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**FLAMINGO PARK APARTMENTS, LLC**

PRIVATE PLACEMENT MEMORANDUM

MEMBERSHIP INTERESTS

*Dated: August 1, 2019*

Tidegate Capital LLC, a Massachusetts limited liability company (the “Sponsor”), is offering accredited investors the opportunity to acquire Membership Interests in Flamingo Park Apartments, LLC, a Florida limited liability company (the “Company”). The Company intends to purchase and own an existing multifamily real estate property located in West Palm Beach, Florida. The property will be managed by a wholly-owned subsidiary of the Sponsor, Tidegate Properties LLC, a Florida limited liability company (the “Manager”). The principals of the Sponsor have experience developing and managing multifamily property for more than twenty-two years. The overall goal of the Company is to provide a current fixed return to investors with an opportunity for income distributions and future capital appreciation.

THIS PRIVATE PLACEMENT MEMORANDUM HAS BEEN PROVIDED TO YOU CONFIDENTIALLY IN CONNECTION WITH THE PRIVATE PLACE OF THE MEMBERSHIP INTERESTS AND DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY THE MEMBERSHIP INTERESTS IN ANY STATE OR JURISDICTION IN WHICH THE OFFER OR SALE OF THE MEMBERSHIP INTERESTS WOULD BE PROHIBITED OR TO ANY ENTITY OR INDIVIDUAL NOT POSSESSING THE QUALIFICATIONS DESCRIBED IN THIS MEMORANDUM. NO PERSON HAS BEEN AUTHORIZED IN CONNECTION WITH THE OFFERING TO GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS OTHER THAN AS CONTAINED IN THIS MEMORANDUM. THIS MEMORANDUM DOES NOT CONSTITUTE AN OFFER TO, OR A SOLICITATION OF, ANY PERSON OR ENTITY IN ANY JURISDICTION IN WHICH IT IS UNLAWFUL TO MAKE SUCH AN OFFER TO, OR SOLICITATION OF, SUCH PERSON OR ENTITY.

THIS MEMORANDUM IS SUBJECT TO FURTHER AMENDMENT.

INVESTORS WITH QUESTIONS MAY CONTACT:

Tidegate Capital LLC  
PO Box 283A  
457 Washington Street  
Duxbury, MA 02331  
(781) 285-3502  
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**PRIVATE OFFERING TO ACCREDITED INVESTORS**

THIS MEMORANDUM AND THE INFORMATION CONTAINED HEREIN IS CONFIDENTIAL AND PROPRIETARY TO THE COMPANY AND IS BEING PROVIDED TO THE RECIPIENT, IN CONFIDENCE, WITH THE UNDERSTANDING THAT THE RECIPIENT WILL OBSERVE AND COMPLY WITH THE TERMS AND CONDITIONS SET FORTH IN THIS PARAGRAPH AND THE PARAGRAPHS BELOW. ACCORDINGLY, THE RECIPIENT OF THIS MEMORANDUM SHALL PROMPTLY RETURN THIS MEMORANDUM TO THE COMPANY ALONG WITH ALL OTHER OFFERING MATERIALS RECEIVED BY HIM, HER OR IT IF ANY OF SUCH TERMS AND CONDITIONS ARE NOT ACCEPTABLE OR IF HE, SHE OR IT DOES NOT SUBSCRIBE FOR INTERESTS IN THE COMPANY OFFERED HEREBY, AND THE RECIPIENT'S ACCEPTANCE OF THIS MEMORANDUM CONSTITUTES HIS, HER OR ITS AGREEMENT TO BE BOUND BY SUCH TERMS AND CONDITIONS.

THIS MEMORANDUM HAS BEEN PREPARED FOR THE BENEFIT OF THE RECIPIENT FOR THE SOLE PURPOSE OF EVALUATING THE PRIVATE PLACEMENT OFFERING OF THE SECURITIES DESCRIBED HEREIN (THE "OFFERING"), AND ANY REPRODUCTION OR DISTRIBUTION OF THIS MEMORANDUM, OR ANY OTHER USE OF THIS MEMORANDUM, IN WHOLE OR IN PART, WITHOUT THE PRIOR WRITTEN CONSENT OF THE MANAGER IS PROHIBITED.

NO PERSON OTHER THAN THE MANAGER HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS CONCERNING THE COMPANY OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS MEMORANDUM, AND, IF GIVEN OR MADE, SUCH INFORMATION AND REPRESENTATIONS MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE COMPANY OR THE MANAGER. INFORMATION PROVIDED IS PROVIDED AS OF THE DATE OF THIS MEMORANDUM. NEITHER THE DELIVERY OF THIS MEMORANDUM NOR ANY SALES MADE HEREUNDER SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE PARTIES DESCRIBED HEREIN SINCE THE DATE HEREOF, OR THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AS OF ANY TIME SUBSEQUENT TO THE DATE OF THIS MEMORANDUM.

**THIS OFFERING IS OPEN ONLY TO ACCREDITED INVESTORS AS DEFINED BY THE SECURITIES AND EXCHANGE COMMISSION.**

**ALL STATES**

THE MEMBERSHIP INTERESTS REFERRED TO IN THIS PRIVATE PLACEMENT MEMORANDUM HAVE NOT BEEN REGISTERED UNDER EITHER THE SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR THE SECURITIES LAWS OF CERTAIN STATES AND ARE BEING OFFERED AND SOLD IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE 1933 ACT AND THOSE LAWS. THE MEMBERSHIP INTERESTS ARE

SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE 1933 ACT AND THE SECURITIES LAWS OF CERTAIN STATES PURSUANT TO REGISTRATION OR EXEMPTION FROM REGISTRATION. THE MEMBERSHIP INTERESTS HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, ANY STATE SECURITIES COMMISSION OR OTHER REGULATORY AUTHORITY, NOR HAS ANY OF THOSE AUTHORITIES PASSED UPON OR ENDORSED THE MERITS OF THIS OFFERING OR THE ACCURACY OR ADEQUACY OF THIS MEMORANDUM. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

#### FLORIDA INVESTORS

TO THE EXTENT FIVE (5) SALES ARE MADE TO FLORIDA RESIDENTS, AN OFFEREE WHO IS A RESIDENT OF FLORIDA MAY, AT THE OFFEREE'S OPTION, VOID ANY PURCHASE HEREUNDER WITHIN A PERIOD OF THREE (3) DAYS AFTER THE OFFEREE (A) FIRST TENDERS OR PAYS THE CONSIDERATION TO THE COMPANY REQUIRED HEREUNDER OR (B) DELIVERS AN EXECUTED SUBSCRIPTION AGREEMENT, WHICHEVER OCCURS LATER. TO ACCOMPLISH THIS, IT IS SUFFICIENT FOR A FLORIDA OFFEREE TO SEND A LETTER OR TELEGRAM TO THE COMPANY WITHIN THE THREE (3) DAY PERIOD, STATING THAT THE OFFEREE IS VOIDING AND RESCINDING THE PURCHASE. IF AN OFFEREE SENDS A LETTER, IT IS PRUDENT TO DO SO BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO ENSURE THAT IT IS RECEIVED AND TO EVIDENCE THE TIME OF MAILING.

INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE PERSON OR ENTITY CREATING THE MEMBERSHIP INTERESTS AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE MEMBERSHIP INTERESTS HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

IN NO EVENT SHOULD THIS PRIVATE PLACEMENT MEMORANDUM BE DUPLICATED OR TRANSMITTED TO ANYONE OTHER THAN THE PROSPECTIVE INVESTOR TO WHOM OR WHICH IT WAS DIRECTED BY WRITTEN COMMUNICATION OF THE COMPANY.

NO REPRESENTATIONS OR WARRANTIES OF ANY KIND ARE INTENDED OR SHOULD BE INFERRED WITH RESPECT TO THE ECONOMIC RETURN OR THE TAX CONSEQUENCES FROM AN INVESTMENT IN THE COMPANY. NO ASSURANCE CAN BE GIVEN THAT EXISTING LAWS WILL NOT BE CHANGED OR INTERPRETED ADVERSELY. PROSPECTIVE INVESTORS ARE NOT TO CONSTRUE THIS MEMORANDUM AS LEGAL OR TAX ADVICE. EACH INVESTOR SHOULD CONSULT HIS, HER OR ITS OWN COUNSEL AND ACCOUNTANT FOR ADVICE CONCERNING THE VARIOUS LEGAL, TAX AND ECONOMIC MATTERS CONCERNING THIS INVESTMENT.

NO OFFERING LITERATURE OR ADVERTISING IN ANY FORM SHALL BE EMPLOYED IN THE OFFERING OF THE MEMBERSHIP INTERESTS, EXCEPT FOR THIS MEMORANDUM AND THE EXHIBITS ATTACHED HERETO AND ANY ADDITIONAL INFORMATION PROVIDED IN WRITING BY THE MANAGER. NO PERSON OTHER THAN THE MANAGER HAS BEEN

AUTHORIZED TO MAKE ANY REPRESENTATIONS OR GIVE ANY INFORMATION WITH RESPECT TO THE MEMBERSHIP INTERESTS, EXCEPT THE INFORMATION CONTAINED HEREIN, AND ANY INFORMATION OR REPRESENTATION NOT CONTAINED HEREIN OR OTHERWISE SUPPLIED BY THE MANAGER MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE COMPANY OR ANY OF ITS MEMBERS. ANY FURTHER DISTRIBUTION OR REPRODUCTION OF THIS MEMORANDUM, IN WHOLE OR IN PART, OR THE DIVULGENCE OF ANY OF ITS CONTENTS, IS PROHIBITED. THE COMPANY SHALL MAKE AVAILABLE TO EACH INVESTOR OR HIS, HER OR ITS AGENT, DURING THIS OFFERING AND PRIOR TO THE SALE OF ANY SECURITIES, THE OPPORTUNITY TO ASK QUESTIONS OF AND RECEIVE ANSWERS FROM THE MANAGER CONCERNING ANY ASPECT OF THE COMPANY AND ITS PROPOSED BUSINESS OR TO OBTAIN ANY ADDITIONAL NON-PROPRIETARY INFORMATION, TO THE EXTENT THE COMPANY POSSESSES SUCH INFORMATION OR CAN ACQUIRE IT WITHOUT UNREASONABLE EFFORT OR EXPENSE.

#### NEW YORK INVESTORS

THE MEMBERSHIP INTERESTS HAVE NOT BEEN REGISTERED UNDER THE ACT OR THE NEW YORK FRAUDULENT PRACTICES (“MARTIN”) ACT, BY REASON OF SPECIFIC EXEMPTIONS THEREUNDER RELATING TO THE LIMITED AVAILABILITY OF THIS OFFERING. THE MEMBERSHIP INTERESTS CANNOT BE SOLD, TRANSFERRED, OR OTHERWISE DISPOSED OF TO ANY PERSON OR ENTITY UNLESS SUBSEQUENTLY REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE MARTIN ACT, IF SUCH REGISTRATION IS REQUIRED. THE MEMBERSHIP INTERESTS HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE ATTORNEY GENERAL OF THE STATE OF NEW YORK. THE ATTORNEY GENERAL OF THE STATE OF NEW YORK HAS NOT PASSED ON OR ENDORSED THE MERITS OF THIS OFFERING, NOR PASSED UPON THE ACCURACY OR ADEQUACY OF THIS MEMORANDUM. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THE PURCHASE OF THE MEMBERSHIP INTERESTS INVOLVES A HIGH DEGREE OF RISK. THIS MEMORANDUM DOES NOT CONTAIN AN UNTRUE STATEMENT OF A MATERIAL FACT OR OMIT TO STATE A MATERIAL FACT NECESSARY TO MAKE THE STATEMENTS MADE, IN THE LIGHT OF THE CIRCUMSTANCES UNDER WHICH THEY WERE MADE, NOT MISLEADING. IT CONTAINS A FAIR SUMMARY OF THE MATERIAL TERMS OF THE DOCUMENTS PURPORTED TO BE SUMMARIZED IN THIS MEMORANDUM.

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## I. Summary of the Offering

This Memorandum describes in detail numerous aspects of the offering that are material to prospective investors. The following summary is intended for quick reference but is not intended to be complete. Prospective investors are urged to carefully review the entire Memorandum and all Exhibits so that they have a thorough understanding of the Offering.

### **The Company**

The Sponsor is offering accredited investors the opportunity to acquire Membership Interests in Flamingo Park Apartments, LLC, a Florida limited liability company (the “Company”). The multifamily and special purpose commercial building is located at 418-420 and 422 Kanuga Drive, West Palm Beach, FL 33401 (the “Subject Property”). The overall goal of the Company is to provide an opportunity for current income distributions and future capital appreciation to be realized after an eventual sale or disposition of the Company and/or its assets; however, the Company cannot guaranty that there will now or later be an eventual sale or disposition.

### **The Manager**

The Manager of the Company is Tidegate Properties LLC (the “Manager”), a wholly-owned subsidiary of Tidegate Capital LLC. The principals of Tidegate Capital LLC are Colin O’Keeffe and Guy Holbrook. The rights and authority of the Manager are set forth in the Company’s Operating Agreement (the “Operating Agreement”); generally, the unilateral decision making authority of the Manager is applied to the day-to-day management of the Company and the Subject Property.

### **Managers**

Unless determined otherwise by the Manager, the business and affairs of the Company shall be managed by a single Manager, the Manager.

### **Fees Payable to the Manager**

The Company will pay the Manager an “Acquisition Fee” upon consummation of the acquisition of the Subject Property. “Acquisition Fee” means a one-time fee equal to greater of \$60,000.00 or two percent (2%) of the gross purchase price of the Subject Property, due and payable to the Manager or its designated affiliate(s) upon closing on the acquisition of the Subject Property.

The Company will pay the Manager, its designated Affiliate, or a third party a separate “Property Management Fee.” “Property Management Fee” means an annual fee, all or a portion of which may be payable to the Manager, calculated as a percent of the gross revenue from the Subject Property which is customary and reasonable, such fee to be payable monthly or quarterly in arrears.

The Company will pay the Manager or its designated Affiliate an “Asset Management Fee.” “Asset Management Fee” means an annual asset management fee equal to 0.75% of the acquisition price the Subject Property, exclusive of soft costs and capital improvements.

For any substantive renovation and replacement work at the Subject Property which may need to be performed or which may arise

subsequently, the Company will pay the Manager, its designated Affiliate, or a third party a “Construction Management Fee.” “Construction Management Fee” means a fee calculated as a percent of the gross Capital Improvement cost of the Subject Property which is customary and reasonable, such fee to be payable pro-rata with payment of capital work.]

**The Subject Property**

The Subject Property, a mixed-use property comprising a 16-unit multifamily community on the second story along with 4 commercial spaces on the first floor located in West Palm Beach, Florida. The property consists of 4 buildings built in 1925. The property includes the following multifamily unit mix of 7 one-bedroom units, 8 two-bedroom, units, and 1 studio unit totaling approximately 9,800 square feet. Additionally, there are 4 commercial spaces that will be leased out that total approximately 1,920 square feet. The property is situated on approximately 0.43 acres.

