**Confidential Private Placement Memorandum  
Dated: JULY 19, 2024**

**SUBTO FUND II, LLC**

**Offering a Maximum of 15,000 Membership Units for $15,000,000.00**

**Manager:**

SquadUp Management II, LLC

1050 W. Washington St., Suite 133

Tempe, AZ 85288

(602) 962-8622

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This Confidential Private Placement Memorandum (the “Memorandum”) relates to the sale (the “Offering”) of a maximum of 15,000 Class A and Class B membership units (“Units”) in Subto Fund II, LLC, an Arizona limited liability company (the “Company”). Each Unit has an Offering price of $1,000.00, for potential total gross Offering proceeds of $15,000,000.00 (the “Maximum Offering Amount”). The Manager, in its sole discretion, may increase the Maximum Offering Amount to $25,000,000.00. There is no minimum Offering amount. All Offering proceeds will be held in a self-managed, segregated account until the Company purchases its first investment. The minimum investment required to acquire Class A Units is a $100,000.00 investment, unless the minimum is waived by the Company’s manager, SquadUp Management II, LLC, an Arizona limited liability company (the “Manager”), who shall manage all of the Company’s business, investments, and affairs. The minimum investment required to acquire Class B Units is a $350,000.00 investment. This amount is not waivable by the Manager.

Units will be offered on a “best-efforts” basis through the Company’s management, for which no commissions or other compensation will be paid. This Offering is limited to Accredited Investors. This Offering will close as soon as the Maximum Offering Amount is sold or one year from the date of this Memorandum, whichever is earlier, or as otherwise determined in the discretion of the Manager.

|  |  |  |
| --- | --- | --- |
|  | Offering Price | Proceeds to  Company(1) |
| Per Unit | $1,000.00 | $1,000.00 |
| Class A Minimum Investment | $100,000.00 | $100,000.00 |
| Class B Minimum Investment | $350,000.00 | $350,000.00 |
| Maximum Offering Amount | $15,000,000.00 | $15,000,000.00 |

1. The Company expects to incur expenses relating to this Offering including legal, marketing, and printing expenses, and fees or expenses owed the Manager, the Members, Affiliates of the Manager and the Members, and third parties, as described in this Memorandum. The proceeds listed do not include deductions for such amounts. See “Estimated Use of Proceeds” on page 21, “Management Compensation and Fees” on page 25, and “Terms of the Offering” on page 37.

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These securities have not been approved or disapproved by the united states securities and exchange commission (the “sec”) or any state or other regulatory authority, nor has the sec or any state or other regulatory authority passed on the accuracy or adequacy of this memorandum or endorsed the merits of this offering. Any representation to the contrary is a criminal offense.

These securities have not been registered with the united states securities and exchange commission under the securities act of 1933, as amended (the “securities act”) and are being offered in reliance on exemptions from registration provided in section 4(a)(2) of the securities act, RULE 506(C) OF REGULATION D promulgated thereunder, and preemption from the registration or qualification requirements (other than notice filing and fee provisions) of applicable state laws under the national securities markets improvement act of 1996 or applicable exemptions from such registration provisions.

This memorandum does not constitute an offer or solicitation to anyone in any jurisdiction in which such an offer or solicitation is not authorized. These are speculative securities and involve a high degree of risk, including those risks concerning illiquidity, restrictions on transfer, leverage, governmental regulations, and uncontrollable market conditions. See “Risk Factors” on page 7.

Prospective investors are not to construe the contents of this memorandum or any prior or subsequent communications from the company or any of its employees, agents, or other representatives as legal, business, or tax advice. Each prospective investor should consult their own counsel, business adviser, and tax adviser as to legal, business, and tax matters relating to the offering made pursuant to this memorandum.

**PROSPECTIVE INVESTORS SHOULD CAREFULLY CONSIDER THE FOLLOWING:**

This Memorandum, the Exhibits and the Subscription Documents: (a) are the only materials that have been authorized for use in connection with the Offering to sell Units; (b) reflect the only information anyone has been authorized to give in connection with the Offering to sell Units; and (c) are the only representations upon which anyone may rely in connection with the purchase of Units. See “” on page 42.

No person has been authorized to give any information other than that contained in this Memorandum, or to make any representations, other than as expressly contained herein, in connection with the Offering made hereby, and, if given or made, such other information or representations, other than as expressly contained herein, must not be relied upon as having been authorized by the Company. The Company disclaims any and all liabilities for representations or warranties, expressed or implied, or any other written or oral communication transmitted or made available to the recipient, except as made or communicated by the Company.

Offering literature in any form whatsoever employed in connection with the Offering shall be subject to, and shall be superseded by, this Memorandum (including any exhibits, amendments, and supplements hereto). In the event of any conflict or perceived conflict between this Memorandum and any other Offering literature, unless otherwise stated, this Memorandum shall control.

The Company is offering to sell Units in reliance on exemptions from federal registration requirements and exemption or preemption from state registration requirements. Those exemptions do not change the stringent requirement that every prospective investor in every investment not purchase under any misrepresentation or omission of any material fact. In preparing this Memorandum, the Company has made reasonable efforts to present all information that the Company considers material, based upon the information available to the Company. However, every prospective investor is urged to investigate further any matter that is not set forth in this Memorandum or any fact included in this Memorandum that the prospective investor considers material but does not clearly understand.

The information contained in this Memorandum is confidential and proprietary to the Company and is being submitted to prospective investors solely for such prospective investors’ confidential use with the express understanding that, without the prior written permission of the Company, such persons will not release this document or discuss the information contained herein or make reproductions of or use this Memorandum for any purpose other than evaluating a potential purchase of Units.

This Memorandum does not purport to be all-inclusive or to contain all the information that a prospective investor may desire in investigating the Company. This Memorandum contains all of the information the Company deemed material to the evaluation of the Company and the Offering. Each prospective investor must conduct and rely on its own evaluation of the Company and the terms of the Offering, including the merits and risks involved, in making their investment decision. See “Risk Factors” on page 7.

Upon written request by any prospective investor or their representative, the Company will, prior to the completion of the Offering, answer questions concerning the terms and conditions of the Offering and will provide additional information which may be requested, to the extent it possesses such information or can obtain access thereto without unreasonable effort or expense, for purposes of verifying the accuracy of the information set forth herein.

**Forward-Looking Statements**

This Memorandum contains statements about operating and financial plans, terms, and performance of the Company and other statements that may be deemed projections of future results. Forward-looking statements may be identified by the use of words such as “expect,” “anticipate,” “intend,” “plan,” “assume,” “will,” “may” and similar expressions. The forward-looking statements are based on various assumptions, and these assumptions may prove to be incorrect. Accordingly, such forward-looking statements might not accurately predict future events or the actual performance of an investment in Units. In addition, each prospective investor must disregard any projections and representations, written or oral, which do not conform to those contained in this Memorandum.

While the Company believes that the expectations reflected in the forward-looking statements are reasonable, the Company cannot guarantee future results, levels of activity, performance, or achievements. Moreover, neither the Company nor any other person assumes any responsibility for the accuracy or completeness of these statements or undertakes any obligation to revise these forward-looking statements to reflect events or circumstances after the date on the first page of this Memorandum or to reflect the occurrence of an unanticipated event.

Except as otherwise indicated, this memorandum speaks as of the date hereof. Neither the delivery of this memorandum nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the company after the date hereof. If a material change should occur, the company will supplement this memorandum with the relevant information regarding such material change. All supplements to this memorandum (which will be designated as such on the face thereof) shall be deemed to be incorporated into and made part of this memorandum.

**NASAA UNIFORM LEGEND**

In making an investment decision investors must rely on their own examination of the person or entity creating the securities 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 forgoing 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 act, and the applicable state securities laws, pursuant to registration or exemption therefrom. Investors should be made aware that they will be required to bear the financial risks of this investment for an indefinite period of time.

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**Exhibit 2**: Operating Agreement

**Exhibit 3:** Subscription Documents

**Exhibit 4: Investment Summary**

# Investor Suitability Criteria

## Accredited Investors

The investor suitability requirements stated below represent the minimum suitability requirements established by the Company for purchasers of Units; however, the satisfaction of these requirements by a prospective investor will not necessarily mean that Units are a suitable investment for such prospective investor or that the Company will accept the prospective investor as a Member. Furthermore, the Company may modify its investor suitability requirements, and such modifications may raise the suitability standards for prospective investors. The Units may be sold to prospective investors who the Company, after taking reasonable steps, verifies are an “Accredited Investor,” as defined under Rule 501 of Regulation D under the Securities Act and who invest a minimum of $100,000.00 in Units, although the Company retains the right to waive such minimum.

In addition to the foregoing, each prospective investor must represent in writing that they meet, among other things, all of the following requirements:

• The prospective investor has received, reviewed, and understands this Memorandum and all Exhibits hereto;

• The prospective investor is basing their decision to invest in Units on this Memorandum and all Exhibits hereto, and on the advice of their legal counsel, accountants, and financial advisors;

• The prospective investor understands that an investment in Units involves substantial risks;

• The prospective investor’s overall commitment to non-liquid investments is, and after their investment in Units will be, reasonable in relation to their Net Worth and current needs;

• The prospective investor has adequate means of providing for their financial requirements, both current and anticipated, and has no need for liquidity in this investment;

• The prospective investor can bear the economic risk of losing their entire investment in Units;

• The prospective investor has such knowledge and experience in business and financial matters as to be capable of evaluating the merits and risks of an investment in Units;

• The prospective investor is acquiring Units for their own account and for investment purposes only and has no contract, undertaking, agreement, or arrangement to sell or otherwise transfer or dispose of any Units;

• The prospective investor has had an opportunity to ask questions of and receive answers from the Company, or a person or persons acting on its behalf, concerning the Company and the terms and conditions of this investment, and all such questions have been answered to their full satisfaction;

• Except as set forth in the Subscription Documents, no representations or warranties have been made to the prospective investor by the Company or any partner, agent, employee, or Affiliate thereof, and in entering into this transaction the prospective investor is not relying upon any information, other than that contained in the Memorandum, including its Exhibits; and

• The prospective investor understands that the Units constitute “restricted securities” as that term is defined in Rule 144 of the Securities Act.

Representations with respect to the foregoing and certain other matters will be made by each prospective investor for Units in the Subscription Agreement and related documents (“Subscription Documents”) attached as Exhibit 3 hereto.

A prospective investor who meets one of the following tests will qualify as an Accredited Investor:

• the prospective investor is a natural person who had individual income in excess of $200,000 in each of the two most recent years, or joint income with that person’s spouse or spousal equivalent in excess of $300,000 in each of those years, and has a reasonable expectation of reaching the same income level in the current year;

• the prospective investor is a natural person whose individual Net Worth (defined herein), or joint Net Worth with that person’s spouse or spousal equivalent, exceeds $1,000,000 at the time of purchase of Units;

• the prospective investor is a trust with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring Units, whose purchase is directed by a person who has such knowledge and experience in financial and business matters that he/she is capable of evaluating the merits and risks of an investment in Units;

• the prospective investor is a 501(c)(3), corporation, business trust, partnership, or limited liability company with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring Units;

• the prospective investor is an entity not formed for the specific purpose of acquiring the securities offered, owning investments in excess of $5,000,000;

• the prospective investor is an employee benefit plan within the meaning of ERISA, in which 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 adviser; or the employee benefit plan has total assets in excess of $5,000,000; or is a self-directed plan in which investment decisions are made solely by persons who are Accredited Investors;

• the prospective investor is an entity (including an Individual Retirement Account trust) in which all of the equity owners are Accredited Investors as defined above;

• the prospective investor is a natural person holding in good standing a Series 7, 65, or 82 license or one or more professional certifications or designations or credentials from an accredited educational institution that the SEC has designated as qualifying an individual for accredited investor status;[[1]](#footnote-1)

• the prospective investor is a “family office” as defined in the Investment Advisers Act of 1940 and (i) with assets under management in excess of $5,000,000, (ii) that is not formed for the specific purpose of acquiring the securities offered, and (iii) whose prospective investment is directed by a person who has such knowledge and experience in financial and business matters that such family office is capable of evaluating the merits and risks of the prospective investment; or

• the prospective investor is a “family client” of a family office whose prospective investment is directed by the family office.

For purposes of determining Accredited Investor status, “Net Worth” is computed as the difference between total assets and total liabilities while excluding any positive equity in the prospective investor’s primary residence but, if the net effect of the mortgage results in negative equity, the prospective investor should include any negative effects in calculating his/her Net Worth. The prospective investor should also subtract from their Net Worth any additional indebtedness secured by his/her primary residence incurred within the 60 days prior to his/her purchase of the Units (other than debt incurred as a result of the acquisition of the primary residence). In determining income, prospective investors should add to their adjusted gross income any amounts attributable to tax-exempt income received, losses claimed as a limited partner or member in any limited partnership or limited liability company, deductions claimed for depletion, contributions to an IRA or Keogh retirement plan, alimony payments, and any amount by which income from long-term capital gains has been reduced in arriving at adjusted gross income. In the case of fiduciary accounts, the Net Worth and/or income suitability requirements may be satisfied by the beneficiary of the account, or by the fiduciary if the fiduciary directly or indirectly provides funds for the purchase of Units.

The Company must take “reasonable steps” to verify the Accredited Investor status of purchasers. Such steps may include (i) verification based on income, by reviewing copies of any Internal Revenue Service form that reports income, such as Form W-2, Form 1099, Schedule K-1 of Form 1065, and a filed Form 1040; (ii) verification on net worth, by reviewing specific types of documentation dated within the prior three months, such as bank statements, brokerage statements, certificates of deposit, tax assessments and a credit report from at least one of the nationwide consumer reporting agencies, and obtaining a written representation from the investor; or (iii) a written confirmation from a registered broker-dealer, an SEC-registered investment adviser, a licensed attorney, or a certified public accountant stating that such person or entity has taken reasonable steps to verify that the purchaser is an Accredited Investor and has determined that such purchaser is an Accredited Investor. Investors must be prepared to provide such information to the Company or approved third-party.

