

**CALIBER OPPORTUNISTIC GROWTH FUND III LLC**  
a Delaware limited liability company

**PRIVATE PLACEMENT MEMORANDUM**

Offer of Five Classes of Limited Liability Company Units

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**August 1, 2022**

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**Questions and requests for information may be directed to:**

**CALIBER OPPORTUNISTIC GROWTH FUND III LLC**  
8901 East Mountain View Road, Suite 150  
Scottsdale, Arizona 85258  
(480) 295-7600  
Email: [Invest@CaliberCo.com](mailto:Invest@CaliberCo.com)

THIS IS NOT AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY THE UNITS DESCRIBED HEREIN IN ANY JURISDICTION TO ANY PERSON TO WHOM IT IS UNLAWFUL TO MAKE SUCH AN OFFER OR SALE.

**CALIBER OPPORTUNISTIC GROWTH FUND III LLC**  
a Delaware limited liability company

**THIS OFFERING IS LIMITED TO ACCREDITED INVESTORS**

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No Minimum Offering Amount  
Maximum Offering Amount of \$250,000,000

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Minimum Subscription for Preferred Units:	\$100,000.00
Minimum Subscription for Class A Units:	\$100,000.00
Minimum Subscription for Class B Units:	\$1,000,000.00
Minimum Subscription for Class C Units:	\$100,000.00
Minimum Subscription for Class D Units:	\$1,000,000.00

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Price Per Preferred Unit:	\$1,000.00
Price Per Class A Unit:	\$1,000.00
Price Per Class B Unit:	\$1,000.00
Price Per Class C Unit:	\$1,000.00
Price Per Class D Unit:	\$1,000.00

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This Private Placement Memorandum (this “Memorandum”) describes the offering (the “Offering”) of limited liability company interests in CALIBER OPPORTUNISTIC GROWTH FUND III LLC, a Delaware limited liability company (the “Fund”). The Units (as defined below) will be sold pursuant to and in accordance with the terms set forth in this Memorandum. The Units will be sold exclusively to “*Accredited investors*” (as such term is defined in Rule 501 of Regulation D, as promulgated under Section 4(2) of the Securities Act of 1933 (as amended, the “Securities Act”)).

It is intended that the Fund will be treated as a partnership for federal income tax purposes. The Fund will be managed by its manager, Caliber Opportunistic Growth Fund III GP LLC, a Delaware limited liability company (the “Managing Member”), an affiliate of the Fund’s sponsor.

The purpose of the Fund is to acquire, develop, manage, operate, lease, and sell, directly or indirectly, commercial real estate properties consistent with the Fund’s investment strategy of acquiring real estate that is deemed “opportunistic” in nature, as such term is customarily used in the commercial real estate industry. The Fund will pursue real estate investment strategies generally categorized as “opportunistic” which includes new development, new construction, adaptive re-use, and substantial renovations of existing assets or business operations.

The sponsor of the Fund (the “Sponsor”) is Caliber – The Wealth Development Company, a trade name used to refer to a group of affiliated entities directly or indirectly controlled by CaliberCos, Inc., a Nevada corporation. The Sponsor is a middle market alternative asset manager who has been involved in acquiring, managing, and disposing of commercial real estate-related assets for over thirteen years.

This Memorandum provides important information you should know before investing in the Units. Please read it carefully before you invest and keep it for future reference. You should rely only on the information contained in this Memorandum or information to which we have referred to you. We have not authorized anyone to provide you with additional information or information different from that contained in this Memorandum.

## Brief Overview of the Units

A general description of the rights, preferences, and restrictions associated with the Units is set forth below. Each Investor should carefully read this Private Placement Memorandum (this “*Memorandum*”) and the Amended & Restated Limited Liability Company Agreement (the “*A&R LLC Agreement*”), a copy of which has been enclosed as Appendix A, to understand certain risks associated with acquiring Units and the rights, restrictions, and obligations associated with the Units.

### *Preferred Units*

One class of membership interests being offered will be referred to as the “Preferred Units.” The Preferred Units are being offered at a price per Preferred Unit as indicated at the beginning of this Memorandum. The holders of the Preferred Units are referred to herein collectively as the “Preferred Members” and each a “Preferred Member.” The Preferred Units will be non-voting and will not share in economic or taxable profits or losses of the Fund (except for the taxable effect of the Preferred Return (as defined below)). The Preferred Units will accrue a cumulative, non-compounded, return on the unreturned capital contributions (the “Preferred Return”) at a rate equal to 12% per annum (unless otherwise agreed by such Preferred Member and the Managing Member that a lower rate will apply).

Notwithstanding anything to the contrary herein or in the A&R LLC Agreement, solely for federal and state income tax purposes the Fund intends to treat the Preferred Units as debt. No Preferred Member shall be treated as a “partner” for federal and state income tax purpose. As such, (i) any Preferred Return paid to the Preferred Members shall be treated as interest for federal and state income tax purposes, and shall be consistently reported as such by the Fund and each Preferred Member, (ii) there shall be no allocations of Profits or Losses to the Preferred Members under the A&R LLC Agreement, (iii) there shall be no tax distributions made to Preferred Members, and (iv) any and all references to “Member,” “Members,” “Units,” or under this Memorandum or the A&R LLC Agreement, where such context refers to a partner or Fund interest for federal and state income tax purposes, shall exclude the Preferred Members and the Preferred Units.

All or a portion of the Preferred Units of a Preferred Member will be redeemable by the Fund at any time by payment of any outstanding Preferred Return and the unreturned capital contributions of such Preferred Member. The General Partner can select, in its sole and absolute discretion, which Preferred Units it chooses to redeem (subject to any restrictions or limitations imposed by a lender who has extended credit to the Fund) and is not required to redeem Preferred Units *pari passu* or *pro rata*. Subject to the requirement to make certain tax distributions out of available cash of the Fund, all distributions by the Fund will be made if, and at such times, as the General Partner may determine, in its sole and absolute discretion (subject to any restrictions or limitations imposed by a lender that has extended credit to the Fund).

### *Class A Units and Class C Units*

Another class of limited liability company units being offered will be referred to as the “Class A Units.” The Class A Units are being offered at a price per Class A Unit as indicated at the beginning of this Memorandum, until such time as the Managing Member determines that an adjustment to the price per Class A Unit is warranted or otherwise required under the A&R LLC Agreement, in which case such adjustment will be made in accordance with the A&R LLC Agreement. The holders of the Class A Units are referred to herein collectively as the “Class A Members” and each a “Class A Member.” The Class A Units will have limited voting rights, as described in the A&R LLC Agreement. The Class A Units are subordinate to certain rights of the Preferred Units, and the Class A Units are entitled to a preferred return of 6% and a certain percentage of the profits after certain amounts are first paid to the Members of the Company.

The Class C Units, an additional class of limited liability company units being offered hereunder and referred to as the “Class C Units,” are exactly the same as the Class A Units, except that certain placement and selling expenses paid by the Fund in connection with the sale of such Class C Units will reduce the deemed “*Capital Contribution*” associated with such Class C Units (which, in return, will decrease the base on which any preferred return will be calculated, the number of Class C Units received by such Investor and generally a reduced distribution amount as compared to a Class A Member making the exact same subscription (in dollar terms) as a Class C Member).

### *Class B Units and Class D Units*

An additional class of limited liability company units being offered hereby will be referred to as the “*Class B Units*.” The Class B Units are being offered at a price per Class B Unit as indicated at the beginning of this Memorandum, until such time as the Managing Member determines that an adjustment to the price per Class B Unit is warranted or otherwise required under the A&R LLC Agreement, in which case such adjustment will be made in accordance with the A&R LLC Agreement. The Class B Units will have limited voting rights, as described in the A&R LLC Agreement. The Class B Units are subordinate to certain rights of the Preferred Units, and the Class B Units are entitled to a preferred return of 6% and a certain percentage of the profits after certain amounts are first paid to the Members of the Company.

The Class D Units, an additional class of limited liability company units being offered hereunder and referred to as the “*Class D Units*,” are exactly the same as the Class B Units, except that certain placement and selling expenses paid by the Fund in connection with the sale of such Class D Units will reduce the deemed “*Capital Contribution*” associated with such Class D Units (which, in return, will decrease the base on which any preferred return will be calculated, the number of Class D Units received by such Investor and generally a reduced distribution amount as compared to a Class B Member making the exact same subscription (in dollar terms) as a Class D Member).

The Class A Members, Class B Members, Class C Members, and Class D Members are referred to herein collectively as the “*Participating Members*” and each a “*Participating Member*.” The Class A Units, Class B Units, Class C Units, and Class D Units shall together be referred to as the “*Participating Units*.” The Participating Members and Preferred Members are referred to herein collectively as the “*Investor Members*” and each an “*Investor Member*.” The Participating Units and Preferred Units shall together be referred to as the “*Investor Units*.”

### **Brief Overview of the Offering**

The Units are being offered for a two (2) year period commencing on the first admission of an Investor (acquiring Participating Units) under this Offering, on a best-efforts basis. Funds tendered by Investors in the Offering will be released immediately to the Fund upon acceptance of a subscription by the Managing Member and/or the Fund and after review and approval by the Managing Broker. The Units are offered subject to acceptance, prior sale, and withdrawal, cancellation, or modification of the offer at any time without notice.

The Fund and its advisors and representatives may update the price per Unit reflected at the beginning of this Memorandum from time to time without advance notice to any holder of this Memorandum and without an obligation to inform any holder of this Memorandum, except to the extent that such holder completes a subscription to acquire Units after an adjustment to the price per Units has been completed. In the event that a holder of this Memorandum completes a subscription for Units after the Unit price has been adjusted, the Fund, prior to its acceptance of the subscription, will notify such person of the Unit price change and confirm such person’s desire to subscribe for such Units at the adjusted price.

The offering is made on a “best efforts — no minimum” basis. There is no requirement that any minimum number of Units be sold before the gross subscription proceeds (“*Proceeds*”) are released to the Fund and applied in its business. Therefore, there can be no assurance as to the amount of Proceeds that will be received by the Fund. CaliberCos as the lead Sponsor intends to invest the Proceeds in this Fund alongside other CaliberCos. Sponsor affiliates.

The Fund will not accept any additional subscriptions under this offering after the Fund accepts an aggregate of Two Hundred Fifty Million Dollars (\$250,000,000) (the “*Maximum*”) in subscriptions for the purchase of Participating Units (not including the offer and sale of any Preferred Units), subject to the Managing Member’s right to increase the amount of the Offering from time to time in its discretion. The Fund is offering to sell any combination of Participating Units with a dollar value up to the Maximum and any number of Preferred Units.

The Units are offered through Tobin & Company Securities LLC<sup>1</sup>, a registered broker/dealer and member FINRA/SIPC (the “*Managing Broker*”). Upon receipt of the executed acceptance of the Subscription Agreement (the “*Subscription Agreement*”), a copy of which has been enclosed as Appendix B, the Investor will deposit, preferably via wire transfer (though checks will be accepted) the subscription amount will be delivered directly to an account of the Fund, with such proceeds available for use by the Fund in accordance with the terms and conditions of the A&R LLC Agreement immediately upon receipt.

The individual minimum subscription for Class A Units and Class C Units is One Hundred Thousand Dollars (\$100,000), unless otherwise waived by the Managing Member. The individual minimum subscription for Class B Units and Class D Units is One Million Dollars (\$1,000,000), unless otherwise waived by the Managing Member. Subscriptions are subject to acceptance or rejection by the Managing Member, in the Managing Member’s sole and absolute discretion, subject to the terms and conditions of the Subscription Agreement. Rejected subscriptions and subscription funds will be returned to subscribers without interest within thirty (30) days of rejection. The Fund reserves the right to increase the amount of the offering and, accordingly, the Proceeds to the Fund.

The date of this Memorandum is August 1, 2022.

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<sup>1</sup> Information about the Managing Broker is available at FINRA’s BrokerCheck website: <https://brokercheck.finra.org/>.

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## **APPENDICES**

A - A&R LLC Agreement

B - Subscription Documents

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## FREQUENTLY ASKED QUESTIONS

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The following questions and answers about this offering of equity securities (this “*Offering*”) highlight material information regarding the Fund and this Offering. Each Investor should read this Private Placement Memorandum (this “*Memorandum*”), including the section entitled “Risk Factors,” before deciding to purchase the equity securities offered hereunder.

**Q: What is CALIBER OPPORTUNISTIC GROWTH FUND III LLC?**

A: The Fund is a Delaware limited liability company and has been formed to invest in a diversified portfolio of real estate properties, real estate-related equity investments and other real estate-related assets, each of which the Managing Member believes are compelling from a risk-return perspective. The Fund is offering five separate classes of limited liability company units for a period of two (2) years from the date of the initial acceptance of a subscription agreement by one or more Participating Members.

**Q: What assets will the Fund own?**

A: The purpose of the Fund is to acquire, develop, manage, operate, lease, and sell, directly or indirectly, commercial real estate properties consistent with the Fund's investment strategy of acquiring real estate that is deemed “opportunistic” in nature, as such term is customarily used in the commercial real estate industry. The Fund will pursue real estate investment strategies generally categorized as “opportunistic” which includes new development, new construction, adaptive re-use, and substantial renovations of existing assets or business operations.

**Q: What are the major risks to the investment?**

A: Investment in the Units of the Fund offered hereby involves risk, including the risk of a significant loss of the investment and the general economic failure of the Fund. Some of these risks are described in more detail in the section labeled “Risk Factors.”

**Q: Who will select the investments that the Fund will invest into?**

A: The Fund’s Managing Member is Caliber Opportunistic Growth Fund III GP LLC, a Delaware limited liability company. Investment decisions of the Fund will be made by the Managing Member, although the Managing Member may, at times, engage affiliated and third-party investment managers to assist in these efforts.

**Q: Who is Caliber?**





A: One Sponsor of the Fund is Caliber – The Wealth Development Company, a trade name used to refer to a group of affiliated entities directly or indirectly controlled by CaliberCos, Inc., a Delaware corporation. Caliber is an alternative asset manager, sponsor of private funds, and real estate developer. This Sponsor has been involved in acquiring, managing, and disposing of real estate-related assets for over thirteen years. See section “*Caliber Executive Summary*” for additional information concerning Caliber – The Wealth Development Company and a full list of the Affiliates (defined herein) of Caliber that are referenced above.

**Q: What is the Fund’s targeted rate of return?**

A: The Fund will strive to acquire assets at a discount to current market through opportunistic acquisition strategies. The Fund’s target is to provide outsized risk-adjusted returns equaling or surpassing a 15%, fund-level internal rate of return (IRR). There is no guarantee, however, that the Fund will achieve these results and risks do exist that may result in a significant or complete loss of your investment. The target returns established by us take into consideration a variety of assumptions, and there is no guarantee that the assumptions upon which the target returns are based will materialize.



The Fund will pursue real estate investment strategies generally categorized as "*Opportunistic*" (see description below) which includes new development, new construction, adaptive re-use, and substantial renovations of existing assets or business operations. Estimated returns are based on past performance of a generalized opportunistic strategy.

			
CORE	CORE PLUS	VALUE ADD	OPPORTUNISTIC
<p><b>The most conservative blend of risk and return.</b></p> <p>Property tends to be well-built in a great location with little deferred maintenance requirements and high-quality tenants already in place on long-term leases.</p>	<p><b>Properties with a good – not great – location, stable income, high quality tenants, slightly dated finishes, low to moderate vacancy rates.</b></p> <p>Properties provide an opportunity to create value by reducing risk, improving cash flow, or both through overcoming whatever challenges prevented the asset from being characterized as Core.</p>	<p><b>The goal with value-add is to find properties priced below the market that needs some work to restore their value.</b></p> <p>Commonly, value-add properties have little to no cash flow at acquisition. Fair to good location, dated finishes, medium to high vacancy levels, and some amount of deferred maintenance that must be addressed.</p>	<p><b>The opportunistic category is a little like investing in small-cap stocks.</b></p> <p>There's greater risk buying less-established companies, however, the upside can be significantly higher than buying mature large-cap stocks. Can include developing something from scratch (ground-up development), repurposing a building from one use to another (adaptive reuse), and winning entitlements for raw land.</p>

**Q: What management fees will be paid to the Managing Member or its Affiliates?**

A: The various management fees paid encompass the costs of ensuring a competent management team is in place making decisions daily for sourcing, acquiring, and providing oversight for the Fund's assets. Please refer to the section labeled "Management Fees and Compensation" for a complete listing of all fees and reimbursements to be paid to the Affiliates of the Managing Member.

**Q: When is the pool of assets revalued?**

A: The Fund is required to value its assets at least once per year. The Managing Member, however, at its sole and absolute discretion, can revalue the assets of the Fund more frequently.

**Q: How is the pool of assets valued?**

A: The Sponsors will initiate and manage a valuation process that is commonly utilized in the real estate investment industry by completing multi-year forecasts on each underlying asset, making assumptions on future financing activities, and applying industry accepted discount factors to achieve a valuation via discounted cash flow (DCF) analysis. The Sponsors may also obtain appraisals for comparison purposes to the DCF results.

**Q: Where will the Fund buy properties?**

A: The Fund will select markets for acquisitions based on simple criteria we've defined as "growth markets." In choosing specific geographic areas, the Fund seeks a long-term trend toward population growth, evidenced by a recent track record that extends a minimum of 10 years.

**Q: What is the exit strategy for the Fund?**

A: The Fund has a five year term, provided such period can be extended by up to two years by the Managing Member in its discretion. Following such seven year period the approval of either majority of the Members or the Advisory Committee will be required to extend the life of the Fund further.

**Q: What will the Fund do with the money raised in this offering?**

A: The funds raised in this offering will primarily be utilized to purchase real estate related assets, including land, and develop, construct, or renovate those assets, and operate those assets for cash flow and value growth. On a

temporary basis, the Fund may also lend a small portion of its total capital to real estate related assets with the goal of earning interest on not-yet-deployed capital.

**Q: Who can buy Units?**

A: An Investor may buy Units pursuant to this Memorandum if you are an “Accredited Investor” as described in the offering memorandum. See section entitled “*Who May Invest; Suitability Standards.*”

**Q: Is there any minimum investment required?**

A: Yes. Generally, an Investor must invest at least \$100,000. Fund management has the discretion to accept a lower minimum investment amount.

**Q: How do I subscribe?**

A: Securities are offered through Tobin & Company Securities LLC, a registered broker/dealer and member FINRA/SIPC.

Prospective investors who would like to subscribe for the Units must carefully read this Memorandum. If, after carefully reading the entire Memorandum, obtaining any other information available and being fully satisfied with the results of pre-investment due diligence activities, a prospective investor would like to purchase Units, they must complete and sign a Subscription Agreement and any supporting documentation as requested. The Subscription Agreement submission process is managed by the Managing Broker. An example of the Subscription Agreement a prospective investor would complete is attached as Appendix B. An investor must purchase at least the minimum purchase amount of \$100,000 (subject to the other provisions contained in this Memorandum) and the full purchase price must be wired to the Fund upon submission of the completed Subscription Agreement. Instructions for completing the Subscription Agreement will be provided by the Managing Broker, along with detailed instructions for making payment via wire transfer.

As part of the subscription process, prospective investors are required to provide a third-party verification of their accredited investor status. The Managing Broker will request this verification as a part of, or separate from, your completed Subscription Agreement. Acceptance of the prospective Investor’s subscription by the Fund is at the Managing Member’s sole and absolute discretion, and the Fund will notify each prospective Investor of receipt and acceptance of the subscription. In the event the Fund does not accept a prospective Investor’s subscription for the Units for any reason, the Fund will promptly return the funds to such subscriber in accordance with the terms of this Memorandum.

**Q: If an Investor buys Units in this Offering, how may the Investor later sell them?**

A: There is no current market for the Units. The Fund and the Managing Member do not expect that a public market will ever develop, and the Fund’s Certificate of Formation does not require a liquidity event at a fixed time in the future. Therefore, redemption of Units by the Fund, which must be agreed to by the Managing Member in its sole and absolute discretion, will likely be the only way for an Investor to dispose of its Units.

**Q: Will an Investor be notified of how its investment is doing?**

A: Yes. The Fund will strive to provide each Investor with periodic updates on the performance of its investment in the Fund, including (except for certain items such as K-1 tax statements, each of these shall be provided in the discretion of the Managing Member):

- An investor update letter, distributed quarterly;
- An annual report;
- An annual audit;
- An annual Form K-1 tax statement; and

**Q: When will an Investor receive detailed tax information?**

A: Every effort shall be made to furnish each Investor with its IRS Form K-1 for the preceding year by March 31<sup>st</sup> of each fiscal year; provided, however, Preferred Members should not expect to receive IRS Form K-1 and instead shall receive the appropriate form for holders of debt. Due to the unpredictable nature of tax preparation timing, primarily by third parties who the Fund may rely on to provide a K-1, Fund Management advises all Fund investors to extend their tax filing deadlines each year.

**Q: What is the anticipated timing of distributions for this Fund?**

A: Because of the investment strategy of the Fund (*opportunistic*), it is unlikely that there will be cash flow from invested capital that will be available for regular distribution during the first several years of the Fund. Even then, timing of distributions will be depended on the status of the development projects and cash needs of the Fund, and it is not anticipated that any amounts will be available for distribution until a significant number of the projects that the Fund invests into have stabilized (*i.e.*, a significant number of tenants (90%+ based on rentable square footage for any given project) have commenced using the property and are paying rents). For some projects, it may take several years after the development has been complete to reach stabilization, depending on current market factors outside the control of the Fund and the Managing Member.

**Q: Who can help answer questions?**

A: Questions and requests for information may be directed to:

8901 East Mountain View Road, Suite 150  
Scottsdale, Arizona 85258  
480-295-7600  
Email: [Invest@CaliberCo.com](mailto:Invest@CaliberCo.com)

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## IMPORTANT GENERAL CONSIDERATIONS

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This Memorandum does not constitute an offer to sell or a solicitation of an offer to buy by anyone in any state in which the offer or solicitation is not authorized or in which the person making the offer or solicitation is not qualified to do so, to any person to whom it is unlawful to make the offer or solicitation, or to any person other than the offeree to whom this Memorandum has been delivered (each an “Offeree” and collectively, the “Offerees”).

No dealer, salesperson, or other person has been authorized in connection with this Offering to give an Offeree any information or make any representation other than those contained in this Memorandum and, if given or made, that information or representations may not be relied upon. Each Offeree is advised to conduct its own thorough investigation of the Fund and the terms of the Offering, including the merits and risks involved, before making an investment in the Units. This Memorandum supersedes in its entirety any preliminary transaction summary or term sheet, or any other oral or written information heretofore delivered to each Offeree. Prior to the sale of the securities, the Fund is hereby providing each Offeree the opportunity to ask questions and to obtain any additional information concerning the Fund and the terms and conditions of the Offering that the Offeree wishes to obtain.

The securities offered in connection with this Memorandum are being offered and will be sold in reliance on the exemption from the registration requirements of the Securities Act provided in section 4(a)(2) and Rule 506 of Regulation D to a limited number of investors that are “Accredited investors” within the meaning of Rule 501(a) of Regulation D under the Securities Act.

This investment is suitable only for subscribers of substantial net worth that are willing, and have the financial capability, to bear the economic risk of an investment for an indefinite period of time. There is no public trading market for the securities, nor is it contemplated that one will develop in the foreseeable future. Any transfer or resale of the Units or any interest or participation therein will be subject to restrictions under the Securities Act and as provided in the A&R LLC Agreement.

Purchasers of the Units will be required to make (pursuant to the Subscription Agreement and investor questionnaire, copies of which are attached hereto as Appendix B) certain acknowledgments, representations, and agreements upon initial issuance, including representations with respect to their net worth or income and their authority to make this investment, as well as representations that they are familiar with and understand the terms, conditions, and risks of this offering.

Certain of the terms of the A&R LLC Agreement, Subscription Agreement, and other documents delivered herein are described in this Memorandum. These descriptions do not purport to be complete, and each summary description is subject to, and qualified in its entirety by reference to, the actual text of the relevant document. Any purchase of Units should be made only after a complete and thorough review of the provisions of this Memorandum, the A&R LLC Agreement, and the remaining documents delivered hereto. In the event that any of the terms, conditions or other provisions of the A&R LLC Agreement are inconsistent with or contrary to the description of terms in this Memorandum, the A&R LLC Agreement will govern.

An investment in the Units involves a high degree of risk. An independent investigation should be undertaken by each subscriber regarding the suitability of his, her or its investment in the Units.

Offerees are not to construe the contents of this Memorandum, or any information made available as described below as legal or tax advice. Each subscriber should consult his, her or its’ own counsel, accountant, business, and financial advisors as to legal, tax, and related matters concerning the purchase of the Units.

The market, financial, and other forward-looking information presented in this Memorandum represents the subjective views of the Managing Member and is based on assumptions the Managing Member believes are reasonable but that may or may not prove to be correct. There can be no assurance that the Managing Member’s views are accurate or that the Managing Member’s estimates will be realized. Nothing in this Memorandum is or should be relied on as

a promise as to the future performance or condition of the Fund. Industry experts may disagree with these assumptions and with the Managing Member's view of the market and the prospects for the Fund.

In purchasing the Units, custodians, trustees, and other fiduciaries of an individual retirement account ("IRA") or simplified employee pension ("SEP") qualifying under Section 408 of the Internal Revenue Code of 1986, as amended (the "Code"), KEOGH plans, and retirement plans as described in Title I of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") (collectively, "Qualified Plans") should consider the possible application of ERISA and related provisions of the Code, as well as whether an investment by a Qualified Plan in the Fund would be permissible under the governing instruments of the Qualified Plan. The Department of Labor has issued regulations which affect the type of investments in which Qualified Plans may invest, including investments in companies such as the Fund. Less than 25% of the total number of Units sold will be sold to Qualified Plans, and transfer of the Units to Qualified Plans will be restricted so that less than 25% of the Units outstanding at any time will be owned by Qualified Plans.

Offerees whose authority is subject to legal investment restrictions should consult their own legal advisors to determine whether, and if so, to what extent, the Units will constitute legal investments for them.

This Memorandum presents information with respect to the Fund as of the date hereof. The delivery of this Memorandum at a time after the date on the cover does not imply that the information herein is correct as of any time subsequent to that date.

Each Offeree of the Units and its representatives and beneficial owners, if any, are invited to ask questions concerning the terms, conditions, and other aspects of this Memorandum and to obtain any additional information with respect to the Units, the Fund, and the Managing Member that they deem necessary or advisable to supplement or to verify the accuracy of the information contained herein and, in the case of documents referred to herein, to request that such documents be made available.

### **NASAA UNIFORM DISCLOSURE**

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

THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

### **FLORIDA RESIDENTS**

IF SALES ARE MADE TO FIVE OR MORE PERSONS IN FLORIDA, AND YOU PURCHASE SECURITIES HEREUNDER, THEN YOU MAY VOID SUCH PURCHASE EITHER WITHIN THREE DAYS AFTER THE FIRST TENDER OF CONSIDERATION IS MADE BY YOU TO THE ISSUER, AN AGENT OF THE ISSUER, OR AN ESCROW AGENT OR WITHIN THREE DAYS AFTER THE AVAILABILITY OF THIS PRIVILEGE IS COMMUNICATED TO YOU, WHICHEVER OCCURS LATER.

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## CONDITIONS TO RECEIVING THIS MEMORANDUM

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By accepting delivery of this Memorandum, each Offeree understands and agrees to comply with the following:

- the information contained herein is confidential;
- the Offeree will not make any photocopies of this Memorandum or any related documents;
- the Offeree will not distribute this Memorandum or disclose any of its contents to any persons other than to those persons, if any, that the Offeree retains to advise the Offeree with respect to its contents;
- the Offeree will review this Memorandum, including statistical, financial, and other numerical data, with the Offeree's legal, regulatory, tax, accounting, investment, or other advisors. Neither the Fund nor the Managing Member intends in this Memorandum to furnish legal, regulatory, tax, accounting, investment, or other advice;
- the Managing Member may reject any offer to purchase Units, in whole or in part, for any reason or no reason; and
- if an Offeree does not purchase Units or if the Offering is terminated, on request of the Fund or the Managing Member, the Offeree will return this Memorandum and all attached documents to the Managing Member.

This Memorandum has been prepared for use by a limited group of accredited investors to consider the purchase of Units. The Fund reserves the right to modify or terminate the Offering process at any time.

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## FORWARD LOOKING STATEMENTS

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Information contained in this Memorandum contains “forward-looking statements.” Forward- looking statements reflect the Fund’s current expectations or forecasts of future events. Forward-looking statements can be identified by words such as “will,” “believes,” “expects,” “may,” “should,” or “anticipates” or the negative thereof or other variations thereon or comparable terminology, or by discussions of strategy. The matters identified in the “Risk Factors” section constitute cautionary statements identifying important factors with respect to forward-looking statements, including certain risks and uncertainties. Other factors could also cause actual results to vary materially from the future results covered in the forward-looking statements contained herein.

Any projections, estimates, or other forecasts contained in this Memorandum are forward-looking statements that have been prepared by the Fund and are based on assumptions that the Fund believes are reasonable. Projections are necessarily speculative in nature, and it can be expected that some or all of the assumptions underlying the projections will not materialize or will vary significantly from actual results. Accordingly, the projections are only an estimate. Actual results may, and most likely will, vary from the projections, and the variations may be material.

Statements in this Memorandum relate only to events as of the date on which the statements are made. None of the Fund, the Managing Member or any of their respective Affiliates (defined herein) has any obligation to update or otherwise revise any projections, including any revisions to reflect changes in economic conditions or other circumstances arising after the date hereof or to reflect the occurrence of unanticipated events, even if underlying assumptions do not come to fruition.

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## WHO MAY INVEST; SUITABILITY STANDARDS

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The Fund is offering and selling the Units in reliance on an exemption from the registration requirements of the Securities Act and state laws. Accordingly, distribution of the Memorandum has been strictly limited to persons believed meet the requirements set forth below. Participation in the offering is limited to Accredited Investors who make the representation set forth below and furnish supporting documentation as is requested by, and acceptable to, the Fund. The Fund reserves the right, in its sole and absolute discretion, to reject any subscription based on any information that may become known or available to it about the suitability of an Investor or for any other reason, or no reason.

As investment in the Units involves a high degree of risk and is suitable only for persons of substantial financial means who have no need for liquidity in this investment. Only Investors who (i) represent in writing that they meet the Investor suitability requirements set herein and as many be required under federal or state law, and (ii) supply the Fund with acceptable Accredited Investor verification documentation, as requested by the Fund, may acquire the Units. The Fund has the right to and will rely on the written representations an Offeree makes and supporting information supplied by an Offeree. Each Offeree must provide truthful and accurate information.

The Investor suitability requirements stated below represent minimum suitability requirements established by the Fund. However, an Offeree's satisfaction of these requirements will not necessarily mean that the Units are a suitable investment for the Offeree, or that the Fund will accept the Offeree as an investor. Furthermore, the Managing Member may modify those requirements in its sole and absolute discretion, and any modification may change the suitability requirements for investors.

You (as the Offeree) must represent in writing that you meet, among other, all of the following requirements (the "*Investor Suitability Requirements*").

(a) You have received, read, and fully understand the Memorandum and are basing your decision to invest on the information contained in the Memorandum. You have relied only on the information contained in the Memorandum and have not relied on any representations made by any other person;

(b) You understand that an investment in the Units involves substantial risks and you are fully cognizant of and understand all of the risks relating to an investment in the Units, including those risks discussed in the "Risk Factors" section of the Memorandum;

(c) Your overall commitment to investments that are not readily marketable is not disproportionate to your individual net worth, and your investment in the Units, will not cause such overall commitment to become excessive;

(d) You have adequate means of providing for your financial requirements, both current and anticipated, and have no need for liquidity in this investment;

(e) You can bear and are willing to accept the economic risk of losing your entire investment in the Units;

(f) You are acquiring the Units for your own account and for investment purposes only and have no present intention, agreement or arrangement for the distribution, transfer, assignment, resale, or subdivision of the Units;

(g) You have sufficient knowledge and experience in financial and business matters that you are capable of evaluating the merits of investing in the Units and have the ability to protect your own Units in connection with this investment; and



(h) You are an “Accredited Investor” as defined in Rule 501(a) of Regulation D under the Securities Act.