**Holding Period**

The Company is anticipated to hold the Subject Property between three (3) to seven (7) years after its date of acquisition (the “Holding Period”). During the Holding period, the Manager will use commercially reasonable efforts to sell the Subject Property or otherwise liquidate the Subject Property prior to the end of the Holding Period. In its discretion, the Manager may extend the Holding Period for a successive one year period. Afterwards, the Manager may extend the Holding Period for additional periods; provided that (i) the Manager obtains the affirmative vote of Non-Promote Members holding at least 65% of the Percentage Interest and (ii) the non-consenting Non-Promote Members are given the option to sell their Membership Interests to the Company or another purchaser approved by the Manager at a price at or above fair market value as determined by a mutually agreed upon independent third-party appraiser. Such additional extension(s) of the Holding Period will be for such period of time as proposed by the Manager and as so approved by the Non-Promote Members.

**Transaction**

Upon the receipt of funds from the investment of the Members and the Loan, the Company will purchase the Subject Property. The purchase of the Subject Property is expected to close in September, 2019 (the “Purchase Transaction”).

**Offering Amount**

The Company is seeking funding from investors in the aggregate amount of \$850,000 (the “Offering Amount”). The Sponsor and/or its affiliates may subscribe to a portion of the Offering Amount on the same terms and conditions as other investors and purchasers of such securities. If the Company receives investor subscriptions for more than \$850,000 the Company reserves the right to either reject or accept those subscriptions.

**Minimum Contribution Amount**

Generally, each investor must make an investment in the minimum amount of \$50,000, although the Manager reserves the right to accept

investments of less than \$50,000 on a selective basis within its discretion.

**Securities to be Issued**

The Company will issue Membership Interests to each investor. “Percentage Interest” means, for any Non-Promote Member at any given point in time, the amount, expressed as a percentage, obtained by dividing such Member’s Capital Contributions (including any Capital Reductions applied as of prior to the time of determination) by the aggregate Capital Contributions (including any Capital Reductions applied as of or prior to the time of determination) of all Non-Promote Members.

**Classification of Members**

Each investor’s membership interest in the company is classified as a Membership Interest. Each investor will be a Non-Promote Group A Member. and the Sponsor, Tidegate Capital LLC will be the “Promote Member.” [Deleted references to Non-Promote Group B Members.]

**Distribution of Distributable Cash**

Except as provided in Section X.2(b) or unless prohibited by any contractual arrangement to which the Company is a party, Distributable Cash of the Company shall be distributed quarterly to the Members not later than 45 days after the close of each calendar quarter. With respect to the end of any fiscal year, Distributable Cash shall be distributed as follows:

- (a) First to Non-Promote Group A Members, in proportion to, and to the extent until (i) each Non-Promote Group A Member has received as of the date of distribution in the aggregate an eight percent (8%) per annum return on such Member’s respective Invested Capital, which shall be distributed among the Non-Promote Members in proportion to their respective amounts of unpaid return; and
- (b) The balance, if any, seventy percent (70%) to the Non-Promote Members and thirty percent (30%) to the Promote Member.

**Distribution of Capital Proceeds**

Except as provided in Section X.2(b), any Capital Proceeds of the Company shall be distributed in the following amounts and order of priority:

- (a) First, to discharge, to the extent required by any lender or creditor, the debts and obligations of the Company (other than items listed in the ensuing clauses of Section IV.2); provided that such debts and obligations shall first be payable out of receipts included in the definition of “Distributable Cash”;
- (b) Second, to fund such reserves in addition to those references in clause (iv) of the definition of Distributable Cash as the Manager deems reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company;
- (c) Third, to Non-Promote Group A Members, in proportion to, and to the extent until each Non-Promote Group A Member has received as of the date of distribution in the aggregate an eight percent (8%) per annum return on such Member’s respective Invested Capital, which shall be



distributed to the Non-Promote Members in proportion to their respective amounts of such unpaid return;

- (d) Fourth, to the Non-Promote Members in proportion to the respective amounts of their Invested Capital until the amount of each Non-Promote Member's Invested Capital is reduced, by application of the aggregate proceeds received pursuant to this subsection and Section IV.1(b), to zero; and
- (e) The balance, if any, seventy percent (70%) to the Non-Promote Members and thirty percent (30%) to the Promote Member until a 20% IRR has been received by the Non-Promote Members in the aggregate. After Non-Promote Members in the aggregate have received 20% IRR, all further distributions will be distributed in the following manner: (i) 50% to the Promote Member and (ii) 50% to the Non-Promote Members on a pro rata basis.

**Requirement of Accredited Investors**

The Offering is open to accredited investors as described in Regulation D under the 1933 Act.

**The Company's Objective**

The Company intends to hold ownership of the Subject Property for the production of income and capital appreciation to be realized after an eventual sale or disposition of the Subject Property. However, neither the Manager, the Sponsor, nor the Company can guaranty that there will be an eventual sale or disposition of the Subject Property, or, if such is accomplished, the sale or disposition will be a profitable transaction.

**Subscription**

A subscription package containing an Investor Questionnaire, Subscription Agreement, Subscription Agreement Signature Page, and an Operating Agreement Signature Page is being furnished to each prospective investor along with this Memorandum and the Operating Agreement. A prospective investor must complete the entire subscription package and tender his, her, or its Capital Contribution.

**Acceptance of Subscriptions**

All subscriptions are subject to acceptance or rejection by the Manager in the exercise of its complete discretion. The Offering will expire four months from its commencement, or on such earlier date of the Manager elects in its sole and absolute discretion. The Manager also has the discretion to extend the Offering.

**Capitalized Terms**

Capitalized terms used in the Memorandum and not otherwise defined have the same meanings as set forth in the Operating Agreement.

**Cancellation of Offering**

The Company and the Manager reserve the right to cancel the Offering at any time prior to the Purchase Transaction for any reason (including, without limitation, if the Offering is undersubscribed) or no reason. If the Offering is cancelled, all funded investments will be returned without the accrual of interest.

## II. Estimated Sources and Uses of Funds

The estimated receipt and application of the proceeds from the offered Interests, as well as from mortgage financing of the Subject Property, is as follows and is subject to revision:

<u>Source of Funds</u>	
Members Investment	\$800,000
Loan	\$1,500,000

Subject Property is anticipated to be financed with a bridge loan at current market reasonable rates, terms and conditions with the loan in the approximate amount set forth above. At the time of the financing, the loan to value ratio is anticipated to be between 65% and 80%.

Property transaction costs would include legal, title, survey, appraisal, engineering and environmental reports, any net proration costs, third-party brokerage fees, state and local transfer taxes and other typical costs. Loan costs include application fees, origination fees, and legal, title insurance, escrow and other typical loan costs.

Certain expenses borne by the Sponsor and Manager for the benefit of the Company during the period before purchase of the Subject Property are subject to reimbursement by the Company. These include legal, consulting, property investigation, inspections, marketing, and similar costs necessarily involved in negotiating the agreement; also, legal costs associated with the preparation of this Memorandum and costs of the securities escrow. To the extent that such costs, or the ordinary and necessary costs of Company operation (including the allocable cost share of office and bookkeeping/accounting personnel) are initially borne by the Sponsor and/or the Manager for the benefit of the Company, these will likewise be subject to reimbursement.

## III. Description of the Company

### General

The Company has no operating history, and its only business activity will be to own, hold, and manage the Subject Property.

### Management

The Company will be managed by the Manager, which will have full and exclusive management authority over the business and other affairs of the Company and the operation of the Subject Property, subject to certain limitations imposed in the Operating Agreement. The Manager is a wholly-owned subsidiary of the Sponsor, whose principals are Colin O’Keeffe and Guy Holbrook.

### Ownership by the Principals of the Sponsor

The principals of the Sponsor may individually make an investment in the Company; however, there currently is no way to determine the aggregate amount, if any, which such persons may ultimately invest.

The purchase of any Membership Interests by Colin O’Keeffe and Guy Holbrook, separately from the Sponsor, should not be relied upon by investors as a basis for evaluating the merits of the Offering.

#### IV. Description of the Subject Property and Rental Market

The Subject Property, a mixed-use property comprising a 16-unit multifamily community on the second story along with 4 commercial spaces on the first floor located in West Palm Beach, Florida. The property consists of 4 buildings built in 1925. The property includes the following multifamily unit mix of 7 one-bedroom units, 8 two-bedroom, units, and 1 studio unit totaling approximately 9,800 square feet. Additionally, there are 4 commercial spaces that will be leased out ~~suites~~ that total approximately 1,920 square feet. The property is situated on approximately 0.43 acres.

The Subject Property currently has 4 units that are “down” due to a prior fire. They have been gutted and are ready for renovation. Otherwise the remaining multifamily buildings are fully occupied. As leases turn over, the Manager will implement renovations and market pricing with scheduled rent adjustments annually thereafter. The commercial space is being used by the owner for storage for other owned apartment buildings. These units are to be delivered at closing in “swept clean” condition.

The Subject Property is located in Palm Beach County within the City of West Palm Beach, Florida and remains popular as a retirement area for snowbirds. West Palm Beach is a city in South Florida and is separated from neighboring Palm Beach by the Lake Worth Lagoon. Downtown’s Clematis Street and City-Place districts are filled with restaurants, shops, bars and clubs. The Norton Museum of Art displays American, European and Chinese art, including Impressionist paintings. Nearby, the 4-theater Kravis Center for the Performing Arts hosts concerts, plays, dance and opera.

##### Metro:

Significant population growth along the entire eastern seaboard of Florida and an expanding labor force has made West Palm Beach and the east coast of Florida a very attractive area for businesses to relocate. The Southeast Florida region is one of the fastest growing MSA’s in the nation as retirees move to the area along with the required staff moving there for the services required by that client base. West Palm Beach is located along the Atlantic Coast and is a small city known for its high average household income.

Our research suggests that the Class B and C multifamily space present strong market fundamentals for the foreseeable future. A high barrier to entry into home ownership due to tight lending standards after the 2008 recession should continue creation of a highly positive impact upon apartment rentals. In addition, demand is forecasted to remain strong as a result of the large 25-35 year old demographic pool, which is now just entering prime rental age. During this slow growth economic period, many people have lived together in larger households in order to save money and many young people have delayed moving out or have moved back into their parent(s) house, leading to an increase in average household size above the historical norm. This housing dynamic has recently started to turn as household formation has begun to increase as more people are starting to move out on their own again.

While demand is forecasted to be robust, the supply of new apartment construction in the B and C apartment classification remains limited due to economic fundamentals and the resulting focus on developing high-end, Class A properties. Due to the economics of building units and the lower rents received, the typical entry-level or working class, blue collar renter is not a common target for new development.

The Sponsor believes investors may benefit further from the strong inflation hedge created by multifamily real estate investment. Multifamily rents have the ability to adjust with inflation whenever there is a lease expiration, typically annually for each resident.

The Manager, the Sponsor, and the Sponsor's principals plan to bring institutional methodology and management to a sector that traditionally has been run by small, local, family operators. Our key tenets for investing in the multifamily Real Estate asset class are as follows:

- Poorly run multifamily properties, often with deferred maintenance, can be purchased at a discount to replacement cost; with improved management these properties can provide increased annual income along with the potential for capital appreciation.
- Typically, small and mid-sized multifamily properties which are not compelling for REITs and other institutional investors are owned and managed by local investors who may not have fully maximized a property's market value.
- Unlike Real Estate Investment Trusts (REITs), the Manager will employ a direct, hands-on approach with respect to overseeing our properties' management to ensure they are run efficiently, effectively and in the best interests of both investors and tenants.
- The Manager believes its fee structure to be materially more favorable than that offered in competing products and view their cash flow priority as its primary source of compensation.

## V. **Financing, Capital Shortfalls, and Guarantees for Funding**

### Mortgage Financing

The Subject Property is anticipated to be financed with a bridge loan for up to 2 years with an option to extend for one year at a fixed rate of 7.0 – 8.0% (preliminary rate estimate) . At the time of the financing, the loan-to-value ratio for the Subject Property is anticipated to be between 65% and 85%. The manager will enter into a permanent loan prior to the expiration of the bridge loan.

### Manager Bridge Loan

In addition, the Manager or its affiliate(s) may provide, at then-current market rates and terms and as acceptable to the Manager, and, in such event, the Manager/Sponsors shall be entitled to a payment of reasonable and customary fees in arranging and providing such a bridge loan to Flamingo Park Apartments, LLC and/or its subsidiaries to pay for start-up and other costs, to fund capital shortfalls, or for any other temporary purposes ("Manager Bridge Loan"). The interest rate on this loan will be the prime rate plus 4% per annum. The Manager may cause this to be repaid in whole or in part from the investor capital contributions, loan proceeds, distributions from subsidiaries, and/or from other sources. The Members will not have the right to participate in this loan.

### Capital Shortfalls / Other Financing Not Available

The Manager reserves the right, in its sole discretion, to conduct a call for additional Capital Contributions to the Members or offer and sell new equity interests or debt securities if the Manager reasonably determines that the Company requires additional funds for any reason. Failing this, the Manager may seek other financing. Such other financing may include mortgage financing that does not meet the specifications described above, other mezzanine financing, and/or financing from the Manager or Sponsor, or an affiliate thereof. Any such equity financing will have the relative rights and preferences determined by the Manager, which may be greater than and/or dilutive of the investors' rights and preferences. The investors will be given the opportunity to participate in such equity financing to the extent described in the Operating Agreement. The Manager may amend the Operating Agreement as is necessary to reflect such financing, and the investors appoint the Manager as their attorney in fact to execute any such amendments. For more information, see the Summary of the Terms of the Operating Agreement.

### Manager, Sponsor, Affiliate Provided Debt Financing

From time to time as deemed necessary and appropriate in the Manager's sole discretion the Manager or Sponsor may provide debt financing to Flamingo Park Apartments, LLC (including without limitation, the Manager Bridge Loan). Any such debt financing from the Manager or Sponsor (or their affiliates) will be made on such terms as the Manager determines is commercially reasonable. In the event that the interest rate with respect to any such loan exceeds the greater of (i) 12% or (ii) the prime rate plus 8.0%, the Manager and Sponsor must give the investors the opportunity to participate in this loan on a pro rata basis in accordance with their capital contributions, as described the Operating Agreement.

### Guarantors and Indemnification

If any financing is guaranteed by the Manager, Sponsor or affiliates, the Manager may cause Flamingo Park Apartments, LLC to indemnify the guarantor(s) (including any guarantor(s) affiliated with the Manager) for any liability they incur under any such guarantees, except to the extent arising from the individual fraud or knowing and willful misconduct of the guarantor(s) themselves. Flamingo Park Apartments, LLC's liability for losses under any such guaranty would be limited to Flamingo Park Apartments, LLC's pro rata share of the amounts payable thereunder based on relative capital contributions, except to the extent Flamingo Park Apartments, LLC caused the losses, in which event Flamingo Park Apartments, LLC will be responsible for all of such losses.

The Manager may, and has the power to, obtain and undertake, in its sole discretion, financing which involves the pledging of membership interests, a collateral assignment of the investor's commitment to contribute capital, or other assets of Flamingo Park Apartments, LLC. The investors also must indemnify the Company and the guarantor/key principals for any violation of the loan documents that they or their direct or indirect owners or Manager cause (e.g., involuntary bankruptcy of borrower or guarantor or impermissible transfer by investor).

