THE OFFER AND SALE OF SERIES A PREFERRED UNITS IN USA FUNDING LLC, A FLORIDA LIMITED LIABILITY COMPANY, IS MADE ONLY BY MEANS OF THE COMPANY'S TERM SHEET, LIMITED LIABILITY COMPANY OPERATING AGREEMENT AND THE SUBSCRIPTION BOOKLET.

Name of Offeree: _____

# OFFERING CIRCULAR

# SERIES A PREFERRED UNITS

# OF

# USA FUNDING LLC

**MAY 21, 2025**

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

## SUBSCRIPTION AGREEMENT

This **SUBSCRIPTION AGREEMENT** (this "**Agreement**"), dated as of the date set forth on the signature page hereto, is by and between USA Funding LLC, a Florida limited liability company (the "**Company**"), and the subscriber identified on the signature page hereto (the "**Subscriber**").

**WHEREAS**, the Company and the Subscriber are executing and delivering this Agreement in reliance upon an exemption from securities registration afforded by the provisions of Section 4(2), Section 4(6) and/or Regulation D ("**Regulation D**") as promulgated by the United States Securities and Exchange Commission under the Securities Act of 1933, as amended (the "**Securities Act**");

**WHEREAS**, the Company is offering up to Five Hundred Thousand (500,000) of its non-voting Series A Preferred Units (each, a "**Series A Preferred Unit**" and collectively, the "**Series A Preferred Units**") at Ten Dollars ($10.00) per Series A Preferred Unit in an aggregate amount of up to Five Million U.S. Dollars and 00/100 (US$5,000,000.00) (the "**Offering Amount**"), to be sold on a "best efforts" basis in a private placement offering (the "**Offering**") as more particularly described in the term sheet attached as Exhibit A hereto (the "**Term Sheet**") and below; *provided* that the Company may, in its sole discretion, increase the Offering Amount upon written notice to all Subscribers;

**WHEREAS,** this offering is being conducted pursuant to Rule 506(c) of Regulation D under the Securities Act of 1933, as amended with only accredited investors, as verified by the Company or its agents, are eligible to participate in this offering; and

**WHEREAS**, terms of the Series A Preferred Unit, including redemption rights, voting rights, ranking and dilution protections, are as outlined in the Term Sheet and set forth in detail in the Company's First Amended and Restated Operating Agreement, dated as of May 21, 2025, attached as Exhibit B hereto (the "**Operating Agreement**").

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

## 1. Subscription For Series A Preferred Units; Purchase Price.

1.1 Purchase. The Subscriber, intending to be legally bound, hereby irrevocably agrees to subscribe for and agrees to purchase up to that number of Series A Preferred Units set forth on the signature page hereto at a purchase price of Ten Dollars and 00/100 ($10.00) per Series A Preferred Unit ("**Per Unit Price**"). This subscription is submitted to the Company in accordance with and subject to the terms and conditions described in this Agreement.

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

1.3 Subscription Proceeds. All subscription proceeds received and accepted will be deposited directly into the Company's operating account or assigned escrow account and following acceptance by the Company hereunder and payment by the Company of its costs and expenses, including organization and Offering expenses and commissions, if any, such funds will be used by the Company for expansion of current operations and development and launch of new products and general corporate purposes, including salaries. The Company may use proceeds of the Offering immediately upon each Closing.

1.4 Payment. Payment of the Purchase Price shall be due and payable upon execution and delivery of this Agreement by the Subscriber to the Company, unless otherwise agreed to by the Company. The Subscriber shall be required to deliver to the Company the Purchase Price in cash by delivery of a certified check payable to the Company or by wire transfer of immediately available funds to the following account of the Company:

Bank: **TO BE PROVIDED**
Acct #:
Routing Transit #:
Acct:

1.5 Acknowledgements. By executing this Agreement, the Subscriber acknowledges that (i) the Subscriber has been informed of various matters relating to the Company, including but not limited to, this Agreement, the Term Sheet, the Operating Agreement, the Risk Factors attached as Exhibit C hereto (the "**Risk Factors**") and the Series A Preferred Units (together, the "**Offering Documents**"); (ii) that the Subscriber is an "accredited investor" as such term is defined

in Rule 501 of Regulation D, which definition is attached as Exhibit D attached hereto; and (iii) that the Subscriber is not and has not been the subject of any "bad actor disqualifying event," as described in the excerpt of Rule 506(d) attached hereto as Exhibit E (a "**Bad Actor Disqualifying Event**").

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

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

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

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

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

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

## 2. Subscriber Representations and Warranties as to Suitability Standards.

The Subscriber hereby represents and warrants that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.18 Communication of Offer. The Subscriber is not purchasing the Series A Preferred Units as a result of any advertisement, article, notice or other communication regarding the Series A Preferred Units published in any newspaper, magazine or similar media or broadcast over television or radio or presented at any seminar or any other general solicitation or general advertisement.

## 3. Representations, Warranties and Agreements of the Subscriber.

The Subscriber hereby represents, warrants and agrees as follows:

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

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

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

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

3.5 Securities Registration. The Subscriber acknowledges and accepts that the Series A Preferred Units has not been registered under the Securities Act or related laws and regulations or any other applicable securities laws of any other jurisdiction (collectively, the "**Securities Laws**"). The Subscriber understands that it, he or she has no rights whatsoever to request, and that the Company is under no obligation whatsoever to furnish, a registration of the Series A Preferred Units under the Securities Laws.

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

3.7 Investment Company Act. The Subscriber understands that the Company has not been registered as an investment company under the Investment Company Act in reliance upon an exemption from registration provided by Section 3(c)(1) thereunder (which exemption is generally available only to an issuer, the securities of which are beneficially owned by not more than 100 persons as defined in the Investment Company Act). The Subscriber hereby further represents and warrants that it is not a participant-directed defined contribution plan.

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

## 4. Representations, Warranties and Agreements of the Company.

The Company hereby represents, warrants, and agrees as follows, subject to the provision that the Company will promptly notify the Subscriber of any changes or updates to these representations, warranties, and agreements:

4.1 Organization and Standing. The Company was organized under the laws of the State of Florida on March 3, 2022. The Company's principal place of business on the date hereof is 10 W 37th Street, Suite 602, New York, NY 10018. The Company shall promptly notify all relevant parties in writing of any change in this designated address. The Company has the requisite limited liability company power to own its properties and to carry on its business as now being conducted and as presently proposed to be conducted.

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

## 5. Transfer Restrictions.

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

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

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

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

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

**"THIS SERIES A PREFERRED UNITS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS AND NEITHER THIS SERIES A PREFERRED UNITS, SUCH SECURITIES NOR ANY INTEREST THEREIN MAY BE OFFERED, SOLD, TRANSFERRED, PLEDGED OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT OR SUCH LAWS OR AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT AND SUCH LAWS WHICH, IN THE OPINION OF COUNSEL FOR THE LENDER, WHICH COUNSEL AND OPINION ARE REASONABLY SATISFACTORY TO COUNSEL FOR THE BORROWER, IS AVAILABLE."**

5.3 Sale Requirements. The Subscriber agrees that he/she/it will not offer to sell, sell or transfer the Series A Preferred Units or any part thereof or interest therein without registration under the Securities Act and applicable state securities laws or without providing to the Company

an opinion of counsel acceptable to the Company that such offer, sale or transfer is exempt from registration under the Securities Act and under applicable state securities laws or otherwise in violation of this Agreement, the Operating Agreement or any of the Company's other governing documents.

**6. Representations and Warranties Regarding Verification of Subscription Funds.**

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

The Subscriber represents and warrants that:

6.1 OFAC List Countries. The amounts invested by the Subscriber in the Company in the Offering were not and are not directly or indirectly derived from activities that contravene federal, state or international laws and regulations, including anti-money laundering laws and regulations. Federal regulations and Executive Orders administered by OFAC prohibit, among other things, the engagement in transactions with, and the provision of services to, certain foreign countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <http://www.treas.gov/ofac>. In addition, the OFAC Programs prohibit dealing with individuals[2] or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists;

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

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

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

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

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

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

6.6 Foreign Banks. If the Subscriber is affiliated with a non-U.S. banking institution (a "**Foreign Bank**"), or if the Subscriber receives deposits from, makes payments on behalf of, or handles other financial transactions related to a Foreign Bank, that: (1) the Foreign Bank has a fixed address, other than solely an electronic address, in a country in which the Foreign Bank is authorized to conduct banking activities; (2) the Foreign Bank maintains operating records related to its banking activities; (3) the Foreign Bank is subject to inspection by the banking authority that licensed the Foreign Bank to conduct banking activities; and (4) the Foreign Bank does not provide banking services to any other Foreign Bank that does not have a physical presence in any country and that is not a regulated affiliate; and

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

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

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

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

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

7.1 Irrevocable by Subscriber. This Agreement is not, and shall not be, revocable by the Subscriber, except in the event of a material breach of this Agreement by the Company, as determined by a court of competent jurisdiction.

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

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

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

## 8. Indemnification.

The Subscriber hereby indemnifies and holds harmless the Company, its members, managers, officers, directors, agents, employees, advisors, affiliates and successors from and against all liability, damage, claims, losses, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs, and any other expenses incurred) which they may incur by reason of: (i) the failure of the Subscriber to fulfill any of the terms and conditions of this Agreement, (ii) any breach of the representations and warranties made by the Subscriber herein or in any document provided by the Subscriber to the Company or any of its affiliates, or (iii) any violation of applicable laws or regulations by the Subscriber.

## 9. Miscellaneous.

9.1 Notices. All notices, demands, requests, consents, approvals and other communications that may or are required to be given by either party to the other party hereunder shall be deemed to be sufficient if in writing and (i) delivered in person, (ii) delivered and received by facsimile, if a confirmatory mailing in accordance herewith is also made, (iii) duly sent by

registered mail return receipt requested and postage prepaid, or (iv) duly sent by overnight delivery service, in each case as addressed to such party at the address set forth below:

If to the Company, to:

10 W. 37th Street
Suite 602
New York, NY 10018

With a copy to the 3rd party administrator:

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

If to the Subscriber:

To the address listed on the Signature Page

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

9.2 Construction; Governing Law. All issues and questions concerning the construction, validity and interpretation of this Agreement and all matters pertaining hereto shall be governed by and construed in accordance with the laws of the State of Florida, without regard to any choice of law or conflict of law rules or provisions (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Florida.

9.3 Consent to Jurisdiction. THE PARTIES HERETO IRREVOCABLY AGREE THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL BE LITIGATED SOLELY IN THE VENUE AND JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE STATE OF FLORIDA. THE PARTIES HEREBY CONSENT AND SUBMIT TO THE JURISDICTION OF ANY COURT LOCATED WITHIN THE STATE OF FLORIDA, WAIVE PERSONAL SERVICE OF PROCESS AND AGREE THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO THE PARTIES AT THE ADDRESS STATED IN THE NOTICE PROVISIONS OF THIS AGREEMENT, AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT. THE PREVAILING

PARTY(IES) IN ANY SUCH ACTION OR PROCEEDING SHALL BE ENTITLED TO RECOVER ITS REASONABLE ATTORNEYS' FEES AND COSTS FROM THE OTHER PARTY(IES).

9.4 Waiver of Jury Trial. THE PARTIES HERETO, HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING, WHETHER CLAIM OR COUNTERCLAIM, BROUGHT OR INSTITUTED BY EITHER PARTY OR ANY SUCCESSOR OR ASSIGN OF EITHER PARTY (a) UNDER THIS AGREEMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS AGREEMENT OR (b) ARISING FROM ANY RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH PARTY AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST THE OTHER PARTY ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

9.5 Construction. In construing this Agreement, the singular shall be held to include the plural, the plural shall include the singular, the use of any gender shall include every other and all genders, and captions and paragraph headings shall be disregarded.

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

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

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

9.9 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the transactions contemplated hereby and supersedes all prior agreements, understandings, negotiations and discussions, both written and oral, between the parties hereto with respect to the subject matter hereof. This Agreement may not be amended or modified in any way except by a written instrument executed by the party against whom enforcement of the change is sought.

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The undersigned Subscriber hereby agrees to purchase _____ Series A Preferred Units, at an aggregate Purchase Price of US$_____ and is tendering such amount pursuant to the provisions of Section 1.3 hereof.

Date: _____

_____
**Signature of Subscriber**

_____
**Print Name of Subscriber**

Residence/Domicile: _____
Number and Street

_____
City/State/Zip

_____
Country

Social Security/Taxpayer
Identification Number(s): _____

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

**USA FUNDING LLC**

By: _____
Name: Neil Fleischman
Title: Manager

# EXHIBIT A
# TERM SHEET

**SUMMARY OF PRINCIPAL TERMS**
**FOR**
**PRIVATE PLACEMENT**
**OF UP TO**
**$5,000,000 OF SERIES A PREFERRED UNITS**

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**USA FUNDING LLC**
a Florida limited liability company

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

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| **ISSUER:** | USA Funding LLC, a Florida limited liability company (the "**Company**"). |
| **TYPE OF SECURITY:** | The Company intends to offer its non-voting Series A Preferred Units up to 500,000 Units (the "**Series A Preferred Units**") at Ten Dollars ($10.00) per Series A Preferred Unit in an aggregate amount of up to $5,000,000 (the "**Series A Preferred Offering**") to investors (each, an "**Investor**" and together, the "**Investors**" or the "**Series A Preferred Units Holders**"), pursuant to the terms and conditions of a subscription agreement to be entered into by each Investor and the Company (each, a "**Subscription Agreement**" and collectively, the "**Subscription Agreements**"). The Company reserves the right to raise more than $5,000,000 and offer more than 500,000 Units in the Offering in its sole discretion upon written notice to existing Investors.<br><br>Capitalized terms used but not otherwise defined in this Term Sheet shall have the meaning set forth in the Subscription Agreement. |
| **PURCHASE PRICE; MINIMUM/MAXIMUM INVESTMENT AMOUNTS:** | The purchase price shall be Ten Dollars and 00/100 ($10.00) per Unit ("**Per Unit Price**"). The minimum individual investment amount in the Offering is $50,000 for 5,000 Units. |
| **THE OFFERING:** | The Series A Preferred Offering will be an exempt private placement under federal and state securities laws and regulations. The Company may accept funds in this Offering in one or more Closings (defined below). |

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| **CLOSINGS:** | Each closing of a purchase and sale of the Series A Preferred Units shall be consummated on such date(s) as the Company accepts an Investor's offer to purchase the Series A Preferred Units as evidenced by the Company's counter-execution of the signature page to the Subscription Agreement for each such Investor and the return of a fully executed Subscription Agreement to the relevant Investor (each, a "**Closing**" and collectively, the "**Closings**"). |
| **CONDITIONS PRECEDENT TO CLOSE:** | On or prior to the date of each Closing, the following shall have occurred: (i) the Investor shall have paid to the Company the Purchase Price by a bank cashier's check or by wire transfer of immediately available U.S. funds; (ii) the Investor shall have delivered to the Company a dated and executed signature page to the Subscription Agreement, with all blanks properly completed; (iii) the Investor shall have delivered to the Company a dated completed and signed Accredited Investor Questionnaire, with all blanks properly completed; and (iv) the Purchaser shall have thoroughly reviewed the Subscription Agreement and the Risk Factors, the Term Sheet, and the Operating Agreement, each as attached to the Subscription Agreement. |
| **USE OF PROCEEDS:** | The Company will use the proceeds of the Offering for general corporate and working capital purposes, loans to operating businesses and other general investment opportunities as determined in the sole discretion of the Company as more particularly described in the Executive Business Plan Summary. |
| **RANKING:** | The Series A Preferred Units shall be senior to any other class of units. As long as any Series A Preferred Units remain outstanding shall not without obtaining the prior approval of the Series A Preferred Members owning at least a majority of the Series A Preferred Units then outstanding, create, authorize or issue any other class of Units, the terms of which provide that such class of Units shall rank prior to the Series A Preferred Units in respect of rights upon dissolution, liquidation or winding up of the Company; *provided, however*, the Company may, at any time, create, authorize or issue, without the consent of any of the Series A Preferred Members, other classes of Units or series thereof which rank junior to, or on parity with, the Series A Preferred Units in respect to dissolution, liquidation or winding up of the Company. |

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| **PREFERRED RETURN AND DISTRIBUTIONS:** | The Preferred Return on a Series A Preferred Unit will accrue on a daily basis at 12% per annum, payable on a monthly basis starting one hundred twenty (120) days after the date of an executed Subscription Agreement (the "**Preferred Return**"). All computations of the Preferred Return shall made on the basis of a 360-day year of twelve 30-day months and shall be calculated based on the actual number of days elapsed. The Preferred Return will be cumulative but not compounded, with payments to be made monthly in arrears. |
| **MATURITY:** | The Series A Preferred Units shall have no maturity date and will remain outstanding unless the Units are repurchased or mandatorily redeemed as set forth herein. |
| **FINANCIAL REPORT:** | The Company will provide an unaudited financial report at the end of each fiscal year to its Members. |

**REDEMPTION OPTION:**

The Series A Preferred Unit Holders may, at their option, upon written notice to the Company request the Company to repurchase, in whole or in part, such Holders Series A Preferred Units. In the event a Series A Preferred Unit Holder requests redemption, such request shall only be made after a minimum of thirty-six (36) months from the initial investment date and shall be subject to the Company's acceptance, which shall be in the Company's sole discretion. If the Company agrees to proceed with the redemption, the redemption price shall be $10.00 per Unit, plus any accrued and unpaid Preferred Return through the date of actual payment of the redemption price. The Company shall have up to one hundred eighty (180) days to complete the payment of the redemption price, which may be made in cash or another form of consideration deemed appropriate by the Company. The Company shall not be obligated to accept redemption requests from Unit Holders if it deems that such redemption would adversely affect the Company's financial condition or business operations

The Company may redeem the Series A Preferred Units in whole or in part, at any time, in its own discretion by paying to the Series A Preferred Holders $10.00 per Unit as set forth in the schedule below, plus any accrued and unpaid Preferred Return through the date of redemption. Any redemption elected by the Company hereunder shall be mandatory to the Series A Preferred Member. In the event the Company elects to exercise it redemption rights hereunder, the Company shall close the transaction within one hundred eighty (180) days from providing written notice to the Series A Preferred Member of its intent to exercise its redemption rights. At Closing, the Company shall pay the Series A Preferred Member purchase price in cash or another form of consideration deemed appropriate by the Company.

