THE OFFER AND SALE OF UNITS IN SKYGATE GROWTH STRATEGIES I LLC, A DELAWARE LIMITED LIABILITY COMPANY, IS MADE ONLY BY MEANS OF THE COMPANY'S TERM SHEET, LIMITED LIABILITY COMPANY OPERATING AGREEMENT AND THE SUBSCRIPTION BOOKLET FOR THE UNITS.

Name of Offeree: _____

OFFERING CIRCULAR

UNITS

OF

SKYGATE GROWTH STRATEGIES I LLC

February 15, 2025

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THE SECURITIES SOLD HEREUNDER HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), OR ANY APPLICABLE STATE OR FOREIGN SECURITIES LAWS, NOR HAS THE U.S. SECURITIES AND EXCHANGE COMMISSION OR ANY STATE OR FOREIGN REGULATORY AUTHORITY PASSED UPON THE ACCURACY OR ADEQUACY OF THIS AGREEMENT OR ENDORSED THE MERITS OF THIS AGREEMENT, AND ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THE SECURITIES ARE OFFERED PURSUANT TO EXEMPTIONS PROVIDED BY SECTION 4(a)(2) OF THE SECURITIES ACT AND REGULATION D THEREUNDER, CERTAIN STATE SECURITIES LAWS AND CERTAIN RULES AND REGULATIONS PROMULGATED PURSUANT THERETO. THE SECURITIES MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE OR FOREIGN SECURITIES LAWS OR AN OPINION OF COUNSEL ACCEPTABLE TO US AND OUR COUNSEL THAT SUCH REGISTRATION IS NOT REQUIRED, AND MUST BE IN COMPLIANCE WITH THE TERMS OF THE OPERATING AGREEMENT.

SUBSCRIPTION AGREEMENT

This **SUBSCRIPTION AGREEMENT** (this "**Agreement**"), dated as of the date set forth on the signature page hereto, is by and between SKYGATE GROWTH STRATEGIES I LLC, a Delaware limited liability company (the "**Company**"), and the subscriber identified on the signature page hereto (the "**Subscriber**"). SKYGATE MANAGER LLC, is the manager of the Company and is, in such capacity, the "**Manager**".

WHEREAS, the Company and the Subscriber are executing and delivering this Agreement in reliance upon an exemption from securities registration afforded by the provisions of Section 4(a)(2) and/or Regulation D ("**Regulation D**") as promulgated by the United States Securities and Exchange Commission under the Securities Act of 1933, as amended (the "**Securities Act**");

WHEREAS, the Company is offering up to Fifty Million membership interests in the Company evidenced by Units (the "**Units**"), offered at $1.00 per Unit, up to an aggregate amount of Fifty Million U.S. Dollars and 00/100 (US$50,000,000.00) (the "**Offering Amount**"), to be sold on a "best efforts" basis in a private placement offering (the "**Offering**") as more particularly described in the term sheet attached as Exhibit A hereto (the "**Term Sheet**") and below; *provided* that the Company may, in its sole discretion increase the Offering Amount without notice to the Subscriber;

WHEREAS, this offering is being conducted pursuant to Rule 506(c) of Regulation D, as amended (and general solicitation or advertisement will be used to help identify investors), with only accredited investors, as verified by the Company or its agents, being with only accredited investors, as verified by the Company or its agents, are eligible to participate in this Offering; and

WHEREAS, terms of the Offering and the rights and obligations of ownership of the Units are as outlined in the Term Sheet and set forth in detail in the Company's Operating Agreement, dated as of February 13, 2025, attached as Exhibit B hereto (the "**Operating Agreement**").

NOW, THEREFORE, in consideration of the mutual covenants and other agreements contained in this Agreement, the Company and the Subscriber hereby agree as follows, subject to the terms and conditions herein:

1. Subscription For Units; Purchase Price.

1.1 Purchase. The Subscriber, intending to be legally bound, hereby irrevocably agrees to subscribe for and agrees to purchase up to that number of Units set forth on the signature page hereto at a purchase price of One Dollar and 00/100 ($1.00) per Unit ("**Per Unit Price**"). This subscription is submitted to the Company in accordance with and subject to the terms and conditions described in this Agreement.

1.2 Purchase Price. The aggregate purchase price for the Units subscribed for is equal to the number of Units subscribed for multiplied by the Per Unit Price and is set forth on the signature page hereto (the "**Purchase Price**").

1.3 Subscription Proceeds. All subscription proceeds received and accepted will be deposited directly into the Company's operating account or assigned escrow account and following acceptance by the Company hereunder and payment by the Company of its costs and expenses, including organization and Offering expenses and commissions, if any, such funds will be used by the Company to fund those certain real estate ownership, development and investment opportunities in gateway cities identified by the Manager and for the related general corporate, operational and administrative purposes, including salaries. The Company may use proceeds of the Offering immediately upon each Closing.

1.4 Payment. Payment of the Purchase Price shall be due and payable upon execution and delivery of this Agreement by the Subscriber to the Company (which payment made be made through an escrow agent engaged by the Company to help facilitate the receipt of the funds), unless otherwise agreed to in writing by the Company. The Subscriber shall be required to deliver to the Company (i) the Purchase Price and (ii) the related transaction processing fees (as contemplated by the Operating Agreement) as calculated at the time of subscription and communicated by the Company, in cash by delivery of a certified check payable to the Company or by wire transfer of immediately available funds to the following account of the Company, or such other account as provided by the Company from time to time:

Bank: JP Morgan Chase
Account Number: 515069964
Routing Number: 021000021

1.5 Acknowledgements. By executing this Agreement, the Subscriber acknowledges that (i) the Subscriber has been informed of various matters relating to the Company, including but not limited to, this Agreement, the Term Sheet, the Operating Agreement, the Risk Factors attached hereto (the "**Risk Factors**") and the Units (together, the "**Offering Documents**"); (ii) that the Subscriber is an "accredited investor" as such term is defined in Rule 501 of Regulation D, and while the Subscriber may have learned about the Offering via general solicitation or advertisement,

the Subscriber and must provide verification of accredited investor status with the Company, or its designated third-party verification provider, conducting this verification as part of the subscription process; and (iii) that the Subscriber is not and has not been the subject of any "bad actor disqualifying event," as described in the excerpt of Rule 506(d) attached hereto as Exhibit E (a "**Bad Actor Disqualifying Event**").

1.6 Closing; Conditions to Closing. Closing on the purchase and sale of the Units shall be consummated on such date as the Company accepts a Subscriber's offer to purchase the Units as evidenced by the Company's counter-execution of the signature page to this Agreement and the return of such fully executed Agreement and the Company-executed Operating Agreement to the Subscriber ("**Closing**"). On or prior to the date of each Closing, the following shall have occurred:

(a) The Subscriber shall have thoroughly reviewed the Offering Documents;

(b) The Subscriber shall have delivered to the Company a dated and executed signature page to this Agreement, with all blanks properly completed;

(c) The Subscriber shall have delivered to the Company a dated completed and signed Accredited Investor Questionnaire, with verification of accredited investor status and Bad Actor Questionnaire;

(d) The Subscriber shall have delivered to the Company a dated and executed joinder signature page to the Operating Agreement;

(e) The Company shall have received the Purchase Price from the Subscriber; and

(f) Any other conditions to Closing set forth in this Agreement shall have been satisfied or waived.

2. Subscriber Representations and Warranties as to Suitability Standards.

The Subscriber hereby represents and warrants that:

2.1 Investment Decision. The Subscriber and the Subscriber's advisors (which advisors do not include the Company or its principals, representatives or counsel) have such knowledge and experience in legal, financial and business matters as to be capable of evaluating the merits and risks of the prospective investment in the Company, of protecting the Subscriber's interests in connection therewith and making an informed investment decision.

2.2 Information Furnished. The Subscriber has been furnished with or has had access to any and all material documents and information regarding the Company and its intended business as it, he or she desires, including but not limited to the Offering Documents, as well as the opportunity to ask questions of the Company's management. The Subscriber hereby acknowledges that the Company has made available to the Subscriber prior to any investment in the Company all information requested by the Subscriber and deemed by the Subscriber to be reasonably necessary to enable the Subscriber to evaluate the risks and merits of an investment in

the Company. The Subscriber, after a review of this information and other information obtained, is aware of the speculative nature of any investment in the Company.

2.3 Financial Information. The Subscriber is not solely relying on any financial information, including without limitation financial projections or oral representations in making the decision to purchase the Units.

2.4 Own Account. The Subscriber is acquiring the Units for the Subscriber's own account, not on behalf of other persons, and for investment purposes only and not with a view to resale or distribution, transfer, assignment, resale or subdivision of Units. The Subscriber understands that, due to the restrictions referred to in Section 5 below, and the lack of any market existing or to exist for Units, the Subscriber's investment in the Company will be highly illiquid and will have to be held indefinitely.

2.5 Economic Risk. The Subscriber can bear the economic risk of the investment in the Company without impairing the Subscriber's ability to provide for itself, himself or herself and/or his or her family (as applicable) in the same manner that the Subscriber would have been able to provide prior to making an investment in the Company. The Subscriber acknowledges and agrees that he, she or it may continue to bear the economic risk of the investment in the Company for an indefinite period of time, and will not hold the Company or the Manager liable for any losses incurred.

2.6 Subscriber's Commitments. The Subscriber's overall commitment to investments which are not readily marketable is not disproportionate to the Subscriber's net worth, the Subscriber's investment in the Units will not cause such overall commitment to become excessive, and the investment is suitable for the Subscriber when viewed in light of the Subscriber's other securities holdings and the Subscriber's financial situation and needs.

2.7 Adequate Means. The Subscriber has adequate means of providing for the Subscriber's current needs and personal contingencies.

2.8 Newly Formed; Risk Factors. The Subscriber acknowledges and accepts that the Company is newly formed and that any investment in the Company involves substantial risk, and the Subscriber has evaluated and fully understands all risks in the Subscriber's decision to purchase Units hereunder, including, but not limited to, the Risk Factors, as outlined in Exhibit B attached hereto.

2.9 No Review. The Subscriber acknowledges and accepts that the offer and sale of the Units have not been submitted to, reviewed by, nor have the merits of this investment been endorsed or approved by any state or federal agency, commission, authority or self-regulatory organization.

2.10 Company's Businesses. The Subscriber understands the businesses in which the Company is engaged or proposes to be engaged in and the risks associated therewith.

2.11 Individual Subscriber. If the Subscriber is an individual, the Subscriber is at least eighteen (18) years of age and a bona fide resident and domiciliary (not a temporary or transient resident) of the state or country indicated on the signature page hereof and the Subscriber has no present intention of becoming a resident of any other state or jurisdiction.

2.12 Non-Individual Subscriber. If the Subscriber is not an individual, the Subscriber is domiciled in the state or country indicated on the signature page hereof, has no present intention of becoming domiciled in any other state or jurisdiction and is an "Accredited Investor" or an "Institutional Investor" as defined under the "Blue Sky" or securities laws or regulations of the state in which it is domiciled, as applicable.

2.13 Local Standards. The Subscriber otherwise meets any special suitability standards applicable in the Subscriber's state or country of residence or domicile.

2.14 Accredited Investor. The Subscriber is an "accredited investor" as that term is defined and used under Regulation D, Rule 501(a) and which definition is set forth on Exhibit C attached hereto and represents that the information provided in the Accredited Investor Questionnaire, attached as Exhibit E hereto, and any exhibits attached thereto, are true, complete, and correct to the best of the Subscriber's knowledge and belief.

2.15 Bad Actor Disqualifying Event. The Subscriber represents and warrants that as of the date hereof, the Subscriber is not and has not been the subject of any Bad Actor Disqualifying Event that would require disclosure in the Company's offering documents, and represents that the information provided in the Bad Actor Questionnaire, attached hereto as Exhibit F hereto, and any exhibits attached thereto are true and correct, and hereby agrees to promptly notify the Company if the undersigned becomes aware of a Bad Actor Disqualifying Event after the date of this Agreement and through the termination date of the Offering.

2.16 True and Correct. All of the written information pertaining to the Subscriber which the Subscriber has heretofore furnished to the Company, and all information pertaining to the Subscriber which is set forth in this Agreement, including all representations and warranties made by the Subscriber, is correct and complete as of the date hereof and, if there should be any material change in such information hereafter, the Subscriber shall promptly furnish such revised or corrected information to the Company. The Subscriber otherwise meets any special suitability standards applicable to the Subscriber's state of residence.

2.17 No Inconsistent Oral Statements or Written Materials. The Subscriber has not been furnished with any oral representation or oral information or written materials in connection with the Offering that is in any way contrary to or inconsistent with, statements made in this Agreement and the attachments hereto.

3. Representations, Warranties and Agreements of the Subscriber.

The Subscriber hereby represents, warrants and agrees as follows:

3.1 Organization and Standing of the Subscriber. If the Subscriber is an entity, such Subscriber is a corporation, partnership or other entity duly incorporated or organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and has the requisite corporate power to own its assets and to carry on its business.

3.2 Authority; Enforceability. The Subscriber has the requisite power and authority to enter into and perform this Agreement and to purchase the Units being sold to it hereunder. The execution, delivery and performance of this Agreement by the Subscriber and the consummation by it of the transaction contemplated hereby has been duly authorized by all necessary corporate or partnership action, and no further consent or authorization of the Subscriber or its board of directors, stockholders, partners, members, as the case may be, is required. This Agreement and other agreements delivered together with this Agreement or in connection herewith have been duly authorized, executed and delivered by the Subscriber and constitutes, or shall constitute when executed and delivered, valid and binding agreements enforceable in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights generally and to general principles of equity; and the Subscriber has full corporate power and authority necessary to enter into this Agreement and such other agreements and to perform its obligations hereunder and under all other agreements entered into by the Subscriber relating hereto.

3.3 No Conflicts. The execution, delivery and performance of this Agreement and the consummation by the Subscriber of the transactions contemplated hereby or relating hereto do not and will not (i) result in a violation of the Subscriber's charter documents or bylaws or other organizational documents or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of any agreement, indenture or instrument or obligation to which the Subscriber is a party or by which its properties or assets are bound, or result in a violation of any law, rule, or regulation, or any order, judgment or decree of any court or governmental agency applicable to the Subscriber or its properties (except for such conflicts, defaults and violations as would not, individually or in the aggregate, have a material adverse effect on the Subscriber). The Subscriber is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement or to purchase the Units in accordance with the terms hereof, provided that for purposes of the representation made in this sentence, the Subscriber is assuming and relying upon the accuracy of the relevant representations and agreements of the Company herein.

3.4 No Governmental Review. The Subscriber acknowledges and accepts that no United States federal or state agency or any other governmental or state agency has passed on or made recommendations or endorsement of the Units or the suitability of the investment in the Securities nor have such authorities passed upon or endorsed the merits of the offering of the Securities.

3.5 Securities Registration. The Subscriber acknowledges and accepts that the Units have not been registered under the Securities Act or related laws and regulations or any other applicable securities laws of any other jurisdiction (collectively, the "**Securities Laws**"). The

Subscriber understands that it, he or she has no rights whatsoever to request, and that the Company is under no obligation whatsoever to furnish, a registration of the Units under the Securities Laws.

3.6 Confidentiality. The Subscriber hereby acknowledges and agrees that all of the information appearing herein and otherwise provided to the Subscriber in connection with the purchase of the Units made hereby is confidential and that the Subscriber and the Subscriber's representatives and agents shall treat the same as confidential and may not disclose such information to any person that is not a party to the transactions contemplated hereby.

3.7 Investment Company Act. The Subscriber understands that the Company has not been registered as an investment company under the Investment Company Act in reliance upon an exemption from registration provided by the Investment Company Act. The Subscriber hereby further represents and warrants that it is not a participant-directed defined contribution plan.

3.8 Foreign Investor. If the Subscriber is not a United States person (as defined by Section 7701(a)(30) of the Internal Revenue Code of 1986), the Subscriber hereby represents that it has satisfied itself as to the full observance of the laws of its jurisdiction in connection with any invitation to subscribe for the Units or any use of this Agreement, including (i) the legal requirements within its jurisdiction for the purchase of the Units, (ii) any foreign exchange restrictions applicable to such purchase, (iii) any governmental or other consents that may need to be obtained, and (iv) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale, or transfer of the Units. The Subscriber's subscription and payment for and continued beneficial ownership of the Units will not violate any applicable securities or other laws of the Subscriber's jurisdiction.

3.9 Reliance. The Subscriber acknowledges that it is not relying upon any person, other than with respect to the Company's representations and warranties expressly set forth in this Agreement, in making its investment or decision to invest in the Company.

3.10 Residence. If the Subscriber is an individual, then the Subscriber resides in the state or province identified in the address of the Subscriber set forth on the Subscriber's signature page attached hereto; if the Subscriber is a partnership, corporation, limited liability company or other entity, then the office or offices of the Subscriber in which it has its principal place of business is identified in the address or addresses of the Subscriber set forth on the Subscriber's signature page attached hereto.

3.11 Additional Information. The Subscriber understands that he, she or it may, at the Company's discretion, and in compliance with the Jumpstart Our Business Startups Act (the "JOBS Act") legislation enacted by the President of the United States on April 5, 2012, or in connection with the Corporate Transparency Act, effective January 1, 2024, be required to provide current financial and other information to the Company to enable it to determine whether he, she or it is qualified to purchase the Units.

4. Representations, Warranties and Agreements of the Company.

The Company hereby represents, warrants, and agrees as follows as of the date of its execution of the Agreement:

4.1 Organization and Standing. The Company was organized under the laws of the State of Delaware on January 24, 2025. The Company has the requisite limited liability company power to own its properties and to carry on its business as now being conducted and as presently proposed to be conducted.

4.2 Authorization and Power. The Company has the requisite limited liability company power and authority to execute and perform this Agreement. This Agreement has been duly executed and delivered by the Company and constitutes its valid and binding obligation, enforceable against it in accordance with its terms, except to the extent that its enforceability may be limited by applicable bankruptcy, insolvency, reorganization or other laws affecting the enforcement of creditors' rights generally or by general equitable principles.

5. Transfer Restrictions.

5.1 General. The Subscriber represents that he/she/it understands that the sale or transfer of the Units is restricted and that:

(a) No Registration. The Units have not been registered under the Securities Act or the laws of any other jurisdiction by reason of a specific exemption or exemptions from registration under the Securities Act and applicable state securities laws, and that the Company's reliance on such exemptions is predicated on the accuracy and completeness of the Subscriber's representations, warranties, acknowledgments and agreements herein. The Units cannot be sold or transferred by the Subscriber unless subsequently registered under applicable law or an exemption from registration is available. The Company is not required to register the Units or to make any exemption from registration available.

(b) Opinion. The right to sell or transfer any of the Units will be restricted as described in this Agreement which include restrictions against sale or transfer in violation of applicable securities laws, the requirement that an opinion of counsel be furnished that any proposed sale or transfer will not violate such laws and other restrictions and requirements.

(c) No Public Market. There is currently no public market for the Units and the Company does not guarantee that such a market will develop in the future. The Subscriber acknowledges that the ability to sell the Units may be limited. Accordingly, the Subscriber must bear the economic risk of the Subscriber's investment in the Units for an indefinite period of time.

5.2 Legend. The Subscriber acknowledges that any certificates representing the Units, if issued by the Company, will bear a legend substantially in the form of the following:

"THESE UNITS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS AND SUCH

SECURITIES NOR ANY INTEREST THEREIN MAY BE OFFERED, SOLD, TRANSFERRED, PLEDGED OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT OR SUCH LAWS OR AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT AND SUCH LAWS WHICH, IN THE OPINION OF COUNSEL FOR THE LENDER, WHICH COUNSEL AND OPINION ARE REASONABLY SATISFACTORY TO COUNSEL FOR THE BORROWER, IS AVAILABLE, AND SUBJECT TO THE OPERATING AGREEMENT OF THE COMPANY. "

5.3 Sale Requirements. The Subscriber agrees that he/she/it will not offer to sell, sell or transfer the Units or any part thereof or interest therein without registration under the Securities Act and applicable state securities laws or without providing to the Company an opinion of counsel acceptable to the Company that such offer, sale or transfer is exempt from registration under the Securities Act and under applicable state securities laws or otherwise in violation of this Agreement, the Operating Agreement or any of the Company's other governing documents.

6. Representations and Warranties Regarding Verification of Subscription Funds.

Before making the following representations and warranties, the Subscriber should check the Office of Foreign Assets Control ("OFAC") website at <http://www.treas.gov/ofac> with respect to federal regulations and executive orders administered by OFAC which prohibit, among other things, the engagement in transactions with, and the provision of services to, certain foreign countries, territories, entities and individuals which are listed on the OFAC website. In addition, the programs administered by OFAC (the "OFAC Programs") prohibit dealing with individuals[1] or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists. Please be advised that the Company may not accept any amounts from a prospective investor if such prospective investor cannot make the representation set forth below. The Subscriber agrees to promptly notify the Company should the Subscriber become aware of any change in the information set forth in these representations.

The Subscriber represents and warrants that:

6.1 OFAC List Countries. The amounts invested by the Subscriber in the Company in the Offering were not and are not directly or indirectly derived from activities that contravene federal, state or international laws and regulations, including anti-money laundering laws and regulations. Federal regulations and Executive Orders administered by OFAC prohibit, among other things, the engagement in transactions with, and the provision of services to, certain foreign countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <http://www.treas.gov/ofac>. In

[1] These individuals include specially designated nationals, specially designated narcotics traffickers and other parties subject to OFAC sanctions and embargo programs.

addition, the OFAC Programs prohibit dealing with individuals[2] or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists;

6.2 OFAC List Entity. To the best of the Subscriber's knowledge, none of: (1) the Subscriber; (2) any person controlling or controlled by the Subscriber; (3) if the Subscriber is a privately-held entity, any person having a beneficial interest in the Subscriber; or (4) any person for whom the Subscriber is acting as agent or nominee in connection with this investment is a country, territory, individual or entity named on an OFAC list, or a person or entity prohibited under the OFAC Programs;

6.3 Account Freeze. The Subscriber understands and acknowledges that, by law, the Company may be obligated to "freeze the account" of the Subscriber, either by prohibiting additional subscriptions from the Subscriber, declining any redemption requests and/or segregating the assets in the account in compliance with governmental regulations;

6.4 Suspension of Redemption Right. The Subscriber acknowledges that the Company may, by written notice to the Subscriber, suspend the redemption rights, if any, of the Subscriber if the Company reasonably deems it necessary to do so to comply with anti-money laundering regulations applicable to the Company or any of the Company's service providers. These individuals include specially designated nationals, specially designated narcotics traffickers and other parties subject to OFAC sanctions and embargo programs;

6.5 Senior Foreign Political Figure. To the best of the Subscriber's knowledge, none of: (1) the Subscriber; (2) any person controlling or controlled by the Subscriber; (3) if the Subscriber is a privately-held entity, any person having a beneficial interest in the Subscriber; or (4) any person for whom the Subscriber is acting as agent or nominee in connection with this investment is a senior foreign political figure[3], or any immediate family member[4] or close associate[5] of a senior foreign political figure, as such terms are defined in their respective footnotes;

6.6 Foreign Banks. If the Subscriber is affiliated with a non-U.S. banking institution (a "**Foreign Bank**"), or if the Subscriber receives deposits from, makes payments on behalf of, or handles other financial transactions related to a Foreign Bank, that: (1) the Foreign Bank has a fixed address, other than solely an electronic address, in a country in which the Foreign Bank is

[2] These individuals include specially designated nationals, specially designated narcotics traffickers and other parties subject to OFAC sanctions and embargo programs.

[3] A "senior foreign political figure" is defined as a senior official in the executive, legislative, administrative, military or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned corporation. In addition, a "senior foreign political figure" includes any corporation, business or other entity that has been formed by, or for the benefit of, a senior foreign political figure.

[4] An "Immediate family" of a senior foreign political figure typically includes the figure's parents, siblings, spouse, children and in-laws.

[5] A "close associate" of a senior foreign political figure is a person who is widely and publicly known to maintain an unusually close relationship with the senior foreign political figure, and includes a person who is in a position to conduct substantial domestic and international financial transactions on behalf of the senior foreign political figure.

authorized to conduct banking activities; (2) the Foreign Bank maintains operating records related to its banking activities; (3) the Foreign Bank is subject to inspection by the banking authority that licensed the Foreign Bank to conduct banking activities; and (4) the Foreign Bank does not provide banking services to any other Foreign Bank that does not have a physical presence in any country and that is not a regulated affiliate; and

6.7 Notification of Changes. The Subscriber understands, acknowledges and agrees that if the Subscriber becomes aware of any change in the information set forth in these representations that the Subscriber shall immediately notify the Company of such changes in writing.

7. Subscription Irrevocable by Subscriber but Subject to Rejection by the Company.

7.1 Irrevocable by Subscriber. This Agreement is not, and shall not be, revocable by the Subscriber upon its acceptance by the Company at the Closing.

7.2 Company Termination or Withdrawal. The Company, in its sole discretion, has the right to terminate or withdraw the Offering at any time, to accept or reject subscriptions in other than the order in which they were received, to reject any subscription in whole or in part, to allot to the Subscriber less than the value Units subscribed for, and to return without interest the amount paid by the Subscriber.

7.3 Not Binding. The Subscriber understands and agrees that this Agreement is not binding upon the Company until the Company accepts it, which acceptance is at the sole discretion of the Company and is to be evidenced by the Company's completion, execution and delivery of this Agreement, fully executed, to the relevant Subscriber.

7.4 Company Rejection. In the event of rejection of this subscription in whole (but not in part), or if the sale of the Units subscribed for by the Subscriber is not consummated by the Company for any reason (in which event this Agreement shall be deemed to be rejected), this Agreement and any other agreement entered into between the Subscriber and the Company relating to this subscription shall thereafter have no force or effect and the Company shall promptly cause to be returned to the Subscriber the Purchase Price remitted by the Subscriber, without interest thereon or deduction therefrom. If this subscription is accepted in part, the Company shall promptly cause to be returned to the Subscriber that portion of the Purchase Price remitted by the Subscriber which represents payment for the Units for which this subscription was not accepted, without interest thereon or deduction therefrom.

8. Indemnification.

The Subscriber hereby indemnifies and holds harmless the Company, its members, managers, officers, directors, agents, employees, advisors, affiliates and successors from and against all liability, damage, claims, losses, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs, and any other expenses incurred) which it may incur by reason of the failure of the Subscriber to fulfill any of the terms and conditions of this Agreement,

or by reason of any breach of the representations and warranties made by the Subscriber herein or in any document provided by the Subscriber to the Company or any of its affiliates.

9. Miscellaneous.

9.1 Notices. All notices, demands, requests, consents, approvals and other communications that may or are required to be given by either party to the other party hereunder shall be deemed to be sufficient if in writing and (i) delivered in person, (ii) delivered and received by e-mail, if a confirmatory mailing in accordance herewith is also made, (iii) duly sent by registered mail return receipt requested and postage prepaid, or (iv) duly sent by overnight delivery service, in each case as addressed to such party at the address set forth below:

If to the Company, to:

Skygate Growth Strategies I LLC
120 NE 27th Street
Suite 200
Miami, FL 33136
Attn: General Counsel

With a copy to:

Sandy Fliderman
Industry FinTech Inc
20900 NE 30th Ave
Suite 510
Aventura, FL 33180

If to the Subscriber:

To the address listed on the signature page attached hereto.