## **VI. Management**

Over the Sponsor and its principals 20+ year history in real estate development, management and investing in multifamily real estate, analysis and portfolio management, the Sponsor and its principals have developed certain investment strategies that they believe will allow continued success. They are as follows:

- Their hands-on approach to property acquisition. This allows them to review in detail the potential acquisitions and to select what we believe are the best investment opportunities.
- Their proprietary analytical tools that are used in acquiring properties needing management and/or physical turnarounds, as well as stabilized assets, therefore attempting to optimize investors' risk-adjusted returns.
- Their close oversight and review of property management after the close attempts to maximize the performance of each individual asset. The Sponsor and its principals view their approach to property management as a means to enhance investor returns and to maximize property values, and not simply as a cost of ownership.
- Their fee structure and reliance on recurring income and profit fees as their primary source of economic benefit, coupled with their co-investment commitment, creates the incentive to acquire only investments the Sponsor believes will produce superior returns.

The principals' of the Sponsor complimentary skill sets include backgrounds in property management, acquisitions, finance, trading, asset management, portfolio oversight, compliance, and accounting.

Colin P. O’Keeffe, MBA

Mr. O’Keeffe has had extensive involvement in the multifamily housing sector. His experience includes the detailed financial analysis of the acquisition, development, property management, asset management, financing and disposition of multifamily assets throughout the central and eastern United States.



As the Asset Manager of a portfolio of more than 80 multifamily properties, Mr. O’Keeffe oversaw over 8000 units while working for Boston Financial Asset Management and Bank of America. Areas where he developed extensive expertise in the multifamily sector included maximizing rental revenue through resident retention programs, effective marketing plans and incorporating efficient expense controls and tight supervision. Prior to Tidegate Capital, Mr. O’Keeffe co-founded and was a Principal of Arch Street Development LLC. Since 2006 Arch Street developed over \$45 million of multifamily real estate. O’Keeffe’s years of property management experience have provided him with the ability to identify value-added opportunities to maximize investor returns through selective property enhancements and proactive property management. He received a BA in Economics from the University of Richmond and an MBA from Northeastern University.

Mr. O’Keeffe has coached his three daughters’ soccer and softball teams. He is an avid golfer who also enjoys tennis, platform tennis, and skiing in the winter months.

Mr. O’Keeffe’s experiences include the following properties:

**Carey School Residences, Newport, Rhode Island:**

- a 13-unit luxury condominium project in Newport, RI
- sold out in less than 7 months after completion
- \$2.47MM was returned to the investor partner on a \$1.7MM investment in just 20 months; IRR of 22% per annum and investor multiple of 1.45x.

**Cottage Square Apartments, Easthampton, Massachusetts:**

- adaptive reuse of the formerly vacant, 93,000 square foot, Nashawannuck Mill in Easthampton, MA
- 50 unit multifamily building completed in May 2015 under the Low Income Housing Tax Credit Program (Section 42 of the IRC)
- 18MM project included financing from Federal and State Low Income Housing Tax Credits, Federal and State Historic Tax Credits, City of Easthampton CPA funds, HOME funds, Massachusetts Affordable Housing Trust Funds and Housing Stabilization Funds; currently in lease-up phase.

**Clark Biscuit Apartments, North Adams, Massachusetts:**

- Adaptive reuse of the former Clark Biscuit Bakery
- 43 units of affordable housing under the Low Income Housing Tax Credit Program
- Once the property achieved full occupancy, it has consistently remained above 90%. Clark Biscuit Apartments is operating above break-even and delivering the projected annual tax credits to its investor

**Carleton Westside Apartments, Providence, Rhode Island:**

- The preservation and rehabilitation of two expired low-income tax credit properties in Providence, RI
- Oversaw the improvements to the 86-unit project including new roofs, kitchens, baths, HVAC equipment, energy efficient windows, siding, and landscaping
- Funding for the \$8.5MM project was provided utilizing Low Income Housing Tax Credits and funds from Rhode Island Mortgage Finance
- The property operates above break-even and maintains strong occupancy at 93%. Tax credit delivery to the investor has been consistent with the original projections.

**St. Ann’s Apartments, Woonsocket, Rhode Island:**

- The adaptive reuse of the historic St. Ann’s School/Convent and Rectory complex; 25 units of affordable housing
- Financing included a combination of Federal Low Income Housing Tax Credits, Federal and State Historic Tax Credits, funding from the Rhode Island Housing Resources Commission, Neighborhood Opportunities Commission, HOME Funds, Lead Abatement Funds and both construction and permanent financing from Rhode Island Housing Mortgage Finance.

St. Ann’s Apartments provides its investor with their anticipated annual tax credit stream and operates at or near breakeven serving a population of people earning 30% to 60% of area median income.

Guy C. Holbrook, IV, CFA

Mr. Holbrook is co-founder and Principal of Tidegate Capital LLC. He has extensive experience managing fixed income portfolios for institutional investors, ensuring their investment objectives are clearly defined and met. Mr. Holbrook has worked at Scudder, Stevens and Clark, Massachusetts Financial Services (MFS) and most recently Columbia Management overseeing 10 portfolio managers and analysts with over \$30 billion in AUM.



He has invested in public and private offerings as well as traded on major platforms and over-the-counter securities. Prior roles included analyzing securities from fixed income bonds, to private placements to municipal offerings. Due to his experience investing through numerous market cycles he is a strong proponent of risk controls and oversight to maximize downside protection while delivering returns that meet and exceed client expectations. He received his BA from Colby College with a degree in Economics. Mr. Holbrook holds the Chartered Financial Analyst designation and is a member of the Boston Security Analysts Society.

Mr. Holbrook is an active volunteer; he is on the Board of Trustees and heads up the investment committee at the Duxbury Bay Maritime School; he is on the Board of Trustees and on the investment committee at The Partridge Scholarship Fund, and he is an active member on the investment committee for the Pilgrim Society.

The Sponsor believes that the combination of prior multifamily development, ownership, and management by Colin O’Keeffe and portfolio management, analysis and oversight by Guy Holbrook will allow them to leverage their skill sets to effectively manage a private Real Estate fund.

## VII. Additional Documents

The following documents will be made available for review by investors or their advisors in connection with the purchase of the Subject Property upon request:

1. Purchase Agreement
2. Due diligence information with respect to the Subject Property, to the extent not proprietary
3. Mortgage documents



## VIII. Summary of Certain Terms of the Operating Agreement

Control of the Company will be vested in the Manager. As such, the Company will be dependent solely upon the manager for decision making. In this regard, the relationship among the Members and the Manager with respect to the Company will be governed by the provisions of the Operating Agreement. A copy of this Operating Agreement is included as an Exhibit to this Memorandum; provided, that the attached Operating Agreement is subject to further revision. The following statements, together with statements elsewhere in this Memorandum, summarize certain provisions of the Operating Agreement; however, these statements are qualified in their entirety by reference to the exact text of the Operating Agreement which should be reviewed carefully by prospective investors and/or their professional counsel prior to the execution and delivery of any subscription documents. It should be remembered by investors that all decisions regarding the operation and management of the Company will be made by the Manager. **To the extent that there is any conflict between this Memorandum and the Operating Agreement, the Operating Agreement will control, and this Memorandum will be deemed amended to conform to the Operating Agreement.**

**The Company** Flamingo Park Apartments, LLC, which has been formed as a limited liability company under the laws of the State of Florida. The Company has no operating history, and its only business activity will be to own the Subject Property until an eventual sale or disposition.

**The Members** The Members will include each investor (i.e., each a Non-Promote Member) and the Sponsor (the Promote Member).

**Percentage Interests of the Members** The Percentage Interest for any Non-Promote Member at any given point in time, the amount, expressed as a percentage, obtained by dividing such Member's Capital Contribution (including any Capital Reductions applied as of or prior to the time of determination) by the aggregate Capital Contributions (including any Capital Reductions applied as of or prior to the time of determination) of all Non-Promote Members.

**The Manager** Except for those matters expressly delegated to and set forth in the Operating Agreement as being within the authority of all the Members and except as required by non-waivable provisions of the Act or other applicable law, the business and affairs of the Company and operation of the Subject Property shall be managed, directed and controlled by the Manager, and all decisions respecting any matter set forth herein or otherwise affecting or arising out of the conduct of the business of the Company shall be made by the Manager in its sole discretion.

The Manager cannot be removed without (a) the vote of Non-Promote Members holding at least a 75% Percentage Interest in the Company, and (b) obtaining the required approvals from all third-party lenders for loans to the Company or its subsidiaries. If a Manager is removed, a new Manager is nominated by the Non-Promote Members. Each Non-Promote Member can vote on one nominee for Manager, and the nominee will be the party that receives nomination approval from the greatest Percentage Interests. The replacement Manager is only then

elected with the approval of Non-Promote Members holding a majority Percentage Interest.

Notwithstanding anything to the contrary in the Operating Agreement, so long as the Loan is outstanding, Tidegate Properties LLC shall remain the sole Manager of the Company

**Fees Payable to the Manager**

The Company will pay the Manager an “Acquisition Fee” upon consummation of the acquisition of the Subject Property. “Acquisition Fee” means a one-time fee equal to the greater of \$60,000.00 or two percent (2%) of the gross purchase price of the Subject Property, due and payable to the Manager or its designated affiliate(s) upon closing on the acquisition of the Subject Property.

The Company will pay the Manager, its designated Affiliate, or a third party a separate “Property Management Fee.” “Property Management Fee” means an annual fee, all or a portion of which may be payable to the Manager, calculated as a percent of the gross revenue from the Subject Property which is customary and reasonable, such fee to be payable monthly or quarterly in arrears.

The Company will pay the Manager or its designated Affiliate an “Asset Management Fee.” “Asset Management Fee” means an annual asset management fee equal to 0.75% of the acquisition price the Subject Property, exclusive of soft costs and capital improvements.

For any substantive renovation and replacement work at the Subject Property which may need to be performed or which may arise subsequently, the Company will pay the Manager, its designated Affiliate, or a third party a “Construction Management Fee.” “Construction Management Fee” means a fee calculated as a percent of the gross Capital Improvement cost of the Subject Property which is customary and reasonable, such fee to be payable pro-rata with payment of capital work.

**Expense Reimbursement of Manager**

All out-of-pocket expenses reasonably incurred by the Manager in connection with the Company’s business (other than overhead and similar expenses of the Manager) shall be paid by the Company or reimbursed to the Manager by the Company.

**The Subject Property**

The Subject Property, a mixed-use property comprising a 16-unit multifamily community on the second story along with 4 commercial spaces on the first floor located in West Palm Beach, Florida. The property consists of 4 buildings built in 1925. The Subject Property includes the following multifamily unit mix of 7 one-bedroom units, 8 two-bedroom, units, and 1 studio unit totaling approximately 9,800 square feet. Additionally, there are 4 commercial spaces that will be leased out that total approximately 1,920 square feet. The property is situated on approximately 0.43 acres.

## **Holding Period**

The Company is anticipated to hold the Subject Property between three (3) to seven (7) years after its date of acquisition (the “Holding Period”). During the Holding period, the Manager will use commercially reasonable efforts to sell the Subject Property or otherwise liquidate the Subject Property prior to the end of the Holding Period. In its discretion, the Manager may extend the Holding Period for a successive one year period. Afterwards, the Manager may extend the Holding Period for additional periods; provided that (i) the Manager obtains the affirmative vote of Non-Promote Members holding at least 65% of the Percentage Interest and (ii) the non-consenting Non-Promote Members are given the option to sell their Membership Interests to the Company or another purchaser approved by the Manager at a price at or above fair market value as determined by a mutually agreed upon independent third-party appraiser. Such additional extension(s) of the Holding Period will be for such period of time as proposed by the Manager and as so approved by the Non-Promote Members.

## **Buyout**

If the Manager causes Subject Property to be held beyond the Holding Period and there is an obligation to buy out any of the investors' Membership Interests, the purchase price will be determined by an appraisal mechanism. The Manager, in its discretion, can cause third parties (affiliated or unaffiliated) to purchase such Membership Interests or cause the Company to redeem such Membership Interests. Under the appraisal mechanism, the purchase price paid to the investors being bought out will equal the proceeds such investors would be entitled to under the sale proceeds provision of the Operating Agreement for the Subject Property (or secured debt investments) being held for the extended Holding Period, assuming that such Subject Property (or secured debt investments) are sold at appraised value, and assuming appropriate closing prorations and costs, as determined by the Manager (including a market rate brokerage commission for the sale of properties). No minority discount will be applied.

The appraised value of the Subject Property (or secured debt investments) will be determined by up to three appraisers. The first appraiser will be selected by the investors being bought out (“Investor Appraiser”). The appraiser receiving votes from investors holding the greatest amount of Membership Interests (based on relative total capital contributions) will be the one selected. If there is a tie, then the investors being bought will re-vote with only the two appraisers who were tied. If there is a tie in the re-vote, then a single coin-flip performed by a representative of the Company’s accounting firm will determine who the Investor Appraiser will be as between the run-off candidates. The second appraiser will be determined by the Manager (“Manager Appraiser”), which may or may not be the same as the Investor Appraiser. The third appraiser (“Third Appraiser”) will be agreed upon by the Investor Appraiser and the Manager Appraiser. The market price for the Membership Interests of the non-consenting investors will be determined by the Investor Appraiser’s appraised value or the Manager Appraiser’s appraised value, whichever is closer

to and within 5% of the Third Appraiser's appraised value. If neither is within 5% of the Third Appraiser's value, then the appraised value will equal the average of the appraised value of the Third Appraiser and the appraised value of either the Manager Appraiser or the appraised value of the Investor Appraiser, whichever is closer to the appraised value of the Third Appraiser. All appraisers must be licensed, MAI designated, qualified, and disinterested. The Company will pay the reasonable fees of all three appraisers.

**Offering Amount**

The Company is seeking funding from investors in the aggregate amount of \$850,000.00 (the "Offering Amount"). The Sponsor and/or its affiliates may subscribe to a portion of the Offering Amount on the same terms and conditions as other investors and purchasers of such securities. If the Company receives investor subscriptions for more than \$850,000.00, the Company reserves the right to either reject or accept those subscriptions.

**Securities to be Issued**

The Company will issue Membership Interests to each investor. "Percentage Interest" means, for any Non-Promote Member at any given point in time, the amount, expressed as a percentage, obtained by dividing such Member's Capital Contributions (including any Capital Reductions applied as of prior to the time of determination) by the aggregate Capital Contributions (including any Capital Reductions applied as of or prior to the time of determination) of all Non-Promote Members.

**Classification of Members**

Each investor's membership interest in the company is classified as a Membership Interest. Each investor will be a Non-Promote Member and the Sponsor, Tidegate Capital LLC will be the "Promote Member."

**Distribution of  
Distributable Cash**

Except as provided in Section X.2(b) or unless prohibited by any contractual arrangement to which the Company is a party, Distributable Cash of the Company shall be distributed quarterly to the Members not later than 45 days after the close of each calendar quarter. With respect to the end of any fiscal year, Distributable Cash shall be distributed as follows:

- (a) First to Non-Promote Members until each Non-Promote Member has received as of the date of distribution in the aggregate a eight percent (8%) per annum return on such Member's respective Invested Capital, which shall be distributed among the Non-Promote Members in proportion to their respective amounts of unpaid return; and
- (b) The balance, if any, seventy percent (70%) to the Non-Promote Members and thirty percent (30%) to the Promote Member.