Being permitted to invest in the Offering does not necessarily mean that the purchase of its Units is a suitable investment. The purchase of Units should never be a complete investment program for any person and should represent only a small portion of any person’s or entity’s complete investment portfolio. Persons and entities should not purchase Units unless they are able to bear the risk of loss of their entire investment.

# Memorandum Summary

This summary highlights information contained elsewhere in this Memorandum. It is not complete and may not contain all of the information that prospective investors should consider before investing in Units. Each prospective investor is urged to read this Memorandum and the additional information it refers to directly in its entirety.

|  |  |  |  |
| --- | --- | --- | --- |
| **THE COMPANY** | Subto Fund II, LLC is an Arizona limited liability company formed on June 18, 2024 to acquire, improve, operate, and dispose of multifamily properties located throughout the United States, with a focus in the sunbelt states. | | |
| **Management:** | All of the business, investments, and affairs of the Company will be directed by SquadUp Management II, LLC, the Manager of the Company. | | |
| **Mailing Address:** | Subto Fund II, LLC  c/o SquadUp Management II, LLC  1050 W. Washington St., Suite 133  Tempe, AZ 85288 | | |
| **Units Outstanding:** | **Name of Person or Group**  Outstanding Class A Units:  Outstanding Class B Units:  Outstanding Class M-1 Units:  Outstanding Class M-2 Units: | **Number**  0  0  85  15 |
|  | The Company anticipates selling the above unissued Class A and Class B Units to fund its activities. The Manager and its Affiliates or designees may purchase such Units on the same terms as those offered to prospective investors and intend to contribute three percent of the capital raised by the Company. Class M Units are reserved for the Manager and its Affiliates or designees. | | |
| **THE OFFERING** |  | | |
| **Securities Offered:** | This Offering is for the sale of a maximum of 15,000 Class A and Class B Units. The Units will be offered pursuant to this Memorandum for $1,000.00 per Unit, for a total of up to $15,000,000.00 if all offered Units are sold. There is no minimum Offering amount. All Offering proceeds will be held in a self-managed, segregated account until the Company purchases its first investment. This Offering will close as soon as the Maximum Offering Amount is sold or one year from the date of this Memorandum, whichever is earlier, or as otherwise determined in the discretion of the Manager. | | |
| **Investor Suitability:** | This Offering is restricted to Accredited investors, as determined in accordance with Regulation D under the Securities Act. Prospective investors should not purchase Units unless they have substantial financial means, have no need for liquidity in the investment, and can afford to bear the loss of their entire investment. | | |
| **Use of Proceeds:** | See “Estimated Use of Proceeds” on page 21 for a complete description of the Company’s expected allocations of the proceeds from this Offering. | | |
| **Exit Strategies:** | The Company expects to operate for a period of five to seven years before the sale of the last of the Properties and distribution of all remaining assets of the Company. | | |
| **Distribution of Cash:** | Please see the section titled “Distributions and Allocations” on page 27 for a summary on how distributions are allocated to Units. For complete distribution procedures, please see the Company’s Operating Agreement, dated June 18, 2024 (the “Operating Agreement”) contained in Exhibit 2. | | |
| **Allocation of Profits and Losses:** | Except as otherwise provided in the Agreement, Profits and Losses (including individual items of profit, income, gain, loss, credit, deduction and expense) of the Company will be allocated among the Members in a manner such that the Capital Account balance of each Member, immediately after making that allocation, is, as nearly as possible, equal (proportionately) to the distributions that would be made to that Member pursuant to Section 12.4 of the Operating Agreement if the Company were dissolved, its affairs wound up and its assets sold for cash equal to their fair market value, as reasonably determined by the Manager, all Company liabilities were satisfied (limited with respect to each nonrecourse liability to the Fair Market Value of the assets securing that liability), and the net assets of the Company were distributed in accordance with Section 12.4 of the Operating Agreement to the Members immediately after making that allocation, adjusted for applicable special allocations, computed immediately prior to the hypothetical sale of assets.  See “Allocation of Profits and Losses” in the Operating Agreement for a complete description of the procedure for the allocation Profits and Losses. | | |
| **Use of Financing:** | The funds the Company is raising from this Offering are insufficient to satisfy all anticipated expenses, and it should be noted that the Company may acquire, improve, operate, and dispose of the Properties through the use of debt financing. Such debt may be obtained from banks, insurance companies, private lenders, or other commercial sources of funds.  Such debt could be on a full, partial, or non-recourse basis, be at a fixed or floating interest rate, and/or make use of interest-rate swap or hedging agreements. Any debt financing obtained by the Company will be the Company’s sole responsibility and not an obligation of any Member (other than, if required by a lender, the Manager, key principal(s), or one or more Affiliates).  Any debt is expected to be paid through the revenues from the operation of the Properties and reserves set aside through this Offering. See “Risk Factors” on page 7. | | |
| **Fees:** | The Manager and its Affiliates and third-parties will receive reasonable, but possibly substantial, fees and compensation in connection with this Offering and the management and operations of the Company’s assets and the Properties, and reimbursement for expenses incurred on behalf of the Company and the Properties. These expected fees and compensation will be paid out of capital contributions, revenues, reserves, and as further described in the section titled “Management Compensation and Fees” on page 25. | | |
| **Conflicts of Interest:** | The Manager and its Affiliates may engage in and possess interests in other business ventures of any and every type or description, independently or with others, whether similar or dissimilar to the Company’s business. Neither the Company nor any investor shall have any right, title, or interest in or to such independent ventures. The Manager and its Affiliates may conduct similar investment offerings through any such independent venture without liability to the Company for so doing. The Manager and its Affiliates are under no obligation to present any investment opportunity to the Company even if such opportunity is of a character that if presented to the Company, could be acquired by the Company for its own account. | | |
| **Operating Agreement:** | The Company will be governed by the Operating Agreement. It contains detailed provisions respecting the Company’s governance, accounting and financial matters, restrictions on the transfer of Units, and other important information. | | |
| **Transfer Restrictions:** | Units constitute “restricted securities,” as that term is defined in Rule 144, promulgated under the Securities Act, and cannot be resold unless such resale is registered under the Securities Act and applicable state securities laws or is exempt from such registration provisions. Even if Units purchased in this Offering are eligible for resale, there is no trading market for such Units, and none is likely to develop. | | |
| **Offering Period:** | The Offering will close as soon as the Maximum Offering Amount is sold or one year from the date of this Memorandum, whichever is earlier. However, the Manager may choose to close this Offering earlier, at any time, for any reason. | | |
| **Method of Distribution:** | Units will be offered through the Company’s management on a “best-efforts” basis. Such management will not receive commissions or other compensation for such efforts. | | |
| **How to Purchase Units:** | In order to purchase Units, prospective investors must deliver signed copies of the separately bound Subscription Documents to Subto Fund II, LLC. The Company will promptly confirm in writing either the intent to accept or reject, in whole or in part, each subscription. On acceptance, the subscription agreement automatically becomes a binding, bilateral agreement for the purchase of the number of Units accepted. All completed Subscription Documents and purchase funds should be delivered either through the Company’s investor portal at https://subto.invportal.com/app/offering-detail/666739aefdb992001b0cd568 or to:  Subto Fund II, LLC  1050 W. Washington St., Suite 133  Tempe, AZ 85288  invest@subtofund.com  Please contact Ted Head at (602) 962-8622 for payment information. | | |

# Investment Objectives

## The Investment

The Company is raising funds in this Offering to invest in the Properties. The Company has the following additional objectives:

Provide cash for distribution to the Members. An investment objective of the Company is to generate Distributable Cash from operations of the Company.

Provide the Members the opportunity to take part in the investment process with minimal involvement in management. An investment objective of the Company is to provide an opportunity for the Members to participate in the investment process, which an individual Member may not desire or be able to accomplish on their own. The Manager will additionally manage the Company so that the Members will have minimal involvement in the management of the Company.

Provide the Members with limited liability. An investment objective of the Company is to provide the Members with limited liability. The Company is structured so that the Members will have the limited liability afforded to them as designated by the Act.

## The Properties

The Company plans to acquire, improve, operate, and dispose of multifamily and commercial properties located throughout the United States with a focus in Arizona and the sunbelt states. Its acquisition strategy shall focus on location of the asset, condition of the asset, financing type available, deferred maintenance, the efficiency of current management, and other assets currently in the portfolio. The Company intends to primarily target existing 150+ unit properties that are Class B assets or Class C assets located in Class B areas, but it may also acquire Class A and Class B assets. The Company’s strategies will include rent up and value-add opportunities which are cash flowing. The Company plans to target between one and three properties which are currently cash flowing and have the potential for creative financing options. For additional information about the Properties, see Exhibit 4.

## Purchase

The Company intends to fund the purchase of the Properties with the proceeds from this Offering and third-party debt financing. If the amount raised by the Offering is not sufficient as determined by the Manager prior to the closing of the Offering, all investor funds will be returned without interest or deduction for expenses.

Up until the final closing on the Properties, both the Company and the seller will be under certain obligations and will have certain rights under the terms of the purchase agreement. This may include common industry obligations, including the obtainment of certain insurance policies, certain rights to inspect the Properties, and certain responsibilities to pay amounts and present documentation. Prospective investors should note that until the closing documents have been signed and the Properties has been legally acquired, the Company cannot guarantee that it will acquire the Properties on the terms presented.

## Capitalization

The Company intends to fund the acquisition of the Properties with funds from the sale of Units, including both funds raised through this Offering and separately purchased by the Manager and its Affiliates and/or designees.

## Exit Strategy

The Company expects to operate for a period of approximately five years before the sale of the last of the Properties and distribution of all remaining assets of the Company. However, the Company may extend this period to seven years, or longer, depending on market conditions and other considerations.

## Investor Reporting

The Company will use commercially reasonable efforts to furnish to each Member reports as follows: (i) a discussion of the Company’s performance within 75 days after the end of each calendar year and (ii) all information relative to the Company necessary for the preparation of the Members’ federal and state income tax returns each calendar year.

# Risk Factors

PROSPECTIVE INVESTORS SHOULD BE AWARE THAT PURCHASING UNITS IS A SPECULATIVE INVESTMENT AND INVOLVES A HIGH DEGREE OF RISK. PROSPECTIVE INVESTORS SHOULD CAREFULLY READ THIS MEMORANDUM AND ALL EXHIBITS PRIOR TO MAKING AN INVESTMENT AND SHOULD BE ABLE TO BEAR THE COMPLETE LOSS OF THEIR INVESTMENT.

In addition to the negative implications of all information and financial data included or referred to directly in this Memorandum, prospective investors should consider the following risk factors before making an investment in Units. This Memorandum contains forward-looking statements and information concerning the Company, its investment plans, and other future events. These statements should be read together with the discussion of risk factors set forth below because those risk factors could cause actual results to differ materially from such forward-looking statements. The cautionary statements set forth under this section and elsewhere in this Memorandum identify important factors with respect to forward-looking statements.

## Investment and Offering Risks

*The purchase of Units is not a diversified investment.* Our potential profitability and our ability to diversify our investments may be limited, both geographically and by the type of Properties we invest in. We will be able to invest in additional Properties only as additional funds are raised. Given this limiting factor on the number of Properties the Company is able to target, its investments may not be well diversified, and their economic performance could be affected by changes in local economic conditions or changes uniquely affecting one or more particular asset classes. The Company’s performance is therefore linked to economic conditions in the regions in which it invests in properties and in the market for real estate properties generally. Therefore, to the extent that there are adverse economic conditions in the regions in which the Company’s Properties are located and in the market for real estate properties, such conditions could result in a reduction of its income and cash to return capital and thus affect the amount of distributions it can make to investor.

*An inability to raise substantial funds in this Offering would have a substantial effect on the Company’s financing strategy.* Units will be offered and sold on a “best efforts” basis. No investor has made a firm commitment or obligation to purchase any Units. As a result, the proceeds raised in this Offering may be substantially less than the amount the Company would need to meet its investment objectives. The Company may proceed with alternative financing (potentially on different terms than offered herein) in order to meet its operational goals. It is not certain the Company would be able to successfully negotiate any such alternative financing, which could materially and negatively impact its investment objectives.

*There is no guarantee of a return on an investor’s investment.* The Company’s business objectives must be considered highly speculative. There is no assurance that an investor will realize a return on their investment or that they will not lose their entire investment. For this reason, each investor should read this Memorandum and all exhibits carefully and should consult with their attorney and business advisor prior to making any investment decision.

*The Company cannot assure investors that the Offering price of Units is an accurate reflection of their value.* The Offering price of Units has been determined by the Company taking into account its Offering expenses, prospects, the number of securities to be offered, and the general condition of the securities market, all as assessed by its management. Such prices are not directly correlated to the Company’s assets, earnings, net tangible book value, or any other traditional criteria of value.

*The securities acquired in this offering may be significantly diluted as a consequence of other equity financings.* The Company’s equity securities could be subject to dilution via the sale of additional Class A or Class B Units or the creation and sale of additional classes of Units, which could have priority over the securities offered in this Offering. Whether such securities will ultimately be sold by the Company is uncertain at this time, and as a consequence holders of the securities offered herein could be subject to dilution in an unpredictable amount. Such dilution may reduce an investor’s economic interests in the Company.

*The purchase of Units is a speculative investment.* The Company’s business objectives must be considered highly speculative. No assurance can be given that prospective investors will realize their investment objectives or will realize a substantial return (if any) on their investment or that they will not lose their entire investment in the Company. For this reason, each prospective investor should carefully read this Memorandum and all Exhibits hereto in their entirety. EACH PROSPECTIVE INVESTOR SHOULD CONSULT WITH THEIR ATTORNEYS, ACCOUNTANTS, AND BUSINESS ADVISERS PRIOR TO MAKING AN INVESTMENT.

*Restrictions on transferability of securities will limit the ability of purchasers to transfer their Units.* Units offered hereby will be “restricted securities” within the meaning of the Securities Act and, consequently, will be subject to the restrictions on transfer set forth in the Securities Act, the Securities Exchange Act, and the rules and regulations promulgated thereunder. In addition, such securities are subject to restrictions on transfer under applicable state securities laws under which such securities are sold in reliance on certain exemptions or under the provisions of certain qualifications. As restricted securities, the Units may not be sold in the absence of registration or the availability of an exemption from such registration requirements. In addition, Members may not withdraw capital from the Company. It is not contemplated that registration of Units under the Securities Act or other securities laws will be effected. There is no public market for Units, and one is not expected to develop.

