recitals to the Agreement.

"Operations Report" has the meaning set forth in Section 2.5(b).

"Ordinary Course of Business" means the ordinary course of business consistent with past custom and practice (including with respect to quantity and frequency) of the Operating

Company and consistent with usual and customary practices of the coal-based synthetic fuel industry.

"PacifiCorp" has the meaning set forth in the recitals to the Agreement.

"PacifiCorp/Marriott Agreement" has the meaning set forth in the recitals to the Agreement.

"Party" means a party to the Agreement.

"Permits" has the meaning set forth in Section 3.3(b).

"Permitted Liens" means (a) liens for Taxes not yet due; (b) carrier's, warehousemen's, mechanics', materialmen's, repairmen's, employees', contractors', operators' or other similar liens or charges securing the payment of expenses not yet due and payable that were incurred in the Ordinary Course of Business, but not exceeding $250,000; (c) any obligations or duties to any Governmental Authority arising in the Ordinary Course of Business with respect to any Permit held by the Operating Company, and all Applicable Laws, rules, regulations and orders of any Governmental Authority; (d) required third party Consents listed in Schedule 3.1(e); and (e) minor imperfections of title that would not materially affect the value, use, operation or ownership of any asset.

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

"Personal Property" means machinery, equipment, computer programs, computer software, tools, motor vehicles, furniture, furnishings, leasehold improvements, fixtures, office equipment, inventories, supplies, spare parts, and other tangible or intangible personal property.

"Plan" means each defined benefit pension plan subject to Title IV of ERISA that is or was maintained, sponsored or established for employees for any ERISA Affiliate or to which any ERISA Affiliate has or has had any liability or any obligation to contribute, including any "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA.

"Pre-Sale Inventory" means the Company's inventory of synthetic fuel held for sale as of the Closing Date.

"Private Letter Ruling" has the meaning set forth in Section 2.9(b).

"Prudent Operating Standards" means those standards, methods and acts that (a) when engaged in are commonly used in prudent engineering maintenance and operations of synthetic fuel production facilities and associated mechanical and handling facilities and equipment lawfully and with safety, reliability, efficiency and expedition or (b) in the exercise of reasonable judgment considering the facts known when engaged in, could have been expected to achieve the desired result consistent with applicable law, safety, reliability, efficiency and expedition. Prudent Operating Standards are not limited to the optimum practice, method or act, but rather are a spectrum of possible practices, methods of acts.

"Purchase Price" has the meaning set forth in Section 2.2.

"Quarter" means the periods corresponding to one fourth of a full Fiscal Year of the Operating Company (which shall be three month periods if such Fiscal Year is based on a 365 day year, and periods of thirteen or fourteen weeks if such Fiscal Year is a 52-53 week year), or the applicable portion of such periods in the case of any short Fiscal Year.

"Quarterly Maximum Production" means not more than 640,000 tons of synthetic fuel in any Quarter.

"Quarterly Payment Date" has the meaning set forth in Section 2.5(b).

"Request" has the meaning set forth in Section 5.3(a).

"Schedules" means the Schedules attached to the Agreement.

"Seller" has the meaning set forth in the first paragraph of the Agreement.

"Seller Parent" has the meaning set forth in the recitals to the Agreement.

"Seller Parent Guaranty" means the Guarantee, of even date herewith, made by Seller Parent in favor of Buyer substantially in the form attached hereto as Exhibit F.

"Seller Indemnified Costs" means any and all damages, losses, claims, liabilities, demands, charges, suits, penalties, costs, and expenses (including court costs and reasonable attorneys' fees and expenses) incurred by any of the Seller Indemnified Parties resulting from or relating to any breach or default by Buyer of any representation, warranty, covenant, indemnity or agreement under this Agreement or any Transaction Document.

"Seller Indemnified Parties" means Seller, MHSI and each of their respective Affiliates, including the Operating Company prior to the Closing, and each of their respective officers, directors, employees, agents and other representatives, and their respective successors and assigns.

"Seller Parties" means Seller Parent, Seller, MHSI, the Operating Company, and each of their Affiliates.

"Seller Security Agreement" means the Pledge and Security Agreement, of even date herewith, by MHSI in favor of Buyer and the Operating Company in the form attached hereto as Exhibit H.

"Subject Assets" means all of the assets of the Operating Company, both tangible and intangible, including the Facility.

"SynAmerica II" has the meaning set forth in the recitals to the Agreement.

"SynAmerica II Purchase Agreement" means the Agreement for Purchase of Membership Interest relating to SynAmerica II, of even date herewith, by and among Seller, Buyer and MHSI.

"Synfuel" means solid synthetic fuel produced by any Facility combining coal with a chemical reagent at such Facility.

"Tax" or "Taxes" means any taxes, assessments, fees and other governmental charges imposed by any Governmental Authority, including income, profits, gross receipts, net proceeds, alternative or add-on minimum, ad valorem, value added, turnover, sales, use, property, personal property (tangible and intangible), environmental, stamp, leasing, lease, user, excise, duty, franchise, capital stock, transfer, registration, license, withholding, social security (or similar), unemployment, disability, payroll, employment, fuel, excess profits, occupational, premium, windfall profit, severance, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not.

"Tax Credits" means the tax credits provided by Section 29(a) of the Code with respect to the sale of Synfuel produced by the Facility.

"Tax Event" has the meaning assigned to it in the Amended LLC Agreement.

"Tax Returns" means any return, report, statement, information return or other document (including any amendments thereto and any related or supporting information) filed or required to be filed with any Governmental Authority in connection with the determination, assessment, collection or administration of any Taxes or the administration of any laws, regulations or administrative requirements relating to any Taxes.

"Taxing Authority" means, with respect to any Tax, the Governmental Authority that imposes such Tax, and the agency (if any) charged with the collection of such Tax for such entity or subdivision, including any Governmental Authority that imposes, or is charged with collecting, social security or similar charges or premiums.

"Termination Date" means the effective date specified in the Termination Notice, which shall not be longer than 60 days after the occurrence of such Tax Event, and in any event no later than December 31, 2003.

"Termination Notice" means a notice given by Buyer to the Operating Company and to MHSI before the close of business on December 31, 2003 specifying (i) that a Tax Event as set forth in the last sentence of the definition of Tax Event has occurred, (ii) that Buyer elects to terminate this Agreement with the effects provided in Sections 2.5(g) and 6.1(b) hereof and (iii) the Termination Date.

"Third Party Claim" has the meaning set forth in Section 7.3.

"Transaction Documents" means this Agreement and each other agreement, document and instrument required to be executed or entered into in accordance herewith or pursuant to the earlier transfer of an 0.1% interest to Buyer.

"Variable Deferred Payment" has the meaning set forth in Section 2.5(a).

EXHIBIT 10.2

AMENDMENT AGREEMENT

Synthetic American Fuel Enterprises I, LLC

This Amendment Agreement ("Agreement") is made and entered into as of June 20, 2003, by and among Synthetic American Fuel Enterprises Holdings, Inc. ("Holdings"), Marriott Hotel Services, Inc. ("MHSI") and Serratus LLC ("Buyer").

W I T N E S S E T H :

WHEREAS, Holdings, MHSI and Buyer entered into an Agreement for Purchase of Membership Interest in Synthetic American Fuel Enterprises I, LLC (the "Company") dated as of January 28, 2003 (the "Purchase Agreement");

WHEREAS, Holdings, MHSI and Buyer entered into an Amended and Restated Limited Liability Company Agreement of the Company dated as of January 28, 2003 (the "LLC Agreement"), to be effective upon the Closing, as defined in the Purchase Agreement; and

WHEREAS, the parties desire to amend the Purchase Agreement and the LLC Agreement as provided herein;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I
AMENDMENTS TO PURCHASE AGREEMENT

Section 1.1 Defined Terms.

1.1.1 Amended Definitions. The following definitions in Annex I to the Purchase Agreement are hereby amended as follows:

"Amended LLC Agreement" means the Amended and Restated Limited Liability Company Agreement of the Operating Company, dated as of January 28, 2003, by and among Seller, MHSI and Buyer in the form attached hereto as Exhibit I, as amended by the Amendment Agreement.

"Applicable Percentage" means 117 percent.

"Closing Date" means June 21, 2003.

"MHSI Cap" is amended to replace "53%" with "51%."

"Private Letter Ruling" means an additional private letter ruling that the IRS issues containing the following rulings:

(i) the Operating Company, using the Covol 298-1 reagent, will produce a "qualified fuel" within the meaning of Section 29(c)(1)(C) of the Code;

(ii) production of qualified fuel at the Facility will be attributable solely to the Operating Company, entitling the Operating Company to the Tax Credit on such fuel sold to unrelated parties; and

(iii) the Tax Credit may be passed through to and allocated among the members of the Operating Company (which shall be defined in the Private Letter Ruling as MHSI, Buyer and Seller), in accordance with each member's interest in the Operating Company when the Tax Credit arises, which is determined based on a valid allocation of the receipts from the sale of the qualified fuel.

1.1.2 Additional Definitions. The following definitions are hereby added to Annex I to the Purchase Agreement:

"Additional Representations and Warranties" means the additional representations and warranties set forth in Sections 1.4(a) of the Amendment Agreement.

"Additional Warranty Period" means the period commencing with the Closing and ending on the Put Date.

"Amendment Agreement" means the Amendment Agreement dated June 20, 2003, by and among MHSI, Seller and Buyer.

"Put Date" has the meaning set forth in Section 1.3.1 of the Amendment Agreement.

"Put Payment" means the payment provided for in Section 1.3.1 of the Amendment Agreement upon the exercise by Buyer of its put option.

1.1.3 Deleted Definitions. The following definitions shall be deleted in their entirety from Annex I to the Purchase Agreement: "Escrow Account", "Escrow Agent", "Escrow Agreement", "Termination Date" and "Termination Notice".

1.1.4 Existing Definitions. Unless otherwise defined in Sections 1.1.1 and 1.1.2 hereof, capitalized terms used herein shall have the meanings ascribed to them in the Purchase Agreement and the LLC Agreement.

Section 1.2 Closing.

1.2.1 Closing Date. Section 2.9(b) of the Purchase Agreement is deleted in its entirety and replaced with the following:

"Subject to Section 2.9(c) below, the Closing will take place on the Closing Date."

1.2.2 Conditions to Closing. Section 2.9(c) of the Purchase Agreement is amended as follows:

(a) Delete the introductory language immediately prior to clause (i) and replace it with

"Buyer shall not be obligated to consummate the Closing if, on the Closing Date, either"

(b) Delete clause (iv) thereof.

1.2.3 First Quarterly Payment Date. Section 2.11 of the Purchase Agreement is deleted in its entirety.

Section 1.3 Additional Put Rights.

1.3.1 Additional Put Rights. If by December 15, 2003 the Private Letter Ruling is either not issued, or contains (or fails to contain) language the presence (or absence) of which in the written opinion of Chadbourne & Parke LLP (or other nationally recognized tax counsel) should have a materially adverse effect on Buyer's ability to claim Tax Credits, then Buyer shall have the option to require MHSI to purchase all or a portion of its Membership Interest, effective as of December 31, 2003 (the "Put Date") (provided, however, that the actual transfer of the Membership Interest will not occur until the expiration of any waiting period, if applicable, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and provided, further, during the period between the Put Date and the date of the actual transfer of the Membership Interest, Buyer will be deemed to have waived its financial participation in the Company within the meaning of Section 4.1(h) of the LLC Agreement (notwithstanding that the conditions for such a waiver may not otherwise have been met)) upon payment by Buyer to MHSI on such date of $2,450,000 (in the case the full Membership Interest is sold or, in the case of a partial sale, such amount multiplied by the portion of the Membership Interest that is sold), which option shall be exercisable by delivery of a written notice to MHSI and the Company after December 15, 2003 and before December 30, 2003; provided, however, that Buyer shall not be obligated to make such Put Payment upon exercise of the put option if aggregate sales (not counting Excluded Sales) of synthetic fuel produced at the Facility fall below 175,000 tons in either of the third or fourth Quarters in 2003.

1.3.2 Effect of Exercise of Put Right. If Buyer exercises the option in Section 1.3.1 hereof to put its Membership Interest to MHSI, (a) Buyer shall convey and transfer to MHSI all right, title and interest in and to the Membership Interest, free and clear of all Encumbrances; (b) Buyer shall be deemed to have made to MHSI the written representations set forth on Exhibit D to the LLC Agreement, substituting MHSI for the Company; (c) Buyer and MHSI shall take all such further actions and execute, acknowledge and deliver all such further documents (including an assignment agreement) that are necessary or useful to effectuate the transfer of the Membership Interest; (d) all liabilities and obligations of Buyer associated with the Membership Interest will terminate, except those obligations and liabilities accrued through the Put Date; (e) Buyer will have no further rights as a member of the Company; and (f) Buyer shall have no further obligation after the Put Date to make any contributions to the capital of the

Company and no further obligation to make Fixed Deferred Payments, Variable Deferred Payments or payments under the Base Note, other than such payments that are due and payable at the time of the Put Date but which have not been paid in full; provided, however, that if the exercise of the put is only as to a portion of the Membership Interest, this Section 1.3.2 shall be deemed to be revised so that clauses (a) - (d) and (f) related only to such portion and clause (e) has no application.

Section 1.4 Additional MHSI and Seller Representations and Warranties.

(a) Seller and MHSI represent and warrant to Buyer, for the Additional Warranty Period, as follows:

(i) Synfuel produced during the Additional Warranty Period is "qualified fuel" within the meaning of Section 29(c)(1)(C) of the Code;

(ii) The Facility was "placed in service" prior to July 1, 1998 within the meaning of Section 29(g)(1)(A) of the Code;

(iii) The Facility remains (within the meaning of Section 29(g)(1)(A) of the Code) the same facility that was originally placed in service on or before June 30, 1998, notwithstanding the modifications that have been made to it since such date and the move to, and reassembly at, the new site in Alabama;

(iv) The "binding written contract" requirement of Section 29(g)(1)(A) of the Code has been met;

(v) The Operating Company will be entitled to all the Tax Credits from Synfuel produced at the Facility and sold to unrelated persons; and

(vi) The members of the Operating Company will be entitled to share in such Tax Credits during the Additional Warranty Period in the following ratio: 8.9% for MHSI, 1.1% for Holdings, and 90% for Buyer;

provided, however, that the additional representations and warranties set forth in this Section 1.4(a) shall have effect only if Buyer exercises its option under Section 1.3.1 to put all or a portion of its Membership Interest to MHSI, and relate only to Tax Credits generated for the Additional Warranty Period in respect of the Membership Interest or portion thereof that is the subject of such put.

(b) Section 3.3(p) of the Purchase Agreement is amended by adding at the end thereof the following paragraph:

"(vii) Synfuel produced during the Additional Warranty Period (as defined in the Amendment Agreement) using any chemical reagent other than Covol 298-1 is 'qualified fuel' within the meaning of Section 29(c)(1)(C) of the Code."

Section 1.5 Indemnification.

1.5.1 Additional Representations and Warranties. The Additional Representations and Warranties shall be included in the definition of "Buyer Indemnified Costs." Section 7.1 of the Purchase Agreement is hereby amended to add at the end thereof:

> "and (c) as to breaches of Additional Representations and Warranties (as to which such indemnification obligations shall not exceed in the aggregate 143% of all Tax Credits allocated to Buyer in case the full Membership Interest is put to MHSI pursuant to Section 1.3.1 of the Amendment Agreement, or, in the case of a partial put, 143% of all Tax Credits allocated to Buyer during 2003, multiplied by the percentage of Buyer's Membership Interest that has been put to MHSI)."

1.5.2 Survival of Additional Representations and Warranties. Section 7.9(b) of the Purchase Agreement shall be amended to add the following clause immediately prior to the proviso contained therein:

> "and the Additional Representations and Warranties (if they come into effect) shall survive until the earlier of (i) six months after the expiration of the applicable statue of limitations (giving effect to any waiver, mitigation or extensions thereof) or (ii) December 31, 2011;"

1.5.3 Conforming Amendment to Section 7.1. Clause (b) of Section 7.1 of the Purchase Agreement shall be amended to replace "119%" with "117%".

1.5.4 Termination of Additional Representations and Warranties. Notwithstanding anything herein or in the Purchase Agreement to the contrary, if the Private Letter Ruling is issued after the Put Date but before July 1, 2004, MHSI shall, within ten Business Days after issuance thereof, refund the Put Payment, plus $187,500, at which time the Additional Representations and Warranties in Section 1.4(a) shall terminate, and neither MHSI nor Seller shall have any obligation or liability whatsoever hereunder or under the Purchase Agreement for any breach of the Additional Representations and Warranties for any period prior to or after such refund is made.

Section 1.6 Elimination of Escrow Arrangements and Buyer's Termination Rights. Section 2.5(g) and Section 6.1(b) of the Purchase Agreement are hereby deleted in their entirety.

Section 1.7 Revised Schedules and Exhibits to Purchase Agreement. Schedule 2.4 (Fixed Deferred Payment Schedule) and Schedule 3.3(p)(vii) (Section 29) to the Purchase Agreement are deleted in their entirety and replaced with Schedule 2.4 and Schedule 3.3(p)(vii) attached hereto. Exhibit L (Escrow Agreement) to the Purchase Agreement is deleted in its entirety.

Section 1.8 Reagent. From the Closing Date until the issuance of the Private Letter Ruling, MHSI may cause to be used in the production of synthetic fuel at the Facility either Covol 298 reagent or Covol 298-1 reagent; after the issuance of the Private Letter Ruling only Covol 298-1 reagent may be used.

ARTICLE II
AMENDMENTS TO LLC AGREEMENT

Section 2.1 Defined Terms.

2.1.1 Amended Definitions. The following definitions in Section 1.1 of the LLC Agreement are hereby amended as follows:

"Applicable Percentage" means 117 percent.

"Purchase Agreement" means the Agreement for Purchase of Membership Interest among MHSI, Holdings and Buyer dated January 28, 2003, as amended by the Amendment Agreement."

"Tax Event"

The last two sentences of the definition of "Tax Event" are amended and restated as follows:

> "In addition, if legislation is enacted after January 28, 2003 that causes dividends to be fully or partly excluded from federal income taxes, then a Tax Event shall be deemed to occur on January 1, 2004 (or the date of enactment, if later), but only if by claiming Tax Credits, a corporation would reduce the amount of dividends for which its shareholders would qualify for the exclusion by at least y% of the Tax Credits claimed. For this purpose, y% = 25% x ((1 - Tax Rate)/Tax Rate)."

2.1.2 Additional Definition. The following definition is hereby added to Section 1.1 of the LLC Agreement:

"Amendment Agreement" means the Amendment Agreement dated June 20, 2003, by and among MHSI, Holdings and Buyer.

Section 2.2 Limitation on Damages. Section 8.8 of the LLC Agreement is hereby amended to replace "119%" in both places it appears with "117%" and to replace "53%" with "51%."

Section 2.3 Transfer Restrictions. If Buyer exercises the option in Section 1.3.1 hereof to put its Membership Interest to MHSI, the parties agree that Section 10.3 (Conditions of Transfer by Buyer) of the LLC Agreement and Section 10.5 (Right of First Refusal) of the LLC Agreement shall not apply.

ARTICLE III
MISCELLANEOUS

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be governed by and construed under the laws of the State of New York applicable to contracts executed and performed therein. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and all prior or contemporaneous oral or written statements, representations or agreements by or between the parties hereto with respect to the subject matter hereof are merged herein. This Agreement may not be changed or modified orally but only by an instrument in writing signed by all the parties, which states that it is an amendment to this Agreement. This Agreement may be executed in any number of counterparts (including by facsimile), each of which shall for all purposes be and be deemed to be an original, and all of which shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party hereto has caused this Amendment Agreement to be signed on its behalf as of the date first written above.

SYNTHETIC AMERICAN FUEL ENTERPRISES HOLDINGS, INC.

By: /s/ Mark W. Brugger

Name: Mark W. Brugger

Title: President

MARRIOTT HOTEL SERVICES, INC.

By: /s/ M. Lester Pulse, Jr.

Name: M. Lester Pulse, Jr.

Title: Vice President

Serratus LLC

By: /s/

Name:

Title:

EXHIBIT 10.3

==========

AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

OF

SYNTHETIC AMERICAN FUEL ENTERPRISES I, LLC

Dated as of January 28, 2003

==========

TABLE OF CONTENTS

AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT

OF

SYNTHETIC AMERICAN FUEL ENTERPRISES I, LLC

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (this "Agreement") of Synthetic American Fuel Enterprises I, LLC, a Delaware limited liability company (the "Company"), is made and entered into as of January 28, 2003, by and among Synthetic American Fuel Enterprises Holdings, Inc., an Oregon corporation ("Holdings"), Marriott Hotel Services, Inc., a Delaware corporation ("MHSI"), and Serratus LLC a Delaware limited liability company ("Buyer" and collectively with Holdings and MHSI, the "Members")

W I T N E S S E T H :

WHEREAS, the Company was formed by virtue of its Articles of Organization filed with the Secretary of State of the State of Oregon on November 20, 1996, as amended on November 21, 2001 to change the name of the Company from Birmingham SynFuel LLC to Synthetic American Fuel Enterprises I, LLC, and is governed by the Operating Agreement of the Company, effective as of November 20, 1996, between Birmingham Syn Fuel I, Inc. ("BSF I") and Birmingham Syn Fuel II, Inc. ("BSF II"), as amended by the First Amendment to Operating Agreement of the Company between BSF I and BSF II, effective as of October 14, 2001 (collectively, the "Original Operating Agreement");

WHEREAS, the Company converted to a Delaware limited liability company by virtue of its Certificate of Formation and Certificate of Conversion filed with the Secretary of State of the State of Delaware on December 19, 2002;

WHEREAS, the Company owns the synthetic fuel production facility located at the Willow Lake mine near Harrisburg, Illinois;

WHEREAS, Buyer currently owns 0.1% Membership Interest in the Company;

WHEREAS, pursuant to the Agreement for Purchase of Membership Interest among MHSI, Holdings and Buyer dated January 28, 2003 (the "Purchase Agreement"), Holdings has agreed to sell to Buyer effective as of the Closing Date a 48.8% Membership Interest; and

WHEREAS, the parties hereto desire for Buyer to be admitted as a member of the Company and for the Original Operating Agreement to be amended and restated as stated herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to amend, restate and replace the Original Operating Agreement in its entirety and to continue the Company as a limited liability company under the Act upon the following terms and conditions:

ARTICLE I
DEFINITIONS

Section 1.1. Definitions. Unless otherwise defined herein, capitalized terms used throughout this Agreement shall have the respective meanings set forth below:

"Account" shall mean an account of the Company, as designated in writing by the Administrative Member no later than five Business Days prior to the first applicable Monthly Payment Date after the Closing Date, or such other account as the Administrative Member shall designate in writing no later than ten Business Days prior to the next applicable Monthly Payment Date at any time following the Closing Date.

"Accounting Firm" means the Company's primary independent accounting firm, which shall be Deloitte & Touche or such other "Final 4" firm of certified public accountants (i.e., Ernst & Young, KPMG Peat Marwick or PricewaterhouseCoopers) selected by the Administrative Member.

"Administrative Member" has the meaning set forth in Section 8.2 hereof.

"Act" means the Delaware Limited Liability Company Act, Delaware Code Ann. 6, Sections 18-101, et seq. and any successor statute, as the same may be amended from time to time.

"Affiliate" of a specified Person means any Person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, such specified Person. As used in this definition of Affiliate, the term "control" of a specified Person including, with correlative meanings, the terms, "controlled by" and "under common control with," means (a) the ownership, directly or indirectly, of 50 percent or more of the equity interest in a Person or (b) the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise; provided, however, that notwithstanding the foregoing, for purposes of this Agreement, the Company will be deemed not to be an Affiliate of any Member.

"Agreement" has the meaning set forth in the introductory paragraph hereof, as the same may be amended from time to time.

"Anticipated Tax Credits" means, at any point in time, the future Tax Credits reasonably anticipated to result from sales by the Company of solid synthetic fuel produced in the Facility after such time through December 31, 2007.

"Applicable Percentage" means 119 percent.

"Assignment Agreement" means the Assignment of Membership Interest, of even date herewith, by and between Buyer and Holdings.

"Bankruptcy" of a Person means the occurrence of any of the following events: (i) the filing by such Person of a voluntary case or the seeking of relief under any chapter of Title 11 of the United States Bankruptcy Code, as now constituted or hereafter amended (the

"Bankruptcy Code"), (ii) the making by such Person of a general assignment for the benefit of its creditors, (iii) the admission in writing by such Person of its inability to pay its debts as they mature, (iv) the filing by such Person of an application for, or consent to, the appointment of any receiver or a permanent or interim trustee of such Person or of all or any portion of its property, including the appointment or authorization of a trustee, receiver or agent under applicable law or under a contract to take charge of its property for the purposes of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of its creditors, (v) the filing by such Person of a petition seeking a reorganization of its financial affairs or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or statute, (vi) an involuntary case is commenced against such person by the filing of a petition under any chapter of Title 11 of the Bankruptcy Code and within 60 days after the filing thereof either the petition is not dismissed or the order for relief is not stayed or dismissed, (vii) an order, judgment or decree is entered appointing a receiver or a permanent or interim trustee of such Person or of all or any portion of its property, including the entry of an order, judgment or decree appointing or authorizing a trustee, receiver or agent to take charge of the property of such Person for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the creditors of such Person, and such order, judgment or decree shall continue unstayed and in effect for a period of 60 days, or (viii) an order, judgment or decree is entered, without the approval or consent of such Person, approving or authorizing the reorganization, insolvency, readjustment of debt, dissolution or liquidation of such Person under any such law or statute, and such order, judgment or decree shall continue unstayed and in effect for a period of 60 days. The foregoing definition of "Bankruptcy" is intended to replace and shall supersede the definition of "Bankruptcy" set forth in Sections 18-101(1) and 18-304 of the Act.

"Base Note" means the Base Note under the Purchase Agreement.

"Board of Managers" has the meaning set forth in Section 8.4 hereof.

"BTU" means British thermal unit.

"Budget" has the meaning set forth in Section 9.1 hereof.

"Business Day" means any day other than Saturday, Sunday and any day that is a legal holiday or a day on which banking institutions in New York are authorized by law or governmental action to close.

"Buyer" has the meaning set forth in the introductory paragraph hereof.

"Buyer Parent" shall mean _____, a Delaware corporation.

"Buyer Parent Guaranty" means the Guaranty, dated of even date herewith, executed by Buyer Parent in favor of MHSI and the Company.

"Buyer Security Agreement" means the Pledge and Security Agreement, of even date herewith, by Buyer in favor of MHSI and the Company.

"Capital Account" has the meaning set forth in Section 4.3(a) hereof.

"Capital Contribution" means, with respect to any Member, the amount of money and the initial Gross Asset Value of any property contributed to the Company with respect to the Membership Interest in the Company held or purchased by such Member.

"Capital Contribution Schedule" has the meaning set forth in Section 4.1(b) hereof.

"Capital Interest" means 1.1% as to Holdings, 50% as to MHSI and 48.9% as to the Buyer, as adjusted upon any transfer as provided herein.

"Cleared Person" means the Tennessee Valley Authority, Tampa Electric Company, Alabama Power Company and any Person as to which Buyer notifies MHSI (or is deemed to have notified MHSI) is a Cleared Person in the Customer Certificate pursuant to Section 2.5(f) of the Purchase Agreement, such Person to constitute a Cleared Person for purposes hereof as of the date of such Customer Certificate and at all times prior thereto.

"Closing Date" has the meaning set forth in the Purchase Agreement.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Commercial Paper Rate" means, for each day that any payment obligation hereunder is outstanding, the most recent published yield on commercial paper with the shortest quoted period of not fewer than 30 days placed by dealers, as reported for each such day either in the Federal Reserve Rate Report that customarily appears in the Friday issue of The Wall Street Journal (Eastern Edition) under "Money Rates" or, if such report does not so appear, in such other nationally recognized publication or electronic data service as the Members may, from time to time, agree on. On days when such a rate is not reported, the most recently reported rate on a preceding day will be deemed to be the applicable rate.

"Company" has the meaning set forth in the introductory paragraph hereof.

"Confidential Information" has the meaning set forth in Section 12.13 hereof.

"Consultation" or "Consult" means to confer with, and reasonably consider and take into account the reasonable suggestions, comments or opinions of another Person.

"Customer Certificate" has the meaning given to such term in Section 2.5(f) of the Purchase Agreement.

"Default Rate" has the meaning set forth in Section 4.4(a)(ii) hereof.

"Defaulting Member" has the meaning set forth in Section 4.4(a) hereof.

"Depreciation" means for each Fiscal Year or part thereof, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable for United States federal income tax purposes with respect to an asset for such Fiscal Year or part thereof, except that if

the Gross Asset Value of an asset differs from its adjusted basis for United States federal income tax purposes at the beginning of such Fiscal Year, the depreciation, amortization, or other cost recovery deduction for such Fiscal Year or part thereof shall be an amount which bears the same ratio to such Gross Asset Value as the United States federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year or part thereof bears to such adjusted tax basis. If such asset has a zero adjusted tax basis, the depreciation, amortization, or other cost recovery deduction for each taxable year shall be determined under a method reasonably selected by the Administrative Member.

"Encumbrance" means any charge, claim, community property interest, condition, equitable interest, lien, option, pledge, mortgage, security interest, right of first refusal or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

"Environmental Law" means any applicable federal, state, local or other governmental Legal Requirement governing or relating to (a) the environment or natural resources, (b) human health and safety, (c) releases or threatened releases of Hazardous Materials including, without limitation, investigations, monitoring and abatement of such releases, or (d) the manufacture, handling, transport, use, treatment, storage or disposal of Hazardous Materials or materials containing Hazardous Materials.

"Estimated Tax Credits" means, with respect to any period after the Closing Date, the estimated Tax Credits generated during such period as a result of the production of solid synthetic fuel at the Facility and the sale of such synthetic fuel to unrelated persons that are allocable to Buyer in respect of Buyer's ownership of its Membership Interest which estimate shall be made in accordance with the methodology set forth in Schedule 1.1; provided, however, that Excluded Sales will not be taken into account.

"Event of Default" has the meaning set forth in Section 4.4(a) hereof.

"Excluded Sales" means (a) sales of Pre-Sale Inventory, and (b) sales to any MS Related Person that is not a Cleared Person.

"Expected Closing Date" means July 1, 2003.

"Facility" means the Company's synthetic fuel production facility located at the Willow Lake mine near Harrisburg, Illinois.

"Fiscal Year" has the meaning set forth in Section 7.1 hereof.

"Fixed Deferred Payments" means the applicable amount set forth on Schedule 2.4 of the Purchase Agreement.

"GAAP" means United States generally accepted accounting principles as in effect from time to time, consistently applied throughout the specified period.

"Governmental Body" means the federal government of the United States, any state of the United States or political subdivision thereof, and any entity exercising executive,

legislative, judicial, regulatory or administrative functions of or pertaining to government and any other governmental entity, instrumentality, agency, authority, commission or self-regulatory organization.

"Gross Asset Value" means, with respect to any asset, the asset's adjusted tax basis for federal income tax purposes, except as follows:

(a) the initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset as of the date of contribution;

(b) the Gross Asset Values of all Company assets shall be adjusted to equal their respective fair market values as of the following times: (i) the acquisition of an additional Membership Interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution; (ii) the distribution by the Company to a Member of more than a de minimis amount of money or Company property as consideration for a Membership Interest in the Company; and (iii) 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) shall be made only if the Administrative Member reasonably determines, after Consultation with the Members, that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(c) the Gross Asset Value of any item of Company assets distributed to any Member shall be adjusted to equal the gross fair market value of such asset on the date of distribution;

(d) the Gross Asset Values of all Company assets shall be adjusted to reflect any adjustments to the adjusted basis of such assets pursuant to Sections 734(b) or 743(b) of the Code, but only to the extent that such adjustments are required to be taken into account in determining Capital Accounts pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that Gross Asset Values shall not be adjusted pursuant to this subsection (d) to the extent that the Administrative Member determines that an adjustment pursuant to subsection (b) is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (d); and

(e) if the Gross Asset Value of an asset has been determined or adjusted pursuant to subsection (a), (b) or (d) above, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset.

"Hazardous Materials" means any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls ("PCBs") and any other chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous substances," "restricted hazardous wastes," "toxic substances" or "toxic pollutants" under, or are regulated or become regulated as such by Environmental Laws, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section

9601 et seq.); the Hazardous Material Transportation Act, as amended (42 U.S.C. Section 1801 et seq.); the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901 et seq.); the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601); the Clean Air Act, as amended (42 U.S.C. Section 7401 et seq.); the Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1251 et seq.); SMCRA; or in the regulations promulgated pursuant to any of said laws.

"Holdings" has the meaning set forth in the introductory paragraph hereof.

"Independent Chemist" means Paspek Consulting LLC, or such other chemist as may be chosen by the Members of the Company from time to time.

"IRS" means the Internal Revenue Service or any successor agency thereto.

"Legal Requirement" means any law (including common law), statute, act, decree, ordinance, rule, directive (to the extent having the force of law) order, treaty, code or regulation (including any of the foregoing relating to health or safety matters or any Environmental Law) or any interpretation of any of the foregoing, as enacted, issued or promulgated by any Governmental Body, including all amendments, modifications, extensions, replacements or re-enactments thereof.

"Low Volume Period" means any Quarter during which aggregate sales (not counting Excluded Sales) of synthetic fuel produced at the Facility fall below 175,000 tons (for any reason, including, without limitation, a force majeure event).

"Manager" means Synfuel Management, LLC, a Kentucky limited liability company, which is the operator under the O&M Agreement. The Manager is a "manager" of the Company within the meaning of the Act.

"Member" or "Members" means the "Members" (as such term is defined in the introductory paragraph hereof) in their capacity as "members" of the Company within the meaning of the Act, and any other Person that has been admitted as a member of the Company pursuant to the terms hereof.

"Membership Interest" means the limited liability company interest of a Member in the Company, which shall include the Capital Interest set forth in Exhibit A hereto, and a Member's share of the income, gain, credits, deductions and losses of the Company and a Member's rights to receive distributions (in liquidation or otherwise) and allocations under this Agreement, and which interest entitles such Member to receive information and to consent to or approve such actions or omissions of the Company or another Member with respect to which the consent or approval of such Member is permitted or expressly required hereunder or required under the Act, and all other rights and obligations of such Member.

"MHSI" has the meaning set forth in the introductory paragraph hereof.

"MMBTU" means one million BTUs.

"Monthly Capital Contribution" means, with respect to any Member, the monthly Capital Contributions to be made as provided in Section 4.1(b) hereof.

"Monthly Payment Date" means the tenth calendar day after the receipt of Capital Contribution Schedule, or, if such day is not a Business Day, on the next succeeding Business Day.

"Non-Defaulting Members" has the meaning set forth in Section 4.4(a) hereof.

"Notice" has the meaning set forth in Section 12.1 hereof.

"O&M Agreement" means the Operation and Maintenance Agreement, dated as of October 15, 2001, as amended, among the Company, Synthetic American Fuel Enterprises II, LLC and the Operator.

"Operations Report" means that certain report caused to be issued by the Administrative Member pursuant to Section 2.5(b) of the Purchase Agreement.

"Operator" means Synfuel Management, LLC, a Kentucky limited liability company, or any successor thereto.

"Original Operating Agreement" has the meaning set forth in the recitals.

"Permitted Encumbrance" means Encumbrances provided for under the Project Documents and liens for Taxes not yet due and payable.

"Permitted Investments" means (a) domestic or eurodollar time deposits, money market instruments or certificates of deposit with banks rated at least "A" by Standard & Poor's Ratings Services or Moody's Investors Services, Inc.; (b) commercial paper of industrial corporations rated at least "A-1" by Standard & Poor's Ratings Services or "P-1" by Moody's Investors Services, Inc.; (c) direct obligations of, or obligations unconditionally guaranteed by, the United States of America or an agency or instrumentality thereof and backed by the full faith and credit of the United States of America; or (d) mutual funds that invest primarily in the securities described in (a) through (c) above.

"Person" means any corporation, limited liability company, any form of partnership, any joint venture, trust, estate, Governmental Body or other legal or commercial entity or any natural person.

"Pre-Sale Inventory" means the Company's inventory of synthetic fuel held for sale as of the Closing Date.

"Pre-Sale Items" has the meaning set forth in Section 5.1(c) hereof.

"Prime Rate" means, for each day that any payment obligation hereunder is outstanding, the most recent published prime rate, as reported for each such day either in The Wall Street Journal (Eastern Edition) under "Money Rates" or, if such rate does not so appear, in such other nationally recognized publication on which the Members may, from time to time, agree. On days when such a rate is not reported, the most recently reported rate on a preceding day will be deemed to be the applicable rate.

"Private Letter Ruling" means the private letter ruling that the Internal Revenue Service issues in response to the Request.

"Project Documents" means all agreements relating to the Facility or the production and sale of synthetic fuel to which the Company is a party.

"Prudent Operating Standards" means those standards, methods and acts which (a) when engaged in are commonly used in prudent engineering maintenance and operations of synthetic fuel production facilities and associated mechanical and handling facilities and equipment lawfully and with safety, reliability, efficiency and expedition or (b) in the exercise of reasonable judgment considering the facts known when engaged in, could have been expected to achieve the desired result consistent with applicable law, safety, reliability, efficiency and expedition. Prudent Operating Standards are not limited to the optimum practice, method or act, but rather are a spectrum of reasonably possible practices, methods or acts.

"Purchase Agreement" has the meaning set forth in the recitals.

"Purchase Price" has the meaning ascribed to it in the Purchase Agreement.

"Quarter" means the periods corresponding to one fourth of a full Fiscal Year of the Operating Company (which shall be three month periods if such Fiscal Year is based on a 365 day year, and periods of thirteen or fourteen weeks if such Fiscal Year is a 52-53 week year), or the applicable portion of such periods in the case of any short Fiscal Year.

"Quarterly Maximum Production" means not more than 640,000 Tons of synthetic fuel in any Quarter.

"Quarterly Minimum Production" means not less than 312,500 Tons of synthetic fuel in any Quarter.

"Representatives" means, with respect to any Person, the managing member(s), the officers, directors, employees, representatives or agents (including investment bankers, financial advisors, attorneys, accountants, brokers and other advisors) of such Person, to the extent that such officer, director, employee, representative or agent of such Person is acting in his or her capacity as an officer, director, employee, representative or agent of such Person.

"Request" means the request for the Private Letter Ruling submitted to the IRS on behalf of the Company as soon as practicable after the date hereof, as supplemented from time to time thereafter, requesting the rulings described in Section 2.9(b) of the Purchase Agreement.

"Secured Parties" means Buyer and the Company.

"Seller Parent" means Marriott International, Inc., a Delaware corporation.

"Seller Parent Guaranty" means the Guaranty, of even date herewith, made by Seller Parent in favor of Buyer.

"Seller Security Agreement" means the Pledge and Security Agreement, of even date herewith, made by MHSI in favor of Buyer and the Company.

"Sharing Ratio" means (i) for the period from the Closing Date through December 31, 2003, 8.9% for MHSI, 1.1% for Holdings, and 90.0% for Buyer; and (ii) for all other periods, 48.8% for MHSI, 1.1% for Holdings and 50.1% for Buyer; provided, however, that if the Closing Date is not the Expected Closing Date, the Sharing Ratio in clause (i) shall be appropriately adjusted by mutual agreement of Buyer and MHSI; and provided further that if, in any Quarter, the Administrative Member proposes to produce less than 450,000 tons of synthetic fuel, then the Members shall discuss in good faith an appropriate change in the Sharing Ratio for that Quarter.

"SMCRA" shall mean the Surface Mining Control and Reclamation Act of 1977, as amended 30 U.S.C. Sections 1201 et seq., or any federal or state regulations or regulatory programs promulgated pursuant thereto.

"Tax" (and, with correlative meaning, "Taxes" and "Taxable") means:

(i) any federal, state, local or foreign net income, gross income, gross receipts, windfall profit, severance, property, production, sales, use, license, excise, franchise, net worth, employment, payroll withholding, alternative or add-on minimum, ad valorem, transfer, stamp, or environmental tax, or any other tax, custom, duty, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or penalty, addition to tax or additional amount imposed by any Governmental Body; and

(ii) any liability for the payment of amounts with respect to payment of a type described in clause (i), including as a result of being a member of an affiliated, consolidated, combined or unitary group, as a result of succeeding to such liability as a result of merger, conversion or asset transfer or as a result of any obligation under any tax sharing arrangement or tax indemnity agreement.

"Tax Credits" means the tax credits provided by Section 29(a) of the Code with respect to the sale of synthetic fuel produced by the Facility.

"Tax Event" means (i) the issuance of a revenue agent's report or notice of deficiency to the Company that proposes the disallowance of 50 percent or more of the Tax Credits claimed during the period covered by the audit; (ii) the revocation by the IRS of any of the three rulings in the Private Letter Ruling, provided that the revocation is no longer eligible for any formal appeal, review or modification through administrative proceedings; (iii) the enactment (or, if later, 60 days before, the effective date) of legislation that would (A) disallow 50 percent or more of the Anticipated Tax Credits, or (B) reduce the maximum federal corporate income tax rate to 30 percent or less; (iv) the issuance by the IRS of a regulation, notice, or other administrative action with similar effect of law that would disallow 50 percent or more of the Anticipated Tax Credits; or (v) a decision by a federal court that would (if applied to the Company) result in the disallowance of 50% or more of the Anticipated Tax Credits, but only if Buyer submits a written opinion of Chadbourne & Parke LLP or other nationally recognized tax counsel (rendered after consultation in good faith with MHSI's tax counsel) stating that the legal

reasoning in such decision should, if applied to the facts of the Company, have such effect. In addition, if legislation is enacted after January 28, 2003 that causes dividends to be fully or partly excluded from federal income taxes, then a Tax Event shall have occurred, but only if by claiming Tax Credits, a corporation would reduce the amount of dividends for which its shareholders would qualify for the exclusion by at least y% of the Tax Credits claimed. For this purpose, y% = 25% x ((1 - Tax Rate)/Tax Rate).

"Tax Matters Partner" has the meaning set forth in Section 7.7(a) hereof.

"Tax Rate" means the highest marginal federal income tax rate for corporations under Section 11 of the Code expressed as a percentage.

"Tax Return" means any return, report or similar statement required to be filed with respect to any Taxes (including any attached schedules), including any information return, claim for refund, amended return or declaration of estimated Tax.

"Termination Date" has the meaning set forth in Section 2.4 hereof.

"Ton" means two thousand (2,000) pounds.

"Transaction Agreements" means this Agreement, the Purchase Agreement, the Seller Parent Guaranty, the Buyer Parent Guaranty, the Buyer Security Agreement, the Seller Security Agreement and the Assignment Agreement.

"Transfer" has the meaning set forth in Section 10.1 hereof.

"Transfer Notice" has the meaning set forth in Section 10.5 hereof.

"Treasury Regulations" or "Treas. Reg." means the regulations promulgated under the Code, as such regulations are in effect on the date hereof.

"UCC" means the Uniform Commercial Code of any applicable jurisdiction.

"Working Capital Loans" has the meaning given to such term in Section 4.5 hereof.

ARTICLE II
FORMATION; OFFICES; TERM

Section 2.1. Formation and Continuation of the Company. The Company was formed on November 20, 1996, by virtue of the filing of its Articles of Organization with the Secretary of State of the State of Oregon. The Company was converted to a Delaware limited liability company pursuant to the Act by virtue of the filing of a Certificate of Formation and a Certificate of Conversion with the Secretary of State of the State of Delaware on December 19, 2002. The Members hereby acknowledge the continuation of the Company as a limited liability company pursuant to the Act. Jeff B. Stant is hereby designated as an "authorized person" within the meaning of the Act, and has executed, delivered and filed the Certificate of Formation and the

Certificate of Conversion of the Company with the Delaware Secretary of State on December 19, 2002, and such execution, delivery and filing is hereby approved and ratified.

Section 2.2. Name, Office and Registered Agent.

(a) The name of the Company shall be "Synthetic American Fuel Enterprises I, LLC" or such other name or names as may be agreed to by the Members from time to time. The principal office of the Company shall be 10400 Fernwood Rd., Bethesda, MD 20817. The Members may at any time change the location of such office to another location, provided that the Administrative Member gives prompt written notice of any such change to the registered agent of the Company.

(b) The registered office of the Company in the State of Delaware is located at 2711 Centerville Road, Suite 400, Wilmington, Delaware. The registered agent of the Company for service of process at such address is The Prentice Hall Corporation System. The registered office and registered agent may be changed by the Administrative Member at any time in accordance with the Act provided that the Administrative Member gives prompt written notice of any such change to all Members. The registered agent's primary duty as such is to forward to the Company at its principal office and place of business any notice that is served on it as registered agent.

Section 2.3. Purpose. The sole purpose of the Company is to own and operate the Facility, and otherwise to do all things reasonably necessary or advisable in connection therewith, including the procurement of coal feedstock and the sale of synthetic fuel. The Members acknowledge that the primary business objective of the Company is, consistent with good engineering, operating, safety, environmental and commercial practices, to operate the Facility so as to produce and sell coal-based synthetic fuel to unrelated parties. The Company may engage in any kind of activity and perform and carry out contracts of any kind necessary to, or in connection with or convenient or incidental to, the accomplishment of such purpose, so long as such activities and contracts may be lawfully carried on or performed by a limited liability company under the laws of the State of Delaware.