**Distribution of Capital  
Proceeds**

Except as provided in Section X.2(b), any Capital Proceeds of the Company shall be distributed in the following amounts and order of priority:

- (a) First, to discharge, to the extent required by any lender or creditor, the debts and obligations of the Company (other than items listed in the ensuing clauses of Section IV.2); provided that such debts and obligations shall first be payable out of receipts included in the definition of “Distributable Cash”;
- (b) Second, to fund such reserves in addition to those references in clause (iv) of the definition of Distributable Cash as the Manager deems reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company;
- (c) Third, to Non-Promote Members, in proportion to, and to the extent until each Non-Promote Member has received as of the date of distribution in the aggregate an eight percent (8%) per annum return on such Non-Promote Member’s respective Invested Capital, which shall be distributed to the Non-Promote Members in proportion to their respective amounts of such unpaid return;
- (d) Fourth, to the Non-Promote Members in proportion to the respective amounts of their Invested Capital until the amount of each Non-Promote Member’s Invested Capital is reduced, by application of the aggregate proceeds received pursuant to this subsection and Section IV.1(b), to zero; and
- (e) The balance, if any, seventy percent (70%) to the Non-Promote Members and thirty percent (30%) to the Promote Member until a 20% IRR has been received by the Non-Promote Members in the aggregate. After Non-Promote Members in the aggregate have received 20% IRR, all further distributions will be distributed in the following manner: (i) 50% to the Promote Member and (ii) 50% to the Non-Promote Members on a pro rata basis.

**Distribution upon  
Liquidation**

- (a) After payment of liabilities owing to creditors, the liquidators shall set up such reserves as it deems reasonably necessary for any contingent or unforeseen liabilities or obligations and, at the expiration of such period as such liquidator may deem advisable, such reserves shall be distributed to the Members or their assigns in the manner set forth below.
- (b) After paying such liabilities and providing for such reserves, the liquidators shall cause the remaining net assets of the Company to be distributed to all Members in accordance with the order of priority set forth in Section IV.2(c) through (e). In the event that any part of such net assets consists of notes or accounts receivable or other non-cash assets, the liquidators may take whatever steps they deem appropriate to convert such assets into cash or into any other form which would facilitate the distribution thereof. If any assets of the Company are to be distributed in kind, such assets shall be distributed on the basis of their fair market value net of any liabilities.

**Voting**

The Manager will manage Subject Property on behalf of the investors in the Company, and the Non-Promote Members of the Company will have no right to participate in any management decisions, except that Non-Promote Members of the Company will have the right to (a) approve an amendment of the Operating Agreement of the Company (b) remove and replace the Manager, as described below (c) approve any Manager request to hold the Subject Property beyond the Holding Period in accordance with the Operating Agreement, (d) participate in certain debt and equity financing of capital shortfalls of the Company as described in and of the Operating Agreement, and (e) otherwise enforce their other rights under the Operating Agreement.

The Manager cannot be removed without (a) the vote of Non-Promote Members holding at least a 75% Percentage Interests, and (b) obtaining the required approvals from all third-party lenders for loans to the Company. If the Manager is removed, a new Manager is nominated by the investors. Each investor can vote on one nominee for Manager, and the nominee will be the party that receives nomination approval from the greatest Percentage Interests of the investors. The replacement Manager is only then elected with the approval of Members holding a majority Percentage Interest.

**Business of the Company**

The purpose of the Company shall be solely to engage in acquiring, owning, operating, renovating, repairing, leasing, maintaining, financing and managing that certain real property and all improvements of the Subject Property; and further, the Company (i) shall hold no material assets other than the Subject Property, (ii) shall have no material debt (except for trade payable or accrued expenses in the ordinary course of business) other than a loan (the "Loan") as evidenced by a promissory note in the approximate amount of \$2,500,000 (subject to the reasonable determination of manager), secured by a mortgage on the Subject Property

**Capital Contribution**

Each Non-Promote Member must contribute his, her, or its Capital Contribution to the Company; i.e., his, her, or its investments, simultaneously upon acquisition of Membership Interests in accordance with the terms of the subscription agreement distributed with this Memorandum.

**Additional Capital Contributions and Capital Shortfall**

Subject to Section III.1(c) of the Operating Agreement, in the event the Manager reasonably determines that the Company requires additional funds for any reason, including without limitation amounts required under the terms of any loans, amounts needed to fund the operations of the Subject Property, or amounts needed to reimburse the Manager or its Affiliates for payments made or obligations incurred in connection with the Company's operations, the Manager shall notify the Non-Promote Members of such determination, specifying in such notice the amount of funds required and such Non-Promote Member's share thereof (which share shall be based upon the Percentage Interest of such Non-Promote Member) (each such notice, a "Capital Call"). Each Non-Promote Member shall contribute the amount specified in the Capital Call within 30 days after the Capital

Call is given. The Members hereby consent to the acceptance of Additional Contributions (and, if applicable, the admission of new Members) pursuant to Section III.1(b) of the Operating Agreement. If a Non-Promote Member fails to make any required Additional Contribution pursuant to such Capital Call within such 30-day period, then the Capital Contribution and Invested Capital (and, hence, the Percentage Interest and share of distributions pursuant to Sections IV.1 and IV.2 of the Operating Agreement) of such Non-Promote Member shall be reduced proportionately by the amount of any Additional Contributions actually contributed by the other Non-Promote Members or new Members, as the case may be. No Capital Reduction shall entitle the Non-Promote Member to which it is applied to any cash payment or other distribution in respect thereof.

To the extent the Non-Promote Members do not fund the full amount of an Additional Contribution (the "Shortfall"), the Manager shall give notice of the amount of the Shortfall to each of the Non-Promote Members who has funded his or her share of such Additional Contribution, as applicable (the "Funding Members"). The Funding Members shall have seven days following such notice in which to fund some or all of the Shortfall. If the Funding Members fund more than the Shortfall within such seven-day period, the Manager shall accept such Additional Contributions in the order in which they are received. If, at the expiration of such seven-day period, a Shortfall continues to exist, the Manager shall have the right, in its sole discretion, (i) to seek such Additional Contributions, up to the amount of the Shortfall, from third parties or (ii) to seek to raise the amount of the Shortfall through an offering, pursuant to Section III.1(c) of the Operating Agreement, of a class of equity interests senior to the Non-Promote Member's Membership Interests, in which event any Additional Contributions that have been made in response to the Capital Call to which the Shortfall relates shall be automatically converted into an equal dollar amount of such senior interests.

The Non-Promote Members hereby consent to any reduction in the Capital Contribution, Invested Capital, Percentage Interest and share of distributions of any Non-Promote Member pursuant to Section III.1(b) of the Operating Agreement and to the amendment of Schedule A of the Operating Agreement to reflect any such reduction and the acceptance of Additional Contributions and, if applicable, the admission of new Members. The application of the Capital Reduction and the corresponding reduction of the Capital Contribution, Invested Capital, Percentage Interest and share of distributions of a defaulting Non-Promote Member shall be the sole remedy the Company shall have against any Non-Promote Member who does not fund his or her share of an Additional Contribution.

If the Manager makes the determination described in the first sentence of Section III.1(b) of the Operating Agreement, the Manager may, in lieu of making a Capital Call, offer (i) new equity interests that may be of a new class or classes that may be senior, junior or on a parity with the Non-Promote Members and on such other terms as the

Manager may determine in its sole and absolute discretion or (ii) debt securities in the form and on such terms as the Manager may determine in its sole and absolute discretion. Such interests may be offered to the Non-Promote Members and/or third parties. The Manager shall have the right, without the consent of any other Member, to amend this Agreement to reflect such terms and the admission of additional Members in accordance therewith.

**Manager Bridge Loan**

In the Manager's sole discretion, the Manager and/or its Affiliates may make a bridge loan to the Company and/or its subsidiaries to pay for start-up and other costs, to fund Shortfalls, or for any other temporary purposes (the "Manager Bridge Loan"). The Manager Bridge Loan interest rate will be the prime rate plus 4% per annum and shall have a term not to exceed twelve (12) months. The Manager may cause this to be repaid in whole or in part from the investor capital contributions, loan proceeds, distributions from subsidiaries, and/or from other sources. The Members will not have the right to participate in the Manager Bridge Loan.

**Additional Debt Financing**

From time to time, in the discretion of the Manager, the Manager or Promote Member may provide debt financing to the Company (including without limitation the Manager Bridge loan). Any such debt financing from the Manager or Promote Member (or their affiliates) will be made on such terms as the manager determines is commercially reasonable. In the event that the interest rate with respect to any such loan exceeds the greater of (i) 12% or (ii) the prime rate plus 5.0%, the Manager and Promote Members must give the investors the opportunity to participate in this loan on a pro rata basis in accordance with their capital contributions as described in the Agreement.

**No Right of Withdrawal**

No Member shall have the right or power to resign, withdraw or retire from the Company except upon (j) the occurrence of any event described in law, or (ii) a transfer of ownership of all such Member's Membership Interest in compliance with, and subject to, the Operating Agreement.

**Drag-Along Right**

In the event that one or more Members holding a majority of the Membership Interests (the "Majority") receives a bona fide offer to sell their Membership Interests in a single transaction or series of related transactions to an Independent Third Party (as defined herein), then the Majority may, but shall not be obligated to, require all of the remaining Members (whether or not such offer was for all of the Membership Interests), to include all of the Membership Interests of the remaining Members to be sold in the transaction at the same price and on the same terms and conditions as are offered to the Majority (the "Drag-Along Right"). "Independent Third Party" means any person or entity (or group of such persons or entities) who, immediately prior to the contemplated transaction, does not own any Membership Interests or other equity interests in the Company. In the event the Majority exercises the Drag-Along Right, the remaining Members will fully cooperate with the Majority with respect to any



and all requests that are reasonably necessary to consummate the sale. Each Member shall receive its pro rata share of the total purchase price paid as a result of a sale to an Independent Third Party that occurs in connection with the Drag-Along Right.

### **Tag-Along Right**

In the event the Majority does not exercise the Drag-Along Right set forth in Section IX.2, above, the Majority shall provide a notice to all remaining Members setting forth all material terms and conditions of the prospective sale of its Membership Interests to the Independent Third Party. Upon receipt of such notice, each remaining Member shall have the right to require the Independent Third Party to acquire all of such remaining Members' Membership Interests in the sale involving the Majority, and occurring at the same price and under the same payment terms as specified in the notice (the "Tag-Along Right"). The Tag-Along Right must be exercised by the remaining Members within seven (7) days from receipt of the notice referred to above by delivering written notice to the Company and to the Majority of such remaining Members' election to exercise its Tag-Along Right (the "Exercise Notice"). Any failure by the remaining Members to deliver the Exercise Notice within the time period set forth above will be deemed a renouncement and waiver of such remaining Members' Tag-Along Right. In the event that a Member exercises the Tag-Along Right, such Member will fully cooperate with the Company and with the Majority with respect to any and all requests that are reasonably necessary to consummate the sale to the Independent Third Party.

### **Competition from Manager**

The Manager may engage in and possess interests in other business ventures and investment opportunities of every kind and description, independently or with others, including serving as directors, officers, stockholders, managers, members and general or limited partners of corporations, partnerships or other limited liability companies with purposes similar to or the same as those of the Company. Neither the Company nor any other Member shall have any rights in or to such ventures or opportunities or the income or profits therefrom.

The Manager, including its officers, employees, and agents) shall not be required to devote all of their respective time to the affairs of the Company, but shall devote such time as may be reasonably required to perform its obligations under the Operating Agreement.

Each Member acknowledges that certain conflicts of interest exist in the structure and operation of the Company. The distributions which the Promote Member is entitled to receive, and the Fees to which the Manager or its Affiliates are entitled, have not been set through „arm's length“ negotiations and may be higher than available in other private investment vehicles.

Each Member acknowledges that the Manager and its Affiliates are also expected to work on projects that do not relate to the Company. Conflicts of interest may arise between the Company and Affiliates of the Manager with respect to allocating management time, services or other resources. The Manager of the Company, its principals and their colleagues are not obligation to devote any particular portion of time to the affairs of the Company and may spend a substantial portion of their time on matters other than the Company, including without

limitation, matters involving other funds that are in the same or similar business as the Company. The performance by these individuals of their obligations to such other entities could conflict with their responsibilities to the Company.

Each Member acknowledges that there may be situations in which the interests of the Company or the Manager and its Affiliates may conflict with the interests of the other Members and their respective Affiliates. Such conflicts and activities shall not, in any case, or in the aggregate, be deemed to constitute a breach of this Operating Agreement or any duty that might be owed by any such Person to the Company or to any Member.

## **IX. Legal and Accounting Fees**

Legal and/or accounting fees may be paid by the Manager or its affiliates from time to time for services rendered with respect to the Company and/or the Subject Property or and Company subsidiaries in such areas, including without limitation in preparation of this Memorandum and the Company's Operating Agreement or for acquisition, disposition or refinancing of investments of Flamingo Park Apartments, LLC or its subsidiaries. The Manager has initially retained the following to provide accounting services and legal counsel:

Third Party Bookkeeping: InFocus Property Services, Duxbury MA

Legal: Clark Hill PLC, Chicago IL

Brokerage Fee: If so determined by the Manager, an affiliate of the Manager may have the right to act as agent for the purchase and/or sale of the Subject Property and receive a brokerage commission in an amount not to exceed that which would be customarily charged by non-affiliated real estate brokers performing similar services.

### Other Interests, Fees or Compensation

The Manager and its affiliates do now, or may in the future, receive other interests, fees or compensation from or in connection with the Company, subject to the limitations set forth in the Operating Agreement. For example, the Manager and its affiliates providing goods and services to the Company on commercially reasonable terms; and the Manager or its affiliates loaning money or contributing equity to the Company (and receiving loan payments or distributions) as provided in the Operating Agreement, including without limitation the Manager Bridge Loan.

None of the compensation and fees payable to the Manager and its affiliates was determined as a result of arms-length negotiations. See the Operating Agreement for additional information regarding fees and compensation.

## **X. Transfers of Membership Interests**

Generally, the Non-Promote Members in the Company will be prohibited from transferring any part of their Membership Interests without the prior written consent of the Manager. Except for certain permitted transfers arising due to events such as upon death, transfers to affiliates, and transfers without consideration for estate planning purposes and as otherwise provided in the Operating Agreement before any transfer of interests can be undertaken, Non-Promote Members must offer an opportunity to the other Members (and then the Manager) to purchase any such Membership Interest before it is so transferred. See Section VIII of the Operating Agreement for exceptions to this restriction.

You may be required to bear the financial risks of any investment you make in the Company for an indefinite period of time.

The investors holding a 75% Percentage Interests have the right to approve the transfer of the Promote Member's Membership Interest, except for transfers of a descendant's interest upon death, for no consideration for estate planning purposes, or to an affiliate. If the Promote Member transfers its Membership Interests, then the economic interest of the Manager and its affiliates would not necessarily be aligned with that of the Members.

## **XI. Additional Terms**

### INVESTOR FUNDING CONDITIONED UPON SPONSOR

If both Colin O'Keeffe and Guy Holbrook die or are permanently incapacitated before all investor subscribed amounts are invested or committed to be invested in Flamingo Park Apartments, LLC, then any actual capital contributions will be returned to the investors and the investors need not make any further capital contributions, except to the extent already invested or committed prior to the date the second of Colin O'Keeffe and Guy Holbrook died or became permanently incapacitated. "Committed" capital contributions include those that will be used to pay expenses then due or to satisfy the legal obligations of Flamingo Park Apartments, LLC or its subsidiaries then accrued, or to purchase the Subject Property or otherwise make the investment subject to a then executed commitment, letter of intent, term sheet, or purchase contract.

