

**NAVITAS ASSETS, LLC**  
**LIMITED LIABILITY COMPANY AGREEMENT**

This Limited Liability Company Agreement (the "Agreement") is entered into and shall be effective as of April 10, 2007 (the "Effective Date"), by and among the Persons who are identified as Members of Navitas Assets, LLC (the "Company") on Exhibit A hereto and who have executed a counterpart of this Agreement as Members.

**DEFINITIONS**

Certain capitalized words and phrases used herein and not otherwise defined have the meanings set forth on Exhibit C hereto.

**SECTION 1**  
**FORMATION**

1.1 Formation. The Company was formed when its Certificate of Formation ("Certificate") was filed with the Delaware Secretary of State on March 20, 2007 as required by the Delaware Limited Liability Company Act (the "Act"). The Company shall continue until dissolved, liquidated, and terminated in accordance with this Agreement and/or the Act. The Members hereby agree to continue the Company as a limited liability company pursuant to the provisions of the Act and upon the terms and conditions set forth in this Agreement.

1.2 Name. The name of the Company is Navitas Assets, LLC, and all business of the Company shall be conducted in such name or in any other name or names that are selected by the Manager (as defined in Section 2.1). The Manager may change the name of the Company and may amend the Company's Certificate and this Agreement to give effect to such change in name.

1.3 Principal Place of Business; Registered Agent and Registered Office. The principal place of business of the Company shall be at 18218 East McDermott, Suite I, Irvine, California 92614. The Manager may change the location of the Company's principal place of business and shall promptly provide notice of any such change to all Members. The Manager shall cause the Company to maintain a registered agent and registered office in Delaware as required by the Act. The Company's registered agent shall initially be The Corporation Trust Company and its registered office shall initially be Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

1.4 Purposes; Powers. The purposes of the Company are to (a) acquire, own, develop, improve, maintain, lease, dispose of, operate, and otherwise deal directly or indirectly (through other entities) with real property, and any improvements thereto, including petroleum pipelines and natural gas distribution systems and (b) to engage in any other lawful activity. The Company shall have the power to do any and all acts necessary, appropriate, advisable, incidental, or convenient to or in furtherance of such purposes.

1.5 Title to Property. All property owned by the Company shall be owned by the Company as an entity and no Member shall have any ownership interest in such property in its individual name, and each Member's interest in the Company shall be personal property for all

purposes. At all times after the Effective Date, the Company shall hold title to all of its property in the name of the Company and not in the name of any Member.

1.6 Foreign Qualification. Prior to the Company's conducting business in any jurisdiction other than Delaware, the Company shall satisfy all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Company, each Member shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business, and each Member hereby grants each Officer of the Company a limited power-of-attorney to execute any such documents on its behalf.

## **SECTION 2 MANAGEMENT**

2.1 Manager. The Company shall be managed by a manager (the "Manager"). The Manager of the Company shall initially be Navitas Utility Corporation. The Manager shall serve until replaced by a vote of Members with a majority of Percentage Interests or until its resignation, liquidation or death. The Manager may resign as such by delivering his, her or its written resignation to the Company at the Company's principal office. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

### 2.2 Manager Powers.

(a) Except as otherwise provided in this Agreement, the Manager shall have full, exclusive and complete authority and control over the management of the Company.

(b) The Manager may, from time to time as it deems advisable, select natural persons who are employees or agents of the Company and designate them as officers of the Company (the "Officers") and assign titles (including, without limitation, President, Vice President, Secretary, and Treasurer) to any such person. The Manager may appoint such other Officers as it shall deem necessary or advisable in accordance with this Agreement who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be delegated by the Manager. Unless the Manager decides otherwise, if the Officer's title is one commonly used for officers of a business corporation formed under Delaware law, the assignment of such title will constitute the delegation to such person of the authorities and duties that are normally associated with that office. Any delegation pursuant to this Section 2.2 may be revoked at any time by the Manager. An Officer may be removed with or without cause by the Manager whether or not an Officer has acted in good faith. Officers shall receive such compensation from the Company for acting in such capacity as determined by the Manager.

