



## SAMPLE ONLY *GE Energy Financial Services*

- Partnership Purpose:** Acquire, develop and produce certain oil and gas reserve assets currently owned by <ACQUISITION: SELLER> <MONETIZATION: COMPANY> in <BRIEF LOCATION DESCRIPTION>.
- General Partner:** <COMPANY> or its designee ("<COMPANY>" or "GP"), which shall be acceptable to the Limited Partner.
- Limited Partner:** An affiliate of EFS.
- Reserve Purchaser:** A to-be-formed Limited Partnership ("Partnership") in a form acceptable to EFS.
- Reserve Seller:** <ACQUISITION: SELLER> <MONETIZATION: COMPANY>
- Partnership Assets:** <BRIEF ASSET DESCRIPTION> owned by <ACQUISITION: SELLER> <MONETIZATION: COMPANY>, as evaluated in the engineering report prepared by <Cawley, Gillespie & Associates OR SELLER'S ENGINEER> as of <EFFECTIVE DATE> and submitted to EFS.
- Purchase Price:**
- |               |       |
|---------------|-------|
| LP (95%):     | \$[ ] |
| GP (5%):      | \$[ ] |
| Total (100%): | \$[ ] |
- Effective Date:** <EFFECTIVE DATE>
- Closing Date:** The date on which all conditions precedent to closing are satisfied or waived, which is expected to be on or about <PROPOSED CLOSING DATE>.
- Accounting Agreement:** The GP would execute an accounting agreement with the Partnership under which the Partnership would be charged:
- (i) Management fees for the GP, in its capacity as operator for the operated Partnership wells, equal to <\_\_\_\_> percent (<\_>%) of Partnership net operating income, plus
  - (ii) Direct operating expenses incurred by the GP for operating Partnership wells it operates, plus
  - (iii) Actual charges for Partnership wells operated by persons other than the GP.
- Commodity Price Hedge:** EFS would require the Partnership to execute an initial hedge on up to 85% of the LP's share of PDP production projected at the time of the signing (the "Initial Hedge"). Given the current strength of the forward curve in relation to historical prices, we would expect the Initial Hedge to be for up to <\_> years. The Partnership would enter into additional hedges from time to time, such that 85% of the LP's share PDP production projected from such time to time is consistently hedged for a rolling period of 12 months. Other Partnership hedges with terms longer than 12 months would be added at the request of EFS, depending on the strength of the forward curve relative to historical prices. General Electric Capital Corporation would provide credit support for the Partnership's hedges of the LP's share of projected PDP production in the



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form of a guaranty. The calculation of the LP's pre-tax yield would utilize actual cash flow, subject to the above commodity hedging strategy employed by EFS. Generally, hedge counterparties would include those financial institutions with an investment grade rating of "A" or better and those industrial companies with an investment grade rating of "BBB" or better

### **Development:**

GP would be required to provide EFS with AFEs and back-up data as soon as possible prior to any capital call for development, along with a recommendation on whether the Partnership should participate in such development or "go non-consent". GP, its affiliates, and its principals would not be allowed to participate in any development in which it recommends the Partnership "go non-consent". However, GP would have the right to independently participate in any development that it recommended to the Partnership for development, but for which EFS chose to "go non-consent". Such development of Partnership Assets would be subject to industry-standard non-consent provisions to be reflected in the Partnership Agreement.

### **Insurance Program:**

The Partnership Assets would be separately insured at the Partnership level against loss, damage, and liability with coverage types, amounts, and terms acceptable to the LP and the GP.

### **Closing Costs:**

All out-of-pocket expenses incurred prior to the Closing Date for third party legal, tax, accounting, technical, title, environmental, and reserve consultant costs associated with the Transaction would be for the account of the GP. On the Closing Date, the Partnership would reimburse the GP for 100% of the LP's share of such third party costs. No third party or internal broker/dealer fees paid by the GP would be reimbursed by the Partnership.

### **Allocations:**

Generally, for federal income tax purposes, each item of income, gain, loss, deduction, or credit of the Partnership attributable to the Partnership Assets would be allocated between the GP and LP according to the LP Sharing Percentage and GP Sharing Percentage (as each is defined below), and as necessary to comply with Section 704 of the Code and the regulations issued pursuant thereto.