**LIQUIDATION PREFERENCE:**

In the event of any liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or otherwise, after payment or provision for payment of the debts and other liabilities of the Company, the Series A Preferred Members shall be entitled to receive, before the Common Members or other classes of preferred units of the Company ranking junior thereto, out of the remaining net assets of the Company, the amount each Series A Preferred Member Capital Account in the Series A Preferred Units plus any accrued and unpaid Preferred Return through the date of payment. After such payment shall have been made in full to the Series A Preferred Members, or funds or assets necessary for such payment shall have been set aside in trust for the account of the Series A Preferred Members, so as to be and continue to be available therefor, the Series A Preferred Members shall be entitled to no further participation in such distribution of the assets of the Company.

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| **VOTING RIGHTS:** | The Series A Preferred Units have no voting rights, regardless of the Investor's percentage ownership. Likewise, the Investors will have no managerial rights or voice in the Company. |
| **SELLING COMPENSATION:** | The Company may utilize licensed broker dealers or registered placement agents to assist in raising the capital in connection with this Offering. Any such broker dealer or placement agent will be paid customary market-rate compensation and expenses, not to exceed [X]% of capital raised, which will be disclosed in writing to investors. |
| **TRANSFER RIGHTS:** | Except as set forth in the Operating Agreement of the Company, no Series A Preferred Unit Holder may transfer its Units or any rights or interests therein without the prior consent of the Company, which consent may be withheld in the Company's sole discretion. |
| **INVESTORS:** | Each Investor is required to be "accredited" as such term is defined under Securities and Exchange Commission Rule 501 of Regulation D. Each Series A Preferred Unit Holder will be required to execute a Subscription Agreement and an Accredited Investor Questionnaire and provide any other documentation which may be required for the Company to comply with the Jumpstart our Business Startups Act or the JOBS Act. In addition, Investors should have funds other than those invested in the Company adequate to meet their personal needs and contingencies and must be knowledgeable and experienced in financial and business matters generally. The manager of the Company may, in his sole discretion, decline to admit any prospective investor regardless of whether such person meets the foregoing suitability requirements. |
| **NON-BINDING TERM SHEET; CONFIDENTIALITY:** | This Term Sheet merely constitutes a statement of the intentions with respect to the transactions described herein and is not a legally binding document and the terms of the proposed transaction and information produced by the Company (whether written or verbal) shall remain confidential. |
| **EXPENSES:** | The Company and the Investors will each bear their own legal and other expenses with respect to the transactions contemplated herein. |
| **RESTRICTIONS ON TRANSFER:** | The Units will be restricted as to transferability under state and federal laws regulating securities. The issuance of the Units will not be registered under the Securities Act of 1933, as amended (the "**Securities Act**"), or any other similar state statutes, in reliance upon exemptions from the registration requirements contained therein. Accordingly, the Units will be "restricted securities" as defined in Rule 144 of the Securities Act. As "restricted securities," an Investor must hold them indefinitely and may not dispose or otherwise sell them without registration under the Securities Act and any applicable state securities laws unless exemptions |

form registrations are available. Moreover, in the event an Investor desires to sell or otherwise dispose of any of the Units, the Investor will be required to furnish the Company with an opinion of counsel acceptable to us that the transfer would not violate the registration requirements of the Securities Act or applicable state securities laws. Any certificate or other document evidencing the Securities will be imprinted with a conspicuous legend stating that the Securities have not been registered under the Securities Act and state securities laws, and referring to the restrictions on transferability and sale of the Units. In addition, the Company's records concerning the Units will include "stop transfer notations" with respect to such Units.

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**EXHIBIT B**
**FIRST AMENDED AND RESTATED OPERATING AGREEMENT**

# USA FUNDING LLC

## A FLORIDA LIMITED LIABILITY COMPANY

## FIRST AMENDED AND RESTATED OPERATING AGREEMENT

## EFFECTIVE AS OF MAY 21, 2025

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

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# FIRST AMENDED AND RESTATED OPERATING AGREEMENT
# OF
# USA FUNDING LLC,
# A FLORIDA LIMITED LIABILITY COMPANY

This First Amended and Restated Operating Agreement (this "**Agreement**") is entered into and effective as of May 21, 2025 (the "**Effective Date**"), by and among USA Funding LLC, a Florida limited liability company (the "**Company**") and Neil Fleischman (the "**Member**").

**WHEREAS,** the Certificate of Formation (the "**Certificate**") was previously filed under the name USA Funding LLC with the Secretary of State, Division of Corporations for the State of Florida in order to form the Company as a Florida limited liability company pursuant to the provisions of the Florida Limited Liability Company Act; and

**WHEREAS,** the Company executed an Initial Operating Agreement dated as of March 3, 2022**;**

**WHEREAS**, the Company hereby expresses its intention and sole discretion to enter into this Agreement to further amend the Operating Agreement in order to set forth the terms and conditions that will regulate and govern the operation and management of the Company and regulate and govern the respective rights and obligations of the Members with respect to the Company.

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

## ARTICLE I
## DEFINITIONS

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

"**Act**" means the Florida Limited Liability Company Act, Chapter 605 of the Florida Statutes, as it may be amended from time to time, and any successor to such statute.

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

"**Bankrupt Member**" means any Member (a) that (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary bankruptcy petition; (iii) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency proceedings; (iv) files a petition or answer seeking for the Member a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any law; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in a proceeding of the type described in sub-clauses (i) through (iv) of this clause (a); or (vi) seeks, consents to or acquiesces in the appointment of a trustee, receive or liquidator of the Member or of all or any substantial part of the Member's properties; or (b) against which a proceeding seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any law has been commenced and sixty (60) days have

expired without dismissal thereof or with respect to which, without the Member's consent or acquiescence, a trustee, receiver or liquidator of the Member or of all or any substantial part of the Member's properties has been appointed and sixty (60) days have expired without the appointments having been vacated or stayed, or sixty (60) days have expired after the date of expiration of a stay, if the appointment has not previously been vacated.

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

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

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

"**Capital Base**" means all Capital Contributions made to the Company by an applicable Contributing Common Member pursuant to Section 3.5, including any additional Capital Contribution in question.

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

"**Class A Common Members**" shall mean those Members holding Class A Common Units in the Company, their permitted successors and assigns and any other Person who may be admitted to the Company as a Class A Common Member in accordance with the terms of this Agreement.

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

"**Class A Common Unit**" means a Class A Common Unit or fraction thereof of the Company representing the interest of a Class A Common Member in Profits, Losses and Distributions and having the rights and obligations specified with respect thereto as set forth in this Agreement.

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

"**Common Members**" shall mean those Members holding Common Units in the Company, their permitted successors and assigns and any other Person who may be admitted to the Company as a Common Member in accordance with the terms of this Agreement.

"**Common Unit**" means a Common Unit or fraction thereof of the Company representing the interest of a Common Member in Profits, Losses and Distributions and having the rights and obligations specified with respect thereto as set forth in this Agreement.

"**Company**" means USA Funding LLC, a Florida limited liability company.

"**Company Business**" means to engage in the business of investing and/or lending in direct and indirect investment opportunities primarily lending to operating businesses but may include non-loan assets.

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

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

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

"**Fair Value**" means, in respect of any class of Units, as of the date of determination, the fair market value of such Units as determined by an independent appraisal firm with experience in the valuing companies in a business similar to the Company Business.

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

"**Incapacitated**" means, with respect to a natural person, his or her incompetency or insanity, as determined by the Manager in its sole discretion.

"**Liquidation Event**" means (a) the voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Company; (b) the commencement by the Company of a voluntary case under the federal bankruptcy laws or any other applicable federal, state or international bankruptcy, insolvency or similar law, the consent to the entry of an order for relief in an involuntary case under such law or to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Company or of any substantial part of its property, the making of an assignment by the Company for the benefit of its creditors, the admission in writing by the Company of its inability to pay its debts generally as they become due, the entry of a decree or order for relief in respect of the Company by a court having jurisdiction in the premises in an involuntary case under the federal bankruptcy laws or any other applicable federal, state or international bankruptcy, insolvency or similar law, or the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Company or of any substantial part of its property; (c) the sale, lease, Transfer, conveyance or other disposition, in one transaction or a series of related or unrelated transactions, of all or substantially all of the assets of the Company and its wholly-owned subsidiaries, taken as a whole; (d) a transaction or series of related or

unrelated transactions, including by way of merger, consolidation, recapitalization, reorganization or sale or issuance of shares, the result of which is that the Common Members immediately prior to such transaction are, after giving effect to such transaction, no longer (or their respective Affiliates or Permitted Transferees are no longer), in the aggregate, the "beneficial owners" (as such term is defined in Rule 13d-3 and Rule 13d-5 promulgated under the Securities Exchange Act of 1934, as amended) directly or indirectly, through one or more intermediaries, of more than fifty percent (50.0%) of the voting power of the outstanding voting securities of the Company or any successor thereto resulting from any such transaction(s); or (e) any other transaction or series of related transactions in which substantially all control of the Company or its property is Transferred to a third party.

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

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

"**Majority in Interest of the Class A Common Members**" means a Class A Common Member or Class A Common Members, voting separately as a single class, collectively holding in excess of fifty percent (50.0%) of the outstanding Class A Common Units, not including Class A Common Units of a defaulted Class A Common Member(s).

"**Majority in Interest of the Members**" means a Member or Members (other than non-voting classes of Preferred), voting together as a single class, collectively holding in excess of fifty percent (50.0%) of the votes associated with the outstanding Class A Common Units and authorized to vote outstanding Preferred Units (only if designated as a voting class of Preferred), not including Units of a defaulted Member(s).

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

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

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

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

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

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

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

"**Preferred Unit**" means a series of preferred units of interest in the Company having the rights, including the votes per Unit, if any, as set forth in this Agreement governing such series of Preferred Units.

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

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

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

"**Series A Preferred Members**" shall mean those Members holding Series A Preferred Units in the Company, their permitted successors and assigns and any other Person who may be admitted to the Company as a Series A Preferred Member in accordance with the terms of this Agreement.

"**Series A Preferred Units**" shall mean those Preferred Units initially issued in accordance with Section 3.2(b).

"**Substitute Member**" means a Person that is admitted as a Member to the Company pursuant to Section 12.8(a).

"**Super Majority in Interest of the Members**" means a Member or Members (other than the non-voting classes of Preferred Units), voting together as a single class, collectively holding in excess of eighty percent (80.0%) of the votes associated with the outstanding Class A Common Units and authorized to vote outstanding Preferred Units, excluding any Units held by Defaulting Members.

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

"**Total Capital Base**" means, as of any date in question, all Capital Contributions theretofore made to the Company by all Members, including the additional Capital Contributions made by the Contributing Common Members for which an adjustment to the Class A Common Membership Percentages is made pursuant to Section 3.5.

"**Transfer**" means any sale, transfer, assignment, pledge, mortgage, exchange, hypothecation, grant of a security interest or other disposition or encumbrance of an interest (whether with or without

consideration, whether voluntarily or involuntarily or by operation of Law) or the acts thereof with correlative meanings to the terms "**Transferee**," "**Transferor**," "**Transferred**."

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

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

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

| Term | Section |
|---|---|
| Additional Funds | Section 3.6 |
| Agreement | Preamble |
| Certificate | Section 2.1 |
| Capital Account | Section 5.1 |
| Capital Call | Section 3.5(a) |
| Confidential Information | Section 11.4 |
| Contributing Class A Common Members | Section 3.5(b) |
| Designated Member | Section 12.10(a) |
| Exercise Notice | Section 12.11(a) |
| Funding Date | Section 3.5(a) |
| Indemnifying Member | Section 10.3(a) |
| Liquidating Distribution | Section 13.4 |
| Majority Member(s) | Section 12.4(a) |
| Minority Member(s) | Section 12.4(a) |
| Non-Contributing Class A Common Member/Non-Contributing Class A Common Members | Section 3.5(b) |
| Offer Notice | Section 12.3(a) |
| Offered Interests | Section 12.3(a) |
| Offering | Section 4.1 |
| Permitted Transfer | Section 12.2(a) |
| Permitted Transferee | Section 12.2(a) |
| Proceeding | Section 9.3 |
| Purchase Date | Section 12.10(b) |
| Purchase Price | Section 4.1 |
| Reserve Amount | Section 6.2 |
| Selling Party | Section 12.3(a) |
| Subscription Agreement | Section 4.1 |
| Tag Along Sale | Section 12.4(a) |

| Term | Section |
|---|---|
| Tag Exercise Period | Section 12.4(c) |
| Tag Notice | Section 12.4(a) |
| Tag Purchaser(s) | Section 12.4(a) |
| Tagging Member | Section 12.4(c) |
| Tax Matters Representative | Section 10.2 |
| Third Party Offer | Section 12.3(a) |
| Unfunded Balance | Section 3.5(b)(ii) |

## ARTICLE II
## ORGANIZATION

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

2.2 **Name**. The name of the Company is "USA Funding LLC", and all Company Business shall be conducted in that name or such other names that comply with applicable law as the Manager may select from time to time, provided that any name change shall be made in accordance with Florida Statutes § 605.0112..

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

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

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

2.6 **Registered Office; Registered Agent; Principal Office; Other Offices**. The Company shall maintain a registered office and registered agent in the State of Florida in accordance with Florida Statutes § 605.0113. Any change in the Company's registered office or registered agent shall be made by filing the appropriate statement of change with the Florida Department of State. The principal office of the Company shall be at such place as the Manager may designate from time to time, which need not be in the State of Florida, and the Company shall maintain records there. The Company may have such other offices as the Manager may designate from time to time.