*Units are expected to be offered under a private offering exemption, and if it were later determined that such an exemption was not available, purchasers would be entitled to rescind their purchase agreements.* Units are being offered to prospective investors pursuant to the so-called limited or private offering exemption from registration under Section 4(a)(2) and Rule 506(c) of Regulation D under the Securities Act. Unless the sale of Units should qualify for such an exemption, either pursuant to Regulation D promulgated thereunder or otherwise, the investors might have the right to rescind their purchase of Units. Since compliance with these exemptions is highly technical, it is possible that if an investor were to seek rescission, such investor would succeed. A similar situation prevails under state law in those states where Units may be offered without registration. If a number of investors were to be successful in seeking rescission, the Company would face severe financial demands that could adversely affect the Company and, thus, the non-rescinding investors. Inasmuch as the basis for relying on exemptions is factual, depending on the Company’s conduct and the conduct of persons contacting prospective investors and making the Offering, the Company will not receive a legal opinion to the effect that this Offering is exempt from registration under any federal or state law. Instead, the Company will rely on the operative facts as documented as the Company’s basis for such exemptions.

*This Offering has not been registered with the SEC or any state securities authorities.* This Offering will not be registered or qualified with the SEC under the Securities Act or with the securities agency of any state, and Units are being offered in reliance upon an exemption from the registration provisions of the Securities Act and state securities laws applicable only to offers and sales to investors for Units meeting the suitability requirements set forth in this Memorandum. Since this is a nonpublic Offering and, as such, is not registered under federal or state securities laws, prospective investors for Units will not have the benefit of review by the SEC or any state securities regulatory authority. The terms and conditions of the Offering may not comply with the guidelines and regulations established for offerings that are required to be registered and qualified with those agencies.

## Operational Risks

*The Company will experience those risks associated with an investment in and ownership of membership units in a newly formed limited liability company.* There are significant restrictions placed on the Company via the Operating Agreement, including, but not limited to, restrictions on transfer of Units, voting, distributions, withdrawal, management, dissolution, and dispute resolution.

*The Manager has significant flexibility with regard to the Company’s operations and investments.* The Company’s agreements and arrangements with its Manager and the Manager’s Affiliates have been established by the Manager and may not be on an arm’s-length basis. The Manager has considerable discretion with respect to all decisions relating to the terms and timing of transactions.

*There may be significant conflicts of interest between the Manager and its Affiliates and the Company*. The Manager and its Affiliates may engage in activities other than the ownership, service, and management of the Company, some of which may compete directly with the Company. See “” on page 26.

*The liability of the management is limited*. As a result of certain exculpation and indemnification provisions in the Operating Agreement, the Manager and its officers, employees, agents, attorneys, and certain other parties may not be liable to the Company or its Members for errors of judgment or other acts or omissions not constituting fraud, intentional misconduct, criminal act, or gross negligence. A successful claim for such indemnification would deplete the assets of the Company by the amount paid.

*Maintenance of an Investment Company Act exemption imposes limits on the Company’s operations, and if the Company were to become subject to the Investment Company Act, it likely could not continue its business.* The Company intends to conduct its operations so that it is not required to register as an investment company under the Investment Company Act of 1940 (the “Investment Company Act”). The Company intends to make investments that satisfy requirements that will exempt it from registration under the Investment Company Act and intends to monitor its compliance with applicable exemptions under the Investment Company Act on an ongoing basis. If it fails to comply with an exemption, it could, among other things, be required to register as an investment company or substantially change its operations and investment strategies in order to avoid being required to register as an investment company, either of which would have a material, adverse effect on the Company. If the Company is required to register as an investment company, it would become subject to substantial regulations and restrictions with respect to its capital structure, management, operations, transactions with affiliated persons, portfolio composition, and other matters. This could potentially force it to discontinue its business. The Company will face similar investment company concerns under the various blue-sky laws.

*Any projected results of operations included in this Memorandum are forward-looking statements that involve significant risks and uncertainty.* All materials or documents supplied by the Company should be considered speculative and are qualified in their entirety by the assumptions, information, and risks disclosed in this Memorandum. The assumptions and facts upon which such projections are based are subject to variations that may arise as future events actually occur, many of which are outside the Company’s and the Manager’s control. Any projections included herein are based on assumptions made regarding future events. There is no assurance that actual events will correspond with these assumptions. Actual results for any period may or may not equal currently estimated, approximate projections and may differ significantly. Therefore, prospective investors should consult with their tax and business advisers about the validity and reasonableness of the factual, accounting, and tax assumptions contained in this Memorandum and the Exhibits to this Memorandum. Neither the Company nor any other person or entity has been authorized to make any representation or warranty as to the future profitability of the Company or of an investment in Units.

*The borrowing of funds increases the risks of adverse effects on the Company’s financial condition*. The Company may incur certain indebtedness with debt financing which the Properties will secure. The Properties may incur additional debt in the future. Payments of principal and interest will reduce cash available for distribution and/or reserve funds set aside for contingencies. If variable rate debt is incurred, increases in interest rates would increase interest costs, which would reduce the Company’s returns.

*The Company may have difficulties receiving debt financing necessary to fund its investment activities.* The Company does not have a firm commitment for any debt financing. In the event that the Company is unable to secure proper financing, it may be unable to acquire, improve, operate, and dispose of the Properties as intended. The Company may also seek other capital sources. Failure to obtain such financing may have a material and adverse effect on the Company’s operations and distributions to the Members. In such an event, investors could lose some or all of their investments.

*The investors are not represented by independent counsel.* The prospective Investors as a group have not been represented by independent counsel in connection with the formation of the Company or this Offering. The Company Agreement and amendments thereto have been prepared by counsel for the Manager and such counsel owes no duties of any kind to any Members of the Company.

## Real Estate Risks

*The Company will be subject to those general risks relating to the development, ownership, and operation of real estate*. The Company’s economic success will depend upon the results of operations of the Properties, which will be subject to those risks typically associated with such asset class. Fluctuations in operating expenses and tax rates can adversely affect operating results or render the sale or refinancing of the Properties difficult or unattractive. Certain expenditures associated with the Properties will be fixed (principally mortgage payments, if any, and real estate taxes) and will not necessarily decrease due to events adversely affecting the Company’s income from the operation of the Properties. No assurance can be given that certain assumptions as to the future profits from such operations will be accurate, since such matters will depend on events and factors beyond the Company’s and the Manager’s control. These factors include, among others:

• adverse changes in local and national economic conditions;

• changes in the financial condition of buyers and sellers of similar properties;

• changes in the availability of debt financing and refinancing;

• changes in the relative popularity of the Properties and in real estate as an investment class;

• changes in interest rates, real estate taxes, operating expenses, and other expenses;

• changes in market capitalization rates;

• changes in utility rates;

• development and improvement of competitive properties;

• ongoing development, capital improvement, and repair requirements;

• risks and operating problems arising out of the presence or scarcity of certain construction materials;

• environmental claims arising in respect of real estate acquired with undisclosed or unknown environmental problems or as to which adequate reserves had not been established;

• physical destruction and depreciation of property and equipment;

• damage to and destruction of the Properties, or any improvements or personal property located thereon;

• acts of God;

• changes in availability and cost of insurance;

• unexpected construction costs;

• increases in the costs of labor and materials;

• materials shortages; and

• labor strikes.

*The economic success of an investment in the Company will depend to a great extent upon the results of operations of the Properties, some of which are outside the Company’s control*. The Properties will be subject to those risks typically associated with investments in real estate that produce income based on tenant occupancy and rental revenues. Fluctuations in vacancy rates, rent schedules, and operating expenses can adversely affect operating results or render the sale or refinancing of the Properties difficult or unattractive. No assurance can be given that certain assumptions as to the future levels of occupancy of the Properties, future rental appreciation, future cost of capital improvements, or future cost of operating the Properties will be accurate since such matters will depend on events and factors beyond the control of the Company. Such factors include continued validity and enforceability of the leases, vacancy rates for properties similar to the Properties, financial resources of tenants, rent levels near the Properties, adverse changes in local population trends, market conditions, neighborhood values, local economic and social conditions, the enactment of unfavorable real estate regulations, rent control, and other risks.

*Real estate is a long-term illiquid investment that may be difficult to sell in response to changing economic conditions*. Real estate is generally a long-term investment that cannot be quickly converted to cash. Therefore, the ability to liquidate the Properties promptly in response to economic or other conditions will be limited, which will affect the Company’s ability to realize a return on its investment. Real estate investments are also subject to adverse changes in overall economic conditions or local conditions that may reduce the demand for real estate generally.

*The Properties will be subject to additional risks that may adversely impact the operating results and the success of the Company*. The Company will generate income from residential leases on the Properties. These leases will generally be for terms of no more than one or two years. Therefore, there are vacancy and re-letting risks associated with income producing residential properties. In addition, an economic downturn, including increased unemployment rates, may cause the residential industry to experience a significant decline in business due to a reduction in renters. Low residential mortgage interest rates could accompany and encourage potential renters to purchase residences rather than lease them. These and other factors could have a material, adverse effect on the Company’s performance. If current tenants for the Properties do not renew or extend their leases or if current tenants terminate their leases, the operating results of the Properties could be substantially and adversely affected by the loss of revenue and possible increase in operating expenses not reimbursed by the tenants. There can be no assurance that any unoccupied space in the Properties will be leased, levels of occupancy will be maintained, or the Properties will be substantially occupied. In addition, lease-up of unoccupied space may be achievable only at decreased rental rates or with the provision of substantial rental concessions, both of which would adversely affect the operating cash flow of the Company. To the extent that tenants of the Properties do not renew their leases, or renew at lower than current market rates, the financial viability of the Properties may be adversely affected. In addition, tenants and lease guarantors, if any, may be unable to make their lease payments. Defaults by a significant number of tenants could, depending on the number of leases affected and the ability to successfully find substitute tenants, have a material, adverse effect on the financial performance of the Properties, thus reducing cash flow to the Company.

*Due to a substantial influxes of capital investment and competition for properties, the real estate the Company invests in may not appreciate or may decrease in value.* The real estate markets are currently experiencing a substantial influx of capital from investors worldwide. This substantial flow of capital, combined with significant competition for real estate and the strength in the economy, may result in inflated purchase prices for such assets. To the extent the Company invests in real estate in such an environment, the Company is subject to the risk that the real estate market could cease to attract the same level of capital investment in the future, or if the number of companies seeking to acquire such assets decreases, Company returns could be lower, and the value of its assets may not appreciate or may decrease significantly below the amount we paid for such assets.

*Real estate construction involves various risk factors that can impact the successful completion and profitability of a project.* The Company may need to improve certain Properties it acquires, which bring unique risks, including, but not limited to:

* Market Risk: Fluctuations in real estate market conditions can affect demand for the completed Property, leading to potential delays in sales or lower selling prices. Economic downturns can reduce demand for the completed Property, which would affect the Company's ability to sell or lease units at the Property.
* Financial Risk: Insufficient funding or cash flow issues can lead to project delays, cost overruns, or even project abandonment. Interest rate fluctuations can impact borrowing costs and profitability. Inadequate financial planning and budgeting can lead to cost overruns and negatively affect a project's profitability.
* Construction and Design Risk: Poor project planning and design can lead to construction delays and increased costs. Design flaws or changes can result in construction rework, causing delays and cost overruns which could affect the overall profitability of a project. Availability of skilled labor and materials can also impact the construction schedule and costs.
* Regulatory and Legal Risk: Delays or complications in obtaining necessary permits and approvals can lead to project delays and increased costs. Zoning changes or other regulatory issues can impact the feasibility of the project. Legal disputes, such as contract disputes or litigation, can lead to delays, increased costs, and reputational damage to the Company.
* Environmental and Sustainability Risk: Environmental contamination or other environmental issues can lead to costly cleanup efforts and delays. Changes in environmental regulations can impact project design and construction methods, potentially leading to increased costs.
* Political and Geopolitical Risk: Political instability, changes in government policies, or geopolitical events can affect the project's viability and profitability.
* Technology and Innovation Risk: Incorporating new technologies or construction methods without proper understanding or testing can lead to implementation challenges and delays. Technological disruptions or changes can impact project timelines and costs.
* Health and Safety Risks: Inadequate safety measures can result in accidents, injuries, or fatalities, leading to legal and financial consequences.

*Real estate projects may suffer losses that are not covered by insurance.* Material losses to real estate properties may occur in excess of insurance proceeds with respect to any property as insurance proceeds may not provide sufficient resources to fund the losses. However, there are types of losses, generally of a catastrophic nature, such as losses due to wars, earthquakes, floods, hurricanes, pollution, environmental matters, mold, or terrorism, which are either uninsurable or not economically insurable, or may be insured subject to limitations such as large deductibles or co-payments. If an uninsured loss or a loss in excess of insured limits occurs on the Properties, the Company could lose anticipated future revenues.

*The consideration paid for properties may exceed fair market value, which may harm the Company’s financial condition and operating results.* The consideration that the Company pays will be based upon numerous factors, and the properties may be purchased in a negotiated transaction rather than through a competitive bidding process. The Company cannot assure anyone that the purchase price that it pays for a property, or its appraised value will be a fair price, that it will be able to generate an acceptable return on such property, or that the location, lease terms or other relevant economic and financial data of any properties that it invests in will meet acceptable risk profiles. The Company may also be unable to rent vacant space at market rates, which would adversely affect its returns on a property. As a result, the Company’s investments in properties may fail to perform in accordance with its expectations, which may substantially harm its operating results and financial condition.

