

AMENDED AND RESTATED PARTNERSHIP AGREEMENT  
OF  
EM NOMINEE PARTNERSHIP COMPANY

This Amended and Restated Partnership Agreement (the "Partnership Agreement"), executed to be effective as of September 20, 1985, is among EDP Operating, Ltd., a Colorado limited partnership ("Operating") and Quinoco Energy, Inc., a Delaware corporation ("QEI"). Operating and QEI will sometimes be referred to individually as a "partner" and collectively as "partners."

RECITALS

WHEREAS, on August 1, 1981, C. Andrew Graham ("Graham") and H. N. "Dusty" Rhodes ("Rhodes") entered into and executed a certain partnership agreement (the "Original Partnership Agreement") pursuant to which EM Nominee Partnership Company was organized (the "Partnership");

WHEREAS, by Appointment of New Partner and Continuance of Business of EM Nominee Partnership Company dated June 4, 1984, Frank E. Dinges ("Dinges") was substituted as a partner in place of Rhodes who retired from the Partnership;

WHEREAS, by Appointment of New Partners and Continuance of Business of EM Nominee Partnership Company, dated October 1, 1984, Wayne A. Ross ("Ross") and Michael M. Logan ("Logan") were substituted as partners in place of Dinges who retired from the Partnership;

WHEREAS, by notice dated August 19, 1985, Logan retired from the Partnership, effective August 29, 1985;

WHEREAS, by notice dated September 12, 1985, Ross retired from the Partnership, effective September 22, 1985;

WHEREAS, Graham, Operating and QEI desire to amend and restate the partnership to make, among other things, provision in the Partnership Agreement for the transfer of partnership interests and the withdrawal of Graham as partner; and

WHEREAS, the partnership interest of Graham is being assigned to Operating and QEI concurrently with the execution of this Partnership Agreement, and Operating and QEI have elected to continue the business of the Partnership, and, as of the date first above written, have executed this

Amended and Restated Partnership Agreement to reflect the admission of Operating and QEI as the partners in place of Graham, who is withdrawing from the Partnership, and to reflect certain other agreements between the parties.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

ARTICLE I  
THE PARTNERSHIP

1.1 Formation. The undersigned parties hereby accept all of the terms and provisions of the Partnership Agreement as hereby amended and restated, elect to continue the business of the Partnership and elect to reconstitute the Partnership pursuant to the Colorado Uniform Partnership Law, Title 7, Article 60, Colorado Revised Statutes, as amended (the "Act"). The terms and conditions of this Agreement will be construed and interpreted in accordance with the terms and conditions of the Act.

1.2 Name. The name of the Partnership shall be EM Nominee Partnership Company with such changes or variations thereof as may be necessary to comply with the requirements of law or regulatory bodies in any jurisdiction in which the Partnership may elect to do business. The partners shall execute and file, as appropriate, affidavits of trade name and take such further action as shall be appropriate to comply with the requirements for the formation and operation of a partnership in all states and other jurisdictions where the Partnership may elect to do business.

1.3 Principal Place of Business. The location of the principal place of business of the Partnership shall be in Denver, Colorado, or at such other place as may be selected by the Managing Partner.

1.4 The Partners.

(a) The names and addresses of the partners are listed below:

NAME	ADDRESS
EDP Operating, Ltd.	3801 East Florida Avenue Suite 300 Denver, Colorado 80210
Quinoco Energy, Inc.	3801 East Florida Avenue Suite 300 Denver, Colorado 80210

(b) Graham shall no longer be a partner of the Partnership as of the effective date of this Partnership Agreement.

1.5 Managing Partner. QEI shall be the Managing Partner. QEI shall continue as Managing Partner until it has been replaced by a vote of a majority in interest of the partners.

ARTICLE II  
PURPOSE

The business of the Partnership shall be solely to acquire (by lease, purchase, farmout or otherwise), own, hold and convey title to oil, gas and other mineral properties and interests therein of all kinds as nominee for Operating.

ARTICLE III  
CAPITAL CONTRIBUTIONS

The partners shall not be obligated to contribute any amounts to the capital of the Partnership.