### INTEREST NOT PAID TO INVESTORS

Generally, the investors will not be entitled to interest on amounts they contribute to Flamingo Park Apartments, LLC. However, Flamingo Park Apartments, LLC will pay interest on cash that an investor delivers to Flamingo Park Apartments, LLC for investment and that Flamingo Park Apartments, LLC holds for more than 30 days if the Manager does not accept the cash as a capital contribution, or returns the cash before it is utilized by the Manager. All investor funds not utilized by the Manager for Fund purposes (as determined by the Manager) will be returned within 60 days of the Acquisition Deadline. If the Manager is required to pay interest, it will pay an amount of interest approximately equal to the interest that Flamingo Park Apartments, LLC actually earned on those returned funds, if any. If funds are received in the form of a check, no interest accrues until the check is cashed and clears. Flamingo Park Apartments, LLC will not pay interest to any investor who defaults or makes a misrepresentation under the Subscription Agreement, including the Subscriber's Certificate contained therein.

### INVESTOR DEFAULT

A default will include without limitation (i) an investor's failure to make any payment of the subscribed amount when due; (ii) an investor's making of any materially false representation, warranty or other assertion to the Company in the Subscription Agreement; (iii) the filing by or against the investor of any proceeding under the Federal Bankruptcy Code; (iv) an investor's making a general assignment or an assignment of its interests for the benefit of creditors; (v) the appointment of or application for a receiver or trustee for all or substantially all of an investor's assets by any party; (vi) an investor making (or attempting to make) transfers of its interest that violate the terms of the Operating Agreement which includes transfers prohibited by a lender of the Company or its subsidiary, and/or (vii) certain other defaults specified in the Operating Agreement.

### SALE OF INVESTOR INTERESTS

A sale of a defaulting investor's Membership Interests may be effected without any requirement of notice to the investor. The purchase price for the pledged Interests may be an amount which is deemed reasonable by the Manager in its sole discretion. The purchaser is entitled to the benefit of all capital contributions already made and assumes the obligation thereof for all future capital contribution installments that are not then past due. The proceeds of any such sale would be applied first, to the payment of the costs and expenses of the default, sale, and collection (including without limitation attorneys' fees), then to the payment of the unpaid subscribed amount that is past-due and any other past- due obligation of the investor to the Company, with any excess paid over to the defaulting investor. If no person elects to purchase the pledged Membership Interests or if the sale price is less than the sum of the costs of sale and collection and the unpaid subscribed amount that is past due, the Manager will be entitled to bring suit against the original investor and collect the deficiency.

#### OTHER REMEDIES

In the event of an Investor's default, the investor will not be entitled to any distributions, interest, profits or losses of the Company for the calendar year in which the default occurs or any subsequent calendar year during any portion of which it continues. Instead, the Manager may, in its discretion, apply all such distributions and interest (not previously paid) to fund the defaulting investor's past due obligations and costs related to the default (including without limitation attorneys' fees), and/or may allocate all of the profits and losses, and pay all remaining distributions and interest (not previously paid or so applied), to the purchaser of the defaulting investor's Membership Interests. The investor will be obligated for any and all remedies available at law or in equity.

## XII. Risk Factors

**The investors might face adverse consequences if Flamingo Park Apartments, LLC were not deemed to be a private placement.** Subscriptions for the Offering are being offered to investors pursuant to private offering exemptions from registration under the Securities Act and regulations thereunder, and from registration under applicable state securities law. If this offering and/or any related offering were deemed not to be a private placement, investors might have the right to rescind their purchase of the Membership Interests. In the event of rescission, the Company might face severe financial demands which could adversely affect the Company as a whole and, thus, the non-rescinding investors.

**This Memorandum has not been reviewed by the SEC or any state securities commission.** Since the Offering is a private offering and the Membership Interests are not registered under state or federal securities laws, this Memorandum has not been reviewed by the Securities and Exchange Commission or any state securities commission. The offered Interests are being offered and sold in reliance upon registration exemptions. The Membership Interests have not been approved or disapproved by the Securities and Exchange Commission or any state securities commission, nor has the Securities and Exchange Commission passed upon or endorsed the merits of this offering or the accuracy or adequacy of this Memorandum. Any representation to the contrary is a criminal offense.

**No Public Market exists for the Membership Interests.** No public market for the offered Membership Interests exists or will be developed. This offering is suitable only for persons of adequate means who have no need for liquidity in their investment since the Membership Interests may not be sold unless, among other things, they are subsequently registered under the Securities Act, or an exemption from such registration is available.

**There are substantial restrictions on transferability of the Membership Interests.** The Membership Interests are illiquid. They are subject to restrictions on transferability and resale and may not be transferred or resold except as permitted in compliance with the federal and state securities laws and the Operating Agreement which means transfers are severely restricted. You may be required to bear the financial risks of any investment you make in the Membership Interests for an indefinite period of time. Although under the Operating Agreement prohibited transfers are void and unenforceable, each investor agrees to indemnify the Company, the Manager and their affiliates against any damage they incur as a result thereof or as a result of any prohibited transfer by the investor or its direct or indirect parents. Such damage can include any liability of a guarantor to lenders for an un-permitted transfer, which includes the obligation to repay all outstanding amounts of such loans. See the provisions in the Operating Agreement for examples of such restrictions on transfer.

**The Promote Member can transfer its Membership Interests in the Company under certain conditions.** The investors holding 75% of Percentage Interests (measured by total capital contributions or if no investor has made a capital contribution yet, measured by capital commitments) have the right to approve the transfer of the Promote Member's interest in the Company, except for transfers of a decedent's interest upon death, for no consideration for estate planning purposes, or to an affiliate. If the Promote Member transfers its Membership Interests, then the economic interest of the Manager and its affiliates would not necessarily be aligned with that of the Members.

**This Memorandum is not and does not constitute legal, investment, or tax advice.** Prospective investors are not to construe or interpret the contents of this Memorandum as legal, investment or tax advice, and by accepting this Memorandum and subscribing, they each represent that they have received no such advice from the Company, the Sponsor, or the Manager. Each investor is strongly encouraged to consult his or her

attorney and tax and financial advisors and to make such detailed investigation of the proposed investment as that prospective investor deems necessary and appropriate.

**Under unlikely circumstances, investors in the Company may have personal liability.** Absent agreement to the contrary, members in a Limited Liability Company, (LLC) such as the investors, are ordinarily not personally liable by operation of law to third parties for the obligations of a limited liability company beyond the extent of their capital contributions and share of undistributed profits of the limited liability company. Under certain unusual circumstances unlikely to occur with the Company, members have been held liable to third parties beyond their capital contributions (e.g., for distributions made to them by an insolvent limited liability company). Each investor may be liable to the Company and/or the Manager beyond the amount of its capital contributions for making any misrepresentation or other breach of Subscription Agreement or Operating Agreement, including without limitation attorney fees and others, collection costs, and other costs.

**The Company inadvertently may be deemed an “investment company” under the Investment Company Act of 1940 (the “Investment Company Act”).** The Company currently intends to accept a maximum of 99 investors. In the Operating Agreement, issuances or transfers that cause the Company to have more than 100 members without the specific written approval of the Manager are null and void and of no effect. In the event that this automatic nullification mechanism is not respected, the Company may exceed the 100 member limit inadvertently (e.g., as a result of transfers of an interest from one Member to multiple transferees). Also, the Manager may later decide to permit more investors in order to raise additional funds, provided that the Manager determines that the Company will not be treated as an “investment company” under the Investment Company Act or as a publicly traded partnership under the Internal Revenue Code and Treasury Regulations. There is no assurance that its determination will be accurate. The Company was to become subject to the Investment Company Act because of a change of law or otherwise, the various restrictions imposed by the Investment Company Act and the substantial costs and burdens of compliance therewith could adversely affect the operating results and financial performance of the Company. Moreover, parties to a contract with an entity that has improperly failed to register as an investment company under the Investment Company Act may be entitled to cancel or otherwise void their contracts with the unregistered entity.

**The Company inadvertently may be deemed a “publicly traded partnership” under the Code and Regulations.** The Company and the Members may suffer adverse consequences if Flamingo Park Apartments, LLC is deemed to be a publicly traded partnership under the Code and Regulations. Publicly traded partnerships are treated as corporations for federal tax purposes. If the Company is a publicly traded partnership, the Company will be subject to income tax on its profits, and any distributions to Members will be treated as taxable dividends to the Members. A “publicly traded partnership” is a partnership whose interests are traded on an established securities market or readily tradable on a secondary market or the substantial equivalent thereof. The regulations provide that partnership interests are readily tradable on a secondary market or the substantial equivalent thereof if, taking into account all of the facts and circumstances, the partners are readily able to buy, sell, or exchange their partnership interests in a manner that is comparable, economically, to trading on an established securities market. In particular, the regulations provide that partnership interests are readily tradable on a secondary market if prospective buyers and sellers have the opportunity to buy, sell, or exchange partnership interests in a time frame and with the regularity and continuity that the existence of a secondary market would provide.

**The Company may face risks from the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”).** Pursuant to the Dodd-Frank Act, an affiliate of the Sponsor and/or the Manager may be required to register with the Securities and Exchange Commission (the “SEC”) as an investment adviser. In the event that the Sponsor and/or Manager determine that registration is required, or that the affiliate qualifies as exempt from registration but is subject to certain SEC reporting obligations, the Sponsor and its affiliates will incur significant costs, some of which may be billed to the Company on a pro

rata basis to the extent that the Company's operations are covered by the registration forms and reports to be filed with the SEC. In addition, the Company would become subject to SEC examination and oversight and, as a result, may be required to make certain changes in its operations. In the event that the Sponsor determines that none of their affiliates are subject to registration or reporting as investment advisers and the SEC disagrees with this analysis, the Sponsor and its affiliates may be subject to monetary penalties and/or negative publicity and may possibly be required to grant rescission rights to investors in affiliates of the non-registering entity, including, without limitation, the Company.

**Past Performance is not indicative nor predictive of future performance.** The Sponsor's and its principals' prior performance with respect to all prior transactions is not necessarily indicative of the results or performance of the Company. Nothing contained in these materials is or should be relied upon as a promise or representation as to the future performance of the Company or return to the investors. The inclusion of the information presented on the financial performance summaries does not imply that the Company will perform comparably to the Sponsor's prior investments with respect to cash flow or other factors, nor does it imply that investors in the Company will experience returns, if any, comparable to those experienced by investors in the prior investments referred to on the financial performance summaries. Investors in the Company should not assume that they will experience returns, if any, comparable to those experienced by investors in such prior investments.

**Subject to certain limitations, the Manager and its affiliates may make investments or acquire properties outside of the Company, even if they compete with the Company.** Subject to certain limitations set forth in the Operating Agreement and this Memorandum, neither the Manager nor its affiliates shall have any obligation to offer to the Company or its investors' investment opportunities. In addition, subject to those same parameters set forth in the Operating Agreement and this Memorandum, the investors acknowledge that affiliates of the Manager are expressly permitted to make investments through entities other than the Company, even if the investments or properties compete with those of the Company.

**Indemnification and exculpation of the Manager and its affiliates by the Company and/or investors may be significant to investors.** Pursuant to the Operating Agreement, the Company will be required to indemnify the Manager and certain of its affiliates for liabilities incurred in connection with the affairs of the Company (including without limitation liability as guarantor under the Subject Property loans). Such liabilities may be material and could have an adverse effect on the returns to the investors. In addition, any liability the Manager and certain of its affiliates may have to the Company and/or the investors is limited in a significant manner by the Operating Agreement. In addition, if the investors themselves violate the terms of the Subscription Agreement or Operating Agreement, or otherwise cause the Company or any loan guarantors/key principals damage (e.g., by filing for involuntary bankruptcy for the Company or guarantor or by making a transfer in violation of loan documents), then the investors will indemnify the Manager, the Company, the Sponsor, the loan guarantors/key principals, and/or their affiliates from any damages arising therefrom in accordance with the Operating Agreement.

**Compliance with the USA PATRIOT Act may be burdensome and further restrict transfer of Membership Interests.** The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "USA PATRIOT Act"), signed into law on and effective as of October 26, 2001, requires that financial institutions establish and maintain compliance programs to guard against money laundering activities. The USA PATRIOT Act requires the secretary of the U.S. Department of Treasury (the "Treasury") to prescribe regulations in connection with anti-money laundering policies of financial institutions. The Financial Crimes Enforcement Network ("FinCEN"), an agency of the Treasury, has issued a proposed regulation that would require certain pooled investment vehicles to enact anti-money laundering policies. If FinCEN issues a final regulation in a form similar to the proposed regulation, it could require the Manager on behalf of the Company and its affiliates to establish anti-money laundering procedures, and to share information with governmental authorities with respect to investors. Such legislation and/or regulations could require the Manager on behalf of the Company and its

affiliates to implement additional restrictions on the transfer of the Membership Interests. The Manager has not yet developed an anti-money laundering policy. If and when it does, it will require the Company to conduct a “know your customer” review of investors and to request other information about investors as necessary to ensure that it can adequately monitor the activities within the Company's accounts. To fulfill these requirements, the Manager on behalf of the Company and its affiliates or subsidiaries, will require a detailed verification of a prospective investor's identity and the source of the payment of subscription monies. The Manager on behalf of the Company and its affiliates reserves the right to request such information as is necessary to verify the identity of a prospective investor or as is necessary to comply with any customer identification program required by FinCEN and/or another government agency. In the event of delay or failure by the prospective investor to produce any information required for verification purposes, the Manager may refuse to accept an investor's subscription agreement and the subscription monies relating thereto.

**Restrictions on terrorism promulgated by OFAC (as defined below) may result in freezing an investor's distributions and assets and other adverse actions.** The interests may not be offered, sold, transferred or delivered, directly or indirectly, to any “unacceptable investor.” “Unacceptable Investor” means any person or entity who is a (i) person or entity who is on the list of Specifically Designated Nationals and Blocked Persons (the “SDN List”) compiled and published by the Treasury's Office of Foreign Assets Control (“OFAC”) and any person acting on behalf of, or owned or controlled by, any person or entity on the SDN List; (ii) any person or entity acting on behalf of, or owned or controlled by, any country against whom the U.S. maintains economic sanctions or embargoes (iii) any person or entity who is within the scope of Executive Order 13224 – Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism, effective September 24, 2011; or (iv) any person or entity subject to restrictions imposed by statutes or regulations and Executive Orders or any other law or similar import, including as to any non-U.S. country, as each such act or law has been or may be amended, adjusted, modified or reviewed from time to time. If the Manager determines that a holder of Membership Interests is an “Unacceptable Investor,” the Manager may freeze that holder's distributions and Interests and take such other actions as may be permitted under the Operating Agreement or desirable or necessary under any applicable law.

**Properly made distributions will not be clawed back and no recalculations of distributions or loss on an annual basis will be made.** The Company will not recalculate distributions of Distributable Cash for any such period based on the amount of Distributable Cash in later periods. For example, if the Promote Member is entitled to distributions in one month because Distributable Cash exceeds cash flow priority in that month, the Company will not recalculate or disgorge those distributions because cash flow priority exceeds Distributable Cash in a later month. This could mean that the Promote Member will receive more distributions than it would if distribution allocations were calculated annually. The same applies to allocations of loss.