*The failure of properties to generate positive cash flow or to sufficiently appreciate in value would most likely preclude our investors from realizing an attractive return on their interest ownership.* There is no assurance that the Company’s real estate investments will appreciate in value or will ever be sold at a profit. The marketability and value of the properties will depend upon many factors beyond the control of the Company’s management. There is no assurance that there will be a ready market for the properties since investments in real property are generally non-liquid. The real estate market is affected by many factors, such as general economic conditions, availability of financing, interest rates and other factors, including supply and demand, that are beyond the Company’s control. It cannot predict whether it will be able to sell any property for the price or on the terms set by it, or whether any price or other terms offered by a prospective purchaser would be acceptable to us. The Company also cannot predict the length of time needed to find a willing purchaser and to close the sale of a property. Moreover, the Company may be required to expend funds to correct defects or to make improvements before a property can be sold. We cannot assure any person that it will have funds available to correct those defects or to make those improvements. In investing in a property, it may agree to lockout provisions that materially restrict it from selling that property for a period of time or impose other restrictions, such as a limitation on the amount of debt that can be placed or repaid on that property. These lockout provisions would restrict its ability to sell a property. These factors and any others that would impede our ability to respond to adverse changes in the performance of our properties could significantly harm its financial condition and operating results.

*Illiquidity of real estate investments could significantly impede the Company’s ability to respond to adverse changes in the performance of our properties and harm our financial condition.* Because real estate investments are relatively illiquid, our ability to promptly sell one or more properties or investments in its portfolio in response to changing economic, financial and investment conditions may be limited. In particular, these risks could arise from weakness in or even the lack of an established market for a property, changes in the financial condition or prospects of prospective purchasers, changes in national or international economic conditions, and changes in laws, regulations, or fiscal policies of jurisdictions in which the property is located. The Company may be unable to realize its investment objectives by sale, other disposition, or refinance at attractive prices within any given period of time or may otherwise be unable to complete any exit strategy. An exit event is not guaranteed and is subject to the Manager’s discretion.

Rising expenses could reduce cash flow and funds available for future investments. The Properties will be subject to increases in real estate tax rates, utility costs, operating expenses, insurance costs, repairs and maintenance, administrative and other expenses. If the Company is unable to increase rents at an equal or higher rate or lease properties on a basis requiring the tenants to pay all or some of the expenses, the Company would be required to pay those costs, which could adversely affect funds available for future cash distributions.

*Failure to Comply with Current Laws, Rules, and Regulations or Changes to Such may Adversely Affect Business or Financial Performance*. The Company’s business and financial performance could be adversely affected by unfavorable changes in or interpretations of existing laws, rules and regulations or the promulgation of new laws, rules and regulations applicable to the Company and its business, including those relating to internet and online commerce, internet advertising, consumer protection, intermediary liability, data security and privacy, travel and rental licensing and listing requirements and tax. In many cases, these laws continue to evolve.

For example, there is, and will likely continue to be, an increasing number of laws and regulations pertaining to internet and online commerce that may relate to liability for information retrieved from or transmitted over the internet, online editorial and user-generated content, user privacy, data security, behavioral targeting and online advertising, taxation, liability for third-party activities and the quality of products and services. In addition, the growth and development of online commerce may prompt calls for more stringent consumer protection laws and more aggressive enforcement efforts, which may impose additional burdens on online businesses generally. Also, evolving case law and new legislation increase the potential for litigation and government audits in this area and may have ramifications as to how the Company operates its short-term rental business.

Further, the rental business has been and continues to be subject to regulatory developments globally that affect the rental industry and the ability of companies to list those rentals online. For example, some states and local jurisdictions have fair housing or other laws governing whether and how properties may be rented. Operating in this dynamic regulatory environment requires significant management attention and financial resources. The Manager cannot assure investors that its efforts will be successful, and the investment and additional resources required to manage growth will produce the desired levels of revenue or profitability.

The Company may be subject to inquiries from time to time from regulatory bodies concerning compliance with consumer protection, competition, tax, data privacy and travel industry-specific laws and regulations. The failure of the Company to comply with these laws and regulations could result in fines and/or proceedings against it by governmental agencies, regulatory authorities, courts, and/or consumers, which if material, could adversely affect the business, financial condition, and results of operations. Further, if such laws and regulations are not enforced equally against other competitors in a particular market, the Company’s compliance with such laws may put it at a competitive disadvantage vis-à-vis competitors who do not comply with such requirements.

The promulgation of new laws, rules and regulations, or the new interpretation of existing laws, rules and regulations, in each case that restrict or otherwise unfavorably impact the ability or manner in which the Company provides services could require the Manager to change certain aspects of the business, operations and commercial relationships to ensure compliance, which could decrease demand for services, reduce revenues, increase costs and/or subject the company to additional liabilities. For example, the State of California adopted the California Consumer Privacy Act implementing privacy rights and consumer protections for California residents. This legislation will continue to change the landscape for the use and protection of data and could increase the cost and complexity of delivering services. Unfavorable changes could decrease demand for products and services, limit marketing methods and capabilities, impede development of new products, result in negative publicity, require significant management time, increase costs, and/or subject the Company to additional liabilities. Violations of these laws and regulations could result in penalties and/or criminal sanctions against the Company, the Manager, or its members and/or restrictions on the conduct of parts of the business in certain jurisdictions.

*Regulatory risks that can affect cash flow for real estate include a range of factors from zoning changes to tenant protection laws.* These risks can have significant impacts on property income and expenses, ultimately influencing the overall financial health and profitability of real estate investments.

Zoning and Land Use Changes: Local governments can alter zoning laws and land use regulations, which can affect the types of developments permitted in certain areas. Changes that restrict property use or impose additional development requirements can limit a property’s income potential or increase costs for compliance. For example, a shift from commercial to residential zoning can affect rental rates and tenant demand, thereby impacting cash flow.

Rent Control and Tenant Protection Laws: Rent control regulations, which cap the amount landlords can charge for rent or limit rent increases, can significantly constrain revenue streams. Similarly, tenant protection laws that impose stricter eviction procedures and longer notice periods can increase administrative costs and reduce a landlord’s ability to manage tenant turnover efficiently. Both can lead to reduced rental income and increased operational costs, negatively impacting cash flow.

Property Tax Changes: Increases in property taxes can have a direct impact on cash flow, as higher taxes reduce net income from rental properties. Property tax assessments can change due to reassessments, changes in local tax rates, or modifications in tax laws. Property owners must monitor these changes and budget accordingly, as sudden increases can strain cash flow and affect profitability.

Environmental and Health Regulations: Compliance with environmental and health regulations can lead to significant expenses, particularly if properties require upgrades or remediation to meet new standards. This includes regulations related to energy efficiency, waste management, and health and safety requirements. Non-compliance can result in fines, legal fees, and costly retrofits, all of which can reduce net income and disrupt cash flow.

Mortgage Lending and Finance Regulations: Regulations affecting mortgage lending practices can influence the cost and availability of financing for real estate projects. Changes in interest rate policies, lending criteria, and financial disclosure requirements can affect the terms of new loans or refinancing options. Higher borrowing costs or stricter lending conditions can reduce profitability and strain cash flow, particularly for leveraged properties.

Changes in Subsidies and Incentives: Government incentives, such as tax credits and subsidies for affordable housing or energy-efficient upgrades, can significantly affect cash flow. Changes or eliminations of these programs can lead to higher operational costs or reduced income, impacting the financial performance of real estate investments.

Labor and Employment Laws: Regulations related to labor and employment can affect the cost of property management and maintenance. Minimum wage increases, mandatory benefits, and changes in labor practices can increase payroll expenses. These additional costs can strain cash flow, especially for properties that rely heavily on staff for day-to-day operations.

Understanding and mitigating these regulatory risks is essential for maintaining healthy cash flow in real estate operations. Real estate investors and operators need to stay informed about regulatory changes, engage in proactive planning, and consider potential impacts when making investment decisions.

*Tenant protection laws and rent control regulations present significant risks to real estate operations.* Tenant protection laws are designed to safeguard tenants from unfair practices by landlords, ensuring their rights to fair treatment, safe living conditions, and privacy. These laws encompass a range of regulations, including requirements for lease agreements, limitations on security deposits, and protections against wrongful eviction. For real estate operators, navigating these laws can be complex and challenging. Non-compliance can lead to legal disputes, financial penalties, and reputational damage, which can disrupt operations and erode profitability.

Rent control regulations add another layer of complexity and risk for real estate operators. These regulations are intended to maintain affordable housing by limiting the amount landlords can increase rent, both annually and between tenancies. While beneficial for tenants, rent control can significantly impact the financial viability of rental properties. It can limit the ability to adjust rents in response to market conditions, inflation, and rising maintenance costs. This can reduce the return on investment and deter potential investors from entering markets with stringent rent control measures. Additionally, rent control can discourage property owners from investing in property maintenance and improvements, leading to the deterioration of housing quality over time.

The implementation and enforcement of tenant protection and rent control laws can vary significantly by jurisdiction, adding to the regulatory risk for real estate operators. Staying compliant requires continuous monitoring of local, state, and federal regulations, as well as staying informed about potential legislative changes. Failure to adequately address these regulatory requirements can result in costly litigation, loss of rental income, and damage to the operator's reputation, ultimately affecting the long-term sustainability of real estate investments.

*During the COVID-19 pandemic, several real estate-related regulations were implemented to address the unprecedented challenges faced by tenants, landlords, and the broader housing market.* These regulations were aimed at protecting public health, preventing widespread displacement, and stabilizing the housing market during the crisis, but posed a significant burden on real estate operators.

Eviction Moratoriums: Many jurisdictions implemented eviction moratoriums to prevent tenants from being evicted due to non-payment of rent. These temporary bans on evictions were designed to ensure that individuals and families could remain in their homes despite economic hardships caused by the pandemic. The Centers for Disease Control and Prevention (CDC) also issued a federal eviction moratorium to prevent homelessness and reduce the spread of COVID-19. These moratoriums significantly impacted landlords' ability to collect rent and manage their properties, leading to financial strain for property owners.

Rent Relief Programs: To address the financial difficulties faced by both tenants and landlords, various rent relief programs were established. Governments allocated funds to provide direct financial assistance to tenants struggling to pay rent and to landlords who lost rental income. These programs aimed to prevent evictions and ensure landlords could cover their operational costs. The implementation of these programs required coordination between federal, state, and local governments, and often involved complex application processes and eligibility criteria.

Mortgage Forbearance and Foreclosure Protections: In addition to renter protections, measures were put in place to assist homeowners and property owners with mortgages. Mortgage forbearance programs allowed borrowers to temporarily pause or reduce their mortgage payments without facing foreclosure. These programs were essential for homeowners who experienced job loss or income reduction during the pandemic. The federal government, through agencies like the Federal Housing Finance Agency (FHFA), extended foreclosure protections for properties with federally backed mortgages, providing critical relief to property owners.

These regulations, while providing essential protections during the pandemic, also presented challenges for the real estate market. Landlords faced cash flow issues due to non-payment of rent, and the administrative burden of navigating new regulations and relief programs added complexity to property management. The long-term impact of these measures on the housing market, property values, and rental prices is still being assessed as the sector continues to recover from the pandemic's effects.

*The Properties may be subject to foreclosure if a default under any mortgage loan occurs.* Each mortgage loan secured by the Properties will contain various default provisions, including payment defaults, operating restrictions, reporting defaults, transfer restrictions, and capital improvement obligations. Upon an uncured default under a loan, the lender may declare the entire amount of the loan, including principal, interest, prepayment premiums, and other charges to be immediately due and payable. If a senior mortgage lender declares a loan to be immediately due and payable, the Company will have the obligation to immediately repay the loan in full. If repayment does not occur, the lender may invoke its remedies under the loan documents, including proceeding with a foreclosure sale, which is likely to result in the Company losing its entire investment.

*The Properties will experience competition.* A number of other comparable properties may be located within the vicinity of the Properties. These competitive properties may reduce demand for the Properties. Competition from nearby residential properties could make it more difficult to attract buyers as well. Competition may increase costs and reduce returns on the Properties and thus reduce returns to the Company and the Members.

*The Properties or a portion of the Properties could become subject to an eminent domain or a condemnation action*. Such an action could have a material, adverse effect on the marketability of the Properties and any returns therefrom.

*Future changes in land use and environmental laws and regulations, whether federal, state, or local, may impose new restrictions on the Properties.* The Company’s ability to sell or operate the Properties as intended may be adversely affected by such regulations, which could affect returns therefrom.

*Leasing property involves several risks that can impact financial stability and investment returns.* The following are some, but not all, of the risks the Company may encounter:

* Vacancy Risk: One of the primary risks for landlords is the potential for extended vacancies. If a property remains unoccupied for a significant period, the Company will lose out on rental income and may struggle to cover mortgage payments, property taxes, and other expenses. If this occurs, the Company may suffer losses which could affect Member returns.
* Tenant Default: Tenants may default on their lease obligations, such as failing to pay rent or violating lease terms. The Company may incur legal fees and face challenges in evicting non-compliant tenants. Additionally, a vacant property resulting from tenant default can lead to financial losses.
* Market Fluctuations: Changes in the commercial real estate market, including shifts in demand, rental rates, and property values, can affect the Company’s income and property valuation. Economic downturns or oversupply in the market can make it difficult to attract and retain tenants at favorable rental rates.
* Property Maintenance and Repairs: The Company is responsible for maintaining the condition of its property, including structural repairs, maintenance of common areas, and compliance with building codes and safety regulations. Unexpected maintenance issues can incur significant costs and disrupt rental income.
* Legal and Liability Risks: The Company may face legal risks related to lease agreements, property disputes, tenant grievances, and compliance with local, state, and federal regulations. Failure to address legal issues promptly can result in litigation expenses, fines, and reputational damage.
* Capital Expenditures: The Company may need to make capital investments in the property to maintain competitiveness, attract tenants, or comply with regulatory requirements. High capital expenditures can strain cash flow and reduce profitability, particularly if they are not adequately planned for.
* Lease Renewal and Negotiation Risks: At the end of a lease term, the Company faces the risk of tenants not renewing their leases or renegotiating lease terms. This can result in periods of vacancy or the need to offer concessions to attract new tenants, impacting rental income and profitability.

*Any person who supplies services or materials to the Properties may have a lien against such Properties securing any amounts owed to such person under state law.* Therefore, even if a contractor is paid its contract fees, if that contractor fails to pay its subcontractors or materials supplier, then such subcontractor or materials supplier who was not paid will have mechanic’s lien rights against such Properties. If one or more mechanic’s liens does appear against the Properties, their release must be obtained or the person holding such liens will have the right to foreclose. A forced sale of the Properties could negatively affect returns therefrom.