Section 2.4. Term. The term of the Company commenced on November 20, 1996, and shall continue until June 30, 2008, or such earlier date that the Company is dissolved in accordance with the terms hereof or as otherwise provided by law (the "Termination Date").

Section 2.5. Organizational and Fictitious Name Filings; Presentation of Limited Liability. The Administrative Member shall cause the Company to register as a foreign limited liability company and file such fictitious or trade names, statements or certificates in such jurisdictions and offices as necessary or appropriate for the conduct of the Company's operation of its business. The Administrative Member may take any and all other actions as may be reasonably necessary or appropriate to perfect and maintain the status of the Company as a limited liability company or similar type of entity under the laws of Delaware and any other state or jurisdiction other than Delaware in which the Company engages in business and continue the Company as a limited liability company and to protect the limited liability of the Members as contemplated by the Act.

Section 2.6. No Partnership Intended. Other than for purposes of determining the status of the Company under the Code and the applicable Treasury Regulations and under any applicable state, municipal or other income tax law or regulation, the Members intend that the Company not be a partnership, limited partnership or joint venture and this Agreement shall not be construed to suggest otherwise.

ARTICLE III
RIGHTS AND OBLIGATIONS OF THE MEMBERS

Section 3.1. Members; Membership Interest. Buyer acquired a 0.1% Membership Interest in the Company and was admitted as a Member on January 3, 2003. Pursuant to the Purchase Agreement and related Assignment Agreement, Buyer acquired a 48.8% Membership Interest in the Company from Holdings on the Closing Date. Notwithstanding any other provisions of this Agreement, the parties hereto ratify and approve the transfer of the 48.9% Membership Interest. Holdings, MHSI and Buyer hereby continue as Members. The Company shall have as Members only those other Persons as may be properly admitted as a Member pursuant to the terms hereof in addition to or as assignees of the Members. The name, address, initial Capital Account balance, and the Capital Interest of each Member shall be as shown on Exhibit A attached hereto and the Administrative Member, without the consent of any other person, is hereby authorized to, and shall update Exhibit A from time to time as necessary to reflect accurately the information therein. Any reference in this Agreement to Exhibit A shall be deemed to be a reference to Exhibit A as amended and in effect from time to time. If a Member transfers all of its Membership Interest to another Person pursuant to and in accordance with the terms hereof, the transferor shall automatically cease to be a Member.

Section 3.2. Meetings.

(a) Except as otherwise permitted by this Agreement, all actions of the Members shall be taken at meetings of the Members which may be called by any Member for any reason and shall be called by the Administrative Member within ten days following the written request of a Member. The Members may conduct any Company business at such meeting that is permitted under the Act or this Agreement. Meetings shall be at a reasonable time and place. Accurate minutes of any meeting shall be taken and filed with the minute books of the Company.

(b) With respect to meetings of the Members, the presence in person or by proxy of Members owning 60 percent of the aggregate Membership Interests entitled to vote at such meeting shall constitute a quorum for purposes of transacting business at any meeting of the Members. With respect to those matters required or permitted to be voted upon by the Members, the affirmative vote of Members owning 60 percent of the Membership Interests shall be required to approve any such matter, in addition to any other approval required by this Agreement or the Act. Solely for purposes of any vote by the Members hereunder (including Section 8.3 hereof), Buyer shall be deemed to hold 50% of the Membership Interests and MHSI and Holdings shall together be deemed to hold 50% of the Membership Interests. Members may participate in a meeting of the Members by means of conference telephone or similar communications equipment so that all persons participating in the meeting can hear each other or

by any other means permitted by law. Such participation shall constitute presence in person at such meeting.

(c) Written notice stating the place, day and hour of the meeting of the Members, and the purpose or purposes for which the meeting is called, shall be delivered either personally, via facsimile or by mail, by or at the written direction of the Administrative Member, to each Member of record entitled to vote at such meeting not less than five Business Days nor more than 30 days prior to the meeting. Notwithstanding the foregoing, meetings of the Members may be held without notice so long as all the Members are present in person or by proxy.

(d) Any action may be taken by the Members without a meeting if such action is authorized or approved by the written consent of all Members. In no instance where action is authorized by written consent need a meeting of Members be called or noticed; however, a copy of the action taken by written consent must be sent promptly to all Members and all actions by written consent shall be filed with the minute books of the Company. Following each meeting, the minutes of the meeting shall be sent to each Member.

Section 3.3. Management Rights. Except as otherwise provided herein, and for the avoidance of doubt, no Member shall have any right, power or authority to take part in the management or control of the business of, or transact any business for, the Company, to sign for or on behalf of the Company or to bind the Company in any manner whatsoever. The Manager shall not hold out or represent to any third party that any Member has any such power or right or that any Member is anything other than a member in the Company. A Member shall not be deemed to be participating in the control of the business of the Company by virtue of its possessing or exercising any rights set forth in this Agreement or the Act or any other agreement relating to the Company.

Section 3.4. Other Activities. Notwithstanding any duty otherwise existing at law or in equity, any Member or Manager may engage in or possess an interest in other business ventures of every nature and description, independently or with others, even if such activities compete directly with the business of the Company, and neither the Company nor any of the Members shall have any rights by virtue of this Agreement in and to such independent ventures or the profits derived from them.

Section 3.5. No Right to Withdraw. Except as otherwise provided in Article X of this Agreement, no Member shall have any right to voluntarily resign or otherwise withdraw from the Company without the prior written consent of all remaining Members of the Company, in their sole and absolute discretion.

Section 3.6. Limitation of Liability of Members. Each Member's liability shall be limited as set forth in the Act and other applicable law. Except as otherwise required by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and the Members of the Company shall not be obligated personally for any of such debts, obligations or liabilities solely by reason of being a Member of the Company. In no event shall any Member or Manager be liable under this Agreement to another Member for any lost profits of, or any consequential,

punitive, special or incidental damages incurred by, such Member arising from a breach of this Agreement, provided that this shall in no way limit any such liability of a Member or the Manager to another Member under any other Transaction Agreement.

Section 3.7. Deficit Upon Liquidation. Except to the extent otherwise provided by law with respect to third-party creditors of the Company, upon liquidation, none of the Members shall be liable to the Company for any deficit in its Capital Account, nor shall such deficits be deemed assets of the Company.

Section 3.8. Company Property; Membership Interests. All property owned by the Company, whether real or personal, tangible or intangible and wherever located, shall be deemed to be owned by the Company and no Member, individually, shall have any ownership of such property. The Membership Interests shall constitute personal property.

Section 3.9. Retirement, Resignation, Expulsion, Incompetency, Bankruptcy or Dissolution of a Member. The retirement, resignation, expulsion, Bankruptcy or dissolution of a Member shall not, in and of itself, dissolve the Company. The successors in interest to the bankrupt Member shall, for the purpose of settling the estate, have all of the rights of such Member, including the same rights and subject to the same limitations that such Member would have had under the provisions of this Agreement to Transfer its Membership Interest. A successor in interest to a Member shall not become a substituted Member except as provided in this Agreement. Notwithstanding the foregoing, any purchaser of Buyer's or Holdings' Membership Interest in accordance with the exercise by MHSI or the Company of the terms of the Buyer Security Agreement and the applicable provisions of the UCC and any purchaser of MHSI's Membership Interest in accordance with the exercise by Buyer or the Company of the terms of the Seller Security Agreement shall, upon execution of a counterpart to this Agreement become a Member with respect to the transferred Membership Interest.

Section 3.10. Exercise Under the Security Agreements. The Members acknowledge that Buyer has granted a security interest in its Membership Interest pursuant to the Buyer Security Agreement. Upon the election by either of the Secured Parties (as defined in the Buyer Security Agreement) to hold the Collateral in accordance with Section 3(f) of the Buyer Security Agreement, notwithstanding Article X of this Agreement, MHSI will thereupon be automatically admitted to the Company as a Member with respect to Buyer's Membership Interest hereunder, and concurrently, Buyer will cease to be a Member. In such event, or if Buyer's Membership Interest is sold to a purchaser in accordance with the exercise by the Secured Parties of their rights under the Buyer Security Agreement, all of Buyer's obligations to make Fixed and Variable Deferred Payments under the Purchase Agreement, payments under the Base Note and Monthly Capital Contributions under this Agreement (and Buyer Parents' obligations under the Buyer Parent Guarantee) will cease (except for those obligations and liabilities accrued through such date or relating to any taxable year or portion thereof prior to such date), and MHSI shall have all of the rights of Buyer as a member hereunder. The Members further acknowledge that MHSI has granted a security interest in its Membership Interest pursuant to the Seller Security Agreement. Upon election by either of the Secured Parties (as defined in the Seller Security Agreement) to hold the Collateral in accordance with Section 3(f) of the Seller Security Agreement, notwithstanding Article X of this Agreement, Buyer will automatically succeed to all or the applicable portion of MHSI's Membership Interest hereunder.

ARTICLE IV
CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS

Section 4.1. Capital Contributions.

(a) The Members acknowledge and agree that the Capital Account balances of each Member are estimated as of the Closing Date to be as reflected on Exhibit A hereto.

(b) Subject to Sections 4.1(d), (f) and (g) hereof, the Members acknowledge and agree that the continuing operation of the Facility will require regular Monthly Capital Contributions. Capital Contributions will be made monthly in arrears. The Administrative Member shall submit to each Member, no later than the tenth day after the end of each month, a written schedule in the form attached as Exhibit E hereto (the "Capital Contribution Schedule") setting forth the Monthly Capital Contributions for each Member equal to their pro rata shares (based on the applicable Sharing Ratios during the relevant calculation period) of the amount required to pay down to zero the aggregate outstanding balances of the Working Capital Loans.

(c) Subject to Sections 4.1(d), (f) and (g) hereof, on or before the Monthly Payment Date, each Member shall contribute to the capital of the Company an amount in immediately available funds equal to such Member's Monthly Capital Contribution as set forth in the Capital Contribution Schedule pursuant to Section 4.1(b) hereof.

(d) Notwithstanding any other provision in this Agreement to the contrary, in no event will the amount of the Monthly Capital Contribution required to be made hereunder by Buyer for any month be greater than the excess of the Applicable Percentage of the Estimated Tax Credits with respect to such month over the aggregate of the payments under the Base Notes and the Fixed Deferred Payments accrued with respect to such month. For any month for which Buyer's Monthly Capital Contributions is limited by this Section 4.1(d), the Monthly Capital Contributions of the other Members for such month shall be reduced so that all Members make Capital Contributions in the same ratio as the Sharing Ratios and, in such event, MHSI's obligation to make Working Capital Loans shall increase with respect to such month to the extent of the amount of any such reduction in the Members' Monthly Capital Contributions with respect to such month.

(e) If Buyer reasonably disputes the Administrative Member's calculations set forth in the Capital Contribution Schedule, Buyer shall so notify the Administrative Member on or before the Monthly Payment Date, and, in such event, Buyer and the Administrative Member shall consider the issues raised or in dispute and discuss such issues with each other and attempt to reach a mutually satisfactory agreement. Buyer shall pay, on or before the Monthly Payment Date, any undisputed portion of the amount then due, and any amount in dispute may be withheld pending resolution of the dispute; it being understood that such sums as are withheld by Buyer in accordance with this Section 4.1(e) shall not give rise to any of the Company's rights under Section 4.4(a) or (c) hereof or the Security Agreement unless (i) such dispute is resolved in the Administrative Member's favor and (ii) Buyer fails to pay such disputed amount (together with interest at the Commercial Paper Rate) within the time period specified below. If the dispute is not resolved within ten Business Days of such notification, Buyer and the Administrative Member shall each present their interpretations to the Accounting Firm, and shall

instruct the Accounting Firm to calculate the correct amounts to be reflected on the Capital Contribution Schedule and to resolve the dispute promptly, but in no event more than 30 calendar days after having the dispute submitted to it. The Accounting Firm will make a determination as to each of the items in dispute, which must be (i) in writing, (ii) furnished to each of Administrative Member and Buyer and (iii) made in accordance with this Agreement, and which determination, absent manifest error, will be conclusive and binding on Administrative Member and Buyer and, to the fullest extent permitted by law, may be enforced in the courts specified in Section 12.12 hereof. In the event the Accounting Firm determines that any of the calculations in dispute in the Capital Contribution Schedule was incorrect, the fees and expenses of the Accounting Firm shall be borne by the Company, and in all other cases the fees and expenses of the Accounting Firm shall be borne by Buyer. Each of the Administrative Member and Buyer shall use reasonable efforts to cause the Accounting Firm to render its decision as soon as reasonably practicable, including by promptly complying with all reasonable requests by the Accounting Firm for information, books, records and similar items. Upon receipt by Buyer of the Accounting Firm's written determination of the resolution of any such dispute in Administrative Member's favor, Buyer shall pay all or any portion of the amounts in dispute in accordance with such resolution plus interest at the Commercial Paper Rate on the amounts in dispute from the date such amounts were due until the date of payment thereof, such payment date being in any event no later than ten Business Days from the receipt of such written determination. Upon the resolution of any such dispute in Buyer's favor, the amount in dispute shall not be considered due and owing and the Company and the Administrative Member shall have no rights whatsoever with respect to such amount under Section 4.4(a) or (c) hereof or the Buyer Security Agreement.

(f) In no event will Buyer be responsible for funding any Capital Contributions to cover costs that are allocated solely to MHSI under Section 5.1(c). To the extent required after the Closing Date, MHSI shall make any Capital Contributions necessary to be made after the Closing Date to cover such costs.

(g) Except as provided in this Section 4.1 and Section 4.4(b), no other Capital Contributions or Monthly Capital Contributions shall be required or permitted from the Members unless all of the Members consent thereto in writing.

(h) For any given Quarter, in the event that during the immediately preceding Quarter the Company failed to sell at least 175,000 Tons of synthetic fuel (for any reason, including without limitation, a force majeure event) and the Manager has not provided assurances reasonably satisfactory to Buyer that the Company is capable of selling in excess of 175,000 Tons of synthetic fuel during such given Quarter, Buyer may give the Administrative Member notice of its election to waive financial participation in the Company for such Quarter. As to any Quarter for which Buyer makes such election, Buyer will have no obligation to make any Capital Contributions for such Quarter or a Variable Deferred Payment (as defined in the Purchase Agreement) for such Quarter, and Buyer's allocable share of all distributions and allocations of items of Company income, gain, credits (including Tax Credits), deductions and losses for such Quarter will be allocated to MHSI, and MHSI will make Capital Contributions equal to 100 percent of the amount required to pay down to zero the aggregate outstanding balances, if any, of the Working Capital Loans for such Quarter.

Section 4.2. Written Requests. Each Capital Contribution Schedule issued pursuant to Section 4.1 shall have attached the most recent Operations Report and contain the following information:

(a) The aggregate outstanding balance of Working Capital Loans;

(b) The total amount of Monthly Capital Contributions requested from all Members;

(c) The amount of the Monthly Capital Contribution requested from the Member to whom the request is addressed, in accordance with Section 4.1;

(d) Good faith estimates of the previous month's sales, production and Tax Credits resulting from sales; and

(e) A calculation of the limitation described in Section 4.1(d).

Section 4.3. Capital Accounts.

(a) There shall be established and maintained throughout the full term of the Company in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv) for each Member, a capital account (a "Capital Account") which shall be credited with (i) such Member's Capital Contributions, (ii) allocations of book income and gain to such Member pursuant to Article V and (iii) the amount of any Company liabilities assumed by such Member or which are secured by any property distributed by the Company to such Member. Each Member's Capital Account shall be debited with (i) the amount of cash and the Gross Asset Value of other property distributed to such Member, (ii) allocations of book deductions and losses to such Member pursuant to Article V and (iii) the amount of any liabilities of such Member assumed by the Company or which are secured by any property contributed by such Member to the Company. Within 60 days after the Closing Date, the parties will complete Exhibit A, which shall set forth the initial balance of each Member in its Capital Account.

(b) If 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 Membership Interest so Transferred.

(c) The provisions of this Agreement relating to maintenance of Capital Accounts are intended to comply with Treasury Regulation Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Treasury Regulation.

Section 4.4. Defaulted Capital Contributions.

(a) Subject to Section 4.1(d) hereof, if a Member shall fail to pay its required portion of any Monthly Capital Contributions when due (a "Defaulting Member") and such failure to pay continues for 20 days after receipt of written notice of such failure from the Administrative Member or another Member (the "Non-Defaulting Members"), such failure to pay shall constitute an event of default (an "Event of Default"). For so long as the Defaulting Member shall have failed to pay its portion of the Monthly Capital Contributions as and when

required pursuant to Section 4.1 hereof, the Defaulting Member's right to vote on matters put before the Members shall be suspended. In addition and without limiting the rights and remedies available to the Company at law or in equity, the Non-Defaulting Members shall have the right, upon the occurrence and during the continuation of an Event of Default, on behalf of the Company to exercise one or more of the following remedies unless such Non-Defaulting Members shall have paid the defaulted Monthly Capital Contribution pursuant hereto:

(i) for so long as the Defaulting Member shall have failed to pay its portion of the Monthly Capital Contributions as and when required under this Article IV, to cause the Company to withhold any distributions otherwise payable to such Defaulting Member and to use such amounts to offset the amounts due in respect of the defaulted Monthly Capital Contribution obligation; and

(ii) to sue for the amount due (taking into account amounts received under clause (i) above), in which case the Company shall be entitled to collect reasonable attorneys' fees and all other costs of collection, plus interest on any unpaid Monthly Capital Contributions (taking into account amounts received under clause (i) above) at a rate (the "Default Rate") equal to the lesser of the Prime Rate plus two percent per annum compounded monthly, or the maximum rate of interest allowed by applicable law, from the date on which the Monthly Capital Contribution was first due until such unpaid amount is paid to the Company.

For all purposes hereof, distributions applied pursuant to Section 4.4(a)(i) shall be deemed to have been distributed to the Defaulting Member and then paid by the Defaulting Member to the Company.

(b) Upon the occurrence and during the continuation of an Event of Default by a Defaulting Member in making Monthly Capital Contributions, the Non-Defaulting Members may make Monthly Capital Contributions to the Company in the amount of the defaulted Monthly Capital Contributions and thereupon all distributions and allocations of items of Company income, gain, credits, deductions and losses allocable to the Defaulting Member for the period as to which the defaulted Capital Contribution relates will be made to the Non-Defaulting Members.

(c) In addition to the remedies in Section 4.4(a) and (b), where the Defaulting Member is Buyer or where Buyer or Buyer Parent fails to pay any portion of the purchase price for Buyer's Membership Interest that is due and payable under the Purchase Agreement, so long as the Secured Parties have not elected to hold the Collateral in accordance with Section 3(f) of the Buyer Security Agreement, MHSI shall have the option, on behalf of the Company, exercisable by delivery of written notice thereof to Defaulting Member within 180 days following Buyer's receipt of the written notice of default, so long as such default is continuing at such time, to cause the Membership Interest of the Defaulting Member to be redeemed by the Company. If MHSI exercises such option (i) Buyer shall reconvey and transfer to the Company all right, title and interest in and to the Membership Interest, free and clear of all Encumbrances other than the obligations and liabilities under Transaction Agreements with respect thereto; (ii) Buyer shall be deemed to have made the written representations set forth on Exhibit D attached hereto to the Company; (iii) Buyer shall take all such further actions and execute, acknowledge and deliver all such further documents that are necessary or useful to effectuate the transfer of

the Membership Interest contemplated by this Section 4.4(c); (iv) the Company shall effectuate such redemption; (v) all obligations and liabilities associated with the Membership Interest will terminate except those obligations and liabilities accrued through the date of termination; (vi) Buyer will have no further rights as a member of the Company; (vii) this Agreement shall be amended to reflect Buyer's resignation as a member of the Company; and (viii) Buyer shall have no further obligation thereafter to make any contributions to the capital of the Company or any further payments of the Purchase Price under the Purchase Agreement, except those obligations and liabilities accrued through the date of termination. Relief from the obligation of Buyer to make such payments will be deemed sufficient consideration for the reconveyance and transfer of the Membership Interest to the Company.

(d) If the Membership Interest held by Buyer is redeemed or transferred to MHSI pursuant to Section 6.1 of the Purchase Agreement, or the action with respect to "the Collateral" referred to in Section 3.10 hereof is taken, then Buyer shall have no further obligation to make any Capital Contributions to the Company, except for those obligations and liabilities accrued through the date of such redemption.

Section 4.5. Working Capital Loans. During each month during the term hereof, to the extent that working capital on-hand and Monthly Capital Contributions made by the Members are not sufficient to cover the operating costs and working capital needs of the Company, MHSI will advance to the Company, when and as needed, funds sufficient to cover the operating costs and working capital needs of the Company but not in excess of $12,500,000 outstanding at any time ("Working Capital Loans"). Working Capital Loans will not bear interest and will be repaid on an ongoing basis out of Monthly Capital Contributions, available cash flow and sale or refinancing proceeds, as reasonably determined by the Administrative Member from time to time, and any remaining amounts owing shall become finally due and payable at the earlier of March 1, 2008, or the dissolution of the Company.

Section 4.6. No Third Party Beneficiary. To the full extent permitted by law, no creditor or other third party having dealings with the Company shall have the right to enforce the right or obligation of any Member to make Capital Contributions or loans or to pursue any other right or remedy hereunder or at law or in equity, it being understood and agreed that the provisions of this Agreement shall be solely for the benefit of, and may be enforced solely by, the parties hereto and their respective successors and permitted assigns. None of the rights or obligations of the Members herein set forth to make Capital Contributions or loans to the Company shall be deemed an asset of the Company for any purpose by any creditor (other than MHSI) or other third party, nor may such rights or obligations be sold, transferred or assigned by the Company or pledged or encumbered by the Company to secure any debt or other obligation of the Company or of any of the Members. In addition, it is the intent of the parties hereto that no distribution to any Member shall be deemed a return of money or other property in violation of the Act. The payment of such money or distribution of such property shall be deemed to be a compromise within the meaning of the Act and, to the full extent permitted by law, any Member receiving the payment of any such money or distribution of any such property shall not be required to return any such money or property to any Person, the Company or any creditor of the Company. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Member is obligated to return such money or property, such obligation shall be the obligation of such Member and not of the other Members. Without

limiting the generality of the foregoing, a deficit Capital Account of a Member shall not be deemed to be a liability of such Member nor an asset or property of the Company.

Section 4.7. No Deficit Capital Account Restoration. No Member shall have any obligation to restore any negative balance in its Capital Account upon the occurrence of the reconveyance of Buyer's Membership Interest pursuant to Section 4.4(c) hereof and/or the Purchase Agreement or upon dissolution, winding-up or termination of the Company.

ARTICLE V
ALLOCATIONS

Section 5.1. Allocations.

(a) Except as set forth in Sections 5.1(b) and 5.1(c), for purposes of maintaining capital accounts, after giving effect to the special allocations set forth in Section 5.2, for each Fiscal Year or shorter period: (i) all items of Company income (including, without limitation, gross income and receipts from the sale of synthetic fuel) shall be allocated among the Members in accordance with their Sharing Ratios; (ii) all items of Company deduction or expense shall be allocated among the Members in accordance with their Sharing Ratios; and (iii) all Depreciation and items of gain or loss from sales of assets of the Company (other than synthetic fuel) shall be allocated among the Members in accordance with their Capital Interests; provided, however, that items of Company deduction or loss shall not be allocated to a Member to the extent that such allocation would cause a deficit in such Member's Capital Account (after reduction to reflect the items described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6)) to exceed the amount such Member is obligated to contribute to the capital of the Company. Any deduction or loss in excess of that limitation shall be allocated to the other Members provided that any such deduction or loss shall, to the extent permissible, reduce subsequent allocations of deductions or losses to those Members and increase deductions or losses to the Member for whom deductions or losses were limited.

(b) To the extent any Capital Contribution is made by a Non-Defaulting Members pursuant to Section 4.4(b), all items of Company income, gain, credits, deductions and losses otherwise allocable to the Defaulting Member for the period to which such Capital Contribution relates will be allocated to such Non-Defaulting Members.

(c) All items of income, gain, credit, deduction and loss relating to the production or sale of synthetic fuel sold in Excluded Sales or to current receivables or current liabilities existing as of the Closing Date shall be allocated to MHSI; provided, however, that prepaid amounts, binder and other raw materials and operating or production supplies existing as of the Closing Date (the "Pre-Sale Items") shall not be covered by the preceding clause but shall be treated as operating or production costs after the Closing Date and borne by all Members. Sales of such synthetic fuel after the Closing Date will be considered made out of Pre-Sale Inventory until such inventory has been exhausted.

Section 5.2. Special Allocations. Any allocation pursuant to Section 5.1 will be subject to any adjustment required to comply with Treasury Regulation Section 1.704-1(b), including any qualified income offset within the meaning of Treasury Regulation Section 1.704-1(b)(2)(ii)(d)

and any minimum gain chargeback or partner nonrecourse debt minimum gain chargeback within the meaning of Treasury Regulation Section 1.704-2. Any nonrecourse deductions shall be allocated to the Members in proportion to their respective Capital Interests, and any partner nonrecourse deductions (within the meaning of Treasury Regulation Section 1.704-2(i)) shall be allocated to the Member that bears the economic risk of loss with respect to the debt to which such deductions are allocable. For the avoidance of doubt, partner nonrecourse deductions shall not exist to the extent the Members are obligated to make Capital Contributions to the Company. Any special allocations of items pursuant to this Section 5.2 shall be taken into account, to the extent permitted by the Treasury Regulations, in computing subsequent allocations of income, gain, deductions or losses pursuant to Section 5.1 so that the net amount of any items so allocated and all other items allocated to each Member shall, to the extent possible, be equal to the amount that would have been allocated to each Member pursuant to Section 5.1 had such special allocations under this Section 5.2 not occurred.

Section 5.3. Tax Allocations. (a) All allocations of tax items of Company income (including, without limitation, gross income and receipts from the sale of synthetic fuel), gain, deductions and losses for each Fiscal Year shall be allocated in the same proportions as the allocations of book items of Company income (including, without limitation, gross income and receipts from the sale of synthetic fuel), gain, deductions and losses were made for such Fiscal Year pursuant to Sections 5.1 and 5.2 hereof. Tax Credits shall be allocated to the Members the same ratio as receipts from the sale of synthetic fuel are shared as provided in Treasury Regulations Section 1.704-1(b)(4)(ii).

(b) Notwithstanding Section 5.3(a), if, as a result of contributions of property by a Member to the Company or an adjustment to the Gross Asset Value of Company assets pursuant to this Agreement, there exists a variation between the adjusted basis of an item of Company property for federal income tax purposes and as determined under the definition of Gross Asset Value, allocations of income, gain, loss, and deduction shall, solely for tax purposes, be allocated among the Members so as to take into account any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Gross Asset Value (computed in accordance with the definition of Gross Asset Value) using the traditional method pursuant to Treasury Regulations Section 1.704-3.

(c) Allocations pursuant to this Section 5.3 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of income, gain, deductions or losses or distributions pursuant to any provision of this Agreement.

(d) To the extent that an adjustment to the adjusted tax basis of any Company asset is made pursuant to section 743(b) of the Code as the result of a purchase of an interest in the Company any adjustment to the depreciation, amortization, gain or loss resulting from such adjustment shall affect the transferee only and shall not affect the Capital Account of the transferor or transferee. In such case, the transferee agrees to provide to the Company (i) the allocation of any step-up or step-down in basis to the Company's assets and (ii) the depreciation or amortization method for any step-up in basis to the Company's assets.

Section 5.4. Transfer or Change in Company Interest. If the respective Membership Interests or Sharing Ratios of the existing Members in the Company change or if a Membership Interest is Transferred in compliance with this Agreement to any other Person (including the Transfer by Holdings to Buyer at Closing), then, for the Fiscal Year in which the change or Transfer occurs, all income, gains, losses, deductions, Tax Credits and other tax incidents resulting from the operations of the Company shall be allocated, as between the Members for the Fiscal Year in which the change occurs or between the transferor and transferee, by taking into account their varying interests using the closing of the books method in accordance with Section 706 of the Code, unless otherwise agreed by all the Members.

ARTICLE VI
DISTRIBUTIONS

Section 6.1. Distributions. (a) Except as provided in Sections 4.4(a)(i), 4.4(b), 4.4(c), 6.1(b) and 11.2, distributions to the Members shall be made pro rata to the Members according to the Sharing Ratios. Distributions, if any, may be made from time to time in such amounts and at such times as the Administrative Member shall propose, as consented to by the Members in accordance with Section 8.3(a). There shall be no distributions of the assets of the Company in kind without the prior written consent of all of the Members.

(b) Notwithstanding Section 6.1(a), all Company revenues resulting from Excluded Sales and receipt of accounts receivable accrued as of the Closing Date net of (i) all accounts payable and expenses accrued on or before the Closing Date (other than amounts treated as post-Closing operating or production costs pursuant to the proviso in Section 5.1(c)) and (ii) any costs (including any applicable Taxes) with respect to the sale of any Pre-Sale Inventory, shall be distributed to MHSI.

Section 6.2. Withdrawal of Capital. No Member shall have the right to withdraw capital from the Company or to receive or demand distributions or return of its Capital Contributions until the Company is dissolved in accordance with this Agreement and applicable provisions of the Act. No Member shall be entitled to demand or receive any interest on its Capital Contributions.

Section 6.3. Withholding Taxes. If the Company is required to withhold taxes with respect to any allocation or distribution to any Member pursuant to any applicable federal, state, local or foreign tax laws, the Company may, after first notifying the Member and permitting the Member, if legally permitted, to contest the applicability of such taxes, withhold such amounts and make such payments to taxing authorities as are necessary to ensure compliance with such tax laws. Any funds withheld by reason of this Section 6.3 shall nonetheless be deemed distributed to the Member in question for all purposes under this Agreement. If the Company did not withhold from actual distributions any amounts it was required to withhold, the Company may, at its option, (i) require the Member to which the withholding was credited to reimburse the Company for such withholding; or (ii) reduce any subsequent distributions by the amount of such withholding. This obligation of a Member to reimburse the Company for taxes that were required to be withheld shall continue after such Member transfers or liquidates its Membership Interest in the Company. Each Member agrees to furnish the Company with any representations

and forms as shall reasonably be requested by the Company to assist it in determining the extent of, and in fulfilling, any withholding obligations it may have.

Section 6.4. Limitation upon Distributions. The provisions of this Agreement, including the foregoing provisions of this Article VI to the contrary notwithstanding, no distribution shall be made: (a) if such distribution would violate any contract or agreement to which the Company is then a party (including without limitation the Project Documents) or any Legal Requirement then applicable to the Company, (b) to the extent that the Administrative Member determines (and the Members consent thereto in accordance with Section 8.3(a)) that any amount otherwise distributable should be retained by the Company to pay, or to establish a reserve for the payment of, any liability or obligation of the Company, whether liquidated, fixed, contingent or otherwise, or to hedge an existing investment, or (c) to the extent that the Administrative Member determines (and the Members consent thereto in accordance with Section 8.3(a)) that the cash available to the Company is insufficient to permit such distribution.

ARTICLE VII
ACCOUNTING AND RECORDS

Section 7.1. Fiscal Year. The fiscal year of the Company (the "Fiscal Year") shall be the same as the taxable year of the Company. The taxable year of the Company will be a year that ends on November 30, or such other year as may be required by applicable federal income tax law.

Section 7.2. Books and Records and Inspection.

(a) The Administrative Member shall keep, or cause to be kept by the Company, full and accurate books of account, financial records and supporting documents, which shall reflect, completely, accurately and in reasonable detail, each transaction of the Company and such other matters as are usually entered into the records or maintained by Persons engaged in a business of like character or as are required by law, and all other documents and writings of the Company. The books of account, financial records, and supporting documents and the other documents and writings of the Company shall be kept and maintained at the principal office of the Company. The financial records and reports of the Company shall be kept in accordance with GAAP and kept on an accrual basis.

(b) In addition to and without limiting the generality of Section 7.2(a), the Administrative Member shall keep, or cause to be kept by the Company, at its principal office:

(i) true and full information regarding the status of the business financial condition of the Company, including any financial statements for the three most recent years;

(ii) promptly after becoming available, a copy of the Company's federal, state, and local income tax returns for each year;

(iii) a current list of the name and last known business, residence or mailing address of each Member and the Manager;

(iv) a copy of this Agreement and the Company's Certificate of Formation, and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which this Agreement and such Certificate of Formation and all amendments thereto have been executed;

(v) true and full information regarding the amount of cash and a description and statement of the agreed value of any other property and services contributed by each Member and which each Member has agreed to contribute in the future, and the date upon which each became a Member; and

(vi) copies of records that would enable a Member to determine the Member's relative shares of the Company's distributions and the Member's relative voting rights.

(vii) all records related to the production and sale of coal-based synthetic fuel and the qualification of such fuel for Tax Credits pursuant to Section 29 of the Code, applicable Treasury Regulations, Revenue Procedures and any other pronouncements by the IRS, whether currently existing or promulgated in the future.

(c) All books and records of the Company shall be open to inspection and copying by any of the Members or their Representatives during business hours and at such Member's expense, for any purpose reasonably related to such Member's interest in the Company.

Section 7.3. Bank Accounts, Notes and Drafts.

(a) All funds not required for the immediate needs of the Company shall be placed in Permitted Investments, which investments shall have a maturity appropriate for the anticipated cash flows needs of the Company. All Company funds shall be deposited and held in accounts which are separate from all other accounts maintained by the Administrative Member and the Members, and the Company's funds shall not be commingled with any other funds of any other Person, including, without limitation, any Manager, any Member or any Affiliate (other than the Company itself) of a Manager or a Member.

(b) The Members acknowledge that the Administrative Member may maintain Company funds in accounts, money market funds, certificates of deposit, other liquid assets in excess of the insurance provided by the Federal Deposit Insurance Corporation, or other depository insurance institutions and that the Administrative Member shall not be accountable or liable for any loss of such funds resulting from failure or insolvency of the depository institution.

(c) Checks, notes, drafts and other orders for the payment of money shall be signed by such persons as the Administrative Member from time to time may authorize. When the Administrative Member so authorizes, the signature of any such person may be a facsimile.

Section 7.4. Financial Statements.

(a) As soon as possible after the Closing Date, MHSI and Buyer shall meet to determine the procedures to be used by the Accounting Firm in order to issue an agreed upon

procedures letter in accordance with Section 7.4(c) hereof, and MHSI shall promptly communicate such procedures to the Accounting Firm.

(b) As soon as practical after the end of each Quarter, but in no event more than 30 days after the end of any such Quarter, the Administrative Member shall furnish to each Member (i) unaudited tax-basis financial statements with respect to such Quarter of the Company, consisting of (A) a balance sheet showing the Company's financial position as of the end of such Quarter, (B) profit and loss statements for such Quarter, (C) a statement of cash flows for such Quarter, certified by a responsible officer of the Administrative Member as true complete and correct in all material respects and (ii) a summary of the number of Tons and the BTU content of the synthetic fuel produced and sold by the Company to unrelated persons during such Quarter.

(c) Within 90 days after the end of each Fiscal Year, the Administrative Member shall furnish to each Member (i) tax-basis financial statements with respect to such Fiscal Year that are audited and certified by the Accounting Firm, (ii) a statement of each Member's closing Capital Account balance as of the end of such Fiscal Year, (iii) a statement of the number of Tons and the BTU content of the synthetic fuel produced and sold by the Company to unrelated Persons during each Quarter during the Fiscal Year as well as a procedures letter from the Accounting Firm stating that the determination was made in accordance with agreed upon practices and procedures. The audited financial statements must include (A) a balance sheet showing the Company's financial position as of the end of such Fiscal Year, (B) profit and loss statements for such Fiscal Year and (C) a statement of cash flows for such Fiscal Year.

Section 7.5. Partnership Status and Tax Elections.

(a) It is the intent of the Members that the Company be taxed as a partnership for United States federal, state and local income tax purposes. The Members hereby agree not to elect to be excluded from the application of Subchapter K of Chapter 1 of Subtitle A of the Code or any similar state statute and agree not to elect for the Company to be treated as a corporation, or an association taxable as a corporation, under the Code or any similar state statute.

(b) The Company shall make the following elections and take the following positions under United States income tax laws and regulations and any similar state statutes:

(i) Adopt the Fiscal Year as the annual accounting period; and

(ii) Adopt the accrual method of accounting.

(c) The Company shall file an election under Section 754 of the Code and the Treasury Regulations thereunder to adjust the basis of the Company assets under Section 734(b) of the Code or Section 743(b) of the Code and any corresponding elections under the applicable sections of state and local law.

(d) The Company shall file an election under Section 6231(a)(1)(B)(ii) of the Code and the Treasury Regulations thereunder to treat the Company as a partnership to which the provisions of Sections 6221 through 6234 of the Code, inclusive, apply.

Section 7.6. Company Tax Returns. The United States federal income Tax Returns for the Company and all other Tax Returns of the Company shall be prepared in a manner consistent with the Private Letter Ruling and as directed by the Administrative Member in Consultation with the other Members. The Administrative Member, in Consultation with the other Members, may extend the time for filing any such Tax Returns as provided for under applicable statutes. At the Company's expense, the Administrative Member shall cause the Company to retain the Accounting Firm to prepare or review the necessary federal and state income Tax Returns and information returns for the Company. Each Member shall provide such information, if any, as may be reasonably needed by the Company for purposes of preparing such Tax Returns, provided that such information is readily available from regularly maintained accounting records. At least 30 days prior to filing the federal and state income Tax Returns and information returns, the Administrative Member shall deliver to the other Members for their review a copy of the Company's federal and state income Tax Returns and information returns in the form proposed to be filed for each Fiscal Year, and shall incorporate all reasonable changes or comments to such proposed Tax Returns and information returns requested by the other Members at least ten days prior to the filing date for such returns. After taking into account any such requested changes, the Administrative Member shall cause the Company to timely file, taking into account any applicable extensions, such Tax Returns. Within 20 days after filing such federal and state income Tax Returns and information returns, the Administrative Member shall cause the Company to deliver to each Member a copy of the Company's federal and state income Tax Returns and information returns as filed for each Fiscal Year, together with any additional tax-related information in the possession of the Company that such Member may reasonably and timely request in order to properly prepare its own income Tax Returns.

Section 7.7. Tax Audits.

(a) MHSI is hereby designated as the "tax matters partner," as that term is defined in Section 6231(a)(7) of the Code (the "Tax Matters Partner"), of the Company, with all of the rights, duties and powers provided for in Sections 6221 through 6234 of the Code, inclusive. MHSI is hereby directed and authorized to take whatever steps MHSI, in its reasonable discretion, deems necessary or desirable to perfect such designation, including, without limitation, filing any forms or documents with the IRS and taking such other action as may from time to time be required under the Treasury Regulations. If MHSI transfers some or all of its Membership Interest (other than to an Affiliate), MHSI shall be removed as the Tax Matters Partner and the then-current members of the Company shall select a replacement Tax Matters Partner for the Company effective as of the date of the transfer of MHSI's Membership Interest (other than to an Affiliate).

(b) The Tax Matters Partner, in Consultation with the other Members, shall direct the defense of any claims made by the IRS to the extent that such claims relate to the adjustment of Company items at the Company level and, in connection therewith, shall cause the Company to retain and to pay the fees and expenses of counsel and other advisors chosen by the Tax Matters Partner in Consultation with the other Members. The Tax Matters Partner shall promptly deliver to each other Member a copy of all notices, communications, reports and writings received from the IRS relating to or potentially resulting in an adjustment of Company items, shall promptly advise each of the other Members of the substance of any conversations with the IRS in connection therewith and shall keep the other Members advised of all

developments with respect to any proposed adjustments which come to its attention. In addition, the Tax Matters Partner shall (i) provide the other Members with a draft copy of any correspondence or filing to be submitted by the Company in connection with any administrative or judicial proceedings relating to the determination of Company items at the Company level reasonably in advance of such submission, (ii) incorporate all reasonable changes or comments to such correspondence or filing requested by the other Members and (iii) provide the other Members with a final copy of correspondence or filing. The Tax Matters Partner will provide each Member with notice reasonably in advance of any meetings or conferences with respect to any administrative or judicial proceedings relating to the determination of Company items at the Company level (including any meetings or conferences with counsel or advisors to the Company with respect to such proceedings) and each Member shall have the right to participate, at its sole cost and expense, in any such meetings or conferences.

(c) Notwithstanding Section 7.7(b), the Tax Matters Partner shall not (i) enter into any settlement agreement that is binding upon the other Member with respect to the determination of Company items at the Company level or (ii) file a petition under Section 6226(a) of the Code for the readjustment of Company items without the prior consent of the other Member, such consent not to be unreasonably withheld.

(d) If for any reason the IRS disregards the election made by the Company pursuant to Section 7.5(d) and commences any audit or proceeding in which it makes a claim, or proposes to make a claim, against any Member that could reasonably be expected to result in the disallowance or adjustment of any items of income, gain, loss, deduction or credit (including Tax Credits) allocated to such Member by the Company, then such Member shall promptly advise the other Members of the same, and such Member, in Consultation with the other Members, shall use commercially reasonable efforts to convert the portion of such audit or proceeding that relates to such items into a Company level proceeding consistent with the Company's election pursuant to Section 7.5(d).

ARTICLE VIII
MANAGEMENT

Section 8.1. Management. The Manager shall have the authorities, powers and responsibilities set forth in the O&M Agreement (and as provided herein). The Company hereby ratifies and approves the O&M Agreement. Except as delegated to the Administrative Member or the Manager hereunder, or as provided in the O&M Agreement or as reserved to the Members or as otherwise provided in this Agreement, the powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of, the Board of Managers, who shall take all actions for and on behalf of the Company not otherwise provided for in this Agreement. In addition, the Members may vest in the Board of Managers the authority to take such actions for and on behalf of the Company not otherwise provided for in this Agreement or reserved to the Members, to the extent such actions are not inconsistent with the terms of this Agreement.

Section 8.2. Administrative Member. The Members shall appoint, and from time to time may remove and replace, a Member to be the Administrative Member. The duties of the Administrative Member shall be (a) to manage the cash and bank accounts of the Company, (b)

to receive and pass on to the other Members notices, reports and other communications from the Manager, (c) to liaise with the Owners Representative under the O&M Agreement (including setting monthly production levels, so long as such levels, on a quarterly basis, are within the Quarterly Maximum Production and Quarterly Minimum Production levels), (d) to negotiate contracts for the purchase of coal and sale of synfuel within parameters set by the Members from time to time, (e) to carry out the administrative duties of the Administrative Member set forth in this Agreement, (f) to execute contracts, agreements and other documents on behalf of the Company, and (g) such other duties as the Members shall require from time to time; provided that the exercise of the foregoing duties shall in all instances be subject to the provisions of Section 8.3. The initial Administrative Member is MHSI.

Section 8.3. Members.

(a) In addition to any other approval required by applicable law or this Agreement, the following matters are reserved to the Members, and neither the Company, the Manager nor any Officer shall do or take any of the following actions without the consent of Members holding at least 60% of the Membership Interests as provided in the final paragraph of this Section 8.3(a).

(i) Any sale, lease or disposition of the Facility;

(ii) Any merger or consolidation of the Company with another Person, or sale, lease or other disposition of all or substantially all of the assets of the Company;

(iii) Causing the Company to incur in any single transaction or in any series of related transactions indebtedness for borrowed money in excess of $2 million;

(iv) Any issuance, sale or buy-back of equity interests by the Company, unless a Member or the Company is otherwise entitled to take any such action on behalf of the Company under this Agreement following a default by another Member, or the admission of a Person as a Member except as otherwise provided in Article X hereof following a Transfer;

(v) Approval of transactions between the Company and any Member, the Manager or any Affiliates of the Members;

(vi) Causing the Company to (A) institute litigation or arbitration with respect to another Person involving in excess of $2 million or (B) settle claims, litigation or arbitration if, as a result, the Company is obligated to pay more than $2 million, unless in either case a Member is otherwise entitled to take any such action on behalf of the Company under this Agreement;

(vii) Guaranteeing in the name or on behalf of the Company, the payment of money or the performance of any contract or other obligation of any Person where the aggregate of all such outstanding guarantees by the Company is in excess of $2 million;

(viii) Causing the Company to engage in any business or activity that is not within the purpose of the Company, as set forth in this Agreement or to change such purpose;

(ix) Amendment or termination of the Company's certificate of formation or any other Transaction Agreement if the amendment or termination would have a material adverse effect on the Company;

(x) Admitting any additional Member other than pursuant to the terms hereof;

(xi) Converting the Company to another type of entity other than a limited liability company or changing any tax elections provided for herein;

(xii) Shutting down the Facility; except that after any announcement by the IRS that the Tax Credits are or were subject to a reduction of more than 50% under Section 29(b)(1) of the Code, thereafter and until any subsequent IRS announcement that the Tax Credits have been fully restored, the continued operation of the Facility shall require consent of Members holding at least 60% of the Membership Interests as provided in the final paragraph of this Section 8.3(a);

(xiii) Instructing or permitting the Operator to produce more than the Quarterly Maximum Production or less than the Quarterly Minimum Production;

(xiv) Instructing or permitting the Operator to use a chemical reagent other than the chemical reagent specified in the Request;

(xv) Instructing or permitting the Operator to use a chemical reagent at the Facility at a concentration less than the levels specified on Schedule 8.3(a)(xv) hereto;

(xvi) Instructing or permitting the Operator to decrease the amount of dilution water as compared to the chemical reagent below the target dilution rate as provided in Schedule 8.3(a)(xv);

(xvii) Instructing or permitting the Operator to replace, change or modify any of the equipment at the Facility, except for: (A) the replacement of parts with substantially identical parts; (B) the replacement or addition of electrical components (excluding motor drives), meters, scales, sampling and testing, programmable logic controller or other measuring equipment to improve quality control; (C) the replacement of front-end loaders, vehicles and other similarly mobile equipment (it being agreed that the Facility itself is not "mobile equipment" for this purpose); or (D) the addition, replacement or modification of equipment for the purpose of safety or occupational health improvements;

(xviii) Changing the Independent Chemist or the testing protocol attached as Schedule 8.3(a)(xviii);

(xix) Responding to requests for, or providing, approvals, consents, waivers or instructions under or relating to the O&M Agreement (other than those relating to any operational changes described above) by, or to, the Manager (Operator), the Operators Representative or the Owners Representative (as such terms are defined in the O&M Agreement) that involve the requirements set forth on Schedule 8.3(a)(xix) or that involve spending for the

account of the Company of an amount in excess of $5,000,000 (it being acknowledged that the Board of Managers may approve such actions in the cost range $1,000,000-$4,999,999); or

(xx) Changing the parameters set by the Members for contracts entered into by the Company for the purchase of coal and sale of synfuel, including use of any coals from mines other than those permitted under feedstock supply agreements existing on the date hereof.