## **OPERATING RISKS**

**The investors' investment is subject to all of the known and unknown general risks of investment in real estate, including without limitation economic and market conditions, interest rates, the availability and cost of financing, competition, increasing operating costs, governmental regulation, and casualty events.** The Company will be subject to varying degrees of risk generally incidental to the ownership of real property or the operation of a business. The underlying value of the Company and the Company's share of the collective income and related ability to make distributions to its Members are dependent on the ability of management to operate and manage such investments in a manner sufficient to maintain or increase revenues and to generate sufficient income in excess of operating expenses. Income from the Company may be adversely affected by changes in national economic conditions, changes in local market conditions, changes in interest rates and in the availability, cost and terms of financing; the impact of present or future environmental legislation and compliance with environmental laws; the ongoing need for capital improvements, particularly in older structures; increases in real estate tax rates and other



operating expenses; adverse changes in or enforcement of existing governmental laws, rules and fiscal policies; civil unrest; terrorism and threats of terrorism; natural disasters, including earthquakes, sinkholes, floods, hurricanes, tornados and other natural disasters (which may result in uninsured losses); acts of war; adverse changes in zoning laws, and other factors that are beyond the control of the Manager. The operation of the Subject Property, the ability to make debt and other payment obligations, and the ability to make distributions to investors may be adversely affected by legislative, regulatory, administrative and enforcement action at the local, state and national levels in the areas, among others, of housing and environmental controls.

**In addition to these other real estate risks, the ownership of residential rental real estate is competitive.** The Subject Property will likely compete with other apartments in its area (possibly including those owned by Sponsor). In addition, the Subject Property will likely compete with for-sale or for-rent homes, town homes and condominiums. There can be no assurance that there will be sufficient demand for the Subject Property's apartments units.

**Investor(s) may fail to fund their committed capital contributions. Investors may commit capital to the Company and then fail to fund their commitment.** Each investor pledges its Membership Interests in the Company as security for the payment of its capital commitment. Consequently, if an investor fails to fund committed capital, the Company can seek to sell the defaulting investor's Membership Interests. The Company is also entitled to bring suit against the investor and collect the deficiency. This could result in legal fees and liability to the defaulting Investor, including loss of its Membership Interests in the Company. The Company may or may not be successful in collecting the unpaid commitments. Whether or not it is ultimately successful, it may spend substantial time and money pursuing the matter, or it may decide at any point to settle or simply not to pursue the matter. If the Company does not collect adequate funds in a timely manner, it may not be able to meet its financial commitments (like those under purchase agreements) or purchase the Subject Property. The Company and/or its subsidiaries may also default on its obligations and incur damages. Alternatively, the Company may seek other sources of financing on a bridge or permanent basis, from affiliated or non-affiliated sources. This alternative financing may be more costly to the Company. Moreover, the Company may seek, but not be able to secure, such alternative sources of financing. The Manager or its affiliates may be unwilling or unable to provide the financing itself or through a third party. Failure to fund capital commitments could have a materially adverse effect on the investor that fails to fund its commitment, on the other investors, and on the Company.

**Investment may not generate targeted or sought after returns or may generate losses.** Once acquired, the Company might not generate an adequate return or could experience a loss, even substantial or complete loss. As described under "Operating Risks" above, there are numerous risks associated with any debt or equity real estate investment. There can be no assurance that the Subject Property will generate sufficient income to make the required principal and interest payments on financing and/or pay other expenses and/or make distributions to investors.

**Investors face risks from inflation and from deflation.** As a result of inflation, there has been a history of increasing real estate taxes, energy and labor costs, and other operating and capital expenses; rental increases may be necessary to keep up with increased expenses. If the revenues generated by operations are not sufficient to pay fixed obligations, such as financing payments, the Manager may attempt to increase rents in addition to attempting to reduce operating expenses. However, competition may preclude such increases. On the other hand, deflation may cause rents to decrease faster than expenses decrease. Inflation or deflation could materially and adversely affect the Company and the investors.

**Capital expenditures may be greater than anticipated or predicted.** Capital expenditures are difficult to predict. There can be no assurance that any working capital reserve or other funds available will be sufficient to meet substantial capital expenditure requirements which might occur from time to time. Both anticipated and unanticipated expenditures may decrease the Company's ability to pay the Subject Property's debts, expenses, and distributions, or may result in the deterioration of the Subject Property's structure.

**The Manager might not be able to sell or liquidate the Subject Property at the anticipated times or for the anticipated sales price.** Because of competitive factors, market conditions, Subject Property conditions or other factors, the Manager may not be able to sell or liquidate the investment at the desired

time or price or upon the desired terms. Also, the borrower of secured debt investments may default, and repayment of the debt may not occur within the Holding Period, if at all. No assurance can be given that the market value of the investment will not decline. This would likely result in a loss to the Company and the investors.

**The Manager might be unable or unwilling to extend the Holding Period for the Investments, even if doing so would maximize sales price.** The Manager is under no obligation to try to extend the Holding Period, and might not do so even if sale terms are inadequate. Alternatively, the Manager might request to extend the Holding Period but fail to receive the requisite investor consent. Even if the Manager desires to extend the Holding Period and obtains the requisite consent, it might be unable to fund the buyout of investors who do not wish to extend the Holding Period, in which event no extension will occur.

**It is possible that undisclosed and unknown matters could affect the Company based on where it is located.** In respect of acquired Subject Property, the Company could be bound by undisclosed matters such as easements, liens, leases, and any charges that run with the land and any charges that the Company was or should have been aware of at the time of the acquisition, and the rights of any person in actual occupation of the Subject Property. Liability could also rise from undisclosed breaches of restrictive covenants, planning or zoning legislation and building regulations. Undisclosed breaches of other statutory regimes such as health and safety, fire and public health and land development legislation could also give rise to liability. The Company could also be liable for undisclosed duties payable to municipalities and counties as well as public claims deriving from the supply to the Subject Property of water, electricity and other utility services. Although prior to acquisitions, wherever possible, representatives and agents of Subject Property affiliates will undertake due diligence and title investigations with a view to determining whether any such risks exist, it may be the case that such risks are unknown or undisclosed upon acquisition. The Company will seek to obtain adequate protection against such risks by suitable contractual provision and/or, if possible on reasonable terms, obtaining insurance protection against such matters. No assurance can be given, however, that such protection will be fully effective or can in fact be obtained or recognized as necessary. It is therefore possible that the Company could be affected by such matters that may have a material adverse effect on the value of such investment.

**Compliance with ADA and similar laws could be costly.** Under the Americans with Disabilities Act of 1990, as amended (the “ADA”), all places of public accommodation are required to meet certain federal requirements related to access and use by disabled persons. The Fair Housing Act of 1968 prohibits discrimination in providing housing on the basis of disability (“Fair Housing Act”). Under Section 504 of the Rehabilitation Act of 1973 (“Rehabilitation Act” and together with the ADA and the Fair Housing Act, and similar laws, the “Accessibility Laws”), any property receiving federal assistance is required to meet certain federally-mandated accessibility requirements. The Company might incur additional costs of complying with the Accessibility Laws at the time of acquisition and from time-to-time in the future to stay in compliance with any changes to the Accessibility Laws. A number of additional federal, state and local laws exist that also may require modifications to the Company, or restrict certain further renovations thereof, with respect to access thereto by disabled persons. Additional legislation or changes to the Accessibility Laws may impose further burdens or restrictions on owners with respect to access by disabled persons. If the Company were required to make substantial modifications at its Subject Property to comply with the Accessibility Laws or other changes in governmental rules and regulations, the Company’s ability to make expected distributions to its Members could be adversely affected.

**The acquisition, ownership, and disposition of real estate assets carry certain specific litigation risks.** Litigation may be commenced with respect to the Company in relation to activities that took place prior to the Company’s acquisition of such Subject Property. In addition, at the time of disposition, a potential buyer may claim that the Manager made misrepresentations or defaulted under the letter of intent or sale contract and such buyer should be awarded due diligence expenses incurred and other damages or remedies. Similarly, successful buyers may later sue the Company under various damage theories, including those sounding in tort, for losses associated with latent defects or other problems not uncovered in due diligence.

**The Manager or its affiliates might not be able to obtain financing or refinancing, or might be able to obtain financing only on undesirable or above-market terms.** The Manager and Sponsor have secured preliminary financing for the Subject Property. It is possible that the Manager and Sponsor may not be able to obtain final financing for the acquisition or refinancing of the Subject Property, the amount of financing

available may be less, and/or the terms of the financing may be more adverse than expected. This may have a material adverse effect on the value of the Subject Property, as well as the ability of the Company to provide investors with the targeted return and return their capital. No mortgage loans, mezzanine loan, subordinate loan, or other financing has yet to be finalized or their terms arranged. This financing may not be available or may be available only on terms that the Manager considers unacceptable. Alternatively, the financing may be obtained, but on unfavorable terms or on terms that are worse than anticipated.

**Mortgage loans often require significant advance deposits, which might be forfeited at the Company's expense.** In order to lock interest rates and or obtain advance commitments for financing, borrowers frequently need to make significant cash deposits with lenders (approximately 1 to 3% of the mortgage loan amount). These deposits are often forfeited if the loan fails to close for any reason other than lender's default, including without limitation if the sale of the Subject Property falls through because the seller defaulted or for any other reason. The Company would bear the cost of any forfeited deposit, and it may or may not be able to be reimbursed for this loss from parties that caused the forfeited deposit, other than the Manager or its affiliate.

**The Subject Property may have interest-only financing, which may be riskier than self-amortizing financing.** Interest-only loans may be riskier than self-amortizing loans, and there can be no assurance that the Company will have funds to repay such loans at maturity through a refinancing or from sale. Market conditions, Holding Period restrictions, and other events or conditions may prevent a refinancing or sale.

**The Subject Property may have variable rate financing, which may be riskier than fixed-rate financing.** If a loan were to be a variable rate, as interest rates rise, interest expenses would increase, and the operating results of the Subject Property may be adversely affected. In certain instances, the Company may enter into interest rate protection agreements to limit the interest rate exposure, but no assurance can be given that such agreements will be entered into or can be entered into on favorable terms.

**While loans increase leverage and allow borrowers to purchase a property in excess of their equity investment, loans also increase exposure to loss and can reduce operating cash flow.** The acquisition of the Subject Property may require a significant amount of debt, and such debt will be secured by the seller financed mortgage on the underlying property and/or pledges of equity interests in the ownership entity. While loans will permit ownership of the Subject Property at a cost in excess of the aggregate capital contributions to the Company, they also substantially increase the Company's and the Members' exposure to loss, including but not limited to the risk of the lender(s) of the loan(s) foreclosing on collateral. Moreover, with financed investments, declines in revenues, increases in expenses, operating problems, increases in interest rates, and other general business and economic factors may have a more pronounced effect on the profitability of a Property. If the Subject Property cannot generate adequate cash to meet its debt service, the Company may suffer a partial or total loss of capital. Also, with loans, amounts that might be used for Distributable Cash are instead used to pay debt service. Finally, any financing can unfavorably affect investors if the financing rate exceeds the Company's un-leveraged internal rate of return.

**Foreclosure of any mortgage or other collateralized loan (or similar event, including a compromise or reduction of debt) would have a material adverse effect on investors.** Foreclosing on the collateral for any loan (or similar event, like deed in lieu of foreclosure) would have a material adverse effect on the investors including by the loss of a portion or all of the investors' investment in the Company, or the value thereof, as well as taxable income in excess of the cash then available to the investors or the capital previously contributed by the investors. For tax purposes, a foreclosure would be treated as a sale of the real estate for a purchase price equal to the outstanding balance of the debt secured by the real estate. If the outstanding balance of the debt exceeds the Company's tax basis in the Subject Property, the Company would recognize taxable gain on the foreclosure but would not receive any cash proceeds. A compromise of such debt that results in a reduction or forgiveness of the principal of such debt could generate ordinary income to the investors, and the investors may not receive cash from the Company for the associated tax liability.

**Mortgage loans may have significant fees, costs or pre-payment premiums or penalties.** Any sale of a financed property or any default or refinancing of an existing loan, prior to maturity of that loan may require that a significant prepayment penalty be paid to the lender.

**Loans may need to be refinanced, but the Manager might not be able to refinance them.** There is no assurance that the Company will be able to obtain such financing on favorable terms or that such financing will be available, which could result in significant cash flow shortages adversely affecting investors.

**The Company and/or the Sponsor may be required to guaranty financing for the purchase of the Subject Property, and/or the Members, and the Company may be required to indemnify the Sponsor for any guaranty payments.** Lenders may require that The Company and/or key principals of the Manager, which will likely be the Sponsor guaranty their financing. For permanent mortgage loans, the Manager anticipates that such guarantor(s) will only be obligated to guaranty environmental liability and certain other recourse liability events. Such other recourse liability events might include, for example, liability for all loss or damage that the lender suffers as a result of (i) guaranty enforcement costs, (ii) the failure to pay over rents upon default, (iii) the failure to pay insurance premiums, (iv) the failure to apply insurance or condemnation proceeds as required, and (v) the failure to deliver books, records, statements, schedules and reports as required. In addition, the guarantor(s) may become personally liable to the lender for all of the indebtedness in certain events including, for example, in the event of fraud, violating transfer restrictions (including mechanics' and other lien prohibitions), and the failure to treat each Member as a single purpose entity. Recourse liability might not be limited to misconduct, and may include, for example, the failure to pay insurance premiums or mechanics liens, even if the Subject Property has insufficient cash flow to make the requisite payments. It is possible there may be other events triggering recourse liability.

**Guarantor(s) may be obligated to guaranty all or a portion of the indebtedness, regardless of whether or not there is any misconduct or the occurrence of such other triggering events described above.** For bridge mortgage loans, the guarantor(s) will likely be required to guaranty all or a portion of the indebtedness, in addition to having recourse liability similar to that for permanent mortgage loans. For the mezzanine loan and other financing, guarantor(s) may be required to guaranty all or a portion of the indebtedness as a condition of making the loan. Under the Operating Agreement, the Company will be obligated to indemnify each key principal (including those affiliated with the Manager) for any liability it incurs under any such guarantees, except to the extent arising from the individual fraud or knowing and willful misconduct of such key principal itself. If liability under any guaranty is triggered as a result of any investor action, like violating transfer restrictions or taking action that results in the commencement of an involuntary bankruptcy or similar proceeding against the Manager, the Company, the borrower, guarantor, or their affiliates, the investor will be liable to the Company and the guarantors. The key principals have no obligation to guaranty any loan or indebtedness, and the failure to do so may result in a capital shortfall, default under purchase agreements, or other adverse consequences.

**The mortgage loan documents and any other loan documents may limit the Manager ability to operate the Subject Property as it sees fit.** For example, lender consent may be required to use any lease other than a pre-approved form tenant lease, to change the property manager, make certain alterations and capital improvements, and to use insurance proceeds to rebuild in the event of a casualty or condemnation (unless certain conditions are met). In addition, the lender will likely have certain rights to approve certain direct or indirect transfers of interests in the Subject Property and the Company. Other unnamed restrictions may exist. The mezzanine loan lender or other lenders may impose other restrictions, including without limitation the maintenance of cash reserves, limiting the amount the Company and its subsidiaries may borrow on an unsecured and secured basis, requiring the Company and/or its subsidiaries to satisfy restrictive financial covenants, preventing the Company and/or its subsidiaries from making or permitting transfers of their interests, preventing the Company and/or its subsidiaries from entering into certain business transactions (such as a merger, sale of assets, or other business combination), and requiring the Company and/or its subsidiaries to obtain consent from the lender to complete transactions or make investments that are ordinarily approved only by the Manager. No assurance can be given that the lenders will exercise these control rights in ways that are favorable to the Members. In addition, the lenders will likely need to review and approve the Operating Agreement and other organizational documents. The lenders may reject or require modifications to these documents. Failure to obtain these approvals and/or making the required modifications, which the Manager has the power to do acting alone and without consulting the Members, may affect the accuracy of the summary of these documents contained in this Memorandum, the ability to obtain financing, and/or material terms of such financing and investment. Consequently, the failure to obtain such approvals or making any such required modifications could have a material adverse effect on investors.