All notices, demands, requests, consents, approvals and other communications shall be deemed to have been received (i) at the same time it was personally delivered, (ii) on the receipt of delivery by e-mail if accompanied by a confirmatory mailing, (iii) five (5) days after mailing via registered mail return receipt requested whether signed for or not, to the foregoing persons at the addresses set forth above or (iv) the next day when sent by overnight delivery service. The above shall constitute service despite rejection or other refusal to accept or inability to deliver because of changed address for which no notice has been received.

9.2 **Construction; Governing Law; Arbitration.** THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, EXCLUDING ANY CONFLICT OF LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. Any dispute, controversy or claim relating to this Agreement, the Company, the Operating Agreement, including, but not limited to, the parties' compliance or noncompliance with or

the breach of any of the foregoing agreements, shall be settled by arbitration which shall be administered by the American Arbitration Association under its Commercial Arbitration Rules, but not the Procedures for Large, Complex Commercial Disputes. The arbitration shall proceed before a panel of three neutral arbitrators, each of whom shall be a member of the bar of the State of New York or the State of Delaware with at least ten years' experience, a portion of which shall have involved limited liability agreements involving real estate projects, but the arbitrators shall have no right to award damages or vary, modify or waive any provision of this Agreement. The locale of the arbitration shall be in Wilmington, Delaware. Notwithstanding any inconsistent provision contained elsewhere in this Agreement, the substantive questions to be determined by the arbitrators shall be governed by Delaware law. Furthermore, the parties agree that in the event of a dispute, controversy or claim, the parties' sole remedy shall be a final adjudication determining the matter in accordance with arbitration as provided for in this section and the parties expressly waive their right to seek provisional or preliminary injunctive relief respecting such dispute, controversy or claim. In construing this Agreement, the singular shall be held to include the plural, the plural shall include the singular, the use of any gender shall include every other and all genders, and captions and paragraph headings shall be disregarded.

9.3 Severability. The invalidity of any one or more of the words, phrases, sentences, clauses, sections or subsections contained in this Agreement shall not affect the enforceability of the remaining portions of this Agreement or any part hereof, all of which are inserted conditionally on their being valid in law, and, in the event that any one or more of the words, phrases, sentences, clauses, sections or subsections contained in this Agreement shall be declared invalid, this Agreement shall be construed as if such invalid word or words, phrase or phrases, sentence or sentences, clause or clauses, section or sections, or subsection or subsections had not been inserted.

9.4 Section Headings. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of any provisions of this Agreement.

9.5 Counterparts. This Agreement may be executed in any number of counterparts (including by e-mail transmission) and by the several parties hereto in separate counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

9.6 Entire Agreement. This Agreement and the Operating Agreement constitute the entire agreement between the parties hereto with respect to the transactions contemplated hereby and supersede all prior agreements, understandings, negotiations and discussions, both written and oral, between the parties hereto with respect to the subject matter hereof. This Agreement may not be amended or modified in any way except by a written instrument executed by the Subscriber and the Company.

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The undersigned Subscriber hereby agrees to purchase _____ Units, at an aggregate Purchase Price of US$_____ and is tendering such amount pursuant to the provisions of Section 1.3 hereof. By signing this Subscription Agreement, the Subscriber acknowledges and agrees to provide necessary documentation to verify accredited investor status and understands that the Company has the right to deny participation if such documentation is not provided or is found to be insufficient.

Date: _____

_____

Signature of Subscriber

_____

Print Name of Subscriber

Residence/Domicile: _____

Social Security/Taxpayer
Identification Number(s): _____

The Company hereby accepts the foregoing subscription for _____ Units as of _____.

SKYGATE MANAGER LLC

By: _____
Name: Michael Stern
Title: Manager

EXHIBIT A
TERM SHEET

SUMMARY OF PRINCIPAL TERMS
FOR
PRIVATE PLACEMENT
OF UP TO
$50,000,000 OF UNITS

Skygate Growth Strategies I LLC, a Delaware limited liability company

*The terms and conditions set forth herein are subject to change and this non-binding term sheet (the "***Term Sheet***") does not constitute an offer to purchase securities. The terms and conditions set forth herein are indicative only and subject to change based on market conditions. Moreover, the terms and conditions set forth are subject to customary legal review and due diligence review. Neither this Term Sheet nor any discussion or negotiation of the proposed transaction constitutes an agreement or obligation on the part of any person to purchase or sell securities of Skygate Growth Strategies I LLC or enter into any agreement to purchase securities of the company.*

ISSUER:	Skygate Growth Strategies I LLC, a Delaware limited liability company (the "**Company**").
THE OFFERING/TYPE OF SECURITY:	The Company intends to offer up to 50,000,000 of its non-voting membership interests evidenced by Units (the "**Units**") at One Dollar ($1.00) per Unit ("**Per Unit Purchase Price**"), in an offering of an aggregate amount of up to $50,000,000 (the "**Offering**") to investors (each, an "**Investor**" and together, the "**Investors**"), pursuant to the terms and conditions of a subscription agreement to be entered into by each Investor and the Company (each, a "**Subscription Agreement**" and collectively, the "**Subscription Agreements**"), and all subject to the operating agreement of the Company (the "**Operating Agreement**"). Notwithstanding the foregoing, the Company reserves the right to raise more than $50,000,000 and offer more than 50,000,000 Units in the Offering in its sole discretion without notice to the Investors. The Offering will be conducted as a private placement exempt from registration under federal and state securities laws and regulations. The Company may accept funds in this Offering in one or more Closings (defined below) until the Offering is fully subscribed.
PURCHASE PRICE; MINIMUM/MAXIMUM INVESTMENT AMOUNTS:	The purchase price of the Units shall be One Dollar and 00/100 ($1.00) per Unit. The minimum individual investment amount in the Offering is $25,000 for 25,000 Units.
CLOSINGS:	Each closing of a purchase and sale of the Units shall be consummated on such date(s) as the Company accepts an Investor's offer to purchase the Units as evidenced by the Company's counter-execution of the signature page to the Subscription Agreement for each such Investor and the return of a fully executed Subscription Agreement to the relevant Investor (each, a "**Closing**" and collectively, the "**Closings**"). Upon the Closing, the Investor shall become a member of the Company (a "**Member**").

CONDITIONS PRECEDENT TO CLOSE:	On or prior to the date of each Closing, the following shall have occurred: (i) the Investor shall have delivered to the Company the Purchase Price by a bank cashier's check or by wire transfer of immediately available U.S. funds; (ii) the Investor shall have delivered to the Company a dated and executed signature page to the Subscription Agreement, with all blanks properly completed; (iii) the Investor shall have delivered to the Company a dated completed and signed Accredited Investor Questionnaire, with all blanks properly completed; (iv) the Investor shall have delivered to the Company a dated and executed joinder signature page to the Operating Agreement, and (v) the Investor shall have thoroughly reviewed the Subscription Agreement and the Risk Factors, the Term Sheet, and the Operating Agreement, each as attached to the Subscription Agreement.
USE OF PROCEEDS:	The Company will use the proceeds of the Offering for general corporate and working capital purposes and investments in real estate development, ownership, equity interest and/or financing opportunities in major and gateway U.S. cities as determined in the sole discretion of Manager and on such terms and conditions as determined in the sole discretion of the Manager, some of which may be developed, constructed and/ or owned in whole or in part by affiliates of Manager. The nature of the investment assets may be comprised of (i) residential properties (e.g., multifamily apartment buildings, and condominium developments), (ii) commercial properties (e.g., mixed-use development, including commercial office/retail, hotels, hospitality and lodging), (iii) land and development (e.g., raw land acquisition for future development, land entitlements and rezoning opportunities, ground-up development projects (residential, commercial, mixed-use)), (iv) foreclosed or distressed properties (e.g., non-performing and sub-performing loans (mortgage notes)), (v) real estate debt and financial instruments (e.g., mortgage notes and bridge loans, mezzanine financing structures, preferred equity investments in real estate projects, joint ventures and partnership interests), and (iv) other real estate assets.

DISTRIBUTIONS: The Company anticipates, but does not guarantee, to make certain distributions of operating cash flow or upon capital events to its Members, in the sole discretion of the Manager. Any distributions made to the Members will be done on a pro rata basis in accordance with their respective percentage interest in the Company in the following order of priority:

- First, to the Members until the Company has achieved an eight percent (8%) cumulative compounded annual internal rate of return ("**IRR**").

- Thereafter, subsequent to the Company achieving the 8% IRR (a) thirty percent (30%) to Manager (the "**Promote**") and (b) seventy percent (70%) to the Members.

Further, the Manager may, but is not obligated to, establish a reserve using a portion of the Offering's capital contributions to support liquidity management and potential distributions up to an eight percent (8%) annual return during the first 24 months following the Closing. Any such reserves shall not be deemed guaranteed distributions. Any amounts drawn from reserves to fund distributions shall be credited against any future distributions under the above waterfall, ensuring that the distributions remain aligned with realized returns from the Company's investments.

"IRR" shall be calculated using the "XIRR function" in Excel.

Treatment of the Promote as a Profits Interest. The Promote shall be treated as a profits interest in the Company for tax purposes, and the Manager shall receive allocations of taxable income and loss in accordance with its profit-sharing rights. The Manager acknowledges that its profits interest is subject to the three-year holding period requirement under Section 1061 of the Internal Revenue Code for long-term capital gains treatment. To the extent the Company generates taxable income, the Manager may, at its discretion, distribute cash to Members and the Manager in an amount sufficient to cover estimated federal and state tax liabilities associated with allocated income.

REINVESTMENT: The Manager may determine in its sole discretion to use all or any portion of the operating cash flow, assets sales, refinancing or from a capital events to retain and reinvest proceeds into the Company, reserve capital for working capital purposes, pay indebtedness, make capital improvements to any assets of the Company, pay taxes or fees and such other matters as the Manager shall determine in its sole discretion.

FINANCIAL REPORT: The Company will provide an unaudited financial report within 120 days after the end of each fiscal year to the Members.

REDEMPTION OPTION: The Company may redeem the Units, in its sole discretion, in whole or in part, at any time, by paying to a Member the Per Unit Purchase Price, plus an 8% annual return on the original investment amount accrued from the date of the Member's investment through the date of redemption, *less* any prior distributions received by the Member, such that the Member has received a cumulative 8% annual return on the redemption date.

In the event the Company elects to exercise its redemption rights hereunder, the redemption shall be initiated by providing written notice to the affected Member specifying the number of Units to be redeemed and the applicable redemption price. Thereafter, the Company and the Member shall complete the redemption transaction within 90 days from the date of written notice. At closing, the Company shall pay the Member the applicable redemption price in cash. Upon receipt of the redemption payment, the Member's Units shall be deemed fully redeemed, and the Member shall cease to have any rights or interests in the Company, except for any obligations that may survive redemption under the Operating Agreement.

VOTING RIGHTS: The Units have no voting rights and cannot impact the Company's business decisions, regardless of the Investor's percentage ownership in the Company. The Company is manager-managed by Skygate Manager LLC (the "**Manager**"), and its Members will have no managerial rights or decision-making rights in the Company. All operational, investment and other decisions shall be made by the Manager.

BROKER-DEALER, PLACEMENT AGENT, AND ONLINE PLATFORM FEES: The Company may engage broker-dealers, placement agents, or online investment platforms to assist in raising capital and managing the investor subscription process. These third-party service providers may facilitate investor onboarding, marketing, regulatory compliance, and transaction processing. In connection with these services, the Company may pay customary and industry-standard fees, commissions, and expenses, which may include (a) success-based commissions or placement fees payable to registered broker-dealers or placement agents; (b) subscription processing and administrative fees charged by online investment platforms; (c) marketing, due diligence, and promotional expenses incurred as part of the capital-raising process; and (d) any other reasonable and customary expenses associated with investor sourcing, onboarding, and regulatory compliance.

The Company retains the sole discretion to determine which third-party services to utilize and the method and timing of such payments. The Company shall comply with all applicable securities laws and regulations regarding broker-dealer and placement agent compensation.

AFFILIATE FEES:	Affiliates of the Company, including the Manager, its member, or entities under common ownership or control with the Company, may be engaged to provide various services related to the Company's operations and real estate development activities described herein. In connection with such services, these parties may be entitled to receive customary and market-based compensation, which may include, but is not limited to, construction management fees for overseeing development projects, development fees for entitlement and project execution, asset management fees for strategic oversight and operational management, property management fees for leasing and tenant relations, and brokerage fees for facilitating acquisitions, dispositions, and leasing transactions. Any compensation paid to affiliates shall be at fair market rates and shall be disclosed to Members in the Company's financial reports. The Manager retains discretion in determining the engagement of affiliates for such services, provided that any compensation arrangements align with industry standards and the Company's business objectives.
TRANSFER RIGHTS:	Except as set forth in the Operating Agreement of the Company, no Member may transfer its Units or any rights or interests therein without the prior consent of the Manager, which consent may be withheld in the Manager's sole discretion.
INVESTOR QUALIFICATIONS:	The Units in the Company will be sold, in reliance upon the exemption from registration provided by Section 4(a)(2) of the Securities Act of 1933, as amended (the "**Securities Act**"), solely to persons who are "accredited investors" within the meaning of Regulation D of the Securities Act. Prospective investors will be required to make certain representations and provide certain documentation to assure compliance by the Company with applicable anti-money laundering laws. The Manager may accept or reject any subscription in its sole discretion. Please refer to the Subscription Agreement for the detailed representations and warranties required from each Member. The Offering of the Company's Units will not be registered under the Securities Act or the securities laws of any state or any other jurisdiction, but rather will be offered in accordance with Regulation D promulgated under the Securities Act. In addition, the Company will not be registered as an investment company under the Investment Company Act. The Company intends to structure its investments to avoid the need for the Manager or its affiliates to register as an investment adviser under the Investment Advisers Act of 1940, as amended. Investment in the Company is not suitable for prospective investors who are not sophisticated investors, who have a need for liquidity in or consistently recurring income from their investments, or who are not able to bear the loss of their entire investment.
NON-BINDING TERM SHEET; CONFIDENTIALITY:	This Term Sheet merely constitutes a statement of the intentions with respect to the transactions described herein and is not a legally binding document and the terms of the proposed transaction and information produced by the Company (whether written or verbal) shall remain confidential.
EXPENSES:	The Company and the Investors will each bear their own legal and other expenses with respect to the Offering.

RESTRICTIONS ON TRANSFER:

The Units will be restricted as to transferability under state and federal laws regulating securities. The issuance of the Units will not be registered under the Securities Act, or any other similar state statutes, in reliance upon exemptions from the registration requirements contained therein. Accordingly, the Units will be "restricted securities" as defined in Rule 144 of the Securities Act. As "restricted securities," an Investor must hold them indefinitely and may not sell, assign, pledge, transfer, or otherwise dispose them without registration under the Securities Act and any applicable state securities laws unless exemptions form registrations are available. Moreover, in the event an Investor desires to sell or otherwise dispose of any of the Units, the Investor will be required to furnish the Company with an opinion of counsel acceptable to us that the transfer would not violate the registration requirements of the Securities Act or applicable state securities laws. Any certificate or other document evidencing the Units will be imprinted with a conspicuous legend stating. that the Units have not been registered under the Securities Act and state securities laws, and referring to the restrictions on transferability and sale of the Units. In addition, the Company's records concerning the Units will include "stop transfer notations" with respect to such Units

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EXHIBIT B
OPERATING AGREEMENT

SKYGATE GROWTH STRATEGIES I LLC

A DELAWARE LIMITED LIABILITY COMPANY

OPERATING AGREEMENT

EFFECTIVE AS OF FEBRUARY 13, 2025

THE LIMITED LIABILITY COMPANY INTERESTS (AND THE UNITS INTO WHICH THEY ARE DIVIDED) ISSUED IN ACCORDANCE WITH AND DESCRIBED IN THIS OPERATING AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH INTERESTS MAY NOT BE OFFERED, SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR AN EXEMPTION THEREFROM, AND COMPLIANCE WITH THE OTHER RESTRICTIONS ON TRANSFERABILITY SET FORTH HEREIN. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THEIR INVESTMENT IN THE COMPANY FOR AN INDEFINITE PERIOD OF TIME.

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OPERATING AGREEMENT
OF
SKYGATE GROWTH STRATEGIES I LLC,
A DELAWARE LIMITED LIABILITY COMPANY

This Operating Agreement (this "**Agreement**") is entered into and effective as of February 13, 2025 (the "**Effective Date**"), by and among **Skygate Growth Strategies I LLC**, a Delaware limited liability company (the "**Company**"), Skygate Manager LLC, the Company's manager ("**Manager**"), and all of the Members (as defined below).

WHEREAS, the Company's Certificate of Formation (the "**Certificate**") was filed under the name SKYGATE GROWTH STRATEGIES I LLC with the Secretary of State, Division of Corporations for the State of Delaware in order to form the Company as a Delaware limited liability company pursuant to the provisions of the Act (as defined below); and

WHEREAS, the Company desires to enter into this Agreement to set forth the terms and conditions that will regulate and govern the operation and management of the Company and regulate and govern the respective rights and obligations of the Members with respect to the Company.

NOW, THEREFORE, in consideration of the agreements and obligations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members hereby agree as follows:

ARTICLE I
DEFINITIONS

1.1 **Definitions**. For purposes of this Agreement, the following terms have the meanings set forth below with respect thereto:

"**Act**" means the Delaware Limited Liability Company Act , 6 *Del. C.*, Sections 18-101 *et seq*., as amended from time to time, and any successor to such statute.

"**Affiliate**" shall mean, with respect to any Person, (a) any other Person directly or indirectly controlling, controlled by, or under common control with, such Person, where "control" means the possession, directly or indirectly, of more than 50% of the power to direct the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise, and (b) any officer, director, partner or member thereof.

"**Base Rate**" means, on any date, a variable rate per annum equal to the rate of interest most recently published by *The Wall Street Journal* as the "prime rate" at large U.S. money center banks.

"**Book Value**" means, with respect to any Company property, the Company's adjusted basis for federal income tax purposes, adjusted from time to time to reflect the adjustments required or permitted by Treas. Reg. §1.704-1(b)(2)(iv)(d)-(g).

"**Business Day**" means any day other than a Saturday, a Sunday or a holiday on which national banking associations in the State of Delaware are closed.

"**Capital Contribution**" means the amount of cash or cash equivalents, or the fair market value (as determined by the Manager) of any other property, that is contributed by a Member to the capital of the Company in respect of any Unit.

"**Code**" means the Internal Revenue Code of 1986 and any successor statute, as amended from time to time.

"**Company**" has the meaning set forth in the preamble to this Agreement.

"**Company Business**" means to engage in the business of identifying and funding investments in real estate development, ownership, equity interest and/or financing opportunities in major and gateway U.S. cities as determined in the sole discretion of Manager and on such terms and conditions as determined in the sole discretion of the Manager, some of which may be developed, constructed and/ or owned in whole or in part by affiliates of Manager

"**Company Minimum Gain**" has the meaning set forth for "partnership minimum gain" in Treasury Regulations Section 1.704-2(d).

"**Covered Person**" means any and all of the following: (a) the Manager and any departing or former Managers and the Affiliates of any of them; (b) any Person who is or was a manager, managing partner, general partner, director, officer, employee, agent, or fiduciary of the Manager, or of any of the Affiliates of any of them; (c) any Person who is or was serving as a manager, managing member, general partner, director, officer, employee, agent, fiduciary or trustee of another Person owing a fiduciary duty to the Company or its Affiliates; (d) any director, officer, manager, partner or other principal of the Company; or (e) any other Person designated by the Manager.

"**Distribution**" means any distribution made by the Company to a Member, whether in cash, property or securities of the Company and whether by liquidating distribution or otherwise; *provided that* none of the following shall be a Distribution: (a) any redemption or repurchase by the Company of any securities of the Company (including Units); (b) any recapitalization or exchange of securities of the Company; (c) any subdivision (by Unit split, pro rata Unit distribution or otherwise) or any combination (by reverse Unit split or otherwise) of any outstanding Units; or (d) any fees or remuneration paid to any Member in such Member's capacity as an employee, officer, consultant or other provider of services to the Company; provided, further that the Manager will be entitled to withhold from any Distribution, at its discretion, appropriate reserves for expenses and liabilities of the Company, as well as for any required tax withholdings and that amounts withheld for taxes will be treated as Distributions for purposes of the calculations described in this Memorandum.

"**Effective Date**" shall have the meaning set forth in the preamble hereto

"**Fiscal Year**" of the Company means the calendar year, or such other annual accounting period as established by the Manager.

"**Interest**" means the entire equity interest of a Member in the Company at any particular time, including such Member's Units and the right of such Member to any and all benefits to which a Member may be entitled as provided in this Agreement, together with the obligations of such Member to comply with all the terms and provisions of this Agreement.

"**Liquidation Event**" means (a) the voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Company; (b) the commencement by the Company of a voluntary case under the federal bankruptcy laws or any other applicable federal, state or international bankruptcy, insolvency or similar

law, the consent to the entry of an order for relief in an involuntary case under such law or to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Company or of any substantial part of its property, the making of an assignment by the Company for the benefit of its creditors, the admission in writing by the Company of its inability to pay its debts generally as they become due, the entry of a decree or order for relief in respect of the Company by a court having jurisdiction in the premises in an involuntary case under the federal bankruptcy laws or any other applicable federal, state or international bankruptcy, insolvency or similar law, or the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Company or of any substantial part of its property; (c) the sale, lease, Transfer, conveyance or other disposition, in one transaction or a series of related or unrelated transactions, of all or substantially all of the assets of the Company and its wholly-owned subsidiaries, taken as a whole; (d) a transaction or series of related or unrelated transactions, including by way of merger, consolidation, recapitalization, reorganization or sale or issuance of shares, the result of which is that the Members immediately prior to such transaction are, after giving effect to such transaction, no longer (or their respective Affiliates or Permitted Transferees are no longer), in the aggregate, the "beneficial owners" (as such term is defined in Rule 13d-3 and Rule 13d-5 promulgated under the Securities Exchange Act of 1934, as amended) directly or indirectly, through one or more intermediaries, of more than fifty percent (50.0%) of the voting power of the outstanding voting securities of the Company or any successor thereto resulting from any such transaction(s); or (e) any other transaction or series of related transactions in which substantially all control of the Company or its property is Transferred to a third party.

"**Liquidating Trustee**" means such Person as is selected at the time of dissolution by the Manager, which Person may include a Manager or an Affiliate of any Member, who shall be empowered to give and receive notices, reports and payments in connection with the dissolution, liquidation and/or winding up of the Company and shall hold and exercise such other rights and powers as are necessary or required to permit all parties to deal with the Liquidating Trustee in connection with the dissolution, liquidation, and/or winding up of the Company.

"**Losses**" for any period means all items of Company loss, deduction and expense for such period determined according to Section 5.2.

"**Manager**" has the meaning set forth in Section 7.1.

"**Member Minimum Gain**" has the meaning set forth for "partner nonrecourse debt minimum gain" in Treasury Regulations Section 1.704-2(i).

"**Member Nonrecourse Deductions**" has the meaning set forth for "partner nonrecourse deductions" in Treasury Regulations Section 1.704-2(i).

"**Members**" means the Persons listed as the holders of Units as set forth on the Schedule of Members to include any other Person that both acquires a Unit and is admitted to the Company as a Substitute Member or additional Member in accordance with the terms of this Agreement, but only so long as such Person is shown on the Company's books and records as the owner of one or more Units. The term "**Member**" means any one of the Members. The Members shall constitute the "members" (as that term is defined in the Act) of the Company.

"**Membership Percentage**" means, with respect to each Member as of any particular time, such Member's percentage ownership of the total outstanding Units of the Company set forth on the Schedule of Members.

"**Nonrecourse Deductions**" has the meaning set forth in Treasury Regulations Section 1.704-2(b)(1).

"**Person**" means a natural person, partnership (whether general or limited), limited liability company, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity.

"**Profits**" for any period means all items of Company income and gain for such period determined according to Section 5.2.

"**Schedule of Members**" means the Schedule of Members attached hereto as Exhibit A, setting forth as of a certain date specified thereon, with respect to each Member, the name, address, respective number and class of Units owned by such Member and the amount of Capital Contributions made by such Member with respect thereto, as may be amended, adjusted or updated from time to time, by the Manager without the need for any further action, consent or approval by any of the Members.

"**Securities Act**" means the Securities Act of 1933, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Securities Act shall be deemed to include any corresponding provisions of future law.

"**Substitute Member**" means a Person that is admitted as a Member to the Company pursuant to Section 12.5(a).

"Substitute Manager" shall have the meaning set forth in Section 7.8.

"**Taxable Year**" means the Company's taxable year ending December 31 (or part thereof, in the case of the Company's last taxable year), or such other year as is determined by the Manager in compliance with Section 706 of the Code.

"**Transfer**" means any sale, transfer, assignment, pledge, mortgage, exchange, hypothecation, grant of a security interest or other disposition or encumbrance of an interest (whether with or without consideration, whether voluntarily or involuntarily or by operation of law) or the acts thereof with correlative meanings to the terms "**Transferee**," "**Transferor**," "**Transferred**."

"**Treasury Regulations**" means, unless the context clearly indicates otherwise, the regulations in force as final or temporary that have been issued by the U.S. Department of Treasury pursuant to its authority under the Code, and any successor regulations.

"**Units**" means units in the Company held by a Member representing such Member's Interests in the Company, which shall be paid for in cash or such other form of consideration as the Manager may determine in its reasonable discretion, or other type of units or other interests in the Company as may be issued by the Company; *provided*, that any class, group or series of Units issued shall have the relative rights, powers and duties set forth in this Agreement. A Unit shall entitle the Member to (a) an interest in the Profits, Losses, Distributions, and net proceeds of liquidation of the Company, as set forth herein; (b) any right to vote as set forth herein or as required under the Act; and (c) any right to participate in the management of the Company as set forth herein or as required under the Act. A Unit is personal property and a Member shall have no interest in the specific assets or property of the Company.

1.2 **Further Definitions**. The following terms, as used in this Agreement, have the meanings given to them in the Section or place indicated below:

Term	Section
Agreement	Preamble
Affiliated Parties	Section 11.4
Books and Records	Section 11.1(e)
Certificate	Section 2.1
Capital Account	Section 5.1
Confidential Information	Section 11.4
Final Liquidation Date	Section 13.5
Indemnifying Member	Section 10.3(a)
IRS Notice	Section 3.1(e)
Liquidating Distribution	Section 13.4
Offering	Section 4.1
Permitted Transfer	Section 12.2(a)
Permitted Transferee	Section 12.2(a)
Proceeding	Section 9.3
Purchase Price	Section 4.1
Regulatory Allocations	Section 6.4(d)
Subscription Agreement	Section 4.1
Partnership Representative	Section 10.2

ARTICLE II
ORGANIZATION

2.1 **Formation**. The Company was formed as a Delaware limited liability company by the filing of the Certificate for the Company with the Secretary of State of the State of Delaware under and pursuant to the Act.