Except as expressly otherwise provided, the decision of each Member as to whether or not to consent to any of the foregoing matters shall be in the sole discretion of such Member. A Member will be deemed to have consented if no response is received from that Member within 20 Business Days of delivery to that Member of a request for consent regarding any of the matters described in clauses (xiv) through (xx) above. A request for consent shall be sent by the Administrative Member to the Persons listed on Schedule 8.3(a) attached hereto, which may be modified from time to time by Buyer by written notice to the Administrative Member.

(b) Except as otherwise provided in this Agreement each of the Members shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any other Person who is a Member, the Manager or any Officer or employee of the Company, or by any other individual as to matters the Members reasonably believes are within such other individual's professional or expert competence, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the Company or any other facts pertinent to the existence and amount of assets from which distribution to the Members might properly be paid.

Section 8.4. Board of Managers. The Company shall have a board of managers (the "Board of Managers") consisting of two individuals appointed by Buyer and two individuals appointed by MHSI. The initial Board of Managers shall be the individuals set forth on Exhibit B attached hereto. Any vacancy on the Board of Managers shall be filled by appointment by the Member who was entitled to appoint the resigning individual. The Board of Managers shall exercise the authority provided in Section 8.1 or as otherwise provided in this Agreement or specifically authorized by the Members in accordance with Section 8.3(a), either at a meeting called by the Administrative Member or by any member of the Board of Managers at which at least one representative of Buyer and one representative of MHSI is present, or, alternatively, by unanimous written consent. No member of the Board of Managers, in his or her individual capacity as such, shall have the authority or capacity to bind the Company except pursuant to a resolution of the Board of Managers expressly authorizing such authority. All decisions of the Board of Managers taken at a meeting of the Board of Managers (i.e., not taken by unanimous written consent) shall require the affirmative approval of a majority of the members of the Board of Managers, provided that such majority shall include at least one member of the Board of Managers appointed by each of Buyer and MHSI. Each of Buyer, MHSI and Holdings expressly agrees that no member of the Board of Managers shall have a fiduciary duty to act on behalf of any or all of the Members.

Section 8.5. Insurance. The Company shall acquire and maintain (including making changes to coverage and carriers) such casualty, general liability (including product liability), property damage and other types of insurance with respect to the Facility and/or the operations of the Company, as is required by the Project Documents, and such additional insurance as may otherwise be determined by the Manager to be necessary or advisable from time to time.

Section 8.6. Duties. To the extent that, at law or in equity, a Member has duties (including fiduciary duties) and liabilities relating thereto to the Company or to any Member or other Person bound by this Agreement, a Member acting under this Agreement shall not be liable to the Company or to any Member or other Person bound by this Agreement for its good faith reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of a Member otherwise existing at law or in equity, are agreed by the Members to replace such other duties and liabilities of such Member.

Section 8.7. Chemical Change Testing. The Company shall cause tests to be conducted at least quarterly on the synthetic fuel produced by the Facility to confirm that such fuel has undergone a significant chemical change compared to the coal feedstock and chemical reagent from which it is produced. Samples for such testing shall be taken in accordance with the sampling and testing protocol for the Company and then shall be forwarded to the Independent Chemist for analysis. The Manager may not make any material changes to the sampling and testing protocol without the consent of all the Members, such consent not to be unreasonably withheld or delayed. The Manager shall Consult with all Members regarding any other changes to the sampling and testing protocol. Copies of all reports prepared by the Independent Chemist and used in computing the Estimated Tax Credits shall be forwarded to each Member with the Operations Report. Copies of any reports prepared by the Independent Chemist which do not conclude that the synthetic fuel produced at the Facility has undergone a significant chemical change shall be forwarded immediately to each Member.

Section 8.8. Limitation on Damages. MHSI's aggregate liability for damages resulting from a breach or breaches of any of its obligations, covenants or agreements hereunder, including without limitation, taking any actions in violation of Section 8.3 hereof, shall not exceed 119% of the aggregate amount of all Tax Credits allocated to Buyer hereunder at the time such liability arises, less any indemnification amounts paid by MHSI pursuant to Sections 7.1 or 7.10 of the Purchase Agreement; provided, however, that to the extent such liability results from any actions taken by the Manager without the express instruction or consent of MHSI or its agents, the foregoing percentage shall be 53% (rather than 119%).

Section 8.9. Suspension of Production. Notwithstanding anything to the contrary in this Agreement, upon notice from either Buyer or MHSI that it reasonably believes (based on specific market prices or other public information) that Tax Credits for the current calendar year will be reduced under Section 29(b)(1) by 50% or more, which notice shall include an explanation in reasonable detail of the reasons for such belief, the Members will promptly Consult in good faith and, unless such notice is withdrawn within five Business Days, production will be suspended from the end of such five Business Days until the end of the calendar year (or such earlier date as Members holding 60% or more of the Membership Interests may specify for resuming production).

ARTICLE IX
BUDGET

Section 9.1. Preparation. The Budget for the Company for Fiscal Year 2003 is attached hereto as Exhibit C. On or before November 15, 2003, and November 15th of each year thereafter through the term of this Agreement (except for the year during which the Termination Date occurs), the Manager will prepare, and the Board of Managers shall consider, and if thought fit, approve, a budget for the following Fiscal Year. The initial budget and each annual budget as prepared by the Manager hereunder is referred to herein as a "Budget." At the time the Budget is prepared by the Manager and approved by the Board of Managers, it will include revised financial projections that show Anticipated Tax Credits and expected losses and Capital Contributions through December 31, 2007.

Section 9.2. Content. Each Budget will contain a line-item specification of projected operating revenues and expenses, including revenues and expenditures consistent with the Company's operating contracts and the projected operating deficit and, unless approved otherwise by the Board of Managers, will reflect production levels not less than the Quarterly Minimum Production and not greater than the Quarterly Maximum Production.

Section 9.3. Amendments and Supplements. During the Fiscal Year covered by a Budget, the Board of Managers may amend the Budget.

ARTICLE X
TRANSFERS; RIGHT OF FIRST REFUSAL, PUT RIGHT

Section 10.1. Prohibited Transfers. No Member shall sell, transfer, assign, convey, or otherwise dispose of all or any part of its Membership Interest (a "Transfer") or any interest, rights or obligations with respect thereto except as provided in this Article X. A Member may not pledge, mortgage, encumber or hypothecate all or any part of its Membership Interest without the prior consent of the other Members, which consent may be withheld by such other Members in their reasonable discretion except as provided for in the Buyer Security Agreement or the Seller Security Agreement. Any attempted Transfer or pledge, mortgage, encumbrance, or hypothecation, other than in strict accordance with this Article X, shall be null and void and of no force or effect whatsoever, and the purported transferee shall have no rights as a Member or otherwise in or to the Membership Interest.

Section 10.2. Conditions to Transfer by MHSI. Upon the satisfaction of the following conditions, MHSI (which for purposes of this Section 10.2 and Section 10.5 hereof shall also mean and include Holdings) may Transfer all or a portion of its Membership Interest and the transferee shall become a Member in place of MHSI with respect to such transferred Membership Interest:

(a) MHSI and the prospective transferee each execute, acknowledge and deliver to the Company such instruments of transfer and assignment with respect to such Transfer and such other instruments as are reasonably satisfactory in form and substance to the Administrative Member to effect such Transfer and to confirm MHSI's intention that the transferee become a Member in its place;

(b) The transferee executes, adopts and acknowledges this Agreement, and executes such other agreements as the Administrative Member may reasonably deem necessary or appropriate to confirm the undertaking of the transferee to be bound by the terms of this Agreement and to assume the obligations of MHSI under this Agreement and the Purchase Agreement (to the extent MHSI is to be released from such obligations);

(c) The Transfer will not violate any securities laws or any other applicable federal or state laws or the order of any court having jurisdiction over the Company or any of its assets;

(d) The Transfer will not result in a termination of the Company under Section 708(b)(1)(B) of the Code, unless MHSI has indemnified the other Members against the adverse tax effects in a manner acceptable to the other Members or has caused the IRS to reissue all rulings issued with respect to the Facility;

(e) The Transfer will not cause the Company to be classified for United States federal tax purposes as an association taxable as a corporation; and

(f) The Seller Parent Guaranty remains in full force and effect or the transferee's parent or other Affiliate of the transferee (the "Substitute Seller Guarantor") enters into a guaranty agreement substantially similar to the Seller Parent Guaranty and such Substitute Seller Guarantor has a credit rating at least equal to the credit rating of Seller Parent on the Closing Date;

provided, however, that MHSI may not transfer all or a portion of its Membership Interest during the twelve-month period following the Closing Date without Buyer's consent.

Section 10.3. Conditions of Transfer by Buyer. Upon the satisfaction of the following conditions, Buyer may Transfer all or a portion of its Membership Interest and the transferee shall become a Member with respect to such transferred Membership Interest:

(a) Buyer and the prospective transferee each execute, acknowledge and deliver to the Company such instruments of transfer and assignment with respect to such Transfer and such other instruments as are reasonably satisfactory in form and substance to the Administrative Member to effect such Transfer and to confirm Buyer's intention that the transferee become a Member in its place;

(b) The transferee executes, adopts and acknowledges this Agreement, and executes such other agreements as the Administrative Member may reasonably deem necessary or appropriate to confirm the undertaking of the transferee to be bound by the terms of this Agreement and to assume the obligations of Buyer under this Agreement and the Purchase Agreement (to the extent the Buyer is to be released from such obligations);

(c) The Transfer will not violate any securities laws or any other applicable federal or state laws or the order of any court having jurisdiction over the Company or any of its assets;

(d) The Transfer will not result in a termination of the Company under Section 708(b)(1)(B) of the Code, unless Buyer has indemnified the other Members against the adverse tax effects in a manner acceptable to the other Members or has caused the IRS to reissue all rulings issued with respect to the Facility;

(e) The Transfer will not cause the Company to be classified for United States federal tax purposes as an association taxable as a corporation; and

(f) The Buyer Parent Guaranty remains in full force and effect or the transferee's parent or other Affiliate of the transferee (the "Substitute Buyer Guarantor") enters into a guaranty agreement substantially similar to the Buyer Parent Guaranty and such Substitute Buyer Guarantor has a credit rating at least equal to the credit rating of the Buyer Parent on the Closing Date.

Section 10.4. Indirect Transfers. No Member shall permit the transfer of direct or indirect ownership interests in the Member if such transfer would result in the termination of the Company under Section 708(b)(1)(B) of the Code, unless such Member has indemnified the other Members against the adverse tax effects in a manner acceptable to the other Members or has caused the IRS to reissue all rulings with respect to the Facility.

Section 10.5. Right of First Refusal. If either Buyer or MHSI (the "Transferor") desires to Transfer any of its Membership Interest (other than to an Affiliate) and the Transfer otherwise complies with the restrictions contained in this Agreement, the Transferor shall deliver a notice to the Company and the other Member setting forth the price and other material terms upon which such Membership Interest will be transferred (a "Transfer Notice"). The other Member shall have the right, for a period of ten Business Days after receipt of a Transfer Notice, to elect to purchase the subject Membership Interest at the price set forth in the Transfer Notice and on other terms substantially similar to the other material terms set forth in the Transfer Notice. The closing of the sale of the Membership Interest covered by the Transfer Notice pursuant to this Section 10.5 shall occur 20 Business Days after the Transferor delivers the Transfer Notice to the other Member of the exercise of its rights hereunder, or at such other time as the parties agree. If the other Member elects not to purchase all of such Membership Interest within its option period, subject to the other restrictions contained in this Agreement, such other Member may proceed with such Transfer of such Membership Interest; provided, however, that any such Transfer shall be (a) effected within 120 days of the election not to exercise the right of first refusal set forth herein and (b) on terms materially no more favorable to the transferee than the terms set forth in the last Transfer Notice delivered to the other Member.

Section 10.6. Admission. Any transferee of all or part of a Membership Interest pursuant to a Transfer made in accordance with this Agreement shall be admitted to the Company as a substitute Member upon its execution of a counterpart to this Agreement.

Section 10.7. Future Cooperation. In the event that any Member desires to increase or decrease its Membership Interest, the Members agree to Consult in good faith to consider a sale and purchase of such interest.

Section 10.8. Put and Redemption Rights. (a) Upon (i) the occurrence of a Tax Event, or (ii) the exercise by Buyer of its right to defer payments for low volume pursuant to Section 2.6 of the Purchase Agreement for the fourth time (the "Fourth Deferral"), Buyer shall have the option, exercisable by delivery of written notice thereof to the Company within 60 days of such Tax Event or Fourth Deferral, to require the Company to redeem its Membership Interest, in whole but not in part, such redemption to occur by the later of (i) the 60th day after the occurrence of such Tax Event or Fourth Deferral or (ii) the tenth day after the receipt of written notice from Buyer; provided, however, that exercise of such option with respect to clause (i) on the basis of the last sentence of the definition of Tax Event shall be subject to MHSI's right pursuant to Section 2.5(g) of the Purchase Agreement to delay the effective date of Buyer's right to redeem until December 31, 2003.

(b) Upon (i) the exercise by MHSI of its option pursuant to Section 6.1 of the Purchase Agreement to terminate the Purchase Agreement, MHSI may require the Company, by delivery of written notice thereof to the Company, to redeem Buyer's Membership Interest, in whole but not in part.

(c) If Buyer exercises the option in paragraph (a) above, or MHSI exercises the option in paragraph (b) above, (i) Buyer shall reconvey and transfer to the Company all right, title and interest in and to the Membership Interest, free and clear of all Encumbrances other than the obligations and liabilities under Transaction Agreements with respect thereto; (ii) Buyer shall be deemed to have made the written representations set forth on Exhibit D attached hereto to MHSI and the Company; (iii) Buyer shall take all such further actions and execute, acknowledge and deliver all such further documents that are necessary or useful to effectuate the transfer of the Membership Interest contemplated by this Section 10.8; (iv) the Company shall effectuate such redemption; (v) all obligations and liabilities associated with the Membership Interest will terminate except those obligations and liabilities accrued through the date of termination; (vi) Buyer will have no further rights as a member of the Company; (vii) this Agreement shall be amended to reflect Buyer's resignation as a member of the Company; and (viii) Buyer shall have no further obligation thereafter to make any contributions to the capital of the Company or any further payments of the Purchase Price under the Purchase Agreement, except those obligations and liabilities accrued through the date of termination. Relief from the obligation of Buyer to make such payments will be deemed sufficient consideration for the reconveyance and transfer of the Membership Interest to the Company.

ARTICLE XI
DISSOLUTION AND WINDING-UP

Section 11.1. Events of Dissolution. The Company shall be dissolved and its affairs shall be wound up upon the first to occur of any of the following:

(a) the unanimous written consent of the Members to dissolve and terminate the Company;

(b) the entry of a decree of judicial dissolution under Section 18-802 of the Act;

(c) the occurrence of the Termination Date; or

(d) at any time there are no members of the Company unless the business of the Company is continued in accordance with the Act.

Section 11.2. Distribution of Assets. Upon the occurrence of one of the events set forth in Section 11.1 hereof, the Members shall appoint one or more liquidator(s) (which may include one or more Members or the Manager). Upon the occurrence of such an event, the liquidator(s) shall proceed diligently to wind-up the affairs of the Company and make final distributions as provided herein and in the Act. The liquidator(s) may sell any or all Company property, including to Members. The liquidator(s) shall cause the Company to cease the production of synthetic fuel. The liquidator(s) shall first pay, satisfy or discharge from Company funds all of the debts, liabilities and obligations of the Company (including the Working Capital Loans and all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including the establishment of a cash escrow fund for contingent, conditional or unmatured liabilities in such amount and for such term as the liquidator may reasonably determine) in the order of priority as provided by law. The balance of the assets of the Company shall be distributed pro rata to the Members in accordance with their positive balance in their Capital Accounts, after giving effect to all contributions, distributions and allocations for all periods and after first treating the assets as if they had been sold and allocating the deemed gain among the Members for purposes of adjusting their Capital Accounts. The distribution of cash and/or property to a Member in accordance with the provisions of this Section 11.2 constitutes a complete return to the Member of its Capital Contributions and a complete distribution to the Member on its Membership Interest in the Company of all the Company's property and constitutes a compromise to which all Members have consented within the meaning of the Act. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company are insufficient to return Capital Contributions of each Member, such Member shall have no recourse against the Company or any other Member.

Section 11.3. In-Kind Distributions. There shall be no distribution of assets of the Company in kind without the prior written consent of all of the Members.

Section 11.4. Certificate of Cancellation.

(a) When all debts, liabilities and obligations have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets have been distributed to the Members, a Certificate of Cancellation shall be executed and filed by the liquidator with the Secretary of State of the State of Delaware, which certificate shall set forth the information required by Section 18-203 of the Act.

(b) Upon the filing of the Certificate of Cancellation, the existence of the Company shall cease.

ARTICLE XII
MISCELLANEOUS

Section 12.1. Notices. Unless otherwise provided herein, any offer, acceptance, election, approval, consent, certification, request, waiver, notice or other communication

required or permitted to be given hereunder (collectively referred to as a "Notice"), shall be in writing and delivered (a) in person, (b) by registered or certified mail with postage prepaid and return receipt requested, (c) by recognized overnight courier service with charges prepaid or (d) by facsimile transmission, directed to the intended recipient at the address of such Member set forth on Exhibit A attached hereto or at such other address as any Member hereafter may designate to the others in accordance with a Notice under this Section 12.1. A Notice or other communication will be deemed delivered on the earliest to occur of (i) its actual receipt when delivered in person, (ii) the fifth Business Day following its deposit in registered or certified mail, with postage prepaid, and return receipt requested, (iii) the second Business Day following its deposit with a recognized overnight courier service or (iv) the date of receipt of a facsimile or, if such date of receipt is not a Business Day, the next Business Day following such date of receipt, provided the sender can and does provide evidence of successful transmission. Any Notice or other communication received on a day that is not a Business Day or later than 5:00 p.m. on a Business Day shall be deemed to be received on the next Business Day.

Section 12.2. Amendment. Except for an amendment of Exhibit A hereto to reflect a resignation of a Member from the Company in accordance with the terms of this Agreement, a Transfer of a Membership Interest in accordance with the terms of this Agreement, the admission of a new Member in accordance with the terms of this Agreement, or a change in percentage of Membership Interest, this Agreement may be changed, modified or amended only by an instrument in writing duly executed by all of the Members.

Section 12.3. Partition. Each of the Members hereby irrevocably waives, to the extent it may lawfully do so, any right that such Member may have to maintain any action for partition with respect to the Company property.

Section 12.4. Waivers and Modifications. Any waiver or consent, express, implied or deemed, to or of any breach or default by any Person in the performance by that Person of its obligations with respect to the Company or any action inconsistent with this Agreement is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person with respect to the Company or any other such action. Failure on the part of a Person to insist in any one or more instances upon strict performance of any provisions of this Agreement, to take advantage of any of its rights hereunder, or to declare any Person in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that Person or its rights with respect to that default until the applicable statute of limitations period has lapsed. All waivers and consents hereunder shall be in writing and shall be delivered to the other Members in the manner set forth in Section 12.1. All remedies afforded under this Agreement shall be taken and construed as cumulative and in addition to every remedy provided for herein and by applicable law.

Section 12.5. Severability. Except as otherwise provided in the succeeding sentence, every term and provision of this Agreement is intended to be severable, and if any term or provision of this Agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of this Agreement. The preceding sentence shall be of no force or effect if the consequence of enforcing the remainder of

this Agreement without such illegal or invalid terms or provision would be to cause any Party to lose the benefit of its economic bargain.

Section 12.6. Successors; No Third-Party Beneficiaries. This Agreement is binding on and inures to the benefit of the Members and their respective heirs, legal representatives, successors and permitted assigns. Nothing in this Agreement shall provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind, it being the intent of the Members that this Agreement shall not be construed as a third-party beneficiary contract.

Section 12.7. Entire Agreement. This Agreement, including the Exhibits and Schedules attached hereto or incorporated herein by reference, constitutes the entire agreement of the Members with respect to the matters covered herein. This Agreement supersedes all prior agreements and oral understandings among the parties hereto with respect to such matters, including, without limitation, the Original Operating Agreement.

Section 12.8. Public Announcements. Each Member shall consult with every other Member before issuing any public announcement, statement or other disclosure with respect to the Transaction Agreements or the transactions contemplated hereby or thereby and no Member shall issue any such public announcement, statement or other disclosure before such consultation, except as may be required by any Legal Requirement or by obligations pursuant to any listing agreement with any national securities exchange. Each Member will have the right to review in advance all information relating to the transactions contemplated by the Transaction Agreements that appear in any filing made in connection with the transactions contemplated hereby or thereby by any other Member.

Section 12.9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware.

Section 12.10. Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be reasonably required or useful to carry out the intent and purpose of this Agreement and as are not inconsistent with the terms hereof.

Section 12.11. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together will constitute one instrument, binding upon all parties hereto, notwithstanding that all of such parties may not have executed the same counterpart.

Section 12.12. Consent to Jurisdiction. Without limiting the other provisions of this Section 12.12 hereof, the Parties agree that any legal proceeding by or against any Party or with respect to or arising out of this Agreement may be brought in the United States District Court for the Southern District of New York or the Supreme Court of the State of New York located in the Borough of Manhattan in the City of New York, New York. By execution and delivery of this Agreement, each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of such courts and to the appellate courts therefrom solely for the purposes of disputes arising

under this Agreement and not as a general submission to such jurisdiction or with respect to any other dispute, matter or claim whatsoever.

The parties hereby waive, to the full extent permitted by law, any right to stay or dismiss any action or proceeding under or in connection with this Agreement brought before the foregoing courts on the basis of (i) any claim that such party is not personally subject to the jurisdiction of the above-named courts for any reason, or that it or any of its property is immune from the above-described legal process, (ii) that such action or proceeding is brought in an inconvenient forum, that venue for the action or proceeding is improper or that this Agreement may not be enforced in or by such courts, or (iii) any other defense that would hinder or delay the levy, execution or collection of any amount to which any party is entitled pursuant to any final judgment of any court having jurisdiction. IN ADDITION, EACH PARTY KNOWINGLY AND INTENTIONALLY, IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN AND AS TO ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AND FOR ANY CLAIM, COUNTERCLAIM, CROSS-CLAIM OR THIRD-PARTY CLAIM THEREIN.

Section 12.13. Confidentiality. The Members shall, and shall cause their Affiliates and their respective stockholders, members, subsidiaries and Representatives to, hold confidential and not use in any manner detrimental to the Company or any Member all information they may have or obtain concerning the Company and its assets, business, operations or prospects or this Agreement (the "Confidential Information"); provided, however, that Confidential Information shall not include information that (a) becomes generally available to the public other than as a result of a disclosure by a Member or any of its Representatives, (b) becomes available to a Member or any of its Representatives on a nonconfidential basis prior to its disclosure by the Company or its Representatives, (c) is required or requested to be disclosed by a Member or any of its Affiliates or their respective stockholders, members, subsidiaries or Representatives as a result of any applicable Legal Requirement or rule or regulation of any stock exchange, or (d) is required or requested by the IRS in connection with the Facility or Tax Credits relating thereto, including in connection with a request for any private letter ruling, any determination letter or any audit. If such party becomes compelled by legal or administrative process to disclose any Confidential Information, such party will provide the other Members with prompt Notice so that the other Members may seek a protective order or other appropriate remedy or waive compliance with the non-disclosure provisions of this Section 12.13 with respect to the information required to be disclosed. If such protective order or other remedy is not obtained, or such other Members waive compliance with the non-disclosure provisions of this Section 12.13 with respect to the information required to be disclosed, the first party will furnish only that portion of such information that it is advised, by opinion of counsel, is legally required to be furnished and will exercise reasonable efforts, at the other Members' expense, to obtain reliable assurance that confidential treatment will be accorded such information, including, in the case of disclosures to the IRS described in clause (d) above, to obtain reliable assurance that, to the maximum extent permitted by applicable Legal Requirements, such information will not be made available for public inspection pursuant to Section 6110 of the Code. Nothing herein shall be construed as prohibiting a party hereunder from using such Confidential Information in connection with (i) any claim against another Member hereunder, (ii) any exercise by a party hereunder of any of its rights hereunder and (iii) a disposition by a Member of all or a portion of its Membership Interest or a disposition of an equity interest in such Member or its Affiliates, provided, that, such

potential purchaser shall have entered into a confidentiality agreement with respect to Confidential Information on customary terms used in confidentiality agreements in connection with corporate acquisitions before any such information may be disclosed.

Section 12.14. Joint Efforts. To the full extent permitted by law, neither this Agreement nor any ambiguity or uncertainty herein will be construed against any of the parties hereto, whether under any rule of construction or otherwise. On the contrary, this Agreement has been prepared by the joint efforts of the respective attorneys for, and has been reviewed by, each of the parties hereto.

Section 12.15. Specific Performance. The Members agree that irreparable damage will result if this Agreement is not performed in accordance with its terms, and the Members agree that any damages available at law for a breach of this Agreement would not be an adequate remedy. Therefore, to the full extent permitted by law, the provisions hereof and the obligations of the Members hereunder shall be enforceable in a court of equity, or other tribunal with jurisdiction, by a decree of specific performance, and appropriate injunctive relief may be applied for and granted in connection therewith. Such remedies and all other remedies provided for in this Agreement shall, however, be cumulative and not exclusive and shall be in addition to any other remedies that a Member may have under this Agreement, at law or in equity.

Section 12.16. Survival. All indemnities and reimbursement obligations made pursuant to this Agreement shall survive dissolution and liquidation of the Company until expiration of the longest applicable statute of limitations (including extensions and waivers) with respect to the matter for which a Person would be entitled to be indemnified or reimbursed, as the case may be.

Section 12.17. Construction. As used herein, the singular shall include the plural and all references herein to one gender shall include the others, as the context requires. Unless the context requires otherwise, the words this Agreement, hereof, hereunder, herein, hereby, thereof, thereunder, or words of similar import refer to this Agreement as a whole and not to a particular Article, Section, subsection, clause or other subdivision hereof. Unless otherwise expressly provided, all references to Articles, Sections or Exhibits are to Articles, Sections or Exhibits of this Agreement. The headings and captions are used in this Agreement for convenience only and shall not be considered when determining the meaning of any provisions of this Agreement.

Section 12.18. Other Activities. Nothing contained herein shall be interpreted as restricting any Member from engaging in or owning interests in other businesses similar to or competitive with the business of the Company, and the other Member shall have no rights in, and shall not be entitled to pursue any rights in or to derive any profits from, such other businesses.

Section 12.19. Effective Date. This Agreement shall have no force or effect unless and until the Closing, as defined in the Purchase Agreement, has occurred, at which time this Agreement shall automatically and without any further action become effective.

[Remainder of this page left intentionally blank.]

IN WITNESS WHEREOF, the parties, each a Member, have caused this Amended and Restated Limited Liability Company Agreement to be signed by their respective duly authorized officers as of the date first above written.

SYNTHETIC AMERICAN FUEL ENTERPRISES HOLDINGS, INC.

By: /s/ Mark W. Brugger

Name: Mark W. Brugger

Title: President

MARRIOTT HOTEL SERVICES, INC.

By: /s/ Mark W. Brugger

Name: Mark W. Brugger

Title: Vice President

SERRATUS LLC

By: /s/

Name:

Title:

EXHIBIT 10.4

AGREEMENT FOR PURCHASE OF MEMBERSHIP INTEREST

in

Synthetic American Fuel Enterprises II, LLC

by and among

SYNTHETIC AMERICAN FUEL ENTERPRISES HOLDINGS, INC.,

MARRIOTT HOTEL SERVICES, INC.,

and

SERRATUS LLC

dated as of

January 28, 2003

TABLE OF CONTENTS

AGREEMENT FOR PURCHASE OF MEMBERSHIP INTEREST

This Agreement for Purchase of Membership Interest (this "Agreement") is made and entered into as of January 28, 2003, by and among Serratus LLC, a Delaware limited liability company (the "Buyer"), Synthetic American Fuel Enterprises Holdings, Inc., an Oregon corporation ("Seller") and Marriott Hotel Services, Inc., a Delaware corporation ("MHSI").

R E C I T A L S

A. Seller owns a 49.9% membership interest in Synthetic American Fuel Enterprises II, LLC, a Delaware limited liability company (the "Operating Company" or "Company"), which, together with a 49.9% membership interest in Synthetic American Fuel Enterprises I, LLC, a Delaware limited liability company ("SynAmerica I"), are the only assets of Seller.

B. Buyer owns a 0.1% membership interest in each of the Company and SynAmerica I.

C. MHSI owns all of the outstanding capital stock of Seller and the remaining 50% membership interests in each of the Operating Company and SynAmerica I.

D. On the Closing Date (as defined herein) Seller will sell to Buyer a 48.8% membership interest in the Company and concurrently therewith Seller will sell to Buyer a 48.8% membership interest in SynAmerica I pursuant to the SynAmerica I Purchase Agreement (as defined herein).

E. The Operating Company owns as its only assets two coal-based synthetic fuel production facilities located in Alabama and one such facility in Illinois (the "Facilities") and related real property interests, contracts, licenses and permits.

F. Marriott International, Inc. ("Marriott") acquired all of the capital stock of Seller and 49% of the membership interests in the Operating Company and SynAmerica I from PacifiCorp Financial Services, Inc. ("PacifiCorp") pursuant to a stock purchase agreement dated as of October 15, 2001 by and among PacifiCorp, Marriott and Birmingham Syn Fuel I, Inc. (the "PacifiCorp/Marriott Agreement").

G. Seller desires to sell, and Buyer desires to purchase from Seller, a 48.8% membership interest in the Operating Company (together with the 0.1% membership interest, the "Membership Interest"), and thereby indirectly acquire an interest in the Facilities, all in accordance with the terms and subject to the conditions set forth herein.

H. On the date hereof, Seller, MHSI and Buyer will enter into the Amended LLC Agreement (as defined herein), to be effective as of the Closing Date.

I. Marriott (the "Seller Parent"), the sole owner of MHSI, is deriving substantial benefit from the sale by Seller and the purchase by Buyer of the Membership Interest and, in consideration thereof, has executed and delivered to Buyer as of the date hereof the Seller Parent Guaranty (as hereinafter defined), pursuant to which Seller Parent guarantees in favor of Buyer

the obligations of Seller and MHSI hereunder and of MHSI under the Amended LLC Agreement.

J. _____ (the "Buyer Parent"), an Affiliate of Buyer, is deriving substantial benefit from the sale by Seller and the purchase by Buyer of the Membership Interest and, in consideration thereof, has executed and delivered to Seller as of the date hereof the Buyer Parent Guaranty (as hereinafter defined) pursuant to which Buyer Parent guarantees in favor of Seller, MHSI and the Operating Company certain obligations of Buyer hereunder and under the Amended LLC Agreement.

NOW, THEREFORE, in consideration of the respective representations, warranties, covenants, agreements, and conditions hereinafter set forth, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1
DEFINED TERMS

1.1 Defined Terms. Capitalized terms used but not otherwise defined herein shall have the meanings given such terms in Annex I hereto.

1.2 Construction of Certain Terms and Phrases. Titles appearing at the beginning of any Articles, Sections, subsections, or other subdivisions of this Agreement are for convenience only, do not constitute any part of such Articles, Sections, subsections or other subdivisions, and shall be disregarded in construing the language contained therein. The words "this Agreement," "herein," "hereby," "hereunder," and "hereof," and words of similar import, refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. The words "this Section," "this subsection," and words of similar import, refer only to the Sections or subsections hereof in which such words occur. The word "or" is not exclusive, and the word "including" (in its various forms) means "including without limitation." Pronouns in masculine, feminine, or neuter genders shall be construed to state and include any other gender and words, terms, and titles (including terms defined herein) in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires. Unless the context otherwise requires, all defined terms contained herein shall include the singular and plural and the conjunctive and disjunctive forms of such defined terms, and the term "Annex," "Exhibit" or "Schedule" shall refer to an Annex, Exhibit or Schedule attached to this Agreement. All references to the Code, U.S. Treasury regulations or other governmental pronouncements shall be deemed to include references to any applicable successor regulations or amending pronouncement.

ARTICLE 2
SALE AND PURCHASE OF MEMBERSHIP INTEREST

2.1 Agreement to Sell and Buy. Upon the terms and subject to the conditions set forth in this Agreement, Seller shall sell, assign, transfer and deliver to Buyer on the Closing Date, and Buyer shall purchase on the Closing Date, a 48.8% membership interest in the Company for the consideration set forth in Section 2.2.

2.2 Purchase Price. The aggregate purchase price (the "Purchase Price") for the Membership Interest being purchased under this Agreement, subject to adjustment as set forth below, will be comprised of a cash payment on the Closing Date in the amount of $1,000,000, the Base Note, the Fixed Deferred Payments and Variable Deferred Payments as provided in Sections 2.3, 2.4 and 2.5.

2.3 Base Note. On the Execution Date, Buyer shall execute and deliver to Seller the promissory note in the amount of $17,000,000 in the form attached hereto as Exhibit A (the "Base Note").

2.4 Fixed Deferred Payments. Commencing on the first Quarterly Payment Date following the Closing Date and on each Quarterly Payment Date thereafter, continuing through the Quarterly Payment Date immediately following December 31, 2007 (the "Fixed Payment Term"), Buyer shall make a payment to Seller (a "Fixed Deferred Payment") as set forth on Schedule 2.4 hereto (subject to adjustment as provided in Section 2.6 hereof). The Parties hereto acknowledge and agree that the obligation of Buyer to make such Fixed Deferred Payments pursuant to this Section 2.4, (x) is solely the obligation of Buyer and in no event whatsoever shall any member of Buyer, any Affiliate of Buyer (including Buyer Parent) or Affiliate of any member of Buyer have any obligation whatsoever or any liability in any way to make such Fixed Deferred Payments, and (y) is nonrecourse as against Buyer, and shall be satisfied only out of the Membership Interest and collateral pledged pursuant to the Buyer Security Agreement. The Fixed Deferred Payments shall be subordinated to payments then due and owing under the Base Note.

2.5 Variable Deferred Payments.

(a) Commencing on the first Quarterly Payment Date following the Closing Date and on each Quarterly Payment Date thereafter continuing through the Quarterly Payment Date immediately following December 31, 2007 or, if earlier, the permitted withdrawal of Buyer (or of its successors or assigns, as the case may be) as a member of the Operating Company, Buyer shall make a payment to Seller in an amount (a "Variable Deferred Payment") equal to the excess, if any, of (x) the Applicable Percentage of the Estimated Tax Credits (as defined below) with respect to the prior Quarter, minus (y) the sum of (I) the payment under the Base Note made with respect to such Quarter, (II) the Fixed Deferred Payment made with respect to such Quarter as provided in Section 2.4 above and as adjusted pursuant to Section 2.6 hereof and (III) the capital contributions made by Buyer, or by Buyer Parent on its behalf, to the Operating Company in respect of such Quarter pursuant to Section 4.1 of the Amended LLC Agreement. To the extent that the amount described in clause (y) of the preceding sentence with respect to any Quarter exceeds the amount described in clause (x) of the preceding sentence with respect to

such Quarter, the amount of the Variable Deferred Payment for such Quarter shall be zero and such excess of (y) over (x) shall be carried forward to offset future Variable Deferred Payments.

(b) "Estimated Tax Credits," with respect to any period after the Closing Date, means the estimated Tax Credits generated during such period as a result of the production of solid synthetic fuel at the Facilities and the sale of such synthetic fuel to unrelated third parties that are allocable to Buyer in respect of Buyer's ownership of the Membership Interest, which estimate will be made in accordance with the methodology set forth in Schedule 2.5(b) hereto; provided, however, that Excluded Sales will not be taken into account. The Parties shall direct the Administrative Member to prepare and deliver on or before the tenth day after the end of each Quarter or, in the case of the first Quarter ending after the date hereof, the partial Quarter, to Buyer, Seller and MHSI a written report (each, an "Operations Report"), in the form attached hereto as Exhibit B, setting forth the following: (i) a calculation of the Estimated Tax Credits made in accordance with the methodology set forth in Schedule 2.5(b), and the amounts allocated to each Party for such Quarter, (ii) Seller's, MHSI's and Buyer's capital contributions to be made to the Operating Company pursuant to Section 4.1(c) of the Amended LLC Agreement for such Quarter, (iii) the payment on the Base Note, the Fixed Deferred Payment and Variable Deferred Payment owed by Buyer for such Quarter or partial Quarter computed in accordance with Schedule 2.5(b) hereof and any recomputations made by the Administrative Member under Sections 2.5(d) and 2.5(e) hereof during the period after the date of the relevant prior Operations Report and (iv) MHSI's initial estimate of the net taxable loss of the Operating Company for the Quarter and of the depreciation available to Buyer for the Quarter with respect to the special basis increase under Section 743(b) of the Code relating to Buyer's purchase of its interest in the Operating Company. Each Operations Report will include a detailed listing by customer of all synthetic fuel sales from the Facilities and identification of any such sales that were Excluded Sales, the allocation of receipts and costs to any sales of Pre-Sale Inventory, and the average energy content per ton of synfuel produced and sold. Attached to the Operations Report will be the analyses from the Independent Chemist of the synthetic fuel produced during the Quarter. In addition, the Manager will certify as part of the Operations Report: (w) the number of tons of synthetic fuel sold to unrelated parties and that were not Excluded Sales, (x) a list of payments proposed to be made from any capital contributions with respect to that Quarter to the Operating Company, (y) that there was no change during the Quarter to the equipment at the Facilities or, alternatively, that the only changes were a list of repairs and improvements described in the Operations Report, and (z) the synthetic fuel produced during the Quarter was produced in compliance with the Amended LLC Agreement, the Request and the Private Letter Ruling. Subject to Section 2.5(c), the Operations Report will be final and binding on the Parties and will serve as the basis for the determination of Variable Deferred Payments payable hereunder for such Quarter. Subject to Section 2.5(c), Buyer shall pay Fixed Deferred Payments and Variable Deferred Payments on or before the later of (i) the twentieth day after the end of the Quarter or partial Quarter to which each such Fixed Deferred Payment and Variable Deferred Payment relates and (ii) the tenth day after Buyer receives the Operations Report from the Administrative Member (or, if such day is not a Business Day, on the next succeeding Business Day) (each such date is referred to herein as a "Quarterly Payment Date").

(c) If Buyer disputes the Administrative Member's calculation of any items in an Operations Report, then Buyer shall notify the Administrative Member and Seller not more than ten Business Days after Buyer has received the applicable Operations Report from the

Administrative Member, and, in such event, Buyer, Seller and the Administrative Member shall consider the issues raised or in dispute and discuss such issues with each other and attempt to reach a mutually satisfactory agreement. If the dispute as to the Administrative Member's calculations is not promptly resolved within ten Business Days of such notification of the dispute, Buyer shall pay, on such date, any undisputed portion of the amount then due, and any amount in dispute may be withheld pending resolution of the dispute; it being understood that such sums as are withheld by Buyer in accordance with this Section 2.5(c) shall not give rise to any of Seller's rights under Section 6.1(a) hereof or the Buyer Security Agreement unless (i) such dispute is resolved in Seller's favor and (ii) Buyer fails to pay such disputed amount (together with interest at the Commercial Paper Rate) within the time period specified below. Thereafter, Buyer and MHSI shall each present their interpretations to the Accounting Firm, and shall instruct the Accounting Firm to determine the correct amount of the calculations in dispute (if applicable, in accordance with the methodology set forth in Schedule 2.5(b) and Exhibit B) and to resolve the dispute promptly, but in no event more than 30 calendar days after having the dispute submitted to it. The Accounting Firm will make a determination as to each of the items in dispute, which must be (i) in writing, (ii) furnished to each of MHSI and Buyer and (iii) made in accordance with this Agreement, and which determination, absent manifest error, will be conclusive and binding on Seller, MHSI and Buyer and may be enforced in the courts specified in Section 8.10 hereof. In the event the Accounting Firm determines that any of the calculations in dispute in the Operations Report was incorrect, the fees and expenses of the Accounting Firm shall be borne by MHSI, and in all other cases the fees and expenses of the Accounting Firm shall be borne by Buyer. Each of MHSI and Buyer shall use reasonable efforts to cause the Accounting Firm to render its decision as soon as reasonably practicable, including by promptly complying with all reasonable requests by the Accounting Firm for information, books, records and similar items. Upon receipt by Buyer of the Accounting Firm's written determination of the resolution of any such dispute in Seller's favor, Buyer shall pay all or any portion of the amounts in dispute in accordance with such resolution plus interest at the Commercial Paper Rate on the amounts in dispute from the date such amounts were due until the date of payment thereof, such payment date being in any event no later than ten Business Days from the receipt of such written determination. Upon the resolution of any such dispute in Buyer's favor, the amount in dispute shall not be considered due and owing and Seller and MHSI shall have no rights whatsoever with respect to such amount under Section 6.1(a) hereof or the Buyer Security Agreement.

(d) Each year within 15 Business Days following the later to occur of (i) completion of the audited financial statements of the Operating Company for the immediately preceding Fiscal Year and (ii) publication or disclosure by the IRS of the revised inflation adjustment factors and the reference prices applicable to the immediately preceding Fiscal Year pursuant to Section 29(d)(2) of the Code, the Administrative Member shall recompute the aggregate Estimated Tax Credits for each of the Quarters of the preceding Fiscal Year using (I) such revised factor and taking into account the effect, if any, of the operation of Section 29(b)(1) of the Code based on such reference price and (II) information on actual sales to unrelated persons (as defined in Section 29(d)(7) of the Code) of solid synthetic fuel produced in the Facilities reflected in such audited financial statements (such recomputed amount for any Quarter being the "Actual Credit Amount"). For purposes hereof, the "Annual Adjustment Amount" shall mean the aggregate of the following for all of the Quarters of such preceding Fiscal Year: (w) the product of (I) the Applicable Percentage and (II) the Actual Credit Amount for each Quarter, reduced by (x) the Fixed Deferred Payment and the payments under the Base Note made

with respect to such Quarter but, in the case of this clause (x) only, not reduced below zero, (y) the Variable Deferred Payment made with respect to such Quarter and (z) capital contributions made by Buyer to the Operating Company with respect to such Quarter. If the Annual Adjustment Amount is a positive amount, such amount will be added to the amount of Buyer's Variable Deferred Payment otherwise due on the Adjustment Date. If the Annual Adjustment Amount is a negative amount, such amount will be used to reduce Buyer's Variable Deferred Payment otherwise due on the Adjustment Date, or if such amount exceeds the amount of Buyer's Variable Deferred Payment otherwise due on such date, the excess amount will be successively credited against Buyer's Variable Deferred Payments as they otherwise become due thereafter. In the event that the actual Tax Credits claimed on the Company's federal income tax return for any such Fiscal Year is different from the Actual Credit Amount for such Fiscal Year as computed pursuant to this Section 2.5(d), an additional adjustment amount will be promptly calculated and applied to adjust Buyer's Variable Deferred Payment in the same manner as described above for the Annual Adjustment Amount.

(e) In the Fiscal Year that the Final Adjustment Date occurs, within 15 Business Days following the later to occur of (i) completion of the audited financial statements of the Operating Company for the immediately preceding Fiscal Year and (ii) publication or disclosure by the IRS, pursuant to Section 29(d)(2) of the Code, of the revised inflation adjustment factors and the reference prices applicable to the immediately preceding Fiscal Year, the Administrative Member shall calculate the Actual Credit Amount for such Fiscal Year. For purposes hereof, the "Final Adjustment Amount" shall mean the amount equal to the aggregate of the following for all of the Quarters of such preceding Fiscal Year: (w) the product of (I) the Applicable Percentage and (II) the Actual Credit Amount for each Quarter, reduced by (x) the Fixed Deferred Payment and payments under the Base Note made with respect to such Quarter but, in the case of this clause (x) only, not reduced below zero, (y) the Variable Deferred Payment made with respect to such Quarter and (z) capital contributions made by Buyer to the Operating Company with respect to such Quarter. If the Final Adjustment Amount is positive, Buyer shall pay such amount to Seller on the Final Adjustment Date; provided, however, that if any amount required to be credited against the Variable Deferred Payments pursuant to Section 2.5(d) exceeds such amount, Seller shall pay Buyer an amount equal to such excess. If the Final Adjustment Amount is negative, then Seller shall pay such amount to Buyer on the Final Adjustment Date plus any amount required to be credited against the Variable Deferred Payments pursuant to Section 2.5(d). In the event that the actual Tax Credits claimed on the Company's federal income tax return for such Fiscal Year is different from the Actual Credit Amount for such Fiscal Year as computed pursuant to this Section 2.5(e), an additional adjustment amount will be promptly calculated and paid in the same manner as described above for the Final Adjustment Amount.