**Capital Shortfalls / Dilutions / Cash for Loans. The Company may experience capital shortfalls.** Any investor may be diluted by additional capital contributions made by other Members of the Company, parallel investment vehicles, other parties to fund capital shortfalls, unless such capital contributions are pro rata to the interest of the existing Interest holders. Notwithstanding anything to the contrary set forth herein, the rights of such new interest holders may be different, senior to, dilutive of, subordinate to, and/or pari passu with the rights of the existing Membership Interest holders. The Members will be given the opportunity to participate in such equity financing to the extent described in the Operating Agreement. Moreover, they may impose other terms and restrictions that are burdensome on investors and/or the Company, and in the event of any conflict the provisions of the then existing Operating Agreement or other agreement, such provisions would prevail over the terms of the existing agreement. Such terms can include without limitation changing the percentage approval or vote required by investors for certain decisions, like whether or not to extend the Holding Period or requiring the consent of the providers of such capital to any sale at any time. In addition, the Manager or its affiliates or third parties may make loans to the Company or its subsidiaries which must be paid prior to any distributions that would be made to investors. Consequently, payment of interest and principal on such loans would reduce the amount of cash distributable to investors.

**The Company and its subsidiaries might default under purchase agreements, loan documents, and other contracts.** Due to lack of funds, events beyond its control, lack of oversight, poor performance, or a variety of other reasons, the Company may default under purchase agreements, loan documents, and other contracts. Any default may result in substantial damages, including without limitation foreclosure or loss of earnest money that may substantially exceed actual damages. If so this may have a material adverse effect on investors.

**Besides the Investment, the assets of the Company are anticipated to be minimal, and its ability to fund capital shortfalls is anticipated to be limited.** The only substantial assets of the Company are anticipated to be the investment at 3380, 3390, and 3400 30<sup>th</sup> Street, Lauderdale Lakes Florida, 33311, plus a relatively small amount of reserves and working capital. In the event of a capital shortfall, there is no obligation of the Members of the Company to contribute funds to the Company, nor is there ever any obligation of the Manager or the Sponsor to do so. If the Members or the Company have a capital shortfall, the Manager may or may not decide in its discretion to cause the Company to apply its assets (if any) to finance the capital shortfall, whether as a loan or distribution.

**“Value add” properties and those in multifamily class B and C, like those of the Subject Property, may have greater risks than “core” or Class A properties.** Value-add assets generally require varying amounts of renovation and/or other capital expenditures or greater marketing expenditures to allow for expected rent growth. There is no assurance that such repairs or renovations or additional marketing efforts will be successfully accomplished, completed or within budget and may otherwise not yield the increase in rents or occupancy or improvements in operating costs anticipated. In addition, unpaid construction liens may arise in connection with repairs and renovation that the Company needs to pay. Time and/or further investigation might reveal that greater renovation or marketing expenditures are necessary. Failure to successfully accomplish the planned renovations or marketing might materially and adversely affect the value of the Subject Property, the value of the investors’ Membership Interests and/or the amount of distributions to the investors.

#### ENVIRONMENTAL RISKS

**There may be known or unknown environmental liability or hazards, or such liability or hazards might develop after acquisition.** A Property Needs Assessment (PNA) was completed for the Subject Property, however, such inspections are often limited to a visual inspection of the Subject Property site, interviews with Subject Property staff, research of various governmental records, and limited testing. Such PNA inspection results do not preclude the existence of any hazardous waste on the Subject Property that only further testing, such as soil borings, might uncover. Consequently, the Subject Property may have

environmental hazards of which the Company and Manager were not aware. Also, environmental problems on adjoining property may adversely affect the value of the Subject Property.

**If there are environmental hazards at the Subject Property, the Company and/or its subsidiaries may be obligated to indemnify the mortgage lender for that Subject Property.** The Company, its subsidiaries, and/or their key principals are likely to be obligated to indemnify the mortgage lender(s) against damages arising from environmental contamination at the Subject Property or the release of hazardous substances at the Subject Property onto neighboring property, including the costs of remediation, third-party claims and, potentially, the loss in value of the lender(s)' security. The Company will then be obligated to indemnify the key principals for this liability. Mortgage lenders (possibly including the Company's subsidiary(ies)) may have statutory liability for environmental hazards at the Subject Property.

**If there are environmental hazards at the Subject Property, the Company and/or its subsidiaries may be liable for the costs of remediation and third party claims and the value of the Subject Property may decline significantly.** Under various federal, state, local and foreign environmental laws, ordinances and regulations, a current or previous owner or operator of real property may be liable for the costs of removal or remediation of hazardous or toxic substances on, under, or in such property. Such laws may impose liability whether or not the owner or operator knew of, or was responsible for, the presence of such hazardous or toxic substances. In addition, the presence of hazardous or toxic substances, or the failure to remediate such property properly, may adversely affect the owner's ability to borrow using such real property as collateral. Persons who arrange for the disposal or treatment of hazardous or toxic substances may also be liable for the costs of removal or remediation of such substances at the disposal or treatment facility, whether or not such facility ever was owned or operated by such person. In connection with its investments, the Company could potentially be liable for such costs. If any environmental problems described in this section occur at the Subject Property, the value of the Subject Property (and, the Members' investment in the Company) could decline significantly. Remediation costs and third party claims (including lender, resident, employee or other claims) could have a materially negative affect on the Company's profitability and ability to make distributions to Members and, further, might result in foreclosure by the mortgage lender.

**The Manager may be required to obtain brokerage or contractor licenses, which may be difficult, impossible, time-consuming or prohibitively expensive.** Neither Tidegate Capital LLC nor any Tidegate affiliate currently holds a broker or contractor's license in Florida.

#### MANAGEMENT AND CONTROL RISKS

**The investors have very limited ability to control who is the Manager of the Company or otherwise control management decisions of the Company or its investments.** The Manager is the manager of the Company. The Manager may make decisions regarding acquisitions, operations, sale, lease, financing, refinancing and other matters with which the Investors disagree, and the investors will not be able to control or affect those decisions. If Members of the Company want to remove the Manager, they may not be able to garner enough votes, as removal requires approval of Members holding 75% of the Percentage Interests. Even if the Manager is removed, the new Manager might not be the Manager preferred by some of the Members. The Promote Member must approve the replacement manager. Removal of the Manager may adversely affect the management and, thus, performance of the Subject Property and the Company.

**The success of the Company may depend upon the personal efforts and effectiveness of Colin O'Keeffe and Guy Holbrook.** Colin O'Keeffe and Guy Holbrook indirectly control the Manager and, therefore, the Company. Colin O'Keeffe and Guy Holbrook have specialized knowledge with respect to key components of the business of the Company, the Subject Property, and any other investments, steering investment strategy and asset management, facilitating access to financing, and otherwise overseeing operations of the Subject Property. There is no assurance that they will continue to be effective. For a variety of reasons, it is possible that either Colin O'Keeffe or Guy Holbrook would no longer occupy their current roles or would cease to be actively involved in the management of the Subject Property and the Company, including without limitation as a result of death, disability, incapacity, retirement, or removal. There is no assurance that a qualified successor would be available, and no "key man" life insurance is or

will be maintained for either Colin O’Keeffe or Guy Holbrook. Without a qualified successor, the success of the Company and the investor returns may suffer.

**Insurance coverage on certain risks might be uneconomical, unavailable, or incomplete.** The Manager intends to obtain and maintain comprehensive insurance on the Company. However, there are certain types of losses, generally of a catastrophic nature, such as hurricanes, earthquakes and floods that may be uninsurable or not economically insurable. The Manager will use its discretion in determining amounts, coverage limits, and deductibility provisions of insurance, with a view to obtaining and maintaining appropriate insurance on the Company at a reasonable cost and on suitable terms. This may result in no insurance coverage or insurance coverage that in the event of a substantial loss would not be sufficient to pay the full current market value or current replacement cost of the Company’s lost investment. Inflation, changes in building codes and ordinances, environmental considerations, and other factors also might make it difficult to use insurance proceeds to replace a property after such property has been damaged or destroyed. Under such circumstances, the insurance proceeds received by the Company might not be adequate to restore its economic position with respect to such Property.

**The Operating Agreement imposes limits on the Manager’s fiduciary obligations and requires the Company to indemnify and release it for certain obligations.** The Manager is accountable to the members of the Company as a fiduciary and consequently must exercise good faith, judgment and integrity in handling fund affairs. A provision has been made in the Operating Agreement that the Manager and its related parties (including without limitation its affiliated property manager(s) of the Subject Property, if any) will not be liable to the Company except for acts or omissions performed or omitted fraudulently or that constitute wanton or willful misconduct or Gross Negligence (in the Operating Agreement, defined as “the intentional failure to perform a manifest duty in reckless disregard of the consequences of such failure, resulting in material damages to another person”). In addition, the Company has agreed to indemnify and release the Manager and the property manager(s) for liability resulting from errors in judgment or certain acts or omissions, whether or not disclosed. Therefore, the Members may have a more limited right of action against the Manager and the property manager(s) than they would have had absent these provisions. Also, to the fullest extent permitted by law, the investors agree to waive the fiduciary duties of the Manager and its affiliates with respect to those arrangements, fees, rights, and other matters disclosed in this Memorandum or Operating Agreement. In the opinion of the Securities and Exchange Commission, indemnification for liabilities arising under the Securities Act is against public policy and therefore unenforceable. Members who have questions concerning the responsibilities of the Manager and the property manager(s) should consult with their counsel.

**The Manager in its discretion may buy out one or more investors, but not others, and this may potentially have an adverse tax consequence on the remaining investors.** The Manager or its affiliates may on its or their own behalf or on behalf of the Company agree with some (but not necessarily all) Members to buy all or a portion of their Interests upon whatever terms the parties to the purchase agreement, including but not limited to in connection with the extension of the Holding Period. In the Operating Agreement, the other investors waive any right to contest this transaction. If this occurs, some investors may not be given the opportunity to be bought out. If the buyout is considered a redemption, the investors who are not bought out will bear the burden of the tax on un-recaptured depreciation on real property.

#### CONFLICT OF INTEREST RISKS

**Neither the Sponsor nor any of its principals are required to devote their full time and energies entirely to the affairs of the Company or the Subject Property.** They may be engaged in other real estate, business ventures and volunteer activities which also require demands upon their time. Conflicts may arise in the allocation of their time and attention between their various business activities, including the affairs of the Company.

**The Sponsor and its principals may engage in other business ventures, even in ones that compete with the Company.** Generally, the Sponsor and its principals are permitted to engage in other business ventures of any nature, including without limitation, the ownership, management and development of any other real estate or investment in real estate wherever located, even if in competition with the Subject Property or if

such other activity would adversely affect the Company. This is subject only to the restrictions described in this Memorandum above.

**The terms upon which affiliates of the Manager perform services for or otherwise enter into transactions with the Company or its subsidiaries are negotiated and enforced by the Manager.** Persons and entities related to the Sponsor and/or its principals will be performing services for and/or receiving fees and distributions from the Company and its subsidiaries, and entering into other transactions with the Company or its subsidiary, all with the investors not separately represented. These entities may include law firms, property managers, asset managers, and may include a real estate broker, who are affiliates of the Manager, and other affiliates which either now exist or may be hereafter formed. The interrelationships of these parties and the absence of arms-length dealings may involve conflicting interests, which may affect their performance of obligations to the Company or its Members. None of the fees or other compensation to be received by such related persons and entities were the result of arms' length negotiations. These fees are paid despite the lack of success of the Company or the failure to make distributions to investors.

**Some or all of the attorneys, accountants and other parties retained by the Company will have also been retained by the Sponsor, or may be affiliated with the Sponsor.** It is expected that the Company will employ or retain attorneys, accountants and other advisors who may customarily be employed or retained by the Manager and/or its affiliates, or may be affiliated with the Sponsor. Such advisors may be representing the Sponsor and/or its principals and affiliates at the same time, which could result in conflicts of interest for which such parties may require written waivers by or on behalf of all the parties involved. Furthermore, the investors have not been represented in the preparation of this offering, including the terms and provisions of this Memorandum and the Operating Agreement.

**The Manager may have the right and incentive to make decisions that conflict with investors' interests.** For example, the determination of Distributable Cash and Sale and Refinancing Proceeds are subject to, among other things, the discretion of the Manager in establishing and maintaining reasonable reserves and deciding how much and whether to refinance. Since the determination of such reserves and how much and whether to refinance affects the amount of cash available for distribution to the Manager and the risk of any guarantor of the debt, the Manager will have a conflict of interest in establishing the amount of such reserves and deciding how much and whether to refinance.

**Loans from and additional capital contributions by Affiliates of Manager may create conflicts of interest.** The Manager and/or the Sponsor may make loans to the Company or its subsidiaries or invest in additional interests in the Company or its subsidiaries, if there is capital shortfall. These investments by the Manager or its affiliates may be beneficial to the Sponsor but have a dilutive effect on, and/or be prior in right to payment to, the investors. The investors will be given the opportunity to participate in such equity financing to the extent described in the Operating Agreement. Moreover, the Manager has the right to make these investments, subject only to the Company members' limited right to participate and, with respect to the loans, the obligation that the loans be commercially reasonable and the Company members' limited right to participate in higher-interest loans. Also, any loan(s) from the Manager or its affiliates may result in different financial incentives to the Manager with respect to Fund decisions, such as when to sell and/or refinance and on what terms. If a Property(ies) were to perform poorly, the Manager might be financially incentivized to sell or refinance the Subject Property in order to generate proceeds sufficient to pay off its loan, even if the sale at such time would not be advantageous to the Company and/or would not generate desired returns of the investors.

**Similarly, economic and income tax factors could result in a conflict of interest with respect to the timing of cash distributions, possible sale or refinancing of the investments and other decisions.** For example, refinancing or selling the Subject Property may be economically more desirable for the investors than for the Sponsor.

**Investors may have conflicting investment, tax and other interests with respect to their investment in the Company.** The conflicting interests of individual investors may relate to or arise from, among other things, the nature of the investment in the Company, the structuring or the acquisition of the Company and the timing of the Subject Property disposition. As a consequence, conflicts of interest may arise in



connection with decisions made by the Company including with respect to the nature or structuring of investments that may be more beneficial for one investor than another investor, especially with respect to the investors' individual tax situations. The Sponsor will consider the investment and tax objectives of the Company and its investors as a whole, not the objectives of any investors individually.

## GENERAL TAX RISKS

**Investors are strongly urged to consult with their own tax advisors as to the tax considerations relevant to an investment in the Company.** An investment in the Company may involve complex federal, state, and local tax considerations, which will likely differ for each investor. This summary describes only select tax-related risks; it does not describe all the applicable tax-related risks and does not generally explain the workings of the code or regulations. Each investor should consult with its own tax advisor, and no part of this memorandum should be construed as tax advice.