2.3 Company Actions Requiring Member Approval. Members with a majority of Percentage Interests must affirmatively approve of the following actions of the Company:

(a) amending the Company's Certificate or this Agreement except:

(i) to reflect changes to the Company's name made by the Manager pursuant to Section 1.2;

(ii) for amendments to this Agreement that are solely for the purpose of clarification and, in the opinion of counsel for the Company, do not affect the substance hereof; and

(iii) for amendments to this Agreement that are, in the opinion of counsel for the Company, necessary or appropriate to satisfy the requirements of the Code in respect of partnership income tax treatment or of any federal or state securities laws or regulations.

(b) the liquidation and dissolution of the Company (as described in Section 5.2).

(c) the sale, conveyance or assignment of all or substantially all of the Company's assets.

(d) a merger, acquisition, consolidation, divestiture or similar transaction in which the Company is a material participant.

(e) to provide indemnification to the Manager (as described in Section 2.4).

(f) to enter into a contract or transaction in which the Manager has or may have a conflicting interest (as described in Section 2.6).

(g) a Transfer of a Member's interest (as described in Section 4.1).

(h) the issuance of additional equity interests in the Company of the same or different type as issued to the initial Members, and the amendment of this Agreement to reflect such issuance.

## 2.4 Indemnification.

(a) Of the Manager and Members. To the fullest extent permitted by the Act:

(i) The Company (and any receiver, liquidator, or trustee of, or successor to, the Company) may, subject to Section 2.3(e), indemnify and hold harmless the Manager and each Member from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, proceedings, costs, expenses, and disbursements of any kind or nature whatsoever (including, without limitation, all costs and expenses of defense, appeal, and settlement of any and all suits, actions, and proceedings and all costs of investigation in connection therewith) that may be imposed on, incurred by, or asserted against the Manager or Member in any way relating to or arising out of, or alleged to relate to or arise out of, any action, inaction, or omission (A) on the part of the Manager, in connection with managing the Company's business and affairs or otherwise acting pursuant hereto, or (B) on the part of a Member of the Company, in its capacity as such; provided that the indemnification obligations in this Section 2.4 shall not apply to the portion of any liability, obligation, loss, damage, penalty,

cost, expense, or disbursement that results from a breach of this Agreement by the Manager or Member or from fraud committed by the Manager or Member or to any liability that applicable law does not permit this Agreement to eliminate.

(ii) The Company shall pay expenses as they are incurred by the Manager or Member in connection with any action, claim, or proceeding that the Manager or Member asserts in good faith to be subject to the indemnification obligations set forth herein, upon receipt of a written undertaking from the Manager or Member to repay all amounts so paid by the Company to the extent that it is finally determined that the Manager or Member is not entitled to be indemnified therefor under the terms hereof.

(b) Of Other Persons. The Company may indemnify, and pay the expenses of, Persons other than the Manager and Members, to the extent approved by the Manager and permitted by the Act.

(c) Source of Funds; Authority. The indemnification to be provided by the Company hereunder shall be paid only from the assets of the Company, and no Member shall have any personal obligation, or any obligation to make any Capital Contribution, with respect thereto. The Manager shall have complete authority to cause the Company to indemnify Persons and pay expenses as required and permitted hereby, notwithstanding any apparent conflict of interest arising from the indemnified person also being the Manager.

(d) By the Members and Manager. Each Member and the Manager shall indemnify and hold harmless the Company, the Manager and each other Member, as the case may be, from and against all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, proceedings, costs, expenses, and disbursements of any kind or nature whatsoever (including, without limitation, all costs and expenses of defense, appeal, and settlement of any and all suits, actions, and proceedings and all costs of investigation in connection therewith) that may be imposed on, incurred by, or asserted against the Company, the Manager and/or each other Member, arising by reason of such Member's or Manager's breach of this Agreement in its capacity as a Member or Manager, as the case may be, or arising by fraud committed by such Member or Manager.

2.5 Conflicting Interest Transactions. The Manager may, subject to Section 2.3(f), cause the Company to enter into any transaction or contract in which the Manager has or might have a conflicting interest with respect to such transaction or contract, provided that such transaction or contract is fully disclosed to the Members and approved pursuant to Section 2.3(f).

## 2.6 Tax Matters Member.

(a) Navitas Assets, LLC is hereby designated as the "tax matters partner" of the Company under Code Section 6231(a)(7) (the "Tax Matters Member"), and is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including resulting judicial and administrative proceedings.