2.7 **Company Property**. Company assets shall be deemed to be owned by the Company as an entity, and no Member, individually or collectively, shall have any direct ownership interest in such Company assets or any portion thereof. Legal title to any or all Company assets shall be held in the name

of the Company, and in the event that a nominee is used, the Manager must obtain the consent of a Majority in Interest of the Members before appointing such nominee. The Manager hereby declares and warrants that any Company assets for which legal title is held in the name of any nominee shall be held in trust by such nominee for the use and benefit of the Company in accordance with the provisions of this Agreement. All Company assets shall be recorded as the property of the Company on its books and records, irrespective of the name in which legal title to such Company assets is held. The Units of each Member shall constitute personal property.

## ARTICLE III
## UNITS AND CAPITALIZATION

3.1 **Units**.

(a) General. Each Member's interest in the Company, including such Member's interest, if any, in the capital, income, gains, losses, deductions and expenses of the Company and the right to vote, if any, on certain Company matters as provided in this Agreement, shall be represented by the Units which may be issued in one (1) or more classes or series of classes, as approved by the Manager.

(b) The Company shall have three classes of Membership Interests consisting of (i) Class A Membership Interests, which shall be referred to in this Agreement as "**Class A Units**" and (ii) Series A Preferred Units, which shall be referred to in this Agreement as "**Series A Preferred Units**".

(c) The Class A Units and Series A Preferred Units shall be uncertificated.

(d) The Company is authorized to and shall issue the Class A Units.

(e) The Company is authorized to and shall issue Series A Preferred Units at $10 per Series A Preferred Unit. Except as specifically provided herein, the Series A Preferred Units shall be non-voting Membership Interests.

(f) As of the Effective Date, and as detailed on the attached Schedule of Members, the Company has (i) issued certain Class A Units to the Class A Members, (ii) issued certain Series Preferred A Units to Series A Preferred Members. The Manager may amend the Schedule of Members from time to time to reflect any changes thereto resulting from any additional subscriptions, issuances, transfers, or admissions effected in accordance with this Agreement.

(g) Maximum Units. The maximum number of authorized Units shall not exceed Four Million (4,000,000) Units, consisting of Two Million (2,000,000) Class A Common Units and Two Million (2,000,000) Series A Preferred Units, unless approved by a Super Majority in Interest of the Members. The Common Units representing an interest in the Company shall consist of Class A Common Units.

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

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

3.2 **Preferred Units**.

(a) General. The Preferred Units may be issued from time to time in one or more series. The Manager is authorized to fix the number of Units of any series of Preferred Units and to determine the designation of any such series, including, but not limited to, the voting powers, if any, preferences, and relative, participating, optional, or other special rights, and the qualifications, limitations, or restrictions relating thereto, including, without limiting the generality of the foregoing (subject to Section 3.1): the voting rights relating to the Units of Preferred Units of any series (which voting rights, if any, may be full or limited, may vary over time, and may be applicable generally or only upon any stated fact or event); the distribution rights or preferences, the amount, condition or time for payment of distributions and the preference or relation of such distributions to distributions payable on any other class or series of Preferred Units or Common Units; the rights of holders of Preferred Units of any series in the event of liquidation, dissolution, or winding up of the affairs of the Company; the rights, if any, of holders of Preferred Units of any series to convert or exchange such Units of Preferred Units of such series for Units of any other class or series of Common Units or Preferred Units or for any other securities, property, or assets of the Company or any subsidiary (including the determination of the price or prices or the rate or rates applicable to such rights to convert or exchange and the adjustment thereof, the time or times during which the right to convert or exchange shall be applicable, and the time or times during which a particular price or rate shall be applicable); whether the Units of any series of Preferred Units shall be subject to redemption by the Company and if subject to redemption, the times, prices, rates, adjustments and other terms and conditions of such redemption. The Manager is further authorized to determine or alter the rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued series of Preferred Units and, within the limits and restrictions stated in any resolution or resolutions of the Manager originally fixing the number of Units constituting any series, to increase or decrease (but not below the number of Units of each series outstanding) the number of Units of any such series subsequent to the issuance of Units of that series. Unless the Manager provides to the contrary in the resolution which fixes the characteristics of a series of Preferred Units, neither the consent by the series, or otherwise, of the holders of any outstanding Preferred Units nor the consent of the holders of any outstanding Common Units shall be required for the issuance of any new series of Preferred Units regardless of whether the rights and preferences of the new series of Preferred Units are senior or superior, in any way, to the outstanding series of Preferred Units or the Common Units.

(b) Initial Issuance of Series A Preferred Units. Following execution of this Agreement, the Company shall issue Series A Preferred Units in accordance with the terms, preferences, rights, conditions and limitations set forth in this Agreement in the names and the amounts to be set forth on one or more updated version of the Schedule of Members. See Article IV.

3.3 **Certificates**.

(a) General. The Units owned by the Members will be recorded on the Schedule of Members and will not be required to be represented by physical certificates. The Manager may in its discretion issue certificates to the Members representing the Units held by each Member, containing such legends as the Manager deems appropriate or required by applicable securities laws in the Manager's discretion, including as set forth in Section 3.3(b). If certificates represent the Units, the certificates shall be signed by, or in the name of the Company by any one (1) Director and shall represent the number of Units held by a Member registered in certificate form. Any signature on such certificate may be a facsimile. If any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed on a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Company with the same effect as if such individual was an officer, transfer agent or registrar at the date of issue.

(b) Legends. Each certificate shall be stamped or otherwise imprinted with a legend in substantially the following form:

> ANY ASSIGNMENT OR TRANSFER OF AN INTEREST IN THIS LIMITED LIABILITY COMPANY IS SUBJECT TO THE RESTRICTIONS IMPOSED ON TRANSFER BY THE FIRST AMENDED AND RESTATED OPERATING AGREEMENT OF THE COMPANY DATED MAY 21, 2025.

A certificate representing Units that are subject to further restrictions on Transfer or to other restrictions may have a notation of such additional restriction(s) imprinted thereon.

(c) Lost, Stolen or Destroyed Certificates; Issuance of New Certificates. The Company may issue a new certificate in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Company may require the owner of the lost, stolen or destroyed certificate, or his, her or its legal representative, to give the Company a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

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

3.5 **Additional Capital – Obligation of Class A Common Members**.

(a) General. Except as specifically set forth in this Agreement, the Class A Common Members shall make additional Capital Contributions in such amounts and at such times and from time to time as the Manager determines is needed and approves and recommends to the Class A Common Members, which a Majority in Interest of the Class A Common Members approves (the "**Capital Call**"). The Manager shall provide written notice of the Capital Call to the Class A Common Members and each of the Class A Common Members shall be required to fund to the Company its pro rata share (based upon such Class A Common Member's respective Class A Common Membership Percentage) of the amount of the Capital Call which amount shall be due, in cash, on the date determined by the Majority

in Interest of the Class A Common Members (the "**Funding Date**"), which shall be specified in the notice of the Capital Call provided by the Manager.

(b) Non-Contributing Class A Common Members. In the event any Class A Common Member shall fail to make to the Company the full amount of the Capital Call required of such Class A Common Member by the Funding Date (each, a "**Non-Contributing Class A Common Member**," collectively, the "**Non-Contributing Class A Common Members**"), the other Class A Common Members (the "**Contributing Class A Common Members**") shall have the right, exercisable within thirty (30) days after the Funding Date (the "**Post Funding Period**"), but only so long as any of the Non-Contributing Class A Common Members shall continue to be a Non-Contributing Class A Common Member hereunder, to elect one of the following options:

(i) Upon the approval of Contributing Class A Common Members holding a majority of the Class A Common Units represented by the Contributing Class A Common Members, to cause the Company to return to the Contributing Class A Common Members the full amount of their portion of the Capital Call made to the Company with respect to the relevant Funding Date, and simultaneously therewith causing the return to the Non-Contributing Class A Common Members of any portion of the Capital Call which may have been advanced to the Company by the Non-Contributing Class A Common Members, such refund to be made immediately upon written demand therefor from the Contributing Class A Common Members; *provided,* that if the Contributing Class A Common Members do not elect to obtain a refund of their portion of the Capital Call during the Post Funding Period, then simultaneously and automatically upon expiration of the Post Funding Period, and without any further action on the part of the Manager or any of the Members, the Company shall cause an adjustment to the Class A Common Membership Percentages in accordance with the calculation set forth in Section 3.5(d) (Unfunded Balance as Capital Contribution); or

(ii) If the Contributing Class A Common Members shall not have elected to obtain a refund of their additional Capital Contributions in accordance with subsection (i) above, then the Contributing Class A Common Members may, pro rata (based upon the relative percentages of the Contributing Class A Common Members electing to make advances under this subsection (ii)), advance to the Company a sum equal to (but not less than) the difference between the full amount of the portion of the Capital Call which the Non-Contributing Class A Common Members were required to advance to the Company and the actual amount thereof, if any, so advanced by any Non-Contributing Class A Common Member (said difference being herein referred to as the "**Unfunded Balance**"). If any of the Contributing Class A Common Members elect to advance an amount equal to the Unfunded Balance to the Company, each such Contributing Class A Common Member(s) shall, concurrently therewith, elect, by notice in writing to the Company and to the Non-Contributing Class A Common Members, to treat such advance as (A) a loan to the Non-Contributing Class A Common Members (which loan shall bear interest at the highest rate permitted by law, be payable in full upon demand by the Contributing Class A Common Members, and be secured by the Units owned by the Non-Contributing Class A Common Members), (B) an additional Capital Contribution to the Company, or (C) any combination of loan and additional Capital Contribution.

(c) Unfunded Balance as a Loan. If such Contributing Class A Common Members elect to treat all or part of the additional advance as a loan to the Non-Contributing Class A Common Members, the Non-Contributing Class A Common Members shall execute and deliver such documents and instruments evidencing and securing such advance to the Contributing Class A Common Members, including, but not limited to, a promissory note, security agreement and UCC-1 Financing Statement.

(d) Unfunded Balance as a Capital Contribution. If such Contributing Class A Common Members elect to treat all or part of the additional advance as an additional Capital Contribution to the Company, then (i) the amount of such advance made by a Contributing Class A Common Member which is treated as a Capital Contribution shall be credited to the Capital Account of each such Contributing Class A Common Member; and (ii) the Class A Common Membership Percentages shall be adjusted, effective as of the date of the additional advance made by the Contributing Class A Common Members, as follows:

(i) The Class A Common Membership Percentage of each Contributing Class A Common Member shall be equal to the percentage determined by dividing (x) the Capital Base of such Contributing Class A Common Member, by (y) the Total Capital Base; and

(ii) The Class A Common Membership Percentage of the Non-Contributing Class A Common Member shall be an amount equal to one hundred percent (100%) less the Class A Common Membership Percentage of the Contributing Class A Common Members, as adjusted pursuant to clause (i) above;

*provided*, that in order to accomplish the foregoing adjustments, the Non-Contributing Class A Common Members shall execute and deliver such documents and instruments necessary to transfer the necessary number of Units to the Contributing Class A Common Members or the Company shall be authorized to issue new Units to the Contributing Class A Common Members.

(e) Defaulted Common Member. Notwithstanding anything in this Agreement to the contrary, in the event a Class A Common Member fails to fund an additional Capital Contribution as aforesaid, the membership interest of such Class A Common Member shall be a defaulted interest. The defaulting Member shall have a period of thirty (30) days from the date of notice of default to cure the default by making the required Capital Contribution. If the default is not cured within this period, the defaulting Member shall have no right to vote with respect to any Company matter, and shall forfeit its interest in the Company, with such forfeited interest being redistributed to the non-defaulting Members pro rata based on their respective Membership Percentages.

(f) Remedies. The remedies provided above shall be in addition to any other rights and remedies which the Company and the Contributing Class A Common Members may have in the event of the failure of any Class A Common Member to make an additional Capital Contribution under this Agreement, any other agreement, at law or in equity. Nothing herein shall be interpreted to excuse a Class A Common Member from his, her or its obligations to make additional Capital Contributions pursuant to the terms of this Agreement.

3.6 **Additional Capital – Other**. Notwithstanding anything in this Agreement to the contrary, the Manager may, at any time and from time to time, determine that the Company requires additional funds ("**Additional Funds**"). Accordingly, in the discretion of the Manager, the Company may raise Additional Funds in any manner provided in, and in accordance with, the following:

(a) Third Party Loans. At the discretion of the Manager, the Company may raise all or any portion of the Additional Funds by incurring or assuming debt, or by entering into credit, guaranty, financing or refinancing arrangements, upon such terms as the Manager determines appropriate; and

(b) Affiliate Loans. If the Manager determines at any time (or from time to time) that the Company needs Additional Funds from the Members, the Manager or its designees may, in the Manager's sole and absolute discretion, loan such funds to the Company. Any such loan will be unsecured

and accrue interest at a rate of ten percent (10%) per annum, compounded annually and based on a calendar year of three hundred sixty-five (365) days.

3.7 **Additional Units**.

(a) At the discretion of the Manager and subject to the approval of a Majority in Interest of the Class A Common Members, the Company may raise all or any portion of the Additional Funds by selling or issuing to existing Members or other Persons who will then be admitted as additional Members: (i) Units in exchange for property, cash or services; (ii) obligations, evidences of indebtedness or other securities or interests convertible or exchangeable into Units; and (iii) warrants, options or other rights to purchase or otherwise acquire Units.

(b) In connection with any issuance or sale of additional Units or other interests in the Company pursuant to this Section 3.7, the acquiring Person shall, in exchange for such Units or other interests, make Capital Contributions to the Company in an amount and under terms and conditions determined by the Manager and subject to the approval of a Majority in Interest of the Class A Common Members, which Capital Contributions, terms or conditions may differ from the Capital Contributions, terms and conditions relating to Units previously sold or issued, provided that any such difference in terms shall be disclosed to existing Members in writing prior to the issuance of such additional Units. By way of illustration, and without limitation, additional Units sold to raise some or all of needed Additional Funds may be sold at a price per additional Unit less than the price per Unit at which Units were previously sold.

(c) In connection with any issuance or sale of additional Units or other interests in the Company, the Manager shall amend the Schedule of Members as necessary to reflect such additional issuances (including the number, series and class of Units and Capital Contributions of the acquiring Person), and shall have the power to make any other amendments to this Agreement (including, without limitation, amending the provisions of Article VI (Distributions; Allocations of Profits and Losses)) as the Manager deems necessary to authorize any such Units or other securities, provide for the relative rights, powers, preferences, duties, liabilities and obligations of such Units, or otherwise reflect or provide for such additional issuances, in each case, without the consent or approval of any Member unless the amendment would change any term of this Agreement which otherwise requires the consent or approval of Members holding a Majority in Interest of the Members or a Majority in Interest of the Class A Common Members, as the case may be, in order to effectuate the change, in which event the consent or approval of Members holding a Majority in Interest of the Members or a Majority in Interest of the Class A Common Members, as the case may be, must first be obtained.

(d) Subject to the restrictions in Article *XII* (Transfers; Admission of Members), upon the acquisition of any Units or other interests in the Company by a Person who is not a Member, such Person shall execute and deliver a joinder to this Agreement and, subject to compliance with the conditions set forth in Section 12.8 or Section 12.9 hereof, as applicable, such Person shall become a Member hereunder and shall be listed as a Member on the Schedule of Members, together with such Member's address, number and class of Units and amount of Capital Contributions.

3.8 **Securities Laws**. To accomplish the purpose of this Article, the Manager is hereby authorized to do all things necessary to admit Members, including, but not limited to, qualifying the Units for sale with state securities regulatory authorities or perfecting exemptions from qualification, and entering into such underwriting or agency arrangements for the offering and sale of Units upon such terms and conditions as the Manager may deem advisable.

## ARTICLE IV

## SERIES A PREFERRED UNITS

4.1 **Preferred Offering**. The Company is offering for sale up to 500,000 Units of its Series A Preferred Units with a purchase price of Ten Dollar ($10.00) per Series A Preferred Unit (the "**Purchase Price**") and is seeking aggregate subscribed Capital Contributions of Five Million Dollars ($5,000,000.00) (the "**Preferred Offering**"). Each Person admitted as a Member pursuant to the Preferred Offering shall receive that number of Series A Preferred Units in exchange for that Person's initial Capital Contribution to the Company upon the terms and conditions as set forth in the subscription agreement entered into by each investor in the Offering and the Company (each, a "**Subscription Agreement**"), payable upon tender of, and in accordance with, that Person's Subscription Agreement. The Company may issue fractional Series A Preferred Units.