*The Company may experience liability for environmental issues.* Under various federal, state and local environmental and public health laws, regulations and ordinances, the Company may be required, regardless of knowledge or responsibility, to investigate and remediate the effects of hazardous or toxic substances or petroleum product releases (including in some cases natural substances such as methane or radon gas) and may be held liable under these laws or common law to a governmental entity or to third-parties for property, personal injury or natural resources damages and for investigation and remediation costs incurred as a result of the real or suspected presence of these substances in soil or groundwater beneath the Property. These damages and costs may be substantial and may exceed the insurance coverage the Company has for such events.

Buildings and structures on a property may have contained hazardous or toxic substances or have released pollutants into the environment; or may have known or suspected asbestos-containing building materials, lead based paint, mold, or insect infestations (such as roaches or bed bugs), that the Company may be required to mitigate. Undetected or unmitigated conditions such as these may cause (or be suspected to cause) personal injury and/or property damage, which could subject the properties, the Manager, and/or the Company to litigation with and liability to third parties.

*The Company must comply with the Americans with Disabilities Act.* Under the Americans with Disabilities Act of 1990 (the ADA), all public accommodations are required to meet certain federal requirements related to access and use by disabled persons. A determination that a property is not in compliance with the ADA could result in imposition of fines or an award of damages to private litigants. Furthermore, substantial modifications made in order to comply with the ADA may negatively affect the Company’s ability to make cash distributions to its Members.

*Federal, state, and local government responses to the COVID-19 pandemic have caused market uncertainty with regard to the operation of rental property.* While the Manager does not anticipate the current environment to have a long-term effect on the business or operations, authorities have put in place certain restrictions on businesses, which may affect the income and, ultimately, the ability of tenants to pay rent. Recently, property owners have become subject of certain restrictions, such as a temporary moratorium on evictions, which, if continued or reinstated in the future, may limit or delay execution of the business plan of the Company. It is unknown as of the date of this Memorandum whether such restrictions will continue or the economic repercussions thereof. Please see the Business Plan and Pro Forma materials attached hereto as Exhibit 4 for more information.

## Federal Income Tax Risks

Possible changes in federal/local tax laws or the application of existing federal/local tax laws may result in significant variability in the Company’s results of operations and tax liability for the investor. The Internal Revenue Code of 1986, as amended, is subject to change by Congress, and interpretations may be modified or affected by judicial decisions, by the Treasury Department through changes in regulations and by the Internal Revenue Service through its audit policy, announcements, and published and private rulings. Although significant changes to the tax laws historically have been given prospective application, no assurance can be given that any changes made in the tax law affecting an investment in any Units of the Company would be limited to prospective effect. Accordingly, the ultimate effect on an investor’s tax situation may be governed by laws, regulations or interpretations of laws or regulations which have not yet been proposed, passed, or made, as the case may be.

*An investment in the Company raises significant tax issues, and the tax treatment of an investment in the Company may vary significantly from investor to investor.* Please review carefully the below risks, among others, and consult your own tax adviser about the specific tax consequences to you before investing.

* The tax allocation of the Company’s income and loss may be challenged by the Internal Revenue Service.
* An audit of the Company’s return by the Internal Revenue Service may lead to adjustments to the Members’ tax returns and an audit of the Members’ tax returns.
* Under the Bipartisan Budget Act of 2015, which took effect in January of 2018, the Company must designate a Partnership Representative for each tax year. Federal law gives the Partnership Representative significant discretion in the event of an audit by the Internal Revenue Service, including the sole authority to make elections that bind the Company and all of the Members. While it is the intent of the Company that the Partnership Representative do what is in the best interests of the Company, actions taken by the Partnership Representative may have a negative effect on one or more current or former Members.
* Any tax benefits from ownership of Units will not be available unless the Company and the Company’s Members have a profit motive.

*The Company has not requested an IRS ruling as to its partnership tax status.*The Company is electing to be taxed as a partnership.Partnerships are generally pass-through entities for tax purposes, meaning that the income and deductions pass through to the individual partners rather than being taxed at the entity level. If the Company’s tax status as a partnership is reclassified as a corporation by the IRS, it can have several implications and risks for both the Company and its members including, but not limited to, the following:

* Double Taxation: Corporations are subject to double taxation, meaning that the corporate income is taxed at the entity level, and then any distributions or dividends to shareholders are taxed again at the individual level. This is different from partnerships, which are pass-through entities, and income is only taxed at the individual partner level.
* Loss of Pass-Through Benefits: Partnerships enjoy pass-through taxation, where profits and losses flow through to the individual partners. If reclassified as a corporation, the entity loses this pass-through treatment, and income is taxed at both the corporate and individual levels.
* Change in Tax Rates: Corporate tax rates may be different from individual tax rates. Reclassification could result in partners facing higher or lower tax rates on their share of the income.
* Additional Compliance Requirements: Corporations have different reporting and compliance requirements than partnerships. This includes filing corporate tax returns and adhering to corporate governance and regulatory standards.
* Changes in Deductibility: Some deductions and credits available to partnerships may not be available to corporations, and vice versa. The reclassification could impact the ability to claim certain tax benefits.
* Impact on Members’ Basis: The tax basis of a partner's interest in the partnership affects the taxation of distributions and sales of partnership interests. Reclassification may alter the members’ basis calculations.

EACH RISK DESCRIBED ABOVE MAY AFFECT THE MANAGEMENT, INVESTMENT, OR OTHER TRANSACTIONS RELATED TO THE COMPANY. FOR ALL OF THE FOREGOING REASONS AND OTHERS SET FORTH HEREIN, AN INVESTMENT IN UNITS INVOLVES A HIGH DEGREE OF RISK. ANY PERSON OR ENTITY CONSIDERING AN INVESTMENT IN UNITS OFFERED HEREBY SHOULD BE AWARE OF THESE AND OTHER RISK FACTORS SET FORTH IN THIS MEMORANDUM.

# Estimated Use of Proceeds

The following table illustrates the amount of proceeds to be received by the Company on the sale of Units and the intended uses of such proceeds.

|  |  |  |
| --- | --- | --- |
| **Sources of Capital** | **Maximum Offering Amount(1)** | **Percentage** |
| **Gross Proceeds(2)** | $15,000,000.00 | 100.00% |
| **Total Gross Capitalization** | **$15,000,000.00** | **100.00%** |
|  |  |  |
| **Use of Proceeds** |  |  |
| **Offering & Organizational Expenses(3)** | $25,000.00 | 0.17% |
| **Investment in Properties(4)** | $13,475,000.00 | 89.83% |
| **Operating Capital/Reserves(5)** | $1,500,000.00 | 10.00% |
| **Total Use of Proceeds** | **$15,000,000.00** | **100.00%** |

1. The Maximum Offering Amount is based on the sale of 15,000 Class A and Class B Units pursuant to this Offering. The Company does not anticipate that the Maximum Offering Amount will be required to execute its business plan. The Company may sell less than the Maximum Offering Amount or amend or supplement this Memorandum to sell more Units.
2. The Manager and its Affiliates or designees may purchase an unlimited number of Class A Units outside of the Offering on the same terms as those offered to prospective investors. Sale of Units to the Manager, its Affiliates, or other investors is not an indication that such Units are suitable for any other investor.
3. The Manager and/or its Affiliates has and will continue to advance start-up, and other expenses, which may be reimbursed pursuant to the Company Agreement or for which Units may be issued on the same terms as those offered to prospective investors for the equivalent dollar value received by the Company.
4. This amount includes property acquisition, fees, soft costs, and all other property related and operational expenditures.
5. The Company does not expect to require the Maximum Offering Amount to purchase the properties or execute its business plan. However, the Company may choose to raise capital, in its discretion, up to the Maximum Offering Amount and set aside such funds as additional reserves.

The allocation of the use of proceeds among the categories of anticipated expenditures represents management’s best estimates based on the current status of the Company’s proposed operations, plans, investment objectives, capital requirements, and financial conditions. Future events, including changes in the economic or competitive conditions of the Company’s business plan or the completion of less than the total Offering, may cause the Company to modify the above-described allocation of proceeds. The Company’s use of proceeds may vary significantly in the event any of the Company’s assumptions prove inaccurate. The Company reserves the right to change the allocation of net proceeds from the Offering as unanticipated events or opportunities arise.

# Management And Certain Security Holders

## SquadUp Management II, LLC

SquadUp Management II, LLC, an Arizona limited liability company is the Manager of the Company. The Manager is managed by Josiah Grimes, Pace Morby and Theodore Head. The Manager shall manage all business and affairs of the Company. The Manager shall direct, manage, and control the Company to the best of its ability and shall have full and complete authority, power, and discretion to make any and all decisions and do any and all things the Manager deems to be reasonably required to accomplish the investment objectives of the Company. The Members will have little or no control over the Company's day-to-day operations and will be able to vote only on limited matters. The Manager will make all other decisions.

## Josiah Grimes

A person in a blue suit

Description automatically generatedJosiah Grimes is an Arizona-based entrepreneur and philanthropist. He is the CEO and co-founder of KeyGlee, one of the world’s largest real estate wholesalers with over 95 locations in the United States. Josiah is the CEO and co-founder of New Reach Education, an online education platform that publishes well-known brands such as AstroFlipping and Subto. Josiah serves as the Director for Purpose Founder, a 501c3 focused on Christian Evangelism through digital media. Josiah is an active or limited investor in other industries including data, title, and automotive.

## Pace Morby

A person smiling for the camera

Description automatically generatedPace Morby is known as the go-to “sub to guy” bringing creative strategies to the mainstream real estate investment industry such as subject to and seller finance deals. Pace’s high energy and no BS approach has attracted a loyal following across social media. Though he began his real estate journey as a general contractor running a successful business and then as a HomeVestors franchisee, he and his partner have since amassed over 32 million dollars in buy and hold properties while continuing their full operation of wholesale, fix and flip, and many other symbiotic businesses. Pace is on a mission to over deliver on value, showing others that anyone can start in real estate, be successful, and change their lives and their families’ lives for generations.

**Theodore Head**

A person in a suit and tie

Description automatically generatedTed, a seasoned executive with a track record of enhancing fund operations and strategic growth. His leadership is characterized by a strong emphasis on team motivation, collaborative efforts, and unwavering accountability. With expertise in C-suite roles within the business and fund management industry, Ted has been instrumental in launching startups and refining operational frameworks. He is recognized for his ability to forge strategic partnerships, adeptly navigate market shifts, and drive impactful go-to-market strategies. Ted’s attention to detail is evident in his proficiency with financial oversight, including budgeting, cost analysis, and managing investment portfolios. His strategic vision extends to branding and investor relations, ensuring alignment with long-term financial goals. At the helm of SubTo Fund, Ted’s leadership has been a catalyst for innovation, guiding the fund towards operational excellence and sustainable growth.

## Key Employees and Consultants

Frank Pishler (Fund Manager/Head of Investor Relations)

A person in a blue suit

Description automatically generatedFrank Pishler is an experienced real estate professional with over 25 years in the financial industry. Frank began his career as a runner at the Chicago Mercantile Exchange in 1989 and advanced to become a floor trader. As Fund Manager/Investor relations here at Subto Fund, Frank provides Fund structure and management in addition to providing investors with the intelligence and critical information needed to aid them in managing their assets with us.

His experience managing his own Funds as well as other company Funds ensures that Subto Fund operates on an efficient and compliant basis and helps investors navigate the complex world of finance.

Originally from Chicago, IL Frank now lives with his family in the Gulf Coast of Alabama. In addition to his experience in the financial world, Frank has owned a Pet Grooming Salon and was President of his local Downtown Merchants Alliance.

Frank is passionate about pets and enjoys spending his free time traveling with his wife and their two rescue dogs.

A person in a suit

Description automatically generatedRyan Wagner (Head of Acquisitions)

Ryan has over 15 years of expertise in real estate, excels in acquisitions, capital markets, and finance, making significant strides in the industry. His innovative strategies and leadership have driven growth and optimized asset values across leading firms, from Diamond Ventures to DMB Associates, culminating in his current leadership role at SubTo Fund. With a foundation in Economics and Business Administration from the University of Arizona, Wagner’s career reflects a deep commitment to real estate, marked by a series of strategic roles that have showcased his ability to unearth property values and foster key partnerships, demonstrating a profound understanding of market dynamics and investment opportunities.

Phillitp Raetz (Head of Asset Management)

A person in a suit and tie

Description automatically generatedPhil is a seasoned real estate professional with over ten years of experience. His expertise spans asset valuation, risk management, financial planning, construction budgeting, and project coordination. As an Asset Manager, Phil excels in leading through intricate challenges and driving operational success.

Phil’s extensive background includes more than 2,000 real estate transactions, with a portfolio that features single-family homes, vacation rentals, co-living spaces, ground-up developments, and multifamily properties. This wide-ranging experience has honed his ability to adapt to different market sectors, making him an invaluable member of our fund’s management team.

Taylor Bryan (Operational Support and IR)

A person with long hair smiling

Description automatically generatedTaylor is an accomplished professional with extensive experience in investor relations, fundraising, and operations in the multifamily real estate industry. With a focus on real estate private equity, she has successfully catered to over 1,200 high-net-worth investors and participated in raising capital for more than 13 private funds dedicated to multifamily investments.

Over her 5-year career in multifamily real estate, Taylor has demonstrated expertise in capital markets, transactions, operations, and marketing. As one of the first three employees at a boutique real estate investment firm, she was instrumental in raising equity, supporting the firm's investor relations initiatives, and acquiring over 2,300 apartment units across various U.S. markets.

Taylor holds a Bachelor of Arts degree in Business with a concentration in Law from Arizona State University. In her personal time, she enjoys traveling, being outdoors, and spending quality time with her husband and son.