(b) The Tax Matters Member shall cause to be timely prepared and filed all tax returns required to be filed by the Company pursuant to the Code and all other tax returns



deemed necessary and required in each jurisdiction in which the Company does business. All such tax returns shall be prepared and filed on a basis consistent with the provisions of this Agreement. The Members shall file their tax returns in a manner that is consistent with this Agreement and with the Company's tax returns.

(c) The Tax Matters Member may, if it determines that the retention of accountants or other professionals would be in the best interests of the Company, retain such accountants or professionals to assist in any tax related matters. The Company shall indemnify and reimburse the Tax Matters Member for all expenses, including legal and accounting fees, claims, liabilities, losses, and damages to the extent borne by the Tax Matters Member and incurred in connection with any administrative or judicial proceeding with respect to the Company's tax returns. The taking of any action and the incurring of any expense by the Tax Matters Member in connection with any such proceeding, except to the extent required by law, is a matter in the sole discretion of the Tax Matters Member.

(d) The Tax Matters Member shall have all the powers and shall perform all the duties assigned to the Tax Matters Member under Sections 6221-6232 of the Code and the Regulations thereunder (and any comparable provisions of state, local or foreign tax law).

(e) The provisions of this Section 2.6 shall survive the termination of the Company or the termination of any Member's interest in the Company and shall remain binding on the Members for so long a period of time as is necessary to resolve with the Internal Revenue Service or any other taxing authority any and all matters regarding the income taxation of the Company and the Members for their period of membership in the Company.

2.7 Records and Access to Information. The Company shall maintain, and each Member shall have prompt access to, such records, financial and otherwise, as the Member shall reasonably request.

### **SECTION 3 FINANCIAL MATTERS**

#### **3.1 Economic Interests of the Members.**

(a) Capital Contributions. Each Member has made a Capital Contribution to the Company, as of the Effective Date, in the amount set forth on Exhibit B as such Member's Capital Contribution. Capital Accounts for the Members shall be maintained in accordance with the rules set forth herein under the definition of the term "Capital Account," which definition is contained in Exhibit C hereto.

(b) Percentage Interests. Each Member's Percentage Interest is set forth on Exhibit B, as the same may be amended from time to time.

(c) Return of Capital Contributions and/or Capital Accounts; Interest. Except as otherwise provided in this Agreement, no Member shall demand or receive a return of its Capital Contribution or its Capital Account, and no Member shall receive interest on its Capital Contribution or Capital Account.

3.2 Additional Capital. If at any time or times the Manager determines that additional capital is required to preserve, maintain and/or expand the business of the Company, the Manager may request, but not require, that the Members provide additional capital in proportion to their Percentage Interests. The Manager shall advise the Members of the need for additional capital by written notice with a statement of the reasons such additional capital is needed. Whether or not the Manager requests additional capital contributions from the Members, the Manager, subject to Section 2.3(h) may obtain additional capital, in whole or in part, by (A) the sale of additional membership interests in the Company to existing Members or persons not Members, (B) secured or unsecured borrowings (including borrowings from Members), or (C) by any combination thereof. The Members acknowledge that their Percentage Interests may be altered by the sale or issuance of new equity interests in the Company.

3.3 Allocation of Profits and Losses.

(a) Profits. Except as otherwise provided herein, Profits for each Fiscal Period shall be allocated as follows:

(i) First, to the Members in proportion to, and in an amount not to exceed the excess, if any, of (A) the cumulative Losses that have been allocated to such Members under Section 3.3(c) hereof for all prior Fiscal Periods over (B) the cumulative Profits that have been allocated to such Members under this Section 3.3(a)(i) for all prior Fiscal Periods;

(ii) Second, to the Members in proportion to, and in an amount not to exceed the excess, if any, of (A) the cumulative Losses that have been allocated to such Members under Section 3.3(b) hereof for all prior Fiscal Periods over (B) the cumulative Profits that have been allocated to such Members under this Section 3.3(a)(ii) for all prior Fiscal Periods; and

(iii) Thereafter, to the Members in proportion to their Percentage Interests.

(b) Losses. Except as otherwise provided in Section 3.3, Losses of the Company for each Fiscal Period shall be allocated to the Members in proportion to their Percentage Interests.