4.2 **Ranking**. The Series A Preferred Units shall be senior to any other class of Units. As long as any Series A Preferred Units remain outstanding, the Company shall not, without obtaining the prior approval of the Series A Preferred Members owning at least a majority of the Series A Preferred Units then outstanding, create, authorize or issue any other class of Units, the terms of which provide that such class of Units shall rank prior to the Series A Preferred Units in respect of rights upon dissolution, liquidation or winding up of the Company; *provided, however*, the Manager may, at any time, create, authorize or issue, without the consent of any of the Series A Preferred Members, other classes of Units or series thereof which rank junior to, or on parity with, the Series A Preferred Units in respect to dissolution, liquidation or winding up of the Company.

4.3 **Preferred Return Payments**. The Preferred Return on a Series A Preferred Unit will accrue on a daily basis at 12% per annum (or such lower rate as required by applicable usury laws), payable on a monthly basis with payments starting one hundred twenty (120) days after the execution of a Subscription Agreement (the "**Preferred Return**"). All computations of the Preferred Return shall made on the basis of a 360-day year of twelve 30-day months and based on the actual number of days elapsed. The Preferred Return will be cumulative but will not compound annually. While the Preferred Return is intended to be payable on a monthly basis, the Company reserves the right, in its sole and absolute discretion, to defer any such payments for any period of time it deems necessary or appropriate, including but not limited to situations where such payment would adversely affect the Company's liquidity, operations, or financial condition. During any such deferral, the Preferred Return will continue to accrue, and the Company may, at its discretion, make catch-up payments or defer payment until a later date as deemed appropriate. Any deferred payments shall remain an obligation of the Company and shall not constitute a default under this Agreement.

In the event that any Preferred Return provided for herein shall be determined to be unlawful, such Preferred Return rate shall be computed at the highest rate permitted by applicable law. Any payment by the Company of any Preferred Return in excess of that permitted by law shall be considered a mistake, with the excess being applied against the face value amount of the Series A Preferred Member's subscription without prepayment premium or penalty.

4.4 **Liquidation Preference.** In the event of any liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or otherwise, after payment or provision for payment of the debts and other liabilities of the Company, the Series A Preferred Members shall be entitled to receive, before the Common Members or other classes of preferred units of the Company ranking junior thereto, out of the remaining net assets of the Company, the amount each Series A Preferred Member invested in the Series A Preferred Units. After such payment shall have been made in full to the Series A Preferred Members, or funds or assets necessary for such payment shall have been set aside in trust for the account

of the Series A Preferred Members, so as to be and continue to be available therefor, the Series A Preferred Members shall be entitled to no further participation in such distribution of the assets of the Company.

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

4.5 **Voting Rights**. Except as otherwise required by law or as otherwise specifically provided herein, the Series A Preferred Members shall not be entitled to vote at any meeting of the Common Members for any purpose or otherwise to participate in any action taken by the Common Members.

4.6 **Redemption**. The Series A Preferred Unit Holders may, at their option, upon written notice to the Company request the Company to repurchase, in whole or in part, such Holders Series A Preferred Units. In the event a Series A Preferred Unit Holder requests redemption, such request shall only be made after a minimum of thirty-six (36) months from the initial investment date and shall be subject to the Company's acceptance, which shall be in the Company's sole and absolute discretion. The Company's decision regarding any redemption request shall be final and binding. If the Company agrees to proceed with the redemption, the redemption price shall be $10.00 per Unit, plus any accrued and unpaid Preferred Return through the date of repurchase. The Company shall have up to one hundred eighty (180) days to complete the payment of the redemption price, which may be made in cash or another form of consideration deemed appropriate by the Company. The Company shall not be obligated to accept redemption requests from Unit Holders if it deems that such redemption would adversely affect the Company's financial condition or business operations

The Company may redeem the Series A Preferred Units in whole or in part, at any time, in its own discretion by paying to the Series A Preferred Holders $10.00 per Unit as set forth in the schedule below, plus any accrued and unpaid Preferred Return through the date of redemption. Any redemption elected by the Company hereunder shall be mandatory to the Series A Preferred Member. In the event the Company elects to exercise it redemption rights hereunder, the Company shall close the transaction within one hundred eighty (180) days from providing written notice to the Series A Preferred Member of its intent to exercise its redemption rights. At Closing, the Company shall pay the Series A Preferred Member purchase price in cash or another form of consideration deemed appropriate by the Company.

## ARTICLE V

## CAPITAL ACCOUNTS

5.1 **Establishment and Determination of Capital Accounts**. A capital account ("**Capital Account**") shall be established for each Member. The Capital Account of each Member shall consist of its initial Capital Contribution and shall be (a) increased by (i) any additional Capital Contributions made by such Member pursuant to the terms of this Agreement and (ii) such Member's share of items of income and gain allocated to such Member pursuant to Article VI (Distributions; Allocations of Profits and Losses), (b) decreased by (i) such Member's share of items of loss, deduction and expense allocated to such Member pursuant to Article VI and (ii) any Distributions to such Member of cash or the fair market value of any

other property (net of liabilities assumed by such Member and liabilities to which such property is subject) distributed to such Member, and (c) adjusted as otherwise required by the Code and the regulations thereunder, including, but not limited to, the rules of Treasury Regulations Section 1.704-1(b)(2)(iv). Any references in this Agreement to the Capital Account of a Member shall be deemed to refer to such Capital Account as the same may be increased or decreased from time to time as set forth above.

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

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

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

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

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

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

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

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

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

5.6 **Loans from Members**. Loans by Members to the Company shall not be considered Capital Contributions, unless otherwise expressly agreed by the Company and the Member providing the

loan. If any Member shall loan funds to the Company in excess of the amounts required hereunder to be contributed by such Member to the capital of the Company, the making of such loans shall not result in any increase in the amount of the Capital Account of such Member. The amount of any such loans shall be a debt of the Company to such Member and shall be payable or collectible in accordance with the terms and conditions of Section 3.6(b) (Affiliate Loans), or on such other terms and conditions upon which such loans are made and which are approved by Members holding a Majority in Interest of the Members and the Member making the loan.

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

## ARTICLE VI
## DISTRIBUTIONS; ALLOCATIONS OF PROFITS AND LOSSES

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

6.2 **Distributions**. Other than the Preferred Return there will be no Distributions of any kind to the Series A Preferred Members, whether from profits, sales or otherwise. No Distributions shall be made unless the Series A Preferred Members have received their Preferred Return payment for the respective period in which the Company seeks to make Distributions.

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

amount, if any, which such Member is obligated to contribute to the capital of the Company as of the last day of such Fiscal Year.

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

(a) Nonrecourse Deductions. Nonrecourse Deductions shall be allocated to the Members pro rata in proportion to the total number of such Units held by each such Member. If there is a net decrease in Company Minimum Gain during any Taxable Year, each Member shall be specially allocated items of taxable income or gain for such Taxable Year (and, if necessary, subsequent Taxable Years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Treasury Regulations Section 1.704-2(g). The items to be so allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(f)(6) and 1.704-2(j)(2). This paragraph is intended to comply with the minimum gain chargeback requirement in Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

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

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

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

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

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

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

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

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

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

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

(d) Manager's Authority. Any elections or other decisions relating to allocations for federal, state and local income tax purposes shall be made by the Manager in any manner that reasonably reflects the purpose and intent of this Agreement. Allocations pursuant to this Section 6.5 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, other items or Distributions pursuant to any provisions of this Agreement. The Members are aware of the income tax consequences of the allocations made by this Article and hereby agree to be bound by the provisions of this Article in reporting their shares of Company income and loss for income tax purposes.

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

## ARTICLE VII
## MANAGEMENT

7.1 **Managers**. The business and affairs of the Company shall be managed by the Manager. Unless removed, resigned or the provisions of Section 7.11 are applicable, the Manager hereunder shall be Neil Fleischman at all times during the term of this Agreement.

7.2 **Authority of the Manager**.

(a) General. Except for situations in which the approval of the Members is required by this Agreement, including Section 8.1 (Participation in Management) and Section 8.2 (Voting), or by the non-waivable provisions of applicable law, and subject at all times to Section 7.1 (Managers) and any fiduciary duties under Florida law, the Manager shall have exclusive, full and complete authority, power and discretion to make all decisions and take all actions for the Company, its business, affairs and properties not otherwise provided for in this Agreement, and to perform any and all other acts or activities customary or incident to the management of Company Business , including, but not limited to:

(i) Acquire, own, hold, construct, operate, maintain and improve real or personal property in the Company's name;

(ii) Borrow money in the Company's name from financial institutions, the Manager, the Members or their Affiliates, on such terms as the Manager deems appropriate, and in connection therewith, to hypothecate, mortgage, encumber and grant security interests in Company assets to secure repayment of the borrowed sums, and to execute for and on the Company's behalf any Financing Instruments as may be reasonably required to accomplish the same;

(iii) Pay or prepay, in whole or in part, refinance, amend, modify or extend any Financing Instruments affecting Company assets and in connection therewith to execute for and on the Company's behalf any extensions, renewals or modifications of such Financing Instruments;

(iv) Purchase liability and other insurance to, among other things, protect the Company’s property and any Person who is or was serving as a Covered Person;

(v) Invest Company funds in time deposits, short-term governmental obligations, commercial paper or other investments;

(vi) Purchase or sell any real estate in any class or sector, non-real estate assets or securities (whether preferred or common equity, convertible security or other security) in any company;

(vii) Make and execute any loans and other debt financings which may or may not be collateralized or other assets including mortgages, senior secured loans, subordinated and mezzanine loans and other structured financing transactions;

(viii) Make and implement all investment policies and procedures;

(ix) Conduct all functions of any kind related to the day to day management;

(x) Sell, exchange or otherwise dispose of Company assets in the ordinary course of business as part of a single transaction or plan, so long as such transaction is not a sale of all or substantially all of the Company’s property and does not violate or cause a default under any agreement to which the Company may be bound;

(xi) Execute on the Company's behalf all instruments and documents, including, without limitation, checks; drafts; Financing Instruments; documents providing for the acquisition or disposition of Company property; assignments and bills of sale; leases; and any other instruments or documents necessary or desirable to conduct the Company's business;

(xii) Select, employ, hire, fire, and determine compensation for employees, accountants, legal counsel, managing Agents, tradesmen, contractors, subcontractors or other Persons to perform services for the Company;

(xiii) Enter into any and all other agreements on the Company's behalf in reasonable furtherance of the Company's purpose and business, in such forms as the Managers may approve; and

(xiv) Perform all other acts necessary or appropriate to the conduct the Company's business and to the extent not specifically included above or not expressly excluded in the Agreement, the Manager is deemed to have full authority.

(b) Major Decisions. The following major decisions shall require only the approval of the Super Majority Members:

(i) approving, amending or abandoning a plan of conversion or merger of the Company wherein the Company is not the surviving entity, including in connection with a Company Sale;

(ii) disposing of all or substantially all of the Company's property outside the ordinary course of business, including in connection with a Company Sale or Liquidation Event;

(iii) dissolving and winding up the Company; and

(iv) filing a petition under the federal bankruptcy laws or under any other receivership, insolvency or reorganization laws.

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

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

7.5 **Manager Compensation; Reimbursement**. The Manager shall set forth reasonable compensation and other remuneration for himself, any employees, consultants, contractors, professionals or others that perform services on behalf of the Company, consistent with market rates and his fiduciary

duties to the Company. To the extent that the Manager or his Affiliates incur expenses or advance funds on behalf of the Company, the Manager or Affiliate, as the case may be, shall be entitled to reimbursement of such funds, without interest, separate from and in addition to the rights to the income, gain, Losses, credits, deductions and Distributions of the Company as set forth in Article VI. The Manager will determine in good faith the reimbursable expenses that are allocable to the Company.

7.6 **Delegation of Duties**. The Manager may, from time to time, delegate to one or more Persons (including any officer as set forth in Section 7.7 (Officers)) such authority and duties as the Manager may deem advisable. The Manager also may assign titles to any Member or other individual and may delegate to such Member or other individual certain authority and duties. Any number of titles may be held by the same Member or other individual. Any delegation pursuant to this Section may be revoked at any time by the Manager.

7.7 **Officers.**

(a) Designation and Appointment. The Manager may (but need not), from time to time, designate and appoint one or more persons as an officer of the Company. An officer need not be a Member. Any officers so designated shall have such authority and perform such duties as the Manager may, from time to time, delegate to them. The Manager may assign titles (including chairperson, chief executive officer, president, vice president, secretary, assistant secretary, treasurer and assistant treasurer) to particular officers. Unless the Manager otherwise decides, if the title is one commonly used for officers of a business corporation formed, the assignment of such title shall constitute the delegation to such officer of the authority and duties that are normally associated with that office, subject to (i) any specific delegation of authority and duties made to such officer by the Manager pursuant to the third sentence of this Section 7.7(a) and (ii) any delegation of authority and duties made to one or more officers pursuant to the terms of Section 7.6 (Delegation of Duties). Each officer shall hold office until such officer's successor shall be duly designated and shall qualify or until such officer's death or until such officer shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same individual. The salaries or other compensation, if any, of the officers and agents (and the Manager) of the Company shall be fixed from time to time by the Manager in his sole discretion.

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

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

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

7.10 **Removal of Manager**. The Manager may be removed only for Cause (as defined below)"Cause" shall mean (i) fraud, embezzlement, or willful misconduct resulting in material harm to the Company, (ii) gross negligence in performing Manager duties, (iii) conviction of a felony, or (iv) material breach of this Agreement that remains uncured for 30 days after written notice. by the Super Majority Members and upon such removal, a new Manager shall be designated by the Super Majority Members.

7.11 **Death or Incapacity of Manager**. If the Initial Manager dies or becomes Incapacitated, the selection of a replacement Manager shall be by a vote of a Majority in Interest of the Members. If a Substitute Manager dies or becomes Incapacitated, the Initial Manager who named the Substitute Manager shall name the new Substitute Manager to replace the deceased or Incapacitated Substitute Manager. If a Manager who was appointed by a Majority in Interest of the Members dies or becomes Incapacitated, a new Manager to replace such deceased or Incapacitated Manager shall be appointed by a Majority in Interest of the Members

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

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

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

(c) Individual Capacity. Whenever the Manager makes a determination or takes or declines to take any other action in his individual capacity as opposed to in his capacity as Manager of the Company, whether under this Agreement or any other agreement contemplated hereby or otherwise, then the Manager is entitled, to the fullest extent permitted by law, to make such determination or to take or decline to take such other action free of any fiduciary duty or other duty existing at law, in equity or otherwise or obligation whatsoever to the Company, any Member, any other Person who acquires an interest in a Unit or any other Person who otherwise is bound by this Agreement, and the Manager shall not, to the fullest extent permitted by law, be required to act in good faith or pursuant to any other standard imposed

by this Agreement or any other agreement contemplated hereby or under the Act or any other law, rule or regulation or at equity. By way of illustration and not of limitation, whenever the phrases, "at the option of the Manager," "in his sole discretion" or some variation of those phrases, are used in this Agreement, it indicates that the Manager is acting in his individual capacity. For the avoidance of doubt, whenever the Manager votes or transfers Units he may own, or refrain from voting or transferring Units he may own, he shall be acting in his individual capacity.

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

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

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

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

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

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

(g) Manager's Determination. To the fullest extent permitted by law and notwithstanding any other provision of this Agreement or in any other agreement contemplated herein or applicable provisions of law or equity or otherwise, whenever in this Agreement the Manager is permitted or required to make a decision (a) in his "consent," "approval," "determination," "sole discretion" or "discretion" or under a grant of similar authority or latitude, or any variation thereof, the Manager shall be

entitled to act in his sole discretion and absolute discretion and to consider only such interests and factors as he desires, including his own interests, and shall have no duty or obligation to give any consideration to any interest of or factors affecting the Company or any other Person, or (ii) in his "good faith" or under another express standard, the Manager shall act under such express standard and shall not be subject to any other or different standard. If any questions should arise with respect to the operation of the Company that are not specifically provided for in this Agreement or the Act, or with respect to the interpretation of this Agreement, the Manager is hereby authorized to make a final determination with respect to any such question and to interpret this Agreement in good faith, and his determination and interpretation so made shall be final and binding on all parties. Notwithstanding any other provision of this Agreement, including the preceding provisions of this Section, the Manager shall comply with the implied contractual covenant of good faith and fair dealing.