## Sponsor / Key Principal Units

The Manager and its Affiliates or designees have been issued a total of 100 Class M Units as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Name(1)** | **Beneficial Owner** | **Class** | **Units** |
| Cholla Cactus Holdings 3801, LLC | Pace Morby | M-1 | 50 |
| Ready Level 1, LLC | Josiah Grimes through Mathis LLC | M-1 | 17.5 |
| New Reach Investments II LLC | Josiah Grimes | M-1 | 17.5 |
| Driving Visions LLC | Theodore Head | M-1 | 3 |
| REW Estate I, LLC | Ryan Wagner | M-2 | 3 |
| PR3 Invest, LLC | Phillip Raetz | M-2 | 3 |
| Frank Pishler | N/A | M-2 | 3 |
| T-Suite Consulting, LLC | Taylor Bryan | M-2 | 3 |

As of the date of this Memorandum, this represents 100% of the ownership of the Company. Once Investor Units are sold, this will represent 25% of the ownership of the Company. The Manager and its Affiliates or designees may purchase Investor Class Units in parity with other Members.

## Employees and Consultants

The Company does not currently have employees but may hire employees or contractors as needed for the day-to-day business of the Company in the Manager’s sole discretion. The Manager will provide executive services to the Company and will receive compensation for services rendered as described above.

The Company will engage counselors and consultants to provide accounting, tax return preparation, legal, and related services from time to time, as required, and the Company will bear the related costs.

## Legal Proceedings

Neither the Company nor the Manager are party to any legal proceedings nor have any legal proceedings been, to the best of the Company or Manager’s knowledge, threatened against the Company or the Manager. Additionally, the Company and the Manager, to the best of their knowledge, are unaware of any prior legal proceedings that would be material to this Offering.

# Management Compensation and Fees

The Manager and other members of the Company’s management, along with their Affiliates, may receive substantial fees and compensation in connection with the management of the Company, the Company’s assets, investments, and operations, and reimbursement for expenses incurred on behalf of the Company as further described below. The Manager reserves the right to assign any fee, income, or compensation due. The maximum amount of fees the Manager, the other members of the Company’s management, or their Affiliates may receive cannot be determined at this time. The compensation arrangements described herein have been established by the Manager and are not the result of arm’s-length negotiations. The following fees may be paid from capital contributions, revenues, or reserves.

The Manager, its designated Affiliates, and/or third parties will receive the following fees, in addition to distributions of Distributable Cash, as set forth herein:

Acquisition Fee: For their efforts in conducting due diligence and making this investment opportunity available to the Company and its Members, the Manager, its Affiliates, or its designated assigns shall earn an acquisition due diligence fee of two percent (2%) of the purchase price of the Properties.

Asset Management Fee: As compensation for organizing the Company and ongoing administrative and management services provided, the Manager, its Affiliates, or its designated assigns will receive an annual asset management fee payable in arrears. The fee shall be as follows:

* + - 1. One Property under management: $150,000.00
      2. Two Properties under management: $200,000.00
      3. Three or more Properties under management: $250,000.00

The fee shall be adjusted (increased or decreased) as appropriate for any year where the number of Properties under management increases or decreases.

Disposition Fee: For their efforts in negotiating the disposition of the Properties, the Manager, its Affiliates, or its designated assigns shall earn a disposition fee equal to two percent (2%) of the sales price upon sale of the Properties.

Reimbursement of Expenses; Fees for Professional Services: The Company will reimburse the Manager or its Affiliates reasonable expenses paid or incurred in connection with the Company’s operations. Such reimbursements may be paid from Capital Contributions, operating revenue, or reserves. In addition, the Manager or its Affiliates will be reimbursed the fair value for provision of additional services to the Company at reasonable commercial rates on either an hourly or per-service basis.

# Related Transactions and Conflicts of Interest

## Related Party Transactions

Members of the Manager have been issued a total of 100 Class M Units in the Company and are therefore Members of the Company as a result thereof. In addition, the Manager and/or its Affiliates have advanced approximately $17,800.00 which has been used to pay start-up and organizational expenses and will be reimbursed with funds raised in this Offering.

## Conflicts of Interest

The proposed method of operation of the Company creates certain inherent conflicts of interest among the Company, the Manager, the Members, and their Affiliates. The Manager, the Members, and their Affiliates may act, and are acting, as managers of other limited liability companies, as general partners of partnerships, or in a managerial capacity in other businesses. The Manager and its Affiliates have existing responsibilities and, in the future, may have additional responsibilities to provide management and services to a number of other entities, including to multiple properties. Prospective investors should carefully consider these important conflicts of interest and those described with the risk factors before investing in the Company. See “Risk Factors” on page 7. Additional conflicts of interest may be, but are not limited to, the following:

*The Manager and its Affiliates may be involved with similar investments* *or businesses.* The Manager and its Affiliates may act as manager or be a member in other business entities engaged in making similar investments to those contemplated to be made by the Company. The Manager and its Affiliates who will raise investment funds for the Company may act in the same capacity for other investors, companies, partnerships, or entities that may compete with the Company. To the extent its time is required on these business and management activities, they may not be available to be involved in the day-to-day monitoring of the Company's operations.

*The Manager, certain Members, and their Affiliates will receive compensation from the Company.* Payments to the Manager, the Members, and their Affiliates for services rendered to the Company have not been and will not be determined by arm’s length negotiations. See “Management Compensation and Fees” on page 25. Additionally, the existence of the Manager’s or its Affiliates’ interest in Distributable Cash (i.e., right to participate in net proceeds from investments) may create an incentive for the Manager to make more risky business decisions than it would otherwise make in the absence of such carried interest. However, the Manager will evaluate such proposals consistent with the criteria and standards set forth herein. See “Investment Objectives” on page 6.

The Manager and *its* Affiliates may not have had the benefit of separate counsel.Attorneys, accountants, and/or other professionals representing the Company may also serve as counsel or agent to the Manager and certain of its Affiliates, and it is anticipated that such multiple representation may continue in the future. As a result, conflicts may arise, and if those conflicts cannot be resolved or the consent of the respective parties cannot be obtained to the continuation of the multiple representations after full disclosure of any such conflict, such counsel will withdraw from representing one or more of the conflicting interests with respect to the specific matter involved.

# Prior Performance

The Company is newly formed specifically to pursue its proposed business and has no prior experience raising or investing funds. As a newly formed entity, the Company has had no financial transactions and does not have any financial statements to provide for prospective investors’ review. Investors should not invest if they are not comfortable making an investment in the absence of such information or otherwise deem such information material in their decision-making process.

# Distributions and Allocations

## Timing of Distributions

Distributions will be made in accordance with the terms of the Operating Agreement. The Company expects that distributions will begin six months following acquisition of the first investment.

## Cash Distributions

For purposes of calculating distributions, Capital Contributions within each Class will be segregated from one another in proportion to the total amount of capital contributed (its “Capital Contribution Percentage Share”), and distributions for each Class will be made out of its portion.

Distributable Cash will come from two sources: Company operations and capital transactions. Each source has its own distribution terms as follows:

Distributable Cash from operational cash flow will be distributed as follows:

* From the Class A Unit Percentage Share, the Class A Members shall receive a cumulative, non-compounding preferred return of seven percent (7%) per annum, calculated on their Unreturned Capital Contribution, and then seventy percent (70%) of all remaining Distributable Cash from the Class A Unit Percentage Share, ratably apportioned according to their Class A Membership Interests.
* From the Class B Unit Percentage Share, the Class B Members shall receive a cumulative, non-compounding preferred return of nine percent (9%) per annum, calculated on their Unreturned Capital Contribution, and then seventy-five percent (75%) of all remaining Distributable Cash from the Class B Unit Percentage Share, ratably apportioned according to their Class B Membership Interests.
* Thereafter, the Class M-1 Members shall receive all remaining Distributable Cash, ratably apportioned according to their Class M-1 Membership Interests.

Distributable Cash from Capital Transactions or from dissolution and liquidation of the Company will be distributed as follows:

* From the Class A Unit Percentage Share, the Class A Members shall ratably receive any accrued but unpaid preferred return, followed by a return of their Unreturned Capital Contributions, and then seventy percent (70%) of all remaining Distributable Cash from the Class A Unit Percentage Share, ratably apportioned according to their Class A Membership Interests.
* From the Class B Unit Percentage Share, the Class B Members shall ratably receive any accrued but unpaid preferred return, followed by a return of their Unreturned Capital Contributions, and then seventy-five percent (75%) of all remaining Distributable Cash from the Class B Unit Percentage Share, ratably apportioned according to their Class B Membership Interests.
* Thereafter, the Class M Members shall receive all remaining Distributable Cash, ratably apportioned according to their Class M Membership Interests.

Please review the foregoing distribution terms in the Operating Agreement, included as Exhibit 2 to this Memorandum, before purchasing any Units.

## Allocations

Except as otherwise provided in this Agreement, Profits and Losses (including individual items of profit, income, gain, loss, credit, deduction and expense) of the Company will be allocated among the Members in a manner such that the Capital Account balance of each Member, immediately after making that allocation, is, as nearly as possible, equal (proportionately) to the distributions that would be made to that Member pursuant to Section 12.4 if the Company were dissolved, its affairs wound up and its assets sold for cash equal to their fair market value, as reasonably determined by the Manager, all Company liabilities were satisfied (limited with respect to each nonrecourse liability to the Fair Market Value of the assets securing that liability), and the net assets of the Company were distributed in accordance with Section 12.4 to the Members immediately after making that allocation, adjusted for applicable special allocations, computed immediately prior to the hypothetical sale of assets.

In the event that Members are issued Units on different dates, the Profits or Losses allocated to the Members for each Fiscal Year during which Members receive Units will be allocated among the Members in accordance with Section 706 of the Code, using any convention permitted by law and selected by the Manager. For purposes of determining the Profits, Losses and individual items of income, gain, loss credit, deduction and expense allocable to any period, Profits, Losses and any other items will be determined on a daily, monthly, or other basis, as determined by the Manager using any method that is permissible under Section 706 of the Code and the Treasury Regulations. Except as otherwise provided in this Agreement, all individual items of Company income, gain, loss, and deduction will be divided among the Members in the same proportions as they share Profits and Losses for the Fiscal Year or other period in question, except as modified to give effect to the special allocations described in Section 4.4 of the Agreement.

Prospective investors should read the Operating Agreement for a more detailed description of how Profits and Losses will be allocated to the Members.

# Summary of the OPERATING AGREEMENT

The rights and obligations of the Company’s Members are governed by the Operating Agreement, which each prospective investor will be required to execute as a condition to purchasing Units. The following summary covers certain significant provisions of the Operating Agreement and is qualified in its entirety by the provisions of the Operating Agreement. It is the intent of the Company that this Memorandum accurately summarize and represent the terms of the Operating Agreement. However, in the event that any term of this Memorandum conflicts with the Operating Agreement, the Operating Agreement shall control. Each prospective investor should carefully study the Operating Agreement attached hereto as Exhibit 2 in its entirety before purchasing Units.