(c) Limitation on Loss Allocations. Notwithstanding subparagraph (b) of this Section, to the extent any Losses allocated to a Member under subparagraph (b) of this Section or under this subparagraph (c) would cause such Member (hereinafter, a "Restricted Member") to have an Adjusted Capital Account Deficit as of the end of the Fiscal Period to which such Losses relate, such Losses shall not be allocated to such Restricted Member and instead shall be allocated to the other Member(s) (referred to herein as the "Permitted Members") in proportion to, and to the maximum extent that, such Losses may be allocated to the Permitted Members without causing any of the Permitted Members to have an Adjusted Capital Account Deficit.

(d) Special Allocations. Notwithstanding any provisions of Sections 3.3(a), (b) or (c), the following special allocations shall be made in the following order:

(i) Minimum Gain Chargeback. Except as otherwise provided in Regulations Section 1.704-2(f), if there is a net decrease in Minimum Gain for any Company Fiscal Period, each Member shall be specially allocated items of Company income and gain for such period (and, if necessary, subsequent periods) in an amount equal to that Member's share of the net decrease in Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). The items to be so allocated shall be determined in accordance with Regulations Section 1.704-2(f)(6) and 1.704-2(j)(2). This paragraph (i) is intended to comply with the minimum gain chargeback requirement in Regulations Section 1.704-2(f) and shall be interpreted consistently therewith. Allocations pursuant to this paragraph (i) shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto.

(ii) Minimum Gain Attributable to Member Nonrecourse Debt. Except as provided in Regulations Section 1.704-2(i)(4), if there is a net decrease in Minimum Gain Attributable to Member Nonrecourse Debt during any Fiscal Period, each Member that has a share of the Minimum Gain Attributable to Member Nonrecourse Debt shall be specially allocated items of Company income and gain for such period (and, if necessary, subsequent periods) in an amount equal to that Member's share of the net decrease in the Minimum Gain Attributable to Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This paragraph (ii) is intended to comply with the minimum gain chargeback requirement with respect to Member Nonrecourse Debt contained in Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith. Allocations pursuant to this paragraph (ii) shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto.

(iii) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5), or (6), and such Member has an Adjusted Capital Account Deficit, items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate the Adjusted Capital Account Deficit as quickly as possible; provided, however, that an allocation pursuant to this Section 3.3(d)(iii) shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Section 3.3 have been tentatively made as if this Section 3.3(d)(iii) were not in this Agreement. This paragraph (iii) is intended to constitute a "qualified income offset" under Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(iv) Nonrecourse Deductions. Nonrecourse Deductions for any Fiscal Period or other applicable period shall be allocated to the Members in accordance with their Percentage Interests.

(v) Member Nonrecourse Deductions. Member Nonrecourse Deductions for any Fiscal Period shall be specially allocated to the Member that bears the economic risk of loss for the debt in respect of which such Member Nonrecourse Deductions are attributable (as determined under Regulation Section 1.704-2(i)(1)).

(vi) Code Section 754 Adjustment. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such section of the Regulations.

(vii) Curative Allocations. The allocations set forth in Sections 3.3(d)(i) - (vi) hereof (the "Regulatory Allocations") are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss, or deduction pursuant to this Section 3.3(d)(vii). Therefore, notwithstanding any other provision of this Section 3.3 (other than the Regulatory Allocations), the Manager shall make such offsetting special allocations of Company income, gain, loss, or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, and to the extent permitted by the Regulations, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to Sections 3.3(a) - (b). In exercising its discretion under this Section 3.3(d)(vii), the Manager shall take into account any future Regulatory Allocations under Sections 3.3(d)(i) and (ii) that, although not yet made, are likely to offset Regulatory Allocations made under Sections 3.3(d)(iv) and (v).

(e) Tax Allocations; Special Allocation Rules.

(i) Generally. Subject to paragraph (e)(ii) below, items of income, gain, loss, deduction, and credit to be allocated for income tax purposes (collectively, "Tax Items") shall be allocated among the Members on the same basis as their respective book items.