2.2 **Name**. The name of the Company is "Skygate Growth Strategies I LLC", and all Company Business shall be conducted in that name or such other names that comply with applicable law as the Manager may select from time to time.

2.3 **Purpose**. The purpose of the Company is to carry on any and all lawful businesses and activities permitted from time to time under the Act and other applicable law. Notwithstanding the foregoing, without the consent of the Manager, the Company shall not engage in any business other than (a) the Company Business; and (b) such other activities as may be necessary, advisable or appropriate to the accomplishment of the Company Business as determined by the Manager. Subject to the terms and conditions of this Agreement, the Company is specifically authorized to enter into, make and perform all contracts and other undertakings, and engage in all other activities and transactions, as the Manager may deem necessary, advisable or convenient for carrying out the purposes of the Company.

2.4 **Powers**. The Company shall possess and may exercise all powers and privileges granted by the Act, all other applicable laws or by this Agreement, together with any powers incidental thereto, insofar as such powers and privileges are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the Company.

2.5 **Term**. The term of the Company commenced on the date the Certificate were filed with the office of the Secretary of State of Delaware and shall continue until dissolution and liquidation thereof as determined under Article XIII.

2.6 **Registered Office; Registered Agent; Principal Office; Other Offices**. The Company shall maintain a registered office in the State of Delaware. The Manager may, from time to time, change

the Company's registered office and/or registered agent. The principal office of the Company shall be at such place as the Manager may designate from time to time, which need not be in the State of Delaware, and the Company shall maintain records there. The Company may have such other offices as the Manager may designate from time to time.

2.7 **Ownership**. Interests in the Company shall be personal property for all purposes. All property and interests in property, real or personal, owned by the Company and/or any of its Affiliates shall be deemed owned by the Company and/or any such Affiliates, and no Member, individually, shall have any ownership of such property or interest except indirectly by owning Units. Each of the Members irrevocably waives, during the term of the Company and during any period of liquidation of the Company following the dissolution of the Company, any right that it may have to maintain any action for partition with respect to any assets of the Company.

2.8 **Partnership Status for Tax Purposes**. It is the intent of the Members that the Company shall always be characterized as a "partnership" for federal and state income tax purposes. Unless otherwise determined by the Partnership Representative, neither the Company nor any Member shall make any election or take any other action inconsistent with such intent without the consent of each Member. This characterization, solely for such tax purposes, does not create or imply a general partnership among the Members for state law or any other purpose.

ARTICLE III
UNITS AND CAPITALIZATION

3.1 **Units**.

(a) General. Each Member's Interest in the Company, including such Member's interest, if any, in the capital, income, gains, losses, deductions and expenses of the Company, shall be represented by Units which may be issued in one (1) or more classes or series of classes, upon such terms and at such prices, as approved by the Manager. The Units shall not be certificated unless otherwise determined by the Manager in its sole discretion.

(b) Units. As of the Effective Date, the Company shall have one (1) authorized class of Units.

(c) Schedule of Members. The Manager shall update the attached Schedule of Members from time to time to reflect any changes thereto resulting from any subscriptions, issuances, transfers, or admissions effected in accordance with this Agreement.

(d) Maximum Units. Initially, the Company shall offer for sale up to at least 50,000,000 Units at a purchase price of One Dollar ($1.00) per Unit (the "Purchase Price") for an aggregate potential Capital Contributions of Fifty Million Dollars ($50,000,000.00) (the "Offering"), provided that the Company reserves the right to raise more than $50,000,000.00 and offer more than 50,000,000 Units in the Offering in its sole discretion without notice to the Investors.

(e) Election for Profits Interests. By executing this Agreement, each Member authorizes and directs the Company to elect to have the "Safe Harbor" described in the proposed Revenue Procedure set forth in Internal Revenue Service Notice 2005-43 (the "**IRS Notice**") apply to any interest in the Company transferred to a service provider by the Company on or after the effective date of such Revenue Procedure in connection with services provided to the Company. For purposes of making such Safe Harbor election, the Partnership Representative is hereby designated as the "partner who has responsibility for U.S. federal income tax reporting" by the Company and, accordingly, execution of such

Safe Harbor election by the Partnership Representative constitutes execution of a "Safe Harbor Election" in accordance with Section 3.03(1) of the IRS Notice. The Company and each Member hereby agree to comply with all requirements of the Safe Harbor described in the IRS Notice, including, without limitation, the requirement that each Member shall prepare and file any U.S. federal income tax returns such Member is required to file reporting the income tax effects of each "Safe Harbor Partnership Interest" issued by the Company in a manner consistent with the requirements of the IRS Notice. A Member's obligations to comply with the requirements of this Section shall survive such Member's ceasing to be a Member of the Company and/or the termination, dissolution, liquidation and winding up of the Company, and, for purposes of this Section, the Company shall be treated as continuing in existence. Each Member authorizes the Partnership Representative to amend this Section to the extent necessary to achieve similar tax treatment with respect to any interest in the Company transferred to a service provider by the Company in connection with services provided to the Company as set forth in Section 4 of the IRS Notice (e.g., to reflect changes from the rules set forth in the IRS Notice in subsequent U.S. Department of Treasury or Internal Revenue Service guidance).

3.2 **Capital Contributions**. Each Member has made, or concurrently with the execution of this Agreement is making, a Capital Contribution to the Company in the amount set forth in the records of the Company. No Member shall be entitled to any interest or compensation with respect to such Member's Capital Contribution or share of the capital of the Company, except as expressly provided herein. No Member shall have any liability for the repayment of the Capital Contribution of any other Member and each Member shall look only to the assets of the Company for return of such Member's Capital Contributions to the extent permitted herein.

3.3 **Mandatory Withdrawal of a Member**.

(a) If the Manager determines, in reasonable good faith, that it is in the best interest of the Company to require any Member (and/or any assignee of a Member) to withdraw from the Company because the continued participation of any Member in the Company could reasonably be expected to cause the Company to violate any law, rule or regulation (including but not limited to any anti-money laundering regulations) or expose the Company to a material risk of litigation, arbitration, administrative proceedings or any similar action or proceeding or to cause undue risk of material and adverse tax, regulatory or other consequences to the Company or any Affiliate of the Company or any of the Members, or would be materially detrimental to the business, operations or commercial reputation of the Company or any subsidiary or Affiliate of the Company, the Manager may require such Member to withdraw from the Company by compulsorily withdrawing such Member at any time on not less than fifteen (15) days' notice, such withdrawal to be effective on the date specified in such notice. Prior to mandatorily withdrawing a Member pursuant to this Section 3.3(a), the Manager in its sole discretion may determine after consultation with such Member that the cause of its mandatory withdrawal is capable of being reasonably mitigated, prevented or cured, then the Manager and such Member may take actions as the Manager deems necessary and appropriate to mitigate, prevent or cure such cause of the Member's mandatory withdrawal (to the extent such cause can reasonably be mitigated, prevented or cured within a reasonable period of time); provided, that the such actions to mitigate, prevent or cure would not have an adverse effect on the Company in any material respect.

(b) In the event a Member is required to withdraw pursuant to Section 3.3(a), such Member shall be entitled to receive, in exchange for all of such Member's outstanding Units, ninety percent (90%) of such withdrawing Member's Capital Account balance as of the withdrawal date shall be paid to such Member as promptly as is practicable following the effective date of such Member's mandatory withdrawal (and in any event within ninety (90) days thereof). For purposes of determining the value of the Member's Capital Account, the Company's assets will be valued as of the last calendar quarter-end prior to the withdrawal date. The remaining ten percent (10%) of the balance of such withdrawing

Member's Capital Account on the withdrawal date shall be paid to such Member upon completion of the audit of the Company's financial statements for the fiscal year involved or as soon thereafter as is reasonably practicable (and in any event within thirty (30) days thereafter). For the avoidance of doubt, payments made pursuant to this Section 3.3 shall be in cash and may be made in kind only with the prior written consent of the Member to which payment is due hereunder.

ARTICLE IV

INITIAL PRIVATE PLACEMENT OF UNITS

4.1 **Offering**. Initially, the Company shall offer for sale up to 50,000,000 Units at a purchase price of One Dollar ($1.00) per Unit (the "**Purchase Price**") for an aggregate potential Capital Contributions of Fifty Million Dollars ($50,000,000.00) (the "**Offering**"). Each Person admitted as a Member pursuant to the Offering shall receive that number of Units in exchange for that Person's initial Capital Contribution to the Company upon the terms and conditions as set forth in the subscription agreement entered into by each investor in the Offering and the Company (each, a "**Subscription Agreement**"), payable upon tender of, and in accordance with, that Person's Subscription Agreement. The Company may issue fractional Units. The Members acknowledge that the Manager, or any of its Affiliates, may invest in Units on the same terms. The Company may engage broker-dealers, placement agents, or online investment platforms to assist in raising capital and managing the investor subscription process regarding the Offering, and as of the Effective Date has entered into at least one agreement with a third-party to provide access to, and the support of, its deal management platform. These third-party service providers may facilitate investor onboarding, marketing, regulatory compliance, and transaction processing. In connection with these services, the Company may pay customary and industry-standard fees, commissions, and expenses, which may include (a) success-based commissions or placement fees payable to registered broker-dealers or placement agents; (b) subscription processing and administrative fees charged by online investment platforms; (c) marketing, due diligence, and promotional expenses incurred as part of the capital-raising process; and (d) any other reasonable and customary expenses associated with investor sourcing, onboarding, and regulatory compliance.

4.2 **Liquidation Preference.** In the event of any liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or otherwise, after payment or provision for payment of the debts and other liabilities of the Company, the Members shall be entitled to receive an amount equal to their Capital Contribution. After such payment shall have been made in full to the Members, or funds or assets necessary for such payment shall have been set aside in trust for the account of the Members, so as to be and continue to be available therefor, the Members shall be entitled to no further participation in such distribution of the assets of the Company.

(b) Insufficient Assets. In the event that, after payment or provision for payment of the debts and other liabilities of the Company and preferences or other rights granted to the Members, the remaining net assets of the Company are not sufficient to pay the liquidation preference of the Members, then no such distribution shall be made on account of any Units of any other class or series of the Company ranking on a parity with the Units upon such liquidation, unless proportionate distributive amounts shall be paid on account of each of the Units, ratably, in proportion to the full distributable amounts for which holders of all such parity units, including other Units, are respectively entitled upon such liquidation.

4.3 **No Voting Rights**. No Member (in his, her or its capacity as a Member) shall have any voting rights whatsoever, except as expressly provided in this Agreement or as may be required by the Act. Any action that may be taken at a meeting of the Members pursuant to applicable provisions of Delaware law may be taken by written consent of the requisite holders of Units delivered to the Manager, in lieu of a

vote at a meeting of Members. No Member may resign from the Company without the written consent of the Manager.

4.4 **Redemption**. The Manager may cause the Company to redeem the Units, in its sole discretion, in whole or in part, at any time, by paying to a Member the Purchase Price per Unit, plus an eight percent (8%) annual return on the Member's original investment amount accrued from the date of the Member's investment through the date of redemption, less any prior distributions received by the Member, such that the Member has received a cumulative eight percent (8%) annual return on the redemption date. In the event the Company elects to exercise its redemption rights hereunder, the subject redemption shall be initiated by the Company providing written notice ("**Redemption Notice**") to the affected Member specifying the number of Units to be redeemed and the applicable redemption price. Thereafter, the Company and the Member shall complete the redemption transaction within 90 days from the date of the delivery of the Redemption Notice. At the related closing, the Company shall pay the Member the applicable redemption price in cash. Upon receipt of the redemption payment, the Member's Units shall be deemed fully redeemed, and the Member shall cease to have any rights or interests in the Company.

ARTICLE V

CAPITAL ACCOUNTS

5.1 **Establishment and Determination of Capital Accounts**. A capital account ("**Capital Account**") shall be established for each Member. The Capital Account of each Member shall consist of its initial Capital Contribution and shall be (a) increased by (i) any additional Capital Contributions made by such Member pursuant to the terms of this Agreement and (ii) such Member's share of items of income and gain allocated to such Member pursuant to Article VI (Distributions; Allocations of Profits and Losses), (b) decreased by (i) such Member's share of items of loss, deduction and expense allocated to such Member pursuant to Article VI and (ii) any Distributions to such Member of cash or the fair market value of any other property (net of liabilities assumed by such Member and liabilities to which such property is subject) distributed to such Member, and (c) adjusted as otherwise required by the Code and the regulations thereunder, including, but not limited to, the rules of Treasury Regulations Section 1.704-1(b)(2)(iv). Any references in this Agreement to the Capital Account of a Member shall be deemed to refer to such Capital Account as the same may be increased or decreased from time to time as set forth above.

5.2 **Computation of Amounts**. For purposes of computing the amount of any item of income, gain, loss, deduction or expense to be reflected in Capital Accounts, the determination, recognition and classification of each such item shall be the same as its determination, recognition and classification for federal income tax purposes; *provided, that*:

(a) any income that is exempt from Federal income tax shall be added to such taxable income or losses;

(b) any expenditures of the Company described in Section 705(a)(2)(B) of the Code or treated as Code Section 705(a)(2)(B) expenditures pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)*(i)*, shall be subtracted from such taxable income or losses;

(c) if the Book Value of any Company property is adjusted pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)*(e)* (in connection with a distribution of such property) or *(f)* (in connection with a revaluation of Capital Accounts), the amount of such adjustment shall be taken into account as gain or loss from the disposition of such property;

(d) if property that is reflected on the books of the Company has a Book Value that differs from the adjusted tax basis of such property, depreciation, amortization and gain or loss with respect to such property shall be determined by reference to such Book Value; and

(e) the computation of all items of income, gain, loss, deduction and expense shall be made without regard to any election pursuant to Section 754 of the Code that may be made by the Company, unless the adjustment to basis of Company property pursuant to such election is reflected in Capital Accounts pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)*(m)*.

5.3 **Negative Capital Accounts**. No Member shall be required to pay to the Company or any other Member any deficit or negative balance that may exist from time to time in such Member's Capital Account. Notwithstanding anything expressed or implied to the contrary in this Agreement, upon liquidation, dissolution or winding up of the Company, no Member shall be required to make any Capital Contribution to the Company in respect of any deficit in such Member's Capital Account.

5.4 **Company Capital**. Except as expressly provided in this Agreement, no Member shall be paid interest on any Capital Contribution to the Company or on such Member's Capital Account, and no Member shall have any right (a) to demand the return of such Member's Capital Contribution or any other Distribution from the Company (whether upon resignation, withdrawal or otherwise), except upon dissolution of the Company pursuant to Article XIII; (b) to seek or obtain a partition of any Company assets; or (c) to own or use any particular or individual assets of the Company.

5.5 **No Withdrawal**. Except as expressly provided in this Agreement, no Member shall be entitled to withdraw any part of such Member's Capital Contribution or Capital Account or to receive any Distribution from the Company.

5.6 **Loans from Members**. Loans by Members to the Company shall not be considered Capital Contributions, unless otherwise expressly agreed by the Company and the Member providing the loan. If any Member shall loan funds to the Company in excess of the amounts required hereunder to be contributed by such Member to the capital of the Company, the making of such loans shall not result in any increase in the amount of the Capital Account of such Member. The amount of any such loans shall be a debt of the Company to such Member and shall be payable or collectible in accordance with the terms and conditions of such promissory note.

5.7 **Adjustments to Book Value**. The Company shall adjust the Book Value of its assets to fair market value in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(*f*) as of the following times: (a) at the Manager's discretion in connection with the issuance of Units in the Company; (b) at the Manager's discretion in connection with the Distribution by the Company to a Member of more than a *de minimis* amount of Company assets, including cash, if as a result of such Distribution, such Member's interest in the Company is reduced; (c) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(*g*); and (d) at the Manager's discretion in connection with any significant change in market conditions or the financial position of the Company. Any such increase or decrease in Book Value of an asset shall be allocated as a Profit or Loss to the Capital Accounts of the Members under Section 6.2 (determined immediately prior to the issuance of the new Units or the distribution of assets in an ownership reduction transaction).

ARTICLE VI
DISTRIBUTIONS; ALLOCATIONS OF PROFITS AND LOSSES

6.1 **Generally**. Subject to the provisions of the Act, the Manager shall have discretion regarding the amounts and timing of Distributions to Members, in each case subject to the retention of, or

payment to third parties of, such funds as the Manager deems necessary with respect to the reasonable business needs of the Company, which shall include (but not by way of limitation) the payment or the making of provision for the payment when due of Company obligations, including establishing reserves and the payment of any management or administrative fees and expenses or any other obligations. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not be required to make a distribution to the Members on account of their Units in the Company if such distribution would violate the Act or any other applicable law or any of the Company's covenants respecting its financings, leases or other contractual commitments.

6.2 **Distributions**.

(a) General. Subject to the provisions of Article IV, the Company may make Distributions, the frequency and amount of which shall be determined by the Manager, in its sole discretion, provided that any distributions made to the Members will be done on a pro rata basis in accordance with their respective percentage Interest in the Company in the following order of priority:

(i) First, to the Members until the Company has achieved an eight percent (8%) cumulative compounded annual internal rate of return ("**IRR**").

(ii) Thereafter, subsequent to the Company achieving the 8% IRR (a) thirty percent (30%) to Manager (the "**Promote**") and (b) seventy percent (70%) to the Members.

"IRR" shall be calculated using the "XIRR function" in Excel. The Promote shall be treated as a profits interest in the Company for tax purposes, and the Manager shall receive allocations of taxable income and loss in accordance with its profit-sharing rights. The Manager acknowledges that its profits interest is subject to the three-year holding period requirement under Section 1061 of the Internal Revenue Code for long-term capital gains treatment. To the extent the Company generates taxable income, the Manager may, at its discretion, distribute cash to Members and the Manager in an amount sufficient to cover estimated federal and state tax liabilities associated with allocated income.

6.3 **Allocation of Profits and Losses**. For each Fiscal Year of the Company, after adjusting each Member's Capital Account for all Capital Contributions and distributions during such Fiscal Year and all special allocations pursuant to Section 6.4 with respect to such Fiscal Year, all Profits and Losses (other than Profits and Losses specially allocated pursuant to Section 6.4) shall be allocated to the Members' Capital Accounts in a manner such that, as of the end of such Fiscal Year, the Capital Account of each Member (which may be either a positive or negative balance) shall be equal to (a) the amount which would be distributed to such Member, determined as if the Company were to liquidate all of its assets for the Book Value thereof and distribute the proceeds thereof (after payment of all Company debts, liabilities and obligations) pursuant to Section 6.2(a) hereof, *minus* (b) the sum of (i) such Member's share of Company Minimum Gain (as determined according to Treasury Regulations Section 1.704-2(d) and (g)(3)) and Member Minimum Gain (as determined according to Treasury Regulations Section 1.704-2(i)) and (ii) the amount, if any, which such Member is obligated to contribute to the capital of the Company as of the last day of such Fiscal Year.

6.4 **Special Allocations**. Notwithstanding the provisions of Section 6.2:

(a) Nonrecourse Deductions. Nonrecourse Deductions shall be allocated to the Members pro rata in proportion to the total number of such Units held by each such Member. If there is a net decrease in Company Minimum Gain during any Taxable Year, each Member shall be specially allocated items of taxable income or gain for such Taxable Year (and, if necessary, subsequent Taxable Years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain,

determined in accordance with Treasury Regulations Section 1.704-2(g). The items to be so allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(f)(6) and 1.704-2(j)(2). This paragraph is intended to comply with the minimum gain chargeback requirement in Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Member Nonrecourse Deductions. Member Nonrecourse Deductions shall be allocated in the manner required by Treasury Regulations Section 1.704-2(i). Except as otherwise provided in Treasury Regulations Section 1.704-2(i)(4), if there is a net decrease in Member Minimum Gain during any Taxable Year, each Member that has a share of such Member Minimum Gain shall be specially allocated items of taxable income or gain for such Taxable Year (and, if necessary, subsequent Taxable Years) in an amount equal to that Member's share of the net decrease in Member Minimum Gain. Items to be allocated pursuant to this paragraph shall be determined in accordance with Treasury Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This paragraph is intended to comply with the minimum gain chargeback requirements in Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Unexpected Adjustments. If any Member unexpectedly receives any adjustments, allocations or Distributions described in Treasury Regulations Section 1.704-l(b)(2)(ii)(d)(4), (5) or (6), items of taxable income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate the adjusted capital account deficit (determined according to Treasury Regulations Section 1.704-1 (b)(2)(ii)(d)) created by such adjustments, allocations or Distributions as quickly as possible. This paragraph is intended to comply with the qualified income offset requirement in Treasury Regulations Section 1.704-1 (b)(2)(ii)(d) and shall be interpreted consistently therewith.

(d) Curative Allocations. The allocations set forth in paragraphs (a), (b) and (c) above (the "**Regulatory Allocations**") are intended to comply with certain requirements of the Treasury Regulations under Code Section 704. Notwithstanding any other provisions of this Article (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating Profits and Losses among Members so that, to the extent possible, the net amount of such allocations of Profits and Losses and other items and the Regulatory Allocations (including Regulatory Allocations that, although not yet made, are expected to be made in the future) to each Member shall be equal to the net amount that would have been allocated to such Member if the Regulatory Allocations had not occurred.

(e) Transactions between Members and the Company. If, and to the extent that, any Member is deemed to recognize any item of income, gain, loss, deduction or credit as a result of any transaction between such Member and the Company pursuant to Code Sections 1272-1274, 7872, 483, 482, 83 or any similar provision now or hereafter in effect, and the Manager determines that any corresponding Profit or Loss of the Company should be allocated to the Member who recognized such item in order to reflect the Member's economic interests in the Company, then the Manager may so allocate such Profit or Loss.

(f) Excess Nonrecourse Liabilities. For purposes of calculating a Member's share of "excess nonrecourse liabilities" of the Company (within the meaning of Treasury Regulations Section 1.752-3(a)(3)), the Members intend that they be considered as sharing profits of the Company in proportion to their respective Membership Percentages.

(g) Company Nonrecourse Liability. Deductions attributable to any "nonrecourse liability" of the Company, as defined in accordance with Section 1.704-2(b)(3) of the Treasury Regulations, shall be allocated among the Members in proportion to their respective Membership Percentages.

6.5 **Tax Allocations; Code Section 704(c)**.

(a) General. The income, gains, losses, deductions and expenses of the Company shall be allocated, for federal, state and local income tax purposes, among the Members in accordance with the allocation of such income, gains, losses, deductions and expenses among the Members for computing their Capital Accounts, *except that* if any such allocation is not permitted by the Code or other applicable law, the Company's subsequent income, gains, losses, deductions and expenses shall be allocated among the Members so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts.

(b) Section 704(c). In accordance with Code Section 704(c) and the Treasury Regulations thereunder, income, gain, loss, deduction and expense with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its fair market value at the time of contribution in the manner determined by the Manager.

(c) Adjustment of Book Value. If the Book Value of any Company asset is adjusted pursuant to this Section, subsequent allocations of items of taxable income, gain, loss, deduction and expense with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Book Value in the same manner as under Code Section 704(c).

(d) Manager's Authority. Any elections or other decisions relating to allocations for federal, state and local income tax purposes shall be made by the Manager in its sole discretion. Allocations pursuant to this Section 6.5 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 provisions of this Agreement. The Members are aware of the income tax consequences of the allocations made by this Article and hereby agree to be bound by the provisions of this Article in reporting their shares of Company income and loss for income tax purposes.

6.6 **Amounts Withheld**. All amounts withheld from or offset against any Distribution to a Member pursuant to Section 10.3 shall be treated as amounts distributed to such Member pursuant to this Article VI for all purposes under this Agreement.

6.7 **Reinvestment**. The Manager may determine in its sole discretion to use all or any portion of the operating cash flow, assets sales, refinancing or from a capital events to retain and reinvest proceeds into the Company, reserve capital for working capital purposes, pay indebtedness, make capital improvements to any assets of the Company, pay taxes or fees and such other matters as the Manager shall determine in its sole discretion.

ARTICLE VII
MANAGEMENT

7.1 **Managers**. The business and affairs of the Company shall be managed by the Manager. The Manager hereunder shall as of the Effective Date shall be Skygate Manager LLC, subject to the replacement and resignation terms set forth under Section 7.8 below.

7.2 **Authority of the Manager**. The Manager shall have exclusive, full and complete authority, power and discretion to make all decisions and take all actions for the Company, its business, affairs and properties not otherwise provided for in this Agreement, and to perform any and all other acts or activities customary or incident to the management of Company Business.

7.3 **Power of Attorney**. Each Member hereby constitutes and appoints the Manager and the Liquidating Trustee if not the Manager with full power to act without the others as such Member's true and lawful representative and attorney in-fact, in such Member's name, place and stead, to make, execute, sign, acknowledge and deliver or file in such form and substance as is approved by the Manager (a) all instruments, documents and certificates which may from time to time be required by any law to effectuate, implement and continue the valid and subsisting existence of the Company, or to qualify or continue the qualification of the Company in all jurisdictions in which the Company may conduct business or own property, and any amendment to, modification to, restatement of or cancellation of any such instrument, document or certificate and (b) all conveyances and other instruments, documents and certificates which may be required to effectuate the dissolution and termination of the Company approved in accordance with the terms of this Agreement. The powers of attorney granted herein shall be deemed to be coupled with an interest, shall be irrevocable and shall survive the death, disability, incompetency, bankruptcy, insolvency or termination of any Member and the Transfer of all or any portion of the Units held by such Member, and shall extend to such Member's heirs, successors, assigns and personal representatives.

7.4 **Manager Compensation; Reimbursement**. The Manager, in its sole discretion, shall set forth all compensation and other remuneration for itself, any employees, consultants, contractors, professionals or others that perform services on behalf of the Company. To the extent that the Manager or its Affiliates incur expenses or advance funds on behalf of the Company, the Manager or Affiliate, as the case may be, shall be entitled to reimbursement of such funds, without interest, separate from and in addition to the rights to the income, gain, Losses, credits, deductions and Distributions of the Company as set forth in Article VI. The Manager will determine in its sole discretion the reimbursable expenses that are allocable to the Company.

7.5 **Delegation of Duties**. The Manager may, from time to time, delegate to one or more Persons (including any officer as set forth in Section 7.6 (Officers)) such authority and duties as the Manager may deem advisable. The Manager also may assign titles to any Member or other individual and may delegate to such Member or other individual certain authority and duties. Any number of titles may be held by the same Member or other individual. Any delegation pursuant to this Section may be revoked at any time by the Manager.

7.6 **Officers.**

(a) Designation and Appointment. The Manager may (but need not), from time to time, designate and appoint one or more persons as an officer of the Company. An officer need not be a Member. Any officers so designated shall have such authority and perform such duties as the Manager may, from time to time, delegate to them. The Manager may assign titles (including chairperson, chief executive officer, president, vice president, secretary, assistant secretary, treasurer and assistant treasurer) to particular officers. Unless the Manager otherwise decides, if the title is one commonly used for officers of a business corporation formed, the assignment of such title shall constitute the delegation to such officer of the authority and duties that are normally associated with that office, subject to (i) any specific delegation of authority and duties made to such officer by the Manager pursuant to the third sentence of this Section 7.6(a) and (ii) any delegation of authority and duties made to one or more officers pursuant to the terms of Section 7.5 (Delegation of Duties). Each officer shall hold office until such officer's successor shall be duly designated and shall qualify or until such officer's death or until such officer shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same individual. The salaries or other compensation, if any, of the officers and agents (and the Manager) of the Company shall be fixed from time to time by the Manager in its sole discretion.