ARTICLE IV  
PARTICIPATION IN COSTS,  
REVENUE AND DISTRIBUTIONS

Profits and losses shall be allocated 99 percent (99%) to Operating and 1 percent (1%) to QEI and distributions, if any, shall be made at the discretion of the Managing Partner in accordance with the allocations of profits and losses.

ARTICLE V  
MANAGEMENT OF THE PARTNERSHIP

5.1 Management by Partners. All partnership decisions shall be made by the Managing Partner at the request and direction of Operating.

5.2 Managing Partners Powers. To implement the management decisions made under Section 5.1, the Managing Partner is authorized to execute and deliver the following: (a) all deeds, assignments, leases, subleases, farmout agreements, unitization agreements, pooling agreements and operating agreements covering or affecting Partnership leases; (b) all checks, drafts and other orders for the payment of Partnership funds; (c) all division orders, transfer orders, processing contracts, gas sales

contracts, transportation contracts and other instruments affecting the disposition of hydrocarbons or minerals in any manner, whether or not extending beyond the term of the Partnership; (d) all exploratory and drilling contracts; (e) any damage bonds for injuries to any property or persons as a result of the Partnership's drilling activity; and (f) all other instruments of any kind or character relating to the affairs of the Partnership, whether like or unlike the foregoing.

5.3 Restrictions on Authority. The Managing Partner may only act at the request and direction of Operating and, except at the express direction of Operating, shall not have the authority to sign any document on behalf of the Partnership for the purpose of guaranteeing or becoming a surety for any indebtedness or to do any act in contravention of Section 7-60-109, Colorado Revised Statutes, as amended.

**ARTICLE VI  
INDEMNIFICATION**

Indemnification of Partnership by Operating. The Partnership shall be indemnified and held harmless by Operating from and against any and all losses, claims, damages, liabilities, joint and several expenses (including legal fees and expenses), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative (other than an action by or in the right of Operating), in which the Partnership may be involved, or threatened to be involved, as a party by reason of its holding title to certain properties on behalf of Operating.

**ARTICLE VII  
BOOKS, RECORDS AND ACCOUNTING**

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

7.2 Fiscal Year. The fiscal year of the Partnership shall commence on January 1 and end on December 31.

**ARTICLE VIII  
TRANSFERS OF PARTNERSHIP INTERESTS**

**8.1 Transfers.** No partnership interest shall be transferred in whole or in part, except in accordance with the terms and conditions set forth in this Article. Any transfer or purported transfer of any partnership interest not made in accordance with this Article shall be null and void.

**8.2 Transfer of Partnership Interest.** A partner may not transfer all or any portion of its partnership interest unless (i) the transferee certifies that it is qualified to hold an interest in oil and gas leases on federal lands, and (ii) a majority in interest of the remaining partners consents to the admission of the transferee as a partner of the Partnership. A partner shall not cease to be a partner in the Partnership upon transfer, assignment or other disposition of all or any part of its partnership interest unless and until the transferee is admitted as a partner of the Partnership pursuant to Article IX.

**8.3 Inapplicability.** The provisions of Sections 8.1 and 8.2 of this Article VIII and the following Article IX shall not apply to the contemporaneous transaction whereby Graham assigned all his right, title and interest in the Partnership to Operating and QEI on September 20, 1985, but such provisions of such articles shall apply to all subsequent transfers of any interest in the Partnership and the admission of other partners to the Partnership. Following the contemporaneous execution by Graham of this Partnership Agreement and the Assignment of Partnership Interest of even date, Graham shall no longer be a partner of the Partnership.

**ARTICLE IX  
ADMISSION OF PARTNERS**

The transferee of a partner shall be admitted to the Partnership as a partner (in place of the transferor partner), upon the execution of an amendment to the partnership agreement evidencing the transferee partner's (i) acceptance in form and substance satisfactory to the remaining partners of all of the terms and provisions of the Partnership Agreement, (ii) written agreement to continue the business of the Partnership, and (iii) delivery of such other documents or instruments as may be required in order to effect its admission as a partner under the Partnership Agreement.