(ii) Allocations Respecting Section 704(c) and Revaluations. Notwithstanding paragraph (i) of this Subsection (e), Tax Items with respect to Company property that is subject to Code Section 704(c) and/or Regulation Section 1.704-1(b)(2)(iv)(f) shall be allocated in accordance with said Code section and/or Regulation Section 1.704-1(b)(4)(i), as the case may be, using any method selected by the Manager that is permissible under Regulations Section 1.704-3. Allocations pursuant to this Section 3.3(e)(ii) 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 Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

3.4 Distributions to Members.

(a) Tax Distributions. On a quarterly basis, if and to the extent that the Company has funds available for such purpose and is otherwise permitted by law and by any agreements to which the Company is a party, to make distributions to the Members, the Company will make cash distributions to the Members, in proportion to their Percentage



Interests, in an amount sufficient to allow each Member to satisfy on a timely basis its U.S. federal and state income tax obligations (including obligations to make estimated tax payments) attributable to the allocation of the Company's taxable income to the Members pursuant to this Agreement. For purposes of the preceding sentence, the Manager shall make a reasonable determination of an appropriate combined federal, and state tax rate to apply to all the Members for purposes of making Tax Distributions. Distributions to the Members pursuant to this Section 3.4(a) are referred to herein as "Tax Distributions."

(b) Other Distributions. In addition to Tax Distributions, the Manager is authorized to make other distributions to the Members in accordance with their Percentage Interests in such amounts and at such times as determined by the Manager in its sole discretion; provided, however, that (i) distributions in liquidation of the Company shall be governed solely by Section 5.3, and (ii) distributions to Members shall not be made under this Section 3.4(b) to the extent that such distributions would create or increase an Adjusted Capital Account Deficit for any Member.

(c) Withholding. The Company shall withhold and pay over to the Internal Revenue Service or other applicable taxing authority all taxes or withholdings, and all interest, penalties, additions to tax, and similar liabilities in connection therewith or attributable thereto (hereinafter "Withheld Taxes") to the extent that the Manager determines that such withholding and/or payment is required by the Code or any other law, rule, or regulation, including, without limitation, Sections 1441, 1442, 1445, or 1446 of the Code and any corresponding provisions of state and local income tax law. The Manager shall determine to which Member such Withheld Taxes are attributable. All amounts withheld pursuant to this Section 3.4(c) with respect to any allocation, payment or distribution to any Member shall be treated as amounts distributed to such Member pursuant to Section 3.4 hereof for all purposes of this Agreement.

(d) Certain Adjustments. If an amount payable to the Company is reduced because the Person paying that amount withholds and/or pays over to the Internal Revenue Service or other applicable taxing authority any amount as a result of the status of a Member, the Manager shall make such adjustments to amounts distributed and allocated among the Members as the Manager determines to be appropriate.

## **SECTION 4**

### **MEMBERS**

#### **4.1 Transfer of Interests.**

(a) No Transfer Without Consent. No Member may Transfer all or any part of such Member's interest in the Company or otherwise assign or delegate any of such Member's rights and/or obligations as a Member, without the prior written consent of the Manager which consent may be arbitrarily withheld. A transferee of all or part of a Member's interest in the Company may be admitted to the Company as a substituted Member only with the written consent of the Manager, which consent may be arbitrarily withheld.

(b) Attempted Transfers in Contravention. Any attempted Transfer in contravention of this Section 4.1 shall be void and of no effect and shall not bind or be



recognized by the Company. In the case of an attempted Transfer not permitted hereby, the Member attempting to engage in such Transfer shall indemnify and hold harmless (and hereby agrees to indemnify and hold harmless), the Company and the other Members from all costs, liabilities, and damages that any of such indemnified Persons may incur (including, without limitation, incremental tax liability and attorneys' fees and expenses) as a result of such attempted Transfer and efforts to enforce the indemnity granted hereby.

4.2 Distributions and Allocations Upon Transfers. If during any Fiscal Period there is a Transfer of an interest in the Company in compliance with the provisions of Section 4.1, Profits and Losses, each item thereof, and all other items attributable to the transferred interest for such period shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during the period in accordance with Code Section 706(d), using any conventions permitted by law and selected by the Manager. All distributions (with respect to the transferred interest) on or before the date of the Transfer shall be made to the transferor, and all distributions thereafter (with respect to the transferred interest) shall be made to the transferee. Neither the Company nor the Manager shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 4.2.