(b) Resignation and Removal. Any officer (subject to any contract rights available to the Company, if applicable) may resign as such at any time. Such resignation shall be made in writing and

shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the Manager. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Any officer may be removed as such, either with or without cause, by the Manager in its sole discretion at any time; *provided, however*, that such removal shall be without prejudice to the contract rights, if any, of the individual so removed. Designation of an officer shall not of itself create contract rights. Any vacancy occurring in any office of the Company may be filled by the Manager.

7.7 **Reliance by Third Parties**. Any Person dealing with the Company, other than a Member, may rely on the authority of the Manager(or any officer authorized by the Manager) in taking any action in the name of the Company without inquiry into the provisions of this Agreement or compliance herewith, regardless of whether that action actually is taken in accordance with the provisions of this Agreement. Every agreement, instrument or document executed by the Manager (or any officer authorized by the Manager) in the name of the Company with respect to any business or property of the Company shall be conclusive evidence in favor of any Person relying thereon or claiming thereunder that (a) at the time of the execution or delivery thereof, this Agreement was in full force and effect; (b) such agreement, instrument or document was duly executed according to this Agreement and is binding upon the Company; and (c) the Manager or such officer was duly authorized and empowered to execute and deliver such agreement, instrument or document for and on behalf of the Company.

7.8 **Resignation and Replacement of Manager**. The Manager may resign at any time. Upon a resignation of the Manager, a new Manager shall be designated by the resigning Manager (each, a "**Substitute Manager**"). In the event of the resignation of a Substitute Manager, the Manager who named the Substitute Manager shall name the new Substitute Manager to replace the resigning Substitute Manager. If any Manager that is also a Member resigns, such resignation shall not affect the Manager's rights as a Member or constitute a withdrawal of a Member.

7.9 **Standards of Conduct and Modification of Duties.**

(a) General. In the performance of its duties, the Manager shall not be deemed to be held to any higher standards than those set forth in the Act.

(b) Good Faith. Whenever the Manager makes a determination or takes or declines to take any other action in its capacity as Manager of the Company as opposed to in its individual capacity, whether under this Agreement or any other agreement contemplated hereby or otherwise, then, unless another express standard is provided for in this Agreement, the Manager shall make such determination or take or decline to take such other action in good faith and shall not be subject to any higher standard contemplated hereby or under the Act or any other law, rule or regulation or at equity. A determination, other action or failure to act by the Manager will be deemed to be in good faith unless the Manager acted in a manner that was in wanton and willful disregard for the interests of the Company. The standard shall be deemed to have been met if the Manager took into consideration the interests of the Company in making any decision or taking or declining to take any action, regardless of the actual decision made or action taken or not taken. In any proceeding brought by the Company, any Member, or any Person who acquires an interest in a Unit or any other Person who is bound by this Agreement challenging such action, determination or failure to act, the Person bringing or prosecuting such proceeding shall have the burden of proving that such determination, action or failure to act was not in good faith.

(c) Fiduciary Duties. Notwithstanding any other provision of this Agreement or otherwise applicable provisions of law, whenever the Manager makes a determination or takes or declines to take any other action in its individual capacity as opposed to in its capacity as Manager of the Company, whether under this Agreement or any other agreement contemplated hereby or otherwise, then the Manager is entitled, to the fullest extent permitted by law, to make such determination or to take or decline to take

such other action free of any fiduciary duty or other duty existing at law, in equity or otherwise or obligation whatsoever to the Company, any Member, any other Person who acquires an interest in a Unit or any other Person who otherwise is bound by this Agreement, and the Manager shall not, to the fullest extent permitted by law, be required to act in good faith or pursuant to any other standard imposed by this Agreement or any other agreement contemplated hereby or under the Act or any other law, rule or regulation or at equity. By way of illustration and not of limitation, whenever the phrases, "at the option of the Manager," "in its sole discretion" or some variation of those phrases, are used in this Agreement, it indicates that the Manager is acting in its individual capacity. For the avoidance of doubt, whenever the Manager votes or transfers Units it may own, or refrain from voting or transferring Units it may own, it shall be acting in its individual capacity.

(d) Duty of Loyalty. Whenever the Manager makes a determination or takes or declines to take any other action in his capacity as Manager of the Company as opposed to in its individual capacity, whether under this Agreement or any other agreement contemplated hereby or otherwise, then the Manager shall make such determination or take or decline to take such action in a manner that is consistent with its duty of loyalty to the Company. It is hereby understood, acknowledged and agreed that the Manager's duty of loyalty shall not be violated by the Manager taking any of the following or similar actions:

(i) the ownership, either directly or through Affiliates, of other entities of the same business type and within the same business sector as the Company;

(ii) the ownership, either directly or through Affiliates, of companies that do business with the Company; and/or

(iii) the ownership of assets, including land, that may be purchased by or leased to the Company.

(e) Devotion of Time; No Exclusive Duty to Company. The Manager shall devote such time and attention to the business of the Company as the Manager shall determine, in the exercise of its reasonable judgment, to be necessary for the conduct of Company Business. The Manager shall not be required to manage the Company as its sole and exclusive function and it will have other business interests and will engage in other activities in addition to those relating to the Company.

(f) Conflict of Interest. Whenever a potential conflict of interest exists or arises between the Manager or any Affiliates, on the one hand, and the Company, any Member or any Person who acquires an interest in a Unit or any other Person who is bound by this Agreement on the other hand, the Manager is entitled to make such decision or take or decline to take such action in its discretion without obtaining approval from the Members. In such cases, it will be presumed that in making its decisions or taking or declining to take such actions, the Manager upheld its duty of loyalty, its duty of care and its duty to act in good faith, each as clarified herein. In any proceeding brought by the Company, any Member who acquires an interest in a Unit or any other Person who is bound by this Agreement, challenging such action, determination or failure to act, the Person bringing or prosecuting such proceeding shall have the burden of proving that such determination, action or failure to act was not made in a manner consistent with the Manager's duty of loyalty, duty of care and duty to act in good faith, each as may be clarified herein

(g) No Obligation. Notwithstanding anything to the contrary in this Agreement, the Manager and its Affiliates or any other Covered Person shall have no duty or obligation, express or implied, to (i) sell or otherwise dispose of any asset of the Company other than in the ordinary course of business or (ii) permit any Member to use any facilities or assets of any of the Affiliates of the Manager, except as may be provided in contracts entered into from time to time specifically dealing with such use. Any

determination by the Manager or any of its Affiliates to enter into such contracts shall be in its or such Affiliates sole discretion.

(h) Manager's Determination. To the fullest extent permitted by law and notwithstanding any other provision of this Agreement or in any other agreement contemplated herein or applicable provisions of law or equity or otherwise, whenever in this Agreement the Manager is permitted or required to make a decision (a) in his "consent," "approval," "determination," "sole discretion" or "discretion" or under a grant of similar authority or latitude, or any variation thereof, the Manager shall be entitled to act in its sole discretion and absolute discretion and to consider only such interests and factors as he desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest of or factors affecting the Company or any other Person, or (ii) in its "good faith" or under another express standard, the Manager shall act under such express standard and shall not be subject to any other or different standard. If any questions should arise with respect to the operation of the Company that are not specifically provided for in this Agreement or the Act, or with respect to the interpretation of this Agreement, the Manager is hereby authorized to make a final determination with respect to any such question and to interpret this Agreement in good faith, and its determination and interpretation so made shall be final and binding on all parties. Notwithstanding any other provision of this Agreement, including the preceding provisions of this Section, the Manager shall comply with the implied contractual covenant of good faith and fair dealing.

ARTICLE VIII
MEMBERS

8.1 **Participation in Management**. No Member (in his, her or its capacity as such) has the authority or power to act for or on behalf of the Company, to do any act that would be binding on the Company or to make any expenditures on behalf of the Company, unless (a) such specific authority has been expressly granted to and not revoked from such Person by the Manager or (b) such specific authority has been expressly granted to such Person pursuant to this Agreement.

8.2 **No Exclusive Duty to Company**. No Member shall have any right, by virtue of this Agreement, to share or participate in investments or activities unrelated to the Company of any other Member or the Manager or any of their Affiliates or to the income or proceeds derived therefrom.

8.3 **No Authority of Individual Member**. Except as set forth in this Agreement, no Member (in his, her or its capacity as a Member), acting individually, or any of their respective Affiliates, has the power or authority to bind any other Member or to authorize any action to be taken by the Company, or to act as agent for the Company or any other Member, unless that power or authority has been specifically delegated or authorized by the Manager.

8.4 **Related Party Transactions**. The Company may transact business with a Manager or Member or officer or any Affiliate thereof. It is contemplated that the Company will transact with Affiliates of Manager.

8.5 **Right of Members to Bring Action.** No Member in the Member's capacity as a Member may bring a suit or action against the Company or against any other Member in the other Member's capacity as a Member in any court for any reason. No Member may bring a suit or action against any Person in the name of or on behalf of the Company except with the written consent of the Manager.

ARTICLE IX
LIMITED LIABILITY, EXCULPATION AND INDEMNIFICATION

9.1 **Limited Liability of Members**.

(a) Limitation of Liability. Except as otherwise required by applicable law and as explicitly set forth in this Agreement, the debts, liabilities, commitments and other obligations of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member shall have any personal liability whatsoever in its capacity as a Member, whether to the Company, to any of the other Members, to the creditors of the Company or to any other Person, for the debts, liabilities, commitments or any other obligations of the Company or for any Losses of the Company. Notwithstanding anything contained herein to the contrary, there shall be no limitations on liability or right of indemnification under this Agreement for the conduct or actions of any Member that are contrary to the provisions of this Agreement, the Act or other applicable law, or not expressly authorized by the Manager or the Members with respect to this Agreement, the Act or other applicable law.

(b) Observance of Formalities. Notwithstanding anything contained herein to the contrary, the failure of the Company, the Manager or any Member, to observe any formalities or procedural or other requirements relating to the exercise of its powers or management of Company Business and affairs under this Agreement or the Act shall not be grounds for imposing personal liability on any of the Members, unless such failure is due to the Member's negligence or reckless behavior.

(c) Return of Distributions. In accordance with the Act and the laws of the State of Delaware, a Member may be required to return amounts previously distributed to such Member if the Company becomes insolvent or if the distribution was made in violation of this Agreement or the Act.

9.2 **Exculpation of Covered Persons**. Covered Persons shall not be liable for errors in judgment. Additionally, to the extent that, at law or in equity, a Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the Company, the Members and any Person who acquires an interest in a Unit or is otherwise bound by this Agreement, the Manager and any other Covered Person acting in connection with Company Business or affairs shall not be liable, to the fullest extent permitted by law, to the Company, the Members and any Person who acquires an interest in a Unit or is otherwise bound by this Agreement, for its reliance on the provisions of this Agreement. Any Covered Person may consult with counsel and accountants, any Member, officer, employee or committee of the Company and other professional expert in respect of Company affairs, and provided such Covered Person acts in good faith reliance upon the advice or opinion of such counsel or accountants or other persons, such Covered Person shall not be liable for any loss suffered by the Company in reliance thereon. Additionally, the Manager may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its agents, and the Manager shall not be responsible for any misconduct or negligence on the part of any such agent appointed by the Manager in good faith. If the Act is hereafter amended or interpreted to permit further limitation of the personal liability of Covered Persons beyond the foregoing, then this paragraph shall be interpreted to limit the personal liability of Covered Persons to the fullest extent permitted by the Act, as amended (but, in the case of any such amendment, only to the extent that such amendment permits the Company to limit the personal liability of Covered Persons to a greater extent than that permitted by said law prior to such amendment). In furtherance of, and without limiting the generality of the foregoing, no Covered Person shall be (a) personally liable for the debts, obligations or liabilities of the Company, including any such debts, obligations or liabilities arising under a judgment, decree or order of a court; (b) obligated to cure any deficit in any Capital Account; (c) required to return all or any portion of any Capital Contribution; or (d) required to lend any funds to the Company.

9.3 **Right to Indemnification for Covered Persons**. Subject to the limitations and conditions as provided in this Article, each Person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative (hereinafter a "**Proceeding**"), or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact that he, she or it, or a Person of whom he, she or it is the legal representative, is or was a Covered Person or while a Covered Person is or was serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise, shall be indemnified by the Company to the fullest extent permitted by the Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Company to provide broader indemnification rights than said law permitted the Company to provide prior to such amendment) against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including, without limitation, attorneys' fees) actually incurred by such Person in connection with such Proceeding, and indemnification under this Article shall continue as to a Person who has ceased to serve in the capacity that initially entitled such Person to indemnity hereunder; *provided*, that no such Person shall be indemnified for any judgments, penalties, fines, settlements or expenses (i) to the extent attributable to conduct for which indemnification would not be permitted under the Act or other applicable law, (ii) for any present or future breaches of any representations, warranties or covenants by such Person contained in this Agreement or in any other agreement with the Company; or (iii) in any action (except an action to enforce indemnification rights set forth in this Section) brought by such Person. It is expressly acknowledged that the indemnification provided in this Article could involve indemnification for negligence or under theories of strict liability.

9.4 **Contract with Company**. The rights granted pursuant to this Article shall be deemed contract rights, and no amendment, modification or repeal of this Article shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings arising prior to any amendment, modification or repeal.

9.5 **Advance Payment**. The right to indemnification conferred in this Article shall include the right to be paid or reimbursed by the Company the reasonable expenses incurred by a Person of the type entitled to be indemnified under Section 9.3 who was, is or is threatened to be made a named defendant or respondent in a Proceeding in advance of the final disposition of the Proceeding and without any determination as to the Person's ultimate entitlement to indemnification; *provided, however*, that the payment of such expenses incurred by any such Person in advance of the final disposition of a Proceeding shall be made only upon delivery to the Company of a written affirmation by such Person of his or her good faith belief that he, she or its has met the standard of conduct necessary for indemnification under this Article and a written undertaking, by or on behalf of such Person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified Person is not entitled to be indemnified under this Article or otherwise.

9.6 **Indemnification of Employees and Agents**. The Company, by adoption of a resolution of the Manager, may indemnify and advance expenses to any employees or agents of the Company who are not or were not Covered Persons but who are or were serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against liabilities and expenses asserted against such Person and incurred by such Person in such a capacity or arising out of their status as such a Person, to the same extent that it may indemnify and advance expenses to Covered Persons under this Article.

9.7 **Appearance as a Witness**. Notwithstanding any other provision of this Article, the

Company may pay or reimburse expenses incurred by a Covered Person in connection with the appearance as a witness or other participation in a Proceeding at a time when the Covered Person is not a named defendant or respondent in the Proceeding.

9.8 **Nonexclusivity of Rights**. The right to indemnification and the advancement and payment of expenses conferred in this Article shall not be exclusive of any other right that a Covered Person or other Person indemnified pursuant to Section 9.3 or Section 9.6 may have or hereafter acquire under any law (common or statutory), provision of the Certificate or this Agreement, any agreement, vote of Members or otherwise. The provisions of this Article are for the benefit of the Covered Persons and their heirs, successors, assigns, executors and administrators and shall not be deemed to create any rights for the benefit of any other Persons.

9.9 **Insurance**. The Company may purchase and maintain insurance, at its expense, to protect itself and any Person who is or was serving as a Covered Person or is or was serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any expense, liability or loss, whether or not the Company would have the power to indemnify such Person against such expense, liability or loss under this Article.

9.10 **Savings Clause**. If this Article or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless the Manager or any other Person indemnified pursuant to this Article as to costs, charges and expenses (including attorneys' fees), judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by any applicable portion of this Article that shall not have been invalidated and to the fullest extent permitted by applicable law.

9.11 **Transactions with the Company**. A Covered Person shall not be denied indemnification in whole or in part under Section 9.3 because the Covered Person had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

ARTICLE X
TAX MATTERS

10.1 **Tax Returns**. The Manager shall cause to be prepared and filed all necessary federal and state income tax and other tax returns for the Company, including making any elections the Manager may deem appropriate in its sole discretion. Each Member shall furnish to the Manager all pertinent information in its possession relating to Company operations that is necessary to enable the Company's income tax and other tax returns to be prepared and filed.

10.2 **Partnership Representative**. The Manager shall be the "partnership representative" of the Company pursuant to Section 6223(a)) of the Code (the "**Partnership Representative**"). If for any reason the position of "partnership representative" becomes vacant, such position shall be filled by the majority vote of the Manager.

(a) Authority of Partnership Representative. The Partnership Representative is authorized to represent the Company before the Internal Revenue Service and any other governmental agency with jurisdiction, and to sign such consents and to enter into settlements and other agreements with such agencies as the Partnership Representative deems necessary or advisable.

(b) Tax Elections. The Partnership Representative may, in its sole discretion, make or revoke any election under the Code or the Treasury Regulations issued thereunder (including for this purpose any new or amended Treasury Regulations issued after the date of formation of the Company), including an election to be taxed as a corporation for U.S. federal income tax purposes pursuant to Treasury Regulations Section 301.7701-3.

(c) Reimbursement of Expenses. Promptly following the written request of the Partnership Representative, the Company shall, to the fullest extent permitted by law, reimburse and indemnify the Partnership Representative for all reasonable expenses, including reasonable legal and accounting fees, claims, liabilities, losses and damages incurred by the Partnership Representative in connection with any administrative or judicial proceeding (i) with respect to the tax liability of the Company and/or (ii) with respect to the tax liability of the Members in connection with the operations of the Company.

(d) Survival of Provisions. The provisions of this Section 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 as long a period of time as is necessary to resolve with the Internal Revenue Service or other taxing authority any and all matters regarding the Federal income taxation or other taxes of the Company or the Members.

10.3 **Indemnification and Reimbursement for Payments on Behalf of a Member**.

(a) If the Company is obligated to pay any amount to a governmental agency (or otherwise makes a payment) because of a Member's status or otherwise specifically attributable to a Member (including, without limitation, federal withholding taxes with respect to foreign Persons, state personal property taxes, state withholding taxes, state unincorporated business taxes, etc.), then such Member (the "**Indemnifying Member**") shall indemnify the Company in full for the entire amount paid (including, without limitation, any interest, penalties and expenses associated with such payments). The Indemnifying Member shall, at the option of the Manager, either:

(i) promptly upon notification of an obligation to indemnify the Company, the Indemnifying Member shall make a cash payment to the Company equal to the full amount to be indemnified (and the amount paid shall not be treated as a Capital Contribution); or

(ii) the Company shall reduce distributions which would otherwise be made to the Indemnifying Member, until the Company has recovered the amount to be indemnified (and, notwithstanding anything to the contrary in this Agreement, the amount withheld shall not be treated as a Capital Contribution).

(b) A Member's obligation to indemnify the Company under this Section shall survive the termination, dissolution, liquidation and winding up of the Company, and for purposes of this Section, the Company shall be treated as continuing in existence. The Company may pursue and enforce all rights and remedies it may have against each Member under this Section, including instituting a lawsuit to collect such contribution with interest calculated at a rate equal to the Base Rate plus three (3) percentage points per annum (but not in excess of the highest rate per annum permitted by law).

ARTICLE XI
BOOKS AND RECORDS; REPORTS AND CONFIDENTIALITY

11.1 **Maintenance of Books**.

(a) The Manager shall keep, or cause to be kept, complete and accurate records of the business of the Company in accordance with generally accepted accounting principles.

(b) The Manager may employ on behalf of the Company and at the expense of the Company such firm of certified public accountants as the Manager in its sole discretion deems appropriate to serve as the Company's accountants.

(c) The Manager shall prepare or cause to be prepared, all federal, state, and local income tax and information returns for the Company and shall cause such tax returns to be filed timely with the appropriate governmental authorities. Within seventy-five days after the end of each fiscal year, the Manager shall forward to each person who was a Member during the preceding fiscal year a copy of the Company's tax and information return filed with the Internal Revenue Service and any state or local authorities for the preceding fiscal year. The Manager shall not be liable to any member if any taxing authority disallows or adjusts any deductions or credits in the Company's income tax or information returns.

(d) All elections required or permitted to be made by the Company under the Internal Revenue Code (the "Code"), and the designation of a partnership representative pursuant to Section 6231 (a)(7) of the Internal Revenue Code for all purposes permitted or required by the Code, shall be made by the Manager. The Partnership Representative shall take such action as may be necessary to cause each other Member to become a notice member within the meaning of Section 6223 of the Code. The Partnership Representative may not take any action contemplated by Sections 6222 through 6232 of the Code without the consent of the Manager.

(e) The Members shall have the right, from time to time, upon written request to the Manager, to inspect the Books and Records of the Company as follows. For the purposes of this Agreement, the Company's "Books and Records" shall mean:

a. a current list of the full name and last known business address of each Member,

b. a copy of the Certificate of formation, including all certificates of amendment thereto,

c. copies of the federal, state and local income tax returns and information reports of the Company, if any, for the 6 most recent years;

d. copies of this Agreement and of any amendments;

e. the annual financial statements of the Company for the 6 most recent years, including a balance sheet, a statement of changes in Members' capital, and a profit and loss statement; and

f. the most recent financial statement of the Company, if one has been prepared more recently than the prior annual statement.

(f) The Books and Records will be maintained at the principal business office of the Company. All books and records will be maintained by the Manager (and will be available to the Members upon request) for a period of not less than 5 years after the dissolution of the Company.

(g) In the event of a dispute relating to this provision or the breach thereof, the parties' sole remedy shall be a final adjudication determining the matter in accordance with arbitration as provided for in this Agreement and the parties expressly waive their right to seek provisional or preliminary injunctive relief respecting such dispute.

(h) The Company will provide an unaudited financial report within 120 days after the end of each fiscal year to the Members.

To the fullest extent possible under the law, the Manager may keep confidential from the Members, for such period of time as the Manager determines, (A) any information that the Manager determines to be in the nature of trade secrets, (B) other information the disclosure of which the Manager believes (1) is not in the best interests of the Company or any of its Affiliates, (2) could damage the Company or its Affiliates or their businesses or (3) that the Manager or the Company are required by law or by agreement with any third party to keep confidential (other than agreements with Affiliates of the Company the primary purpose of which is to circumvent the obligations set forth in this Section).

Notwithstanding any other provision of this Agreement or the Act, each of the Members, each other Person who acquires an interest in a Unit and each other Person bound by this Agreement hereby agrees to the fullest extent permitted by law that they do not have rights to receive information from the Company or any Covered Person for the purpose of determining whether to pursue litigation or assist in pending litigation against the Company or any Covered Person relating to the affairs of the Company except pursuant to the applicable rules of discovery relating to litigation commenced by such Person.

11.2 **Company Funds**. The Manager may not commingle the Company's funds with the funds of any Member, Manager, officer or other Person.

11.3 **Confidentiality**. Each Member recognizes and acknowledges that it may receive certain confidential and proprietary information and trade secrets of the Company, including but not limited to confidential information of the Company regarding identifiable, specific and discrete business opportunities being pursued by the Company (the "**Confidential Information**"). Each Member , including its directors, officers, shareholders, partners, employees, agents and members (collectively, the **"Affiliated Parties"**), agrees that neither it nor its Affiliated Parties will, during or after the term of this Agreement, take commercial or proprietary advantage of or profit from any Confidential Information or disclose Confidential Information to any Person for any reason or purpose whatsoever, except (i) to authorized representatives and employees of the Company and as otherwise may be proper in the course of performing such Member's obligations, or enforcing such Member's rights, under this Agreement; (ii) to such Member's (or any of its Affiliates') Affiliates, employees, auditors, or attorneys; (iii) to any bona fide prospective purchaser of the equity or assets of such Member or its Affiliates or the Units held by such Member, or prospective merger partner of such Member or its Affiliates, *provided,* that such purchaser or merger partner agrees to be bound by the provisions of this Section 11.3; or (iv) as is required to be disclosed by order of a court of competent jurisdiction, administrative body or governmental body, or by subpoena, summons or legal process, or by law, rule or regulation; *provided*, that the Member required to make such disclosure shall provide to the Manager prompt prior notice of such requirement. For purposes of this Section, Confidential Information shall not include any information of which (x) such Person became aware prior to its affiliation with the Company, or (y) such Person learns from sources other than the Company (*provided* that such Person does not know or have reason to know, at the time of such Person's disclosure of such information, that such information was acquired by such source through violation of law, or breach of contractual confidentiality obligations or breach of fiduciary duties). Nothing in this Section shall in any way limit or otherwise modify any confidentiality covenants entered into by the Company's employees with the Company, provided that in the event of any conflict between the terms of this Section and such covenants, the more restrictive terms shall prevail.

ARTICLE XII
TRANSFERS; ADMISSION OF MEMBERS

12.1 **Transfer Restrictions**. Except as otherwise set forth in this Article, no Member shall Transfer all or any portion of any interest in any Units (including to any other Member, or by gift, or by operation of law or otherwise) without first obtaining the prior written consent of the Manager, which consent may be granted or withheld in the Manager's sole discretion. Notwithstanding anything herein to the contrary, all Transfers will be in compliance with the Securities Act and applicable state securities laws as determined by the Company and its securities counsel.

12.2 **Permitted Transfers**.

(a) General. The restrictions on Transfer provided in this Article shall not be applicable to the following (each, a "**Permitted Transfer**" and the transferee of each, a "**Permitted Transferee**"):

(i) any Transfer by a Member to a spouse, parent, sibling or other descendant of a Member or to a trust primarily for the benefit of any such individual;

(ii) any Transfer by a Member to an Affiliate of such Member;

(iii) any gift Transfer from a Member to a member of that Member's immediate family or for estate planning purposes; or

(iv) any Transfer upon the death of any Member to such Member's executors, administrators or testamentary trustees;

provided, that the transferee in each case is otherwise qualified to be a Member pursuant to the terms of this Agreement, complies with the provisions for membership set forth in this Agreement, and/or required by the Manager from time to time, and provides the Company with a written agreement to be bound by the terms of this Agreement.

(b) Transferring Member Ceases to be Member. Upon a Transfer of all a Member's Units in connection with a Permitted Transfer in compliance with the provisions of this Agreement, the admission of the Transferee thereof as a Substitute Member, and the receipt by the Company of a written agreement from the Transferee to be bound by the terms of this Agreement, the Member completing the Transfer shall cease to be a Member hereunder.

12.3 **Void Transfer**. Any purported Transfer, no matter how effected, by any Member of any Units in the Company in contravention of this Agreement or which does not comply with the terms, conditions and procedures of this Agreement shall be void and ineffectual and shall not bind or be recognized by the Company or any other party and shall not result in a Transfer of any interest in the Company. No such purported assignee shall have any voting rights or any right to any Profits, Losses or Distributions of the Company.

12.4 **Effect of Valid Transfer**.

(a) Assignment. A Transfer of Units permitted hereunder shall be effective as of the date of assignment and compliance with the conditions to such Transfer, provided that the Manager has received written notice of such assignment and has had a reasonable opportunity to verify the validity of such Transfer. Profits, Losses and other Company items shall be allocated between the assignor and the

assignee according to Code Section 706, using the "interim closing of the books" or the "daily proration" method selected by the Manager. Distributions made before the effective date of such Transfer shall be paid to the assignor, and Distributions made after such date shall be paid to the assignee.