(f) On or before the Closing Date, and within ten days after the end of each Quarter thereafter, the Administrative Member shall provide to Buyer a list of Persons to whom the Company anticipates or is considering selling synthetic fuel, other than Pre-Sale Inventory (including information reasonably available to the Administrative Member regarding the ultimate ownership of such Person and applicable CUSIP number) (the "Customer List"). Seller shall, from time to time after the Closing Date, supplement the Customer List with any additional Persons to whom the Operating Company anticipates or is considering selling synthetic fuel during such Fiscal Year. Any such supplemental Customer Lists shall be sent to Buyer by

registered or certified mail with postage prepaid and return receipt requested. Within 10 Business Days following the Administrative Member's delivery of the Customer List (or supplement thereto) or the Administrative Member's request as to any specific Person that may be made from time to time, Buyer shall deliver to the Administrative Member a "Customer Certificate" in the form attached as Exhibit K hereto notifying the Administrative Member whether, as to each such Person, the Person is a Cleared Person. As to any such Person, if Buyer fails to deliver the Customer Certificate indicating that such Person is not a Cleared Person within such 10 Business Day period, the Person shall be deemed to be a Cleared Person until Buyer delivers to the Administrative Member a Customer Certificate notifying the Administrative Member that such Person is not a Cleared Person. To the extent any such Person is identified by Buyer in the Customer List as not being a Cleared Person, the Parties will meet, discuss and negotiate in good faith to develop and agree upon appropriate actions to maximize the full value of the Tax Credits generated by the production and sale of synthetic fuel at the Facilities, including, without limitation, possible divestiture by Buyer or its Affiliates of interests in such customer and the sale by Buyer of part or all of the Membership Interest to a third party as provided in the Amended LLC Agreement or to Seller or its Affiliates. The Administrative Member hereby agrees to keep confidential the information contained in any Customer Certificate delivered by Buyer (except as necessary to enforce this Agreement and any of the other Transaction Agreements or to the extent such information made public by a party other than the Administrative Member is required by law to disclose such information). Buyer hereby agrees to keep confidential the information contained in any Customer List, or supplement thereto, delivered by the Administrative Member (except as necessary to enforce this Agreement and any of the other Transaction Agreements or to the extent such information made public by a party other than Buyer and its Affiliates or Buyer is required by law to disclose such information).

(g) Notwithstanding anything to the contrary contained in this Article II, until the earlier of the delivery by Buyer to the Operating Company and to Seller of a Termination Notice or December 31, 2003, all payments required to be made by Buyer under this Article II, for the period from the Closing Date until the foregoing earlier event (the "Initial Period"), up to an amount equal to 44 percent of the Estimated Tax Credits for such period, shall be made to the Escrow Agent to be held in the Escrow Account in accordance with the Escrow Agreement. If Buyer delivers a Termination Notice to the Operating Company and to Seller on or before December 31, 2003, (i) Buyer, MHSI and Seller shall promptly thereafter instruct the Escrow Agent to pay over to Buyer the amount in the Escrow Account (together with income earned as to such funds) on the Termination Date, and, upon such payment being made, the Escrow Agreement shall terminate, and (ii) thereafter, the aggregate of payments of Purchase Price hereunder and capital contributions under the Amended LLC Agreement to be made by Buyer (for the portion of the Initial Period as to which such payments have not been made at the Termination Date) shall be made only to the extent of 75 percent of the Estimated Tax Credits; provided, however, that if the Termination Date in the Termination Notice is prior to December 31, 2003, Marriott in its sole discretion may elect, by notice in writing to Buyer within five Business Days of receipt of the Termination Notice, to require Buyer to remain as a partner in the Operating Company until December 31, 2003, in which case the aggregate of payments of Purchase Price hereunder and capital contributions under the Amended LLC Agreement to be made by Buyer for the period from the Termination Date through December 31, 2003 shall be made only to the extent of 70 percent of the Estimated Tax Credits of the amount otherwise

required to be paid. If Buyer does not deliver a Termination Notice before the close of business on December 31, 2003, (y) Buyer, MHSI and Seller shall promptly thereafter instruct the Escrow Agent to pay over to Seller the amount in the Escrow Account (together with income earned as to such funds), and, upon such payment being made, the Escrow Agreement shall terminate and (z) thereafter, Buyer shall make in full (rather than in part to the Escrow Account) all payments required to be made by it under this Article II.

(h) To the extent Buyer elects to waive financial participation in the Company pursuant to Section 4.1(h) of the Amended LLC Agreement, and no Tax Credits are allocated to Buyer as provided in the Amended LLC Agreement, Buyer shall have no obligation to make a Variable Deferred Payment on the Quarterly Payment Date following the end of the Quarter for which the waiver is effective.

2.6 Low Production Volume. In the event that the aggregate sales (not counting Excluded Sales) of synthetic fuel produced at the Facilities fall below 525,000 tons for any Quarter (for any reason, including without limitation, a force majeure event), Buyer may defer the scheduled payment under the Base Note and the Fixed Deferred Payment for such Quarter by giving Seller written notice of such deferral on or before the Quarterly Payment Date in the form of a notice substantially similar to Exhibit C hereto. Notwithstanding the foregoing, Buyer may not defer the scheduled payment under the Base Note and the Fixed Deferred Payments hereunder more than four times in aggregate during the Fixed Payment Term. If Buyer makes the scheduled payment under the Base Note, but defers the Fixed Deferred Payment, that shall be regarded as a deferral for purposes of the preceding sentence. In the event of any deferral under this Section 2.6, the deferred amounts will be reallocated over the remaining scheduled payments, assuming an interest rate of 8% per annum on such deferred amounts.

2.7 Tax Event. Upon the occurrence of a Tax Event and redemption of the Membership Interest by the Operating Company in accordance with Section 10.8 of the Amended LLC Agreement, Buyer shall have no further obligation to make Fixed Deferred Payments, Variable Deferred Payments or payments under the Base Note, other than any such payments that are due and payable at the time of such redemption but which have not been paid in full.

2.8 Payments. All payments to be made pursuant to this Article 2 shall be made by wire transfer of immediately available funds to an Account of Seller.

2.9 Execution and Closing.

(a) The execution of this Agreement and the deliveries set forth in Section 2.10 will take place (i) at the offices of Jones Day in Washington, D.C., at 10:00 a.m., local time, on the date hereof or (ii) at such other place and time as Buyer, Seller and MHSI may agree in writing (the "Execution Date"). The Parties agree that their respective rights and obligations hereunder and under the documents delivered pursuant to Section 2.10(a) and Section 2.10(b) shall not take effect until the Closing Date, that such documents will be held in escrow from the Execution Date to the Closing Date by Jones Day and released only pursuant to joint instructions of MHSI and Buyer, and that such documents shall be of no force and effect until the Closing is consummated.

(b) Subject to Section 2.9(c) below, the Closing will take place within 30 days after receipt from the IRS of an additional private letter ruling (the "Private Letter Ruling") containing the following rulings:

(i) the Operating Company, using the Covol 298-1 reagent, will produce a "qualified fuel" within the meaning of Section 29(c)(1)(C) of the Code;

(ii) production of qualified fuel at the Facilities will be attributable solely to the Operating Company, entitling the Operating Company to the Tax Credit on such fuel sold to unrelated parties; and

(iii) the Tax Credit may be passed through to and allocated among the members of the Operating Company (which shall be defined in the Private Letter Ruling as MHSI, Buyer and Seller), in accordance with each member's interest in the Operating Company when the Tax Credit arises, which is determined based on a valid allocation of the receipts from the sale of the qualified fuel.

(c) Buyer shall not be obligated to consummate the Closing if the Private Letter Ruling is not issued by July 31, 2003 or if, at the time the requirements of Section 2.9(b) are satisfied, either (i) a Tax Event has occurred; (ii) MHSI and Seller have not funded the Operating Company fully for the period up to and including the Closing Date; (iii) Seller or MHSI has not performed any of the covenants the Seller or MHSI is required to perform between the Execution Date and the Closing Date under this Agreement or any other Transaction Document, or there is a material breach of a representation and warranty set forth in Section 3.3(p) and such failure or breach, in the written opinion of Chadbourne & Parke LLP (or other nationally recognized tax counsel) should have a materially adverse effect on Buyer's ability to claim Tax Credits, or (iv) the Private Letter Ruling contains (or fails to contain) language the presence (or absence) of which in the written opinion of Chadbourne & Parke LLP (or other nationally recognized tax counsel) should have a materially adverse effect on Buyer's ability to claim Tax Credits or (v) there shall be revealed or there shall have occurred a circumstance or an event that, in Buyer's reasonable judgment, results in, or at the Closing Date would result in (A) a material breach of a representation and warranty set forth in Section 3.3(i), (B) a breach of a representation and warranty set forth in Section 3.1(b) of this Agreement, (C) a tort claim against the Operating Company that could reasonably be expected to result in a liability to the Operating Company in excess of $5 million or (D) a casualty to any of the Facilities that has a material adverse effect on the capacity of the Facilities to produce synthetic fuel qualifying for Tax Credits, and in any such case (A)-(D), Seller and MHSI have not, within ninety (90) days of such revelation or occurrence, cured or corrected such circumstance or event.

(d) On the Closing Date, Seller and MHSI each shall deliver to Buyer an officer's certificate of an Authorized Officer certifying that each of the representations and warranties set forth in Sections 3.1, 3.2 and 3.3 of this Agreement is true and correct in all material respects as of the Closing Date; provided that if MHSI is not able to deliver such certificate, Buyer shall not be obligated to consummate the Closing only if the circumstances preventing the delivery of such certificate should in the written opinion of Chadbourne & Parke LLP (or other nationally recognized tax counsel) have a materially adverse effect on Buyer's ability to claim Tax Credits.

(e) On the Closing Date, Seller shall deliver to Buyer a bring-down opinion of internal and outside counsels to MHSI and Seller addressing the matters set forth in Section 2.10(b)(ii), (iii) and (iv), which opinions shall be in form and substance satisfactory to Buyer.

2.10 Actions to Occur on the Execution Date.

(a) On the Execution Date, Buyer shall deliver or cause to be delivered to Seller the following:

(i) a certificate of incumbency from the secretary or an assistant secretary of Buyer as to the officers of Buyer who sign the Transaction Documents on behalf of Buyer; and a certificate of incumbency from the secretary or assistant secretary of Buyer Parent as to the officers of Buyer Parent who sign the Buyer Guaranty on behalf of Buyer Parent;

(ii) a legal opinion of internal counsel to Buyer, in form and substance satisfactory to Seller, to the effect that (1) each of the Buyer and the Buyer Parent has been duly formed and is validly existing and in good standing under the laws of the jurisdiction in which such corporation or legal entity was formed; (2) each of the Buyer and Buyer Parent has all entity power and authority to enter into and perform the transactions contemplated by the Transaction Documents; (3) each of the Transaction Documents to which Buyer and Buyer Parent is a party has been authorized by all necessary entity action and has been duly executed and delivered by such entity, and (4) the execution and delivery of the Transaction Documents to which Buyer and Buyer Parent are a party do not and will not violate such entity's constitutive documents;

(iii) a legal opinion of Chadbourne & Parke LLP, outside counsel to Buyer, in form and substance satisfactory to Seller, to the effect that (1) each of the Transaction Documents to which Buyer and Buyer Parent is a party constitutes the valid and binding obligation of such entity enforceable against such entity in accordance with its terms, except as may be limited or otherwise affected by (I) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other laws affecting the rights of creditors generally and (II) principles of equity, whether considered at law or in equity; and (2) no filing with, notice to, or consent, approval, authorization or order of any court or government agency or body or official is required by federal or applicable state law to be obtained in connection with the execution, delivery and performance by Buyer or the Buyer Parent of the Transaction Documents to which it is a party.

(iv) the Buyer Parent Guarantee, duly executed by Buyer Parent;

(v) the Buyer Security Agreement, duly executed by Buyer;

(vi) the Amended LLC Agreement, duly executed by Buyer;

(vii) the Assignment Agreement, duly executed by Buyer; and

(viii) the Base Note, duly executed by Buyer.

(b) On the Execution Date, Seller shall deliver or cause to be delivered to Buyer the following:

(i) a certificate of incumbency from the secretary or assistant secretary of Seller as to the officers of Seller who sign the Transaction Documents on behalf of such Seller; and a certificate of incumbency from the secretary or an assistant secretary of Seller Parent as to the officers of Seller Parent who sign the Seller Parent Guaranty on behalf of Seller Parent; and a certificate of incumbency from the secretary or an assistant secretary of MHSI as to the officers of MHSI who sign the Transaction Documents on behalf of MHSI;

(ii) a legal opinion of internal counsel to MHSI and Seller Parent, in form and substance satisfactory to Buyer, to the effect that (1) each of MHSI and the Seller Parent has been duly formed and is validly existing and in good standing under the laws of the jurisdiction in which such corporation or legal entity was formed; (2) each of MHSI and the Seller Parent has all entity power and authority to enter into and perform the transactions contemplated by the Transaction Documents to which it is a party; (3) each of the Transaction Documents to which MHSI or the Seller Parent is a party has been authorized by all necessary entity action and has been duly executed and delivered by such entity; and (4) the execution and delivery of the Transaction Documents to which MHSI and Seller Parent are a party do not and will not violate such entity's constitutive documents.

(iii) a legal opinion of Stoel Rives LLP, in form and substance satisfactory to Buyer, to the effect that (1) Seller has been duly formed and is validly existing and in good standing under the laws of the State of Oregon; (2) Seller has all entity power and authority to enter into and perform the transactions contemplated by the Transaction Documents to which it is a party; (3) each of the Transaction Documents to which Seller is a party has been authorized by all necessary entity action and has been duly executed and delivered by such entity; (4) the execution and delivery of the Transaction Documents to which Seller is a party do not and will not violate Seller's constitutive documents; and (5) Seller was retroactively reinstated under Oregon law on December 16, 2002 and the Company was retroactively reinstated under Oregon law on December 18, 2002.

(iv) a legal opinion of Jones Day, outside counsel to MHSI, Operating Company and Seller, in form and substance satisfactory to Buyer, to the effect that (1) the Operating Company has been duly formed in Delaware and is validly existing and in good standing under the laws of Delaware; (2) the Operating Company has all limited liability company power and authority to enter into and perform the transactions contemplated by the Transaction Documents to which it is a party; (3) each of the Transaction Documents to which Seller, the Operating Company, MHSI or the Seller Parent is a party constitutes the valid and binding obligation of such entity enforceable against such entity in accordance with its terms, except as may be limited or otherwise affected by (I) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other laws affecting the rights of creditors generally and (II) principles of equity, whether considered at law or in equity; and (4) no filing with, notice to, or consent, approval, authorization or order of any court or government agency or body or official is required by federal or applicable state law to be obtained in connection with the execution, delivery and performance by Seller, the Operating Company, MHSI or the Seller Parent of the Transaction Documents to which it is a party;

(v) all consents, waivers or approvals required to be obtained by Seller with respect to the sale of the Membership Interest by Seller contemplated herein and the consummation of the transactions related to such sale of Membership Interest;

(vi) an affidavit of nonforeign status that complies with Section 1445 of the Code, duly executed by Seller;

(vii) the Amended LLC Agreement, duly executed by Seller and MHSI;

(viii) the Assignment Agreement, duly executed by Seller;

(ix) the Seller Guarantee, duly executed by Seller Parent in favor of Buyer; and

(x) the Seller Security Agreement, duly executed by MHSI.

2.11 First Quarterly Payment Date. For purposes of the Fixed Deferred Payments it is assumed that the first Quarterly Payment Date following the Closing Date will be the Quarterly Payment Date in respect of the Quarter ending August 31, 2003. If this assumption turns out to be incorrect, the payment schedule for the Fixed Deferred Payments shall be adjusted to reflect that.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties Regarding Seller, MHSI and the Operating Company. Seller and MHSI represent and warrant to Buyer both as of the Execution Date and the Closing Date as follows (with the understanding that Buyer is relying on such representations and warranties in entering into and performing this Agreement):

(a) Organization, Good Standing, Etc. (i) each of Seller and MHSI is a corporation duly incorporated, validly existing and in good standing under the laws of the state of its incorporation, and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted; (ii) the Operating Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, and has all requisite limited liability company power and authority to own, lease and operate its properties and to carry on its business as now being conducted. The Operating Company is qualified to do business and in good standing under the laws of each jurisdiction in which the character of the Subject Assets owned or leased by that company or the nature of the activities conducted by it in operating its businesses makes such qualification necessary under law. Attached hereto as Schedule 3.1(a) are complete and correct copies of the certificate of formation and the limited liability company operating agreement of the Operating Company, and all amendments thereto.

(b) Ownership. Seller and MHSI are members of the Operating Company, with Seller owning 49.9 percent of all of the outstanding membership interests of the Operating Company and MHSI owning 50 percent of all of the outstanding membership interests of the Operating Company. Except with respect to the transactions contemplated by this Agreement

and the SynAmerica I Purchase Agreement, Seller is not a party to any agreement, arrangement or understanding relating to the sale or disposition of all or any part of the membership interest of the Operating Company or the sale or disposition of all or any part of the membership interests in Seller as of the date hereof, nor is Seller in discussions with any Person with respect to the foregoing. On the date hereof Seller has, and immediately prior to the Closing of this Agreement Seller will have, absolute record and beneficial ownership and title to a 49.9 percent membership interest in the Operating Company free and clear of any liens or other encumbrances except for the obligations imposed on members of the Operating Company under its operating agreement. There are no outstanding options, warrants, calls, puts, convertible securities or other contracts of any nature to which the Operating Company is bound obligating it to issue, deliver or sell, or cause to be issued, delivered or sold, membership interests or any securities or obligations convertible into or exchangeable for membership interests or to grant, extend or enter into any such option, warrant, call, put, convertible security or other contract.

(c) Subsidiaries, Etc. The Operating Company has no direct or indirect ownership interest in any corporation, limited liability company, partnership, joint venture or other firm or entity nor any contractual obligation or commitment to make any investment in (by way of contributions, advances, loans or otherwise) to any other Person or to provide guarantees of, or credit support relating to any third-party debt.

(d) Authority. Each of Seller and MHSI has all requisite corporate power and authority to enter into this Agreement and the other Transaction Documents to which it is a party, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby or thereby. The execution and delivery by each of Seller and MHSI of this Agreement and the Transaction Documents to which it is a party, the performance by it of its obligations hereunder and thereunder, and the consummation by it of the transactions contemplated hereby or thereby, have been duly authorized by all necessary corporate action on the part of Seller and MHSI. This Agreement has been duly executed and delivered by each of Seller and MHSI, and upon the execution and delivery by it of the other Transaction Documents to which it is a party, the Transaction Documents will be duly executed and delivered by Seller and MHSI. This Agreement (assuming due authorization, execution and delivery by Buyer) constitutes, and upon execution and delivery by each of Seller and MHSI of the other Transactions Documents to which it is a party, the Transaction Documents will constitute, the valid and binding obligations of each of Seller and MHSI, enforceable against it in accordance with their terms, subject as to enforceability to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting enforcement of creditors' rights and remedies generally and to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

(e) No Conflict; Required Filings and Consents. The execution and delivery by each of Seller and MHSI of this Agreement and the other Transaction Documents to which it is a party do not, the performance by it of its obligations hereunder and thereunder, and the consummation by it of the transactions contemplated hereby or thereby will not, (i) violate, conflict with, or result in any breach of any provision of its or the Operating Company's certificate of formation, articles of incorporation, articles of organization, bylaws, limited liability company operating agreement or other organizational documents, (ii) violate, conflict with, or result in a violation or breach of, or constitute a default (with or without due notice or

lapse of time or both) under, or permit the termination of, or result in the acceleration of, or entitle any Person to accelerate any obligation, or result in the loss of any benefit, or give any Person the right to require any security to be repurchased, or give rise to the creation of any Lien upon the Membership Interest or any Subject Asset, or affect its or the Operating Company's rights under any of the terms, conditions, or provisions of any loan or credit agreement, note, bond, mortgage, indenture, or deed of trust, or any license, lease, agreement, or other instrument or obligation to which such entity is a party or by which or to which it or the Operating Company or any of their respective assets, the Membership Interest or the Subject Assets may be bound or subject, or (iii) violate any Applicable Law. Except as disclosed on Schedule 3.1(e), no Consent of any Governmental Authority or other Person is necessary or required with respect to Seller, MHSI or the Operating Company in connection with the execution and delivery by Seller and MHSI of this Agreement or any of the other Transaction Documents to which Seller or MHSI is a party, the performance by Seller or MHSI of its obligations hereunder and thereunder, or the consummation by Seller or MHSI of the transactions contemplated hereby or thereby, except for any such Consent that is routine or ministerial in nature.

(f) Absence of Litigation. There is no claim, action, suit, inquiry, judicial or administrative proceeding, grievance, or arbitration pending or, to the Knowledge of Marriott, threatened against any Seller Party that seeks to restrain, prohibit, or otherwise enjoin this Agreement or the consummation of the transactions contemplated hereby.

(g) Broker's Fees. Except for broker's fees to be paid by MHSI to Meridian Investments, Inc., a Massachusetts corporation, no agent, broker, investment banker, or other Person engaged by any Seller Party is or will be entitled to any broker's or finder's fee or any other commission or similar fee payable by Buyer or the Operating Company in connection with any of the transactions contemplated by this Agreement.

3.2 Representations and Warranties Regarding the Operating Companies - - Historical. Attached hereto as Schedule 3.2 are the "Representations and Warranties Regarding the Companies" that PacifiCorp made to Marriott in Section 3.2 of the PacifiCorp/Marriott Agreement (the "Historical Representations and Warranties"). For the period up to October 15, 2001 (but not thereafter), Seller and MHSI hereby repeat and incorporate herein by this reference as representations and warranties of Seller and MHSI both as of the Execution Date and the Closing Date the Historical Representations and Warranties. The sole liability of Seller and MHSI with respect to this Section 3.2 is as set forth in Section 7.10 hereof.

3.3 Representations and Warranties Regarding the Operating Company. The representations and warranties set forth in this Section 3.3 and the Schedules with respect thereto have effect only for, and relate only to, the period commencing October 15, 2001.

Seller and MHSI represent and warrant to Buyer both as of the Execution Date and the Closing Date as follows (with the understanding that Buyer is relying on such representations and warranties in entering into and performing this Agreement):

(a) Financial Statements; Undisclosed Liabilities; Absence of Certain Changes or Events.

(i) Attached as Exhibit J is the balance sheet of the Operating Company as of November 29, 2002 (the "Balance Sheet"), and the statements of income of the Operating Company for the fiscal year to such date (such financial statements collectively referred to as the "Financial Statements"). The Financial Statements have been prepared in accordance with GAAP and fairly present the information purported to be presented therein as of such date and for the periods to such date.

(ii) There is no liability or obligation of any kind, whether accrued, absolute, fixed, contingent (as such term is defined under FASB Statements of Financial Accounting Standards No. 5), or otherwise, of the Operating Company for the period since October 15, 2001 that is not disclosed or reserved against in the Balance Sheet as of November 29, 2002 (the "Balance Sheet Date"), other than liabilities and obligations incurred in the Ordinary Course of Business since the Balance Sheet Date that do not impose any material liability on the Operating Company. No facts or circumstances exist that, with or without the passing of time or the giving of notice or both, might reasonably serve as the basis for any such liabilities not covered by the exception in the foregoing sentence.

(iii) Since the Balance Sheet Date, the Operating Company has conducted its business only in the Ordinary Course of Business. Since the Balance Sheet Date, no material adverse change has occurred to the business, the assets or the financial condition or prospects of the Operating Company. As of the date hereof, the Operating Company does not have any liabilities of any nature, whether accrued, absolute, contingent or otherwise (including, without limitation, liabilities as guarantor or otherwise with respect to obligation of others, or liabilities for taxes due or then accrued or to become due or contingent or potential liabilities relating to activities of the Company or the conduct of its business) (collectively "Liabilities"), except: (i) Liabilities reflected in the Financial Statements, (ii) Liabilities incurred in the ordinary course of business of the Company since the Balance Sheet Date which singly or in the aggregate do not have a Material Adverse Effect on the condition (financial or otherwise), properties, assets, liabilities, business or operations of the Company, and (iii) as set forth on Schedule 3.3(a) attached hereto.

(b) Compliance with Applicable Laws; Permits. Except as regards Taxes, which are the subject of Section 3.3(j), since October 15, 2001, the Operating Company has complied in all material respects with, the Operating Company has not received any notices of any violation of, and the Subject Assets of the Operating Company have been in compliance in all material respects with, all Applicable Laws. Except as listed on Schedule 3.3(b) there are no material permits, approvals, registrations, licenses, legal notifications, authorizations, exemptions or the like ("Permits") required to be obtained or filed by the Operating Company under any Applicable Law either to conduct the business of the Operating Company or otherwise to own or operate the Facilities or the other Subject Assets. All Permits owned or held by the Operating Company to conduct its businesses or otherwise to own and operate the Facilities and the other Subject Assets are listed or described on Schedule 3.3(b). All such Permits are in full force and effect, the Operating Company is and has been in compliance in all material respects with such Permits, and, to the Operating Company's Knowledge, there are no conditions which, with the

passage of time or the giving of notice or both, would give rise to a material breach or default by the Operating Company under any thereof.

(c) Absence of Litigation. Since October 15, 2001, except as set forth on Schedule 3.3(c) there is no claim, action, suit, inquiry, judicial, or administrative proceeding, grievance, or arbitration that has been formally asserted or filed or, to the Knowledge of Marriott, threatened against the Operating Company or any of the Subject Assets or that questions the validity of the Transaction Documents or that seeks to delay, prevent or alter the consummation of any of the transactions contemplated hereby and thereby; nor have there been any investigations relating to the Operating Company or any of the Subject Assets that have been formally advised to the Operating Company or, to the Knowledge of Marriott, threatened by any Governmental Authority. Since October 15, 2001, there are no claims, actions or suits that have been filed by the Operating Company. Since October 15, 2001, there is no judgment, decree, injunction, order, determination, award, notice of violation, finding, or letter of deficiency of any Governmental Authority or arbitrator that has become outstanding against the Operating Company or any of the Subject Assets.

(d) Insurance. Since October 15, 2001, the Operating Company has been insured against such risks and in such amounts as companies engaged in a similar business would, in accordance with good business practice, customarily be insured. Schedule 3.3(d) sets forth a list of all fire, general liability, malpractice liability, theft, and other forms of insurance and all fidelity and surety bonds held by or applicable to the Operating Company or the Subject Assets for the period since October 15, 2001, and except as disclosed on such Schedule 3.3(d), for the period since October 15, 2001, there is no claim by the Operating Company pending under any such policies or bonds as to which coverage has been questioned, denied, or disputed by the underwriters of such policies or bonds. All premiums due and payable under such policies and bonds since October 15, 2001 have been paid, and except as set forth on Schedule 3.3(d) the Operating Company is otherwise in compliance in all material respects with the terms and conditions of such policies and bonds. Since October 15, 2001, no event has occurred, including the failure by the Operating Company to give any notice or information or the delivery of any inaccurate or erroneous notice or information, which materially limits or impairs the rights of the Operating Company under any such insurance policies. Excluding insurance policies that have expired and been replaced in the Ordinary Course of Business, except as set forth on Schedule 3.3(d), no insurance policy held by or applicable to the Operating Company or the Subject Assets of the Operating Company has been canceled since October 15, 2001 and, to the Knowledge of Marriott, there is no threatened termination of such policies and, except as noted on Schedule 3.3(d), since October 15, 2001, the Operating Company has not received any notice of any premium increase with respect to such policies. With respect to any period since October 15, 2001 during which any third-party operator provided material operational and/or maintenance services to the Facilities, to the Knowledge of Marriott, such third-party operator acquired or otherwise maintained workmen's compensation and liability insurance coverage in such amounts as third-party operators engaged in a similar business would, in accordance with good business practices, customarily be insured.

(e) Owned Real Property. The Operating Company does not own any real property.

(f) Leased Real Property. The Operating Company currently does not lease or sublease any real property, including any real property leasehold interests covering office space or industrial sites, other than the real property leasehold interests described on Schedule 3.3(f). Except as set forth on Schedule 3.3(f), there is no real property owned or leased by Seller Parent or one of its Affiliates (other than the Operating Company or SynAmerica I) that is used or held for use primarily in connection with the Facilities or the operations of the Operating Company. Each lease listed on Schedule 3.3(f), if any, is in full force and effect without any amendment. The Operating Company is not, and, to the Knowledge of Marriott, no other Person is, in default under any lease listed on Schedule 3.3(f), if any, that could reasonably be expected to have a Material Adverse Effect. No Consent from any landlord or third party to any lease listed on Schedule 3.3(f), will be required as a result of the execution, delivery or performance by the Parties of this Agreement and the other Transaction Documents. All leasehold interests listed on Schedule 3.3(f) are available for immediate use as related to the Facilities and the operations of the Operating Company as currently conducted or as otherwise conducted in the Ordinary Course of Business, and such leasehold interests listed on Schedule 3.3(f) are adequate for the Operating Company to operate in accordance with its operations as currently conducted or as otherwise conducted in the Ordinary Course of Business. Since October 15, 2001, the Operating Company has not purchased or leased any additional real property. Seller has delivered to Buyer true and complete copies of all leases listed in Schedule 3.3(f), if any, and all amendments thereto, prior to the execution of this Agreement. Each such lease is valid and binding on the Operating Company and, to the Knowledge of Marriott, on the other parties thereto, and is enforceable in accordance with the terms thereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, applicable equitable principles or other similar laws affecting the enforcement of creditors' rights generally.

(g) Personal Property. Schedule 3.3(g) contains a list of the items of Personal Property having a replacement cost of not less than $10,000 for each item acquired by the Operating Company since October 15, 2001, and not since disposed of in the Ordinary Course of Business. Except as set forth in Schedule 3.3(g), there is no personal property owned or leased by Seller Guarantor or one of its Affiliates (other than the Operating Company or SynAmerica I) that has become used or held for use primarily in connection with the Facilities or the operations of the Operating Company since October 15, 2001. All Personal Property listed on Schedule 3.3(g) is located at the locations listed on such Schedule 3.3(g). Except as set forth on Schedule 3.3(g), the Operating Company has good and marketable title to, or a valid leasehold or license interest in, all of the Personal Property listed on such Schedule. The Operating Company is not, and, to the Knowledge of Marriott, no other Person is, in default under any of the leases, licenses and other Contracts relating to the Personal Property listed on such Schedule that could reasonably be expected to have a Material Adverse Effect. Except as otherwise disclosed in Schedule 3.3(g), the Personal Property listed on such Schedule (i) is in good operating condition and repair (ordinary wear and tear excepted), (ii) is available for immediate use in the operations of the Operating Company as and where currently conducted, and (iii) is adequate for the Operating Company to operate in accordance with its operations as and where currently conducted or as otherwise conducted in the Ordinary Course of Business.

(h) Liens. All of the Subject Assets are free and clear of all liens, pledges, claims, security interests, restrictions, mortgages, deeds of trust, tenancies, and other possessory interests, conditional sale or other title retention agreements, assessments, easements, rights of

way, covenants, restrictions, rights of first refusal, defects in title, encroachments, and other burdens, options or encumbrances of any kind (collectively, "Liens") except for Permitted Liens.

(i) Environmental Matters.

(i) Except as set forth on Schedule 3.3(i)(i), the Operating Company, the operations of the Operating Company, and the Subject Assets have at all times since October 15, 2001 complied with all Environmental Laws, and currently comply with all Environmental Laws.

(ii) Since October 15, 2001, except as set forth on Schedule 3.3(i)(ii), no judicial or administrative proceedings have been filed or, to the Knowledge of Marriott, threatened against the Operating Company alleging the violation of any Environmental Laws, or alleging any liabilities arising under any Environmental Laws, or otherwise requiring the Operating Company to take, or refrain from taking, any action in order to comply with any Environmental Laws, and no claims, actions or suits have been formally asserted or filed or, to the Knowledge of Seller or MHSI, threatened against the Operating Company from or related to exposure (or alleged exposure) of Persons or property to Hazardous Substances in connection with the operation of the Operating Company or the Facilities, and no notice from any Governmental Authority or any private or public Person has been received by the Operating Company or any other Seller Party or, to the Knowledge of Marriott, threatened against the Operating Company or any other Seller Party claiming any violation of any Environmental Laws by the Operating Company in connection with any real property or facility owned, operated or leased by the Operating Company, or claiming any liabilities arising under Environmental Laws or requiring any investigation, remediation, or monitoring on or in connection with any real property or facility owned, operated or leased by the Operating Company or any offsite location that may have been impacted by operations of the Operating Company that are necessary to comply with any Environmental Laws and that have not been fully complied with or otherwise resolved to the full satisfaction of the Person giving notice, or that otherwise may reasonably be expected to give rise to any liability arising under Environmental Laws.

(iii) Since October 15, 2001, except as set forth on Schedule 3.3(i)(iii), the Operating Company possesses, has possessed or otherwise holds or has held all Permits required to conduct all of its activities, including those activities relating to the generation, use, storage, treatment, transport, disposal, release, investigation, remediation or monitoring of Hazardous Substances. All such Permits are final, in full force and effect, and are not subject to any judicial or administrative appeal or other proceedings.

(iv) Since October 15, 2001, all Hazardous Substances generated, used, stored, treated, transported, disposed of, arranged for transport, arranged for disposal or released (collectively, "Managed") by the Operating Company on, in, under or from any of its owned, operated, or leased real property or facilities have been Managed by the Operating Company in such manner as to be in compliance with Environmental Law and not to result in any Environmental Costs or Liabilities. To the Knowledge of Marriott, no

Hazardous Substances exist in or on the Subject Assets except in compliance in all material respects with Environmental Laws.

(v) Since October 15, 2001, neither the Operating Company nor other Seller Party has received any written notification from any source advising the Operating Company or Seller Party that: (A) the Operating Company is a potentially responsible party under CERCLA or any other Environmental Laws; (B) any real property or facility currently or previously owned, operated or leased by the Operating Company is identified or proposed for listing as a federal National Priorities List ("NPL") (or state-equivalent) site or a Comprehensive Environmental Response, Compensation and Liability Information System ("CERCLIS") (or state-equivalent) site; and (C) any facility to which the Operating Company has ever transported, disposed or otherwise arranged for the transport or disposal of Hazardous Substances is identified or proposed for listing as an NPL (or state-equivalent) site or CERCLIS (or state-equivalent) site.

(vi) Since October 15, 2001, no Hazardous Substance has been released or been present in a reportable quantity or quantity potentially requiring remedial action or warranting environmental investigation, or that could otherwise reasonably be expected to result in liability at, on, or under any real property or facility now or previously owned, operated or leased by the Operating Company.

(vii) The Operating Company has made available to Buyer all environmental site assessment reports, studies, and related documents in its possession and relating to the operation, businesses and property of the Operating Company and the Facilities.

(j) Taxes. The Operating Company has timely filed, or caused to be timely filed on its behalf, all Tax Returns required to be filed since October 15, 2001, and has paid, or caused to be paid on its behalf, all Taxes required to be paid since October 15, 2001. All such Tax Returns are complete and accurate in all material respects. Waivers of the statute of limitations in respect of Taxes for which the Operating Company is liable that have been given to the IRS are listed on Schedule 3.3(j). To Marriott's Knowledge, no other such waivers have been given or requested.

(k) Company Contracts. Schedule 3.3(k) lists all material (i) lease agreements, easements, right-of-way agreements, partnership, joint venture or alliance agreements, agreements under which any indebtedness for borrowed money has been created, incurred, assumed or guaranteed, agreements with Sellers or any Affiliate of Seller (other than the Operating Company or SynAmerica I), non-compete agreements, stock option, stock purchase, severance and similar agreements, employment agreements, collective bargaining agreements, license agreements, asset purchase agreements, merger agreements, operation and maintenance agreements, engineering, procurement and construction agreements, fuel supply agreements, fuel sales agreements, and loan agreements entered into since October 15, 2001, to which the Operating Company is a party, and (ii) all other agreements entered into since October 15, 2001 to which the Operating Company is a party involving payments to, or a liability of, the Operating Company in excess of $10,000, in each case (A) which agreements are currently in effect and (B) with respect to such agreements, the Operating Company is a party thereto or such

agreements bind or are included in the Subject Assets of the Operating Company. Seller has delivered or made available to Buyer a complete and correct copy of each such contract or other agreement listed on Schedule 3.3(k) (including all exhibits and schedules thereto) as in effect on the date hereof. With respect to each such agreement: (A) the agreement is in full force and effect, valid and binding on the Operating Company, and, to the Knowledge of Marriott, on the other parties thereto, and is enforceable in accordance with the terms thereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, applicable equitable principles or other similar laws affecting the enforcement of creditors' rights generally; (B) the agreement will continue to be in full force and effect on identical terms following the Closing; (C) the Operating Company is not and, to the Knowledge of Marriott, no other party under such agreement is, in breach or default, and no event or circumstance has occurred or exists with respect to the Operating Company or, to the Knowledge of Marriott, with respect to the other party to such agreement, which with notice or lapse of time would constitute a breach or default, or permit termination, modification, or acceleration, under the agreement, in each case that could reasonably be expected be have a Material Adverse Effect; (D) to the Knowledge of Marriott, no other party to such agreement has any valid defense, setoff or counterclaim against the Operating Company under any such agreement and the Operating Company or any other Seller Party has not received any notice of any such claim; and (E) the Operating Company has not repudiated and, except as disclosed on Schedule 3.3(k), does not intend to terminate, cancel or not renew any provisions of such agreement, and, to Marriott's Knowledge, no other party to such agreement has repudiated or intends to terminate, cancel or not renew any provision of such agreement.

(l) Employee Matters.

(i) The Operating Company has no employees. Except as set forth on Schedule 3.3(l), there is not any collective bargaining or similar agreement with any labor organization relating to the individuals who currently provide or, since October 15, 2001, have provided services in connection with the operation of the Facilities including, without limitation, the delivery of coal feedstock (the "Facility Employees"). None of the Facility Employees is a common law employee of the Operating Company. With respect to the Operating Company and Synfuel Management, LLC, Marriott has no Knowledge of, after due inquiry with Synfuel Management, LLC, (A) any current or planned employee union or organizing activities; (B) any current or threatened strike, dispute, slowdown, stoppage or lockout; (C) any unfair labor practice charge or complaint by any Facility Employee pending before the National Labor Relations Board or any similar state agency; (D) any charge or investigation pending before the Equal Employment Opportunity Commission or any other federal or state entity responsible for the prevention of unlawful employment practices; or (E) except as disclosed on Schedule 3.3(l)(i), any material violation or notices of violations of MSHA.

(ii) Since October 15, 2001, the Operating Company has not maintained, sponsored, administered or participated in any employee benefit plan, program or arrangement, including without limitation any employee benefit plan subject to ERISA. To the Knowledge of Marriott the Operating Company has no outstanding or threatened liability relating to any employee benefit plan that it maintained, sponsored or administered, or in which it participated prior to October 15, 2001.

(m) Intellectual Property.

(i) Other than the licenses listed on Schedule 3.3(k), the Company does not own or hold under license any material Intellectual Property.

(ii) Since October 15, 2001, the Operating Company has not unlawfully interfered with, infringed upon or misappropriated any Intellectual Property rights of third parties and no third party has unlawfully interfered with, infringed upon, or misappropriated any Intellectual Property rights of the Operating Company, except in any such case as could not reasonably be expected to have a Material Adverse Effect.

(n) Powers of Attorney. There are no outstanding powers of attorney executed by or on behalf of the Operating Company since October 15, 2001.

(o) Affiliate Transactions. There are no contracts between the Operating Company and any other Affiliate of Seller or MHSI.

(p) Section 29.

(i) Except as disclosed in the Marston Report or on Schedule 3.3(p)(i), no material change or modification has been made to the equipment at the Facilities since October 15, 2001.

(ii) To Marriott's Knowledge, there is no material misstatement of fact or any material omission of fact in the Request that would permit the IRS to revoke any of the rulings in the Private Letter Ruling or to successfully assert in a revenue agent's report or notice of proposed disallowance that any such ruling does not apply to the Operating Company or Buyer.

(iii) To Marriott's Knowledge, there is no material misrepresentation in Section 3.2(k) of the PacifiCorp/Marriott Agreement, or any material misstatement of fact or material omission of fact in earlier ruling requests, which would permit the IRS to revoke the earlier IRS letter rulings issued with respect to the Facilities and the Operating Company or to successfully assert in a revenue agent's report or notice of proposed disallowance that any such ruling does not apply to the Operating Company.

(iv) At least 20% of the current fair market value of the Facilities is attributable to used property (within the meaning of the private ruling issued to the Operating Company in 1997) retained from the Facilities at their original sites in Jefferson, Tuscaloosa and Walker Counties, Alabama.

(v) The Operating Company is classified as a partnership for federal income tax purposes and not as an association taxable as a corporation.

(vi) IRS audits of the Operating Company commenced in January 2000. The Operating Company received the information document requests from the IRS set forth on Schedule 3.3(p)(vii) and has responded to certain of these requests, but to Marriott's Knowledge there has been no other written communication with the IRS about the audit. For

tactical reasons, all contact with the IRS through the end of 2002 has been by PacifiCorp personnel and not by Marriott or its counsel, and accordingly Marriott's knowledge of the audits is limited. To Marriott's Knowledge, the IRS has not indicated an intention to disallow tax credits claimed by PacifiCorp or advanced any particular theory for such a disallowance.

For purposes of any indemnity relating to, or claim of breach with respect to, the representations in subsections 3.3(p)(ii) or (iii), Marriott shall not be treated as having Knowledge of any misstatement, omission or misrepresentation, and the representations in such subsections shall not be treated as incorrect or breached, to the extent that the relevant facts were disclosed to Buyer or its counsel in writing or through documents provided as part of Buyer's due diligence. For the avoidance of doubt, the parties acknowledge that the items listed on Schedule 3.3(p)(iv)B were provided to Buyer's counsel in the course of due diligence. In addition, in the absence of fraud (a remedy which is provided for in Section 7.1 hereof), the parties acknowledge that Marriott shall not have Knowledge of any additional facts if such facts are included in the Excluded Boxes described on Schedule 3.3(p)(iv)A and are not otherwise known to Marriott.

3.4 Updating of Schedules. For purposes of the representations and warranties of Seller and MHSI to be made on the Closing Date pursuant to Sections 3.1, 3.2 and 3.3, the schedules to such representations and warranties shall be updated through the Closing Date. Buyer shall not be obligated to consummate the Closing if the schedules, as updated, should in the written opinion of Chadbourne & Parke LLP (or other nationally recognized tax counsel) have a materially adverse effect on Buyer's ability to claim Tax Credits.

3.5 Application of Representations and Warranties to 0.1% Interest. Seller and MHSI agree that the representations and warranties made in Sections 3.2 and 3.3 also are made as of the Closing Date to Buyer and its predecessors in interest with respect to the 0.1% interest in the Operating Company previously acquired by Buyer.

3.6 Representations and Warranties of Buyer. Buyer represents and warrants to Seller and MHSI both as of the Execution Date and the Closing Date as follows (with the understanding that Seller and MHSI are relying on such representations and warranties in entering into and performing this Agreement):

(a) Organization; Good Standing; Etc. Buyer is a limited liability company duly incorporated, validly existing, and in good standing under the laws of the State of Delaware, and has all requisite corporate power and authority to own, lease, and operate its properties and to carry on its business as now being conducted.

(b) Authority. Buyer has all requisite power and authority as a limited liability company to enter into this Agreement and the other Transaction Documents to which it is a party, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and the other Transaction Documents to which it is a party, the performance by it of its obligations hereunder and thereunder, and the consummation by it of the transactions contemplated hereby or thereby, have been duly authorized by all necessary limited liability company action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer, and upon execution and delivery by it of the other Transaction Documents to which it is a

party, the other Transaction Documents will be duly executed and delivered by Buyer. This Agreement (assuming due authorization, execution and delivery by Seller and MHSI) constitutes, and upon execution and delivery by Buyer of the other Transaction Documents to which it is a party, the other Transaction Documents will constitute, the valid and binding obligations of Buyer, enforceable against it in accordance with their terms, subject as to enforceability to applicable bankruptcy, insolvency, reorganization, moratorium, and similar laws affecting enforcement of creditors' rights and remedies generally and to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

(c) No Conflict; Required Filings and Consents. The execution and delivery by Buyer of this Agreement and the other Transaction Documents to which it is a party do not, the performance by it of its obligations hereunder and thereunder, and the consummation by Buyer of the transactions contemplated hereby or thereby will not (i) violate, conflict with, or result in any breach of any provisions of its certificate of formation or limited liability company operating agreement, (ii) violate, conflict with, or result in a violation or breach of, or constitute a default (with or without due notice or lapse of time or both) under, or permit the termination of, or result in the acceleration of, or entitle any Person to accelerate any obligation, or result in the loss of any benefit, or give any Person the right to require any security to be repurchased, or give rise to the creation of any Lien upon any of its assets under, any of the terms, conditions, or provisions of any loan or credit agreement, note, bond, mortgage, indenture, or deed of trust, or any license, lease, agreement, or other instrument or obligation to which Buyer is a party or by which or to which it or any of its assets may be bound or subject, or (iii) violate any Applicable Law; except in the case of clauses (ii) and (iii) of this Section 3.4(c) for any such violations, conflicts, breaches, defaults, rights of termination, cancellation or acceleration, loss of benefits, repurchase rights, Liens or effects that would not adversely affect the ability of Buyer to consummate the transactions contemplated by this Agreement. No Consent of any Governmental Authority is required by or with respect to Buyer in connection with the execution and delivery by Buyer of this Agreement or any of the other Transaction Documents to which Buyer is a party, the performance by Buyer of its obligations hereunder and thereunder, or the consummation by Buyer of the transactions contemplated hereby or thereby, except for any such Consent that is routine or ministerial in nature.