4.3 No Appraisal Rights. No Member shall have any appraisal rights.

## **SECTION 5 EVENTS OF DISSOLUTION; WITHDRAWAL; DISSOLUTION**

5.1 No Withdrawal or Dissolution. No Member shall at any time withdraw from the Company. No Member shall take any action to dissolve the Company except as expressly contemplated by this Agreement. Each Member covenants not to apply to any court for a decree of dissolution of the Company, under any provision of the Act or otherwise.

5.2 Liquidating Events. The Company shall dissolve and commence winding up and liquidation upon, and only upon, (a) a vote of the Members holding a majority of Percentage Interests approving such dissolution and liquidation, or (b) as otherwise required by the Act (each, a "Liquidating Event").

5.3 Winding Up.

(a) Upon the occurrence of a Liquidating Event, the Company shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors and Members. During the period commencing on the date on which a Liquidating Event occurs and ending on the date on which the assets of the Company are distributed pursuant to this Section 5.3, Profits and Losses and other items of Company income, gain, loss, or deduction shall continue to be allocated in the manner provided in Section 3.3 hereof. During such period, no Member shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Company's business and affairs. The Manager shall be responsible for overseeing the winding up and dissolution of the Company. The Manager shall conduct such winding up over such period of time as the Manager determines to be in the best interests of the Members.

(b) The assets of the Company shall be liquidated to the extent determined to be appropriate by the Manager and the proceeds thereof, together with such assets as the Manager determines to distribute in kind (valued at the Gross Asset Value thereof), shall be applied and distributed in the following order:

(i) First, to creditors to the extent otherwise permitted by law, in satisfaction of liabilities of the Company (whether by payment or by making of reasonable provision for payment); and

(ii) Second, the balance, if any, to the Members to the extent of, and in proportion to, the positive balances of their respective Capital Accounts.

5.4 Negative Capital Accounts. No Member with a deficit balance in its Capital Account shall have any obligation to make any contribution to the capital of the Company with respect to such deficit, and such deficit shall not be considered a debt owed to the Company or to any other Person for any purpose whatsoever.

5.5 Limitations on Rights of Members. Each Member shall look solely to the assets of the Company for the return of its Capital Contribution and/or Capital Account.

5.6 Certificate of Cancellation. Upon the dissolution and the completion of winding up of the Company, the Manager shall promptly execute and cause to be filed a certificate of cancellation in accordance with the Act and appropriate instruments under the laws of any other states or jurisdictions in which the Company has engaged in business.

## **SECTION 6 AMENDMENTS**

6.1 Amendments. Notwithstanding any contrary provision of the Act, any amendments to this Agreement and/or to the Company's Certificate must be made pursuant to Section 2.3(a).

## **SECTION 7 MISCELLANEOUS**

7.1 Notices. Any notice or other communication required or permitted to be given pursuant to any provision of this Agreement must be in writing and must be (a) delivered personally (b) sent by postage prepaid, certified mail, (c) transmitted by facsimile, or (d) delivered by a nationally recognized overnight courier, addressed as follows, or to such other address as such Person may from time to time specify by written notice to the appropriate party:

(a) If to the Company, to the Company at the following address:

18218 East McDermott, Suite I  
Irvine, California 92614  
Attention: Richard A. Varner  
Facsimile No.: 949-261-5661

(b) If to a Member, to the address set forth opposite such Member's name on Exhibit A hereto.

Any such notice or communication shall be deemed to be delivered, given, and received for all purposes hereof only (x) on the date of receipt if delivered personally or by courier, (y) five (5) days after posting if transmitted by certified mail, or (z) the date of transmission by facsimile, if receipt is confirmed by telephone.

7.2 Binding Effect. Every covenant, term, and provision of this Agreement shall be binding upon and inure to the benefit of the Members and their respective successors and (subject to the limitations in Section 4 hereof) transferees and assigns.

7.3 Construction. Every covenant, term, and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Member or the Manager.

7.4 Headings. Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

7.5 Severability. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

7.6 Incorporation by Reference. Every Exhibit referred to herein is hereby incorporated in this Agreement by reference.

7.7 Further Action. Each Member, upon the request of the Manager, shall perform all further acts and execute, acknowledge, and deliver any documents that may be reasonably necessary, appropriate, or desirable to carry out the provisions of this Agreement.