(b) Record Owner. Notwithstanding the foregoing, the Company and the Manager shall be entitled to treat the record owner of any Units or other interest in the Company as the absolute owner thereof and shall incur no liability for Distributions of cash or other property made in good faith to such owner, provided that the Manager has exercised reasonable diligence in verifying the rightful owner of the Units before making any distributions. This protection shall be in place until such time as a written assignment of such Units or other interest in the Company, which assignment is permitted pursuant to the terms and conditions of this Article, has been received and accepted by the Manager and recorded on the books of the Company.

(c) Rights and Obligations of Assignee. Unless and until an assignee becomes a Substitute Member pursuant to Section 12.5, the assignee shall not be entitled to any of the rights granted to a Member hereunder or under applicable law, other than the rights granted specifically to assignees pursuant to this Agreement or pursuant to the Act; *provided,* that without relieving the assigning Member from any such limitations or obligations, as more fully described in Section 12.4(e) hereof, such assignee shall be bound by any limitations and obligations of a Member contained herein by which a Member would be bound on account of the assignee's interest in the Company (including the obligation to make required Capital Contributions with respect to any Transfer of Units).

(d) Acceptance of Benefits. Any Person who acquires any Units or other interest in the Company, shall be deemed to have accepted and adopted the terms and provisions of this Agreement. By accepting such Person agrees to be subject to and bound by all the terms and conditions of this Agreement that any predecessor in such Units or other interest in the Company was subject to or by which such predecessor was bound, upon their explicit written agreement to the terms of this Agreement.

(e) Rights and Obligations of Assignor. Any Member who shall assign any Units or other interest in the Company shall cease to be a Member of the Company with respect to such Units or other interest and shall no longer have any rights or privileges of a Member with respect to such Units or other interest, except that the applicable provisions of Article X (Tax Matters) shall continue to inure to the benefit of such Member in accordance with the terms thereof. Unless and until such an assignee is admitted as a Substitute Member in accordance with the provisions of Section 12.5 hereof, (i) such assigning Member shall retain all the duties, liabilities and obligations of a Member with respect to such Units or other interest and (ii) the Manager may, in its discretion, reinstate all or any portion of the rights and privileges of such Member with respect to such Units or other interest for any period of time prior to the date such assignee becomes a Substitute Member. Nothing contained herein shall relieve any Member who Transfers any Units or other interest in the Company from any liability of such Member to the Company or the other Members with respect to such Units or other interest that may exist on the date such assignee becomes a Substitute Member or that is otherwise specified in the Act and incorporated into this Agreement or for any liability to the Company or any other Person for any present or future breaches of any representations, warranties or covenants by such Member (in its capacity as such) contained herein or in the other agreements with the Company.

12.5 **Admission of Substitute Member**.

(a) Admission. An authorized assignee of any Units or other interests in the Company of a Member, or any portion thereof, shall become a Substitute Member entitled to all the rights of a Member if and only if (i) the assignor gives the assignee such right; (ii) the Manager has granted its prior written consent to such assignment and substitution, if required, which consent may be withheld in the discretion

of the Manager; (iii) such assignee shall execute and deliver a joinder agreement or counterpart signature page to this Agreement agreeing to be bound by all the terms and conditions of this Agreement; and (iv) such assignee shall execute such other documents and instruments as may be necessary or appropriate to effect such Person's admission as a Substitute Member, in a form satisfactory to the Manager. In the event of the admission of an assignee as a Substitute Member, all references herein to the assignor shall be deemed to apply to such Substitute Member, and such Substitute Member shall succeed to all the rights and obligations of the assignor hereunder; *provided,* that the assignor shall continue to remain subject to Section 11.3 (Confidentiality) and Section 12.4(e). Each Member agrees that, notwithstanding the Transfer of all or any portion of its interest in the Company, as between the Member as assignor and the Company, the Member as assignor shall remain liable to return any Distributions previously made to such Member if return of any such Distributions is required by any provision of this Agreement or the Act.

(b) Timing. Any such assignee will become a Substitute Member on the later of (i) the effective date of Transfer and (ii) the date on which all the conditions set forth in Section 12.5(a) have been satisfied. No further action or consent by the Members shall be required in connection with the admission of Substitute Members to the Company pursuant to Section 12.5(a).

(c) Failure. In the event a Transferee of a Unit is not admitted as a Substitute Member, such Transferee shall be deemed a mere assignee of Profits only, and the voting rights, if any, associated with such Units shall remain with the Transferor until such time as the Transferee is admitted as a Substitute Member. The Transferee shall bear Losses in the same manner as its predecessor in interest, and the Transferor of such interest shall thereafter be considered to have no further rights or interest in the Company with respect to the interest Transferred, but shall nonetheless be subject to its obligations under this Agreement with respect to such interest. Additionally, the Transferor shall be deemed to be a defaulted Member. Upon admission of a Transferee as a Substitute Member, the Transferor shall automatically be withdrawn from the Company and be relieved of any corresponding obligations, to the extent of its Transferred Units.

(d) Costs. All costs and expenses, including but not limited to legal fees, administrative costs, and any other costs directly associated with the transfer and, if applicable, the admission of a Person as a Substitute Member, incurred by the Company in connection with any Transfer, shall be borne by the transferor.

(e) Update Schedule of Members. Upon the admission of a Substitute Member, the Manager shall update the Schedule of Members to reflect the changes in ownership of Units and Membership Percentages, including the name, address, number and class of Units and amount of Capital Contributions of such Substitute Member and to eliminate the name and address of and other information relating to the assigning Member with regard to the assigned Units and other interests in the Company.

12.6 **Admission of Additional Members**.

(a) Admission. A Person may be admitted to the Company as an additional Member only upon the written consent of the Manager and only if such additional Member shall execute and deliver a counterpart of this Agreement agreeing to be bound by all the terms and conditions of this Agreement, and such other documents and instruments as may be necessary or appropriate to effect such Person's admission as an additional Member, in a form satisfactory to the Manager. Such admission shall become effective on the date on which the Manager determines in its discretion that such conditions have been satisfied and when any such admission is shown on the books and records of the Company. No action or consent by Members shall be required in connection with the admission of new Members to the Company.

(b) Update Schedule of Members. Upon the admission of an additional Member, the Manager shall update the Schedule of Members to reflect the changes in ownership of Units and Membership Percentages resulting from the issuance of Units, including the name, address, number and class of Units and amount of Capital Contributions of such additional Member.

ARTICLE XIII
DISSOLUTION, LIQUIDATION AND TERMINATION

13.1 **Dissolution**.

(a) General. The Company shall be dissolved, its assets disposed of and its affairs wound up upon the first to occur of the following:

(i) approval of the Manager;

(ii) the entry of a decree of judicial dissolution of the Company under the Act or such other event requiring dissolution under the Act; or

(iii) a determination by the Manager to dissolve the Company because it has determined that there is a substantial likelihood that due to a change in the text, application or interpretation of the provisions of the U.S. federal securities laws (including the Securities Act), or any other applicable statute, regulation, case law, administrative ruling or other similar authority (including changes that result in the Company being taxable as a corporation or association under U.S. federal income tax law), the Company cannot operate effectively in the manner contemplated herein.

(b) Specific Occurrences. The Company shall not be dissolved by the admission of additional Members or Substitute Members. The death, retirement, resignation, bankruptcy or dissolution of a Member, or the occurrence of any other event that terminates the continued membership of a Member in the Company, shall not cause a dissolution of the Company.

(c) Perpetual Existence. Except as otherwise set forth in this Article, the Company is intended to have perpetual existence.

13.2 **Authority to Wind Up**. Upon the dissolution of the Company as set forth in Section 13.1, the Manager shall have all necessary power and authority required to marshal the assets of the Company, to pay the Company's creditors, to distribute assets and otherwise wind up the business and affairs of the Company. In particular, the Manager shall have the authority to continue to conduct the business and affairs of the Company insofar as such continued operation remains consistent, in the judgment of the Manager, with the orderly winding up of the Company.

13.3 **Accounting**. Upon the dissolution of the Company, an accounting shall be made of the assets and liabilities of the Company and the Capital Account of each Member as of the date of dissolution and of the items of Profits and Losses from the date of the last previous accounting to the date of dissolution. The Liquidating Trustee shall cause financial statements presenting such accounting to be prepared and certified.

13.4 **Distribution of Assets**. Upon a Liquidation Event, the assets of the Company shall be distributed as follows in accordance with the Act (the "**Liquidating Distribution**"):

(a) *first*, to creditors of the Company in satisfaction of the liabilities of the Company, including Members who are creditors (other than in respect of Distributions owing to them hereunder);

(b) *second*, to the payment of the expenses of the Liquidation Event;

(c) *third*, to establish any necessary reserves, in amounts established by the Manager or the Liquidating Trustee, as the case may be, to provide for other liabilities, including contingent liabilities, if any;

(d) *thereafter*, to the Members in accordance with Section 6.2(a).

provided, that the distribution of cash, securities and other property to a Member in accordance with the provisions of this Section shall constitute a complete return to the Member of its Capital Contributions and a complete distribution to the Member of any Distributions that is entitled to hereunder, and all the Company's property, and shall constitute a compromise to which all Members have consented within the meaning of the Act. If such cash, securities and other property are insufficient to return such Member's Capital Contributions or returns thereon, the Member shall have no recourse against the Manager, any of the other Members or Officers of the Company.

13.5 **Liquidating Distribution**. The Liquidating Distribution shall be made on or before the later to occur of (i) the last day of the Taxable Year of the Company in which the Liquidation Event occurs and (ii) ninety (90) days thereafter (the "**Final Liquidation Date**"). If the Liquidating Trustee, in its discretion, determines that the Liquidating Distributions will not be timely made, it may distribute all the assets and liabilities of the Company in trust with the Liquidating Trustee, or such other Person as may be selected by the Liquidating Trustee acting as trustee; the purpose of the trust is to allow the Company to comply with the timing requirements under Regulation Section 1.704-1(b). The Liquidating Trustee, acting as trustee of said trust, shall distribute the former Company assets (however constituted, enhanced or otherwise) as promptly as such trustee deems proper and in the same manner as directed in this Section (without regard to this sentence or the preceding two sentences) and otherwise as required hereunder. The trust shall be terminated as soon as possible after the trust property is distributed to the beneficiaries thereof.

13.6 **Distributions in Kind**. Any Company property distributed in kind shall be transferred and conveyed to the distributees as tenants in common subject to any liabilities attached thereto so as to vest in them undivided interests in the whole of such property in proportion to their respective rights to share in the proceeds of the sale of such property in accordance with this Article.

13.7 **Liquidating Trustee**.

(a) General. Upon the dissolution of the Company, the affairs of the Company shall be wound up and terminated and the Members shall continue to share Profits, Losses, Distributions and other items of the Company during the winding up period in accordance with the provisions of this Agreement. The winding up of the affairs of the Company and the distribution of its assets shall be conducted exclusively by the Liquidating Trustee, who is hereby authorized to do all acts authorized by law for these purposes. The Liquidating Trustee, in carrying out such winding up and distribution, shall have full power and authority to sell, assign, Transfer and encumber all or any of the Company assets. On dissolution of the Company, the Manager shall act as liquidator or may appoint one or more Members as liquidator(s). The liquidators shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Act. The costs of liquidation shall be borne as a Company expense.

(b) Indemnification. The Liquidating Trustee shall be indemnified and held harmless by the Company from and against any and all claims, liabilities, costs, damages and causes of action of any nature whatsoever arising out of or incidental to the Liquidating Trustee's taking of or failure to take any action authorized under, or within the scope of, this Agreement; *provided, however*, that the Liquidating Trustee shall not be entitled to indemnification for:

(i) matters entirely unrelated to the Liquidating Trustee's actions under the provisions of this Agreement; or

(ii) the fraud, willful misconduct, self-dealing or criminal activity of the Liquidating Trustee.

13.8 **Winding Up**. The winding up of the Company shall be completed when all debts, liabilities and obligations of the Company have been paid and discharged or reasonably adequate provision therefor has been made, and all the remaining property and assets of the Company have been distributed to the Members.

13.9 **Termination**. Upon the completion of the winding up of the Company and the distribution of all Company assets as provided herein, the Company shall terminate and the Liquidating Trustee shall have the authority to execute and record any and all other documents required to effectuate the termination of the Company.

13.10 **Return of Capital**. The Liquidating Trustee shall not be personally liable for the return of Capital Contributions or any portion thereof to the Members (it being understood that any such return shall be made solely from Company assets).

ARTICLE XIV
GENERAL PROVISIONS

14.1 **Offset**. Whenever the Company is to pay any sum to any Member under this Agreement or pursuant to any other agreement or right, any amounts that such Member owes to the Company under this Agreement or pursuant to any other agreement or right shall be offset against and deducted from that sum before payment.

14.2 **Processing Fees.** Each Member shall be responsible for payment of any associated fees in connection with processing any payment transaction, including credit card transaction fees, ACH/Wire/IRA transaction fees, in connection with its Capital Contribution(s) and such amount shall not be deemed a Capital Contribution or effect such Member's Units.

14.3 **Affiliate Fees.** Affiliates of the Company, including the Manager, its member, or entities under common ownership or control with the Company, may be engaged to provide various services related to the Company's operations and real estate development activities. In connection with such services, these parties may be entitled to receive customary and market-based compensation, which may include, but is not limited to, construction management fees for overseeing development projects, development fees for entitlement and project execution, asset management fees for strategic oversight and operational management, property management fees for leasing and tenant relations, and brokerage fees for facilitating acquisitions, dispositions, and leasing transactions. Any compensation paid to such Affiliates shall be at fair market rates and shall be disclosed to Members in the Company's financial reports. The Manager retains discretion in determining the engagement of Affiliates for such services, provided that any compensation arrangements align with industry standards and the Company's business objectives.

14.4 **Notices.**Except as expressly set forth to the contrary in this Agreement, all notices, requests or consents provided for or permitted to be given under this Agreement must be in writing and shall be deemed to have been received, given or made when (a) delivered personally to the recipient; (b) delivered by electronic mail, or sent via a secure messaging platform to the recipient (with hard copy sent to the recipient by reputable overnight courier service (charges prepaid) that same day) if e-mailed before 5:00 p.m. Miami, Florida time on a Business Day, and otherwise on the next Business Day; (c) one (1) Business Day after being sent by reputable overnight courier service (charges prepaid); or (d) five (5) Business Days after being deposited in the United States mail, addressed to the recipient, postage paid, and registered or certified with return receipt requested. All notices, requests and consents to be sent to a Member must be sent to or made at the address given for that Member on the Schedule of Members on the books and records of the Company, or such other address as that Member may specify by notice to the Company and the other Members. Any notice, request or consent to the Company or the Manager must be given to the Manager at the following address:

To the Company or the
Manager
120 NE 27th St.
Suite 200
Miami, FL 33136
Attn: General Counsel

Whenever any notice is required to be given by law, the Certificate or this Agreement, a written waiver thereof, signed by the Person entitled to notice and acknowledged by the Company, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

14.5 **Entire Agreement**. This Agreement and the Subscription Agreements (including all exhibits and schedules thereto) contain the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, arrangements, understandings, proposals, representations and warranties with respect thereto.

14.6 **Effect of Waiver or Consent**. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations with respect to the Company 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. Failure on the part of a Person to complain of any act of any Person 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 default until the applicable statute of limitations period has run, unless expressly agreed upon in writing by the Company.

14.7 **Amendments**.

(a) General. This Agreement may be amended or modified from time to time only by a written instrument adopted by the Manager; *provided, however*, that an amendment or modification reducing disproportionately a Member's Units or other interest in Profits, Losses or Distributions or increasing a Member's Capital Contribution shall be effective only with that Member's consent.

(b) No Member Approval. For the avoidance of doubt, the Manager may without prior notice or consent of any Member generally make amendments to reflect or effect any of the following:

(i) to correct any mistake, clerical, technical or other errors, cure any ambiguity or omission in this Agreement, make an inconsequential revision, provide clarity or to

correct or supplement any provision herein that may be defective or inconsistent with any other provisions of this Agreement or to effect the intent of the provisions of this Agreement or that is otherwise contemplated by this Agreement;

(ii) any increase or decrease in the Units or any class or series thereof;

(iii) the creation, authorization and/or issuance of additional Units or other Interests in the Company;

(iv) the admission of new members and Substitute Members of the Company in accordance with the provisions of this Agreement;

(v) the cancellation or repurchase of Units or other interests in the Company which have been issued subject to vesting or similar arrangements;

(vi) that the Units shall be certificated upon determination by the Manager;

(vii) update the Schedule of Members, including in connection with any of subclauses (ii) through (vi) above;

(viii) an election for the Company to be bound by any successor statute governing limited liability companies governed by and under the laws of Delaware;

(ix) changes to this Agreement to conform to changes in the Act or interpretations thereof which the Manager believes appropriate, necessary or desirable, *provided*, that in its opinion such amendment does not have a materially adverse effect upon the Members or the Company;

(x) the exercise of any power granted to the Manager under this Agreement;

(xi) changes which, in the discretion of the Manager, are advisable to qualify or to continue the qualification of the Company as a limited liability company in which the Members and the Manager has limited liability under the laws of any state or that are necessary or advisable, in the discretion of the Manager, to ensure that the Company will not be treated as an association taxable as a corporation for federal income tax purposes;

(xii) to amend the provisions of Article VI (Distributions; Allocations of Profits and Losses) if the Company is advised at any time by legal counsel that the allocations provided therein are unlikely to be respected for federal income tax purposes, in which case the Manager is empowered to amend such provisions to the extent necessary in accordance with the advice of counsel to effect the plans of allocations and distributions provided in this Agreement (new allocations made by the Manager in reliance upon the advice of counsel described above shall not give rise to any claim or cause of action by any Member), or otherwise to achieve the tax treatment contemplated by this Agreement;

(xiii) as necessary to reflect the respective allocations, distributions, voting, liquidation and other rights, preferences, privileges and restrictions with respect to new Units or interests issued by the Company, or to effectuate distributions, splits and combinations of Units as contemplated by the Agreement, or to effectuate a modification to the manner in which capital accounts of the Members, or any debits or credits thereto, as contemplated by the Agreement; or

(xiv) to effect any other amendment that does not have a materially adverse effect on the Members.

14.8 **Binding Effect**. Subject to the restrictions on Transfer set forth in this Agreement, this Agreement is binding on and shall inure to the benefit of the Members, and their respective heirs, legal representatives, successors and assigns, subject to written approval by the Company.

14.9 **Governing Law; Severability**; **Arbitration**. THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, EXCLUDING ANY CONFLICT OF LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. Any dispute, controversy or claim relating to this Agreement, the Company, the Subscription Agreement, including, but not limited to, the parties' compliance or noncompliance with or the breach of any of the foregoing agreements, shall be settled by arbitration which shall be administered by the American Arbitration Association under its Commercial Arbitration Rules, but not the Procedures for Large, Complex Commercial Disputes. The arbitration shall proceed before a panel of three neutral arbitrators, each of whom shall be a member of the bar of the State of New York or the State of Delaware with at least ten years' experience, a portion of which shall have involved limited liability agreements involving real estate projects, but the arbitrators shall have no right to award damages or vary, modify or waive any provision of this Agreement. The locale of the arbitration shall be in Wilmington, Delaware. Notwithstanding any inconsistent provision contained elsewhere in this Agreement, the substantive questions to be determined by the arbitrators shall be governed by Delaware law. Furthermore, the parties agree that in the event of a dispute, controversy or claim, the parties' sole remedy shall be a final adjudication determining the matter in accordance with arbitration as provided for in this section and the parties expressly waive their right to seek provisional or preliminary injunctive relief respecting such dispute, controversy or claim. EACH PARTY HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE OTHER SUBSCRIPTION AGREEMENTS, OR THE SUBJECT MATTER HEREOF OR THEREOF. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS (INCLUDING NEGLIGENCE), BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS SECTION HAS BEEN FULLY DISCUSSED BY EACH OF THE PARTIES HERETO AND THESE PROVISIONS WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY HERETO HEREBY FURTHER WARRANTS AND REPRESENTS THAT SUCH PARTY HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT SUCH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

14.10 **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 necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions.

14.11 **Waiver of Certain Rights**. Each Member irrevocably waives any (i) right it may have to maintain any action for dissolution of the Company or for partition of the property of the Company, to the extent permitted to be waived under the Act, and (ii) rights of appraisal it may have under the Act.

14.12 **Notice to Members of Provisions**. By executing this Agreement, each Member confirms that it has been given sufficient opportunity to review and understand all the provisions hereof (including, without limitation, the restrictions on Transfer set forth in Article XII), all of the "Risk Factors" related to

Units as set forth in the Subscription Agreements, and all the provisions of the Certificate, and has sought independent legal advice where necessary.

14.13 **Remedies**. Each Member shall have all rights and remedies set forth in this Agreement provided however, that each Members's recourse against the Company and/or Manager shall be limited to such Members return of its Capital Contribution.

14.14 **Severability**. Each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law to the fullest extent possible, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or the effectiveness or validity of any provision in any other jurisdiction, and this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein. If the Act is subsequently amended or interpreted in such a way as to make any provision of this Agreement that was formerly invalid valid, such provision shall be considered to be valid from the effective date of such interpretation or amendment.

14.15 **Descriptive Headings; Interpretations**. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement. All references to Certificate and Sections refer to articles and sections of this Agreement, and all references to Schedules are to schedules attached hereto, each of which is incorporated herein and made a part hereof for all purposes. Whenever required by the context, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. The use of the word "including" in this Agreement shall be by way of example rather than by limitation. The use of the words "and," "or" and "either" shall be interpreted in the context in which they are used and shall not be exclusive unless explicitly stated. Reference to any agreement, document or instrument means such agreement, document or instrument as amended or otherwise modified from time to time in accordance with the terms thereof, and if applicable hereof. Wherever required by the context, references to a Fiscal Year shall refer to a portion thereof. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

14.16 **Descriptive Headings; Interpretations**. Except as is otherwise specifically provided for in this Agreement or as may otherwise be specifically agreed in writing by all of the Members, the provisions of this Agreement are not intended to be for the benefit of any creditor or other Person to whom any debts, liabilities, or obligations are owed by (or who otherwise has any claim against) the Company or any of the Members; and no such creditor or other Person shall obtain any benefit from such provisions or shall, by reason of any such foregoing provision, make any claim in respect of any debt, liability, or obligation against the Company, the Manager, (or any member or Affiliate thereof) or any of the other Members. Notwithstanding the foregoing, a Person entitled to indemnification stated herein of this Agreement shall be a third party beneficiary hereto.

14.17 **Survival**. All indemnities and reimbursement obligations made pursuant to this Agreement shall survive dissolution and liquidation of the Company for a period of five years or until the expiration of the applicable statute of limitations (including extensions and waivers), whichever is shorter, with respect to the matter for which a party would be entitled to be indemnified or reimbursed, as the case may be.

14.18 **Counterparts**. This Agreement may be executed in multiple counterparts with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

14.19 **Compliance with Anti-Money Laundering Requirements**. Notwithstanding any other provision of this Agreement to the contrary, the Manager, in its own name and on behalf of the Company, shall be authorized, but not obligated to take such action as they determine in its discretion to be necessary or advisable to comply with any anti-money laundering or anti-terrorist laws, rules, regulations, directives or special measures, including the actions contemplated by the Subscription Agreements, provided that the Manager shall notify all Members of such actions as soon as reasonably practicable.

[Signature Page Follows]

SIGNATURE PAGE OPERATING AGREEMENT
OF
SKYGATE GROWTH STRATEGIES I LLC

The undersigned hereby execute the Operating Agreement of SKYGATE GROWTH STRATEGIES I LLC, a Delaware limited liability company, with effect from the date first above written.

COMPANY:

SKYGATE GROWTH STRATEGIES I LLC

BY ITS MANAGER: SKYGATE MANAGER LLC

By: _____
Name: Michael Stern
Title: Authorized Signatory

MANAGER:

SKYGATE MANAGER LLC

By: _____
Name: Michael Stern
Title: Authorized Signatory

MEMBERS:

(attached)

JOINDER AGREEMENT

This Joinder Agreement ("Joinder") is executed by the undersigned pursuant to the terms of the Operating Agreement of SKYGATE GROWTH STRATEGIES I LLC (the "Company"), dated as of [_____], 20[__], a copy of which has been provided to the undersigned and is incorporated herein by reference (the "Agreement"). By execution of this Joinder, the undersigned agrees as follows:

Acknowledgement. The undersigned acknowledges that undersigned is acquiring Units that are subject to the terms and conditions of the Agreement. Capitalized terms used herein without definition are defined in the Agreement and are used herein with the same meanings set forth herein.

Agreement. The undersigned (a) consents and agrees to all the provisions of the Agreement; (b) agrees that all Units now owned or hereafter acquired by the undersigned are bound by and subject to the terms of the Agreement; (c) adopts the Agreement with the same force and effect as if the undersigned were originally a party thereto; provided that joinder in the Agreement will not constitute admission as a Member unless and until he, she or it is duly admitted in accordance with the terms of the Agreement; and (d) acknowledges that for purposes of the Agreement, the undersigned is a holder of Units as applicable as set forth below.

Notice. Any notice required or permitted by the Agreement will be given to the undersigned at the address listed besides the undersigned's signature below.

EXECUTED AND DATED on _____.

_____
Signature

Address for Notices:

_____

_____

Number of Units: _____

EXHIBIT A

SCHEDULE OF MEMBERS
OF
SKYGATE GROWTH STRATEGIES I LLC
(current as of [ ])

Name	**Number of Units**	**Membership Percentage**
New Investor		
TOTAL		

EXHIBIT C
RISK FACTORS

EXHIBIT C

CERTAIN RISK FACTORS

Investors should understand that all investments involve significant risk and there can be no guarantee against loss resulting from an investment in the Company, nor can there be any assurance that the Company's business plan will be realized and successful. As with any investment in securities, the value of, and income from, an investment in the Company can decrease as well as increase, depending on a variety of factors which may affect the values of, and income generated by, the Company's investment holdings, including general economic conditions, market factors and currency exchange rates. Additionally, business and investment decisions made by the Manager will not always be profitable or prove to have been correct. An investment in the Company should only be considered by highly sophisticated investors who are financially able to sustain the possible loss of all or a portion of their investment in the Company.

In addition to the overview of general risks outlined above, investing in the Company involves additional special considerations and risks. Each prospective investor, prior to making an investment decision, should carefully consider the following risk factors in their evaluation of the merits and suitability of an investment in the Company, in addition to, and in conjunction with, all of the other information provided in and with the Subscription Package to which these Risk Factors are attached and any other information provided to the prospective investor by the Company, including the other Exhibits attached thereto. Each prospective investor should consult their own legal, tax, and financial advisers as to all these risks and an investment in the Company.

The Risk Factors reflected below are not intended to be an exhaustive list of all risks involved with an investment in the Company, but merely a representative listing of certain of those risks currently contemplated by the Company. All references to "we", "our", "us" and the "Company" refer to SKYGATE GROWTH STRATEGIES I LLC, a Delaware limited liability company. All references to "you", "your" and the "Investor" refer to those certain investors to the Offering.