|  |  |
| --- | --- |
| **Interests in the Company:** | Membership Interests in the Company are divided into Class A, Class B, Class M-1, and Class M-2 Units. Class M-2 Membership Interests are non-voting. The Company is authorized to issue an unlimited number of Units. Un-issued Units may not be voted or allocated Profits, Losses, or distributions. Class M Units are reserved for the Manager, its Affiliates, and/or assigns. Membership Interests in each class will be determined by dividing a Member’s Units by all issued and outstanding Units of that class. |
| **The Manager:** | SquadUp Management II, LLC is the Manager of the Company. The mailing address of the Manager is 1050 W. Washington St., Suite 133, Tempe, AZ 85288. The Manager will manage all business and affairs of the Company. The Manager will direct, manage, and control the Company to the best of its ability and will have full and complete authority, power, and discretion to make any and all decisions and to do any and all things that the Manager deems to be reasonably required to accomplish the business and objectives of the Company. |
| **The Members:** | The Members are not permitted to take part in the management or control of the business or operations of the Company. Assuming that the Company is operated in accordance with the terms of the Operating Agreement, a Member generally will not be liable for the obligations of the Company in excess of its total Capital Contributions and share of undistributed profits. However, a Member may be liable for any distributions made to the Member if, after such distribution, the remaining assets of the Company are not sufficient to pay its then outstanding liabilities. The Operating Agreement provides that the Members will not be personally liable for the expenses, liabilities, or obligations of the Company. |
| **Voting Rights of the Members:** | Unless otherwise specified in the Operating Agreement or required by law, any action requiring the approval of the Members may be approved by the vote or written consent of the Members entitled to vote or consent. The approval of the Members is required for:   * The removal of the Manager. * Amending the Operating Agreement other than to (i) change the name of the Company or the location of its principal office; (ii) add to the duties or obligations of the Manager; (iii) cure any ambiguity or correct or supplement any inconsistency in the Agreement; (iv) correct any printing, stenographic, or clerical errors or omissions in order that the Agreement shall accurately reflect the agreement among the Members; (v) reflect information regarding the admission of any additional or substitute Member; or (vi) comply with the single-purpose-entity or other requirements for any mortgage loan secured by a Property, provided in each case that the Manager reasonably determines that such amendment will not subject any Member to any material, adverse economic consequences. * The dissolution of the Company, except as otherwise provided for in the Operating Agreement. * The requirement of Additional Capital Contributions. * Payment of additional compensation to the Manager or its Affiliates. * Expulsion of a Member. * Such other matters as are required by the Operating Agreement or the Act. |
| **Term and Dissolution:** | The term of the Company commenced upon the filing of the Company’s Articles of Organization with the Arizona Secretary of State on June 18, 2024 and will last in perpetuity or until such time as the winding up and liquidation of the Company and its business is completed following a liquidating event.  The Company will be dissolved upon the occurrence of any of the following events:   * The liquidation and/or distribution of all Company Assets. * A vote of at least seventy-five percent (75%) of the voting Class A Membership Interests, provided, however, the Manager shall have the authority to liquidate all Company Assets and dissolve the Company at the time and pursuant to such terms as the Manager may believe to be in the best interest of the Company. * The withdrawal of the Manager unless (i) the Company has at least one other Manager, or (ii) within 90 days after the withdrawal, the Members vote to continue the business of the Company and to appoint one or more additional Managers. * The withdrawal of all the Members, unless the Company is continued in accordance with the Act. * The entry of a decree of judicial dissolution. |
| **Distributions and Allocations:** | See “Distributions and Allocations” on page 27. |
| **Access to Company Information:** | Members, but not Assignees, may examine and audit the Company’s books, records, accounts, and assets at the principal office of the Company, or such other place as the Manager may specify, subject to such reasonable restrictions as may be imposed by the Manager. All expenses attributable to any such examination or audit shall be borne by such Member. |
| **Indemnification:** | The Operating Agreement generally provides that the Company will indemnify the Manager, its Affiliates, and certain other parties against any claim or loss incurred in connection with any action, suit, or proceeding resulting from such party’s relationship to the Company. A party will not be indemnified with respect to matters as to which the party is finally adjudicated in any such action, suit or proceeding (a) to have acted in bad faith, or in the reasonable belief that the party’s action was opposed to the best interests of the Company, or with gross negligence or willful misconduct, or in breach of such party’s fiduciary duty to the Company (if any), or (b) with respect to any criminal action or proceeding, to have had cause to believe beyond any reasonable doubt the party’s conduct was criminal. The Company will pay the expenses incurred by an indemnified party in connection with any such action, suit, or proceeding, or in connection with claims arising in connection with any potential or threatened action, suit, or proceeding, in advance of the final disposition of such action, suit, or proceeding. Upon receipt of a final judgment indicating that indemnification should not have applied, then such party will repay indemnification payments. |
| **Removal of a Manager:** | A Manager may be removed for Good Cause by the Members entitled to vote or consent holding seventy-five percent (75%) of Membership Interests (excluding the Manager to be removed or any Members who are Affiliates of the Manager to be removed). However, no Manager may be removed during any period its principal has personally guaranteed a loan secured by the Property without the applicable lender’s consent. For purposes of the foregoing, “Good Cause” means that the Manager conducted itself on behalf of the Company in a manner that (i) constitutes gross negligence or willful misconduct and (ii) has a material, adverse effect on the Company. In the event the Members vote to remove the Manager for Good Cause, the Manager will have the right to submit the question of whether sufficient grounds for removal exists to binding arbitration, to be conducted as further described in the Operating Agreement.  No Member, including a Manager, if applicable, will have any special right to withdraw upon a removal of a Manager. |
| **Transfers of Units:** | A Member is not permitted to assign, pledge, mortgage, hypothecate, give, sell, or otherwise dispose of or encumber all or a portion of its Units, unless such transfer:   * Is approved by the Manager, which approval may be granted or withheld in its sole discretion and subject to such conditions as it may impose; * Is evidenced by a written agreement, in form and substance satisfactory to the Manager, that is executed by the transferor, the transferee(s), and the Manager; * Will not result in violation of the registration requirements of the Securities Act; * Will not require the Company to register as an investment company under the Investment Company Act of 1940, as amended; and * Will not result in the Company being classified for federal income tax purposes as an association taxable as a corporation.   The transferor of any Units is required to reimburse the Company for any expenses reasonably incurred in connection with a transfer, including any legal, accounting, and other expenses, whether or not such transfer is consummated.  The transferee of any Units in the Company that is admitted to the Company as a substituted Member will succeed to the rights and liabilities of the transferor Member and, after the effective date of such admission, the capital account of the transferor will become the capital account of the transferee, to the extent of Units transferred. |
| **Additional Capital Contributions:** | Additional Capital Contributions may be required by a vote of the Members or by the agreement of the contributing Members and the Manager. Further, the Manager or the Members may advance funds to the Company for costs relating to the operation of the Company, management of the Company’s investments, and satisfying the Company’s obligations. |
| **Dispute Resolution:** | Because the fundamental nature of the Company is to provide an opportunity for the Members to receive cash distributions of profits from Company operations, it is imperative that disputes between a Member and the Company and/or a Manager or between Members are not allowed to extinguish or diminish the profits available to other Members. Thus, the Operating Agreement contains a detailed internal alternative dispute resolution procedure (in lieu of litigation) which requires the parties to any dispute to engage in good-faith negotiations for no less than 90 days, followed by a minimum of 3 face-to-face mediations, and, as a last resort, binding arbitration, all of which shall be performed in accordance with the rules of the American Arbitration Association and will take place in the county of the principal office of the Company.  In the event of a dispute, a Member is limited to seeking its initial Capital Contributions plus any Distributable Cash to which it is entitled. Each party will bear its own attorneys’ fees and costs regardless of the outcome. In the event arbitration is required, discovery will be limited, and, by signing the Operating Agreement, the parties are giving up their rights to a jury trial. The Manager will be required to maintain the *status quo* with respect to Company operations and distributions pending the outcome of any dispute, except for any distributions to the complaining Member, which will be held in trust pending the outcome of the proceeding. Investors are encouraged to seek their own legal counsel as to the effect of this provision. |
| **Partnership Representative:** | The Manager may designate the IRS Partnership Representative each year until dissolution in its sole discretion. The initial Partnership Representative is Josiah Grimes. |

# Retirement Trusts and Other Benefit Plan Investors

Each respective Member that is an employee benefit plan or trust (an “ERISA Plan”) within the meaning of, and subject to, the provisions of the Employee Retirement Income Security Act of 1974 (“ERISA”), or an individual retirement account (“IRA”) or Keogh Plan subject to the Internal Revenue Code, should consider the matters described below in determining whether to invest in the Company.

In addition, ERISA Plan fiduciaries must give appropriate consideration to, among other things, the role that an investment in the Company plays in such ERISA Plan's portfolio, taking into consideration (i) whether the investment is reasonably designed to further the ERISA Plan's purposes, (ii) an examination of the risk and return factors, (iii) the portfolio's composition with regard to diversification, (iv) the liquidity and current return of the total portfolio relative to the ERISA Plan's objectives and (v) the limited right of Members to withdraw all or any part of their capital accounts or to transfer their interests in the Company.

If the assets of the Company were regarded as “plan assets” of an ERISA Plan, an IRA, or a Keogh Plan, the Manager of the Company would be a “fiduciary” (as defined in ERISA) with respect to such plans and would be subject to the obligations and liabilities imposed on fiduciaries by ERISA. Moreover, other various requirements of ERISA would also be imposed on the Company. In particular, any rule restricting transactions with “parties in interest” and any rule prohibiting transactions involving conflicts of interest on the part of fiduciaries would be imposed on the Company which may result in a violation of ERISA unless the Company obtained an appropriate exemption from the Department of Labor allowing the Company to conduct its operations as described herein.

Regulations adopted by the Department of Labor (the “Plan Regulations”) provides that when a Plan invests in another entity, the Plan's assets include both the equity interest and an undivided interest in each of the underlying assets of the entity, unless it is established that, among other exceptions, the equity participation in the entity by “benefit plan investors” is not “significant.” The Pension Protection Act of 2006 amended the definition of “benefit plan investors” to include only plans and plan asset entities (i.e., entities that are themselves deemed to hold plan assets by virtue of investments in them by plans) that are subject to part 4 of Title I of ERISA or section 4975 of the Internal Revenue Code. This new definition excludes governmental, church, and foreign benefit plans from consideration as benefit plan investors.

Under the Plan Regulations, participation by benefit plan investors is “significant” on any date if, immediately after the last acquisition, twenty-five percent (25%) or more of the value of any class of equity interests in the entity is held by benefit plan investors. The Company intends to limit the participation in the Company by benefit plan investors to the extent necessary so that participation by benefit plan investors will not be “significant” within the meaning of the Plan Regulations. Therefore, it is not expected that the Company assets will constitute “plan assets” of plans that acquire interests.

It is the current intent of the Company to limit the aggregate investment by benefit plan investors to less than twenty-five percent (25%) of the value of the Members' membership interests so that equity participation of benefit plan investors will not be considered “significant.” The Company reserves the right, however, to waive the twenty-five percent (25%) limitation. In such an event, the Company would expect to seek exemption from application of “plan asset” requirements under the real estate operating company exemption.

ACCEPTANCE OF SUBSCRIPTIONS ON BEHALF OF INDIVIDUAL RETIREMENT ACCOUNTS OR OTHER EMPLOYEE BENEFIT PLANS IS IN NO RESPECT A REPRESENTATION BY THE COMPANY OR ITS OFFICERS, DIRECTORS, OR ANY OTHER PARTY THAT THIS INVESTMENT MEETS ALL RELEVANT LEGAL REQUIREMENTS WITH RESPECT TO INVESTMENTS BY ANY PARTICULAR PLAN. THE PERSON WITH INVESTMENT DISCRETION SHOULD CONSULT WITH HIS OR HER ATTORNEY AND FINANCIAL ADVISERS AS TO THE PROPRIETY OF SUCH AN INVESTMENT IN LIGHT OF THE CIRCUMSTANCES OF THAT PARTICULAR PLAN AND CURRENT TAX LAW.

# Federal and State Taxes

The potential investor should be aware of the material Federal and State income tax aspects of an investment in the Units. Investors should consult with their tax professional to determine the effects of the tax treatment of the Class A Units with respect to their individual situation.

## Reporting Status of the Company

The Company will elect to be treated as a partnership for Federal and State income tax purposes. By maintaining partnership tax status, the Company will not report income or loss at the Company level but will report to each Member their pro rata share of Profits and Losses from operations and disposition. This process will make the Company a pass-through entity for tax purposes.

## Taxation of Members

The Company will be treated as a partnership for Federal tax purposes. A partnership is not generally a taxable entity. A Member will be required to report on their federal tax return their distributable share of partnership profit, loss, gain, deductions, or credits. cash distributions may or may not be taxable, depending on whether such cash distribution is being treated as a return of capital or a return on investment. Tax treatment of the cash distributions will be treated according to appropriate tax accounting procedure as determined by the Company’s tax advisor.

## Basis of the Company

An original tax basis will be established for the Company. The tax basis of the Company will be adjusted during the operations of the Company under applicable partnership tax principles.

## Basis of a Member

A Member will establish their original tax basis based on the amount of their initial Capital Contribution. Each Member’s tax basis will be adjusted during operations of the Company by principles of subchapter K of the Internal Revenue Code. A Member may deduct, subject to other tax regulations and provisions, their share of Company Losses only to the extent of the adjusted basis of their Interest in the Company. Members should seek qualified tax advice regarding the deductibility of any Company Losses.

## Cost Recovery and Recapture

The Manager may apply the current cost recovery rules to the improved portion of any real property according to the relevant Internal Revenue Code sections, namely: straight-line, using a 27.5-year useful life for residential property and thirty-nine (39) years for non-residential property. The Manager may elect to use the cost segregation method of depreciation for any personal property associated with real property it acquires on behalf of the Company.

The annual cost recovery deductions that must be taken by the Company will be allocated to the Members based on their Membership Interests in the Company. The cost recovery deductions will be available to the Members to shelter the principal reduction portion of the debt service payments and part of the cash flow distributed by the Company.

According to the current tax code, cost recovery deductions taken during operations may be required to be reported on the sale of the Company Assets and may be taxed at a twenty-five percent (25%) marginal rate, not the more favorable long-term capital gains rates.

## Deductibility of Prepaid and Other Expenses

The Company will incur expenditures for legal fees in association with the set-up of the Company. These expenditures will be capitalized and will be deducted on dissolution of the Company based on current tax law.

The Company will incur expenditures for professional fees associated with the preparation and filing of the annual income tax and informational return and the preparation of Schedule K-1 reports to be distributed to the Members. These expenditures will be deducted on an annual basis. All other normal operating expenses will be deducted on an annual basis by the Company, which will use a calendar accounting year.

## Taxable Gain

Members may receive taxable income from Company operations, from the sale or other disposition of a Member’s Membership Interests, from disposition of the Company Assets, or from phantom income. Presently, the maximum Federal tax rate on cost recovery recapture is twenty-five percent (25%). The balance of the taxable gain will be taxed at the capital gain tax rate in effect at that time. Investors should check with their tax professional for information as to what capital gains tax rate applies to them.

*From Operations*

The Manager is projecting that there will be taxable income to distribute to the Members on the Schedule K-1 report provided to each Member annually.

*From Disposition, Dissolution and Termination*

On disposition of the Company Assets or on dissolution and termination of the Company, which will likely be caused by the sale of the Company Assets, the Members may be allocated taxable income that may be treated as ordinary income or capital gain.

In addition, the Members may receive an adjustment in their Capital Account(s) that will either increase or decrease the capital gain to be reported. The Agreement describes the operation of Capital Accounts for the Company and the Members.

*From Sale or Other Disposition of a Member’s Interests*

A Member may be unable to sell their Membership Interests in the Company, as there may be no market. If there is a market, it is possible that the price received will be less than the market value. It is possible that the taxes payable on any sale may exceed the cash received on the sale.

Upon the sale of a Member’s Membership Interest, the Member will report taxable gain to the extent that the sale price of the Interest exceeds the Member’s adjusted tax basis. A portion of taxable gain may be reported as a recapture of the cost recovery deduction allocated to the Member and will be taxed at the cost recovery tax rate in effect at that time. Members should seek advice from their qualified tax professional in the event of the sale of the Member’s interest.

*Phantom Income*

It may occur that in any year the Members will receive an allocation of taxable income and not receive any cash distributions. This event is called receiving phantom income as the Member has taxable income to report but receives no cash. In this event, the Members may owe tax on the reportable income, which the Member will need to pay out of pocket.

*Unrelated Business Income Tax (UBIT)*

An Investor who is tax exempt (such as a charitable organization), or who acquires Units through a tax-exempt vehicle (such as an Individual Retirement Account) may be subject to Unrelated Business Income Tax (UBIT). The Manager recommends that Investors contact their qualified tax advisor to determine how/whether the application of UBIT may apply to them.

## Audits

*Election Out of Bipartisan Budget Act Audit Rules*

Effective for partnership returns for tax years beginning on or after January 1, 2018, partnerships will be subject to the audit rules of sections 6221 through 6241 of the Internal Revenue Code, as amended by Bipartisan Budget Act of 2015 (BBA). Under the previous rules, partnership audits (subject to certain exceptions for small partnerships) were conducted at the partnership level, through interaction with a Tax Matters Partner (TMP) authorized to bind all partners (subject to participation in some instances by Notice Partners). Tax adjustments were made at the partnership level, but the adjustments would flow through to the partners who were partners during the year(s) under audit. Collection would then occur at the partner level.