7.8 Governing Law. The laws of the State of Delaware shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the Members. To the extent this Agreement is inconsistent with the Act, this Agreement shall govern (to the maximum extent permitted by the Act).

7.9 Waiver of Action for Partition. Each of the Members irrevocably waives any right that it may have to maintain any action for partition with respect to any of the Company's assets.

7.10 Counterpart Execution. This Agreement may be executed in any number of counterparts with the same effect as if all of the Members had signed the same document. All counterparts shall be construed together and shall constitute one agreement.

7.11 Manager's Discretion. Whenever in this Agreement the Manager is permitted or required to make a decision, take an action, or grant or withhold a consent or approval, the

Manager may do so in the Manager's sole and absolute discretion, subject only to the express provisions hereof.

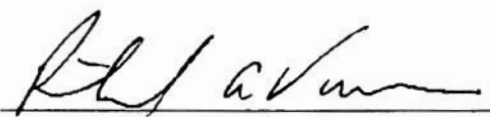
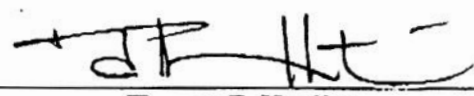
[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement under seal as of the Effective Date.

## NAVITAS UTILITY CORPORATION

By: Name: THOMAS E. HARTLINE

Title: President

  
Richard A. Varner  
Thomas E. Hartline



**Exhibit A**

**Names and Addresses of Members**

Navitas Utility Corporation  
18218 East McDermott, Suite I  
Irvine, California 92614

Richard A. Varner  
18218 East McDermott, Suite I  
Irvine, California 92614

Thomas E. Hartline  
18218 East McDermott, Suite I  
Irvine, California 92614

**Exhibit B**

**Capital Contributions; Percentage Interests**

<b><u>Member</u></b>	<b><u>Capital Contribution</u></b>	<b><u>Percentage Interest</u></b>
Navitas Utility Corporation	\$1,500.00	15.00%
Richard A. Varner	\$8,000.00	80.00%
Thomas E. Hartline	\$500.00	<u>5.00%</u>
Totals		<u>100.00%</u>

### **Exhibit C**

“Act” means the Delaware Limited Liability Company Act, as amended from time to time (and any corresponding provisions of succeeding law).

“Adjusted Capital Account Deficit” means, with respect to any Member, the deficit balance, if any, in such Member’s Capital Account as of the end of the relevant Fiscal Period, after giving effect to the following adjustments:

(i) Credit to such Capital Account any amounts that such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(ii) Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Regulations.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

“Agreement” means this Limited Liability Company Agreement of Navitas Assets, LLC, as amended from time to time. Words such as “herein,” “hereinafter,” “hereof,” “hereto,” and “hereunder,” refer to this Agreement as a whole, unless the context otherwise requires.

“Capital Account” means, with respect to any Member, the capital account maintained for such Member in accordance with the following provisions:

(i) To each Member’s Capital Account there shall be credited such Member’s Capital Contributions, such Member’s distributive share of Profits and any items in the nature of income or gain that are specially allocated to such Member pursuant to Section 3.3 hereof, and the amount of any Company liabilities assumed by such Member or that are secured by any Company property distributed to such Member;

(ii) To each Member’s Capital Account there shall be debited the amount of cash and the Gross Asset Value of any property other than money distributed to such Member pursuant to any provision of this Agreement, such Member’s distributive share of Losses and any items in the nature of expenses or losses that are specially allocated to such Member pursuant to Section 3.3 hereof, and the amount of any liabilities of such Member assumed by the Company or that are secured by any property contributed by such Member to the Company;

(iii) In the event any interest in the Company is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred interest; and

(iv) In determining the amount of any liability for purposes of the foregoing clauses (i) and (ii) of this definition of Capital Account, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Manager determines that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto, are computed in order to comply with such Regulations, the Manager may make such modification provided that it is not likely to have a material adverse effect on the amounts distributed to any of the Members under Section 5 upon the liquidation and dissolution of the Company. The Manager also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q), and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b).