RISKS RELATED TO THE COMPANY AND THE MANAGER

We are a recently formed developmental stage company with no operating history and we have not yet generated any revenues or achieved profitability.

We are a developmental stage company with no operating history upon which investors may base an evaluation of our potential future performance. The past performance of the Manager or its affiliates cannot be relied upon as an indicator of the Company's future performance or success. As a result, there can be no assurance that our Developments (defined below) will be able to develop consistent revenue sources, or that our operations will become profitable even if we are able to invest the funds raised in this Offering in accordance with our business plans. Our prospects must be considered in light of the risks, expenses and difficulties frequently encountered by entities in the early stages of development. Such risks include, but are not limited to, an evolving business model, developing the business plan, developing the business infrastructure and the management of growth. There can be no assurance that we will be successful in meeting these challenges and

addressing such risks and the failure to do so could have a materially adverse effect on our business, results of operations and financial condition.

As a development stage company, we are also subject to risks and or levels of risk that are often greater than those encountered by companies with established operations and relationships. There can be no assurance that we will be successful in meeting these challenges and addressing such risks and the failure to do so could have a materially adverse effect on our business, results of operations and financial condition.

Investors will have no rights in the day-to-day decision making of the Company and will not have voting rights as specified in the Operating Agreement.

The Company is exclusively managed by Skygate Manager LLC (the "**Manager"**), including its day-to-day managerial control, and the Manager has very broad management authority. Upon becoming members of the Company ("**Members**"), the Investors will NOT have the ability to participate in the management of the Company nor will they have the right to vote on any matters as the membership interests of the Company, represented by units (the "**Units**"), granted pursuant to the Offering will not have any voting rights. The Investors will not have the ability to remove or replace the Manager. Therefore, Investors' ability to participate in decisions made by the Company will be very restricted, Investors may not agree with all decisions of the Manager, and no person should purchase Units unless such person is willing to entrust all aspects of the management of the Company to the Manager pursuant to the Operating Agreement of the Company (the "**Operating Agreement**").

The consent of the Manager is required in many instances under the Operating Agreement, including amendments to the Operating Agreement. In such instances, a conflict of interest may arise between the Manager and the Members. Furthermore, the Manager has the right to cause the Company to sell, pledge or otherwise dispose of all or any Company assets without the consent of the Members.

Control of the Company is vested in the Manager, and the Manager is entitled to be compensated.

Full day-to-day management control over the Company rests with the Manager, and the Investors lack any managerial control over the Company or investments. Therefore, our success is largely dependent on the Manager for the management of the business and its investments. In addition, the Manager, and consequently the Company, is currently dependent on the continued service and active advisory efforts of the Manager. The loss, cessation, or lapse of any of the Manager's services for any reason may cause the Company to be adversely affected. The Manager is entitled to be compensated and will have the authority to hire any employee or independent contractor as the Manager deems appropriate. The compensation of such employees or independent contractors will be at the Manager's sole discretion.

The Company's strategy is exclusively dependent on the Manager, and the success of the Company is dependent primarily on the experience and knowledge of the management team.

The Company is dependent entirely on the efforts of the Manager for strategic business direction, development and real estate investment experience. In addition, the success of the Company will be largely dependent on the Manager for the day-to-day management of the business. The loss of the Manager's services, including any loss of its officers, employees, or independent contractors, may have a material adverse effect on the Company. The success of the Company will depend on the ability of the Manager to identify and consummate suitable investments in various real estate projects and any subsequent profitability of such investments. All methods of analysis to identify and consummate suitable deployments of Company capital ultimately depend on the Manager's judgment and the assumptions embedded in them, including projections of certain future events. To the extent that with respect to any investment, the judgment or assumptions are incorrect or do not materialize, the Company may suffer losses. Furthermore, the Manager does not have direct experience in managing a vehicle of this kind and as a result, its ability to be an effective Manager of the Company or otherwise operate the Company's business in a manner that maximizes profitability for the Company is questionable.

The Manager may consider investments in different types of assets related to the Developments, all of which have their unique challenges and risks, and the success of each will impact any potential profitability of an investment in the Company.

The Manager will consider causing the Company to invest in different types of real estate assets related to investment, lending or other transactions in real property, real estate developments, or their related assets (the "**Developments**"), such as those involving (i) residential properties (e.g., multifamily apartment buildings, and condominium developments), (ii) commercial properties (e.g., mixed-use development, including commercial office/retail, hotels, hospitality and lodging), (iii) land and development (e.g., raw land acquisition for future development, land entitlements and rezoning opportunities, ground-up development projects (residential, commercial, mixed-use)), (iv) foreclosed or distressed properties (e.g., non-performing and sub-performing loans (mortgage notes)), and (v) real estate debt and financial instruments (e.g., mortgage notes and bridge loans, mezzanine financing structures, preferred equity investments in real estate projects, joint ventures and partnership interests). Any investments in any of such assets by the Company may not be successful or profitable, which can result in the Investor's investment in the Company holding no value.

Because we depend upon our Manager and its affiliates to conduct our operations, any adverse changes in the financial condition of Manager or its affiliates, the unavailability of management or our relationship with them could hinder our operating performance.

We will depend on our Manager or its affiliates to manage our assets and operations and identify investment opportunties. Any adverse changes in the financial condition of Manager or its affiliates or our relationship with them could hinder their ability to manage us and our operations successfully. Our success depends, to a significant extent, upon the continued services of our Manager's management team and the extent and nature of the relationships they have developed across the real estate industry. The loss of services of one or more members of our Manager's management team could harm our business and our prospects.

Our Manager may have conflicts of interests.

The Manager, its affiliates and other related parties engage in a broad spectrum of business activities, including without limitation, those related to the investment and development of real estate and its related assets. In the future, there may arise instances where the interests of the Manager, its affiliates and other related parties conflict with the interests of the Company and its Members, including, but not limited to, the right to control the Company, and the operation and disposition of the Company's assets, the time, energy and investment opportunities that may be presented to Manager outside its duties with the Company. The Manager has not developed, and does not expect to develop, any formal process for resolving conflicts of interest. If a conflict of interest arises, the Operating Agreement limits the remedies available to you in the event of a claim of conflict of interest.

Our management team manages other entities and may direct attractive investment opportunities away from us.

Our Manager's officers also serve as key employees and as officers of affiliates of the Manager who also conduct business in the real estate development industry and will continue to do so. Neither our Manager nor its affiliates is obligated generally to present any particular investment opportunity to us even if the opportunity is of character which, if presented to us, could be taken or could be profitable.

Our Manager, and its officers and employees, may allocate time to other businesses.

Our Manager and its staff are not required and will not devote 100% of its time to Company affairs. Ultimately, our Manager, including its officers and employees, will devote such time as the Manager, in its sole discretion, deems necessary to operate the Company, and certain persons performing services for the Manager will also perform other services for affiliates of the Manager. Conflicts of interest may arise in allocating management time, services, or functions among the Company and other clients of the Manager and its affiliates, which could limit the ability of the Manger to devote time to the Company, and it could have a negative result on the Company's operations.

Fiduciary Responsibility.

Neither the Manager, any member, officer, director, employee, trustee, affiliate or member of the Manager or of any committee thereof, or any person designated by the Manager on behalf of the Company to serve as officer, manager, or advisor of or to the Company or an investment property of the Company acting in such capacity (each such person, an "**Indemnitee**") (collectively, "**Indemnitees**"), shall have any liability for damages or other relief arising from or related to the business or affairs of the Company or the Offering or sale of Units.

The Company will indemnify an Indemnitee against all losses, costs and expenses, including legal or other expenses reasonably incurred in investigation or defense, judgments and amounts paid in settlement actually and reasonably incurred by the Indemnitee in connection with an action.

Affiliates of the Manager may have invested in, or own, certain of the Developments that the Company invests in.

The Manger may decide for the Company to invest in Developments that its affiliates may have invested in, or that such affiliates control. As such, there may arise instances where the interests of the Manager, its affiliates and other related parties conflict with the interests of the Company and its Members as with respect to the negotiation of such investments, and subsequent management and control of such Developments that are not beneficial to the Company.

The Manager or its other affiliates may act as construction manager for the investments, or otherwise have roles that entitle them to other fees.

Developments that we invest in may be constructed by affiliates of the Manager and certain fees must be paid to such affiliates. In the event the projects we invest in do not pay the construction manager or breach a construction management agreement associated with such investments, the manager's ability to continue operations could be negatively impacted, which would have a negative impact on our investments.

Further, the Manager or its other affiliates may provide other services to the Company, other affiliates or to third-parties that entitle the Manager (or such affiliates) to construction management fees, or other management fees, development fees, or brokerage fees.

We face risks associated with litigation against Manager, and or Manager's affiliates.

There are risks of litigation involving Manager and its Affiliates or the Developments as the real estate industry is very litigious. We cannot foresee what claims may be made or guarantee any particular outcome of litigation, and negative outcomes against any of the Manger or its affiliates could impact the success of the business of the Company. The expense of prosecuting claims, for which there is no guarantee of success, and/or the expense of defending against claims by third parties and paying any amounts pursuant to settlements or judgments presents a potential risk to the investment.

The Company's and its affiliates' future success and profitability depend on the continued services of the Manager.

The future success of the Company and its affiliates depends upon the continued service of certain key personnel the loss of whom could materially adversely affect the Company's and its affiliates' business, results of operations, and financial condition. If the Company had to replace any of these key employees, it would not be able to replace the significant knowledge and experience that such personnel would have. In addition, the Company would be forced to expend significant time and money in the pursuit of a replacement, which would result in both a delay in the implementation of the Company's business plan and the diversion of working capital.

The loss of any of these individuals could have a material adverse effect on our businesses. We do not maintain key-man life insurance with respect to any of our employees. Our success will be dependent on our ability to continue to attract, employ, and retain skilled personnel in our business lines and segments.

We face risks associated with security breaches through cyber-attacks, cyber intrusions or otherwise, as well as other significant disruptions of our information technology (IT) networks and related systems.

We face risks associated with security breaches, whether through cyber-attacks or cyber intrusions over the Internet, malware, computer viruses, attachments to e-mails, persons inside our organization or persons with access to systems inside our organization, and other significant disruptions of our IT networks and related systems. In addition, any hotels or other businesses that open in the Developments will be subject to risks of security breaches, which could include disclosures of hotel guest's personal information. The risk of a security breach or disruption, particularly through cyber-attack or cyber intrusion, including by computer hackers, foreign governments and cyber terrorists, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased. Although we make efforts to maintain the security and integrity of these types of IT networks and related systems, our security efforts and measures may not be effective. Even the most well protected information, networks, systems and facilities remain potentially vulnerable because the techniques used in such attempted security breaches evolve and generally are not recognized until launched against a target, and in some cases are designed not to be detected and, in fact, may not be detected.

A security breach or other significant disruption involving our, the Manager's or its affiliates' IT networks and related systems could:

- disrupt the proper functioning of our networks and systems and therefore our operations;
- result in misstated financial reports, violations of loan covenants and/or missed reporting deadlines;
- result in the unauthorized access to, and destruction, loss, theft, misappropriation or release of, proprietary, confidential, sensitive or otherwise valuable information of ours or others, which could expose us to damage claims by third-parties;
- require significant management attention and resources to remedy any damages that result;
- subject us to claims for breach of contract, damages, credits, penalties or termination of leases or other agreements; or
- damage our reputation among our securityholders.

Any or all of the foregoing could have a material adverse effect on our results of operations, financial condition and cash flows.

Distributions may be limited or not occur at all.

Even if the Company is successful, there can be no assurance that the Investors will receive distributions from the Company in an amount equal to their investment in the Company. Moreover, any distributions would be limited in nature and timing as set forth in the Operating Agreement. Ultimately, Members may lose their entire investment.

A financial crisis, economic slowdown, or epidemic or other economically disruptive event may harm the operating performance of the hospitality, residential and retail industries. We also face risks related to changes in the domestic and global political and economic environment, including capital and credit markets.

The real estate industry is closely linked with the performance of the general economy and, specifically, growth in the U.S. gross domestic product. Once we close on investments in target

Developments, these projects may not be diversified in class or use. In an economic downturn, these properties may be more susceptible to a decrease in revenue, as compared to other properties in other categories based on the assets positioning. This characteristic may result from the fact that certain properties and locations generally target business and high-end leisure travelers and residential owners. If the U.S. or global economy experiences volatility or significant disruptions, our business could be negatively impacted by reduced demand for business and leisure travel related to a slowdown in the general economy.

We may experience losses caused by severe weather conditions, natural disasters or the physical effects of climate change.

Once we close on investments in any target Developments, our investments are susceptible to revenue loss, cost increase or damage caused by severe weather conditions or natural disasters such as fires, hurricanes and floods, as well as the effects of climate change. These natural disasters could delay construction timing, cause physical damage, increase insurance costs, reduce occupancies, and other unforeseen events damaging the investments. To the extent climate change causes changes in weather patterns, we could experience increases in storm intensity. Over time, these conditions could result in declining hotel demand and desirability of certain locations for residency, significantly damaging our investments.

Our investments will entail many different tasks and work streams being harmonized that the Manager anticipates will reconcile under a contemplated timeline. Meanwhile, economic, practical and other business considerations may lead the Manager to determine that selling an investment prior to the completion of the development is the most prudent course of action. In the event that such a sale occurs, our ability to pay distributions to our equity-holders could be adversely affected.

The Investors do not have separate legal representation and the same legal counsel represents the Company and the Manager.

The same legal counsel represents the Company and the Manager. In connection with this Offering and sale of Units and subsequent advice to the Company and the Manager, such counsel will not be representing the Investors. No independent counsel has been engaged by the Company to represent the Investors. Therefore, your interests may not be suitably represented or protected if you do not obtain your own legal counsel and other advisors.

RISKS RELATED TO OUR BUSINESS

We will be exposed to risks inherent in real estate transactions, including the management and maintenance of various real estate Developments.

Investments in real estate transactions and their related assets, including those contemplated by our business, may be affected by certain risks generally incident to the ownership of real property and related assets which are beyond the control of the Company as the Company anticipates being a passive investor in the Developments. These factors include, but are not limited to, adverse market conditions, general economic conditions, interest rates, increasing construction costs, maintenance costs, property tax rates, competition from other developers and from other forms of

real estate, the rate and timing of delinquencies and defaults on any loans, the quality of any properties we are invested in, including the possible deterioration of the area where such property is situated, any acts outside our control, including terrorism, acts of God and natural disasters, adverse changes in local employment conditions and environmental issues related to any property. In addition, once the Manager causes the Company to close on investments in any Developments, they may be subject to all the risks of real property development, including construction delays, market changes during construction, bankruptcy of contractors and subcontractors, the filing of liens on the property, and the occurrence of fire or other casualty during the construction phase, performance of the underlying assets. Delays in development, construction or renovation of the property and risks associated with the Developments in general could adversely affect our business and results of operations.

The value of an Investor's investment in the Company will fluctuate. Investment in the Company involves market risks and uncertainties as to the underlying Developments. The value of an Investor's investment will depend on many factors beyond the control of the Manager and its affiliates involved in the Company's business. Investments of this type generally are not liquid and there is no assurance that there will be a ready market for interests of the Company. There is a risk that an investment in the Company pursuant to the Offering could be lost entirely or in part. The Company is not a complete investment program and should represent only a portion of an Investor's portfolio management strategy. The Company may incur investment advisory and other expenses that are reflected in the value of the interests of the Company. Those expenses are in addition to the fees and expenses the Company incurs directly.

Each of the Company's investments may experience substantial cost overruns in completing transaction and marketing of any project. Competent professional may not be available to assist the Company in its acquisitions and marketing efforts, if required. The Company may not be able to capitalize on any of its investments because of industry conditions, general economic conditions and competition from other real estate investment, developers and brokers. The Company may also incur uninsured losses for liabilities that arise in the ordinary course of business in the real estate industry, or that are unforeseen, including but not limited to property liability, and employment liability. There is no assurance that the Members will not lose their entire investment in the Company.

Due diligence may not reveal all conditions.

The Manager will perform certain due diligence on the Company's potential investments prior to their funding. Regardless of the thoroughness of the due diligence process, not all circumstances affecting the value of an investment in a Development can be ascertained through the due diligence process. If the diligence materials provided to the Manager are inaccurate, if the Manager does not sufficiently investigate or follow up on matters brought to its attention as part of the due diligence process, or if the due diligence process fails to detect material facts that impact the value determination, the Company may complete an investment that results in significant losses to the Company or may overpay for an investment, which would cause the Company's performance to suffer.

The Developments will need to manage through a variety of leasing related risks, many of which are outside the control of the Company.

Certain of the Developments in which the Company may invest may need to manage through a variety of leasing related risks, many of which are outside the control of the Company, including but not limited to the following:

- the supply of and demand for multi-family units and office space in key gateway and major cities and surrounding areas;
- failure of the tenants to pay rent;
- vacancies or inability to rent units on favorable terms;
- inflation and other increases in operating costs, including insurance premiums, utilities and real estate taxes;
- adverse changes in the federal, state or local laws and regulations applicable to us;
- changing market demographics;
- an inability to repay or refinance any loan or other indebtedness incurred;
- acts of God, such as hurricanes, floods or other uninsured losses, including litigation;
- changes or increases in interest rates and availability of financing; and
- periods of economic slowdown or recession, or declining demand for real estate, or the public perception that any of these events may occur, could result in a general decline in rents or increased defaults under existing leases.

The inability of the Company to properly manage these risks and others may result in a material adverse effect on the ability of the Company to continue as a going concern or to return any investment to the investment.

HOTEL INVESTMENT RISKS

As contemplated our business will be subject to general risks associated with operating hotels.

Certain of the Developments in which the Company may invest may need to manage through a variety of hotel related risks, many of which are outside the control of the Company, including but not limited to the following: Any hotel that opens in a Development will be subject to the various operating risks common to the hotel industry, many of which are beyond our control, including, among others, the following:

- adverse effects of the COVID-19 pandemic, including a potential general reduction in business and personal travel;
- competition from other hotels in the market;
- over-building of hotels in the market, which results in increased supply and adversely affects occupancy and revenues at the hotel;
- dependence on business and commercial travelers and tourism;

- increases in operating costs due to inflation, increased energy costs and other factors that may not be offset by increased room rates;
- changes in interest rates and in the availability, cost and terms of debt financing;
- increases in assessed property taxes from changes in valuation or real estate tax rates;
- increases in the cost of property insurance;
- changes in governmental laws and regulations and the related costs of compliance with laws and regulations;
- unforeseen events beyond control, such as terrorist attacks, travel-related health concerns which could reduce travel, including pandemics and epidemics such as COVID-19 and other future outbreaks of infectious diseases, travel-related accidents, and travel infrastructure interruptions;
- adverse effects of international, national, regional and local economic and market conditions and increases in energy costs or labor costs and other expenses affecting travel, which may affect travel patterns and reduce the number of business and commercial travelers and tourists; and
- risks generally associated with the ownership of hotel properties and real estate, as we discuss in more detail below.

These factors could adversely affect hotel revenues and expenses, which in turn could adversely affect our financial condition, results of operations, the value of our Units and our ability to make distributions.

Declines in or disruptions to the travel industry could adversely affect our business and financial performance of businesses that open on the Property.

Our contemplated business and financial performance will be affected by the health of the worldwide travel industry. Travel expenditures are sensitive to personal and business-related discretionary spending levels, tending to decline or grow more slowly during economic downturns. For example, during regional or global recessions, domestic and global economic conditions can deteriorate rapidly, resulting in increased unemployment and a reduction in expenditures for both business and leisure travelers. Because these events or concerns, and the full impact of their effects, are largely unpredictable, they can dramatically and suddenly affect travel behavior by consumers and decrease demand.

The hotel business is seasonal, which will affect our results of operations from quarter to quarter.

The hotel industry is seasonal in nature. To the extent that we invest in hotel related Developments, this seasonality can cause quarterly fluctuations in our financial condition and operating results, including in any distributions on our Securities. Our operating results may be adversely affected by factors outside our control, including weather conditions and poor economic factors.

Many real estate costs are fixed, even if revenue from the hotel decreases.

Many costs, such as real estate taxes, insurance premiums and maintenance costs, generally are not reduced even when a hotel is not fully occupied, room rates decrease or other circumstances cause a

reduction in revenues. If our investments in hotel assets are unable to offset real estate costs with sufficient revenues, we may be adversely affected.

Hotel operating expenses may increase in the future, which could cause raising room rates, which may reduce room occupancy, or cause lower net operating income as a result of increased expenses that are not offset by increased room rates, in either case decreasing our cash flow and our operating results.

Operating expenses, such as expenses for utilities, technology, labor and insurance, are not fixed and may increase in the future. To the extent such increases affect room rates and therefore room occupancy at a hotel, our cash flow and operating results may be negatively affected.

We may be adversely affected by increased use of business-related technology, which may reduce the need for business-related travel.

The increased use of teleconference and video-conference technology by businesses could result in decreased business travel as companies increase the use of technologies that allow multiple parties from different locations to participate at meetings without traveling to a centralized meeting location. To the extent that such technologies play an increased role in day-to-day business and the necessity for business-related travel decreases, hotel room demand may decrease, and we may be adversely affected.

We are also subject to risks associated with the employment of hotel personnel, particularly if the employees at hotels on the Property unionize.

Changes in labor laws may negatively impact us. For example, the implementation of new occupational health and safety regulations, minimum wage laws, and overtime, working conditions status and citizenship requirements and the Department of Labor's proposed regulations expanding the scope of non-exempt employees under the Fair Labor Standards Act to increase the entitlement to overtime pay could significantly increase the cost of labor in the workforce, which would increase the operating costs of a hotel and may have a material adverse effect on us.

RISKS RELATED TO MIXED-USE DEVELOPMENT INVESTMENTS

Our performance will depend on the collection of rent from tenants, those tenants' individual financial condition and the ability of those tenants to maintain their leases.

We contemplate that a portion of income from the Developments will be derived from rental income. As a result, our performance will depend on the collection of rent by the managers of the Developments. Our income would be negatively affected if a significant number of tenants, among other things: (1) decline to extend or renew leases upon expiration; (2) renew leases at lower rates; (3) fail to make rental payments when due; or (4) become bankrupt or insolvent. We cannot be certain that any tenant whose lease expires will renew or that the properties we are in vested in will be able to re-lease space on economically advantageous terms. The loss of rental revenues from a number of tenants and difficulty replacing such tenants may adversely affect our profitability and our ability to meet our financial obligations.

Lease defaults or terminations or landlord-tenant disputes may adversely reduce our income.

Lease defaults or terminations by one or more of tenants may reduce revenues unless a default is cured or a suitable replacement tenant is found promptly. In addition, disputes may arise between the landlord and tenant that result in the tenant withholding rent payments, possibly for an extended period. These disputes may lead to litigation or other legal procedures to secure payment of the rent withheld or to evict the tenant. In other circumstances, a tenant may have a contractual right to abate or suspend rent payments. Even without such right, a tenant might determine to do so. Any of these situations may result in extended periods during which there is a significant decline in revenues or no revenues generated by our Developments. If this were to occur, it could adversely affect our results of operations.

Competition from other apartment communities for tenants could reduce our profitability and the return on the Units.

The apartment industry is highly competitive. Apartment Developments that we may invest in will face competition from other apartment communities and overbuilding of apartment communities may occur. If so, this will increase the number of apartment units available and may decrease occupancy and apartment rental rates. This competition could reduce occupancy levels and revenues at the Developments, which would adversely affect the value of our investments in these projects. In addition, increases in operating costs due to inflation may not be offset by increased apartment rental rates.

The projects we may invest in will likely face significant competition for retail tenants, which may limit our ability to achieve our investment objectives or pay distributions.

The U.S. commercial real estate investment and leasing markets are competitive. Developments that we invest in will face competition from various entities for prospective tenants and to retain current tenants.

We depend upon the performance of the property manager in the selection of tenants and negotiation of leasing arrangements. The managers may have to offer inducements, such as free rent and tenant improvements, to compete for attractive tenants. Further, as a result of their greater resources, competitors may have more flexibility than in their ability to offer rental concessions, which could put additional pressure on the Developments ability to maintain or raise rents and could adversely affect the Development's ability to attract or retain tenants. In the event the Developments are unable to find new tenants and keep existing tenants, or if they are forced to offer significant inducements to such tenants, we may not be able to meet our investment objectives and our financial condition, results of operations, cash flow, ability to satisfy our debt service obligations and ability to pay distributions to our securityholders may be adversely affected.

If a major tenant defaults or declares bankruptcy, a Development may be unable to collect balances due under relevant leases, which could have a material adverse effect on our financial condition and ability to pay distributions.

The default, bankruptcy or insolvency of a tenant may adversely affect the income produced by the Developments. Under bankruptcy law, a tenant cannot be evicted solely because of its bankruptcy and has the option to assume or reject any unexpired lease. If the tenant rejects the lease, any resulting claim for breach of the lease (other than to the extent of any collateral securing the claim) will be treated as a general unsecured claim. Claims against the bankrupt tenant for unpaid and future rent will be subject to a statutory cap that might be substantially less

than the remaining rent actually owed under the lease, and it is unlikely that a bankrupt tenant that rejects its lease would pay in full amounts it owes us under the lease. Even if a lease is assumed and brought current, the property still run the risk that a tenant could condition lease assumption on a restructuring of certain terms, including rent, that would have an adverse impact on us. Any shortfall resulting from the bankruptcy of one or more tenants could adversely affect our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions.

RISKS RELATED TO THE REAL ESTATE AND REAL ESTATE INDUSTRY

The illiquidity of real estate investments could significantly impede our ability to respond to adverse changes in the performance of our Developments and harm our financial condition.

Real estate investments are historically relatively illiquid, and our ability to sell promptly our current and future properties for reasonable prices in response to changing economic, financial, and investment conditions could be limited.

At such time as a disposition of the Developments is desired, it may not be possible to sell the project or such components thereof for an acceptable price. The Developments may be sold at a loss as compared to carrying value. We also cannot predict the length of time needed to find a willing purchaser and to close the sale of a property. The projects we are invested in may be required to expend funds to correct defects or to make improvements before a property can be sold.

Increases in property taxes would increase operating costs, reduce our income and adversely affect our ability to make distributions.

The Developments will be subject to real and personal property taxes. These taxes may increase as tax rates change and as our property is assessed or reassessed by taxing authorities. If property taxes increase and costs are not able to be passed through to tenants, the financial condition, results of operations and ability to make distributions could be materially and adversely affected and the market price of our Units could decline.

Developments may contain or develop harmful mold, which could lead to liability for adverse health effects and costs of remediating the problem, which could negatively impact our investments.

When excessive moisture accumulates in buildings or on building materials, mold growth may occur, particularly if the moisture problem remains undiscovered or is not addressed over a period of time. Some molds may produce airborne toxins or irritants. Concern about indoor exposure to mold has been increasing as exposure to mold may cause a variety of adverse health effects and symptoms, including allergic or other reactions. Properties may contain microbial matter such as mold and mildew. As a result, the presence of significant mold at a property could require its manager to undertake a costly remediation program to contain or remove the mold. In addition, the presence of significant mold could expose the Development to liability from property guests, employees, and others if property damage or health concerns arise. This could have a materially negative impact on our investment in any such Development.