(d) Absence of Litigation. There is no claim, action, suit, inquiry, judicial or administrative proceeding, grievance, or arbitration pending or, to the knowledge of Buyer, threatened against Buyer or any of its Affiliates that seeks to restrain, prohibit, or otherwise enjoin this Agreement or the consummation of the transactions contemplated hereby.

(e) Broker's Fee. No agent, broker, investment banker, or other Person engaged by Buyer or any of its Affiliates will be entitled to any broker's or finder's fee or any other commission or similar fee payable by any Seller Party in connection with any of the transactions contemplated by this Agreement.

ARTICLE 4
CERTAIN COVENANTS

4.1 Conduct of Operations. During the period from the Execution Date to the Closing, Seller and MHSI shall cause the Operating Company to (i) conduct its operations in the

Ordinary Course of Business (including the paying of all premiums due and payable under, and the taking of all actions necessary to maintain, all insurance policies and bonds described in Section 3.3(d)) and in compliance in all material respects with Applicable Laws (including Environmental Laws), (ii) cause tests for significant chemical change to be conducted in accordance with the testing protocol set forth on Schedule 4.1, (iii) not produce during any Quarter at a level exceeding the Quarterly Maximum Production, (iv) cause the Facilities to be maintained in good condition and in accordance with Prudent Operating Standards, (v) cause the Facilities to be operated in all material respects consistently with the statement of facts in the Request, (vi) not terminate or amend in any material respect any real property leases and (vii) not instruct or permit the Manager to replace, change or modify any of the equipment at the Facilities, except for the following changes: (a) the replacement of parts with substantially identical parts; (b) the replacement or addition of electrical components (excluding motor drives), meters, scales, sampling and testing, programmable logic controller or other measuring equipment to improve quality control; (c) the replacement of front-end loaders, vehicles and other similarly mobile equipment (it being agreed that the Facilities themselves are not "mobile equipment" for this purpose) or (d) the addition, replacement or modification of equipment for the purpose of safety or occupational health improvements.

4.2 Existing Accounts Payable. To the extent not funded prior to the Closing Date, MHSI shall be responsible for funding working capital requirements of the Operating Company that relate specifically to accounts payable accruing prior to the Closing Date.

4.3 Independent Engineer. MHSI acknowledges that Buyer has engaged the Independent Engineer to assist it in monitoring its investment in the Company and compliance with this Agreement and to advise it as to matters requiring the consent of or Consultation with Buyer hereunder or under the Amended LLC Agreement. In particular, MHSI acknowledges that the Independent Engineer may visit the Facilities during normal business hours prior to each Quarterly Payment Date. MHSI will ask the Manager and Independent Chemist to cooperate with the Independent Engineer and to provide the Independent Engineer with reasonable access to all data and personnel to the extent that providing such access and data is reasonably related to such purposes and does not materially interfere with the operation of the Facilities or the business and operations of MHSI or the Company. Additionally, every day during which the Facilities are operational, MHSI shall ask the Manager to provide the Independent Engineer a Daily Production Report. MHSI shall also ask the Manager to provide the Independent Engineer any notices of MSHA violations, corrections or notices of state or federal inspection at the Facilities that indicate a deficiency or violation when they are received, as well as any chemical change reports that do not indicate that the coal feedstock used at the Facilities to create synthetic fuel underwent a significant chemical change.

ARTICLE 5
TAX MATTERS

5.1 Tax Returns and Proceedings.

(a) MHSI shall cause the Operating Company to prepare and file all Tax Returns when due and all reports related to the Operating Company that are required to be filed or furnished with respect to all taxable periods ending on or before the Closing Date. For taxable

periods ending after the Closing Date, MHSI shall (in its capacity as Administrative Member) cause all such returns and reports to be filed in accordance with the Amended LLC Agreement. The parties shall cooperate with respect to the preparation and filing of all such returns and reports.

(b) Subject to any additional obligations or covenants provided under the Amended LLC Agreement, Buyer, on the one hand, and MHSI, on the other hand, shall provide the other with such assistance as may reasonably be requested by the other Party in connection with the preparation of any Tax Return, any audit or other examination by any taxing authority, or any judicial or administrative proceedings relating to the liability for any Taxes with respect to the operations of the Operating Company or the allowance or disallowance of any Tax Credits arising from the sale by the Operating Company of solid synthetic fuel produced in the Facilities, and each shall retain (until the expiration of the applicable statute of limitations) and provide the requesting Party with any records or information that may be relevant to such Tax Return, audit or examination or proceedings. Any information obtained under this section or under any other section hereof providing for the sharing of information or review of any Tax Return will be kept confidential by the Parties; provided that such information may be provided to the applicable tax authorities. Each Party shall provide timely notice to the other in writing of any pending or threatened Tax audits or assessments of which such Party is aware relating to the liability for any Taxes with respect to the operations of the Operating Company or the allowance or disallowance of any Tax Credits arising from the sale by the Operating Company of solid synthetic fuel produced in the Facilities.

(c) MHSI shall cause the Operating Company to make an election under Section 754 of the Code for the taxable year of the Operating Company which includes the sale of the Membership Interest contemplated hereby.

5.2 Transaction Taxes. Any real property transfer or gains tax, sales tax, use tax, stamp tax, stock transfer tax or other similar tax, including any penalties, interest and additions to tax imposed by reason of the transactions contemplated by this Agreement to occur at the Closing shall be borne by Seller.

5.3 Private Letter Ruling.

(a) The Parties shall exercise commercially reasonable efforts to cause the Operating Company to submit the additional ruling request substantially in the form attached hereto as Exhibit D ("Request") as promptly as possible following the Execution Date.

(b) The Parties shall cause the Company to (i) inform Buyer and its counsel in a timely manner of all material developments in the private letter ruling process, including all communications related thereto to and from the IRS; (ii) provide Buyer and its counsel with a draft copy of any supplements to the Request (including any exhibits or attachments thereto) and of any other written communication related thereto proposed to be submitted to the IRS for its review and comment at least five Business Days prior to submission; (iii) incorporate all reasonable changes and comments to such supplements as may be requested by Buyer or its counsel, (iv) provide Buyer and its counsel with notice reasonably in advance of any meetings or conferences (including telephonic meetings or conferences) with the IRS with respect to the

Request and arrange with the IRS to permit Buyer and its counsel to participate in any such meetings or conferences (including signing any necessary IRS forms), and (v) consult with Buyer and its counsel regarding potential withdrawal of any parts of the Request on which the IRS indicates it remains adverse after a conference of right if the IRS indicates that it does not intend to grant the Private Letter Ruling.

(c) The Parties agree that, should either of their respective tax counsels recommend changes to the Transaction Documents as required by the IRS to obtain the Private Letter Ruling, the Parties will cooperate and negotiate in good faith to attempt to reach agreement to amend the Transaction Documents to the extent necessary to obtain the Private Letter Ruling.

ARTICLE 6
TERMINATION

6.1 Termination. Without limiting Seller's, MHSI's or Buyer's ability to exercise any right or remedy to which it is entitled hereunder or under any of the Transaction Documents, except as otherwise provided herein, this Agreement may be terminated as provided in this Section 6.1.

(a) If Buyer or Buyer Parent fails to pay in full any portion of the Purchase Price that is due and payable under Article 2 on the date such payment is due under Article 2 (such failure not being due to a deferral of the Fixed Deferred Payment pursuant to Section 2.6 or deferral under the Base Note), and such failure continues for 20 days after Buyer and Buyer Parent receive written notice of such failure from MHSI, then MHSI shall have the option, exercisable by delivery of written notice thereof to Buyer within 180 days following Buyer's receipt of the notice of default so long as such default is continuing at such time of exercise, to terminate this Agreement and cause the Membership Interest to be redeemed by the Operating Company. If MHSI exercises such option, this Agreement shall terminate and (i) Buyer shall reconvey and transfer to the Operating Company all right, title and interest in and to the Membership Interest, free and clear of all Liens other than the obligations and liabilities under Transaction Documents with respect thereto; (ii) Buyer will be deemed to have made the written representations set forth on Exhibit D to the Amended LLC Agreement to Seller, MHSI and the Operating Company; (iii) Buyer shall take all such further actions and execute, acknowledge and deliver all such further documents that are necessary or useful to effectuate the transfer of the Membership Interest contemplated by this Section 6.1(a); (iv) the Operating Company shall effectuate such redemption; (v) all obligations and liabilities associated with the Membership Interest will terminate except those obligations and liabilities accrued through the date of termination or relating to any taxable year or portion thereof prior to such date; (vi) Buyer will have no further rights as a member of the Operating Company; (vii) the Amended LLC Agreement shall be amended to reflect Buyer's resignation as a member of the Operating Company; and (viii) Buyer shall have no further obligation thereafter to make any Fixed Deferred Payments, Variable Deferred Payments, payments under the Base Note or contributions to the capital of the Operating Company pursuant to the Amended LLC Agreement, except those obligations and liabilities accrued through the date of termination. Relief from the obligation of Buyer to make such payments will be deemed sufficient consideration for the reconveyance and transfer of the Membership Interest to the Operating Company.

(b) If Buyer delivers to the Operating Company and to MHSI a Termination Notice on or before December 31, 2003, then on the Termination Date (or on December 31, 2003, if MHSI has elected pursuant to Section 2.5(g) to require Buyer to remain as a partner in the Operating Company until such date), this Agreement shall terminate and (i) Buyer shall convey and transfer to MHSI all right, title and interest in and to the Membership Interest free and clear of all Liens other than the obligations and liabilities under Transaction Documents with respect thereto; (ii) Buyer will be deemed to have made the written representations set forth on Exhibit D to the Amended LLC Agreement to MHSI; (iii) Buyer shall take all such further actions and execute, acknowledge and deliver all such further documents that are necessary or useful to effectuate such conveyance and transfer; (iv) all obligations and liabilities of Buyer associated with the Membership Interest will terminate except those obligations and liabilities accrued through the date of termination or relating to any taxable year or portion thereof prior to such date; (v) Buyer will have no further rights as a member of the Operating Company; (vi) the Amended LLC Agreement shall be amended to reflect such conveyance and transfer; and (vii) Buyer shall have no obligation thereafter to make any Fixed Deferred Payments, Variable Deferred Payments, payments under the Base Note or contributions to the capital of the Operating Company pursuant to the Amended LLC Agreement, except those obligations and liabilities accrued through the date of termination.

(c) If the Membership Interest held by Buyer is redeemed pursuant to Section 4.4 or Section 10.8 of the Amended LLC Agreement or if the action with respect to the "the Collateral" referred to in Section 3.10 of the Amended LLC Agreement is taken, then this Agreement shall terminate, and Buyer shall have no further obligation to make any Fixed Deferred Payments, Variable Deferred Payments, payments under the Base Note or any other obligations under Article 2, except for those obligations and liabilities accrued through the date of such termination.

(d) If the Closing has not been consummated by the close of business on August 31, 2003, this Agreement shall automatically terminate, unless the parties hereto mutually agree to a later termination date.

6.2 Procedure and Effect of Termination. A termination of this Agreement under Section 6.1 will not affect the rights of the Parties with respect to breaches of any agreement, covenant, representation or warranty contained in this Agreement, except as stated in Section 6.1 with respect to the obligation of Buyer to make Fixed Deferred Payments, Variable Deferred Payments or payments under the Base Note.

ARTICLE 7
INDEMNIFICATION

7.1 Indemnification of Buyer. MHSI agrees, subject to Section 7.10, to indemnify, defend and hold harmless the Buyer Indemnified Parties from and against any and all Buyer Indemnified Costs; provided, however, that, except for events specified in Section 2.9(c)(v) which relate to the period between the Execution Date and the Closing Date and which have not been remedied (and in spite of which Buyer elects to proceed with the Closing), MHSI's aggregate obligation to indemnify the Buyer Indemnified Parties under this Section 7.1 and Section 7.10 shall not exceed in the aggregate the MHSI Cap, except (a) as to breaches of the representation in Section 3.3(j) (as to which no cap shall apply) and (b) as to breaches of representations in subsections (i), (ii), (iii), (iv) and (v) of Section 3.3(p) or any claim of fraud (as to which such indemnification obligations shall not exceed in the aggregate 119% of all Tax Credits allocated to Buyer).

7.2 Indemnification of Seller. Buyer hereby agrees to indemnify, defend and hold harmless the Seller Indemnified Parties from and against any and all Seller Indemnified Costs; provided, however, that in no event shall Buyer's aggregate obligation to indemnify the Seller Indemnified Parties under this Section 7.2 exceed installments of Purchase Price and Monthly Capital Contributions (as defined in the Amended LLC Agreement) required to be paid that have not been paid at the time the request for indemnity is made.

7.3 Defense of Third Party Claims. (a) An Indemnified Party shall give written notice to any Indemnifying Party within 30 days after it has actual knowledge of commencement or assertion of any action, proceeding, demand, or claim by a third party (collectively, a "Third Party Claims") in respect of which such Indemnified Party may seek indemnification under this Article 7. Such notice shall state the nature and basis of such Third Party Claim and the events and the amounts thereof to the extent known. Any failure so to notify an Indemnifying Party shall not relieve such Indemnifying Party from any liability that it, he, or she may have to such Indemnified Party under this Article 7, except to the extent the failure to give such notice materially and adversely prejudices such Indemnifying Party. In case any such action, proceeding or claim is brought against an Indemnified Party, the Indemnifying Party shall be entitled to participate in and, unless in the reasonable judgment of the Indemnified Party a conflict of interest between it and the Indemnifying Party may exist in respect of such action, proceeding or claim, to assume the defense thereof, with counsel selected by the Indemnifying Party and reasonably satisfactory to the Indemnified Party, and after notice from the Indemnifying Party to the Indemnified Party of its election so to assume the defense thereof, the Indemnifying Party shall not be liable to such Indemnified Party for any legal or other expenses subsequently incurred by the latter in connection with the defense thereof other than reasonable costs of investigation, provided nothing contained herein shall permit the Company or Seller to control or participate in any tax contest or dispute involving any Affiliate of Buyer, or permit Buyer to control or participate in any tax contest or dispute involving any Affiliate of Seller; further provided, however, that each Party agrees to keep the other Party and the Company reasonably apprised of the status of such tax contest and any settlement negotiations related solely to tax items that are Company items at issue in such tax contest. In the event that (i) the Indemnifying Party advises an Indemnified Party that it will not contest a claim for indemnification hereunder, (ii) the Indemnifying Party fails, within 30 days of receipt of any

indemnification notice to notify, in writing, such Indemnified Party of its election, to defend, settle or compromise, at is sole cost and expense, any action, proceeding or claim (or discontinues its defense at any time after it commences such defense) or (iii) in the reasonable judgment of the Indemnified Party, a conflict of interest between it and the Indemnifying Party exists in respect of such action, proceeding or claim, then the Indemnified Party may, at its option, defend, settle or otherwise compromise or pay such action or claim. In any event, unless and until the Indemnifying Party elects in writing to assume and does so assume the defense of any such claim, proceeding or action, the Indemnifying Party shall be liable for the Indemnified Party's reasonable costs and expenses arising out of the defense, settlement or compromise of any such action, claim or proceeding. The Indemnified Party shall cooperate fully with the Indemnifying Party in connection with any negotiation or defense of any such action or claim by the Indemnifying Party. The Indemnifying Party shall keep the Indemnified Party fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. If the Indemnifying Party elects to defend any such action or claim, then the Indemnifed Party shall be entitled to participate in such defense with counsel of its choice at its sole cost and expense. If the Indemnifying Party does not assume such defense, the Indemnified Party shall keep the Indemnifying Party apprised at all times as to the status of the defense; provided, however, that the failure to keep the Indemnifying Party so informed shall not affect the obligations of the Indemnifying Party hereunder. The Indemnifying Party shall not be liable for any settlement of any action, claim or proceeding effected without its written consent; provided, however, that the Indemnifying Party shall not unreasonably withhold, delay or condition its consent. Notwithstanding anything in this Section 7.3 to the contrary, the Indemnifying Party shall not, without the Indemnified Party's prior written consent, settle or compromise any claim or consent to entry of judgment in respect thereof which imposes any future obligation on the Indemnified Party or which does not include, as an unconditional term thereof, the giving by the claimant or the plaintiff to the Indemnified Party, a release from all liability in respect of such claim.

(b) If the amount of any Buyer Indemnified Costs, at any time after the making of an indemnity payment in respect thereof, is reduced by recovery, settlement or otherwise under any insurance coverage (excluding any proceeds from self-insurance or flow-through insurance policies) or under any claim, recovery, settlement or payment by or against any other entity, the amount of such reduction, less any costs, expenses or premiums incurred in connection therewith (together with interest thereon from the date of payment thereof by such insurer or other entity to the Indemnified Party at the Commercial Paper Rate), must promptly be repaid by the Indemnified Party to the Indemnifying Party. Upon making any indemnity payment, the Indemnifying Party will, to the extent of such indemnity payment, be subrogated to all rights of the Indemnified Party against any third party, except third parties that provide insurance coverage to the Indemnified Party or its Affiliates, in respect of the Buyer Indemnified Costs to which the indemnity payment relates; provided, however, that (i) the Indemnifying Party must then be in compliance with its obligations under this Agreement in respect of such Buyer Indemnified Costs and (ii) until the Indemnified Party recovers full payment of its Buyer Indemnified Costs, any and all claims of the Indemnifying Party against any such third party on account of said indemnity payment are hereby made expressly subordinate and subject in right of payment to the Indemnified Party's rights against such third party. Without limiting the generality or effect of any other provision hereof, each such Indemnified Party and Indemnifying Party shall duly execute upon request all instruments reasonably necessary to evidence and perfect the above-described subrogation and subordination rights, and otherwise cooperate in the

prosecution of such claims at the direction of the Indemnifying Party. Nothing in this Section 7.3(b) will be construed to require any Party to obtain or maintain any insurance coverage.

(c) The Parties hereby agree that, in the event of any conflict between the rights and obligations of the Parties set forth in this Section 7.3 with respect to defense of claims relating to any loss of Tax Credits and the rights and obligations of the Members set forth in Section 7.7 of the Amended LLC Agreement, the provisions of the latter shall control.

7.4 Direct Claims. In any case in which an Indemnified Party seeks indemnification under this Article 7 which is not subject to Section 7.3 because no Third Party Claim is involved, the Indemnified Party shall notify the Indemnifying Party in writing of any costs which such Indemnified Party claims are subject to indemnification under the terms of this Article 7. The failure of the Indemnified Party to exercise promptness in such notification shall not amount to a waiver of such claim, except to the extent the resulting delay materially prejudices the position of the Indemnifying Party with respect to such claim.

7.5 After-Tax Basis. For tax reporting purposes, to the maximum extent permitted by the Code, each Party will agree to treat all amounts paid under any of the provisions of this Article 7 as an adjustment to the purchase price for the Membership Interest (or otherwise as a non-taxable reimbursement, contribution or return of capital, as the case may be). To the extent that any indemnification payment treated as a purchase price adjustment arises from a loss that does not give rise to a deduction for the Indemnified Party for income tax purposes, such indemnification payment shall be increased in an amount equal, on an after-tax basis, to the lost tax benefits (calculated using a discount rate of ten percent per annum and assuming that depreciation or amortization deductions would be fully utilized when available) or additional tax due as a result of the purchase price adjustment. To the extent any such indemnification payment is includable as income of the Indemnified Party as determined by agreement of the Parties, or if there is no agreement, by an opinion of Chadbourne & Parke LLP or other nationally recognized tax counsel of the Indemnified Party (after consultation in good faith with the Indemnifying Party and its tax counsel) that such amount is "more likely than not" includable as income of the recipient (accompanied by certification by the Indemnified Party's tax director or a managing director of its tax department that such amount will be included as income in the consolidated federal income tax return in which such amount would be includable), the amount of the payment shall be increased by the amount of any federal or state income tax required to be paid by the Indemnified Party or its Affiliates on the receipt or accrual of the indemnification payment, including, for this purpose, the amount of any such Tax required to be paid by the Indemnified Party on the receipt or accrual of the additional amount required to be added to such payment pursuant to this Section 7.5, using an assumed rate equal to the highest marginal federal income tax rate applicable to corporations generally (currently 35 percent) and an assumed blended state and local tax rate of 5.25 percent (taking into account the deductibility of state income tax for federal income tax purposes) applicable to corporations from time to time and assuming that the Indemnified Party and its Affiliates recognize the same amount of taxable income for state and local income tax purposes as they recognize for federal income tax purposes in respect of such indemnification payment. Any payment made under this Article 7 shall be reduced by the present value (as determined on the basis of a discount rate equal to ten percent per annum) of any federal or state income tax benefit to be realized by the Indemnified Party or its Affiliates by reason of the facts and circumstances giving rise to such indemnification. For

purposes of this Section 7.5, the amount of any state income tax benefit or cost shall take into account the federal income tax effect of such benefit or cost.

7.6 Express Negligence Rule. WITHOUT LIMITING OR ENLARGING THE SCOPE OF THE INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS ARTICLE 7, AN INDEMNIFIED PARTY SHALL BE ENTITLED TO INDEMNIFICATION UNDER THIS ARTICLE 7 IN ACCORDANCE WITH THE TERMS HEREOF, REGARDLESS OF WHETHER THE LOSS OR CLAIM GIVING RISE TO SUCH INDEMNIFICATION OBLIGATION IS THE RESULT OF THE SOLE, CONCURRENT OR COMPARATIVE NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY OR VIOLATION OF ANY LAW OF OR BY SUCH INDEMNIFIED PARTY. THE PARTIES AGREE THAT THIS PARAGRAPH CONSTITUTES A CONSPICUOUS LEGEND.

7.7 No Duplication. Any liability for indemnification under this Article 7 shall be determined without duplication of recovery by reason of the state of facts giving rise to such liability constituting a breach of more than one representation, warranty, covenant or agreement. The liability of any Party hereunder with respect to the representations and warranties of such Party will not be reduced by any investigation made at any time by or on behalf of any other Party.

7.8 Sole Remedy. The remedies of the Parties under this Article VII are the sole and exclusive remedies that a Party may have under this Agreement for the recovery of monetary damages with respect to any breach or failure to perform any covenant or agreement set forth in Article IV of this Agreement or any breach of any representation or warranty set forth in this Agreement.

7.9 Survival.

(a) All representations, warranties, covenants and obligations made or undertaken by a Party in this Agreement or in any Transaction Document are material, have been relied upon by the other Parties and shall survive the Closing hereunder as set forth in this Section 7.9, and shall not merge in the performance of any obligation by any Party hereto.

(b) Subject to Section 7.10, all claims by a Buyer Indemnified Party for indemnification pursuant to this Article 7 resulting from breaches of representations or warranties shall be forever barred unless MHSI is notified within 18 months after the Closing Date, except that the representations and warranties set forth in Sections 3.3(i) and 3.3(p) with respect to the period after October 15, 2001 shall survive until six months after the expiration of the applicable statute of limitations (giving effect to any waiver, mitigation or extensions thereof); provided, that, if written notice of a claim for indemnification has been given by such Buyer Indemnified Party on or prior to the last day of the respective foregoing period, as applicable, then the obligation of MHSI to indemnify such Buyer Indemnified Party pursuant to this Article 7 shall survive with respect to such claim until such claim is finally resolved.

(c) All claims by a Seller Indemnified Party for indemnification pursuant to this Article 7 resulting from breaches of representations or warranties shall be forever barred

unless Buyer is notified within 18 months after the Closing Date; provided, that, if written notice for a claim of indemnification has been given by such Seller Indemnified Party on or prior to the last day of the foregoing period, then the obligation of Buyer to indemnify such Seller Indemnified Party pursuant to this Article 7 shall survive with respect to such claim until such claim is finally resolved.

7.10 Indemnification as to Historical Representations and Warranties; Other Indemnification.

(a) For the period up to and including October 15, 2001, Seller and MHSI have, in Section 3.2 hereof, repeated the Historical Representations and Warranties under the PacifiCorp/Marriott Agreement. With respect to any claim for breach of representations or warranties contained in Section 3.2 hereof, the sole remedy of Buyer is the following. Buyer shall notify MHSI of Buyer's claim and MHSI shall cause Marriott to seek from PacifiCorp any indemnification or pursue any other claim in contract, tort or equity available to Marriott (considering any survival periods in the PacifiCorp/Marriott Agreement) from PacifiCorp for breach of the counterpart Historical Representation and Warranty or for other breach of the PacifiCorp/Marriott Agreement. Any indemnification amounts resulting therefrom which are paid to Marriott shall be caused by MHSI to be divided by Marriott between Buyer and Marriott on a pro rata basis reflecting the relative damages suffered by Buyer from the Closing Date to the date the claim giving rise to such indemnification is made and by Marriott and/or MHSI from October 15, 2001 to the date the claim giving rise to such indemnification is made. To the extent that aggregate indemnification payments made by PacifiCorp to Marriott with respect to a breach or breaches by PacifiCorp of representations and warranties contained in Section 3.2 of the PacifiCorp/Marriott Agreement are less than the indemnification payments required to be made therefor by PacifiCorp under such Agreement, MHSI agrees to indemnify Buyer for the amount of such deficiency; provided, however, that, except as otherwise provided in Section 7.1, in no event shall MHSI's aggregate obligations under this Section 7.10 and Section 7.1 (in each case excluding indemnification payments made directly by PacifiCorp in respect of breach of Historical Representations and Warranties) exceed in the aggregate the MHSI Cap.

(b) As provided in Section 3.3 hereof, the representations and warranties set forth therein (except for those which expressly relate to the period before October 15, 2001) have effect from, and relate only to, the period commencing October 15, 2001, and the indemnification obligations of MHSI under this Article 7 in respect of such Section 3.3 relate only to that period.

ARTICLE 8
GENERAL PROVISIONS

8.1 Exhibits and Schedules. All Exhibits and Schedules attached hereto are incorporated herein by reference.

8.2 Further Actions. After the Execution Date, each of Seller, MHSI and Buyer shall, without further consideration, at its own expense, execute and deliver such other certificates, agreements, conveyances, and other documents, and take such other action, as may be reasonably requested by the other Party in order to transfer and assign to, and vest in, Buyer

all right, title and interest in the Membership Interest and more effectively to consummate the sale of the Membership Interest pursuant to the terms of this Agreement.

8.3 Amendment, Modification and Waiver. This Agreement may not be amended or modified except by an instrument in writing signed by the Party against which enforcement of such amendment or modification is sought. Any failure of Buyer on the one hand, or Seller or MHSI, on the other hand, to comply with any obligation, covenant, agreement, or condition contained herein may be waived only if set forth in an instrument in writing signed by the Party or Parties to be bound thereby, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any other failure.

8.4 Severability. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any rule of Applicable Law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated herein are not affected in any manner materially adverse to any Party.

8.5 Expenses and Obligations. Except as otherwise expressly provided in this Agreement, all costs and expenses incurred by the Parties in connection with this Agreement and the consummation of the transactions contemplated hereby shall be borne solely and entirely by the Party which has incurred such expenses. Seller and MHSI acknowledge and agree that the Operating Company has not borne and will not bear, any of Seller's or MHSI's costs and expenses (including legal fees and expenses) in connection with this Agreement or the transactions contemplated hereby.

8.6 Parties in Interest. This Agreement shall be binding upon and, except as provided below, inure solely to the benefit of each Party and their successors and assigns, and nothing in this Agreement, express or implied, is intended to confer upon any other Person (other than the Buyer Indemnified Parties and Seller Indemnified Parties as provided in Article 7) any rights or remedies of any nature whatsoever under or by reason of this Agreement.

8.7 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally, by a nationally recognized overnight courier, by facsimile, or mailed by registered or certified mail (return receipt requested) to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

(a) If to Seller, to:

Synthetic American Fuel
Enterprises Holdings, Inc.
10400 Fernwood Road
Bethesda, MD 20817
Attention: Senior Vice President, Tax
Fax: 301-380-8299

With a copy to:

Marriott International, Inc.
10400 Fernwood Road
Bethesda, MD 20817
Attention: General Counsel
Fax: (301) 380-6727

(b) If to MHSI, to:

Marriott Hotel Services, Inc.
10400 Fernwood Road
Bethesda, MD 20817
Attention: Senior Vice President, Tax
Fax: 301-380-8299

With a copy to:

Marriott International, Inc.
10400 Fernwood Road
Bethesda, MD 20817
Attention: General Counsel
Fax: (301) 380-6727

(c) If to Buyer, to:

Serratus LLC
c/o Morgan Stanley
c/o _____
_____
New York, NY _____
Attention: _____
Fax: _____
With a copy to:

_____
_____
New York, NY _____
Attention: _____
Fax: _____

All notices and other communications given in accordance herewith shall be deemed given (i) on the date of delivery, if hand delivered, (ii) on the date of receipt, if faxed (provided a hard copy of such transmission is dispatched by first class mail within 48 hours), (iii) three Business Days

after the date of mailing, if mailed by registered or certified mail, return receipt requested, and (iv) one Business Day after the date of sending, if sent by a nationally recognized overnight courier; provided, that a notice given in accordance with this Section 8.7 but received on any day other than a Business Day or after business hours in the place of receipt, will be deemed given on the next Business Day in that place.

8.8 Counterparts. This Agreement may be executed and delivered (including by facsimile transmission) in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart.

8.9 Entire Agreement. This Agreement (which term shall be deemed to include the Exhibits and Schedules hereto and the other certificates, documents and instruments delivered hereunder) constitutes the entire agreement of the Parties and supersedes all prior agreements, letters of intent and understandings, both written and oral, among the Parties with respect to the subject matter hereof. There are no representations or warranties, agreements, or covenants other than those expressly set forth in this Agreement.

8.10 Governing Law; Choice of Forum; Waiver of Jury Trial. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS EXECUTED AND PERFORMED THEREIN. THE PARTIES HEREBY IRREVOCABLY SUBMIT TO THE NON-EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT IN NEW YORK WITH RESPECT TO ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING RELATING TO A DISPUTE AND FOR ANY COUNTERCLAIM WITH RESPECT THERETO.

8.11 Public Announcements. Except for statements made or press releases issued (i) pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934, (ii) pursuant to any listing agreement with any national securities exchange or the National Association of Securities Dealers, Inc., or (iii) as otherwise required by law, neither MHSI, the Seller, the Buyer or any of its Affiliates shall issue any press release or otherwise make any public statements with respect to this Agreement or the transactions contemplated hereby without the prior written consent of the other Parties. MHSI, on the one hand, and Buyer, on the other hand, will have the right to review in advance all information relating to the transactions contemplated by the Transaction Documents that appear in any filing made in connection with the transactions contemplated hereby or thereby.

8.12 Assignment. This Agreement and all of the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement may only be assigned to the same extent (and only by and to the same Persons) that membership interests in the Operating Company are assignable pursuant to the terms of Article X of the Amended LLC Agreement. Any attempted assignment of this Agreement other than in strict accordance with this Section 8.12 and the terms of Article X of the Amended LLC

Agreement shall be null and void and of no force or effect.

8.13 Relationship of Parties. This Agreement does not constitute a joint venture, association or partnership between the Parties. No express or implied term, provision or condition of this Agreement shall create, or shall be deemed to create, an agency, joint venture, partnership or any fiduciary relationship between the Parties.

[Signatures on the Following Page]

IN WITNESS WHEREOF, each party hereto has caused this Agreement for Purchase of Membership Interest to be signed on its behalf as of the date first written above.

SYNTHETIC AMERICAN FUEL
ENTERPRISES HOLDINGS, INC.

By: /s/ Mark W. Brugger

Name: Mark W. Brugger

Title: President

MARRIOTT HOTEL SERVICES, INC.

By: /s/ Mark W. Brugger

Name: Mark W. Brugger

Title: Vice President

SERRATUS LLC

By: /s/

Name: John

Title:

ANNEX I

DEFINITIONS

"Actual Credit Amount" has the meaning set forth in Section 2.5(d).

"Adjustment Date" means the first Quarterly Payment Date after May 31 of each calendar year.

"Account" shall mean an account of Seller, as designated in writing by Seller no later than five Business Days prior to the first applicable Quarterly Payment Date after the Closing Date for which a Fixed Deferred Payment, Variable Deferred Payment or payment under the Base Note is due hereunder, or such other account as Seller shall designate in writing no later than ten Business Days prior to the next applicable Quarterly Payment Date at any time following the Closing Date.

"Accounting Firm" means the Operating Company's primary independent accounting firm, which shall be Deloitte & Touche or such other "Final 4" firm of certified public accountants (i.e., Ernst & Young, KPMG Peat Marwick or PricewaterhouseCoopers) selected by the Administrative Member and approved by the Buyer.

"Administrative Member" means MHSI in its capacity as administrative member of the Operating Company under the Amended LLC Agreement or such Person that is appointed pursuant to and in accordance with the terms of the Amended LLC Agreement as the administrative member.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, (a) the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person, and (b) the Operating Company shall be deemed to be an Affiliate of Seller prior to the Closing (for purposes of representations and warranties), but shall not be deemed to be an Affiliate of Seller or Buyer from and after the Closing.

"Agreement" means this Agreement for Purchase of Membership Interest.

"Amended LLC Agreement" means the Amended and Restated Limited Liability Company Agreement of the Operating Company, of even date herewith, by and among Seller, Holdings and Buyer in the form attached hereto as Exhibit I.

"Annual Adjustment Amount" has the meaning set forth in Section 2.5(d).

"Applicable Laws" means all laws (including common law), statutes, rules, regulations, ordinances, judgments, settlements, orders, decrees, injunctions, and writs of any Governmental Authority having jurisdiction over the Facilities, the Subject Assets, or the operations of the Operating Company, including any applicable zoning laws and building codes.

"Applicable Percentage" means 119 percent.

"Assignment Agreement" means the Assignment of Membership Interest, of even date herewith, by and between Buyer and Seller.

"Balance Sheets" has the meaning set forth in Section 3.3(a)(i).

"Balance Sheet Date" has the meaning set forth in Section 3.3(a)(ii).

"Base Note" means the promissory note attached hereto as Exhibit A.

"Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which commercial banks in New York, New York are authorized or required to be closed.

"Buyer" has the meaning set forth in the first paragraph of the Agreement and includes its permitted successors and assigns.

"Buyer Indemnified Costs" means any and all damages, losses, claims, liabilities, demands, charges, suits, penalties, costs, and expenses (including disallowance of Tax Credits or other tax deductions, together with IRS interest and penalties thereon and reasonable costs and expenses of any and all actions, suits, proceedings, investigations, assessments, judgments, settlements and compromises relating thereto and reasonable attorneys' fees and reasonable disbursements in connection therewith, whether such costs, expenses, fees and disbursements relate to a third party claim or to a claim by Buyer directly against Seller or MHSI) incurred by any of the Buyer Indemnified Parties resulting from or relating to any breach or default by Seller or MHSI of any representation, warranty, covenant, indemnity or agreement under this Agreement or any other Transaction Document or a claim for fraud.

"Buyer Indemnified Parties" means Buyer and each of its Affiliates and each of their respective shareholders, members, officers, directors, employees, agents, and other representatives, and their respective successors and assigns.

"Buyer Parent" has the meaning set forth in the recitals to the Agreement.

"Buyer Parent Guaranty" means the Guarantee, of even date herewith, made by Buyer Parent in favor of Seller, MHSI and the Operating Company substantially in the form attached hereto as Exhibit E.

"Buyer Security Agreement" means the Pledge and Security Agreement, of even date herewith, by Buyer in favor of Seller and the Operating Company in the form attached hereto as Exhibit G.

"CERCLA" has the meaning set forth in the definition of Environmental Laws contained in this Annex I.

"CERCLIS" has the meaning set forth in Section 3.2(i).

"Cleared Person" means the Tennessee Valley Authority, Tampa Electric Company, Alabama Power Company and any Person as to which Buyer notifies Seller (or is deemed to have notified Seller) is a Cleared Person in the Customer Certificate pursuant to Section 2.5(g) hereof, such Person to constitute a Cleared Person for purposes hereof as of the date of such Customer Certificate and at all times prior thereto.

"Closing" means, subject to Section 2.9(c), the satisfaction of the requirements set forth in Section 2.9(b).

"Closing Date" means the date of the Closing specified in Section 2.9(b).

"Code" means the United States Internal Revenue Code of 1986, as amended.

"Commercial Paper Rate" means, for each day that any payment obligation hereunder is outstanding, the most recent published yield on commercial paper with the shortest quoted period of not fewer than 30 days placed by dealers, as reported for each such day either in the Federal Reserve Rate Report that customarily appears in the Friday issue of The Wall Street Journal (Eastern Edition) under "Money Rates" or, if such report does not so appear, in such other nationally-recognized publication or electronic data service as Seller and Buyer may, from time to time, agree on. On days when such a rate is not reported, the most recently reported rate on a preceding day will be deemed to be the applicable rate.

"Consent" means any consents or approval of any Governmental Authority or any other Person.

"Consultation" or "Consult" means to confer with, and reasonably consider and take into account the reasonable suggestions, comments or opinions of another Person.

"Contracts" means all written agreements, contracts, or other binding commitments or arrangements (including any amendments and other modifications thereto), to which the Operating Company is a party or is otherwise bound and which affect, relate to, or are included in, the Subject Assets.

"Customer Certificate" has the meaning given to such term in Section 2.5(g) hereof.

"Environmental Costs or Liabilities" means any losses, liabilities, obligations, damages, fines, penalties, judgments, settlements, actions, claims, demands, costs and expenses (including costs relating to personal injury, death or property damage, reasonable fees, disbursements and expenses of legal counsel, experts, engineers and consultants, and the costs of investigation or feasibility studies and performance of remedial or removal actions and cleanup and monitoring activities) arising from, under or in connection with (a) any violation of, or alleged violation of, any Environmental Laws, (b) any remedial obligation under any Environmental Laws, or (c) any other liability imposed under any Environmental Laws.

"Environmental Laws" means all Applicable Laws and rules of common law pertaining to the environment, human health, safety and natural resources, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of

1980 (42 U.S.C. Section 9601 et seq.) ("CERCLA"), the Emergency Planning and Community Right to Know Act and the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act of 1976, the Hazardous and Solid Waste Amendments Act of 1984, the Clean Air Act, the Clean Water Act, the Federal Water Pollution Control Act, the Toxic Substances Control Act, the Safe Drinking Water Act, the Occupational Safety and Health Act of 1970, the Federal Mine Safety and Health Act, the Surface Mining Control and Reclamation Act, the Oil Pollution Act of 1990, the Hazardous Materials Transportation Act, and any similar or analogous statutes, regulations promulgated thereunder and decisional law of any Governmental Authority, as each of the foregoing may have been or are in the future amended or supplemented, in each case to the extent applicable with respect to the property or operation to which application of the term "Environmental Laws" relates.

"ERISA" means the United States Employee Retirement Income Security Act of 1974, as amended.

"Escrow Account" means the account maintained by the Escrow Agent pursuant to the Escrow Agreement.

"Escrow Agent" means the escrow agent under the Escrow Agreement.

"Escrow Agreement" means the Escrow Agreement to be entered into among MHSI, Holdings, Buyer and the Escrow Agent as soon as practicable after the date hereof in substantially the form attached hereto as Exhibit L.

"Estimated Tax Credits" has the meaning set forth in Section 2.5(b).

"Excluded Boxes" means the items described in Schedule 3.3(p)(iv)A.

"Excluded Sales" means (a) sales of Pre-Sale Inventory and (b) sales to any MS Related Person that is not a Cleared Person.

"Execution Date" has the meaning set forth in Section 2.9(a).

"Exhibits" means the Exhibits attached to the Agreement.

"Facilities" has the meaning set forth in the recitals to the Agreement.

"Final Adjustment Amount" has the meaning set forth in Section 2.5(e).

"Final Adjustment Date" means June 20 of the year following the year that the last Variable Deferred Payment is due under Section 2.5.

"Financial Statements" has the meaning set forth in Section 3.2(a)(i).

"Fiscal Year" means the fiscal year of the Operating Company, which shall be the same as the taxable year of the Operating Company. The taxable year of the Operating Company will be a year that ends on November 30, or such other year as may be required by applicable federal income tax law.

"Fixed Deferred Payment" has the meaning set forth in Section 2.4.

"Fixed Payment Term" has the meaning set forth in Section 2.4.

"GAAP" means generally accepted accounting principles as recognized by the American Institute of Certified Public Accountants, as in effect from time to time, consistently applied and maintained on a consistent basis for a Person throughout the period indicated and consistent with such Person's prior financial practice.

"Governmental Authority" means any governmental department, commission, board, bureau, agency, court or other instrumentality of any country, state, province, county, parish or municipality, jurisdiction, or other political subdivision thereof.

"Hazardous Substances" means (A) any hazardous materials, hazardous wastes, hazardous substances, toxic wastes, solid wastes, and toxic substances as those or similar terms are defined under any Environmental Laws; (B) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite and/or actinolite, whether friable or non-friable; (C) polychlorinated biphenyls ("PCBs"), or PCB-containing materials, or fluids; (D) radon; (E) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, contaminant, constituent, or solid, liquid or gaseous waste; (F) any petroleum, petroleum hydrocarbons, petroleum products, crude oil and any fractions or derivatives thereof, and any natural gas, synthetic gas and any mixtures thereof; and (G) any substance that, whether by its nature or its use, is subject to regulation under any Environmental Laws or with respect to which any Environmental Laws or Governmental Authority requires environmental investigation, monitoring or remediation.

"Historical Representations and Warranties" has the meaning set forth in Section 3.2.

"Indemnified Party" means any Person seeking indemnification from another Person pursuant to Article 7.

"Indemnifying Party" means any Person against whom a claim for indemnification is asserted by another Person pursuant to Article 7.

"Independent Chemist" means Paspek Consulting LLC, or such other chemist as may be chosen by the Members of the Company from time to time.

"Independent Engineer" means John T. Boyd Company, or such other engineer as selected by the Buyer from time to time.

"Intellectual Property" means all trademarks, know-how, copyrights, copyright registrations and applications for registration, patents and all other intellectual property rights including Internet domain names, whether registered or not, and the goodwill related to all of the foregoing.

"IRS" means the Internal Revenue Service of the United States of America.

"Knowledge" means the actual knowledge of, or knowledge that would have been obtained after reasonable investigation by, with respect to a Party and its Affiliates, any of its respective officers, directors or management personnel. References to Marriott's Knowledge shall mean the Knowledge of Marriott, MHSI or Seller.

"Liabilities" has the meaning set forth in Section 3.3(a)(iii).

"Liens" has the meaning set forth in Section 3.3(h).

"Manager" has the meaning set forth in the Amended LLC Agreement.

"Marriott" has the meaning set forth in the recitals to the Agreement.

"Marston Report" means a report entitled "Verification of Synfuel Project Asset Relocation" prepared by Marston & Marston, Inc. for Synthetic American Fuel Enterprises I, LLC and Synthetic American Fuel Enterprises II, LLC and dated June 2002.

"Material Adverse Effect" means a material adverse effect on the ability of the Companies to validly claim Tax Credits (under the Tax laws as they exist as of the date of this Agreement) from the sale of Synfuel or on the business, operations, properties, condition, results of operations, assets, liabilities, or prospects (financial or otherwise) of the Company taken as a whole or the transactions contemplated hereby.

"Membership Interest" means a 48.9% membership interest in the Operating Company, including an 0.1% membership interest previously acquired by Buyer (it being understood that Seller is not required to convey such 0.1% interest a second time).

"MHSI Cap" means 53% of the aggregate Tax Credits, plus Estimated Tax Credits for any period as to which a Tax Return has not yet been filed, to the time or times that an indemnification claim is made, less the aggregate of all indemnification payments based on the MHSI Cap theretofore made pursuant to Sections 7.1 and 7.10 hereof.

"MSHA" means the Mine Safety and Health Act of 1977, as amended (29 U.S.C. Section 801 et seq.).

"MS Related Person" means any Person which, as to the Operating Company, at a given point in time, is a "related person" within the meaning of Section 29(d)(7) of the Code by reason of a direct or indirect relationship or affiliation with Buyer or any of Buyer's Affiliates.

"NPL" has the meaning set forth in Section 3.3(i)(v).

"Operating Company" or "Company" has the meaning set forth in the recitals to the Agreement.

"Operations Report" has the meaning set forth in Section 2.5(b).

"Ordinary Course of Business" means the ordinary course of business consistent with past custom and practice (including with respect to quantity and frequency) of the Operating

Company and consistent with usual and customary practices of the coal-based synthetic fuel industry.

"PacifiCorp" has the meaning set forth in the recitals to the Agreement.

"PacifiCorp/Marriott Agreement" has the meaning set forth in the recitals to the Agreement.

"Party" means a party to the Agreement.

"Permits" has the meaning set forth in Section 3.3(b).

"Permitted Liens" means (a) liens for Taxes not yet due; (b) carrier's, warehousemen's, mechanics', materialmen's, repairmen's, employees', contractors', operators' or other similar liens or charges securing the payment of expenses not yet due and payable that were incurred in the Ordinary Course of Business, but not exceeding $250,000; (c) any obligations or duties to any Governmental Authority arising in the Ordinary Course of Business with respect to any Permit held by the Operating Company, and all Applicable Laws, rules, regulations and orders of any Governmental Authority; (d) required third party Consents listed in Schedule 3.1(e); and (e) minor imperfections of title that would not materially affect the value, use, operation or ownership of any asset.

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

"Personal Property" means machinery, equipment, computer programs, computer software, tools, motor vehicles, furniture, furnishings, leasehold improvements, fixtures, office equipment, inventories, supplies, spare parts, and other tangible or intangible personal property.

"Plan" means each defined benefit pension plan subject to Title IV of ERISA that is or was maintained, sponsored or established for employees for any ERISA Affiliate or to which any ERISA Affiliate has or has had any liability or any obligation to contribute, including any "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA.

"Pre-Sale Inventory" means the Company's inventory of synthetic fuel held for sale as of the Closing Date.

"Private Letter Ruling" has the meaning set forth in Section 2.9(b).

"Prudent Operating Standards" means those standards, methods and acts that (a) when engaged in are commonly used in prudent engineering maintenance and operations of synthetic fuel production facilities and associated mechanical and handling facilities and equipment lawfully and with safety, reliability, efficiency and expedition or (b) in the exercise of reasonable judgment considering the facts known when engaged in, could have been expected to achieve the desired result consistent with applicable law, safety, reliability, efficiency and expedition. Prudent Operating Standards are not limited to the optimum practice, method or act, but rather are a spectrum of possible practices, methods of acts.

"Purchase Price" has the meaning set forth in Section 2.2.

"Quarter" means the periods corresponding to one fourth of a full Fiscal Year of the Operating Company (which shall be three month periods if such Fiscal Year is based on a 365 day year, and periods of thirteen or fourteen weeks if such Fiscal Year is a 52-53 week year), or the applicable portion of such periods in the case of any short Fiscal Year.

"Quarterly Maximum Production" means not more than 1,920,000 tons of synthetic fuel in any Quarter.

"Quarterly Payment Date" has the meaning set forth in Section 2.5(b).

"Request" has the meaning set forth in Section 5.3(a).

"Schedules" means the Schedules attached to the Agreement.

"Seller" has the meaning set forth in the first paragraph of the Agreement.

"Seller Parent" has the meaning set forth in the recitals to the Agreement.

"Seller Parent Guaranty" means the Guarantee, of even date herewith, made by Seller Parent in favor of Buyer substantially in the form attached hereto as Exhibit F.

"Seller Indemnified Costs" means any and all damages, losses, claims, liabilities, demands, charges, suits, penalties, costs, and expenses (including court costs and reasonable attorneys' fees and expenses) incurred by any of the Seller Indemnified Parties resulting from or relating to any breach or default by Buyer of any representation, warranty, covenant, indemnity or agreement under this Agreement or any Transaction Document.

"Seller Indemnified Parties" means Seller, MHSI and each of their respective Affiliates, including the Operating Company prior to the Closing, and each of their respective officers, directors, employees, agents and other representatives, and their respective successors and assigns.

"Seller Parties" means Seller Parent, Seller, MHSI, the Operating Company, and each of their Affiliates.

"Seller Security Agreement" means the Pledge and Security Agreement, of even date herewith, by MHSI in favor of Buyer and the Operating Company in the form attached hereto as Exhibit H.

"Subject Assets" means all of the assets of the Operating Company, both tangible and intangible, including the Facilities.

"SynAmerica I" has the meaning set forth in the recitals to the Agreement.

"SynAmerica I Purchase Agreement" means the Agreement for Purchase of Membership Interest relating to SynAmerica I, of even date herewith, by and among Seller, Buyer and MHSI.

"Synfuel" means solid synthetic fuel produced by any Facility combining coal with a chemical reagent at such Facility.

"Tax" or "Taxes" means any taxes, assessments, fees and other governmental charges imposed by any Governmental Authority, including income, profits, gross receipts, net proceeds, alternative or add-on minimum, ad valorem, value added, turnover, sales, use, property, personal property (tangible and intangible), environmental, stamp, leasing, lease, user, excise, duty, franchise, capital stock, transfer, registration, license, withholding, social security (or similar), unemployment, disability, payroll, employment, fuel, excess profits, occupational, premium, windfall profit, severance, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not.

"Tax Credits" means the tax credits provided by Section 29(a) of the Code with respect to the sale of Synfuel produced by the Facilities.

"Tax Event" has the meaning assigned to it in the Amended LLC Agreement.

"Tax Returns" means any return, report, statement, information return or other document (including any amendments thereto and any related or supporting information) filed or required to be filed with any Governmental Authority in connection with the determination, assessment, collection or administration of any Taxes or the administration of any laws, regulations or administrative requirements relating to any Taxes.

"Taxing Authority" means, with respect to any Tax, the Governmental Authority that imposes such Tax, and the agency (if any) charged with the collection of such Tax for such entity or subdivision, including any Governmental Authority that imposes, or is charged with collecting, social security or similar charges or premiums.

"Termination Date" means the effective date specified in the Termination Notice, which shall not be longer than 60 days after the occurrence of such Tax Event, and in any event no later than December 31, 2003.

"Termination Notice" means a notice given by Buyer to the Operating Company and to MHSI before the close of business on December 31, 2003 specifying (i) that a Tax Event as set forth in the last sentence of the definition of Tax Event has occurred, (ii) that Buyer elects to terminate this Agreement with the effects provided in Sections 2.5(g) and 6.1(b) hereof and (iii) the Termination Date.

"Third Party Claim" has the meaning set forth in Section 7.3.

"Transaction Documents" means this Agreement and each other agreement, document and instrument required to be executed or entered into in accordance herewith or pursuant to the earlier transfer of an 0.1% interest to Buyer.

"Variable Deferred Payment" has the meaning set forth in Section 2.5(a).

EXHIBIT 10.5

AMENDMENT AGREEMENT

Synthetic American Fuel Enterprises II, LLC

This Amendment Agreement ("Agreement") is made and entered into as of June 20, 2003, by and among Synthetic American Fuel Enterprises Holdings, Inc. ("Holdings"), Marriott Hotel Services, Inc. ("MHSI") and Serratus LLC ("Buyer").

W I T N E S S E T H :

WHEREAS, Holdings, MHSI and Buyer entered into an Agreement for Purchase of Membership Interest in Synthetic American Fuel Enterprises II, LLC (the "Company") dated as of January 28, 2003 (the "Purchase Agreement");

WHEREAS, Holdings, MHSI and Buyer entered into an Amended and Restated Limited Liability Company Agreement of the Company dated as of January 28, 2003 (the "LLC Agreement"), to be effective upon the Closing, as defined in the Purchase Agreement; and

WHEREAS, the parties desire to amend the Purchase Agreement and the LLC Agreement as provided herein;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I
AMENDMENTS TO PURCHASE AGREEMENT

Section 1.1 Defined Terms.

1.1.1 Amended Definitions. The following definitions in Annex I to the Purchase Agreement are hereby amended as follows:

"Amended LLC Agreement" means the Amended and Restated Limited Liability Company Agreement of the Operating Company, dated as of January 28, 2003, by and among Seller, MHSI and Buyer in the form attached hereto as Exhibit I, as amended by the Amendment Agreement.

"Applicable Percentage" means 117 percent.

"Closing Date" means June 21, 2003.

"MHSI Cap" is amended to replace "53%" with "51%."

"Private Letter Ruling" means an additional private letter ruling that the IRS issues containing the following rulings:

(i) the Operating Company, using the Covol 298-1 reagent, will produce a "qualified fuel" within the meaning of Section 29(c)(1)(C) of the Code;

(ii) production of qualified fuel at the Facilities will be attributable solely to the Operating Company, entitling the Operating Company to the Tax Credit on such fuel sold to unrelated parties; and

(iii) the Tax Credit may be passed through to and allocated among the members of the Operating Company (which shall be defined in the Private Letter Ruling as MHSI, Buyer and Seller), in accordance with each member's interest in the Operating Company when the Tax Credit arises, which is determined based on a valid allocation of the receipts from the sale of the qualified fuel.

1.1.2 Additional Definitions. The following definitions are hereby added to Annex I to the Purchase Agreement:

"Additional Representations and Warranties" means the additional representations and warranties set forth in Sections 1.4(a) of the Amendment Agreement.

"Additional Warranty Period" means the period commencing with the Closing and ending on the Put Date.

"Amendment Agreement" means the Amendment Agreement dated June 20, 2003, by and among MHSI, Seller and Buyer.

"Put Date" has the meaning set forth in Section 1.3.1 of the Amendment Agreement.

"Put Payment" means the payment provided for in Section 1.3.1 of the Amendment Agreement upon the exercise by Buyer of its put option.

1.1.3 Deleted Definitions. The following definitions shall be deleted in their entirety from Annex I to the Purchase Agreement: "Escrow Account", "Escrow Agent", "Escrow Agreement", "Termination Date" and "Termination Notice".

1.1.4 Existing Definitions. Unless otherwise defined in Sections 1.1.1 and 1.1.2 hereof, capitalized terms used herein shall have the meanings ascribed to them in the Purchase Agreement and the LLC Agreement.

Section 1.2 Closing.

1.2.1 Closing Date. Section 2.9(b) of the Purchase Agreement is deleted in its entirety and replaced with the following:

"Subject to Section 2.9(c) below, the Closing will take place on the Closing Date."

1.2.2 Conditions to Closing. Section 2.9(c) of the Purchase Agreement is amended as follows:

(a) Delete the introductory language immediately prior to clause (i) and replace it with

"Buyer shall not be obligated to consummate the Closing if, on the Closing Date, either"

(b) Delete clause (iv) thereof.

1.2.3 First Quarterly Payment Date. Section 2.11 of the Purchase Agreement is deleted in its entirety.

Section 1.3 Additional Put Rights.

1.3.1 Additional Put Rights. If by December 15, 2003 the Private Letter Ruling is either not issued, or contains (or fails to contain) language the presence (or absence) of which in the written opinion of Chadbourne & Parke LLP (or other nationally recognized tax counsel) should have a materially adverse effect on Buyer's ability to claim Tax Credits, then Buyer shall have the option to require MHSI to purchase all or a portion of its Membership Interest, effective as of December 31, 2003 (the "Put Date") (provided, however, that the actual transfer of the Membership Interest will not occur until the expiration of any waiting period, if applicable, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and provided, further, during the period between the Put Date and the date of the actual transfer of the Membership Interest, Buyer will be deemed to have waived its financial participation in the Company within the meaning of Section 4.1(h) of the LLC Agreement (notwithstanding that the conditions for such a waiver may not otherwise have been met)) upon payment by Buyer to MHSI on such date of $7,350,000 (in the case the full Membership Interest is sold or, in the case of a partial sale, such amount multiplied by the portion of the Membership Interest that is sold), which option shall be exercisable by delivery of a written notice to MHSI and the Company after December 15, 2003 and before December 30, 2003; provided, however, that Buyer shall not be obligated to make such Put Payment upon exercise of the put option if aggregate sales (not counting Excluded Sales) of synthetic fuel produced at the Facilities fall below 525,000 tons in either of the third or fourth Quarters in 2003.

1.3.2 Effect of Exercise of Put Right. If Buyer exercises the option in Section 1.3.1 hereof to put its Membership Interest to MHSI, (a) Buyer shall convey and transfer to MHSI all right, title and interest in and to the Membership Interest, free and clear of all Encumbrances; (b) Buyer shall be deemed to have made to MHSI the written representations set forth on Exhibit D to the LLC Agreement, substituting MHSI for the Company; (c) Buyer and MHSI shall take all such further actions and execute, acknowledge and deliver all such further documents (including an assignment agreement) that are necessary or useful to effectuate the transfer of the Membership Interest; (d) all liabilities and obligations of Buyer associated with the Membership Interest will terminate, except those obligations and liabilities accrued through the Put Date; (e) Buyer will have no further rights as a member of the Company; and (f) Buyer shall have no further obligation after the Put Date to make any contributions to the capital of the

Company and no further obligation to make Fixed Deferred Payments, Variable Deferred Payments or payments under the Base Note, other than such payments that are due and payable at the time of the Put Date but which have not been paid in full; provided, however, that if the exercise of the put is only as to a portion of the Membership Interest, this Section 1.3.2 shall be deemed to be revised so that clauses (a) - (d) and (f) related only to such portion and clause (e) has no application.

Section 1.4 Additional MHSI and Seller Representations and Warranties.

(a) Seller and MHSI represent and warrant to Buyer, for the Additional Warranty Period, as follows:

(i) Synfuel produced during the Additional Warranty Period is "qualified fuel" within the meaning of Section 29(c)(1)(C) of the Code;

(ii) The Facilities were "placed in service" prior to July 1, 1998 within the meaning of Section 29(g)(1)(A) of the Code;

(iii) The Facilities remain (within the meaning of Section 29(g)(1)(A) of the Code) the same facilities that were originally placed in service on or before June 30, 1998, notwithstanding the modifications that have been made to them since such date and the move to, and reassembly at, the new sites in Alabama and Illinois;

(iv) The "binding written contract" requirement of Section 29(g)(1)(A) of the Code has been met;

(v) The Operating Company will be entitled to all the Tax Credits from Synfuel produced at the Facilities and sold to unrelated persons; and

(vi) The members of the Operating Company will be entitled to share in such Tax Credits during the Additional Warranty Period in the following ratio: 8.9% for MHSI, 1.1% for Holdings, and 90% for Buyer;

provided, however, that the additional representations and warranties set forth in this Section 1.4(a) shall have effect only if Buyer exercises its option under Section 1.3.1 to put all or a portion of its Membership Interest to MHSI, and relate only to Tax Credits generated for the Additional Warranty Period in respect of the Membership Interest or portion thereof that is the subject of such put.

(b) Section 3.3(p) of the Purchase Agreement is amended by adding at the end thereof the following paragraph:

"(vii) Synfuel produced during the Additional Warranty Period (as defined in the Amendment Agreement) using any chemical reagent other than Covol 298-1 is 'qualified fuel' within the meaning of Section 29(c)(1)(C) of the Code."

Section 1.5 Indemnification.

1.5.1 Additional Representations and Warranties. The Additional Representations and Warranties shall be included in the definition of "Buyer Indemnified Costs." Section 7.1 of the Purchase Agreement is hereby amended to add at the end thereof:

> "and (c) as to breaches of Additional Representations and Warranties (as to which such indemnification obligations shall not exceed in the aggregate 143% of all Tax Credits allocated to Buyer in case the full Membership Interest is put to MHSI pursuant to Section 1.3.1 of the Amendment Agreement, or, in the case of a partial put, 143% of all Tax Credits allocated to Buyer during 2003, multiplied by the percentage of Buyer's Membership Interest that has been put to MHSI)."

1.5.2 Survival of Additional Representations and Warranties. Section 7.9(b) of the Purchase Agreement shall be amended to add the following clause immediately prior to the proviso contained therein:

> "and the Additional Representations and Warranties (if they come into effect) shall survive until the earlier of (i) six months after the expiration of the applicable statue of limitations (giving effect to any waiver, mitigation or extensions thereof) or (ii) December 31, 2011;"

1.5.3 Conforming Amendment to Section 7.1. Clause (b) of Section 7.1 of the Purchase Agreement shall be amended to replace "119%" with "117%".

1.5.4 Termination of Additional Representations and Warranties. Notwithstanding anything herein or in the Purchase Agreement to the contrary, if the Private Letter Ruling is issued after the Put Date but before July 1, 2004, MHSI shall, within ten Business Days after issuance thereof, refund the Put Payment, plus $562,500, at which time the Additional Representations and Warranties in Section 1.4(a) shall terminate, and neither MHSI nor Seller shall have any obligation or liability whatsoever hereunder or under the Purchase Agreement for any breach of the Additional Representations and Warranties for any period prior to or after such refund is made.

Section 1.6 Elimination of Escrow Arrangements and Buyer's Termination Rights. Section 2.5(g) and Section 6.1(b) of the Purchase Agreement are hereby deleted in their entirety.

Section 1.7 Revised Schedules and Exhibits to Purchase Agreement. Schedule 2.4 (Fixed Deferred Payment Schedule) and Schedule 3.3(p)(vii) (Section 29) to the Purchase Agreement are deleted in their entirety and replaced with Schedule 2.4 and Schedule 3.3(p)(vii) attached hereto. Exhibit L (Escrow Agreement) to the Purchase Agreement is deleted in its entirety.

Section 1.8 Reagent. From the Closing Date until the issuance of the Private Letter Ruling, MHSI may cause to be used in the production of synthetic fuel at the Facilities either Covol 298 reagent or Covol 298-1 reagent; after the issuance of the Private Letter Ruling only Covol 298-1 reagent may be used.

ARTICLE II
AMENDMENTS TO LLC AGREEMENT

Section 2.1 Defined Terms.

2.1.1 Amended Definitions. The following definitions in Section 1.1 of the LLC Agreement are hereby amended as follows:

"Applicable Percentage" means 117 percent.

"Purchase Agreement" means the Agreement for Purchase of Membership Interest among MHSI, Holdings and Buyer dated January 28, 2003, as amended by the Amendment Agreement."

"Tax Event"

The last two sentences of the definition of "Tax Event" are amended and restated as follows:

> "In addition, if legislation is enacted after January 28, 2003 that causes dividends to be fully or partly excluded from federal income taxes, then a Tax Event shall be deemed to occur on January 1, 2004 (or the date of enactment, if later), but only if by claiming Tax Credits, a corporation would reduce the amount of dividends for which its shareholders would qualify for the exclusion by at least y% of the Tax Credits claimed. For this purpose, y% = 25% x ((1 - Tax Rate)/Tax Rate)."

2.1.2 Additional Definition. The following definition is hereby added to Section 1.1 of the LLC Agreement:

"Amendment Agreement" means the Amendment Agreement dated June 20, 2003, by and among MHSI, Holdings and Buyer.

Section 2.2 Limitation on Damages. Section 8.8 of the LLC Agreement is hereby amended to replace "119%" in both places it appears with "117%" and to replace "53%" with "51%."

Section 2.3 Transfer Restrictions. If Buyer exercises the option in Section 1.3.1 hereof to put its Membership Interest to MHSI, the parties agree that Section 10.3 (Conditions of Transfer by Buyer) of the LLC Agreement and Section 10.5 (Right of First Refusal) of the LLC Agreement shall not apply.

ARTICLE III
MISCELLANEOUS

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be governed by and construed under the laws of the State of New York applicable to contracts executed and performed therein. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and all prior or contemporaneous oral or written statements, representations or agreements by or between the parties hereto with respect to the subject matter hereof are merged herein. This Agreement may not be changed or modified orally but only by an instrument in writing signed by all the parties, which states that it is an amendment to this Agreement. This Agreement may be executed in any number of counterparts (including by facsimile), each of which shall for all purposes be and be deemed to be an original, and all of which shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party hereto has caused this Amendment Agreement to be signed on its behalf as of the date first written above.

SYNTHETIC AMERICAN FUEL ENTERPRISES HOLDINGS, INC.

By: /s/ Mark W. Brugger

Name: Mark W. Brugger

Title: President

MARRIOTT HOTEL SERVICES, INC.

By: /s/ M. Lester Pulse, Jr.

Name: M. Lester Pulse, Jr.

Title: Vice President

Serratus LLC

By: /s/

Name:

Title:

EXHIBIT 10.6

AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

OF

SYNTHETIC AMERICAN FUEL ENTERPRISES II, LLC

Dated as of January 28, 2003

TABLE OF CONTENTS

SCHEDULES

EXHIBITS

AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT

OF

SYNTHETIC AMERICAN FUEL ENTERPRISES II, LLC

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (this "Agreement") of Synthetic American Fuel Enterprises II, LLC, a Delaware limited liability company (the "Company"), is made and entered into as of January 28, 2003, by and among Synthetic American Fuel Enterprises Holdings, Inc., an Oregon corporation ("Holdings"), Marriott Hotel Services, Inc., a Delaware corporation ("MHSI"), and Serratus LLC a Delaware limited liability company ("Buyer" and collectively with Holdings and MHSI, the "Members")

W I T N E S S E T H :

WHEREAS, the Company was formed by virtue of its Articles of Organization filed with the Secretary of State of the State of Oregon on December 20, 1996, as amended on November 21, 2001 to change the name of the Company from PacifiCorp Syn Fuel LLC to Synthetic American Fuel Enterprises II, LLC, and is governed by the Operating Agreement of the Company, effective as of December 31, 1996, between Birmingham Syn Fuel I, Inc. ("BSF I") and Birmingham Syn Fuel II, Inc. ("BSF II"), as amended by the First Amendment to Operating Agreement of the Company between BSF I and BSF II, effective as of October 14, 2001 (collectively, the "Original Operating Agreement");

WHEREAS, the Company converted to a Delaware limited liability company by virtue of its Certificate of Formation and Certificate of Conversion filed with the Secretary of State of the State of Delaware on December 19, 2002;

WHEREAS, the Company owns one synthetic fuel production facility located at the Willow Lake mine near Harrisburg, Illinois and two synthetic fuel production facilities located at the Shoal Creek mine, near Adger, Alabama;

WHEREAS, Buyer currently owns 0.1% Membership Interest in the Company;

WHEREAS, pursuant to the Agreement for Purchase of Membership Interest among MHSI, Holdings and Buyer dated January 28, 2003 (the "Purchase Agreement"), Holdings has agreed to sell to Buyer effective as of the Closing Date a 48.8% Membership Interest; and

WHEREAS, the parties hereto desire for Buyer to be admitted as a member of the Company and for the Original Operating Agreement to be amended and restated as stated herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to amend, restate and replace the Original

Operating Agreement in its entirety and to continue the Company as a limited liability company under the Act upon the following terms and conditions:

ARTICLE I
DEFINITIONS

Section 1.1. Definitions. Unless otherwise defined herein, capitalized terms used throughout this Agreement shall have the respective meanings set forth below:

"Account" shall mean an account of the Company, as designated in writing by the Administrative Member no later than five Business Days prior to the first applicable Monthly Payment Date after the Closing Date, or such other account as the Administrative Member shall designate in writing no later than ten Business Days prior to the next applicable Monthly Payment Date at any time following the Closing Date.

"Accounting Firm" means the Company's primary independent accounting firm, which shall be Deloitte & Touche or such other "Final 4" firm of certified public accountants (i.e., Ernst & Young, KPMG Peat Marwick or PricewaterhouseCoopers) selected by the Administrative Member.

"Administrative Member" has the meaning set forth in Section 8.2 hereof.

"Act" means the Delaware Limited Liability Company Act, Delaware Code Ann. 6, Sections 18-101, et seq. and any successor statute, as the same may be amended from time to time.

"Affiliate" of a specified Person means any Person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, such specified Person. As used in this definition of Affiliate, the term "control" of a specified Person including, with correlative meanings, the terms, "controlled by" and "under common control with," means (a) the ownership, directly or indirectly, of 50 percent or more of the equity interest in a Person or (b) the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise; provided, however, that notwithstanding the foregoing, for purposes of this Agreement, the Company will be deemed not to be an Affiliate of any Member.

"Agreement" has the meaning set forth in the introductory paragraph hereof, as the same may be amended from time to time.

"Anticipated Tax Credits" means, at any point in time, the future Tax Credits reasonably anticipated to result from sales by the Company of solid synthetic fuel produced in the Facilities after such time through December 31, 2007.

"Applicable Percentage" means 119 percent.

"Assignment Agreement" means the Assignment of Membership Interest, of even date herewith, by and between Buyer and Holdings.

"Bankruptcy" of a Person means the occurrence of any of the following events: (i) the filing by such Person of a voluntary case or the seeking of relief under any chapter of Title 11 of the United States Bankruptcy Code, as now constituted or hereafter amended (the "Bankruptcy Code"), (ii) the making by such Person of a general assignment for the benefit of its creditors, (iii) the admission in writing by such Person of its inability to pay its debts as they mature, (iv) the filing by such Person of an application for, or consent to, the appointment of any receiver or a permanent or interim trustee of such Person or of all or any portion of its property, including the appointment or authorization of a trustee, receiver or agent under applicable law or under a contract to take charge of its property for the purposes of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of its creditors, (v) the filing by such Person of a petition seeking a reorganization of its financial affairs or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or statute, (vi) an involuntary case is commenced against such person by the filing of a petition under any chapter of Title 11 of the Bankruptcy Code and within 60 days after the filing thereof either the petition is not dismissed or the order for relief is not stayed or dismissed, (vii) an order, judgment or decree is entered appointing a receiver or a permanent or interim trustee of such Person or of all or any portion of its property, including the entry of an order, judgment or decree appointing or authorizing a trustee, receiver or agent to take charge of the property of such Person for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the creditors of such Person, and such order, judgment or decree shall continue unstayed and in effect for a period of 60 days, or (viii) an order, judgment or decree is entered, without the approval or consent of such Person, approving or authorizing the reorganization, insolvency, readjustment of debt, dissolution or liquidation of such Person under any such law or statute, and such order, judgment or decree shall continue unstayed and in effect for a period of 60 days. The foregoing definition of "Bankruptcy" is intended to replace and shall supersede the definition of "Bankruptcy" set forth in Sections 18-101(1) and 18-304 of the Act.

"Base Note" means the Base Note under the Purchase Agreement.

"Board of Managers" has the meaning set forth in Section 8.4 hereof.

"BTU" means British thermal unit.

"Budget" has the meaning set forth in Section 9.1 hereof.

"Business Day" means any day other than Saturday, Sunday and any day that is a legal holiday or a day on which banking institutions in New York are authorized by law or governmental action to close.

"Buyer" has the meaning set forth in the introductory paragraph hereof.

"Buyer Parent" shall mean _____, a Delaware corporation.

"Buyer Parent Guaranty" means the Guaranty, dated of even date herewith, executed by Buyer Parent in favor of MHSI and the Company.

"Buyer Security Agreement" means the Pledge and Security Agreement, of even date herewith, by Buyer in favor of MHSI and the Company.

"Capital Account" has the meaning set forth in Section 4.3(a) hereof.

"Capital Contribution" means, with respect to any Member, the amount of money and the initial Gross Asset Value of any property contributed to the Company with respect to the Membership Interest in the Company held or purchased by such Member.

"Capital Contribution Schedule" has the meaning set forth in Section 4.1(b) hereof.

"Capital Interest" means 1.1% as to Holdings, 50% as to MHSI and 48.9% as to the Buyer, as adjusted upon any transfer as provided herein.

"Cleared Person" means the Tennessee Valley Authority, Tampa Electric Company, Alabama Power Company and any Person as to which Buyer notifies MHSI (or is deemed to have notified MHSI) is a Cleared Person in the Customer Certificate pursuant to Section 2.5(f) of the Purchase Agreement, such Person to constitute a Cleared Person for purposes hereof as of the date of such Customer Certificate and at all times prior thereto.

"Closing Date" has the meaning set forth in the Purchase Agreement.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Commercial Paper Rate" means, for each day that any payment obligation hereunder is outstanding, the most recent published yield on commercial paper with the shortest quoted period of not fewer than 30 days placed by dealers, as reported for each such day either in the Federal Reserve Rate Report that customarily appears in the Friday issue of The Wall Street Journal (Eastern Edition) under "Money Rates" or, if such report does not so appear, in such other nationally recognized publication or electronic data service as the Members may, from time to time, agree on. On days when such a rate is not reported, the most recently reported rate on a preceding day will be deemed to be the applicable rate.

"Company" has the meaning set forth in the introductory paragraph hereof.

"Confidential Information" has the meaning set forth in Section 12.13 hereof.

"Consultation" or "Consult" means to confer with, and reasonably consider and take into account the reasonable suggestions, comments or opinions of another Person.

"Customer Certificate" has the meaning given to such term in Section 2.5(f) of the Purchase Agreement.

"Default Rate" has the meaning set forth in Section 4.4(a)(ii) hereof.

"Defaulting Member" has the meaning set forth in Section 4.4(a) hereof.

"Depreciation" means for each Fiscal Year or part thereof, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable for United States federal income tax purposes with respect to an asset for such Fiscal Year or part thereof, except that if the Gross Asset Value of an asset differs from its adjusted basis for United States federal income tax purposes at the beginning of such Fiscal Year, the depreciation, amortization, or other cost recovery deduction for such Fiscal Year or part thereof shall be an amount which bears the same ratio to such Gross Asset Value as the United States federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year or part thereof bears to such adjusted tax basis. If such asset has a zero adjusted tax basis, the depreciation, amortization, or other cost recovery deduction for each taxable year shall be determined under a method reasonably selected by the Administrative Member.

"Encumbrance" means any charge, claim, community property interest, condition, equitable interest, lien, option, pledge, mortgage, security interest, right of first refusal or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

"Environmental Law" means any applicable federal, state, local or other governmental Legal Requirement governing or relating to (a) the environment or natural resources, (b) human health and safety, (c) releases or threatened releases of Hazardous Materials including, without limitation, investigations, monitoring and abatement of such releases, or (d) the manufacture, handling, transport, use, treatment, storage or disposal of Hazardous Materials or materials containing Hazardous Materials.

"Estimated Tax Credits" means, with respect to any period after the Closing Date, the estimated Tax Credits generated during such period as a result of the production of solid synthetic fuel at the Facilities and the sale of such synthetic fuel to unrelated persons that are allocable to Buyer in respect of Buyer's ownership of its Membership Interest which estimate shall be made in accordance with the methodology set forth in Schedule 1.1; provided, however, that Excluded Sales will not be taken into account.

"Excluded Sales" means (a) sales of Pre-Sale Inventory, and (b) sales to any MS Related Person that is not a Cleared Person.

"Event of Default" has the meaning set forth in Section 4.4(a) hereof.

"Expected Closing Date" means July 1, 2003.

"Facilities" means the Company's synthetic fuel production facility located at the Willow Lake mine near Harrisburg, Illinois, and the Company's two synthetic fuel production facilities located at Shoal Creek mine, near Adger, Alabama.

"Fiscal Year" has the meaning set forth in Section 7.1 hereof.

"Fixed Deferred Payments" means the applicable amount set forth on Schedule 2.4 of the Purchase Agreement.

"GAAP" means United States generally accepted accounting principles as in effect from time to time, consistently applied throughout the specified period.

"Governmental Body" means the federal government of the United States, any state of the United States or political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any other governmental entity, instrumentality, agency, authority, commission or self-regulatory organization.

"Gross Asset Value" means, with respect to any asset, the asset's adjusted tax basis for federal income tax purposes, except as follows:

(a) the initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset as of the date of contribution;

(b) the Gross Asset Values of all Company assets shall be adjusted to equal their respective fair market values as of the following times: (i) the acquisition of an additional Membership Interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution; (ii) the distribution by the Company to a Member of more than a de minimis amount of money or Company property as consideration for a Membership Interest in the Company; and (iii) 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) shall be made only if the Administrative Member reasonably determines, after Consultation with the Members, that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(c) the Gross Asset Value of any item of Company assets distributed to any Member shall be adjusted to equal the gross fair market value of such asset on the date of distribution;

(d) the Gross Asset Values of all Company assets shall be adjusted to reflect any adjustments to the adjusted basis of such assets pursuant to Sections 734(b) or 743(b) of the Code, but only to the extent that such adjustments are required to be taken into account in determining Capital Accounts pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that Gross Asset Values shall not be adjusted pursuant to this subsection (d) to the extent that the Administrative Member determines that an adjustment pursuant to subsection (b) is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (d); and

(e) if the Gross Asset Value of an asset has been determined or adjusted pursuant to subsection (a), (b) or (d) above, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset.

"Hazardous Materials" means any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls ("PCBs") and any other chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances,"

"hazardous wastes," "hazardous materials," "extremely hazardous substances," "restricted hazardous wastes," "toxic substances" or "toxic pollutants" under, or are regulated or become regulated as such by Environmental Laws, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.); the Hazardous Material Transportation Act, as amended (42 U.S.C. Section 1801 et seq.); the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901 et seq.); the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601); the Clean Air Act, as amended (42 U.S.C. Section 7401 et seq.); the Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1251 et seq.); SMCRA; or in the regulations promulgated pursuant to any of said laws.

"Holdings" has the meaning set forth in the introductory paragraph hereof.

"Independent Chemist" means Paspek Consulting LLC, or such other chemist as may be chosen by the Members of the Company from time to time.

"IRS" means the Internal Revenue Service or any successor agency thereto.

"Legal Requirement" means any law (including common law), statute, act, decree, ordinance, rule, directive (to the extent having the force of law) order, treaty, code or regulation (including any of the foregoing relating to health or safety matters or any Environmental Law) or any interpretation of any of the foregoing, as enacted, issued or promulgated by any Governmental Body, including all amendments, modifications, extensions, replacements or re-enactments thereof.

"Low Volume Period" means any Quarter during which aggregate sales (not counting Excluded Sales) of synthetic fuel produced at the Facilities fall below 525,000 tons (for any reason, including, without limitation, a force majeure event).

"Manager" means Synfuel Management, LLC, a Kentucky limited liability company, which is the operator under the O&M Agreement. The Manager is a "manager" of the Company within the meaning of the Act.

"Member" or "Members" means the "Members" (as such term is defined in the introductory paragraph hereof) in their capacity as "members" of the Company within the meaning of the Act, and any other Person that has been admitted as a member of the Company pursuant to the terms hereof.

"Membership Interest" means the limited liability company interest of a Member in the Company, which shall include the Capital Interest set forth in Exhibit A hereto, and a Member's share of the income, gain, credits, deductions and losses of the Company and a Member's rights to receive distributions (in liquidation or otherwise) and allocations under this Agreement, and which interest entitles such Member to receive information and to consent to or approve such actions or omissions of the Company or another Member with respect to which the consent or approval of such Member is permitted or expressly required hereunder or required under the Act, and all other rights and obligations of such Member.

"MHSI" has the meaning set forth in the introductory paragraph hereof.

"MMBTU" means one million BTUs.

"Monthly Capital Contribution" means, with respect to any Member, the monthly Capital Contributions to be made as provided in Section 4.1(b) hereof.

"Monthly Payment Date" means the tenth calendar day after the receipt of Capital Contribution Schedule, or, if such day is not a Business Day, on the next succeeding Business Day.

"Non-Defaulting Members" has the meaning set forth in Section 4.4(a) hereof.

"Notice" has the meaning set forth in Section 12.1 hereof.

"O&M Agreement" means the Operation and Maintenance Agreement, dated as of October 15, 2001, as amended, among the Company, Synthetic American Fuel Enterprises II, LLC and the Operator.

"Operations Report" means that certain report caused to be issued by the Administrative Member pursuant to Section 2.5(b) of the Purchase Agreement.

"Operator" means Synfuel Management, LLC, a Kentucky limited liability company, or any successor thereto.

"Original Operating Agreement" has the meaning set forth in the recitals.

"Permitted Encumbrance" means Encumbrances provided for under the Project Documents and liens for Taxes not yet due and payable.

"Permitted Investments" means (a) domestic or eurodollar time deposits, money market instruments or certificates of deposit with banks rated at least "A" by Standard & Poor's Ratings Services or Moody's Investors Services, Inc.; (b) commercial paper of industrial corporations rated at least "A-1" by Standard & Poor's Ratings Services or "P-1" by Moody's Investors Services, Inc.; (c) direct obligations of, or obligations unconditionally guaranteed by, the United States of America or an agency or instrumentality thereof and backed by the full faith and credit of the United States of America; or (d) mutual funds that invest primarily in the securities described in (a) through (c) above.

"Person" means any corporation, limited liability company, any form of partnership, any joint venture, trust, estate, Governmental Body or other legal or commercial entity or any natural person.

"Pre-Sale Inventory" means the Company's inventory of synthetic fuel held for sale as of the Closing Date.

"Pre-Sale Items" has the meaning set forth in Section 5.1(c) hereof.

"Prime Rate" means, for each day that any payment obligation hereunder is outstanding, the most recent published prime rate, as reported for each such day either in The

Wall Street Journal (Eastern Edition) under "Money Rates" or, if such rate does not so appear, in such other nationally recognized publication on which the Members may, from time to time, agree. On days when such a rate is not reported, the most recently reported rate on a preceding day will be deemed to be the applicable rate.

"Private Letter Ruling" means the private letter ruling that the Internal Revenue Service issues in response to the Request.

"Project Documents" means all agreements relating to the Facilities or the production and sale of synthetic fuel to which the Company is a party.

"Prudent Operating Standards" means those standards, methods and acts which (a) when engaged in are commonly used in prudent engineering maintenance and operations of synthetic fuel production facilities and associated mechanical and handling facilities and equipment lawfully and with safety, reliability, efficiency and expedition or (b) in the exercise of reasonable judgment considering the facts known when engaged in, could have been expected to achieve the desired result consistent with applicable law, safety, reliability, efficiency and expedition. Prudent Operating Standards are not limited to the optimum practice, method or act, but rather are a spectrum of reasonably possible practices, methods or acts.

"Purchase Agreement" has the meaning set forth in the recitals.

"Purchase Price" has the meaning ascribed to it in the Purchase Agreement.

"Quarter" means the periods corresponding to one fourth of a full Fiscal Year of the Operating Company (which shall be three month periods if such Fiscal Year is based on a 365 day year, and periods of thirteen or fourteen weeks if such Fiscal Year is a 52-53 week year), or the applicable portion of such periods in the case of any short Fiscal Year.

"Quarterly Maximum Production" means not more than 1,920,000 Tons of synthetic fuel in any Quarter.

"Quarterly Minimum Production" means not less than 937,500 Tons of synthetic fuel in any Quarter.

"Representatives" means, with respect to any Person, the managing member(s), the officers, directors, employees, representatives or agents (including investment bankers, financial advisors, attorneys, accountants, brokers and other advisors) of such Person, to the extent that such officer, director, employee, representative or agent of such Person is acting in his or her capacity as an officer, director, employee, representative or agent of such Person.

"Request" means the request for the Private Letter Ruling submitted to the IRS on behalf of the Company as soon as practicable after the date hereof, as supplemented from time to time thereafter, requesting the rulings described in Section 2.9(b) of the Purchase Agreement.

"Secured Parties" means Buyer and the Company.

"Seller Parent" means Marriott International, Inc., a Delaware corporation.

"Seller Parent Guaranty" means the Guaranty, of even date herewith, made by Seller Parent in favor of Buyer.

"Seller Security Agreement" means the Pledge and Security Agreement, of even date herewith, made by MHSI in favor of Buyer and the Company.

"Sharing Ratio" means (i) for the period from the Closing Date through December 31, 2003, 8.9% for MHSI, 1.1% for Holdings, and 90.0% for Buyer; and (ii) for all other periods, 48.8% for MHSI, 1.1% for Holdings and 50.1 for Buyer; provided, however, that if the Closing Date is not the Expected Closing Date, the Sharing Ratio in clause (i) shall be appropriately adjusted by mutual agreement of Buyer and MHSI; and provided further that if, in any Quarter, the Administrative Member proposes to produce less than 1,350,000 tons of synthetic fuel, then the Members shall discuss in good faith an appropriate change in the Sharing Ratio for that Quarter.

"SMCRA" shall mean the Surface Mining Control and Reclamation Act of 1977, as amended 30 U.S.C. Sections 1201 et seq., or any federal or state regulations or regulatory programs promulgated pursuant thereto.

"Tax" (and, with correlative meaning, "Taxes" and "Taxable") means:

(i) any federal, state, local or foreign net income, gross income, gross receipts, windfall profit, severance, property, production, sales, use, license, excise, franchise, net worth, employment, payroll withholding, alternative or add-on minimum, ad valorem, transfer, stamp, or environmental tax, or any other tax, custom, duty, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or penalty, addition to tax or additional amount imposed by any Governmental Body; and

(ii) any liability for the payment of amounts with respect to payment of a type described in clause (i), including as a result of being a member of an affiliated, consolidated, combined or unitary group, as a result of succeeding to such liability as a result of merger, conversion or asset transfer or as a result of any obligation under any tax sharing arrangement or tax indemnity agreement.

"Tax Credits" means the tax credits provided by Section 29(a) of the Code with respect to the sale of synthetic fuel produced by the Facilities.

"Tax Event" means (i) the issuance of a revenue agent's report or notice of deficiency to the Company that proposes the disallowance of 50 percent or more of the Tax Credits claimed during the period covered by the audit; (ii) the revocation by the IRS of any of the three rulings in the Private Letter Ruling, provided that the revocation is no longer eligible for any formal appeal, review or modification through administrative proceedings; (iii) the enactment (or, if later, 60 days before, the effective date) of legislation that would (A) disallow 50 percent or more of the Anticipated Tax Credits, or (B) reduce the maximum federal corporate income tax rate to 30 percent or less; (iv) the issuance by the IRS of a regulation, notice, or other administrative action with similar effect of law that would disallow 50 percent or more of the Anticipated Tax Credits; or (v) a decision by a federal court that would (if applied to the Company) result in the disallowance of 50% or more of the Anticipated Tax Credits, but only if

Buyer submits a written opinion of Chadbourne & Parke LLP or other nationally recognized tax counsel (rendered after consultation in good faith with MHSI's tax counsel) stating that the legal reasoning in such decision should, if applied to the facts of the Company, have such effect. In addition, if legislation is enacted after January 28, 2003 that causes dividends to be fully or partly excluded from federal income taxes, then a Tax Event shall have occurred, but only if by claiming Tax Credits, a corporation would reduce the amount of dividends for which its shareholders would qualify for the exclusion by at least y% of the Tax Credits claimed. For this purpose, y% = 25% x ((1 - Tax Rate)/Tax Rate).

"Tax Matters Partner" has the meaning set forth in Section 7.7(a) hereof.

"Tax Rate" means the highest marginal federal income tax rate for corporations under Section 11 of the Code expressed as a percentage.

"Tax Return" means any return, report or similar statement required to be filed with respect to any Taxes (including any attached schedules), including any information return, claim for refund, amended return or declaration of estimated Tax.

"Termination Date" has the meaning set forth in Section 2.4 hereof.

"Ton" means two thousand (2,000) pounds.

"Transaction Agreements" means this Agreement, the Purchase Agreement, the Seller Parent Guaranty, the Buyer Parent Guaranty, the Buyer Security Agreement, the Seller Security Agreement and the Assignment Agreement.

"Transfer" has the meaning set forth in Section 10.1 hereof.

"Transfer Notice" has the meaning set forth in Section 10.5 hereof.

"Treasury Regulations" or "Treas. Reg." means the regulations promulgated under the Code, as such regulations are in effect on the date hereof.

"UCC" means the Uniform Commercial Code of any applicable jurisdiction.

"Working Capital Loans" has the meaning given to such term in Section 4.5 hereof.

ARTICLE II
FORMATION; OFFICES; TERM

Section 2.1. Formation and Continuation of the Company. The Company was formed on December 20, 1996, by virtue of the filing of its Articles of Organization with the Secretary of State of the State of Oregon. The Company was converted to a Delaware limited liability company pursuant to the Act by virtue of the filing of a Certificate of Formation and a Certificate of Conversion with the Secretary of State of the State of Delaware on December 19, 2002. The Members hereby acknowledge the continuation of the Company as a limited liability company pursuant to the Act. Jeff B. Stant is hereby designated as an "authorized person" within the

meaning of the Act, and has executed, delivered and filed the Certificate of Formation and the Certificate of Conversion of the Company with the Delaware Secretary of State on December 19, 2002, and such execution, delivery and filing is hereby approved and ratified.

Section 2.2. Name, Office and Registered Agent.

(a) The name of the Company shall be "Synthetic American Fuel Enterprises II, LLC" or such other name or names as may be agreed to by the Members from time to time. The principal office of the Company shall be 10400 Fernwood Rd., Bethesda, MD 20817. The Members may at any time change the location of such office to another location, provided that the Administrative Member gives prompt written notice of any such change to the registered agent of the Company.

(b) The registered office of the Company in the State of Delaware is located at 2711 Centerville Road, Suite 400, Wilmington, Delaware. The registered agent of the Company for service of process at such address is The Prentice Hall Corporation System. The registered office and registered agent may be changed by the Administrative Member at any time in accordance with the Act provided that the Administrative Member gives prompt written notice of any such change to all Members. The registered agent's primary duty as such is to forward to the Company at its principal office and place of business any notice that is served on it as registered agent.

Section 2.3. Purpose. The sole purpose of the Company is to own and operate the Facilities, and otherwise to do all things reasonably necessary or advisable in connection therewith, including the procurement of coal feedstock and the sale of synthetic fuel. The Members acknowledge that the primary business objective of the Company is, consistent with good engineering, operating, safety, environmental and commercial practices, to operate the Facilities so as to produce and sell coal-based synthetic fuel to unrelated parties. The Company may engage in any kind of activity and perform and carry out contracts of any kind necessary to, or in connection with or convenient or incidental to, the accomplishment of such purpose, so long as such activities and contracts may be lawfully carried on or performed by a limited liability company under the laws of the State of Delaware.