**Any discussion of U.S. federal income tax consequences is not intended or written to be used, and cannot be relied upon, by any person for the purpose of avoiding penalties that may be imposed under the code.** Any discussion of U.S. federal income tax consequences was written to support the promotion or marketing of this offering. Each prospective investor should consult an independent tax adviser as to the U.S. federal, state and local income and other tax consequences relating to an investment in the Company, based on the prospective investor's particular circumstances.

**The Internal Revenue Service (“IRS”) may challenge any federal income tax position taken by the Company or its subsidiaries.** Therefore, all considerations involving relevant federal income tax matters require the exercise of independent business judgment by a prospective investor in consultation with his or her own tax advisor.

**An investor’s tax liability might not be limited to distributions.** Each investor is expected to have an allocable share of fund taxable income or loss. An allocation of Fund taxable income may occur without a corresponding distribution of cash. Therefore, it is possible that investors will not be distributed cash sufficient to pay their tax liability on their allocable share of fund income for a particular period.

**The Company’s income may be taxed at ordinary income rates.** Most, if not all, of the Company’s operating income (which excludes income from the sale of the Company) will be taxable at ordinary income tax rates.

**Investors’ ability to realize tax benefits from tax losses of the Company is limited.** In the event that the Company incurs losses for federal income tax purposes for any period, the ability of any investor to realize tax benefits from or otherwise favorably utilize such tax losses will be limited by a number of provisions of the Code. Therefore, federal income tax losses incurred for any period (which may be a reflection of economic losses) may be substantially unusable by a particular investor until some future date, when such losses may have few or no tax benefits.

**Tax allocations to Members of the Company may not be respected.** The IRS will not respect allocations by the Company of items of income, gain, deduction loss, or credit among the Members of the Company unless such allocations have substantial economic effect. While the Manager believes that the allocations provided by the Operating Agreement do have substantial economic effect, and therefore should be respected, there can be no assurance that such allocations will not be challenged or disregarded by the IRS. If the IRS successfully challenges an allocation, the income or loss allocated to the Members of the Company could be adversely affected.

**At-risk limitations could affect an investor's ability to claim its share of fund losses and could result in the recognition of income.** Because of certain at-risk limitations under the Code and Regulations, the ability of Members to claim their distributive share of fund losses in excess of capital contributions will depend on the Company having qualified non-recourse liabilities. If any non-recourse financing becomes recourse, it could have a substantial negative effect on the tax basis of Members' Interests, and could result in the recognition of income by the Members. This might happen if the financing is guaranteed, among other ways.

**There are adverse tax impacts of the Sponsor, Manager, or their affiliate(s) providing or guaranteeing financing to the Company.** Financing provided or guaranteed by Members of the Company or the Manager or its affiliates, could result in non-participating Members of the Company not having basis or being at-risk with respect to such financing.

**Passive loss rules could affect investors' ability to use tax losses from the Company, if any, to shelter other income.** Pursuant to the passive loss rules under the Code and Regulations, a taxpayer is not permitted to apply losses derived from passive activities against the taxpayer's active or portfolio income. Active income includes salary and wages, while portfolio income includes dividends, interest and certain investment gains. Investors subject to the passive loss rules will not be allowed to use the tax losses from the Company, if any, to shelter their salaries, personal service income, dividends, and other portfolio income. However, losses from passive activities may be able to be applied to offset income arising from other passive activities.

**The deductibility of interest expense from refinanced debt may depend on how investors spend the refinancing proceeds.** The Company may distribute refinancing proceeds to the Members of the Company, which could result in "debt-financed distributions." Interest expense from such debt may be allocated to the Members, and depending on how the Members spend the proceeds, interest would be classified as investment interest expense, a business interest expense, or a non-deductible personal expense.

**Distributions may be immediately taxable.** Any distributions, including distributions of Distributable Cash, will reduce an investor's tax basis; and after an investor's tax basis is zero, additional cash distributions will be taxable. A Member's basis includes its Capital Contributions and its share of the Company's non-recourse liabilities and is appropriately adjusted for a Member's share of income, losses, and distributions. It is anticipated that the Members will have sufficient basis such that distributions are not taxable until a disposition of an investment; however, in the event any of the Company's financing is provided or guaranteed by any Member or its affiliate, any prior or future distributions could become immediately taxable for any non-lending and non-guaranteeing Member.

**The IRS might disallow the characterization, deductibility and/or other tax treatments with respect to certain fees and payments.** The Company will deduct the amounts paid or incurred by the Company as on-going management fees and tax advice and other professional fees unrelated to the offering of Membership Interests to which such fees are attributable, and will take amortization deductions for amounts paid or incurred by the Company for organizational costs. Additionally, the Company will elect to deduct the currently allowed amount of start-up expenses and will amortize any remaining start-up expenses ratably over the currently allowed period. The IRS might assert that all or a portion of such expenses are either: (i) non-deductible expenses that must be depreciated or amortized; (ii) non-deductible capital expenses that may not be amortized or depreciated; or (iii) expenses that are deductible only in a later fiscal year. The IRS may challenge the characterization of any or all of the fees and contend that such fees are wholly non-deductible syndication costs.

**There can be no assurance that the IRS will not prevail if it challenges on audit the Company's selected method of deducting the various fees and other payments to be paid to the Manager, its affiliates or any other person.** If the IRS should prevail in any such challenge, the Company's deductions in earlier years and possibly later years as well, and the tax losses available to the Company, would be reduced, or the taxable income increased, perhaps significantly.

**The IRS may disallow amounts deducted as ordinary deductions for repairs and maintenance.** Because of the fact-specific nature of these issues, there can be no assurance that the amounts deducted from time to time by the Company or its subsidiaries as ordinary deductions for repairs and maintenance will not be challenged by the IRS and required to be capitalized. In such event, losses would be reduced or profits increased by the disallowed deduction, and the expenditure may be added to the adjusted basis of the Subject Property and depreciated over the appropriate recovery period.

**Refinancing of debt may have adverse tax effects for investors.** To the extent the amount of any new non-recourse mortgage is less than the amount of the existing debt, or is refinanced with a debt that is recourse to any of the Members or their affiliates, the Members will be treated as having received a cash distribution from the Company. Furthermore, if any loan which replaces the existing debt is recourse by its

terms, or is considered to be recourse due to a guarantee by any member of the Company or its affiliate, then the bases of the Members will be reduced by the amount of the refinanced loan, the Members will not be entitled to deduct additional tax losses in excess of their capital contribution (less any cash distributions) and, if losses and/or distributions in excess of that amount were previously claimed, the Members will be required to recognize ordinary income and/or gain without a resulting distribution of cash to pay the tax on such ordinary income and/or gain.

**Gain from the sale of an investor's interest in the Company can result in taxable income payable at the capital gains rate, the recapture rate, and/or the ordinary income rate.** Upon the sale, exchange, or other disposition of a Member's Interests in the Company, to the extent of the gain all or a portion of the sale proceeds may be taxed at capital gains rates, recapture rate, or at ordinary income rates (for unrealized receivables and/or property held primarily for sale to customers in the ordinary course of business). The sale of a Member's Interests in the Company may occur in the event that the Manager elects to extend the Holding Period for the investors that do not consent to such extension.

**The disposition of an investor's Membership Interests in the Company may be structured either as a redemption or as a sale or exchange; if treated as a redemption, it may have adverse tax effects on other investors.** If the Company's purchase of a Member's Interests is considered a redemption, the redeemed Member would recognize taxable gain or loss to the same extent as upon the sale of their Membership Interests, but it would not pay the rate on unrecaptured depreciation on real property. Instead that tax liability may be borne by those Members that do not elect to sell. If certain Members are redeemed but others are not, the ones that are not redeemed may be responsible for paying the full amount of tax on the unrecaptured depreciation of the Subject Property then accrued (to the extent of gain recognized).

**Gain from the sale of a property can result in taxable income payable at the capital gains rate, the recapture rate, and/or the ordinary income rate.** Under current law, gain or loss realized by the sale of the Subject Property will in general be treated as long-term capital gain or ordinary loss under Code Section 1231 if the Subject Property has been held longer than 12 months (except for the portion thereof which is taxable as ordinary income due to depreciation recapture on personal property). Any Member's allocable share of such Section 1231 gain or loss would then be combined with his or her gains and losses from the disposition of other Sections 1231 property owned by him or her individually in determining his or her gain or loss under Section 1231. Net Section 1231 gains will be taxed at capital gains rates for individual taxpayers (except to the extent attributable to real estate depreciation). If upon foreclosure of the Subject Property, there is any loss recognized by the Company, each Member of the Company would treat his or her share thereof as an ordinary loss under Section 1231 of the Code if the Subject Property has been held by the Company for a period of time greater than 12 months and if such loss does not exceed the gains recognized by the Company during the year of sale upon the disposition of other Section 1231 property.

**Additionally, if losses realized on the sale or exchange of Section 1231 assets are treated as ordinary, any net Section 1231 gains realized on such transactions in the five years immediately succeeding that year will be treated as ordinary income to the extent of those losses.** Accordingly, if a Member realizes net losses on the sale or exchange of Section 1231 assets (e.g., real or depreciable property held for more than one year in the taxpayer's trade or business) which are treated as ordinary losses within the five-year period preceding the Company's sale or exchange of the Subject Property and such prior losses have not been the basis for recharacterizing prior Section 1231 gains as ordinary income, the Company's gain allocable to such Member would be recognized as ordinary income to the extent of such previously recognized Section 1231 ordinary losses.

**In the event of the sale or other disposition of real property, all depreciation deductions claimed with respect to such property are "recaptured" (i.e., subject to tax at ordinary income rates) if the sale or disposition occurs before the property has been held for more than one year.** If the property has been held for more than a year at the time of such sale or disposition, there is no recapture, but the gain is taxed to the extent of the total depreciation deductions previously claimed by the property owner.

**Audits of tax returns filed by the Company could adversely affect investors, including by requiring them to amend their returns and/or causing an audit of their returns.** Tax returns filed by the Company are subject to audit by the IRS. Any such audit could lead to adjustments, in which event the Members of the Company might be required to file amended personal federal income tax returns. Any such audit could

also lead to an audit of a Member's tax return that may, in turn, lead to adjustments other than those relating to an investment in the Company.

**In the event of an audit, the “Tax Matters Partner” (the Manager) represents the Company and may take positions that have materially adverse effects on the investors.** The Promote Member has been designated as the Tax Matters Partner (“TMP”). The TMP will have primary responsibility to represent the Company in any such audit and will have various powers in connection with such audit. In representing the Company in an audit, the TMP will be required to make various decisions both as to the proper tax treatment of the various fund items and the strategy to be employed. The TMP intends to take such positions and make such decisions in conducting such audits as it feels are appropriate under the applicable tax laws and which it believes are in the best interests of the Members. Nevertheless, all investors should be aware that various conflicts may arise during the course of an audit between the interests of one or more of the Members, and the TMP may take positions in the audit that has materially adverse effects on one or more of the investors. In the event of an audit, each Member is urged to consult his or her own tax advisor to determine available rights.

**The Company will pay all costs of the Manager or their affiliates in connection with an audit income tax returns and the performance of the Promote Member duties as TMP.** The Company, as well as its Members, will be subject to taxes in the jurisdictions where the Company operates and where it is located. Prospective investors are urged to consult their own tax advisors regarding the state and local tax consequences of investing in the Company. The Company will file partnership tax returns in jurisdictions that the Manager determines to be appropriate. Members will be subject to income tax and withholding and will likely be required to file tax returns in states and local jurisdictions where a Member is resident or domiciled and in the in the State of Florida, where the Company operates its business.

**The Company will have the right to withhold and/or collect from investors for taxes under federal, state, or local law (even if distributions are insufficient to pay such amounts), and amounts so withheld will be treated as distributions.** All amounts withheld pursuant to the Code or any provisions of state or local tax law with respect to any payment or distribution to the Company or to the Members or any allocation of taxable income to the Company or the Members will be treated as amounts distributed to the Members. The Company is authorized to withhold such amounts and to pay over any federal, state or local government any amounts required to be withheld pursuant to the Code or any provisions of any other federal, state or local law and will allocate such amounts to the Members with respect to whom such amounts were withheld as the Manager reasonably sees fit. It is possible that the amount required to be withheld with respect to a Member may exceed the amount which otherwise would have been distributed to such Member, in which event the Member must pay to the Company the amount of such excess. If a Member fails to timely pay such amounts, the amount due will accrue interest. Also the Manager will have a lien right on such Members' Interests in the Company, and the Manager can collect payment (including interest and attorneys' fees) from future distributions and from the foreclosure on such interest or any other legal action. The Members will also be obligated to indemnify the Company and Manager, among other parties, for such failure to timely pay.

**Interests in the Company may not be purchased as replacement property for 1031 exchange purposes.** Under the Code, only interests in real estate (and not partnership or membership interests (other than interests of a sole member in an owner of real estate)) may be exchanged in a so-called 1031 tax-deferred exchange. Consequently, the investors may not be able to defer taxable gain on the sale of their Interests through a 1031 exchange. Investors should consult their tax advisor for additional clarification.

**Change in tax laws could materially affect expected benefits and detriments.** From time to time, there may be proposals put forward in federal and state legislatures that, if adopted, could have significant impact on the economics of the Company and/or the incentives of the Manager, including regulations related to tax matters, such as carried interest legislation. The discussion under “General Tax Risks” is based upon current provisions of the Code, the Regulations, and existing administrative rulings and judicial decisions, any of which could be changed at any time by legislation or otherwise. Any changes may substantially reduce or entirely eliminate anticipated tax benefits or increase tax detriment. The favorable tax treatment currently available with respect to the ownership and operation of residential real estate has a material effect on the advisability of investment in the Company. There can be no assurance that these advantages may not

be modified or eliminated by legislative, judicial or administrative action at any time during the ownership of Membership Interests in the Company.

#### CONSIDERATIONS WITH RESPECT TO TAX-EXEMPT INVESTORS

**Tax-exempt investors could incur “unrelated business taxable income” from the Company.** A significant portion of the allocable share of Fund income of tax-exempt investors (including qualified pension and profit-sharing plans, Keogh plans, 401(k) plans, and Individual Retirement Accounts (IRAs)) will likely constitute “unrelated business taxable income” in the hands of such investor, although certain tax-exempt investors, such as pension plans or universities, may be exempt from the unrelated business taxable income rules for these transactions. The Company intends to leverage its investment in the Subject Property it acquires, and this leverage may cause the Company to have unrelated business taxable income from unrelated debt-financed income. Tax-exempt investors should consult their own tax advisors for additional considerations applicable to them.

#### CONSIDERATIONS FOR FOREIGN INVESTORS

**A foreign investor’s allocable share of Fund income (as well as gain from the sale or disposition of an interest in the Company) may be treated as effectively connected with a U.S. trade or business, which would make a foreign investor subject to U.S. income tax.** Any rental income of the Company that is paid to a foreign investor and is not effectively connected with a U.S. trade or business will be subject to U.S. withholding tax, which rate may be determined by treaty. Any sale of Membership Interests in the Company by a foreign Member or sale of the Subject Property by the Company will be subject to a U.S. withholding tax rate determined by the nature of the transaction and the status of the foreign Partner as an individual, trust, estate, partnership, or corporation.

**EXHIBIT A**  
**FINANCIAL INFORMATION**

Available upon request.

**EXHIBIT B**  
**OPERATING AGREEMENT**

Available upon request.

**EXHIBIT C**  
**SUBSCRIPTION AGREEMENT**

Available upon request.