**ARTICLE X  
TERM, DISSOLUTION AND TERMINATION**

10.1 Term. The Partnership shall commence upon the date indicated above and shall continue until December 31, 2035, unless sooner dissolved in accordance with this Article.

10.2 Dissolution.

(a) The Partnership shall be dissolved upon the occurrence of any of the following events: (i) withdrawal, dissolution or bankruptcy of a partner or any other event that results in its ceasing to be a partner (other than a withdrawal of a partner by reason of a transfer pursuant to Article VIII upon or after admission of a transferee general partner pursuant to Article IX or continuation of the Partnership's affairs by all remaining partners pursuant to Section 10.3) or any other event that would cause the Partnership to be dissolved under the Act; (ii) the continued conduct of the Partnership business becoming unlawful; or (iii) the sale or other disposition of all or substantially all of the assets of the Partnership, upon the unanimous written vote of the partners.

(b) For purposes of this Section 10.2, bankruptcy of a partner shall be deemed to have occurred when it commences a voluntary proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereinafter in effect; a final, nonappealable order for relief is entered against it under the federal bankruptcy laws as now in effect; or it executes and delivers a general assignment for the benefit of creditors.

10.3 Continuation of Partnership. Upon the happening of an event described in Section 10.2(a)(i), the Partnership shall thereafter be dissolved and its affairs wound up unless, within 90 days following the event of dissolution all remaining partners agree in writing to continue the business of the Partnership.

10.4 Final Accounting. In the case the Partnership is dissolved and is not reconstituted, in accordance with this Article, a proper accounting shall be made from the date of the last previous accounting to the date of dissolution.

10.5 Liquidation. Upon the dissolution of the Partnership the following shall occur:

- (a) The Managing Partner, or some other person appointed by a majority of the partners, shall act as liquidator to wind up the Partnership. The liquidator shall have full power and authority, at the direction of Operating, to sell, assign and encumber any or all of the Partnership's assets and to wind up and liquidate the affairs of the Partnership in an orderly and businesslike manner.
- (b) Any net gain or net loss realized upon the liquidation shall be allocated to the partners in accordance with their interest in the Partnership.
- (c) All proceeds from liquidation shall be distributed in the following order or priority: (i) to the payment of debts and liabilities of the Partnership and the expenses of liquidation; (ii) to the setting up of such reserves as the liquidator may reasonably deem necessary for any contingent liabilities of the Partnership; and (iii) the balance to the partners in accordance with the respective interests in the Partnership. The liquidator may, in the discretion of Operating, distribute assets in kind to the partners in lieu of cash.

10.6 Maps, Logs and Other Data. Notwithstanding any contrary provision of this Agreement, the partners agree that all maps, logs and other geological and geophysical data acquired by or developed for the use of the Partnership shall upon dissolution become the property of Operating.

ARTICLE XI  
POWERS OF ATTORNEY

Operating, by the execution of this Agreement, does irrevocably constitute and appoint the Managing Partner and its successors, with full power of substitution, as its true and lawful attorney, in its name, place and stead to execute, acknowledge and file: (a) all certificates and other instruments necessary to qualify or continue the Partnership as a partnership in the jurisdiction where the Partnership may be doing business, (b) all instruments that affect a change or modification of the Partnership in accordance with this Partnership Agreement, (c) all conveyances and other instruments necessary to effect the dissolution and termination of the Partnership, (d) assignments and requests for approval of assignments, (e) all statements required or that

may be required in connection with obtaining leases or interests in leases from the United States, any state, Canada or in any other jurisdiction, (f) all certifications, requests and returns of tax liability pursuant to the Crude Oil Windfall Profit Tax of 1980, (g) any and all other statements, notices or communications required or permitted to be filed, or that may hereafter be required or permitted to be filed, under any law, rule or regulation of the United States, any state or of any political subdivision or agency thereof, and (h) any other documents or instruments that the Managing Partner in its sole discretion shall determine should be filed.