Section 2.4. Term. The term of the Company commenced on November 20, 1996, and shall continue until June 30, 2008, or such earlier date that the Company is dissolved in accordance with the terms hereof or as otherwise provided by law (the "Termination Date").

Section 2.5. Organizational and Fictitious Name Filings; Presentation of Limited Liability. The Administrative Member shall cause the Company to register as a foreign limited liability company and file such fictitious or trade names, statements or certificates in such jurisdictions and offices as necessary or appropriate for the conduct of the Company's operation of its business. The Administrative Member may take any and all other actions as may be reasonably necessary or appropriate to perfect and maintain the status of the Company as a limited liability company or similar type of entity under the laws of Delaware and any other state or jurisdiction other than Delaware in which the Company engages in business and continue the Company as a limited liability company and to protect the limited liability of the Members as contemplated by the Act.

Section 2.6. No Partnership Intended. Other than for purposes of determining the status of the Company under the Code and the applicable Treasury Regulations and under any applicable state, municipal or other income tax law or regulation, the Members intend that the Company not be a partnership, limited partnership or joint venture and this Agreement shall not be construed to suggest otherwise.

ARTICLE III
RIGHTS AND OBLIGATIONS OF THE MEMBERS

Section 3.1. Members; Membership Interest. Buyer acquired a 0.1% Membership Interest in the Company and was admitted as a Member on January 3, 2002. Pursuant to the Purchase Agreement and related Assignment Agreement, Buyer acquired a 48.8% Membership Interest in the Company from Holdings on the Closing Date. Notwithstanding any other provisions of this Agreement, the parties hereto ratify and approve the transfer of the 48.9% Membership Interest. Holdings, MHSI and Buyer hereby continue as Members. The Company shall have as Members only those other Persons as may be properly admitted as a Member pursuant to the terms hereof in addition to or as assignees of the Members. The name, address, initial Capital Account balance, and the Capital Interest of each Member shall be as shown on Exhibit A attached hereto and the Administrative Member, without the consent of any other person, is hereby authorized to, and shall update Exhibit A from time to time as necessary to reflect accurately the information therein. Any reference in this Agreement to Exhibit A shall be deemed to be a reference to Exhibit A as amended and in effect from time to time. If a Member transfers all of its Membership Interest to another Person pursuant to and in accordance with the terms hereof, the transferor shall automatically cease to be a Member.

Section 3.2. Meetings.

(a) Except as otherwise permitted by this Agreement, all actions of the Members shall be taken at meetings of the Members which may be called by any Member for any reason and shall be called by the Administrative Member within ten days following the written request of a Member. The Members may conduct any Company business at such meeting that is permitted under the Act or this Agreement. Meetings shall be at a reasonable time and place. Accurate minutes of any meeting shall be taken and filed with the minute books of the Company.

(b) With respect to meetings of the Members, the presence in person or by proxy of Members owning 60 percent of the aggregate Membership Interests entitled to vote at such meeting shall constitute a quorum for purposes of transacting business at any meeting of the Members. With respect to those matters required or permitted to be voted upon by the Members, the affirmative vote of Members owning 60 percent of the Membership Interests shall be required to approve any such matter, in addition to any other approval required by this Agreement or the Act. Solely for purposes of any vote by the Members hereunder (including Section 8.3 hereof), Buyer shall be deemed to hold 50% of the Membership Interests and MHSI and Holdings shall together be deemed to hold 50% of the Membership Interests. Members may participate in a meeting of the Members by means of conference telephone or similar communications equipment so that all persons participating in the meeting can hear each other or

by any other means permitted by law. Such participation shall constitute presence in person at such meeting.

(c) Written notice stating the place, day and hour of the meeting of the Members, and the purpose or purposes for which the meeting is called, shall be delivered either personally, via facsimile or by mail, by or at the written direction of the Administrative Member, to each Member of record entitled to vote at such meeting not less than five Business Days nor more than 30 days prior to the meeting. Notwithstanding the foregoing, meetings of the Members may be held without notice so long as all the Members are present in person or by proxy.

(d) Any action may be taken by the Members without a meeting if such action is authorized or approved by the written consent of all Members. In no instance where action is authorized by written consent need a meeting of Members be called or noticed; however, a copy of the action taken by written consent must be sent promptly to all Members and all actions by written consent shall be filed with the minute books of the Company. Following each meeting, the minutes of the meeting shall be sent to each Member.

Section 3.3. Management Rights. Except as otherwise provided herein, and for the avoidance of doubt, no Member shall have any right, power or authority to take part in the management or control of the business of, or transact any business for, the Company, to sign for or on behalf of the Company or to bind the Company in any manner whatsoever. The Manager shall not hold out or represent to any third party that any Member has any such power or right or that any Member is anything other than a member in the Company. A Member shall not be deemed to be participating in the control of the business of the Company by virtue of its possessing or exercising any rights set forth in this Agreement or the Act or any other agreement relating to the Company.

Section 3.4. Other Activities. Notwithstanding any duty otherwise existing at law or in equity, any Member or Manager may engage in or possess an interest in other business ventures of every nature and description, independently or with others, even if such activities compete directly with the business of the Company, and neither the Company nor any of the Members shall have any rights by virtue of this Agreement in and to such independent ventures or the profits derived from them.

Section 3.5. No Right to Withdraw. Except as otherwise provided in Article X of this Agreement, no Member shall have any right to voluntarily resign or otherwise withdraw from the Company without the prior written consent of all remaining Members of the Company, in their sole and absolute discretion.

Section 3.6. Limitation of Liability of Members. Each Member's liability shall be limited as set forth in the Act and other applicable law. Except as otherwise required by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and the Members of the Company shall not be obligated personally for any of such debts, obligations or liabilities solely by reason of being a Member of the Company. In no event shall any Member or Manager be liable under this Agreement to another Member for any lost profits of, or any consequential,

punitive, special or incidental damages incurred by, such Member arising from a breach of this Agreement, provided that this shall in no way limit any such liability of a Member or the Manager to another Member under any other Transaction Agreement.

Section 3.7. Deficit Upon Liquidation. Except to the extent otherwise provided by law with respect to third-party creditors of the Company, upon liquidation, none of the Members shall be liable to the Company for any deficit in its Capital Account, nor shall such deficits be deemed assets of the Company.

Section 3.8. Company Property; Membership Interests. All property owned by the Company, whether real or personal, tangible or intangible and wherever located, shall be deemed to be owned by the Company and no Member, individually, shall have any ownership of such property. The Membership Interests shall constitute personal property.

Section 3.9. Retirement, Resignation, Expulsion, Incompetency, Bankruptcy or Dissolution of a Member. The retirement, resignation, expulsion, Bankruptcy or dissolution of a Member shall not, in and of itself, dissolve the Company. The successors in interest to the bankrupt Member shall, for the purpose of settling the estate, have all of the rights of such Member, including the same rights and subject to the same limitations that such Member would have had under the provisions of this Agreement to Transfer its Membership Interest. A successor in interest to a Member shall not become a substituted Member except as provided in this Agreement. Notwithstanding the foregoing, any purchaser of Buyer's or Holdings' Membership Interest in accordance with the exercise by MHSI or the Company of the terms of the Buyer Security Agreement and the applicable provisions of the UCC and any purchaser of MHSI's Membership Interest in accordance with the exercise by Buyer or the Company of the terms of the Seller Security Agreement shall, upon execution of a counterpart to this Agreement become a Member with respect to the transferred Membership Interest.

Section 3.10. Exercise Under the Security Agreements. The Members acknowledge that Buyer has granted a security interest in its Membership Interest pursuant to the Buyer Security Agreement. Upon the election by either of the Secured Parties (as defined in the Buyer Security Agreement) to hold the Collateral in accordance with Section 3(f) of the Buyer Security Agreement, notwithstanding Article X of this Agreement, MHSI will thereupon be automatically admitted to the Company as a Member with respect to Buyer's Membership Interest hereunder, and concurrently, Buyer will cease to be a Member. In such event, or if Buyer's Membership Interest is sold to a purchaser in accordance with the exercise by the Secured Parties of their rights under the Buyer Security Agreement, all of Buyer's obligations to make Fixed and Variable Deferred Payments under the Purchase Agreement, payments under the Base Note and Monthly Capital Contributions under this Agreement (and Buyer Parents' obligations under the Buyer Parent Guarantee) will cease (except for those obligations and liabilities accrued through such date or relating to any taxable year or portion thereof prior to such date), and MHSI shall have all of the rights of Buyer as a member hereunder. The Members further acknowledge that MHSI has granted a security interest in its Membership Interest pursuant to the Seller Security Agreement. Upon election by either of the Secured Parties (as defined in the Seller Security Agreement) to hold the Collateral in accordance with Section 3(f) of the Seller Security Agreement, notwithstanding Article X of this Agreement, Buyer will automatically succeed to all or the applicable portion of MHSI's Membership Interest hereunder.

ARTICLE IV
CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS

Section 4.1. Capital Contributions.

(a) The Members acknowledge and agree that the Capital Account balances of each Member are estimated as of the Closing Date to be as reflected on Exhibit A hereto.

(b) Subject to Sections 4.1(d), (f) and (g) hereof, the Members acknowledge and agree that the continuing operation of the Facilities will require regular Monthly Capital Contributions. Capital Contributions will be made monthly in arrears. The Administrative Member shall submit to each Member, no later than the tenth day after the end of each month, a written schedule in the form attached as Exhibit E hereto (the "Capital Contribution Schedule") setting forth the Monthly Capital Contributions for each Member equal to their pro rata shares (based on the applicable Sharing Ratios during the relevant calculation period) of the amount required to pay down to zero the aggregate outstanding balances of the Working Capital Loans.

(c) Subject to Sections 4.1(d), (f) and (g) hereof, on or before the Monthly Payment Date, each Member shall contribute to the capital of the Company an amount in immediately available funds equal to such Member's Monthly Capital Contribution as set forth in the Capital Contribution Schedule pursuant to Section 4.1(b) hereof.

(d) Notwithstanding any other provision in this Agreement to the contrary, in no event will the amount of the Monthly Capital Contribution required to be made hereunder by Buyer for any month be greater than the excess of the Applicable Percentage of the Estimated Tax Credits with respect to such month over the aggregate of the payments under the Base Notes and the Fixed Deferred Payments accrued with respect to such month. For any month for which Buyer's Monthly Capital Contributions is limited by this Section 4.1(d), the Monthly Capital Contributions of the other Members for such month shall be reduced so that all Members make Capital Contributions in the same ratio as the Sharing Ratios and, in such event, MHSI's obligation to make Working Capital Loans shall increase with respect to such month to the extent of the amount of any such reduction in the Members' Monthly Capital Contributions with respect to such month.

(e) If Buyer reasonably disputes the Administrative Member's calculations set forth in the Capital Contribution Schedule, Buyer shall so notify the Administrative Member on or before the Monthly Payment Date, and, in such event, Buyer and the Administrative Member shall consider the issues raised or in dispute and discuss such issues with each other and attempt to reach a mutually satisfactory agreement. Buyer shall pay, on or before the Monthly Payment Date, any undisputed portion of the amount then due, and any amount in dispute may be withheld pending resolution of the dispute; it being understood that such sums as are withheld by Buyer in accordance with this Section 4.1(e) shall not give rise to any of the Company's rights under Section 4.4(a) or (c) hereof or the Security Agreement unless (i) such dispute is resolved in the Administrative Member's favor and (ii) Buyer fails to pay such disputed amount (together with interest at the Commercial Paper Rate) within the time period specified below. If the dispute is not resolved within ten Business Days of such notification, Buyer and the Administrative Member shall each present their interpretations to the Accounting Firm, and shall

instruct the Accounting Firm to calculate the correct amounts to be reflected on the Capital Contribution Schedule and to resolve the dispute promptly, but in no event more than 30 calendar days after having the dispute submitted to it. The Accounting Firm will make a determination as to each of the items in dispute, which must be (i) in writing, (ii) furnished to each of Administrative Member and Buyer and (iii) made in accordance with this Agreement, and which determination, absent manifest error, will be conclusive and binding on Administrative Member and Buyer and, to the fullest extent permitted by law, may be enforced in the courts specified in Section 12.12 hereof. In the event the Accounting Firm determines that any of the calculations in dispute in the Capital Contribution Schedule was incorrect, the fees and expenses of the Accounting Firm shall be borne by the Company, and in all other cases the fees and expenses of the Accounting Firm shall be borne by Buyer. Each of the Administrative Member and Buyer shall use reasonable efforts to cause the Accounting Firm to render its decision as soon as reasonably practicable, including by promptly complying with all reasonable requests by the Accounting Firm for information, books, records and similar items. Upon receipt by Buyer of the Accounting Firm's written determination of the resolution of any such dispute in Administrative Member's favor, Buyer shall pay all or any portion of the amounts in dispute in accordance with such resolution plus interest at the Commercial Paper Rate on the amounts in dispute from the date such amounts were due until the date of payment thereof, such payment date being in any event no later than ten Business Days from the receipt of such written determination. Upon the resolution of any such dispute in Buyer's favor, the amount in dispute shall not be considered due and owing and the Company and the Administrative Member shall have no rights whatsoever with respect to such amount under Section 4.4(a) or (c) hereof or the Buyer Security Agreement.

(f) In no event will Buyer be responsible for funding any Capital Contributions to cover costs that are allocated solely to MHSI under Section 5.1(c). To the extent required after the Closing Date, MHSI shall make any Capital Contributions necessary to be made after the Closing Date to cover such costs.

(g) Except as provided in this Section 4.1 and Section 4.4(b), no other Capital Contributions or Monthly Capital Contributions shall be required or permitted from the Members unless all of the Members consent thereto in writing.

(h) For any given Quarter, in the event that during the immediately preceding Quarter the Company failed to sell at least 525,000 Tons of synthetic fuel (for any reason, including without limitation, a force majeure event) and the Manager has not provided assurances reasonably satisfactory to Buyer that the Company is capable of selling in excess of 525,000 Tons of synthetic fuel during such given Quarter, Buyer may give the Administrative Member notice of its election to waive financial participation in the Company for such Quarter. As to any Quarter for which Buyer makes such election, Buyer will have no obligation to make any Capital Contributions for such Quarter or a Variable Deferred Payment (as defined in the Purchase Agreement) for such Quarter, and Buyer's allocable share of all distributions and allocations of items of Company income, gain, credits (including Tax Credits), deductions and losses for such Quarter will be allocated to MHSI, and MHSI will make Capital Contributions equal to 100 percent of the amount required to pay down to zero the aggregate outstanding balances, if any, of the Working Capital Loans for such Quarter.

Section 4.2. Written Requests. Each Capital Contribution Schedule issued pursuant to Section 4.1 shall have attached the most recent Operations Report and contain the following information:

(a) The aggregate outstanding balance of Working Capital Loans;

(b) The total amount of Monthly Capital Contributions requested from all Members;

(c) The amount of the Monthly Capital Contribution requested from the Member to whom the request is addressed, in accordance with Section 4.1;

(d) Good faith estimates of the previous month's sales, production and Tax Credits resulting from sales; and

(e) A calculation of the limitation described in Section 4.1(d).

Section 4.3. Capital Accounts.

(a) There shall be established and maintained throughout the full term of the Company in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv) for each Member, a capital account (a "Capital Account") which shall be credited with (i) such Member's Capital Contributions, (ii) allocations of book income and gain to such Member pursuant to Article V and (iii) the amount of any Company liabilities assumed by such Member or which are secured by any property distributed by the Company to such Member. Each Member's Capital Account shall be debited with (i) the amount of cash and the Gross Asset Value of other property distributed to such Member, (ii) allocations of book deductions and losses to such Member pursuant to Article V and (iii) the amount of any liabilities of such Member assumed by the Company or which are secured by any property contributed by such Member to the Company. Within 60 days after the Closing Date, the parties will complete Exhibit A, which shall set forth the initial balance of each Member in its Capital Account.

(b) If 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 Membership Interest so Transferred.

(c) The provisions of this Agreement relating to maintenance of Capital Accounts are intended to comply with Treasury Regulation Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Treasury Regulation.

Section 4.4. Defaulted Capital Contributions.

(a) Subject to Section 4.1(d) hereof, if a Member shall fail to pay its required portion of any Monthly Capital Contributions when due (a "Defaulting Member") and such failure to pay continues for 20 days after receipt of written notice of such failure from the Administrative Member or another Member (the "Non-Defaulting Members"), such failure to pay shall constitute an event of default (an "Event of Default"). For so long as the Defaulting Member shall have failed to pay its portion of the Monthly Capital Contributions as and when

required pursuant to Section 4.1 hereof, the Defaulting Member's right to vote on matters put before the Members shall be suspended. In addition and without limiting the rights and remedies available to the Company at law or in equity, the Non-Defaulting Members shall have the right, upon the occurrence and during the continuation of an Event of Default, on behalf of the Company to exercise one or more of the following remedies unless such Non-Defaulting Members shall have paid the defaulted Monthly Capital Contribution pursuant hereto:

(i) for so long as the Defaulting Member shall have failed to pay its portion of the Monthly Capital Contributions as and when required under this Article IV, to cause the Company to withhold any distributions otherwise payable to such Defaulting Member and to use such amounts to offset the amounts due in respect of the defaulted Monthly Capital Contribution obligation; and

(ii) to sue for the amount due (taking into account amounts received under clause (i) above), in which case the Company shall be entitled to collect reasonable attorneys' fees and all other costs of collection, plus interest on any unpaid Monthly Capital Contributions (taking into account amounts received under clause (i) above) at a rate (the "Default Rate") equal to the lesser of the Prime Rate plus two percent per annum compounded monthly, or the maximum rate of interest allowed by applicable law, from the date on which the Monthly Capital Contribution was first due until such unpaid amount is paid to the Company.

For all purposes hereof, distributions applied pursuant to Section 4.4(a)(i) shall be deemed to have been distributed to the Defaulting Member and then paid by the Defaulting Member to the Company.

(b) Upon the occurrence and during the continuation of an Event of Default by a Defaulting Member in making Monthly Capital Contributions, the Non-Defaulting Members may make Monthly Capital Contributions to the Company in the amount of the defaulted Monthly Capital Contributions and thereupon all distributions and allocations of items of Company income, gain, credits, deductions and losses allocable to the Defaulting Member for the period as to which the defaulted Capital Contribution relates will be made to the Non-Defaulting Members.

(c) In addition to the remedies in Section 4.4(a) and (b), where the Defaulting Member is Buyer or where Buyer or Buyer Parent fails to pay any portion of the purchase price for Buyer's Membership Interest that is due and payable under the Purchase Agreement, so long as the Secured Parties have not elected to hold the Collateral in accordance with Section 3(f) of the Buyer Security Agreement, MHSI shall have the option, on behalf of the Company, exercisable by delivery of written notice thereof to Defaulting Member within 180 days following Buyer's receipt of the written notice of default, so long as such default is continuing at such time, to cause the Membership Interest of the Defaulting Member to be redeemed by the Company. If MHSI exercises such option (i) Buyer shall reconvey and transfer to the Company all right, title and interest in and to the Membership Interest, free and clear of all Encumbrances other than the obligations and liabilities under Transaction Agreements with respect thereto; (ii) Buyer shall be deemed to have made the written representations set forth on Exhibit D attached hereto to the Company; (iii) Buyer shall take all such further actions and execute, acknowledge and deliver all such further documents that are necessary or useful to effectuate the transfer of

the Membership Interest contemplated by this Section 4.4(c); (iv) the Company shall effectuate such redemption; (v) all obligations and liabilities associated with the Membership Interest will terminate except those obligations and liabilities accrued through the date of termination; (vi) Buyer will have no further rights as a member of the Company; (vii) this Agreement shall be amended to reflect Buyer's resignation as a member of the Company; and (viii) Buyer shall have no further obligation thereafter to make any contributions to the capital of the Company or any further payments of the Purchase Price under the Purchase Agreement, except those obligations and liabilities accrued through the date of termination. Relief from the obligation of Buyer to make such payments will be deemed sufficient consideration for the reconveyance and transfer of the Membership Interest to the Company.

(d) If the Membership Interest held by Buyer is redeemed or transferred to MHSI pursuant to Section 6.1 of the Purchase Agreement, or the action with respect to "the Collateral" referred to in Section 3.10 hereof is taken, then Buyer shall have no further obligation to make any Capital Contributions to the Company, except for those obligations and liabilities accrued through the date of such redemption.

Section 4.5. Working Capital Loans. During each month during the term hereof, to the extent that working capital on-hand and Monthly Capital Contributions made by the Members are not sufficient to cover the operating costs and working capital needs of the Company, MHSI will advance to the Company, when and as needed, funds sufficient to cover the operating costs and working capital needs of the Company but not in excess of $37,500,000 outstanding at any time ("Working Capital Loans"). Working Capital Loans will not bear interest and will be repaid on an ongoing basis out of Monthly Capital Contributions, available cash flow and sale or refinancing proceeds, as reasonably determined by the Administrative Member from time to time, and any remaining amounts owing shall become finally due and payable at the earlier of March 1, 2008, or the dissolution of the Company.

Section 4.6. No Third Party Beneficiary. To the full extent permitted by law, no creditor or other third party having dealings with the Company shall have the right to enforce the right or obligation of any Member to make Capital Contributions or loans or to pursue any other right or remedy hereunder or at law or in equity, it being understood and agreed that the provisions of this Agreement shall be solely for the benefit of, and may be enforced solely by, the parties hereto and their respective successors and permitted assigns. None of the rights or obligations of the Members herein set forth to make Capital Contributions or loans to the Company shall be deemed an asset of the Company for any purpose by any creditor (other than MHSI) or other third party, nor may such rights or obligations be sold, transferred or assigned by the Company or pledged or encumbered by the Company to secure any debt or other obligation of the Company or of any of the Members. In addition, it is the intent of the parties hereto that no distribution to any Member shall be deemed a return of money or other property in violation of the Act. The payment of such money or distribution of such property shall be deemed to be a compromise within the meaning of the Act and, to the full extent permitted by law, any Member receiving the payment of any such money or distribution of any such property shall not be required to return any such money or property to any Person, the Company or any creditor of the Company. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Member is obligated to return such money or property, such obligation shall be the obligation of such Member and not of the other Members. Without

limiting the generality of the foregoing, a deficit Capital Account of a Member shall not be deemed to be a liability of such Member nor an asset or property of the Company.

Section 4.7. No Deficit Capital Account Restoration. No Member shall have any obligation to restore any negative balance in its Capital Account upon the occurrence of the reconveyance of Buyer's Membership Interest pursuant to Section 4.4(c) hereof and/or the Purchase Agreement or upon dissolution, winding-up or termination of the Company.

ARTICLE V
ALLOCATIONS

Section 5.1. Allocations.

(a) Except as set forth in Sections 5.1(b) and 5.1(c), for purposes of maintaining capital accounts, after giving effect to the special allocations set forth in Section 5.2, for each Fiscal Year or shorter period: (i) all items of Company income (including, without limitation, gross income and receipts from the sale of synthetic fuel) shall be allocated among the Members in accordance with their Sharing Ratios; (ii) all items of Company deduction or expense shall be allocated among the Members in accordance with their Sharing Ratios; and (iii) all Depreciation and items of gain or loss from sales of assets of the Company (other than synthetic fuel) shall be allocated among the Members in accordance with their Capital Interests; provided, however, that items of Company deduction or loss shall not be allocated to a Member to the extent that such allocation would cause a deficit in such Member's Capital Account (after reduction to reflect the items described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6)) to exceed the amount such Member is obligated to contribute to the capital of the Company. Any deduction or loss in excess of that limitation shall be allocated to the other Members provided that any such deduction or loss shall, to the extent permissible, reduce subsequent allocations of deductions or losses to those Members and increase deductions or losses to the Member for whom deductions or losses were limited.

(b) To the extent any Capital Contribution is made by a Non-Defaulting Members pursuant to Section 4.4(b), all items of Company income, gain, credits, deductions and losses otherwise allocable to the Defaulting Member for the period to which such Capital Contribution relates will be allocated to such Non-Defaulting Members.

(c) All items of income, gain, credit, deduction and loss relating to the production or sale of synthetic fuel sold in Excluded Sales or to current receivables or current liabilities existing as of the Closing Date shall be allocated to MHSI; provided, however, that prepaid amounts, binder and other raw materials and operating or production supplies existing as of the Closing Date (the "Pre-Sale Items") shall not be covered by the preceding clause but shall be treated as operating or production costs after the Closing Date and borne by all Members. Sales of such synthetic fuel after the Closing Date will be considered made out of Pre-Sale Inventory until such inventory has been exhausted.

Section 5.2. Special Allocations. Any allocation pursuant to Section 5.1 will be subject to any adjustment required to comply with Treasury Regulation Section 1.704-1(b), including any qualified income offset within the meaning of Treasury Regulation Section 1.704-1(b)(2)(ii)(d)

and any minimum gain chargeback or partner nonrecourse debt minimum gain chargeback within the meaning of Treasury Regulation Section 1.704-2. Any nonrecourse deductions shall be allocated to the Members in proportion to their respective Capital Interests, and any partner nonrecourse deductions (within the meaning of Treasury Regulation Section 1.704-2(i)) shall be allocated to the Member that bears the economic risk of loss with respect to the debt to which such deductions are allocable. For the avoidance of doubt, partner nonrecourse deductions shall not exist to the extent the Members are obligated to make Capital Contributions to the Company. Any special allocations of items pursuant to this Section 5.2 shall be taken into account, to the extent permitted by the Treasury Regulations, in computing subsequent allocations of income, gain, deductions or losses pursuant to Section 5.1 so that the net amount of any items so allocated and all other items allocated to each Member shall, to the extent possible, be equal to the amount that would have been allocated to each Member pursuant to Section 5.1 had such special allocations under this Section 5.2 not occurred.

Section 5.3. Tax Allocations. (a) All allocations of tax items of Company income (including, without limitation, gross income and receipts from the sale of synthetic fuel), gain, deductions and losses for each Fiscal Year shall be allocated in the same proportions as the allocations of book items of Company income (including, without limitation, gross income and receipts from the sale of synthetic fuel), gain, deductions and losses were made for such Fiscal Year pursuant to Sections 5.1 and 5.2 hereof. Tax Credits shall be allocated to the Members the same ratio as receipts from the sale of synthetic fuel are shared as provided in Treasury Regulations Section 1.704-1(b)(4)(ii).

(b) Notwithstanding Section 5.3(a), if, as a result of contributions of property by a Member to the Company or an adjustment to the Gross Asset Value of Company assets pursuant to this Agreement, there exists a variation between the adjusted basis of an item of Company property for federal income tax purposes and as determined under the definition of Gross Asset Value, allocations of income, gain, loss, and deduction shall, solely for tax purposes, be allocated among the Members so as to take into account any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Gross Asset Value (computed in accordance with the definition of Gross Asset Value) using the traditional method pursuant to Treasury Regulations Section 1.704-3.

(c) Allocations pursuant to this Section 5.3 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of income, gain, deductions or losses or distributions pursuant to any provision of this Agreement.

(d) To the extent that an adjustment to the adjusted tax basis of any Company asset is made pursuant to section 743(b) of the Code as the result of a purchase of an interest in the Company any adjustment to the depreciation, amortization, gain or loss resulting from such adjustment shall affect the transferee only and shall not affect the Capital Account of the transferor or transferee. In such case, the transferee agrees to provide to the Company (i) the allocation of any step-up or step-down in basis to the Company's assets and (ii) the depreciation or amortization method for any step-up in basis to the Company's assets.

Section 5.4. Transfer or Change in Company Interest. If the respective Membership Interests or Sharing Ratios of the existing Members in the Company change or if a Membership Interest is Transferred in compliance with this Agreement to any other Person (including the Transfer by Holdings to Buyer at Closing), then, for the Fiscal Year in which the change or Transfer occurs, all income, gains, losses, deductions, Tax Credits and other tax incidents resulting from the operations of the Company shall be allocated, as between the Members for the Fiscal Year in which the change occurs or between the transferor and transferee, by taking into account their varying interests using the closing of the books method in accordance with Section 706 of the Code, unless otherwise agreed by all the Members.

ARTICLE VI
DISTRIBUTIONS

Section 6.1. Distributions. (a) Except as provided in Sections 4.4(a)(i), 4.4(b), 4.4(c), 6.1(b) and 11.2, distributions to the Members shall be made pro rata to the Members according to the Sharing Ratios. Distributions, if any, may be made from time to time in such amounts and at such times as the Administrative Member shall propose, as consented to by the Members in accordance with Section 8.3(a). There shall be no distributions of the assets of the Company in kind without the prior written consent of all of the Members.

(b) Notwithstanding Section 6.1(a), all Company revenues resulting from Excluded Sales and receipt of accounts receivable accrued as of the Closing Date net of (i) all accounts payable and expenses accrued on or before the Closing Date (other than amounts treated as post-Closing operating or production costs pursuant to the proviso in Section 5.1(c)) and (ii) any costs (including any applicable Taxes) with respect to the sale of any Pre-Sale Inventory, shall be distributed to MHSI.

Section 6.2. Withdrawal of Capital. No Member shall have the right to withdraw capital from the Company or to receive or demand distributions or return of its Capital Contributions until the Company is dissolved in accordance with this Agreement and applicable provisions of the Act. No Member shall be entitled to demand or receive any interest on its Capital Contributions.

Section 6.3. Withholding Taxes. If the Company is required to withhold taxes with respect to any allocation or distribution to any Member pursuant to any applicable federal, state, local or foreign tax laws, the Company may, after first notifying the Member and permitting the Member, if legally permitted, to contest the applicability of such taxes, withhold such amounts and make such payments to taxing authorities as are necessary to ensure compliance with such tax laws. Any funds withheld by reason of this Section 6.3 shall nonetheless be deemed distributed to the Member in question for all purposes under this Agreement. If the Company did not withhold from actual distributions any amounts it was required to withhold, the Company may, at its option, (i) require the Member to which the withholding was credited to reimburse the Company for such withholding; or (ii) reduce any subsequent distributions by the amount of such withholding. This obligation of a Member to reimburse the Company for taxes that were required to be withheld shall continue after such Member transfers or liquidates its Membership Interest in the Company. Each Member agrees to furnish the Company with any representations

and forms as shall reasonably be requested by the Company to assist it in determining the extent of, and in fulfilling, any withholding obligations it may have.

Section 6.4. Limitation upon Distributions. The provisions of this Agreement, including the foregoing provisions of this Article VI to the contrary notwithstanding, no distribution shall be made: (a) if such distribution would violate any contract or agreement to which the Company is then a party (including without limitation the Project Documents) or any Legal Requirement then applicable to the Company, (b) to the extent that the Administrative Member determines (and the Members consent thereto in accordance with Section 8.3(a)) that any amount otherwise distributable should be retained by the Company to pay, or to establish a reserve for the payment of, any liability or obligation of the Company, whether liquidated, fixed, contingent or otherwise, or to hedge an existing investment, or (c) to the extent that the Administrative Member determines (and the Members consent thereto in accordance with Section 8.3(a)) that the cash available to the Company is insufficient to permit such distribution.

ARTICLE VII
ACCOUNTING AND RECORDS

Section 7.1. Fiscal Year. The fiscal year of the Company (the "Fiscal Year") shall be the same as the taxable year of the Company. The taxable year of the Company will be a year that ends on November 30, or such other year as may be required by applicable federal income tax law.

Section 7.2. Books and Records and Inspection.

(a) The Administrative Member shall keep, or cause to be kept by the Company, full and accurate books of account, financial records and supporting documents, which shall reflect, completely, accurately and in reasonable detail, each transaction of the Company and such other matters as are usually entered into the records or maintained by Persons engaged in a business of like character or as are required by law, and all other documents and writings of the Company. The books of account, financial records, and supporting documents and the other documents and writings of the Company shall be kept and maintained at the principal office of the Company. The financial records and reports of the Company shall be kept in accordance with GAAP and kept on an accrual basis.

(b) In addition to and without limiting the generality of Section 7.2(a), the Administrative Member shall keep, or cause to be kept by the Company, at its principal office:

(i) true and full information regarding the status of the business financial condition of the Company, including any financial statements for the three most recent years;

(ii) promptly after becoming available, a copy of the Company's federal, state, and local income tax returns for each year;

(iii) a current list of the name and last known business, residence or mailing address of each Member and the Manager;

(iv) a copy of this Agreement and the Company's Certificate of Formation, and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which this Agreement and such Certificate of Formation and all amendments thereto have been executed;

(v) true and full information regarding the amount of cash and a description and statement of the agreed value of any other property and services contributed by each Member and which each Member has agreed to contribute in the future, and the date upon which each became a Member; and

(vi) copies of records that would enable a Member to determine the Member's relative shares of the Company's distributions and the Member's relative voting rights.

(vii) all records related to the production and sale of coal-based synthetic fuel and the qualification of such fuel for Tax Credits pursuant to Section 29 of the Code, applicable Treasury Regulations, Revenue Procedures and any other pronouncements by the IRS, whether currently existing or promulgated in the future.

(c) All books and records of the Company shall be open to inspection and copying by any of the Members or their Representatives during business hours and at such Member's expense, for any purpose reasonably related to such Member's interest in the Company.

Section 7.3. Bank Accounts, Notes and Drafts.

(a) All funds not required for the immediate needs of the Company shall be placed in Permitted Investments, which investments shall have a maturity appropriate for the anticipated cash flows needs of the Company. All Company funds shall be deposited and held in accounts which are separate from all other accounts maintained by the Administrative Member and the Members, and the Company's funds shall not be commingled with any other funds of any other Person, including, without limitation, any Manager, any Member or any Affiliate (other than the Company itself) of a Manager or a Member.

(b) The Members acknowledge that the Administrative Member may maintain Company funds in accounts, money market funds, certificates of deposit, other liquid assets in excess of the insurance provided by the Federal Deposit Insurance Corporation, or other depository insurance institutions and that the Administrative Member shall not be accountable or liable for any loss of such funds resulting from failure or insolvency of the depository institution.

(c) Checks, notes, drafts and other orders for the payment of money shall be signed by such persons as the Administrative Member from time to time may authorize. When the Administrative Member so authorizes, the signature of any such person may be a facsimile.

Section 7.4. Financial Statements.

(a) As soon as possible after the Closing Date, MHSI and Buyer shall meet to determine the procedures to be used by the Accounting Firm in order to issue an agreed upon

procedures letter in accordance with Section 7.4(c) hereof, and MHSI shall promptly communicate such procedures to the Accounting Firm.

(b) As soon as practical after the end of each Quarter, but in no event more than 30 days after the end of any such Quarter, the Administrative Member shall furnish to each Member (i) unaudited tax-basis financial statements with respect to such Quarter of the Company, consisting of (A) a balance sheet showing the Company's financial position as of the end of such Quarter, (B) profit and loss statements for such Quarter, (C) a statement of cash flows for such Quarter, certified by a responsible officer of the Administrative Member as true complete and correct in all material respects and (ii) a summary of the number of Tons and the BTU content of the synthetic fuel produced and sold by the Company to unrelated persons during such Quarter.

(c) Within 90 days after the end of each Fiscal Year, the Administrative Member shall furnish to each Member (i) tax-basis financial statements with respect to such Fiscal Year that are audited and certified by the Accounting Firm, (ii) a statement of each Member's closing Capital Account balance as of the end of such Fiscal Year, (iii) a statement of the number of Tons and the BTU content of the synthetic fuel produced and sold by the Company to unrelated Persons during each Quarter during the Fiscal Year as well as a procedures letter from the Accounting Firm stating that the determination was made in accordance with agreed upon practices and procedures. The audited financial statements must include (A) a balance sheet showing the Company's financial position as of the end of such Fiscal Year, (B) profit and loss statements for such Fiscal Year and (C) a statement of cash flows for such Fiscal Year.

Section 7.5. Partnership Status and Tax Elections.

(a) It is the intent of the Members that the Company be taxed as a partnership for United States federal, state and local income tax purposes. The Members hereby agree not to elect to be excluded from the application of Subchapter K of Chapter 1 of Subtitle A of the Code or any similar state statute and agree not to elect for the Company to be treated as a corporation, or an association taxable as a corporation, under the Code or any similar state statute.

(b) The Company shall make the following elections and take the following positions under United States income tax laws and regulations and any similar state statutes:

(i) Adopt the Fiscal Year as the annual accounting period; and

(ii) Adopt the accrual method of accounting.

(c) The Company shall file an election under Section 754 of the Code and the Treasury Regulations thereunder to adjust the basis of the Company assets under Section 734(b) of the Code or Section 743(b) of the Code and any corresponding elections under the applicable sections of state and local law.

(d) The Company shall file an election under Section 6231(a)(1)(B)(ii) of the Code and the Treasury Regulations thereunder to treat the Company as a partnership to which the provisions of Sections 6221 through 6234 of the Code, inclusive, apply.

Section 7.6. Company Tax Returns. The United States federal income Tax Returns for the Company and all other Tax Returns of the Company shall be prepared in a manner consistent with the Private Letter Ruling and as directed by the Administrative Member in Consultation with the other Members. The Administrative Member, in Consultation with the other Members, may extend the time for filing any such Tax Returns as provided for under applicable statutes. At the Company's expense, the Administrative Member shall cause the Company to retain the Accounting Firm to prepare or review the necessary federal and state income Tax Returns and information returns for the Company. Each Member shall provide such information, if any, as may be reasonably needed by the Company for purposes of preparing such Tax Returns, provided that such information is readily available from regularly maintained accounting records. At least 30 days prior to filing the federal and state income Tax Returns and information returns, the Administrative Member shall deliver to the other Members for their review a copy of the Company's federal and state income Tax Returns and information returns in the form proposed to be filed for each Fiscal Year, and shall incorporate all reasonable changes or comments to such proposed Tax Returns and information returns requested by the other Members at least ten days prior to the filing date for such returns. After taking into account any such requested changes, the Administrative Member shall cause the Company to timely file, taking into account any applicable extensions, such Tax Returns. Within 20 days after filing such federal and state income Tax Returns and information returns, the Administrative Member shall cause the Company to deliver to each Member a copy of the Company's federal and state income Tax Returns and information returns as filed for each Fiscal Year, together with any additional tax-related information in the possession of the Company that such Member may reasonably and timely request in order to properly prepare its own income Tax Returns.

Section 7.7. Tax Audits.

(a) MHSI is hereby designated as the "tax matters partner," as that term is defined in Section 6231(a)(7) of the Code (the "Tax Matters Partner"), of the Company, with all of the rights, duties and powers provided for in Sections 6221 through 6234 of the Code, inclusive. MHSI is hereby directed and authorized to take whatever steps MHSI, in its reasonable discretion, deems necessary or desirable to perfect such designation, including, without limitation, filing any forms or documents with the IRS and taking such other action as may from time to time be required under the Treasury Regulations. If MHSI transfers some or all of its Membership Interest (other than to an Affiliate), MHSI shall be removed as the Tax Matters Partner and the then-current members of the Company shall select a replacement Tax Matters Partner for the Company effective as of the date of the transfer of MHSI's Membership Interest (other than to an Affiliate).

(b) The Tax Matters Partner, in Consultation with the other Members, shall direct the defense of any claims made by the IRS to the extent that such claims relate to the adjustment of Company items at the Company level and, in connection therewith, shall cause the Company to retain and to pay the fees and expenses of counsel and other advisors chosen by the Tax Matters Partner in Consultation with the other Members. The Tax Matters Partner shall promptly deliver to each other Member a copy of all notices, communications, reports and writings received from the IRS relating to or potentially resulting in an adjustment of Company items, shall promptly advise each of the other Members of the substance of any conversations with the IRS in connection therewith and shall keep the other Members advised of all

developments with respect to any proposed adjustments which come to its attention. In addition, the Tax Matters Partner shall (i) provide the other Members with a draft copy of any correspondence or filing to be submitted by the Company in connection with any administrative or judicial proceedings relating to the determination of Company items at the Company level reasonably in advance of such submission, (ii) incorporate all reasonable changes or comments to such correspondence or filing requested by the other Members and (iii) provide the other Members with a final copy of correspondence or filing. The Tax Matters Partner will provide each Member with notice reasonably in advance of any meetings or conferences with respect to any administrative or judicial proceedings relating to the determination of Company items at the Company level (including any meetings or conferences with counsel or advisors to the Company with respect to such proceedings) and each Member shall have the right to participate, at its sole cost and expense, in any such meetings or conferences.

(c) Notwithstanding Section 7.7(b), the Tax Matters Partner shall not (i) enter into any settlement agreement that is binding upon the other Member with respect to the determination of Company items at the Company level or (ii) file a petition under Section 6226(a) of the Code for the readjustment of Company items without the prior consent of the other Member, such consent not to be unreasonably withheld.

(d) If for any reason the IRS disregards the election made by the Company pursuant to Section 7.5(d) and commences any audit or proceeding in which it makes a claim, or proposes to make a claim, against any Member that could reasonably be expected to result in the disallowance or adjustment of any items of income, gain, loss, deduction or credit (including Tax Credits) allocated to such Member by the Company, then such Member shall promptly advise the other Members of the same, and such Member, in Consultation with the other Members, shall use commercially reasonable efforts to convert the portion of such audit or proceeding that relates to such items into a Company level proceeding consistent with the Company's election pursuant to Section 7.5(d).

ARTICLE VIII
MANAGEMENT

Section 8.1. Management. The Manager shall have the authorities, powers and responsibilities set forth in the O&M Agreement (and as provided herein). The Company hereby ratifies and approves the O&M Agreement. Except as delegated to the Administrative Member or the Manager hereunder, or as provided in the O&M Agreement or as reserved to the Members or as otherwise provided in this Agreement, the powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of, the Board of Managers, who shall take all actions for and on behalf of the Company not otherwise provided for in this Agreement. In addition, the Members may vest in the Board of Managers the authority to take such actions for and on behalf of the Company not otherwise provided for in this Agreement or reserved to the Members, to the extent such actions are not inconsistent with the terms of this Agreement.

Section 8.2. Administrative Member. The Members shall appoint, and from time to time may remove and replace, a Member to be the Administrative Member. The duties of the Administrative Member shall be (a) to manage the cash and bank accounts of the Company, (b)

to receive and pass on to the other Members notices, reports and other communications from the Manager, (c) to liaise with the Owners Representative under the O&M Agreement (including setting monthly production levels, so long as such levels, on a quarterly basis, are within the Quarterly Maximum Production and Quarterly Minimum Production levels), (d) to negotiate contracts for the purchase of coal and sale of synfuel within parameters set by the Members from time to time, (e) to carry out the administrative duties of the Administrative Member set forth in this Agreement, (f) to execute contracts, agreements and other documents on behalf of the Company, and (g) such other duties as the Members shall require from time to time; provided that the exercise of the foregoing duties shall in all instances be subject to the provisions of Section 8.3. The initial Administrative Member is MHSI.

Section 8.3. Members.

(a) In addition to any other approval required by applicable law or this Agreement, the following matters are reserved to the Members, and neither the Company, the Manager nor any Officer shall do or take any of the following actions without the consent of Members holding at least 60% of the Membership Interests as provided in the final paragraph of this Section 8.3(a).

(i) Any sale, lease or disposition of any of the Facilities;

(ii) Any merger or consolidation of the Company with another Person, or sale, lease or other disposition of all or substantially all of the assets of the Company;

(iii) Causing the Company to incur in any single transaction or in any series of related transactions indebtedness for borrowed money in excess of $2 million;

(iv) Any issuance, sale or buy-back of equity interests by the Company, unless a Member or the Company is otherwise entitled to take any such action on behalf of the Company under this Agreement following a default by another Member, or the admission of a Person as a Member except as otherwise provided in Article X hereof following a Transfer;

(v) Approval of transactions between the Company and any Member, the Manager or any Affiliates of the Members;

(vi) Causing the Company to (A) institute litigation or arbitration with respect to another Person involving in excess of $2 million or (B) settle claims, litigation or arbitration if, as a result, the Company is obligated to pay more than $2 million, unless in either case a Member is otherwise entitled to take any such action on behalf of the Company under this Agreement;

(vii) Guaranteeing in the name or on behalf of the Company, the payment of money or the performance of any contract or other obligation of any Person where the aggregate of all such outstanding guarantees by the Company is in excess of $2 million;

(viii) Causing the Company to engage in any business or activity that is not within the purpose of the Company, as set forth in this Agreement or to change such purpose;

(ix) Amendment or termination of the Company's certificate of formation or any other Transaction Agreement if the amendment or termination would have a material adverse effect on the Company;

(x) Admitting any additional Member other than pursuant to the terms hereof;

(xi) Converting the Company to another type of entity other than a limited liability company or changing any tax elections provided for herein;

(xii) Shutting down any of the Facilities; except that after any announcement by the IRS that the Tax Credits are or were subject to a reduction of more than 50% under Section 29(b)(1) of the Code, thereafter and until any subsequent IRS announcement that the Tax Credits have been fully restored, the continued operation of the Facility shall require consent of Members holding at least 60% of the Membership Interests as provided in the final paragraph of this Section 8.3(a);

(xiii) Instructing or permitting the Operator to produce more than the Quarterly Maximum Production or less than the Quarterly Minimum Production;

(xiv) Instructing or permitting the Operator to use a chemical reagent other than the chemical reagent specified in the Request;

(xv) Instructing or permitting the Operator to use a chemical reagent at any of the Facilities at a concentration less than the levels specified on Schedule 8.3(a)(xv) hereto;

(xvi) Instructing or permitting the Operator to decrease the amount of dilution water as compared to the chemical reagent below the target dilution rate as provided in Schedule 8.3(a)(xv);

(xvii) Instructing or permitting the Operator to replace, change or modify any of the equipment at any of the Facilities, except for: (A) the replacement of parts with substantially identical parts; (B) the replacement or addition of electrical components (excluding motor drives), meters, scales, sampling and testing, programmable logic controller or other measuring equipment to improve quality control; (C) the replacement of front-end loaders, vehicles and other similarly mobile equipment (it being agreed that the Facilities themselves are not "mobile equipment" for this purpose); or (D) the addition, replacement or modification of equipment for the purpose of safety or occupational health improvements;

(xviii) Changing the Independent Chemist or the testing protocol attached as Schedule 8.3(a)(xviii);

(xix) Responding to requests for, or providing, approvals, consents, waivers or instructions under or relating to the O&M Agreement (other than those relating to any operational changes described above) by, or to, the Manager (Operator), the Operators Representative or the Owners Representative (as such terms are defined in the O&M Agreement) that involve the requirements set forth on Schedule 8.3(a)(xix) or that involve spending for the

account of the Company of an amount in excess of $5,000,000 (it being acknowledged that the Board of Managers may approve such actions in the cost range $1,000,000-$4,999,999); or

(xx) Changing the parameters set by the Members for contracts entered into by the Company for the purchase of coal and sale of synfuel, including use of any coals from mines other than those permitted under feedstock supply agreements existing on the date hereof.