Compliance with the Americans with Disabilities Act and fire, safety, and other regulations may require us or our borrowers to incur substantial costs.

Certain Developments will be required to comply with the Americans with Disabilities Act (the "ADA"). The ADA requires that "public accommodations" such as hotels, restaurants, and retail stores be made accessible to people with disabilities. Compliance with the ADA's requirements could require removal of access barriers and non- compliance could result in imposition of fines by the U.S. government or an award of damages to private litigants, or both. In addition, the properties are required to operate in compliance with fire and safety regulations, building codes, and other land use regulations as they may be adopted by governmental agencies and bodies and become applicable to our Developments. Any requirement to make substantial modifications to the Developments, whether to comply with the ADA or other changes in governmental rules and regulations, could be costly.

If we set aside insufficient reserves, we may be required to defer necessary or desirable property improvements.

If sufficient reserves are not established by us or the managers of the Developments to supply necessary funds for capital improvements or similar expenses, necessary or desirable improvements to the Developments may be deferred, causing decline in value, and it may be more difficult to attract or retain tenants or the amount of rent charged. This would have a negative impact on the value of our investments in such Developments.

The Developments we are investing in may not be ability to raise sufficient equity to complete their business plan.

The Developments that we may invest in will likely require significant funding outside of the investments that the Company may make. Manager may or may not elect to, or may not be able to, provide sufficient equity required by the project. If adequate equity is not available and the subject Development is not successful, it will have a negative effect on our financial success.

The Company may only be invested in one real estate opportunity from time to time, if any, thus creating a non-diversified portfolio unable to spread risk.

While the Company intends to invest in multiple real estate Developments there is the potential that that Company may only be invested in one Development creating no diversity in the portfolio and any issues with one project can cause a total loss of the investment thereby making this investment highly speculative, and accordingly there can be no guarantee that the Investor will receive any returns on its investment. This may be due to lack of viable investment opportunities, dispositions of certain Developments, or the inability to negotiate favorable terms, among other reasons.

Our investments may have geographic concentration risk that may adversely impact the Company

The Company's investments may be concentrated in a limited number of geographic areas. As a result, the Company's operating results and ability to make distributions could be impacted by economic changes specifically affecting the real estate markets in such areas. An investment in the Company will therefore be subject to greater risk than a more geographically diversified portfolio.

The Company may have a need for additional financing

The Company may have a need for additional financing. There can be no assurance that additional financing will be available or, if available, that it would be obtainable on acceptable terms. If the Company requires any such financing and is unable to procure it, then the business may then have to adjust its business plan.

A concentration of our funds in the acquisition and development of real estate may leave our profitability vulnerable to a downturn or slowdown.

We expect to concentrate our funds in the acquisition and financing of investments in real estate projects. As a result, we will be subject to risks inherent in investments in owning equity in high risk development property, debt, and real property which are inherently risky. The potential effects on our revenues, and as a result, on cash available for distribution to our Investors, resulting from a downturn or slowdown in these investments could be more pronounced than if we had more fully diversified our investments.

Local economic downturn and regional and national economic softness could materially and adversely affect our economic performance.

The economic performance of our investment in any real estate or other investments is subject to all of the risks related to adverse changes in national, regional and local economic and market conditions, including inflation, unemployment, and interest rates. Economic conditions could affect the extent and timing of our investment activities and the availability of investments, negatively impacting the Company's ability to carry out its business or cause it to incur losses. In the future there may be additional periods of relatively weak economic performance that could reduce demand in the marketplace for our products and services which may have a negative effect on our financial success.

Economic events may adversely impact our business and results of operations.

We are susceptible to weakness in the economy of the U.S. and around the world that could be harmful to our financial position and results of operations. Many parts of the world including the United States are undergoing economic instability. The impacts of instability in the world, downward credit rating of the United States, financial market weakness, lower consumer confidence, terrorist attacks and the United States' participation in military actions may further exacerbate current economic conditions. In such events, it negatively impact the real estate industry, thereby decreasing our potential revenues and negatively affecting our operating results.

Continued disruptions in the financial markets and uncertain economic conditions could adversely affect the value of our investments.

Disruptions in the financial markets and uncertain economic conditions could adversely affect the values of our investments through our ownership of the Company. In the recent past, turmoil in the capital markets has constrained equity and debt capital available for investment in real estate, resulting in fewer buyers seeking to acquire properties and possible increases in capitalization rates and lower property values. Furthermore, declining economic conditions could negatively impact real estate fundamentals and result in declining values in the real estate in which we invest for our

business. As a result, the values of our investments could decrease below the amount we invest; and the investments may not generate sufficient income to continue our business as a going concern.

Potential risk of related investments may have an adverse effect on our investment.

Part of our business plan is to invest in real estate Development transactions managed by affiliates of the Manager. In the event one of such affiliate suffers losses, such losses may impact materially and adversely all our investments.

Potential development and construction delays and resultant increased costs and risks may hinder our operating results and decrease our net income.

Part of our business plan is to invest in entities that acquire, sell, develop, renovate and maintain real property. Such investments will be subject to significant uncertainties which we cannot predict, including those related to development risks in the event the Manager determines to make any improvements, tenant risks, environmental concerns of governmental entities and/or community groups and our ability to build in conformity with plans, specifications, budgeted costs and timetables. These and other factors can result in increased costs of our business or loss of the Company's investment.

Our operating revenue may be insufficient to fund our operations.

If the Developments do not generate income sufficient to meet operating expenses the Company's income and ability to make distributions to the Investors will be adversely affected. The Company's income from the investments may be adversely affected by the general economic climate, local conditions, a reduction in demand, or competition from other businesses. Increases in operating costs due to inflation and other factors may not be directly offset by increased revenue.

We will concentrate our investments in real estate Development projects and related assets, which are subject to numerous risks, including the risk that the values of our investments may decline if there is a prolonged downturn in real estate values.

The nature of the real estate assets that we intend to invest in are subject to risks typically associated with investments in real estate. The investment returns available from equity and debt investments in real estate depend in large part on the amount of income earned, expenses incurred and capital appreciation generated by the related properties. In addition, a variety of other factors affect income from properties and real estate values, including governmental regulations, real estate, insurance, zoning, tax and eminent domain laws, interest rate levels and the availability of financing. For example, new or existing real estate zoning or tax laws can make it more expensive and time-consuming to expand, modify or renovate older properties. Under eminent domain laws, governments can take real property. Sometimes this taking is for less compensation than the owner believes the property is worth. Any of these factors could have an adverse impact on our business, financial condition or results of operations.

Timing, budgeting and other risks could delay efforts to develop, redevelop or renovate the properties that we invest in, or make these activities more expensive, which could reduce our profits or impair our ability to compete effectively.

The projects we intend to invest in expend capital to develop and/or maintain property that they own, and plan to acquire, in order to remain competitive, pursue their business strategies, maintain and build the value and brand standards of their properties and comply with applicable laws and regulations. In addition, they must periodically upgrade or replace the furniture, fixtures and equipment necessary to operate the business. These efforts are subject to a number of risks, including:

- construction delays or cost overruns (including labor and materials) that may increase business costs;
- availability and cost of supplies;
- availability and costs of personnel;
- obtaining zoning, occupancy and other required permits or authorizations;
- governmental restrictions on the size or kind of development;
- force majeure events, including earthquakes, tornadoes, hurricanes or floods;
- design defects that could increase costs; and
- environmental concerns which may create delays or increase costs.

These projects we intend to invest in create an ongoing need for cash, which if not generated by operations or otherwise obtained is subject to the availability of equity and/or credit in the capital markets. The ability to spend the money necessary to maintain the quality of the properties is significantly impacted by the cost and availability of capital, over which we have little control.

The timing of capital improvements can affect property performance, including sales, retention of tenants and usage. Moreover, the investments that we make may fail to improve the performance of the properties in the manner that we expect. If the projects we intend to invest in are not able to begin operating properties as scheduled, or if such investments harm or fail to improve the performance of the properties, our ability to compete effectively would be diminished and our business and results of operations could be adversely affected.

The insurance policies of the Company, the Manager or its affiliates may not provide adequate levels of coverage against all claims and losses may be incurred that are not covered by such insurance.

We may maintain insurance of the type and in amounts that we believe is commercially reasonable and that is available to businesses in our industry, but the Manager may decide to elect not have insurance if the Manager determines that such insurance is not in the best interests of the Company in the Manager's sole discretion. The same is true for Manager's affiliates and the company's and entities in which we invest. We believe that the policy specifications and insured limits are adequate for foreseeable losses with terms and conditions that are reasonable and customary for similar properties and that our business is insured within industry standards. Nevertheless, market forces beyond our control could limit the scope of the insurance coverage that we can obtain in the future or restrict our ability to buy insurance coverage at reasonable rates. We cannot predict the

level of the premiums that we may be required to pay for subsequent insurance coverage, the level of any deductible and/or self-insurance retention applicable thereto, the level of aggregate coverage available or the availability of coverage for specific risks.

In the event of a substantial loss, the insurance coverage that we carry may not be sufficient to pay the full value of our financial obligations or the replacement cost of any lost investment. As a result, we could lose some or all of the capital we have invested in a property, as well as the anticipated future revenues from the property. Additionally, we could remain obligated for performance guarantees in favor of third-party property owners or for their debt or other financial obligations and we may not have sufficient insurance to cover awards of damages resulting from our liabilities. If the insurance that we carry does not sufficiently cover damages or other losses, our business, financial condition and results of operations could be harmed.

In addition, there are types of losses we may incur that cannot be insured against or that we believe are not commercially reasonable to insure. For example, we maintain business interruption insurance, but there can be no assurance that the coverage for a severe or prolonged business interruption at our business would be adequate. Moreover, we believe that insurance covering liability for violations of wage and hour laws is generally not available. These losses, if they occur, could have a material adverse effect on our business, financial condition and results of our operations.

Accidents or injuries in connection with the Developments that we invest in may subject us to liability, and accidents or injuries could negatively impact the Developments' reputation and attendance, which would harm the Developments' business, financial condition and results of operations.

There are inherent risks of accidents or injuries at potential Developments or in connection with their operations, including injuries from premises liabilities such as slips, trips and falls. If accidents or injuries occur at any of the Developments, the Manager or its affiliates may be held liable for costs related to the injuries. Even if the Developments maintain insurance, there can be no assurance that their liability insurance will be adequate or available at all times and in all circumstances, or the amount of the deductible is reasonable. The business, financial condition and results of operations of the Developments could be harmed to the extent claims and associated expenses resulting from accidents or injuries exceed insurance recoveries, and this could ultimately have a negative impact on the investment in any such Development completed by the Company.

If the Developments we invest in incur indebtedness in connection with the acquisition and or construction of the properties thereunder, we will be subject to risk related thereto, including not being able to meet debt service obligations.

If the Developments have obtained financing with regard to the acquisition and/or development of the real estate or other investment opportunities, the principal and interest payments on such indebtedness will be required to be made when due, regardless of the amount of income from the business. If payments are not made to creditors when due, the Company may sustain a loss of its investment. Such investment loss or a foreclosure or sale could result in substantial adverse consequences to Investors, including adverse income tax consequences.

Our investments may not be able to obtain planned financing on favorable terms.

The Company anticipates certain of the Developments to require various types of financing, including construction and mezzanine financing. This financing is not in the Company's control and the Company, may make investments in projects that have not obtained any commitment from any lender for such financing. There is no guarantee that such financing will be obtained, which may impact our ability to execute our business plan. If the senior financing is obtained or assumed, it could prohibit early prepayment, require substantial balloon payments upon maturity, or require the payment of a prepayment penalty or premium if the loan is repaid prior to maturity or prior to a specified date. Loans requiring balloon payments involve greater risk than loans in which the principal amount is fully amortized over the term of the loan because the ability to repay the amount due at maturity will depend upon the borrower's ability to obtain adequate refinancing or to sell any investment property. The ability of the borrower to refinance or sell any investment property is likely to depend on economic conditions in general and the value of the investment property at that time and there can be no assurance that such conditions will be favorable or that the value of the investment property will be sufficient. In addition, no assurance can be given that the Company will have from this Offering or will be able to generate sufficient working capital from cash flow in the future, sufficient working capital to sustain its operations on an on-going basis, including the payment of fees to affiliated parties and/or to third parties.

Developments may need to raise additional capital, which may not be available on favorable terms, if at all, and which may cause dilution to our investments in them.

The Developments we invest in may need to raise additional funds through equity financing or through other means. Any additional financings could result in dilution to our investment in any such Development, or restrict the Development's operations or adversely affect its ability to operate its business. If the Developments raise funds by issuing additional equity or equity securities, the percentage ownership of the Company in the Development will be reduced. If the Developments raise funds by issuing debt, the ability of its then existing investors to receive distributions may be adversely affected which would in turn negatively impact our ability to do distributions.

The inability to raise additional capital may result in us, or the Developments, not being fully funded and negatively impact the ability to execute business plans.

We or the projects we invest in may require additional capital in the future and may seek to raise it through the private sale of debt or equity securities, debt financing or short-term loans, or a combination of the foregoing. We may also seek to satisfy indebtedness without any cash outlay through the private issuance of debt or equity securities. We currently do not have any binding commitments for, or readily available sources of, additional capital and may not be able to secure any additional capital we may need on terms favorable to us, if at all. We cannot give you any assurance that we will be able to secure the additional capital we may require to continue our operations. To the extent we require additional capital and cannot raise it, we may have to limit our then-current operations and curtail all or certain portions of our business objectives and plans. In addition, should our costs and expenses prove to be greater than currently anticipated, or should

we change our current business plan in a manner that will increase or accelerate our anticipated costs and expenses (such as through acquisitions), the depletion of our working capital would be accelerated, intensifying our need for additional capital. If we are unable to obtain the additional capital needed it would have a material adverse effect upon us and may affect our ability to execute our business plan.

If necessary, we may not be able to obtain additional financing on terms that are not unduly expensive or burdensome to us or disadvantageous to our existing Investors.

If the Manager determines a need to raise additional funds, even if we are able to raise additional cash or working capital through the private sale of debt or equity securities, debt financing or short-term loans, or the satisfaction of indebtedness without any cash outlay through the private issuance of debt or equity securities, the terms of such transactions may be unduly expensive or burdensome to us or disadvantageous to our existing Investors. For example, we may be forced to sell or issue our securities at significant discounts to market, or pursuant to onerous terms and conditions, including the issuance of preferred equity with disadvantageous dividend, voting or veto, conversion, redemption or liquidation provisions; the issuance of convertible debt with disadvantageous interest rates and conversion features; the issuance of warrants with cashless exercise features; the issuance of securities with anti-dilution provisions; and the grant of registration rights with significant penalties for the failure to quickly register. If we raise debt financing, we may be required to secure the financing with all or a portion of our business assets, which could be sold or retained by the creditor should we default in our payment obligations.

Costs imposed pursuant to governmental laws and regulations may reduce our net income and the cash available for distributions to the Investors.

Real property and the operations conducted on real property are subject to federal, state and local laws and regulations relating to protection of the environment and human health. We, the Manger or its affiliates, could be subject to liability in the form of fines, penalties or damages for noncompliance with these laws and regulations. These laws and regulations generally govern wastewater discharges, air emissions, the operation and removal of underground and above-ground storage tanks, the use, storage, treatment, transportation and disposal of solid and hazardous materials, the remediation of contamination associated with the release or disposal of solid and hazardous materials, the presence of toxic building materials, and other health and safety-related concerns. Some of these laws and regulations may impose joint and several liability on the tenants, owners or operators of real property for the costs to investigate or remediate contaminated properties, regardless of fault, whether the contamination occurred prior to purchase, or whether the acts causing the contamination were legal. The condition of the property at the time of sale, operations in the vicinity of the property, such as the presence of underground storage tanks, or activities of unrelated third parties may affect the property. The presence of hazardous substances, or the failure to properly manage or remediate these substances, may hinder the ability to sell or otherwise maximize the value of our investments. Any material expenditures, fines, penalties, or damages we must pay will reduce our ability to make payments to the Investors and may reduce the value of the Company's investment.

The costs of defending against claims of environmental liability, of complying with environmental regulatory requirements, of remediating any contaminated property, or of paying personal injury claims could reduce the amounts available for distribution to the Investors.

Under various federal, state and local environmental laws, ordinances and regulations, a current or previous real property owner or operator may be liable for the cost of removing or remediating hazardous or toxic substances on, under or in such property. These costs could be substantial. Such laws often impose liability whether or not the owner or operator knew of, or was responsible for, the presence of such hazardous or toxic substances. Environmental laws also may impose liens on property or restrictions on the manner in which property may be used or businesses may be operated, and these restrictions may require substantial expenditures. Environmental laws provide for sanctions for noncompliance and may be enforced by governmental agencies or, in certain circumstances, by private parties. Certain environmental laws and common law principles could be used to impose liability for the release of and exposure to hazardous substances, including asbestos-containing materials and lead-based paint. Third parties may seek recovery from real property owners or operators for personal injury or property damage associated with exposure to released hazardous substances. The costs of defending against claims of environmental liability, of complying with environmental regulatory requirements, of remediating any contaminated property, or of paying personal injury claims could reduce the amounts available for any distributions.

Some of these laws and regulations may require owners and tenants of real property to investigate or remediate environmental contamination or abate conditions deemed to present unacceptable health or safety risks. The environmental condition of the Company's investments at the time the Company acquires them (or thereafter), and activities in the vicinity of the investments, such as the release of hazardous substances by unrelated third parties, could potentially affect the value or performance of the Company's investments.

In addition, the marketability of the Company's investments for sale or leasing, and/or their use as collateral for financing, may be negatively affected by the presence of hazardous substances on those properties or adjacent real estate.

Our investments are required to obtain numerous permits and approvals which can cause delays and increase costs.

The development of real property pursuant to our investments will require the approval of numerous government agencies regarding such matters as permitted land uses and the installation of utility services (such as water, sewer, gas, electric, telephone and cable television). Regulations affect construction by specifying, among other things, the type and quality of building materials that must be used, certain aspects of land use and building design and the manner in which developers may conduct their operations. Furthermore, changes in prevailing local circumstances or applicable laws may require additional approvals, or modifications of approvals previously obtained.

Approvals are generally required from governmental agencies such as local zoning boards and planning boards, water and utility authorities and sometimes county, regional/state and/or federal

governmental authorities. If such approvals cannot be obtained, the investment must be abandoned or modified so that such approvals can be obtained. Such modifications may be costly and may involve significant time delays, and there can be no assurance that the Company will be successful in obtaining the requisite permits and approvals.

Our investments may require certain acquisition thresholds to be obtained.

Our investments may include termination of condominium plans in Florida, which in some instances may require a certain percentage of current condominium unit owners to approve the plan of termination. In the event our investments don't enter into purchase and sale agreements with a sufficient amount of the condominium units' owners the business plan of the investment may not be viable. Such viability may be dependent on change of laws, current court cases, or increased acquisition costs which may adversely affect our investment. In addition, such condominium terminations can be subject to ongoing costs which would also affect our investment if the project cannot proceed on schedule or in accordance with the business plan.

Our investments may require certain amount of condominium units to be sold.

Our investments may require pre-sales of condominium units to finance construction. In the event sales velocity and pricing is not adequate the projects may not proceed due to such lack of sales, negatively effecting investment if the project cannot proceed in accordance with the business plan

Construction costs of the target Developments may be difficult for us to control.

Development and construction companies encounter a range of challenges that can be very complex, including the ultimate costs of construction which can exceed anticipated budgets due to considerations outside of our control. Among other factors outside of our control that can affect our construction costs, volatile markets, tariffs, the COVID pandemic, and rapidly changing political dynamics (locally, nationally and globally) directly impact the construction industry, and our invest opportunities, in many ways such as increasing labor costs and new regulations that require costly compliance. Growing competition in gateway and major markets may also increase pricing pressure on us with respect to the utilization of contractors and ability to accurately estimate construction costs. Ultimately, the construction costs of the investment targets could potentially be out of our control and adversely impact the cash flow to the Company.

The Company may be unable to achieve and sustain profitability in future periods.

The Company's ability to achieve and maintain profitability following completion of the development investments depends on a number of factors related particularly to the success of the various businesses that may exist in the development projects, including our investments ability to attract hotel guests and keep the hotel occupied at favorable room revenues, the ability to maintain a high occupancy rate within residential units at favorable rents and, the ability to generate revenue from leasing or operating attractive and successful businesses. The Company's inability to achieve and sustain profitability may require the Company to delay, scale back, or eliminate some or all of its operations.

The hospitality, commercial office and residential industries are highly competitive.

The hospitality, commercial office and residential industries are highly competitive. Any Developments which have hotels that are invested in will compete on the basis of location, brand, room rates, quality, amenities, reputation and reservations systems, among many factors. There are many competitors in the hotel industry, and many of these competitors may have substantially greater marketing and financial resources than we, the Manager or its affiliates have. This competition could reduce occupancy levels and room revenue at our hotel investments. In addition, in periods of weak demand, as may occur during a general economic recession, profitability is negatively affected by the fixed costs of operating a hotel. Such businesses will also face competition from services such as home sharing companies and apartment operators offering short-term rentals. With respect to residential units and commercial space, we will compete on the basis of location, brand, pricing, amenities, services, size and quality. Leasing commercial space is also competitive. Many gateway and major cities have numerous commercial office properties which will compete to lease space to target tenants that can potentially reduce rental rates.

The brands associated with the Developments may not remain involved in the projects or become obsolete

The Developments we are investing in may have agreements with certain brands. Market perception of brands may change over time. If a Development is associated with a brand and the brand no longer appeals to the investments target market there could be adverse financial impact to our business. In addition, the license agreements with the brands are terminable in the event of certain circumstances. In the event the Developments are no longer associated with a brand there could be slowed sales, reduced revenue, or other operational issues, or additional equity required to modify the Development and the business plan. This could have a material negative impact on the value of our investments in any such Development.

Success is dependent on the ability of our portfolio Developments to sell condominium units in the open market.

The failure of our portfolio Developments to sell condominium inventory will adversely affect the cash flow, ability to make any distributions, ability to maintain the property and the value of the overall asset, which could have a material adverse effect on the Company continuing as a going concern. Sales of condominium units may be affected by interest rates, the quality of the broker involved in the market, other macro and micro concerns in the housing market. Failure to sell condominium units at the anticipated pace could have a material adverse effect on the Company continuing as a going concern.

We believe that our investments will be adequately insured, consistent with industry standards, to cover reasonably anticipated losses that may be caused natural disasters, including the effects of climate change. Nevertheless, we are subject to the risk that insurance will not fully cover all losses and, depending on the severity of the event and the impact on our investments, insurance may not cover a significant portion of the losses. In addition, the investments may not have proper insurance under certain circumstances if the cost of insurance exceeds, in our judgment, the value of the coverage relative to the risk of loss. Also, changes in federal and state legislation and regulation relating to climate change could result in increased capital expenditures to improve the energy efficiency and resiliency of our investments without a corresponding increase in revenue.

Our investments depend in part upon actions of local, city, and state municipalities. Actions taken by the various municipalities could have an adverse effect on the Company's contemplated business plans.

Force Majeure.

"Force majeure" refers to the legal concept, included in certain commercial and other contracts, whereby a party to a contract may be excused from performing its obligations to a counterparty under such contract where performance is made impossible or highly impracticable as a result of an event that the contract parties could not have anticipated or controlled. Examples of force majeure include earthquakes, floods, national emergencies and potentially (under certain facts and circumstances) government-mandated closures resulting from viral outbreaks like COVID-19. The Company, the Manager, its affiliates, and the Developments may be party to contracts that include force majeure clauses and, as a result, these contracts may not be enforceable against certain of their counterparties (including suppliers of their raw materials and purchasers of their finished goods, products or services) if a force majeure event has been deemed to have occurred. The determination of whether a force majeure event has been triggered under a contract or has otherwise occurred is a mixed factual and legal one, and the Company may incur legal costs (which may be significant) in disputes with counterparties regarding whether any such event has occurred, with the likely outcome of any such dispute hard to predict. If the Company were to be unable to enforce a material contract as a result of a force majeure event, and/or if it incurred significant legal expenses in a dispute over a force majeure event, the results and prospects of the Company may be adversely affected.

Market Disruption Risk and Terrorism Risk.

The military operations of the U.S. and its allies, the instability in various parts of the world and the prevalence of terrorist attacks throughout the world could have significant adverse effects on the global economy and, in particular, the regions in which the Company intends to operate. The Company is subject to the risk that war, terrorism and related geopolitical events may lead to increased short-term market volatility and have adverse long-term effects on world economies and markets generally. The impact of geopolitical tension, such as a deterioration in the bilateral relationship between the US and China or an escalation in conflict between Russia and Ukraine, including any resulting sanctions, export controls or other restrictive actions that may be imposed by the U.S. and/or other countries against governmental or other entities in, for example, Russia, also could lead to disruption, instability and volatility in the global markets. Those events as well as other changes in world economic and political conditions also could adversely affect individual issuers or related groups of issuers, securities markets, interest rates, credit ratings, inflation, investor sentiment and other factors affecting the value of the Company's investments. Such events can also magnify the Company's exposure to a number of the risks described elsewhere in this section. The Manager cannot predict the likelihood of these types of events occurring in the future nor how such events may affect the Company.

United States Monetary and Fiscal Policy.

In response to the global financial crisis in 2008, the Board of Governors of the U.S. Federal Reserve System (the "**Federal Reserve**") and certain non-U.S. central banks acted to hold interest rates to historic lows in addition to taking other governmental actions to stabilize markets and seek to encourage economic growth. While many of these actions have ceased or slowed significantly (including the Federal Reserve electing to increase interest rates), these and other actions by the Federal Reserve and such other central banks, including changes in policies, may continue to have a significant effect on interest rates and on the U.S. and world economies generally, which in turn may affect the performance of the Company's investments on an absolute and/or relative basis.

More recently, in early 2020 in response to the economic impact of the COVID-19 global pandemic, the U.S. government, including the Federal Reserve, took a number of measures in an effort to stabilize the U.S. economy and to inject liquidity into the U.S. capital markets. The Federal Reserve, has, among other things, kept interest rates low through its targeted federal funds rate and resumed the purchase of US Treasury securities and agency mortgage-backed securities in the amounts needed to support smooth market functioning. In addition, the U.S. government passed measures aimed to alleviate potential unemployment and stimulate and support the economy. The far-reaching implications of these actions, and any further actions by the U.S. government taken in response to the continued spread of COVID-19 and new variants are unknown and therefore create material uncertainty and risk with respect to the Company's prospects, performance and financial results for an indefinite period of time. There can be no assurance that actions taken by the U.S. government, including the Federal Reserve, will have a beneficial impact on the financial markets and/or the Company's returns.

Political, Economic, and Social Risks

The political environments in many countries, including in the United States (in which the Company may invest), those constituting the European Union and otherwise located in Europe and in others around the world, continue to evolve and over the last couple of years seem to be experiencing more and faster change than has been experienced since World War II. Investment themes, economic analysis and assumptions, asset valuation and underwriting for many institutional investors and asset classes tend to be premised on, and include data and assumptions which are, largely historical and backward looking. Because of this and political instability with heightened tension and potential social unrest in Europe and the United States, fundamental changes in international relations, treaties and alliances, trade, tariffs, taxes, governmental reviews and discretion (e.g., by the U.S. Committee on Foreign Investment in the United States) individually or in the aggregate can have a material effect on the opportunities, asset values, ability to finance assets, ability to dispose of assets and overall performance and financial condition of the Company and individual Members' investment performance.