**ARTICLE XII  
AMENDMENT TO AGREEMENT**

Amendments to this Agreement may be proposed by any partner. A proposed amendment shall become effective at such time as it has been approved in writing by a majority in interest of the partners. Notwithstanding anything to the contrary contained in this Article, without the written approval of each of the partners affected thereby, no amendment shall alter the liability of any partner, increase the obligations or responsibilities of any partner, change the term of the Partnership, alter an interest in the Partnership or alter the provisions of this Article.

**ARTICLE XIII  
GENERAL PROVISIONS**

**13.1 Method for Notices.** All notices under this Partnership Agreement shall be personally delivered or sent by United States mail addressed as indicated in Section 1.4 of this Partnership Agreement (except that any partner may from time to time give notice changing its address for that purpose) and shall be effective on the date of personal delivery or on the third day after mailing.

**13.2 Choice of Law.** This Partnership Agreement shall be construed in accordance with and governed by the laws of the State of Colorado and courts located in Colorado have exclusive jurisdiction over all disputes arising hereunder.

**13.3 Binding Effect.** This Partnership Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, except as set forth in this Partnership Agreement.

**13.4 Severability.** Wherever possible each provision of this Partnership Agreement shall be interpreted in a



manner as to be effective and valid under any applicable law, but if any provisions of this Partnership Agreement shall be prohibited by or be invalid under any applicable law, such provision shall be deemed ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provisions or the remaining provisions of this Partnership Agreement.

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

13.6 Integration. The Partnership Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

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

IN WITNESS WHEREOF, the parties hereto have executed this Partnership Agreement to be effective as of September 20, 1985.

NEW PARTNERS:

EDP OPERATING, LTD.,  
a Colorado limited partnership  
By: Quinoco Energy, Inc.,  
a Delaware Corporation,  
General Partner

ATTEST:

Judith Current  
Judith Current,  
Assistant Secretary

By: Richard A. Wullop  
Richard A. Wullop,  
Senior Vice President

QUINOCO ENERGY, INC.,  
a Delaware Corporation

ATTEST:

Judith Current  
Judith Current,  
Assistant Secretary

By: Richard A. Wullop  
Richard A. Wullop,  
Senior Vice President

WITHDRAWING PARTNER:

C. Andrew Graham  
C. Andrew Graham

STATE OF COLORADO )  
 ) SS.  
COUNTY OF DENVER )

BEFORE ME, the undersigned authority, on this day personally appeared C. Andrew Graham, known to me to be the person whose hand is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 20th day of September, 1985.



Chil A. Dove  
Notary Public in and for Denver  
County, Colorado

My Commission Expires:  
May 9, 1989

STATE OF COLORADO )  
 ) SS.  
COUNTY OF DENVER )

BEFORE ME, the undersigned authority, on this day personally appeared Richard A. Wilson President and Judith Current, Assistant Secretary of Quinoco Energy, Inc., a Delaware corporation, as General Partner of EDP Operating, Ltd., a Colorado limited partnership, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed and in the capacity therein stated and as the act and deed of said corporation and limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 20th day of September, 1985.

Chil A. Dove  
Notary Public in and for Denver  
County, Colorado

My Commission Expires:  
May 9, 1989

STATE OF COLORADO )  
 ) SS.  
COUNTY OF DENVER )

BEFORE ME, the undersigned authority on this day personally appeared Richard A. Dyer, Secretary President and Judith Current, Assistant Secretary, of Quinoco Energy, Inc., a Delaware corporation, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed and in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 20th day of September, 1985.



Richard A. Dyer  
Notary Public in and for Denver  
County, Colorado

My Commission Expires:  
May 9, 1989

No. 83500

FILED AND RECORDED AT REQUEST OF  
C T Corporation  
Sept. 30, 1985  
AT 1 MINUTES PAST 1 O'CLOCK  
P. M. IN BOOK 67 OF OFFICIAL  
RECORDS, PAGE 420 LINCOLN  
COUNTY, NEVADA.

YURIKO SETZER  
COUNTY RECORDER

By Mara Cordia Deputy