Except as expressly otherwise provided, the decision of each Member as to whether or not to consent to any of the foregoing matters shall be in the sole discretion of such Member. A Member will be deemed to have consented if no response is received from that Member within 20 Business Days of delivery to that Member of a request for consent regarding any of the matters described in clauses (xiv) through (xx) above. A request for consent shall be sent by the Administrative Member to the Persons listed on Schedule 8.3(a) attached hereto, which may be modified from time to time by Buyer by written notice to the Administrative Member.

(b) Except as otherwise provided in this Agreement each of the Members shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any other Person who is a Member, the Manager or any Officer or employee of the Company, or by any other individual as to matters the Members reasonably believes are within such other individual's professional or expert competence, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the Company or any other facts pertinent to the existence and amount of assets from which distribution to the Members might properly be paid.

Section 8.4. Board of Managers. The Company shall have a board of managers (the "Board of Managers") consisting of two individuals appointed by Buyer and two individuals appointed by MHSI. The initial Board of Managers shall be the individuals set forth on Exhibit B attached hereto. Any vacancy on the Board of Managers shall be filled by appointment by the Member who was entitled to appoint the resigning individual. The Board of Managers shall exercise the authority provided in Section 8.1 or as otherwise provided in this Agreement or specifically authorized by the Members in accordance with Section 8.3(a), either at a meeting called by the Administrative Member or by any member of the Board of Managers at which at least one representative of Buyer and one representative of MHSI is present, or, alternatively, by unanimous written consent. No member of the Board of Managers, in his or her individual capacity as such, shall have the authority or capacity to bind the Company except pursuant to a resolution of the Board of Managers expressly authorizing such authority. All decisions of the Board of Managers taken at a meeting of the Board of Managers (i.e., not taken by unanimous written consent) shall require the affirmative approval of a majority of the members of the Board of Managers, provided that such majority shall include at least one member of the Board of Managers appointed by each of Buyer and MHSI. Each of Buyer, MHSI and Holdings expressly agrees that no member of the Board of Managers shall have a fiduciary duty to act on behalf of any or all of the Members.

Section 8.5. Insurance. The Company shall acquire and maintain (including making changes to coverage and carriers) such casualty, general liability (including product liability), property damage and other types of insurance with respect to the Facilities and/or the operations of the Company, as is required by the Project Documents, and such additional insurance as may otherwise be determined by the Manager to be necessary or advisable from time to time.

Section 8.6. Duties. To the extent that, at law or in equity, a Member has duties (including fiduciary duties) and liabilities relating thereto to the Company or to any Member or other Person bound by this Agreement, a Member acting under this Agreement shall not be liable to the Company or to any Member or other Person bound by this Agreement for its good faith reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of a Member otherwise existing at law or in equity, are agreed by the Members to replace such other duties and liabilities of such Member.

Section 8.7. Chemical Change Testing. The Company shall cause tests to be conducted at least quarterly on the synthetic fuel produced by the Facilities to confirm that such fuel has undergone a significant chemical change compared to the coal feedstock and chemical reagent from which it is produced. Samples for such testing shall be taken in accordance with the sampling and testing protocol for the Company and then shall be forwarded to the Independent Chemist for analysis. The Manager may not make any material changes to the sampling and testing protocol without the consent of all the Members, such consent not to be unreasonably withheld or delayed. The Manager shall Consult with all Members regarding any other changes to the sampling and testing protocol. Copies of all reports prepared by the Independent Chemist and used in computing the Estimated Tax Credits shall be forwarded to each Member with the Operations Report. Copies of any reports prepared by the Independent Chemist which do not conclude that the synthetic fuel produced at the Facilities has undergone a significant chemical change shall be forwarded immediately to each Member.

Section 8.8. Limitation on Damages. MHSI's aggregate liability for damages resulting from a breach or breaches of any of its obligations, covenants or agreements hereunder, including without limitation, taking any actions in violation of Section 8.3 hereof, shall not exceed 119% of the aggregate amount of all Tax Credits allocated to Buyer hereunder at the time such liability arises, less any indemnification amounts paid by MHSI pursuant to Sections 7.1 or 7.10 of the Purchase Agreement; provided, however, that to the extent such liability results from any actions taken by the Manager without the express instruction or consent of MHSI or its agents, the foregoing percentage shall be 53% (rather than 119%).

Section 8.9. Suspension of Production. Notwithstanding anything to the contrary in this Agreement, upon notice from either Buyer or MHSI that it reasonably believes (based on specific market prices or other public information) that Tax Credits for the current calendar year will be reduced under Section 29(b)(1) by 50% or more, which notice shall include an explanation in reasonable detail of the reasons for such belief, the Members will promptly Consult in good faith and, unless such notice is withdrawn within five Business Days, production will be suspended from the end of such five Business Days until the end of the calendar year (or such earlier date as Members holding 60% or more of the Membership Interests may specify for resuming production).

ARTICLE IX
BUDGET

Section 9.1. Preparation. The Budget for the Company for Fiscal Year 2003 is attached hereto as Exhibit C. On or before November 15, 2003, and November 15th of each year thereafter through the term of this Agreement (except for the year during which the Termination Date occurs), the Manager will prepare, and the Board of Managers shall consider, and if thought fit, approve, a budget for the following Fiscal Year. The initial budget and each annual budget as prepared by the Manager hereunder is referred to herein as a "Budget." At the time the Budget is prepared by the Manager and approved by the Board of Managers, it will include revised financial projections that show Anticipated Tax Credits and expected losses and Capital Contributions through December 31, 2007.

Section 9.2. Content. Each Budget will contain a line-item specification of projected operating revenues and expenses, including revenues and expenditures consistent with the Company's operating contracts and the projected operating deficit and, unless approved otherwise by the Board of Managers, will reflect production levels not less than the Quarterly Minimum Production and not greater than the Quarterly Maximum Production.

Section 9.3. Amendments and Supplements. During the Fiscal Year covered by a Budget, the Board of Managers may amend the Budget.

ARTICLE X
TRANSFERS; RIGHT OF FIRST REFUSAL, PUT RIGHT

Section 10.1. Prohibited Transfers. No Member shall sell, transfer, assign, convey, or otherwise dispose of all or any part of its Membership Interest (a "Transfer") or any interest, rights or obligations with respect thereto except as provided in this Article X. A Member may not pledge, mortgage, encumber or hypothecate all or any part of its Membership Interest without the prior consent of the other Members, which consent may be withheld by such other Members in their reasonable discretion except as provided for in the Buyer Security Agreement or the Seller Security Agreement. Any attempted Transfer or pledge, mortgage, encumbrance, or hypothecation, other than in strict accordance with this Article X, shall be null and void and of no force or effect whatsoever, and the purported transferee shall have no rights as a Member or otherwise in or to the Membership Interest.

Section 10.2. Conditions to Transfer by MHSI. Upon the satisfaction of the following conditions, MHSI (which for purposes of this Section 10.2 and Section 10.5 hereof shall also mean and include Holdings) may Transfer all or a portion of its Membership Interest and the transferee shall become a Member in place of MHSI with respect to such transferred Membership Interest:

(a) MHSI and the prospective transferee each execute, acknowledge and deliver to the Company such instruments of transfer and assignment with respect to such Transfer and such other instruments as are reasonably satisfactory in form and substance to the Administrative Member to effect such Transfer and to confirm MHSI's intention that the transferee become a Member in its place;

(b) The transferee executes, adopts and acknowledges this Agreement, and executes such other agreements as the Administrative Member may reasonably deem necessary or appropriate to confirm the undertaking of the transferee to be bound by the terms of this Agreement and to assume the obligations of MHSI under this Agreement and the Purchase Agreement (to the extent MHSI is to be released from such obligations);

(c) The Transfer will not violate any securities laws or any other applicable federal or state laws or the order of any court having jurisdiction over the Company or any of its assets;

(d) The Transfer will not result in a termination of the Company under Section 708(b)(1)(B) of the Code, unless MHSI has indemnified the other Members against the adverse tax effects in a manner acceptable to the other Members or has caused the IRS to reissue all rulings issued with respect to the Facilities;

(e) The Transfer will not cause the Company to be classified for United States federal tax purposes as an association taxable as a corporation; and

(f) The Seller Parent Guaranty remains in full force and effect or the transferee's parent or other Affiliate of the transferee (the "Substitute Seller Guarantor") enters into a guaranty agreement substantially similar to the Seller Parent Guaranty and such Substitute Seller Guarantor has a credit rating at least equal to the credit rating of Seller Parent on the Closing Date; provided, however, that MHSI may not transfer all or a portion of its Membership Interest during the twelve-month period following the Closing Date without Buyer's consent.

Section 10.3. Conditions of Transfer by Buyer. Upon the satisfaction of the following conditions, Buyer may Transfer all or a portion of its Membership Interest and the transferee shall become a Member with respect to such transferred Membership Interest:

(a) Buyer and the prospective transferee each execute, acknowledge and deliver to the Company such instruments of transfer and assignment with respect to such Transfer and such other instruments as are reasonably satisfactory in form and substance to the Administrative Member to effect such Transfer and to confirm Buyer's intention that the transferee become a Member in its place;

(b) The transferee executes, adopts and acknowledges this Agreement, and executes such other agreements as the Administrative Member may reasonably deem necessary or appropriate to confirm the undertaking of the transferee to be bound by the terms of this Agreement and to assume the obligations of Buyer under this Agreement and the Purchase Agreement (to the extent the Buyer is to be released from such obligations);

(c) The Transfer will not violate any securities laws or any other applicable federal or state laws or the order of any court having jurisdiction over the Company or any of its assets;

(d) The Transfer will not result in a termination of the Company under Section 708(b)(1)(B) of the Code, unless Buyer has indemnified the other Members against the adverse tax effects in a manner acceptable to the other Members or has caused the IRS to reissue all rulings issued with respect to the Facility;

(e) The Transfer will not cause the Company to be classified for United States federal tax purposes as an association taxable as a corporation; and

(f) The Buyer Parent Guaranty remains in full force and effect or the transferee's parent or other Affiliate of the transferee (the "Substitute Buyer Guarantor") enters into a guaranty agreement substantially similar to the Buyer Parent Guaranty and such Substitute Buyer Guarantor has a credit rating at least equal to the credit rating of the Buyer Parent on the Closing Date.

Section 10.4. Indirect Transfers. No Member shall permit the transfer of direct or indirect ownership interests in the Member if such transfer would result in the termination of the Company under Section 708(b)(1)(B) of the Code, unless such Member has indemnified the other Members against the adverse tax effects in a manner acceptable to the other Members or has caused the IRS to reissue all rulings with respect to the Facilities.

Section 10.5. Right of First Refusal. If either Buyer or MHSI (the "Transferor") desires to Transfer any of its Membership Interest (other than to an Affiliate) and the Transfer otherwise complies with the restrictions contained in this Agreement, the Transferor shall deliver a notice to the Company and the other Member setting forth the price and other material terms upon which such Membership Interest will be transferred (a "Transfer Notice"). The other Member shall have the right, for a period of ten Business Days after receipt of a Transfer Notice, to elect to purchase the subject Membership Interest at the price set forth in the Transfer Notice and on other terms substantially similar to the other material terms set forth in the Transfer Notice. The closing of the sale of the Membership Interest covered by the Transfer Notice pursuant to this Section 10.5 shall occur 20 Business Days after the Transferor delivers the Transfer Notice to the other Member of the exercise of its rights hereunder, or at such other time as the parties agree. If the other Member elects not to purchase all of such Membership Interest within its option period, subject to the other restrictions contained in this Agreement, such other Member may proceed with such Transfer of such Membership Interest; provided, however, that any such Transfer shall be (a) effected within 120 days of the election not to exercise the right of first refusal set forth herein and (b) on terms materially no more favorable to the transferee than the terms set forth in the last Transfer Notice delivered to the other Member.

Section 10.6. Admission. Any transferee of all or part of a Membership Interest pursuant to a Transfer made in accordance with this Agreement shall be admitted to the Company as a substitute Member upon its execution of a counterpart to this Agreement.

Section 10.7. Future Cooperation. In the event that any Member desires to increase or decrease its Membership Interest, the Members agree to Consult in good faith to consider a sale and purchase of such interest.

Section 10.8. Put and Redemption Rights. (a) Upon (i) the occurrence of a Tax Event, or (ii) the exercise by Buyer of its right to defer payments for low volume pursuant to Section 2.6 of the Purchase Agreement for the fourth time (the "Fourth Deferral"), Buyer shall have the option, exercisable by delivery of written notice thereof to the Company within 60 days of such Tax Event or Fourth Deferral, to require the Company to redeem its Membership Interest, in whole but not in part, such redemption to occur by the later of (i) the 60th day after the occurrence of such Tax Event or Fourth Deferral or (ii) the tenth day after the receipt of written notice from Buyer; provided, however, that exercise of such option with respect to clause (i) on the basis of the last sentence of the definition of Tax Event shall be subject to MHSI's right pursuant to Section 2.5(g) of the Purchase Agreement to delay the effective date of Buyer's right to redeem until December 31, 2003.

(b) Upon (i) the exercise by MHSI of its option pursuant to Section 6.1 of the Purchase Agreement to terminate the Purchase Agreement, MHSI may require the Company, by delivery of written notice thereof to the Company to redeem Buyer's Membership Interest, in whole but not in part.

(c) If Buyer exercises the option in paragraph (a) above, or MHSI exercises the option in paragraph (b) above, (i) Buyer shall reconvey and transfer to the Company all right, title and interest in and to the Membership Interest, free and clear of all Encumbrances other than the obligations and liabilities under Transaction Agreements with respect thereto; (ii) Buyer shall be deemed to have made the written representations set forth on Exhibit D attached hereto to MHSI and the Company; (iii) Buyer shall take all such further actions and execute, acknowledge and deliver all such further documents that are necessary or useful to effectuate the transfer of the Membership Interest contemplated by this Section 10.8; (iv) the Company shall effectuate such redemption; (v) all obligations and liabilities associated with the Membership Interest will terminate except those obligations and liabilities accrued through the date of termination; (vi) Buyer will have no further rights as a member of the Company; (vii) this Agreement shall be amended to reflect Buyer's resignation as a member of the Company; and (viii) Buyer shall have no further obligation thereafter to make any contributions to the capital of the Company or any further payments of the Purchase Price under the Purchase Agreement, except those obligations and liabilities accrued through the date of termination. Relief from the obligation of Buyer to make such payments will be deemed sufficient consideration for the reconveyance and transfer of the Membership Interest to the Company.

ARTICLE XI
DISSOLUTION AND WINDING-UP

Section 11.1. Events of Dissolution. The Company shall be dissolved and its affairs shall be wound up upon the first to occur of any of the following:

(a) the unanimous written consent of the Members to dissolve and terminate the Company;

(b) the entry of a decree of judicial dissolution under Section 18-802 of the Act;

(c) the occurrence of the Termination Date; or

(d) at any time there are no members of the Company unless the business of the Company is continued in accordance with the Act.

Section 11.2. Distribution of Assets. Upon the occurrence of one of the events set forth in Section 11.1 hereof, the Members shall appoint one or more liquidator(s) (which may include one or more Members or the Manager). Upon the occurrence of such an event, the liquidator(s) shall proceed diligently to wind-up the affairs of the Company and make final distributions as provided herein and in the Act. The liquidator(s) may sell any or all Company property, including to Members. The liquidator(s) shall cause the Company to cease the production of synthetic fuel. The liquidator(s) shall first pay, satisfy or discharge from Company funds all of the debts, liabilities and obligations of the Company (including the Working Capital Loans and all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including the establishment of a cash escrow fund for contingent, conditional or unmatured liabilities in such amount and for such term as the liquidator may reasonably determine) in the order of priority as provided by law. The balance of the assets of the Company shall be distributed pro rata to the Members in accordance with their positive balance in their Capital Accounts, after giving effect to all contributions, distributions and allocations for all periods and after first treating the assets as if they had been sold and allocating the deemed gain among the Members for purposes of adjusting their Capital Accounts. The distribution of cash and/or property to a Member in accordance with the provisions of this Section 11.2 constitutes a complete return to the Member of its Capital Contributions and a complete distribution to the Member on its Membership Interest in the Company of all the Company's property and constitutes a compromise to which all Members have consented within the meaning of the Act. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company are insufficient to return Capital Contributions of each Member, such Member shall have no recourse against the Company or any other Member.

Section 11.3. In-Kind Distributions. There shall be no distribution of assets of the Company in kind without the prior written consent of all of the Members.

Section 11.4. Certificate of Cancellation.

(a) When all debts, liabilities and obligations have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets have been distributed to the Members, a Certificate of Cancellation shall be executed and filed by the liquidator with the Secretary of State of the State of Delaware, which certificate shall set forth the information required by Section 18-203 of the Act.

(b) Upon the filing of the Certificate of Cancellation, the existence of the Company shall cease.

ARTICLE XII
MISCELLANEOUS

Section 12.1. Notices. Unless otherwise provided herein, any offer, acceptance, election, approval, consent, certification, request, waiver, notice or other communication

required or permitted to be given hereunder (collectively referred to as a "Notice"), shall be in writing and delivered (a) in person, (b) by registered or certified mail with postage prepaid and return receipt requested, (c) by recognized overnight courier service with charges prepaid or (d) by facsimile transmission, directed to the intended recipient at the address of such Member set forth on Exhibit A attached hereto or at such other address as any Member hereafter may designate to the others in accordance with a Notice under this Section 12.1. A Notice or other communication will be deemed delivered on the earliest to occur of (i) its actual receipt when delivered in person, (ii) the fifth Business Day following its deposit in registered or certified mail, with postage prepaid, and return receipt requested, (iii) the second Business Day following its deposit with a recognized overnight courier service or (iv) the date of receipt of a facsimile or, if such date of receipt is not a Business Day, the next Business Day following such date of receipt, provided the sender can and does provide evidence of successful transmission. Any Notice or other communication received on a day that is not a Business Day or later than 5:00 p.m. on a Business Day shall be deemed to be received on the next Business Day.

Section 12.2. Amendment. Except for an amendment of Exhibit A hereto to reflect a resignation of a Member from the Company in accordance with the terms of this Agreement, a Transfer of a Membership Interest in accordance with the terms of this Agreement, the admission of a new Member in accordance with the terms of this Agreement, or a change in percentage of Membership Interest, this Agreement may be changed, modified or amended only by an instrument in writing duly executed by all of the Members.

Section 12.3. Partition. Each of the Members hereby irrevocably waives, to the extent it may lawfully do so, any right that such Member may have to maintain any action for partition with respect to the Company property.

Section 12.4. Waivers and Modifications. Any waiver or consent, express, implied or deemed, to or of any breach or default by any Person in the performance by that Person of its obligations with respect to the Company or any action inconsistent with this Agreement is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person with respect to the Company or any other such action. Failure on the part of a Person to insist in any one or more instances upon strict performance of any provisions of this Agreement, to take advantage of any of its rights hereunder, or to declare any Person in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that Person or its rights with respect to that default until the applicable statute of limitations period has lapsed. All waivers and consents hereunder shall be in writing and shall be delivered to the other Members in the manner set forth in Section 12.1. All remedies afforded under this Agreement shall be taken and construed as cumulative and in addition to every remedy provided for herein and by applicable law.

Section 12.5. Severability. Except as otherwise provided in the succeeding sentence, every term and provision of this Agreement is intended to be severable, and if any term or provision of this Agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of this Agreement. The preceding sentence shall be of no force or effect if the consequence of enforcing the remainder of

this Agreement without such illegal or invalid terms or provision would be to cause any Party to lose the benefit of its economic bargain.

Section 12.6. Successors; No Third-Party Beneficiaries. This Agreement is binding on and inures to the benefit of the Members and their respective heirs, legal representatives, successors and permitted assigns. Nothing in this Agreement shall provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind, it being the intent of the Members that this Agreement shall not be construed as a third-party beneficiary contract.

Section 12.7. Entire Agreement. This Agreement, including the Exhibits and Schedules attached hereto or incorporated herein by reference, constitutes the entire agreement of the Members with respect to the matters covered herein. This Agreement supersedes all prior agreements and oral understandings among the parties hereto with respect to such matters, including, without limitation, the Original Operating Agreement.

Section 12.8. Public Announcements. Each Member shall consult with every other Member before issuing any public announcement, statement or other disclosure with respect to the Transaction Agreements or the transactions contemplated hereby or thereby and no Member shall issue any such public announcement, statement or other disclosure before such consultation, except as may be required by any Legal Requirement or by obligations pursuant to any listing agreement with any national securities exchange. Each Member will have the right to review in advance all information relating to the transactions contemplated by the Transaction Agreements that appear in any filing made in connection with the transactions contemplated hereby or thereby by any other Member.

Section 12.9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware.

Section 12.10. Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be reasonably required or useful to carry out the intent and purpose of this Agreement and as are not inconsistent with the terms hereof.

Section 12.11. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together will constitute one instrument, binding upon all parties hereto, notwithstanding that all of such parties may not have executed the same counterpart.

Section 12.12. Consent to Jurisdiction. Without limiting the other provisions of this Section 12.12 hereof, the Parties agree that any legal proceeding by or against any Party or with respect to or arising out of this Agreement may be brought in the United States District Court for the Southern District of New York or the Supreme Court of the State of New York located in the Borough of Manhattan in the City of New York, New York. By execution and delivery of this Agreement, each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of such courts and to the appellate courts therefrom solely for the purposes of disputes arising

under this Agreement and not as a general submission to such jurisdiction or with respect to any other dispute, matter or claim whatsoever.

The parties hereby waive, to the full extent permitted by law, any right to stay or dismiss any action or proceeding under or in connection with this Agreement brought before the foregoing courts on the basis of (i) any claim that such party is not personally subject to the jurisdiction of the above-named courts for any reason, or that it or any of its property is immune from the above-described legal process, (ii) that such action or proceeding is brought in an inconvenient forum, that venue for the action or proceeding is improper or that this Agreement may not be enforced in or by such courts, or (iii) any other defense that would hinder or delay the levy, execution or collection of any amount to which any party is entitled pursuant to any final judgment of any court having jurisdiction. IN ADDITION, EACH PARTY KNOWINGLY AND INTENTIONALLY, IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN AND AS TO ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AND FOR ANY CLAIM, COUNTERCLAIM, CROSS-CLAIM OR THIRD-PARTY CLAIM THEREIN.

Section 12.13. Confidentiality. The Members shall, and shall cause their Affiliates and their respective stockholders, members, subsidiaries and Representatives to, hold confidential and not use in any manner detrimental to the Company or any Member all information they may have or obtain concerning the Company and its assets, business, operations or prospects or this Agreement (the "Confidential Information"); provided, however, that Confidential Information shall not include information that (a) becomes generally available to the public other than as a result of a disclosure by a Member or any of its Representatives, (b) becomes available to a Member or any of its Representatives on a nonconfidential basis prior to its disclosure by the Company or its Representatives, (c) is required or requested to be disclosed by a Member or any of its Affiliates or their respective stockholders, members, subsidiaries or Representatives as a result of any applicable Legal Requirement or rule or regulation of any stock exchange, or (d) is required or requested by the IRS in connection with the Facilities or Tax Credits relating thereto, including in connection with a request for any private letter ruling, any determination letter or any audit. If such party becomes compelled by legal or administrative process to disclose any Confidential Information, such party will provide the other Members with prompt Notice so that the other Members may seek a protective order or other appropriate remedy or waive compliance with the non-disclosure provisions of this Section 12.13 with respect to the information required to be disclosed. If such protective order or other remedy is not obtained, or such other Members waive compliance with the non-disclosure provisions of this Section 12.13 with respect to the information required to be disclosed, the first party will furnish only that portion of such information that it is advised, by opinion of counsel, is legally required to be furnished and will exercise reasonable efforts, at the other Members' expense, to obtain reliable assurance that confidential treatment will be accorded such information, including, in the case of disclosures to the IRS described in clause (d) above, to obtain reliable assurance that, to the maximum extent permitted by applicable Legal Requirements, such information will not be made available for public inspection pursuant to Section 6110 of the Code. Nothing herein shall be construed as prohibiting a party hereunder from using such Confidential Information in connection with (i) any claim against another Member hereunder, (ii) any exercise by a party hereunder of any of its rights hereunder and (iii) a disposition by a Member of all or a portion of its Membership Interest or a disposition of an equity interest in such Member or its Affiliates, provided, that, such

potential purchaser shall have entered into a confidentiality agreement with respect to Confidential Information on customary terms used in confidentiality agreements in connection with corporate acquisitions before any such information may be disclosed.

Section 12.14. Joint Efforts. To the full extent permitted by law, neither this Agreement nor any ambiguity or uncertainty herein will be construed against any of the parties hereto, whether under any rule of construction or otherwise. On the contrary, this Agreement has been prepared by the joint efforts of the respective attorneys for, and has been reviewed by, each of the parties hereto.

Section 12.15. Specific Performance. The Members agree that irreparable damage will result if this Agreement is not performed in accordance with its terms, and the Members agree that any damages available at law for a breach of this Agreement would not be an adequate remedy. Therefore, to the full extent permitted by law, the provisions hereof and the obligations of the Members hereunder shall be enforceable in a court of equity, or other tribunal with jurisdiction, by a decree of specific performance, and appropriate injunctive relief may be applied for and granted in connection therewith. Such remedies and all other remedies provided for in this Agreement shall, however, be cumulative and not exclusive and shall be in addition to any other remedies that a Member may have under this Agreement, at law or in equity.

Section 12.16. Survival. All indemnities and reimbursement obligations made pursuant to this Agreement shall survive dissolution and liquidation of the Company until expiration of the longest applicable statute of limitations (including extensions and waivers) with respect to the matter for which a Person would be entitled to be indemnified or reimbursed, as the case may be.

Section 12.17. Construction. As used herein, the singular shall include the plural and all references herein to one gender shall include the others, as the context requires. Unless the context requires otherwise, the words this Agreement, hereof, hereunder, herein, hereby, thereof, thereunder, or words of similar import refer to this Agreement as a whole and not to a particular Article, Section, subsection, clause or other subdivision hereof. Unless otherwise expressly provided, all references to Articles, Sections or Exhibits are to Articles, Sections or Exhibits of this Agreement. The headings and captions are used in this Agreement for convenience only and shall not be considered when determining the meaning of any provisions of this Agreement.

Section 12.18. Other Activities. Nothing contained herein shall be interpreted as restricting any Member from engaging in or owning interests in other businesses similar to or competitive with the business of the Company, and the other Member shall have no rights in, and shall not be entitled to pursue any rights in or to derive any profits from, such other businesses.

Section 12.19. Effective Date. This Agreement shall have no force or effect unless and until the Closing, as defined in the Purchase Agreement, has occurred, at which time this Agreement shall automatically and without any further action become effective.

[Remainder of this page left intentionally blank.]

IN WITNESS WHEREOF, the parties, each a Member, have caused this Amended and Restated Limited Liability Company Agreement to be signed by their respective duly authorized officers as of the date first above written.

SYNTHETIC AMERICAN FUEL ENTERPRISES HOLDINGS, INC.

By: /s/ Mark W. Brugger

Name: Mark W. Brugger

Title: President

MARRIOTT HOTEL SERVICES, INC.

By: /s/ Mark W. Brugger

Name: Mark W. Brugger

Title: Vice President

SERRATUS LLC

By: /s/

Name:

Title:

EXHIBIT 10.7

GUARANTY OF
MARRIOTT INTERNATIONAL, INC.

Guaranty, dated as of January 28, 2003 (the "Guaranty"), by Marriott International, Inc., a Delaware corporation (the "Guarantor"), in favor of Serratus LLC, a Delaware limited liability company (the "Guarantied Party" or "Buyer").

1. Defined Terms. All capitalized terms not otherwise defined herein shall have the meaning assigned to them in the Agreement for Purchase of Membership Interest in Synthetic American Fuel Enterprises I, LLC, dated as of January 28, 2003 (the "SynAmerica I Purchase Agreement"), and the Agreement for Purchase of Membership Interest in Synthetic American Fuel Enterprises II, LLC, dated as of January 28, 2003 (the "SynAmerica II Purchase Agreement" and, together with the SynAmerica I Purchase Agreement, the "Purchase Agreements"), by and among the Guarantied Party, Synthetic American Fuel Enterprises Holdings, Inc., a Delaware corporation ("Holdings") and Marriott Hotel Services, Inc., a Delaware corporation("MHSI").

2. Guaranty. To induce the Guarantied Party to enter into (i) the Purchase Agreements, (ii) the Amended and Restated Limited Liability Company Agreement of Synthetic American Fuel Enterprises I, LLC, dated as of January 28, 2003, by and among the Guarantied Party, Holdings and MHSI (as a Member of Synthetic American Fuel Enterprises I, LLC, a Delaware limited liability company ("SynAmerica I"), and as SynAmerica I's Administrative Member) (the "SynAmerica I LLC Agreement"), and (iv) the Amended and Restated Limited Liability Company Agreement of Synthetic American Fuel Enterprises II, LLC, dated as of January 28, 2003, by and among the Guarantied Party, Holdings and MHSI (as a Member of Synthetic American Fuel Enterprises II, LLC, a Delaware limited liability company ("SynAmerica II"), and as SynAmerica II's Administrative Member) (the "SynAmerica II LLC Agreement" and, together with the SynAmerica I LLC Agreement, the "LLC Agreements"), the Guarantor absolutely, unconditionally and irrevocably guaranties (I) to the Guarantied Party and its successors and permitted assigns the prompt payment and performance when due, subject to any applicable grace or deferral period, of the present and future payment and performance obligations of MHSI pursuant to the Purchase Agreements, including the obligations of Holdings assumed by MHSI pursuant to Section 8.12 of the Purchase Agreements (collectively, the "Purchase Agreement Obligations") and (II) to the Guarantied Party and its respective successors and permitted assigns, the prompt payment and performance when due, subject to any applicable grace or deferral period, of the present and future payment and performance obligations of MHSI pursuant to the LLC Agreements (collectively, the "LLC Obligations," and together with the Purchase Agreement Obligations, the "Obligations").

3. Nature of Guaranty. This Guaranty constitutes a guaranty of payment and performance when due and not merely of collection. The Guarantor's obligations hereunder with respect to any Obligation shall not be affected by the existence, validity, enforceability, perfection or extent of any collateral for such

Obligation, any change in or amendment to the Purchase Agreements or the LLC Agreements, or by any other circumstances relating to such Obligation that might otherwise constitute a legal or equitable discharge of or defense to the Guarantor not available to MHSI. The Guarantied Party shall not be obligated to file any claim relating to the Obligations in the event that MHSI becomes subject to a bankruptcy, reorganization or similar proceeding, and the failure of the Guarantied Party to so file shall not affect the Guarantor's obligations hereunder. In the event that any payment by MHSI in respect of any Obligations is rescinded or must otherwise be returned for any reason whatsoever, the Guarantor shall remain liable hereunder with respect to such Obligations as if such payment had not been made. The Guarantor reserves the right to assert defenses which MHSI may have to the payment of any Obligation other than defenses (A) arising from the bankruptcy or insolvency of MHSI, (B) based on (1) the corporate or limited liability company status of MHSI, (2) the power and authority of MHSI to enter into the Purchase Agreements and/or the LLC Agreements and to perform its obligations thereunder or (3) the legality, validity and enforceability of MHSI's obligations under the Purchase Agreements and/or the LLC Agreements, including any amendments thereto (except to the extent relating to any action taken or omitted to be taken on the part of the Guarantied Party in violation of the LLC Agreements or the Purchase Agreements as otherwise permitted hereunder) or (C) expressly waived hereby. The Guarantor shall not have the right to set-off against any payment owing hereunder any amounts owing by the Guarantied Party or the Buyer Parent pursuant to the Transaction Documents.

4. Consents, Waivers and Renewals. The Guarantor agrees that the Guarantied Party may at any time and from time to time, either before or after the maturity thereof, without notice to or further consent of the Guarantor, extend the time of payment of, exchange or surrender any collateral for, or renew any of the Obligations, and may also make any agreement with MHSI for the extension, renewal, payment, compromise, discharge or release thereof, in whole or in part, or for any modification or waiver of the terms thereof or of any agreement between the Guarantied Party and MHSI or any such other party or person, without in any way impairing or affecting this Guaranty.

5. Expenses. The Guarantor agrees to pay on demand all reasonable fees and out-of-pocket expenses (including the reasonable fees and expenses of the Guarantied Party's counsel) in any way relating to the enforcement or protection of the rights of the Guarantied Party hereunder; provided, that the Guarantor shall not be liable for any such expenses of the Guarantied Party if no payment under this Guaranty is due.

6. Subrogation. Upon payment of any of the Obligations, the Guarantor shall be subrogated to the rights of the Guarantied Party against MHSI with respect to the Obligations and the Guarantied Party agrees to take, at the Guarantor's expense, such steps as the Guarantor may reasonably request to implement such subrogation; provided, that the Guarantor shall not be entitled to enforce or to receive any payments arising out of, or based upon, such right of subrogation until all Obligations shall have been paid in full.

7. Continuing Guaranty. This Guaranty shall remain in full force and effect and be binding upon the Guarantor, its successors and permitted assigns until all of the Obligations have been satisfied in full. If any of the present or future Obligations are guarantied by persons, partnerships or corporations in addition to the Guarantor, the death, release or discharge, in whole or in part, or the bankruptcy, liquidation or dissolution of one or more of them shall not discharge or affect the liabilities of the Guarantor under this Guaranty.

8. No Waiver; Cumulative Rights. No failure on the part of the Guarantied Party to exercise, and no delay in exercising, any right, remedy or power provided for in this Guaranty shall operate as a waiver thereof, nor shall any single or partial exercise by the Guarantied Party of any right, remedy or power hereunder preclude any other or future exercise of any such right, remedy or power. Each and every right, remedy and power hereby granted to the Guarantied Party or allowed to them by law shall be cumulative and not exclusive of any other, and may be exercised by the Guarantied Party from time to time.

9. Representations and Warranties. The Guarantor represents and warrants as of the date of this Guaranty that:

(i) The Guarantor is duly organized, validly existing and in good standing under the laws of the State of Delaware and has full corporate power to execute, deliver and perform this Guaranty.

(ii) The execution, delivery and performance of this Guaranty have been and remain duly authorized by all necessary corporate action and do not contravene any provision of the Guarantor's certificate of incorporation or by-laws, as amended to date, or any law, regulation, rule, decree, order, judgment or contractual restriction binding on the Guarantor or its assets.

(iii) All consents, licenses, clearances, authorizations and approvals of, and registrations and declarations with, any governmental authority or regulatory body necessary for the due execution, delivery and performance of this Guaranty have been obtained and remain in full force and effect and all conditions thereof have been duly complied with, and no other action by, and no notice to or filing with, any governmental authority or regulatory body is required in connection with the execution, delivery or performance of this Guaranty.

(iv) This Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles.

10. Assignment. Neither the Guarantor nor the Guarantied Party may assign their respective rights, interests or obligations hereunder to any other person without the prior written consent of the Guarantor or the Guarantied Party, as the case may be.

11. Notices. All notices or demands on the Guarantor shall be deemed effective when given, and shall be in writing and sent by telex, telegram or facsimile, confirmed by registered mail, and addressed to the Guarantor at:

Marriott International, Inc.
10400 Fernwood Road
Bethesda, MD 20817
Attention: General Counsel
Facsimile: (301) 380-6727

or to such other address or facsimile number as the Guarantor shall have notified the Guarantied Party in a written notice delivered to the Guarantied Party in accordance with the LLC Agreements.

12. Governing Law; Consent to Jurisdiction; Waiver of Jury Trial. This Guaranty shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed and performed therein. With respect to any suit, action or proceeding arising from or relating to this Guaranty (the "Actions"), the Guarantor irrevocably submits to the exclusive jurisdiction of the United States District Court or the Supreme Court of the State of New York located in the Borough of Manhattan in New York City, New York, waives the right to a jury trial, waives any objection it may have at any time to the laying of venue of any Actions brought in such court, waives any claim that such Actions have been brought in an inconvenient forum and further waives the right to object, with respect to such Actions, that such court does not have jurisdiction over it.

13. Effective Date. This Guaranty shall have no force or effect unless and until the Closing, as defined in the Purchase Agreements, has occurred, at which time this Guaranty shall automatically and without any further action become effective.

IN WITNESS WHEREOF, this Guaranty has been duly executed and delivered by the Guarantor to the Guarantied Party as of the date first above written.

MARRIOTT INTERNATIONAL, INC.

By: /s/ Michael E. Dearing

Name: Michael E. Dearing
Title: Vice President

Exhibit 12

MARRIOTT INTERNATIONAL, INC.
COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES
($ in millions, except ratio)

	Twenty-four weeks ended	
	June 20, 2003	June 14, 2002
Income from continuing operations before income taxes/(1)/	$ 157	$ 251
Loss related to equity method investees	1	-
	158	251
Add/(deduct):		
Fixed charges	85	87
Interest capitalized	(12)	(23)
Distributed income of equity method investees	16	9
Earnings available for fixed charges	$ 247	$ 324
Fixed charges:		
Interest expensed and capitalized/(2)/	$ 63	$ 63
Estimate of interest within rent expense	22	24
Total fixed charges	$ 85	$ 87
Ratio of earnings to fixed charges	2.9	3.7

(1) Reflected in income from continuing operations before income taxes are losses from our Synthetic Fuel business of $101 million and $49 million, respectively, for the twenty-four weeks ended June 20, 2003 and June 14, 2002.

(2) "Interest expensed and capitalized" includes amortized premiums, discounts and capitalized expenses related to indebtedness.

Forward-Looking Statements

The following factors, among others, could cause actual results to differ materially from those contained in forward-looking statements made in this report or presented elsewhere by management.

Dependence on others: Our present growth strategy for development of additional facilities entails entering into and maintaining various arrangements with present and future property owners, including Host Marriott Corporation and New World Development Company Limited. We cannot assure you that any of our current strategic arrangements will continue, or that we will be able to enter into future collaborations.

Contract terms for new facilities: The terms of the operating contracts, franchise agreements and leases for each of our lodging facilities are influenced by contract terms offered by our competitors at the time such agreements are entered into. Accordingly, we cannot assure you that contracts entered into or renewed in the future will be on terms that are as favorable to us as those under existing agreements.

Competition: The profitability of hotels, vacation timeshare resorts, and corporate apartments, we operate is subject to general economic conditions, competition, the desirability of particular locations, the relationship between supply of and demand for hotel rooms, vacation timeshare resorts, corporate apartments, and other factors. We generally operate in markets that contain numerous competitors and our continued success will depend, in large part, upon our ability to compete in such areas as access, location, quality of accommodations, amenities, specialized services, cost containment and, to a lesser extent, the quality and scope of food and beverage services and facilities.

Supply and demand: The lodging industry may be adversely affected by (1) supply additions, (2) international, national and regional economic conditions, including the present economic downturn in the United States (3) changes in travel patterns, (4) taxes and government regulations which influence or determine wages, prices, interest rates, construction procedures and costs, and (5) the availability of capital to allow us and potential hotel owners to fund investments. Our timeshare business is also subject to the same or similar uncertainties and, accordingly, we cannot assure you that the present downturn in demand for hotel rooms in the United States will not continue, become more severe, or spread to other regions; that the present level of demand for timeshare intervals will continue, or that there will not be an increase in the supply of competitive units, which could reduce the prices at which we are able to sell or rent units. Weaker hotel performance could give rise to losses under loans, guarantees and minority equity investments that we have made in connection with hotels that we manage.

SARS: The outbreak of Severe Acute Respiratory Syndrome ("SARS") dramatically reduced travel to Hong Kong, Singapore, China, and Toronto, as well as reduced Asian travel to other markets. This resulted in a significant decline in reservations and occupancy at our hotels in affected areas. If recent apparent successes in efforts to control the disease are not maintained and the disease spreads beyond previously affected areas to major portions of our markets, particularly in the United States or Europe, the resulting decline in travel could significantly harm our business and profitability.

Internet reservation channels: Some of our hotel rooms are booked through internet travel intermediaries such as Travelocity, Expedia and Priceline. As this percentage increases, these intermediaries may be able to obtain higher commissions, reduced room rates or other significant contract concessions from us. Moreover, some of these internet travel intermediaries are attempting to commoditize hotel rooms, by increasing the importance of price and general indicators of quality (such as "three-star downtown hotel") at the expense of brand identification. These agencies hope that consumers will eventually develop brand loyalties to their reservations system rather than to our lodging brands. Although most of our business is expected to be derived from traditional channels, if the amount of sales made through internet intermediaries increases significantly, our business and profitability may be significantly harmed.

The lodging industry's uncertain recovery in the aftermath of the September 11, 2001 terrorist attacks and the military action in Iraq, will continue to impact our financial results and growth: Both the Company and the lodging industry have been hurt by the 2001 terrorist attacks on New York and Washington and their aftermath. Business and leisure travel, which was already suffering from a global economic downturn, decreased further after the attacks and has remained depressed as some potential travelers reduced or avoided discretionary travel in light of increased delays and safety concerns and as a result of further economic declines stemming from an erosion in consumer confidence. Weaker hotel performance has reduced management and franchise fees and given rise to fundings or losses under loans, guarantees and minority investments that we have made in connection with hotels that we manage, which has, in turn, had a material adverse impact on our financial performance. Owners of the hotels that we manage or franchise may also experience financial difficulty or face bankruptcy which could have a negative impact on their ability to maintain the hotel or pay fees to us. Declines in leisure travel and consumer confidence have also hurt our timeshare sales. Reduced and delayed development of new hotel properties due to adverse economic conditions in turn slows the growth in our management and franchise fees. Although both the lodging and travel industries had begun to recover by the spring of 2002, recent economic softness, concerns over the aftermath of the war in Iraq and potential military action in other countries and the possible failures of airlines presently in or facing bankruptcy and the likelihood of further airline service cutbacks has left it unclear whether, at what pace, and to what extent, that recovery will continue. Accordingly, adverse impacts on our business could continue or worsen for an unknown period of time.

Exit from the senior living services business: Our agreement to sell the Senior Living Services business provides for purchase price adjustments and indemnification of Sunrise based on pre-closing events and liabilities resulting from the consummation of the transaction. As the amount of such purchase price adjustments and indemnification obligations depends, in large part, on actions of third parties that are outside of our control, it is difficult to predict the ultimate impact of those adjustments and indemnities.

Synthetic Fuel: The Internal Revenue Service might reject any of our synthetic fuel tax credits on audit or may not issue a new private letter ruling enabling our purchaser to exercise its one-time option to return its ownership interests in the synthetic fuel operations to us. Our synthetic fuel operations could be interrupted due to problems at any of our operations, the power plants that buy synthetic fuel from us or the coal mines where we buy coal. Such interruptions could be caused by accidents, union activity, severe weather or other similar unpredictable events. Moreover, the performance of our synthetic fuel business is dependent on our ability to utilize the tax credits, which in turn is dependent on our financial performance.

Exhibit 99-2

Certification
Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
(Subsections (a) and (b) of Section 1350, Chapter 63 of Title 18, United States Code)

I, J.W. Marriott, Jr., Chairman of the Board and Chief Executive Officer of Marriott International, Inc. (the "Company") certify that:

(1) the quarterly report on Form 10-Q of the Company for the period ended June 20, 2003 (the "Quarterly Report") fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and

(2) that the information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

July 22, 2003

/s/ J.W. Marriott, Jr.

J.W. Marriott, Jr.
Chairman of the Board
and Chief Executive Officer

I, Arne M. Sorenson, Executive Vice President and Chief Financial Officer of Marriott International, Inc. (the "Company") certify that:

(1) the quarterly report on Form 10-Q of the Company for the period ended June 20, 2003 (the "Quarterly Report") fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and

(2) that the information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

July 22, 2003

/s/ Arne M. Sorenson

Arne M. Sorenson
Executive Vice President and
Chief Financial Officer