"Capital Contribution" means, with respect to a Member, the amount of money and the initial Gross Asset Value of any property (other than money) contributed or deemed to have been contributed to the Company by such Member.

"Code" means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

"Company" means Navitas Assets, LLC, a Delaware limited liability company.

"Fiscal Period" shall mean the fiscal year of the Company (or such other relevant period for which the respective determination is being made).

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

(i) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Manager, as of the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution; the acquisition of an additional interest in the Company (other than a de minimis interest) in exchange for the provision of services to or on behalf of the Company by a new or existing Member; and the distribution by the Company to a Member of more than a de minimis amount of property as consideration for such Member's entire or partial interest in the Company; provided, however, that adjustments pursuant to this clause (i) will be made only if the Manager reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(ii) The Gross Asset Value of any Company asset distributed to any Member shall be the gross fair market value of such asset, as determined by the Manager and the distributee Member, on the date of distribution;

(iii) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken

into account in determining Capital Accounts pursuant to Regulation Section 1.704-1(b)(2)(iv)(m); provided, however, that Gross Asset Values shall not be adjusted pursuant to this clause (iii) to the extent that an adjustment pursuant to the foregoing clause (i) is made in connection with a transaction that would otherwise result in an adjustment pursuant to this clause (iii); and

(iv) The initial Gross Asset Value of any asset contributed to the Company shall be its gross fair market value as agreed upon by the contributing Member and the Manager. Such Gross Asset Value shall thereafter be adjusted for book depreciation, amortization, or other cost recovery deductions for periods subsequent to its contribution in the manner provided in paragraph (vi) of the definition of "Profit" and "Loss."

"Liquidating Events" has the meaning ascribed to it in Section 5.2 hereof.

"Manager" means the individual or entity described in Section 2.1.

"Member" means each Person identified as a Member on Exhibit A hereto.

"Member Nonrecourse Debt" shall have the meaning set forth in Regulations Section 1.704-2(b)(4).

"Member Nonrecourse Deductions" shall have the meaning set forth in Regulations Section 1.704-2(i)(2).

"Minimum Gain" shall have the meaning set forth in Regulations Section 1.704-2(b)(2) and 1.704-2(d).

"Minimum Gain Attributable to Member Nonrecourse Debt" shall mean "partner nonrecourse debt minimum gain" as determined in accordance with Regulations Section 1.704-2(i)(3).

"Nonrecourse Deductions" shall have the meaning set forth in Regulations Sections 1.704-2(b)(1) and 1.704-2(c).

"Percentage Interest" shall mean, with respect to each Member, the percentage set forth for such Member on Exhibit B hereto.

"Person" means any individual, corporation, limited liability company, partnership, trust, or other entity.

"Profits" and "Losses" for each Fiscal Period or other period means an amount equal to the Company's taxable income or loss for such Fiscal Period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:



(i) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition shall be added to such taxable income or loss;

(ii) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this definition shall be subtracted from such taxable income or loss;

(iii) In the event the Gross Asset Value of any Company asset is adjusted pursuant to clause (i) or clause (ii) of the definition of Gross Asset Value, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Profits or Losses;

(iv) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(v) Notwithstanding any other provision of this definition, any items that are specially allocated pursuant to Sections 3.3(d) shall be excluded from such taxable income or loss; and

(vi) If the Gross Asset Value of any Company asset is different from its adjusted tax basis as of the beginning of a Fiscal Period, then, in lieu of the depreciation, amortization, or other cost recovery deductions with respect to such asset that is taken into account in computing such taxable income or loss, there shall be taken into account an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction bears to such beginning adjusted tax basis; provided, however, that if such adjusted tax basis is zero, such amount shall be determined with reference to such Gross Asset Value using any reasonable method determined by the Manager.

“Regulations” means the Income Tax Regulations, including Temporary Regulations, promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“Tax Matters Member” has the meaning ascribed to it in Section 2.6(a).

“Transfer” means, as a noun, any voluntary or involuntary transfer, sale, assignment, pledge, hypothecation, or other disposition and, as a verb, voluntarily or involuntarily to transfer, sell, assign, pledge, hypothecate, encumber or otherwise dispose of.

“Withheld Taxes” has the meaning ascribed to it in Section 3.4(c) hereof.