### **Monthly Cash Distribution:**

With respect to any month, the Monthly Cash Distribution would be equal to:

- (i) Production Sales Proceeds (as defined below); less
- (ii) Routine Operating Expenses (as defined below); less
- (iii) Cash payments made on principal and interest on permitted Partnership indebtedness; less
- (iv) Amounts added to cash reserves, which shall not exceed the amount of Partnership costs and expenses incurred within the 60-day period prior to the date of the determination of the Monthly Cash Distribution; plus
- (v) Any cash reserves which the GP reasonably believes are no longer necessary; plus
- (vi) Payments received under the Commodity Price Hedge; less
- (vii) Payments made under the Commodity Price Hedge; plus
- (viii) Proceeds from the sale of Partnership Assets; less



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- (ix) Third party expenses for Partnership accounting, insurance and Annual Reserve Reports; less
- (x) Management fee payable to GP; less
- (xi) Capital costs paid by the Partnership.

"Production Sales Proceeds" means revenues received from the sale of production from the Partnership Assets, net of royalties, production taxes and ad valorem taxes. "Routine Operating Expenses" means those expenses due under the Operating Agreement.

### **Monthly LP Distribution:**

Monthly LP Distribution would mean, with respect to any calendar month, an amount equal to the LP Sharing Percentage for such month multiplied by the Monthly Cash Distribution for such month.

### **LP Rate of Return:**

The LP Rate of Return would mean, on a cumulative basis since the Closing Date, the pre-tax internal rate of return for all investments made by the LP in the Partnership and the corresponding cash distributions received by the LP. The LP Rate of Return would be calculated monthly.

### **Determination of Partnership Phases:**

Following the Closing Date until such time as the Partnership is terminated, each month would be designated a Phase I Period or a Phase II Period. The "Phase I Period" would mean the period from the Closing Date until the end of the calendar month in which LP Rate of Return is greater than <YIELD>% (using monthly compounding discount factors). The "Phase II Period" would mean the period commencing upon the expiration of the Phase I Period and ending upon the termination or liquidation of the partnership.

### **LP Sharing Percentage:**

"LP Sharing Percentage" during each phase would be defined as follows:

- (i) During the Phase I Period, the LP Sharing Percentage would be equal to 95%;
- (ii) During the Phase II Period, the LP Sharing Percentage would be equal to 62.37%.

### **GP Sharing Percentage:**

"GP Sharing Percentage" during any month would be 100%, less the LP Sharing Percentage in effect during such month.

### **Workover and Drilling Expenses:**

All workovers costing more than \$25,000 net to the Partnership and the drilling of any wells on Partnership Assets would require approval of the LP, subject to non-consent provisions. To aid the LP in the evaluation of the economics, the GP would provide the LP with an AFE and supporting technical information.

### **Conditions to Closing:**

If a commitment were issued, LP's obligation to close would be subject to satisfaction of conditions precedent, including the following, each to be satisfactory in form and substance to LP and its counsel:

- (i) Satisfactory third party engineering review of reserve assets, including decline rates, risking factors, concentration, LOE costs, Monte Carlo sensitivity analysis and basis differentials;



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- (ii) Successful completion of an acceptable Phase I environmental audit and review of management systems and regulatory compliance;
- (iii) Satisfactory background check on the principals of <COMPANY>;
- (iv) Negotiation and execution of: (1) a definitive Purchase and Sale Agreement between <ACQUISITION: SELLER> <MONETIZATION: COMPANY> and the Partnership; (2) a definitive Partnership Agreement between EFS and <COMPANY>, and satisfaction of conditions precedent under both documents;
- (v) Execution of definitive hedge agreement(s) with acceptable counterparties;
- (vi) Receipt of governmental and third-party approvals, legal opinions, evidence of insurance on and title to the purchased assets, and officer certificates;
- (vii) No Partnership debt would be outstanding on the Closing Date.
- (viii) The Partnership would have good, marketable, and recordable title to the Partnership Assets;
- (ix) None of the Partnership Assets would be encumbered by any liens;
- (x) Settlement would be made at closing for any Partnership Assets in an overproduced status under any production balancing arrangements;
- (xi) The Partnership would be a limited partnership duly organized and duly qualified in each jurisdiction in which it operates. The Partnership would have all necessary power and authority to own and operate the Partnership Assets and the Partnership would have all necessary licenses, certificates, and permits required to carry on its business, except where failure to have such licenses, certificates, and permits would not have a material adverse impact in the aggregate on the business or financial results of the Partnership. The Partnership would be in full compliance with all laws;
- (xii) The Partnership would not be party to any material contracts outside the ordinary scope of operations;
- (xiii) As of the closing date, there shall not have been any fact, event or circumstance that, alone or when taken with other events or conditions occurring or existing concurrently with such event or condition, (a) has or is reasonably expected to have a material adverse effect on the business, operations, condition (financial or otherwise), assets, liabilities, prospects, or properties of Partnership; (b) has or is reasonably expected to have any material adverse effect on the validity or enforceability of any Partnership document; (c) materially impairs or is reasonably expected to materially impair the ability of Partnership to pay and perform its obligations; or (d) has or is reasonably expected to have any material adverse effect on LP's rights under the Partnership documents; and
- (xiv) Other closing conditions deemed necessary by EFS.

### Representations and Warranties of the GP:

The Partnership Agreement would include, but not be limited to, the following representations and warranties:

- (i) There would be no pending, or threatened action, suit, investigation, arbitration, or other proceeding which would have a material impairment in the aggregate on the ability of the GP to perform its obligations under the Partnership Agreement or related agreements;



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- (ii) The execution of, delivery of, and performance under the Partnership Agreement and related documents by the GP would be duly authorized, would be valid and binding obligations, and would not violate or conflict with any law, contract, or obligation applied to the GP; and
- (iii) All material and relevant information known to the GP bearing on the Partnership Assets would be provided to the LP. The GP would have no reason to believe that the information provided to the LP is inaccurate or incomplete in any respect that could have an adverse impact on the LP or the LP's investment in the Partnership.

### Covenants of the GP:

The Partnership Agreement would include, but not be limited to, the following covenants:

- (i) The GP would provide the Partnership's unaudited balance sheet as of the Closing Date to the LP within 45 days of the Closing Date;
- (ii) Monthly, within 45 days of the end of the month for which such report is given, the GP would provide to the LP a schedule showing in reasonable detail production and financial performance for such month and other information necessary for the preparation of tax estimates and quarterly tax filings by the LP. In addition, such reports would include the calculation of the Monthly LP Distribution and Cumulative Monthly LP Distribution for such month and the LP Sharing Percentage for such month. The GP would provide annual audited financial statements of the Partnership within 90 days after year-end, including such information as is reasonably necessary to complete the tax return of the LP. The LP would reserve the right to audit the books of the Partnership. All third party costs related to preparing audited Partnership financial statements would be borne by the Partnership.
- (iii) The GP would engage an independent engineering firm approved by the LP to prepare an annual reserve report on the Partnership Assets, which would be provided to the LP within 90 days of year-end. Third party costs of such a reserve evaluation would be paid by the Partnership;
- (iv) The GP shall deliver to the LP various data files, reports, and financial statements, as required by the LP. The GP would utilize the LP's online reporting tool to provide certain data as required by the LP. The Partnership's allocated cost of maintaining the online reporting system shall be paid by the Partnership as a Partnership expense. This cost should not exceed \$15,000 the first year and \$8,000 for each subsequent year.
- (v) The Partnership would make distributions of Monthly Cash Distributions to the LP within 30 days of each month-end;
- (vi) The GP would not sell or otherwise dispose of any Partnership Assets in excess of \$25,000 per year (not cumulative) without written consent of the LP;
- (vii) The GP will not allow the Partnership to pledge or assign or otherwise encumber any Partnership assets, other than by operation of law, in which case the GP shall notify the LP as soon as practicable;



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- (viii) The GP would not allow the Partnership to incur any debt, without the written consent of the LP;
- (ix) The GP would keep all operated assets that would be material to the continued conduct of Partnership business, in good working condition. The GP would use its best efforts to ensure good maintenance of Partnership Assets operated by third parties;
- (x) The GP would invest all cash attributable to Partnership Assets in a Partnership Account, which would be satisfactory to the LP, and would separately account for such cash;
- (xi) The Partnership would at all times comply in all material respects with all federal, state, and local laws and regulations, including environmental laws and regulations;
- (xii) GP would not merge, consolidate, sell or otherwise dispose of all or substantially all of its assets unless the surviving entity or transferee of assets, as the case may be, delivers to the Partnership an instrument assuming all of GP's obligations and responsibilities under the Partnership Agreement;
- (xiii) GP would provide all SEC filings and public announcements of <COMPANY> to the LP as soon as possible; and
- (xiv) Such other covenants as the GP and the LP would find mutually agreeable.

### **Partnership Transactions:**

Any transactions between the Partnership and any affiliate of the GP would be on terms no less favorable to the Partnership than those into which such affiliate has recently entered with other unaffiliated parties in the same or similar geographic area for the same or similar services, or if no such comparable transactions have occurred, on terms comparable to those which could be negotiated on an arm's-length basis.

### **Liquidation:**

The Partnership would be dissolved upon the first to occur of: (i) a specified date 20 years from the Closing Date; (ii) the mutual agreement of the GP and LP; (iii) the bankruptcy of the GP; or (iv) any time after 3 years from the Closing Date at the request of the LP.

Upon the dissolution of the Partnership, the GP would act as liquidator; however, if the GP is bankrupt, the LP would have the right to appoint an independent third party as liquidator. After satisfying all remaining Partnership obligations, the GP would make liquidating distributions by selling the Partnership Assets at fair market value and distributing the proceeds based on the relative capital balances of the GP and LP, after adjusting such balances by the GP's and LP's respective shares of gain or loss realized upon the disposition of Partnership Assets.

Upon dissolution of the Partnership as a result of bankruptcy of the GP, the LP would have the right to elect a successor general partner and reconstitute the Partnership for the purpose of continuing the business. The GP interests would be converted to LP interests and the successor general partner would own at least a 1% interest in the Partnership.



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- Removal of GP:** LP may remove the GP "with cause" which shall mean (i) the commission by the GP of fraud, willful misconduct or gross negligence; (ii) a default by the GP in the performance of any material agreement, covenant or obligation under the Partnership; (iii) a representation or warranty made by the GP is false in any material respect on the date as of which made; (iv) bankruptcy, insolvency or dissolution of the GP; (v) change in control of the GP; or (vi) death, insanity, resignation, retirement, legal disability or insolvency of any Key Person (to be determined) of the GP.
- Right of GP upon Removal:** Any replacement GP would have the right to purchase from the removed GP a one percent general partner interest in the Partnership at a price equal to the appraised value thereof. Any remaining interest of the removed GP would be converted to a limited partner interest, but without any right to vote, consent, approve or otherwise make any determination under the Partnership agreement.
- Restricted LP Transfer Rights:** If LP desires to sell its LP interests, in whole or in part, to any unrelated third party, LP would first offer such LP interests to GP, and if GP elected not to purchase the LP interests at a price acceptable to the LP, LP may sell the LP interests to a third party at a price equal to or greater than that proposed sale price.
- Restricted GP Transfer Rights:** GP would remain GP and maintain its full economic interest in the Partnership Assets; provided, however, that GP may resign as GP or reduce its economic interest in the Partnership Assets with prior written approval of the LP.
- Voluntary Shut-in:** The GP would not cause the Partnership in any period to receive less than its full interest in production; provided, however, that the GP may restrict production for the purpose of performing general maintenance and workover activities related to maintaining production. In addition, the GP may restrict production if: (i) required under any state, local or federal law or regulation; (ii) proceeds from the GP's sale of production are inadequate to cover cash operating costs; or (iii) force majeure or other circumstances outside the GP's control require production to be restricted.
- Limited Liability:** As the LP, EFS would not be personally liable for any of the debts or obligations of the Partnership or any losses beyond the amount invested. The LP would not, in such capacity, participate in the management, transact any business, or sign or bind the Partnership.
- Capital Accounts:** The Partnership would maintain a capital account for the GP and the LP in accordance with the regulations issued pursuant to Section 704 of the Code. The Partnership would have qualified income offsets and minimum gain chargeback provisions.
- Confidentiality:** GP and LP would require each other's written approval, which would not be unreasonably withheld, prior to making public statements pertaining to the proposed transaction; provided, however, neither would be restricted from making public disclosures as required by regulatory authorities.