An “*Accredited investor*” is any:

(a) Natural person that has (i) individual net worth (as defined below), or joint net worth with his or her spouse or spousal equivalent, of more than \$1,000,000; or (ii) individual income in excess of \$200,000, or joint income with his or her spouse or spousal equivalent in excess of \$300,000, in each of the two most recent years and has a reasonable expectation of reaching the same income level in the current year;

(b) Natural person that is a holder of (i) a General Securities Representative license (Series 7); (ii) a Private Securities Offerings Representative license (Series 82); or (iii) an Investment Adviser Representative license (Series 65).

(c) Corporation, Massachusetts or similar business trust, partnership, limited liability company or organization described in Code Section 501(c)(3) of the Internal Revenue Code (the “*Code*”), not formed for the specific purpose of acquiring Units, with total assets over \$5,000,000;

(d) Trust with total assets over \$5,000,000, not formed for the specific purpose of acquiring Units and whose purchase is directed by a person who has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of an investment in Units as described in Rule 506(b)(2)(ii) under the Securities Act;

(e) Broker-dealer registered under Section 15 of the Exchange Act, as amended;

(f) Investment adviser registered pursuant to Section 203 of the Investment Advisers Act of 1940 or registered pursuant to the laws of a state;

(g) Investment adviser relying on the exemption from registering with the Commission under Section 203(l) or (m) of the Investment Advisers Act of 1940;

(h) Investment company registered under the Investment Company Act or a business development company (as defined in Section 2(a)(48) of the Investment Company Act);

(i) Small business investment company licensed by the Small Business Administration under Section 301 (c) or (d) of the Small Business Investment Act of 1958, as amended;

(j) Rural Business Investment Company as defined in Section 384(A) of the Consolidated Farm and Rural Development Act;

(k) An employee benefit plan within the meaning of ERISA, if the investment decision is made by a plan fiduciary (as defined in Section 3(21) of ERISA), which 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 who are Accredited Investors;

(l) Private business development company (as defined in Section 202(a)(22) of the Investment Advisers Act of 1940, as amended);

(m) Bank as defined in Section 3(a)(2) of the Securities Act, any savings and loan association or other institution as defined in Section 3(a)(5)(A) of the Securities Act whether acting in its individual or fiduciary capacity, or any insurance company as defined in Section 2(a)(13) of the Securities Act;

(n) Plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets of more than \$5,000,000;

(o) Entity in which all of the equity owners are Accredited Investors. If you rely on this section, you are required to have each equity owner of that entity complete an Investor Questionnaire to certify the owner's status as an Accredited Investor.

(p) Entity of a type not listed in Sections (d) – (o), not formed for the specific purpose of acquiring Units, owning investments in excess of \$5,000,000.

(q) A “family office,” as defined in rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940 (17 CFR 275.202(a)(11)(G)-1): (i) with assets under management in excess of \$5,000,000; (ii) that is not formed for the specific purpose of acquiring Units; and (iii) whose prospective investment is directed by a person who has such knowledge and experience in financial and business matters that such family office is capable of evaluating the merits and risks of the prospective investment.

(r) A “family client,” as defined in rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940 (17 CFR 275.202(a)(11)(G)-1), of a family office meeting the requirements in Section (q) above and whose prospective investment in the issuer is directed by such family office pursuant to (r)(iii) above.

For purposes of calculating your net worth, “*net worth*” means the excess of total assets at fair market value (including personal and real property but excluding the estimated fair market value of a person's primary home) over total liabilities. Total liabilities exclude any mortgage on the primary home in an amount of up to the home's estimated fair market value as long as the mortgage was incurred more than 60 days before the securities were purchased but includes (i) any mortgage amount in excess of the home's fair market value and (ii) any mortgage amount that was borrowed during the 60-day period before the closing date for the sale of securities for the purpose of investing in the securities. In the case of fiduciary accounts, the net worth and/or income suitability requirements must be satisfied by the beneficiary of the account, or by the fiduciary, if the fiduciary directly or indirectly provides funds for the purchase of the Units.

In addition, the SEC has issued certain no action letters and interpretations in which it deemed certain trusts to be Accredited Investors, such as a trust where the trustee is a bank as defined in Section 3(a)(2) of the Securities Act and revocable grantor trusts established by individuals who meet the requirements of clause (a) or (b) of the first sentence of paragraph (h) of the Investor Suitability Requirements. However, these no-action letters and interpretations are fact specific and should not be relied upon without close consideration of your unique circumstance.

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## PRIVACY NOTICE

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The Fund and the Managing Member value each Offerees privacy and are providing this Privacy Notice as a courtesy to each of the Offerees.

The Fund and the Managing Member do not disclose nonpublic personal information about Offerees and Investors to third parties other than as described below.

The Fund and the Managing Member collect information about each Offeree (such as name, address, social security number, assets, and income) from discussions with the Offerees and Investors, from documents that may deliver to the Fund and the Managing Member (such as the Subscription Agreement) and in the course of providing services to Investors and Offerees. In order to service an Investor's account and effect the transactions described herein, the Fund and the Managing Member may provide an Offeree's personal information to our Affiliates and to firms that assist us in servicing an Investor's account and have a need for such information, such as any fund administrator, investor relations administrator, auditors, or accountants. The Fund and the Managing Member do not otherwise provide information about Offerees and Investors to outside firms, organizations, or individuals except as required or permitted by law. Any party that receives this information will use it only for the services required and as allowed by applicable law or regulation and is not permitted to share or use this information for any other purpose. Notwithstanding the above, the Managing Member and the Fund will have no liability to an Offeree or Investor to the extent that the information described above becomes publicly known, except to the extent that the Managing Member's or the Fund's actions constitute gross negligence or willful misconduct.

California law requires certain data security requirements of Personal Information by covered businesses and grants residents of California certain rights with respect to obtaining information about their personal data that is maintained by a covered business. The Fund and the Managing Member will comply with these requirements. Among other rights, California law permits residents of California to opt-out of certain disclosures of Personal Information to third parties. In some circumstances, any person may elect to opt-out of the sharing of his, her or its Personal Information with third parties and may do so by submitting a request in writing or by contacting the Fund by telephone.

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## SUMMARY OF OFFERING AND FUND TERMS

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*This summary highlights some of the most significant information contained elsewhere in this Memorandum. Because it is a summary, it does not contain all of the information that may be important to a potential investor. To understand this offering fully, a potential investor should read the entire Memorandum carefully, including, without limitation, the information discussed under the caption “Risk Factors” before making a decision to invest in the Units. Unless specifically noted otherwise, references throughout this Memorandum to the Fund will include the Managing Member (as defined below) and any agent authorized to act on the Fund’s behalf.*

<b>The Fund:</b>	The Fund is a Delaware limited liability company formed on July 14, 2022. The Fund operates as a pooled investment vehicle through which the capital contributions of the Members and the operating, refinancing, and liquidation proceeds of the assets of the Fund will be invested in a variety of commercial real estate properties.
<b>Managing Member:</b>	The Managing Member is a limited liability company organized in the State of Delaware on July 14, 2022, and is the Managing Member of the Fund. The Managing Member is responsible for all management decisions of the Fund. The Managing Member is not registered as an investment advisor.
<b>Principals:</b>	John C. Loeffler II and Jennifer Schrader are the directors of the Board of Directors of CaliberCos. and authorized to act on behalf of CaliberCos. John C. Loeffler II and Jennifer Schrader together are the parties empowered to act on behalf of the Sponsor and the Managing Member (collectively, the “Principals”).
<b>Affiliates:</b>	An affiliate with reference to the Fund or Managing Member includes such entity’s officers, directors, members, partners, shareholders, managers, employees, agents, and the Principals (collectively the “Affiliates”).
<b>Investment Strategy:</b>	The purpose of the Fund is to acquire, develop, manage, operate, lease, and sell, directly or indirectly, commercial real estate properties consistent with the Fund’s investment strategy of acquiring real estate that is deemed “opportunistic” in nature, as such term is customarily used in the commercial real estate industry. The Fund will pursue real estate investment strategies generally categorized as “opportunistic” which includes new development, new construction, adaptive re-use, and substantial renovations of existing assets or business operations. There are no specific geographic, debt or investment property type restrictions on the investment activities of the Fund. It is anticipated that the Fund will acquire certain assets currently held by Affiliates of the Sponsor, with a more detailed discussion of such assets included in this Memorandum.
<b>Investment Risks:</b>	The Fund’s investment strategy is speculative and entails substantial risks, including, among others: dependency on key individuals, risks associated with real estate investing, litigation risk, risks arising from the use of leverage, and the risk that exit strategies from positions may be unavailable and have limited liquidity. The use of leverage, in particular, can exacerbate potential losses suffered by the funds. An Investor should not invest in the Fund unless: (1) it is fully able to bear the financial risks of its investment for an indefinite period of time; and (2) it can sustain the loss of all or a significant part of its investment and any related realized or unrealized profits.

## **The Units:**

A general description of the rights and preferences of the Units is set forth below. Each Investor should carefully read this Memorandum and the A&R LLC Agreement to understand certain risks associated with acquiring Units and the rights and obligations associated with the Units.

One class of membership interests being offered will be referred to as the “Preferred Units.” The Preferred Units are being offered at a price per Preferred Unit as indicated at the beginning of this Memorandum. The Preferred Units will be non-voting and will not share in economic or taxable profits or losses of the Fund (except for the taxable effect of the Preferred Return (as defined below)). The Preferred Units will accrue a cumulative, non-compounded, return on the unreturned capital contributions (the “Preferred Return”) at a rate equal to 12% per annum (unless otherwise agreed by such Preferred Member and the Managing Member that a lower rate will apply). Notwithstanding anything to the contrary herein or in the A&R LLC Agreement, solely for federal and state income tax purposes the Fund intends to treat the Preferred Units as debt.

Another class of limited liability company units being offered will be referred to as the “*Class A Units*.” The Class A Units are being offered at a price per Class A Unit as indicated at the beginning of this Memorandum, until such time as the Managing Member determines that an adjustment to the price per Class A Unit is warranted or otherwise required under the A&R LLC Agreement, in which case such adjustment will be made in accordance with the A&R LLC Agreement. The Class A Units will have limited voting rights, as described in the A&R LLC Agreement. The Class A Units are subordinate to certain rights of the Preferred Units, and the Class A Units are entitled to a preferred return of 6% and a certain percentage of the profits after certain amounts are first paid to the Members of the Company.

An additional class of limited liability company units being offered hereby will be referred to as the “*Class B Units*.” The Class B Units are being offered at a price per Class B Unit as indicated at the beginning of this Memorandum, until such time as the Managing Member determines that an adjustment to the price per Class B Unit is warranted or otherwise required under the A&R LLC Agreement, in which case such adjustment will be made in accordance with the A&R LLC Agreement. The Class B Units will have limited voting rights, as described in the A&R LLC Agreement. The Class B Units are subordinate to certain rights of the Preferred Units, and the Class B Units are entitled to a preferred return of 6% and a certain percentage of the profits after certain amounts are first paid to the Members of the Company.

The Class C Units, an additional class of limited liability company units being offered hereunder and referred to as the “*Class C Units*,” are exactly the same as the Class A Units, except that certain placement and selling expenses paid by the Fund in connection with the sale of such Class C Units will reduce the deemed “*Capital Contribution*” associated with such Class C Units (which, in return, will decrease the base on which any preferred return will be calculated, the number of Class C Units received by such Investor and generally a reduced distribution amount as compared to a Class A Member making the exact same subscription (in dollar terms) as a Class C Member).

The Class D Units, an additional class of limited liability company units being offered hereunder and referred to as the “*Class D Units*,” are exactly the same as the Class B Units, except that certain placement and selling expenses paid by the Fund in connection with the sale of such Class D Units will reduce the

deemed “*Capital Contribution*” associated with such Class D Units (which, in return, will decrease the base on which any preferred return will be calculated, the number of Class D Units received by such Investor and generally a reduced distribution amount as compared to a Class B Member making the exact same subscription (in dollar terms) as a Class D Member).

**The Offering:**

The Units are being offered for a two (2) year period commencing on the initial admission of Investors acquiring one or more classes of Participating Units into the Fund under this Offering, on a best-efforts basis. Funds tendered by Investors in the offering will be released immediately to the Fund for use in accordance with the terms and conditions of the A&R LLC Agreement.

The offering is made on a “best efforts—no minimum” basis. There is no requirement that any minimum number of Units be sold before the Proceeds are released to the Fund and applied in its business. Therefore, there can be no assurance as to the amount of Proceeds that will be received by the Fund.

The Units are offered through Tobin & Company Securities LLC, a registered broker/dealer and member FINRA/SIPC (the “Managing Broker”). Upon receipt of the executed acceptance of the Subscription Agreement (the “Subscription Agreement”), the Investor will deposit, preferably via wire transfer (though checks will be accepted), the subscription amount which will be delivered directly to an account of the Fund, with such proceeds available for use by the Fund in accordance with the terms and conditions of the A&R LLC Agreement immediately upon receipt. A copy of the Subscription Agreement has been enclosed as Appendix B.

The Fund will not accept any additional subscriptions under this offering after the Fund accepts an aggregate of Two Hundred Fifty Million Dollars (\$250,000,000) in subscriptions for the purchase of Participating Units (or any other securities offered and sold by the Fund in accordance with the A&R LLC Agreement), subject to the Managing Member’s right to increase the amount of the Offering in its sole discretion. The Fund is offering to sell any combination of Participating Units with a dollar value up to the Maximum and any number of Preferred Units (no maximum limit amount). The Managing Member reserves the right, in its sole discretion, to sell Member Units at a discount to the established purchase price. For example, the Managing Member may allow discounts to certain large or strategic investors or allow registered investment advisors or registered representatives of broker-dealers to invest “net of commission”.

**Selling  
Commissions:**

The Fund will engage duly licensed and registered broker-dealers to assist with its offer and sale of Units. The Partnership may engage and terminate such broker-dealers as it determines necessary, and the Fund may determine the amount of compensation to be paid to such broker-dealers. The Fund has initially entered into an agreement with Tobin & Company Securities, LLC, a North Carolina limited liability company (“*Tobin*”), as its managing broker-dealer. Tobin is a broker-dealer registered with the Securities and Exchange Commission and other necessary state or other regulators, and a member of the Financial Industry Regulatory Authority Inc. (“*FINRA*”).

Certain employees of Caliber Services, LLC, an Arizona limited liability company (“*Services*”), an affiliate of the Fund, will be registered representatives of Tobin (“*Affiliated Agents*”). Tobin will pay sales commissions to Affiliated Agents for their sale of Units. Affiliated Agents

may perform other services on behalf of Services that are not part of such Affiliates Agents' relationship with Tobin and not involving the offer and sale of securities.

Please note that Affiliated Agents with CaliberCos (but who are licensed and managed through Tobin) will receive selling commissions up to 2.00% of the gross proceeds in the Offering from the sale of Preferred Units, Class A Units and Class B Units. Other fees that will be paid to Tobin & Company Securities LLC include the following: (1) a non-refundable engagement fee of \$10,000 that was or will be paid upon execution of a placement agreement between the Fund and the Managing Broker; (2) monthly non-refundable retainer fee of \$5,000 (which is reduced on a dollar-for-dollar basis by any amounts paid under the placement fee (as described in item no. 3 below); and (3) a placement fee up to 1.00% of all sales of securities (based on the principal amount of the securities issued).

The Fund and/or Managing Broker may also enter into selling agreements with third-party FINRA licensed broker-dealers ("*Soliciting Broker*"), pursuant to which such Soliciting Brokers will assist with placing Class C Units and Class D Units with Investors and such Soliciting Brokers may earn (i) a selling commission of up to 6% of the subscription proceeds sourced through such Soliciting Broker, and (ii) a due diligence fee (or other similar fee) of up to 1% of the subscription proceeds sourced through such Soliciting Broker. These commissions and other fees paid to Soliciting Dealers will be Fund level expenses and be paid in addition to the fees due Tobin Securities for acting as a Managing Broker; provided, however, that any placement fees or sales commissions paid in excess of 3% with respect to the sale of any Class C Units or Class D Units will result in the deemed Capital Contributions of such Class C Units or Class D Units to be reduced on a dollar for dollar basis by an amount equal to such excess above 3% of the subscription amount. No amounts will be paid (directly or indirectly) to Affiliated Agents with respect to Class C Unit and Class D Unit sales sourced through any Soliciting Brokers.

Below is a summary of the placement fee and sales commission limits permitted under the A&R LLC Agreement:

	<b>Preferred Units</b>	<b>Class A Units</b>	<b>Class B Units</b>	<b>Class C Units</b>	<b>Class D Units</b>
<b>Managing Broker Dealer Fees</b>					
<i>Placement Fee</i> (based on transaction value)	up to 1%	up to 1%	up to 1%	up to 1%	up to 1%
<i>Sales Commissions</i> (based on transaction value)  (to be paid to duly licensed Affiliated Agents of the Managing Broker-Dealer and	up to 2%	up to 2%	up to 2%	--	--



who are also affiliated with the Managing Member)					
<b>Additional Soliciting Dealer Fees</b>					
<i>Sales Commissions (and other similar amounts paid)</i>  (based on transaction value)	--	--	--	up to 6%	up to 6%
<i>Due Diligence Fee</i>  (based on transaction value)	--	--	--	up to 1%	up to 1%

**Managing Member's Commitment and Interest:**

A final class of limited liability company units not being offered hereby will be referred to as the "Managing Member Units." The Managing Member Units will be owned by the initial Managing Member. The Managing Member, as holder of the Managing Member Units, will be entitled to certain carried interests, as described in this Memorandum.

The Managing Member, as holder of the Managing Member Units, will be entitled to a "Carry Amount" with respect to each Participating Member, as described in the A&R LLC Agreement. In broad terms, when (i) the second to last level of the economic waterfall is reached, the Managing Member will be entitled to 25% of all preferred return (on a grossed-up basis) that has been paid to Participating Members; and (ii) the last level of the economic waterfall is reached, certain amounts will be allocated to the Participating Member based on the respective number of Units held by each Participating Member, and then the Carry Amount will be applied to each Participating Member and those "Carry Amounts" applied will be paid to the holder of Managing Member Units as "carried interest" with the remaining portion distributed to the Members. The Carry Amount of the Managing Member is determined based on the class of Participating Units held by the Participating Members and is equal to 35% with respect to the Class A Members and Class C Members and 25% with respect to the Class B Members and Class D Members, except to the extent that the Fund has entered into a Side Letter with an Investor pursuant to which the Carry Amount with respect to such Investor is different from the percentages set forth above.

As Members make capital commitments to the Fund, the Managing Member will (in accordance with the timing requirements set forth in the A&R LLC Agreement), directly or through its Affiliate, invest a minimum of 1% of the Capital Commitments of the Members as a Participating Member within the Fund. The Managing Member and its Affiliates reserve the right to acquire Participating Units up to an aggregate amount equal to 10% of the outstanding Participating Units of the Fund in exchange for payment of the applicable price per Unit then in effect.

**Individual Minimum**

The individual minimum subscription for Class A Units and Class C Units is One Hundred Thousand Dollars (\$100,000), unless otherwise waived by the Managing Member. The individual minimum subscription for Class B Units



<b>Investment Amount:</b>	and Class D Units is One Million Dollars (\$1,000,000), unless otherwise waived by the Managing Member. Subscriptions are subject to acceptance or rejection by the Managing Member, in the Managing Member's sole and absolute discretion, subject to the terms and conditions of the Subscription Agreement. Rejected subscriptions and subscription funds will be returned to subscribers without interest within thirty (30) days of rejection. The Fund reserves the right to increase the amount of the Offering and, accordingly, the Proceeds to the Fund.
<b>Special Tax or Regulatory Parallel Funds:</b>	The Managing Member may, in its discretion, create additional partnerships or other vehicles (" <i>Parallel Funds</i> "), for Investors with special investment needs, including Investors with special legal, regulatory, tax or other requirements. The Parallel Funds generally will invest side-by-side with the Fund on substantially the same terms and conditions as the Fund, including the sharing of organizational and other Fund expenses. The Parallel Funds may contain different terms and conditions than the Fund.
<b>Fund Valuation:</b>	The Fund shall cause a valuation to be performed at least once per calendar year, with such valuation based upon the assets of the Fund, less any liabilities. The Fund will utilize a discounted cash flow analysis on each asset's business plan to analyze each asset then-current value, net of all liabilities, to achieve the net equity value of the Fund at the time of the valuation. The Fund may also use as part of the basis for the valuation third party appraisals and opinions conducted at or received prior to the partnership valuation, but only to the extent that the Managing Member determines such valuations fairly represent the value of such assets.
<b>Fund Term:</b>	The term of the Fund will continue for a period of five (5) years after the admission of the first Participating Member into the Fund, provided, however, the Managing Member may extend such initial five-year period up to an additional two (2) years (elected in subsequent one (1) year periods). Thereafter, the Fund shall continue only with the affirmative consent of a Majority in Interest of the Participating Members or the consent of the Advisory Board.
<b>Diversification:</b>	The Fund does not have fixed guidelines for diversification and may concentrate its investments in particular types of real estate investments and may utilize different investment strategies, depending on the Managing Member's assessment of the available investment opportunities, including only purchasing a single property.
<b>Capital Accounts:</b>	The Fund will establish and maintain on its books a capital account (" <i>Capital Account</i> "), for each Member and the Managing Member, into which their capital contribution(s) (each a " <i>Capital Contribution</i> "), will be credited and in which certain other transactions will be reflected. For clarification purposes, a Preferred Member shall not have a Capital Account.
<b>Distributions and Carried Interest:</b>	Members may not voluntarily withdraw any amount of capital from the Fund. Each Participating Member will have a " <i>Carry Amount</i> " assigned to their respective Units at the time of issuance. Unless otherwise agreed to by the Managing Member and a Participating Member, the Carry Amount for any Class B Units or Class D Units held by such Participating Member will be equal to 25% and the Carry Amount for any Class A Units or Class C Units held by such Participating Member will be equal to 35%.

**Distributions of operating proceeds will be paid when and as determined by the Managing Member, and will be paid as follows:**

- (1) Preferred Return. First, 100% to the Preferred Members, pro rata, based on the Preferred Return payable to the Preferred Members, until each Preferred Member has received the preferred return payable to such Preferred Member (up to a maximum 12% preferred return);
- (2) Participating Member Preferred Return. Second, to the Participating Members, in proportion to each Participating Member's accrued but unpaid Preferred Return (defined below), until each such Participating Member has received a six percent (6%) cumulative, non-compounding, preferred return on all unreturned capital contributions;
- (3) Catch-Up. Next, to the Managing Member until it receives an amount equal to 25% of the aggregate preferred return paid (on a grossed-up basis) to all Participating Members; and
- (4) Carry Amount and Pro Rata Distribution. Thereafter, pro rata, based on each Participating Members respective Units, less the Carry Amounts to be paid to the holders of the Managing Member Units.

By way of example and assuming a Participating Member's applicable Carry Amount is equal to 25%, if the Participating Member's pro rata shares of distributions under this Section (3) is equal to \$100 (before assessing the applicable Carry Amount), then \$75 will be distributed to the Participating Member and \$25 will be distributed to the Managing Member as the holder of the Managing Member Units.

**Distributions upon liquidation and re-finance of proceeds will be paid when and as determined by the Managing Member, and will be paid as follows:**

- (1) Preferred Return. First, 100% to the Preferred Members, pro rata, based on the preferred return payable to the Preferred Members, until each Preferred Member has received the preferred return payable to such Preferred Member (up to a maximum 12% preferred return);
- (2) Preferred Return of Capital. Next, 100% to the Preferred Member, pro rata, based on the Unreturned Capital Contributions of the Preferred Member, until each Preferred Member has received an amount equal to such Preferred Member's Capital Contributions;
- (3) Participating Member Preferred Return. Next, to the Participating Members, in proportion to each Participating Member's accrued but unpaid Preferred Return (defined below), until each such Participating Member has received a six percent (6%) cumulative, non-compounding, preferred return on all unreturned capital contributions;
- (4) Participating Member Return of Capital. Next, 100% to the Participating Members, pro rata, based on the Unreturned Capital Contributions of the Participating Members, until each Participating Member has received an amount equal to such Participating Member's Capital Contributions;

(5) Catch-Up. Next, to the Managing Member until it receives an amount equal to 25% of the aggregate preferred return paid (on a grossed-up basis) to all Participating Members; and

(6) Carry Amount and Pro Rata Distribution. Thereafter, pro rata, based on each Participating Members respective Units, less the Carry Amounts to be paid to the holders of the Managing Member Units.

By way of example and assuming a Participating Member's applicable Carry Amount is equal to 25%, if the Participating Member's pro rata shares of distributions under this Section (3) is equal to \$100 (before assessing the applicable Carry Amount), then \$75 will be distributed to the Participating Member and \$25 will be distributed to the Managing Member as the holder of the Managing Member Units.

The Managing Member may establish reserves for expenses, liabilities, or contingencies (including those not addressed by U.S. generally accepted accounting principles ("GAAP")), which could reduce the amount of a distribution.

**Clawback:**

To the extent that over the life of the Fund the Managing Member has received distributions in respect of the catch-up and Carry Amount paid under Sections 4.1.1 and 4.1.2 of the A&R LLC Agreement, and any Participating Member does not receive an IRR of 6%, then the Managing Member will be liable to return to the Fund, at the time of the liquidation of the Fund, the grossed-down after-tax amount of any such excess distributions received by the Managing Member with respect to its Managing Member Units to the Fund, for distribution to such Members, at the time of liquidation of the Fund.

**Tax  
Distributions:**

Within 75 days of the end of each taxable fiscal year, the Managing Member shall distribute to each Member (including the Managing Member), to the extent cash is available to the Fund, as determined by the Managing Member, an amount which, when combined with the other amounts distributed to such Member (including the Managing Member) in that fiscal year and all prior fiscal years, equals the cumulative net taxable income allocated to the Member (including the Managing Member) for that fiscal year and all prior fiscal years (taking into account losses allocated to that Member (including the Managing Member) in prior fiscal years to the extent not previously accounted for) multiplied by the highest applicable federal and Arizona state marginal tax rates in effect for individuals or corporations that fiscal year (taking into account the Medicare tax under Code Section 1411 and the deductibility of state income taxes for purposes of determining the federal income tax rate and, if the income or gain is taxed as long term capital gain or Code Section 1231 gain, the highest applicable federal and state marginal tax rates applicable to such gains). Any such tax distribution will be treated as a distribution otherwise payable to such Member (including the Managing Member) and taken into account in determining subsequent distributions payable to the Members (including the Managing Member), so that, in the aggregate, all distributions are divided among the Members (including the Managing Member) in the manner they would be divided without regard to tax distributions.

In the event the Managing Member determines there is cash available to distribute to pay the tax distributions, less cash will be available to the Fund to reinvest or cover its operational expenses. The Fund may miss opportunities otherwise available in the market because it uses cash to distribute to

Members as tax distributions. There is no guarantee that the Fund will have cash available to cover a Member's allocable share of income. An investor may experience income tax due to its investment, without actually receiving any distributions from the Fund.

**Allocation of  
Income, Gain  
and Loss:**

Income, expense, gain and loss of the Fund will generally be allocated, by the Managing Member, in good faith, to the Members in a manner consistent with the distribution of proceeds from investments as described above.

**Transaction  
Fees:**

The Managing Member or any of its Affiliates may also be paid fund formation, management, and other fees as would be paid in the normal course of business, including, without limitation, in connection with accounting, property management, leasing, acquisition, maintenance and construction margin, development and disposition of properties acquired by the Fund; provided, however, any fees paid by the Fund to the Managing Member or its Affiliates for the provision of such services shall be no greater than the Fund would pay to an unaffiliated third party providing such services in either (i) Maricopa County, Arizona, for services provided to the Fund as a whole, or (ii) the county and state where any Fund property is located, for services provided in connection with a specific Fund property.

Please refer to the section labeled "Management Fees and Compensation" for a complete listing of all fees and reimbursements to be paid to the Affiliates of the Managing Member.

**Expenses:**

The Fund shall pay or reimburse the Managing Member for all expenses incurred or paid on behalf of the Fund prior to or after the formation of the Fund.

**Side Letters:**

The Managing Member has the absolute discretion to create additional classes of Units from time to time without notice to the existing Members and may vary the terms of this Memorandum with respect to any Member and may enter into confidential side letters or other similar agreements ("*Side Letters*"), with certain Members and may issue confidential supplements to this Memorandum related to such Members which are not provided or disclosed to other Members. Such terms may waive or modify the application of any provision of the A&R LLC Agreement with respect to such Member, without obtaining the consent of or giving notice to any other Member; provided, however that any such Side Letter will not adversely impact the rights of the other Investors. Terms may differ according to the types of investment strategies employed, carried interests charged, placement fees, minimum and maximum subscription amounts, Investor eligibility requirements and in other respects in the complete and sole discretion of the Managing Member.

**Fiscal Year:**

The fiscal year of the Fund shall end on December 31 of each year (each a "*Fiscal Year*"), which Fiscal Year may be changed by the Managing Member, in its sole and absolute discretion.

**Borrowings:**

The Managing Member believes in utilizing leverage in a moderate fashion. Considering this leverage strategy, the Managing Member intends to follow the below described restrictions with respect to the use of leverage. No such restrictions are expressly described in the A&R LLC Agreement, and the Managing Member is under no obligation to follow such guidelines.

**Reports to  
Members:**

Any Member or its respective designated representative shall have the right, at any reasonable time, to have access to and inspect and copy the contents of books and records of the Fund; provided, however, that confidential communications between the Fund and its legal counsel may be withheld from a Member in the Managing Member's reasonable discretion.

In addition, all Members will receive the information necessary to prepare federal and state income tax returns following the conclusion of such Fiscal Year as soon thereafter as is reasonably practical. In addition to annual financial statements, the Managing Member intends to provide Members with quarterly reports showing the performance of the Fund's investments.

The Managing Member may agree to provide Members with additional information on the underlying investments of the Fund, as well as access to the Managing Member and its employees for relevant information.

**Transferability  
of Interests:**

There is no current market for the Units. The Fund and the Managing Member do not expect that a public market will ever develop, and the Fund's Certificate of Formation does not require a liquidity event at a fixed time in the future. Therefore, redemption of Units by the Fund, which must be agreed to by the Managing Member in its sole and absolute discretion, will likely be the only way for an investor to dispose of its Units. While the redemption program of the Fund was designed to allow investors to request redemptions of an investor's Units, the Fund's ability to fulfill redemption requests is subject to a number of limitations. Most significantly, the vast majority of the Fund's assets will most likely consist of real estate assets which cannot generally be readily liquidated without impacting the Fund's ability to realize full value upon disposition of such assets. Any redemption requests by an investor will require the approval of the Managing Member, which may be withheld in its sole and absolute discretion. As a result, an investor's ability to have its Units redeemed by the Fund may be limited, and the Units should be considered a long-term investment with limited liquidity. Also, under the A&R LLC Agreement, the Managing Member can unilaterally redeem out a Member from its Units in its sole and absolute discretion. The Managing Member does not intend to exercise its right to force a redemption of a Member except in very limited circumstances involving a Member who is causing significant disruption to the Fund as whole.

**ERISA and  
Other Employee  
Benefit Plans  
and Accounts:**

Pension, profit-sharing or other employee benefit plans that are subject to Title I of the Employee Retirement Income Security Act of 1974, as amended ("*ERISA*"), individual retirement accounts, Keogh Plans or other plans covered by Section 4975 of the Internal Revenue Code of 1986, as amended (the "*Code*"), and entities deemed to hold the plan assets of each of the foregoing (each a "*Benefit Plan Investor*"), governmental plans, foreign employee benefit plans and certain church plans not subject to ERISA (such plans which are not Benefit Plan Investors are referred to herein as "*Other Benefit Plans*"), may generally purchase Units in the Fund subject to the considerations described in this Memorandum. The Managing Member intends to conduct the operations of the Fund so that the assets of the Fund will not be considered "plan assets" of any plan investor. Fiduciaries of Benefit Plan Investors and Other Benefit Plans are urged to review carefully the matters discussed in this Memorandum and consult with their own legal and financial advisors before making an investment decision.

If requested by any tax-exempt Investors that are ERISA or governmental pension funds, the Managing Member will facilitate the formation of a group

trust through which those pension funds would invest in the Fund. The group trust, and not the Investors would be expected to report and pay the federal income taxes resulting from unrelated business taxable income generated by the Fund.

Investors subject to ERISA should consult their own advisors as to the effect of ERISA on an investment in the Fund. The Managing Member will make reasonable efforts to conduct the affairs and operations of the company in such a manner that the Fund will qualify as a venture capital operating company under ERISA.

**Certain Tax  
Considerations:**

Income or gain of the Fund may be subject to withholding tax, income tax or other tax in the jurisdictions where investments are located. Each Investor is advised to consult its own tax advisor as to the tax consequences of an investment in the Fund, including the application of state and local tax laws.

**Voting Rights  
and  
Amendments:**

The voting rights of Members are very limited. Other than as explicitly set forth in the A&R LLC Agreement, Members have no voting rights as to the Fund or its management.

Generally speaking, the A&R LLC Agreement may only be amended by the consent of the Managing Member and the Members holding a majority of the outstanding Units, provided however, the Managing Member may amend the A&R LLC Agreement in certain other times. See *Section 14.20 of the A&R LLC Agreement* for a full list of items that may allow the Managing Member to unilaterally amend the A&R LLC Agreement.

**Liability of  
Members:**

A Member's liability to the Fund is limited to the amount it has contributed to the capital of the Fund. Once a Unit has been paid for in full, the holder of that Unit will have no further obligation at any time to make any loans or additional Capital Contributions to the Fund (except with respect to the obligation of the Managing Member in connection with the clawback provision described above). No Member shall be personally liable for any debts or obligations of the Fund. Under Delaware law, when a Member receives a return of all or any part of such Member's Capital Contribution, the Member may be liable to the Fund for any sum, not in excess of such return of capital (together with interest), if at the time of such distribution the Member knew that the Fund was prohibited from making such distribution pursuant to the Delaware Revised Limited Liability Company Act, as amended (the "*LLC Act*").

**Other Activities  
of Managing  
Member and its  
Affiliates:**

Neither the Managing Member nor its Affiliates is required to manage the Fund as their sole and exclusive function. Each may engage in other business activities, including competing ventures and/or other unrelated employment. In addition to managing the Fund, the Managing Member and its Affiliates may establish other private investment funds in the future which employ an investment strategy similar to that of the Fund.

**Exculpation and  
Indemnification:**

The Managing Member will be generally liable to third parties for all obligations of the Fund to the extent such obligations are not paid by the Fund or are not by their terms limited to recourse against specific assets. The Fund (but not the Members individually) is obligated to indemnify the Managing Member and its managers and members from any claim, loss, damage, or expense incurred by such persons relating to the business of the Fund, provided that such indemnity is otherwise not prohibited by law.



**Termination:**

Upon termination, the Fund shall be dissolved and wound-up. The Managing Member or, if there is no Managing Member, a liquidator or other representative (the “*Representative*”), appointed by a majority of the interest of the Members shall proceed with the orderly sale or liquidation of the assets of the Fund and shall apply and distribute the proceeds of such sale or liquidation in the following order of priority, unless otherwise required by law: (i) first, to pay all expenses of liquidation; (ii) second, to pay all creditors of the Fund (including Members who are creditors) in the order of priority provided by law or otherwise; (iii) third, to the establishment of any reserve which the Managing Member or the Representative may deem necessary; and (iv) fourth, to the Members or their legal representatives in accordance with the liquidation distribution provisions set forth above.

**No Registration Rights:**

The Units will not be registered under the Securities Act and the Members will not have any registration rights associated with their respective Units.

**How to Subscribe:**

Securities are offered through the Managing Broker, a registered broker/dealer and member FINRA/SIPC.

Prospective investors who would like to subscribe for the Units must carefully read this Memorandum. If, after carefully reading the entire Memorandum, obtaining any other information available and being fully satisfied with the results of pre-investment due diligence activities, a prospective investor would like to purchase Units, they must complete and sign a Subscription Agreement and any supporting documentation, as requested. The Subscription Agreement submission process is managed by the Managing Broker. An example of the Subscription Agreement a prospective investor would complete is attached as Appendix B. An investor must purchase at least the minimum purchase amount of \$100,000 (subject to the other provisions contained in this Memorandum) and the full purchase price must be paid upon submission of the completed Subscription Agreement. Instructions for completing the Subscription Agreement will be provided by the Managing Dealer, along with detailed instructions for making payment via wire transfer.

As part of the subscription process, prospective investors are required to provide a third-party verification of their accredited investor status. This is a regulatory requirement and therefore, if the investor fails to produce the necessary third-party verification, their subscription must be rejected. The Managing Broker will request this verification as part of, or separate from, your completed Subscription Agreement. Acceptance of the prospective Investor’s subscription by the Fund is in the Managing Member’s sole and absolute discretion, and the Fund will notify each prospective Investor of receipt and acceptance of the subscription. In the event the Fund does not accept a prospective Investor’s subscription for the Units for any reason, the Fund will promptly return the funds to such subscriber in accordance with the terms of this Memorandum.

**Eligible Investors:**

In order to invest in the Fund, an Investor must meet certain minimum eligibility requirements, including qualifying as an “Accredited Investor,” as defined in Section 4(a)(2) of the Securities Act of 1933, as amended (the “*Securities Act*”), and Regulation D promulgated thereunder. The Subscription Agreement sets forth in detail the definitions of an Accredited Investor. An Investor must check the appropriate places in the Subscription Agreement to represent to the Fund that it is an Accredited Investor and submit to the Fund and the Managing Broker any third-party verification of such Accredited Investor status as determined needed by the Fund and the

Managing Broker, in order to be able to purchase Units. The Managing Member may reject any Investor's subscription for any reason or for no reason.

**Inquiries:**

Each Investor is invited to, and it is highly recommended that an Investor, meet with the Managing Member for a further explanation of the terms and conditions of this offering and to obtain any additional information necessary to verify the information contained in this Memorandum, to the extent the Managing Member possesses such information or can acquire it without unreasonable effort or expense. Requests for such information should be directed to:

8901 East Mountain View Road, Suite 150  
Scottsdale, Arizona 85258  
480-295-7600  
Email: [Invest@CaliberCo.com](mailto:Invest@CaliberCo.com)



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## CALIBER EXECUTIVE SUMMARY

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### Caliber Executive Summary

Caliber provides high net worth individuals and the investment advisers who serve them access to sophisticated, private real estate investments that have been traditionally reserved for institutions.

Caliber's mission is to build wealth for and with their clients while transforming the assets and communities they touch.

Caliber achieves this mission by providing well-structured residential, commercial, and hospitality real estate investments, utilizing, to the extent beneficial to the investment project as a whole, a vertically integrated business model that includes acquisitions, development, construction, asset management and disposition.

### Key Items on Caliber:

- As of 2021, Caliber is celebrating its 13th year since inception as a 7x consecutive awardee of the Inc. 500|5000 'Fastest Growing Private Company in America', an accomplishment less than 3% of Inc. companies ever achieve.
- For the 8-year period from 2013 through 2021, Caliber experienced 41% weighted average annual net growth in aggregate capital invested from outside investors in its various funds.
- Caliber's accredited investor base has tripled from 2016 to 2021.
- Caliber has launched and managed nine (9) multi-asset, discretionary private real estate funds and twenty three (23) single-asset private debt and equity offerings in its operating history.

Caliber is an established Alternative Investment Sponsor and fund manager specifically focused on the Greater Southwest Growth Region (AZ, CO, TX, NV, UT & ID), with an investment team designed to execute on ground-up development and repositioning of existing, middle-market, real estate assets (generally \$5m - \$50m in project value), and with an institutional-grade administrative infrastructure designed to support a large base of investors and multiple funds, Caliber believes it is well positioned to manage the Fund.

For financial reporting purposes, Caliber, as represented by the legal entity CaliberCos Inc., consolidates some assets within its management or ownership, as required by generally accepted accounting principles (GAAP). To that extent, some of the capital or assets the company manages are including within the consolidated financial statements and some of the capital or assets are eliminated as required by GAAP. Caliber is a public reporting entity, and its public filings can be found at: <https://www.sec.gov/edgar/browse/?CIK=1627282>.

### Caliber's Competitive Strengths:

#### *Creating Access*

Caliber are focuses on creating wealth for their clients by providing access to high quality real estate investments. Caliber believes that capital organized privately into structured funds offers investors an optimal balance of risk-adjusted return and investment performance. By allowing investors, who may not otherwise be able to purchase a large asset, to participate with a minimum investment as low as \$100,000, Caliber provides typical real estate investors access to sophisticated strategies and assets that they may not otherwise have.

#### *Vertical Integration*

While Caliber’s business model is in part analogous to that of a financial asset manager, their model is built on a full-service approach. They have complemented traditional asset management functions with a hands-on approach to real estate investing. Specifically, Caliber employs in-house experts in asset management, leasing, construction management, development, finance, and capital formation. Their model is designed to leverage the scale of best-in-class third party service providers, such as general contractors and property managers, which maintain the control of hands-on management – such as Caliber’s construction management professionals and asset managers.

#### *Extensive relationship and sourcing network*

Caliber leverages its real estate services businesses in order to source deals for their funds. In addition, management has extensive relationships with major industry participants in each of the markets in which they currently operate. Their local presence and reputation in these markets have enabled them to cultivate key relationships with major holders of property inventory, in particular, financial institutions, throughout the real estate community.

#### *Targeted market opportunities*

Caliber focuses on markets that have a long-term trend of population growth and income improvement in states with business and investment-friendly governments. Caliber generally avoids engaging in direct competition in over-regulated and saturated markets.

#### *Structuring expertise and speed of execution*

Prior real property acquisitions completed by Caliber have taken a variety of forms, including direct property investments, joint ventures, participating loans and investments in performing and non-performing mortgages with the objective of long-term ownership. Caliber believes they have developed a reputation of being able to quickly execute, as well as originate and creatively structure acquisitions, dispositions, and financing transactions.

#### *Focus on the middle market*

Caliber’s focus on middle market opportunities offers their investors significant alternatives to active, equity investing that provide attractive returns to investors. This focus has allowed them to offer a diversified range of real estate investment opportunities, particularly for accredited investors. While Caliber will often enter into large projects, it breaks those projects into phases to allow middle-market participants to invest.

#### *Risk protection and investment discipline*

Caliber underwrites their investments based upon a thorough examination of property economics and a critical understanding of market dynamics and risk management strategies. They conduct an in-depth sensitivity analysis on each of their acquisitions. This analysis applies various economic scenarios that include changes to rental rates, absorption periods, operating expenses, interest rates, exit values and holding periods. Caliber uses this analysis to develop their disciplined acquisition strategies.

### **Caliber Management Team**

#### ***John C. “Chris” Loeffler, II, Chief Executive Officer of Caliber***

Chris Loeffler is the CEO and Co-Founder of Caliber and serves as Chairman of the Company’s Board of Directors. As CEO, Chris directs and executes overall strategy, oversees investments and fund management, and contributes to private and public capital formation. As a Co-Founder Chris took an early role forming the Company’s financial and operational infrastructure and navigating the vertical integration of all real estate and investment services.

Prior to forming Caliber, Chris served as a Senior Associate in the audit and assurance practice for PwC in Phoenix, Arizona, completing public company audits, developing control systems, and completing several acquisition or sale transactions. Some of Chris’ engagements included Honeywell International, Inc., CSK Auto Inc., Verizon Communications, Inc., Republic Services, Inc., Car Wash Partners, Inc., and the Arizona Diamondbacks.

Chris earned a Bachelor of Science degree in Business Administration with a concentration in Accounting from California Polytechnic State University, San Luis Obispo. Chris also attended Universidad Complutense de Madrid (University of Madrid) in Madrid, Spain. Chris is also a Board Director for Qwick, Inc., a venture-funded hospitality staffing marketplace.

***Jennifer Schrader, President & Chief Operating Officer of Caliber***

Jennifer Schrader has served as the President and COO and as a director of Caliber since its inception. Since co-founding Caliber in 2009, she has overseen the acquisition, design, repositioning, and disposition of over \$500 million in assets to date. In addition, she leads the company's daily operations, inclusive of Caliber's asset management activities, focusing on the execution of each investment's business plan over the asset's full lifecycle.

Prior to forming Caliber, Jennifer was the Managing Partner of First United Equites, LLC, a Michigan business focused on acquiring, renovating and selling homes for profit.

Jennifer serves as Chair of the Caliber Foundation, which was launched in 2021, and on the Colangelo College of Business Advisory Board for Grand Canyon University in Phoenix, Arizona. She attended Lawrence Technological University in Michigan where she studied architecture and interior architecture. She holds a Real Estate Broker's license from the Arizona School of Real Estate and Business.

***Jade Leung, Chief Financial Officer of Caliber***

Jade Leung is Caliber's CFO and corporate secretary. As CFO, Jade oversees accounting and controllership, financial planning and analysis, tax, financial reporting, and treasury functions at Caliber.

Before being named CFO in April 2017, Jade was Caliber's Vice President of Finance and was responsible for managing and streamlining the Company's accounting and compliance functions across all divisions and functions. In August 2016, he was also named the Chief Compliance Officer for the Company's Arizona issuer-dealer, Caliber Securities, LLC, which established a new revenue stream for the Caliber group of companies.

Prior to joining Caliber, Jade spent 12 years with PwC, LLP, most recently as Senior Manager in audit and assurance services in Los Angeles, CA where he managed audit and accounting advisory services for some of PwC's largest Fortune 500 companies in the United States, Canada, and Japan. Notably, Jade, while performing audit and assurance services at PwC, assisted clients in over \$1 billion dollars of public market transactions and financing arrangements, including First Solar, Inc., American Express Company, Mitsubishi UFJ Financial Group, and Rural/Metro Corporation.

Jade earned an accounting degree from Ryerson University and Bachelor of Arts degree in Psychology from the University of British Columbia. Jade holds an active CPA license in the states of Arizona and Maine.

***John Hartman, Chief Investment Officer of Caliber***

John Hartman is Caliber's Chief Investment Officer (CIO). As CIO, John is responsible for all of Caliber's private funds, private syndications, and public products such as REIT's and DST's. John joined Caliber in December of 2020 as a consultant and was then hired to fill the role of Executive Vice President and CIO.

Most recently he was a Managing Director and equity partner of Republic Capital Partners, a commercial real estate merchant bank, where he oversaw the investor marketing and capital formation activities, including deal sourcing and negotiation. Prior to that, he was Chief Executive Officer and a member of the board of directors of Gadsden Properties, a publicly traded real estate company. Prior to joining Gadsden, John was CEO of Landwin Realty Trust, a REIT created out of the merger of several private equity real estate funds.

John also served as a Managing Director of Astrum Investment Management; a \$50 million private equity real estate fund focused on C-credit middle-market industrial sale/leasebacks. Earlier in his career, John held the position of Chief Financial Officer for Global Facilities Development, a national commercial real estate development and site

selection company, focused on historical rehabilitations for high-tech reuse, primarily data centers. He has also served as President and CEO of Silverado Financial (SLVO), a publicly traded real estate finance company.

John has held leadership roles at private and public real estate firms including institutionally backed private equity real estate funds, where he managed capital formation, due diligence, underwriting, and acquisitions. John has acquired/developed over \$2B in commercial real estate.

John holds a bachelor's degree from San Jose State University and an MBA from California Coast University. John is a licensed real estate broker in Arizona.

***Roy Bade, Chief Development Officer of Caliber***

Roy Bade is the Chief Development Officer (CDO) of Caliber. Roy is responsible for managing real estate service lines provided by Caliber's vertically integrated group of operating businesses. His four areas of responsibility include vertical and horizontal real estate development, construction, acquisitions, and project financing.

For nearly 30 years prior to joining Caliber, Roy acted as the principal and managing partner of two businesses, Bade Commercial Services Inc and BCS Development Group, LLC, which included construction, development, leasing and property management of office, medical, retail, and industrial properties throughout Phoenix, Arizona. During this time, Roy constructed and developed over 50 different projects.

Roy graduated from Washington State University with a Bachelor of Science in Business Information Systems, holds a Commercial General Contractor's license, holds an Arizona Real Estate Broker's license and has sat on numerous city boards and committees.

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## GENERAL RISK FACTORS

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Investment in the Units of the Fund offered hereby involves risk, including the risk of a complete loss of the investment and the general economic failure of the Fund. The following factors should be considered carefully in evaluating an investment in the Units offered hereby. The risks and uncertainties described below are not the only ones relevant to the Fund. The investment described herein involves a substantial risk and represents an illiquid investment. An investor should be able to bear the loss of the investor's entire investment. You are urged to read this Memorandum and the attached exhibits and consult with your own legal, tax, and financial advisors before investing in the Fund. In certain applicable circumstances, "Fund" may refer to or include the Fund's Affiliates, including any entities formed for the purpose of holding title to assets of the Fund.

### GENERAL RISKS RELATED TO AN INVESTMENT IN THE FUND

***The Fund is considered a "blind pool."***

Because the Fund has not identified all of the specific assets that the Fund may purchase with investment proceeds and operating proceeds, this is a "blind pool." An investor will not be able to evaluate the economic merit of the Fund's investments until after investments have been made.

To be successful, the Fund and its Managing Member (and its advisors) must, among other things:

- identify and acquire investments that further the Fund's investment objectives;
- rely on the Fund's advisors and their Affiliates to attract, integrate, motivate, and retain qualified personnel to manage our day-to-day operations;
- respond to competition for our targeted investments as well as for potential investors;
- rely on Affiliates and third parties to continue to build and expand the Fund's operations structure to support its business; and
- be continuously aware of, and interpret, market trends and conditions.

The Fund may not succeed in achieving these goals, and a failure to do so could cause the Fund's investors to lose a significant portion of the value of their investment in the Fund.

***An investment in the Units has limited liquidity. There is no public market for the Units and the Fund's limited redemption program may not have sufficient liquidity to redeem Units. As a result, an investor should purchase Units as a long-term investment.***

There is no current market for the Units. The Fund and the Managing Member do not expect that a public market will develop in the near future, if ever, and the Fund's Certificate of Formation and A&R LLC Agreement do not require a liquidity event at a fixed time in the future, subject to the life of the Fund described elsewhere in this Memorandum (five (5) years after acceptance of an initial Investor subscription, plus the Managing Member's right to two (2) additional one-year extensions (and then additional extension thereafter with Advisory Board approval or the approval of a part of the Investors). Therefore, redemption of Units by the Fund, which must be agreed to by the Managing Member in its sole and absolute discretion (except as otherwise provided in Section 4.3 or 4.4 of the A&R LLC Agreement), will likely be the only way for an investor to dispose of its Units. While the redemption program of the Fund was

designed to allow investors to request redemptions of an Investor's Units, the Funds ability to fulfill redemption requests is subject to a number of limitations. Most significantly, the vast majority of the Fund's assets will consist of assets, which cannot generally be readily liquidated without impacting the Fund's ability to realize full value upon disposition of such assets. Except as provided in Section 4.3 of the A&R LLC Agreement, any redemption requests by an investor will require the approval of the Managing Member, which may be withheld in its sole and absolute discretion. As a result, an investor's ability to have its Units redeemed by the Fund may be limited, and the Units should be considered a potentially long-term investment with limited liquidity.

***There is no guaranty that the redemption price paid at the time of any agreed upon redemption is reflective of the correct or true value of the Units being redeemed.***

If an Investor requests a redemption and such Redemption Request is accepted by the Managing Member, the A&R LLC Agreement has strict procedures and valuation policies, and there is no guaranty that the valuation determined under the provisions of Section 4.3 of the A&R LLC Agreement are reflective of the then correct market value of the Units being redeemed.

***The Managing Member has the unilateral ability to redeem a Member. As a result, an Investor's Units may be redeemed prior to the Investor achieving its investment objectives and may be redeemed at a valuation that the Investors disagrees with (Full Liquidation Value, as defined in the A&R LLC Agreement).***

The Managing Member has the sole authority under Section 4.3 and Section 4.4 of the A&R LLC Agreement to redeem the Units of a Member. Such Units will be redeemed at Full Liquidation Value, which is defined in the A&R LLC Agreement. As a result, an Investor's Units may be redeemed prior to the Investor achieving its investment objectives and may be redeemed at a valuation that the Investors disagrees with (Full Liquidation Value).

#### ***Fund Valuations***

Fund valuations will occur at least annually. Fund valuations will be used in connection with the issuance of new Member Units and the redemption of Member Units. Because some time may lapse between a Fund valuation prepared in accordance with the A&R LLC Agreement and the issuance of new Member Units or a redemption, the applicable Fund valuation may not accurately reflect the valuation of the Fund as the day of the acquisition or redemption, as applicable. Significant events may have occurred that materially changes the valuation of the Fund including, without limitation, market fluctuations, natural disasters, unexpected lease vacancies, or defaults. The Managing Member may, but is not obligated to, make adjustments to the last Fund valuation completed to account for the issuance of additional Units (and any capital contributions made in connection therewith), the redemption of Units (and the use of funds and proceeds to effectuate such redemptions), the sale, financing, or refinancing of the Fund's assets, distribution of capital to Members and the Managing Member, and the retirement of any debt of the Fund.

The methodology for conducting a Fund valuation will blend recent valuations and valuation opinions to determine the value of the individual value of the assets and will include utilizing applicable financial statements.

***Economic events may adversely affect the Fund's cash flow and***

Economic events affecting the United States economy, including events occurring outside the United States, such as the general negative



***ability to achieve its investment objectives.***

performance of the real estate sector or the negative performance of the U.S. economy as a whole, could depress the valuations of the Fund's assets or cause decreased cash flow. Such events may cause Members to seek redemption of their Units or prohibit the Fund from raising additional capital through the sale of additional Units.

Moreover, if the Fund decides to sell certain assets to increase the Fund's cash flow or redeem Units, such events may negatively impact the Fund's ability to achieve its investment objectives.

***COVID-19 could have a material impact on the Fund's investments and operations, and the Fund will continue to monitor the COVID-19 situation closely.***

Beginning in late 2019, China, as well as several other countries, experienced an outbreak of a highly contagious form of an upper respiratory infection caused by COVID-19, a novel coronavirus strain commonly referred to as coronavirus. On January 30, 2020, the World Health Organization declared this outbreak a "Public Health Emergency of International Concern." On January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the U.S. healthcare community in responding to COVID-19. There are no comparable recent events which may provide guidance as to the effect of the spread of COVID-19 and a potential pandemic, and, as a result, the ultimate impact of the COVID-19 outbreak, COVID-19's variants, or a similar health epidemic is highly uncertain and subject to change.

The COVID-19 pandemic has resulted in significant and widespread economic disruptions to, and uncertainty in, the global and U.S. economy, including in the regions in which we operate. More specifically, COVID-19 has led to disruptions in regional and global trade markets and the logistics necessary to import, export, and deliver products and materials to companies and their customers. These disruptions and delays in the supply chain have led to a lack of availability of certain products and materials and inflation of the price of raw materials in the construction industry. The foregoing could impair the Fund's ability to maintain operational standards, disrupt the operations of the Fund's service providers, and lead to increased development and construction costs.

Cybersecurity and data privacy risks may have also increased during the COVID-19 pandemic, in part because of the increase in remote working, social distancing measures and increased reliance on remote connectivity for many aspects of the economy.

The Fund does not yet know the full extent of potential delays or impacts on its projected investments and operations or the global economy as a whole. However, the effects could have a material impact on the Fund's investments and operations, and the Fund will continue to monitor the COVID-19 situation closely.

***As of the date of this Memorandum, the United States market (as well as the larger global markets) are experiencing inflation in asset prices that have not been present in the market since the 1980's, and such inflation may adversely affect the***

An increase in inflation could have an adverse impact on the Fund's development costs, labor and service provider costs, floating rate mortgages, credit facilities, property operating expenses, and general and administrative expenses, as these costs could increase at a rate higher than our rental and other revenue. Inflation could also have an adverse effect on consumer spending, which could impact our tenants' revenues and, in turn, our percentage rents, where applicable. In addition, leases of long-term duration or which include renewal options that specify a maximum rate

***Fund's financial condition and results of operations.***

increase may result in below-market lease rates over time if we do not accurately estimate inflation or market lease rates. Provisions of leases designed to mitigate the risk of inflation and unexpected increases in market lease rates, such as periodic rental increases, may not adequately protect the Fund's operations from the impact of inflation or unexpected increases in market lease rates. If the Fund's operating, development and other expenses are increasing faster than anticipated, the Fund's business, financial condition, results of operations, cash flows or our ability to satisfy our debt service obligations or to pay distributions could be materially adversely affected.

***Supply chain disruptions could create unexpected development, renovation or maintenance costs or delays and/or could impact the Fund's tenants' businesses, any of which could have a negative effect on the Fund's results of operations.***

The construction and building industry, similar to many other industries, has recently experienced worldwide supply chain disruptions due to a multitude of factors that are beyond the Fund's control, including the COVID-19 pandemic, and such disruptions may continue to occur. Materials, parts and labor have also increased in cost over the recent past, sometimes significantly and over a short period of time. Because the Fund will be engaged in large-scale development projects, small-scale construction projects, such as building renovations and maintenance or and tenant improvements required under leases are a routine and necessary part of the Fund's business, the Fund will most likely incur costs for a property development, renovation or maintenance that exceeds original estimates due to increased costs for materials or labor or other costs that are unexpected. The Fund also may be unable to complete renovation of a property or tenant space on schedule due to supply chain disruptions or labor shortages. In addition, tenants' businesses may also be affected by supply chain issues (particularly for our industrial or retail properties), which could impact their ability to meet their obligations to us under their leases.

***The Fund may make distributions from sources other than cash flow from operations, which may negatively impact the valuation of the Fund.***

The Fund may make distributions from sources other than cash flow from operations, including borrowings by the Fund or its Affiliates, proceeds from offerings of the Units, or proceeds from assets sales, which may reduce the amount of capital the Fund ultimately may invest and negatively impact the value of the Fund and a Member's investment.

***The amount and source of distributions the Fund may make to its Members is uncertain and the Fund may be unable to generate sufficient cash flows from its operations to make distributions to the Members at any time in the future.***

The Fund has not established a minimum distribution payment level, and the Fund's ability to make distributions to its Members may be adversely affected by a number of factors, including the risk factors described in this Subscription Agreement. The Managing Member will make determinations regarding distributions based upon, among other factors, the Fund's financial performance, its debt service obligations, its debt covenants, and capital expenditure requirements. Among the factors that could impair the Fund's ability to make distributions to Members are:

- the limited size of the Fund's portfolio;
- the Fund's inability to invest, on a timely basis and in attractive investments, the proceeds from sales of Units;
- the Fund's inability to realize attractive risk-adjusted returns on its investments;
- unanticipated expenses or reduced revenues that reduce cash flow or non-cash earnings;



- defaults in the Fund's investment portfolio or decreases in the value of its properties; and
- the fact that anticipated operating expense levels may not prove accurate, as actual results may vary from estimates.

As a result, the Fund may not be able to make distributions to the Members at any time in the future, and the level of any distributions the Fund does make to the Members may not increase or even be maintained over time.

***Purchasers of Units by the Fund's Affiliates in this Offering should not influence investment decisions of independent, unaffiliated investors.***

Affiliated persons of the Fund may purchase Units. There are no written or binding commitments with respect to the acquisition of Units by these parties, and there can be no assurance as to the amount, if any, of Units these parties may acquire in the Offering. Any Units purchased by Affiliates will be purchased for investment purposes only. However, the investment decisions made by Affiliates who make such purchases should not influence an investor's decision to invest in the Units, and an investor should make its own independent investment decision.

***This is a "best efforts" offering. If the Fund is unable to raise a substantial amount of capital in the near term, the Fund may have difficulties investing in additional properties and/or repaying or refinancing indebtedness and the investor's ability to achieve the Fund's investment objectives, including diversification of our portfolio type and location, could be adversely affected.***

This offering is being made on a "best efforts" basis, which means that the Fund, the sponsor of the Fund, and the broker-dealers participating in this Offering are only required to use their best efforts to sell the Units and have no firm commitment or obligation to purchase of the Units. As a result, the Fund may not be able to raise a substantial amount of additional capital in the near term. If the Fund is not able to accomplish this goal, the Fund may have difficulty in identifying and purchasing further suitable properties on attractive terms in order to meet the Fund's investment objectives. Therefore, there could be a delay between the time the Fund receives net proceeds from the sale of Units and the time the Fund invests the new proceeds. For the Members, this could cause a substantial delay in the time it takes for their investment to realize the full potential returns. This could also adversely affect the Fund's ability to pay regular distributions of cash flow from operations to the Members. If the Fund fails to timely invest the new proceeds of this Offering, the Fund's ability to achieve its investment objectives, including further diversification of the Funds' portfolio by property and asset type and location, could be adversely affected. Failure to raise substantial capital also could hamper the Fund's ability to repay or refinance indebtedness. In addition, subject to our investment policies, the Fund is not limited in the number or size of these investments or the percentage of net proceeds that the Fund may dedicate to a single investment. If the Fund uses all or substantially all of the future proceeds from this Offering to acquire one or a few investments, the likelihood of the Fund's profitability being affected by the performance of any one of the Fund's investments will increase, and an investment in the Units will be subject to greater risk.

***If the Fund raises substantially less than the maximum offering amount with respect to the Members Units, the Fund may not be able to construct a diverse portfolio of investments, and the value of a Member's investment in the Fund may fluctuate more***

The Fund is dependent upon the proceeds to be received from this Offering to conduct the Fund's proposed investment activities. If the Fund raises substantially less than the maximum offering amount with respect to the Members Units, the Fund may not be able to construct a diverse portfolio of investments, and the value of a Member's investment in the Fund may fluctuate more widely with the performance of specific investments. An investor's investment in Units would be subject to greater risk to the extent that the Fund lacks a diversified portfolio of investments. In addition, the Fund's fixed operating expenses, as a percentage of gross income, would

***widely with the performance of specific investments.***

be higher, and the Fund's financial condition and ability to pay distributions could be adversely affected if the Fund is unable to raise substantial funds in this Offering.

***The Fund may suffer from delays if the Fund and its advisors are not able to locate suitable investments, which could adversely affect its ability to pay distributions and to achieve the Fund's investment objectives.***

If the Fund is able to raise capital quickly during this Offering, the Fund may have difficulty in identifying and purchasing suitable assets in a timely and efficient fashion. This may impact the value of a Member's investment in the Member Units and the Fund's ability to pay distribution to its Members.

***The Managing Member has sole and absolute discretion of the Fund's investment policies.***

The Managing Member has sole and absolute discretion of the Fund's investment and operational policies, including the Fund's policies with respect to investments, acquisitions, growth, operations, indebtedness, capitalization, and distributions, at any time without the consent of Members, which could result in the Fund making investments that are differing from, and possibly riskier than, the types of investment described in this Memorandum. A change to the Fund's investment strategy may, among other things, increase the Fund's exposure to interest rate risk, default risk, and market fluctuations, all of which could affect the Fund's ability to achieve the Fund's investment objectives.

***The Fund's participation in a co-ownership arrangement may subject it to risks that otherwise may not be present in other investments.***

The Fund may enter into co-ownership arrangements with respect to a portion of the assets the Fund acquires. Co-ownership arrangements involve risks generally not otherwise present with an investment in other assets, such as the following:

- the risk that a co-owner may at any time have economic or business interests or goals that are or become inconsistent with the Fund's business interests or goals;
- the risk that a co-owner may be in a position to take action contrary to the Fund's instructions or requests or contrary to our policies or objectives;
- the possibility that an individual co-owner might become insolvent or bankrupt, or otherwise default under the applicable loan financing documents, which may constitute an event of default under all of the applicable loan financing documents or allow the bankruptcy court to reject the agreements entered into by the co-owners owning interests in the relevant property;
- the possibility that a co-owner might not have adequate liquid assets to make cash advances that may be required in order to fund operations, maintenance, and other expenses related to the property, which could result in the loss of current or prospective tenants and may otherwise adversely affect the operation and maintenance of the property, and could cause a default under the loan financing documents applicable to the property and may result in late charges, penalties, and interest, and may lead to the exercise of foreclosure and other remedies by the lender;
- the risk that a co-owner could breach agreements related to the property, which may cause a default under, and possibly result in personal liability in connection with, any loan financing documents applicable to the property, violate applicable securities laws, result

in a foreclosure, or otherwise adversely affect the property and the co-ownership arrangement;

- the risk that a default by any co-owner would constitute a default under any loan financing documents applicable to the property that could result in a foreclosure and the loss of all or a substantial portion of the investment made by the co-owner;
- the risk that the Fund could have limited control and rights, with management decisions made entirely by a third-party; and
- the possibility that the Fund will not have the right to sell the property at a time that otherwise could result in the property being sold for its maximum value.

In the event that the Fund's interests become adverse to those of the other co-owners, the Fund may not have the contractual right to purchase the co-ownership interests from the other co-owners. Even if the Fund is given the opportunity to purchase such co-ownership interests in the future, the Fund cannot guarantee that the Fund will have sufficient funds available at the time to purchase co-ownership interests from the co-owners.

The Fund may want to sell its co-ownership interests in a given property at a time when the other co-owners in such property do not desire to sell their interests. Therefore, because the Fund anticipates that it will be much more difficult to find a willing buyer for its co-ownership interests in a property than it would be to find a buyer for a property owned outright, the Fund may not be able to sell its interest in a property at the time the Fund would like to sell.

The co-ownerships interests may also be owned by Affiliates of the Fund or the sponsor of the Fund. There is no guarantee that such Affiliates will make decisions with respect to such real property or real property assets that are in the best interests of the Fund, and the Managing Member and the Fund may have no ability to require such Affiliates to act in the best interests of the Fund. Such adverse decisions may affect an investment in the Units or the Fund's ability to make distributions to the Members.

***The Fund is subject to privacy law compliance risks.***

The adoption, interpretation and application of consumer, data protection and/or privacy laws and regulations ("Privacy Laws") in the United States, Europe, and elsewhere are often uncertain and in flux. Compliance with Privacy Laws could significantly impact current and planned privacy and information security related practices, the collection, use, sharing, retention and safeguarding of personal data and current and planned business activities of the Fund Sponsors, the Fund and the Fund investments, and as such could increase costs and require the dedication of additional time and resources to compliance for such entities. A failure to comply with such Privacy Laws by any such entity or their service providers could result in fines, private and governmental legal action, sanctions, or other penalties, which could materially and adversely affect the results of operations and overall business, as well as have a negative impact on reputation and Fund performance. As Privacy Laws are implemented, interpreted, and applied, compliance costs for the Fund, and/or the Fund investments are likely to increase, particularly in the context of ensuring that adequate data protection and data transfer mechanisms are in place.

For example, California has passed the California Consumer Privacy Act of 2018 and the California Privacy Rights Act of 2020, and the EU has

enacted the General Data Protection Regulation (EU 2016/679), each of which broadly impacts businesses that handle various types of personal data. Such laws impose stringent legal and operational obligations on regulated businesses, as well as the potential for significant penalties. Other jurisdictions, including other U.S. states, have passed similar laws, including the Colorado Privacy Act and the Virginia Consumer Data Protection Act, and other states have proposed or are considering similar Privacy Laws, which if enacted could impose similarly significant costs and operational and legal obligations. Such Privacy Laws and regulations are expected to vary from jurisdiction to jurisdiction, thus increasing costs, operational and legal burdens, and the potential for significant liability for regulated entities.

***The Fund is subject to risks relating to cybersecurity.***

The Fund, the Fund Sponsors, the Managing Member, any portfolio company or other subsidiary of the Fund and any of their investments and their respective affiliates, service providers, customers and counterparties use computers, other electronic devices, networks, software, on-line services and other tools (collectively, "Information Systems") to process, store and transmit large amounts of electronic information, including without limitation information relating to (i) Fund transactions, (ii) the members of the Fund, and (iii) the business of the Fund and other Fund investments, including their customers and counterparties (collectively, "Data"). Data may include confidential information such as market sensitive data and personally identifiable information of members of the Fund, customers, and other parties. Information Systems are not able to protect Data under all circumstances and personnel may also fail to manage and update these Information Systems sufficiently to protect Data. In addition, computer malware, viruses, and computer hacking, and phishing attacks have become more prevalent and may occur on the Information Systems at any time and may successfully compromise the Information Systems' security processes. Any breach of these or other Information Systems may cause Data to be lost or improperly accessed, used or disclosed, may impair performance, reliability and access to the Information Systems, may impair performance, reliability and access to the Information Systems, and cause the Managing Member, the Fund Sponsors, the Fund, its portfolio companies or other subsidiaries and other Fund investments and their respective affiliates, service providers, customers and/or counterparties to suffer, among other things, financial loss, disruption of business, liability to third parties, regulatory intervention or reputational damage. Any of the foregoing events could have a material adverse effect on the Fund, the Fund Sponsors, the Manger, the members of the Fund, and the members' investments therein.

## **RISKS RELATED TO THE MANAGING MEMBER AND ITS ADVISORS AND AFFILIATES**

***The Fund's Managing Member, including its advisors and Affiliates, face conflicts of interest caused by their compensation arrangements with the Fund, which could result in actions that are not in***

The Fund's Managing Member, including its advisors and Affiliates, are entitled to substantial fees from the Fund under the terms of the A&R LLC Agreement and certain other agreements, including management contracts. These fees could influence the judgment of the Managing Member and its Affiliates in performing services for the Fund.

*the long-term best interests of the Fund's investors.*

*Payment of fees to the Managing Member and its advisors and Affiliates will reduce the cash available for investment and distribution and will increase the risk that an investor will not be able to recover the amount of its investment in the Units.*

*The Managing Member faces conflicts of interest relating to the incentive fee structure under the Fund's A&R LLC Agreement, which could result in actions that are not necessarily in the long-term best interests of the Fund's investors.*

*The Managing Member and its Affiliates face conflicts of interest with respect to the allocation of investment opportunities between the Fund and other investment programs that are managed by Affiliates of the Managing Member.*

*The Managing Member's advisors and officers, including its key personnel and officers, face conflicts of interest related to the positions they hold with affiliated and unaffiliated entities, which could hinder the Fund's ability to successfully implement its business strategy and to generate returns to the Members.*

The Managing Member and its advisors and Affiliates perform services for the Fund in connection with the distribution of the Fund's Units, the selection and acquisition of the Fund's investments, and the management of the Fund's assets. The Fund pays its advisors and Affiliates fees for these services, which will reduce the amount of cash available for investments or distributions to the Fund's Members. The fees the Fund pays to its Managing Member and its Affiliates decrease the value of the Fund's portfolio and increase the risk investors may not receive a return on their investment in the Units.

Pursuant to the terms of the A&R LLC Agreement, the Managing Member is entitled to the Carry Amount based on the profits of the Fund. The Managing Member, therefore, could be motivated to recommend riskier investments in order for the Fund to generate the specified levels of performance that would entitle the Managing Member to incentive compensation.

The Fund relies on the Managing Member and its Affiliates and advisors to identify and select potential investment opportunities on the Fund's behalf. At the same time, the Managing Member's Affiliates and advisor manage other investment programs sponsored by the sponsor of the Fund that may have investment objectives and investment strategies that are similar to the Fund's objectives and strategies. As a result, such Affiliates and advisors could face conflicts of interest in allocating acquisition opportunities as they become available. Each investor will not have the opportunity to evaluate the manner in which these conflicts of interest are resolved before or after making the investment in Units.

The Managing Member is managed by CaliberCos. The management team of CaliberCos each have other business interests as well. As a result, key personnel may have duties to other entities and their stockholders, members, and Members, in addition to business interests in other entities. These duties to such other entities and persons may create conflicts with the duties that they owe indirectly to the Fund. There is a risk that their loyalties to these other entities could result in actions or inactions that are adverse to the Fund's business and violate their fiduciary duties to the Fund, which could harm the implementation of the Fund's investment strategy and its investment and leasing opportunities.

Conflicts with the Fund's business and interests are most likely to arise from involvement in activities related to (1) allocation of new investments and management time and services between the Fund and the other entities, (2) the Fund's purchase of properties from, or sale of properties to, affiliated entities, (3) the timing and terms of the investment in or sale of an asset, (4) development of the Fund's properties by Affiliates, (5) investments with Affiliates of the Managing Member, and (6) compensation to the Managing Member and its Affiliates. If the Fund does not successfully implement its investment strategy, the Fund may be



unable to maintain or increase the value of its assets and its operating cash flows and ability to pay distributions could be adversely affected.

***The Fund's success depends to a significant degree upon certain key personnel of the Managing Member. If the Managing Member is unable to obtain key personnel, the Fund's ability to achieve its investment objectives could be delayed or hindered, which could adversely affect the Fund's ability to pay distributions to Members.***

The Fund's success depends to a significant degree upon the contributions of certain executive officers and other key personnel of the Managing Member, as described in detail in this Memorandum, each of whom would be difficult to replace. The Fund cannot guarantee that all of these key personnel, or any particular person, will remain affiliated with the Fund, its sponsor of the Fund, and/or advisors and Affiliates. If any of the Fund's key personnel were to cease their affiliation with the Managing Member, the Fund's operating results could suffer. Further, as of the date of this Memorandum the Fund does not separately maintain key person life insurance on any person and the Fund may not do so in the future. The Fund believes that its future success depends, in large part, upon the Managing Member's ability to hire and retain highly skilled managerial, operational, and marketing personnel. Competition for such personnel is intense, and the Fund cannot assure potential investors that the Fund's Sponsor, Managing Member, or advisors will be successful in attracting and retaining such skilled personnel. If the Managing Member or its Affiliates lose or are unable to obtain the services of key personnel, the Fund's ability to implement its investment strategies could be delayed or hindered, and the amount available for distribution to the Members may decline.

***The Fund's Sponsors are affiliate entities of the Managing Member and, therefore, each investor will not have the benefit of an independent review of the Memorandum or of the Fund that customarily is performed.***

The Fund's Sponsors are affiliate entities of the Managing Member and, as a result, are not in a position to make an independent review of the Fund or of this Offering. Accordingly, each investor will have to rely on its own broker-dealer or financial advisor to make an independent review of the terms of this Offering.

***The Fund is permitted to acquire assets and borrow funds from Affiliates of the Managing Member, and any such transaction could result in conflicts of interest.***

The Fund is permitted to acquire assets and borrow funds from Affiliates of the Managing Member, and any such transaction could result in a conflict of interest. This may result in the Fund paying more than the Managing Member or its Affiliates paid for an asset or the rate at which such Affiliates are able to borrow funds.

The Managing Member or its Affiliates may create special purpose entities to acquire properties for the specific purpose of selling the properties to the Fund, and the Fund may acquire such properties,

From time to time, the Fund may borrow funds from Affiliates of the Managing Member, including the Sponsor, as bridge financing to enable the Fund to acquire a property or for the purpose of providing short term financing as necessary. No such transactions must be approved by the Members. In general, these transactions occur regularly in the marketplace at rates substantially higher than conventional bank financing.

***The Managing Member faces conflicts of interest relating to joint ventures or other co-ownership arrangements that***

The Fund may enter into joint ventures with an investment program sponsored by the Fund's Sponsor for the acquisition, development, or improvement of properties as well as the acquisition of investments. Officers and key persons of the Managing Member also are officers and

***the Fund may enter into with investment programs sponsored by the Fund's Sponsor, which could result in a disproportionate benefit to the Sponsor or an investment program sponsored by the Fund's Sponsor.***

key persons of funds sponsored by the Fund's Sponsor, and/or their advisors, the Managing Members of investment programs sponsored by the Sponsor and/or the advisors or fiduciaries of investment programs sponsored by the Sponsor. These officers and key persons may face conflicts of interest in determining which investment program should enter into any particular joint venture or co-ownership arrangement. These persons also may have a conflict in structuring the terms of the relationship between the Fund and any affiliated co-venturer or co-owner, as well as conflicts of interests in managing the joint venture.

## **RISKS RELATED TO THE FUND'S STRUCTURE**

***A Member's Units will be diluted if the Fund issues additional Members Units.***

The Members will not have preemptive rights to any Units or other securities issued in the future. There is no limitation on the amount of capital the Fund may raise under its Charter or A&R LLC Agreement. To the extent additional Members Units are issued after a Member's acquisition of its Member Units, its interest in the Fund will be diluted.

***Subject to the terms of the A&R LLC Agreement, the Managing Member may change the Fund's investment and operational policies without Investor consent.***

Except for changes to the investment restrictions contained in the A&R LLC Agreement, at any time without the consent of our Investors, which could result in our making investments that are different from, and possibly riskier or more highly leveraged than, the types of investments described in this Memorandum. A change in our investment strategy may, among other things, increase the Fund's exposure to real estate market fluctuations, default risk and interest rate risk, all of which could materially affect the Fund's results of operations and financial condition.

***The structure of the economic waterfall in the A&R LLC Agreement contains pros and cons for both early Investors in the Fund as well as Investors who join the Fund later in the raise period.***

Each Participating Member's deemed Capital Contribution will accrue a non-compounding, cumulative preferred return equal to six percent (6%). Investors joining the Fund earlier in its raise period will benefit from a longer time period that the preferred return on the Investor's Units accrues. Because the payment of the preferred return has highest priority in the waterfall and payment of preferred is based on accrued and outstanding preferred return of all Investors, those Investors who join the Fund later in its raise period will not experience as much accrual of preferred return as earlier investors.

Return of Capital Contributions under the economic waterfalls of the Fund are allocated based on unreturned Capital Contributions of all the Members, and not based on the relative percentage interests of the Members. As such, if a later Investor invests at a higher valuation after the Unit price has been increased, then that Investor will have a lower percentage interest but still participate *pari pasu* (based on Unreturned Capital Contributions) with all other Investors regardless of their respective percentage interests. THIS STRUCTURE WILL CHANGE THE ULTIMATE AMOUNT THAT WILL BE DISTRIBUTED TO THE MEMBERS AND WILL PLACE EARLY INVESTORS AT A DISADVANTAGE. FURTHER, THIS STRUCTURE WILL CHANGE THE TIMING THAT EACH INVESTORS RECEIVES DISTRIBUTIONS, WITH INVESTORS INVESTING LATER IN THE FUND'S RAISE PERIOD BENEFITING FROM THIS WATERFALL STRUCTURE.

***The Fund has certain indemnification obligations, the triggering of which may have an adverse impact on the Fund and its cash available for distribution to its Members.***

The A&R LLC Agreement expressly limits the Managing Member's liability as well as its officers' and advisors' liability by providing that the Fund and its officers, directors, agents, and employees, will not be liable or accountable, except in limited circumstances, to the Fund for losses sustained, liabilities incurred, or benefits not derived. In addition, the A&R LLC Agreement is required to indemnify such persons to the extent permitted by applicable law from and against any and all claims arising from operations of the Managing Member, unless it is established that: (1) the act or omission was committed in bad faith, was fraudulent or was the result of active and deliberate dishonesty; (2) the indemnified party received an improper personal benefit in money, property or services; or (3) in the case of a criminal proceeding, the indemnified person had reasonable cause to believe that the act or omission was unlawful.

***The Fund's investment return may be reduced if the Fund is deemed to be an investment company under the Investment Company Act.***

The Fund does not intend, or expect to be required, to register as an investment company under the Investment Company Act. Rule 3a-1 under the Investment Company Act generally provides that an issuer will not be deemed to be an "investment company" provided that (1) it does not hold itself out as being engaged primarily, or propose to engage primarily, in the business of investing, reinvesting, or trading in securities and (2) no more than 45% of the value of its assets (exclusive of government securities and cash items) and no more than 45% of its net income after taxes (for the past four fiscal quarters combined) is derived from securities other than government securities, securities issued by employees' securities companies, securities issued by certain majority owned subsidiaries of such company, and securities issued by certain companies that are controlled primarily by such issuer. If the Fund was obligated to register as an investment company the Fund would have to comply with a variety of substantive requirements under the Investment Company Act that impose significant restrictions.

If the Fund was required to register as an investment company but failed to do so, the Fund would be prohibited from engaging in its business, and criminal and civil actions could be brought against the Fund. In addition, its contracts would be unenforceable unless a court required enforcement, and a court could appoint a receiver to take control of the Fund and liquidate its business.

Registration with the SEC as an investment company would be costly, would subject the Fund to a host of complex regulations, and would divert the attention of management from the conduct of the Fund's business. In addition, the purchase of investments that does not fit its investment guidelines and the purchase or sale of investment securities or other assets to preserve the Fund's status as a company not required to register as an investment company could adversely affect the amount of funds available for investment and the Fund's ability to pay distributions to the Members.

## **RISKS RELATED TO EMPLOYEE BENEFIT PLANS AND INDIVIDUAL RETIREMENT ACCOUNTS**

***In some cases, if an investor fails to meet the fiduciary and***

There are special considerations that apply to investing in the Units on behalf of pension, profit sharing or 401(k) plans, health or welfare plans,



*other standards under ERISA, the Code or common law as a result of an investment in the Units, an investor could be subject to liability for losses as well as civil penalties.*

individual retirement accounts, or Keogh plans. If an investor is investing the assets of any of the entities identified in the prior sentence in the Units, such investor should satisfy itself that:

- the investment is consistent with fiduciary obligations under applicable law, including common law, ERISA, and the Code;
- the investment satisfies the prudence and diversification requirements of Sections 404(a)(1)(B) and 404(a)(1)(C) of ERISA, if applicable, and other applicable provisions of ERISA, and the Code;
- the investment will not impair the liquidity of the trust, plan, or Individual Retirement Account (“IRA”);
- an investor will be able to value the assets of the plan annually in accordance with ERISA requirements and applicable provisions of the applicable trust, plan, or IRA document; and
- the investment will not constitute a prohibited transaction under Section 406 of ERISA or Section 4975 of the Code.

Failure to satisfy the fiduciary standards of conduct and other applicable requirements of ERISA, the Code, or other applicable statutory or common law may result in the imposition of civil penalties and can subject the fiduciary to liability for any resulting losses as well as equitable remedies. In addition, if an investment in the Units constitutes a prohibited transaction under the Code, the “disqualified person” that engaged in the transaction may be subject to the imposition of excise taxes with respect to the amount invested.

Further, The Fund anticipates that it will generate “unrelated business taxable income” as that term is defined in Sections 511 through 514 of the U.S. Internal Revenue Code of 1986, as amended. The Fund therefore may not be a suitable investment for tax-exempt investors, as discussed in “MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS OF ACQUIRING AND HOLDING MEMBER UNITS.”

## **RISKS ASSOCIATED WITH DEBT FINANCING** (as applied to project level debt facilities entered into)

*Poor credit market conditions could impair the Fund’s subsidiaries’ ability to access debt financing, which could affect the Fund’s ability to achieve its investment objectives.*

The Fund’s subsidiaries will finance a portion of the purchase price of its real estate properties by borrowing funds. Severe dislocations and liquidity disruptions in the U.S. credit markets could significantly harm the Fund’s ability to access capital. In the future, the Fund may not be able to access debt capital with favorable terms in a cost-efficient manner, or at all, which could affect the Fund’s ability to achieve its investment objectives.

*The Fund, through its subsidiaries, intends to incur mortgage indebtedness and other borrowings, which may increase the Fund’s business*

The Fund, through its subsidiaries, intends to finance a portion of the purchase price of properties by borrowing funds.

***risks, could hinder the Fund's ability to make distributions and could decrease the value of the Fund's investment.***

In addition, the Fund, through its subsidiaries, may incur mortgage debt and pledge some or all of its properties as security for that debt to obtain funds to acquire additional properties or for working capital.

High debt levels will cause the Fund's subsidiaries to incur higher interest charges, which would result in higher debt service payments and could be accompanied by restrictive covenants. If there is a shortfall between the cash flow from a property and the cash flow needed to service mortgage debt on that property, then the amount available for distributions to Members may be reduced. In addition, incurring mortgage debt increases the risk of loss since defaults on indebtedness secured by a property may result in lenders initiating foreclosure actions. In that case, the Fund could lose the property securing the loan that is in default. For tax purposes, a foreclosure on any of the properties will be treated as a sale of the property for a purchase price equal to the outstanding balance of the debt secured by the mortgage. If the outstanding balance of the debt secured by the mortgage exceeds the tax basis in the property, the Fund will recognize taxable income on foreclosure, but the Fund would not receive any cash proceeds. The Fund may give full or partial guarantees to lenders of mortgage debt to the entities that own the properties. When the Fund gives a guaranty on behalf of an entity that owns one of the properties, the Fund will be responsible to the lender for satisfaction of the debt if it is not paid by such entity. If any mortgage contains cross-collateralization or cross-default provisions, a default on a single property could affect multiple properties. If any of the Fund's properties are foreclosed upon due to a default, the Fund's ability to pay cash distributions to the Members will be adversely affected.

***If the Fund draws on a line of credit to fund redemptions or for any other reason, the Fund's leverage will increase.***

The Fund may obtain a line of credit which could provide for a ready source of liquidity to fund redemptions of the Interests, in the event that redemption requests exceed the Fund's operating cash flows, liquid assets, and net proceeds from the continuous Offering. There can be no assurances that the Fund will be able to obtain future lines of credit on reasonable terms given the recent volatility in the capital markets. In addition, the Fund may not be able to obtain additional lines of credit of an appropriate size for the Fund's business until such time as the Fund has a substantial portfolio, or at all. If the Fund borrows under a line of credit to fund redemptions of Units, its leverage will increase until it receives additional net proceeds from the continuous Offering, additional operating cash flows or sell assets to repay outstanding indebtedness. The use of leverage, in particular, can exacerbate potential losses suffered by the funds.

***Increases in interest rates could increase the amount of the Fund's and its subsidiary's debt payments and adversely affect its ability to make distributions to Members.***

The Fund may incur indebtedness that bears interest at a variable rate. Interest the Fund pays on its debt obligations will reduce cash available for distributions. To the extent that the Fund incurs variable rate debt, increases in interest rates could increase the Fund's interest costs, which could reduce its cash flows and ability to make distributions to investors. In addition, if the Fund needs to repay existing debt during periods of rising interest rates, it could be required to liquidate one or more of its investments in properties at times which may not permit realization of the maximum return on such investments.

***Increases in interest rates could increase the amount of the***

Increases in the federal-funds target rate may lead to increases in interest rates at which lenders are willing to lend to the Fund. Increased interest

***Fund's debt payments and adversely impact its return on investment, ability to secure financing, and affect its ability to make distributions to Members.***

rates with respect to the Fund's debt will lead to a decreased return on investment for its properties and decrease the amount of money available for distribution to the Members.

***Lenders may require the Fund to enter into restrictive covenants relating to its operations, which could limit its ability to make distributions to Members.***

When providing financing, a lender may impose restrictions on the Fund that affect its distribution and operating policies and ability to incur additional debt. Loan documents the Fund enters into may contain covenants that limit its ability to further mortgage the property or discontinue insurance coverage. In addition, loan documents may limit the Fund's ability to replace the property manager or terminate certain operating or lease agreements related to the property. These or other limitations may adversely affect the Fund's flexibility to make distributions to Members and the Fund's ability to achieve its investment objectives.

***If the Fund enters into financing arrangements involving balloon payment obligations, it may adversely affect the Fund's ability to make distributions to Members.***

Some of the Fund's financing arrangements may require it to make a lump-sum or "balloon" payment at maturity. The Fund's ability to make a balloon payment at maturity is uncertain and may depend upon the Fund's ability to obtain additional financing or its ability to sell the particular property. At the time the balloon payment is due, the Fund may or may not be able to refinance the balloon payment on terms as favorable as the original loan or sell the particular property at a price sufficient to make the balloon payment. The effect of a refinancing or sale could affect the Fund's performance and cash flow available for distribution to the Members.

***Failure to hedge effectively against interest rate changes may adversely affect the Fund's ability to achieve its investment objectives.***

The Fund may seek to manage its exposure to interest rate volatility by using interest rate hedging arrangements, such as interest rate cap or collar agreements and interest rate swap agreements. These agreements involve risks, such as the risk that counterparties may fail to honor their obligations under these arrangements and that these arrangements may not be effective in reducing the Fund's exposure to interest rate changes. These interest rate hedging arrangements may create additional assets and/ or liabilities from time to time that may be held or liquidated separately from the underlying property or loan for which they were originally established. Hedging may reduce the overall returns on the Fund's investments. Failure to hedge effectively against interest rate changes may have an adverse effect on the Fund's ability to achieve its investment objectives.

## **RISKS RELATED TO INVESTMENTS IN REAL ESTATE-RELATED ASSETS**

***The real estate-related equity securities in which the Fund may invest are subject to specific risks relating to the particular issuer of the securities and may be subject to the general risks of investing in subordinated real estate securities.***

The Fund may invest in equity securities of both publicly traded and private real estate companies, which involves a higher degree of risk than debt securities due to a variety of factors, including that such investments are subordinate to creditors and are not secured by the issuer's property. The Fund's investments in real estate-related equity securities will involve special risks relating to the particular issuer of the equity securities, including the financial condition and business outlook of the issuer. Issuers of real estate-related equity securities generally invest in real estate or real estate-related assets and are subject to the inherent risks associated with

real estate discussed in this Memorandum, including risks relating to rising interest rates.

***The value of the real estate-related securities in which the Fund may invest may be volatile.***

The value of real estate-related securities fluctuates in response to issuer, political, market, and economic developments. In the short term, equity prices can fluctuate dramatically in response to these developments. Different parts of the market and different types of equity securities can react differently to these developments, and they can affect a single issuer, multiple issuers within an industry or economic sector or geographic region or the market as a whole. The real estate industry is sensitive to economic downturns. The value of securities of companies engaged in real estate activities can be affected by changes in real estate values and rental income, property taxes, interest rates, and tax and regulatory requirements.

***Interest rate and related risks may cause the value of the Fund's real estate-related assets to be reduced.***

Interest rate risk is the risk that fixed income securities such as preferred securities, and to a lesser extent dividend paying common stocks, will decline in value because of changes in market interest rates. Generally, when market interest rates rise, the market value of such securities will decline, and vice versa.

During periods of rising interest rates, the average life of certain types of securities may be extended because of slower than expected principal payments. This may lock in a below-market interest rate, increase the security's duration, and reduce the value of the security. This is known as extension risk. During periods of declining interest rates, an issuer may be able to exercise an option to prepay principal earlier than scheduled, which is generally known as "call risk" or "prepayment risk." If this occurs, the Fund may be forced to reinvest in lower yielding securities. This is known as "reinvestment risk." Preferred and debt securities frequently have call features that allow the issuer to repurchase the security prior to its stated maturity. An issuer may redeem an obligation if the issuer can refinance the debt at a lower cost due to declining interest rates or an improvement in the credit standing of the issuer. These risks may reduce the value of the Fund's real estate-related securities investments.

## **RISKS RELATED TO INVESTMENTS IN REAL ESTATE**

***Certain target properties of the Fund may require an expedited transaction, which may result in limited information being available about the property or development prior to the property acquisition.***

Investment analyses and decisions by the Managing Member may be required to be undertaken on an expedited basis to take advantage of investment opportunities. In such cases, the information available to the Managing Member at the time of making an investment decision may be limited, and the Managing Member may not have access to detailed information regarding the development project or portfolio of properties, such as physical characteristics, environmental matters, zoning regulations or other local conditions affecting such investment. Therefore, no assurance can be given that the Managing Member will have knowledge of all circumstances that may adversely affect an investment, and we may make investments which the Fund would not have made if more extensive due diligence had been undertaken. In addition, the Managing Member may use consultants, legal advisors, appraisers, accountants, investment banks and other third parties in connection with its evaluation and/or diligence of certain investments. No assurance can be given as to the

accuracy or completeness of the information provided by such third parties, and we may incur liability as a result of such third parties' actions.

***The Fund's properties may be dependent upon a single tenant, or a limited number of major tenants, for all or a majority of its rental income; therefore, the Fund's financial condition and ability to make distributions to an investor may be adversely affected by the bankruptcy or insolvency, a downturn in the business or a lease termination, of a single tenant.***

The Fund's properties may be occupied by only one tenant or derive a majority of their rental income from a limited number of major tenants and, therefore, the success of those properties is materially dependent on the financial stability of such tenants. Such tenants face competition within their industries and other factors that could reduce their ability to make rent payments. Lease payment defaults by such tenants could cause the Fund to reduce the amount of distributions the Fund pays. A default of a single or major tenant on its lease payments to the Fund would cause the Fund to lose revenue from the property and force the Fund to find an alternative source of revenue to meet any expenses associated with the property and prevent a foreclosure if the property is subject to a mortgage. In the event of a default by a single or major tenant, the Fund may experience delays in enforcing its rights as landlord and may incur substantial costs in protecting its investment and re-letting the property. If a lease is terminated, the Fund may not be able to lease the property for the rent previously received or sell the property without incurring a loss. A default by a single or major tenant, the failure of a guarantor to fulfill its obligations or other premature termination of a lease to such a tenant, or such tenant's election not to extend a lease upon its expiration, could have an adverse effect on our financial condition and our ability to pay distributions to Members.

***To the extent the Fund acquires industrial properties, the demand for and profitability of the Fund's industrial properties may be adversely affected by fluctuations in manufacturing activity in the United States.***

The Fund may invest in industrial properties. To the extent the Fund acquires industrial properties; such properties may be adversely affected if manufacturing activity decreases in the United States. Trade agreements with foreign countries have given employers the option to utilize less expensive non-US manufacturing workers. The outsourcing of manufacturing functions could lower the demand for the Fund's industrial properties. Moreover, an increase in the cost of raw materials or decrease in the demand for housing could cause a slowdown in manufacturing activity, such as furniture, textiles, machinery, and chemical products, and the Fund's profitability may be adversely affected.

***If a major tenant declares bankruptcy, the Fund may be unable to collect balances due under relevant leases, which could have a material adverse effect on the Fund's financial condition and ability to pay distributions to the Members.***

The Fund may experience concentration in one or more tenants. Any of its tenants, or any guarantor of one of its tenant's lease obligations, could be subject to a bankruptcy proceeding pursuant to Title 11 of the bankruptcy laws of the United States. The bankruptcy of a tenant or lease guarantor could delay the Fund's efforts to collect past due balances under the relevant lease and could ultimately preclude full collection of these sums. Such an event also could cause a decrease or cessation of current rental payments, reducing the Fund's operating cash flows and the amount available for distributions to investors. In the event a tenant or lease guarantor declares bankruptcy, the tenant or its trustee may not assume our lease or its guaranty. If a given lease or guaranty is not assumed, the Fund's operating cash flows and the amounts available for distributions to Members may be adversely affected. Accordingly, the bankruptcy of a major tenant could have a material adverse effect on the Fund's ability to pay distributions to the Members.



***The Fund's real estate investments may include special use single-tenant properties that may be difficult to sell or release upon lease terminations.***

The Fund intends to invest in necessity single-tenant commercial properties, a number of which may include special use single-tenant properties. If the leases on these properties are terminated or not renewed, the Fund may have difficulty re-leasing or selling these properties to a party other than the tenant due to the special purpose for which the property may have been designed. Therefore, the Fund may be required to expend substantial funds to renovate the property or make rent concessions in order to lease the property to another tenant or sell the property. These and other limitations may adversely impact the cash flows from, or lead to a decline in value of, these special use single-tenant properties.

***A high concentration of the Fund's properties in a particular geographic area, or with tenants in a similar industry, would magnify the effects of downturns in that geographic area or industry.***

In the event that the Fund has a concentration of properties in any particular geographic area, any adverse situation that disproportionately impacts that geographic area would have a magnified adverse impact on our portfolio. Similarly, if tenants of our properties become concentrated in a certain industry or industries, any adverse impact on that industry generally would have a disproportionately adverse impact on the Fund's portfolio.

***The Fund's portfolio of properties could include retail properties. The Fund's performance, therefore, is linked to the market for retail space generally and a downturn in the retail market could have an adverse effect on the Fund.***

The market for retail space has been and could be adversely affected by weaknesses in the national, regional, and local economies, the adverse financial condition of some large retailing companies, the ongoing consolidation in the retail sector, excess amounts of retail space in a number of markets and competition for tenants with other shopping centers in the Fund's markets. Customer traffic to these shopping areas may be adversely affected by the closing of stores in the same shopping center, or by a reduction in traffic to these stores resulting from a regional economic downturn, a general downturn in the local area where our store is located, or a decline in the desirability of the shopping environment of a particular shopping center. A reduction in customer traffic could have a material adverse effect on the Fund's business, financial condition, and results of operations.

***The Fund's operating results will be affected by economic and regulatory changes that impact the real estate market in general.***

The Fund is subject to risks generally attributable to the ownership of real property, including:

- changes in global, national, regional, or local economic, demographic or capital market conditions;
- current and future adverse national real estate trends, including increasing vacancy rates, which may negatively impact resale value, declining rental rates, and general deterioration of market conditions;
- changes in supply of or demand for similar properties in a given market or metropolitan area that will result in changes in market rental rates or occupancy levels;
- increased competition for real property investments targeted by the Fund's investment strategy;

- bankruptcies, financial difficulties, or lease defaults by the Fund's tenants;
- changes in interest rates and availability of financing; and
- changes in government rules, regulations, and fiscal policies, including changes in tax, real estate, environmental, and zoning laws.

All of these factors are beyond the Fund's control. Any negative changes in these factors could affect the Fund's ability to meet the Fund's obligations and make distributions to Members.

***The Fund faces risks associated with property acquisitions, which may adversely impact the Fund's ability to pay distributions to the Members.***

The Fund intends to acquire properties and portfolios of properties, including large portfolios that will increase the Fund's size and result in changes to the Fund's capital structure. The Fund's acquisition activities and their success are subject to the following risks:

- The Fund may be unable to complete an acquisition after making a non-refundable deposit and incurring certain other acquisition-related costs;
- The Fund may be unable to obtain financing for acquisitions on favorable terms or at all;
- acquired properties may fail to perform as expected;
- the actual costs of repositioning or redeveloping acquired properties may be greater than the Fund's estimates;
- acquired properties may be located in new markets in which the Fund may face risks associated with a lack of market knowledge or understanding of the local economy, lack of business relationships in the area and unfamiliarity with local governmental and permitting procedures; and
- the Fund may be unable to integrate new acquisitions quickly and efficiently, particularly acquisitions of portfolios of properties, into the Fund's existing operations.

These acquisition risks may reduce the Fund's ability to pay distributions to the Members and may negatively impact the value of a Member's investment in the Fund.

***A significant number of the Fund's assets may be in public places such as shopping centers. Because these assets are public places, crimes, violence, and other incidents beyond the Fund's control may occur, which could result in a reduction of business traffic at***

Because many of the Fund's assets may be open to the public, the assets are exposed to a number of incidents that may take place within their premises and that are beyond the Fund's control or its ability to prevent, which may harm the Fund's consumers and visitors. Some of the Fund's assets may be located in large urban areas, which can be subject to elevated levels of crime and urban violence. If violence escalates, the Fund may lose tenants or be forced to close its assets for some time. If any of these incidents were to occur, the relevant asset could face material damage to its image and the property could experience a reduction of business traffic due to lack of confidence in the premises' security. In addition, the Fund



***the Fund's properties and could expose the Fund to civil liability.***

may be exposed to civil liability and be required to indemnify the victims, which could adversely affect the Fund. Should any of the Fund's assets be involved in incidents of this kind, the Fund's business, financial condition, and results of operations could be adversely affected.

***The Fund's portfolio of properties could include hotel and other hospitality properties. The Fund's performance, therefore, is linked to the market for travel and tourism generally and a downturn in such markets could have an adverse effect on the Fund.***

The market for travel and tourism could be adversely affected by weaknesses in the national, regional, and local economies. To the extent that the market for hotel rooms decreases, a hotel property owned and managed by the Fund may not perform as hoped, which may lead to less cash flow available for distributions to the Members. Further, to the extent that additional hotels are opened or renovated close to or near existing hotels operated by the Fund, then such hotel properties may not be able to attract guests as easily.

***Increased competition from alternative retail channels could adversely impact the Fund's retail tenants' profitability and ability to make timely lease payments to us.***

Traditional retailers face increasing competition from alternative retail channels, including factory outlet centers, wholesale clubs, mail order catalogs, television shopping networks, and various forms of e-commerce.

The increasing competition from such alternative retail channels could adversely impact the Fund's retail tenants' profitability and ability to make timely lease payments to the Fund. If the Fund's retail tenants are unable to make timely lease payments to the Fund, the Fund's operating cash flows could be adversely affected.

***The market environment may materially adversely affect the Fund's operating results, financial condition, and ability to pay distributions to the Fund's Members.***

Beginning in late 2007, domestic and international financial markets experienced significant disruptions that severely impacted the availability of credit and contributed to rising costs associated with obtaining credit. Financial conditions affecting real estate have improved amid low Treasury rates and increased lending from banks, insurance companies, and commercial mortgage-backed securities ("CMBS") conduits. However, any deterioration of financial conditions could have the potential to adversely affect the value of the Fund's properties and other investments; the availability or the terms of financing that the Fund may anticipate utilizing; the Fund's ability to make principal and interest payments on, or refinance, certain property acquisitions or refinance any debt at maturity; and/or, for the Fund's leased properties, the ability of the Fund's tenants to enter into new leasing transactions or satisfy rental payments under existing leases. The market environment also could affect the Fund's operating results and financial condition as follows:

- **Debt Markets** — The debt market remains sensitive to the macro environment, such as Federal Reserve policy, market sentiment, or regulatory factors affecting the banking and CMBS industries. Should overall borrowing costs increase, due to either increases in index rates or increases in lender spreads, the Fund's operations may generate lower returns.
- **Real Estate Markets** — Although construction activity has increased, it remains near historic lows; as a result, incremental demand growth has helped to reduce vacancy rates and support modest rental growth. Improving fundamentals have resulted in gains in property values, although in many markets property values, occupancy and rental rates continue to be below those previously experienced before the economic downturn. If recent

improvements in the economy reverse course, the properties the Fund acquires could substantially decrease in value after the Fund purchases them.

***The insurance the Fund carries on the Fund's real estate may be insufficient to pay for all potential losses or damage to the Fund's properties.***

The Managing Member will select policy specifications and insured limits that it believes to be appropriate and adequate given the relative risk of loss, the cost of the coverage and industry practice. Insurance policies on the Fund's properties may include some coverage for losses that are generally catastrophic in nature, such as losses due to terrorism, earthquakes, and floods, but the Fund cannot be sure that it will be adequate to cover all losses and some of the Fund's policies will be subject to limitations involving large deductibles or co-payments and policy limits which may not be sufficient to cover losses. If the Fund or one or more of the Fund's tenants experience a loss which is uninsured or which exceeds policy limits, the Fund could lose the capital invested in the damaged properties as well as the anticipated future cash flows from those properties. In addition, if the damaged properties are subject to recourse indebtedness, the Fund would continue to be liable for the indebtedness, even if these properties were irreparably damaged.

***The Fund may be unable to obtain funds for future tenant improvements, which could adversely impact the Fund's ability to pay cash distributions to Members, the value of the Fund's properties and the Fund's ability to attract new tenants.***

When tenants do not renew their leases or otherwise vacate their space, it is usual that, in order to attract replacement tenants, the Fund will be required to expend substantial funds for tenant improvements and tenant refurbishments to the vacated space. In addition, although the Fund expects that its leases with tenants will require tenants to pay routine property maintenance costs and other expenses, the Fund may be responsible for any major structural repairs, such as repairs to the foundation, exterior walls, and rooftops. If the Fund needs additional capital in the future to improve or maintain the Fund's properties or for any other reason, the Fund will have to obtain funds from available sources, if any, including operating cash flows, borrowings sales from this offering, or property sales. The use of cash from these sources may reduce the amount of capital the Fund has available to invest in real estate, negatively impact the value of the Fund's investment and reduce distributions to the Members. If additional capital is not available, this may adversely impact the value of the properties and the Fund's ability to attract new tenants.

***The Fund faces significant competition for tenants for the Fund's properties, which may impact the Fund's ability to attract and retain tenants at reasonable rent levels.***

The Fund faces significant competition from owners, operators, and developers of retail real estate properties. Substantially all of the Fund's properties will face competition from similar properties in the same market. This competition may affect the Fund's ability to attract and retain tenants and may reduce the rents the Fund is able to charge. These competing properties may have vacancy rates higher than the Fund's properties, which may result in their owners being willing to lease available space at lower prices than the space in the Fund's properties. Due to such competition, the terms, and conditions of any lease that the Fund enters into with the Fund's tenants may vary substantially from those described in this Memorandum.

***The Fund may face potential difficulties or delays renewing leases or re-leasing space, which could adversely impact the Fund's cash flows and the***

The Fund may derive a significant portion of its revenues from rent received from its tenants. The Fund will seek to lease the rentable square feet at the Fund's real estate properties to creditworthy tenants. However, if a tenant experiences a downturn in its business or other types of financial distress, it may be unable to make timely rental payments. Also, when the

***Fund's ability to pay distributions.***

Fund's tenants decide not to renew their leases or terminate early, the Fund may not be able to re-let the space. Even if tenants decide to renew or lease new space, the terms of renewals or new leases, including the cost of required renovations or concessions to tenants, may be less favorable to the Fund than current lease terms. As a result, the Fund's revenues, and ability to pay distributions to Members could be adversely affected. In addition, the presence of hazardous or toxic substances on the Fund's real estate properties may adversely affect the Fund's ability to lease such property.

***The Fund is exposed to inflation risk as income from long-term leases will be a source of the Fund's cash flows from operations.***

The Fund is exposed to inflation risk, as income from long-term leases will be a source of the Fund's cash flows from operations. Leases of long-term duration or which include renewal options that specify a maximum rate increase may result in below-market lease rates over time if the Fund does not accurately estimate inflation or market lease rates. Provisions of the Fund's leases designed to mitigate the risk of inflation and unexpected increases in market lease rates, such as periodic rental increases, may not adequately protect the Fund from the impact of inflation or unexpected increases in market lease rates. If the Fund is subject to below-market lease rates on a significant number of the Fund's properties pursuant to long-term leases, the Fund's cash flow from operations and financial position may be adversely affected.

***The Fund may have difficulty selling its real estate properties, which may limit the Fund's flexibility and ability to pay distributions.***

Because real estate investments are relatively illiquid, it could be difficult for the Fund to promptly sell one or more of the Fund's real estate properties on favorable terms. This may limit the Fund's ability to change its portfolio promptly in response to adverse changes in the performance of any such property or economic or market trends. These restrictions could adversely affect the Fund's ability to achieve its investment objectives.

***The Fund may acquire or finance properties with lock-out provisions, which may prohibit the Fund from selling a property, or may require the Fund to maintain specified debt levels for a period of years on some properties.***

A lock-out provision is a provision that prohibits the prepayment of a loan during a specified period of time. Lock-out provisions may include terms that provide strong financial disincentives for borrowers to prepay their outstanding loan balance and exist in order to protect the yield expectations of lenders. The Fund expects that many of its properties will be subject to lock-out provisions. Lock-out provisions could materially restrict the Fund from selling or otherwise disposing of or refinancing properties when the Fund may desire to do so. Lock-out provisions may prohibit the Fund from reducing the outstanding indebtedness with respect to any properties, refinancing such indebtedness on a non-recourse basis at maturity, or increasing the amount of indebtedness with respect to such properties. Lock-out provisions could impair the Fund's ability to take other actions during the lock-out period that could be in the best interests of its Members and, therefore, may have an adverse impact on the ability of the Fund to make distributions to the Members. In particular, lock-out provisions could preclude the Fund from participating in major transactions that could result in a disposition of its assets or a change in control even though that disposition or change in control might be in the best interests of the Members.

***The Fund may obtain only limited warranties when the Fund purchases a property and***

The seller of a property often sells such property in its "as is" condition on a "where is" basis and "with all faults," without any warranties of merchantability or fitness for a particular use or purpose. In addition,

*would have only limited recourse in the event its due diligence did not identify any issues that lower the value of the property.*

purchase agreements may contain only limited warranties, representations, and indemnifications that will only survive for a limited period after the closing. The purchase of properties with limited warranties increases the risk that the Fund may lose some or all of its invested capital in the property, as well as the loss of rental income from that property.

*Costs of complying with governmental laws and regulations may reduce the Fund's net income and the cash available for distributions to the Members.*

Real property and the operations conducted on real property are subject to federal, state, and local laws and regulations relating to environmental protection and human health and safety. The Fund could be subject to liability in the form of fines 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 hazardous materials, the remediation of contaminated property associated with the disposal of solid and hazardous materials, and other health and safety-related concerns.

From time to time, the Fund may acquire properties or interests in properties, with known adverse environmental conditions where it believes that the environmental liabilities associated with these conditions are quantifiable and that the acquisition will yield an attractive risk-adjusted return. In such an instance, the Fund will estimate the costs of environmental investigation, clean-up and monitoring and factor them into the amount it will pay for such properties. Further, in connection with property dispositions, the Fund may agree to remain responsible for, and to bear the cost of, remediating or monitoring certain environmental conditions on the properties.

The Fund's properties may be subject to the Americans with Disabilities Act of 1990, as amended (the "ADA"). Under the ADA, all places of public accommodation must meet federal requirements related to access and use by persons with disabilities. The ADA's requirements could require removal of access barriers and could result in the imposition of injunctive relief, monetary penalties, or, in some cases, an award of damages. Additional or new federal, state, and local laws also may require modifications to our properties or restrict our ability to renovate properties. The Fund will attempt to acquire properties that comply with the ADA and other similar legislation or place the burden on the seller or other third party, such as a tenant, to ensure compliance with such legislation. However, the Fund cannot assure potential investors that it will be able to acquire properties or allocate responsibilities in this manner. If it cannot, or if changes to the ADA mandate further changes to its properties, then the funds used for ADA compliance may reduce cash available for distributions and the amount of distributions to Members.

*In some instances, the Managing Member may rely on third party property managers to operate the Fund's properties and leasing agents to lease vacancies in its properties.*

The Managing Member expects that, in some instances, the Managing Member will rely on third party property managers and leasing agents. The third-party property managers will have significant decision-making authority with respect to the management of the Fund's properties. The Fund's ability to direct and control how its properties are managed may be limited. The Fund will not supervise any of the property managers or leasing agents or any of their respective personnel on a day-to-day basis. Thus, the success of the Fund's business may depend in part on the ability of the Fund's third-party property managers to manage the day-to-day operations and the ability of the Fund's leasing agents to lease vacancies

in its properties. Any adversity experienced by the property managers or leasing agents could adversely impact the operation and profitability of the Fund's properties and, consequently, the Fund's ability to achieve its investment objectives, including, without limitation, diversification of the real estate properties portfolio by property type and location, moderate financial leverage, conservative levels of operating risk and an attractive level of current income.

## **RISKS ASSOCIATED WITH TRANSACTING WITH A SOVEREIGN NATION**

***The underlying lease agreement, assignment of the ground lease and/or ground sublease agreement with a native American tribe is subject to the approval of the sovereign nation and the Bureau of Indian Affairs.***

Any Fund investments on land owned by Native Americans ("SN Property") requires the consent of the Bureau of Indian Affairs (the "BIA") and of the applicable sovereign nation community (the "Community") to grant security interests in such property directly and to enter into the various lease agreements relating to the SN Property. There is no guaranty that any portfolio company of the Fund or subsidiary of such portfolio company will be successful in securing the necessary consents required to obtain the lease, assign the lease, or grant the sublease, or secure debt financing for that SN Property. If the portfolio company of the Fund or any of its subsidiaries are unable to obtain any such consents from either the BIA or the Community, they may be unable to move forward with the investment. This could have a material adverse impact on the Fund including the possibility of a complete loss of investment for each Investor.

***The leasehold interest or the ground sublease will be subordinated to the Community.***

No portfolio company of the Fund or any of its subsidiaries will hold a fee simple interest in the SN Property. Real estate investments on Native American land commonly involve acquiring a leasehold interest in the subject real property, with such ownership interest allowing the property owner significant rights with respect to such property and the development of the improvements thereon. All SN Property is subject to the terms and conditions of the ground lease assignment or ground sublease agreement. Accordingly, the Community will have certain rights to initiate defaults under the agreement to the extent that a portfolio company of the Fund or any of its subsidiaries fails to meet its obligations. These rights include, without limitation, the right to terminate the ground lease, assignment of the ground lease, or the ground sublease agreement (as the case may be). If a default is initiated, the consequences from such default (including termination) could have a material adverse impact on the Fund, including the possibility of a complete loss of investment for each Investor.

***Lenders are less likely to lend to a portfolio company of the Fund or any of its subsidiaries due to the SN Property being located on tribal land.***

Lending issues and concerns may be significant for certain lenders. Due to the subordinated nature of the SN Property (as an assignment or sublease) and the rights that a sovereign nation (such as the Community) may have with respect to a property located on tribal land (including exclusive jurisdiction rights), some lenders refuse to lend against a project that is located on the Community. Having fewer lenders (including possibly having to seek debt financing from private "hard money" lenders, who typically offer less favorable terms than a traditional bank) who are willing to lend to a portfolio company of the Fund or any of its subsidiaries for the development of the SN Property may result in such entity not securing debt financing or, if it does secure debt financing, such debt financing is provided on unfavorable terms (or terms that are not consistent with the Managing Members' pro forma

economic model for the development. If such portfolio company of the Fund or any of its subsidiaries is able to secure debt financing, any unfavorable terms will result in increased expenses for the Fund, and decreased returns for the Class A Members and the Class B Members. Such entity may not be able to secure debt financing, and if this occurs, the Fund will be required to either raise all of the capital needed for the project under this Offering or obtain "mezzanine debt" on terms and conditions not favorable to the existing Investors.

Even if a portfolio company or any subsidiary of a portfolio company is able to locate a lender who is willing to lend for the SN Property development, any security interest granted in the SN Property will require the consent of the Community and certain others. There is no guarantee that such consents will be successfully delivered.

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## INVESTMENT OBJECTIVES, STRATEGY, AND POLICIES

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### Investment Objectives

The Fund's primary investment objectives are:

- to acquire:
  - commercial, residential or hospitality properties that are either operated by Affiliates of the Managing Member or unrelated third parties, and, in some circumstances, leased under short term and long-term leases to creditworthy tenants; and
  - to acquire equity interests in entities that have developed and/or acquired commercial residential, or hospitality properties and are either operated by Affiliates of the Managing Member or unrelated third parties.
- to use the services of the Managing Member's Affiliates, including, without limitation, property management, construction development and renovation, real estate brokerage, and other services at fee levels at or below market rates;
- to provide reasonably stable, current income for Members through payment of distributions once projects are constructed or renovated; and
- for the Members, to provide the opportunity to participate in capital appreciation in the value of the Fund's assets.

The above listed activities may be changed or modified by the Managing Member in its sole and absolute discretion.

### Potential Competitive Strengths

The Managing Member believes that the Fund will be able to distinguish itself from other owners, operators, acquirers, and developers of real properties. The Fund believes that its long-term success will be supported through the following competitive strengths:

- **Sophisticated Operating Infrastructure:** Direct access to a robust administrative, development, construction, finance, and tax team provides the Fund with potential strategic advantages.
- **Boutique Sizing** – Caliber's \$250,000,000 cap on investment in the Fund ensures management will remain focused on hand-selecting great projects without the pressure of an institutional fund size (and fees). The Fund is large enough to accommodate significant capital allocations yet sized appropriately to match the expected investment opportunities in Caliber's target market.
- **Favorable profit split** –Members have profit splits that the Fund believes are favorable to the Members.
- **Pass-through Taxation:** Similar to an individual investor forming a partnership and buying a single property, the Fund produces a K-1 statement each year for each Member.
- **Manager with "Skin in the Game"** – As Members make capital commitments to the Fund, the Managing Member will (in accordance with the timing requirements set forth in the A&R LLC Agreement), directly or through its Affiliate, invest a minimum of 1% of the Capital Commitments of the Members as a Participating Member within the Fund. Thus, as the fund grows over time, the Managing Member's direct



or indirect investment will also grow over time. The Managing Member and its Affiliates reserve the right to acquire Participating Units up to an aggregate amount equal to 10% of the outstanding Participating Units of the Fund in exchange for payment of the applicable price per Unit then in effect.

- **Real Assets** – The Fund, in large part, is investing in tangible real estate, offering the simple elegance of actually understanding what you own and what is securing your capital. Please be aware, however, that the Fund may also invest in other assets, including equity interests in operating businesses.
- **The Best Strategy, at the Right Time:** Because the Fund’s structure is flexible, it can build a portfolio of income producing assets while also investing some of its capital into more opportunistic strategies. This blended approach is designed to limit risk while seeking attractive returns.
- **Quarterly Reporting, Regular Valuations:** The Managing Member will value the fund at least once a year and plans to update the annual valuation quarterly. We will strive to provide quarterly communications explaining, in simple terms, the performance of the fund and the direction being pursued by the Managing Member. Such communications shall be in the discretion of the Managing Member as to the timing and contents.
- **Vertical Integration:** The Fund benefits from the Sponsor’s vertically integrated business model, allowing greater control of the investment outcomes.
- **Deal Access:** The Fund benefits from the Managing Member’s considerable access to non-marketed transactions and projects, relationships with deal makers and other important members of the real estate ecosystem, and reputation for success in investing.

While the Fund believes that these factors will help distinguish it from the Fund’s competitors and contribute to its long-term success, there is no guarantee that the above listed factors will provide the Fund with any actual competitive advantages.

### **Real Estate Properties**

The Fund’s goal is to acquire a portfolio of commercial, residential and hospitality properties and real estate-related assets that are diversified by way of location and industry. There is no limitation on the number, size, or type of properties that the Fund may acquire or the percentage of net proceeds of the offering that may be invested in a single property. The number and mix of properties comprising the Fund’s portfolio will depend upon real estate market conditions and other circumstances existing at the time the Fund acquires properties and assets, and the amount of proceeds the Fund raises in this offering. The Fund is not restricted to investments in commercial, residential and hospitality properties.

The Fund intends to incur debt to acquire properties when the Managing Member determines that incurring such debt is in the Fund’s best interests. In addition, from time to time, the Fund may acquire some properties without financing and later incur mortgage debt secured by one or more of such properties if favorable financing terms are available. The Fund will use the proceeds from these loans to acquire additional properties and maintain liquidity.

The Fund expects a portion of the properties acquired by the Fund will be managed and operated directly by the Fund or by a related party manager, including, hotel and apartment properties acquired by the Fund.

#### *Retail Real Estate Properties*

The Fund may allocate a portion of its portfolio allocated to retail real estate properties, which a target goal to lease to retail businesses with creditworthy and established track records. The Fund may also pursue properties leased to tenants representing a variety of retail industries to avoid concentration in any one industry. These industries include all types of retail establishments, such as big box retailers, convenience stores, drug stores, and restaurant properties. The Fund expects that some of these investments will provide long-term value by virtue of their size, location, quality, and condition, and lease characteristics.

### *Multi-Family Housing Properties*

The Fund will generally seek to purchase or develop B or C grade multi-family rental properties, to transform these properties to B or A grade properties and build value through the transformation. These transformations include purchasing old properties in great locations and completing full renovations, converting from standard rental to student-oriented rentals, and similar strategies that the Managing Member believes will build value over time.

The Fund may also participate in the construction and development of for-rent or for-sale multi-family properties. The Managing Member will seek to build value through strategic land acquisitions, co-developing with existing developers, and providing capital and capability to partially stalled projects. While these are the expected strategies for the Fund with multi-family properties, the Managing Member may choose to incorporate any and all strategies to acquire or develop multi-family.

### *Office and Industrial Real Estate Properties*

The Fund expects that its office properties will include to be constructed or improved, high quality, low-, mid-, or high-rise office buildings that are necessary to a principal tenant, subject to a long-term net lease, and used for purposes such as a corporate, regional, or product-specific headquarters. The Fund also expects that our industrial property portfolio will include to be constructed or improved, high quality industrial properties that are necessary to a single principal tenant, subject to a long-term net lease, and used for purposes such as warehousing, distribution, light manufacturing, research and development, or industrial flex facilities.

The Fund expects that some of its office and industrial properties will be multi-tenant properties, anchored by one or more principal tenants, who are creditworthy and subject to long-term net leases. The Fund expects that, from time to time, it may invest in corporate development projects, designed to construct an income producing office or industrial property to serve one or more creditworthy tenants.

### *Real Estate Underwriting Process*

In evaluating potential property acquisitions consistent with the Fund's investment objectives, the Managing Member and its Affiliates will apply well-established underwriting processes to determine the creditworthiness of potential tenants and/or income potential from a particular investment property. Similarly, the Managing Member and its Affiliates will apply its credit underwriting criteria to possible new tenants when re-leasing properties in the Fund's portfolio or property repositions or renovations. This process includes analyzing the financial data and other available information about the property and/or tenant, such as income statements, balance sheets, net worth, cash flow, business plans, data provided by industry credit rating services, and/or other information the Managing Member and its Affiliates may deem relevant. Generally, properties and/or tenants must have a proven track record in order to meet the credit tests applied by the Managing Member and its Affiliates. In addition, the Fund may obtain guarantees of leases by the corporate parent of a tenant, in which case the Managing Member and its Affiliates will analyze the creditworthiness of the guarantor.

### *Description of Leases*

The Fund expects, in many instances, to acquire tenant properties with existing double-net or triple-net leases. A triple-net lease typically requires tenants to pay all or a majority of the operating expenses, including real estate taxes, special assessments, and sales and use taxes, utilities, maintenance, insurance, and building repairs related to the property, in addition to the lease payments. A double-net lease typically requires tenants to pay for property taxes and insurance, in addition to the lease payments. Not all of the Fund's leases will be net leases.

Typically, the Fund expects to enter into leases that have a term of five (5) years or more. The Fund may acquire properties under which the lease term has partially expired. The Fund also may acquire properties with shorter lease terms if the property is in an attractive location, if the property is difficult to replace, or if the property has other significant favorable real estate attributes. Under most commercial leases, tenants are obligated to pay a predetermined annual base rent. Some of the leases also will contain provisions that increase the amount of base rent payable at points during the lease term. The Fund expects that many of its leases will contain periodic rent increases. Generally, the

leases require each tenant to procure, at its own expense, commercial general liability insurance, as well as property insurance covering the building for the full replacement value and naming the ownership entity and the lender, if applicable, as the additional insured on the policy. Tenants will be required to provide proof of insurance by furnishing a certificate of insurance to our advisor on an annual basis. The insurance certificates will be tracked and reviewed for compliance by the Managing Member.

As a precautionary measure, the Fund may obtain, to the extent available, secondary liability insurance, as well as loss of rents insurance that covers one year of annual rent in the event of a rental loss. In addition, some leases require that the Fund procure insurance for both commercial general liability and property damage; however, generally the premiums are fully reimbursable from the tenant. In such instances, the policy will list the Fund as the named insured and the tenant as the additional insured.

#### *Other Possible Commercial Real Estate Investments*

Although the Fund expects to invest primarily in apartment, retail, office, and industrial properties, the Fund also may invest in other income-producing properties, where the properties share some of the same characteristics as the above listed properties, including one or more principal, creditworthy tenants, long-term leases, and/or strategic locations. The Fund may also invest in ground leases or specialty property, such as self-storage or other hospitality assets, and tribal lands.

#### *Ownership Structure*

The Fund's investment in real estate generally takes the form of holding fee title. The Fund expects to acquire such interests either directly or indirectly through limited liability companies, limited partnerships, or other entities owned and/or controlled by the Fund and/or Managing Member. The Fund may acquire properties by acquiring the entity that holds the desired properties. The Fund also may acquire properties through investments in joint ventures, partnerships, or other co-ownership arrangements with third parties, including the developers of the properties or Affiliates of the Managing Member.

The Fund anticipates that nearly all property acquired by the Fund will be acquired indirectly by, and held in, a partially owned subsidiary of the Fund.

The equity contributed to acquire and develop a property and the corresponding capital structure will be determined on a project-by-project basis. When the Fund will contribute nearly all of the equity capital (except for a small part contributed by the manager of the subsidiary and when such manager is an affiliate of Caliber), then all profit distributions will be given on a pro rata basis, based on the equity contributed by each member. In that case, the Fund will receive a distribution from the subsidiary, and such profits shall be dealt with in the manner covered in the A&R LLC Agreement.

At times, the subsidiary, will be funded by multiple parties, including third party investors investing directly into the subsidiary. When that is the case, the Fund will own its pro rata portion of the subsidiary, unless otherwise agreed to by the Managing Member. When the profits of the subsidiary are to be distributed subject to carried interests and other similar management compensation structures, and a Caliber affiliate is the manager of such entity or is otherwise entitled to the carried interest or other similar compensation payments, then it is the intent of the Managing Member to waive its Carry Amount at the Fund level. For the avoidance of doubt, it is the intent of the Managing Member to not be able to take multiple carried interests or other similar compensation arrangements with respect to a project.

#### *Investment Decisions*

The Affiliates of the Managing Member have substantial discretion with respect to the selection of the specific investments, subject to its own investment and borrowing policies. In pursuing investment objectives and making investment decisions on the Fund's behalf, the Managing Member evaluates the proposed terms of the investment against all aspects of the transaction, including the condition and financial performance of the asset, the terms of existing leases, the creditworthiness of the tenant or tenants, and property location and characteristics.

Because the factors considered, including the specific weight the Fund places on each factor, vary for each potential investment, the Fund does not, and are not able to, assign a specific weight or level of importance to any particular factor. The Managing Member and its Affiliates typically procures and reviews an independent valuation estimate on each and every proposed investment. Finally, all investments are presented to, and approved by, Caliber's Investment Committee prior to the deployment of any funds (other than pursuit costs) to such investments.

#### *Environmental Matters*

All real property and the operations conducted on real property are subject to federal, state, and local laws and regulations relating to environmental protection and human health and safety. 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, and the remediation of contamination associated with disposals. State and federal laws in this area are constantly evolving, and the Fund intends to take commercially reasonable steps, a summary of which is described below, to protect the Fund from the impact of these laws.

The Fund generally will not purchase any property unless and until it obtains what is generally referred to as a "Phase I" environmental site assessment and are generally satisfied with the environmental status of the property. However, the Fund may purchase a property without obtaining such assessment if the Managing Member determines the assessment is not necessary under the circumstances. A Phase I environmental site assessment basically consists of a visual survey of the building and the property in an attempt to identify areas of potential environmental concerns, visually observing neighboring properties to assess surface conditions or activities that may have an adverse environmental impact on the property, and contacting local governmental agency personnel who perform a regulatory agency file search in an attempt to determine any known environmental concerns in the immediate vicinity of the property. A Phase I environmental site assessment does not generally include any sampling or testing of soil, ground water or building materials from the property and may not reveal all environmental hazards on a property.

In the event the Phase I environmental site assessment uncovers potential environmental problems with a property, the Managing Member will determine whether the Fund will pursue the investment opportunity and whether the Fund will have a "Phase II" environmental site assessment performed. The factors the Fund may consider in determining whether to conduct a Phase II environmental site assessment include, but are not limited to, (1) the types of operations conducted on the property and surrounding property, (2) the time, duration, and materials used during such operations, (3) the waste handling practices of any tenants or property owners, (4) the potential for hazardous substances to be released into the environment, (5) any history of environmental law violations on the subject property and surrounding property, (6) any documented environmental releases, (7) any observations from the consultant that conducted the Phase I environmental site assessment, and (8) whether any party (i.e., surrounding property owners, prior owners, or tenants) may be responsible for addressing the environmental conditions. The Fund will determine whether to conduct a Phase II environmental site assessment on a case-by-case basis.

The Fund expects that some of the properties that it will acquire may contain, at the time of the Fund's investment, or may have contained prior to our investment, underground storage tanks for the storage of petroleum products and other hazardous or toxic substances. All of these operations create a potential for the release of petroleum products or other hazardous or toxic substances. Some of the Fund's potential properties may be adjacent to or near other properties that have contained or then currently contain underground storage tanks used to store petroleum products or other hazardous or toxic substances. In addition, certain of the Fund's potential properties may be on or adjacent to or near other properties upon which others, including former owners or tenants of our properties, have engaged, or may in the future engage, in activities that may release petroleum products or other hazardous or toxic substances.

#### *Conditions to Closing Our Acquisitions*

Generally, the Fund will condition its obligation to close the purchase of any investment on the delivery and verification of certain documents from the seller or developer, including, where appropriate:

- plans and specifications;

- surveys;
- evidence of marketable title, subject to such liens and encumbrances as are acceptable to our advisor;
- financial statements covering recent operations of properties having operating histories;
- title and liability insurance policies; and
- tenant estoppel certificates.

In addition, the Fund will take such steps as it deems necessary with respect to potential environmental matters.

The Fund may enter into purchase and sale arrangements with a seller or developer of a suitable property under development or construction. In such cases, the Fund will be obligated to purchase the property at the completion of construction, provided that the construction conforms to definitive plans, specifications, and costs approved by the Fund in advance. In such cases, prior to the Fund acquiring the property, the Fund generally would receive a certificate of an architect, engineer, or other appropriate party, stating that the property complies with all plans and specifications. If renovation or remodeling is required prior to the purchase of a property, the Fund expect to pay a negotiated maximum amount to the seller upon completion.

In determining whether to purchase a particular property, the Fund may obtain an option to purchase such property. The amount paid for an option, if any, normally is forfeited if the property is not purchased and normally is credited against the purchase price if the property is purchased.

In the purchasing, leasing, and developing of properties, the Fund is subject to risks generally incident to the ownership of real estate.

### **Joint Venture Investments**

The Fund may enter into joint ventures, partnerships, and other co-ownership arrangements with third parties, including Affiliates of the Managing Member, for the acquisition, development or improvement of properties or the acquisition of other real estate-related investments. The Fund may also enter into such arrangements with real estate developers, owners, and other unaffiliated third parties for the purpose of developing, owning, and operating real properties. In determining whether to invest in a particular joint venture, the Managing Member and/or its Affiliates will evaluate the underlying real property or other real estate-related investment using the same criteria described above. The Managing Member and/or its Affiliates also will evaluate the joint venture or co-ownership partner and the proposed terms of the joint venture or a co-ownership arrangement.

The Fund's general policy is to invest in joint ventures only when it or its affiliate will have a right of first refusal to purchase the co-venturer's interest in the joint venture if the co-venturer elects to sell such interest in the event that the co-venturer elects to sell all or a portion of the interests held in any such joint venture, however, the Fund may not have sufficient funds to exercise its right of first refusal to buy the other co-venturer's interest in the joint venture. It is also possible that joint venture partners may resist granting the Fund a right of first refusal or may insist on a different methodology for unwinding the joint venture if one of the parties wishes to liquidate its interest.

The co-venturer may have economic or business interests or goals that are or may become inconsistent with the Fund's business interests or goals. In addition, the Managing Member's officers and key persons may face a conflict in structuring the terms of the relationship between the Fund's interests and the interests of the co-venturer and in managing the joint venture. Since the Fund may enter into joint ventures with Affiliates of the Sponsor, the Fund may not have the benefit of arm's-length negotiation of the type normally conducted between unrelated co-venturers, which may result in the co-venturer receiving benefits greater than the benefits that the Fund receives. In addition, the Fund may assume liabilities related to the joint venture that exceed the percentage of the Fund's investment in the joint venture.



## **Development and Construction of Properties**

Development of real estate properties is subject to risks relating to a builder's ability to control construction costs or to build in conformity with plans, specifications, and timetables.

## **Borrowing Policies**

The Managing Member believes that utilizing borrowing is consistent with the Fund's investment objective of maximizing the return to investors and providing the Fund with added liquidity. By operating on a leveraged basis, the Fund has more funds available for investment in properties. This allows the Fund to make more investments than would otherwise be possible, resulting in a more diversified portfolio.

At the same time, the Managing Member believes in utilizing leverage in a moderate fashion. Please note however that the A&R LLC Agreement does not require any specific leverage limitations. The below guidelines are intentional only, and the Fund may deviate from the below percentages as it determines necessary:

- (1) by the end of the Fund's third year of operation (i.e., years from the date on which the Fund first issues Units to third-party Members) the Fund shall borrow no more than 75% of the total value of all portfolio properties owned by the Fund at such time;
- (2) by the end of the Fund's fifth year of operations the Fund shall borrow no more than 65% of the total value of all portfolio properties owned by the Fund at such time; and
- (3) thereafter, for so long as the Fund continues to operate, the Fund shall borrow no more than 60% of the total value of all portfolio properties owned by the Fund at such time.

The Managing Member uses its reasonable efforts to obtain financing on the most favorable terms available to the Fund. The Managing Member may refinance properties during the term of a loan. The benefits of the refinancing may include increased cash flow resulting from reduced debt service requirements, an increase in dividend distributions from proceeds of the refinancing, if any, or an increase in property ownership if some refinancing proceeds are reinvested in real estate,

The Fund's ability to increase the Fund's diversification through borrowing may be adversely impacted if banks and other lending institutions reduce the amount of funds available for loans secured by real estate. When interest rates on mortgage loans are high or financing is otherwise unavailable on a timely basis, the Fund may purchase properties for cash with the intention of obtaining a mortgage loan for a portion of the purchase price at a later time. To the extent that the Fund does not obtain mortgage loans on its properties, the Fund's ability to acquire additional properties will be restricted and the Fund may not be able to adequately diversify its portfolio.

The Managing Member may elect to borrow against the portfolio in its discretion in order to fund redemption requests.

## **Disposition Policies**

The Fund intends to hold each property it acquires for a period of two (2) to five (5) years. Regardless of intended holding periods, circumstances might arise that could cause the Fund to determine to sell an asset before the end of the expected holding period if the Fund believes the sale of the asset would be in the best interests of the Members. The determination of whether a particular asset should be sold or otherwise disposed of will be made after consideration of relevant factors, including prevailing and projected economic conditions, current tenant rolls and tenant creditworthiness, whether, depending on the assets tax attributes, the Fund could apply the proceeds from the sale of the asset to make other investments, and whether disposition of the asset would increase cash flow. The selling price of a property that is net leased will be determined in large part by the amount of rent payable under the lease and income produced from the property. If a tenant has a repurchase option at a formula price, the Fund may be limited in realizing any appreciation. In connection with the Fund's sales of properties the Fund may lend the purchaser all or a portion of the purchase price. In these instances, the Fund's taxable income may exceed the cash received in the sale.

## Investment Limitations to Avoid Registration as an Investment Company

The Fund intends to conduct its operations and the operations of subsidiaries so that each is exempt from registration as an investment company under the Investment Company Act. Under the Investment Company Act, in relevant part, a company is an “investment company” if:

- pursuant to Section 3(a)(1)(A), it is, or holds itself out as being, engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities; and
- pursuant to Section 3(a)(1)(C), it is engaged, or proposes to engage, in the business of investing, reinvesting, owning, holding, or trading in securities and owns or proposes to acquire “investment securities” having a value exceeding 40% of the value of its total assets on an unconsolidated basis (the 40% test). “Investment securities” excludes U.S. Government securities and securities of majority-owned subsidiaries that are not themselves investment companies and are not relying on the exception from the definition of investment company under Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act.

The Fund intends to acquire real estate and real estate-related assets directly, for example, by acquiring fee interests in real property, or by purchasing interests, including controlling interests, in REITs or other “real estate operating companies,” such as real estate management companies and real estate development companies, that own real property. The Fund also may acquire real estate assets through investments in joint venture entities, including joint venture entities in which the Fund may not own a controlling interest. The Fund anticipates that its assets generally will continue to be held in wholly and majority-owned subsidiaries of the company, each formed to hold a particular asset.

The Fund expects that most, if not all, of its wholly owned and majority-owned subsidiaries will not be relying on exemptions under either Section 3(c)(1) or 3(c)(7) of the Investment Company Act. Consequently, interests in these subsidiaries (which are expected to constitute most, if not all, of our assets) generally will not constitute “investment securities.” Accordingly, the Fund believes that the Fund and most, if not all, of its wholly-and majority-owned subsidiaries will not be considered investment companies under Section 3(a)(1)(C) of the Investment Company Act.

In addition, the Fund believes that it and its subsidiaries will not be considered investment companies under Section 3(a)(1)(A) of the Investment Company Act because none of these entities will engage primarily or hold themselves out as being engaged primarily in the business of investing, reinvesting, or trading in securities. Rather, the Fund and any subsidiaries will be primarily engaged in non-investment company businesses related to real estate. Consequently, the Fund expects that it and any subsidiaries will be able to conduct its respective operations such that none of these entities will be required to register as an investment company under the Investment Company Act.

The determination of whether an entity is a majority-owned subsidiary of our company is made by the Fund. The Investment Company Act defines a majority-owned subsidiary of a person as a company 50% or more of the outstanding voting securities of which are owned by such person, or by another company which is a majority-owned subsidiary of such person. The Investment Company Act further defines voting securities as any security presently entitling the owner or holder thereof to vote for the election of directors of a company. The Fund intends to treat entities in which it owns at least a majority of the outstanding voting securities as majority owned subsidiaries for purposes of the 40% test. The Fund does not intend to request that the SEC staff approve the Fund’s treatment of any particular entity as a majority-owned subsidiary and the SEC staff has not done so. If the SEC staff were to disagree with the Fund’s treatment of one or more subsidiary entities as majority-owned subsidiaries, the Fund would need to adjust its strategy and assets in order to continue to comply with the 40% test. Any such adjustment in the Fund’s strategy could have a material adverse effect on the Fund.

Even if the value of investment securities held by any of our wholly-owned or majority-owned subsidiaries were to exceed 40% of their respective total assets, the Fund expects that such subsidiaries would be able to rely on the exclusion from the definition of “investment company” provided by Section 3(c)(5)(C) of the Investment Company Act, which is available for entities primarily engaged in the business of “purchasing or otherwise acquiring mortgages and other liens on and interests in real estate.” This exclusion, as interpreted by the staff of the SEC, generally requires



that at least 55% of an entity's assets must be comprised of mortgages and other liens on and interests in real estate, also known as "qualifying assets," and at least 80% of the entity's assets must be comprised of additional qualifying assets and a broader category of assets that the Fund refers to as "real estate-related assets" under the Investment Company Act. Additionally, no more than 20% of the entity's assets may be comprised of miscellaneous assets.

The Fund will classify its assets for purposes of the Investment Company Act, including the 3(c)(5)(C) exclusion, in large measure upon no-action positions taken by the SEC staff in the past. These no-action positions were issued in accordance with factual situations that may be substantially different from the factual situations the Fund may face, and a number of these no-action positions were issued more than ten years ago. Accordingly, no assurance can be given that the SEC will concur with the Fund's classification of its assets.

For purposes of determining whether the Fund satisfies the exclusion provided by Section 3(c)(5)(C), as interpreted by the staff of the SEC, the Fund will classify the assets in which it invests as follows:

*Real Property.* Based on the no-action letters issued by the SEC staff, the Fund will classify its fee interests in real properties as qualifying assets. In addition, based on no-action letters issued by the SEC staff, the Fund will treat its investments in joint ventures, which in turn invest in qualifying assets such as real property, as qualifying assets only if the Fund has the right to approve major decisions affecting the joint venture; otherwise, such investments will be classified as real estate-related assets.

*Securities.* The Fund intends to treat as real estate-related assets debt and equity securities of both non-majority owned publicly traded and private companies primarily engaged in real estate businesses, including REITs and other real estate operating companies, and securities issued by pass-through entities of which substantially all of the assets consist of qualifying assets or real estate-related assets.

*Loans.* Based on the no-action letters issued by the SEC staff, the Fund will classify its investments in various types of whole loans as qualifying assets, as long as the loans are "fully secured" by an interest in real estate at the time the Fund originates or acquires the loan. However, the Fund will consider loans with loan-to-value ratios in excess of 100% to be real estate-related assets. The Fund will treat mezzanine loan investments as qualifying assets so long as they are structured as "Tier 1" mezzanine loans in accordance with the guidance published by the SEC staff in a no-action letter that discusses the classifications of Tier 1 mezzanine loans under Section 3(c)(5)(C) of the Investment Company Act.

Qualification for exemption from registration under the Investment Company Act will limit the Fund's ability to make certain investments. For example, these restrictions may limit the ability of the Fund and its subsidiaries to invest directly in mortgage-related securities that represent less than the entire ownership in a pool of mortgage loans, debt and equity tranches of securitizations and certain asset-backed securities and real estate companies or in assets not related to real estate. Although the Fund intends to monitor its portfolio, there can be no assurance that the Fund will be able to maintain this exemption from registration for the Fund or each of its subsidiaries.

A change in the value of any of the Fund's assets could negatively affect its ability to maintain its exemption from regulation under the Investment Company Act. To maintain the Fund's exemption, the Fund may be unable to sell assets it would otherwise want to sell and may need to sell assets it would otherwise wish to retain. In addition, the Fund may have to acquire additional assets that it might not otherwise have acquired or may have to forego opportunities to acquire assets that the Fund would otherwise want to acquire and would be important to its investment strategy.

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## MANAGEMENT

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The Fund will be managed by its Managing Member, an affiliate of the Sponsor. There will only be one Managing Member. Any Managing Member can be removed for Cause upon the approval of the Participating Members holding 75% of the Member Units, voting as a single class. “Cause” shall mean the determination of a court of competent jurisdiction that one of the following events occurred: (i) the Managing Member willfully or intentionally violated, or recklessly disregarded, the Managing Member’s duties to the Fund; or (ii) the Managing Member committed any act involving fraud, bad faith, gross negligence, dishonesty, or moral turpitude in its duties and responsibilities to the Fund. The Managing Member may also withdraw as Managing Member by providing written notice to the Members. In either event, a new Managing Member shall be elected by the approval of the Members holding at least 50% of the Participating Units, voting as a single class.

### Managing Member Powers

As the sole Managing Member, the Managing Member has the exclusive power under the A&R LLC Agreement to manage and conduct the Fund’s business, subject to certain limited approval and voting rights of the Members. Without limiting the generality of the foregoing, the Managing Member shall have full power and authority to do the following:

- Perform administrative and ministerial functions in connection with the day-to-day operation of the Fund;

- Perform sales and accounting management functions for the Fund;

- Maintain the Fund’s books and records;

- Negotiate and enter into any and all contracts by and on behalf of the Fund deemed appropriate by the Managing Member, in its sole and absolute discretion, in connection with the operation of the Fund’s business;

- Borrow money on behalf of the Fund, including, but not limited to, establishing lines of credit in the name of the Fund, and, in connection therewith, to execute and deliver for, on behalf of and in the name of the Fund, bonds, notes, pledges, security agreements, financing statements, profits interest agreements, assignments, and other agreements and documents creating liens on, or granting security interests in or otherwise affecting, the assets and properties of the Fund (any of which loan documents may contain confessions of judgment and powers of attorney) including, without limitation, any portfolio property, and extensions, renewals, and modifications thereof, and to prepay in whole or in part, refinance, recast, increase, modify, or extend any indebtedness of the Fund.

- Cause the Fund to guarantee the debts or obligations of third parties that own real estate assets and in which entities the Fund has an interest;

- Hold, operate, manage, and otherwise deal with Fund property;

- Purchase, sell, convey, assign, lease, rent, exchange, and otherwise dispose of, in whole or in part, any portfolio property;

- Sell all or substantially all Fund property in a single transaction or plan;

- Engage, on behalf of the Fund, all employees, agents, contractors, property managers, attorneys, accountants, securities broker-dealers, consultants, or any other Persons (including Affiliates of the Managing Member), as the Managing Member, in its sole and absolute discretion, deems appropriate for the performance of services in connection with the conduct, operation, and management of the Fund’s business and affairs, all on such terms and for such compensation as the Managing Member, in its sole and absolute discretion, deems proper and to

replace any such employees, agents, contractors, property managers, attorneys, accountants, securities broker-dealers, consultants, or any other Persons, in the sole and absolute discretion of the Managing Member;

- Establish and maintain working capital reserves for operating expenses, capital expenditures, normal repairs, replacements, contingencies, and other anticipated costs relating to the assets of the Fund by retaining a portion of Fund proceeds as determined from time to time by the Managing Member to be reasonable under the then-existing circumstances;

- Determine the amounts of cash available for distribution, and when and in what amounts such funds shall be distributed;

- Pay the expenses of the Fund from the funds of the Fund, provided that all of the Fund's

- expenses shall, to the extent feasible, be billed directly to and paid by the Fund

- File, on behalf of the Fund, all required local, state, and federal tax returns relating to the Fund or its assets and properties, and to make or determine not to make any and all elections with respect thereto;

- Invest and reinvest the funds of the Fund and to establish bank, money market and other accounts for the deposit of the Fund's funds and permit withdrawals therefrom upon such signatures as the Managing Member designates;

- Execute and deliver any and all instruments and documents, and to do any and all other things necessary or appropriate, in the Managing Member's sole and absolute discretion, for the accomplishment of the business and purposes of the Fund or necessary or incidental to the protection and benefit of the Fund;

- Prosecute, defend, settle, or compromise, at the Fund's expense, any suits, actions, or claims at law or in equity to which the Fund is a party or by which it is affected as may be necessary or proper in the Managing Member's sole and absolute discretion, to enforce or protect the Fund's interests, and to satisfy out of Fund's funds any judgment, decree, or decision of any court, board, agency, or authority having jurisdiction or any settlement of any suit, action, or claim prior to judgment or final decision thereon;

- Issue additional Units or other forms of interest in the Fund and admit additional Members as the Managing Member may determine in its sole and absolute discretion;

- Create and issue additional limited liability company interests and classes and groups of Members and admit such Members as the Managing Member may determine in its sole and absolute discretion;

- Redeem Members' Units in the Fund and determine the methodology for carrying out any redemptions;

- Negotiate the terms of and cause the Fund to enter into joint ventures or other legal structures with one or more third parties, including with Affiliates of the Managing Member, as the Managing Member may determine in its sole and absolute discretion, in connection with the operation of the Fund's business;

- Reinvest any cash available for distribution;

- Enter into any transactions with an affiliate of the Managing Member or any Member at arm's length terms;

- Amend the A&R LLC Agreement to comply with the provisions of the Bipartisan Budget Act of 2015 and any U.S. Treasury Regulations or other administrative pronouncements promulgated thereunder, and to administer the effects of such provisions in an equitable manner, with each Member hereby agreeing to be bound by the provisions of any such amendment; and

- Amend the A&R LLC Agreement to address or reconcile any inconsistencies between the terms set forth therein and the terms set forth in the Private Placement Memorandum.

### **Managing Member Limitations**

Without the consent of the Members holding at least 50% of the Participating Units, voting as a single class, the Managing Member shall not have authority to:

- Do any act in contravention of the A&R LLC Agreement;
- Invest initial Capital Contributions of Investors after the fifth (5<sup>th</sup>) anniversary from the initial admission of an Investor under this Offering (such restrictions, however, not applicable however to redeployment of proceeds from existing portfolio assets);
- Do any act which would make it impossible to carry on the ordinary business of the Fund, except as otherwise provided in the A&R LLC Agreement; or
- Possess Fund property, or assign rights in specific Fund property, for other than a Fund purpose.

### **Advisory Board**

The Fund shall have an “*Advisory Board*” consisting of at least three members (the “*Advisory Board Members*”) appointed by the Managing Member; provided, however, that all of the of the Advisory Board Members shall be Members or their designated representatives. Subject to the foregoing, the Managing Member may, in its sole and absolute discretion, increase the size of the Advisory Board. Any Advisory Board Member may, at any time, resign from the Advisory Board or be removed, with or without cause, by the Managing Member. All such appointments, designations, resignations, and removals shall be effective upon notice to the Fund. The Managing Member shall consult with the Advisory Board, but the Advisory Board shall have no authority to manage the Fund.

### **Competition**

The Managing Member or any affiliate, including the Sponsor, of the Managing Member may conduct or possess an interest in any other business or activity whatsoever, independently or with others, including, without limitation, the ownership, financing, leasing, operation, sale, management, syndication, and development of real property even if such business or activity competes with the business of the Fund, without any accountability to the Fund or to any other Member, and no other Member shall have any rights under the A&R LLC Agreement in and to such independent business or activity or to the income or profits derived by the Managing Member therefrom.

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## MANAGEMENT FEES AND COMPENSATION

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The Fund has no paid employees. The Managing Member and its Affiliates manage the day-to-day affairs of the Fund. The following table summarizes the compensation, fees, and reimbursements the Fund or its subsidiaries will pay to the Managing Member and its Affiliates.

*(see attached)*

## Company Level Fees

The below are fees that are paid directly from the Company to Caliber Services, its Affiliates, or other related or third parties as listed in the Payee column. No similar fees (for the same services performed) will be taken at multiple entity levels with respect to the same investor Capital Contributions. For example, if the Company invests 50% equity into a single asset offering, to the extent that offering's entity charges a similar fee, the fee owed by the Company will be offset, dollar for dollar, by the asset-level fee (*de facto*), eliminating the instance of paying extra, or double fees for the same services performed.

Service or Arrangement	Payee	Payor	Agreement Where Description of Services Performed is Located	Approved Rate	Payment Terms; Anticipated Source of Funds Paid	Off-Sets; Carve-Outs
Management Fee	Managing Member	Company	Management Agreement	1.5% of the aggregate Capital Contributions of the Members (without respect of any return of Capital Contributions, except for (i) wholly or partially redeemed Members, and (ii) return of Capital Contributions with respect to any Preferred Units).	<p>The Management Fee is a re-occurring, annual fee, payable in arrears each month based on the aggregate Capital Contributions of the Members as of the last day of each such month.</p> <p>It is anticipated that the source of funds used to pay this fee will initially be from the Capital Contributions of the Members and then, if available, from financing proceeds and/or operational cash flow.</p>	<p>If any direct or indirect subsidiary of the Company pays to Caliber Services or its Affiliate any similar fee, the Management Fee described herein shall be reduced on a dollar-for-dollar basis with respect to the capital contributions made by the Company to such direct or indirect subsidiary.</p> <p>For example, if the Company invests 50% equity into a single asset offering, to the extent that offering's entity charges a similar fee, the fee owed by the Company will be offset, dollar for dollar, by the asset-level fee, eliminating the instance of paying extra, or double fees.</p>
Sponsor Platform O&O Fee	Caliber Securities, LLC	Company	Sponsor Platform Organizational and Offering Services Agreement	\$625,000, due and payable on each three month anniversary following the first date of receipt of initial Capital Contributions into the Company by an investor member, subject to an aggregate maximum fee amount of \$5,000,000 <i>i.e.</i> , continuing for two years after the initial closing of investor funds).	<p>The Sponsor Platform Organizational and Operations Fee is a series of eight fees (each in an equal amount), due and payable every three months, commencing on the first date of receipt of initial Capital Contributions by an investor member and continuing thereafter, subject to an aggregate maximum fee amount of \$5,000,000.</p> <p>It is anticipated that the source of funds used to pay this fee will be from the initial Capital Contributions of the Members.</p>	<p>To the extent that Caliber Securities, LLC determines, in its reasonable discretion that the services provided by Caliber Services, LLC in connection with the Sponsor Platform Organizational and Offering Services Agreement no longer warrant the fee to be paid thereunder (either due to reduced administrative and marketing burden or otherwise), Caliber Securities, LLC may reduce such fee in amount it determines appropriate (as it determines in its discretion).</p>



## Company Level Fees

The below are fees that are paid directly from the Company to Caliber Services, its Affiliates, or other related or third parties as listed in the Payee column. No similar fees (for the same services performed) will be taken at multiple entity levels with respect to the same investor Capital Contributions. For example, if the Company invests 50% equity into a single asset offering, to the extent that offering's entity charges a similar fee, the fee owed by the Company will be offset, dollar for dollar, by the asset-level fee (*core versa*), eliminating the instance of paying extra, or double fees for the same services performed.

Service or Arrangement	Payee	Payor	Agreement Where Description of Services Performed is Located	Approved Rate	Payment Terms; Anticipated Source of Funds Paid	Off-Sets; Carve-Outs
<b>Fund Administration Fee</b>	Caliber Services, LLC	Company	Fund Administration Services Agreement	<p>The Fund Administration Fee is determined based on a calculation determined by Caliber Services in its reasonable discretion, with the calculation based on the lesser of:</p> <p>(1) 1.00% of unreturned Capital Contributions; or</p> <p>(2) generally evaluating each employee of Caliber Services and determine if any portion of services performed by such employee are devoted to fund administration (with that percentage of time multiplied by their base salary (plus 18% to account for employee taxes/benefits)), with such aggregate amount calculated then allocated to each of the Caliber sponsored funds based on the unreturned Capital Contributions.</p>	<p>The Fund Administration Fee is a re-occurring, annual fee, payable in arrears each month based on the aggregate Capital Contribution of the Members as of the last day of each such month.</p> <p>It is anticipated that the source of funds used to pay this fee will initially be from the Capital Contributions of the Members and then, if available, from financing proceeds and/or operational cash flow.</p>	None.
<b>Managing Broker Fees and Commissions</b>	Tobin & Company Securities LLC	Company	Private Placement Engagement Agreement	<p>The Company has an agreement with Tobin &amp; Company Securities LLC, a registered broker/dealer and member FINRA/SIPC ("Managing Broker"), pursuant to which the securities will be offered and sold. Please note that salespersons affiliated with Caliber (but who are licensed and managed through the Managing Broker) will receive selling commissions up to 2.00% of the gross proceeds in the Offering. Other fees that will be paid to Tobin &amp; Company Securities LLC include the following: (1) a non-refundable engagement fee of \$10,000 that was or will be paid upon execution of a placement agreement between the Company and the Managing Broker; (2) monthly non-refundable retainer fee of \$5,000 (which is reduced on a dollar-for-dollar basis by any amounts paid under the placement fee (as described in item no. 3 below); and (3) a placement fee up to 1.00% of all sales of securities (based on the principal amount of the securities issued).</p>	<p>Vary (see description to the left that described different fees paid and when paid). Fees are generally paid in arrears on a monthly basis. All such placement fees and selling commissions will be paid from proceeds received from the Offering.</p>	None

## Asset Level Fees

The below asset level fee descriptions relate to fees paid by the project level entities (e.g., direct or indirect subsidiaries of the Company that hold title or a leasehold interest to real property), with such fees and other amounts paid to Caliber Services, LLC, its Affiliate or other related persons in connection with services performed or other commitments made.

Service or Arrangement	Payee	Payor	Agreement Where Description of Services Performed is Located	Approved Rate	Payment Terms; Anticipated Source of Funds Paid	Off-Sets; Carve-Outs
<b>Loan Guaranty Fee</b>	Entities or persons providing guarantees	Real Estate Holding Company  (or, if different, the applicable borrower)	N/A	0.25% of the gross value of the loan guaranteed by such guarantor.	The Loan Guaranty Fee is a re-occurring, annual fee, payable in arrears each month based on the aggregate gross amount guaranteed by the guarantor under the applicable loan.  It is anticipated that the source of funds used to pay this fee will initially be from the Capital Contributions of the Members and then, if available, from financing proceeds and/or operational cash flow.	None
<b>Loan Placement Fee</b>  (if permitted by applicable law)	Caliber Services or its Affiliate	Real Estate Holding Company  (or, if not the RE Holding Company, the applicable borrower)	Loan Placement Agreement	Up to 1% of the gross loan proceeds.	The Loan Placement Fee is a one-time fee, payable on the date of the applicable financing.  It is anticipated that the source of funds used to pay this fee will initially be from the Capital Contributions of the Members and then, if available, from financing proceeds and/or operational cash flow.	None
<b>Development Fee</b>	Caliber Development, LLC (an affiliate of Caliber Services)	Real Estate Holding Company	Development Agreement	Up to a maximum of 4% of the total gross value of the project, including the cost of the land (based on the gross acquisition cost of the underlying property).	The Development Fee is a one-time fee amortized over the term of the Development Agreement, which shall be true-up periodically from time to time for actual costs of the project and with a final true-up at the end of the development of the applicable project.  It is anticipated that the source of funds used to pay this fee will be from the initial Capital Contributions of the Members or from proceeds received in connection with a construction loan financing.	None
<b>Construction Management Fee</b>  (if applicable)	Caliber Development, LLC (an affiliate of Caliber Services)	Real Estate Holding Company	Construction Management Agreement	Up to a maximum of 4% of hard project costs (which, generally speaking, is intended to be based on the gross payments to the general contractor, plus at times certain other amounts paid (e.g. furniture, fixtures and equipment).	The Construction Management Fee is typically paid to the payee on a monthly or quarterly basis as costs are incurred).  It is anticipated that the source of funds used to pay this fee will be from the initial Capital Contributions of the Members or from proceeds received in connection with a construction loan financing.	None

## Asset Level Fees

The below asset level fee descriptions relate to fees paid by the project level entities (e.g., direct or indirect subsidiaries of the Company that hold title or a leasehold interest to real property), with such fees and other amounts paid to Caliber Services, LLC, its Affiliate or other related persons in connection with services performed or other commitments made.

Service or Arrangement	Payee	Payor	Agreement Where Description of Services Performed is Located	Approved Rate	Payment Terms; Anticipated Source of Funds Paid	Off-Sets; Carve-Outs
<b>Real Estate Brokerage Fee</b>	Caliber Realty, LLC	Real Estate Holding Company	Real Estate Brokerage Services Agreement	A market-rate fee for real estate brokerage services, ranging from 2%-6% on the purchase or sale of any real property held by the RE Holding Company, depending on the asset class, representation (dual or single), and transaction size.	The Real Estate Brokerage Fee is a one-time fee payable upon the closing of any real estate acquisition or disposition by the RE Holding Company.	The Real Estate Brokerage Fee may be reduced by any commissions paid by the RE Holding Company to any third party engaged by the RE Holding Company performing similar services.
<b>Acquisition Fee / Disposition Fee</b>	Caliber Realty, LLC	Real Estate Holding Company	Acquisition Services Agreement	Up to 2% of price paid on the purchase or sale of any real property held by the RE Holding Company.	<p>The Acquisition / Disposition Fee is a one-time fee payable upon the closing of any real estate acquisition or disposition by the RE Holding Company.</p> <p>It is anticipated that the source of funds used to pay any such fee in connection with RE Holding Company acquiring real estate will be paid by the selling party when the property is being acquired by the RE Holding Company. Any such fee paid with respect to the disposition of any real property is anticipated to be paid from proceeds received from such sale transaction.</p>	If a Real Estate Brokerage Fee (described above) is paid to Caliber Realty, LLC, then no Acquisition / Disposition Fee (as applicable) will be paid.

\*Other capitalized terms used in this schedule that are not otherwise defined above will have the meanings set forth in the LLC Agreement of the Company.

\*\*Please note that (i) one or more of the above listed fees may not be applicable to the Company, the Real Estate Holding Company or their subsidiaries with respect to their intended business purpose(s), in which case such fee shall not apply; (ii) the Payee may elect, in its sole discretion, to delay or cancel any amounts owed to it with respect to any fees earned; and (iii) one or more of the fees may be shared with a third party partner of Caliber, and in which case the fee may not be paid directly to the Payee listed but to a joint venture entity formed by the applicable affiliate of Caliber and the joint venture partner.

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## INDEMNIFICATION AND LIMITATION OF LIABILITY

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The Fund is permitted to limit the liability of its Managing Members and officers, and to indemnify and advance expenses to its Managing Members, officers, and other agents, to the extent permitted by Delaware law.

Pursuant to the A&R LLC Agreement, the Managing Member, officers, and agents of the Fund shall not be liable to the Fund or to any Member for (i) any act or omission performed or failed to be performed by such person, or for any losses, claims, costs, damages, or liabilities arising from any such act or omission, except to the extent such loss, claim, cost damage, or liability results from such person's gross negligence, willful misconduct, or fraud; (ii) any tax liability imposed on the Fund; or (iii) any losses due to the misconduct, negligence, dishonesty, or bad faith of any agents of the Fund.

The Fund, its receiver, or its trustee (in the case of its receiver or trustee, to the extent of the portfolio properties of the Fund) shall indemnify, save harmless, and pay all judgments and claims against the Managing Member, officers, and agents relating to any liability or damage incurred by reason of any act performed or omitted to be performed by such person solely in connection with the business of the Fund, including attorneys' fees incurred in connection with the defense of any action based on any such act or omission, which attorneys' fees may be paid as incurred.

In the event of any action by a Member against the Managing Member, officers, and/or agents relating to any liability or damage incurred by reason of any act performed or omitted to be performed by such persons solely in connection with the business of the Fund, including a derivative suit, the Fund shall indemnify, save harmless, and pay all expenses of such Member, including attorneys' fees incurred in the defense of such action, if such Member is successful in such action.

The Managing Member has authority to cause the Fund to acquire and maintain the equivalent of directors' and officers' insurance coverage insuring the actions of the Managing Member, officers, and agents in such amounts as it may determine appropriate and customary for a business of the type conducted by the Fund.

Notwithstanding the above, the Managing Member, officers, and agents shall not be indemnified from any liability for fraud, bad faith, gross negligence, or willful misconduct in its duties and responsibilities to the Fund.

As a result, the Fund and its Members may be entitled to a more limited right of action than they and the Fund would otherwise have if these indemnification rights were not included in the A&R LLC Agreement.

The general effect to Members of any arrangement under which the Fund agrees to insure or indemnify any persons against liability is a potential reduction in distributions resulting from the Fund's payment of premiums associated with insurance or indemnification payments in excess of amounts covered by insurance. In addition, indemnification could reduce the legal remedies available to the Members and the Fund against the Fund's Managing Member, officers, and agents. However, indemnification does not reduce the exposure of the Managing Member and officers to liability under federal or state securities laws, nor does it limit the Members' ability to obtain injunctive relief or other equitable remedies for a violation of a member's, manager's, or an officer's duties to the Fund, although the equitable remedies may not be an effective remedy in some circumstances.

The SEC and some state securities commissions take the position that indemnification against liabilities arising under the Securities Act is against public policy and unenforceable.

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## DESCRIPTION OF UNITS

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The rights, preferences, and obligations of the five classes of Units are set forth in the A&R LLC Agreement.

A general description of the rights, preferences, and restrictions associated with the Units is set forth below. Each Investor should carefully read this Memorandum and the A&R LLC Agreement to understand certain risks associated with acquiring Units and the rights, restrictions, and obligations associated with the Units.

### *Preferred Units*

One class of membership interests being offered will be referred to as the “Preferred Units.” The Preferred Units are being offered at a price per Preferred Unit as indicated at the beginning of this Memorandum. The Preferred Units will be non-voting and will not share in economic or taxable profits or losses of the Fund (except for the taxable effect of the Preferred Return (as defined below)). The Preferred Units will accrue a cumulative, non-compounded, return on the unreturned capital contributions (the “Preferred Return”) at a rate equal to 12% per annum (unless otherwise agreed by such Preferred Member and the Managing Member that a lower rate will apply).

Notwithstanding anything to the contrary herein or in the A&R LLC Agreement, solely for federal and state income tax purposes the Fund intends to treat the Preferred Units as debt. No Preferred Member shall be treated as a “partner” for federal and state income tax purpose. As such, (i) any Preferred Return paid to the Preferred Members shall be treated as interest for federal and state income tax purposes, and shall be consistently reported as such by the Fund and each Preferred Member, and (ii) there shall be no allocations of Profits or Losses to the Preferred Members under the A&R LLC Agreement, and (iii) any and all references to “Member,” “Members,” “Units,” or under this Memorandum or the A&R LLC Agreement, where such context refers to a partner or Fund interest for federal and state income tax purposes, shall exclude the Preferred Members and the Preferred Units.

All or a portion of the Preferred Units of a Preferred Member will be redeemable by the Fund at any time by payment of any outstanding Preferred Return and the unreturned capital contributions of such Preferred Member. The General Partner can select, in its sole and absolute discretion, which Preferred Units it chooses to so redeem (subject to any restrictions or limitations imposed by a lender who has extended credit to the Fund) and is not required to redeem Preferred Units *pari passu* or *pro rata*. Subject to the requirement to make certain tax distributions out of available cash of the Fund, all distributions by the Fund will be made if, and at such times, as the General Partner may determine, in its sole and absolute discretion (subject to any restrictions or limitations imposed by a lender that has extended credit to the Fund).

### *Class A Units and Class C Units*

Another class of limited liability company units being offered will be referred to as the “Class A Units.” The Class A Units are being offered at a price per Class A Unit as indicated at the beginning of this Memorandum, until such time as the Managing Member determines that an adjustment to the price per Class A Unit is warranted or otherwise required under the A&R LLC Agreement, in which case such adjustment will be made in accordance with the A&R LLC Agreement. The Class A Units will have limited voting rights, as described in the A&R LLC Agreement. The Class A Units are subordinate to certain rights of the Preferred Units, and the Class A Units are entitled to a preferred return of 6% and a certain percentage of the profits after certain amounts are first paid to the Members of the Company.

The Class C Units, an additional class of limited liability company units being offered hereunder and referred to as the “Class C Units,” are exactly the same as the Class A Units, except that certain placement and selling expenses paid by the Fund in connection with the sale of such Class C Units will reduce the deemed “*Capital Contribution*” associated with such Class C Units (which, in return, will decrease the base on which any preferred return will be calculated, the number of Class C Units received by such Investor and generally a reduced distribution amount as compared to a Class A Member making the exact same subscription (in dollar terms) as a Class C Member).

### *Class B Units and Class D Units*

An additional class of limited liability company units being offered hereby will be referred to as the “*Class B Units*.” The Class B Units are being offered at a price per Class B Unit as indicated at the beginning of this Memorandum, until such time as the Managing Member determines that an adjustment to the price per Class B Unit is warranted or otherwise required under the A&R LLC Agreement, in which case such adjustment will be made in accordance with the A&R LLC Agreement. The Class B Units will have limited voting rights, as described in the A&R LLC Agreement. The Class B Units are subordinate to certain rights of the Preferred Units, and the Class B Units are entitled to a preferred return of 6% and a certain percentage of the profits after certain amounts are first paid to the Members of the Company.

The Class D Units, an additional class of limited liability company units being offered hereunder and referred to as the “*Class D Units*,” are exactly the same as the Class B Units, except that certain placement and selling expenses paid by the Fund in connection with the sale of such Class D Units will reduce the deemed “*Capital Contribution*” associated with such Class D Units (which, in return, will decrease the base on which any preferred return will be calculated, the number of Class D Units received by such Investor and generally a reduced distribution amount as compared to a Class B Member making the exact same subscription (in dollar terms) as a Class D Member).

### **Capital Contributions**

If the Fund requires additional funds at any time in excess of capital contributions made by the Members, the Fund or its Affiliates may borrow funds from a financial institution or other lender. In addition, the Managing Member is authorized to cause the Fund to issue Units and such other limited liability company interests in the Fund, and to create such additional classes or groups of Members, and to amend the A&R LLC Agreement in connection therewith, as the Managing Member may determine in its sole and absolute discretion. Additional limited liability company interests in the Fund and additional classes or groups of Members may have such relative rights, power and duties as the Managing Member may determine to be in the best interests of the Fund in its sole and absolute discretion, including, without limitation, rights, powers and duties senior to the Units, the Members and any other existing classes or groups of partners, providing for priority returns on capital contributed, providing for ownership which is not proportionate to the Units of the existing Members, and/or providing for such other rights, powers and duties as the Managing Member may determine in its sole and absolute discretion.

### **Redemption Rights**

#### *Redemptions Generally*

There is no current market for the Units. The Fund and the Managing Member do not expect that a public market will ever develop, and the Fund’s Certificate of Formation does not require a liquidity event at a fixed time in the future. Therefore, redemption of Units by the Fund, which must be agreed to by the Managing Member in its sole and absolute discretion, will likely be the only way for an investor to dispose of its Units. While the redemption program of the Fund was designed to allow investors to request redemptions of an investor’s Units, the Fund’s ability to fulfill redemption requests is subject to a number of limitations. Most significantly, the vast majority of the Fund’s assets will most likely consist of real estate assets which cannot generally be readily liquidated without impacting the Fund’s ability to realize full value upon disposition of such assets. Any redemption requests by an investor will require the approval of the Managing Member, which may be withheld in its sole and absolute discretion. As a result, an investor’s ability to have its Units redeemed by the Fund may be limited, and the Units should be considered a potentially long-term investment with limited liquidity.

#### *Class A Unit and Class B Unit Redemptions*

No Class A Member or Class B Member has the right to require the redemption of all or a portion of its Class A Units or Class B Units, as applicable. Furthermore, no Class A Member or Class B Member may request a redemption of its Units until eighteen (18) months after such Member’s acquisition of its Class A Units and/or Class B Units (the “*Shutout Period*”), as applicable. Once a Class A Member or Class B Member has submitted a request to have its Unit redeemed, such Member may not rescind its offer, but such redemption offer shall constitute an irrevocable offer to have its Class A Units and/or Class B Units, as applicable redeemed.



In the event the Managing Member elects to redeem Class A Units or Class B Units subject to a redemption request from the Members, then such Units shall be redeemed pro rata, provided, however, that the Managing Member may, in its sole and absolute discretion, give priority first to any specific requesting Class A Member or Class B Member.

Also, under the A&R LLC Agreement, the Managing Member can unilaterally redeem out a Member from its Units in its sole and absolute discretion.

Redemptions shall be conducted at such time, in such manner and by such methodology as the Managing Member may determine in its sole and absolute discretion. Methodologies for redeeming Units may include, but shall not be limited to, making single redemption payments to the applicable Members, or redeeming Units incrementally over time.

All Redemptions shall be based upon the full liquidation value of the applicable Units being redeemed based upon the most recently performed Fund valuation and any subsequent adjustments thereto; provided, however, that (A) with respect to any redemptions that occur within the first twenty-four (24) months after the Shutout Period with respect to the such Member, the Units shall be redeemed at 90% of the full liquidation value, (B) with respect to any redemptions that occur after the first thirty-six (36) months of the Shutout Period but before sixty (60) months after the Shutout Period, the Units being redeemed shall be redeemed at 95% of the full liquidation value; and (C) with respect to any redemptions that occur after the first sixty (60) months of the Shutout Period, the Units being redeemed shall be redeemed at 97% of the full liquidation value. In the event the Managing Member elects to make redemptions incrementally over time, it is possible such redemptions would take place over a number of months or years and, as a result, fluctuations in the Fund valuation could affect the amounts to be paid pursuant to redemption.

Because the “full liquidation value” of a Unit takes into account capital account balances and preferred returns (based on the length of the investment), the liquidation value of a Unit may not be the same as another.

#### *Source of Redemption Funds*

The Managing Member may utilize any source of proceeds to effectuate a redemption of the Participating Units, including, but not limited to, the use of contributions from the sale of Units. Fund proceeds, whether derived from operations and investments or capital contributions, used for redemptions will not be available for distribution to non-redeemed Members or for re-investment.

#### *Fund Valuations*

Fund valuations will occur at least annually. Fund valuations will be used in connection with the issuance of new Member Units and the redemption of Member Units. Because some time may lapse between a Fund valuation prepared in accordance with the A&R LLC Agreement and the issuance of new Member Units or a Redemption, the applicable Fund valuation may not accurately reflect the valuation of the Fund as the day of the acquisition or redemption, as applicable. Significant events may have occurred that materially changes the valuation of the Fund including, without limitation, market fluctuations, natural disasters, unexpected lease vacancies or defaults. The Managing Member may, but is not obligated to, make adjustments to the last Fund valuation completed to account for the issuance of additional Units (and any capital contributions made in connection therewith), the redemption of Units (and the use of funds and proceeds to effectuate such redemptions), the sale, financing or refinancing of the Fund's assets, distribution of capital to Members and the Managing Member, and the retirement of any debt of the Fund.

The methodology for conducting a Fund valuation will blend recent valuations and valuation opinions to determine the value of the individual value of the assets, and will include utilizing applicable financial statements.

Fund valuations will be subject to adjustments to accurately reflect the state of the Fund's value. The Managing Member shall determine when and in what amounts the Fund valuation is to be adjusted. General speaking, the Fund valuation may be adjusted at the following times: (i) following issuance of additional Units; (ii) following Redemption of Units; (iii) following the borrowing of any funds by the Fund; and (iv) following the retirement of debt. Other adjustments events may also apply.

## **Transferability of Units**

Any Redemption requests by an investor will require the approval of the Managing Member, which may be withheld in its sole and absolute discretion. As a result, an investor's ability to have its Units redeemed by the Fund may be limited, and the Units should be considered a potentially long-term investment with limited liquidity.

Further, no Member may voluntarily withdraw from the Fund and no Units in the Fund may be transferred without the consent of the Managing Member. "*Transfer*" includes any transfer, sale, assignment, pledge, hypothecate, or otherwise dispose of any Unit in the Fund, including any transfer by death, disability or involuntarily by operation of law.

Notwithstanding the above, subject to certain standard limitations set forth in the A&R LLC Agreement, a Member may at any time transfer all or any portion of its Units in the Fund to (i) the other Members; (ii) any affiliate of the transferor but only so long as the only party with authority to bind such affiliate is the Member making such transfer; (iii) to a trust for estate planning purposes, but only so long as the only party with authority to bind such trust is the Member making such transfer; or (iv) its personal representative or heirs or beneficiaries upon the disability or death of a Member.

## **Information Rights**

Necessary tax information shall be delivered to each Member after the end of each fiscal year of the Fund. Such tax information shall include, but shall in no event be limited to, a Form K-1 and an internally prepared balance sheet and related statements of income, cash flow and Members' capital for the most recently ended fiscal year of the Fund. As discussed above, it is not expected that holders of the Preferred Units will receive form K-1s but rather receive the appropriate form for holders of debt instruments. Every effort shall be made to furnish all such tax information as promptly as possible after the end of each fiscal year. The Managing Member is specifically authorized to represent the Members and act as the "Partnership Representative," as that term is used under the Internal Revenue Code of 1986, as amended, and in any similar capacity under state or local law.

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## CONFLICTS OF INTEREST

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The Fund is subject to various conflicts of interest arising out of its relationship with its Managing Member, and the Managing Member's Affiliates, including conflicts related to the arrangements pursuant to which the Fund will compensate the Managing Member and its Affiliates. See section entitled "*Management Compensation*." Some of the potential conflicts of interest in the Funds transactions with the Managing Member and its Affiliates are described below. For a description of some of the risks related to these conflicts of interest, see section entitled "*Risk Factors — Risks Related to the Fund's Relationship with the Managing Member and its Affiliates and Certain Conflicts of Interest*."

There is no independent oversight mechanisms of the Fund to monitor the conflicts of interest between the Fund and the Managing Member.

### Affiliates

The Managing Member is a manager-managed limited liability company, and its member is Caliber Services, LLC, an Arizona limited liability company ("*Caliber Manager Owner*"). Caliber Services, LLC provides a variety of administrative, management, accounting, finance, fund management, and related services to its Affiliates. Caliber Services, LLC is a member-managed limited liability company, and its sole member is Caliber Companies, LLC, an Arizona limited liability company ("*Caliber Companies*"). Caliber Companies operates each of its Affiliates which include businesses activities of real estate investment, construction, development, property management, brokerage, securities brokerage, and administrative services. Caliber Companies is a manager-managed limited liability company. John C. Loeffler II is the manager of Caliber Companies. The sole member of Caliber Companies is CaliberCos, Inc., a Delaware corporation ("*CaliberCos*"). CaliberCos operates each of its Affiliates which include business activities of real estate investment, construction, development, property management, brokerage, securities brokerage, and administrative services. CaliberCos's two (2) directors are John C. Loeffler II and Jennifer Schrader. Certain employees of Affiliates of the Managing Member are registered representatives of the Managing Dealer and, as such, may receive fees and commissions based on their sale Units in this Offering.

### Compensation

All of the terms of Managing Member's rights and preferences, including compensation, were determined by the Managing Member and are not the result of arms'-length negotiations.

Certain Affiliates of the Managing Member will receive compensation from the Fund for services performed on behalf of the Fund or the Managing Member, including, without limitation, Affiliates of the Fund (including Caliber Realty Group, LLC, Caliber Development, LLC, Caliber Services, LLC, Caliber Hospitality, LLC and Caliber Securities, LLC) performing brokerage services (with corresponding brokerage fees), property management (with corresponding property management fees), construction services (with corresponding construction charges and fees), hospitality services, loan guarantee fees, accounting services, and marketing and offering of the Interests (with corresponding commissions and other sales & administrative fees).

### Managing Member's Incentives

The Managing Member, as holder of the Managing Member Units, will be entitled to a Carry Amount with respect to each Member, as described in the A&R LLC Agreement.

This Carry Amount interest could create an incentive for the Managing Member to cause the Fund to make investments in assets that are higher yielding, and therefore riskier than would be the case if this exclusive equity interest did not exist because the Managing Member has a limited Capital Contribution obligation to the Fund, and the greater the profits of the Fund (which is a function of the level of risk taken by the Fund), the higher the value of the Managing Member Units. The exclusive equity interest of the Managing Member was determined upon initial formation of the Fund without negotiations with any third party.

## **Other Investment and Business Opportunities**

The Fund relies on the Managing Member and its Affiliates and advisors to identify and select potential real estate investment opportunities on the Fund's behalf. At the same time, the Managing Member's Affiliates and advisor manage other real estate programs sponsored by the Fund's sponsor that may have investment objectives and investment strategies that are similar to the Fund's objectives and strategies. As a result, such Affiliates and advisors could face conflicts of interest in allocating real estate acquisition opportunities as they become available. By way of example, if one of these other real estate programs attracts a tenant that the Fund is competing for, the Fund could suffer a loss of revenue due to delays in locating another suitable tenant. Each investor will not have the opportunity to evaluate the manner in which these conflicts of interest are resolved before or after making the investment in Interests.

The Managing Member is indirectly managed by John C. "Chris" Loeffler II, Jennifer Schrader, Jade Leung, Roy Bade and John Hartman. Each of the foregoing individuals have other business interests as well. As a result, key personnel may have duties to other entities and their stockholders, members, and Members, in addition to business interests in other entities. These duties to such other entities and persons may create conflicts with the duties that they owe indirectly to the Fund. There is a risk that their loyalties to these other entities could result in actions or inactions that are adverse to the Fund's business and violate their fiduciary duties to the Fund, which could harm the implementation of the Fund's investment strategy and its investment and leasing opportunities.

Conflicts with the Fund's business and interests are most likely to arise 'from involvement in activities related to (1) allocation of new investments and management time and services between the Fund and the other entities, (2) the Fund's purchase of properties from, or sale of properties to, affiliated entities, (3) the timing and terms of the investment in or sale of an asset, (4) development of the Fund's properties by Affiliates, (5) investments with Affiliates of the Managing Member, and (6) compensation to the Managing Member and its Affiliates. If the Fund does not successfully implement its investment strategy, the Fund may be unable to maintain or increase the value of its assets and its operating cash flows and ability to pay distributions could be adversely affected.

## **No Separate Representation**

The Fund, Managing Member, and its principles and Affiliates have not been represented by separate counsel in connection with the formation of the Fund, Managing Member, or the other related entities, the drafting of this Memorandum and the A&R LLC Agreement, any other of the various agreements and other documents or entities relevant to this Offering or the Offering of the Interests themselves. Accordingly, the Fund has not had the benefit of independent counsel advising it on its arrangements with the Managing Member. The attorneys, accountants and other experts who perform services for the Fund and the Managing Member may perform similar services for the Sponsor and its Affiliates and it is contemplated that those multiple representations will continue in the future. However, should the Fund or the Managing Member become involved in disputes, the Managing Member will cause the disputing parties to retain separate counsel for those matters unless the respective parties' consent.

## **Affiliate Loans**

The Managing Member or its Affiliates may lend money to the Fund from time to time. There is no guarantee or assurance that the Fund could not find financing upon more favorable terms with a third party. The terms of the affiliate loans will be developed exclusively by the Managing Member and its Affiliates, which may conflict with the interests of the Fund. In the event that the Funds defaults on such affiliate loans, the Managing Member and/or its Affiliates may have certain recourse against the Fund, including, without limitation, accrual of default-based interest, assessment of late fees, and even foreclosure. The Managing Member and/or its Affiliates anticipate it will have access to a line-of-credit or other credit facility, the purpose of which is to use amounts under that line-of-credit to make loans to the Fund. The Managing Member will lend such amounts based on an interest that is higher than the interest the Managing Member or its Affiliates will pay under the applicable line-of-credit or other credit facility.

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## AMENDMENTS TO A&R LLC AGREEMENT

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### **Amendment to A&R LLC Agreement**

The provisions of this A&R LLC Agreement may be amended only as follows:

#### *Managing Member Amendments.*

Pursuant to its special power of attorney as described below, the Managing Member may unilaterally execute and make the following amendments to the A&R LLC Agreement:

1. Amend the Agreement in connection with the creation of additional Units or other forms of interest in the Fund to incorporate the rights and obligations relating to such additional Units or other forms of interest in the Fund, as the Managing Member may determine in its sole and absolute discretion;
2. Amend the Member Register to the A&R LLC Agreement to reflect the admission of any new Members and their respective Member Percentage Interests as of that time;
3. Amend the A&R LLC Agreement to comply with the provisions of the Bipartisan Budget Act of 2015 and any U.S. Treasury Regulations or other administrative pronouncements promulgated thereunder, and to administer the effects of such provisions in an equitable manner; or
4. Amend the A&R LLC Agreement to address or reconcile any inconsistencies between the terms thereof.

#### *Member Amendments.*

All other amendments (not described in Section 5.1) to the A&R LLC Agreement require the written approval of each of the Managing Member and the Members by the holders of a majority of the Units (which shall in each case be in its or their sole and absolute discretion), unless the provision that is the subject of such amendment includes or is part of a provision that requires the vote, consent, or approval of a greater or less vote, in which case such amendment must have the written approval of the Managing Member and such Members by the holders of a majority of the Units as are required by such provisions that is the subject of such amendment.

#### *Attorney-in-Fact.*

Under the A&R LLC Agreement, each Member grants to the Managing Member a special power of attorney irrevocably making, constituting, and appointing the Managing Member as such Member's attorney-in-fact, to take certain actions permitted under the A&R LLC Agreement.

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## MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS OF ACQUIRING AND HOLDING LIMITED LIABILITY COMPANY INTERESTS

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### *Introduction*

The following is a summary (the “*Summary*”) of certain U.S. federal income tax consequences of a Participating Member who is an individual citizen of the U.S. or resident alien (as defined in United States Department of the Treasury Regulations (the “*Treasury Regulations*”) Section 301.7701(b)-1) for investing in Units in the Fund. This summary does not address the tax consequences to a holder of Preferred Units, and is very limited, and does not purport to address all material tax consequences of the ownership of Units and, except as otherwise specifically provided below, the discussion below assumes that a Member is an individual citizen of the United States or resident alien (as defined in Treasury Regulations Section 301.7701(b)-1) and generally does not take into account the specific circumstances of any particular Member, such as dealers in securities or currencies, traders in securities, banks, tax-exempt organizations, life insurance companies, trusts, corporations or non-resident alien individuals. In addition, very limited information regarding state and local taxes is provided. Although the Fund will furnish the Members with such information regarding the Fund as is reasonably required for income tax purposes, each Member will be responsible for preparing and filing such Member’s own tax returns.

The following summary of the tax aspects is based on the Internal Revenue Code of 1986, as amended (the “*Code*”), on existing Treasury Regulations, and on administrative rulings and judicial decisions interpreting the Code as in effect at the time this Summary was drafted. Significant uncertainty exists regarding certain tax aspects of limited liability companies (treated for income tax purposes as partnerships). Such uncertainty is due, in part, to continuing changes in U.S. federal tax laws that have not fully been interpreted through Treasury Regulations or judicial decisions. Please note that this Section labeled “*Material U.S. Federal Income Tax Considerations of Acquiring and Holding Limited Liability Company Interests*” does not take into account many of the changes made by the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) enacted on March 27, 2020, or any of the provisions in the recently enacted Infrastructure Investment and Jobs Act.

Tax legislation, including as a result of the budget reconciliation process, may be enacted in the future that will affect the Fund and a Member’s investment in the Fund. Because the tax aspects of this Offering are complex and certain of the tax consequences may differ depending on individual tax circumstances, each Member is urged to consult with and rely on its own tax advisor about this Offering’s tax aspects and its individual situation.

**The Fund has not obtained and does not intend to obtain an opinion of counsel with respect to this summary of tax matters. In addition, no rulings have been or will be requested from the Internal Revenue Service (the “IRS”) with respect to the matters discussed herein. Therefore, there can be no assurances that the IRS or any other governmental agency or taxing jurisdiction will agree with the statements set forth below.**

**Investors should consult their own tax advisors concerning their situations and the impact which their participation in the Fund may have on their federal income tax liability as well as how state, local and foreign income, and other tax laws may apply to their participation and the implications those laws may have. In evaluating an investment in the Fund, a Member should take into account the cost of obtaining such advice.**

The Fund is not structured with the intent of generating tax losses and no Member should invest in the Fund with the expectation of using losses from the Fund’s activities to offset income from any other source.

The following discussion does not specifically discuss the tax consequences to the Members of the Fund’s investment in other limited liability companies and/or partnerships. Investors should consult their tax advisors with respect to such tax considerations.

### *Tax Status of the Fund.*



### *Classification of the Fund as a Partnership*

Subject to certain exceptions, a partnership generally incurs no U.S. federal income tax liability. Instead, the partners are required to take into account their respective distributive shares of the partnership's net income or loss, as well as their respective distributive shares of certain specially characterized items (e.g., capital gains and losses), in computing their respective income tax liability. In such a case, distributions by a partnership to a partner generally are not taxable unless the distributions exceed the partner's adjusted basis in such partner's interest in the partnership. The availability to the Members of most of the tax treatment described in this summary requires that the Fund be classified as a partnership for U.S. federal income tax purposes rather than an association taxed as a corporation, under the U.S. federal income tax laws.

Although the Managing Member does not plan to request a ruling from the IRS regarding the Fund's status, it is anticipated that the Fund will be treated as a partnership for U.S. federal income tax purposes. Still, there is no assurance that the IRS will not challenge such classification.

If a partnership were to be treated as a corporation for U.S. federal income tax purposes, its partners would be treated as shareholders of a corporation, with the result, among other things, that (i) items of income, gain, loss, deduction and credit of the partnership would not flow through to its partners for reporting on their individual U.S. federal income tax returns, (ii) cash distributions, if any, would be treated as distributions by a corporation in respect of its stock, and such distributions would be taxable to the partners as dividends to the extent of current and accumulated earnings and profits of the partnership, and (iii) the taxable income of the partnership would be subject to U.S. federal income tax on corporations (thereby reducing the cash available for distribution).

*The discussion that follows is based on the assumption that the Fund will be classified as a partnership and not as a corporation for U.S. federal income tax purposes.*

### *Classification of the Fund as a Publicly Traded Partnership*

Code Section 7704 treats certain so-called "publicly traded partnerships" ("PTPs") as corporations for U.S. federal income tax purposes. Consequently, the treatment of an entity as a partnership for U.S. federal income tax purposes is dependent on that entity not being classified as a PTP. It is intended that the Fund will be operated in a manner that it will not be treated as a PTP. The Fund does not plan to request a ruling from the IRS regarding whether the Fund may be treated as a PTP. Consequently, it is not possible to state with complete assurance that the Fund will be treated as a partnership and not as an association taxable as a corporation for U.S. federal income tax purposes.

### *Taxation of Partners.*

#### *Tax Consequence of Ownership of Units*

No U.S. federal income tax is generally paid by a partnership as an entity. Instead, each member is required to report on its income tax return its distributive share of a partnership's income, gain, loss, deduction, or credit (and items of tax preference), regardless of whether any actual distribution is made to that partner during the taxable year. Thus, a prospective Member may be liable for income taxes with respect to ownership of Units in the Fund without receiving a corresponding distribution from the Fund. Although the A&R LLC Agreement provides for a tax distribution to the Participating Member, and holders of Managing Member Units, there is no guarantee that the Fund will have net available cash flow to make such distributions. Therefore, the Members may be required to recognize tax from taxable income in excess of cash distributions from the Fund, causing such Members to pay "out-of-pocket" any related tax liability. Accordingly, each Member should consult with the Member's tax advisor regarding the impact of an investment in the Fund, specifically including the possibility that such Member may incur a tax liability with respect to such investment but may not receive corresponding distributions from the Fund with which to pay such tax liability.

Conversely, as discussed below with respect to cash distributions, actual (or constructive) distributions of money from a partnership will be taxable only to the extent that such distributions exceed the adjusted basis of the

Member's interest in the Fund, regardless of whether the Fund has current income. The characterization of an item of income or loss generally will be the same for the Members as it is for the Fund.

#### *Tax Basis of the Units*

A Member's basis in its Units initially will be equal to the amount of cash or the tax basis of property contributed to the Fund by such Member.

Subsequently, a Member must adjust its basis to reflect certain Fund transactions. A Member's basis will generally be increased by (i) any cash or the tax basis of property contributed to the Fund by that Member (except as noted above), (ii) that Member's distributive share of the Fund's taxable income, (iii) that Member's share of the Fund's recourse debt, if any, with respect to which that Member bears the economic risk of loss, and (iv) that Member's distributive share (based on that Member's ongoing interest in the Fund profits) of any Fund indebtedness with respect to which no Member, including the Managing Member, bears the economic risk of loss ("*non-recourse debt*"), but which increase will be limited to the fair market value of the property securing such indebtedness. A Member's basis will be decreased, but not below zero, by (i) the amount of that Member's distributive share of items of Fund loss and deduction, (ii) the amount of any money distributed, or constructively distributed, to that Member, and (iii) the adjusted basis of distributed property other than money, to that Member.

A reduction in the amount of a Member's share of Fund debt will be treated as a constructive cash distribution to that Member and will reduce the basis of that Member's Units in the Fund.

#### *Cash Distributions.*

Under Code Section 731, cash distributions by the Fund to a Member will not result in taxable gain to that Member unless the distributions exceed the Member's adjusted basis for its Units, in which case the Member will recognize gain in the amount of such excess.

A reduction in a Member's share of the Fund's non-recourse debt or of any Fund recourse debt for which such Member may bear ultimate liability will be treated as a cash distribution to such Member to the extent of such reduction. If a constructive distribution exceeds a Member's adjusted basis in such Member's Units at that time, such Member will recognize gain as described above.

If a distribution to a Member, or the amount of any decrease in the Member's share of the Fund's indebtedness (any such decrease being considered a constructive cash distribution), exceeds the Member's adjusted tax basis in the Member's Units, such income would normally be characterized as a capital gain. If the Member's Units have been held for longer than one year, any such gain would generally constitute long-term capital gain. However, a Member may recognize ordinary income under Code Section 751 under certain circumstances. Such ordinary income would generally equal the amount of ordinary income (if any) that would have been allocated to the Member in respect of the Member's Units if the Fund had sold all of its assets.

#### *Allocations of Income and Losses.*

Under Code Section 704(b), a partner's distributive share of income, gain, loss, deduction, or credit (or any item thereof) will be determined in accordance with the A&R LLC Agreement only if such allocation has "substantial economic effect." In determining whether an allocation has substantial economic effect, the principal considerations are (i) whether the allocation actually affects the eventual amount of money or other property allocable to a partner, (i.e., it has economic effect), without regard to tax consequences, and (ii) whether the effect described in (i) is substantial. Further, the test for determining whether economic effect of an allocation is substantial is extremely complicated. There are a couple of alternatives for an allocation to meet the test for economic effect. An allocation to a Member will meet the economic effect test when (i) the Members' capital accounts are maintained in accordance with the requirements of the Treasury Regulations, (ii) liquidating distributions are made in accordance with positive capital account balances, (iii) the allocation does not create (or increase) a deficit balance in the Member's capital account in excess of the amount that the Member's obligation to restore a deficit, and (iv) the A&R LLC Agreement has a qualified income offset. If an allocation under the A&R LLC Agreement does not have substantial economic

effect, then the IRS will reallocate profits and losses among the Members in accordance with their interests in the Fund, determined by taking into consideration all facts and circumstances.

The Treasury Regulations require special rules for allocations of deductions and losses attributable to non-recourse liabilities. The Members should consult with their own independent tax advisors relating to the special rules for allocations of deductions and losses attributable to non-recourse liabilities.

The Fund's liquidating distributions will not be made in accordance with positive capital account balances, but rather based on the distribution as set forth in the A&R LLC Agreement. Thus, the A&R LLC Agreement does not comply with the substantial economic effect requirements. As such, it is intended that allocations will be consistent with the Members' interest in the Fund. There is no assurance that the IRS will not set aside the allocations of income and loss by the Fund for U.S. federal income tax purposes.

In cases where the allocations of income, gain, loss, deduction, and credit do not satisfy the substantial economic effect test of the Treasury Regulations promulgated under Code section 704(b), such items will be re-determined in accordance with the overall economic interests of the Members (i.e., the "partners' interest in the partnership") -- taking into account all facts and circumstances. In such a case, the IRS will consider (i) the Members' relative contributions to the Fund, (ii) the interests of the Members in economic profits and losses if different than that in taxable income or loss, (iii) the interests of the Members in cash flow and other non-liquidating distributions, and (iv) the rights of the Members to distributions of capital upon liquidation.

#### *Tax on Net Investment Income.*

The Members are likely subject to a 3.8 percent (3.8%) Medicare tax, in addition to regular tax on income and gains, on some or all of their "net investment income" to the extent they meet certain requirements. "Net investment income" generally includes net income from interest, dividends, annuities, royalties, rents, and substitute interest and dividend payments that do not rise in the ordinary course of a trade or business, and net gains on the disposition of property other than property held in a trade or business. "Net investment income" includes net income from a trade or business, and net gains realized on the disposition of property held in a trade or business, that is a passive activity with respect to a taxpayer. The determination of whether gross income is derived in a passive activity is made at entity level. Members should consult their tax advisors regarding the applicability of this tax in respect of their ownership of Units in the Fund. However, to the extent that a Member is subject to self-employment tax, the tax on net investment income should not apply.

#### *Certain Limitations on the Deductibility of Losses and Expenses.*

Various provisions of the Code may apply to restrict the deductibility of capital and ordinary losses realized, or expenses incurred, by the Fund. For example, the ability of the Members (other than widely held corporations) to deduct their shares of any losses attributable to the Fund may be subject to the "passive activity loss" limitations of the Code, the "at risk" limitations of the Code, and the Code provisions for "excess business losses of noncorporate taxpayers".

Additionally, Code Section 704(d) prohibits a Member from claiming partnership losses in excess of the Member's adjusted basis in its partnership interest. This limitation will apply to both individual and corporate Members.

#### *Income and Losses from Passive Activities.*

Passive activity limitations of Code Section 469 impose certain restrictions on the ability of noncorporate taxpayers, as well as certain closely held subchapter C corporations and personal service corporations, to deduct losses and credits from passive activities. In general, a passive activity is a trade or business activity in which a taxpayer does not materially participate. The trade or business activity of leasing is treated as a passive activity. Code Section 469 generally provides that losses and credits from a passive activity may be used only to offset income from other passive activities, but not portfolio income. Conversely, income from a passive activity generally may be offset by losses and credits from other passive activities and from an "active" business. However, with respect to certain closely

held subchapter C corporations, passive losses and net income from an active business may be offset against each other. Members should consult their own tax advisors concerning the application of the passive activity rules.

#### *Application of At-Risk Limitations.*

Generally, the losses that a taxpayer can claim in certain activities are limited by Code Section 465 to the amount that the taxpayer has at risk with respect to such activities. Losses that are disallowed in any year because of the at-risk limitations are carried over to succeeding years and can be used in those years to the extent that the Member's at-risk amount has increased. A taxpayer is considered to be at risk in any activity with respect to (i) the net amount of money and the adjusted basis of property contributed by the taxpayer to the activity; and (ii) any amount borrowed with respect to the activity to the extent that: (a) the taxpayer is considered personally liable for the repayment of that amount; or (b) the net fair market value of the taxpayer's interest in the assets not used in the activity which he has pledged as security for such borrowed amount. A taxpayer's at-risk amount is increased by profits earned in the activity and decreased by losses occurring in the activity. Members should consult their own tax advisors concerning the application of at-risk rules.

#### *Excess Business Losses of Noncorporate Taxpayers*

Code Section 461(l) provides that a noncorporate taxpayer is not allowed to claim a deduction for excess business losses. An "excess business loss" (an "EBL") is the excess, if any, of: (1) the taxpayer's aggregate deductions for the taxpayer's trade or businesses, determined without regard to whether or not such deductions are disallowed for such tax year under the EBL limitation and any deduction allowable for NOLs or qualified business income; over (2) the sum (x) the taxpayer's aggregate gross income or gain for the tax year from such trades or businesses, plus (y) \$250,000. If an individual owns an interest in a trade or business through one or more pass-through entities such as a partnership, the determination of whether gross income is derived in a passive activity is made at the owner level. Currently, the previous mentioned provisions in Code Section 461(l) apply to taxable years that begin before January 1, 2027.

Any excess business loss that is disallowed would be carried forward as a net operating loss (a "NOL"). NOLs are limited to offset up to 80% of the taxpayer's taxable income in a year.

#### *Limitations in Certain Deductions.*

The expenses of an individual taxpayer paid or incurred for the production of income, but not attributable to a trade or business ("*Section 212 Expenses*"), as itemized deductions, are not deductible for tax years 2018 through 2025 pursuant to the Tax Cuts and Jobs Act. After 2025, such expenses would be deductible only to the extent that they, along with certain other "miscellaneous itemized deductions," exceed 2% of the taxpayer's adjusted gross income for that taxable year. Investment expenses are not deductible by a noncorporate taxpayer in calculating its alternative minimum tax liability. Corporate taxpayers and tax-exempt organizations are not affected by the 2% floor.

The operating expenses of the Fund, including any management fees, may be treated as Section 212 Expenses subject to the foregoing rule. Alternatively, it is possible that the Fund will be required to capitalize management fees. Noncorporate Investors should consult their own tax advisors with respect to the application of these limitations.

#### *Limitations on Interest Deductions.*

Code Section 163(d) disallows a noncorporate taxpayer's deduction for "investment interest" in excess of "net investment income," as those terms are defined in Code Section 163(d). It is possible that this limitation may limit the deductibility of a noncorporate Investor's share of any interest paid by the Fund (if any) and could potentially limit the deductibility of interest paid by a noncorporate Investors on indebtedness incurred to finance his or her purchase of Units.

Section 163(j) limits the deductibility of business interest to no more than the sum of (i) a taxpayer's business interest income for the tax year (not including investment income), (ii) 30% of the taxpayer's "adjusted taxable income" for the tax year (not below zero), and (iii) the taxpayer's floor plan financing interest, as each is defined in

Code Section 163(j). The Code Section 163(j) limitation is applied at the partnership level, shall be taken into account in determining the non-separately stated taxable income or loss of the Fund, and the “adjusted taxable income” of each Member of the Fund shall be determined without regard to his, her, or its distributive share of any items of income, gain, deduction, or loss of the Fund and shall be increased by his, her, or its distributive share of the Fund’s excess taxable income. Interest deductions denied pursuant to Code Section 163(j) shall be carried forward and treated as business interest paid or accrued in the succeeding taxable year.

The Code Section 163(j) limitation does not apply to business interest paid or accrued on indebtedness properly allocable to an “electing real property trade or business,” which is any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business that irrevocably elects to be treated as an “electing real property trade or business.” Any trade or business that makes an election to be an “electing real property trade or business” must use the alternative depreciation system as provided in Code Section 168(g)(1)(F), requiring depreciation of real property be taken using the straight-line method depreciation over a longer period as provided in Code Section 168(g)(2). It is unknown at this time whether the Fund will qualify to elect (or would so elect, if qualified) to be treated as an “electing real property trade or business.”

#### *Organizational and Syndication Costs.*

Expenses of organizing the Fund and of promoting the sale of Units in the Fund (i.e., “syndication expenses,” which include sales commissions (including to the Managing Member or its Affiliates and if any, broker-dealers), professional fees for preparing the subscription agreement and attachments, and printing costs) must be capitalized, and not deducted, by the Fund.

#### *Sale or Redemption of Units.*

The sale or redemption of all or any portion of the Units by a Member, who has held such Units for more than 12 months, generally should result in long-term capital gain or loss. In certain circumstances, a portion of the gain may be treated as short-term capital gain or loss. This may occur, for instance, if the Member has made additional capital contributions to the Fund during the preceding 12-month period. Also, a portion of the gain may be treated as ordinary income where, for example, it is attributable to any unrealized receivables (including any property with depreciation recapture under Code Section 1245 and excess depreciation recapture under Code Section 1250) or inventory items of the Fund as defined in Code Section 751. The amount of gain realized on the sale or redemption of the Units will be the amount received by the Member, plus that Member’s allocable share of Fund debt relieved, less the adjusted basis of the Units in the Member’s hands.

#### *Dissolution and Liquidation of the Fund.*

Generally, upon dissolution and liquidation of the Fund, a Member will recognize, in addition to any gain that may be allocated to such Member upon the sale or other disposition of Fund property during the taxable year of liquidation, income to the extent that the sum of the cash which is distributed to the Member and its proportionate share of any then-existing Fund non-recourse liabilities exceeds its adjusted basis in its Units at the time of distribution. If any Fund property other than cash is distributed to the Member at such time then its basis in such property will be an amount equal to the adjusted basis of its Units reduced by any cash distributed to the Member in the same transaction and reduced by any decrease in its proportionate share of non-recourse liabilities of the Fund, if any.

#### *Adjustments to Basis of Assets.*

The Fund may make an election under Code Section 754 to adjust the tax basis of the assets of the Fund in connection with a transfer of any Units in the Fund and certain distributions by the Fund. The Fund also will generally be required, under certain circumstances, to reduce the basis of its assets in connection with certain transfers of Units and certain distributions.

#### *Other Tax Considerations.*

### *Tax Shelter Disclosure*

Certain rules require taxpayers to disclose -- on their Federal income tax returns and, under certain circumstances, separately to the Office of Tax Shelter Analysis -- their participation in “reportable transactions” and require “material advisors” to maintain investor lists with respect thereto. These rules apply to a broad range of transactions, including transactions that would not ordinarily be viewed as tax shelters, and to indirect participation in a “reportable transaction” (such as through a partnership). Investors are urged to consult with their own tax advisers with respect to the Treasury Regulations’ effect on an investment in the Fund.

### *Tax Shelter Reporting Rules*

A participant in a “reportable transaction” is required to disclose its participation in such transaction by filing Form 8886 (the “*Reportable Transaction Disclosure Statement*”), with its tax return for each taxable year in which the Fund participates in a “reportable transaction.” In addition, the Managing Member and other material advisors to the Fund may be required to file Form 8264 (the “*Application for Registration of a Tax Shelter*”), containing certain information about the “reportable transaction” and comply with detailed list-maintenance requirements specified in the Code and Treasury Regulations. Additionally, each Member treated as participating in a “reportable transaction” of the Fund is required to file Form 8886 with its tax return. The Fund and any such Member, respectively, must also submit a copy of the completed form with the IRS’s Office of Tax Shelter Analysis.

The Managing Member cannot predict whether any of the Fund’s transactions will subject it, the Fund, or any of the Members to the aforementioned requirements.

INVESTORS SHOULD CONSULT THEIR OWN TAX ADVISERS ABOUT THEIR OBLIGATION TO REPORT OR DISCLOSE TO THE IRS INFORMATION ABOUT THEIR INVESTMENT IN THE FUND AND PARTICIPATION IN THE FUND’S ITEMS OF INCOME, GAIN, LOSS OR DEDUCTION WITH RESPECT TO TRANSACTIONS OR INVESTMENTS SUBJECT TO THESE RULES. IT IS POSSIBLE THAT THE FUND COULD INVEST IN A TRANSACTION THAT LATER BECOMES A LISTED TRANSACTION (A CATEGORY OF REPORTABLE TRANSACTION), WHICH IN ADDITION TO THE ITEMS ABOVE, COULD RESULT IN AN EXCISE TAX TO APPLY TO THE MEMBERS.

In addition, pursuant to these rules, the Fund may provide to its advisers identifying information about the Members and their participation in the Fund and the Fund’s items of income, gain, loss or deduction from those transactions or investments, and the Fund or its advisers may disclose this information to the IRS upon its request.

### *Audit Risk and Resolution of Disputes Involving Fund Items and Tax Liability Resulting From an Audit.*

Recent IRS procedures apply to the Fund. These new partnership audit procedures will require the Fund to pay tax (including interest and penalties) on any adjustments to taxable income made as a result of an audit. The amount of tax paid by the Fund will be determined without the benefit of Member level tax items that could otherwise reduce tax due on any adjustment. Because the audit adjustment tax is paid by the Fund, the economic burden of any such tax on the Fund would fall on the Members at the time the audit adjustment tax is paid. However, the Fund may instead elect to pass through any audit adjustments to those who were Members of the Fund in the “reviewed year” to which the audit adjustment relates. If the Fund were to make such election with respect to an audit adjustment, the tax burden associated with such adjustment would fall on those Members who held Units in the “reviewed year” to which the audit adjustment relates.

The Code provides for one person to be designated as the “Partnership Representative” for these purposes, who is generally the person that will be responsible for handling the audit. The A&R LLC Agreement appoints Managing Member as the Partnership Representative for the Fund. If an entity is appointed as the Partnership Representative, then an individual still needs to be appointed by the Fund as a designated individual to act on behalf Partnership Representative.

If the IRS (or any state or local taxing authority, to the extent similar audit procedures are followed by such taxing authority) audits the Fund’s information return for taxable years and makes any adjustments to taxable income



as a result of such audit, the Partnership Representative will, at the direction of the Managing Member in the Managing Member's sole and absolute discretion, determine whether to elect to pass through any audit adjustments to those who were members of the Fund in the year that was audited. If the tax liability is passed on to the Members, the Fund may not make cash distributions to Members to assist them in paying a tax liability resulting from an audit unless otherwise determined by the Managing Member in its sole and absolute discretion. Each Member is required to cooperate with the Partnership Representative and to take such actions as requested by the Managing Member in connection with such audit.

Further, if the Fund is required to pay any audit adjustments assessed by the IRS or any state and local taxing authorities resulting from an audit, the Fund will allocate any such tax liability among the current or former Members of the Fund for the "reviewed year" to which the assessment relates in a manner that reflects the current or former Members' respective interests in the Fund for that reviewed year based on such Member's share of such assessment as would have occurred if the Fund had amended the tax returns for such reviewed year and such Member incurred the tax liability directly (using the tax rates applicable to the Fund under Code Section 6225(b)). To the extent the Fund is assessed amounts, the current or former Member(s) to which this audit adjustment relates are required under the A&R LLC Agreement to pay to the Fund such Member's share of the audit adjustments including such Member's share of any additional accrued penalties and interest assessed against the Fund relating to such Member's share of the audit adjustments. If a Member does not timely pay to the Fund the full amount of its share of the audit adjustment, then the shortfall will be treated as a loan by the Fund to the defaulting Member, bearing interest at the rate of ten percent (10%) per annum, compounded annually, and the Fund may pursue several remedies as set forth in the A&R LLC Agreement. These provisions survive the dissolution of the Fund and the withdrawal of any Member or the transfer or redemption of any of the Member's Units.

### **General Rules Applicable to Tax-Exempt Organizations**

A tax-exempt organization generally is exempt from Federal income tax on its passive investment income, such as dividends, interest, and capital gains, whether realized by the organization directly or indirectly through a partnership in which it is a partner. (Tax-exempt organizations which are private foundations currently are subject to a tax on their "net investment income.")

The general exemption from tax afforded to tax-exempt organizations does not apply to their "unrelated business taxable income" ("UBTI"). A type of UBTI is income or gain derived directly or through a partnership from "debt-financed property", which is any income-producing property with respect to which there is "acquisition indebtedness" at any time during the taxable year. Gain from the sale or exchange of, and derived from, debt-financed property generally is taxable in the proportion in which the property is financed by "acquisition indebtedness." The A&R LLC Agreement allows the Fund to incur indebtedness. Tax-exempt organizations which are Members would be subject to Federal income tax on such portion of their income from the Fund that is considered to be UBTI.

There are special considerations which should be taken into account by certain beneficiaries of charitable remainder trusts that invest in the Fund. Charitable remainder trusts should consult their own tax advisers concerning the tax consequences of such an investment on their beneficiaries. In particular, a charitable remainder trust will not be exempt from federal income tax under Code Section 664(c) for any year in which it has UBTI. Moreover, the charitable contribution deduction for a trust under Code Section 642(c) may be limited for any year in which the trust has UBTI.

### **FATCA**

Code Sections 1471 through 1474 and the Regulations promulgated thereunder ("FATCA") impose a withholding tax on certain "withholdable payments" received by foreign financial institutions, their Affiliates, and certain other foreign entities, unless the payee entity agrees to comply with certain due diligence, reporting, and related requirements. Persons located in a jurisdiction that has entered into an intergovernmental agreement with the U.S. governing FATCA (an "IGA") may be subject to different rules. Withholding under FATCA applies to certain payments of U.S. source income, such as interest and dividends paid on or after July 1, 2014, and is expected to apply to gross proceeds from the sale of most U.S. securities on or after January 1, 2019. Accordingly, the Fund may be required to withhold under FATCA on distributions or other payments to Members that fail to comply with the applicable requirements of FATCA or an applicable IGA or related legislation or to timely certify as to such

compliance. Members will be required to timely furnish to the Fund any information, certification, representation, form, or other documentation reasonably requested by the Managing Member to fulfill his, her, or its obligations under FATCA, an applicable IGA, and any related legislation. A Member will generally be required to provide to the Fund a properly completed and duly executed IRS Form W-9 (or applicable substitute form). Any such information provided to the Fund may be shared with the IRS. An Investor that fails to provide such information to the Fund or otherwise satisfy his, her, or its obligations under FATCA would be subject to the withholding tax with respect to his, her, or its share of any payments attributable to actual and deemed U.S. investments of the Fund. Members should consult their own tax advisors regarding the impact of FATCA and any applicable IGA and related legislation on their investments in the Fund.

### **Investment by Foreign Person**

The rules governing the U.S. federal income taxation of nonresident alien individuals, foreign corporations, foreign partnerships, and other foreign Members (“*Foreign Persons*”) are complex, and no attempt has been made herein to provide a detailed discussion of those rules. A Foreign Person in a U.S. partnership that is engaged in a trade or business in the United States will be considered, or deemed, to be engaged in that trade or business, even if the Foreign Person is only a limited partner (or a limited liability company member). A non-U.S. partner that is deemed to be engaged in a U.S. trade or business who has income that is effectively connected to that trade or business will be subject to regular U.S. income tax, at graduated rates, thereon.

It is also likely that the Fund will have various withholding requirements with respect to income allocated or amounts distributed to Members that are Foreign Persons. Any withholding tax paid by the Fund to a taxing jurisdiction in respect of an allocation or distribution made by the Fund to a Member generally will be treated as a distribution and will reduce any other distribution to which the Member is entitled under the A&R LLC Agreement. Members that are Foreign Persons should consult with their own tax advisors to fully determine the impact on them of U.S. federal, state and local income tax laws.

### **Foreign Investment in Real Property Tax Act**

A Non-U.S. Member is subject to U.S. tax in the same manner as a U.S. Member on any gain realized on the disposition of an interest in United States real property (other than an interest solely as a creditor). An interest in United States real property includes stock in a United States corporation (except for certain stock of publicly-traded United States corporations) if interests in United States real property constitute a certain percentage or more by value of the sum of the corporation’s assets used in a trade or business, its United States real property interests and its interests in real property located outside the United States. Consequently, a Non-U.S. Member who invests directly in United States real estate, or indirectly through such a United States corporation, generally will be subject to United States federal income tax on the disposition of such an investment under the Foreign Investment in Real Property Tax Act of 1980, as amended (the “*FIRPTA Tax*”). The FIRPTA Tax generally will also apply if the Non-U.S. Member is a partner of a partnership that owns an interest in United States real property. The Fund will likely make investments that will constitute interests in United States real property. Accordingly, each Non-U.S. Member would generally be subject to the FIRPTA Tax on such Investor’s allocable share of any gain realized on the Fund’s disposition of a FIRPTA interest.

A special FIRPTA withholding tax of a certain percentage generally applies to a disposition by a Fund of an interest in United States real property to the extent allocable to a Non-U.S. Member. The FIRPTA Tax and special FIRPTA withholding tax generally apply to a disposition of Units to the extent attributable to interests in United States real property, unless an exception applies. FIRPTA Tax and the special FIRPTA withholding tax applies to the gross amount realized by a Non-U.S. Member from the entire disposition of Units, regardless of how much of the amount realized is attributable to interests in United States real property. The withholding tax may be credited against the Non-U.S. Member’s United States federal income tax liability.

Special rules may apply in the case of Non-U.S. Members (i) that have an office or fixed place of business in the United States or (ii) that are former citizens of the United States, controlled foreign corporations as to the United States, foreign insurance companies that hold interests in the Fund in connection with their United States business, passive foreign investment companies and corporations which accumulate earnings to avoid United States federal income tax. Such persons are urged to consult their United States tax advisors before investing in the Fund.

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## ERISA CONSIDERATIONS

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The Employee Retirement Income Security Act of 1974, as amended (“ERISA”), is a broad statutory framework that governs most U.S. retirement and other U.S. employee benefit plans. ERISA and the rules and regulations of the Department of Labor (the “DOL”) under ERISA contain provisions that should be considered by fiduciaries of employee benefit plans subject to the provisions of Title I of ERISA (“ERISA Plans”) and their legal advisors. In particular, a fiduciary of an ERISA Plan should consider whether an investment in the Units (or, in the case of a participant-directed defined contribution plan (a “Participant-Directed Plan”), making the Units available for investment under the Participant-Directed Plan) satisfies the requirements set forth in Part 4 of Title I of ERISA, including the requirements that (1) the investment satisfy the prudence and diversification standards of ERISA, (2) the investment be in the best interests of the participants and beneficiaries of the ERISA Plan, (3) the investment be permissible under the terms of the ERISA Plan’s investment policies and governing instruments and (4) the investment does not give rise to a non-exempt prohibited transaction under ERISA.

In determining whether an investment in the Units (or making the Units available as an investment option under a Participant-Directed Plan) is prudent for ERISA purposes, a fiduciary of an ERISA Plan should consider all relevant facts and circumstances including, without limitation, possible limitations on the transferability of shares of the Units, whether the investment provides sufficient liquidity in light of the foreseeable needs of the ERISA Plan (or the participant account in a Participant-Directed Plan), and whether the investment is reasonably designed, as part of the ERISA Plan’s portfolio, to further the ERISA Plan’s purposes, taking into consideration the risk of loss and the opportunity for gain (or other return) associated with the investment. It should be noted that the Fund will invest its assets in accordance with the investment objectives and guidelines described herein, and that neither Managing Member nor any of its Affiliates has any responsibility for developing any overall investment strategy for any ERISA Plan (or the participant account in a Participant-Directed Plan) or for advising any ERISA Plan (or participant in a Participant-Directed Plan) as to the advisability or prudence of an investment in the Fund. Rather, it is the obligation of the appropriate fiduciary for each ERISA Plan (or participant in a Participant-Directed Plan) to consider whether an investment in the Units by the ERISA Plan (or making the Units available for investment under a Participant-Directed Plan in which event it is the obligation of the participant to consider whether an investment in shares of the Units is advisable), when judged in light of the overall portfolio of the ERISA Plan, will meet the prudence, diversification and other applicable requirements of ERISA.

Section 406 of ERISA and Section 4975 of the Code prohibit certain transactions involving the assets of an ERISA Plan, as well as those plans that are not subject to ERISA but that are subject to Section 4975 of the Code, such as individual retirement accounts (“IRAs”) and non-ERISA Keogh plans (collectively with ERISA Plans, “Plans”), and certain persons (referred to as “parties in interest” for purposes of ERISA or “disqualified persons” for purposes of the Code) having certain relationships to Plans, unless a statutory or administrative exemption is applicable to the transaction. A party in interest or disqualified person who engages in a non-exempt prohibited transaction may be subject to non-deductible excise taxes and other penalties and liabilities under ERISA and the Code, and the transaction might have to be rescinded. In addition, a fiduciary that causes an ERISA Plan to engage in a non-exempt prohibited transaction may be personally liable for any resultant loss incurred by the ERISA Plan and may be subject to other potential remedies.

A Plan that proposes to invest in the Units (or to make the Units available for investment under a Participant-Directed Plan) may already maintain a relationship with the Managing Member or one or more of its Affiliates, as a result of which the Managing Member or such affiliate may be a “party in interest” under ERISA or a “disqualified person” under the Code, with respect to such Plan (e.g., if the Managing Member or such affiliate provides investment management, investment advisory or other services to that Plan). ERISA (and the Code) prohibits plan assets from being used for the benefit of a party in interest (or disqualified person). This prohibition is not triggered by “incidental” benefits to a party in interest (or disqualified person) that result from a transaction involving the Plan that is motivated solely by the interests of the Plan. ERISA (and the Code) also prohibits a fiduciary from using its position to cause the Plan to make an investment from which the fiduciary, its Affiliates, or certain parties in which it has an interest would receive a fee or other consideration or benefit. In this circumstance, Plans that propose to invest in the Units

should consult with their counsel to determine whether an investment in the Units would result in a transaction that is prohibited by ERISA or the Code.

If the Fund's assets were considered to be assets of a Plan (referred to herein as "Plan Assets"), the Fund's management might be deemed to be fiduciaries of the investing Plan. In this event, the operation of the Fund could become subject to the restrictions of the fiduciary responsibility and prohibited transaction provisions of Title I of ERISA and/or the prohibited transaction rules of the Code.

Neither ERISA nor the Code contains a definition of Plan Assets. The DOL has promulgated a final regulation under ERISA, 29 C.F.R. §2510.3-101 (as amended by Section 3(42) of ERISA, the "Plan Assets Regulation"), that provides guidelines as to whether, and under what circumstances, the underlying assets of an entity will be deemed to constitute Plan Assets for purposes of applying the fiduciary requirements of Title I of ERISA (including the prohibited transaction rules of Section 406 of ERISA) and the prohibited transaction provisions of Code Section 4975.

Under the Plan Assets Regulation, the assets of an entity in which a Plan or IRA makes an equity investment will generally be deemed to be assets of such Plan or IRA unless the entity satisfies one of the exceptions to this general rule. Generally, the exceptions require that the investment in the entity be one of the following:

- a. in securities issued by an investment company registered under the Investment Company Act;
- b. in "publicly offered securities," defined generally as interests that are "freely transferable," "widely held" and registered with the SEC;
- c. in an "operating company" which includes "venture capital operating companies" and "real estate operating companies;" or
- d. in which equity participation by "benefit plan investors" is not significant.

The Units offered hereunder will not be issued by a registered investment company. In addition, the Plan Assets Regulation provides that equity participation in an entity by benefit plan investors is "significant" if at any time 25% or more of the value of any class of equity interest is held by "benefit plan investors." The term "benefit plan investors" is defined for this purpose under ERISA Section 3(42), and in calculating the value of a class of equity interests, the value of any equity interests held by the Managing Member or any of its Affiliates must be excluded. Less than 25% of the total number of Units sold will be sold to Qualified Plans, and transfer of the Units to Qualified Plans will be restricted so that less than 25% of the Units outstanding at any time will be owned by Qualified Plans.

As noted above, the Plan Assets Regulation provides an exception with respect to securities issued by an "operating company," which includes a "venture capital operating company" (a "VCOC") and a "real estate operating company" (a "REOC"). Under the Plan Assets Regulation, an entity will qualify as a VCOC if (a) on certain specified testing dates, at least 50% of the entity's assets, valued at cost, are invested in "venture capital investments," which are investments in operating companies (other than VCOCs) with respect to which the entity has or obtains direct contractual rights to substantially participate in the management of such operating company and (b) the entity in the ordinary course of its business actually exercises such management rights. Under the Plan Assets Regulation, an entity will constitute a REOC if (i) on certain specified testing dates, at least 50% of the entity's assets, valued at cost, are invested in real estate that is managed or developed and with respect to which the entity has the right to substantially participate directly in the management or development of the real estate and (ii) the entity in the ordinary course of its business is engaged directly in real estate management or development activities. A REOC can be a venture capital investment. Because the Fund intends to invest primarily in single tenant, triple-net lease industrial and office buildings, the operating partnership may not be able to qualify as a REOC because such properties are typically not subject to sufficient ongoing management to qualify as a good REOC asset for testing purposes. In such event, the Fund would not be able to qualify as a VCOC.

However, as noted above, if a Plan acquires “publicly offered securities,” (the assets of the issuer of the securities will not be deemed to be Plan Assets under the Plan Assets Regulation. The definition of publicly offered securities requires that such securities be “widely held,” “freely transferable” and satisfy certain registration requirements under federal securities laws.

Under the Plan Assets Regulation, a class of securities will meet the registration requirements under federal securities laws if they are (i) part of a class of securities registered under section 12(b) or 12(g) of the Exchange Act or (ii) part of an offering of securities to the public pursuant to an effective registration statement under the Securities Act and the class of securities of which such security is a part is registered under the Exchange Act within 120 days (or such later time as may be allowed by the SEC) after the end of the fiscal year of the issuer during which the offering of such securities to the public occurred. The Fund will not meet the registration requirements under the Plan Assets Regulation. Also under the Plan Assets Regulation, a class of securities will be “widely held” if it is held by 100 or more persons independent of the issuer. The requirement will not be met by the Fund in the near future, if ever.

Prospective investors that are subject to the provisions of Title I of ERISA and/or Code Section 4975 should consult with their counsel and advisors as to the provisions of Title I of ERISA and/or Code Section 4975 relevant to an investment in the Units.

As discussed above, although IRAs and non-ERISA Keogh plans are not subject to ERISA, they are subject to the provisions of Section 4975 of the Code prohibiting transactions with “disqualified persons” and investments and transactions involving certain fiduciary conflicts. A prohibited transaction or conflict of interest could arise if the fiduciary making the decision to invest has a personal interest in or affiliation with our company or any of its respective affiliates. In the case of an IRA, a prohibited transaction or conflict of interest that involves the beneficiary of the IRA could result in disqualification of the IRA. A fiduciary for an IRA who has any personal interest in or affiliation with the Fund or any of its respective Affiliates, should consult with his or her tax and legal advisors regarding the impact such interest may have on an investment in the Units with assets of the IRA.

Units sold by the Fund may be purchased or owned by investors who are investing Plan assets. The Fund’s acceptance of an investment by a Plan should not be considered to be a determination or representation by the Fund or any of its respective Affiliates that such an investment is appropriate for a Plan. In consultation with its advisors, each prospective Plan investor should carefully consider whether an investment in the Units is appropriate for, and permissible under, the terms of the Plan’s governing documents.

Governmental plans, foreign plans, and most church plans, while not subject to the fiduciary responsibility provisions of ERISA or the provisions of Code Section 4975, may nevertheless be subject to local, foreign, state, or other federal laws that are substantially similar to the foregoing provisions of ERISA and the Code. Fiduciaries of any such plans should consult with their counsel and advisors before deciding to invest in the Units.

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## **SUPPLEMENTAL SALES MATERIALS**

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In addition to this Memorandum, the Fund may utilize certain sales material in connection with the offering of the Units, although only when accompanied by or preceded by the delivery of this Memorandum. The sales materials may include information relating to this Offering, the past performance of the Sponsors and their Affiliates, real estate indices, the performance of this Offering, and as it compares to a benchmark, the performance of an investment in real estate as compared to other asset classes and industry trends. The sales material may be in the form of property brochures and articles and publications concerning real estate. In certain jurisdictions, some or all of our sales material may not be permitted and will not be used in those jurisdictions.

The offering of Units are made only by means of this Memorandum. Although the information contained in the supplemental sales material will not conflict with any of the information contained in this Memorandum, the supplemental materials do not purport to be complete, and should not be considered a part of this Memorandum.