Under the BBA audit rules, the IRS will assess and collect tax deficiencies directly from the partnership at the entity level. Generally, the tax is imposed on and paid by the partnership in the current year, calculated at the highest individual rate. The result is that the underlying tax burden of the underpayment may be shifted from the partners who were partners during the year(s) under audit to current partners.

In addition, the positions of TMP and Notice Partners have been eliminated and replaced with a Partnership Representative, which must be designated annually on the partnership’s timely filed return. The Partnership Representative has the sole authority to act on behalf of the partnership and the partners in an audit, and those powers cannot be limited.

A partnership may elect out of the BBA audit rules if certain conditions are met. In order to elect out, the partnership must issue 100 or fewer K-1s each year with respect to its partners. Moreover, each partner must be either an individual, a C corporation, a foreign entity that would be treated as a C corporation if it were domestic, an S corporation, or the estate of a deceased partner. Thus, a partnership is ineligible to elect out if any partner is a trust (including a grantor trust), a partnership, or a disregarded entity, such as an LLC where the social security number of the individual member is used for income tax reporting purposes. The election must be made annually on the partnership’s timely filed return and must include a disclosure of the name and taxpayer identification number of each partner. In the case of a partner that is an S corporation, each K-1 issued by the S corporation partner counts toward the limit of 100 K-1s. The partnership must notify each partner of the election out.

It is the intent of the Company to elect out of the BBA audit rules, if possible. By electing out of the BBA audit rules, the Company will be subject to audit procedures similar to the TEFRA and pre-TEFRA rules, but the IRS will be required to assess and collect any tax that may result from the adjustments at the individual partner level. However, this opt-out provision likely will not be available to the Company based on the tax classification of the Members.

Members will be required timely to furnish the Company with the information necessary to make the annual election, and the Company will be authorized to provide such information to the IRS.

*Push Out Election (Audit)*

The “push out” election of Internal Revenue Code section 6226 provides an alternative to the general rule that the partnership must pay any tax resulting from an adjustment made by the IRS. Under section 6226, a partnership may elect to have its reviewed year partners consider the adjustments made by the IRS and pay any tax due as a result of those adjustments. The partnership must make the “push out” election no later than 45 days after the date of the notice of final partnership adjustment and must furnish the Secretary and each partner for the reviewed year a statement of the partner’s share of the adjustment.

If the Company fails to make a valid election out of the BBA audit rules or is otherwise disqualified from electing out of their application, the Company intends to elect the application of the “push out” procedures. In the event of a push out, a former Member may owe additional tax if they were a Member during the reviewed year.

# Terms of the Offering

## The Offering

Subject to the terms and conditions set forth in this Memorandum and the Subscription Documents described below, the Company is offering to sell Units to specified purchasers who are Accredited Investors, as that term is defined in Regulation D, Rule 501 who each meet the Company’s suitability criteria.

This Offering is for up to 15,000 Class A and Class B Units at a price of $1,000.00 per Unit, for a total Maximum Offering Amount of $15,000,000.00 if all offered Units are sold. There is no minimum Offering amount. All Offering proceeds will be held in a self-managed, segregated account or escrow agent trust account until the Company purchases its first investment.

The minimum investment required to acquire Class A Units is a $100,000.00 investment, unless the minimum is waived by the Manager. The minimum investment required to acquire Class B Units is a $350,000.00 investment. This amount is not waivable by the Manager.

## Method of Placement

Units will be offered exclusively through the Company’s management, including the Manager and its Affiliates, who will not be compensated directly or indirectly for such efforts. Units will be offered on a “best-efforts” basis. There is no assurance that all or any Units will be sold. The Company’s Affiliates may purchase Units on the same terms and conditions as other prospective investors. The Company intends to indemnify the Company’s Manager and other persons and entities against certain Company actions and civil liabilities, including liabilities under the Securities Act. In the opinion of the SEC, the foregoing indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable.

The Manager will decide whether to accept or reject a subscription within a reasonable time after the receipt of the completed subscription booklet and investment amount. If a subscription is not accepted, any related collected funds will be returned to the subscriber promptly, but in any event within 5 business days of non-acceptance of the prospective investor. The Company will advise all prospective investors whose subscriptions have been accepted when this Offering has been terminated.

## ****Dilution****

Dilution means a reduction in value, control, or earnings of the interests held by investors. The Manager and/or its members or Affiliates were granted Class M Units in the Company for $0 cash contribution as compared to contributions of $1,000.00 per Class A and Class B Unit to be paid by investors pursuant to this Offering. Investors will experience economic dilution as a result of their purchase of Units approximately in proportion to the membership interests granted to management (25%). All investors may experience future dilution should our Company offer additional Class A and Class B Units in the future or create additional classes of Units.

## ****Determination Of Offering Price****

In determining the Offering price of the Units, the Company has considered a number of factors including, but not limited to, the illiquidity and volatility of the Units, the current financial condition of the Company and the prospects for future cash flows and earnings, and market and economic conditions at the time of the Offering. The offering price for the Units sold in this Offering may be more or less than the fair market price for the Units.

## Restricted Securities

There are significant restrictions under the securities laws on the transfer of Units. Units are offered in reliance on exemptions and preemption from the registration provisions of the Securities Act and various state securities laws. Units constitute “restricted securities,” as that term is defined in Rule 144 promulgated under the Securities Act and cannot be resold unless such resale is registered under the Securities Act and applicable state securities laws (which may be prohibitively expensive and may not be possible in any event) or sold pursuant to an exemption therefrom. In some states, specified conditions must be met, or approval of a state authority may be required. Even if Units purchased in this Offering are eligible for resale, there is no trading market for such Units, and none is likely to develop.

In an effort to meet the conditions of such exemptions or preemption, the Company will file such notices and reports as may be required by the states in which the purchasers of Units in this Offering reside at the time of purchase of such Units from the Company and will otherwise utilize commercially reasonable efforts to satisfy the conditions of an exemption or preemption from registration in each of such states.

Units offered hereby must be acquired for investment purposes only and not with a view to or for resale in connection with any distribution thereof. Units will not be registered under the Securities Act or under the securities acts of any state where offered and will be sold and issued in reliance on exemptions and preemption from such registration. Such exemption or preemption depends in part on the investment intent of the investors. Among other things, such restrictions require the investors to bear the economic risk of the investment by holding the securities acquired for an indefinite period of time. These restrictions are set forth in detail in the separately bound Subscription Documents, which must be signed and agreed to by persons and entities purchasing Units. Prospective investors are urged to review the specific restrictions carefully.

The Company may refuse to transfer any securities to any transferee that does not furnish, in writing to the Company, the same representations and warranties and agree to the same conditions with respect to such securities as are set forth herein. The Company may further refuse to transfer the securities if circumstances are present reasonably indicating that the proposed transferee’s representations are not accurate. In any event, the Company may refuse to consent to any transfer in the absence of an opinion of legal counsel, satisfactory to, and independent of, the Company’s counsel that such proposed transfer is consistent with the above conditions.

In addition to the foregoing restrictions under applicable securities laws, there are also significant restrictions on the transfer of Units as set forth in the Operating Agreement.

## Acceptance Guidelines of the Company

Based on the representations contained in the Subscription Documents and other information of which the Company has actual knowledge, the Company’s Manager will make the determination of whether to proceed with the sale of Units to the prospective investor. The Company has an absolute right to accept or reject prospective investors and may do so on the basis of factors not related to the suitability of the prospective investor. In making the determination, the Company’s Manager will follow guidelines appropriate for reliance on exemptions and preemption from registration under applicable securities laws.

If the subscription offer is not accepted, appropriate notice thereof will be transmitted promptly to the prospective investor, the Subscription Documents will be appropriately marked, and the subscription proceeds will be returned, without interest or deduction of expenses, to the prospective investor. Regardless of the date of execution, investors whose subscriptions are accepted will not become Members of the Company until the Company “breaks impounds” and begins to deploy investor funds.

## How to Purchase Units

In order to purchase Units described in this Memorandum, prospective investors are required to tender to the principal office address or through the investor portal at https://subto.invportal.com/app/offering-detail/666739aefdb992001b0cd568, signed copies of the separately bound Subscription Documents, delivered together with a cashier’s check or bank wire in the amount of the subscription payable to Subto Fund II, LLC. On acceptance, the subscription agreement automatically becomes a binding bilateral agreement for the purchase of the number of Units specified.

Deliveries of Subscription Documents and Capital Contributions may be delivered to:

Subto Fund II, LLC

Attn: Josiah Grimes

1050 W. Washington St., Suite 133

Tempe, AZ 85288

invest@subtofund.com

Please contact Ted Head at (602) 962-8622 for payment information.

# Defined Terms

In addition to those capitalized and otherwise defined terms contained herein and therein the Operating Agreement, the following terms shall have the definitions ascribed hereunder.

“Accredited Investor” means those individuals that meet the criteria established by the SEC pursuant to the Securities Act, Regulation D, Section 230.501 (“Rule 501”).

“Affiliate” has the definition provided in the SEC’s Regulation D, Section 230.501(b), i.e., “a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.”

“Class A” or “Class A Member” shall refer to those Members who have purchased or otherwise acquired or been issued Class A Units.

“Class B” or “Class B Member” shall refer to those Members who have purchased or otherwise acquired or been issued Class B Units.

“Class M” or “Class M Member” shall collectively refer to Class M-1 and Class M-2 and Class M-1 Members and Class M-2 Members.

“Class M-1” or “Class M-1” Member shall refer to the Manager, its Affiliates, business partners, services providers, or other Persons who have been issued Class M-1 Units in the sole discretion of the Manager.

“Class M-2” or “Class M-2” Member shall refer to the Manager, its Affiliates, business partners, services providers, or other Persons who have been issued Class M-2 Units in the sole discretion of the Manager.

“Company” refers to Subto Fund II, LLC, an Arizona limited liability company.

“Distributable Cash” means all cash of the Company derived from operations and capital transactions, less the following items: (i) payment of all fees, costs, indebtedness, and expenses of the Company, (ii) any required tax withholdings, and (iii) reserves for future expenses related to the Company’s operations (including for investment into additional Company Assets, as established in the reasonable discretion of the Manager.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Plan” means an employee benefit plan or trust within the meaning of, and subject to, the provisions of ERISA.

“Good Cause” means, in reference to an action to remove a Manager, that the Manager conducted itself on behalf of the Company in a manner that (i) constitutes gross negligence or willful misconduct and (ii) has a material, adverse effect on the Company.

“Investment Company Act” means the Investment Company Act of 1940, as amended.

“Investor Class” means any class of Members other than Class M.

“Investor Member(s)” means any Member of the Company other than a Class M Member.

“Investor Units” means any class of Units other than Class M Units.

“IRA” means an individual retirement account.

“Manager” means SquadUp Management II, LLC, an Arizona limited liability company, or any other person or persons, or entity that becomes a manager pursuant to the Operating Agreement.

“Maximum Offering Amount” means $15,000,000.00, the maximum aggregate investment in Units allowed under the terms of this Offering.

“Member” means a party holding membership interests in the Company. The term “Member” as used herein will include a Manager to the extent it has purchased or received such membership interests in the Company.

“Memorandum” means this Confidential Private Placement Memorandum and all of its Exhibits, each of which are incorporated herein by reference.

“Net Worth” means the difference between total assets and total liabilities while excluding any positive equity in the prospective investor’s primary residence, but, if the net effect of the mortgage results in negative equity, the prospective investor should include any negative effects in calculating their Net Worth. The prospective investor should also subtract from their Net Worth any additional indebtedness secured by his/her primary residence incurred within the 60 days prior to his/her purchase of the Units (other than debt incurred as a result of the acquisition of the primary residence).

“Offering” means the sale of Class A and Class B Units in the Company, whose purchasers, if accepted by the Manager, will become Members of the Company pursuant to the terms of this Memorandum.

“Operating Agreement” means the written Operating Agreement of Subto Fund II, LLC, as may be amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“Securities Act” means the Securities Act of 1933, as amended.

“Subscription Documents” means the Subscription Agreement and related documents attached as Exhibit 3 hereto.

“Unit Percentage Share” means, as to each Investor Class, the percentage of total Capital Contributions made by each respective Investor Class multiplied by the amount of Distributable Cash available for a particular distribution. For purposes of illustration, if $20,000 were available for distribution as Distributable Cash, and total Investor Class Capital Contributions for Investor Units were $100,000, and total Class A Capital Contributions were $35,000, the Class A Unit Percentage Share would be $7,000 ($35,000 / $100,000 = 35%; 35% x $20,000 = $7,000).

“Units” means membership units in the Company purchased in this Offering, or otherwise issued to persons and entities.

# Additional Information

Prospective investors may request additional information concerning the Company and other matters relating thereto that is necessary to verify the information in this Memorandum, and the Company will undertake to provide such information to the extent the Company possesses the information or can acquire such information without unreasonable effort or expense. All questions or comments should be directed to the Manager of the Company. Information about the Company is contained in the following documents, which may be included in electronic format accompanying this Memorandum, each of which is incorporated herein by reference:

**Exhibit 1** contains the Certificate of Formation

**Exhibit 2** contains the Operating Agreement

**Exhibit 3** contains the Subscription Documents

**Exhibit 4** contains the Investment Summary

No person is authorized to give any information or to make any representation in connection with this Offering other than those contained in this Memorandum, the Exhibits, and the additional information that is available to prospective investors as provided herein. Information or representations not contained herein or in such Exhibits or other information must not be relied on as having been authorized by the Company. This Memorandum does not constitute an offer to sell or the solicitation of an offer to buy in any state in which such offer, solicitation, or any sale may not be lawfully made. The statements in this Memorandum are made as of the date hereof unless another time is specified.

**Subto Fund II, LLC**

**July 19, 2024**

1. The professional certifications or designations or credentials currently recognized by the SEC as satisfying the above criteria will be posted on its website. [↑](#footnote-ref-1)