## ARTICLE VIII
## MEMBERS

8.1 **Participation in Management**. No Member (in his, her or its capacity as such) has the authority or power to act for or on behalf of the Company, to do any act that would be binding on the Company or to make any expenditures on behalf of the Company, unless (a) such specific authority has been expressly granted to and not revoked from such Person by the Manager or (b) such specific authority has been expressly granted to such Person pursuant to this Agreement. Each Member shall take part in the management of the Company by exercising the voting and consent rights granted to such Member under this Agreement; provided however that any Member that does not have voting rights will have no ability to participate in an action or decision of the Company except to the extent specifically provided in this Agreement or pursuant to applicable law.

8.2 **Voting**.

(a) General. Each Class A Common Unit shall entitle the Member owning such Class A Common Unit to one (1) vote on any matter to be voted on by the Members as provided in this Agreement or required by applicable law. If a Member owns a fractional Unit, then the Member owning such fractional Unit shall be entitled to a corresponding fractional vote with respect to such fractional Unit (e.g., if a Member owns 1.5 Units, then such Member will be entitled to 1.5 votes).

(b) Voting. The consent or affirmative vote of Members holding a Super Majority in Interest of the Members shall be required to take the following actions:

(i) subject to Section 14.5 (Amendment), amending this Agreement; and

(ii) appointing a Person to wind up the Company when there is no Manager.

8.3 **Member Meetings**.

(a) Calling of Meetings. Meetings of the Members for any proper purpose or purposes may be called at any time by a majority of the members of the Manager or by Members holding a Majority in Interest of the Members. If not otherwise stated in or fixed in accordance with the remaining provisions hereof, the record date for determining Members entitled to call a special meeting is the date any Member first signs the notice of that meeting. Only business within the purpose or purposes described in the notice (or waiver thereof) required by this Agreement may be conducted at a meeting of the Members.

(b) Place; Attendance. All meetings of the Members shall be held at the principal place of business of the Company or at such other place within or outside the State of Florida as shall be

specified or fixed in the notices or waivers of notice thereof; *provided,* that any or all Members may participate in any such meeting by means of conference telephone or similar communications equipment pursuant to Section 8.5.

(c) Notice. Written or printed notice stating the time, place and the purpose or purposes for which the meeting is called, shall be delivered not less than two (2) nor more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the Manager, to each Member entitled to vote at such meeting. If mailed, any such notice shall be deemed to be delivered three (3) days after being postmarked and deposited in the United States mail, addressed to the Member at its address provided for in Section 14.2, with postage thereon prepaid or the next day when sent by overnight delivery service.

(d) Quorum; Proxies and Voting. A Majority in Interest of the Members shall constitute a quorum if present in person or by proxy. At any meeting of the Members, a Member may vote by proxy executed in writing by the Member or by his, her or its duly authorized attorney in fact. Such proxy shall be filed with the Company before or at the time of the meeting. Unless otherwise provided therein, a proxy shall not be valid more than three (3) years after the date of its execution. Except as otherwise expressly provided in this Agreement, each Company matter not within the purview of the Manager's duties and powers shall be decided by the affirmative vote of a majority of the Units present at a meeting of Members at which a quorum is present and such vote shall be the act of the Members.

(e) Procedural Rules Governing Voting. In the absence of fraud or bad faith, no vote by the Members on any Company matter shall be deemed to be invalid for lack of notice, lack of meeting or failure to record votes. Members may vote on Company matters in person, by phone, by fax or by any other reasonable means.

(f) Fixing of Record Date. The date on which notice of a meeting of Members is actually mailed or the date on which the resolution of the Manager declaring a Distribution is adopted, as the case may be, shall be the record date for the determination of the Members entitled to notice of or to vote at such meeting, provided that this date is at least 15 days prior to the meeting (including any adjournment thereof) or the Members entitled to receive such Distribution.

(g) Power to Adjourn. Notwithstanding the other provisions of the Certificate or this Agreement, the chairperson of the meeting or the Members holding a majority of the Interests present at the meeting being adjourned shall have the power to adjourn such meeting from time to time, without any notice other than announcement at the meeting of the time and place of the holding of the adjourned meeting. If a meeting is adjourned, the time and place at which the adjourned meeting is to be resumed shall be determined by a vote of the Members holding a majority of the Interests present at the meeting being adjourned. Upon the resumption of such adjourned meeting, any business may be transacted that might have been transacted at the meeting as originally called.

(h) Telephonic Meetings. Any meetings of the Members may be held, or any Member may participate in any meeting of the Members, by use of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other and communicate with each other and participation in such meeting shall constitute attendance and presence "in person" at such meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(i) Presumption of Assent. A Member who is present at a meeting of the Members shall be conclusively presumed to have assented to any action taken unless his/her/its dissent can be expressed at any point during the meeting and entered in the minutes of the meeting.

(j) Waiver of Notice. Whenever written notice is required to be given to the Members, a written waiver thereof, in a format prescribed by the Company, signed and delivered by each Member to the Company at least 48 hours prior to the meeting entitled to such notice (whether, in the case of notice of a meeting, the written waiver thereof is signed before or after the meeting) shall be in all respects tantamount to notice. Attendance of a Member at a meeting of the Members shall constitute a waiver of notice of such meeting, except where a Member attends a meeting for the express purpose of objection to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

8.4 **Conduct of Meetings**. XXXXXX shall preside as Chairperson at all meetings of the Members, or in his absence, the Members attending the meeting shall elect a chairperson of the meeting from amongst themselves by a majority vote. The Secretary of the Company shall act as secretary of all meetings of the Members and keep the minutes. In the absence of the Secretary, the chairperson of the meeting may appoint a person from among the members or the Company's staff to act as the secretary of the meeting.

8.5 **Action by Written Consent or Telephone Conference**.

(a) Action by Written Consent. Any action required or permitted to be taken at any meeting of the Members may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, in a format prescribed by the Company, setting forth the action so taken, shall be signed and delivered by the Member or Members to the Company within a reasonable time frame as determined by the Company holding not less than the minimum percentages of Units of each class of Units that would be necessary to take such action at a meeting at which all Members entitled to vote on the action were present and voted.

(b) Fixing of Record Date. The record date for determining Members entitled to consent to an action in writing without a meeting shall be the date on which the Company actually circulates to the Members for signature the written consent setting forth the action taken or proposed to be taken, provided that this date is at least 10 days prior to the action being taken.

(c) Procedure. All written consents shall bear the date of signature of each Member who signs the consent. No written consent shall be effective to take the action that is the subject of the consent unless, within sixty (60) days after the date of the earliest dated consent delivered to the Company in the manner required by this Section, a consent or consents signed by the Member or Members holding not less than the minimum percentages of Units or each class of Units that would be necessary to take the action that is the subject of the consent are delivered to the Company by delivery to its registered office, its principal place of business or the Manager. Delivery shall be by hand or certified or registered mail, return receipt requested. Delivery to the Company’s principal place of business shall be addressed to the Manager. A photographic, photostatic, facsimile or similar reproduction of a writing signed by a Member, shall be regarded as signed by the Member for purposes of this Section, provided that the Company has taken reasonable steps to verify the authenticity of the signature.

(d) Notice of Action. Written notice of the taking of any action by Members without a meeting by less than unanimous written consent shall be provided to those Members by mail or electronic communication entitled to vote on such action and who did not consent in writing to the action within ten (10) days of obtaining sufficient authorization for the action.

8.6 **Right of Members to Bring Action**. No Member in the Member's capacity as a Member may bring a suit or action against the Company or against any other Member in the other Member's capacity as a member in any court for any reason. No Member may bring a suit or action against any Person in the name of or on behalf of the Company except with the affirmative vote of Members collectively holding in excess of seventy-five percent (75.0%) of the outstanding Units, not including Units of a defaulted Member(s).

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

8.8 **A Member's Duty of Loyalty**. Each Member agrees: (a) to account to the Company and hold as trustee for the Company any property, profit or benefit derived by such Member in the conduct and winding up of the Company business or derived from the use by the Member of Company property, including the appropriation of a Company opportunity, and (b) to refrain from dealing with the Company in the conduct or winding up of the Company business on behalf of a party having an interest adverse to the Company. Any breach of this duty of loyalty may result in the Member being liable for any damages incurred by the Company as a result of the breach and may result in the Member's expulsion from the Company.

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

8.10 **Related Party Transactions**. The Company may transact business with a Director or Member or officer or any Affiliate thereof *provided,* that (i) the Members are made aware of the material facts as to the relationship of the party to the Company and (ii) a determination by the Manager that the contract or transaction made is fair as to the Company as of the time it is executed and delivered.

## ARTICLE IX
## LIMITED LIABILITY, EXCULPATION AND INDEMNIFICATION

9.1 **Limited Liability of Members**.

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

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

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

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

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

forth in this Section) brought by such Person. It is expressly acknowledged that the indemnification provided in this Article could involve indemnification for negligence or under theories of strict liability.

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

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

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

9.7 **Appearance as a Witness**. Notwithstanding any other provision of this Article, the Company may pay or reimburse expenses incurred by a Covered Person in connection with the appearance as a witness or other participation in a Proceeding at a time when the Covered Person is not a named defendant or respondent in the Proceeding.

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

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

9.10 **Savings Clause**. If this Article or any portion hereof shall be invalidated on any ground

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

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

## ARTICLE X
## TAX MATTERS

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

10.2 **Tax Matters Representative**. Unless and until the Members shall unanimously agree otherwise, Neil Fleischman shall be the "tax matters partner" of the Company pursuant to Section 6231(a)(7) of the Code (the "**Tax Matters Representative**"). If for any reason the position of "tax matters partner" becomes vacant, such position shall be filled by the majority vote of the Manager.

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

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

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

(d) Survival of Provisions. The provisions of this Section shall survive the termination of the Company or the termination of any Member's interest in the Company and shall remain binding on the Members for as long a period of time as is necessary to resolve with the Internal Revenue Service any and all matters regarding the Federal income taxation or other taxes of the Company or the Members.

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

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

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

(ii) the Company shall reduce distributions which would otherwise be made to the Indemnifying Member, until the Company has recovered the amount to be indemnified (and, notwithstanding Section 5.1, the amount withheld shall not be treated as a Capital Contribution).

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

## ARTICLE XI
## BOOKS AND RECORDS; REPORTS AND CONFIDENTIALITY

11.1 **Maintenance of Books**.

(a) Books and Records. The Company will maintain true, complete and correct books of account of the Company, all in accordance with generally accepted accounting principles applied on a consistent basis and shall keep minutes of the proceedings of, or maintain written consents executed by, the Members and the Manager. The books of account shall contain particulars of all monies, goods or effects belonging to or owing to or by the Company, or paid, received, sold or purchased in the course of the business, and all such other transactions, matters and things relating to the business of the Company as are usually entered in books of accounts kept by Persons engaged in a business of a like kind and character. In addition, the Company shall keep all records required to be kept pursuant to the Act. Any Member shall, upon prior written notice and during normal business hours, have access to the information described in the Act, for the purpose of inspecting or, at the expense of such Member, copying the same. Any Member reviewing the books and records of the Company pursuant to the preceding sentence shall do so in a manner which does not unduly interfere with the conduct of the business of the Company.

(b) Schedule of Members. The Company will maintain, and as required update, the Schedule of Members without the need for any further action, consent or approval by any of the Members. Unless otherwise determined by the Manager, the Schedule of Members will be and remain confidential, and each Member hereby accepts, acknowledges and agrees that, notwithstanding anything herein to the contrary, to the maximum extent permitted by law, such Member will have no right to view or obtain the Schedule of Members or otherwise obtain any such information relating to any Member other than himself or herself.

(c) Form of Records. Any records maintained by the Company in the regular course of its business, including the Schedule of Members, books of account, and records of Company proceedings may be kept on, or be in the form of, computer disks, memory chips or any other information storage device; *provided,* that the records so kept can be converted into clearly legible written form within a reasonable period of time, not to exceed five (5) business days. The Company shall ensure that all such records are stored securely with industry-standard encryption and that appropriate cybersecurity measures are in place to prevent unauthorized access, including regular backups and disaster recovery procedures.

11.2 **Reports**.

(a) Tax Information. The Company shall prepare and deliver (via mail, electronically, fax or other means of communication) to each Member and, to the extent necessary, to each former Member (or such Member's legal representatives), a report setting forth in sufficient detail such information as shall enable such Member or former Member (or such Member's legal representatives) to prepare its respective federal, state and local income tax returns in accordance with the laws, rules and regulations then prevailing. The Company shall also provide Form K-1s to each of the Members as soon as reasonably practicable after the end of each Taxable Year.

(b) Cost of Reports; No Additional Information.

(i) The Company shall bear the costs of all reports and other information provided pursuant to this Section.

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

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

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

11.4 **Confidentiality**. Each Member recognizes and acknowledges that it may receive certain confidential and proprietary information and trade secrets of the Company, including but not limited to confidential information of the Company regarding identifiable, specific and discrete business opportunities being pursued by the Company, financial information, customer data, technical information, business strategies, and intellectual property (collectively, the "**Confidential Information**"). Each Member , including its directors, officers, shareholders, partners, employees, agents and members (collectively, the "Affiliated Parties"), agrees that neither it nor its Affiliated Parties will, during or after the term of this Agreement, take commercial or proprietary advantage of or profit from any Confidential Information or

disclose Confidential Information to any Person for any reason or purpose whatsoever, except (i) to authorized representatives and employees of the Company and as otherwise may be proper in the course of performing such Member's obligations, or enforcing such Member's rights, under this Agreement; (ii) as part of such Member's normal reporting or review procedure, or in connection with such Member's or such Member's Affiliates' normal fund raising, marketing, informational or reporting activities, or to such Member's (or any of its Affiliates') Affiliates, employees, auditors, attorneys or other agents; (iii) to any bona fide prospective purchaser of the equity or assets of such Member or its Affiliates or the Units held by such Member, or prospective merger partner of such Member or its Affiliates, *provided,* that such purchaser or merger partner agrees to be bound by the provisions of this Section 11.4; or (iv) as is required to be disclosed by order of a court of competent jurisdiction, administrative body or governmental body, or by subpoena, summons or legal process, or by law, rule or regulation; *provided,* that the Member required to make such disclosure shall provide to the Manager prompt prior notice of such requirement. For purposes of this Section, Confidential Information shall not include any information of which (x) such Person became aware prior to its affiliation with the Company, or (y) such Person learns from sources other than the Company (*provided* that such Person does not know or have reason to know, at the time of such Person's disclosure of such information, that such information was acquired by such source through violation of law, or breach of contractual confidentiality obligations or breach of fiduciary duties). Nothing in this Section shall in any way limit or otherwise modify any confidentiality covenants entered into by the Company's employees with the Company, provided that in the event of any conflict between the terms of this Section and such covenants, the more restrictive terms shall prevail.

## ARTICLE XII
## TRANSFERS; ADMISSION OF MEMBERS

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

12.2 **Permitted Transfers**.

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

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

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

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

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

*provided,* that the transferee in each case is otherwise qualified to be a Member pursuant to the terms of this Agreement, complies with the provisions for membership set forth in this Agreement, and/or required

by the Manager from time to time, and provides the Company with a written agreement to be bound by the terms of this Agreement.

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

12.3 **Third Party Offer; Right of First Refusal**.

(a) Third Party Offer. Notwithstanding the foregoing, if a Class A Member (the "**Selling Party**") receives a bona fide written offer to purchase all, but not less than all, of such Class A Member's Units in the Company from a third party (the "**Third Party Offer**"), and such Selling Party desires to sell all, but not less than all, of such Class A Member's Units in the Company, the Selling Party shall first give written notice (the "**Offer Notice**") to the other Members (other than Series A Preferred Members) stating that the Selling Party desires to sell all of its Units in the Company (the "**Offered Interests**") for the price and pursuant to the terms of the Third Party Offer, a full description of which shall be attached to the Offer Notice.

(b) Right of First Refusal. The other Class A Members (other than the Series A Preferred Members) shall have the option to purchase in proportion to their relative Membership Percentages or as they may otherwise mutually determine between themselves, all, but not less than all of the Offered Interests at a purchase price equal to the lower of the price contained in the Third Party Offer or the Fair Value of the Units and otherwise in accordance with terms substantially equivalent to those terms set forth in the Third Party Offer, such option to be exercised by delivery of written notice of acceptance to the Selling Party within twenty (20) Business Days from each Member's receipt of the notice and description of the Third Party Offer with closing to occur no later than 90 days from thereafter. (The fair market value of such Units shall be determined by the Company's then accounting firm, which determination shall be conclusive and binding on the parties hereto. In the event the Company's then accounting firm cannot or will not make such determination, then the Company shall retain the services of an appraiser at its expense to make such determination. In the event the Member proposing the Transfer is dissatisfied with such determination, such Member may, at his/her/its expense, retain the services of another appraiser to make such determination. Should there be a difference between the two determinations of fair market value, the Company and the Member proposing the Transfer agree that the fair market value shall be equal to the average of such two determinations.)

(c) Third Party Offer Sale. If, at the expiration of the twenty (20) Business Day period, the other Class A Members (other than the Series A Preferred Members) have not exercised their option to purchase all of the Offered Interests, then the Selling Party shall be free to sell the Offered Interests to the Person named in the Third Party Offer; *provided,* that such sale is on the same terms and conditions as set forth in the Third Party Offer, such sale is consummated within ninety (90) days of the date of the Offer Notice and such sale complies in all respects with applicable federal and state securities laws, the terms of this Agreement and any other provisions that the Manager and/or Company counsel believe necessary to protect the interests of the Company and its Members. In the event the sale is to be consummated on terms other than as set forth in the Third Party Offer, such terms shall be deemed to be a new Third Party Offer which must be offered to the other Members in accordance with this Section.

12.4 **Tag Along Right**.

(a) Tag Along Sale. In the event of a proposed Transfer of Common Units representing more than fifty percent (50.0%) of the outstanding Common Units (such Member(s), the "**Majority Member(s)**") to one or more purchasers (the "**Tag Purchaser(s)**") in one or more transactions or series of related transactions (any such transaction or transactions, a "**Tag Along Sale**"), the Majority Members shall give the Company and the other Class A Members (such other Members, the "**Minority Class A Members**") other than Series A Preferred Members written notice of the proposed Tag Along Sale at least thirty (30) days prior to the proposed closing date for the Tag Along Sale (the "**Tag Notice**").

(b) Tag Notice. The Tag Notice shall set forth in reasonable detail the terms and conditions of the Tag Along Sale, including (i) the number of Units to be Transferred in the Tag Along Sale; (ii) the name and address of the Tag Purchaser(s) (*provided*, that the disclosure of such information is permitted by the Tag Purchasers(s); (iii) the proposed purchase price per Unit, the terms of payment and other material terms and conditions of the Tag Along Sale; and (iv) an estimate of the value of any non-cash consideration offered by the Tag Purchaser(s) in the Tag Along Sale.

(c) Exercise. The Minority Class A Members shall have the right for a period of fourteen (14) days after the Tag Notice is given (the "**Tag Exercise Period**") to participate in the Tag Along Sale for the same form of consideration, at the same price per Unit and on the same other terms and conditions applicable to the Majority Member(s) by delivering written notice to the Majority Member(s) of such Minority Class A Member's election to participate in the Tag Along Sale (each participating Minority Class A Member, a "**Tagging Member**") prior to the expiration of the Tag Exercise Period. Each Tagging Member shall be entitled to his/her/its proportionate share of Units.

(d) Conditions. With respect to any contemplated Tag Along Sale, the Majority Member(s) shall use commercially reasonable efforts to obtain the agreement of the prospective Tag Purchaser(s) to the participation of the Tagging Members in the Tag Along Sale and the Majority Members shall not be permitted to sell their Units in the Tag Along Sale to the Tag Purchaser(s) unless the Tag Purchaser(s) agrees to purchase a proportionate amount of Units from the Tagging Members pursuant to the same terms and conditions the Tag Purchaser(s) is purchasing Units from the Majority Members. If a prospective Tag Purchaser(s) refuses to purchase Units from a Tagging Member, the Majority Member(s) shall not sell any Units to such prospective Tag Purchaser(s) unless and until, simultaneously with such sale, the Majority Member(s) shall purchase Units from the Tagging Members for the same consideration and on the same terms and conditions as the Tag Along Sale described in the Transfer Notice. Each Tagging Member that is participating in the Tag Along Sale shall agree as follows:

(i) to become party to the agreement between the Majority Members and the Tag Purchaser(s), which agreement shall be in form and substance as agreed to by both the Majority Members and the Tagging Members and pursuant to which each Tagging Member will make several and not joint representations and warranties solely regarding his/her/its (A) title to and ownership of the Units to be Transferred by such Tagging Member pursuant to such agreement (including his/her/its ability to convey title free and clear of liens, encumbrances or adverse claims and reasonable covenants regarding confidentiality, publicity and similar matters), (B) authority or power to enter into such agreement and consummate or participate in the transaction in question and (C) other matters particular to a Tagging Member and customary for the type of transaction being consummated;

(ii) to pay his/her/its pro rata share (based on and not to exceed the aggregate proceeds to be paid with respect to the Units of the Tagging Member) of the expenses incurred by such Tagging Member and the Majority Member(s) in connection with such Transfer, unless otherwise agreed upon by the Majority Members and the Tagging Members; and

(iii) to join in his/her/its pro rata share of any indemnification or other obligations that the Majority Member(s) agrees to provide in connection with such Tag Along Sale (including any escrow, holdback or other similar arrangement); *provided*, *however*, that such obligation shall not exceed the aggregate proceeds received by such Tagging Member pursuant to such agreement.

(e) Consummation of Tag Along Sale. If, at the expiration of the Tag Exercise Period, the Minority Class A Members have not exercised their option to participate in the Tag Along Sale, then the Majority Members shall be free to sell their Units to the Tag Purchaser(s); *provided,* that such sale is on the same terms and conditions as set forth in the Tag Notice, such sale is consummated within ninety (90) days of the date of the Tag Notice and such sale complies in all respects with applicable federal and state securities laws. In the event the sale is to be consummated on terms other than as set forth in the Tag Notice, such terms shall be deemed to be a new Tag Along Sale which must be offered anew to the Minority Members in accordance with this Section.

12.5 **Drag Along and Related Obligations**.

(a) General. Notwithstanding anything contained herein to the contrary, if the Manager and a Majority in Interest of the Members approve a Liquidation Event, then each Member hereby agrees with respect to all securities of the Company which it own(s) or otherwise exercises voting or dispositive authority:

(i) in the event such transaction is to be brought to a vote at a meeting of the Members, after receiving proper notice of any meeting of the Members of the Company to vote on the approval of a Liquidation Event, to be present, in person or by proxy, as a holder of shares of voting securities, at all such meetings and be counted for the purposes of determining the presence of a quorum at such meetings;

(ii) to vote (in person, by proxy or by action by written consent, as applicable) all Units of the Company as to which it has beneficial ownership in favor of such Liquidation Event and in opposition of any and all other proposals that could reasonably be expected to delay or impair the ability of the Company to consummate such Liquidation Event, unless such other proposals are in the best interest of the Company and its Members;

(iii) to refrain from exercising any dissenters' rights or rights of appraisal under applicable law (including, without limitation, under the Act) at any time with respect to such Liquidation Event;

(iv) to execute and deliver all documents and instruments and take such other action in support of the Liquidation Event as shall reasonably be requested by the Company, including to become party to the agreements necessary to consummate the type of transaction being consummated, including any applicable purchase agreement, stockholders agreement, indemnification and/or contribution agreement, which agreements shall be in form and substance as negotiated and agreed to by the Manager and/or the Majority Members, as the case may be, and pursuant to which the Members may make several and not joint representations and warranties solely regarding his/her/its (A) title to and ownership of the Units to be Transferred pursuant to such agreement (including his/her/its ability to convey title free and clear of liens, encumbrances or adverse claims and reasonable covenants regarding confidentiality, publicity and similar matters), (B) authority or power to enter into such agreement and consummate or participate in the transaction in question and (C) other matters particular to a Member and customary for the type of transaction being consummated;

(v) to take, at the expense of the Company, all reasonably necessary actions in connection with the consummation of the Liquidation Event as requested by the Manager, including executing and delivering any and all consents, waivers and other documents executed by the Company or the Majority Member(s), as the case may be; and

(vi) to join in his/her/its proportionate share of any indemnification or other obligations agreed to be provided in connection with the type of transaction being consummated (other than any such obligations that relate specifically to a particular Member such as indemnification with respect to representations and warranties given by a Member regarding such specific Member's title to and ownership of Units); *provided*, *however*, that such obligation shall not exceed his/her/its aggregate proceeds received by a Member from the Liquidation Event, including both the principal amount and any potential interest or other charges that might accrue.

(b) Voting. During the term of this Agreement, each of the Members agrees to vote all Units now or hereafter owned by such Member, whether beneficially or otherwise, or as to which such Member has voting power at a regular or special meeting of the Members (or by written consent) in accordance with the provisions of this Section. Upon the failure of any Member to vote their Units in accordance with the terms of this Section, such Member hereby grants to the Company a proxy coupled with an interest in all Units owned by such Member, which proxy shall be revocable at any time by the Member, to vote all such Units at a regular or special meeting of the Members (or by written consent) as necessary or required to effect the transactions contemplated by this Section. Notwithstanding the foregoing, no Member shall be required to vote in the manner described by this Section unless the net proceeds of such Liquidation Event are to be distributed to Members of the Company in accordance with Section 6.2(a) hereof.

(c) Conditions. The obligations of the Members with respect to a Liquidation Event are subject to the satisfaction of the following conditions: (i) upon the consummation of the Liquidation Event, each Member shall receive the same portion of the aggregate consideration that such Member would have received if such aggregate consideration had been distributed by the Company in complete liquidation pursuant to the rights and preferences set forth in this Agreement as in effect immediately prior to such Liquidation Event (giving effect to applicable orders of priority); and (ii) upon the consummation of any such Liquidation Event, all the Members shall receive (or shall have the option to receive) the same form of consideration.

(d) Specific Enforcement. It is agreed and understood that monetary damages would not adequately compensate an injured Member for the breach of this Section by any other Member, that this Section shall be specifically enforceable and that any breach or threatened breach of this Section shall be the proper subject of a temporary or permanent injunction or restraining order. Further, each Member waives any claim or defense that there is an adequate remedy at law for such breach or threatened breach.

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

12.7 **Effect of Valid Transfer**.

(a) Assignment. A Transfer of Units permitted hereunder shall be effective as of the date of assignment and compliance with the conditions to such Transfer, provided that the Manager has

received written notice of such assignment and has had a reasonable opportunity to verify the validity of such Transfer. Profits, Losses and other Company items shall be allocated between the assignor and the assignee according to Code Section 706, using the "interim closing of the books" or the "daily proration" method selected by the Manager. Distributions made before the effective date of such Transfer shall be paid to the assignor, and Distributions made after such date shall be paid to the assignee.

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

(c) Rights and Obligations of Assignee. Unless and until an assignee becomes a Substitute Member pursuant to Section 12.8, the assignee shall not be entitled to any of the rights granted to a Member hereunder or under applicable law, other than the rights granted specifically to assignees pursuant to this Agreement or pursuant to the Act; *provided,* that without relieving the assigning Member from any such limitations or obligations, as more fully described in Section 12.7(e) hereof, such assignee shall be bound by any limitations and obligations of a Member contained herein by which a Member would be bound on account of the assignee's interest in the Company (including the obligation to make required Capital Contributions with respect to any Transferred Units).

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

(e) Rights and Obligations of Assignor. Any Member who shall assign any Units or other interest in the Company shall cease to be a Member of the Company with respect to such Units or other interest and shall no longer have any rights or privileges of a Member with respect to such Units or other interest, except that the applicable provisions of Article X (Tax Matters) shall continue to inure to the benefit of such Member in accordance with the terms thereof. Unless and until such an assignee is admitted as a Substitute Member in accordance with the provisions of Section 12.8 hereof, (i) such assigning Member shall retain all the duties, liabilities and obligations of a Member with respect to such Units or other interest, including, without limitation, the obligation (together with its assignee, pursuant to Section 12.7(c) hereof) to make and return Capital Contributions on account of such Units or other interest pursuant to the terms of this Agreement and (ii) the Manager may, in its discretion, reinstate all or any portion of the rights and privileges of such Member with respect to such Units or other interest for any period of time prior to the date such assignee becomes a Substitute Member. Nothing contained herein shall relieve any Member who Transfers any Units or other interest in the Company from any liability of such Member to the Company or the other Members with respect to such Units or other interest that may exist on the date such assignee becomes a Substitute Member or that is otherwise specified in the Act and incorporated into this Agreement or for any liability to the Company or any other Person for any present or future breaches of any representations, warranties or covenants by such Member (in its capacity as such) contained herein or in the other agreements with the Company.

12.8 **Admission of Substitute Member**.

(a) Admission. An authorized assignee of any Units or other interests in the Company of a Member, or any portion thereof, shall become a Substitute Member entitled to all the rights of a Member if and only if (i) the assignor gives the assignee such right; (ii) the Manager has granted its prior written consent to such assignment and substitution, if required, which consent may be withheld in the discretion of the Manager; (iii) such assignee shall execute and deliver a joinder agreement or counterpart signature page to this Agreement agreeing to be bound by all the terms and conditions of this Agreement; and (iv) such assignee shall execute such other documents and instruments as may be necessary or appropriate to effect such Person's admission as a Substitute Member, in a form satisfactory to the Manager. In the event of the admission of an assignee as a Substitute Member, all references herein to the assignor shall be deemed to apply to such Substitute Member, and such Substitute Member shall succeed to all the rights and obligations of the assignor hereunder; *provided,* that the assignor shall continue to remain subject to Section 11.4 (Confidentiality) and Section 12.7(e). Each Member agrees that, notwithstanding the Transfer of all or any portion of its interest in the Company, as between the Member as assignor and the Company, the Member as assignor shall remain liable to return any Distributions previously made to such Member if return of any such Distributions is required by any provision of this Agreement or the Act.

(b) Timing. Any such assignee will become a Substitute Member on the later of (i) the effective date of Transfer and (ii) the date on which all the conditions set forth in Section 12.8(a) have been satisfied. No further action or consent by the Members shall be required in connection with the admission of Substitute Members to the Company pursuant to Section 12.8(a).

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

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

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

12.9 **Admission of Additional Members**.

(a) Admission. A Person may be admitted to the Company as an additional Member only as contemplated under Section 3.5(b)(i) (Additional Capital – Other) or Section 3.7 (Additional Units) hereof and only if such additional Member shall execute and deliver a counterpart of this Agreement agreeing to be bound by all the terms and conditions of this Agreement, and such other documents and instruments as may be necessary or appropriate to effect such Person's admission as an additional Member, in a form satisfactory to the Manager. Such admission shall become effective on the date on which the

Manager determines in its discretion that such conditions have been satisfied and when any such admission is shown on the books and records of the Company. No action or consent by Members shall be required in connection with the admission of new Members to the Company.

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

12.10 **Death, Incapacity or Bankruptcy of a Member.**

(a) General. If a Member dies, becomes Incapacitated or a Bankrupt Member (the "**Designated Member**"), the remaining Member or Members (the "**Remaining Members**") shall forthwith become vested with the exclusive obligation, in proportion to their relative Membership Percentages, to purchase the entire right, title and interest of the Designated Member at a purchase price equal to the Fair Value of such interest; *provided*, *however*, that such calculation of Membership Percentages shall be made assuming that all Units owned by the Designated Member were distributed to all the Remaining Members pro rata in proportion to their then current Membership Percentages.

(b) Fair Value. The Remaining Members succeeding to the entire right, title and interest of the Designated Member shall pay to such Designated Member (or his/her/its legal representative) the Fair Value thereof within ninety (90) days of the death of the Designated Member or the Designated Member's becoming Incapacitated or a Bankrupt Member (such date, the "**Purchase Date**"); *provided*, that the Fair Value shall be determined as of a date that is at least thirty (30) days prior to the Purchase Date. In the event the Fair Value is determined by independent appraisal, the cost of the appraisal shall be shared equally between the Remaining Members and the Designated Member; *provided*, *further* that payment of Fair Value may be made, subject to the agreement of the Designated Member or their legal representative, in cash or by an unsecured, 8% interest rate per annum twenty-four (24) month promissory note, or such other rate as may be required to comply with applicable usury laws.

(c) Designated Member's Obligations. A Designated Member (or his/her/its legal representative) whose entire right, title and interest is to be purchased and succeeded to by the Remaining Members pursuant to this Section shall, on or before the Purchase Date, execute and deliver such deeds, bills of sale, and other instruments as may be necessary and reasonable, as determined by legal counsel, to effect the conveyance and Transfer of the entire right, title, and interest of such Designated Member in the Company to effect the conveyance and Transfer of the entire right, title and interest of such Designated Member in the Company and shall, to the extent requested by the Remaining Members, cooperate to effect a smooth and efficient continuation of the Company affairs.

(d) Bankrupt Member. If a Bankrupt Member (or his/her/its legal representative) disputes the right of the Remaining Members to purchase and succeed to the Bankrupt Member's entire right, title and interest in the Company, such Bankrupt Member (and his/her/its legal representative) shall nevertheless execute instruments and cooperate with the Remaining Members pursuant to the immediately preceding sentence, without, however, being deemed to have waived his/her/its rights to damages if the Remaining Members shall have purchased and succeeded to the interest of the Bankrupt Member under this Section without having the right to do so.

## ARTICLE XIII
## DISSOLUTION, LIQUIDATION AND TERMINATION

13.1 **Dissolution**.

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

(i) approval of the Manager and of Members holding a Majority in Interest of the Members;

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

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

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

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

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

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

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

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

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

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

(d) *fourth*, if applicable, to the holders of each series of Preferred Units, in such amount and with such allocation as set forth in Section 4.3d; and

(e) *thereafter*, to the Common Members in accordance with Section 6.2(a);

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

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

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

13.7 **Liquidating Trustee**.

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

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

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

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

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

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

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

## ARTICLE XIV
## GENERAL PROVISIONS

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

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

To the Company
or the Manager c/o its 3rd
Party Administrator:
c/o Industry FinTech Inc
20900 NE 30th Ave
Suite 510
Aventura, FL 33180

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

14.3 **Entire Agreement**. This Agreement and the Subscription Agreements (including all exhibits and schedules thereto) contain the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, arrangements, understandings, proposals, representations and warranties with respect thereto. This Agreement can be modified only in writing and signed by all applicable parties as set forth in Section 14.5.

14.4 **Effect of Waiver or Consent**. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person with respect to the Company. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute of limitations period has run, unless expressly agreed upon in writing by the Company.

14.5 **Amendments**.

(a) General. This Agreement may be amended or modified from time to time only by a written instrument adopted by the Manager, reviewed by the Company's legal counsel, and executed and agreed to by Members holding the required number of Units set forth herein; *provided, however*, that (i) an amendment or modification reducing disproportionately a Member's Units or other interest in Profits, Losses or Distributions or increasing a Member's Capital Contribution shall be effective only with that Member's consent and (ii) an amendment or modification reducing the vote required for any consent or vote in this Agreement shall be effective only with the consent or vote of Members having the Units theretofore required.

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

(i) to correct any mistake, clerical, technical or other errors, cure any ambiguity or omission in this Agreement, make an inconsequential revision, provide clarity or to correct or supplement any provision herein that may be defective or inconsistent with any other provisions of this Agreement or to effect the intent of the provisions of this Agreement or that is otherwise contemplated by this Agreement;

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

(iii) the creation, authorization and/or issuance of additional Units or other limited liability company interests in the Company;

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

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

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

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

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

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

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

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

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

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

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

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

14.7 **Governing Law; Severability**. THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, EXCLUDING ANY CONFLICT OF LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the rules of the American Arbitration Association, with the location of arbitration to be Miami, Florida, unless otherwise specified in Section 14.9. In the event of a direct conflict between the provisions of this Agreement and any provision of the Certificate or any mandatory provision of the Act, the applicable provision of the Certificate or the Act shall control. If any provision of this Agreement or the application

thereof to any Person or circumstance is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other Persons or circumstances shall not be affected thereby and that provision shall be enforced to the greatest extent permitted by law.

14.8 **Jurisdiction; Venue**. Except as provided in Section 14.9, any action or proceeding against the parties relating in any way to this Agreement may be brought and enforced only in the courts of the State of New York, and the parties irrevocably submit to the jurisdiction of such courts in respect of any such action or proceeding. The parties irrevocably waive, to the fullest extent permitted by law, any objection that they may now or hereafter have to the laying of venue of any such action or proceeding in the state or federal courts of the State of New York located in New York, NY and any claim that any such action or proceeding brought in any such court has been brought in any inconvenient forum. To the fullest extent permitted by law, the parties hereby irrevocably consent to the service of process of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to it at its address as set forth herein. Nothing herein shall affect the right of the parties to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against any other party in any other jurisdiction.

14.9 **Waiver of Jury Trial; Expedited Arbitration**. BECAUSE DISPUTES ARISING IN CONNECTION WITH COMPLEX FINANCIAL TRANSACTIONS ARE MOST QUICKLY AND ECONOMICALLY RESOLVED BY AN EXPERIENCED AND EXPERT PERSON AND THE PARTIES WISH APPLICABLE LAWS TO APPLY (RATHER THAN ARBITRATION RULES), THE PARTIES DESIRE THAT THEIR DISPUTES BE RESOLVED BY A JUDGE APPLYING SUCH APPLICABLE LAWS. THEREFORE, TO ACHIEVE THE BEST COMBINATION OF THE BENEFITS OF THE JUDICIAL SYSTEM AND OF ARBITRATION, THE PARTIES HERETO WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING BROUGHT TO ENFORCE OR DEFEND ANY RIGHTS OR REMEDIES UNDER THIS AGREEMENT OR ANY DOCUMENTS RELATED HERETO.

Any dispute between or among the Manager and the Members or any interpretation of this Agreement shall be submitted to expedited arbitration as provided below (but any damages must be resolved in a court described in Section 14.8). The prevailing party in any arbitration or litigation shall be reimbursed for its reasonable arbitration costs (including attorneys' fees) by the non-prevailing party, with no maximum limit on the reimbursement amount.

If any dispute arises concerning the interpretation, validity, or performance of this Agreement or any of its terms and provisions, including but not limited to the issue of whether or not a dispute is arbitrable, then the parties shall submit such dispute for binding determination before a retired judge selected from *JAMS/ENDISPUTE* or any similar organization mutually acceptable to the parties. The parties shall mutually agree on one arbitrator from the list provided by the arbitrating organization; *provided,* that if the parties cannot agree, then each party shall select one arbitrator from the list, and the two arbitrators so selected shall agree upon a third arbitrator chosen from the same list, which third arbitrator shall determine the dispute. The arbitration shall take place in Nassau County, NY, and shall be conducted in accordance with the then prevailing rules of the arbitrating organization, except as set forth in this Section 14.9. The parties shall have all the same rights of discovery as if the arbitration proceeding were a lawsuit in a court of New York. The arbitrator shall apply New York substantive law to the proceeding. The arbitrator shall, to the fullest extent permitted by law, have the power to grant all legal and equitable remedies, including provisional remedies, and award compensatory damages provided by law; however, the arbitrator may not order relief in excess of what a court could order. The arbitrator shall not have authority to award punitive or exemplary damages. The arbitrator shall prepare and provide the parties with a written award including factual findings and the legal reasoning upon which the award is based. The arbitrator shall not have the power to commit errors of law or legal reasoning or to make findings of fact except upon sufficiency of the

evidence. Any award that contains errors of law or legal reasoning or makes findings of fact except upon the sufficiency of the evidence exceeds the power of the arbitrator, and may be corrected or vacated as provided by applicable law in the courts described in Section 14.8. The arbitrator shall award costs and attorneys' fees in accordance with the terms and conditions of this Agreement. Any New York court having jurisdiction may enter judgment on the award rendered by the arbitrator, or correct or vacate such award as provided by applicable law. The parties understand that by agreement to binding arbitration they are giving up the rights they may otherwise have to trial by a court or a jury and all rights of appeal, and to an award of punitive or exemplary damages. Pending resolution of any arbitration proceeding, either party may apply to any New York court of competent jurisdiction for any provisional remedy, including but not limited to a temporary restraining order or a preliminary injunction, excluding however, any dispute relating to discovery matters, and for enforcement of any such order. The application for or enforcement of any provisional remedy by a party shall not operate as a waiver of the within agreement to submit a dispute to binding arbitration. Notwithstanding any provision of this Section 14.9 to the contrary, the failure of any Member or any member of the Manager to enter into, or answer a demand for, arbitration in accordance with this Section 14.9 shall grant the counterparty the right to a default judgment with respect to such dispute, which default judgment may be entered by any New York court having jurisdiction.

Notwithstanding any provision of this Agreement to the contrary, this Section shall be construed to the maximum extent possible to comply with the laws of the State of New York, including the New York General Arbitration Act (the "**New York Arbitration Act**"). If, nevertheless, it shall be determined by a court of competent jurisdiction that any provision or wording of this Section, including any rules of the American Arbitration Association, shall be invalid or unenforceable under the New York Arbitration Act, or other applicable law, such invalidity shall not invalidate all of this Section. In that case, this Section shall be construed so as to limit any term or provision so as to make it valid or enforceable within the requirements of the New York Arbitration Act or other applicable law and, in the event such term or provision cannot be so limited, this Section shall be construed to omit such invalid or unenforceable provision.

14.10 **Further Assurances**. In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions.

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

14.12 **Notice to Members of Provisions**. By executing this Agreement, each Member confirms that it has been given sufficient opportunity to review and understand all the provisions hereof (including, without limitation, the restrictions on Transfer set forth in Article XII), and all the provisions of the Certificate, and has sought independent legal advice where necessary.

14.13 **Remedies**. Each Member shall have all rights and remedies set forth in this Agreement and all rights and remedies which such Person has been granted at any time under any other agreement or contract and all the rights which such Person has under any law. Any Person having any rights under any provision of this Agreement or any other agreements contemplated hereby shall be entitled to enforce such rights specifically (with the requirement to post a bond or other security to be determined on a case-by-case basis), to recover damages by reason of any breach of any provision of this Agreement and to exercise all other rights granted by law.

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

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

14.16 **UCC Article 8 Election**. Each Unit of the Company shall constitute a "security" within the meaning of, and be governed by, (i) Article 8 of the Uniform Commercial Code (including Section 8-102(a)(15) thereof) as in effect on the date of this Agreement in the State of Florida, and (ii) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction that now or hereafter substantially includes the 1994 revisions to Article 8 thereof as adopted by the American Law Institute and the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association on February 14, 1995 and the Company hereby agrees to be bound by such provisions for the purpose of the Uniform Commercial Code.

14.17 **Creditors**. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company or any of its Affiliates, and no creditor who makes a loan to the Company or any of its Affiliates may have or acquire (except pursuant to the terms of a separate agreement executed by the Company in favor of such creditor) at any time as a result of making the loan any direct or indirect interest in Company Profits, Losses, Distributions, capital or property other than as a secured creditor.

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

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

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

***[Signature Page Follows]***

**SIGNATURE PAGE TO FIRST AMENDED AND RESTATED OPERATING AGREEMENT OF USA FUNDING LLC**

The undersigned hereby execute the First Amended and Restated Operating Agreement of USA Funding LLC, a Florida limited liability company, with effect from the date first above written.

**COMPANY:**

**USA FUNDING LLC**

By: Signed by: Neil Fleischman 577463F17EB244C...

Name: Neil Fleischman
Title: Authorized Member

**CLASS A COMMON MEMBERS:**

Benson Chiefs LLC

Signed by: Neil Fleischman 577463F17EB244C...

By: Neil Fleischman
Its: Authorized Representative

Champagne Ventures LLC

DocuSigned by: Nicholas Andreottola 4B92AAF49A0549F...

By: Nicholas Andreottola
Its: Authorized Representative

Gravagna Group LLC

DocuSigned by: CHRISTOPHER GRAVAGNA 9E4513526BBA4A3...

By: Christopher Gravagna
Its: Authorized Representative

**MANAGER**:

Signed by:
Neil Fleischman
577463F17EB244C...

Neil Fleischman

# JOINDER AGREEMENT

This Joinder Agreement ("Joinder") is executed by the undersigned pursuant to the terms of the First Amended and Restated Operating Agreement of USA Funding LLC (the "Company"), dated as of May 21, 2025, a copy of which has been provided to the undersigned and is incorporated herein by reference (the "Agreement"). By execution of this Joinder, the undersigned agrees as follows:

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

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

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

EXECUTED AND DATED on _____.

_____
Signature

Address for Notices:

_____

_____

Number of Units: _____

Type of Units: _____

**EXHIBIT A**

SCHEDULE OF MEMBERS
OF
**USA FUNDING LLC**
*(current as of June 10, 2025)*

| **Name** | **Number of Class A Common Units** | **Class A Common Membership Percentage** | **Number of Series A Preferred Units** | **Series A Membership Percentage** | **Aggregate Membership Percentage** |
|---|---|---|---|---|---|
| Gravagna Group LLC | 234,900 | 45% | - | - | 22.95% |
| Champagne Ventures LLC | 234,900 | 45% | - | - | 22.95% |
| Benson Chiefs LLC | 52,200 | 10% | - | - | 2.55% |
| New Investor | - | - | 500,000 | 100% | 49% |
| **TOTAL** | 522,000 | 100% | 500,000 | 100% | 100% |

# EXHIBIT C
# RISK FACTORS

**EXHIBIT C**

# CERTAIN RISK FACTORS

*strongly encouragAn investment in the Units offered hereby is highly speculative and involves a high degree of risk. Prospective investors should carefully consider whether they can afford the loss of their entire investment. Each investor is ed to consult with their own independent legal and financial advisors regarding the suitability of this investment, and acknowledges they have had the opportunity to do so. Each prospective investor, prior to making an investment decision, should carefully consider the following Risk Factors in addition to, and in conjunction with, all of the other information provided in and with the Subscription Package to which these Risk Factors are attached and any other information provided to the prospective investor by the Company, including the other Exhibits attached thereto. The Risk Factors reflected below are not intended to be an exhaustive list of all risks involved, but merely a representative listing of certain of those risks currently contemplated by the Company. All references to "we", "our", "us" and the "Company" refer to USA Funding LLC, a Florida limited liability company.*

## RISKS RELATED TO THE COMPANY AND THE MANAGER

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

We are a developmental stage operation with no operating history upon which investors may base an evaluation of our potential future performance. As a result, there can be no assurance that we will be able to develop consistent revenue sources, or that our operations will become profitable even if we are able to invest the funds raised in this Offering in accordance with our business plans. Our prospects must be considered in light of the risks, expenses and difficulties frequently encountered by entities in the early stages of development. Such risks include, but are not limited to, an evolving business model, developing the business plan, developing the business infrastructure and the management of growth. There can be no assurance that we will be successful in meeting these challenges and addressing such risks and the failure to do so could have a materially adverse effect on our business, results of operations and financial condition. As a development stage company, we are also subject to risks and or levels of risk that are often greater than those encountered by companies with established operations and relationships. There can be no assurance that we will be successful in meeting these challenges and addressing such risks and the failure to do so could have a materially adverse effect on our business, results of operations and financial condition.

***Investors will have no rights in the day-to-day decision making of the Company and will have limited voting rights as specified in the Agreement.***

The Company is a managed by its Manager, Neil Fleischman (the "**Manager"**). Day-to-day managerial control of the Company is vested in the Manager, and the Manager has very broad management authority. The investors will NOT have the ability to participate in the management of the Company nor do they have the right to vote on any matters as the Units are non-voting class of Series A Preferred. Therefore, purchasers of the Units ability to participate in decisions made by the Company will be very restricted and holders of the Units may not agree with all decisions of its management.

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

Full day-to-day management control over the Company rests with the Manager, and the Investors lack any managerial control over the Company or investments. Therefore, our success is largely dependent on the Manager for the day-to-day management of the business and investments. In addition, the Manager, and consequently the Company, is currently dependent on the continued service and active advisory efforts of the Manager. The loss of the Manager's services, including if any services of the Manager were to cease or lapse for any reason, may cause the Company to be adversely affected. Manager shall have the authority to hire staff and set compensation, including Manager's own compensation, as Manager deems appropriate in Manager's reasonable business judgment and in accordance with industry standards for similar positions, in the ordinary course of business to operate the Company. While the Manager intends that such services be provided at competitive market rates, such compensation was not determined through arm's-length negotiation.

***The Company's success is dependent exclusively on the experience and knowledge of the management team.***

The Company is dependent entirely on the efforts of the Manager for strategic business direction, development and general investment experience. In addition, the success of the Company will be largely dependent on the Manager for the day-to-day management of the business. The loss of its services, including the officers and other employees of the Manager, may have a material adverse effect on the Company. Furthermore, the Manager does not necessarily have direct experience in managing a vehicle of this kind and as a result his ability to be an effective Manager of the Company or otherwise operate the business in a manner that maximizes profitability for the Company is questionable.

***Our Manager may have conflicts of interests.***

Various actual or potential conflicts of interest may exist among our Manager and its affiliates on one hand, and the Company on the other hand. These conflicts of interests may relate to management of the Company, the Business, the Company's affiliates, other investments and various other opportunities and scenarios that may arise in the future with the Manager and its affiliates, including the right to control the Company, and the operation and disposition of the Company's assets, the time, energy and investment opportunities that may be presented to Manager outside its duties with the Company. If a conflict of interest arises, the Operating Agreement limits the remedies available to you in the event of a claim of conflict of interest.

***Our Manager, and its Principals, may allocate time to other businesses.***

Our Manager is not required and will not devote 100% of its time to Company affairs, which may result in a conflict of interest in allocating time between the Company's operations and other businesses. Likewise, our Manager, and his affiliation with other entities and business, may require substantial amounts of time, which could limit the ability of Manager to devote time to the Company, and it could have a negative result on the Company's operations.

***Distributions are limited to return of capital and payment of preferred return.***

The Investors only receive the preferred return and the return of their principal investment upon redemption or repurchase as set forth in the Term Sheet accompanying this Offering. The Investors may not receive any profit distributions at any time whether through operations or sale or otherwise.

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

The same legal counsel represents the Company and the Manager. Such counsel does not represent the Investors in connection with this Offering of Units or any subsequent matters. The Company has not engaged independent counsel to represent the Investors. Each Investor acknowledges this potential conflict of interest and is advised to seek their own independent legal counsel to protect their interests.

## RISKS RELATED TO OUR BUSINESS

***We will be exposed to risks inherent in lending transactions.***

Investments in operating companies may be affected by certain risks generally incident to the lending and investment business which are beyond our control. These factors include, but are not limited to, adverse market conditions, general economic conditions, interest rates, the rate and timing of delinquencies and defaults on any loans, any acts outside our control, including terrorism, acts of God and natural disasters, adverse changes in local employment conditions and environmental issues related to any property.

***The Company may have a need for additional financing or change in business plan if the full offering amount is not raised.***

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

***A concentration of our funds in business loans may leave our profitability vulnerable to a downturn or slowdown.***

We expect to concentrate our funds in loans to operating businesses. As a result, we will be subject to risks inherent in these types of investments. The potential effects on our revenues, and as a result, on cash available for distribution to our Investors, resulting from a downturn or slowdown could be more pronounced than if we had more fully diversified our investments.

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

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

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

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

***Competition in the industry in which we compete could have a material adverse effect on our business and results of operations.***

We operate in a highly competitive industry, and compete primarily on the basis of reputation, featured facilities, location, quality and breadth of our product offerings and price. As a result, competition for market share in the industry in which we compete is significant. In order to succeed, we must take market share from local and regional competitors in the face of increasing alternatives available to our potential customers.

Our business will compete on a local and regional level with other businesses in our industry sector. An increase in the number or quality of similar businesses could significantly increase competition, which could have a negative impact on our business and results of operations. In addition, in most regions, these businesses are in constant flux as new developments, changing market conditions and other factors have direct and indirect affects which could harm our business and results of operations.

***Our insurance policies may not provide adequate levels of coverage against all claims and we may incur losses that are not covered by our insurance.***

We may maintain insurance of the type and in amounts that we believe is commercially reasonable and that is available to businesses in our industry but Manager may decide to elect not have insurance if Manager determines that such insurance is not in the best interests of the Company in Manager's sole discretion. We believe that the policy specifications and insured limits are adequate for foreseeable losses with terms and conditions that are reasonable and customary for similar properties and that our Business is insured within industry standards. Nevertheless, market forces beyond our control could limit the scope of the insurance coverage that we can obtain in the future or restrict our ability to buy insurance coverage at reasonable rates. We cannot predict the level of the premiums that we may be required to pay for subsequent insurance coverage, the level of any deductible and/or self-insurance retention applicable thereto, the level of aggregate coverage available or the availability of coverage for specific risks.

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

our liabilities. If the insurance that we carry does not sufficiently cover damages or other losses, our business, financial condition and results of operations could be harmed.

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

***We may need to raise additional capital, which may not be available on favorable terms, if at all, and which may cause dilution to our then existing investors, restrict our operations or adversely affect our ability to operate our business.***

We may need to raise additional funds through equity financing or through other means. We may be unable to obtain additional financing on favorable terms, or at all, and any additional financings could result in additional dilution to our then existing investors, or restrict our operations or adversely affect our ability to operate our business. If we raise funds by issuing equity securities, the percentage ownership of our then investors will be reduced. If we raise funds by issuing debt, the ability of our then existing investors to receive distributions may be adversely affected and we may be subject to additional covenants and restrictions.

***Our inability to raise additional capital may result in us not being able fully fund our operations and to otherwise execute our business plan.***

We may require additional capital in the future and may seek to raise it through the private sale of debt or equity securities, debt financing or short-term loans, or a combination of the foregoing. We may also seek to satisfy indebtedness without any cash outlay through the private issuance of debt or equity securities. We currently do not have any binding commitments for, or readily available sources of, additional capital and may not be able to secure any additional capital we may need on terms favorable to us, if at all. We cannot give you any assurance that we will be able to secure the additional capital we may require to continue our operations. To the extent we require additional capital and cannot raise it, we may have to limit our then-current operations and curtail all or certain portions of our business objectives and plans. In addition, should our costs and expenses prove to be greater than currently anticipated, or should we change our current business plan in a manner that will increase or accelerate our anticipated costs and expenses (such as through acquisitions), the depletion of our working capital would be accelerated, intensifying our need for additional capital. If we are unable to obtain the additional capital needed it would have a material adverse effect upon us and may affect our ability to execute our business plan.

***We may not be able to obtain additional financing on terms that are not unduly expensive or burdensome to us or disadvantageous to our existing Investors.***

Even if we are able to raise additional cash or working capital through the private sale of debt or equity securities, debt financing or short-term loans, or the satisfaction of indebtedness without any cash outlay through the private issuance of debt or equity securities, the terms of such transactions may be unduly expensive or burdensome to us or disadvantageous to our existing Investors. For example, we may be forced to sell or issue our securities at significant discounts to

market, or pursuant to onerous terms and conditions, including the issuance of preferred equity with disadvantageous dividend, voting or veto, conversion, redemption or liquidation provisions; the issuance of convertible debt with disadvantageous interest rates and conversion features; the issuance of warrants with cashless exercise features; the issuance of securities with anti-dilution provisions; and the grant of registration rights with significant penalties for the failure to quickly register. If we raise debt financing, we may be required to secure the financing with all or a portion of our business assets, which could be sold or retained by the creditor should we default in our payment obligations.

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

Real property and the operations conducted on real property are subject to federal, state and local laws and regulations relating to protection of the environment and human health. We could be subject to liability in the form of fines, penalties or damages for noncompliance with these laws and regulations. These laws and regulations generally govern wastewater discharges, air emissions, the operation and removal of underground and above-ground storage tanks, the use, storage, treatment, transportation and disposal of solid and hazardous materials, the remediation of contamination associated with the release or disposal of solid and hazardous materials, the presence of toxic building materials, and other health and safety-related concerns.

Some of these laws and regulations may impose joint and several liability on the tenants, owners or operators of real property for the costs to investigate or remediate contaminated properties, regardless of fault, whether the contamination occurred prior to purchase, or whether the acts causing the contamination were legal. The condition of the property at the time of sale, operations in the vicinity of the property, such as the presence of underground storage tanks, or activities of unrelated third parties may affect the property. The presence of hazardous substances, or the failure to properly manage or remediate these substances, may hinder our ability to sell or otherwise maximize the value of our investments. Any material expenditures, fines, penalties, or damages we must pay will reduce our ability to make payments to the Investors and may reduce the value of the Company's investment.

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

Under various federal, state and local environmental laws, ordinances and regulations, a current or previous real property owner or operator may be liable for the cost of removing or remediating hazardous or toxic substances on, under or in such property. These costs could be substantial. Such laws often impose liability whether or not the owner or operator knew of, or was responsible for, the presence of such hazardous or toxic substances. Environmental laws also may impose liens on property or restrictions on the manner in which property may be used or businesses may be operated, and these restrictions may require substantial expenditures or prevent us from selling memberships that may be impacted by such laws. Environmental laws provide for sanctions for noncompliance and may be enforced by governmental agencies or, in certain circumstances, by private parties. Certain environmental laws and common law principles could be used to impose liability for the release of and exposure to hazardous substances, including asbestos-containing materials and lead-based paint. Third parties may seek recovery from real property owners or

operators for personal injury or property damage associated with exposure to released hazardous substances. The costs of defending against claims of environmental liability, of complying with environmental regulatory requirements, of remediating any contaminated property, or of paying personal injury claims could reduce the amounts available for any payments due to the Investors.

***Force Majeure***

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

***Market Disruption Risk and Terrorism Risk***

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

***United States Monetary and Fiscal Policy***

In response to the global financial crisis in 2008, the Board of Governors of the U.S. Federal Reserve System (the "**Federal Reserve**") and certain non-U.S. central banks acted to hold interest rates to historic lows in addition to taking other governmental actions to stabilize markets and seek to encourage economic growth. While many of these actions have ceased or slowed

significantly (including the Federal Reserve electing to increase interest rates), these and other actions by the Federal Reserve and such other central banks, including changes in policies, may continue to have a significant effect on interest rates and on the U.S. and world economies generally, which in turn may affect the performance of the Fund's investments on an absolute and/or relative basis.

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

***Political, Economic, and Social Risks***

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

Geopolitical concerns and other global events, including, without limitation, trade conflict, national and international political circumstances (including wars, terrorist acts or security operations) and pandemics or other severe public health events, have contributed and may continue to contribute to volatility in global equity and debt markets. 2019 was a year of significant geopolitical concerns, including, among other things, uncertainty regarding re-opening of the U.S. government after a shutdown in early 2019, trade tensions, most notably between China and the U.S., resulting from the implementation of tariffs by the U.S. and retaliatory tariffs by other countries on the U.S., continued tensions with North Korea over its ballistic missile testing and nuclear programs, ongoing hostilities in the Middle East and the possibility of their escalation, the United Kingdom's withdrawal from the European Union and the impeachment of President Trump in the United States. These and similar concerns have

contributed, and similar and unforeseeable concerns, may continue to contribute to volatility in global markets.

One or more of these factors could impact the Company's ability to deploy capital and could materially and adversely affect the operations of the Company, as well as the results of its operations. These factors are outside the Company's control and may cause the Company's strategy to be adjusted in order to try to successfully compete as markets continually evolve.

## RISKS RELATED TO THE OFFERING AND YOUR INVESTMENT

***Investments in the Company should be considered long term investments.***

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

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

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

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

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

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

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

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

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

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

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

The Units have not been registered under the Securities Act, and are being offered in reliance upon exemptions from the registration requirements thereunder in a manner that is intended to comply with the requirements of Section 4(2) of the Securities Act and Rule 506 of Regulation D promulgated thereunder, and are only being offered hereunder to "accredited investors" as defined in the Securities Act. The Units cannot be sold, transferred, pledged, hypothecated, assigned or otherwise disposed of unless they are registered under the Securities Act, or if in the opinion of counsel satisfactory to the Company, such sale, transfer, pledge, hypothecation, assignment or disposition is exempt from such registration requirements. The Company has no current intent to

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

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

***The Investors are subject to restrictions on transferability and there is a lack of public market for the Company Interests.***
The Units are subject to significant restrictions on transferability and resale and may not be transferred or resold except as permitted under the Company Agreement, the Securities Act and applicable state securities laws pursuant to registration or exemption therefrom. Additionally, the Units are not registered under the Securities Act or qualified under the "Blue-Sky" laws of any state or jurisdiction, nor do we have any current intention to seek registration. Currently there is no trading market for the Units and as a result, all Investors should assume the Units are illiquid.

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

***There can be no assurance that you will realize a return on your investment.***
No assurance can be given that you will realize a return on your investment or that you will not lose your entire investment. For this reason, you should read the Subscription Package to which these Risk Factors are attached and all other exhibits attached thereto carefully. Additionally, you should consult with your own personal legal and financial advisors prior to making any investment decision.

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

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

***The offering price for the Units was determined arbitrarily.***

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

**RISKS RELATED TO RETIREMENT PLANS**

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

Investors must be aware of significant regulatory requirements and restrictions that apply to pension, profit sharing trusts, and IRAs investing in Company securities. Any such investment requires mandatory consultation with qualified financial and retirement plan advisors, and written confirmation of compliance with all applicable regulations must be obtained prior to any retirement plan investment. If you are investing the assets of a Pension, Profit Sharing, 401(k), Keogh, or other qualified Retirement Plan, or the assets of an IRA in the Company, you could incur liability or subject the plan to taxation if:

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

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

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

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

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

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

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

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

ERISA and the Internal Revenue Code may apply what is known as the look-through rule to this investment. Under the look-through rule, the assets of an entity in which a qualified plan or IRA has made an equity investment may constitute assets of the qualified plan or IRA. A fiduciary of a qualified plan or IRA should consult with its advisors and carefully consider the effect of that

treatment if that were to occur. We may only accept less than 25% of the gross proceeds of the Offering from Qualified Plans and IRAs.

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# EXHIBIT D
# DEFINITION OF ACCREDITED INVESTOR

**EXHIBIT D**

**Definition of Accredited Investor**

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

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

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

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

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

(5) A natural person whose individual net worth, or joint net worth with spouse (including such person's separate property), provided that such calculation shall only include assets and liabilities under the direct or indirect control of such person, exceeds $1,000,000 at the time of purchase (exclusive of the investor's primary residence)[6];

[6] The calculation of "net worth" for purposes of the determining accredited investor status was amended by the federal statute The Dodd–Frank Wall Street Reform and Consumer Protection Act and rules promulgated by the Securities and Exchange Commission thereunder. The term "net worth" means the excess of total assets at fair market value, including cash, stock, securities, personal property and real estate (other than your primary residence), over total liabilities (other than a mortgage or other debt secured by your primary residence). In the event that the amount of any mortgage or other indebtedness secured by your primary residence exceeds the fair market value of the residence, that excess liability should also be deducted from your net worth. Any mortgage or indebtedness secured by your

(6) A natural person who had an individual income in excess of $200,000 in each of the two most recent years or joint income with that person's spouse or spousal equivalent in excess of $300,000 in each of those years and who reasonably expects reaching the same income level in the current year;[7]

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

(8) Any entity in which each of the equity owners of such entity certifies that he meets the qualifications set forth in either (1), (2), (3), (4), (5), (6) or (7) above.

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primary residence incurred within 60 days before the time of the sale of the securities offered hereunder, other than as a result of the acquisition of the primary residence, shall also be deducted from your net worth.

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

# EXHIBIT E
# DEFINITION OF BAD ACTOR DISQUALIFYING EVENT

**EXHIBIT E**

# Definition of Bad Actor Disqualifying Event

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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

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