Geopolitical concerns and other global events, including, without limitation, trade conflict, national and international political circumstances (including wars, terrorist acts or security operations) and pandemics or other severe public health events, have contributed and may continue to contribute to volatility in global equity and debt markets.

One or more of these factors could impact the Company's ability to deploy capital and could materially and adversely affect the operations of the Company, as well as the results of its

operations. These factors are outside the Company's control and may cause the Company's strategy to be adjusted in order to try to successfully compete as markets continually shift.

Company's investments and terms are not identified.

Specific investments in Developments in which the Company will participate have not yet been definitively identified by the Manager, nor have the terms and conditions of the Company's participation in those investments. The Manager has the sole power and authority to select the Company's investments and to negotiate and determine the terms and conditions of its participation in those investments, including but not limited to the amount of the Company's investment in the investment, whether the investment will be in the form of equity or a loan, the terms of any debt financing made available by the Company for the investment, including its priority and whether or not it is secured, the size and priority of the Company's net profits interest in the investment, if any, the nature of the Manager's financial and managerial participation in the investment, and the other aspects of the Company's participation. As the Manager of the Company, the Manager also has the right to determine the nature of the Company's participation in the investment. The Manager will have significant conflicts of interest as the Manager or its affiliates to the extent that it originates investments and also participates in them as a contractual party.

Private real estate investment risk.

The Company's investment in Development investment vehicles may require it to bear certain of any such vehicles' expenses, including management and performance fees. The fees the Company pays to invest in such vehicles may be higher than if the manager of such vehicle managed the Company's assets directly. Additionally, liquidity relates to the ability to dispose of an investment in a timely manner at a price that reflects fair market value. At the time the Company desires to liquidate an investment in a Development, there may not be a ready market for the investment, based on either property-specific factors (e.g., location, condition, tenants) or general market and economic conditions.

RISKS RELATED TO THE OFFERING AND YOUR INVESTMENT

Investments in the Company should be considered long term investments.

Investors must be prepared to hold their Units for an indefinite and extended period of time since the Manager expects that the Company's investments may take several years to mature. Investors have limited withdrawal rights as provided in the Operating Agreement. It is anticipated that a substantial portion of the Company's investments will consist of investments for which there is no public market and/or which are completely illiquid. Accordingly, there can be no assurance as to when or if distributions from the proceeds from a liquidity event with respect to an investment will be made.

The Offering is not registered with the SEC or state securities authorities and there will be no regulatory review or approval of the sale of the Company's Units.

The Offering and the sale of the Units will not be registered with the SEC under the Securities Act or the securities agency of any state and no such agency will review or pass upon the sale of the Units. The Units are being offered in reliance on certain exemption from the registration provisions of the Securities Act and state securities laws applicable only to offers and sales to investors meeting the suitability requirements set forth in the Subscription Package to which these Risk Factors are attached. No governmental regulatory agency has or will review or pass upon the sale of the Units. As such, prospective investors will not have the benefit of review by the SEC or any state securities regulatory authority. Therefore, you are assuming the task and the risks of assessing the adequacy of disclosure and the fairness of the terms of this Offering on your own, or in conjunction with your personal advisors.

If we fail to comply with state, federal and international securities laws we may be subject to a rescission action.

The Units are being offered, and will be sold, to investors in reliance upon certain exemptions from the registration requirements provided in the Securities Act and state securities laws, or "Blue-Sky" laws. If we fail to comply with the requirements of, or qualify for, these exemptions, it is possible that investors may be entitled to seek rescission of their purchase of the Units, if they so desire. It is possible that one or more investors seeking rescission would succeed. This might also occur under the applicable "Blue-Sky" laws and regulations in states where the Units will be offered without registration or qualification pursuant to a private offering or other exemption. If a number of investors were successful in seeking rescission, we would face significant financial demands, which could adversely affect us as a whole.

Our failure to comply with federal, state and relevant international securities law and regulations in connection with this Offering could subject us to enforcement actions and impair our ability to raise capital in the future.

We are relying upon exemptions from the registration provisions of federal, state and relevant international securities laws in this Offering. In relying upon such exemptions, we have the burden of providing compliance with such laws for this Offering. If for any reason we fail to comply, we may, among other things, subject the Company to both investigations and administrative actions by federal, state or foreign agencies or actions for rescission or for damages. Such actions, if commenced, could have a material adverse effect on our ability to raise necessary capital in the future. While we endeavor to fully comply with all such laws, there is no assurance that any non-compliance will not have material adverse effect on us.

Investors may be required to file informational returns for "reportable transactions."

Under Treasury regulations, the activities of the Company may create one or more "reportable transactions," requiring the Company and each holder of an Unit, respectively, to file information returns with the IRS. Manager does not expect any reportable transactions (but it is possible). The Company will give notice to all partners holding Units of any reportable transaction of which it becomes aware in the annual tax information provided to partners in order to file their tax returns.

Possible legislative or other developments may result in adverse tax consequences to members.

All statements contained in the Offering documents concerning the U.S. federal income tax consequence of any investment in the Units are based upon existing law and the interpretations thereof. The currently anticipated income tax treatment of an investment in the Units may be modified by legislative, judicial or administrative changes, possibly with retroactive effect, to the detriment of the members.

Your investment in the Company is a long-term investment.

Investors should be aware of the long-term nature of their investment in the Company. Investors will be required to represent in writing that they are purchasing the Units for their own account for long-term investment and not with a view towards resale or distribution. Accordingly, purchasers of the Units must be willing and able to bear the economic risk of their investment for an indefinite period of time.

Investors will have a limited ability to liquidate their investment in the Units.

The Units have not been registered under the Securities Act or any state securities law, and may not be resold, including, but not limited to, an assignment for value. The Units may only be resold in the event of such registration or pursuant to an exemption therefrom. It is likely that investors will not be able to liquidate their investment in the event of an emergency.

To satisfy the requirements of applicable securities laws there is limited transferability and liquidity in the Units.

To satisfy the requirements of certain exemptions from registration under the Securities Act, and to conform to applicable state securities laws, each investor must acquire the Units for investment purposes only and not with a view towards distribution. Consequently, certain conditions of the Securities Act may need to be satisfied prior to any sale, transfer, or other disposition of the Units. Some of these conditions may include a minimum holding period, availability of certain reports, including financial statements from us, limitations on the percentage of securities sold, and the manner in which they are sold. We can prohibit any sale, transfer or disposition unless we receive an opinion of counsel provided at the holder's expense, in a form satisfactory to us stating that the proposed sale, transfer or other disposition will not result in a violation of applicable federal, state or foreign securities laws and regulations.

Our securities have no public market and no assurance can be given that any public market will ever develop, or if developed that any such market will be sustained.

The Units have not been registered under the Securities Act, and are being offered in reliance upon exemptions from the registration requirements thereunder in a manner that is intended to comply with the requirements of Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D promulgated thereunder, and are only being offered hereunder to "accredited investors" as defined in the Securities Act. The Units cannot be sold, transferred, pledged, hypothecated, assigned or otherwise disposed of, and unless they are registered under the Securities Act, or if in the opinion

of counsel, satisfactory to the Company, such sale, transfer, pledge, hypothecation, assignment or disposition is exempt from such registration requirements. The Company has no current intent to file a registration statement with respect to the Units and the Company has not made any representations with respect to the future filing of any registration statement or with respect to effectuating any public offering for the Units. There is currently no trading market for the Units and it is not anticipated that a trading market will ever develop. Accordingly, even in the absence of the foregoing restrictions on transfer, it is unlikely that an Investor will be able to readily dispose of the Units or pledge the Units as collateral for a loan. Consequently, the Units are suitable only for long-term investment by persons with no need for liquidity and who can absorb the loss of their entire investment.

There is currently no public or private trading market for the Units.

Because there is no public or private trading market for the Units and no such market is expected to develop, the liquidity and transferability of the Units will be adversely affected. The Units cannot be sold unless they are registered under the Securities Act or are exempt therefrom. There can be no assurances that we will ever register the Units for resale under federal, state or foreign securities laws. Consequently, you may not be able to liquidate your Units in the event of an emergency or for any other reason. Accordingly, this investment is designed for investors with no need for liquidity and who can afford to bear the risk of losing their entire investment.

The Investors are subject to restrictions on transferability and there is a lack of public market for the Units.

The Units are subject to significant restrictions on transferability and resale and may not be transferred or resold except as permitted under the Operating Agreement, particularly requiring consent of the Manager, the Securities Act and applicable state securities laws pursuant to registration or exemption therefrom. Additionally, the Units are not registered under the Securities Act or qualified under the "Blue-Sky" laws of any state or jurisdiction, nor do we have any current intention to seek registration. Currently there is no trading market for the Units and as a result, all Investors should assume the Units are illiquid. There is no commitment by the Manager, the Company or any other person or entity to purchase Units from Members desiring to sell.

The purchase of Units in the Company is a speculative investment.

Our goals are highly speculative and there is no assurance that we will be able to meet any of them. Our ability to achieve our objectives may be determined by factors beyond our control and that cannot be predicted at this time. Consequently, there can be no assurance that our efforts to start and expand our business operations will prove to be sufficient to enable us to generate the funds require to operate our business. Investors who purchase Units in the Company should be aware that they may not earn a return on their investment and may, in fact lose their investment entirely.

There can be no assurance that you will realize a return on your investment.

No assurance can be given that you will realize a return on your investment or that you will not lose your entire investment. For this reason, you should read the Subscription Package to which

these Risk Factors are attached and all other exhibits attached thereto carefully. Additionally, you should consult with your own personal legal and financial advisors prior to making any investment decision.

We can provide no assurances or certainty as to an investment in the Company being profitable.

There is no assurance that cash flow or profits will be generated by our investments. The lack of cash flow or profits will negatively affect our ability to meet our goals. Neither the Manager nor any of its affiliates is obligated to provide the Investors with a guarantee against a loss on their investment or negative cash flows and neither the Manager nor its affiliates have or intends to provide such a guarantee.

The offering price for the Units was determined arbitrarily.

The offering price for the Units has been determined solely by the Company. The determination of the offering price was arbitrary and bears no relationship to the Company's assets, book value, potential earnings, or any other recognized measure of value. The offering price does not necessarily indicate the current value of the Units offered hereby and should not be regarded as an indicator of any future performance thereof.

FEDERAL INCOME TAX RISKS

No Internal Revenue Service rulings have been obtained with respect to the Company or Manager.

Neither the Company nor Manager will seek rulings from the IRS with respect to any of the federal income tax considerations discussed in the Offering documents. Thus, positions to be taken by the IRS as to tax consequences could differ from positions taken by the Company or Manager.

Recognition of income without the corresponding receipt of cash to pay taxes may result in phantom income.

If the Company has taxable income in a fiscal year, each holder of Units will be taxed on that income in accordance with its allocable share of the Company's profits, whether or not such profits have been distributed. This is sometimes referred to as "phantom income." In such event, holders of Units will have to utilize other means to satisfy such tax liabilities.

Possible legislative or other developments may result in adverse tax consequences to members.

All statements contained in the Offering documents concerning the U.S. federal income tax consequence of any investment in the Units are based upon existing law and the interpretations thereof. The currently anticipated income tax treatment of an investment in the Units may be modified by legislative, judicial or administrative changes, possibly with retroactive effect, to the detriment of the members.

Investors may be subject to unrelated business taxable income.

Tax-exempt U.S. holders may have unrelated business taxable income ("UBTI") (subject to tax at corporate rates) from investments that are acquired by the Company. The Company uses leverage

to finance its investments, resulting in a portion of the Company's income from financed investments being treated as UBTI (based generally on the percentage of its purchase price that is leveraged). UBTI would also result for a holder of a Unit who borrowed (or is deemed to have borrowed) the funds used to purchase the interests in the Company (or to acquire a Unit from another partner). Manager will not be liable for the recognition of any UBTI by an investor with respect to the Units, and potential investors can expect some or all of their profits from the Company to be UBTI. Each prospective tax-exempt U.S. holder of Units should consult with its own tax advisor regarding the federal, state, local and foreign tax considerations applicable to an investment in the Company.

Non-U.S. holders of Units could recognize "effectively connected income."

An investment in the Company could result in income to non-U.S. holders of Units that is effectively connected with a U.S. trade or business ("ECI"), or income that is treated as ECI pursuant to the Foreign Investment in Real Property Tax Act, of 1980 ("FIRPTA"). A U.S. federal withholding tax, generally at the highest marginal tax rate, will be imposed on such a non-U.S. holder's allocable share of such ECI (whether or not such income is distributed). There also may be state or local tax withholding. Non-U.S. holders of Units that are non-U.S. corporations also should be aware that a 30% U.S. "branch profits tax" would generally apply to an investment in the Company by such non-U.S. holder in the event such non-U.S. holder's investment in the Company were made without using a domestic blocker entity and the Company generated ECI. Each prospective non-U.S. holder of Units should consult with its own tax advisor regarding the federal, state, local and foreign tax considerations applicable to an investment in the Company.

Investors may be required to file informational returns for "reportable transactions."

Under Treasury regulations, the activities of the Company may create one or more "reportable transactions," requiring the Company and each holder of a Unit, respectively, to file information returns with the IRS. Manager does not expect any reportable transactions (but it is possible). The Company will give notice to all partners holding Units of any reportable transaction of which it becomes aware in the annual tax information provided to partners in order to file their tax returns.

Investors may experience delays in filings and information returns with tax authorities if the JDS Member does not make its filings in a timely manner.

Manager will use reasonable commercial efforts to cause all tax filings to be made in a timely manner (taking permitted extensions into account). However, holders of Units may have to file one or more tax filing extensions if the Company does not deliver Schedule K-1 by the due date of such holders' returns. Although Manager will attempt to cause the Company to provide its partners with estimated annual federal tax information prior to such due date, the Company may not do so by such date. Moreover, any estimates provided to the holders of Units by the Company may be different from the actual final tax information and such differences could be significant, resulting in interest and penalties to such holders due to underpayment of taxes or loss of use of funds for an extended period of time due to overpayment of taxes.

Manager has the right, but not the obligation, to file composite state tax returns for the benefit of holders of Units that elect to participate in the filing of such returns.

The Company may take positions with respect to certain tax issues that depend on legal conclusions not yet addressed by the courts. Should any such positions be successfully challenged by the IRS or another applicable taxing authority, there could be a material adverse effect on the Company, and a holder of Units might be found to have a different tax liability for that year than that reported on its U.S. federal income tax return with respect to such Units. An audit of the Company could result in adjustments to the tax consequences initially reported by the Company and may result in an audit of the tax returns of some or all of the holders of Units, which examination could affect items not related to a holder's Units. If audit adjustments result in an increase in a member's U.S. federal or state income tax liability for any year, such member may also be liable for interest and penalties with respect to the amount of underpayment. The legal and accounting costs incurred in connection with any audit of the Company's tax returns will be borne solely by the Company. The cost of any audit of the tax return of a holder of Units will be borne solely by such member.

The Bipartisan Budget Act of 2015 significantly changed the procedures for auditing the tax returns of partnerships. Under the new law, the Company itself will generally be liable for the tax attributable to adjustments made pursuant to an audit. Thus, it is possible that the additional tax imposed on the Company will be economically borne by the holders of Units based on their ownership of Units in the year in which the additional tax is assessed, even though the tax relates to an earlier year in which the Units may have been owned by different partners or in different percentages. Moreover, the tax rate charged to the Company is the maximum rate applicable to an individual or corporation (rather than the actual rates payable by each partner). There may be ways for the Company to minimize such entity-level tax liability; however, there is no assurance that any such mitigation may achieve its intended effect. Alternatively, the Company may elect to pass through the tax adjustments to the reviewed year partners. If the Company makes this election, it is not responsible for the additional tax and each of the reviewed year partners will owe additional tax for the current year along with interest on the additional tax, but the interest rate will be 2% higher than the normal interest rate. There are many questions relating to these new audit rules and the recently finalized regulations implementing the new law.

RISKS RELATED TO RETIREMENT PLANS

An investment in the Company may not qualify as an appropriate investment for retirement plans.

There are special considerations that apply to pension or profit sharing trusts or IRA's investing in the securities of the Company and thus you should consult with your financial and retirement plan advisors prior to investing any money from your retirement plan. If you are investing the assets of a Pension, Profit Sharing, 401(k), Keogh, or other qualified Retirement Plan, or the assets of an IRA in the Company, you could incur liability or subject the plan to taxation if:

(i) Your investment is not consistent with your fiduciary obligations under ERISA under the Internal Revenue Code.

(ii) Your investment is not made in accordance with the documents and instruments governing your plan or IRA, including your plans investment policy.

(iii) Your investment does not satisfy the prudence and diversification requirements of Section 40 (a) (1)(B) and 404 (A) (1)(C) of ERISA.

(iv) Your investment impairs the liquidity of the plan.

(v) Your investment produces "unrelated business taxable income" for the plan or IRA.

(vi) You will not be able to value the assets of the plan annually in accordance with ERISA requirements.

(vii) Your investment creates a prohibited transaction under Section 406 of ERISA or Section 4975 of the Internal Revenue Code.

Our assets may be Plan Assets for ERISA purposes, which could subject us to additional restrictions on our ability to operate our business.

ERISA and the Internal Revenue Code may apply what is known as the look-through rule to this investment. Under the look-through rule, the assets of an entity in which a qualified plan or IRA has made an equity investment may constitute assets of the qualified plan or IRA. A fiduciary of a qualified plan or IRA should consult with its advisors and carefully consider the effect of that treatment if that were to occur. We may only accept less than 25% of the gross proceeds of the Offering from Qualified Plans and IRAs.

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EXHIBIT D
DEFINITION OF ACCREDITED INVESTOR

EXHIBIT D

Definition of Accredited Investor

Accredited investor means any person who comes within any of the following categories:

(1) Either *(a)* a bank as defined in Section 3(a)(2) of the Securities Act of 1933, as amended (the "**Act**"), or a savings and loan association or other institution as defined in Section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; *(b)* a broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended; *(c)* an investment adviser registered pursuant to Section 203 of the Investment Advisers Act of 1940 or registered pursuant to the laws of a state; *(d)* an investment adviser relying on the exemption from registering with the Commission under section 203(l) or (m) of the Investment Advisers Act of 1940; *(e)* an insurance company as defined in Section 2(a)(13) of the Act; *(f)* an investment company registered under the Investment Company Act of 1940 or a business development company as defined in Section 2(a)(48) of that act; *(g)* a Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or 301(d) of the Small Business Investment Act of 1958; *(h)* a Rural Business Investment Company as defined in Section 384A of the Consolidated Farm and Rural Development Act; *(i)* a plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of $5,000,000; or *(j)* an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in Section 3(21) of such act, which plan fiduciary is either a bank, savings and loan association, insurance company or registered investment adviser, or if the employee benefit plan has total assets in excess of $5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

(2) A private business development company as defined in Section 202(a)(22) of the Investment Advisors Act of 1940;

(3) An organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, corporation, Massachusetts or similar business trust, partnership, or limited liability company, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5,000,000;

(4) A director, executive officer, or general partner of the issuer of the securities being offered or sold, or a director, executive officer, or general partner of a general partner of that issuer;

(5) A natural person whose individual net worth, or joint net worth with that person's spouse or spousal equivalent, exceeds $1,000,000[1], provided that (subject to certain exceptions

[1] For purposes of calculating net worth under the paragraph (5): "joint net worth" can be the aggregate net worth of the investor and spouse or spousal equivalent; assets need not be held jointly to be included in the calculation. Reliance on the joint net worth standard of such paragraph does not require that the securities be purchased jointly.

applicable to acquisitions of securities in accordance with a right to purchase such securities held on July 20, 2010):

(i) the person's primary residence shall not be included as an asset;

(ii) indebtedness that is secured by the person's primary residence, up to the estimated fair market value of the primary residence at the time of the sale of securities, shall not be included as a liability (except that if the amount of such indebtedness outstanding at the time of sale of securities exceeds the amount outstanding 60 days before such time, other than as a result of the acquisition of the primary residence, the amount of such excess shall be included as a liability); and

(iii) indebtedness that is secured by the person's primary residence in excess of the estimated fair market value of the primary residence at the time of the sale of securities shall be included as a liability

(6) A natural person who had an individual income in excess of $200,000 in each of the two most recent years or joint income with that person's spouse or spousal equivalent in excess of $300,000 in each of those years and who has a reasonable expectation of reaching the same income level in the current year;[2]

(7) A trust with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Rule 506 (b)(2)(ii) under the Act;

(8) An entity in which each of the equity owners are Accredited Investors;[3]

(9) An entity, of a type not listed in paragraph (1), (2), (3), (7), or (8) above, not formed for the specific purpose of acquiring the securities offered, owning investments in excess of $5,000,000;[4]

(10) A natural person holding in good standing one or more professional certifications or designations or credentials from an accredited educational institution that the Commission has designated as qualifying an individual for accredited investor status. In determining whether to designate a professional certification or designation or credential from an

[2] The term "income" means annual adjusted gross income, as reported for federal income tax purposes, plus (i) the amount of any tax-exempt interest income received; (ii) the amount of losses claimed as a limited partner in a limited partnership; (iii) any deduction claimed for depletion; (iv) amounts contributed to an IRA or Keogh retirement plan; (v) alimony paid; and (vi) any amount by which income from long-term capital gains has been reduced in arriving at adjusted gross income from long-term capital gains has been reduced in arriving at adjusted gross income pursuant to the provisions of Section 1202 of the Internal Revenue Code of 1986, as amended.

[3] It is permissible to look through various forms of equity ownership to natural persons in determining the accredited investor status of entities under this paragraph (8). If those natural persons are themselves accredited investors, and if all other equity owners of the entity seeking accredited investor status are accredited investors, then this paragraph (8) may be available.

[4] For the purposes this paragraph (9), "investments" is defined in rule 2a51-1(b) under the Investment Company Act of 1940.

accredited educational institution for purposes of this paragraph (10), the Commission will consider, among others, the following attributes:

(i) The certification, designation, or credential arises out of an examination or series of examinations administered by a self-regulatory organization or other industry body or is issued by an accredited educational institution;

(ii) The examination or series of examinations is designed to reliably and validly demonstrate an individual's comprehension and sophistication in the areas of securities and investing;

(iii) Persons obtaining such certification, designation, or credential can reasonably be expected to have sufficient knowledge and experience in financial and business matters to evaluate the merits and risks of a prospective investment; and

(iv) An indication that an individual holds the certification or designation is either made publicly available by the relevant self-regulatory organization or other industry body or is otherwise independently verifiable;

(11) A natural person who is a "knowledgeable employee," as defined in rule 3c-5(a)(4) under the Investment Company Act of 1940 (17 CFR 270.3c-5(a)(4)), of the issuer of the securities being offered or sold where the issuer would be an investment company, as defined in section 3 of such act, but for the exclusion provided by either section 3(c)(1) or section 3(c)(7) of such act;

(12) A "family office," as defined in Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940:

(i) With assets under management in excess of $5,000,000;

(ii) That is not formed for the specific purpose of acquiring the securities offered, and

(iii) Whose prospective investment is directed by a person who has such knowledge and experience in financial and business matters that such family office is capable of evaluating the merits and risks of the prospective investment; and

(13) A "family client," as defined in rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940, of a family office meeting the requirements in paragraph (a)(12) of this section and whose prospective investment in the issuer is directed by such family office pursuant to clause (iii) of paragraph (12) above.

EXHIBIT E
DEFINITION OF BAD ACTOR DISQUALIFYING EVENT

EXHIBIT E

Definition of Bad Actor Disqualifying Event

§ 230.506 Exemption for limited offers and sales without regard to dollar amount of offering.

(d) ''*Bad Actor'' disqualification.* (1) No exemption under this section shall be available for a sale of securities if the issuer; any predecessor of the issuer; any affiliated issuer; any director, executive officer, other officer participating in the offering, general partner or managing member of the issuer; any beneficial owner of 20% or more of the issuer's outstanding voting equity securities, calculated on the basis of voting power; any promoter connected with the issuer in any capacity at the time of such sale; any investment manager of an issuer that is a pooled investment fund; any person that has been or will be paid (directly or indirectly) remuneration for solicitation of Purchasers in connection with such sale of securities; any general partner or managing member of any such investment manager or solicitor; or any director, executive officer or other officer participating in the offering of any such investment manager or solicitor or general partner or managing member of such investment manager or solicitor:

(i) Has been convicted, within ten years before such sale (or five years, in the case of issuers, their predecessors and affiliated issuers), of any felony or misdemeanor:

(A) In connection with the purchase or sale of any security;

(B) Involving the making of any false filing with the Commission; or

(C) Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of Purchasers of securities;

(ii) Is subject to any order, judgment or decree of any court of competent jurisdiction, entered within five years before such sale, that, at the time of such sale, restrains or enjoins such person from engaging or continuing to engage in any conduct or practice:

(A) In connection with the purchase or sale of any security;

(B) Involving the making of any false filing with the Commission; or

(C) Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of Purchasers of securities;

(iii) Is subject to a final order of a state securities commission (or an agency or officer of a state performing like functions); a state authority that supervises or examines banks, savings associations, or credit unions; a state insurance commission (or an agency or officer of a state performing like functions); an appropriate federal banking agency; the U.S. Commodity Futures Trading Commission; or the National Credit Union Administration that:

(A) At the time of such sale, bars the person from:

(*1*) Association with an entity regulated by such commission, authority, agency, or officer;

(*2*) Engaging in the business of securities, insurance or banking; or

(*3*) Engaging in savings association or credit union activities; or

(B) Constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct entered within ten years before such sale;

(iv) Is subject to an order of the Commission entered pursuant to section 15(b) or 15B(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(b) or 78*o*–4(c)) or section 203(e) or (f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(e) or (f)) that, at the time of such sale:

(A) Suspends or revokes such person's registration as a broker, dealer, municipal securities dealer or investment adviser;

(B) Places limitations on the activities, functions or operations of such person;

or

(C) Bars such person from being associated with any entity or from participating in the offering of any penny stock;

(v) Is subject to any order of the Commission entered within five years before such sale that, at the time of such sale, orders the person to cease and desist from committing or causing a violation or future violation of:

(A) Any scienter-based anti-fraud provision of the federal securities laws, including without limitation section 17(a)(1) of the Securities Act of 1933 (15 U.S.C. 77q(a)(1)), section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b)) and 17 CFR 240.10b–5, section 15(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(c)(1)) and section 206(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–6(1)), or any other rule or regulation thereunder; or

(B) Section 5 of the Securities Act of 1933 (15 U.S.C. 77e).

(vi) Is suspended or expelled from membership in, or suspended or barred from association with a member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;

(vii) Has filed (as a registrant or issuer), or was or was named as an underwriter in, any registration statement or Regulation A offering statement filed with the Commission that, within five years before such sale, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption, or is, at the time of such sale, the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued; or

(viii) Is subject to a United States Postal Service false representation order entered within five years before such sale, or is, at the time of such sale, subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations